

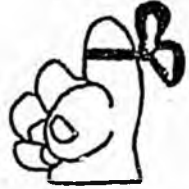
LEG. FINANCE - BILLS 1983 - 1984 1906

HB 456 - SSHB 470

1906

# Alaska House of Representatives

## MEMO



Phone: 465-3725  
Room: 214 Capitol

From the desk of CHIEF CLERK

TO: FINANCE DATE: 3/2/8

Please return HB 456 to the Chief Clerk.

It now goes to Rules.

Introduced: 1/9/84  
Referred: Judiciary

BY WARD, UEHLING, BARNES,  
SZYMANSKI AND MARTIN

1 IN THE HOUSE

2 HOUSE BILL NO. 456

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act authorizing an advisory vote by the qualified  
7 voters of the state on the question of the election  
8 of the attorney general; and providing for an  
9 effective date."

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

11 \* Section 1. The lieutenant governor shall place before the qualified  
12 voters of the state at the next general or special election a question  
13 advisory to the legislature of whether the legislature should propose a  
14 constitutional amendment that, if approved by the qualified voters of the  
15 state, would permit the election of the attorney general. The question  
16 shall appear on the ballot in the following form:

17 Q U E S T I O N

18 Shall the Legislature of the State of Alaska propose a constitutional  
19 amendment that would permit the election of the attorney general?

20 Yes [ ] No [ ]

21 \* Sec. 2. This Act takes effect immediately in accordance with AS 01.-  
22 10.070(c).



Original sponsors: Bettisworth and Shultz

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 458 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to agricultural rights to land."

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

8 \* Section 1. AS 38.05.020(b) is amended to read:

9 (b) The commissioner may

10 (1) establish reasonable procedures and adopt reasonable  
11 [RULES AND] regulations necessary to carry out this chapter and [MAY],  
12 whenever necessary, issue directives or orders to the director to  
13 carry out specific functions and duties; [ALL RULES AND] regulations  
14 adopted by the commissioner shall be adopted under the Administrative  
15 Procedure Act (AS 44.62); orders by the commissioner classifying land,  
16 [LANDS] issued after January 3, 1959, are not required to be adopted  
17 under the Administrative Procedure Act (AS 44.62);

18 (2) enter into agreements considered [WHICH HE CONSIDERS]  
19 necessary to carry out the purposes of this chapter, including agree-  
20 ments with federal and state agencies;

21 (3) review any order or action of the director;

22 (4) exercise the powers and do the acts necessary to carry  
23 out the provisions and objectives of this chapter;

24 (5) notwithstanding the provisions of any other section of  
25 this chapter, grant an extension of the time within which payments due  
26 on any lease or sale of state land, minerals, or materials may be  
27 made, including payment of rental and royalties, on a finding [IF HE  
28 FINDS] that compliance with the requirements is or was prevented by  
29 reason of war, riots, or acts of God; [.]

1 (6) classify tracts for agricultural uses and require the  
2 prequalification, including the submission of conservation plans,  
3 development plans, or other plans, schedules, or programs, of persons  
4 who apply to participate in an agricultural development project under  
5 AS 44.33.475;

6 (7) waive, postpone, or otherwise modify the development  
7 requirements of a contract for the sale of agricultural land if

8 (A) the land is located in a remote area of the state;

9 and

10 (B) transportation, marketing, and development costs  
11 render the required development uneconomic.

12 \* Sec. 2. AS 38.05.059 is repealed and reenacted to read:

13 Sec. 38.05.059. LIMITATIONS AND CONDITIONS ON SALE OR LEASE OF  
14 AGRICULTURAL LAND. (a) During any eight-year period, a person may  
15 purchase from the state not more than one parcel of land that is part  
16 of an agricultural development project under AS 44.33.475.

17 (b) In a sale or other disposal of state land classified as  
18 agricultural land, the use of the land shall be restricted. The com-  
19 missioner shall convey a fee simple conditional title to the surface  
20 estate subject to a condition subsequent that the land be used only  
21 for agricultural purposes. The commissioner shall reserve a right of  
22 reentry after notice and an opportunity for a hearing if the land is  
23 used for other than agricultural purposes. A reversion of title upon  
24 reentry does not affect the validity of a prior lien or security  
25 interest on the land.

26 (c) The lessee of state agricultural land shall receive a lease-  
27 hold interest in the surface estate subject to the condition subse-  
28 quent that the land leased be used only for agricultural purposes.

29 (d) As a condition to the issuance of a lease or a contract of

1 sale of state land classified as agricultural land, the commissioner  
2 may require a farm development agreement and the submission of a  
3 conservation plan that establish reasonable requirements based on  
4 the economic feasibility of development and sound agricultural princ-  
5 iples.

6 (e) The commissioner may not convey title under (b) of this  
7 section to a person who

8 (1) is in arrears on the purchase or lease of agricultural  
9 land; or

10 (2) has not complied with a farm development agreement or  
11 conservation plan required by the commissioner.

12 (f) On the request of a person who is receiving land or an  
13 interest in land under (b) or (c) of this section, the commissioner  
14 shall transfer not more than 20 acres of the land without the title  
15 restrictions required under (b) or (c) of this section for the con-  
16 struction of a farm residence or other buildings needed for agricul-  
17 tural purposes. The land transferred under this subsection may not be  
18 subdivided. The authority of the commissioner to grant or lease not  
19 more than 20 acres of land without title restrictions under this  
20 subsection applies only to the initial transfer of the land from the  
21 state.

22 (g) In this section, "agricultural purposes" includes farming,  
23 ranching, grazing, and storage or control of agricultural crops or  
24 livestock, and the construction of the farm residence of the grantee  
25 or lessee and other buildings commonly needed for agricultural pur-  
26 poses on not more than 20 acres of the land transferred under this  
27 section.

28 \* Sec. 3. AS 38.05.321(a) is repealed.  
29

STATE OF ALASKA 1984 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: 4/25/84

REQUEST

Bill/Resolution No.: CSHB 458 (Fin)  
Title: re: Agricultural Rights to Land

FISCAL DETAIL

Agency Affected: Natural Resources  
Program Category Affected: NR/NEC

Sponsor: \_\_\_\_\_  
Requestor: \_\_\_\_\_  
Date of Request: \_\_\_\_\_

BRU, Program or Subprogram(s) Affected:  
NONE

EXPENDITURES/REVENUES: (Thousands of Dollars)

|                        | FY 84 | FY 85 | FY 86 | FY 87 | FY 88 | FY 89 |
|------------------------|-------|-------|-------|-------|-------|-------|
| <b>OPERATING</b>       |       |       |       |       |       |       |
| 100 PERSONAL SERVICES  |       |       |       |       |       |       |
| 200 TRAVEL             |       |       |       |       |       |       |
| 300 CONTRACTUAL        |       |       |       |       |       |       |
| 400 SUPPLIES           |       |       |       |       |       |       |
| 500 EQUIPMENT          |       |       |       |       |       |       |
| 600 LAND & STRUCTURES  |       |       |       |       |       |       |
| 700 GRANTS, CLAIMS     |       |       |       |       |       |       |
| 800 MISCELLANEOUS      |       |       |       |       |       |       |
| <b>TOTAL OPERATING</b> | -0-   | -0-   | -0-   | -0-   | -0-   | -0-   |
| <b>CAPITAL</b>         |       |       |       |       |       |       |
| <b>REVENUE</b>         | -0-   | -0-   | -0-   | -0-   | -0-   | -0-   |

FUNDING: (Thousands of Dollars)

|               |  |  |  |  |  |  |
|---------------|--|--|--|--|--|--|
| GENERAL FUND  |  |  |  |  |  |  |
| FEDERAL FUNDS |  |  |  |  |  |  |
| OTHER         |  |  |  |  |  |  |
| <b>TOTAL</b>  |  |  |  |  |  |  |

POSITIONS:

|           |  |  |  |  |  |  |
|-----------|--|--|--|--|--|--|
| FULL-TIME |  |  |  |  |  |  |
| PART-TIME |  |  |  |  |  |  |
| TEMPORARY |  |  |  |  |  |  |

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Frank Mielke Phone: 265-4347  
Division: Land & Water Management Date: 4/25/84

AF

Approved by Commissioner: M. D. Amundson, Deputy Date: 4/25/84  
Agency: Natural Resources

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

State of Alaska



# Patent

No. 5151

Know All Men By These Presents that the State of Alaska, in consideration of the sum of NINE THOUSAND SIX HUNDRED EIGHTY-ONE AND 00/100----- DOLLARS

lawful money of the United States, and other good and valuable considerations, now paid, the receipt whereof is hereby acknowledged, does hereby grant to \_\_\_\_\_

JOHN A. BAKER, a single man

Box 57, Talkeetna, Alaska 99676

and to

his heirs and assigns, all that real property situated in the Borough of Matanuska-Susitna

State of Alaska, and described as follows:

## AGRICULTURAL INTEREST ONLY

TRACT 9 OF ALASKA STATE LAND SURVEY NO. 79-109, LOCATED WITHIN THE BARTLETT HILLS ALASKA SUBDIVISION, TOWNSHIPS 25 AND 26 NORTH, RANGE 4 WEST, SEWARD MERIDIAN, CONTAINING 196.81 ACRES, MORE OR LESS, ACCORDING TO THE SURVEY PLAT FILED IN THE TALKEETNA RECORDING DISTRICT ON MARCH 13, 1980 AS PLAT NO. 80-25.

SUBJECT TO:

PLATTED EASEMENTS.

CONDITIONS AND COVENANTS OF THE FARM CONSERVATION PLAN APPROVED BY THE DIRECTOR OF THE DIVISION OF AGRICULTURE OF THE DEPARTMENT OF NATURAL RESOURCES.

IF AT ANY TIME THE DIRECTOR OF THE DIVISION OF FOREST, LAND AND WATER MANAGEMENT OF THE DEPARTMENT OF NATURAL RESOURCES DETERMINES THAT THE GRANTEE OR HIS SUCCESSORS IN INTEREST HAS FAILED TO OBSERVE ANY PROVISION OR CONDITION OF THIS PATENT, THE DIRECTOR MAY DECLARE A FORFEITURE OF THIS CONVEYANCE AND TITLE HEREBY CONVEYED SHALL THEREUPON REVERT TO THE STATE OF ALASKA.

Alaska State Legislature



POUCH V  
JUNEAU, ALASKA 99811

REPRESENTATIVE

ROBERT H. "BOB" BETTISWORTH

211 CUSHMAN STREET  
FARBANKS, ALASKA 99701

April 24, 1984

M E M O R A N D U M

To: Representative Al Adams, Chairman House Finance Committee  
From: Representative Bob Bettisworth, *YHS*  
Subject: HB458 "An Act relating to agricultural rights to land".

As it was originally introduced HB458 attempted to cure existing defects in state patents to agricultural land by requiring the Commissioner of Natural Resources to convey retained interests at the request of the grantee or lessee provided certain conditions are met. The essential problem is that the present language of the agricultural patents is far too restrictive. The documents contain severe impediments to perfection of a security interest by potential lenders (other than the State of Alaska) and the ability of those potential borrowers to obtain title insurance for certain purposes. The state, under the present system, would be ahead of any other party in a situation where a grantee or lessee has not performed on a state contractual obligation. Discretion to re-enter, on the part of the state, is totally left up to the Department and other interests are not protected should the state elect to re-enter. This situation prevents commercial lending on housing or the ability to obtain title insurance where agricultural patents are involved.

The Resources CS differs from my original approach by causing the issuance of a fee simple conditional title. The condition being that if the land is used for other than agricultural purposes, as defined, the title can revert to DNR and prior liens and/or security interests are valid.

Other elements of the original bill including what the department may require of grantees or lessees--for example development plans, conservation plans and repayment of state loans--are retained.

## SECTIONAL ANALYSIS

### CSHB 458 (Resources)

Sec. 1. (a) would limit participation by a person in State ag land disposals to one time in any 8-year period.

(b) requires that land classified as agricultural be conveyed with a fee simple conditional title, with the condition being that if the land is used for other than agricultural purposes, the commissioner of DNR may reenter the land after notice and an opportunity for a hearing. It also provides that if the title reverts back to DNR, it will not affect the validity of a prior lien. This language, if passed into law, will make the title insurable by title insurance companies, and will then enable the parcel owner to obtain financing on farm dwellings.

(c) requires that State agricultural land that is leased be used only for agricultural purposes.

(d) clarifies the use by DNR of requisite farm development agreements and conservation plans, and requires that the plans establish "reasonable requirements" based on feasibility of development and sound agricultural principles.

(e) prohibits conveyance of title to anyone who is in arrears on payments, or has not completed the farm development agreement or conservation plan.

(f) provides a definition of "agricultural purposes", and includes in the definition the use of not more than 20 acres for construction of the farm residence and other buildings.

Sec. 2. repeals AS 38.05.321(a), the statute which currently sets forth that sale or lease of State agricultural land transfers only rights for agricultural purposes, with the State retaining all other rights. Provided CSHB 458 (Res) becomes law, this section would be unnecessary.



# Alaska State Legislature

HOUSE OF REPRESENTATIVES  
COMMITTEE ON RESOURCES

JOHN RINGSTAD, CO-CHAIRMAN  
RICHARD SHULTZ, CO-CHAIRMAN  
POUCH V  
JUNEAU, ALASKA 99811  
(907) 465-3715

## MEMORANDUM

To: Bob O'Neill  
Bank of the North

From: John Manly *jm*  
House Resources Committee

Date: April 24, 1984

Re: CSHB 458 (Resources)

*Questions and  
response from Bank  
of the North on  
the changes made to  
the bill in CSHB 458 (Res)  
appear to support  
the bill.*

As per our earlier conversation, I have formulated several questions pertinent to the Finance Committee's consideration of the above-referenced bill which we would appreciate having your advice on.

I have also included with this memorandum several pieces of relative information, including the current version of the bill itself, the present statute, and a typical patent, as issued by DNR under the present statute.

The questions we would anticipate from members of the Finance Committee are, in general:

- 1) Why won't the banks loan under the present conditions?
- 2) How does the proposed change solve the problem of security, as far as the banks are concerned?
- 3) In the event the State reenters the land, who would the bank expect to make good on the financial commitment entered into by the borrower to the bank?



# BANK OF THE NORTH

---

April 25, 1984

TO: State of Alaska  
House Finance Committee

Subject: CSHB 458 (Resources)

Following are observations of a banker as they pertain to CSHB 458. I have had 27 years experience in banking including agricultural lending in California with Wells Fargo Bank.

In response to your questions regarding particulars of the proposed bill, I would like to offer:

1. Banks traditionally lend to borrowers for agriculture purposes taking a secured position involving land, equipment and crops as collateral. The only collateral with sustaining real value is land. If it is owned, title is transferred and held by the lending institution. If it is leased, the lease is assigned to the Bank. Depending on the circumstances of the particular borrowing, other collateral - equipment and crops (including proceeds of the sale of the harvest) is pledged to the bank.

Under the conditions imposed by the present statute the title of the property (land) is conveyed and reverts to the State of Alaska if the grantee has failed to observe certain provisions or conditions of the Patent. Any financial institution, using prudent banking policies and practices, would not accept title to property as collateral with this condition for a loan.

2. The proposed change to the Act is worded sufficiently in my opinion, to protect and support a lien placed by a financial institution to perfect a security interest in land being used by the borrower as collateral for a loan for agricultural purposes. If leased by the State of Alaska to a lessor for agricultural purposes, the financial institution would insist that the lease of the land be assigned to the lender. It is presumed that the State would not oppose such assignment.
3. Your question addresses a situation that occurs frequently by lenders - financial institutions or individuals. In this case the financial institution would be faced with the problem of assuming the responsibility of the grantee of the land - to maintain the land for agricultural purposes.

First, the lender would have to foreclose on the loan, and to the extent possible:

1. Harvest and sell the crops, applying the net proceeds of the sale to the loan balance.
2. Secure all equipment pledged by the borrower for the loan and sell it to obtain cash to apply to any balance remaining.

ALASKA NATIONAL BANK OF THE NORTH

Juneau Office One Sealaska Plaza, Suite 100 Juneau, Alaska 99801 (907) 586-2565

Member FDIC

April 25, 1984

If a balance were to remain after the above actions, this amount would probably be charged off as a loss.

Your question #3 presumes the State reentered the land because the land was not being used for agricultural purposes. This situation raises other questions - for the financial institution:

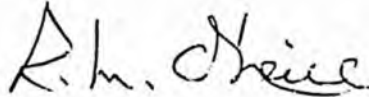
1. Who is responsible for clearing away any and all improvements that are not agriculturally related?
2. Who is responsible to find and qualify another grantee for the land? Who has approval authority - the State or the financial institution?

Note: In both questions above, I have assured that the financial institution still holds title to the land as collateral for a loan not paid in full.

If the loan were to be paid in full from the sale of crops and equipment the land would presumably revert to the State of Alaska and title released to the State, providing the grantee has no legal claim to the land.

I hope these observations and comments have been helpful.

ALASKA NATIONAL BANK OF THE NORTH



Robert M. O'Neill  
Vice President  
Branch Manager

RMO/dk

MEMORANDUM

TO: State of Alaska  
House of Representatives  
Resources Committee

FROM: Glen Prince *Glen Prince*  
Title Insurance Agency, Inc.  
Juneau, Alaska

DATE: April 4, 1984

RE: Committee Substitute for House Bill No. 458 (Resources)

The above Committee Substitute appears to be a positive approach to resolving the private mortgage problem currently troubling AS 38.05.321.

It is my opinion the title insurance industry would be willing to insure a lender as to the security of Mortgages or Deeds of Trust if the substitute were enacted.

February 15, 1984



Rep. John Ringstad  
Co-Chair House Resources Committee  
Pouch V  
State Capitol  
Juneau, Alaska 99811

Dear Rep. Ringstad:

This letter is in reference to HB 458, relating to ag rights. There are issues and concerns about the bill I would like to address.

Under current statutes it is impossible to obtain financing to build a home on State disposed ag land. There are absolutely no lending institutions that will consider financing a home on "ag rights only" land. If the State intends to promote absentee farming, agriculture is doomed to fail.

There is some concern that HB 458 would remove the Commissioners discretion to grant conveyances and eliminate the requirement that a best interest finding be made. This is best addressed by the philosophy of Dr. William R. Wood, (copy enclosed).

According to the Fairbanks Daily News Miner there are 1.8 million acres of State and Native owned, undeveloped ag land in the Tanana Valley alone. That figure does not include land owned by the Federal Government. The argument for the preservation of ag rights is deprived of practical significance when one considers those numbers. Another study I have read indicated that 99% of our entire State is owned by the Federal Government, State Government and Native Corporations with the State and Federal Government owning the lions' share. The remaining 1% is in the hands of private citizens. If true, that is unconscionable. Passage of HB 458 would help alleviate that situation. Passage of HB 458 NEEDS to happen!!!

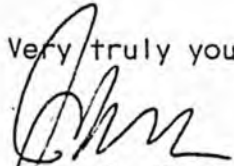
HB 458 would allow the State no compensation for interests currently in State retention. All lottery winners were charged a per acre price for the ag rights to their parcel. This price was established by the State and in most cases is a fair one to a degree. In order to address that concern I would like to explain my particular situation. My interest in this bill is as a parcel owner of 2 Mile Lake Ag Project. The parcel that we own the ag rights to contains 175 acres. The purchase price was \$170.00 per acre. That may seem to be an excellent deal to the uninitiated. However, that price is for undeveloped land which in many instances has no access. It is just the beginning. Development

Page 2  
Rep. John Ringstad

costs for clearing, disking and burning berm piles adds a minimum of \$200.00 per acre. When the cost of road building and utilities is added the cost per acre becomes even greater. It is important to bear in mind that a portion of most of the parcels is not suitable for agriculture. Our parcel contains some acreage that is so steep it is impossible to operate equipment on. Other parcels contain swamp land that is prohibitively expensive to drain. In light of this information, is it not possible that the compensation the State has already received is sufficient?

I appreciate the opportunity to share my views and hope that this letter has adequately addressed some legitimate concerns. I also welcome a chance to discuss these issues with you in the future.

Very truly yours,



James D. Blyth  
P. O. Box 55517  
North Pole, Alaska

Page 3  
Rep. John Ringstad

cc: Representatives:

Charlie Bussell  
Peter Goll  
Ronald A. Larson  
John Cowdery  
John J. Liska  
Rick Uehling  
Anthony Vaska  
Dick Shultz

Senators:

Jalmar Kerrulla  
Pat Rodey  
Mike Miller  
Don Bennett  
Bettye Fahrenkamp  
H. Pappy Moss  
Frank Furgeson  
Donald Gilman  
Bill Ray  
Robt. W. Ziegler, Sr.  
Dick Eliason  
Paul Fischer  
Vic Fischer  
Bob Mulcahy  
Arless Sturgulewski  
John Sackett  
Bob Bettisworth  
Barbara Lacher  
Al Adams  
Mike Davis  
Jim Duncan  
Joe Hayes  
Nillo Koponen

# William R. Wood shares his philosophy

18, 1981, we published the idea of weekly columns by William R. Wood. Now nearly later, we take the occasion R. and Dorothy Jane "Association Week" to share a few excerpts from 137 columns we've pub-

of the University of Alaska until his retirement in 1978 he ran for and won the city mayor, serving until served as the unpaid executor of the Fairbanks Improvement Corp., and Fesniks '84. He can be seen at any community function, in youth soccer games to Commerce luncheons. A bit of his philosophy, as it with our readers.

**On Fairbanks**  
From mid-September Fair-creation heaven for young, ages between. The long shine, moderate temper- low humidity encourage take advantage of the ex- y range of wholesome, recreation opportunities Fairbanks is a very special

—June 24, 1981

rtunities exist here is ev- the increasing interest in a variety of projects investors, even foreign in- developers—in agricul- tourism, housing—espe- dominiums and town- els, office buildings, pro- nts, service and supply refurbishing of existing revitalizing old line The list is more extensive f us realize and growing.

—Feb. 25, 1982

aska in winter is a very e to enjoy. Only the in- ould be indifferent or other seasons are attrac- larly autumn, but winter ne treasured by the few well. That number grows nd grows.

Feb. 2, 1983

**On Alaskans**  
e all the strength, com- patience, flexibility, ng and tolerance of one most of all bold action of ng to cope successfully raordinary affluence in e afloat.

—July 29, 1981

ents, even newcomers, perceive themselves as homesteaders. Rightly the deep seated convic- pendence is better than they have yet to come to the notion of interdepend-

—Jan. 6, 1982

**Join in**  
You can still join the Fairbanks community in honoring Dr. William R. and Dorothy Jane Wood at a banquet Saturday night. Tickets for the dinner are \$40 each, with the proceeds to go toward a talent grant fund at the University of Alaska, in the Woods' names. The banquet will be at the Travelers Inn, with cocktails at 6 p.m. and dinner at 7 p.m.  
For tickets, call Kay Berry at Festival Fairbanks '84, 456-1984; B.G. Olson, 456-4644; the Chamber of Commerce in the First National Center, 452-1105; Karen Cedro at the University of Alaska, 474-7581, or Earl Beisiloe, 452-5356.

**On the state Legislature**  
To be a state legislator at any time is a tough assignment. In Alaska today it borders on "Mission Impossible." A legislator is seldom thanked, almost never during the session, and rarely applauded.

—May 7, 1981

Unfortunately, when one is elected by a majority vote of the people, there surfaces a very human weakness to assume an aura of invincibility, omniscience, and omnipotence that quickly gains control over such matters as humility, common sense, and sound judgement.

—Aug. 3, 1983

In trying to be all things to all people, primarily to insure reelection, the battle to achieve solid results for the common good, is lost almost before the session gets under way.

—Dec. 21, 1983

**On holding local elected office**  
If you have a strong desire to do something worthwhile that will improve conditions for others as well as yourself, your family, and your immediate friends, give seeking elective public office a try.

May 19, 1982

As a condition of candidacy let there be a new requirement: to be fulfilled before one's name may be printed on a ballot: a solid, practical course of instruction or training program both on what local government is and is not and on the real opportunities/responsibilities of local legislative bodies. Such a common-sense program could be devised by knowledgeable, concerned thoughtful citizens.

—June 8, 1983

**On democracy**  
It has been observed by many, both great and not so great, that our democratic government was founded in hope and in trust upon great ideals. But it has been ideas, creative and innovative, under these ideals that have built a great nation of free and independent people. An exceptionally idealistic people, extraordinarily strong in ideas.

—June 23, 1982

**On voting**  
The privilege, eagerly sought elsewhere in the world, is a personal obligation to oneself, one's family and neighbors. To ignore making good use of the privilege, so very rare in the long scroll of human history, is to lose it.

—Oct. 27, 1982

**On Alaska's natural beauty**  
In the high latitudes there is always wonder, a continuous change in light effects, a pulsing tide of day and night from all-sun to the long light-nights and the aurora. There are subtle shades of color to charm the eye and delight the heart at all seasons, particularly during the winter and the autumn time. There are the fresh clean smells of the air and the land that change with the season and the weather. This is a place to enjoy as well as to be one's self, one's extra-ordinary self.

—Feb. 3, 1982

Return of the sun, the blush of spring upon the willows, the crisp, clear air, and the great blue bowl of sky, all are ours. Morning light and evening light, matchless pastels that rim the far horizon, muted horizontal rainbows of sheer delight, these too, are ours, and always the blue-gray haze embracing the distant hills.

—April 7, 1982

Let the winter come more gradually, please, while autumn glories slowly fade. Give us all a chance to simmer down from summer's hectic pace.

—Oct. 20, 1982

To see the geese in graceful flight coming north once more is to believe that everything is about to be better. Suddenly one feels stronger, sees further with less clouded vision a brighter promise.

—April 6, 1983

**On natural resource development**  
Idle natural resources with legitimate use potential are costly. To use wisely is not to destroy, not to waste.

—April 15, 1981

Any sober, realistic, objective appraisal of the prospects for sensible industrial development of Interior Alaska's resources must be an optimistic one.

—Jan. 6, 1982

**On litter**

After scores of talk talk groups have been organized and reorganized, a zillion meetings held, a consensus has been reached: "Somebody ought to do something for Fairbanks sometime!"

Why not? And now it's all very simple. To attract interest of others, let Fairbanks first do something for itself."

—April 8, 1981



**DR. WILLIAM R. WOOD**  
*Optimistic about Fairbanks*

There is no excuse for litter, for debris, for any matter out of place that offends by sight, sound, or smell. When the ugliness of litter becomes a health hazard, why is it tolerated? When a people become prone to littering, when littering permeates the behavioral pattern of a community, there is something wrong. Is it ignorance? Indifference? Individual arrogance? Or what?

—Jan. 19, 1983

**On historic preservation**  
There is no standing still in community or neighborhood life. The movement, the pressures, the compelling forces, are either toward improvement or toward deterioration.

—Aug. 12, 1981

**On libraries**  
Put simply, a library of excellence in every state is a necessity for the well being and survival of the nation and its people. In our state, clearly worthy of appreciative applause, is the Kasmuson Library of the University of Alaska.

—Nov. 18, 1981

**On Arctic research**  
The United States urgently needs an Arctic research policy. It is long overdue.

Dec. 9, 1981

What we don't know about the high latitudes of Alaska, its resources and its longtime residents is enormous—with a welter of perplexing relationships and conflicts in the making.

—April 14, 1982

**On agriculture**  
In Alaska the most serious obstacle to developing a sound basic agricultural industry is not climate, nor lack of capital, nor distance from major markets, but the underlying attitude prevailing in government and seemingly permeating throughout the private sector: that public lands have become too precious to be entrusted to the care of the private citizen.

—March 17, 1982

Alaskans are cheating themselves and endangering their future by not getting on with the serious agriculture development effort that has begun.

—March 16, 1983

Offered: 4/11/84  
Referred: Finance

Original sponsors: Bettisworth and Shultz

1 IN THE HOUSE BY THE RESOURCES COMMITTEE

2 CS FOR HOUSE BILL NO. 458 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to agricultural rights to land."

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

8 \* Section 1. AS 38.05.059 is repealed and reenacted to read:

9 Sec. 38.05.059. LIMITATIONS AND CONDITIONS ON SALE OR LEASE OF  
10 AGRICULTURAL LAND. (a) A person may purchase from the state not more  
11 than one parcel of land that is part of an agricultural development  
12 project under AS 44.33.475 during any eight-year period.

13 (b) In a sale or other disposal of state land classified as  
14 agricultural land the use of the land shall be restricted. The com-  
15 missioner shall convey a fee simple conditional title to the surface  
16 estate subject to a condition subsequent that the land be used only  
17 for agricultural purposes. The commissioner shall reserve a right of  
18 reentry after notice and an opportunity for a hearing if the land is  
19 used for other than agricultural purposes. A reversion of title upon  
20 reentry does not affect the validity of a prior lien or security  
21 interest on the land.

22 (c) The lessee of state agricultural land shall receive a lease-  
23 hold interest in the surface estate subject to the condition subse-  
24 quent that the land leased be used only for agricultural purposes.

25 (d) As a condition to the issuance of a lease or a contract of  
26 sale of state land classified as agricultural land, the commissioner  
27 may require a farm development agreement and the submission of a  
28 conservation plan that establish reasonable requirements based on  
29 economic feasibility of development and sound agricultural principles.

1           (e) The commissioner may not convey title under (b) of this  
2 section to a person who

3           (1) is in arrears on the purchase or lease of agricultural  
4 land; or

5           (2) has not complied with a farm development agreement or  
6 conservation plan required by the commissioner.

7           (f) In this section, "agricultural purposes" includes farming,  
8 ranching, grazing, and storage or control of agricultural crops or  
9 livestock, and the construction of the farm residence of the grantee  
10 or lessee as well as other buildings commonly needed for agricultural  
11 purposes on not more than 20 acres of the land transferred under this  
12 section.

13 \* Sec. 2. AS 38.05.321(a) is repealed.

Introduced: 1/9/84  
Referred: Resources and  
Finance

1 IN THE HOUSE

BY BETTISWORTH

2

HOUSE BILL NO. 458

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act relating to agricultural rights to land."

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

8 \* Section 1. AS 38.05.069 is repealed and reenacted to read:

9       Sec. 38.05.069. AGRICULTURAL LAND. (a) If the commissioner has  
10 conveyed or leased state land only for agricultural purposes, the  
11 remaining interests retained by the state shall be conveyed or leased  
12 by the commissioner on the request of the grantee or lessee or the  
13 assigns of the grantee or lessee. The commissioner shall convey or  
14 lease the remaining interests without compensation to the state except  
15 for administrative costs of the conveyance or lease.

16       (b) The commissioner may not transfer an interest under (a) of  
17 this section to a person who is in arrears on the purchase or lease of  
18 the land. Before conveying or leasing under (a) of this section, the  
19 commissioner may require the submission of a development plan with  
20 covenants specified by the commissioner regarding agricultural use of  
21 the land.

22       (c) An Alaska resident may submit to the commissioner a request  
23 for the sale or lease for agricultural purposes of unoccupied state  
24 land situated adjacent to or in the approximate vicinity of land  
25 presently used for agricultural purposes and held by the resident. If  
26 the resident submits with the request a development plan that contains  
27 covenants specified by the commissioner regarding the agricultural use  
28 of the land and if the commissioner determines that it is in the best  
29 interests of the state to sell or lease the unoccupied state land for

1 agricultural purposes, the commissioner shall grant to a resident  
2 owning and using or leasing and using land for agricultural purposes a  
3 60-day first option after the date of the public auction to purchase  
4 or lease the unoccupied land for the amount of the high bid received  
5 at public auction. A parcel of agricultural land transferred under  
6 this subsection may not be less than 20 acres.

7 (d) Land that is acquired under (c) of this section shall be  
8 used consistently with covenants required in the development plan  
9 specified by the commissioner.

10 (e) If more than one person files a request under (c) of this  
11 section for the same land and each person owns or leases land situated  
12 adjacent to or in the approximate vicinity of the state land, the  
13 commissioner shall determine priority among the applicants for the  
14 state land under the following standards:

15 (1) to the person who demonstrates the greatest need for  
16 the unoccupied land in order to establish an economic unit;

17 (2) to the person who occupies land that is most readily  
18 accessible to the unoccupied land to be sold or leased if two or more  
19 persons have qualified under (1) of this subsection;

20 (3) to the veteran if two or more persons have qualified  
21 under (1) and (2) of this subsection;

22 (4) by lot if two or more persons have qualified under (1),  
23 (2) and (3) of this subsection.

24 (f) When not in conflict with this section, other provisions of  
25 AS 38.05.045 - 38.05.105 apply to disposals under this section.

26 (g) Nothing in (a) of this section affects the disposal of  
27 minerals under AS 38.05.135 - 38.05.183.

28 (h) For the purposes of this section,

29 (1) "agricultural purposes" includes farming, ranching,

1 grazing, and storage or control of agricultural crops or livestock;

2 (2) "approximate vicinity" includes an area in which the  
3 land does not have a common boundary to presently held land or in  
4 which the land is physically separated from presently held land by any  
5 type of barrier.

6 \* Sec. 2. The commissioner of natural resources shall advise the  
7 owners, lessees, and the assignees of owners or lessees of land limited to  
8 agricultural uses of the changes in the law made by this Act.

9 \* Sec. 3. AS 38.05.321(a) is repealed.



Introduced: 1/9/84  
Referred: Health, Education & Social  
Services and Finance

| <u>Funding Information</u> |                     |
|----------------------------|---------------------|
| General Fund               | \$25,000,000        |
| Other Funds                | -0-                 |
|                            | <u>\$25,000,000</u> |

1 IN THE HOUSE

BY FURNACE AND COWDERY

2

HOUSE BILL NO. 463

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act making a special appropriation to the Department of Health and Social Services to construct a prison in Whittier; and providing for an effective date."

7

8

9

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

11

\* Section 1. The sum of \$25,000,000 is appropriated from the general fund to the Department of Health and Social Services to construct a prison in Whittier.

14

\* Sec. 2. The appropriation made by this Act is for a capital project and is subject to AS 37.25.020.

15

16

\* Sec. 3. This Act takes effect immediately in accordance with AS 01.-10.070(c).

17

HOUSE FINANCE COMMITTEE  
February 14, 1984  
1:30 p.m.

(Tape HFC 84-17, Side 1, #001)

CALL TO ORDER

Vice-chairman Bettisworth called the meeting to order at 1:30 p.m. and informed members that they would be considering CSSB 348 (Fin) and HB 463.

PRESENT

All members of the committee were present except Representatives Adams, Duncan, and Martin. ALSO PRESENT: Roger Endell, Director, Adult Corrections Agency.

SUMMARY INFORMATION

CS SB 348(Fin)      An Act making a supplemental appropriation for the operation of the legislature; and providing for an effective date.

House Committee Substitute reported out of committee with "individual recommendations".

HB 463

An Act making a special appropriation to the Department of Health and Social Services to construct a prison at Whittier; and providing for an effective date.

Bill HELD in committee.

CS SB 348 (Finance)

CS SB 348 (Finance) - An Act making a supplemental appropriation for the operation of the legislature; and providing for an effective date.

Vice-Chairman Bettisworth informed member that a draft committee substitute had been prepared for consideration by the committee.

Representative Lindauer MOVED AND ASKED UNANIMOUS CONSENT to report out of committee a Finance committee substitute for CS SB 348 (Finance) with individual recommendations. There being NO OBJECTION, it was so ordered. HCS CS SB 348 (Finance) was reported out of committee with "individual recommendations".

HB 463 - An Act making a special appropriation to the Department of Health and Social Services to construct a prison at Whittier; and providing for an effective date.

Representative Lindauer stated that he had a substantial real estate interest in the city of Whittier. Representative Ward noted that he had substantial interest in good quality prisons in the state of Alaska.

(Representative Zharoff arrived at this time.)

ROGER ENDELL, DIRECTOR, ADULT CORRECTIONS AGENCY, stated that they have been involved with Whittier for twenty years. He stated that in 1964 or 1965, the director of Corrections at that time was offered the Buckner building at Whittier for the price of one dollar from the U.S. government. He stated that the offer was rejected at that time. Mr. Endell stated that the director of Corrections in 1968 and 1969, Ray May, was submitted the same opportunity and the offer was again rejected. Mr. Endell stated that directors Adams, Houston, Campbell and Hatrack, also considered the building along with Department of Transportation and Public Facilities personnel and private architects, all concluding that the facility would be inappropriate for correctional operations.

Mr. Endell said if the Legislature passes a statute that there will be a correctional operation in Whittier, they will of course abide by that and do their best with the resources provided for facility management. Mr. Endell said there are reasons why they do not believe it is a good idea to construct a facility in Whittier. He said the \$25 million figure is based on nothing. He said there is no substantial information upon which the estimate is based other than from a contractor who represents the developer. Mr. Endell said in the teleconference held on February 13 chaired by Representative Furnace, residents of Whittier, Anchorage and Seward testified in support and in opposition to the legislation. He said the contractor claims he can build a 700-1,000 bed correctional facility for inmates, 50 apartments including 10-3 bedroom apartments, 20-2 bedroom apartments and 20-1 bedroom apartments and 20,000 square feet of office space as a turn-key operation in six months at the price of \$25 million. Mr. Endell said he asked the contractor how this price was computed and the answer was the contractors experience in the square foot cost of the Valdez jail, courtroom and other related construction.

Vice-chairman Bettisworth asked if the state has made any effort to present to the contractor state specifications for the type of facility necessary. Mr. Endell said they have not. Vice-chairman Bettisworth asked if they have such specifications. Mr. Endell said they can provide that information to the contractor. Vice-chairman Bettisworth asked Mr. Endell if he was familiar with the contractor in question and his experience in Alaska.

Mr. Endell said he is a reputable contractor. Mr. Bettisworth said because of the contractors long-term reputation in the state of Alaska he considers it to be a bonifide proposal. Mr. Endell said he respects that point of view; however, there is nothing on paper to protect the state. Vice-chairman Bettisworth agreed that he would also be leary of signing a contract without additional information; however, considering the amount proposed for construction of a new facility in Seward the Whittier proposal warrants investigation.

Representative Lindauer questioned the estimate referenced by Mr. Endell and asked if it provides for a turn-key operation. Mr. Endell said the problem is that it is information which is being passed by word of mouth. He said there is no proposal before the Administration or Legislature other than a document prepared last year by Olympic Incorporated with an estimate of \$27 million. Mr. Endell said it is his understanding that the \$25 million represents the total cost of a turn-key operation. He said he is concerned about the six month period in which the project is to be completed. Mr. Endell stated that on lock devices for cell doors there is a two year lead time required. Representative Lindauer said the real question is a financial one. He said if a firm proposal is made which meets specifications, is turn-key and completed within the time frame referenced, then it is a legitimate proposal to consider.

Mr. Endell said there are other reasons why Whittier should be rejected and to which he testified last year before the House Finance Committee. Mr. Endell said the basic problem is location and access. He said the people from Whittier testified yesterday that as residents they have difficulties getting in and out of Whittier. He said there are additional costs which would need to be considered beyond construction. Vice-chairman Bettisworth stated that the Department of Transportation and Public Facilities was requested to provide a cost estimate to pave a tunnel and build a road for surface transportation to Whittier. Mr. Endell did not know the estimate of cost as prepared by the Department.

Representative Grussendorf said Mr. Endell indicated that there is very little back-up in relation to the cost estimates for the prison facility. He referred to a memorandum dated February 14, 1984 from the Manager of the city of Whittier stating the council and mayor is opposed to the construction of a facility in Whittier. Representative Grussendorf did not see how he could support a facility in Whittier which residents are very much opposed to at this time.

Representative Fritz stated that following World War I, the Veterans Administration constructed hospitals around the country in relatively isolated locations. He noted that the Administration was unable to maintain support staff due to the location of these hospitals and lack of services. He asked Mr. Endell if he felt Whittier with its bottleneck ingress, egress and lack of services would attract individuals in the penal

industry. Mr. Endell felt they would have a difficult time. He said they will operate wherever the legislature states; however, common sense would say that it would be difficult to operate at Whittier for several reasons. He stated that the infrastructure is not sufficient. For example, there is no medical coverage, schools, fire department, national guard, trooper contingency, etcetera. He said escape is not a problem with a maximum security institution if the security is appropriate. He said what is a problem are hostage related difficulties and disturbances which could escalate to the point of riot. He said it is vitally important to be able to call in emergency personnel.

Representative Ward summarized the teleconference of the previous day saying there are two condominiums in Whittier and that is who testified. He said residents last night said they did not want roads, tourists, a prison or economic development. He said they did not want people to live in Whittier. Representative Ward said more people signed the petition against moving a prison facility to Seward than the number of people residing in Whittier. He said people from Anchorage want to keep Whittier as their private recreational area. He said the power brokers of Anchorage are the ones "pulling the strings". Representative Ward said there appears to be a recreational, yacht, elitist club in Whittier living in condominiums and flying to Hawaii during the winter months.

Representative Crussendorf responded that he must take on face value what the mayor and council have indicated as their position and honor the lifestyle which they have selected. He said he did not care if residents lived in two condominiums as this may make sense in terms of land management and recreation. He questioned the bill being before the committee for consideration when there is an obvious lack of financial information and community support.

Representative Furnace said there is lots of backup available on the bill. He did not feel there was an attempt to force the construction of a facility on the residents of Whittier. He stated that to date there has been interaction between the developer and governor whereby the facility would be leased at \$1.25 per square foot or provide a turn-key operation for \$25 million based on specifications provided by the state of Alaska. Representative Furnace said it is a massive structure, 276,000 square feet with a capacity for hospital facilities, dining, kitchen, theatre, bowling alley, shooting gallery, staff housing, office space, and prisoner housing. He felt that passage by the committee would be a signal to the Administration that the legislature would like for the proposal to be more fully explored. Representative Furnace said the contractor has a history of performance.

Representative Furnace said his approach has been from an economic perspective in the fact that the facility can be rehabilitated to state specifications for \$25 million. He said

this is a one-time capital cost. He said a lease would be entered into by the state at a cost of \$110 million for ten years and \$184 million for twenty years. Representative Furnace did not feel that any of the concerns noted could not be addressed.

Representative Fritz asked Mr. Endell if with his experience in the area of adult corrections, given a choice, would he put a maximum security prison in Whittier. Mr. Endell said he would not.

In response to discussion by members concerning the fiscal impact of the project, Representative Ward stated that Mr. Endell has "marching orders" to construct the facility in Seward regardless if it is right or wrong. He stated he thought Seward was ridiculous, as does the rest of the state, and that is why this matter is now before the committee. Representative Ward said Mr. Endell would only offer a note of \$62 million and this was not realistic. Representative Lindauer did not think that the committee wanted to accept that Seward as a location for a maximum security facility is "ridiculous". He said the committee is interested in finding the most economic way to provide a facility in the best possible site. Representative Ward withdrew his comments with regard to Seward saying he also believed a facility in Seward would eventually have to be built.

Representative Furnace MOVED to report out of committee HB 463 with individual recommendations. Representatives Fritz, Grussendorf and Zharoff OBJECTED. Vice-chairman Bettisworth stated that the bill would be HELD in committee.

ADJOURNMENT

The meeting adjourned at 1:55 p.m.

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(Tape HFC 84-17, Side 1, #001-#498)

ADULT CORRECTIONS AGENCY  
Pouch T  
Juneau, Alaska 99811

POSITION PAPER  
House Bill No. 463

"An Act making a special appropriation to the Department of Health and Social Services to construct a prison in Whittier, and providing for an effective date."

Description of Property

Whittier is located 59 miles from Anchorage. There is no direct road access to Whittier, and limited service by the Alaska Railroad from Portage. Chronic high winds make flying into Whittier marginal much of the time. The people of Whittier apparently have strong objections to selection of Whittier as a location for a correctional facility.

Cost effectiveness is an important consideration in site selection for correctional operations. Costs are related to size, types of population incarcerated and location. These factors affect not only construction costs, but operational costs throughout the life of its use i.e., life cycle costs.

Departmental Consideration

The Adult Corrections Agency does not support House Bill No. 463. A facility in Whittier would not appear to meet the needs for prisoner housing in Alaska at either an efficient or an acceptable level of funding. The bill does not specify whether the intent of the sponsor is to develop and retrofit an existing structure in Whittier or whether new construction is intended. In either case there is no state estimate of costs which would confirm that the funding level identified in this bill is reasonable.

Secondly, while correctional administrators will carry out the law to its full extent, it is our opinion that laws must be clearly and reasonably written and should properly address the State's need. Corrections does not have adequate maximum security space. Long term, high security correctional institutions must be carefully designed to hold inmates who are serving very extensive sentences and may be considered to be dangerous. While escapes are not a typical problem, hostage taking and riots are continuing potential or actual problems at numerous maximum security institutions across the nation. To construct or retrofit a correctional facility improperly would be unacceptable and hazardous.

The following are deficiencies of the site:

- Fire/Life Safety. Prisoner populations and staff must be assured of adequate protection from fire and life threatening situations, both within the buildings and as supported by emergency service operations in the local community. The facility will require significant life safety systems to meet minimum code requirements. Emergency service operations are most efficiently and effectively provided by local community public service departments. Whittier has a small volunteer fire department. The nearest major fire fighting equipment and personnel are in Anchorage, with no current road access. If the Buchner building in Whittier was to be considered for correctional use, all but the concrete load bearing walls will have to be replaced, i.e.: roof, all plumbing, heating, electrical, sewer systems, medical, program and housing space.

- Outside Support. The site fails to meet correctional standards noted in paragraph 4147 of the American Correctional Standards. In event of an internal disturbance, staff from nearby institutions, local police, State Troopers and the National Guard should be readily available to help restore perimeter security and insure safety of all persons inside the institution as

well as those outside. An inaccessible location for a high security institution makes this difficult if not impossible. The nearest trooper detachment to Whittier is in Anchorage. There is one trooper stationed in Girdwood.

- Medical and Dental Care. This care is normally provided under contract by physicians, dentists and medical specialists within a community. Whittier has no resident health professionals, hospital or supply of medication. Lack of access to community hospitals is in violation of paragraph 4257 of the American Correctional Standards.

- Staffing/Housing. Recruiting, training and retaining correctional staff is costly and difficult under the best of circumstances. Due to the virtual nonexistence of adequate private housing in conjunction with the relatively inaccessible surroundings, a high turnover of employees may be anticipated at Whittier. The State may have to provide staff housing at further expense. Commuting for shift work would be feasible only if dependable and regular, as well as emergency, transportation was available. There would be a substantial impact of staff and family personnel on extremely limited Whittier resources, i.e., school system, medical, transportation, power, fuel, real estate, etc.

- Legal Access. Inmates frequently have interaction with the court system. They have the right to legal counsel. Transportation of prisoners from a relatively inaccessible location to court and counsel will result in both higher costs and greater time expended. Inmates housed at Whittier would have to travel to Anchorage on a part-time and undependable train schedule. A rail bus system will cost approximately 500,000 dollars.

- Community Ties. Regardless of the offense or length of sentence, nearly every prisoner will eventually return to his or her home community. It is unrealistic to believe that an inmate should live without community

ties then upon release make a successful adjustment to society. Opportunities for restitution programs, work release, prison industries and other inmate work programs may be limited or nonexistent in this relatively inaccessible location.

- Family Ties. Imprisonment strains the family unit under any circumstances. Lack of opportunity for visits increases the likelihood of the deterioration of the family unit, and limits opportunities for the offender to successfully maintain family ties, an essential ingredient in rehabilitation efforts.

- Programming. The statewide chaplaincy program coordinates services in prisons and arranges individual religious services in any denomination, calling on clergy in the community. The educational programs draw on University staff in nearby communities. Counseling dealing with sex offenses, family abuse, alcohol and drug abuse and other psychological and emotional programs all draw upon various programs existing within a community. Few, if any, of these programs could be offered by the community of Whittier. Program rehabilitation efforts offer the most promise for protection of society against repeat offenses, since virtually all inmates will eventually be released.

Without the immediate availability in Whittier of the full range of services/resources needed to operate a correctional facility, alternative and probably costlier service delivery systems would have to be developed. For the above reasons, the Adult Corrections Agency opposes House Bill No. 463.

Approved by:



Roger V. Endell  
Deputy Commissioner  
Adult Corrections Agency

Date:

Feb. 14, 1984

Introduced: 1/9/84  
Referred: Health, Education & Social  
Services and Finance

Funding Information  
General Fund \$25,000,000  
Other Funds -0-  
\$25,000,000

1 IN THE HOUSE BY FURNACE AND COWDERY  
2 HOUSE BILL NO. 463  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 THIRTEENTH LEGISLATURE - SECOND SESSION  
5 A BILL  
6 For an Act entitled: "An Act making a special appropriation to the Depart-  
7 ment of Health and Social Services to construct a  
8 prison in Whittier; and providing for an effective  
9 date."  
10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:  
11 \* Section 1. The sum of \$25,000,000 is appropriated from the general  
12 fund to the Department of Health and Social Services to construct a prison  
13 in Whittier.  
14 \* Sec. 2. The appropriation made by this Act is for a capital project  
15 and is subject to AS 37.25.020.  
16 \* Sec. 3. This Act takes effect immediately in accordance with AS 01.-  
17 10.070(c).

STATE OF ALASKA

CHAIRMAN,  
HOUSE LABOR AND  
COMMERCE



POUCH V  
JUNEAU, ALASKA 99811  
(907) 465-3892

P.O. BOX 1542  
ANCHORAGE, ALASKA 99510  
(907) 333-2616

REPRESENTATIVE WALT FURNACE

To: Representative Al Adams, Chairman  
House Finance Committee

From: Representative Walt Furnace

Date: February 14, 1984

RE: HB 463, Establishment of a Whittier Prison

At the present time there is a disparity of opinion between the Commissioner of Corrections and the proposed contractor as to the cost of the renovation of the Whittier facility into a prison. The contractor has stated that he can renovate the Buckner Building in Whittier for \$25 million while the Commissioner and the Department of Transportation, State of Alaska is firmly committed to a \$62 million price tag. Thus, a fiscal note produced by the Department of Corrections would, naturally, reflect the opinion of the Commissioner.

For your consideration, attached please find a letter from the contractor who states, in his professional capacity, that the actual renovation work can be done within the \$25 million budget proposed for the turnkey operation. I am hopeful that this document will suffice in lieu of a fiscal note.

Thank you for your consideration.

TESTIMONY BY REPRESENTATIVE WALT FURNACE  
IN FAVOR OF HB 463 BEFORE THE HOUSE FINANCE COMMITTEE  
FEBRUARY 14, 1984

HB 463 IS AN ACT MAKING A SPECIAL APPROPRIATION TO THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES TO CONSTRUCT A PRISON IN WHITTIER, ALASKA.

THE BILL CALLS FOR THE SUM OF \$25 MILLION TO BE APPROPRIATED FROM THE GENERAL FUND TO HESS TO CONSTRUCT THE FACILITY.

THE SHEFFIELD ADMINISTRATION HAS EXPLORED NUMEROUS SITES THROUGHOUT THE STATE OF ALASKA IN AN ATTEMPT TO LOCATE A SITE FOR THE PRISON. COMMUNITIES SUCH AS SUTTON, ANDERSON, DELTA JUNCTION AND ANCHORAGE HAVE ACTIVELY PURSUED THE NEW PRISON FACILITY FOR THEIR COMMUNITY OR HAVE BEEN TENTATIVELY CHOSEN. TO DATE, THE CITY OF SEWARD HAS BEEN SELECTED AS THE MOST RECENT PROPOSED SITE.

OUR REASON FOR SUPPORT IN THE WHITTIER SITE ARE SEVERAL.

1) THE SEWARD FACILITY IS PROJECTED TO COST UP TO \$62 MILLION AND IS TO BE CONSTRUCTED BY A PRIVATE CONTRACTOR. THE FACILITY IS TO HOUSE UP TO 700 PRISONERS. THE PRESENT FINANCING OF THE FACILITY CALLS FOR UP TO A 20 YEAR LEASE WHICH, ACCORDING TO LIMITED INFORMATION, WILL RESULT IN A COST TO THE STATE OF UP TO \$184 MILLION OVER THE 20 YEAR TERM OF THE LEASE.

2) THE WHITTIER SITE MAKES GOOD INVESTMENT SENSE. THE PROPOSED WHITTIER PRISON FACILITY CONSISTS OF 276,000 SQUARE FEET OF SPACE AND CAN BE RENOVATED FOR \$25 MILLION BY A PRIVATE CONTRACTOR ACCORDING TO THE PLANS AND SPECIFICATIONS PROVIDED BY THE STATE OF ALASKA. THE PRESENT CORRECTIONAL OFFICIALS HAVE VOICED CONCERN THAT THE PRESENT FACILITY WOULD REQUIRE THE TEARING DOWN OF WALLS? AND OTHER MAJOR RENOVATION. I SUBMIT THAT THIS IS NOT THE STATE OF ALASKA'S CONCERN. THE STATE'S RESPONSIBILITY IS TO PROVIDE THE NECESSARY PLANS AND SPECIFICATIONS AND THE PRIVATE SECTOR CONTRACTOR WILL BEAR THE BURDEN OF CONSTRUCTING THE FACILITY ACCORDING TO THOSE PLANS.

THE FACILITY WILL CONSIST TO THE FOLLOWING:

- 1) 16 BED HOSPITAL
- 2) COMPLETE DENTAL LAB
- 3) 800 SEAT CAPACITY DINING ROOM
- 4) COMPLETE KITCHEN AND BAKERY
- 5) 300 SEAT THEATER
- 6) SIX LANE BOWLING ALLEY
- 7) COMPLETE SHOOTING GALLERY FOR STAFF TRAINING
- 8) AMPLE STORAGE SPACE
- 9) HOUSING FOR 1000 PRISONERS

3) THE PRESENT SITE CONSISTS OF APPROXIMATELY 7 ACRES WHICH APPEAR SUFFICIENT FOR A FENCED IN AND SECURED OUTDOOR RECREATIONAL AREA.

THE FACILITY AS DESCRIBED WILL BE SOLD TO THE STATE OF ALASKA FOR \$25 MILLION COMPLETE AND READY FOR OCCUPANCY WITHIN 6 MONTHS FROM THE TIME OF THE SIGNING OF THIS LEGISLATION INTO LAW BY THE GOVERNOR.

4) THE FOURTH POINT TO BE MADE IS THAT FOR A ONE TIME COST OF \$25 MILLION THE STATE OF ALASKA WILL OWN A PRISON FACILITY THAT WILL ACCOMMODATION UP TO 300 MORE PRISONERS THAN IS CURRENTLY PROPOSED AT THE SEWARD SITE AT A MUCH REDUCED COST.

AS A RECAP OF THE COST, THE SEWARD FACILITY IS PROJECTED TO COST THE STATE UP TO \$62 MILLION.

THE FACILITY WILL BE LEASED TO THE STATE OF ALASKA ON EITHER A 10 OR 20 YEAR LEASE PROGRAM

- A) 10 YEAR LEASE COST, \$110 MILLION
- B) 20 YEAR LEASE COST, \$184 MILLION

FROM THIS BRIEF COST ANALYSIS IT APPEARS THAT THE WHITTIER SITE IS INDEED THE MOST COST EFFECTIVE.

To: Al Adams, Chairman  
House Finance

From: Robert Bettisworth

Subj: House Committee Substitute, Senate Bill 348 (HCSSB348) Budget  
analysis, \$350,000 supplemental appropriation, Line 14, (2),  
Section 1.

Purpose: Intense lobby and public information effort, United  
States Senate, re Export Administration Act amendment and/or  
postponement.

Date: February 14, 1984

#### Background

The Export Administration Act, created in 1969 and twice extended for five years ...in 1974 and again in 1979...was conceived at times when there were severe shortages of crude oil in the United States.

Among other provisions, this national law prohibits the export of ANY Alaska crude oil. Alaska's 1.6 million bbl/d of Arctic crude can be sold only in the continental United States. Because of an oil glut on the West Coast, most of that 1.6 million bbl/d production has to be shipped through Panama and back north again to Galveston and other points on the Gulf Coast. There simply are not enough buyers on the West Coast. New crude oil supplies from off shore California are expected into the markets in the near future thus pushing more of the Alaska crude away from West Coast refineries to more distant refineries in eastern and gulf United States locations. This export ban is an onerous restriction. It's not in the best interest of America. It causes Alaska hardship in that Alaska can not go to the free market to get the best return on the sale of our valuable natural hydrocarbon resource.

The request for funds to help publicize Alaska's plight came late in 1983 and again in January 1984 from United States Senator Frank Murkowski. He has asked the State to help him educate certain United States Senators and their constituencies in this very unfair condition.

Senator Murkowski has been able to postpone action from the September 1, 1983 "roll-over" date for the Export Act to late winter or, with luck, early spring. This delay in the vote is allowing the Senator time to talk to his colleagues. It also has granted time for the Senator to put forward an amendment to the Export Act that would allow for the export of a limited amount of Alaska crude.

But the Senator needs help. One significant role the State can play is funding the "education" effort.

## The Program

### Targeted States

Nineteen Senators in 17 States should be the targets of personal lobby efforts with intensified public education to those Senators' constituents and thought leaders. Senators Murkowski and Stevens already have assigned staff persons to contact staff persons in those key offices.

### Education of Constituencies (including editorial boards)

Newspaper, television and radio ads are common public relations tools. Another tool is direct mail with messages to thought leaders, elected officials, special interest groups, and to editorial boards of key newspapers in the targeted area.

## PROGRAM SUPERVISION

The chairmen of the House and Senate Resources Committees would supervise the solicitation of contractor bids, execution of any contracts or agreements, and completion of the program. The chairmen of these respective committees would also be responsible for a complete accounting any funds expended.

It is the desire of the Legislature that the actual execution of the public education program be under the direct supervision of John Katz, chief counsel to the Governor of Alaska stationed in Washington, D.C. Mr. Katz is tracking this issue on a day-to-day basis and has experienced similar efforts by the State of Alaska in such an educational effort in the U.S. Congress in past years.

BUDGET  
HCSSB 348, Supplemental Appropriation  
to  
Senate/House Resources Committees  
(Line 14, (2) Sec. 1)

|    |  |          |
|----|--|----------|
| 1. | Media relations (visit media) . . . . .          | \$25,000 |
| 2. | Direct Mail . . . . .                            | 150,000  |
| 3. | Press kits, production and distribution. . . . . | 30,000   |
| 4. | Staff coordination, oversight. . . . .           | 13,000   |
| 5. | Professional services (est.). . . . .            | 50,000   |
| 6. | Miscellaneous and contingency . . . . .          | 5,000    |
| 7. | Audio-visual production, Distribution            |          |
|    | Videotape . . . . .                              | 30,000   |
|    | Radio . . . . .                                  | 22,000   |
| 8. | Brochures and other printed materials . . . . .  | 25,000   |

TOTAL

\$350,000

# BUILDERS & CONTRACTORS SERVICE

2124 Hillcrest Place  
Anchorage, Alaska 99503  
(907) 276-4618

Contractor Claims  
Construction Management  
Appraisal Estimates

Quantity Surveys  
Estimates  
Bid Preparation

March 9, 1983

Olympic Inc.  
171 Muldoon Road  
Anchorage, Alaska

ATTENTION: Mr. Pete Zamarello

REFERENCE: Buckner Building - Whittier, AK

SUBJECT: Preliminary Project Review - Cost Estimate

Gentlemen:

At your request, per the commission given us, we have made a complete review, on a preliminary basis, of the above reference structure.

Our commission, as we understand it, is to provide you with cost figures in two parts, as follow:

1. Remodeling and conversion of the existing building, to be used as a correctional facility.
2. A remodeling of the existing facility, including new ventilation and heating systems and electrical systems. In addition, new elevators, new roofing, new flooring, new ceiling systems and a number of new partitions. Additionally,, per your instructions, we have included costs for restoration of the building exterior, as well as, additions for a six lane bowling alley and bakery, a sixteen bed hospital and a new dining area/kitchen facility.

Our review anticipates that any and all work which would be done would meet existing state and local codes.

The figures we have arrived at, are based upon the preliminary sketches, pictures and numerous meetings with your company.

Due to the fact that we did not have definitive, exact drawings from which to work, our price must be considered preliminary and in this regard, we are providing you a cost range for each item. Our estimates are as follows:

1. For remodel and conversion to a correctional facility, our cost estimate range is \$23,725,000 to \$25,100,000.
2. For remodeling and additions as noted above, our cost estimate range is \$18,650,000 to \$19,800,000.

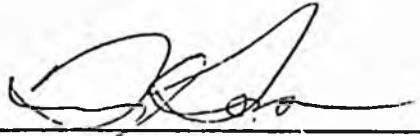
If we can be of further assistance or should you wish a more exact cost estimate after development of drawings, we would be pleased to provide them for you.

Attached is our billing, which we forward with this report, for payment.

Thank you for using our services.

Very truly yours,

BUILDERS AND CONTRACTORS SERVICE



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Terry Gorsuch

TG: jw

Enc.

MSG 84-00013296 PRTY 1 02/14/84 10:35:58 ORIG: LA02 IN= 0007 OUT= 0035  
FROM: MARCIE, ANC INFO TO: MESSAGE, JUNEAU INFO  
TARGET: LJHK SUBJ: MESSAGE FOR HOUSE FINANCE COMMITTEE

\*\*\*\*\* ATTENTION JUNEAU INFO \*\*\*\*\*

PLEASE CALL AND SEE THAT REPRESENTATIVE ADAM'S OFFICE HAS THE FOLLOWING  
MESSAGE IN TIME FOR HOUSE FINANCE COMMITTEE MEETING AT 1:30 PM TODAY.  
THANK YOU AND PLEASE ACKNOWLEDGE.

TO: REPRESENTATIVE AL ADAMS, CHAIRMAN, HOUSE FINANCE COMMITTEE  
ROOM 507, CAPITOL BUILDING (FOR 1:30 PM MEETING 2/14/84) 465-3724

FROM: BEAUX MULLENIX, CITY MANAGER, CITY OF WHITTIER  
P O BOX 608, WHITTIER 99693 H 472-2337 W 472-2327

AS A RESULT OF A TELECONFERENCE LAST EVENING BETWEEN REPRESENTATIVES  
FURNACE AND WARD AND CITIZENS OF WHITTIER, ALASKA, THE MAYOR AND THE CITY  
COUNCIL OF WHITTIER OPPOSE THE LOCATION OF THE STATE PRISON IN WHITTIER  
BY A COUNT OF 8 TO 1. PEOPLE TESTIFYING IN TELECONFERENCE ALSO OPPOSED  
LOCATION OF PRISON IN WHITTIER.

EOM

Introduced: 1/9/84  
Referred: Health, Education & Social  
Services and Finance

Funding Information  
General Fund \$25,000,000  
Other Funds -0-  
\$25,000,000

1 IN THE HOUSE

BY FURNACE AND COWDERY

2

HOUSE BILL NO. 463

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act making a special appropriation to the Department of Health and Social Services to construct a prison in Whittier; and providing for an effective date."

7

8

9

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

11

\* Section 1. The sum of \$25,000,000 is appropriated from the general fund to the Department of Health and Social Services to construct a prison in Whittier.

14

\* Sec. 2. The appropriation made by this Act is for a capital project and is subject to AS 37.25.020.

15

16

\* Sec. 3. This Act takes effect immediately in accordance with AS 01.-10.070(c).

17



Original sponsors: Martin and  
Pettisworth

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR HOUSE BILL NO. 466 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to appropriations to and fiscal  
7 procedures of the University of Alaska; and providing  
8 for an effective date."

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

10 \* Section 1. AS 37.07.080(e) is amended to read:

11 (e) Transfers or changes between objects of expenditures or  
12 between allocations may be made by the head of a state agency upon  
13 approval of the division. However, transfers or changes between  
14 objects of expenditures or between allocations may be made by the  
15 Board of Regents of the University of Alaska in accordance with proce-  
16 dures established by the Board of Regents and the Office of Management  
17 and Budget. Transfers [NO TRANSFERS] may not be made between  
18 appropriations except as provided in an act making the transfers  
19 between appropriations.

20 \* Sec. 2. AS 37.07.080 is amended by adding a new subsection to read:

21 (i) Notwithstanding (h) of this section, the increase of an  
22 appropriation item based on additional federal or other program re-  
23 ceipts not specifically appropriated may be expended by the Board of  
24 Regents of the University of Alaska in accordance with procedures  
25 established by the Board of Regents and the Office of Management and  
26 Budget.

27 \* Sec. 3. AS 37.25 is amended by adding a new section to read:

28 Sec. 37.25.040. APPROPRIATIONS FOR ORGANIZED RESEARCH. (a) An  
29 appropriation to the University of Alaska for organized research is

1 valid for the duration of the project and the unexpended balance for  
2 the project shall be carried forward to subsequent fiscal years.

3 (b) Between July 1 and December 30 of each fiscal year the Board  
4 of Regents shall file with the Department of Administration a state-  
5 ment of the amount of the unexpended and unobligated balance of appro-  
6 priations to be carried forward to the next fiscal year under this  
7 section.

8 (c) This section applies only to appropriations specifically  
9 designated by the legislature to be for organized research and subject  
10 to this section.

11 \* Sec. 4. This Act takes effect immediately in accordance with AS 01.-  
12 10.070(c).  
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STATE OF ALASKA  
THE LEGISLATURE  
LEGISLATIVE AFFAIRS AGENCY

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

MEMORANDUM

November 3, 1983

SUBJECT: Dedication of interest earned on University of  
Alaska investments  
(Work Order No. 13-1543)

TO: Representative Terry Martin

FROM: Keith B. Levy *KBL*  
Legislative Counsel

Enclosed is a revision of Work Order 13-1543, relating to the fiscal procedures of the University of Alaska. At your request, I have included in section two of this draft a provision allowing interest earned on University investments to be deposited directly into the University of Alaska working capital reserve fund (AS 14.40.296) without an appropriation from the legislature. You should be aware that this provision may be in violation of the prohibition against dedicated funds in the Constitution of the State of Alaska.

Article IX, section 7 of the state constitution provides:

The proceeds of any state tax or license shall not be dedicated to any special purpose, except as provided in section 15 of this article [the Alaska Permanent Fund] or when required by the federal government for state participation in federal programs. This provision shall not prohibit the

Representative Terry Martin  
Page 2  
November 3, 1983

continuance of any dedication for special purposes existing upon the date of ratification of this section by the people of Alaska.

Thus, the state constitution prohibits the dedication of certain state revenues to any special purpose except for three specific exceptions: the Alaska Permanent Fund, participation in federal programs, and funds grandfathered in at the time the constitution was adopted. It seems clear that the provision in your bill requiring the dedication of interest income does not fall into any of the exceptions expressly provided for in the dedicated funds clause.

Two questions are presented by your bill with respect to the dedicated funds clause. First, is interest income a "state tax or license" within the meaning of article IX, section 7 of the state constitution such that the dedicated funds clause applies at all? Second, does depositing that interest income into the University of Alaska working capital reserve fund so that it may be used without an appropriation by the legislature amount to a dedication to a special purpose?

The meaning of "state tax or license":

In a recent decision, the Supreme Court of Alaska considered whether certain mandatory tax assessments to be paid directly to private aquaculture associations amounted to a "state tax or license" that would invoke the dedicated funds clause. State v. Alex, 646 P.2d 203 (Alaska 1982). Concluding that the assessment did come within the ambit of the dedicated funds provision, the court cited 1975 Alaska Op. Atty. Gen. No. 9 with approval:

...it is our conclusion that the dedication of any source of public revenue: tax, license, rental, sale, bonus-royalty, royalty, or whatever is limited by the state Constitution to those

existing when the Constitution was ratified or required for participation in federal programs. (Emphasis added.)

Alex, supra, at 210. This language indicates that the Supreme Court takes a very broad view of the kinds of revenue that amount to a state tax or license within the meaning of the dedicated funds provision. Accordingly, there is a strong possibility that the Court would consider interest income a state tax or license that may not be dedicated to a special purpose under the state constitution. Since the issue has not been placed squarely before the Court, however, it remains an open question.

The dedication of interest income to a revolving fund:

Last year, the Attorney General released an opinion providing a well reasoned thorough discussion of the dedicated funds clause. 1982 Alaska Op. Atty. Gen. No. 13. That opinion specifically discusses the second question raised by your bill: the applicability of the dedicated funds clause to interest income that is returned to a revolving fund. The opinion acknowledges that an argument could be made that placing interest generated by a fund back into the fund without an appropriation by the legislature does not violate the purpose of the dedicated funds clause: to allow the legislature to retain control of state revenues. However, the Attorney General reached the following conclusion with which I agree:

A difficulty that arises from the view that the dedicated funds prohibition is not applicable to interest or investment income on separate funds is that it permits steadily increasing amounts of money to be received and used by state departments and agencies without legislative control through the annual budget process. This is precisely the problem posed by the dedication of revenue sources

Representative Terry Martin  
Page 4  
November 3, 1983

which the drafters [of the state constitution] sought to avoid. For this reason, while we are not certain about the likely outcome, we doubt that a blanket exception for derivative income would be approved by the courts.

1982 Alaska Op. Atty. Gen., No. 13 at 16. Thus, in light of the significant amounts of interest generated by various state funds and the broad view of the dedicated funds clause taken by the Supreme Court, the dedication of interest income to the University of Alaska working capital reserve fund is at least open to constitutional attack.

Moreover, your bill may present an even greater constitutional problem than that discussed in the Attorney General's opinion. This is because the Attorney General's opinion considered only the dedication of the interest earned from a particular fund to that fund itself. Section 2 of your bill differs, however, in that it would dedicate the interest earned on all investments made by the University of Alaska to the working capital reserve fund. Thus, the relationship between the fund and the interest income which the Attorney General considered significant seems to be lacking.

In conclusion, while the applicability of the dedicated funds clause to interest income remains undecided, there are strong indications that such a dedication of funds may be unconstitutional. As an alternative, the legislature might consider including a provision in the annual budget bill appropriating all interest income earned on funds held by the University of Alaska to the working capital reserve fund. This would not guarantee that the interest would be appropriated to the fund in future years, but it would provide that money to the university on an annual basis and also circumvent the constitutional problem.

KBL:ojb  
J1/d014  
Enclosure

# MEMORANDUM

# State of Alaska

TO: Jay Hogan, Associate Director  
Division of Budget Review  
Office of Management & Budget  
Office of the Governor

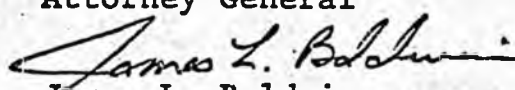
DATE: January 12, 1984

FILE NO: 366-588-83

TELEPHONE NO: 465-3600

FROM: Norman C. Gorsuch  
Attorney General

SUBJECT: University of Alaska  
investment power re  
interest income

  
By: James L. Baldwin  
Assistant Attorney General  
Governmental Affairs-Juneau

This memorandum responds to a request for opinion made by your predecessor dated April 19, 1983. Our advice was requested concerning the status of receipts earned by the University of Alaska, and the treatment of interest income earned by the University of Alaska through the deposit of those receipts in an interest bearing account. We believe that certain funds held by the university may be invested and the legislature may appropriate interest as a source of funding separate from the state general fund. However, the investment power of the university does not extend to money which represents unrestricted state revenue appropriated to the university.

Specifically, you have asked "what authority is there to treat interest income as a program receipt?" The term "program receipts" is not defined by law. That term has been used to describe a source for certain appropriations included in the executive budget. Generally, the money is paid to a state agency by a third party in trust, for a specific purpose, or as a custodian, or as a consequence of authorized activities of the agency. For most executive branch agencies, receipts are paid monthly into a program receipts account within the state treasury (also referred to as the "general fund"). Each fiscal year the legislature appropriates money based on estimates contained in the governor's budget. If program receipts exceed the estimates, the agency may expend the money only after it submits a revised program for approval by the office of management and budget. AS 37.07.080(h). These appropriations are considered made from a funding source other than the general fund. However, the designation of program receipts as a separate source of funding in the executive budget is not appropriate for all of that revenue. Rather, some of the revenue can properly be considered separate because it is held in trust or as a custodian. The remainder must be considered unrestricted revenue: that is, the money is not held by the state as custodian nor held in trust for a specific purpose but is available for appropriation for any purpose.

Generally, program receipts are accounted for as a separate funding source for either of the following two reasons:

(1) by doing so the amount of general fund expenditures appears to be reduced without reducing spending; and (2) an agency can be encouraged to capture program receipts which it might otherwise lose for lack of a proper incentive. Unrestricted revenue in the form of program receipts should not be considered to be a separate funding source from other unrestricted revenue because to do so creates the same conditions for which the dedicated fund prohibition (Alaska Const. art. IX, § 7) was adopted to prevent.

You next ask whether certain sources of cash payments to the university are "property of the university or under state control." The university apparently retains all receipts from tuition, dormitory fees, rental income earned on university land, and private endowments given to the university. The university deposits these receipts without segregation in an investment account established by the university. The university considers all receipts generated by the operation of its programs to be property which may be segregated from the state treasury.

Generally, the dedication of state revenue is prohibited by article IX, section 7 of the Alaska Constitution. In State v. Alex, 646 P.2d 203 (Alaska 1982), the Alaska Supreme Court interpreted article IX, section 7 so that the dedication of any source of public revenue is prohibited. Certain exceptions to this prohibition are recognized, including pledges of revenue made to secure revenue bond financing. This type of dedication is enforceable because it is made by bond covenants which create a contractual relationship between the parties. For similar reasons, certain receipts from property held in trust may be segregated and expended only in accordance with terms of the trust. All other receipts of the university raised by operation of some general law become state public funds. Navajo Tribe v. Arizona Dept of Administration, 528 P.2d 623 (Ariz. 1974). Unless provided otherwise, these public funds should be promptly remitted to the state treasury where they are in the custody and under the control of the commissioner of revenue. AS 37.10.050; see also Opinion of the Justices, 134 N.E.2d 892 (Mass. 1956) (interpreting a state constitutional provision identical to the provisions of AS 37.10.050(a)).

Interest income earned from investment of university trust property may be appropriated as program receipts from a separate fund. Clearly, the university has the power to "invest ... money ... received from sources other than the state legislature or federal appropriations for the purpose of the University of Alaska, its adornment, or the aid or advantage of students or faculty ...." AS 14.40.250 (emphasis added). While the wording of the statute is ambiguous, we believe that the words "for the

Jay Hogan, Associate Director  
Office of Management & Budget  
366-588-83

January 12, 1983  
Page #3

purpose of the University of Alaska, its adornment, or the aid or advantage of students or faculty" defines and limits the investment authority of the board of regents as to trust property. The exclusion of money received from the state legislature or federal appropriations probably applies to unrestricted revenue sources and is consistent with the provisions of AS 37.07 and AS 37.10. Investment of program receipts which are the source of appropriations made by the legislature is the responsibility of the Department of Revenue. AS 37.10.070.

The university may not deposit program receipts, which represent unrestricted revenues of the state, in interest bearing, federally insured accounts for safekeeping unless a statute is enacted which specifically provides for that power. The power of the university to manage its finances and property is subject to control by the legislature through the enactment of statutes. Alaska Const. art. VII, § 2; see also University of Utah v. Board of Examiners, 295 P.2d 348 (Utah 1956). The public finance laws of the state contemplate centralization of the investment of surplus state money in the Department of Revenue. AS 37.10.070(a). The legislature has specified by law certain institutions or instruments in which state money may be invested. In its defense, the university maintains that it is conservatively investing the cash "float" from various funding sources. However, nothing in law prevents this investment strategy from changing. A further expansion of the power to invest surplus state money without adequate provisions to govern this activity will increase the opportunity for diversion or mismanagement.

Unless AS 14.40.250 is amended to allow the university to retain and invest unrestricted revenues appropriated as program receipts, it must pay all cash earned by operation of general law directly to the Department of Revenue. The university must draw on appropriations of program receipts from the Department of Revenue in the same manner as other executive branch agencies. The request to expend interest income derived from receipts which are attributed to income earned from the investment of appropriated money should be denied. These receipts must be paid into the state treasury.

Finally, you have asked if provisions which set the rules for the lapse of appropriations apply to the university. We believe that AS 37.25.010 and 37.25.020 apply to the university in the same manner as other state agencies with one exception. Appropriations from segregated trust or custodial property of the university expire as provided by law but lapse into the separate funds of the university rather than the state treasury.

JLB/pjg



UNIVERSITY OF ALASKA  
Statewide System of Higher Education  
Fairbanks, Alaska 99701

January 26, 1984

MEMORANDUM

TO: Jay Barton  
President

FROM: Astrid de Parry  
General Counsel *Astrid de Parry*

RE: House Bill No. 466

The purpose of this memorandum is to provide a general overview of the laws and customs relating to the fiscal procedures of the University of Alaska. In particular, this memorandum will attempt to address some of the significant legal issues and public policy considerations surrounding House Bill No. 466. Accordingly, this memorandum is divided into five major sections as follows: (1) a description of House Bill No. 466; (2) a statement of the issues presented; (3) an historical overview of pertinent legislation and related matters; (4) a discussion of the issues presented; and, finally, (5) a summary analysis of the foregoing.

I. House Bill No. 466

House Bill No. 466, entitled "An Act relating to appropriations to and fiscal procedures of the University of Alaska; and providing for an effective date," consists of six sections as follows:

Section 1 would amend AS 14.40.250 by deleting the phrases "from sources other than legislature or federal appropriation" and "under this section," and by substituting the phrase "any source" for the phrase "sources other than the state legislature or federal appropriation." The purpose of these amendments is to clarify and underscore the fiduciary responsibility of the Board of Regents to properly administer all funds and other property of the University of Alaska.

Section 2 would amend AS 14.40.296(a) by adding the phrase "interest income from investments made by the Board of Regents under AS 14.40.250 and . . . ." The purpose of this amendment is to provide explicit statutory authority for the Board of Regents to supplement the legislatively created working capital reserve fund with the proceeds of excess interest income generated

" UNIVERSITY OF ALASKA

Memo to Jay Barton

January 26, 1984

Page 2

pursuant to the Board of Regents' investment programs under AS 14.40.250.

Section 3 would amend AS 37.07.080(e) by adding the following sentence: "However, transfers or changes between objects of expenditure or between allocations may be made by the Board of Regents of the University of Alaska in accordance with procedures established by the Board of Regents and the Office of Management and Budget." The purpose of this amendment is to provide explicit statutory authority for the Office of Management and Budget to review and approve procedures established by the Board of Regents concerning transfers or changes between objects of expenditure or between allocations.

Section 4 would amend AS 37.07.080 by adding a new subsection as follows:

(i) Notwithstanding (h) of this section, the increase of an appropriation item based on additional federal or other program receipts not specifically appropriated may be expended by the Board of Regents of the University of Alaska in accordance with procedures established by the Board of Regents and the Office of Management and Budget. Expenditures under this subsection shall be reported in writing to the Legislative Budget and Audit Committee by the Board of Regents.

The purpose of this amendment is to provide explicit statutory authority for the Board of Regents to expend "additional federal or other program receipts" received by the University in excess of the budgeted amounts reflected in the annual general appropriation bill. In addition, the amendment provides explicit statutory authority for the Office of Management and Budget to review and approve procedures established by the Board of Regents concerning the expenditure of excess program receipts.

Section 5 would amend AS 37.25 by adding a new section as follows:

Section 37.25.040. Appropriations for the University of Alaska.

(a) The unexpended balance of an appropriation to the University of Alaska from program receipts shall be carried forward to subsequent fiscal years.

(b) An appropriation to the University of Alaska specifically designated by the legislature to be for

UNIVERSITY OF ALASKA

Memo to Jay Barton.

January 26, 1984

Page 3

organized research and subject to this section is valid for the duration of the project and the unexpended balance for the project shall be carried forward to subsequent fiscal years.

(c) Between July 1 and December 30 of each fiscal year the Board of Regents shall file with the Department of Administration a statement of the amount of the unexpended and unobligated balance of appropriations to be carried forward to the next fiscal year under this section.

(d) In this section and AS 37.07.080(i), 'program receipts' means revenue from all sources including tuition, fees, rents, investment income, sales, overhead recovery, and payments from other sources including boroughs, municipalities, private individuals, corporations and trusts, and the federal government, but not including the general fund.

The purpose of this amendment is to codify, as permanent law, the legislature's recent practice of adopting substantially similar statements of "legislative intent" regarding annual appropriations to the University of Alaska. In addition, this section provides a much needed definition for the term "program receipts," and specifically acknowledges that unexpended program receipts "appropriated" to the University shall be carried forward to the same extent as unexpended program receipts generated in excess of the budgeted amounts.

Section 6 provides an immediate effective date.

## II. Issues Presented

There are at least four significant questions of constitutional magnitude implicit in House Bill No. 466 as follows:

1. Does HB 466 violate the constitutional prohibition against dedicating "the proceeds of any state tax or license . . . to any special purpose. . . ."? (Constitution, Article IX, Section 7.)
2. Does HB 466 violate the constitutional prohibition against withdrawing money from the state treasury "except in accordance with appropriations made by law."? (Constitution, Article IX, Section 13.)

3. Does HB 466 impermissibly infringe upon the Board of Regents' constitutional mandate to govern the University of Alaska? (Constitution, Article VII, Section 3.)
4. Does HB 466 unconstitutionally divest the University of Alaska of its "title to all real and personal property now or hereafter set aside for or conveyed to it."? (Constitution, Article VII, Section 2.)

### III. Historical Overview

The University of Alaska, as the designated land-grant institution for the State of Alaska, is a unique product of both state and federal law. Most of the 69 existing land-grant colleges and universities were established in the mid-19th century pursuant to the Morrill Act of 1862 (a time when Alaska was still a Russian enclave). Under the Act, Congress granted certain federal lands to each state in the union for the purpose of establishing ". . . at least one college where the leading object shall be . . . to teach such branches of learning as relate to agriculture and the mechanical arts." In 1915, Congress granted certain federal lands to the Territory of Alaska so that it too could establish and support an "Agricultural College and School of Mines" (Act of March 4, 1915, Ch. 181, §2, 38 Stat. 1215). In 1929, the federal government granted additional lands to the Territory of Alaska for the exclusive use and benefit of the Agricultural College and School of Mines (Act of January 21, 1929, Ch. 92, §§1-7, 45 Stat. 1091-1093). Effective July 1, 1935, the territorial legislature reconstituted the Alaska Agricultural College and School of Mines as a body corporate to be known as the "University of Alaska," and to be governed by a Board of Regents who were empowered to ". . . have the care, control and management of all the real and personal property and all monies of the said University. . . ." (§37-10-6 ACLA 1949; now amended and codified at AS 14.40.170; see generally, Chapter 10 of Title 37 of the Alaska Compiled Laws Annotated, 1949.)

For the next twenty years, the University of Alaska enjoyed the curious distinction of being the only territorial agency or instrumentality which operated on the federal fiscal year. (§37-10-4(e) ACLA 1949.) Presumably, this distinction was necessitated by the fact that the University's major source of financial support was the federal government. Even though the Treasurer of the Territory was designated as the initial recipient of any federal land-grant college funds belonging to the University, he was obliged to pay over all such funds to the Treasurer of the Board of Regents upon requisitions duly signed by the President and the Secretary of the Board. (§37-10-4(a)

ACLA 1949.) The Board of Regents was authorized to "requisition" federal funds and territorial appropriations on a quarterly basis. (§37-10-4(f) ACLA 1949.) In addition, the Board of Regents was ". . . authorized and empowered to receive, manage, and/or invest monies or other property, real, personal or mixed which may be given, bequeathed, devised, or in any manner received from sources other than the Legislature of the Territory of Alaska, or any federal appropriation for the purpose of the University, its improvement or adornment, or the aid or advantage of students or faculty, and, in general, to act as trustee on behalf of the University of Alaska for all of said purposes or objects." (§37-10-20 ACLA 1949; now amended and codified at AS 14.40.250.)

In 1955, the territorial legislature enacted the "Fiscal Procedures Act of 1955," which is substantially the same as the present statutory provisions. The declared purpose of the Act was ". . . to provide uniform financial procedures for all Territorial agencies with respect to budgetary, accounting, purchasing, post auditing, and related financial procedures; and to revise financial procedures for the purpose of securing economy, efficiency, and integrity in handling public monies." (§2, Art. I, Ch. 82 SLA 1955.) The definitions section of the Act defined the terms "Territorial Agencies," "Agencies" and "Departments" or "like terms" to mean "all departments, officers, institutions, boards, commissions, bureaus, divisions, or other administrative units forming the Territorial Government of Alaska." (§3, Art. I, Ch. 82 SLA 1955.) The 1955 territorial legislature also changed the University's fiscal year to a July 1 through June 30 basis, rather than the federal fiscal year. Two years later, the 1957 territorial legislature enacted a provision subjecting the University to the competitive bid practices set forth in the Fiscal Procedures Act of 1955. (§1, Ch. 86 SLA 1957.) They also amended the definitions section of the Fiscal Procedures Act to include the Alaska Pioneers Home (but not the University of Alaska) as a covered "Territorial Agency" for purposes of the Act. (§§1, 2, Ch. 186, SLA 1957.) Thus, it appears reasonably clear that the 1955 and 1957 territorial legislatures specifically intended to exempt the University from all provisions of the Fiscal Procedures Act except for those dealing with competitive bid practices.

On November 8, 1955, a constitutional convention was convened on the campus of the University of Alaska in College, Alaska. The delegates' simple and forthright treatment of the University of Alaska is now contained in sections 2 and 3 of Article VII of the Alaska Constitution. Unlike boards or commissions heading up the "executive and administrative offices, departments, and agencies of the state government," the Board of Regents was expressly

UNIVERSITY OF ALASKA

Memo to Jay Barton  
January 26, 1984  
Page 6

authorized to appoint the President of the University without the prior review or approval of the Governor. (Compare Constitution Art. III, §§22 and 26, with Art. VII, §3.) Indeed, the Alaska Supreme Court later ruled that the University was not an "agency" or "department" of the "state government" within the meaning of Article III, Section 22 of the Constitution and AS 44.15.010. The Court held that the University, as a constitutional corporation, ". . . is an instrumentality of the sovereign which enjoys in some limited respects, a status which is co-equal rather than subordinate to that of the executive or the legislative arms of the government." University of Alaska v. National Aircraft Leasing Limited, 536 P.2d 121, p. 128, May 30, 1975.

For the first eighteen years following statehood, the legislature scarcely changed any of the substantive statutory provisions originally enacted by the territorial legislatures pertaining to the University of Alaska. Thus, for nearly two decades, the University of Alaska continued to enjoy and exercise considerable autonomy from the executive branch of government and remained relatively free from undue interference by the legislative branch. All this changed dramatically in 1977 when the legislature adopted a series of sweeping amendments which gravely challenged the Board of Regents' constitutional governance prerogatives. In particular, the legislature amended both the Fiscal Procedures Act and the Executive Budget Act to extend the scope of those provisions to the University of Alaska. (Ch. 46 SLA 1977.) The following year, the legislature attempted to wholly divest the University of its federal land-grant holdings. Shortly thereafter, the University filed suit against the State of Alaska, challenging those recent enactments which infringed upon the Board of Regents' governance authority and deprived the University of its vested property rights. Later, the University agreed to voluntarily dismiss most of its claims, without prejudice, on the understanding that the legislature would promptly consider appropriate statutory revisions. Regrettably, however, this never came to pass and, instead, the University has attempted to regain some measure of fiscal autonomy by an informal process of "working understandings" with key legislators and commissioners, sometimes reflected in statements of "legislative intent."

In the interim, the University has endeavored to regain the respect and confidence of concerned state officials through a conscientious program of strict fiscal controls, including reasonable and prudent cash management procedures. The University's efforts have been rewarded by certain legislators, such as Representative Martin, who are now seeking to relax some of the more onerous restrictions placed on the University in

UNIVERSITY OF ALASKA

Memo to Jay Barton.

January 26, 1984

Page 7

1977. At the same time, however, there appear to be other state officials who would like to completely divest the University of all of its treasury functions. In essence, they are suggesting that the Board of Regents should entrust all funds belonging to the University to the state Departments of Revenue and Administration. The practical effect of this would be to transform the University of Alaska into a mere "agency" or "department" of the executive branch.

#### IV. Discussion

Some commentators have suggested that HB 466 may be constitutionally suspect as an impermissible dedication of funds or an improper withdrawal of funds from the state treasury. In my opinion, HB 466 does not violate either §7 or §13 of Art. IX of the Alaska Constitution. On the other hand, I believe that HB 466 may impermissibly infringe upon the Board of Regents' constitutional governance authority in violation of Art. VII, §3. Furthermore, there may be some question concerning whether HB 466 impairs the University's vested property rights in violation of Art. VII, §2. On balance, however, I am persuaded that HB 466 passes constitutional muster and should be supported as a reasonable and prudent compromise measure.

With respect to the dedicated funds issue, please be advised that there is no Alaska case law authority directly on point. Some commentators have suggested that the Alaska Supreme Court's opinion in the case of State of Alaska, et al. v. Alex, et al., 646 P.2d 203 (Alaska 1982), is dispositive. I disagree. The Alex decision invalidated a so-called "mandatory assessment" which was unquestionably a barely disguised "tax or license" within the meaning of Art. IX, §7 of the Alaska Constitution. More importantly, I believe that the Supreme Court had to overturn the challenged assessment because the statute, which purported to authorize private aquaculture associations to collect mandatory assessments on the sale of salmon by commercial fishermen, clearly constituted an invalid delegation of the legislature's taxing power in violation of Art. IX, §§1 and 2 of the Alaska Constitution.

The constitutional prohibition against dedicated funds has been the subject of numerous opinions of the Attorney General. By and large, they are not particularly instructive, except as a guide to the political exigencies of the day. There is one opinion, however, which merits serious attention. That is, a November 30, 1982, opinion written by then-Attorney General Wilson Condon. Among other things, Mr. Condon wrote that: ". . . a very good case can be made that the present language of Art. IX, §7 must be read to include certain implied exceptions, such as those that

UNIVERSITY OF ALASKA

Memo to Jay Barton  
January 26, 1984  
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are set out in the January 4 PAS memorandum, i.e., pension contributions, proceeds from bond issues, sinking fund receipts, revolving fund receipts, contributions from local government units for state/local cooperative programs, and tax receipts which the state might collect on behalf of local government units." (1982 Op. Atty. Gen. No. 13 at 11.) This interpretation appears to have good support in the records of the Alaska Constitutional Convention Proceedings. Mr. Condon also suggested that: "A strong argument can be made that money once appropriated, regardless of the mechanism utilized, loses its character as revenue for the purpose of dedicated funds prohibition because the purpose of the prohibition, i.e., that the legislature retain control over state revenues has been satisfied." (1982 Op. Atty. Gen. No. 13 at 13.)

In my opinion, HB 466 does not violate the constitutional prohibition against dedicated funds for the following reasons:

1. With the possible exception of certain federal land-grant college funds (i.e., "Morrill-Nelson" grants in aid), no "program receipts" generated by the University have ever been treated as "public revenues," or been deposited in the state treasury. (Note that all other federal grant and contract monies are paid directly to the University.) Furthermore, with respect to the "Morrill-Nelson" funds, the state acts as a mere custodian or transfer agent for the University. It does not own these funds. Rather, all federal land-grant college funds and other program receipts are the rightful property of the University of Alaska.
2. The dedicated funds prohibition only extends to "the proceeds of any state tax or license." It is highly unlikely that the constitutional framers intended to include "program receipts," as defined in HB 466, within the scope of the dedicated funds provision. In fact, they specifically rejected an earlier draft which spoke to "all public revenues," in favor of the current language which is limited to "the proceeds of any state tax or license."
3. Assuming, arguendo, that the constitutional framers truly intended to encompass every conceivable source of "public revenues," they clearly did not intend to ". . . prohibit the continuance of any dedication for special purposes existing upon the date of ratification of this section by the people of Alaska." (I.e., April 24, 1956.) Recall that the University of Alaska retained virtual fiscal autonomy until as late as 1977, and that the pre-ratification statutory scheme unequivocally vested absolute title, management, and control of all University property in the Board of Regents.

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In light of the foregoing, it is equally clear that HB 466 does not violate the constitutional prohibition against withdrawing money from the state treasury except through appropriations made by law. Since "program receipts" generated by the University have never been "deposited" in the state treasury, they cannot be "withdrawn" from the state treasury. [Similarly, to the extent that the University has generated and retained program receipts in excess of legislatively "appropriated" amounts, those funds are not subject to lapse under AS 37.25.010, since the excess amounts were never "appropriated" to the University in the first place.] Recall that the pre-1977 statutory provisions expressly authorized the Board of Regents to "requisition" all funds belonging to the University, including both state and federal appropriations, on a quarterly basis. (This is still true for some federal land-grant college funds, but state general funds are now drawn on a monthly basis.) I am reasonably confident that the University never even lapsed any general fund monies to the state before fiscal year 1977-78. At most, the Board of Regents may not have requisitioned every last penny of general fund monies appropriated to the University in any given year.

Not true.  
See Front.  
S.A.A.

Due to the press of other urgent business, I will not be able to discuss fully my concerns regarding the potential constitutional infirmity of HB 466 from the perspective of the Board of Regents' governance authority and the University's vested property rights. Briefly stated, however, I am more concerned about the former than the latter. To the extent that HB 466 grants explicit statutory authority for the Office of Management and Budget to review and approve fiscal procedures adopted by the Board of Regents, the bill creates the potential for a significant constitutional crisis. So long as the Board and OMB are able to reach a mutually satisfactory accord, the problem may never materialize. If, however, the parties cannot reach agreement, what happens then? In this regard, please be advised that several state supreme courts (eg., California, Minnesota, Mississippi, Montana, Nebraska, New Mexico, etc.) have invalidated similar state laws as unconstitutional intrusions upon the governance authorities of higher education boards. [See, especially, Board of Regents of the University of Nebraska v. Exon, 199 Neb. 146, 256 N.W.2d 330 (1975); and, Board of Regents of Higher Education v. Judge, 168 Mont. 433, 543 P.2d 1323 (1975).]

V. Summary

In conclusion, I believe that the University's present practices in managing its total current funds are entirely consistent with the dictates of common sense and the requirements of law. Inasmuch as HB 466 is designed to codify the University's present

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informal "working understandings" as permanent law, I urge its passage. At the same time, I would not oppose efforts to place reasonable restrictions on the Board of Regents' investment authority, such as listing permissible investment vehicles. To the best of my knowledge and belief, the University has voluntarily limited its current funds investment program to very conservative and secure types of debt instruments. I can think of no particular reason why the Board of Regents would wish to venture into the stock or commodities markets at this time.

Please do not hesitate to call me if you have any questions or comments regarding these matters.

ADEP:MMZ,LSD

cc: Board of Regents  
Executive Vice President Sherman Carter  
Chancellors

Introduced: 1/9/84  
Referred: Health, Education &  
Social Services and Finance

1 IN THE HOUSE

BY MARTIN

2

HOUSE BILL NO. 466

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act relating to appropriations to and fiscal  
7 procedures of the University of Alaska; and providing  
8 for an effective date."

9

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

10

\* Section 1. AS 14.40.250 is amended to read:

11

Sec. 14.40.250. REGENTS TO ACT AS TRUSTEES AND ADMINISTER MONEY  
12 OR PROPERTY [FROM SOURCES OTHER THAN LEGISLATURE OR FEDERAL APPROPRI-  
13 ATION]. The Board of Regents may receive, manage, and invest money or  
14 other real, personal or mixed property in any manner received from any  
15 source [SOURCES OTHER THAN THE STATE LEGISLATURE OR FEDERAL APPROPRI-  
16 ATION] for the purpose of the University of Alaska, its improvement or  
17 adornment, or the aid or advantage of students or faculty, and in  
18 general, may act as trustee on behalf of the University of Alaska for  
19 any of these purposes. However, the regents shall make a written  
20 report to the legislature, in accordance with AS 14.40.190, as to the  
21 administration and disposition of funds received [UNDER THIS SECTION].

22

\* Sec. 2. AS 14.40.296(a) is amended to read:

23

(a) There is established in the treasury of the University of  
24 Alaska the University of Alaska working capital reserve fund. The  
25 fund consists of interest income from investments made by the Board of  
26 Regents under AS 14.40.250 and money appropriated by the legislature  
27 for the purpose of providing nonlapsing current working capital for  
28 the University of Alaska and is not available for appropriation by the  
29 Board of Regents.

1 \* Sec. 3. AS 37.07.080(e) is amended to read:

2 (e) Transfers or changes between objects of expenditures or  
3 between allocations may be made by the head of a state agency upon  
4 approval of the division. However, transfers or changes between  
5 objects of expenditures or between allocations may be made by the  
6 Board of Regents of the University of Alaska in accordance with proce-  
7 dures established by the Board of Regents and the Office of Management  
8 and Budget. No transfers may be made between appropriations except as  
9 provided in an act making the transfers between appropriations.

10 \* Sec. 4. AS 37.07.080 is amended by adding a new subsection to read:

11 (i) Notwithstanding (h) of this section, the increase of an  
12 appropriation item based on additional federal or other program re-  
13 cepts not specifically appropriated may be expended by the Board of  
14 Regents of the University of Alaska in accordance with procedures  
15 established by the Board of Regents and the Office of Management and  
16 Budget. Expenditures under this subsection shall be reported in  
17 writing to the Legislative Budget and Audit Committee by the Board of  
18 Regents.

19 \* Sec. 5. AS 37.25 is amended by adding a new section to read:

20 Sec. 37.25.040. APPROPRIATIONS FOR THE UNIVERSITY OF ALASKA.

21 (a) The unexpended balance of an appropriation to the University of  
22 Alaska from program receipts shall be carried forward to subsequent  
23 fiscal years.

24 (b) An appropriation to the University of Alaska specifically  
25 designated by the legislature to be for organized research and subject  
26 to this section is valid for the duration of the project and the  
27 unexpended balance for the project shall be carried forward to subse-  
28 quent fiscal years.

29 (c) Between July 1 and December 30 of each fiscal year the Board

1 of Regents shall file with the Department of Administration a state-  
2 ment of the amount of the unexpended and unobligated balance of appro-  
3 priations to be carried forward to the next fiscal year under this  
4 section.

5 (d) In this section and AS 37.07.080(i) "program receipts" means  
6 revenue from all sources including tuition, fees, rents, investment  
7 income, sales, overhead recovery, and payments from other sources  
8 including boroughs, municipalities, private individuals, corporations  
9 and trusts, and the federal government, but not including the general  
10 fund.

11 \* Sec. 6. This Act takes effect immediately in accordance with AS 01.-  
12 10.070(c).



Original sponsors: Fritz, Clocksin and  
McBride by request

Funding Information  
General Fund \$115,900  
Other Funds - 0 -  
\$115,900

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 470 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act making a special appropriation to the Depart-  
7 ment of Education, Alaska Historical Commission to  
8 produce a documentary film relating to the participa-  
9 tion of Alaska in World War II; and providing for an  
10 effective date."

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

12 \* Section 1. The sum of \$115,900 is appropriated from the general fund  
13 to the Department of Education, Alaska Historical Commission to prepare and  
14 distribute a comprehensive documentary film history of the participation of  
15 Alaska in World War II.

16 \* Sec. 2. The unexpended and unobligated portion of the appropriation  
17 made by this Act lapses into the general fund June 30, 1986.

18 \* Sec. 3. This Act takes effect immediately in accordance with AS 01.-  
19 10.070(c).

PROPOSED HOUSE FINANCE COMMITTEE SUBSTITUTE FOR HB 470

|   |           |
|---|-----------|
| <u>Citizens Advisory Committee</u>  | \$10,000. |
| <u>Search for available film</u>  |           |
| Project Manager: Travel, equivalent to two trips Anchorage<br>- Washington, D. C. and return                  | \$ 2,000. |
| Per diem 20 days @ \$80.  | \$ 1,600. |
| Cost of prints of selected film (probably 3/4" video tape)<br>for review and editing: 60,000 ft @ 60¢/ft      | \$36,000. |
| <u>Review and editing of film to be used</u>  |           |
| Say: 10,000 feet. 3 persons, 10 day @ \$150/da  | \$ 4,500. |
| Synchronization of sound. 10,000 feet @ \$1/ft  | \$10,000. |
| <u>Preparation of script</u>  | \$ 5,000. |
| <u>Taking new film</u>  |           |
| Say 12,000 feet. 4 persons 20 days @ \$150/da   | \$12,000. |
| Per diem 4 x 20 80 =  | \$ 6,400. |
| Cost of 12,000 feet new film (3/4" Video tape)<br>@ 50¢/ft  | \$ 6,000. |
| Processing and synchronization of sound on 12,000 feet<br>@ 60¢/ft  | \$ 7,200. |
| <u>Editing, cutting and final synchronization of sound</u>  |           |
| 22,000 feet cut to 12,000 feet film probably 3/4" video<br>tape @ 60¢/ft                                      | \$ 7,200. |
| Final editing, including preparation of titles, accreditation,<br>background music, etc., of finished product | \$ 5,000. |
| <u>Audio equipment</u>  |           |
| Audio equipment, including color TV for showing film<br>to Citizens Advisory Committee and others             | \$ 3,000. |

TOTAL

\_\_\_\_\_

\$115,900.

Alaska State Legislature

REP. MAE TISCHER  
CHAIRMAN



POUCH V  
STATE CAPITAL  
JUNEAU, ALASKA 99811  
(907) 465-3777

March 7, 1984

House of Representatives  
HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

LETTER OF INTENT FOR SPONSOR SUBSTITUTE FOR HOUSE BILL 470

Sponsor Substitute for House Bill 470, "An Act making a special appropriation to the Department of Education, Alaska Historical Commission to produce a documentary film relating to the participation of Alaska in World War II; and providing for an effective date," has been introduced on behalf of the veterans of World War II.

In adopting this legislation, the Legislature intends that the funds provided by SSHB 470 be used by the Department of Education, Alaska Historical Commission to prepare, or to authorize and coordinate preparation by others of, a comprehensive documentary film on Alaska's role in World War II; that the Alaska Historical Commission create an advisory committee of veterans and other interested persons to assist in the planning and production of the film; that the Commission shall provide at least six copies of the film to the state historical library for permanent record; and that the state should retain all copyright interests in the film. In carrying out this mandate, the Alaska Historical Commission may give financial support to, and otherwise cooperate with, active and retired members of the Armed Forces of the United States, Canada and Japan, and with others, in the production of the film, using materials available from existing sources as well as additional visual material as may be found appropriate.

The Legislature recognizes that today Alaska continues to suffer from the same lack of appreciation and understanding as was the case when the state was purchased in 1867. The Aleutian Campaign of World War II, once referred to as the "forgotten front," could well become just that -- forgotten. It is therefore important for the state to increase the public's awareness of Alaska's role in the war.

Mae Tischler  
Rich Uhler  
\_\_\_\_\_

Michael Davis  
Terry Anderson  
\_\_\_\_\_

Star Route Box 670  
Anchor Point, AK 99556  
26 March 1984

Representative Albert R. Adams  
Chairman House Finance Committee  
Pouch V  
Juneau, AK 99811

Dear Mr. Adams:

Separately I have sent a copy of the testimony I would like to give in person before your committee in support of SSHB 470 pertaining to the production of a visual history of World War II in Alaska. The shortage of time since I received notification of the time of the hearing has prevented me from giving it in person.

I believe this is a good project and one that needs to be carried out because so few people really know what happened in Alaska during World War II. Also it will make it possible for us to record both the contribution and the sacrifices that our native people made during that historic period.

Your support of this project would be greatly appreciated.

Most sincerely,



B. B. Talley  
Brig. Gen. USA-Ret.

P.S. Please tell your committee that although I will do what I can to make this production a success, I will not accept pay for anything that I may do except for reimbursement of per diem and travel expenses according to state law.

Star Route Box 600  
Anchor Point, AK 99556  
26 March 1984

Lt. Governor Stephen McAlpine  
Lt. Governor's Office  
State Capitol Building  
Juneau, AK 99811

Dear Sir:

I have just prepared an estimate of the cost of the comprehensive visual history of World War II in Alaska and have submitted it to Juneau. I have asked that a copy of this be shown to you in advance of the meeting of the House Finance Committee on 27 March.

Your support of this worthy project is appreciated, and I hope that you will be able to express the same support before the House Finance Committee in its hearing March 27 as you expressed before the Health, Education and Social Services Committee two weeks ago.

Sincerely yours,

  
B. B. Talley  
Brig. Gen. USA-Ret.

COMPREHENSIVE VISUAL HISTORY OF WWII IN ALASKA  
(SSHB 470)

Statement prepared by Brig. Gen. B. B. Talley, USA-Ret., for the Finance Committee of the Alaska House of Representatives, Juneau, March 27, 1984

The estimate of cost of production of a comprehensive visual history of World War II in Alaska is based on the assumption that the Alaska Historical Commission of the Department of Education will provide a grant for the production.

The details of the production assignment will be developed with the Alaska Historical Commission in Anchorage upon approval of SSHB 470. There have been a series of conferences with Mr. William S. Hanable of the Alaska Historical Commission at Anchorage, and a meeting with Lt. Governor Stephen McAlpine concerning the scope and the methodology of working with the Alaska Historical Commission in the production of the visual history. No difficulty is foreseen in achieving a satisfactory working arrangement with the Alaska Historical Commission.

A Citizens Advisory Committee consisting of between 5 and 7 members appointed by the Lt. Governor who is the Chairman of the commission would provide guidance for the production.

The visual history would be comprehensive and would include the utilization of selected portions of motion picture film made by the Army, including the Army Air Corps, the Navy, the Coast Guard and others, including newsreels. Selection would be made by service representatives wherever possible with narration to be by qualified veterans of WWII in Alaska to the extent feasible. The advanced age of many of these veterans emphasizes the importance of producing this documentary without further undue delay.

In addition, selected veterans would be invited to return to some of the important battle sites, as for example, Dutch Harbor, Kiska and Attu to

describe the action in which they participated more than 40 years ago.

The documentary film can include the use of Japanese film already in the possession of the United States, as may be pertinent and appropriate. It may be possible to obtain other Japanese film, perhaps with narration by Japanese veterans. In 1982, the two Japanese officers who led the first two flights in the attack on Dutch Harbor returned by invitation to Unalaska Island to join with U. S. and Canadian armed forces and Aleuts in the dedication of a common memorial to all who lost their lives in the Aleutians. This participation was well received both in Alaska and in Japan. There are indications that we might obtain further participation by the Japanese.

This documentary gives us an opportunity to record with appropriate recognition the contribution and sacrifice our native population made during WWII. Both Aleut and Eskimo representatives should be involved in the production.

There is an abundance of Army, Navy and Air Corps film available at the National Archives. The U. S. Army maintains its records at an Army depot in Pennsylvania from which it is obtainable.

My office of the Army Corps of Engineers made extensive film, and when I recently discussed it with Lt. Gen. Joseph K. Bratton, Chief of Engineers, his reaction was expressed in a simple question: "What can I do to help?" As a result of this conversation, he immediately took action to release a copy of the Corps film we requested, and it is presently at the office of the Alaska District Engineer, Anchorage. It is in color and is in excellent condition.

The material is available. The job is to locate it, review it to determine its suitability, select what can be used and have professionals put it together into a single narrative. Additional film will be required to fill in the gaps

where they may occur.

In addition to its historical value, the film should be a vehicle for showing the people in the South 48 and our government officials in Washington why Alaska should be dealt with defensively directly from Washington rather than as a subordinate command under an intermediate headquarters.

The job must be done right. If it is not done now, it may never be done.

Two years should be ample to do the job. Here follows an estimate of its cost.

It is regretted that I am unable to present this estimate in person.

ESTIMATE OF COST

COMPREHENSIVE VISUAL HISTORY OF WWII IN ALASKA

UNDER SSB 470

This estimate is based on the following:

Production shall be financed by a grant from the Department of Education operating through the Alaska Historical Commission

Time of completion: 30 June 1986

A Citizens Advisory Committee of adequate size and qualifications shall be appointed by the Lt. Governor to monitor the production on a continuing basis in the manner of a corporate board of directors. It is suggested that this committee be no larger than seven nor smaller than five.

The members of the Citizens Advisory Committee shall serve without pay but will receive per diem and travel expenses as provided by Alaska state law.

COST

Citizens Advisory Committee

16 meetings, average attendance 5 members, 3 days

Per diem  $3 \times 80 \times 16 \times 5 =$  \$ 19,200

Travel (mean)  $5 \times 200 \times 16 =$  16,000

Search for available film

Project Manager: Travel, equivalent to two trips Anchorage

- Washington, D. C. and return 2,000

Per diem 20 days @ \$80 1,600

Cost of prints of selected film (probably 3/4" video tape)

for review and editing: 60,000 ft @ 60¢/ft 36,000

Review and editing of film to be used

Say: 10,000 feet. 3 persons, 10 days @ \$150/day \$ 4,500

Synchronization of sound. 10,000 feet @ \$1/ft 10,000

Preparation of script 5,000

Taking new film

Say 12,000 feet. 4 persons 20 days @ \$150/day 12,000

Per diem 4 x 20 x 80 = 6,400

Cost of 12,000 feet new film (3/4" video tape) @ 50¢/ft 6,000

Processing and synchronization of sound on 12,000 feet  
@ 60¢/ft 7,200

Editing, cutting and final synchronization of sound

22,000 feet cut to 12,000 feet film probably 3/4" video  
tape @ 60¢/ft 7,200

Final editing, including preparation of titles, accredi-  
tation, background music, etc., of finished product 5,000

Audio equipment

Audio equipment, including color TV for showing film  
to Citizens Advisory Committee and others 3,000

Operating costs

Personnel (Project Manager, clerical, etc.,) rental of  
office, office equipment; telephone; office supplies;  
transportation to the Aleutians 100,000

Total \$ 241,100

Contingency 8,900

Total SSHB 470 \$ 250,000

Alaska State Legislature

REP. MAE TISCHER  
CHAIRMAN



POUCH V  
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March 7, 1984

House of Representatives  
HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

LETTER OF INTENT FOR SPONSOR SUBSTITUTE FOR HOUSE BILL 470

Sponsor Substitute for House Bill 470, "An Act making a special appropriation to the Department of Education, Alaska Historical Commission to produce a documentary film relating to the participation of Alaska in World War II; and providing for an effective date," has been introduced on behalf of the veterans of World War II.

In adopting this legislation, the Legislature intends that the funds provided by SSHB 470 be used by the Department of Education, Alaska Historical Commission to prepare, or to authorize and coordinate preparation by others of, a comprehensive documentary film on Alaska's role in World War II; that the Alaska Historical Commission create an advisory committee of veterans and other interested persons to assist in the planning and production of the film; that the Commission shall provide at least six copies of the film to the state historical library for permanent record; and that the state should retain all copyright interests in the film. In carrying out this mandate, the Alaska Historical Commission may give financial support to, and otherwise cooperate with, active and retired members of the Armed Forces of the United States, Canada and Japan, and with others, in the production of the film, using materials available from existing sources as well as additional visual material as may be found appropriate.

The Legislature recognizes that today Alaska continues to suffer from the same lack of appreciation and understanding as was the case when the state was purchased in 1867. The Aleutian Campaign of World War II, once referred to as the "forgotten front," could well become just that -- forgotten. It is therefore important for the state to increase the public's awareness of Alaska's role in the war.

Mae Tischler

Rich Uehly

Michael Davis

Terry Anderson

A COMPREHENSIVE VISUAL DOCUMENTARY  
OF  
WORLD WAR II IN ALASKA

A joint production by the Alaska Veterans of World War II, assisted by contributions by the US Army, Navy and Air Force, together with the State of Alaska, the Air Force Association, et al.

Draft of Suggested Format  
Prepared by B. B. Talley

Background music.

Title and accreditation (Producer, Narrators, Contributors, etc.) Brief introduction by a distinguished Veteran.

PROLOGUE with voice off camera. On the screen flashes of motion pictures and projected stills, changing every 3 to 5 seconds.

Voice off camera:

"ALASKA. A land of inestimable beauty...Its Mountains (McKinley)..Its Rivers...Forests...Lakes: \_\_\_\_\_ of them...Farms in the Matanuska Valley...A Coastline of \_\_\_\_\_ miles...The Sea with its abundance of seafood: 35 million salmon alone caught in 1983...The Inside Passage (map) from Seattle to Skagway and to Haines...Its Cities (flash of Fairbanks, Anchorage, and perhaps Juneau)...Its vast natural resources: Oil...Coal... Timber...Gold and other rare metals...Its Industry: Mining... Forestry...Fishing...Construction...Its People (Indians... Eskimos...Aleuts...Sourdoughs...Business Men and Women. Truly a Great Land." (Total time from 3 to 5 minutes.)

On the screen: A map of Alaska superimposed on a map to the same scale, of the South 48 States, with Ketchikan over Jacksonville, FL, and Attu over (vicinity of) San Diego.

As the map is projected, a veteran walks on stage and speaks:

"When the United States purchased Russia's interests in Alaska in 1867, the American people called it 'Seward's Ice Box' or