

LEG. FINANCE - BILLS 1975 - 1976 542

SB 271 cont., thru SB 272am

1 under (c) of this section shall be distributed by the borough among
2 borough areawide, nonareawide and service area functions as follows:

3 (1) payments based upon utility real and personal property
4 located within a city shall be used by the borough only for borough
5 areawide functions and for any service areas which include the whole
6 of the city, according to the respective mill levies for each;

7 (2) payments in lieu of taxes upon real and personal property
8 outside the city shall be used for areawide, nonareawide and service
9 area functions according to the respective mill levies for each; the
10 borough assembly may, by ordinance, collect payments in taxes for all
11 service areas, except for service areas which include cities, in one
12 lump sum and distribute the money among the service areas in its dis-
13 cretion.

14 (e) The municipality owning the utility making payments in lieu
15 of taxes may, at its option, make payments in lieu of taxes in the
16 amount of three and one-half per cent of the gross revenue received by
17 the utility during the previous year. If payments in lieu of taxes
18 are made within a borough containing a city or cities, the payments
19 shall be made as follows:

20 (1) payments in lieu of taxes upon gross revenue received
21 within a city shall be distributed to the city and the borough in the
22 same proportion that the city's and borough's revenue for real and
23 personal property taxes bears to the total taxes collected as real and
24 personal property taxes by the city and the borough within the city;

25 (2) payments in lieu of taxes upon revenue received outside
26 cities shall be distributed to the borough.

27 (f) Proceeds received by the borough based on utility gross revenue
28 shall be distributed by the borough among borough areawide, nonareawide
29 and service area functions as follows:

1 (1) proceeds received by the borough based upon utility
2 gross revenue received within a city shall be used by the borough only
3 for borough areawide functions and for service areas which include the
4 whole of the city; if there is a service area within a particular city,
5 the proceeds for the functions of that service area shall be distributed
6 in that proportion which real and personal property taxes collected for
7 that service area within the city bear to the total of real and personal
8 property taxes collected within the city for borough areawide and service
9 area functions; the remaining proceeds shall be used for areawide func-
10 tions only;

11 (2) proceeds based upon utility gross revenue outside the
12 city shall be used for areawide purposes in the same proportion that the
13 borough's real and personal property taxes outside cities for areawide
14 purposes bears to total real and personal property taxes collected by
15 the borough for the entire area outside cities;

16 (3) gross revenue taxes received by the borough on the basis
17 of utility gross revenue received outside cities shall be used by the
18 borough for nonareawide and service area functions in the same propor-
19 tion that the borough real and personal property taxes raised for those
20 functions bear to total borough real and personal property taxes col-
21 lected outside cities;

22 (4) if a borough levies only real property taxes and no
23 personal property taxes, the distribution of money by the borough shall
24 be based on real property tax revenues only.

25 (g) Where a city is not located within a borough, the payments in
26 lieu of taxes shall be paid to the city according to the assessed value
27 of real and personal property taxes of the municipally owned utility,
28 or if a real property tax only is levied, upon the basis of the assessed
29 value of the real property owned by the utility in the city. The

1 municipality owning the utility may, at its option, pay an amount equal
2 to three and one-half per cent of the gross earnings of the utility in
3 the municipality.

4 * Sec. 2. This Act takes effect January 1, 1976.
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

Original sponsor: Rodey, Willis
and Colletta

Offered: 5/20/75
Referred: Finance

1 IN THE SENATE

BY THE COMMERCE COMMITTEE

2 CS FOR SENATE BILL NO. 271

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to payments in lieu of taxes by
7 municipally owned utilities; and providing for an
8 effective date."

9 BE IT ENACTED BY THE LLGISLATURE OF THE STATE OF ALASKA:

10 * Section 1. AS 29.48.040 is amended by adding new subsections to read:

11 (b) A municipality operating municipal utilities may not make
12 contributions to its general fund or other municipal nonutility funds
13 until it has first made payments in lieu of taxes to all municipalities
14 served by its municipal utilities in amounts set out in this section.
15 Payments in lieu of taxes by municipally owned utilities are considered
16 an operating cost of the utility.

17 (c) Where a city or cities are located within a borough, payments
18 in lieu of taxes based on property tax levies shall be distributed to
19 the city or cities and borough as follows:

20 (1) payments in lieu of taxes upon real and personal property
21 located within a city shall be distributed to the city and the borough
22 in the same proportion that the city's and borough's tax effort bears
23 to the total taxes collected by the city and the borough within the city;

24 (2) payments in lieu of taxes upon real and personal
25 property located outside cities shall be made to the borough;

26 (3) if a borough levies only real property taxes and no
27 personal property taxes, the payments in lieu of taxes shall be on the
28 basis of real property only.

29 (d) Payments received by the borough from municipal utilities

1 under (c) of this section shall be distributed by the borough among
2 borough areawide, nonareawide and service area functions as follows:

3 (1) payments based upon utility real and personal property
4 located within a city shall be used by the borough only for borough
5 areawide functions and for any service areas which include the whole
6 of the city, according to the respective mill levies for each;

7 (2) payments in lieu of taxes upon real and personal property
8 outside the city shall be used for areawide, nonareawide and service
9 area functions according to the respective mill levies for each; the
10 borough assembly may, by ordinance, collect payments in taxes for all
11 service areas, except for service areas which include cities, in one
12 lump sum and distribute the money among the service areas in its dis-
13 cretion.

14 (e) The municipality owning the utility making payments in lieu
15 of taxes may, at its option, make payments in lieu of taxes in the
16 amount of three and one-half per cent of the gross revenue received by
17 the utility during the previous year. If payments in lieu of taxes
18 are made within a borough containing a city or cities, the payments
19 shall be made as follows:

20 (1) payments in lieu of taxes upon gross revenue received
21 within a city shall be distributed to the city and the borough in the
22 same proportion that the city's and borough's revenue for real and
23 personal property taxes bears to the total taxes collected as real and
24 personal property taxes by the city and the borough within the city;

25 (2) payments in lieu of taxes upon revenue received outside
26 cities shall be distributed to the borough.

27 (f) Proceeds received by the borough based on utility gross revenue
28 shall be distributed by the borough among borough areawide, nonareawide
29 and service area functions as follows:

1 (1) proceeds received by the borough based upon utility
2 gross revenue received within a city shall be used by the borough only
3 for borough areawide functions and for service areas which include the
4 whole of the city; if there is a service area within a particular city,
5 the proceeds for the functions of that service area shall be distributed
6 in that proportion which real and personal property taxes collected for
7 that service area within the city bear to the total of real and personal
8 property taxes collected within the city for borough areawide and service
9 area functions; the remaining proceeds shall be used for areawide func-
10 tions only;

11 (2) proceeds based upon utility gross revenue outside the
12 city shall be used for areawide purposes in the same proportion that the
13 borough's real and personal property taxes outside cities for areawide
14 purposes bears to total real and personal property taxes collected by
15 the borough for the entire area outside cities;

16 (3) gross revenue taxes received by the borough on the basis
17 of utility gross revenue received outside cities shall be used by the
18 borough for nonareawide and service area functions in the same propor-
19 tion that the borough real and personal property taxes raised for those
20 functions bear to total borough real and personal property taxes col-
21 lected outside cities;

22 (4) if a borough levies only real property taxes and no
23 personal property taxes, the distribution of money by the borough shall
24 be based on real property tax revenues only.

25 (g) Where a city is not located within a borough, the payments in
26 lieu of taxes shall be paid to the city according to the assessed value
27 of real and personal property taxes of the municipally owned utility,
28 or if a real property tax only is levied, upon the basis of the assessed
29 value of the real property owned by the utility in the city. The

1 municipality owning the utility may, at its option, pay an amount equal
2 to three and one-half per cent of the gross earnings of the utility in
3 the municipality.

4 * Sec. 2. This Act takes effect January 1, 1976.
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

Original sponsor: Rodey, Willis
and Colletta

Offered: 5/20/75
Referred: Finance

1 IN THE SENATE

BY THE COMMERCE COMMITTEE

2 CS FOR SENATE BILL NO. 271

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to payments in lieu of taxes by
7 municipally owned utilities; and providing for an
8 effective date."

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

10 * Section 1. AS 29.48.040 is amended by adding new subsections to read:

11 (b) A municipality operating municipal utilities may not make
12 contributions to its general fund or other municipal nonutility funds
13 until it has first made payments in lieu of taxes to all municipalities
14 served by its municipal utilities in amounts set out in this section.
15 Payments in lieu of taxes by municipally owned utilities are considered
16 an operating cost of the utility.

17 (c) Where a city or cities are located within a borough, payments
18 in lieu of taxes based on property tax levies shall be distributed to
19 the city or cities and borough as follows:

20 (1) payments in lieu of taxes upon real and personal property
21 located within a city shall be distributed to the city and the borough
22 in the same proportion that the city's and borough's tax effort bears
23 to the total taxes collected by the city and the borough within the city;

24 (2) payments in lieu of taxes upon real and personal
25 property located outside cities shall be made to the borough;

26 (3) if a borough levies only real property taxes and no
27 personal property taxes, the payments in lieu of taxes shall be on the
28 basis of real property only.

29 (d) Payments received by the borough from municipal utilities

1 under (c) of this section shall be distributed by the borough among
2 borough areawide, nonareawide and service area functions as follows:

3 (1) payments based upon utility real and personal property
4 located within a city shall be used by the borough only for borough
5 areawide functions and for any service areas which include the whole
6 of the city, according to the respective mill levies for each;

7 (2) payments in lieu of taxes upon real and personal property
8 outside the city shall be used for areawide, nonareawide and service
9 area functions according to the respective mill levies for each; the
10 borough assembly may, by ordinance, collect payments in taxes for all
11 service areas, except for service areas which include cities, in one
12 lump sum and distribute the money among the service areas in its dis-
13 cretion.

14 (e) The municipality owning the utility making payments in lieu
15 of taxes may, at its option, make payments in lieu of taxes in the
16 amount of three and one-half per cent of the gross revenue received by
17 the utility during the previous year. If payments in lieu of taxes
18 are made within a borough containing a city or cities, the payments
19 shall be made as follows:

20 (1) payments in lieu of taxes upon gross revenue received
21 within a city shall be distributed to the city and the borough in the
22 same proportion that the city's and borough's revenue for real and
23 personal property taxes bears to the total taxes collected as real and
24 personal property taxes by the city and the borough within the city;

25 (2) payments in lieu of taxes upon revenue received outside
26 cities shall be distributed to the borough.

27 (f) Proceeds received by the borough based on utility gross revenue
28 shall be distributed by the borough among borough areawide, nonareawide
29 and service area functions as follows:

1 (1) proceeds received by the borough based upon utility
2 gross revenue received within a city shall be used by the borough only
3 for borough areawide functions and for service areas which include the
4 whole of the city; if there is a service area within a particular city,
5 the proceeds for the functions of that service area shall be distributed
6 in that proportion which real and personal property taxes collected for
7 that service area within the city bear to the total of real and personal
8 property taxes collected within the city for borough areawide and service
9 area functions; the remaining proceeds shall be used for areawide func-
10 tions only;

11 (2) proceeds based upon utility gross revenue outside the
12 city shall be used for areawide purposes in the same proportion that the
13 borough's real and personal property taxes outside cities for areawide
14 purposes bears to total real and personal property taxes collected by
15 the borough for the entire area outside cities;

16 (3) gross revenue taxes received by the borough on the basis
17 of utility gross revenue received outside cities shall be used by the
18 borough for nonareawide and service area functions in the same propor-
19 tion that the borough real and personal property taxes raised for those
20 functions bear to total borough real and personal property taxes col-
21 lected outside cities;

22 (4) if a borough levies only real property taxes and no
23 personal property taxes, the distribution of money by the borough shall
24 be based on real property tax revenues only.

25 (g) Where a city is not located within a borough, the payments in
26 lieu of taxes shall be paid to the city according to the assessed value
27 of real and personal property taxes of the municipally owned utility,
28 or if a real property tax only is levied, upon the basis of the assessed
29 value of the real property owned by the utility in the city. The

1 municipality owning the utility may, at its option, pay an amount equal
2 to three and one-half per cent of the gross earnings of the utility in
3 the municipality.

4 * Sec. 2. This Act takes effect January 1, 1976.
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

Introduced: 3/14/75
Referred: Commerce and
Finance

1 IN THE SENATE

BY RODEY, WILLIS AND COLLETTA

2 SENATE BILL NO. 271

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the taxation of public utilities;
7 and providing for an effective date."

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

9 * Section 1. AS 43 is amended by adding a new chapter to read:

10 CHAPTER 73. PUBLIC UTILITY GROSS REVENUE TAX.

11 Sec. 43.73.010. TAX IMPOSED. (a) There is a tax imposed on all
12 public utilities within the state regulated by the Alaska Public
13 Utilities Commission, except solid waste and garbage disposal utilities.
14 The tax is three and one-half per cent of the gross revenue received by
15 the utility during the preceding year.

16 (b) For the purpose of computing gross revenue, a utility shall
17 include only that revenue which has been derived from electric energy,
18 water, telephone or other services which it distributes to its customers.
19 It shall not include revenue derived from the sale or transmission of
20 electric energy and power or products to, or on behalf of, another
21 distributor. Gross revenue of a telephone utility includes all revenue
22 earned from local and toll services.

23 Sec. 43.73.020. COLLECTION AND PAYMENT. The tax imposed by this
24 chapter shall be paid to the Department of Revenue before March 1 of
25 each year on the gross revenue earned the preceding year. The returns
26 shall be made on forms provided by, and in the manner prescribed by,
27 the department.

28 Sec. 43.73.030. DEPOSIT IN THE GENERAL FUND. The tax collected
29 under this chapter shall be deposited in the general fund. The

1 legislature is authorized to appropriate as a revenue-sharing payment
2 to each municipality an amount equal to the amount of tax paid on the
3 gross revenue earned within the municipality, less the amount expended
4 by the state in its collection.

5 Sec. 43.73.040. REVENUE-SHARING PAYMENT IN BOROUGHES CONTAINING
6 CITIES. (a) If a utility serves a borough and a city within that
7 borough, the revenue-sharing payment authorized by sec. 30 of this
8 chapter shall be paid to the respective municipalities in the following
9 amounts:

10 (1) the revenue-sharing payment for tax collected on revenue
11 earned within a city shall be distributed to the city and the borough
12 in the same proportion that the city's and borough's tax effort bears
13 to the total taxes collected by the city and the borough within the city;
14 and

15 (2) the revenue-sharing payment for tax collected on gross
16 revenue earned outside cities shall be distributed to the borough.

17 (b) Proceeds received by a borough containing one or more cities
18 shall be used as follows:

19 (1) proceeds based upon utility gross revenue earned within
20 a city shall be used by the borough only for borough areawide functions,
21 and if there are any service areas which include the whole of the city,
22 for the functions of that service area in that proportion which taxes
23 collected for that service area within the city bear to the total of
24 taxes collected within the city for borough, areawide and service area
25 functions;

26 (2) proceeds based upon utility gross revenue outside the
27 city shall be used for areawide purposes in the same proportion that the
28 borough's tax effort outside cities for areawide purposes bears to total
29 taxes collected by the borough for the entire area outside cities.

1 (c) Gross revenue taxes received by the borough on the basis of
2 utility gross revenue received outside cities shall be used by the
3 borough for nonareawide and service area functions in the same propor-
4 tion that the borough's taxes raised for those functions bear to total
5 borough taxes collected outside cities.

6 Sec. 43.73.050. MUNICIPAL UTILITIES. A municipality operating
7 municipal utilities may not make contributions to its general fund or
8 other municipal nonutility funds until it has first made payments in
9 lieu of taxes to all municipalities served by its municipal utilities
10 in an amount equal to the payments which would have been paid by the
11 state to the municipalities under this chapter if the municipal utili-
12 ties were privately owned. Payments in lieu of taxes shall be applied
13 by the municipalities to city, areawide, nonareawide and service area
14 functions in the same manner as state refunds of utility gross revenue
15 taxes of a privately owned, regulated public utility would be distri-
16 buted under this chapter. Payments in lieu of taxes by municipally
17 owned utilities shall be considered an operating cost of the utility.

18 Sec. 43.73.060. IN LIEU OF AD VALOREM AND EXCISE TAXES. (a) The
19 tax imposed by this chapter shall be in lieu of state and local ad
20 valorem and excise taxes in municipalities electing to participate in
21 revenue-sharing payments under sec. 70 of this chapter.

22 (b) The inventory and fixtures of a business operated by a regu-
23 lated public utility not required for the furnishing of utility ser-
24 vices, including but not limited to appliance stores or departments, is
25 not exempt from ad valorem taxes. The inventory and accounts of these
26 businesses shall be separately maintained, and taxes shall be paid upon
27 them as provided by law.

28 Sec. 43.73.070. MUNICIPAL OPTION. (a) A municipality may, rather
29 than obtaining revenue-sharing payments under this chapter, continue to

1 levy real and personal property, excise taxes and other municipal taxes
2 authorized by law for utilities. If a municipality elects to continue
3 to levy taxes on regulated public utilities, the gross revenue tax
4 imposed by this chapter does not apply to gross revenue earned by such
5 a utility within that municipality.

6 (b) Election by a municipality to forego receipt of state payments
7 based on utility revenue within that municipality shall be communicated
8 in writing to the commissioner of revenue by July 1 of the year preced-
9 ing the year in which the payment would otherwise be made.

10 * Sec. 2. AS 10.25.540 - 10.25.580 are repealed.

11 * Sec. 3. This Act takes effect January 1, 1976.

Introduced: 3/14/75
Referred: Commerce and
Finance

1 IN THE SENATE

BY RODEY, WILLIS AND COLLETTA

2 SENATE BILL NO. 271

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the taxation of public utilities;
7 and providing for an effective date."

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

9 * Section 1. AS 43 is amended by adding a new chapter to read:

10 CHAPTER 73. PUBLIC UTILITY GROSS REVENUE TAX.

11 Sec. 43.73.010. TAX IMPOSED. (a) There is a tax imposed on all
12 public utilities within the state regulated by the Alaska Public
13 Utilities Commission, except solid waste and garbage disposal utilities.
14 The tax is three and one-half per cent of the gross revenue received by
15 the utility during the preceding year.

16 (b) For the purpose of computing gross revenue, a utility shall
17 include only that revenue which has been derived from electric energy,
18 water, telephone or other services which it distributes to its customers.
19 It shall not include revenue derived from the sale or transmission of
20 electric energy and power or products to, or on behalf of, another
21 distributor. Gross revenue of a telephone utility includes all revenue
22 earned from local and toll services.

23 Sec. 43.73.020. COLLECTION AND PAYMENT. The tax imposed by this
24 chapter shall be paid to the Department of Revenue before March 1 of
25 each year on the gross revenue earned the preceding year. The returns
26 shall be made on forms provided by, and in the manner prescribed by,
27 the department.

28 Sec. 43.73.030. DEPOSIT IN THE GENERAL FUND. The tax collected
29 under this chapter shall be deposited in the general fund. The

1 legislature is authorized to appropriate as a revenue-sharing payment
2 to each municipality an amount equal to the amount of tax paid on the
3 gross revenue earned within the municipality, less the amount expended
4 by the state in its collection.

5 Sec. 43.73.040. REVENUE-SHARING PAYMENT IN BOROUGHES CONTAINING
6 CITIES. (a) If a utility serves a borough and a city within that
7 borough, the revenue-sharing payment authorized by sec. 30 of this
8 chapter shall be paid to the respective municipalities in the following
9 amounts:

10 (1) the revenue-sharing payment for tax collected on revenue
11 earned within a city shall be distributed to the city and the borough
12 in the same proportion that the city's and borough's tax effort bears
13 to the total taxes collected by the city and the borough within the city;
14 and

15 (2) the revenue-sharing payment for tax collected on gross
16 revenue earned outside cities shall be distributed to the borough.

17 (b) Proceeds received by a borough containing one or more cities
18 shall be used as follows:

19 (1) proceeds based upon utility gross revenue earned within
20 a city shall be used by the borough only for borough areawide functions,
21 and if there are any service areas which include the whole of the city,
22 for the functions of that service area in that proportion which taxes
23 collected for that service area within the city bear to the total of
24 taxes collected within the city for borough, areawide and service area
25 functions;

26 (2) proceeds based upon utility gross revenue outside the
27 city shall be used for areawide purposes in the same proportion that the
28 borough's tax effort outside cities for areawide purposes bears to total
29 taxes collected by the borough for the entire area outside cities.

1 (c) Gross revenue taxes received by the borough on the basis of
2 utility gross revenue received outside cities shall be used by the
3 borough for nonareawide and service area functions in the same propor-
4 tion that the borough's taxes raised for those functions bear to total
5 borough taxes collected outside cities.

6 Sec. 43.73.050. MUNICIPAL UTILITIES. A municipality operating
7 municipal utilities may not make contributions to its general fund or
8 other municipal nonutility funds until it has first made payments in
9 lieu of taxes to all municipalities served by its municipal utilities
10 in an amount equal to the payments which would have been paid by the
11 state to the municipalities under this chapter if the municipal utili-
12 ties were privately owned. Payments in lieu of taxes shall be applied
13 by the municipalities to city, areawide, nonareawide and service area
14 functions in the same manner as state refunds of utility gross revenue
15 taxes of a privately owned, regulated public utility would be distri-
16 buted under this chapter. Payments in lieu of taxes by municipally
17 owned utilities shall be considered an operating cost of the utility.

18 Sec. 43.73.060. IN LIEU OF AD VALOREM AND EXCISE TAXES. (a) The
19 tax imposed by this chapter shall be in lieu of state and local ad
20 valorem and excise taxes in municipalities electing to participate in
21 revenue-sharing payments under sec. 70 of this chapter.

22 (b) The inventory and fixtures of a business operated by a regu-
23 lated public utility not required for the furnishing of utility ser-
24 vices, including but not limited to appliance stores or departments, is
25 not exempt from ad valorem taxes. The inventory and accounts of these
26 businesses shall be separately maintained, and taxes shall be paid upon
27 them as provided by law.

28 Sec. 43.73.070. MUNICIPAL OPTION. (a) A municipality may, rather
29 than obtaining revenue-sharing payments under this chapter, continue to

1 levy real and personal property, excise taxes and other municipal taxes
2 authorized by law for utilities. If a municipality elects to continue
3 to levy taxes on regulated public utilities, the gross revenue tax
4 imposed by this chapter does not apply to gross revenue earned by such
5 a utility within that municipality.

6 (b) Election by a municipality to forego receipt of state payments
7 based on utility revenue within that municipality shall be communicated
8 in writing to the commissioner of revenue by July 1 of the year preced-
9 ing the year in which the payment would otherwise be made.

10 * Sec. 2. AS 10.25.540 - 10.25.580 are repealed.

11 * Sec. 3. This Act takes effect January 1, 1976.

Introduced: 3/14/75
Referred: Commerce and
Finance

BY RODEY, WILLIS AND COLLETTA

1 IN THE SENATE

2 SENATE BILL NO. 271

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the taxation of public utilities;
7 and providing for an effective date."

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

9 * Section 1. AS 43 is amended by adding a new chapter to read:

10 CHAPTER 73. PUBLIC UTILITY GROSS REVENUE TAX.

11 Sec. 43.73.010. TAX IMPOSED. (a) There is a tax imposed on all
12 public utilities within the state regulated by the Alaska Public
13 Utilities Commission, except solid waste and garbage disposal utilities.
14 The tax is three and one-half per cent of the gross revenue received by
15 the utility during the preceding year.

16 (b) For the purpose of computing gross revenue, a utility shall
17 include only that revenue which has been derived from electric energy,
18 water, telephone or other services which it distributes to its customers.
19 It shall not include revenue derived from the sale or transmission of
20 electric energy and power or products to, or on behalf of, another
21 distributor. Gross revenue of a telephone utility includes all revenue
22 earned from local and toll services.

23 Sec. 43.73.020. COLLECTION AND PAYMENT. The tax imposed by this
24 chapter shall be paid to the Department of Revenue before March 1 of
25 each year on the gross revenue earned the preceding year. The returns
26 shall be made on forms provided by, and in the manner prescribed by,
27 the department.

28 Sec. 43.73.030. DEPOSIT IN THE GENERAL FUND. The tax collected
29 under this chapter shall be deposited in the general fund. The

1 legislature is authorized to appropriate as a revenue-sharing payment
2 to each municipality an amount equal to the amount of tax paid on the
3 gross revenue earned within the municipality, less the amount expended
4 by the state in its collection.

5 Sec. 43.73.040. REVENUE-SHARING PAYMENT IN BOROUGHES CONTAINING
6 CITIES. (a) If a utility serves a borough and a city within that
7 borough, the revenue-sharing payment authorized by sec. 30 of this
8 chapter shall be paid to the respective municipalities in the following
9 amounts:

10 (1) the revenue-sharing payment for tax collected on revenue
11 earned within a city shall be distributed to the city and the borough
12 in the same proportion that the city's and borough's tax effort bears
13 to the total taxes collected by the city and the borough within the city;
14 and

15 (2) the revenue-sharing payment for tax collected on gross
16 revenue earned outside cities shall be distributed to the borough.

17 (b) Proceeds received by a borough containing one or more cities
18 shall be used as follows:

19 (1) proceeds based upon utility gross revenue earned within
20 a city shall be used by the borough only for borough areawide functions,
21 and if there are any service areas which include the whole of the city,
22 for the functions of that service area in that proportion which taxes
23 collected for that service area within the city bear to the total of
24 taxes collected within the city for borough, areawide and service area
25 functions;

26 (2) proceeds based upon utility gross revenue outside the
27 city shall be used for areawide purposes in the same proportion that the
28 borough's tax effort outside cities for areawide purposes bears to total
29 taxes collected by the borough for the entire area outside cities.

1 (c) Gross revenue taxes received by the borough on the basis of
 2 utility gross revenue received outside cities shall be used by the
 3 borough for nonareawide and service area functions in the same propor-
 4 tion that the borough's taxes raised for those functions bear to total
 5 borough taxes collected outside cities.

6 Sec. 43.73.050. MUNICIPAL UTILITIES. A municipality operating
 7 municipal utilities may not make contributions to its general fund or
 8 other municipal nonutility funds until it has first made payments in
 9 lieu of taxes to all municipalities served by its municipal utilities
 10 in an amount equal to the payments which would have been paid by the
 11 state to the municipalities under this chapter if the municipal utili-
 12 ties were privately owned. Payments in lieu of taxes shall be applied
 13 by the municipalities to city, areawide, nonareawide and service area
 14 functions in the same manner as state refunds of utility gross revenue
 15 taxes of a privately owned, regulated public utility would be distri-
 16 buted under this chapter. Payments in lieu of taxes by municipally
 17 owned utilities shall be considered an operating cost of the utility.

18 Sec. 43.73.060. IN LIEU OF AD VALOREM AND EXCISE TAXES. (a) The
 19 tax imposed by this chapter shall be in lieu of state and local ad
 20 valorem and excise taxes in municipalities electing to participate in
 21 revenue-sharing payments under sec. 70 of this chapter.

22 (b) The inventory and fixtures of a business operated by a regu-
 23 lated public utility not required for the furnishing of utility ser-
 24 vices, including but not limited to appliance stores or departments, is
 25 not exempt from ad valorem taxes. The inventory and accounts of these
 26 businesses shall be separately maintained, and taxes shall be paid upon
 27 them as provided by law.

28 Sec. 43.73.070. MUNICIPAL OPTION. (a) A municipality may, rather
 29 than obtaining revenue-sharing payments under this chapter, continue to

1 levy real and personal property, excise taxes and other municipal taxes
2 authorized by law for utilities. If a municipality elects to continue
3 to levy taxes on regulated public utilities, the gross revenue tax
4 imposed by this chapter does not apply to gross revenue earned by such
5 a utility within that municipality.

6 (b) Election by a municipality to forego receipt of state payments
7 based on utility revenue within that municipality shall be communicated
8 in writing to the commissioner of revenue by July 1 of the year preced-
9 ing the year in which the payment would otherwise be made.

10 * Sec. 2. AS 10.25.540 - 10.25.580 are repealed.

11 * Sec. 3. This Act takes effect January 1, 1976.

Introduced: 3/14/75
Referred: Commerce and
Finance

1 IN THE SENATE

BY RODEY, WILLIS AND COLLETTA

2 SENATE BILL NO. 271

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the taxation of public utilities;
7 and providing for an effective date."

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

9 * Section 1. AS 43 is amended by adding a new chapter to read:

10 CHAPTER 73. PUBLIC UTILITY GROSS REVENUE TAX.

11 Sec. 43.73.010. TAX IMPOSED. (a) There is a tax imposed on all
12 public utilities within the state regulated by the Alaska Public
13 Utilities Commission, except solid waste and garbage disposal utilities.
14 The tax is three and one-half per cent of the gross revenue received by
15 the utility during the preceding year.

16 (b) For the purpose of computing gross revenue, a utility shall
17 include only that revenue which has been derived from electric energy,
18 water, telephone or other services which it distributes to its customers.
19 It shall not include revenue derived from the sale or transmission of
20 electric energy and power or products to, or on behalf of, another
21 distributor. Gross revenue of a telephone utility includes all revenue
22 earned from local and toll services.

23 Sec. 43.73.020. COLLECTION AND PAYMENT. The tax imposed by this
24 chapter shall be paid to the Department of Revenue before March 1 of
25 each year on the gross revenue earned the preceding year. The returns
26 shall be made on forms provided by, and in the manner prescribed by,
27 the department.

28 Sec. 43.73.030. DEPOSIT IN THE GENERAL FUND. The tax collected
29 under this chapter shall be deposited in the general fund. The

1 legislature is authorized to appropriate as a revenue-sharing payment
2 to each municipality an amount equal to the amount of tax paid on the
3 gross revenue earned within the municipality, less the amount expended
4 by the state in its collection.

5 Sec. 43.73.040. REVENUE-SHARING PAYMENT IN BOROUGHES CONTAINING
6 CITIES. (a) If a utility serves a borough and a city within that
7 borough, the revenue-sharing payment authorized by sec. 30 of this
8 chapter shall be paid to the respective municipalities in the following
9 amounts:

10 (1) the revenue-sharing payment for tax collected on revenue
11 earned within a city shall be distributed to the city and the borough
12 in the same proportion that the city's and borough's tax effort bears
13 to the total taxes collected by the city and the borough within the city
14 and

15 (2) the revenue-sharing payment for tax collected on gross
16 revenue earned outside cities shall be distributed to the borough.

17 (b) Proceeds received by a borough containing one or more cities
18 shall be used as follows.

19 (1) proceeds based upon utility gross revenue earned within
20 a city shall be used by the borough only for borough areawide functions,
21 and if there are any service areas which include the whole of the city,
22 for the functions of that service area in that proportion which taxes
23 collected for that service area within the city bear to the total of
24 taxes collected within the city for borough, areawide and service area
25 functions;

26 (2) proceeds based upon utility gross revenue outside the
27 city shall be used for areawide purposes in the same proportion that the
28 borough's tax effort outside cities for areawide purposes bears to total
29 taxes collected by the borough for the entire area outside cities.

1 (c) Gross revenue taxes received by the borough on the basis of
2 utility gross revenue received outside cities shall be used by the
3 borough for nonareawide and service area functions in the same propor-
4 tion that the borough's taxes raised for those functions bear to total
5 borough taxes collected outside cities.

6 Sec. 43.73.050. MUNICIPAL UTILITIES. A municipality operating
7 municipal utilities may not make contributions to its general fund or
8 other municipal nonutility funds until it has first made payments in
9 lieu of taxes to all municipalities served by its municipal utilities
10 in an amount equal to the payments which would have been paid by the
11 state to the municipalities under this chapter if the municipal utili-
12 ties were privately owned. Payments in lieu of taxes shall be applied
13 by the municipalities to city, areawide, nonareawide and service area
14 functions in the same manner as state refunds of utility gross revenue
15 taxes of a privately owned, regulated public utility would be distri-
16 buted under this chapter. Payments in lieu of taxes by municipally
17 owned utilities shall be considered an operating cost of the utility.

18 Sec. 43.73.060. IN LIEU OF AD VALOREM AND EXCISE TAXES. (a) The
19 tax imposed by this chapter shall be in lieu of state and local ad
20 valorem and excise taxes in municipalities electing to participate in
21 revenue-sharing payments under sec. 70 of this chapter.

22 (b) The inventory and fixtures of a business operated by a regu-
23 lated public utility not required for the furnishing of utility ser-
24 vices, including but not limited to appliance stores or departments, is
25 not exempt from ad valorem taxes. The inventory and accounts of these
26 businesses shall be separately maintained, and taxes shall be paid upon
27 them as provided by law.

28 Sec. 43.73.070. MUNICIPAL OPTION. (a) A municipality may, rather
29 than obtaining revenue-sharing payments under this chapter, continue to

1 levy real and personal property, excise taxes and other municipal taxes
2 authorized by law for utilities. If a municipality elects to continue
3 to levy taxes on regulated public utilities, the gross revenue tax
4 imposed by this chapter does not apply to gross revenue earned by such
5 a utility within that municipality.

6 (b) Election by a municipality to forego receipt of state payments
7 based on utility revenue within that municipality shall be communicated
8 in writing to the commissioner of revenue by July 1 of the year preced-
9 ing the year in which the payment would otherwise be made.

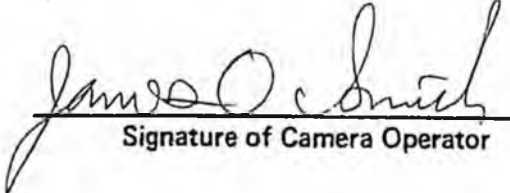
10 * Sec. 2. AS 10.25.540 - 10.25.580 are repealed.

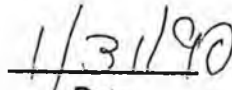
11 * Sec. 3. This Act takes effect January 1, 1976.



RECORDS CERTIFICATION

I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.


Signature of Camera Operator


Date

"An Act relating to the operation of food service and concession stands by blind and handicapped persons."

COMMITTEE REPORT

3/9/76

HOUSE

Mr. Speaker:

Date March 11 1976

The Committee on FINANCE has had SB 272 am

under consideration. A Majority of the members of the Committee

recommends it DO PASS

recommends it DO NOT PASS

recommends it DO PASS WITH ATTACHED AMENDMENT(S)

recommends it BE REPLACED WITH CS FOR FINANCE AND THAT

CS FOR _____ DO PASS

"and" recommends it BE REFERRED TO THE _____

COMMITTEE

reports it back WITHOUT RECOMMENDATION

"other"

Members signing the Majority report:

<u>[Signature]</u>	<u>[Signature]</u>	_____
_____	_____	_____
<u>[Signature]</u>	<u>[Signature]</u>	_____
_____	_____	_____

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

[Signature] Chairman

Original sponsors: Chance, Butrovich,
Croft, et al

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2

HOUSE CS FOR SENATE BILL NO. 272 (Finance)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

NINTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act relating to the operation of food service and
7 concession stands by blind and handicapped persons;
8 and providing for an effective date."

9

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

10

* Sec. 1. AS 23.15.100(b) is amended by adding new paragraphs to read:

11

(5) license blind and severely handicapped persons for the
12 operation of vending facilities on federal property and in public build-
13 ings, with blind persons having first priority for operation of the
14 vending facilities;

15

(6) promulgate regulations necessary for carrying out the
16 provisions of secs. 10 - 210 of this chapter.

17

* Sec. 2. AS 23.15.210 is amended by adding new paragraphs to read:

18

(8) "blind person" means a person whose central visual acuity
19 does not exceed 20/200 in the better eye with correcting lenses, or
20 whose visual acuity, if better than 20/200, is accompanied by a limit to
21 the field of vision in the better eye to such a degree that its widest
22 diameter subtends an angle of no greater than 20 degrees; an examination
23 by an ophthalmologist or by an optometrist is necessary before a person
24 is found to be blind;

25

(9) "severely handicapped person" means a person who has one
26 or more physical or mental disabilities which seriously limit the per-
27 son's functional capacities in terms of regular employment, and whose
28 vocational rehabilitation requires multiple vocational rehabilitation
29 services over an extended period of time;

1 (10) "licensee" means a blind or severely handicapped person
2 licensed by the division of vocational rehabilitation under the Randolph-
3 Sheppard Act (20 U.S.C. secs. 107 - 107b, 107d - 107e, 107f), sec.
4 100(b)(5) of this chapter, and any regulations issued under federal law
5 or sec. 100(b)(5) of this chapter;

6 (11) "public building" means any building owned by the state
7 or an agency or political subdivision of the state, or any space leased
8 by the state or any agency or political subdivision of the state, and
9 designated by the division as being appropriate for participation in the
10 business enterprise program;

11 (12) "vending facility" means an automatic vending machine,
12 cafeteria, snack bar, smelter, or counter where food, tobacco, or
13 sundries are offered for sale.

14 * Sec. 3. AS 23.15.130 is repealed and re-enacted to read:

15 Sec. 23.15.130. VOCATIONAL REHABILITATION SMALL BUSINESS ENTER-
16 PRISE REVOLVING LOAN FUND. (a) There is created as an account in the
17 general fund a revolving loan fund designated as the vocational rehabil-
18 itation small business enterprise revolving loan fund. The fund shall
19 be administered by the director of the division of occupational licens-
20 ing in the Department of Commerce and Economic Development.

21 (b) Receipts from the net proceeds of vending facilities in public
22 buildings, other than vending facilities operated by a licensee, shall
23 be paid to the fund.

24 (c) The fund shall be used to aid licensees in operating vending
25 machine facilities.

26 (d) In this section "net proceeds" means the gross receipts from
27 operating a vending facility less the costs of operation and a fair
28 return to the operator, to be determined by the division.

29 * Sec. 4. AS 44.21 is amended by adding a new section to read:

1 Sec. 44.21.025. CONTRACTS TO OPERATE CONCESSION STANDS IN STATE
2 BUILDINGS. In contracting after the effective date of this Act for the
3 operation of food service and concession stands in buildings owned or
4 leased by the state or an agency of the state the Department of Adminis-
5 tration shall give preference to contract requests submitted by persons
6 licensed by the division of vocational rehabilitation under AS 23.15.-
7 100(b)(5).

8 * Sec. 5. This Act takes effect July 1, 1976.
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

Original sponsors: Chance, Butrovich,
Croft, et al

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2 HOUSE CS FOR SENATE BILL NO. 272 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the operation of food service and
7 concession stands by blind and handicapped persons;
8 and providing for an effective date."

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

10 * Sec. 1. AS 23.15.100(b) is amended by adding new paragraphs to read:

11 (5) license blind and severely handicapped persons for the
12 operation of vending facilities on federal property and in public build-
13 ings, with blind persons having first priority for operation of the vend-
14 ing facilities;

15 (6) promulgate regulations necessary for carrying out the
16 provisions of secs. 10 - 210 of this chapter.

17 * Sec. 2. AS 23.15.210 is amended by adding new paragraphs to read:

18 (8) "blind person" means a person whose central visual acuity
19 does not exceed 20/200 in the better eye with correcting lenses, or
20 whose visual acuity, if better than 20/200, is accompanied by a limit to
21 the field of vision in the better eye to such a degree that its widest
22 diameter subtends an angle of no greater than 20 degrees; an examination
23 by an ophthalmologist or by an optometrist is necessary before a person
24 is found to be blind;

25 (9) "severely handicapped person" means a person who has one
26 or more physical or mental disabilities which seriously limit the per-
27 son's functional capacities in terms of regular employment, and whose
28 vocational rehabilitation requires multiple vocational rehabilitation
29 services over an extended period of time;

1 (10) "licensee" means a blind or severely handicapped person
2 licensed by the division of vocational rehabilitation under the Randolph-
3 Sheppard Act (20 U.S.C. secs. 107 - 107b, 107d - 107e, 107f), sec.
4 100(b)(5) of this chapter, and any regulations issued under federal law
5 or sec. 100(b)(5) of this chapter;

6 (11) "public building" means any building owned by the state or
7 an agency or political subdivision of the state, or any space leased by
8 the state or any agency or political subdivision of the state, and
9 designated by the division as being appropriate for participation in the
10 business enterprise program;

11 (12) "vending facility" means an automatic vending machine,
12 cafeteria, snack bar, shelter, or counter where food, tobacco, or
13 sundries are offered for sale.

14 * Sec. 3. AS 23.15.130 is repealed and re-enacted to read:

15 Sec. 23.15.130. VOCATIONAL REHABILITATION SMALL BUSINESS REVOLVING
16 LOAN FUND. (a) There is created in the division of ^{VOCATIONAL} ~~occupational~~
17 ~~licensing~~ the vocational rehabilitation small business revolving loan
18 fund. The fund shall be administered by the director.

19 (b) Receipts from the net proceeds of vending facilities in public
20 buildings, other than vending facilities operated by a licensee, shall
21 be paid to the fund.

22 (c) The fund shall be used to aid licensees in operating vending
23 machine facilities.

24 (d) In this section "net proceeds" means the gross receipts from
25 operating a vending facility less the costs of operation and a fair
26 return to the operator, to be determined by the division.

27 * Sec. 4. AS 44.21 is amended by adding a new section to read:

28 Sec. 44.21.025. CONTRACTS TO OPERATE CONCESSION STANDS IN STATE
29 BUILDINGS. In contracting after the effective date of this Act for the

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

operation of food service and concession stands in buildings owned or leased by the state or an agency of the state the Department of Administration shall give preference to contract requests submitted by persons licensed by the division of vocational rehabilitation under AS 23.15.-100(b)(5).

Sec. 5. This Act takes effect July 1, 1976.

Original sponsors: Chance, Butrovich,
Croft, et al

3-25-76

10 Bill Service

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2 HOUSE CS FOR SENATE BILL NO. 272 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the operation of food service and
7 concession stands by blind and handicapped persons;
8 and providing for an effective date."

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

10 * Sec. 1. AS 23.15.100(b) is amended by adding new paragraphs to read:

11 (5) license blind and severely handicapped persons for the
12 operation of vending facilities on federal property and in public build-
13 ings, with blind persons having first priority for operation of the vend-
14 ing facilities;

15 (6) promulgate regulations necessary for carrying out the
16 provisions of secs. 10 - 210 of this chapter.

17 * Sec. 2. AS 23.15.210 is amended by adding new paragraphs to read:

18 (8) "blind person" means a person whose central visual acuity
19 does not exceed 20/200 in the better eye with correcting lenses, or
20 whose visual acuity, if better than 20/200, is accompanied by a limit to
21 the field of visior in the better eye to such a degree that its widest
22 diameter subtends an angle of no greater than 20 degrees; an examination
23 by an ophthalmologist or by an optometrist is necessary before a person
24 is found to be blind;

25 (9) "severely handicapped person" means a person who has one
26 or more physical or mental disabilities which seriously limit the per-
27 son's functional capacities in terms of regular employment, and whose
28 vocational rehabilitation requires multiple vocational rehabilitation
29 services over an extended period of time;

(10) "licensee" means a blind or severely handicapped person licensed by the division of vocational rehabilitation under the Randolph-Sheppard Act (20 U.S.C. secs. 107 - 107b, 107d - 107e, 107f), sec. 100(b)(5) of this chapter, and any regulations issued under federal law or sec. 100(b)(5) of this chapter;

(11) "public building" means any building owned by the state or an agency or political subdivision of the state, or any space leased by the state or any agency or political subdivision of the state, and designated by the division as being appropriate for participation in the business enterprise program;

(12) "vending facility" means an automatic vending machine, cafeteria, snack bar, shelter, or counter where food, tobacco, or sundries are offered for sale.

* Sec. 3 AS 23.15.130 is repealed and re-enacted to read:

Sec. 23.15.130 VOCATIONAL REHABILITATION SMALL BUSINESS ENTERPRISE REVOLVING LOAN FUND. (a) There is created in the state treasury a revolving loan fund designated as the Vocational Rehabilitation Small Business Enterprise Revolving Loan Fund. The fund shall be administered by the director.

buildings, other than vending facilities operated by a licensee, shall be paid to the fund.

(c) The fund shall be used to aid licensees in operating vending machine facilities.

(d) In this section "net proceeds" means the gross receipts from operating a vending facility less the costs of operation and a fair return to the operator, to be determined by the division.

* Sec. 4. AS 44.21 is amended by adding a new section to read:

Sec. 44.21.025. CONTRACTS TO OPERATE CONCESSION STANDS IN STATE

1 (10) "licensee" means a blind or severely handicapped person
2 licensed by the division of vocational rehabilitation under the Randolph-
3 Sheppard Act (20 U.S.C. secs. 107 - 107b, 107d - 107e, 107f), sec.
4 100(b)(5) of this chapter, and any regulations issued under federal law
5 or sec. 100(b)(5) of this chapter;

6 (11) "public building" means any building owned by the state or
7 an agency or political subdivision of the state, or any space leased by
8 the state or any agency or political subdivision of the state, and
9 designated by the division as being appropriate for participation in the
0 business enterprise program;

1 (12) "vending facility" means an automatic vending machine,
2 cafeteria, snack bar, shelter, or counter where food, tobacco, or
3 sundries are offered for sale.

4 * Sec. 3. AS 23.15.130 is repealed and re-enacted to read:

5 Sec. 23.15.130. VOCATIONAL REHABILITATION SMALL BUSINESS REVOLVING
6 LOAN FUND. (a) There is created in the division of occupational
7 licensing the vocational rehabilitation small business revolving loan
8 fund. The fund shall be administered by the director.

9 (b) Receipts from the net proceeds of vending facilities in public
0 buildings, other than vending facilities operated by a licensee, shall
1 be paid to the fund.

2 (c) The fund shall be used to aid licensees in operating vending
3 machine facilities.

4 (d) In this section "net proceeds" means the gross receipts from
5 operating a vending facility less the costs of operation and a fair
6 return to the operator, to be determined by the division.

7 * Sec. 4. AS 44.21 is amended by adding a new section to read:

8 Sec. 44.21.025. CONTRACTS TO OPERATE CONCESSION STANDS IN STATE
9 BUILDINGS. In contracting after the effective date of this Act for the

1 operation of food service and concession stands in buildings owned or
2 leased by the state or an agency of the state the Department of Adminis-
3 tration shall give preference to contract requests submitted by persons
4 licensed by the division of vocational rehabilitation under AS 23.15.-
5 100(b)(5).

Sec. 5. This Act takes effect July 1, 1976.

A M E N D M E N T

OFFERED IN THE HOUSE:

BY: House FINANCE

To: amend HOUSE BILL No. _____

HOUSE CS - SENATE BILL No. 272 (Finance)

PAGE: _____

LINE: _____

Page 2, Line 16

delete: "as an account"

Page 2, Line 17

delete: "general fund"
insert: "state treasury"

Page 2, Lines 19 and 20

insert: a period, after the word "director"
delete: the remainder of the sentence on
Lines 19 and 20, to read:

"There is created in the state treasury
a revolving loan fund designated as the
vocational rehabilitation small business
enterprise revolving loan fund. The fund
shall be administered by the director"

Page 1, Lines 6 and 7

delete: "food service and concession stands"
insert: "vending facilities"

Page 3, Line 1

delete: "concession stands"
insert: "vending facilities"

Page 3, Line 3

delete: "food service and concession stands"
insert: "vending facilities"

Original sponsors: Chance, Butrovich,
Croft, et al

Offered: 3/29/76
Referred: Rules

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2 HOUSE CS FOR SENATE BILL NO. 272 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the operation of food service and
7 concession stands by blind and handicapped persons;
8 and providing for an effective date."

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

10 * Sec. 1. AS 23.15.100(b) is amended by adding new paragraphs to read:

11 (5) license blind and severely handicapped persons for the
12 operation of vending facilities on federal property and in public build-
13 ings, with blind persons having first priority for operation of the
14 vending facilities;

15 (6) promulgate regulations necessary for carrying out the
16 provisions of secs. 10 - 210 of this chapter.

17 * Sec. 2. AS 23.15.210 is amended by adding new paragraphs to read:

18 (8) "blind person" means a person whose central visual acuity
19 does not exceed 20/200 in the better eye with correcting lenses, or
20 whose visual acuity, if better than 20/200, is accompanied by a limit to
21 the field of vision in the better eye to such a degree that its widest
22 diameter subtends an angle of no greater than 20 degrees; an examination
23 by an ophthalmologist or by an optometrist is necessary before a person
24 is found to be blind;

25 (9) "severely handicapped person" means a person who has one
26 or more physical or mental disabilities which seriously limit the per-
27 son's functional capacities in terms of regular employment, and whose
28 vocational rehabilitation requires multiple vocational rehabilitation
29 services over an extended period of time;

1 (10) "licensee" means a blind or severely handicapped person
2 licensed by the division of vocational rehabilitation under the Randolph-
3 Sheppard Act (20 U.S.C. secs. 107 - 107b, 107d - 107e, 107f), sec.
4 100(b)(5) of this chapter, and any regulations issued under federal law
5 or sec. 100(b)(5) of this chapter;

6 (11) "public building" means any building owned by the state
7 or an agency or political subdivision of the state, or any space leased
8 by the state or any agency or political subdivision of the state, and
9 designated by the division as being appropriate for participation in the
10 business enterprise program;

11 (12) "vending facility" means an automatic vending machine,
12 cafeteria, snack bar, shelter, or counter where food, tobacco, or
13 sundries are offered for sale.

14 * Sec. 3. AS 23.15.130 is repealed and re-enacted to read:

15 Sec. 23.15.130. VOCATIONAL REHABILITATION SMALL BUSINESS ENTER-
16 PRISE REVOLVING LOAN FUND. (a) There is created ~~as an account~~ in the
17 *state treasury* ~~general fund~~ a revolving loan fund designated as the vocational rehabili-
18 tation small business enterprise revolving loan fund. The fund shall
19 be administered by the director, ~~of the division of occupational licens-~~
20 ~~ing in the Department of Commerce and Economic Development.~~

21 (b) Receipts from the net proceeds of vending facilities in public
22 buildings, other than vending facilities operated by a licensee, shall
23 be paid to the fund.

24 (c) The fund shall be used to aid licensees in operating vending
25 machine facilities.

26 (d) In this section "net proceeds" means the gross receipts from
27 operating a vending facility less the costs of operation and a fair
28 return to the operator, to be determined by the division.

29 * Sec. 4. AS 44.21 is amended by adding a new section to read:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

Sec. 14.21.025. CONTRACTS TO OPERATE CONCESSION STANDS IN STATE BUILDINGS. In contracting after the effective date of this Act for the operation of food service and concession stands in buildings owned or leased by the state or an agency of the state the Department of Administration shall give preference to contract requests submitted by persons licensed by the division of vocational rehabilitation under AS 23.15.-100(b)(5).

Sec. 5. This Act takes effect July 1, 1976.

#

Original sponsors: Chance, Butrovich,
Croft, et al

Offered: 3/9/76
Referred: Finance

1 IN THE SENATE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2 HOUSE CS FOR SENATE BILL NO. 272

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the operation of food vending
7 facilities and vending machines by a blind or handi-
8 capped person."

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

10 * Section 1. AS 23.15 is amended by adding a new section to read:

11 Sec. 23.15.125. BLIND AND HANDICAPPED PERSONS OPERATING VENDING
12 STANDS ON STATE PROPERTY. After the effective date of this Act, the
13 Department of Administration shall give preference to a contract request
14 submitted by a blind or handicapped person, as defined in AS 47.25.780
15 and AS 23.15.210, respectively, for the operation of a vending stand in
16 a building owned or operated by the state; however, priority shall be
17 given to blind persons licensed by the agency under the provisions of
18 the Randolph Sheppard Act (June 20, 1936, c. 638, sec. 2, 49 Stat. 1559)
19 as amended by P. L. 93-516, Title II, sec. 202, 88 Stat. 1623. The
20 agency shall issue licenses authorizing the operation of vending stands
21 on state property where vending stands may be properly and satisfactorily
22 operated by blind or handicapped persons as determined by the agency.
23 The agency is authorized to adopt regulations necessary to implement
24 this section and sec. 210(8) of this chapter.

25 * Sec. 2. AS 23.15.210 is amended by adding a new paragraph to read:

26 (8) "vending stand" means an automatic vending machine, cafe-
27 teria, snack bar, cart service, shelter, counter, or other appropriate
28 auxiliary equipment which dispenses articles or services manually or
29 automatically.

Introduced: 3/14/75
Referred: State Affairs

BY CHANCE, BUTROVICH, CROFT,
HOHMAN, POLAND, RODEY, SACKETT,
WILLIS AND ZIEGLER

1 IN THE SENATE

2 SENATE BILL NO. 272 am

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the operation of food service and
7 concession stands by blind and handicapped persons."

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

9 * Section 1. AS 44.21 is amended by adding a new section to read:

10 Sec. 44.21.025. CONTRACTS TO OPERATE CONCESSION STANDS IN STATE
11 BUILDINGS. In contracting after the effective date of this Act for
12 the operation of food service and concession stands in buildings owned
13 or operated by the state, the Department of Administration shall give
14 preference to contract requests submitted by blind and handicapped
15 persons.

AMENDMENT

OFFERED IN THE HOUSE:

BY: HOUSE FINANCE

To: AMEND HOUSE BILL No. _____

~~HOUSE~~ CS FOR SENATE BILL No. 272 (FINANCE)

PAGE: ~~ONE~~ ¹

LINE: ~~SIX~~ ⁶ AND ~~SEVEN~~ ⁷

delete: food service and concession stands
insert: vending facilities

PAGE ~~THREE~~ ³, LINE ~~ONE~~ ¹

delete: CONCESSION STANDS
insert: VENDING FACILITIES

PAGE ~~THREE~~ ³, LINE ~~THREE~~ ³

delete: food service and concession stands
insert: vending facilities

PAGE ~~TWO~~ ², LINE ~~SIXTEEN~~ ¹⁶

delete: as an account

PAGE ~~TWO~~ ², LINE ~~SEVENTEEN~~ ¹⁷

delete: general fund
insert: state treasury

PAGE ~~TWO~~ ², LINES ~~NINETEEN AND TWENTY~~ ^{19 AND 20}

~~delete:~~ ~~insert:~~ ~~all sentence after the word "director"~~ ~~at this~~
~~insert:~~ ~~period after the word "director"~~

*and insert period after the word
director and delete rest of
sentence on lines 19 and 20.*

*Sentence would read: There is created in
the state treasury a revolving loan fund
designated as the vocational rehabilitation
small business enterprise revolving ^{loan fund}. The fund
shall be administered by the director.*

Original sponsors: Chance, Butrovich,
Croft, et al

1 IN THE SENATE

BY THE FINANCE COMMITTEE

2 HOUSE CS FOR SENATE BILL NO. 272 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the [operation of food service and
7 concession stands by blind and handicapped persons;]
8 and providing for an effective date."

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

10 " Sec. 1. AS 23.15.100(b) is amended by adding new paragraphs to read:

11 (5) license blind and severely handicapped persons for the
12 operation of vending facilities on federal property and in public build-
13 ings, with blind persons having first priority for operation of the vend-
14 ing facilities;

15 (6) promulgate regulations necessary for carrying out the
16 provisions of secs. 10 - 210 of this chapter.

17 " Sec. 2. AS 23.15.210 is amended by adding new paragraphs to read:

18 (5) "blind person" means a person whose central visual acuity
19 does not exceed 20/200 in the better eye with correcting lenses, or
20 whose visual acuity, if better than 20/200, is accompanied by a limit to
21 the field of vision in the better eye to such a degree that its widest
22 diameter subtends an angle of no greater than 20 degrees; an examination
23 by an ophthalmologist or by an optometrist is necessary before a person
24 is found to be blind;

25 (9) "severely handicapped person" means a person who has one
or more physical or mental disabilities which seriously limit the per-
son's functional capacities in terms of regular employment, and whose
vocational rehabilitation requires multiple vocational rehabilitation
services over an extended period of time;

Handwritten notes:
2
R.H.
PL 93
V. 11
Feb. 11
Voc. Rehab
1/25

Handwritten: Je
FINANCE COMMITTEE

blind
eligible is a person



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

(10) "licensee" means a blind or severely handicapped person licensed by the division of vocational rehabilitation under the Randolph-Sheppard Act (20 U.S.C. secs. 107 - 107b, 107d - 107e, 107f), sec. 100(b)(5) of this chapter, and any regulations issued under federal law or sec. 100(b)(5) of this chapter;

(11) "public building" means any building owned by the state or an agency or political subdivision of the state, or any space leased by the state or any agency or political subdivision of the state, and designated by the division as being appropriate for participation in the business enterprise program;

(12) "vending facility" means an automatic vending machine, cafeteria, snack bar, shelter, or counter where food, tobacco, or sundries are offered for sale.

* Sec. 3. AS 23.15.130 is repealed and re-enacted to read:

Sec. 23.15.130. VOCATIONAL REHABILITATION SMALL BUSINESS REVOLVING LOAN FUND. (a) There is created ~~in the division of occupational licensing~~ ^{in the division of occupational licensing} the vocational rehabilitation small business revolving loan fund. The fund shall be administered by the director. *not operated by blind*

(b) Receipts from the net proceeds ^{not reported by blind} of vending facilities in public buildings, other than vending facilities operated by a licensee, shall be paid to the fund.

(c) The fund shall be used to aid licensees in operating vending machine facilities.

(d) In this section "net proceeds" means the gross receipts from operating a vending facility less the costs of operation and a fair return to the operator, to be determined by the division.

* Sec. 4. AS 44.21 is amended by adding a new section to read:

Sec. 44.21.025. CONTRACTS TO OPERATE CONCESSION STANDS IN STATE BUILDINGS. In contracting after the effective date of this Act for the

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

operation of food service and concession stands in buildings owned or leased by the state or an agency of the state the Department of Administration shall give preference to contract requests submitted by persons licensed by the division of vocational rehabilitation under AS 23.15.-100(b)(5).

* Sec. 5. This Act takes effect July 1, 1976.

HOUSE FINANCE COMMITTEE
Tuesday, March 23, 1976
7:00 p.m.

Chairman Malone called the meeting to order. All committee members were present after the later arrival of Cowper and Gruening. Others present were Jim Rhodes, Milt Barker and Bob Grogan of Legislative Finance Committees, Dick Montague, Director of Tourism, Russell Cahill, Director Division of Parks, Mike Morgan, Director Vocational Rehabilitation for the DOE, Rep. Ted Smith, and visitor Yul Kilcher, exstate senator from Homer.

Rep. Ted Smith and Russell Cahill spoke to the purpose of HB 125, Expanding Denali State Park. The fiscal note was one year old, commented the chairman. A map with boundary line was shown and a few questions regarding use were addressed to Cahill. Duncan asked for information on resource committee action on the bill, which the chairman read from the master bill file. Buchholdt asked Ted Smith what the reaction of the people in that area was to the bill, in Hatcher Pass. The reply was that generally there seemed to be only opposition voiced in connection with Talkeetna State Park. The location of this new park is approximately 20 miles North of Talkeetna.

It was moved and unanimous consent asked to report the bill out of committee. There was a DO PASS with no recommendation from Haugen and Guy.

Next on the agenda was HB 707, an Appropriation of \$50,000 to the Governor's Office for a Conference of Oil and Gas. The committee read over the House Commerce Committee Report (see bill file), and made comments of a brief nature about the title, the intent and cost of \$50,000. It would be seed money, representing 25% of the budget required to bring in an international conference representative of oil producing states of the Union and foreign countries. It would serve the function of examining existing and recommended public policies appropriate to the regions experiencing an accelerated surge of oil and gas development. Chairman Malone pointed out the possible effects of this development on Alaska State

Milt Barker asked Mike Morgan about how and who bids to be the licensee. Did the division take a part of the proceeds? No. They could take and set aside funds, for that is how the current small enterprise fund is built up, but they had elected not to do that at this time. They are receiving receipts from the Nome and Fairbanks state office buildings now. That is being put in the small enterprise loan fund.

Guy questioned as to how persons qualify, the process of application and the diagnostic procedures. These were explained.

Itta asked for an explanation of the monies in the state treasury in the revolving fund designated as a small business enterprise loan.

The chairman said he felt there was enough information to come to a decision. Naughton expressed a view to seeing a committee substitute prepared, incorporating changes into the 13.50.130 section. Itta referred to page 2, 2315130, line 16 and 17 and she made a motion to amend the language to read:

"There is created in the state treasury a revolving loan fund designated as the vocational rehabilitation small business enterprise revolving loan fund."

Discussion on the amendment followed. Morgan said that would be in order. The motion was adopted.

Itta questioned the language concerning licensee on p. 2 (10). The definition of the term was discussed, with the explanation from Morgan that should there not be enough blind persons to fill licensee roles, that within the states' program, they could select other severely handicapped persons.

Itta made a motion and asked unanimous consent to pass out HB CS SB 272 from the Finance Committee. The vote was DO PASS.

Next on the agenda was HB 328, Refund provisions for motor fuel oil tax was discussed.

Chairman Malone explained the history and intent of the bill -- who will be affected by the legislation, including the White-Pass Yukon Railroad. Logging camps, too, would be affected, said Haugen.

The chairman expressed little interest in pursuing the bill but if other committee members had an interest, he would. He did not mind saying for the record that he was interested in "smacking Alyeska" because of the damage to the roads done in their operation. As far as the industry goes, these refunds are not necessary, he said, and second, he was concerned as to what it does to revenue sources for the state.

Haugen said the legislature talked about this when something might have been done, when Bruce Campbell, commissioner of

highways, called their attention to the problem in 1972; now it was too late, the damage has been done. However, there were a lot of vehicles and machinery (logging) that are paying tax and fuels that they use and they didn't pay the tax when they use off-highway roads. They did, however, pay taxes on the use of the highway system. He added comment about the rip-off the boat owners are making on the state on the motor fuel tax rebate when 35% of the state gross is being raked off for that purpose.

Malone said that because of the questions unanswered about aspects of a tax that may adversely affect some, the touchiness of the subject matter, that he would draft a committee substitute as narrowly as possible. This idea brought support from Itta and Duncan. Malone said in reference to the highway tax question from Duncan, that the motor fuel tax income raises more money than the governor's tax increase that he also is proposing, (a ten cent increase). Duncan suggested the CS might also address itself to the marine fuel tax problem. In summary, the idea did not seem to be popular but he might take a chance and work the marine fuels tax issue into the CS, Malone said.

The chairman then made the following bill assignments: HB 587 to Haugen; HB 557, to Buchholdt; HB 708 and HB 709, to Guy; HB 482 and HB 669 to Naughton; HB 421 and HB 423 to Itta. He called for the work to have been done by Tuesday morning. The next day's agenda was announced. The meeting was adjourned.

Tape H-76-50
Begin 0720
End 0286 on H-76-51

mb

Sec. 23.15.130. VOCATIONAL REHABILITATION SMALL
BUSINESS ENTERPRISE REVOLVING LOAN FUND. (a) There is created in
the state treasury a revolving loan fund designated as the vocation-
al rehabilitation small business enterprise revolving loan fund.
The fund shall be administered by the director, ~~of the Division of~~
~~Vocational Rehabilitation of the Department of Education.~~

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF EDUCATION

DIVISION OF VOCATIONAL REHABILITATION

March 18, 1976

Members of the House Finance Committee
9th Alaska State Legislature
Juneau, Alaska 99811

Dear Sirs;

Senator Genie Chance has requested your consideration on the matter of introducing a Finance Committee Substitute for House Committee Substitute for Senate Bill 272, referred to Finance on March 9, 1976, by the House HESS Committee. The title of this legislation is "An Act relating to the operation of food vending facilities and vending machines by a blind or handicapped person."

The recommended legislation is based on, and consistent with, the federal Randolph-Sheppard program, administered by this Division under Public Laws 93-112 and 93-516, the Code of Federal Regulations, Chapter 45, Part 1361, and AS 23.15.130.

Ret (The Division of Vocational Rehabilitation strongly supports this legislation. Upon passage of this legislation, the Division would be able to establish one vending stand program for the state of Alaska with consistent policies and regulations, rather than two programs, one based on the federal statutes and one based on state statutes.

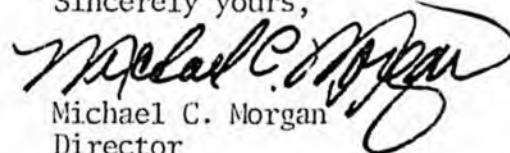
The Alaska Chapter of the National Federation of the Blind, and Mrs. Lee Campbell of the Blind Vending Stand Operators Advisory Committee have been involved with, and strongly support the passage of this legislation. It is also endorsed by the Alaska Rehabilitation Association.

For the Committee's review, I have attached copies of the proposed legislation, Public Law 93-516, Title II, and the Federal Regulations published pursuant to the Act.

If I may be of any further assistance in your deliberations, you may contact me at 586-6500.

Thank you very much for your consideration.

Sincerely yours,


Michael C. Morgan
Director

cc: Senator Genie Chance
Representative Susan Sullivan

federal register

TUESDAY, DECEMBER 23, 1975



PART II:

DEPARTMENT OF
HEALTH,
EDUCATION, AND
WELFARE

Office of Human Development

■

REHABILITATION
PROGRAMS AND
ACTIVITIES

Vending Facilities for Blind Licensees
REC'D BY D.V.R.]

JAN 9 1976

CENTRAL OFFICE

**DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE**

Office of Human Development
[45 CFR Part 1369]

**REHABILITATION PROGRAMS AND
ACTIVITIES**

Vending Facilities for Blind Licensees

Notice is hereby given that the regulations set forth in tentative form below are proposed by the Commissioner of the Rehabilitation Services Administration with the approval of the Secretary of Health, Education, and Welfare. The proposed regulations revoke Part 409 of Chapter IV of Title 45 of the Code of Federal Regulations and amend Chapter XIII of Title 45 of the Code of Federal Regulations by adding Part 1369 in order to implement the Randolph-Sheppard Act Amendments of 1974 (Pub. L. 93-516).

Part 1369 provides for the designation of the State vocational rehabilitation agency administering the State's vocational rehabilitation program for blind individuals as the State licensing agency for purposes of administering the State's vending facility program for blind licensees. Part 1369 also specifies the role of the State licensing agency in the location and operation of vending facilities on Federal property and provides for the distribution of vending machine income from certain vending machines on Federal property to blind licensees operating vending facilities on such Federal property, or, as appropriate, to the State licensing agency in accordance with an established distribution formula.

In addition, Part 1369 provides for arbitration by an ad hoc arbitration panel established by the Secretary of Health, Education, and Welfare in a dispute arising between a blind licensee and a State licensing agency or between a State licensing agency and a property managing department, agency or instrumentality of the United States.

Additional requirements relating to the provision to blind licensees of vocational and other training services, as vocational rehabilitation services, and the role and function of an elected State Committee of Blind Licensees have also been added.

Part 1369 also incorporates new comprehensive rules covering the maintenance and operation of Federal property by any property managing department, agency, or instrumentality of the United States, insofar as vending facilities are affected. These comprehensive rules cover such matters as the assigning of priority to blind licensees of State licensing agencies in the operation of vending facilities on Federal property except where the interests of the United States would be adversely affected; the designation of satisfactory sites for the location and operation of vending facilities in Federal property to be acquired or otherwise occupied; the operation of cafeterias by blind licensees; and the terms of permits issued by property managing departments, agencies, or instrumentalities of

the United States for the operation of vending facilities by blind licensees.

Special attention is directed to § 1369.31 concerning the acquisition and occupation of property by any department, agency, or instrumentality of the United States. Since Section 2(d) of the Act provides that any determination affecting the inclusion of a satisfactory site on property to be acquired or otherwise occupied by the Federal Government is the joint responsibility of the Secretary of Health, Education, and Welfare and the appropriate State licensing agency, the absence of written objections from State licensing agencies concerning this proposed policy during the comment period will be considered to constitute concurrence with the Secretary's determination that, as indicated in § 1369.31(c), a building which (a) does not contain a minimum of 15,000 square feet of interior space when the building provides services to the public, or (b) houses fewer than 100 Federal Government employees, is not capable of supporting a vending facility operated by a blind person.

Prior to the adoption of the proposed regulations, consideration will be given to any comments, suggestions, or objections thereto which are received in writing by the Commissioner, Rehabilitation Services Administration, Department of Health, Education, and Welfare, Washington, D.C. 20201, on or before February 6, 1976. Such comments will be open for inspection in Room 3323 of the Department's offices at 300 C Street, SW., Washington, D.C., on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m., (Area Code 202, 245-0079).

Dated: August 11, 1975.

ANDREW S. ADAMS,
Commissioner, Rehabilitation
Services Administration.

Approved: August 11, 1975.

STANLEY B. THOMAS, Jr.,
Assistant Secretary for Human
Development.

Approved: December 12, 1975.

DAVID MATHEWS,
Secretary.

Chapter IV of Title 45 of the Code of Federal Regulations is revised by revoking Part 409 and Chapter XIII of Title 45 of the Code of Federal Regulations is amended by adding Part 1369 as follows:

**PART 1369—VENDING FACILITY PRO-
GRAM FOR THE BLIND ON FEDERAL
AND OTHER PROPERTY**

Subpart A—Definitions

Sec.
1369.1 Terms.

Subpart B—The State Licensing Agency

1369.2 Application for designation as a State licensing agency; general.
1369.3 Application for designation as State licensing agency; content.
1369.4 State rules and regulations.
1369.5 Approval of application for designation as State licensing agency.
1369.6 Operator ownership of vending facilities.

Sec.
1369.7 The issuance and conditions of licenses.
1369.8 Distribution and use of income from vending machines on Federal property.
1369.9 The setting aside of funds by the State licensing agency.
1369.10 The maintenance and repair of vending facilities.
1369.11 Training programs for blind licensees.
1369.12 Access to program information.
1369.13 Evidentiary hearings and arbitration of operator complaints.
1369.14 The State Committee of Blind Vendors.
1369.15 Use of serving arrangements.
1369.16 Permit for the establishment of vending facilities.
1369.17 Suspension of designation as State licensing agency.

Subpart C—Federal Property Management

1369.30 The location and operation of vending facilities for blind licensees on Federal property.
1369.31 Acquisition and occupation of Federal property.
1369.32 Collection and distribution of vending machine income from vending machines on Federal property.
1369.33 Operation of cafeterias by blind licensees.
1369.34 Application for permits.
1369.35 Terms of permit.
1369.36 Enforcement procedures.
1369.37 Arbitration of State licensing agency complaints.
1369.38 Reports.

AUTHORITY: Sec. 2, 40 Stat. 1550, as amended; 20 U.S.C. 107a.

Subpart A—Definitions

§ 1369.1 Terms.

Unless otherwise indicated in this part, the terms below are defined as follows:

(a) "Act" means the Randolph-Sheppard Vending Stand Act (Pub. L. 74-732), as amended by Pub. L. 83-565 and Pub. L. 93-516, 20 U.S.C., ch. 6A, Sec. 107.

(b) "Blind licensee" means a blind person licensed to operate a vending facility on Federal or other property.

(c) "Blind person" means a person who, after examination by a physician skilled in diseases of the eye or by an optometrist, whichever such person shall select, has been determined to have

(1) Not more than 20/200 central visual acuity in the better eye with correcting lenses, or

(2) An equally disabling loss of the visual field as evidenced by a limitation to the field of vision in the better eye to such a degree that its widest diameter subtends an angle of no greater than 20°.

(d) "Commissioner" means the Commissioner of the Rehabilitation Services Administration.

(e) "Direct competition," when referring to a vending machine or a vending facility other than a vending facility operated by a blind licensee, means the presence and operation of such vending machine or such vending facility on the same premises as a vending facility operated by a blind licensee, which vends articles or services of a type authorized by a permit and is so located that it attracts customers who would otherwise patronize the vending facility

Subpart A—Definitions

§ 1369.1 Terms.

Unless otherwise indicated in this part, the terms below are defined as follows:

(a) "Act" means the Randolph-Shepard Vending Stand Act (Pub. L. 74-732), as amended by Pub. L. 83-565 and Pub. L. 93-516, 20 U.S.C., ch. 6A, Sec. 107.

(b) "Blind licensee" means a blind person licensed to operate a vending facility on Federal or other property.

(c) "Blind person" means a person who, after examination by a physician skilled in diseases of the eye or by an optometrist, whichever such person shall select, has been determined to have

(1) Not more than 20/200 central visual acuity in the better eye with correcting lenses, or

(2) An equally disabling loss of the visual field as evidenced by a limitation to the field of vision in the better eye to such a degree that its widest diameter subtends an angle of no greater than 20°.

(d) "Commissioner" means the Commissioner of the Rehabilitation Services Administration.

(e) "Direct competition," when referring to a vending machine or a vending facility other than a vending facility operated by a blind licensee, means the presence and operation of such vending machine or such vending facility on the same premises as a vending facility operated by a blind licensee, which vends articles or services of a type authorized by a permit and is so located that it attracts customers who would otherwise patronize the vending facility

operated by a blind licensee, except that vending machines or vending facilities operated in areas serving employees the majority of whom normally do not have direct access to the vending facility operated by a blind licensee shall not be considered to be in direct competition with the vending facility operated by a blind licensee.

(f) "Federal property" means any building, land, or other real property owned, leased, or occupied by any department, agency or instrumentality of the United States (including the Department of Defense and the United States Postal Service), or any other instrumentality wholly owned by the United States, or by any department or agency of the District of Columbia or any territory or possession of the United States.

(g) "Individual location, installation, or facility" means a building configuration which houses Federal employees.

(h) "License" means a written instrument issued by the State licensing agency to a blind person under this part, authorizing such person to operate a vending facility on Federal or other property.

(i) "Net proceeds" means the amount remaining from the sale of articles or services of vending facilities, and any vending machine income accruing to blind licensees after the cost of such sale and other expenses (excluding set-aside charges required to be paid by such blind licensees) have been deducted.

(j) "Nominee" means a nonprofit agency or organization designated by the State licensing agency through a written agreement to act as its agent in the provision of services to blind licensees under the State's vending facility program.

(k) "Operator" means a blind person licensed to operate a vending facility on Federal or other property.

(l) "Other property" means property which is not Federal property and on which vending facilities are established or operated by the use of any funds derived in whole or in part, directly or indirectly, from the operation of vending facilities on any Federal property.

(m) "Permit" means the official authorization given a State licensing agency by a department, agency or instrumentality in control of the maintenance, operation, and protection of Federal property, or person in control of other property, whereby the State licensing agency is authorized to establish a vending facility.

(n) "Program" means all the activities of the licensing agency under this part related to vending facilities on Federal and other property.

(o) "Satisfactory site" means an area determined by the Secretary.

(1) to have a minimum of 150 square feet available for vending facility purposes; and

(2) to have sufficient electrical, plumbing, heating, and ventilation outlets for the location and operation of a vending facility by a blind licensee.

(p) "Secretary" means the Secretary of Health, Education, and Welfare.

PROPOSED RULES

(q) "State" means a State, territory, possession, Puerto Rico, or the District of Columbia.

(r) "State vocational rehabilitation agency" means that agency in the State providing vocational rehabilitation services to the blind as the sole State agency under a State plan for vocational rehabilitation services approved pursuant to the provisions of the Rehabilitation Act of 1973 (29 U.S.C., ch. 16).

(s) "State licensing agency" means the State agency designated by the Commissioner under this part to issue licenses to blind persons for the operation of vending facilities on Federal and other property, and may also refer to the State vocational rehabilitation agency.

(t) "United States" includes the several States, territories, and possessions of the United States, Puerto Rico, and the District of Columbia.

(u) "Vending facility" means automatic vending machines, (other than those operated by the United States Postal Service for the sale of postage stamps or other postal products and services), cafeterias, snack bars, cart service, shelters, counters, and such other appropriate auxiliary equipment which may be operated by blind licensees and which is necessary for the sale of newspapers, periodicals, confections, tobacco products, foods, beverages, and other articles or services dispensed automatically or manually and prepared on or off the premises in accordance with all applicable health laws, and including the vending or exchange of chances for any lottery authorized by State law and conducted by an agency of a State within such State.

(v) "Vending machine", for the purpose of assigning vending machine income under this part, means an unattended coin or currency operated machine which dispenses any articles automatically or manually or which dispenses services when such services are authorized under a permit to be sold by a blind licensee, except that those machines operated by the United States Postal Service for the sale of postage stamps or other postal products and services shall not be considered to be vending machines.

(w) "Vending machine income" means receipts (other than those of a blind licensee) from vending machine operations on Federal property, after cost of goods sold (including reasonable service and maintenance costs such as payroll and related expenses, depreciation, insurance, repairs, waste removal, taxes and licenses, warehousing, delivery and similar expenses including reserves for replacement), where the machines are operated, serviced, or maintained by, or with the approval of, a department, agency, or instrumentality of the United States, or commissions paid (other than to a blind licensee) by a commercial vending concern which operates, services, and maintains vending machines on Federal property for, or with the approval of, a department, agency, or instrumentality of the United States.

(x) "Vocational rehabilitation services" means those services as defined in § 1361.1(ee) (1) and (2) of this chapter.

Subpart B—The State Licensing Agency

§ 1369.2 Application for designation as a State licensing agency; general.

(a) An application for designation as a State licensing agency may be submitted only by the State vocational rehabilitation agency providing vocational rehabilitation services to the blind under an approved State plan for vocational rehabilitation services under Part 1361 of this chapter.

(b) Such application shall be:

- (1) Submitted in writing to the Commissioner;
- (2) Approved by the chief executive of the State; and
- (3) Transmitted over the signature of the executive officer of the State agency making application.

§ 1369.3 Application for designation as State licensing agency; content.

(a) An application for designation as a State licensing agency under § 1369.2 shall indicate:

(1) The State licensing agency's legal authority to administer the program, including its authority to promulgate rules and regulations to govern the program;

(2) The State licensing agency's organization for carrying out the program, including a description of the methods for coordinating the State's vending facility program and the State's vocational rehabilitation program, with special reference to the provision of such post-employment services necessary to assure that the maximum vocational potential of each operator is achieved;

(3) The broad policies and standards to be employed in the selection of suitable locations for vending facilities;

(4) The policies to be followed in making suitable vending facility equipment and adequate initial stocks of merchandise available to an operator, and the sources of funds to be used therefor;

(5) The sources of funds for the management of the program and the amounts of funds, if any, to be set aside from the proceeds of the operation of vending facilities;

(6) The policies and standards governing the relationship of the State licensing agency to the operators, including their selection, duties, supervision, transfer, promotion, financial participation, rights to a full evidentiary hearing concerning a State licensing agency action, and, where necessary, rights for the submittal of complaints to an arbitration panel;

(7) The methods to be followed in providing suitable training, including on-the-job training and, where appropriate, upward mobility training, to blind persons selected for licensing under the program;

(8) The arrangements made or contemplated, if any, for the utilization of the services of any nominee agency or organizations other than the State li-

censing agency under § 1369.15; the agreements therefor and the services to be provided; the procedures for the supervision and control of the services provided by such agency or organization and the methods used in evaluating services received, the basis for remuneration, and the fiscal controls and accounting procedures;

(9) The arrangements made or contemplated, if any, for the vesting in accordance with the laws of the State, of the right, title to, and interest in vending facility equipment or stock (including vending machines), used in the program, in a nominee of the State licensing agency to hold such right, title to, and interest for program purposes; and

(10) The assurances of the designated State licensing agency that it will:

(i) Cooperate with the Commissioner in carrying out the purposes of the Act;

(ii) Take effective action, including the termination of licenses, to carry out full responsibility for the management and operating of each vending facility in its program in accordance with its established rules and regulations, this part, and the terms and conditions governing the permit;

(iii) Submit promptly to the Commissioner for approval a description of any changes in the legal authority of the State licensing agency, its rules and regulations, operator agreements, schedules for the setting aside of funds, contractual arrangements for the furnishing of services by a nominee of the State licensing agency, and any other matters which form a part of the application.

(iv) If it intends to set aside, or cause to be set aside, funds from the net proceeds of the operation of vending facilities, obtain a prior determination by the Commissioner that the amount of such funds to be set aside is reasonable;

(v) Furnish each operator a copy of its rules and regulations and a description of the arrangements for providing services, and take adequate steps to assure that each operator understands the provisions of the permit and any agreement under which he operates, as evidenced by his signed statements;

(vi) Submit to an arbitration panel those grievances of any blind licensee unresolved after a full evidentiary hearing;

(vii) Adopt accounting procedures and maintain financial records in a manner necessary to provide for each vending facility and for the State's vending facility program a classification of financial transactions in such detail as is sufficient to enable evaluation of performance; and

(viii) Maintain records and make reports in such form and containing such information as the Commissioner may require, make such records available for audit purposes, and comply with such provisions as the Commissioner may find necessary to assure the correctness and verification of such reports.

(b) An application submitted by a State licensing agency under § 1369.2 shall be accompanied by a copy of State rules and regulations (or proposed rules

PROPOSED RULES

and regulations) affecting the administration and operation of the State's vending facility program.

§ 1369.4 State rules and regulations.

(a) The State licensing agency shall promulgate rules and regulations which have been approved by the Commissioner and which shall be adequate to enable the State licensing agency to carry out its full responsibilities under this part. Such rules and regulations shall be adequate to assure the effective conduct of the State's vending facility program and the operation of each vending facility in accordance with this part and with the regulations and conditions of each department, agency, and instrumentality in control of the maintenance, operation, and protection of Federal property, including the conditions contained in permits, as well as in all applicable Federal and State laws, local ordinances and regulations.

(b) Such rules and regulations and amendments thereto shall be filed or published in accordance with State law.

(c) Such rules and regulations shall include provisions adequate to insure that the right, title to, and interest in each vending facility used in the program and the stock will be vested in accordance with the laws of the State in only the following:

- (1) The State licensing agency; or
- (2) Its nominee, subject to the conditions specified in § 1369.15(b); or
- (3) The operator, in accordance with State determination.

(d) Notwithstanding the provisions of paragraph (c) of this section, any right, title to, or interest which existed on June 30, 1955, in stock may continue so long as:

- (1) The interest is in the stock of a facility established under the program prior to July 1, 1955, and
- (2) The operator was licensed in the program (whether or not for the operation of the vending facility in question) prior to July 1, 1955.

§ 1369.5 Approval of application for designation as State licensing agency.

When the Commissioner determines that an application submitted by a State vocational rehabilitation agency under § 1369.2, and the accompanying rules and regulations (or proposed rules and regulations) indicate a plan of program operations which will stimulate and enlarge the economic opportunities for the blind, and which will meet all other requirements of this part, he shall approve the application and shall designate the applying State vocational rehabilitation agency as the State licensing agency.

§ 1369.6 Operator ownership of vending facilities.

(a) If a State licensing agency determines under § 1369.4(c) that the right, title to, and interest in a vending facility may be vested in the operator, the State licensing agency shall enter into a written agreement with each operator who is to have such ownership. Such agreement shall contain in full the terms and conditions governing such owner-

ship in accordance with criteria in the State licensing agency's regulations, any applicable Federal regulations, and the terms and conditions of the permit. The criteria established to govern the determination that the title may be so vested shall contain reasonable provisions to enable an operator to purchase vending facility equipment and to ensure that no individual will be denied the opportunity to become an operator because of his inability to purchase the vending facility equipment or the initial stock;

(b) The State licensing agency shall establish in writing and maintain policies determining whether the operator-owner or the State licensing agency shall be required to maintain the vending facility in good repair and in an attractive condition and replace worn-out or obsolete equipment; and if the former, such policies shall provide that upon such operator-owner's failure to do so, the State licensing agency may make or cause to be made, the necessary maintenance, replacement, or repairs and make equitable arrangements for reimbursement;

(c) Where the operator owns such equipment and is required to maintain the vending facility in good repair and in an attractive condition and replace worn-out or obsolete equipment, or agrees to purchase additional new equipment, service charges for determining such amount shall be established by the State licensing agency in writing;

(d) Where the operator owns such equipment, the State licensing agency shall retain a first option to repurchase such equipment, and in the event the operator-owner dies, or for any other reason ceases to be a licensee, or transfers to another vending facility, ownership of such equipment shall become vested in the State licensing agency subject to an obligation on its part to pay to such operator-owner or his estate, the fair value therein as determined in accordance with methods defined in its regulations;

(e) The owner-operator, his personal representative or next of kin shall be entitled to an opportunity for a full evidentiary hearing with respect to the determination of the amount to be paid by the State licensing agency for an operator's ownership in the equipment.

§ 1369.7 The issuance and conditions of licenses.

(a) The State licensing agency shall establish in writing and maintain objective criteria for licensing qualified applicants, including a provision for giving preference to blind persons who are in need of employment. Such criteria shall also include provisions to assure that licenses will be issued only to persons who are determined by the State licensing agency to be:

- (1) Blind;
- (2) Citizens of the United States; and
- (3) Certified by the State vocational rehabilitation agency as qualified to operate a vending facility.

(b) The State licensing agency shall further provide for the issuance of licenses for an indefinite period but sub-

ject to suspension or termination if, after affording the operator an opportunity for a full evidentiary hearing, the State licensing agency finds that the vending facility is not being operated in accordance with its rules and regulations, the terms and conditions of the permit, or the terms and conditions of the agreement with the operator.

(c) The State licensing agency shall further establish in writing and maintain policies governing the duties, supervision, transfer and financial participation of the operators.

§ 1369.B Distribution and use of income from vending machines on Federal property.

(a) Vending machine income from vending machines on Federal property which has been disbursed to the State licensing agency by a property managing department, agency, or instrumentality of the United States under § 1369.32 shall accrue to each blind licensee operating a vending facility on Federal property in each State in an amount not to exceed the average net income of the total number of blind licensees within such State, as determined each fiscal year on the basis of each prior year's operation, except that vending machine income shall not accrue to any blind licensee in any amount exceeding either the average net income of the total number of blind licensees in the United States, or the amount that such licensee was receiving on January 1, 1974, whichever is higher. No limitation shall be imposed on income from vending machines, combined to create a vending facility, when such facility is maintained, serviced, or operated by a blind licensee. Vending machine income disbursed by a property managing department, agency or instrumentality of the United States to a State licensing agency in excess of the amounts eligible to accrue to blind licensees in accordance with this paragraph shall be retained by the appropriate State licensing agency.

(b) Vending machine income which is retained under paragraph (a) of this section by a State licensing agency shall be used by such agency for the establishment of retirement or pension plans, for health insurance contributions, and for the provision of paid sick leave and vacation time for blind licensees in such State, if it is so determined by a majority vote of blind licensees licensed by the State licensing agency, after such agency has provided to each such licensee information on all matters relevant to such purposes. Any vending machine income not necessary for such purposes shall be used by the State licensing agency for the maintenance and replacement of equipment, the purchase of new equipment, management services, and assuring a fair minimum return to operators of vending facilities. Any assessment charged to blind licensees by a State licensing agency shall be reduced pro rata in an amount equal to the total of such remaining vending machine income.

PROPOSED RULES

§ 1369.9 The setting aside of funds by the State licensing agency.

(a) The State licensing agency shall establish in writing the extent to which funds are to be set aside or caused to be set aside from the net proceeds of the operation of the vending facilities and, to the extent applicable, from vending machine income under § 1369.8(b) in an amount determined by the Commissioner to be reasonable.

(b) Funds may be set aside under paragraph (a) of this section only for the purposes of:

(1) Maintenance and replacement of equipment;

(2) The purchase of new equipment;

(3) Management services;

(4) Assuring a fair minimum of return to operators of vending facilities; or

(5) The establishment and maintenance of retirement or pension funds, health insurance contributions, and provision for paid sick leave and vacation time, if it is so determined by a majority vote of blind licensees licensed by the State licensing agency, after such agency provides to each such licensee information on all matters relevant to such proposed purposes.

(c) The State licensing agency shall further set out the method of determining the charge for each of the above purposes listed in paragraph (b) of this section, which will be designed to prevent, so far as is practicable, a greater charge for any purpose than is reasonably required for that purpose. The State licensing agency shall maintain adequate records to support the reasonableness of the charges for each of the purposes listed in this section.

§ 1369.10 The maintenance and repair of vending facilities.

The State licensing agency shall maintain (or cause to be maintained) all vending facilities in good repair and in an attractive condition and shall replace or cause to be replaced worn-out and obsolete equipment as required to ensure the continued successful operation of the facility.

§ 1369.11 Training program for blind licensees.

The State licensing agency shall ensure that effective programs of vocational and other training services, including personal and vocational adjustment, books, tools, and other training materials, shall be provided to blind individuals as vocational rehabilitation services under the Rehabilitation Act of 1973 (Pub. L. 93-112), as amended by the Rehabilitation Act Amendments of 1974 (Pub. L. 93-516). Such programs shall include on-the-job training in all aspects of vending facility operation for blind persons with the capacity to operate a vending facility, and upward mobility training (including further education and additional training or retraining for improved work opportunities) for all blind persons to whom licenses have been issued. The State licensing agency shall further ensure that post-employ-

ment services shall be provided to blind licensees as vocational rehabilitation services as necessary to assure that the maximum vocational potential of such licensees is achieved and suitable employment of such licensees is maintained.

§ 1369.12 Access to program information.

Each blind licensee under this part shall be provided access to all financial data of the State licensing agency relevant to the operation of the State vending facility program, including quarterly and annual financial reports, provided that such disclosure does not violate applicable Federal or State laws pertaining to the disclosure of confidential information. State licensing agency staff shall be available at the request of a blind licensee to assist in the interpretation of such financial data.

§ 1369.13 Evidentiary hearings and arbitration of operator complaints.

(a) The State licensing agency shall specify in writing and maintain procedures whereby such agency affords an opportunity for a full evidentiary hearing to each blind licensee (which procedures shall also apply to cases under § 1369.6(e)) dissatisfied with any State licensing agency action arising from the operation or administration of the vending facility program. When such blind licensee is dissatisfied with any action taken or decision rendered as a result of such hearing, he may file a complaint with the Secretary.

(b) The filing of a complaint under paragraph (a) of this section with either the State licensing agency or the Secretary shall indicate consent by the blind licensee for the release of such information as is necessary for the conduct of a full evidentiary hearing or the hearing of an ad hoc arbitration panel.

(c) Upon receipt of a complaint filed by a blind licensee under this section, the Secretary shall convene an ad hoc arbitration panel which shall, in accordance with the provisions of 5 U.S.C. ch. 5, subchapter II, give notice, conduct a hearing, and render its decision which shall be final and binding on the parties except that such decision shall be subject to appeal and review as a final agency action for purposes of the provisions of 5 U.S.C. ch. 7.

(d) The arbitration panel convened by the Secretary to hear the grievances of blind licensees shall be composed of three members appointed as follows:

- (1) One individual designated by the State licensing agency;
- (2) One individual designated by the blind licensee; and
- (3) One individual not employed by the State licensing agency or, where appropriate, its parent agency, who shall be jointly designated by the other members of the panel and who shall serve as chairman of the panel.

(e) If either the State licensing agency or the blind licensee fails to designate a member of an arbitration panel, the Secretary shall designate such member on behalf of such party.

(f) The decisions of an arbitration panel convened by the Secretary under this section shall be matters of public record and shall be published in the FEDERAL REGISTER.

(g) The Secretary shall pay all reasonable costs of arbitration under this section in accordance with a schedule of fees and expenses which shall be published in the FEDERAL REGISTER.

(h) The provisions of this section shall not require the participation of grantors of permits for the operation of vending facilities on property other than Federal property.

§ 1369.14 The State Committee of Blind Vendors.

(a) The State licensing agency shall provide for the biennial election of a State Committee of Blind Vendors which shall be fully representative of all blind licensees in the State program.

(b) The State Committee of Blind Vendors shall:

(1) Participate with the State licensing agency in major administrative decisions and policy and program development decisions affecting the overall administration of the State's vending facility program;

(2) Receive and transmit to the State licensing agency grievances at the request of blind licensees and serve as advocates for such licensees in connection with such grievances;

(3) Participate with the State licensing agency in the development and administration of a State system for the transfer and promotion of blind licensees;

(4) Participate with the State licensing agency in the development of training and retraining programs for blind licensees; and

(5) Sponsor, with the assistance of the State licensing agency, meetings and instructional conferences for blind licensees within the State.

§ 1369.15 Use of servicing arrangements.

(a) The State licensing agency may enter into an agreement whereby another agency or organization undertakes to furnish services to licensed operators. Such agreement shall be in writing and shall contain provisions which:

(1) Clearly insure the retention by the State licensing agency of full responsibility for the management and operation of all phases of the program;

(2) Specify the type and extent of the services to be provided under such agreement;

(3) Provide that no charges will be collected from operators except as specified in such agreement;

(4) Specify that such other agency or organization may not be allowed to exercise any function with respect to funds for the purchase of new equipment or for assuring a fair minimum of return to operators, except to collect and hold solely for disposition in accordance with the order of the State licensing agency any charges authorized for those purposes by the licensing agency; and

PROPOSED RULES

(5) Specify that only the State licensing agency shall have control with respect to selection, placement, financial participation and termination of the operators, and the preservation, utilization, and disposition of program assets.

(b) If the State licensing agency permits any agency or organization other than an operator to hold any right, title to, or interest in vending facilities or stock, the arrangement shall be one permitted by State law and shall specify in writing that all such right, title to, or interest is held by such agency or organization as the nominee of the State licensing agency for program purposes and subject to the paramount right of the State licensing agency to direct and control the use, transfer, and disposition of such vending facilities or stock.

§ 1369.16 Permit for the establishment of vending facilities.

Prior to the establishment of each vending facility, the State licensing agency shall submit and have approved, in accordance with the requirements of this part (or in accordance with procedures of the person in control of other property), an application for a permit setting forth the location, the amount of space to be occupied, the type of facility or equipment, the types of articles and services to be offered for sale at each vending facility, including the number, location and type of vending machines and other terms and conditions desired to be included in the permit.

§ 1369.17 Suspension of designation as State licensing agency.

(a) If the Commissioner has reason to believe that, in the administration of the program, there is a failure on the part of any State licensing agency to comply substantially with the Act and this part, he shall so inform such agency in writing, setting forth, in detail, the areas in which there is such failure and giving it a reasonable opportunity to comply.

(b) If, after the lapse of a reasonable time, the Commissioner is of the opinion that such failure to comply still continues and that the State licensing agency is not taking the necessary steps to comply, he shall offer to such agency, by reasonable notice in writing thereto and to the chief executive of the State, an opportunity for a hearing before the Secretary (or person designated by the Secretary) to determine whether there is a failure on the part of such agency to comply substantially with the provisions of the Act and of this part.

(c) If it is thereupon determined that there is a failure on the part of such agency to comply substantially with the Act and this part, appropriate written notice shall be given to such agency and to the chief executive of the State suspending such agency's designation as licensing agency effective 90 days from the date of such notice. Upon the suspension of such designation, vending machine income from vending machines on Federal property due for accrual to the State licensing agency under § 1369.32 shall be retained in escrow by

the department, agency, or instrumentality of the United States responsible for the maintenance, operation and protection of the Federal property on which such vending machines are located, pending redesignation of the State licensing agency.

(d) If, before the expiration of such 90 days, the Secretary (or person designated by him) determines that the State licensing agency is taking the necessary steps to comply, he may postpone the effective date of such suspension for such time as he deems necessary in the best interest of the program.

(e) If, prior to the effective date of such suspension, the Secretary (or person designated by him) finds that there is no longer a failure on the part of the State licensing agency to comply substantially with the provisions of the Act and this part, he shall so notify the agency and the chief executive of the State, in which event the suspension of the designation shall not become effective.

Subpart C—Federal Property Management

§ 1369.30 The location and operation of vending facilities for blind licensees on Federal property.

(a) Each department, agency, or instrumentality of the United States in control of the maintenance, operation, and protection of Federal property shall assure that, whenever feasible, one or more vending facilities for operation by blind licensees shall be located on all Federal property *Provided* that the location or operation of such facility or facilities would not adversely affect the interests of the United States.

(b) Blind persons licensed by State licensing agencies shall be given priority in the operation of vending facilities on any Federal property except where the interests of the United States would be adversely affected.

(c) Any limitation on the location or operation of a vending facility for blind licensees by a department, agency or instrumentality of the United States based on a finding that such location or operation would adversely affect the interests of the United States shall be fully justified in writing to the Secretary who shall determine whether such limitation is warranted. A determination made by the Secretary concerning such limitation shall be binding on any department, agency, or instrumentality of the United States affected by such determination. The Secretary shall publish such determination in the FEDERAL REGISTER along with supporting documents directly relating to the determination.

(d) A vending facility for a blind licensee shall not be located or operated in any area which directly interferes with employee work stations.

(e) Priority in the awarding of contracts for the operation of concessions in areas administered by the National Park Service shall be given in accordance with the provisions of Pub. L. 89-249 (October 9, 1965).

§ 1369.31 Acquisition and occupation of Federal property.

(a) Effective January 2, 1975, no department, agency, or instrumentality of the United States shall undertake to acquire by ownership, rent, or lease, or to otherwise occupy, in whole or in part, any building unless, after consultation with the head of such department, agency, or instrumentality and with the State licensing agency, it is determined by the Secretary that such building includes a satisfactory site or sites for the location and operation of a vending facility by a blind licensee. In those cases where a purchase contract, an agreement to lease, or other similar commitment was entered into prior to January 2, 1975, the provisions of this paragraph shall not apply.

(b) Effective January 2, 1975, no department, agency, or instrumentality of the United States shall undertake to occupy, in whole or in part, any building which is to be constructed, substantially altered, or renovated, or in the case of a building which is occupied on January 2, 1975 by a department, agency, or instrumentality of the United States, no such department, agency, or instrumentality shall undertake to substantially alter or renovate such building, unless it is determined by the Secretary that the design for such construction, substantial alteration, or renovation includes a satisfactory site or sites for the location and operation of a vending facility by a blind licensee. In those cases where a design contract or other similar commitment was entered into prior to January 2, 1975, the provisions of this paragraph shall not apply.

(c) The provisions of paragraphs (a) and (b) of this section shall not apply when the Secretary and State licensing agency concur in determining that the number of people using the property is or will be insufficient to support a vending facility. The Secretary has determined that buildings in which fewer than 100 Federal Government employees are or will be located each normal working day or which contain less than 15,000 square feet of interior space to be utilized for Federal Government purposes when such buildings will be utilized to provide services to the public, constitute buildings which meet the foregoing requirement.

(d) Pursuant to paragraphs (a) and (b) of this section, each such department, agency, or instrumentality planning to undertake the occupation, acquisition, renovation, or relocation of a building shall provide to the appropriate State licensing agency and to the Secretary written notice of its intention to occupy, acquire, renovate, or relocate such building at least 60 days prior to such intended occupation, acquisition, renovation or relocation. Such written notice shall be by certified or registered mail with return receipt and shall provide assurances that a satisfactory site or sites for the location or operation of a vending facility by a blind person is included in such plans and that the State licensing agency shall be afforded the

PROPOSED RULES

opportunity to determine the suitability of the proposed site or sites for the location and operation of a vending facility by a blind person prior to the completion of the final space layout for the building. The receipt of such written notice shall be acknowledged in writing promptly by the State licensing agency but no later than within 30 days.

(e) When the State licensing agency determines under this section that the Federal property does not contain a satisfactory site because the number of persons frequenting the Federal property is or will be insufficient to support a vending facility, and the Secretary concurs with such determination, the provisions of paragraphs (a), (b), and (d) of this section shall not apply.

(f) Each department, agency, and instrumentality of the United States, when leasing property in privately owned buildings, shall make every effort to lease property capable of accommodating a vending facility. When, however, such department, agency, or instrumentality is leasing part of a privately owned building in which prior to the execution of the lease, the lessor or any of his tenants had entered into a contract for the operation of a restaurant or other food facility in a part of the building not included in such lease and the operation of a vending facility by a blind person would be in proximate and substantial direct competition with such restaurant or other food facility, the provisions of paragraphs (a), (b), and (d) of this section shall not apply.

§ 1369.32 Collection and distribution of vending machine income from vending machines on Federal property.

(a) The on-site official responsible for the Federal property of each property managing department, agency, or instrumentality of the United States, in accordance with established procedures of such department, agency, or instrumentality, shall be responsible for the collection of, and accounting for, vending machine income from vending machines on Federal property under his control and shall otherwise ensure compliance with the provisions of this section.

(b) Effective January 2, 1975, 100 per centum of all vending machine income from vending machines on Federal property which are in direct competition with a vending facility operated by a blind licensee shall accrue to the State licensing agency which shall disburse such income to such blind licensee operating such vending facility on such property provided that the total amount of such income accruing to such blind licensee does not exceed the maximum amount determined under § 1369.8(a). In the event that there is income from such vending machines in excess of the maximum amount which may be disbursed to the blind licensee under § 1369.8(a), such additional income shall accrue to the State licensing agency for purposes determined in accordance with § 1369.8 (b).

(c) Effective January 2, 1975, 50 per centum of all vending machine income

from vending machines on Federal property which are not in direct competition with a vending facility operated by a blind licensee shall accrue to the State licensing agency which shall disburse such income to the blind licensee operating such vending facility on such property. In the event that there is no blind licensee, such income shall accrue to the State licensing agency, except as indicated under paragraph (d) of this section. The total amount of such income disbursed to such blind licensee shall not exceed the maximum amount determined under § 1369.8(a). In the event that there is income from such vending machines in excess of the maximum amount which may accrue to the blind licensee under § 1369.8(a), such additional income shall accrue to the State licensing agency for purposes determined in accordance with § 1369.8(b).

(d) Effective January 2, 1975, 30 per centum of all vending machine income from vending machines, which are not in direct competition with a vending facility operated by a licensee and which are on Federal property at which at least 50 per centum of the total hours worked on the premises occurs during a period other than normal working hours, shall accrue to the State licensing agency which shall disburse such income to the blind licensee operating a vending facility on such property. In the event that there is no blind licensee on such property, such income shall accrue to the State licensing agency. The total amount of such income disbursed to such blind licensee shall not exceed the maximum amount determined under § 1369.8(a). In the event that there is income from such vending machines in excess of the maximum amount which may be disbursed to the blind licensee under § 1369.8(a), such additional income shall accrue to the State licensing agency for purposes determined in accordance with § 1369.8(b).

(c) The determination that a vending machine on Federal property is in direct competition with a vending facility operated by a blind licensee shall be the responsibility of the on-site official responsible for the Federal property of each property managing department, agency or instrumentality of the United States, in consultation with the State licensing agency.

(f) In the case of vending machine income which, prior to the effective date of this part, has been disbursed to a blind licensee by a property managing department, agency, or instrumentality from proceeds which accrued from operations subsequent to January 2, 1975, pursuant to agreements in effect prior to such time, such income may be deducted, at the discretion of such property managing department, agency or instrumentality, from vending machine income due to the State licensing agency under paragraphs (b), (c), or (d) of this section.

(g) All arrangements pertaining to the operation of vending machines on Federal property not covered by contract with, or by permits issued to, State

licensing agencies, shall be renegotiated on the scheduled date of renewal subsequent to January 1, 1975 for consistency with the provisions of this section.

(h) The provisions of this section shall not apply to income from vending machines within retail sales outlets under the control of post, exchange or ships' stores systems authorized under Title 10 of the United States Code; to income received from the Veterans Canteen Services; or to income from vending machines not in direct competition with a blind vending facility at individual locations, installations, or facilities on Federal property the total of which at such individual locations, installations, or facilities does not exceed \$3,000 annually.

(i) The provisions of this section shall not operate to preclude pre-existing or future arrangements, or regulations of departments, agencies or instrumentalities of the United States, under which blind licensees or State licensing agencies may:

(1) Receive a greater percentage or amount of vending machine income than that specified in paragraphs (b), (c), and (d) of this section, or

(2) Receive vending machine income from individual locations, installations, or facilities on Federal property the total of which at such individual locations, installations, or facilities does not exceed \$3,000 annually.

§ 1369.33 Operation of cafeterias by blind licensees.

(a) Priority in the operation of cafeterias on Federal property shall be afforded to blind licensees when the Secretary determines, on an individual basis, and after consultation with the appropriate property managing department, agency, or instrumentality, that such operation can be provided at a reasonable cost, with food of a high quality comparable to that currently provided employees, whether by contract or otherwise.

(b) In order to establish the ability of blind licensees to operate a cafeteria in such a manner as to provide food service at comparable cost and of comparable high quality as that available from other providers of cafeteria services, the appropriate State licensing agency shall be invited to respond to solicitations for offers when a cafeteria contract is contemplated by the appropriate property managing department, agency, or instrumentality. Such solicitations for offers shall establish criteria under which all responses will be judged. Such criteria may include sanitation practices, personnel, staffing, menu pricing and portion sizes, menu variety, budget and accounting practices. If the proposal received from the State licensing agency is judged to be within a competitive range, the property managing department, agency, or instrumentality shall consult with the Secretary as required under paragraph (a) of this section.

(c) All arrangements pertaining to the operation of cafeterias on Federal property not covered by contract with, or by permits issued to, State licensing agen-

PROPOSED RULES

cles shall be renegotiated on the scheduled date of renewal pursuant to the provisions of this section.

§ 1369.34 Application for permits.

Applications for permits for the operation of vending facilities other than cafeterias shall be made in writing on the appropriate form, submitted to the on-site official responsible for the Federal property of the property managing department, agency, or instrumentality and approved by the delegated representative of the head of such department, agency, or instrumentality.

§ 1369.35 Terms of permit.

Every permit shall describe the location of the vending facility and vending machines located other than on the facility premises and shall be subject to the following provisions:

(a) The permit shall be issued in the name of the applicant State licensing agency which shall:

(1) Prescribe such procedures as are necessary to assure that in the selection of operators and employees for vending facilities there shall be no discrimination because of sex, race, age, creed, color, national origin, or political affiliation; and

(2) Take the necessary action:

(i) To assure that operators of vending facilities do not discriminate against any person or persons because of sex, race, creed, color, or national origin in furnishing, or by refusing to furnish, to such person or persons the use of any vending facility, including any and all services, privileges, accommodations, and activities provided thereby; and

(ii) To assure compliance by such operators with Title VI of the Civil Rights Act of 1964 and regulations of the appropriate department, agency or instrumentality of the United States, issued pursuant thereto.

(b) The permit shall be issued for an indefinite period of time.

(c) The permit shall provide that:

(1) No charge shall be made to the State licensing agency for the use of Government furnished space and for normal cleaning, maintenance, and repair of the building structure in and adjacent to the vending facility areas;

(2) Cleaning necessary for sanitation, and the maintenance of vending facilities and vending machines in an orderly condition at all times, and the installation, maintenance, repair, replacement, servicing, and removal of vending facility equipment shall be without cost to the department, agency, or instrumentality responsible for the maintenance of the Federal property; and

(3) Articles sold at vending facilities operated by blind licensees may consist of newspapers, periodicals, publications, confections, tobacco products, foods, beverages, and other articles or services dispensed automatically or manually and prepared on or off the premises in accordance with all applicable health laws, chances for any lottery authorized by State law and conducted by an agency of a State within such State, and such

other articles as may be determined by the State licensing agency, in consultation with the on-site official responsible for the Federal property of the property managing department, agency or instrumentality, to be suitable for a particular location.

(d) The permit shall further provide that vending facilities shall be operated in compliance with applicable health, sanitation, and building codes or ordinances.

(e) The permit shall further provide that installation, modification, relocation, removal, and renovation of vending facilities shall be subject to the prior approval and supervision of the on-site official responsible for the Federal property of the property managing department, agency, or instrumentality, and the State licensing agency; that costs of relocations initiated by the State licensing agency shall be paid by the State licensing agency; and that costs of relocations initiated by the department, agency, or instrumentality shall be borne by such department, agency, or instrumentality.

§ 1369.36 Enforcement procedures.

(a) Day-to-day matters pertaining to the operation of the vending facility shall be resolved by the on-site official responsible for the property of the property managing department, agency, or instrumentality, with the participation of the blind operator of the vending facility and, when appropriate, with the State licensing agency.

(b) Unresolved violations of the terms of the permit, the Act, or the regulations in this part and any other unresolved matters shall be reported in writing to the State licensing agency by the on-site official responsible for the property of the property managing department, agency, or instrumentality.

(c) Upon failure to reach agreement on any unresolved matter, the question shall be referred to the on-site official responsible for the property of the property managing department, agency, or instrumentality, who will consult with the Secretary and the designated State licensing agency in an attempt to resolve the issue.

§ 1369.37 Arbitration of State licensing agency complaints.

(a) Whenever any State licensing agency determines that any department, agency, or instrumentality of the United States which has control of the maintenance, operation, and protection of Federal property is failing to comply with the provisions of the Act or of this part, such licensing agency may file a complaint with the Secretary.

(b) Upon receipt of a complaint filed under paragraph (a) of this section, the Secretary shall convene an ad hoc arbitration panel which shall, in accordance with the provisions of 5 U.S.C. ch. 5, subchapter II, give notice, conduct a hearing and render its decision which shall be final and binding on the parties except that such decision shall be subject to appeal and review as a final agen-

cy action for purposes of the provisions of 5 U.S.C. ch. 7. The arbitration panel convened by the Secretary to hear complaints filed by a State licensing agency shall be composed of three members appointed as follows:

(1) One individual designated by the State licensing agency;

(2) One individual designated by the head of the Federal department, agency, or instrumentality controlling the Federal property over which the dispute arose; and

(3) One individual, not employed by the Federal department, agency, or instrumentality controlling the Federal property over which the dispute arose, who shall be jointly designated by the other members of the panel and who shall serve as chairman of the panel.

(c) If either the State licensing agency or the head of the Federal department, agency, or instrumentality fails to designate a member of an arbitration panel, the Secretary shall designate such member on behalf of such party.

(d) If the panel finds that the acts or practices of any department, agency, or instrumentality are in violation of the Act or of this part, the head of any such department, agency, or instrumentality (subject to any appeal under paragraph (b) of this section) shall cause such acts or practices to be terminated promptly and shall take such other action as may be necessary to carry out the decision of the panel.

(e) The decisions of an arbitration panel convened by the Secretary under this section shall be matters of public record and shall be published in the FEDERAL REGISTER.

(f) The Secretary shall pay all reasonable costs of arbitration under this section in accordance with a schedule of fees and expenses which shall be published in the FEDERAL REGISTER.

§ 1369.3B Reports.

At the end of each fiscal year, each property managing department, agency, or instrumentality of the United States shall report to the Secretary the total number of applications for vending facility locations received from State licensing agencies, the number accepted, the number denied, the number still pending, the total amount of vending machine income collected and the amount of such vending machine income disbursed to the State licensing agency in each State.

House Finance CS for House HESS CS for S.B. 272
Proposed by the Division of Vocational Rehabilitation

An Act relating to Blind and Severely Handicapped Persons and vending operations in public buildings.

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

Section 1. AS 23.15 is amended by adding a new section to read:

Section 23.15.125. The terms defined in this section shall have the indicated meanings when used in this chapter.

- (1) "Division" means the Division of Vocational Rehabilitation
- (2) "Blind person" means a person whose central visual acuity does not exceed 20/200 in the better eye with correcting lenses or whose visual acuity, if better than 20/200, is accompanied by a limit to the field of vision in the better eye to such a degree that its widest diameter subtends an angle of no greater than 20°. In determining visual loss, there shall be an examination by an ophthalmologist or by an optometrist whichever the individual shall select.
- (3) "Severely handicapped person" means an individual who has one or more severe physical or mental disability(ies) which seriously limits the person's functional capacities in terms of regular employment and whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time.
- (4) "Licensee" means a blind or severely handicapped person licensed by the State of Alaska's Division of Vocational Rehabilitation pursuant to Federal law, 49 Stat 1559, as amended, 20 U.S.C. Section 107, this chapter, and the rules and regulations issued hereunder.
- (5) "Public building" means any building owned by the State of Alaska or any political subdivision thereof and any space leased by the State of Alaska or any political subdivision thereof in any privately-owned building and designated by the Division as being appropriate for inclusion

in the business enterprise program.

- (6) "Vending facility" means any vending stand, facility, cafeteria, or snack bar at which food, tobacco, or sundries are offered for sale.
- (7) "Vending machine" means any coin operated machine offering food, tobacco, or sundries for sale.

New Section.

Section 2. There is added to AS 23.15 a new section to read as follows:

- (1) The division is authorized to license blind and severely handicapped persons for the operation of vending facilities and machines on federal property and in public buildings with the blind being given first priority for such locations.
- (2) The state, political subdivision thereof, and agencies of the state or political subdivision thereof shall give priority to licensees in the operation of vending facilities and machines in a public building.

Revised Section 23.15.130 will be changed to read:

- (1) There is created in the state treasury a revolving fund designated as the "Vocational Rehabilitation Small Business Enterprise Revolving Fund".
- (2) Receipts from (The net proceeds from any vending machine operation in a public building, other than such an operation managed by a licensee, shall be made payable to the Small Business Enterprise Revolving Fund. "Net proceeds" for purposes of this section, shall mean the gross amount received less the costs of the operation, including a fair return to the operator, which return shall not exceed a reasonable amount to be determined by the Division.
- (3) All money in the business enterprises revolving fund shall be expended only for equipment, services, and payments to licensees in the business enterprises programs).

If the program is discontinued the unobligated balance shall revert to the general fund of the state and when all obligations have been met, the fund shall be abolished.

New Section. Sec. 3. There is added to AS 23.15 a new section to read as follows:

- (1) The Division shall promulgate rules and regulations necessary to implement this chapter.
- (2) This chapter and rules promulgated thereunder shall not apply to any franchise, concession, or contract governing operations of a vending facility in a public building if such franchise, concession, or contract was in existence immediately prior to the effective date of this act. At time of completion or termination of such franchise, concession or contract, it shall then fall under the purview of this act.