

LEG. FINANCE - BILLS 1979 - 1980 1126

HB 577 cont., thru CSHB 578 1126

1	Department of Commerce and Economic			
2	Development			
3	Loan Fund Administration	215,100	215,100	
4				
5	Department of Transportation			
6	Administration	1,412,535	1,277,370	135,165
7	Commissioner's			
8	Office	59,235		
9	Transportation			
10	Planning	82,590		
11	Internal Review	65,100		
12	Administrative Ser-			
13	vices	761,130		
14	Financial Manage-			
15	ment	295,890		
16	Right of Way Lands and			
17	Leasing	148,590		
18	Maintenance and Operations	213,255	150,255	63,000
19	Administration	105,255		
20	Safety and			
21	Security	108,000		
22	Marine Transportation	5,772,345	5,753,910	18,435
23	Southeast Vessel			
24	Operations	3,830,955		
25	Southeast Vessel			
26	Overhaul	556,095		
27	Southeast Shore			
28	Facilities	208,635		
29	Southwest Vessel			

1	Operations	801,945		
2	Southwest Vessel			
3	Overhaul	74,565		
4	Southwest Shore			
5	Facilities	76,275		
6	Administration	223,875		
7	Southeast Region Operations			
8	and Maintenance		897,555	882,255 15,300
9	Airports	46,905		
10	Highways	804,090		
11	Administration	46,560		
12	Central Region Operations			
13	and Maintenance		2,939,550	2,882,745 56,805
14	Airports	607,710		
15	Highways	2,197,545		
16	Administration	134,295		
17	Southcentral Region Operations			
18	and Maintenance		1,046,220	1,042,365 3,855
19	Airports	90,045		
20	Highways	900,465		
21	Administration	55,710		
22	Interior Region Operations			
23	and Maintenance		2,074,215	2,015,235 58,980
24	Airports	239,790		
25	Highways	1,385,145		
26	Administration	89,280		
27	North Slope Haul			
28	Road	360,000		
29	Western Region Operations			

1	and Maintenance		456,330	451,905	4,425
2	Airports	198,075			
3	Highways	214,335			
4	Administration	43,920			
5	Anchorage International				
6	Airport		1,180,095		1,180,095
7	Field Main-				
8	tenance	275,895			
9	Building Main-				
10	tenance	180,165			
11	Security	267,405			
12	Custodial	166,995			
13	Administration	186,990			
14	Equipment	102,645			
15	Fairbanks International Airport		585,045		585,045
16	Field Main-				
17	tenance	131,850			
18	Building Main-				
19	tenance	104,955			
20	Security	235,755			
21	Custodial	42,435			
22	Administration	70,050			
23	Highway Design and Construction		208,605	208,605	
24	Director	47,880			
25	Highway Design	79,695			
26	Highway Construc-				
27	tion	81,030			
28	Aviation Design and Construction		75,465	29,295	46,170
29	Director	18,795			

1 Aviation Design 32,370
 2 Aviation Construc-
 3 tion 24,300

4 GENERAL GOVERNMENT

5 Department of Transportation

6 Public Facilities Design and

7 Construction 493,965 493,965

8 Construction 21,390

9 Administration 47,775

10 Design 32,190

11 Procurement

12 Policy 356,175

13 Research and Develop-

14 ment 18,120

15 Office of Deputy

16 Commissioner 18,315

17 Public Facilities Maintenance

18 and Operations 1,642,290 1,451,730 190,560

19 Maintenance and Operations,

20 Southeastern 536,280

21 Maintenance and Operations,

22 Central 326,985

23 Maintenance and Operations,

24 Interior 399,735

25 Maintenance and Operations,

26 Western 66,045

27 Maintenance and Operations,

28 Southcentral 176,850

29 Maintenance and Operations Interior-

1	Haul Road	136,395			
2	Communications		279,195	275,790	3,405
3	Support to State				
4	Agencies	241,845			
5	Remote Village				
6	Radio	30,585			
7	North Slope Haul				
8	Road	6,765			
9	TV Demonstration				
10	Project		383,085	383,085	
11	State Equipment Fleet		1,746,675	2,250	1,744,425
12	Central District	588,660			
13	Interior Dis-				
14	trict	459,195			
15	Southeastern				
16	District	174,360			
17	Western District	90,060			
18	Southcentral				
19	District	278,460			
20	Administration and				
21	Support	74,880			
22	North Slope Haul				
23	Road	81,060			

24 * Sec. 2. The appropriations made by sec. 1 of this Act are from the
 25 following fund sources:

26	Federal Receipts			\$ 1,358,112	
27	General Fund			38,732,732	
28	Interagency Receipts			356,423	
29	International Airport Revenue Fund			1,903,830	

588

Funding Information
 General Fund \$37,414,932
 Other Funds 5,366,309
 \$42,781,241

Introduced: 1/18/80
 Referred: Finance

1 IN THE HOUSE BY THE FINANCE COMMITTEE

2 HOUSE BILL NO. 577

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act making supplemental appropriations for the
 7 operating expenses of state government; and providing
 8 for an effective date."

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

10 * Section 1. The sum of \$42,781,241 is appropriated for the allocation
 11 and appropriation items indicated as follows for the fiscal year ending
 12 June 30, 1980:

	Allocations	Appropriation	Fund Sources	
		Items	General	Other
	NATURAL RESOURCE MANAGEMENT			
16	Department of Natural Resources			
17	Management and			
18	Administration	\$ 534,963	\$ 486,915	\$ 48,048
19	Office of the			
20	Commissioner \$ 287,364			
21	Planning and			
22	Research 247,599			
23	Mineral and Energy			
24	Management	507,342	507,342	
25	Leasing Manage-			
26	ment 99,429			
27	Petroleum			
28	Management 260,667			
29	Minerals Manage-			

1	ment	17,325		
2	Administration	129,921		
3	Geological and Geo-			
4	physical Programs	656,667	565,422	91,245
5	Resource Investiga-			
6	tions	367,587		
7	Publications	48,213		
8	Mineral Labora-			
9	tory	112,497		
10	Regulations and			
11	Information	57,816		
12	Administration	70,554		
13	Oil and Gas - Con-			
14	servation	559,482	559,482	
15	Royalt. Oil and Gas			
16	Board	47,487	47,487	
17	Land Management	583,836	558,030	25,806
18	Central Office	417,120		
19	Land and Water			
20	Director	49,335		
21	Water Management	117,381		
22	Lands Administration			
23	and Support	583,869	573,144	10,725
24	Lands Management	314,325		
25	Classification	269,544		
26	Cadastral Engineering	1,064,382	1,064,382	
27	Forest Protection and			
28	Management	363,594	306,702	56,892
29	File Protection -			

1	State	60,093			
2	Fire Protection -				
3	BLM	122,727			
4	Research and				
5	Technical	34,188			
6	Management and				
7	Timber Sales	71,676			
8	Administration	74,910			
9	District Operations		1,702,404	1,570,569	131,835
10	Southeast Dis-				
11	trict	284,097			
12	Southcentral				
13	District	812,427			
14	Northcentral				
15	District	605,880			
16	Alaska Conservation				
17	Action Corps		151,866	30,360	121,506
18	Parks and Recreation -				
19	Districts		670,923	670,923	
20	Mat-Su	152,988			
21	Chugach	148,962			
22	Kenai-Kodiak	95,337			
23	Southeast	83,292			
24	Copper Basin	48,279			
25	Interior	125,334			
26	Operations				
27	Administration	16,731			
28	Park Management		186,516	171,567	14,949
29	Park Development	63,921			

1	State-Federal			
2	Coordination	29,898		
3	Administration and			
4	Support	92,697		
5	Historic Resource Management	99,198	49,599	49,599
6	Department of Environmental Conservation			
7	Water Programs	545,985	325,743	220,242
8	Water Pollution			
9	Control	139,887		
10	Water Supply	252,120		
11	Facility Construction			
12	and Operation	113,949		
13	Directors Office	40,029		
14	Environmental			
15	Analysis	110,517	77,517	33,000
16	Terrestrial Programs	208,857	106,029	102,828
17	Air Quality	68,409		
18	Land Use	108,570		
19	Directors Office	31,878		
20	Administration and Support	449,658	329,670	119,988
21	Office of the			
22	Commissioner	103,686		
23	Management Ser-			
24	vices	102,102		
25	Technical Ser-			
26	vices	107,514		
27	Program Coor-			
28	dination	136,356		
29	Gas Pipeline Impact			

1	Gas Pipeline Impact	59,004		59,004
2	Regional Offices	508,266	369,039	139,227
3	Southeast Region	89,760		
4	Southcentral			
5	Region	198,396		
6	Northern Region	170,412		
7	Prince William Sound			
8	Region	49,698		
9	Tanker and Oil Terminal Safety	82,500	82,500	
10	ADMINISTRATION OF JUSTICE			
11	Department of Health and Social Services			
12	Adult Confinement	3,482,800	3,482,800	
13	Palmer Correction			
14	Center	273,150		
15	Anchorage State Correction			
16	Center	248,800		
17	Juneau Correction			
18	Center	454,475		
19	Fairbanks Correction			
20	Center	510,850		
21	Ketchikan Correction			
22	Center	182,625		
23	Anchorage Annex Correction			
24	Center	397,725		
25	Eagle River Correction			
26	Center	496,400		
27	Ridgeview Manor	237,250		
28	Nome Correction			
29	Center	171,000		

1	Out-of-State Contractual		
2	Services	300,725	
3	Major Medical and		
4	Guard Hire	134,950	
5	Community Based		
6	Programs	74,850	
7	Juvenile Confinement	1,625,075	1,625,075
8	McLaughlin Youth		
9	Center	937,550	
10	Institutional		
11	Care	631,250	
12	Foster Care	52,675	
13	Major Medical and		
14	Guard Hire	3,600	
15	Probation and Parole	784,375	784,375
16	First Judicial		
17	District	164,650	
18	Second Judicial		
19	District	28,275	
20	Third Judicial		
21	District	410,975	
22	Fourth Judicial		
23	District	180,475	
24	Division of Corrections		
25	Director's Office	267,050	267,050
26	Offender Confinement Reformation		
27	and Supervision		
28	Parole Board	38,725	38,725
29	Alaska Court System		

1	Alaska Court System	5,423,475	5,387,725	35,750
2	Supreme Court	447,225		
3	Trial Courts	4,253,325		
4	Administration and			
5	Support	722,925		
6	Alaska Court System			
7	Judicial Council	69,100	69,100	
8	Alaska Court System			
9	Judicial Qualifications	6,900	6,900	
10		TRANSPORTATION		
11	Department of Transportation			
12	Administration	1,412,535	1,277,370	135,165
13	Commissioner's			
14	Office	59,235		
15	Transportation			
16	Planning	8,590		
17	Internal Review	65,100		
18	Administrative Ser-			
19	vices	761,130		
20	Financial Manage-			
21	ment	295,890		
22	Right of Way Lands and			
23	Leasing	148,590		
24	Maintenance and Operations	213,255	150,255	63,000
25	Administration	105,255		
26	Safety and			
27	Security	108,000		
28	Marine Transportation	5,772,345	5,753,910	18,435
29	Southeast Vessel			

1	Operations	3,830,955		
2	Southeast Vessel			
3	Overhaul	556,095		
4	Southeast Shore			
5	Facilities	208,635		
6	Southwest Vessel			
7	Operations	801,945		
8	Southwest Vessel			
9	Overhaul	74,565		
10	Southwest Shore			
11	Facilities	76,275		
12	Administration	223,875		
13	Southeast Region Operations			
14	and Maintenance	897,555	882,255	15,300
15	Airports	46,905		
16	Highways	804,090		
17	Administration	46,560		
18	Central Region Operations			
19	and Maintenance	2,939,550	2,882,745	56,805
20	Airports	607,710		
21	Highways	2,197,545		
22	Administration	134,295		
23	Southcentral Region Operations			
24	and Maintenance	1,046,220	1,042,365	3,855
25	Airports	90,045		
26	Highways	900,465		
27	Administration	55,710		
28	Interior Region Operations			
29	and Maintenance	2,074,215	2,015,235	58,980

1	Airports	239,790		
2	Highways	1,385,145		
3	Administration	89,280		
4	North Slope Haul			
5	Road	360,000		
6	Western Region Operations			
7	and Maintenance		456,330	451,905 4,425
8	Airports	198,075		
9	Highways	214,335		
10	Administration	43,920		
11	Anchorage International			
12	Airport		1,180,095	1,180,095
13	Field Main-			
14	tenance	275,895		
15	Building Main-			
16	tenance	180,165		
17	Security	267,405		
18	Custodial	166,995		
19	Administration	186,990		
20	Equipment	102,645		
21	Fairbanks International Airport		585,045	585,045
22	Field Main-			
23	tenance	131,850		
24	Building Main-			
25	tenance	104,955		
26	Security	235,755		
27	Custodial	42,435		
28	Administration	70,050		
29	Highway Design and Construction		208,605	208,605

1	Director	47,880		
2	Highway Design	79,695		
3	Highway Construc-			
4	tion	81,030		
5	Aviation Design and Construction	75,465	29,295	46,170
6	Director	18,795		
7	Aviation Design	32,370		
8	Aviation Construc-			
9	tion	24,300		

GENERAL GOVERNMENT

11	Department of Transportation			
12	Public Facilities Design and			
13	Construction	493,965	493,965	
14	Construction	21,390		
15	Administration	47,775		
16	Design	32,190		
17	Procurement			
18	Policy	356,175		
19	Research and Develop-			
20	ment	18,120		
21	Office of Deputy			
22	Commissioner	18,315		
23	Public Facilities Maintenance			
24	and Operations	1,642,290	1,451,730	190,560
25	Maintenance and Operations,			
26	Southeastern	536,2		
27	Maintenance and Operations,			
28	Central	326,985		
29	Maintenance and Operations,			

1	Interior	399,735			
2	Maintenance and Operations,				
3	Western	66,045			
4	Maintenance and Operations,				
5	Southcentral	176,850			
6	Maintenance and Operations Interior-				
7	Haul Road	136,395			
8	Communications		279,195	275,790	3,405
9	Support to State				
10	Agencies	241,845			
11	Remote Village				
12	Radio	30,585			
13	North Slope Haul				
14	Road	6,765			
15	TV Demonstration				
16	Project		383,085	383,085	
17	State Equipment Fleet		1,746,675	2,250	1,744,425
18	Central District	588,660			
19	Interior Dis-				
20	trict	459,195			
21	Southeastern				
22	District	174,360			
23	Western District	90,060			
24	Southcentral				
25	District	278,460			
26	Administration and				
27	Support	74,880			
28	North Slope Haul				
29	Road	81,060			

1 * Sec. 2. The appropriations made by sec. 1 of this Act are from the
2 following fund sources:

3	Federal Receipts	\$ 1,101,312
4	General Fund	37,414,932
5	Interagency Receipts	356,423
6	.International Airport Revenue Fund	1,903,830
7	Highway Working Capital Fund	1,744,425
8	Program Receipts	<u>260,319</u>
9		\$42,781,241

10 * Sec. 3. This Act takes effect immediately in accordance with AS 01.10.-
11 070(c).

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THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. House Bill 667
 Title An Act making a supplemental appropriation to the DOTPF for the No. Slope Haul Road
 Requested by House State Affairs Committee (Christine Harting) Date 2/14/80

II. FISCAL DETAIL

Agency Affected Department of Transportation and Public Facilities
 Program Category Affected Transportation
 BRU, Program, or Subprogram(s) Affected Interior Region M & O BRU, No. Slope Road Component
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
100 PERSONAL SERVICES	86.0					
200 TRAVEL	55.3					
300 CONTRACTUAL	3,400.5					
400 COMMODITIES	143.2					
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	3,685.0					

FUNDING (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
GENERAL FUND	3,685.0					
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
FULL TIME						
PART TIME						
TEMPORARY						

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

The first session of the 11th Legislature appropriated \$2,400,000* to the Department of Transportation and Public Facilities for maintenance of the North Slope Haul Road during Fiscal Year 1980. The Governor's original request was for \$4,566,100 based on the assumption that the road would be maintained solely by State forces operating from five camp sites. At the present time there are three camps in operation manned by State employees providing maintenance for 182 miles of the Haul Road. The remaining 210 miles of road is being maintained under contract with two private contracting firms. This arrangement for maintenance of the North Slope Haul Road is expected to continue through Fiscal Year 1980.

(Continued on next page)

IV. DATE 2/21/80 PREPARED BY Robert W. Steele
 AGENCY Transportation & Public Facilities
 PHONE 364-2121 Ext. 258
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named).

Fiscal Note - HB 667

The cost of maintaining the 182 miles of road with State forces during FY 80 is projected at \$1,953,900. The costs of the two presently negotiated contracts total \$344,260 per month, or \$4,131,100 for the 12 month period of FY 80. The total anticipated expenditures for maintenance of the entire road by both State forces and contracts would then be \$6,085,000. The table below indicates the projected shortfall based upon the above narrative.

Maintenance by State forces	\$1,953,900
Maintenance by contracts	<u>4,131,100</u>
Total Maintenance Costs	\$6,085,000
Less FY 80 appropriation*	<u>(2,400,000)</u>
Supplemental Requirement	\$3,685,000

A copy of Deputy Commissioner Ryan's memorandum on this subject is attached. It should be noted the due to an error in calculation, his memorandum requests \$3,737,300 of supplemental funds when in actuality only \$3,685,000 is required.

The Fiscal Year 1981 Governor's budget request assumes maintenance of the entire haul road utilizing only State forces, resulting in an overall reduction from the amounts required for FY 80.

Note * This assumes passage of HB 577 which appropriates the remaining \$360,000 of the North Slope Haul Road budget.

ALASKA

MEMORANDUM RECEIVED

DEC 24 1979

ATTACHMENT E

TO: Ron Lind
Deputy Commissioner, Administration
Department of Transportation
and Public Facilities

DATE: December 20, 1979 DOT/PF
COMMISSIONER'S OFFICE

FILE NO. 400C-0003

TELEPHONE NO.

FROM: Patrick P. Ryan *PRR.*
Deputy Commissioner, M & O
Department of Transportation
and Public Facilities

SUBJECT: Supplemental Request - North
Slope Haul Road Component

The Free Conference Committee Budget provided for a lump sum appropriation of \$2,400,000.00 to maintain the North Slope Haul Road. Additionally, the Haul Road was made a Component of the Interior Region Maintenance and Operations BRU.

The Governor's Request for the 1980 Operating Budget for the Haul Road was \$4,566,100. That amount was estimated to be adequate to provide year around maintenance from five camps manned by State employees. At the current time and for the remainder of Fiscal Year 80 there will be only three camps in operation providing coverage for 182 miles of the road. The remaining, 210 miles will be maintained under a contractual arrangement with two private contractors. The requirement to continue the two contracts for the remainder of Fiscal Year 1980 will require us to request a Supplemental greater than \$2,166,100. The \$2,166,100 is the difference between the Governor's request of \$4,566,100 for year around maintenance and the \$2,400,000 approved by the FCC for partial year funding.

The total Supplemental needed for the Haul Road Component to finish Fiscal Year 1980 is \$3,737,300. This amount will make a total FY 80 budget of \$6,137,300 which is \$1,571,200 over the Governor's Request for 1980.

The cost of maintaining the first 182 miles with the state forces located at three camps is estimated at \$1,953,900 for a full year. The two contracts will cost \$344,260 per month or \$4,131,100 for a full year. The total expenditures for this component as of November 30, 1979 was \$1,635,593 leaving a balance of \$404,407. The Legislature only fund 85% of the \$2.4 million approved.

There is the alternative of making up the shortfall in the Haul Road Component by transferring funds from the other three Interior Components. This alternative has been considered but would result in extensive reduction of services to the remainder of the Region as the effect would be a 33% reduction in those components. Therefore, that alternative is unacceptable in my opinion.

The third alternative is to drop the two contracts and man the remaining 210 miles with state forces. While it is estimated that this would result in a savings to the state, the alternative is not practical as camp facilities do not exist at this time to allow the placement of state personnel.

Therefore, we believe the only viable course of action is to request a supplemental in the amount of \$3,737,300 to complete FY 80.

STATE OF ALASKA

ALASKA OIL AND GAS CONSERVATION COMMISSION

HB 577
JAY S. HAMMOND, GOVERNOR

3001 PORCUPINE DRIVE-ANCHORAGE, ALASKA 99501

November 2, 1979

Hon. John C. Sackett
Box 65
Galena Alaska 99741

Dear Senator Sackett:

As you are aware the commission is currently involved in a study of the Prudhoe Bay field. This study involves making runs with a large 3 dimensional reservoir computer model. The results of this work are needed by the commission to determine the allowable field offtake rates for oil and gas that will ensure that maximum hydrocarbon recovery is achieved. This will also determine the availability of gas for sale from the field.

In the FY 80 Free Conference Committee Report, \$712,000 was in the budget for contractual services primarily for this study. Subsequently the legislature decided to only fund 67% of the Department of Natural Resources budget. The Oil and Gas Conservation Commission, created January 1, 1979, is not part of the Department of Natural Resources. However, since our agency's budget had not been assigned a separate budget code and taken out of the Department of Natural Resources budget, we inadvertently had the same restrictions placed on our commission's budget which reduced our total funds by \$559,000 and our funds for the 3-D study by \$235,000.

The 3-D study expenditures are not accrued evenly each month. Therefore as a result of this under funding of our budget, we are having to request a \$50,000 loan from the Governor's Contingency Fund to allow us to continue the Prudhoe Bay study through December, 1979.

A supplemental appropriation in the amount of \$559,000 will be filed at the beginning of the second session in order to maintain our budget at full funding. Since continuation of the

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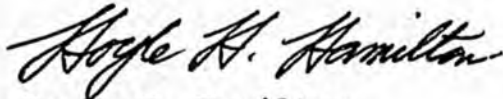
Hon. John C. Sackett

-2-

November 2, 1979

commission's work, most especially timely completion of the reservoir study, is critical, I ask for your advance assistance in obtaining approval of the supplemental funds as early as possible after the legislature reconvenes.

Respectfully,



Hoyle H. Hamilton
Chairman/Commissioner

cc: Governor Hammond
Ron Lehr, Director, Budget & Management
Jay Hogan, Director, Legislative Finance

HHH:be

NOV 15 1979



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.

James O Smith
Signature of Camera Operator

3/20/90
Date

W. EUGENE GUESS 1932-1975
JOSEPH RUDD 1933-1978

ROBERT C. ELY
THEODORE E. FLEISCHER
FRANCIS E. SMITH, JR.
HERBERT BERKOWITZ
MICHAEL G. BRIGGS
NORMAN C. GORSUCH
DAVID H. BUNDY
HARPIS SAXON
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GARY A. ZIPKIN
SANFORD SAGALKIN *
DONN T. WONNELL
JOSEPH M. WILSON
JOSEPH A. McLEAN, OF COUNSEL
GORDON E. EVANS
LOUIS R. VEERMAN
CLIFFORD W. HOLST
RICHARD M. ROSSTON
LOUIS AGI
JAMES D. LINXWILER *
JOSEPH J. PERKINS, JR.
CHARLES W. COHEN
PEGGY MENTELE
SUSAN R. SHARROCK
DANIEL WEBER
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March 17, 1982

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Mr. J.H. Hogan
Director
State of Alaska
Legislative Affairs Agency
Legislative Finance Division
Pouch WF
Juneau, Alaska 99811

RE: Legislature v. Hammond
1JU-80-1163 Civil.
Our File No. 3797

Dear Jay:

As we discussed yesterday, we need transcripts of those portions of House and Senate Finance Committee, meetings which are the primary source of legislative history for AS 37.05.315, (HB 578).

Enclosed are copies of the minutes of those meetings as follows:

1. ~~House Finance Committee, Minutes at 112-115 (February 1, 1980).~~
2. ~~House Finance Committee, Minutes at 370 (March 19, 1980).~~
- ✓ 3. Senate Finance Committee, Minutes at 364-367 (March 31, 1980).
- ✓ 4. Senate Finance Committee, Minutes at 273-275 (April 2, 1980).
- ✓ 5. Senate Finance Committee, Minutes at 277-278 (April 9, 1980).

Mr. J. H. Hogan
March 17, 1982
Page -2-

✓6. Senate Finance Committee, Minutes at
286,291-294 (April 28, 1980).

✓7. Senate Finance Committee, Minutes at
301 (April 29, 1980).

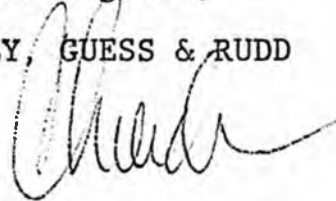
✓8. Senate Finance Committee, Minutes at
349 (May 2, 1980).

323

It is important we receive these transcripts as quickly as possible. After you have reviewed this letter and discussed this matter with the people who will prepare the transcripts, please advise on when you believe the transcripts will be completed.

Best regards,

ELY, GUESS & RUDD



Charles W. Cohen

Enclosures:

CWC/pm

Transcribed

MINUTES
SENATE FINANCE COMMITTEE
March 31, 1980
9:00 a.m.

Chairman Sackett called the meeting to order at 9:00 a.m. All members were present. Also in attendance were Administrative Assistants to Senate Finance Garrey Peska and Nancy Harvey; Director of Legislative Finance Jay Hogan; Senator Stimson; Assistant Attorney General Rodger Pegues; Deputy Commissioner of Administration Dick Smith; and representatives from the press including Laura Zahn and Joe LaRocca.

ATTENDANCE

Chairman Sackett made the following bill assignments:

BILL
ASSIGNMENTS

SCR 45	Ray
SCR 47	Sumner
SCR 48	Hackney
SCR 49	Hackney
SB 64	Sumner
SB 260	Sackett
SB 275	Kerttula
SB 289	Hohman
SB 348	Sackett
SB 350	Hohman
SB 388	Ray
SB 401	Bennett
SB 405	Sackett
SB 444	Hohman
SB 450	Sackett
SB 524	Bennett
SB 528	Kerttula
SB 529	Kerttula
HCR 53	Bennett
HB 432	Sumner
HB 586	Hohman

Chairman Sackett advised that the next order of business would be consideration of COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 578 amended (Act establishing the municipal grant account; and providing for an effective date), and he asked that Garrey Peska explain the purpose of the bill to the committee.

CSHB 578 am

Mr. Peska explained that at the end of last session the Attorney General's Office drafted a set of regulations that they sent to the operating departments, telling them among other things that they could not make direct grants to non-profit organizations, and they alluded to the possibility of having problems with the municipalities in cases where there were other organizations in the area that might complicate the bidding or would be able to provide the services that the direct grant was intended for. The operating departments went to the Budget and Audit Committee during the interim with this problem and said they wanted to make the direct grant payments that the Department of Law said might need more credibility in the way of minimum regulations. So the Budget and Audit Committee approved a minimum set of regulations that included: 1) the grant recipient had to agree to spend the money for what the appropriation was intended, 2) they had to agree to make their books available for audit if the State chose to do so, and 3) they had to agree to provide an accounting at the end of the project. After that most of the grants were paid. But now the Internal has prepared about 40 pages of regulations including such things as 1) what are direct costs, 2) what are indirect costs that are going to be allocated to the project, and 3) on-site inspections by the operating department. Mr. Peska stated that it is anticipated that money for administration of those grants will come off the top of the appropriations. So the House of Representatives has drafted this bill creating the municipal grant account with language basically saying that the operating department will just simply make the payment. He added that the House approach does not address non-profit corporations, and that there was a Senate Finance Committee Substitute for the bill in the file that would include non-profit corporations.

General discussion and questioning followed. Chairman Sackett asked that Jay Hogan, Director of Legislative Finance speak on the two versions of the bill.

Mr. Hogan stated that on May 5 of last year the Governor had written a letter to Chairmen of the House and Senate Finance Committees saying that the budget was "veto-proof" if passed within his overall dollar constraints. Then after the Legislature adjourned on June 1, when the Governor signed the general appropriations, there were 10 pages of exceptions on the budget and consequently, many of these appropriations have not been paid to date. A lot of these were in the category of grants going to municipalities. The final House version was trimmed to deal only with municipalities to avoid the problem of trying to appropriate to non-profit corporations since they are not entities of the State. Chairman Sackett asked Mr. Hogan his opinion of the Senate Committee

MR. HOGAN

Substitute. Mr. Hogan responded that going on a scale from "most likely" to "least likely", he thought the Legislature could make the one dealing with municipalities workable, but it would be more difficult to bring in the non-profit corporations. The reason was that it would appear to be special legislation if it included non-profit organizations, insofar as the various statutes that set up bidding requirements in the State are concerned. If the Legislature designates a specific non-profit organization, it appears to override the statute and select a "vendor". This was the problem the AG's Office had last year with many of the grants to specific non-profit corporations. It had the effect of excluding other corporations. He said that the committee might consider separating the two (municipalities and non-profit organizations) in their version of the bill so that they could each stand alone if there was a legal challenge. At present they are combined into one section and a legal challenge might nullify the entire section.

General discussion followed, and possible amendments to the were proposed. It was decided that consideration of this legislation would continue in the afternoon with representatives from the AG's Office and from the Department of Administration present.

Chairman Sackett advised that the next order of business was discussion of COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 60 (An Act appropriating for supplemental operating and capital expenses of the state government and making transfers between appropriations; and providing for an effective date), and stated that he had not yet received back-up material for many of the House figures. He also provided the committee members with a list of House items that he had marked for elimination from the bill. (this list is appended to the end of these minutes.)

CSHB 60

The meeting recessed at 10:00 a.m.

RECESS

AFTER RECESS

Chairman Sackett called the meeting to order at 1:45 p.m. He advised the committee that Assistant Attorney General Rodger Pegues and Deputy Commissioner of Administration Dick Smith were present for further discussion of COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 578 amended (An Act establishing the municipal grant account; and providing for an effective date). He then asked them what the position of the administration was.

AFTER
RECESS

CSHB 578

Mr. Pegues stated that he had reviewed the above version of the bill and that on the face, it seemed valid. He said that he had not seen the Senate Finance Committee Substitute yet so could not comment on it.

General discussion and questioning ensued between the committee members and the representatives named above on such aspects as the validity of audits being required for all the small grants as well as for the larger ones and for the school districts, the legal ramifications of adding non-profit organizations to the bill. Senators Ray and Sumner proposed an amendment to the Senate Finance Committee Substitute for House Bill No. 578 on line 27 that would read "shall not adopt regulations, administrative policy, or any other restrictive policy to". No action was taken on that amendment. It was concluded that above all a simple method of administering the program was necessary.

The meeting adjourned at 2:45 p.m.

ADJOURNMENT

SFC - TAPE # 33, Side 1 (000 - 730)
Side 2 (000 - 220) *end*
TAPE # 34, Side 1 (000 - 90)

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3/31/80

37 Page 37 - ALASKA COURT SYSTEM - Judicial Qualifications
Senator Sackett recommended 29.5. Senator Ray moved to zero the BRU. No objection to the motion for zero having been voiced, funding for the BRU was eliminated.

38 Page 37 - ALASKA COURT SYSTEM - Judicial Council
Senator Sackett recommended 308.5, advising "they want to really expend, and this is not the year to expand."

At this time the committee concluded budget review and requested that Attorney General Gross again appear before committee concerning CSHB 578 am (Act establishing the municipal grant account).

CSHB 578 am

Senator Ray advised of his opinion that the most recently submitted language from Mr. Gross was far from what the committee intended when it previously presented him with three proposed language changes for his review and incorporation within grant legislation.

Senator Sumner attested to his understanding that the wording to be properly drafted by Mr. Gross would require that the Department contract with the named recipient unless the Department shows in writing that someone else is better qualified to serve the public good.

Senator Hohman advised that the Department could subvert Legislative intent if it diverts funding from the designated recipient to another. Mr. Gross responded that in the instance of an alcoholism program aimed at early detection of potential alcoholism problems, the legislature could ensure such a grant would not go to an organization with a different philosophy by "writing in" the specific purpose of the grant.

Senator Ray responded that in his district he would prefer that if the grant is not given to the named recipient, the grant not be funded at all. Mr. Gross responded that he had not before understood that the committee expected him to draft language specifying that the Legislature designate the grantee.

Senator Ray and the Chairman directed Mr. Gross to prepare language providing that if the grant is not made to the entity designated by the Legislature it shall not be made at all.

The meeting adjourned at approximately 3:15 p.m.

SFC-80 #37, Side 1, (280-end) Side 2 (entire side)
SFC-80 #38, Side 1 (000-189)

4/29/80

Transcribed

MINUTES
SENATE FINANCE COMMITTEE
May 2, 1980
8:45 a.m.

Chairman Sackett called the meeting to order at 8:45 a.m. All members were present with the exception of Senator Sumner who arrived at 9:00 a.m. Also in attendance were Senator Stimson; Administrative Assistant to Senator Hohman Rob Kochis; Senate Finance Administrative Assistants Garrey Peska and Bill Hogan; and representatives from the press including Joe LaRocca.

ATTENDANCE

Chairman Sackett stated that the first order of business would be consideration of COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 578 am (An Act establishing the municipal grant account; and providing for an effective date). He stated that Senator Ray had been working with the Attorney General on the technical language contained in the bill and asked that Senator Ray bring the committee up to date. It was established that the committee was working on final language for SENATE COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 578 (An Act relating to state grants; and providing for an effective date). Senator Ray gave the committee a section by section review of that most current version. General discussion, mostly relating to subsection (b), followed. The problem here was to make sure that the grantee could not arbitrarily decide when and how to use the grant money. The committee decided that language (line 24 of the working copy) that would read: "The remainder of the grant shall be in installments equal to the amount of grant money the municipality expended in the previous month." Senator Ray moved and asked unanimous consent that this version of the bill be moved from committee with a "do pass" recommendation. There being no objection, it was so ordered. All members signed the committee report "do pass".

CSHB 578 am

SCS
CSHB 578

Chairman Sackett stated that the next order of business would be close-out of the General Government budget category. He asked that Senator Kerttula, who had been assigned that category, proceed. The General Government footnotes are as follows:

GENERAL
GOVERNMENT
BUDGET CLOSE-
OUTS

GENERAL GOVERNMENT

1. 5/2/80 - page 44 - Office of the Governor - Executive Operations - Executive Office.
Reduced Senate figure \$2,367.9 to \$2,290.0.
(Senator Kerttula moved to delete Bethel Special Assistant (\$56.6) and Bethel Clerk Typist III (\$21.3).)

MINUTES
SENATE FINANCE COMMITTEE
March 31, 1980
9:00 a.m.

Chairman Sackett called the meeting to order at 9:00 a.m. All members were present. Also in attendance were Administrative Assistants to Senate Finance Garrey Peska and Nancy Harvey; Director of Legislative Finance Jay Hogan; Senator Stimson; Assistant Attorney General Rodger Pegues; Deputy Commissioner of Administration Dick Smith; and representatives from the press including Laura Zahn and Joe LaRocca.

ATTENDANCE

Chairman Sackett made the following bill assignments:

BILL
ASSIGNMENTS

SCR 45	Ray
SCR 47	Sumner
SCR 48	Hackney
SCR 49	Hackney
SB 64	Sumner
SB 260	Sackett
SB 275	Kerttula
SB 289	Hohman
SB 348	Sackett
SB 350	Hohman
SB 388	Ray
SB 401	Bennett
SB 405	Sackett
SB 444	Hohman
SB 450	Sackett
SB 524	Bennett
SB 528	Kerttula
SB 529	Kerttula
HCR 53	Bennett
HB 432	Sumner
HB 586	Hohman

Chairman Sackett advised that the next order of business would be consideration of COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 578 amended (Act establishing the municipal grant account; and providing for an effective date), and he asked that Garrey Peska explain the purpose of the bill to the committee.

CSHB 578 am

Mr. Peska explained that at the end of last session the Attorney General's Office drafted a set of regulations that they sent to the operating departments, telling them among other things that they could not make direct grants to non-profit organizations, and they alluded to the possibility of having problems with the municipalities in cases where there were other organizations in the area that might complicate the bidding or would be able to provide the services that the direct grant was intended for. The operating departments went to the Budget and Audit Committee during the interim with this problem and said they wanted to make the direct grant payments that the Department of Law said might need more credibility in the way of minimum regulations. So the Budget and Audit Committee approved a minimum set of regulations that included: 1) the grant recipient had to agree to spend the money for what the appropriation was intended, 2) they had to agree to make their books available for audit if the State chose to do so, and 3) they had to agree to provide an accounting at the end of the project. After that most of the grants were paid. But now the Internal has prepared about 40 pages of regulations including such things as 1) what are direct costs, 2) what are indirect costs that are going to be allocated to the project, and 3) on-site inspections by the operating department. Mr. Peska stated that it is anticipated that money for administration of those grants will come off the top of the appropriations. So the House of Representatives has drafted this bill creating the municipal grant account with language basically saying that the operating department will just simply make the payment. He added that the House approach does not address non-profit corporations, and that there was a Senate Finance Committee Substitute for the bill in the file that would include non-profit corporations.

General discussion and questioning followed. Chairman Sackett asked that Jay Hogan, Director of Legislative Finance speak on the two versions of the bill.

Mr. Hogan stated that on May 5 of last year the Governor had written a letter to Chairmen of the House and Senate Finance Committees saying that the budget was "veto-proof" if passed within his overall dollar constraints. Then after the Legislature adjourned on June 1, when the Governor signed the general appropriations, there were 10 pages of exceptions on the budget and consequently, many of these appropriations have not been paid to date. A lot of these were in the category of grants going to municipalities. The final House version was trimmed to deal only with municipalities to avoid the problem of trying to appropriate to non-profit corporations since they are not entities of the State. Chairman Sackett asked Mr. Hogan his opinion of the Senate Committee

Substitute. Mr. Hogan responded that going on a scale from "most likely" to "least likely", he thought the Legislature could make the one dealing with municipalities workable, but it would be more difficult to bring in the non-profit corporations. The reason was that it would appear to be special legislation if it included non-profit organizations, insofar as the various statutes that set up bidding requirements in the State are concerned. If the Legislature designates a specific non-profit organization, it appears to override the statute and select a "vendor". This was the problem the AG's Office had last year with many of the grants to specific non-profit corporations. It had the effect of excluding other corporations. He said that the committee might consider separating the two (municipalities and non-profit organizations) in their version of the bill so that they could each stand alone if there was a legal challenge. At present they are combined into one section and a legal challenge might nullify the entire section.

General discussion followed, and possible amendments to the were proposed. It was decided that consideration of this legislation would continue in the afternoon with representatives from the AG's Office and from the Department of Administration present.

Chairman Sackett advised that the next order of business was discussion of COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 60 (An Act appropriating for supplemental operating and capital expenses of the state government and making transfers between appropriations; and providing for an effective date), and stated that he had not yet received back-up material for many of the House figures. He also provided the committee members with a list of House items that he had marked for elimination from the bill. (this list is appended to the end of these minutes.)

CSHB 60

The meeting recessed at 10:00 a.m.

RECESS

AFTER RECESS

Chairman Sackett called the meeting to order at 1:45 p.m. He advised the committee that Assistant Attorney General Rodger Pegues and Deputy Commissioner of Administration Dick Smith were present for further discussion of COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 578 amended (An Act establishing the municipal grant account; and providing for an effective date). He then asked them what the position of the administration was.

AFTER
RECESS

CSHB 578 a

Mr. Pegues stated that he had reviewed the above version of the bill and that on the face, it seemed valid. He said that he had not seen the Senate Finance Committee Substitute yet so could not comment on it.

General discussion and questioning ensued between the committee members and the representatives named above on such aspects as the validity of audits being required for all the small grants as well as for the larger ones and for the school districts, the legal ramifications of adding non-profit organizations to the bill. Senators Ray and Sumner proposed an amendment to the Senate Finance Committee Substitute for House Bill No. 578 on line 27 that would read "shall not adopt regulations, administrative policy, or any other restrictive policy to". No action was taken on that amendment. It was concluded that above all a simple method of administering the program was necessary.

The meeting adjourned at 2:45 p.m.

ADJOURNMENT

SFC - TAPE # 33, Side 1 (000 - 730)
Side 2 (000 - 220)
TAPE # 34, Side 1 (000 - 90)

-267-

3/31/80

MINUTES
SENATE FINANCE COMMITTEE
April 2, 1980
8:30 a.m.

Chairman John Sackett convened the meeting at approximately 8:30 a.m. All committee members were present. Also in attendance were Senator Stimson; Rod Pegues, Attorney for the Department of Law; Dick Smith from the Department of Administration; Administrative Assistants for Senate Finance Garrey Peska, Bill Hogan, and Nancy Harvey; and representatives from the media including Joe LaRocca.

PRESENT

The Chairman moved that CSHB 578 am (An Act establishing the municipal grant account) be brought up for discussion, advising that a Committee Substitute has been prepared for the legislation and further advising that Mr. Pegues and Mr. Smith were present to testify.

CSHB 578am

SCS

Mr. Pegues informed the committee that he had "not come up with a solution to the entire problem" surrounding the grant account. He advised of the existence of a sample contract used in simple grant situations. The entire problem, however, is much broader. Mr. Pegues advised that he didn't know that there are solutions to all the problem which will satisfy everyone. Municipal grants present no problem. Grants to non-profit corporations and organizations pose serious problems because in some circumstances not enough is known about the organization and its function. An organization like the Red Cross presents no problem because its function is well known. An organization like the "Anchorage Current Events Group" would raise questions concerning the purpose of the organization and its application of a state grant. In the foregoing instance, problems arise when the purpose is not self-evident.

ROD PEGUES

The Administrative branch of government is not supposed to have appropriative powers. This presents a problem in all branches of government. The purpose of an appropriation should be specified by the legislature. The Executive branch cannot spend money that is not specifically appropriated by law. Mr. Pegues further spoke to the fact that no clear defining guidelines designating purpose exist.

Senator Kerttula asked how the legislature should go about appropriating funding to a particular project without furnishing "many pages of backup defining the purpose."

Senator Ray suggested an accompanying letter of intent setting forth guidelines defining exactly what the funding is for.

Mr. Pegues advised that "one or two lines in the bill like 'campground at Tok' have proven to be the most effective method of designating funding for a specific purpose. Dick Smith further attested to the fact that when the legislature asks the Department of Administration to disburse money, it has to give Administration information concerning what the appropriation is for.

The Chairman acknowledged the need for specific purpose and a letter of intent describing distribution of the appropriation, and inquired concerning further problems surrounding the grant account.

Mr. Pegues noted problems surrounding:

- (1) Non-profit corporations as the grant program grows, especially in urban areas, and
- (2) Contracts. Questions arise in areas where more than one qualified contractor exists.

Senator Sumner asked if the latter problem area could be avoided by advertising for needed services and compiling a listing of qualified contractors.

Mr. Pegues replied that the Department of Law has a listing of individuals providing similar services, but operation on this basis has not always met with legislative approval. Community and Regional Affairs should be able to compile a listing of "acceptable non-profit organizations."

Senator Ray raised questions concerning legislative ability to bypass the Administration and make grants directly to the Legislative Council. Mr. Pegues advised that in such action the legislature would also be bypassing the parliamentary system.

Responding to questions from Senator Hohman, Mr. Pegues stated that if a grant involves services which are not part of the lawmaking power of the legislature, problems arise. He restated the fact that there are no problems with municipal grants since municipalities are political subdivisions of the state and the legislature may properly decide to have a city perform a particular function rather than having this function performed by the state.

Senator Hohman attested to concern by his constituents that they will be forced into "an organized borough government situation." People are requesting further information on the borough type of government. The Executive Branch has not responded to the need. Therefore, the Senator wishes to fund a local non-profit organization (AVCP) to investigate and compile the needed information.

Mr. Pegues advised that a grant through Community and Regional Affairs for the foregoing purpose should present no problem. The Chairman questioned the advisability of attaching purpose to such an appropriation without specifically designating it for AVCP. Mr. Pegues responded that it would be preferable to provide a description (purpose) than to name the specific organization to be funded.

Senator Hackney asked if the Department has any evidence of wholesale misuse of appropriations made through the legislature. He further attested to instances wherein funding is appropriated by the legislature for a specific purpose but is not used for that purpose by the department.

Mr. Pegues advised that his mention of the foregoing problem areas represents an attempt to avoid further problems and an attempt to head-off such problems before they arise. The Chairman suggested that the anticipated problems areas brought to light by Mr. Pegues might not necessarily have to be answered in the proposed bill. In response Mr. Pegues advised of the need for language in the grant to comply with constitutional requirements.

The Chairman directed Mr. Pegues to return to committee with solutions for problems raised concerning the legislation.

Senator Kerttula attested to the need for a letter from the Attorney General setting forth guidelines for legislative intent.

The Chairman directed Senator Ray to work with Mr. Pegues and return to committee with an acceptable Committee Substitute for the legislation.

(Mr. Pegues and Mr. Smith left the meeting at this time.)

The Chairman moved that CSHB 60 (Act appropriating for supplemental operating and capital expenses of the state government and making transfers between appropriations)

CSHB 60

be brought up for discussion. Finance staff distributed two listings of proposed additions to the house bill (Supplemental Operating Projects and Supplemental Capital Projects), and the Chairman advised that staff would provide a total for all projects at a later time. He further advised that, keeping in mind the \$203 million limit, each committee member must cut \$45 million in general funds from his list of capital projects. He further advised that members can make their own cuts or a majority of the committee can effect the cuts.

The Chairman instructed members to make their cuts and return updated information to him by 1:00 p.m. in order to meet the bill draft deadline at 9:00 a.m. the following morning.

The meeting adjourned at approximately 9:30 a.m.

ADJOURN

MINUTES
SENATE FINANCE COMMITTEE
April 9, 1980
9:15 a.m.

In the absence of Chairman John Sackett, Vice-Chairman George Hohman convened the meeting at approximately 9:15 a.m. All committee members were present with the exception of the Chairman and Senator Bennett. Also in attendance were Senators Stimson and Rodey; Mary Jablonski, Special Assistant to the Commissioner, Dept. of Fish and Game; Mike Leach, Lobbyist for Southcentral Timber Development, Inc.; Don Berry, Lobbyist for the Municipality of Anchorage; Administrative Assistants to Senate Finance Garrey Peska, Bill Hogan, and Nancy Harvey; and representatives from the press including Joe LaRocca and Jean Kisor.

PRESENT

The Vice-Chairman announced that the meeting was convened for the purpose of review of SCS for CSHB 60 (Act appropriating for supplemental operating and capital expenses of the state government and making transfers between appropriations) with the intention of passing the SCS from committee in order that it may be calendared for floor action tomorrow.

CSHB 60

SCS

Senator Hackney advised of his belief that committee members are familiar with the content of the bill, and Senator Sumner moved that SCS for CSHB 60 pass from committee with a unanimous do pass recommendation. Senator Ray objected to the motion, moving instead that SCS for CSHB 60 pass with individual recommendations. The Vice-Chairman called for a vote on the motion for do pass recommendation and upon a show of hands the motion carried, Senators Hohman, Sumner, Hackney and Kerttula supporting the motion. SCS for CSHB 60 thus passed from committee with a do pass recommendation--Senators Hohman, Sumner, Hackney, and Kerttula signing do pass, Senator Ray signing no recommendation.

MOTION
SCS CSHB 60

The Vice-Chairman stated that Senator Ray would report to committee concerning work on CSHB 578am (Act establishing the municipal grant account). Senator Ray advised that he met with the Governor and his staff as well as the Attorney General concerning drafting of a workable Committee Substitute. The House Finance Committee is also working on the problem (grants to non-profit corporations and organizations). Attorney General Gross will personally draft appropriate legislation and the legislation will be forthcoming soon. The Senator advised he will continue to work with the Attorney General's Office.

CSHB 578am

The Vice-Chairman advised committee members of the Chairman's intention to commence budget closeouts Monday, April 14, 1980.

There being no further business to come before the committee at this time, the meeting adjourned at approximately 9:21 a.m.

ADJOURN

Consideration of COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 578 amended (An Act establishing the municipal grant account) was taken up. Vice Chairman Hohman stated that Senator Ray had been working with the Attorney General on the language, and asked Senator Ray to bring the committee up to date.

CSHB 578 am

Senator Ray stated that the present version of the bill was a compromise, and will at least be a temporary solution to the problem. Various aspects of the language were discussed. Vice-Chairman Hohman stated that the bill should be returned to the file until the language became more firm. There being no objection, it was so ordered.

CSHB 578 am
RET'D TO FILE

Vice-Chairman Hohman advised that the next order of business would be consideration of SENATE BILL NO. 539 (An Act making an appropriation to the Department of Public Safety for emergency medical services), and asked Senator Ferguson to comment on the bill.

SB 539

Senator Ferguson stated that the bill was introduced in behalf of the EMS people and that it would provide equipment for different types of emergencies to various communities. He said that the Department of Public Safety representative Charlie Smith would contact communities and order the equipment rather than allowing the communities to order it themselves. He said that the monetary allotment for the fire truck should be \$70.0, and that he would also like to add \$5,000.0 for maintenance equipment for the unorganized boroughs as of last year. He added that the monetary allotment for the ambulance should be \$30.0 rather than \$15.0.

Senator Ray moved and asked unanimous consent that the bill be moved from committee with individual recommendations. Vice-Chairman Hohman, noting the number of "do pass" votes, changed the recommendation to "do pass". There being no objection, it was so ordered. All members signed the committee report "do pass" with the exception of Chairman Sackett who was absent.

MOTION
SB 539

SENATE BILL NO. 436 (An Act relating to grants for solid waste processing or disposal facilities; and providing for an effective date) was considered next.

SB 436

Commissioner of Environmental Conservation Ernst Mueller and Solid Waste Management Director Dick Williams testified as to the departments involvement with solid waste facilities. Mr. Williams stated that this legislation would add \$16,000.0 to the bond proposal, and would allow for two

4/28/80

MINUTES
SENATE FINANCE COMMITTEE
April 28, 1980
1:40 p.m.

In the absence of Chairman John Sackett the meeting was convened by Vice-chairman George Hohman at approximately 1:40 p.m. All committee members were present with the exception of the Chairman. Also in attendance were Senator Bettye Fahrenkamp; Representative Joe McKinnon; Attorney General Avrum M. Gross (for a portion of the meeting); Director of the Division of Banking Julius Brecht; George Silides, a lobbyist representing Silides Engineering Associates; Administrative Assistants for Senate Finance Bill Hogan and Garrey Peska; Administrative Assistant to Vice-chairman Hohman, Rob Kocsis; and representatives from the media including Dana Reed and Joe LaRocca.

PRESENT

Vice-Chairman Hohman advised the the meeting was convened in order to continue discussion of bills on the April 28 committee agenda, particularly legislation held over from the morning meeting. He moved that the most important piece of legislation, CSHB 578 am (Act establishing the municipal grant account) be brought on for discussion.

CSHB 578am

Senator Ray advised of the need to add additional language to the proposed Committee Substitute prepared by Legislative Affairs: Page 1, the last line, following "other qualified persons" insert "in the same area." The Senator advised that such wording would correct situations wherein entities from other areas come into a specified area and provide services which are available through local entities.

Senator Sumner advised of his belief that wording in the municipal grant account legislation provides "more fertile ground for litigation than any other six bills" passed during the session. He further attested to belief that the wording suggested above would violate State procurement practices. He emphasized need to "see" the grant account "addressed in the best legal terms possible."

Referring to language on page 2 of the Committee Substitute, Senator Ray advised that wording to the effect that the Department shall contract with persons who make proposals which best serve the public interest embodies the key to grant account legislation--the amendment would simply keep such services local.

Senator Sumner suggested language be added requiring that the naming of a specific recipient be honored by state agencies except in cases where someone else provides better service.

Following brief discussion between Senators Ray and Sumner, Senator Sumner formally proposed the following wording: "however, the appropriation shall be made to the specific or named recipient, except or unless the administration or department shows that another person would provide greater or better service."

Senator Ray suggested amending the above language to include "unless the department stipulates in writing another person is better qualified."

Senator Ray expressed concern that under the above language the Attorney General could easily issue an opinion stating that he found the administration-selected entity to be preferable to the one selected by the legislature. Senator Sumner responded that his above-suggested wording would put the burden of proof on the administration rather than the legislature. He further attested to need to write the law in such a manner that the burden of proof is on the administration. Senator Ray advised that while the burden of proof rests in the Constitution, there is no way to place such a burden upon the administration if an Attorney General's opinion supports the department.

Senator Hackney attested to the fact that Attorney General Gross previously testified and was recorded as having stated that legislative intent will be complied with.

Administrative Assistant Rob Kocsis having formally drafted Senator Ray's suggested language in amendment form, presented the following wording for committee consideration:

Insert the following language in place of the last sentence on page 1 of the proposed committee substitute

At the same time, the department shall issue a request for a proposal from other qualified persons located or doing business in the same geographic area to provide the same goods or services or both.

AMENDMENT
NO. 1
ADOPTED

No objection to the above language having been voiced, it was adopted as Amendment No. 1 to the proposed committee substitute.

Senator Sumner suggested the following language replace the second complete paragraph on page 2 of the proposed committee substitute: "The department shall contract with the named-recipient unless the department in writing documents why another person is better qualified to serve the public interest."

SUMNER
SUGGESTED
AMENDMENT
NO. 2

Senator Hohman suggested the following alternative language to Senator Sumner's proposed wording: "The department shall contract with the named-recipient unless the department documents and proves another provider of services is better qualified to serve the public interest."

HOHMAN
SUGGESTED
AMENDMENT
NO. 3

Administrative Assistant Rob Kocsis was directed to compile the above-suggested language and return to committee at a later time for further consideration of CSHB 578am.

Vice-chairman Hohman moved that CSHB 452 (Rules) (An Act relating to credit unions) be brought up for discussion. Senator Sumner moved to delete Sec. 06.45.240, page 18, lines 15 through 22. No objection to the amendment having been voiced, it was adopted by committee. Senator Sumner next moved that CSHB 452 (Rules) pass from committee with individual recommendations. No objection having been raised, CSHB 452 (Rules) passed from Senate Finance--all committee members present signing no recommendation.

CSHB 452
(Rules)
AMENDMENT
CSHB 452
(Rules)/AMEND
INDIVIDUAL
RECOMMENDA-
TION

Senator Bennett moved that SCR 44 (Relating to maintenance of the Eureka Airstrip) be brought before committee and that it pass with individual recommendation. No objection having been raised, SCR 44 passed from Senate Finance--Senators Hohman, Hackney, Bennett, and Kerttula signing do pass, Senators Sumner and Ray signing no recommendation.

SCR 44
INDIVIDUAL
RECOMMENDA-
TION

Attorney General Avrum Gross arrived at the meeting at this time and committee discussion reverted to CSHB 578am (municipal grant account). Mr. Gross reviewed the proposed amending language and advised that Amendment No. 1 poses no problem. Upon review of subsequent suggestions, Mr. Gross stated that the second suggested amendment (Senator Sumner's) would direct the administration to give preference to the named designee, but it would not rule out other qualified providers. The third suggested amendment (Senator Hohman's) would make it necessary for the department to prove the other provider is better qualified. Both of the above suggestions are stronger than current wording in the proposed legislation which simply states that the department will give weight to Legislative intent.

CSHB 578am
MR. GROSS

Mr. Gross attested to the fact that in the course of negotiations on municipal grant account legislation, the administration and Legislature "started from opposite positions." The Legislature claims it has the right to select grant recipients while the administration claims the Legislature does not. The closer the Legislature comes to selecting the recipient, the closer it comes to violating the law.

Senator Ray advised that the proposed committee substitute prepared by Legislative Affairs represents a "compromise" on the grant issue. He further accused the administration of attempting to "push the Legislature back into a second position" when it (the Legislature) "wants to be right up there when the selection is made."

Mr. Gross advised that current language in the bill does not "vary greatly" from Legislative intent, and was offered as a compromise position.

He further asked if the committee would provide him typed copies of the proposed amendments for consideration at his office prior to returning to committee with legislative wording incorporating the intent of the amendments.

CSHB 578am was thus returned to committee files pending appearance by Mr. Gross before committee at its next meeting.

CSHB 578am
RETURNED TO
FILE

Vice-Chairman Hohman advised that discussion of SB 545 (Act establishing the Alaska Gas Liquids Authority and repealing the Alaska Gas Pipeline Financing Authority) would be continued from the morning meeting and introduced former Senator George Silides. Mr. Silides advised that it is necessary this legislation be implemented should action on the Gas Pipeline be taken.

SB 545

Senator Sumner expressed concern regarding make-up of the authority. He further stated that if the bill is merely a piece of legislation "to make the public think something is going to happen," he would not stand in its way. However, if the bill is to be a viable piece of legislation, it does not comply with need, and time does not remain in the session for restructuring. Problems with the legislation center on the fact that the authority is primarily composed of Administration people who could presently perform the function contemplated by the legislation if they wished to. Make-up of the authority should represent an "aggressive portion of the private sector."

Mr. Silides responded that the bill has "been carefully structured and will do the job."

Further discussion ensued between Senator Sumner and Mr. Silides. Senator Sumner concluded his remarks advising that there is nothing to lead him to believe that the commissioners involved under the proposed authority have any enthusiasm for functioning under the bill; the bill would not produce a gas financing package.

37 Page 37 - ALASKA COURT SYSTEM - Judicial Qualifications
Senator Sackett recommended 29.5. Senator Ray moved to zero the BRU. No objection to the motion for zero having been voiced, funding for the BRU was eliminated.

38 Page 37 - ALASKA COURT SYSTEM - Judicial Council
Senator Sackett recommended 308.8, advising "they want to really expend, and this is not the year to expand."

At this time the committee concluded budget review and requested that Attorney General Gross again appear before committee concerning CSHB 578 am (Act establishing the municipal grant account).

CSHB 578 am

Senator Ray advised of his opinion that the most recently submitted language from Mr. Gross was far from what the committee intended when it previously presented him with three proposed language changes for his review and incorporation within grant legislation.

Senator Sumner attested to his understanding that the wording to be properly drafted by Mr. Gross would require that the Department contract with the named recipient unless the Department shows in writing that someone else is better qualified to serve the public good.

Senator Hohman advised that the Department could subvert Legislative intent if it diverts funding from the designated recipient to another. Mr. Gross responded that in the instance of an alcoholism program aimed at early detection of potential alcoholism problems, the legislature could ensure such a grant would not go to an organization with a different philosophy by "writing in" the specific purpose of the grant.

Senator Ray responded that in his district he would prefer that if the grant is not given to the named recipient, the grant not be funded at all. Mr. Gross responded that he had not before understood that the committee expected him to draft language specifying that the Legislature designate the grantee.

Senator Ray and the Chairman directed Mr. Gross to prepare language providing that if the grant is not made to the entity designated by the Legislature it shall not be made at all.

The meeting adjourned at approximately 3:15 p.m.

SFC-80 #37, Side 1, (280-end) Side 2 (entire side)
SFC-80 #38, Side 1 (000-189)

4/29/80

MINUTES
SENATE FINANCE COMMITTEE
May 2, 1980
8:45 a.m.

Chairman Sackett called the meeting to order at 8:45 a.m. All members were present with the exception of Senator Sumner who arrived at 9:00 a.m. Also in attendance were Senator Stimson; Administrative Assistant to Senator Hohman Rob Kochis; Senate Finance Administrative Assistants Garrey Peska and Bill Hogan; and representatives from the press including Joe LaRocca.

ATTENDANCE

Chairman Sackett stated that the first order of business would be consideration of COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 578 am (An Act establishing the municipal grant account; and providing for an effective date). He stated that Senator Ray had been working with the Attorney General on the technical language contained in the bill and asked that Senator Ray bring the committee up to date. It was established that the committee was working on final language for SENATE COMMITTEE SUBSTITUTE FOR COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 578 (An Act relating to state grants; and providing for an effective date). Senator Ray gave the committee a section by section review of that most current version. General discussion, mostly relating to subsection (b), followed. The problem here was to make sure that the grantee could not arbitrarily decide when and how to use the grant money. The committee decided that language (line 24 of the working copy) that would read: "The remainder of the grant shall be in installments equal to the amount of grant money the municipality expended in the previous month." Senator Ray moved and asked unanimous consent that this version of the bill be moved from committee with a "do pass" recommendation. There being no objection, it was so ordered. All members signed the committee report "do pass".

CSHB 578 am

SCS
CSHB 578

Chairman Sackett stated that the next order of business would be close-out of the General Government budget category. He asked that Senator Kerttula, who had been assigned that category, proceed. The General Government footnotes are as follows:

GENERAL
GOVERNMENT
BUDGET CLOSE-
OUTS

GENERAL GOVERNMENT

1. 5/2/80 - page 44 - Office of the Governor - Executive Operations - Executive Office.
Reduced Senate figure \$2,367.9 to \$2,290.0.
(Senator Kerttula moved to delete Bethel Special Assistant (\$56.6) and Bethel Clerk Typist III (\$21.3).)

TRANSCRIPT
SENATE FINANCE COMMITTEE MEETING
MARCH 31, 1980
RELATING TO CSHB 578 am

SENATOR JOHN SACKETT - Without objection, we'll bring up before the committee House Bill 578 amended, for discussion. What the House has done is to add a special section calling it a municipal grant, and what they've done in House Bill 60 is to appropriate funds into that grant account, primarily because the attorney general has stated there may be problems. Garrey, can you explain to the committee in more detail what the problems were last year.

GARREY PESKA - Mr. Chairman, at the end of last session, the attorney general's office drafted a set of regulations that they sent to the operating departments telling them, among other things, that they couldn't make direct grants to non-profit organizations, and they alluded to the possibility of also having problems with municipalities in cases where there were other organizations in the area that might, by competitive bidding, be able to provide the services that the direct grant was intended for. The operating departments came to the Budget and Audit Committee during the interim and said "We have this problem. We want to make the direct grant payments, but the Department of Law is telling us that we need more accountability; we need to have some regulations to follow." So the minimum

regulations that were set last year, with the approval of the Budget and Audit Committee, was that the grant recipient had to agree to spend the money for the purpose for which the appropriation is made. They had to agree to make their books available for audit if the state chose to do such audits. And they had to agree to provide an accounting to the state at the end of the project's completion. After that, most of the grants, at least last year's, were paid. I understand there are still a few grants in certain Senator's districts that are having problems. However, the state internal auditor has prepared about a 40 page set of regulations, including such determinations as what are direct costs, what are indirect costs that are going to be allocated to the projects for which the grants are being made. There will be on-site inspections made by the operating departments to determine if the project is in accordance with various public purposes. And it's anticipated that money for administration of those grants, of course, would come off the top of the appropriation. So, the House has taken this action, creating the municipal grant account, and the language is written in such a way to direct the operating departments to just simply make the payment period. The House's approach does not address the non-profit corporations. There is a draft committee substitute in the committee members' files for your consideration if you would like to include the non-profit corporations.

SENATOR JALMAR KERTTULA - Mr. Chairman, I have one question.

SENATOR JOHN SACKETT - Senator Kerttula.

SENATOR JALMAR KERTTULA - I had some small problem, it was a big problem for me, on the flow-through grants from the municipality to the people intended--a bunch of small fire districts and so on throughout our district, road districts and so on. And there can be a tinkering at the municipal level with these grants unless there's an (inaudible) at that. And the legislature has a specific grant for flow-through--that's exactly what. . . it's just a bookkeeping flow-through. Are we protected in this in any way on that. You understand I want good bookkeeping, accounting, all those things. No misuse.

GARREY PESKA - In the case of the House Bill there is no accounting requirement. The House Bill simply says "make the payment to the municipality." The committee substitute includes some language for some minimum accountability requirements.

SENATOR BILL SUMNER - Mr. Chairman.

SENATOR JOHN SACKETT - Senator Sumner.

SENATOR BILL SUMNER - Have we checked to see that this is a legal, constitutional way or vehicle. Do we have this option?

GARREY PESKA - Mr. Chairman, yes we do. Billy Berrier and I prepared the proposed committee substitute draft.

SENATOR BILL SUMNER - Okay. We could require in this that they maintain audit capabilities, audit trails, or . . . that would be equally as responsible as from a municipality, let's say, as it would be from the state. Okay, thank you.

SENATOR BILL RAY - Mr. Chairman.

SENATOR JOHN SACKETT - Senator Ray.

SENATOR BILL RAY - That's the only part that I . . . on Line 18,

Subsection (2) allow on request (inaudible) I can understand that, but a lot of times by the . . . when they get around to looking at something, you'll find that the people who are connected with the grant have long since left the state. Perhaps this is an idea . . . we might put in language in there that upon completion of the grant or something that they ought to be made immediately so that we can make a determination whether they've spent the money properly or not.

SENATOR BILL SUMNER - The municipality would be . . . if it's from a municipality, they'd be held responsible.

SENATOR BILL RAY - Yah, we're putting in non-profit corporations up here also. That was the kicker.

SENATOR JOHN SACKETT - Okay, what was it again, Bill?

SENATOR BILL RAY - Line 18, Sub. (2).

SENATOR JOHN SACKETT - What were the words.

SENATOR BILL RAY - This just allows on request an audit by the state of the use they made of the grant. That's fine, but a lot of times when they find out, the people have already used the money and left the state and gone some other place. I think upon completion of the project or nearly the time when it's getting ready to whatever it is, maybe the audit should be made at that time. To see that they've spent the money properly and find out exactly what's happened. In your past experience you probably understand what I'm saying.

GARREY PESKA - Mr. Chairman, yes, I think I do. Senator Ray you are suggesting that you would require an audit before the final payout on all grants.

SENATOR BILL RAY - Right.

SENATOR BILL SUMNER - Mr. Chairman.

SENATOR JOHN SACKETT - Senator Sumner.

SENATOR BILL SUMNER - Can we limit that to non-profit organizations? Otherwise they still hold up the damn money in the municipalities.

SENATOR BILL RAY - Yes.

SENATOR JALMAR KERTTULA - Mr. Chairman.

SENATOR JOHN SACKETT - Senator Kerttula.

SENATOR JALMAR KERTTULA - I wonder if maybe this isn't, maybe we don't have the time either, but I wonder if we shouldn't have a quick capsule of why the Administration devised a 40-page group of regulations. Maybe there are some tremendous problems that three or four lines of law would solve . . . there are 40 beyond this (inaudible) but maybe there's some good reason for devised . . . anticipating some problems that we were trying to overcome and in their bureaucratic way wrote 40 pages of whatever it is. I'd sure like to hear from them why they had to because I bet there are some horror stories out there on some of these private non-profits and so on.

SENATOR JOHN SACKETT - Do you know? Jay do you want to testify on this?

JAY HOGAN - Do you have a committee substitute?

Mr. Chairman, Jay Hogan, Director of Legislative Finance. The bill as it came here, relating only to municipalities, grew out of essentially last year's problem. If you have these capital budget books, on May 5, the Governor wrote yourself

and Representative Meekins a letter stating that the budget was essentially veto-proof, if passed within his constraints-- overall dollar constraints. Then, after the legislature adjourned on June 1, when the Governor signed the General Appropriations Act, there were seven . . . well, ten pages of exceptions taken item by item through the budget. Many of these appropriations were never paid . . . haven't been paid to date. A lot of them were in the category of grants going through to municipalities and other purposes. So, in effect, although the budget last year was veto-proof, some of the appropriations simply were never spent. The original concept behind this bill . . . when the bill was originally introduced, it dealt with municipalities and non-profit corporations. Then in the committee substitute that was finally approved by the House, it was trimmed to deal only with municipalities to avoid the problem of trying to appropriate to non-profit corporations since they're not entities of the state and since they're really separate organizations. That's basically the thought behind the splitting into two parts.

SENATOR JOHN SACKETT - And what's your feeling about the committee substitute, Senate.

JAY HOGAN - Mr. Chairman, I think that, if you go on a scale of the most likely to the least likely, I would think that the legislature could pass, and have work, one that dealt with municipalities. I think the one that makes it more difficult is the bringing in of non-profit corporations. The reason I think that is that you have the . . . I'm not implying anything here . . . but you have the problem of creating something that

appears to be special legislation when you go and appropriate to a non-profit corporation. The reason for that is that under the various statutes that set up bidding requirements in the state, if you designate . . . if the legislature designates a specific non-profit corporation, it appears to override that general statute and select a vender, if you will. This is the problem the attorney general had with many of the grants last year to specific non-profit corporations. It had the effect of excluding other corporations--other bidders. And so they held that this was (1) special legislation and (2) that it was contrary to the general bidding requirements of the state.

Originally, when the act was drafted, as I said, it originally dealt with both. If you're interested perhaps you might want to separate the two--in other words, make a special one for municipalities . . . a grant program for municipalities and also one for non-profit corporations, and then the two could stand alone--two separate sections if there were a legal challenge. Right now, for instance, the way the committee substitute is written, everything is in one section, and if there were a legal problem with that section, it might nullify the entire section, whereas if they were split into two--one dealing with grants to municipalities and another dealing with grants to non-profit corporations--then the two sections could be argued . . . stood independently, and each one could be subject to its own tests and requirements.

SENATOR JOHN SACKETT - Senator Ray.

SENATOR BILL RAY - Are you implying, if I'm reading you right, that the attorney general says that appropriations to non-profit

corporations or special legislation such as appropriations to Alaska Crippled Children's Association . . .

SENATOR JALMAR KERTTULA - Alcoholism programs?

SENATOR BILL RAY - Alcoholism programs and all that . . . that these are unconstitutional? Is that the inference I'm gathering here?

JAY HOGAN - Mr. Chairman, what the attorney general has done in a nutshell . . . I think he gave the . . . gave his feelings away rather clearly when he testified on this bill on the House side. They did not stop these appropriations in prior years because there weren't very many of them. And he openly stated in the . . . before the committee that their concern was now, for instance last year's budget, that there were a large number of these types of appropriations. And so they started to throw the net out over them. They . . . the letter defines the problems that they found with each and every appropriation. And on the grants to non-profit corporations, from last year's budget bill, they continued to refer to the fact that it had the effect of excluding other bidders. This is the same thing as a piece of special legislation. It is an appropriation geared to a particular corporate entity that's not a municipality-- that's not a part of the state. So it does have some of that problem. They did not specify that in so many words, but I suspect it might be their next step. (Inaudible)

SENATOR JOHN SACKETT - Senator Ray.

SENATOR BILL RAY - Well, if you follow his logic, then grants

to municipalities would be also special legislation. And it wouldn't make any difference. If you appropriate to a municipality, that's a special . . . that's one special place that the money's going.

JAY HOGAN - Mr. Chairman, the appropriation to municipalities is an appropriation to a state entity, in fact. A municipality is a created body--created by the state--and it has in many respects the same legal implications as making an appropriation to the Department of Natural Resources or the Department of Education. It has an assumed public purpose; it has an assumed accountable lifestyle, if you will; it is a body that is created entirely at the whim of the state, and can be done away with at the discretion of the state.

SENATOR BILL RAY - That's not essentially correct. The state doesn't make municipalities. They don't make boroughs. They provide the legislation, but the people are the ones that make the final determination as to boroughs or municipalities, the class of the cities, and that other stuff. I think that's a pretty fine line to be drawing here and one that I would think would be suspect if he's going to draw that fine a line with it. ' Course by the time you get it through . . . into the courts and through the rest of it, it would be two or three years anyway.

SENATOR JOHY SACKETT - Senator Hackney.

SENATOR GLEN HACKNEY - Mr. Chairman, I sort of thought that one of the reasons for having this bill was to get away from Mr.

Smith, the state internal auditor, going ahead with this 41 pages of regulations. But there's nothing to prevent him from going ahead with that anyway. I'd like to hear some kind of testimony from Mr. Smith to the effect that he doesn't intend to do that if this legislation passes.

SENATOR JALMAR KERTTULA - Mr. Chairman.

SENATOR JOHN SACKETT - Senator Kerttula.

SENATOR JALMAR KERTTULA - Most of us understand the flow-through to any other public entity . . . the non-profit proliferation and I realize that somebody else's statesmanship might be my pork or vice versa, but we certainly want some accounting techniques and some credibility and some accountability of the public non-profits because they really, really can abuse the system badly. May as well predict that, even though I feel stronger that the legislative group has an obligation/opportunity to see to it that their appropriations get where they're supposed to be, and nobody in the middle starts screwing around with them either. The non-profit accountability must be there. It's just got to be there.

SENATOR JOHN SACKETT - Smith is now Deputy Commissioner of Administration; he's no longer state internal auditor. They don't have one right now.

SENATOR BILL RAY - Mr. Chairman, perhaps on Line 16 if we eliminate the word recipient and put in there non-profit corporation, that might . . . that might eliminate the municipalities from the . . . from the trouble and would just put the burden on the

non-profit corporation itself.

SENATOR JOHN SACKETT (Reading amended bill language) - So, when the department where the appropriation is made receives the agreement executed by the non-profit corporation . . .

SENATOR BILL RAY - By, you probably . . . a non-profit corporation. If that's what the intent is. That would eliminate the municipalities going through the audit division and would eliminate them from the . . . in other words it would put them back into almost the same as the original House measure, and it would be providing a little bit different for the . . . for the non-profit corporations. In fact, they would have to do . . . they would be the ones that would have to do these things and not the municipality itself.

SENATOR JALMAR KERTTULA - That sounds reasonable.

SENATOR JOHN SACKETT - Then still have your wording 'upon completion of the project' under . . .

SENATOR BILL RAY - Yah, I would think that there would be some method, that before the final payment is made, that an audit should be performed of some type to see that these people have done what they have. I can remember in the past, and I don't know if it's gotten any better, but because of the workload on the audit committee, sometimes we would go into audits and the people who would not function, so to speak, were long gone-- three or four years gone. And there were no culprit. The only victim was the state itself. As far as the money was concerned, you could never put a handle on anybody. The individuals themselves, there was no way possible you could get a hold of them.

SENATOR GLEN HACKNEY - Mr. Chairman.

SENATOR JOHN SACKETT - Senator Hackney.

SENATOR GLEN HACKNEY - I certainly don't have any qualms about providing for some kind of audit trail, but I don't want that damn department to come in there and have a fifteen page form that somebody who gets a \$30,000 grant is going to have to fill out in quintuplicate in order to prove how they spent the money.

SENATOR JALMAR KERTTULA - Mr. Chairman, why don't we bring up the Commissioner of Administration, its his responsibility, and tell him just that. Say, we want logic, and we want accountability, but we don't want burdensome bureaucracy. What will you do to respond to this? I think he's the man where the buck's got to stop in this particular case. Bring him up here and tell him that--and ask him.

SENATOR JOHN SACKETT - Mr. Hogan.

JAY HOGAN - Mr. Chairman, part of the thinking behind creating a special account to go through the Department of Administration is somewhat root in history. When the grants used to go through without great difficulty, they were formally appropriated to the Department of Administration--paid by the Commissioner. If they're allowed to go through the various departments, as this committee substitute would propcse, then you increase the odds, I think, of having the various departments gets their hooks into the appropriation. You may want to consider funneling all of these items through the Department of Administration, and

then there is only one agency with which the legislature would have to deal if the grants were going out slowly, rather than all eighteen or nineteen agencies.

SENATOR JOHN SACKETT - Do you want the commissioner up here?

SENATOR JALMAR KERTTULA - I'd sure like to see him. I think we could express our interest in this subject to him pretty thoroughly, and he could also probably design a commitment of a minimum of accounting but a necessary minimum. I had the same experience is the reason that I'm both ways on the subject. When you put a small grant in to do a specific thing and four years later it still isn't done and they've got it all tangled up in the bureaucracy, and I can point to them so I know, then all of a sudden you have a holocaust as a result of perhaps not completing the project; you get pretty mad about it.

SENATOR JOHN SACKETT - Okay, for the next two days, if Resources doesn't meet from 1:30 p.m. to 3:00 p.m. do you want to meet here in addition from 8:30 a.m. to 10:00 a.m.?

UNIDENTIFIED SPEAKER - You mean to 3:00 o'clock?

SENATOR JOHN SACKETT - Yah, 1:30 p.m. to 3:00 p.m.

SENATOR BILL RAY - I can't. I have Judiciary tomorrow at 1:30 p.m.

SENATOR JOHN SACKETT - Skip it.

SENATOR RAY - Ha, ha, ha, I'd like to but we're putting on SB 239 tomorrow.

SENATOR JOHN SACKETT - What is it?

SENATOR BILL RAY - The new codification. What are we working on here?

SENATOR JOHN SACKETT - House Bill 60.

SENATOR JALMAR KERTTULA - Why don't we come in a little later tomorrow, like at 2:00 or 2:15 p.m. and maybe Bill could get that first on the Judiciary calendar--accommodate each other.

SENATOR JOHN SACKETT - Yah , we could do it later. But you could make it today though?

SENATOR BILL RAY - Oh, yes.

SENATOR JOHN SACKETT - Yah , we have the permanent fund at 1:30, but I'll try and up it to 1:00 p.m.

SENATOR BILL RAY - Okay.

SENATOR JOHN SACKETT - And then maybe 2:00 or 2:15 tomorrow. Okay, in the meantime, we'll have the commissioner come back on this one.

SENATOR GEORGE HOHMAN - Mr. Chairman.

SENATOR JOHN SACKETT - Senator Hohman.

SENATOR GEORGE HOHMAN - Were there attorney general's opinions on this?

JAY HOGAN - Mr. Chairman, on this bill?

SENATOR GEORGE HOHMAN - Yes, on this subject.

JAY HOGAN - No.

SENATOR JALMAR KERTTULA - He testified on it.

JAY HOGAN - Probably . . .

SENATOR JOHN SACKETT - Yah his letter would be . . .

JAY HOGAN - Yah , his letter of last year is probably the best and closest thing.

SENATOR JOHN SACKETT - Would you get a copy for every member?

JAY HOGAN - I think, Mr. Chairman, that you probably already have these at your desk. It's this pink section--the first pink section--of last year's capital budget and summary.

SENATOR GEORGE HOHMAN - Where are those at?

SENATOR BILL SUMNER - That's probably an opinion only operative for last year.

JAY HOGAN - It begins on page 47, the actual . . . well the letter.

SENATOR GEORGE HOHMAN - I don't have the document.

JAY HOGAN - Oh.

SENATOR JOHN SACKETT - Xerox it off and put it in each one's packet.

JAY HOGAN - All right.

SENATOR GEORGE HOHMAN - It seems to me . . . is there other material that we should have in our file?

GARREY PESKA - Mr. Chairman, we will invite Commissioner of Administration over, and his deputy, Mr. Smith, over without having copies of all of the regulations that have been drafted--the proposed regulations that have been drafted for this year--as well as an opinion from Billy Berrier regarding the lack of the internal auditor's authority to draft those regulations. I'll have that in all your files.

SENATOR GEORGE HOHMAN - Mr. Chairman, some appropriations were never spent. Where does this (inaudible). Would you give us an example.

JAY HOGAN - Mr. Chairman, I can get the list in just a moment. They're not here. I'll go get them.

SENATOR GEORGE HOHMAN - What is the nature of those projects. Why were they not spent? Can you categorize them into certain areas?

JAY HOGAN - Mr. Chairman, there were a variety of reasons.

SENATOR GEORGE HOHMAN - I'll look at those.

JAY HOGAN - Yah, there are several hundred.

SENATOR BILL RAY - He picked them as he wanted them. He allowed some of them and disallowed others.

JAY HOGAN - When I last checked, Mr. Chairman, at the end of January, there were several hundred appropriations from last year's budget from which nothing had been spent.

SENATOR GEORGE HOHMAN - I wonder if we couldn't have that material tomorrow (inaudible).

JAY HOGAN - Fine.

SENATOR JOHN SACKETT - This afternoon? Could you have it this afternoon?

JAY HOGAN - Yes, I have . . . I could get copies right now, if you'd like them.

SENATOR BILL RAY - Copy (inaudible) also Mr. Chairman by putting in there that the Governor does not necessarily have to follow this, but that it doesn't mean that he won't.

SENATOR JOHN SACKETT - I know it.

SENATOR BILL RAY - Remember all that?

SENATOR JOHN SACKETT - Yes. Okay, we'll start that at 1:30 p.m. today.

RECESS

AFTER RECESS 1:45 p.m.

SENATOR JOHN SACKETT - The first item of business we have is continuation of HB 578 am, and we have a couple of different possibilities, including what came over from the House. Okay, we have Mr. Smith and, Rod, why don't both of you come up here. There was a question this morning regarding the administration of grants that had gone out--that had been appropriated to various communities. And the number of regulations that had been proposed on that. In addition to that there is . . . I guess the question of constitutionality which you, Mr. Pegues, had written to us about last year in a letter that was dated June 1, 1979, questioned the validity of some of the appropriations. And in trying to resolve that issue, we've got before us a number of different alternatives or committee substitutes. And first of all, from you Mr. Pegues, we need to know what, based on your opinion in the letter here, what the position is at the present time in the administration.

SENATOR BILL RAY - What are we on now?

SENATOR JOHN SACKETT - House Bill 578. Go ahead.

ROD PEGUES - Mr. Chairman, I've had an opportunity to read over the committee substitute for HB 578 am, by the finance committee in the House, and I would say that, on its face, it is perfectly valid. The other committee working draft I've just had an opportunity to glance through, and I am not really able to comment on it, although the first part, grant to municipalities, appears to be quite permissible, and I don't see anything wrong with it.

There are some . . . the problem with the committee substitute for HB 578 am, would come in the municipality's administration of the grant, and how the grant was made.

SENATOR BILL RAY (in the momentary absence of Chairman Sackett) - While he's gone, can I ask you a question while I'm here?

F'D PEGUES - Surely.

SENATOR BILL RAY - On the grants to non-profit corporations, on the second page, line 9--this is on the audit--is there some way that, just on public non-profit corporations, we could have an audit before the finish of the . . . before the final thing is tuned out--before you make the final sign-off of the whole thing?

SENATOR JALMAR KERTTULA - If you had 10% withheld . . .

DICK SMITH - I'll go ahead and answer that. It's quite permissible. You could made an examination . . .

SENATOR BILL RAY - I think that would satisfy a lot of the people better than this does, because two or three years later, by the time you get around to making an audit or something, everybody's gone, the money is gone, and the people are gone. And you don't have any control over them.

DICK SMITH - Yah , generally you're auditing the procedures.

SENATOR GEORGE HOHMAN (Temporarily acting as Chairman) - Senator Hackney.

SENATOR GLEN HACKNEY - What kind of audit are we talking about?

A CPA?

DICK SMITH - I would assume you would talk about an ex . . .

SENATOR GLEN HACKNEY - No way. Mr. Chairman, if we start calling for CPA audits on every one of these stinking little appropriations that we put out, we're going to queer the whole thing; if that's their intention, they should say so. You get a CPA firm involved in this thing and you're going to have \$5,000 to audit \$10,000 worth of grants. And, by God, we're not going to have that.

DICK SMITH - Sometimes in the past what's occurred, you'd made a distinction on the amount of the grant. And I can think of on . . . for example pupil transportation, if the grant exceeded \$50,000, the school district could provide for an external examination by a certified public accountant. For those that fell less than that, it was subject to examination by the state.

SENATOR GLEN HACKNEY - Mr. Chairman, I'm not concerned about the big grants. I'm not concerned about the school districts because they retain audit firms, and that's really not a problem. The ones I'm concerned about are the small grants that we're continually funding. And it's simple harassment if you're going to make them come in with a big, complicated audit.

DICK SMITH - You're absolutely right. That's an expensive examination.

SENATOR GLEN HACKNEY - Darn right.

DICK SMITH - I might add one other thing. In many instances, depending upon how you contract with a certified public accountant, you may get a fiscal examination, when according to the substitute here you're really talking about an examination that couples

two things: one, fiscal compliance and, another, compliance to the terms of the grant.

SENATOR GEORGE HOHMAN - Senator Ray.

SENATOR BILL RAY - The only problem I have, Glen, is that on a lot of these things, the people get these grants and use the money, and we're left with egg on our face because . . . there are some that are very good, but how about the ones that aren't? That's the whole thing.

SENATOR GLENN HACKNEY - Well, Mr. Chairman, it appears to me that the ones that present us with egg on our faces . . . in one case we're going to have audited egg and in the other case we're going to have unaudited egg, and I don't see that much difference, because we should do some checking before we even bring a project in here, it seems to me.

SENATOR BILL RAY - Yah, well it would seem that way, but I'm talking realities and not never, never land like we always do--those projects that go out of here with grants and you don't know what they are, and I don't know what they are.

SENATOR GEORGE HOHMAN - We're discussing the bill, the committee substitute.

SENATOR BILL SUMNER - Mr. Chairman, I'd be interested in determining what sort of cost would be involved. I tend to agree with Senator Hackney. It looks to me like the way its drafted there on line . . . it can allow . . . on request you can have that option to require or request an audit by the state. You have that option the way it's drafted there now.

DICK SMITH - Unfortunately, I just saw copies. When you use the phrase "on request," whose request is that? Is that . . .

SENATOR BILL SUMNER - It would seem to me it could be either.

DICK SMITH - I would hope so.

SENATOR BILL SUMNER - It could be a request of the Department or the state.

DICK SMITH - Typically we would find that if procedures have gone bad, if there is a question about the propriety of expenditure money, generally you would not make a request for an examination. But the state, of course, would want to request that examination, in fact make an examination.

SENATOR BILL SUMNER - I just hate to get into a position where we having generated a paperwork machine . . . I can understand wanting to guard against somebody running away with the project, but it seems to me that if you audit at the end of the project instead of an ongoing surveillance, that if they're going to run, they're going to run.

DICK SMITH - So long as there is an examination made, I would think at that point although the money and the terms of the grant might have been exhausted, at least you have the responsibility to be able to hold back from other funds that might be due the subdivision.

SENATOR BILL SUMNER - Well, that would be true in the case of municipalities, but not necessarily true in the case of the non-profit. I don't know. It looks to me like we're talking risk. And I don't see that those risks are significantly

diminished as a result of our looking at the end of it, and maybe saving 10%.

ROD PEGUES - Well, if I may point out, back in the 1950's the Eisenhower administration did away with the audit on the paper tax stamp that was placed on cigarette packages, and the losses went up 500%. When they reinstated the audit, the losses declined 500%. So, an audit seems to have a beneficial affect on the conduct of the program out there.

SENATOR BILL SUMNER - But what does it cost for the audit.

ROD PEGUES - Well, if you're doing sampling audits rather than . . . you wouldn't audit everything. If you're doing sampling audits, and a person knows he's liable to be audited, he'll do a better job of keeping track . . .

SENATOR BILL SUMNER - I (inaudible) the authority to audit. I thought you had that the way it's written now.

ROD PEGUES - I think it is.

SENATOR BILL SUMNER - I just don't want to see where there's a mandatory audit on each and every project. I don't think that's necessary. Do you think it's necessary?

SENATOR JALMAR KERTTULA - At least for small amounts.

SENATOR JOHN SACKETT - Like a \$30,000 or \$40,000 grant that we give to somebody--even \$20,000--something like that.

DICK SMITH - I would think in many conditions, possibly even on a small grant, you would want to make an examination. But, if you found that the procedures and the mechanisms were working properly under those conditions, then maybe the next time or the time after that you could rely upon those conditions.

SENATOR JOHN SACKETT - Okay, have we discussed what the procedures are? I think that's one of the key problems.

SENATOR BILL SUMNER - No we have not.

SENATOR JOHN SACKETT - Okay, you know the procedures that you set up by which they're going to first get the grant and then operate with, I think are one of the key elements that we've found from people coming back to us from municipalities saying that they haven't received the grant for a number of reasons-- those being primarily the forms that they have to fill out.

SENATOR BILL RAY - Well, the only problem I have, Mr. Chairman, and I know that it's probably in the minority because most of the grant recipients are capable of going ahead and administering the program. But, one that I was responsible in getting the money for, I found out it was for alcoholism up in the Anchorage area, and come to find out, the guy who ran it paid his own retirement. He joined the teamsters retirement fund and had his own retirement out of the money and never kept any records-- didn't keep anything at all ever. And this was a pretty good sized grant by the time it was over. I think it was around \$150,000 to \$200,000 and nobody knows anything about it. The money is gone, and he's gone.

SENATOR JOHN SACKETT - Right. There has to be some mechanism by which we make sure things like that don't happen. On the other hand we should make it not so cumbersome, particularly to municipalities. Well (inaudible) the incident how they do with the senior citizens in Anchorage. They didn't have any

complaint over that until after . . .

SENATOR JALMAR KERTTULA - You delivered \$1,500 and cost \$63.5 (inaudible).

SENATOR JOHN SACKETT - Those are the type of things that shouldn't happen. I mean there should be safeguards of that type without being extremely cumbersome for people that are (inaudible). Go ahead, Mr. Smith, how do you respond to something like that?

DICK SMITH - I think one of the ways to respond, Mr. Chairman, members of the committee, is that in many instances the State of Alaska has not exercised uniform grant procedures to show compliance to all the grants, whether they be to a non-profit or to a political subdivision. I think we have been subject to a fair amount of criticism in the past, whether it be in an instance of a court case, or whether it be in instances of appeals to grant procedures. We attempted, not too long ago, to attempt to set up uniform grant procedures to govern all . . . I think so . . . that was aimed to govern everything that's not conditional upon any specific program right now.

SENATOR JOHN SACKETT - What's the wish of the committee?

SENATOR GLEN HACKNEY - Well, Mr. Chairman.

SENATOR JOHN SACKETT - Senator Hackney.

SENATOR GLENN HACKNEY - I want on the tape for record, some kind of assurance from these cats that if we do pass this bill out, we're not going to end up anyway with a bunch of regulations like this, which are going to harass the people

who are getting these grants in addition to what's called for in the bill. I have no objection to audits whatsoever on the larger grants. But, I'll be darned if I'm going to have people run through a whole bunch of hoops just because the administration wants to do it.

SENATOR BILL RAY - Mr. Chairman, maybe we could ask . . .

SENATOR JOHN SACKETT - I wonder if we could get an answer to that.

SENATOR BILL RAY - Subsection (b) on here, on both of these, does this start fresh, and are these regulations implemented now, and how does that work? Does this mean no additional regulations, or what? We've got a whole bunch of regulations that have been adopted already haven't you, Glen?

SENATOR GLEN HACKNEY - Mr. Chairman, I don't believe they're adopted as yet.

SENATOR BILL RAY - Are those adopted?

SENATOR JOHN SACKETT - No, not yet.

SENATOR GLEN HACKNEY - We're safe. We're okay on these. We don't want to see them crop up again.

SENATOR BILL RAY - Well, this says that they can't do anything.

SENATOR JOHN SACKETT - Do you care to respond?

ROD PLGUES - Well, what it, the, I mean you cannot execute a law without applying it all the time. So, what it means is just ad hoc application, but it means there will be no regulations on it. There'll be no written rules set down.

When someone walks through the door, each one will be handled on an ad hoc basis. There isn't much leeway for doing that anyway here. You know grants are contracts. The person who's the grant recipient is a contractor, and he's agreeing to do something for the grantor. So we're into an area of contracts, and it's a very complex area. There are all sorts of things that apply here that the bills don't address: the rules governing municipal contracting, either their own charters, if they're home rule municipalities, or state laws if they're not. I don't know how this coincides with those provisions. I don't know if where we're dealing with a situation, I brought along HB 60, where we give a grant to a city for a specific program--we have one here, \$32,000 to the City and Borough of Sitka for education of handicapped children from birth to age three. Sitka will become the subsequent grantor, and it will make a contract with somebody, the school district or somebody, for this program. Where we name the contractor, we raise all sorts of new questions. I don't know if Sitka or whoever, Bethel, can contract that way, or if they have to ask for bids. If they have to ask for bids and someone else is the low bidder, can they spend the money. I don't know. So, this is creating additional questions and problems. It's not solving everything.

SENATOR JOHN SACKETT - Senator Ray.

SENATOR BILL RAY - Then you get right into the problem that they aren't going to put it under regulations, but they're going to adopt it as administrative policy. And the policy that they adopt

(inaudible).

ROD PEGUES - Well, you know, a guy walks into your office and says, "How come I can't do this when it says in the law I can?" And you look at the law and you say, "Well, it doesn't say that to me." And he says, "Well, it says that to me." I mean, that's what we're talking about. And so what you do in the ordinary case is either rewrite the law, or you write a regulation to say what it means. And then at all times it means what you said. But, if you don't do that, then it's going to mean whatever the next guy who reads it says it means.

SENATOR SUMNER - Mr. Chairman

SENATOR JOHN SACKETT - Senator Sumner.

SENATOR BILL SUMNER - How in the hell is it that regulation writers wind up in a position of (inaudible) and we can't do it in terms of the law. That's what raises hell with me.

ROD PEGUES - Obviously, the legislature has the ultimate authority to do that. It's when nothing is done, what happens is that the law gets written, and then the law has to be applied. And, when you go to apply the law, two different people read it, and they say it means two different things.

SENATOR BILL SUMNER - Same with regulations.

ROD PEGUES - Sure. That's what happens with regulations. Then they have to rewrite the regulation. But, once you start interpreting the law, in order to make sure it's interpreted the same way for everybody, you adopt an interpretive regulation. And that's what the APA does, it requires the administrative

agency to adopt the regulations so you can't interpret it two ways.

SENATOR BILL SUMNER - What if we tell you to make the grant and then you can fight while the grant is going on or you can interpret while the grant is going on. The problem that we don't want, or at least that I don't want, is to set there, and I thought out of your previous conversation that without regulations drafted by you to interpret it the way you wanted it, to draft it, or the department, that you simply say, "Well, we don't know what to do. We just have to look at this on an ad hoc basis and come back the first of next year and maybe we'll get this money out to you."

ROD PEGUES - Know, know, that's not what I meant. I just simply meant that if that won't happen . . . that there will be no written regulation that applies any of this law, it will be applied on an ad hoc basis. But, these particular provisions are so narrow about the only place it will change is the condition explaining the grant for the purposes specified in the appropriation.

SENATOR BILL SUMNER - If someone comes in after he's been given a grant, will you issue the money? With this law?

SENATOR JOHN SACKETT - If we're specific as to who the grant is supposed to go to?

ROD PEGUES - Obviously with the municipalities, yes. There's no problem there, as I said. The grants to non-profit corporations, create a different problem. And, it's a problem of, again, it is

based on contracts. If we make a contract with somebody out there to do something, you know, we're getting him to perform something for the government. If he's performing it for an executive agency, he's doing something for them, they are required by law to come up with . . . to ask for solicitation for proposals or bids, whichever, and then to contract accordingly. If we name the grantee, we short-circuit that requirement; it probably can't be done that way.

SENATOR JOHN SACKETT - Well, can you say notwithstanding that portion of the law?

ROD PEGUES - I'm not sure you can because that brings in a second problem, and that is that when the legislature is contracting with someone, it does it in accordance with its procedures in order to further some legislative function: a contract for study by (inaudible) to do research on something you're going to enact legislation about or consider legislation about. If you're contracting with Meals on Wheels to provide food, that's not carrying on a legislative function. That's providing a welfare program, and that's what the executive is supposed to do. So, these types of grants may not be valid exceptions. I just don't know because we haven't got any case law on it. The closest we've got is a case in which the legislature contracted with an attorney to provide certain services that had nothing to do with their lawmaking function, and the court said that was invalid.

SENATOR JOHN SACKETT - Okay, to what degree then is the legislature restricted in its power of appropriation?

ROD PEGUES - Well, public purpose and whatever the constitutional limitations are. And on this one, this grants, I don't know. You know, if you go through the municipality, and the municipality follows the law or its charter, that on its face looks perfectly valid. If the legislature does it directly to the non-profit, that raises these questions of what function is being performed by the grantee. Is he carrying out a social services program, then perhaps the legislature shouldn't be contracting with him because that's not incidental to the lawmaking function.

SENATOR BILL RAY - Well, Mr. Chairman, that's the argument that I brought up this morning. I think you're drawing a pretty fine line when you're talking about municipalities being different. Why? Who makes municipalities?

ROD PEGUES - Different?

SENATOR BILL RAY - The government doesn't make municipalities. The people make municipalities by their vote.

ROD PEGUES - Well, they're political subdivisions of the State of Alaska, and they're vested with governmental powers and local government powers. And they're governed either by their charters or by the municipal code in their activities. If the legislature makes money available to them for a particular function, the legislature can delegate the functions that way--to local governments. It's done all over the country.

SENATOR BILL RAY - Then why can't the legislature delegate moneys to any non-profit corporation that meets the requirements of law.

ROD PEGUES - Well, it is this contracting to do something . . . In effect, the legislature is the grantor--is the contracting party contracting with the grantee. But, the grantee is not going to be doing something in aid of the legislative function. It's going to be conducting another program for the government. And that's what raises the question. And I can see it. I don't have any big group of cases on this; this is a new area.

SENATOR BILL RAY - Pretty narrow ground there.

ROD PEGUES - This is the problem that was raised last year.

SENATOR BILL SUMNER - Senator Ray brought up this morning though, something that sounds interesting to me, is that we didn't have this raised at the time we were funding non-profit corporations in terms of alcoholism problems, and a whole broad spectrum of similar sort of projects and programs. Where do we draw the line in that regard?

ROD PEGUES- Senator, as I say, this is a developing area. It's new. We're just opening the book on it, and I really don't know. I can just tell you that we do have these problems to consider.

SENATOR BILL SUMNER - All right. Second then, if we continue to grant in this regard, and you strike one of them down, you have to strike them all down. Is that true or not true?

ROD PEGUES - No, I don't know that anyone is going to strike any of this down. I don't think any were actually struck down. We did tell the agencies to follow the law. At this stage of the game we're . . .

SENATOR BILL SUMNER - Selectively (inaudible).

ROD PEGUES - No, no, no, we're fairly well off now because we're dealing with . . . even if you name the grantee, it's a unique institution. There is nothing else like it. No one else could provide the service. So if the agency asks for proposals, it will get a suitable proposal only from that one anyway, so it works out all right. But, of course, since the genius of our country is that once the government or anybody is paying for some goods or services, other people will be prepared to provide them for a lesser cost, we're going to have competitors--they're going to spring up. And that's when the problem will arise, and that's when we'll probably find legal action being brought when someone says, "Hey, I can do that better and cheaper--I'm suing."

SENATOR BILL SUMNER - Okay, but so far as the administration is concerned, which is at least the problem that I'm having in getting some of these grants out--you're treating some differently than others. Can we get any sort of commitment to treat them all alike. Either we don't fund any of them to non-profit or we fund them all alike?

ROD PEGUES - There shouldn't be any different treatment, Senator. If there has been, I don't know why there has been. Everybody is supposed to be following the same general guidelines. They're supposed to go ahead and find a way to carry this out.

SENATOR BILL SUMNER - We were shown several items this morning . . . I don't know if we still have it or not, that were not funded, presumably for some of these . . . for this reason.

ROD PEGUES - The only ones I know of that I heard about was where somebody couldn't be found--the Department of Natural Resources couldn't find a couple of the grantees. I'm really not that familiar with each one, but I recall going through this at the first of the year with the House committee, and there were none that were willfully withheld. Everybody was being taken care of if it was at all possible.

SENATOR BILL SUMNER - Well I think what I'm looking for is some consistent and uniform treatment of the people who get grants. If we're going to say, "Hey, this is an area that we're not going to do anymore," then we need to treat them all alike, and find some way to accommodate them. If we're not, then I'd like to see (inaudible).

ROD PEGUES - Well, we did do . . . as far as I know, it was done on a uniform, consistent basis. And all of the agencies were supposed to have followed those guidelines last year. I just don't know who was doing it differently.

SENATOR JOHN SACKETT - Senator Ray.

SENATOR BILL RAY - Mr. Chairman, lets get back to basics and forget all this nonsense of trying to figure out what is meant by something else. Why don't we just write this just exactly the way we want, and if we want to make grants to non-profit corporations, we only have them do these things:

1. Spend the grant only for the purposes specified in the appropriation.
2. Allow on request of the department an audit by the state of the use of the grant.
3. Assure that.

Now, if that's the way we want to handle these, we're going to have to tighten up (b) here because, whether purposely or otherwise, they've left a loophole here big enough to drive a truck . . . when they say they shall not adopt regulations, which means they have to go through the Administrative Procedures Act, etc. We understand that. But, regulations sometimes can be circumvented, or the use of regulations can be circumvented by just the little words "administrative policy, office administration" . . .

SENATOR BILL SUMNER - Ad hoc.

SENATOR BILL RAY - Yah. So, if these are the only three things that we want contingent upon making a grant, then we'd better put down there that they shall not adopt regulations or administrative policy to implement them. And that means that you've got three things to do. If you're going to do it, do it. And then you don't have anything to worry about, right?

SENATOR JALMAR KERTTULA - I have a question, Mr. Chairman.

SENATOR JOHN SACKETT - Senator Kerttula.

SENATOR BILL RAY - If you don't understand what I'm saying, let's forget it.

SENATOR JALMAR KERTTULA - Doesn't enlighten us except that . . . what happens if you put \$20,000 in a non-profit alcoholism program in some community and the money is completely misused-- nothing that the program presented by the legislature . . . nothing takes place except the money is just misused, maybe a taxi cab is bought with it or something. And it's supposed to haul the

drunks back and forth to what ever facility, or anything.
What do we have now in the mechanism of law that allows us
to prosecute for misuse?

ROD PEGUES - Well, if there was no intent to defraud at the
outset, and you didn't convert it to your own use, the money,
but rather just came up with the program of using the taxi
cab to haul people back and forth, I don't know. What would
happen would depend upon what a court decided the contract was.
The problem of not having, in other words, number one subsection
(1) . . .

SENATOR JALMAR KERTTULA - Would you prosecute a case like that?

ROD PEGUES - Oh, yes. You'd have to have criminal intent, and
you're possibly dealing with people who aren't too bright, but
they didn't intend to steal the money. They thought this would
take care of their problem.

SENATOR BILL RAY - Subsection (3) takes care of that. Section
3 . . . if they don't use it for the purposes.

ROD PEGUES - Well, but it would be.

SENATOR BILL RAY - Don't they have a statute. Don't they have
a statute "misuse of fund's money," don't they have something
like that?

ROD PEGUES - The point is, if under (1) the statement is that
we will spend this grant to solve the problem of getting
drunks off the streets, buying a taxi cab and picking up
drunks and taking them off the streets would solve that
problem. So, they wouldn't be in breach of contract; they