

LEG. FINANCE	-	BILLS	1985	-	1986	2183
SB 105 cont.	-	SB 109				2183

ABSTRACT

THE LEGISLATURE IS REQUESTED TO EXTEND THE PALMER HAY FLATS STATE GAME REFUGE TO TAKE IN 916 ACRES OF WETLANDS ALONG THE GLENN HIGHWAY BY PURCHASE FROM WILLING SELLERS.

PARTS OF THIS OPEN AREA NEAR THE JUNCTION OF THE PARKS AND GLENN HIGHWAY ARE SCHEDULED FOR PRIVATE COMMERCIAL DEVELOPMENT. CURRENTLY, SEVERAL LAND OWNERS ARE CONSIDERING FILLING THE MARSHES FOR A TRUCK CARGO TRANSFER YARD, A RETAIL STORE BUILDING, A GRAVEL AIRSTRIP AND A 30-ACRE CAMPER PARK. SUCH USES, HOWEVER, WOULD REDUCE FISH AND GAME POPULATIONS AND PUBLIC ACCESS IN AS PRODUCTIVE AN AREA AS PARTS OF THE ADJACENT STATE GAME REFUGE.

THE WETLANDS OF THE PROPOSED EXTENSION ARE MOST VALUABLE TO THE PEOPLE OF ANCHORAGE AND THE MAT-SU BOROUGH JUST AS THEY ARE. THE CREEKS THROUGHOUT THE AREA ARE MAJOR FRY REARING GROUNDS FOR SILVER SALMON. RABBIT SLOUGH NEAR WASILLA CREEK GETS UP TO 6,000 FISHERMAN-DAYS OF USE PER YEAR. HUNTERS GAIN ACCESS TO THE REFUGE ACROSS PRIVATE LAND THERE AT THE RATE OF ABOUT 2,000 USER-DAYS PER YEAR. SMALL GAME IS HARVESTED BY HUNTERS AND TRAPPERS. MOOSE WINTER AND CALVE IN THE AREA, AND LARGE BIRDS OF PREY ARE COMMON YEAR ROUND.

VARIOUS GROUPS HAVE EXPRESSED INTEREST IN KEEPING THE HAY FLATS OPEN FOR ESTABLISHED OUTDOOR USES. AMONG THEM ARE THE AD HOC COMMITTEE FOR THE PALMER HAY FLATS, MAT-SU CHAPTER OF DUCKS UNLIMITED, MAT-SU CHAPTER OF ALASKA FUR TRAPPERS ASSOCIATION, ANCHORAGE AUDUBON SOCIETY, AND THE ALASKA CENTER FOR THE ENVIRONMENT. THE MAT-SU BOROUGH, ALASKA STATE DEPARTMENT OF NATURAL RESOURCES, AND DEPARTMENT OF FISH AND GAME HAVE ALSO SHOWN SUPPORT OF STATE ACQUISITION OF THE AREA FROM WILLING SELLERS.

THE MINIMUM COSTS OF THE EXTENSION WOULD EQUAL \$535,000 (I.E. 1984 ASSESSED VALUATION) PLUS APPRAISAL FEES AND STAFF TIME. PRIVATE OWNERS IN THE AREA HOLD 786 ACRES ASSESSED AT \$470,300. THE MAT-SU BOROUGH OWNS 130 ACRES VALUED AT \$65,000. MANY OF THE 13 PRIVATE OWNERS ARE INTERESTED IN SELLING OR TRADING THEIR LAND. CURRENTLY, NO HOMES OR BUSINESSES EXIST IN THE PROPOSED EXTENSION.

PROPOSED LEGISLATION

THIS LEGISLATION WOULD EXTEND THE PALMER HAY FLATS STATE GAME REFUGE ALONG THE GLENN HIGHWAY TO TAKE IN AN ADDITIONAL 916 ACRES OF WETLANDS.

THE LEGISLATION WOULD BE IMPLEMENTED BY THE FOLLOWING MEANS:

- DIRECT THE DEPARTMENT OF NATURAL RESOURCES TO OFFER FAIR MARKET VALUE TO WILLING SELLERS AMONG THIRTEEN OWNERS OF 786 ACRES. OFFERS UNACCEPTED TWO YEARS AFTER THEY ARE TENDERED WILL BE WITHDRAWN. (TABLES 1 AND 2)
- DIRECT THE DEPARTMENT OF NATURAL RESOURCES TO OFFER STATE LAND IN TRADE FOR 130 ACRES OWNED BY THE MAT-SU BOROUGH. TRADES WOULD BE ON A DOLLAR-FOR-DOLLAR BASIS AND INVOLVE STATE LAND WITHIN THE MAT-SU BOROUGH.
- APPROPRIATE AT LEAST \$500,000 TO DEPARTMENT OF NATURAL RESOURCES FOR PURCHASES, APPRAISALS, AND SURVEYS. PARCELS SHOWN IN FIG. 1.
- TO PROTECT RESIDENTS ON THE BLUFF OVERLOOKING THE AREA, DISCHARGE OF FIREARMS NORTH OF THE RAILROAD TRACK IN THE PROPOSED EXTENSION WOULD BE DISALLOWED.
- THE ACQUIRED LAND WOULD BE MANAGED BY THE DEPARTMENT OF FISH AND GAME AS PART OF THE PALMER HAY FLATS STATE GAME REFUGE. SEE FIG. 2.

TABLE 1. LAND PARCELS IN PROPOSED GAME REFUGE EXTENSION

<u>R1ET17N PARCEL</u>	<u>OWNER</u>	<u>ACRES ON HAY FLATS</u>	<u>ON BLUFF</u>	<u>ASSESSED</u>
22 A2	Stanley Pleninger	16		\$ 8,100
22 A3	Lucille Martin	20	7	90,000
22 A4	c/o Bonnie McGee	38		19,000
22 B1	Jay Russell	100	8	54,000*
22 C1	Saxon Land Invest.	9		37,000
22 D1	Yvonne Cassity	151		75,500
27 A5	Painter's Local	34		17,000
27 A6	Ray Farrar	33.4		16,700
27 A9	Don Lyon	3		1,400
27 A10	KLH, Inc.	65		33,000
27 A11	Don Benson	86		42,000
27 B1	Glen Cope Estate	160		48,000
27 D2	Georgine Case	17.3		8,600
27 D3		0.3		100
27 D4	Tom Price	2		500
27 D5		51		18,400
	<u>Subtotal</u>	<u>786</u>		<u>\$470,300</u>
22 C2	Mat-Su Borough	82		
		<u>48</u>		
	<u>Subtotal</u>	<u>130</u>		<u>\$65,000</u>
	 TOTAL	 916 ACRES		 \$535,300

* Assessed value is land only; does not include SFD improvements on bluff portion of parcel

TABLE 2. PROPERTY OWNERS IN PROPOSED EXTENSION

<u>NAME AND ADDRESS</u>	<u>NOTES ON PROPERTY</u>
DONALD BENSON PO BOX 1330 PALMER AK 99645	HAS PERMIT FOR AIRSTRIP
GEORGINE CASE 2153 MANTZ STREET ASHLAND KENTUCKY 41101	UNDEVELOPED
YVONNE CASSITY 211 WEST COOK ANCHORAGE AK 99501	WAS INTERESTED IN DISCUSSING LAND TRADE WITH BOROUGH; TALKED TO MSB LAND MANAGER
GLEN COPE ESTATE C/O PO BOX 582 PALMER AK 99645	IN PROBATE; PUBLIC ACCESS FOR 8,000 ANNUAL USER-DAYS; ORAL EXPRESSION OF TRADE INTEREST BY HEIRS
RAY FARRAR 2508 STANLEY DRIVE ANCHORAGE AK 99502	ILLEGAL FILL FOR DEFUNCT SUBDIVISION
KLH, INC. PO BOX 858 PALMER AK 99645	UNDEVELOPED
DON LYON PO BOX 1525 EAGLE RIVER AK 99577	NEAR HIGHWAY PULL-OUT; ORAL EXPRESSION OF INTEREST IN BOROUGH TRADE
LUCILLE MARTIN C/O BONNIE MCGEE 4812 SUNDI DRIVE ANCHORAGE AK 99502	SWAMP AND CREEK AT JUNCTION OF PARKS AND GLENN HIGHWAY. PURCHASE WOULD REQUIRE LOT SPLIT
MATANUSKA-SUSITNA BOROUGH BOX B PALMER AK 99645	UNDEVELOPED; ROAD AND RAILROAD FRONTAGE
PAINTER'S LOCAL 1818 W. NORTHERN LIGHTS ANCHORAGE AK 99503	UNDEVELOPED
STANLEY PLENINGER 4159 HOOD STREET ANCHORAGE AK 99503	POSSIBLE TRUCK YARD ON SPRING CREEK AT HIGHWAY

NAME AND ADDRESSNOTES ON PROPERTY

TOM PRICE
SRA 375-C
ANCHORAGE AK

APPLIED TO ARMY CORPS ENGINEERS
TO FILL FOR 30-ACRE CAMPER
PARK; CONTACTED BOROUGH ABOUT
INTEREST IN LAND TRADE

JAY RUSSELL
BOX 870792
WASILLA AK 99687

NORTHERN CORNER OF PARCEL ON
BLUFF CONTAINS RESIDENCE;
MOST OF PARCEL IS ON SPRING CR.;
PURCHASE WOULD REQUIRE LOT SPLIT

SAXON LAND INVESTMENTS, LTD.
106 SOUTH MENTOR
PASADENA CALIF 91106

PLAN TO FILL SEVERAL "NON-WETLANDS"
ACRES NEAR HIGHWAY FOR RETAIL
BLDGS

BACKGROUND INFORMATION

HISTORY OF PROTECTION

- 1967 BOROUGH ZONES MOST OF PALMER HAY FLATS AS "RECREATIONAL."
- 1974 BOROUGH DENIES CHUGACH ELECTRIC ASSOCIATION TRANSMISSION LINE ACROSS FLATS FOLLOWING PUBLIC OBJECTIONS TO LINE.
- 1975 PALMER HAY FLATS STATE GAME REFUGE CREATED ON 26 SQUARE MILES OF STATE LAND (FIG. 2)
- 1983 PUBLICITY BEGINS OVER PLANS TO FILL IN PRIVATE WETLANDS.
- 1984
- JANUARY BOROUGH NOMINATES PALMER HAY FLATS AS "AREA MERITING SPECIAL ATTENTION" UNDER NEW COASTAL ZONE MANAGEMENT PLAN.
- MARCH PLANNING COMMISSION REFUSES TO ZONE MORE PRIVATE LAND ON PALMER HAY FLATS TO HALT COMMERCIAL USES.
- APRIL BOROUGH OFFERS TO TRADE FOR LAND ON HAY FLATS. MOST OWNERS EXPRESS INTEREST AT MEETING.
- APRIL EIGHT OWNERS OF LAND ON HAY FLATS INQUIRE TO WITH BOROUGH ABOUT TRADES (TABLE 3); SEPT. NO TRADES COMPLETED.
- JULY REX TURNER WITHDRAWS APPLICATION FOR FLOAT PLANE BASIN ON HAY FLATS IN FACE OF OPPOSITION IN BOROUGH.
- SEPT. 14 SENATOR KERTTULA SUGGESTS STATE ACQUIRE "PRIORITY" WETLANDS FROM WILLING SELLERS DURING MEETING WITH CITIZENS GROUP.
- SEPT. 17 DNR STAFF SUPPORTS PUBLIC ACQUISITION FROM WILLING SELLERS.
- SEPT. 18 BOROUGH ASSEMBLY WITHDRAWS OFFER TO TRADE.

TABLE 3. OWNERS INQUIRING WITH MAT-SU BOROUGH ABOUT
LAND EXCHANGES ON PALMER HAY FLATS

TERRY BEAL FOR F. BEAL

JERRY BROWN

YVONNE CASSITY

DON MCGEE FOR L. MARTIN

TOM PRICE

KAREN ROUSEY

CAROL STRAUN

JANET STOUT

VALUE OF PROPOSED EXTENSION TO PUBLIC

THE PRIVATE WETLANDS NEAR SPRING CREEK AND RABBIT SLOUGH ARE PRODUCTIVE IN FISH AND GAME, AND SUSTAIN HIGH LEVELS OF USES INCOMPATIBLE WITH COMMERCIAL DEVELOPMENT.

HUNTING AND FISHING

RABBIT SLOUGH GETS UP TO 6,000 FISHERMAN-DAYS PER YEAR (FIG. 3, TABLE 3). MOST OF THIS USE IS ANGLERS FROM ANCHORAGE AND VALLEY FISHING WITH PERMISSION ON PRIVATE LAND FOR SILVER SALMON AND DOLLY VARDEN TROUT (ADF&G ANNUAL REPORT, 1977-1983). IN ADDITION, RABBIT SLOUGH IS AN ACCESS ROUTE TO THE GAME REFUGE FOR DUCK HUNTERS AT THE RATE OF ABOUT 2,000 USER-DAYS PER YEAR (JACK DIDRICKSON, PALMER AREA GAME BIOLOGIST, ADF&G, PERSONAL COMMUNICATION).

THE PROPOSED EXTENSION AND ADJACENT PRIVATE LANDS ALSO CONTAIN PRODUCTIVE SMALL GAME HABITAT. SNOWSHOE HARES ARE ABUNDANT. AS IN 1983 AND 1984, THE AREA IS INTENSIVELY HUNTED (PERSONAL OBSERVATION). MOREOVER, SOME 50 PEOPLE TRAP FURBEARERS ON THE PALMER HAY FLATS (JIM RIESE, PRES., MAT-SU CHAPTER, ALASKA FUR TRAPPERS ASSOC.). AN UNKNOWN NUMBER OF THESE PERSONS TRAP PARTS OF THE PROPOSED GAME REFUGE EXTENSION. MOST OF THEM ARE TRESPASSING.

SALMON REARING

SPRING CREEK AND RABBIT SLOUGH ARE MAJOR REARING AREAS FOR SILVER SALMON FRY. TRAPPING DATA INDICATE LARGE NUMBERS OF YOUNG SALMON THROUGHOUT THE PROPOSED EXTENSION (TABLE 4 AND UNPUBLISHED DATA ADF&G, PALMER). SOME EGGS ARE SPAWNED THERE, BUT MOST FRY PROBABLY MIGRATE TO THE AREA FROM WASILLA CREEK AND THE MATANUSKA RIVER (LARRY ENGELS, PALMER AREA FISHERIES BIOLOGIST, PERSONAL COMMUNICATION). FRESHWATER SLOUGHS AND MARSHES ARE CRITICAL TO SILVER SALMON POPULATIONS BECAUSE THE FISH SPEND ABOUT HALF THEIR LIVES IN SUCH HABITAT.

AESTHETICS

NON-CONSUMPTIVE PUBLIC USE IS ALSO SIGNIFICANT ON THESE PRIVATE WETLANDS NORTH OF THE REFUGE. SEVERAL DOZEN BIRD WATCHERS FREQUENT THE SPRING CREEK AREA ANNUALLY (THEDE TOBISH, PRES., ANCHORAGE AUDUBON SOCIETY, PERSONAL COMMUNICATION). LARGE HAWKS AND OWLS ARE COMMON THERE YEAR ROUND, AND WATERBIRDS ARE NUMEROUS DURING MIGRATION.

TRAVELERS APPRECIATE THE AREA'S OPEN SPACE AS WELL. ON AN AVERAGE DAY, 10,000 VEHICLES CROSS THE PALMER HAY FLATS ON THE GLENN HIGHWAY. NO HOMES OR BUSINESSES EXIST ON THE PRIVATE LANDS AND THE AREA IS INDISTINGUISHABLE FROM THE ADJOINING GAME REFUGE. AS TWO MEMBERS OF THE BOROUGH ASSEMBLY NOTED, THE HAY FLATS IS THE "GATEWAY TO THE MATANUSKA VALLEY" AND THE LAST REMAINING BUFFER ZONE BETWEEN THE VALLEY AND ANCHORAGE.

TABLE 4. FISHING ON RABBIT SLOUGH (ADF&G ANNUAL REPORTS)

	<u>1977</u>	<u>1978</u>	<u>1979</u>	<u>1980</u>	<u>1981</u>	<u>1982</u>	<u>1983</u>
FISHING-DAYS	2805	3446	4024	5726	4019	6261	3239
NO. SILVER SALMON	472	2112	1211	3555	814	1624	345
NO. DOLLY VARDEN	328	325	364	189	690	1289	1290

PLANS TO FILL WETLANDS

DURING THE PAST YEAR, FOUR LAND OWNERS EXPRESSED PLANS TO FILL IN AREAS ALONG THE GLENN HIGHWAY ON THE PALMER HAY FLATS. SEE FIG. 4.

THOMAS PRICE OF ANCHORAGE APPLIED TO THE U. S. ARMY CORPS OF ENGINEERS TO FILL IN 30 ACRES OF WETLANDS ALONG RABBIT SLOUGH FOR A CAMPER PARK.

DONALD BENSON OF PALMER HAS AN ARMY CORPS OF ENGINEERS PERMIT TO CONSTRUCT A HALF-MILE LONG GRAVEL AIRSTRIP EXTENDING WESTWARD FROM THE GLENN HIGHWAY. THE FILL WOULD SUPPORT SHOP BUILDINGS AND A PARKING LOT NEAR THE HIGHWAY.

SAXON LAND INVESTMENTS, LTD., A HOLDING COMPANY ASSOCIATED WITH TURNER CONSTRUCTION CO. OF EAGLE RIVER, HAS PUBLICIZED PLANS TO FILL PARTS OF A NINE-ACRE PARCEL ADJACENT TO THE HIGHWAY FOR RETAIL BUILDING. THE ARMY CORPS OF ENGINEERS EARLIER DENIED PERMISSION TO FILL IN THE WETLANDS PORTION OF THIS SITE.

THE MAT-SU BOROUGH PLANNING STAFF SAYS IT WAS APPROACHED REGARDING THE PROPERTY OF STANLEY PLENINGER ON SPRING CREEK. AN AGENT WAS INVESTIGATING THE FEASIBILITY OF A CARGO TRANSFER YARD THERE. NO APPLICATIONS FOR WETLANDS FILL HAVE BEEN SUBMITTED SO FAR, HOWEVER.

Proposed extension of Palmer Hay Flats State Game Refuge

Fig. 1 Land owners

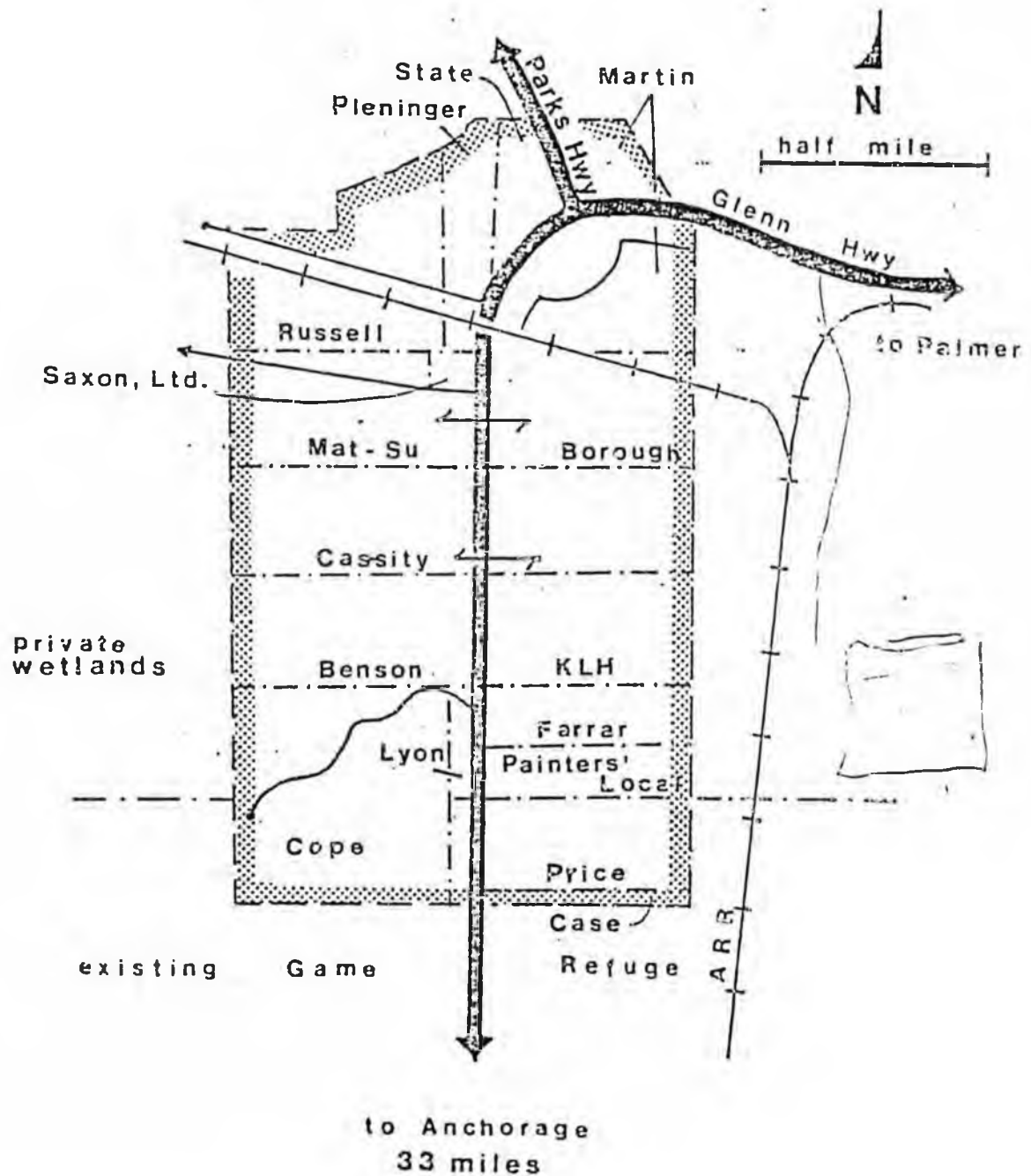
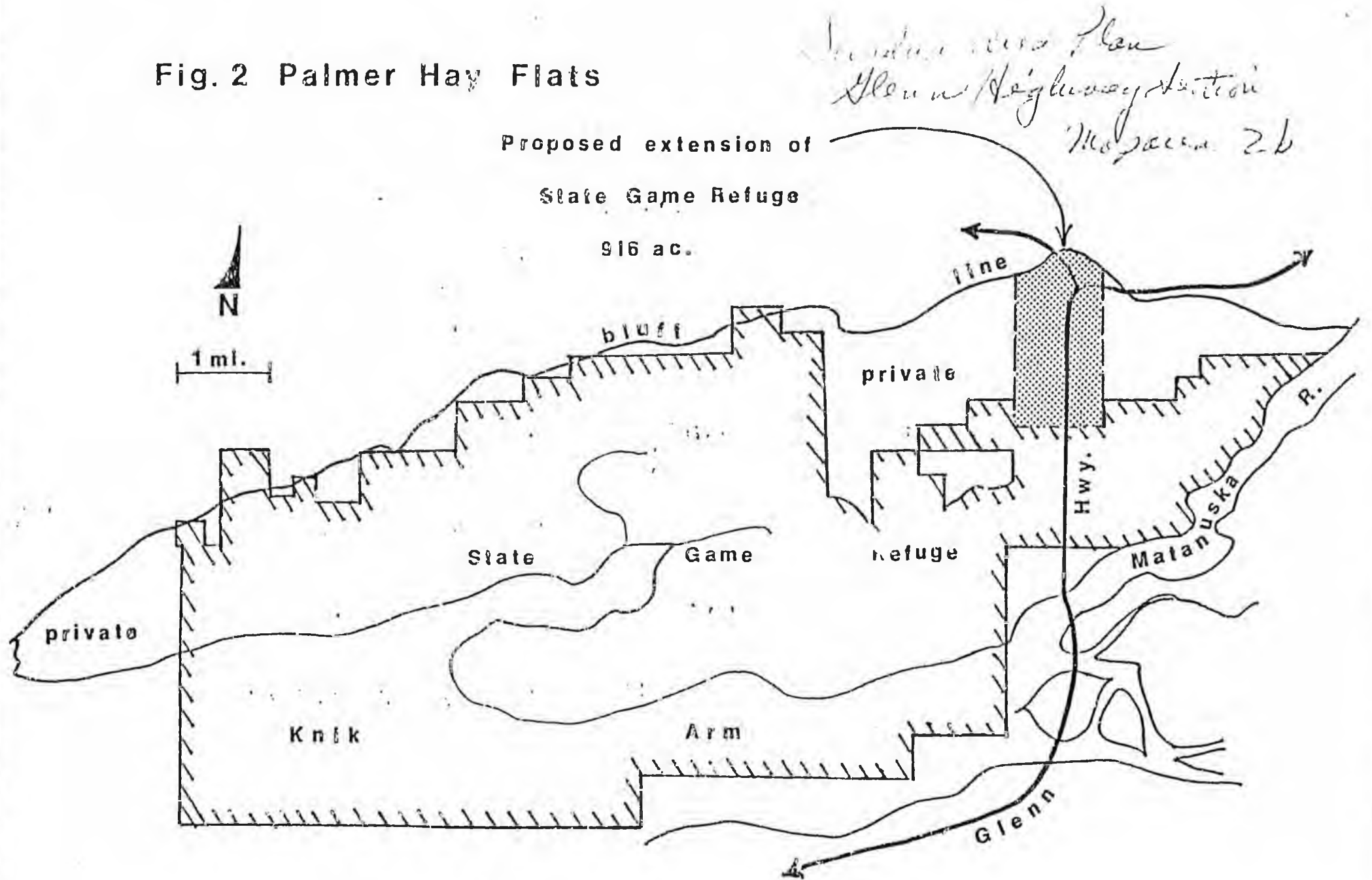


Fig. 2 Palmer Hay Flats

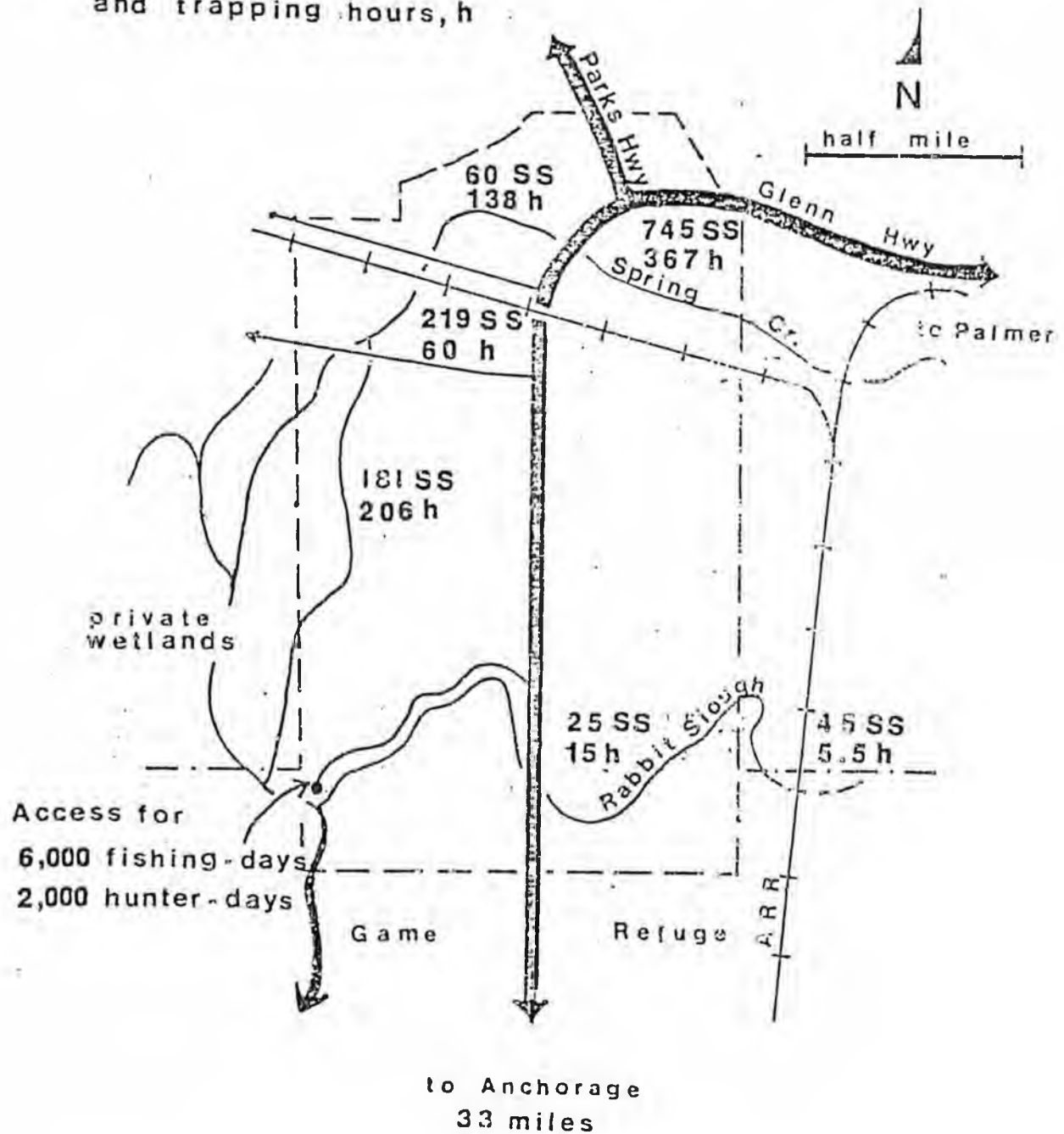


Proposed extension of Palmer

Hay Flats State Game Refuge

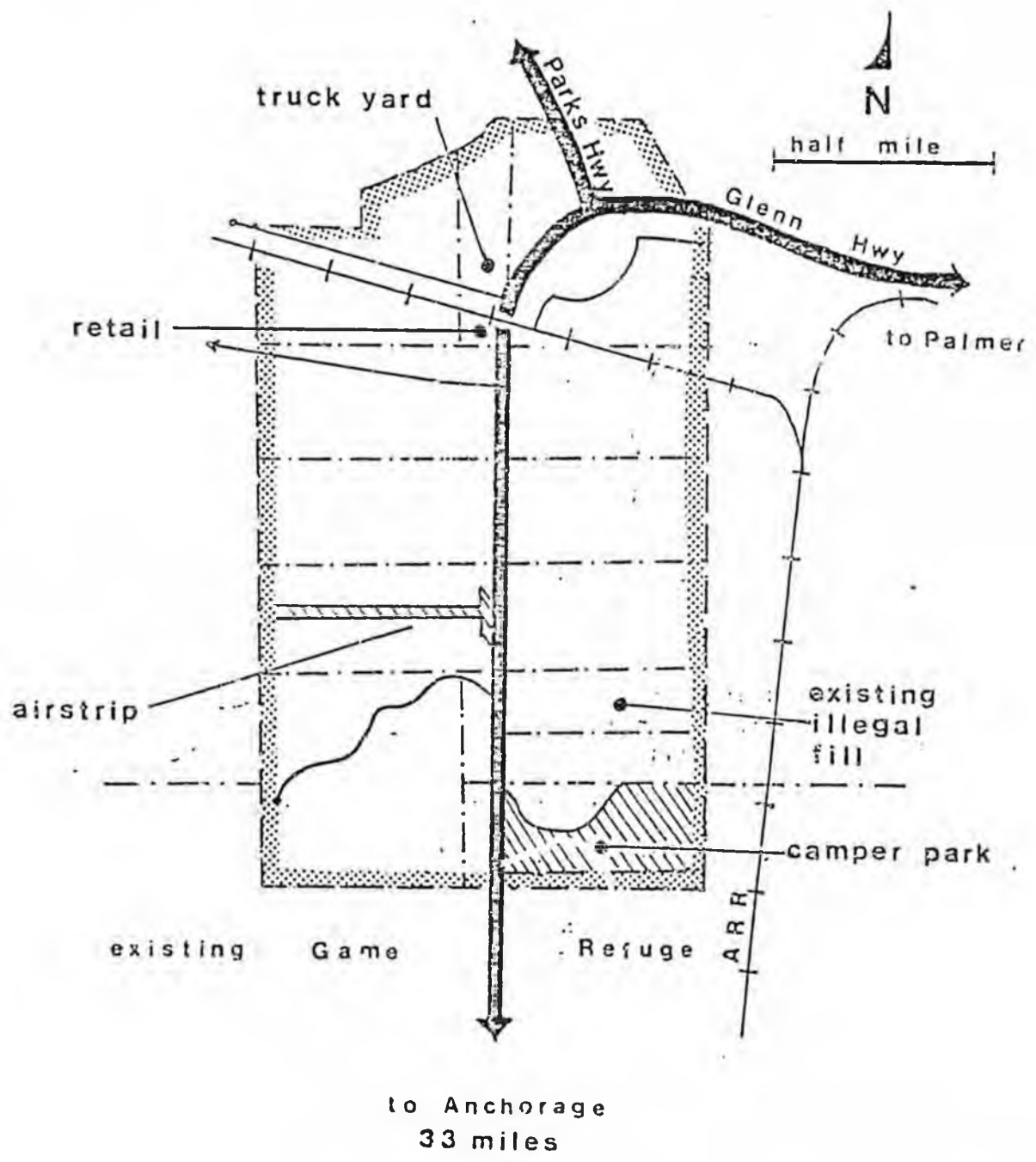
LIVE-TRAPPING DATA FROM STREAMS

Fig. 3 Silver salmon fry, SS,
and trapping hours, h



Proposed extension of Palmer Hay Flats State Game Refuge

Fig.4. Fill proposals



MATANUSKA-SUSITNA BOROUGH

RESOLUTION SERIAL NO. 85- 12

A RESOLUTION OF THE ASSEMBLY OF THE MATANUSKA-SUSITNA BOROUGH SUPPORTING THE EXTENSION OF THE PALMER HAY FLATS STATE GAME REFUGE AND THE INCLUSION WITHIN THE EXTENSION OF APPROXIMATELY 130 ACRES OF BOROUGH LAND

WHEREAS, the Palmer Hay Flats is the gateway to the Matanuska-Susitna Borough; and

WHEREAS, the Hay Flats is currently the home of many species of wildlife and is important to the fishery resources; and

WHEREAS, most of the land proposed for the extension of the Palmer Hay Flats Game Refuge is wet and unsuitable for development; and

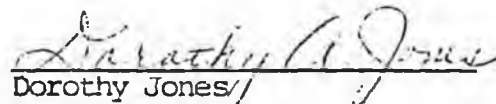
WHEREAS, this area receives intense recreational use throughout the year; and

WHEREAS, the State is in the process of trying to obtain funds to buy private property adjacent to the Flats in order to extend the refuge; and

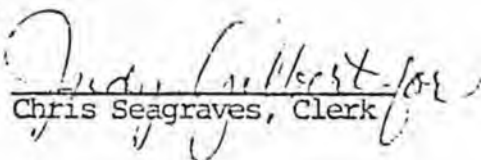
WHEREAS, the Assembly supports the extension of the refuge to ensure the open natural character of the land will remain as the gateway to the Borough.

NOW, THEREFORE, BE IT RESOLVED that if the State can obtain funds to buy private properties to extend the Palmer Hay Flats Game Refuge, the Borough will include, under State management, the 130 acres that

have been selected and conveyed to the Borough lying adjacent to the
Palmer Hay Flats Game Refuge.


Dorothy Jones/
Deputy Mayor

ATTEST:


Chris Seagraves, Clerk

REVIEWED AND APPROVED:


Gary Thurlow, Manager

MATANUSKA-SUSITNA BOROUGH

FEB 8 1985

BILL ANALYSIS

Bill No. <u>SB 105</u>	Sponsor <u>Kerttula</u>
Borough Position <u>Support</u>	Borough Contact Person <u>Rob Stickles</u>

Similar Bills <u>None</u>	Conflicting Bills <u>None</u>
Organizational Support <u>ADF&G</u> <u>Local Groups</u>	Organizational Opposition <u>Unknown</u>

Fiscal Impact On Borough		<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Operating _____	Capital _____		

Proposed Amendments:
NONE

Comments:

The Assembly passed a resolution that will allow for the donation of 135 acres of Borough land to the expanded Palmer Hay Flats State Game Refuge if this legislation passes. Copy of resolution attached.

February 6, 1985

FEB 12 1985

Senator Arliss Sturgulewski
Chairman Resources Committee
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Dear Senator Sturgulewski:

It is with a deep sense of urgency that I request your full support for passage of Senate Bill No. 105, introduced by Senator Kerttula.

I have lived in the Matanuska Valley for seven years and have grown to deeply appreciate the many values associated with the Palmer Hay Flats area. As a daily commuter to Anchorage, the "flats" provides an oasis of aesthetic quality in what otherwise has become a 45 mile strip development. Coincidentally, it is the safest part of the trip due to the lack of development. Any development along this single lane stretch of the Glenn Highway would create a horrendous safety hazard.

As a consumptive user of the fish and wildlife resources of this great state, I have become intimately familiar with those resources in the "flats" area. I have also seen the number of other users increase tremendously the past few years. Not only hunters, fishermen and trappers, but general recreationists as well. A great number of these users are Anchorage residents and non-residents. As you are well aware, the degree of access is a key factor to recreational use in any area. The location of the "flats" is ideal for serving well over 50% of the recreational users in the state. I, as well as others, especially enjoy the area as a place to share these experiences with our children without making a major expedition. It is also an ideal educational area and is used as such by local educators. Concurrent, with the rapid development in the valley, I have seen fish and wildlife resource habitats dwindle, thereby enhancing the importance of remaining areas, such as the Palmer Hay Flats.

As a business owner in Palmer, I have enjoyed watching the valley grow and have shared in some of the associated benefits. I have also experienced a growing concern that we are destroying many of the qualities which make the valley so attractive. This is due to a large extent by our failure to recognize these qualities and place them in a proper perspective, equal to strictly economic interests.

in view of declining state revenues, the relatively small cost associated with protecting a natural resource of this importance and magnitude is a bargain that should not be ignored.

Your support for this bill will help assure preservation of this beautiful natural area for the enjoyment of untold numbers of future Alaskans.

Sincerely,



Gary Stackhouse

cc: all Resources Committee members

FEB 14 1985

P.O. Box 873496
Wasilla, AK 99687
Feb. 7, 1985

Senator Arliss Sturgulewski
State Capitol
Pouch V
Juneau, AK 99811

Dear Senator Sturgulewski:

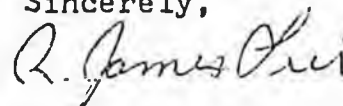
Senate Bill 105, an important first step in allowing for expansion of the Palmer Hay Flats State Game Refuge, will come before your committee for consideration. I urge you to support this bill.

As you may know, SB 105 would authorize land trades and buyouts of privately held land within a 910-acre strip running south along the Glenn Highway from the Parks Highway intersection. As an amateur ornithologist, I am a frequent visitor to the Hay Flats. It is what we call in the trade a "birding hot spot." Waterfowl and shorebirds by the thousands use this area as both a breeding and feeding grounds.

I feel that commercial development in the area covered by SB 105 would adversely affect the potential recreational birding opportunities both within the 910-acre site and in adjacent land. I, for one, would not look forward to viewing the backs of supermarkets and gas stations during my treks through the wetlands. Likewise, my friends who hunt and fish in this area assure me that shopping mall parking lots are most unproductive.

Considering the number of user days in the refuge last year (2,000 hunting days and 8,000 fishing days according to the Alaska Department of Fish and Game) there is demonstrated public interest in expanding the refuge. The Mat-Su Borough Assembly has recognized this and has passed a resolution in support of SB 105. I hope that you also can give it your support.

Sincerely,



R. James Frei

cc. Sen. Fahrenkamp
Sen. Eliason
Sen. Zharoff
Sen. Coghill
Sen. V. Fischer
Sen. DeVries
Rep. Hurley
Rep. Larson

FEB 19 1985

Feb. 13, 1985
PO Box 2176
Palmer, Alaska
99645

Senator Arliss Sturgulewski
Resources Committee
Pouch V
Juneau, Alaska 99811

Dear Senator,

I urge your support of SB105, the Palmer Hay Flats bill. This legislation is a fair solution to the problem of commercial development in a regionally popular hunting and fishing area. It would offer land or money to the land owners along part of the Glenn Highway in order to extend the boundary of the Palmer Hay Flats State Game Refuge. The extension would cover 910 acres of wetlands and salmon streams, if owners were willing to accept state offers at market value.

Parts of the Palmer Hay Flats near the junction of the Parks and Glenn Highway are scheduled for private commercial development and land fill. Currently, several owners are considering a truck cargo yard, a retail building, a gravel airstrip, and a 30-acre trailer park. Such uses, however, would reduce salmon and furbearer populations and public access in "the gateway to the Matanuska Valley."

The wetlands of the proposed game refuge extension are most valuable to the residents of southcentral Alaska just as they are now. The creeks are a major fry rearing area for the silver salmon of Knik Arm, according to data from ADF&G and USFWS. Rabbit Slough gets up to 6,000 fisherman-days of use per year, and yields a harvest of about 1,500 fish annually, mainly silvers and Dolly Varden. Rabbits and furbearers are numerous and are hunted and trapped to capacity.

About 12,000 people per day drive across these wetlands. Many are commuters homebound from Anchorage, and are happy to encounter real Alaskan wide-open spaces after their long drive. The proposed extension currently holds no homes or businesses. It is indistinguishable from the adjoining 26 square-mile game refuge, and is perhaps the most visible wetland area in the state.

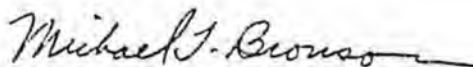
Support for SB105 comes from several sources. Among them is the ad hoc Committee for the Palmer Hay Flats, an informal citizens' group originally concerned with disappearing resources on the Hay Flats. Also in support is the Mat-Su chapter of Ducks Unlimited, a hunting group, the Alaska Frontier Trappers Association, the Northern District Setnetters Association of Upper Cook Inlet, Anchorage Audubon Society, and Alaska Center for the Environment with members in Anchorage and the Mat Valley.

Governmental groups also back the measure. The Matanuska-Susitna Borough Assembly resolved on January 22, 1985, to allow the state to manage its 136 acres in the area as part of the game refuge, providing the legislation passes. The Mat-Su Borough Planning Commission has more recently concurred. Commissioner Collingsworth has written a letter of support for ADF&G. Finally, Mr. Jim Barnett of DNR writes that the final Susitna Area Plan will have new language stating that public acquisition of private lands from willing sellers in this part of the Hay Flats is appropriate.

The attitude of the thirteen land owners has been cautious, but encouraging, in my opinion. I have written each of them a letter accompanied by a copy of SB105 to keep them abreast of the situation. Some are anxious to talk to the state about trades or purchases. One or two are suspicious of the move. Most, however, hold a "wait and see" position.

As Alaska's population grows, accessible recreational and scenic areas will become fewer and more valuable. Now is the best time for the state to acknowledge its responsibility to maintain traditional uses of such areas as the Palmer Hay Flats.

Sincerely,



Michael T. Bronson

cc: Senate Resources Committee

FEB 22 1985

February 20, 1985

Re: SB 105, Palmer Hay Flats

Dear Senator Sturgulewski:

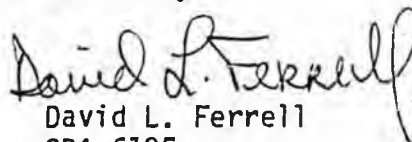
As a ~~resident of the~~ Mat-Su Valley, I would like to express my support for Senate Bill 105 to extend the Palmer Hayflats State Game Refuge. A number of ~~concerned citizens~~ are troubled about a series of proposed developments in the wetlands and salmon streams on the Hayflats along the Glenn Highway. There is a strong sentiment that it is the responsibility of the State of Alaska to protect these resources for all Alaskans. The most permanent form of protection is to place these lands in the public domain. Incorporation of these lands into the Palmer Hayflats Game Refuge is the most expedient and logical manner in which to accomplish this.

Recently the Mat-Su Assembly passed a unanimous Resolution to add 130 acres of Borough land if the State would purchase 786 acres of private land from willing sellers. I have followed events in the Hayflats over the past several years and have come to realize that Local, State and Federal agencies have consistently recommended that development in this area not be permitted. It appears that private property owners would be more than willing to sell their land to the State, as the land is unsuitable to build on and permits are difficult, if not impossible, to obtain.

I would like to inform you that Spring Creek, a salmon stream which flows through these lands, provides some of the best silver salmon habitat in the Valley. The stream provides "nursery grounds" for large numbers of juvenile silver salmon. The dollar value of this stream to sport and commercial fishermen may very likely exceed the dollar cost of purchasing these lands. The Mat-Su Borough is so intent on protecting this area that it has a program to swap uplands for wetlands. All of this leads me to conclude that the public wants this area maintained in its present natural condition. The passage of SB 105 is obviously in the Public Interest.

I would like to be kept advised of the progress of SB 105 and would like to receive copies of the minutes of the discussions that take place when this bill reaches the Resources Committee.

Sincerely



David L. Ferrell
SRA 6105
Palmer, AK 99645
(745-6575)

cc: Fahrenkamp
Eliason
Zharoff
Halford
Coghill
V. Fischer
Devries
Hurley
Bronson

COMMITTEE REPORT
SENATE

FURTHE FINANCE

1/28/85

Mr. President

The Committee on RESOURCES ~~considered~~ SB 105
relating to the Palmer Hay Flats State Game ~~Area~~; efd.

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

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for SB 105 (Resources)
- new title
- same title and recommends _____
- and attached a "LETTER OF INTENT". NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

Betty Haberkamp
Debra Larson
Rich Haggard
John [unclear]
John [unclear]

MEMBERING
OTHER RECOMMENDATIONS

Chris Stungulurka
 Chair ~~ing~~
Pass
 Chair ~~ing~~ recommendation

Offered: 3/4/85
Referred: Finance

Original sponsor: Kerttula

1 IN THE SENATE BY THE RESOURCES COMMITTEE
2 CS FOR SENATE BILL NO. 105 (Resources)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Palmer Hay Flats State Game
7 Refuge; and providing for an effective date."

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

9 * Section 1. The legislature determines that wetlands important to the
10 protection of waterfowl and salmon in the Spring Creek area lie outside of
11 the boundaries of the Palmer Hay Flats State Game Refuge. The Spring Creek
12 area also provides one of the major public access points to the hay flats
13 although the land is privately owned. The legislature therefore determines
14 that it is in the public interest to protect the Spring Creek wetlands
15 through extension of the Palmer Hay Flats State Game Refuge under this Act.

16 * Sec. 2. AS 16.20.032(a) is amended to read:

17 (a) The following state-owned land and water is established as
18 the Palmer Hay Flats State Game Refuge:

19 (1) Township 16 North, Range 1 West, Seward Meridian

20 Sections 1 - 12 inclusive

21 Section 13: N1/2

22 Sections 14 - 18 inclusive

23 (2) Township 17 North, Range 1 West, Seward Meridian

24 Section 25: All

25 Section 26: S1/2, S1/2N1/2, N1/2NE1/4, NE1/4NW1/4

26 Section 27: S1/2, SE1/4NE1/4

27 Section 31: Lot 4, SE1/4, E1/2SW1/4, SE1/4NE1/4,

28 S1/2SW1/4NE1/4

29 Section 32: S1/2, S1/2NE1/4, NE1/4NE1/4,

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lying west of the Alaska Railroad

Section 15: All state land lying north of the south bank of the Knik River and west of the Alaska Railroad

Section 16: All state land lying north of the south bank of the Knik River

* Sec. 3. The commissioner of natural resources shall include land acquired from the Matanuska-Susitna Borough in the Palmer Hay Flats State Game Refuge established under AS 16.20.032.

* Sec. 4. (a) The commissioner of natural resources may dispose of state land located within the Matanuska-Susitna borough in exchange for privately owned land determined desirable for inclusion in the Palmer Hay Flats State Game Refuge. The commissioner of natural resources may also offer to purchase at fair market value from willing sellers privately owned land determined desirable for inclusion in the Palmer Hay Flats State Game Refuge.

(b) An offer made by the commissioner of natural resources under this section for a purchase or exchange that remains unaccepted for two years after tender is withdrawn.

(c) An exchange or purchase authorized under (a) of this section shall be accomplished under AS 38.50.

(d) The commissioner of natural resources shall include land acquired under this section in the Palmer Hay Flats State Game Refuge established under AS 16.20.032.

* Sec. 5. This Act does not prohibit expansion or improvement to the Glenn Highway or the Parks Highway, the potential Wasilla Bypass, or the construction of the interchange at the Parks and Glenn Highways.

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

CORRECTION

THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY

Offered: 3/4/85
Referred: Finance

Original sponsor: Kerttula

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2

CS FOR SENATE BILL NO. 105 (Resources)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act relating to the Palmer Hay Flats State Game

7

Refuge; and providing for an effective date."

8

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

9

* Section 1. The legislature determines that wetlands important to the protection of waterfowl and salmon in the Spring Creek area lie outside of the boundaries of the Palmer Hay Flats State Game Refuge. The Spring Creek area also provides one of the major public access points to the hay flats although the land is privately owned. The legislature therefore determines that it is in the public interest to protect the Spring Creek wetlands through extension of the Palmer Hay Flats State Game Refuge under this Act.

16

* Sec. 2. AS 16.20.032(a) is amended to read:

17

(a) The following state-owned land and water is established as the Palmer Hay Flats State Game Refuge:

18

19

(1) Township 16 North, Range 1 West, Seward Meridian

20

Sections 1 - 12 inclusive

21

Section 13: N1/2

22

Sections 14 - 18 inclusive

23

(2) Township 17 North, Range 1 West, Seward Meridian

24

Section 25: All

25

Section 26: S1/2, S1/2N1/2, N1/2NE1/4, NE1/4NW1/4

26

Section 27: S1/2, SE1/4NE1/4

27

Section 31: Lot 4, SE1/4, E1/2SW1/4, SE1/4NE1/4,

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S1/2SW1/4NE1/4

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Section 32: S1/2, S1/2NE1/4, NE1/4NE1/4,

1 SE1/4NW1/4
2 Section 33: All
3 Section 34: All
4 Section 35: All
5 Section 36: All
6 (3) Township 17 North, Range 1 East, Seward Meridian
7 Section 22:
8 excluding NW1/4NW1/4
9 excluding NE1/4NE1/4NE1/4
10 excluding N1/2NE1/4NW1/4
11 Section 27:
12 excluding S1/2S1/2
13 Section 28: N1/2SE1/4
14 Section 31: Lots 5, 7, 8, 9, 10
15 Section 32: NE1/4
16 Section 33: SW1/4NW1/4, including all state tide
17 and submerged land
18 (4) Township 16 North, Range 1 East, Seward Meridian
19 Section 4, 5, 6, 7, 8, 9: All
20 Section 17: N1/2
21 Section 18: N1/2
22 All state tide and submerged land
23 (5) Township 16 North, Range 1 East, Seward Meridian
24 Section 2: Portion lying west of the Alaska
25 Railroad
26 Section 3: Lot 1, excluding portions lying east
27 of the Alaska Railroad centerline, Lots, 2, 3,
28 4, 5, 6, NW1/4, NW1/4, NE1/4
29 Section 10: Lots 1, 2, 3, 4, 6, and portions

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lying west of the Alaska Railroad

Section 15: All state land lying north of the
south bank of the Knik River and west of the
Alaska Railroad

Section 16: All state land lying north of the
south bank of the Knik River

* Sec. 3. The commissioner of natural resources shall include land acquired from the Matanuska-Susitna Borough in the Palmer Hay Flats State Game Refuge established under AS 16.20.032.

(a) The commissioner of natural resources may dispose of state land located within the Matanuska-Susitna borough in exchange for privately owned land determined desirable for inclusion in the Palmer Hay Flats State Game Refuge. The commissioner of natural resources may also offer to purchase at fair market value from willing sellers privately owned land determined desirable for inclusion in the Palmer Hay Flats State Game Refuge.

(b) An offer made by the commissioner of natural resources under this section for a purchase or exchange that remains unaccepted for two years after tender is withdrawn.

(c) An exchange or purchase authorized under (a) of this section shall be accomplished under AS 38.50.

(d) The commissioner of natural resources shall include land acquired under this section in the Palmer Hay Flats State Game Refuge established under AS 16.20.032.

* Sec. 5. This Act does not prohibit expansion or improvement to the Glenn Highway or the Parks Highway, the potential Wasilla Bypass, or the construction of the interchange at the Parks and Glenn Highways.

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

Introduced: 1/28/85
Referred: Resources and
Finance

1 IN THE SENATE

BY KERTTULA

2 SENATE BILL NO. 105

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Palmer Hay Flats State Game
7 Refuge; and providing for an effective date."

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

9 * Section 1. The legislature determines that wetlands important to the
10 protection of waterfowl and salmon in the Spring Creek area lie outside of
11 the boundaries of the Palmer Hay Flats State Game Refuge. The Spring Creek
12 area also provides one of the major public access points to the hay flats
13 although the land is privately owned. The legislature therefore determines
14 that it is in the public interest to protect the Spring Creek wetlands
15 through extension of the Palmer Hay Flats State Game Refuge under this Act.

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17 (a) The following state-owned land and water is established as
18 the Palmer Hay Flats State Game Refuge:

19 (1) Township 16 North, Range 1 West, Seward Meridian

20 Sections 1 - 12 inclusive

21 Section 13: N1/2

22 Sections 14 - 18 inclusive

23 (2) Township 17 North, Range 1 West, Seward Meridian

24 Section 25: All

25 Section 26: S1/2, N1/2NE1/2, N1/2NE1/4, NE1/4NW1/4

26 Section 27: S1/2, E1/4NE1/4

27 Section 31: Lot 4, SE1/4, E1/2SW1/4, SE1/4NE1/4,

28 S1/2SW1/4NE1/4

29 Section 32: S1/2, S1/2NE1/4, NE1/4NE1/4,

1 SE1/4NW1/4
2 Section 33: All
3 Section 34: All
4 Section 35: All
5 Section 36: All state tide and submerged land
6 (3) Township 17 North, Range 1 East, Seward Meridian
7 Section 22:
8 excluding NW1/4NW1/4
9 excluding NE1/4NE1/4NE1/4
10 excluding N1/2NE1/4NW1/4
11 Section 27:
12 excluding S1/2S1/2
13 Section 28: N1/2SE1/4
14 Section 31: Lots 5, 7, 8, 9, 10
15 Section 32: NE1/4
16 Section 33: SW1/4NW1/4, including all state tide
17 and submerged land

18 (4) Township 16 North, Range 1 East, Seward Meridian
19 Section 4, 5, 6, 7, 8, 9: All
20 Section 17: N1/2
21 Section 18: N1/2
22 All state tide and submerged land

23 * Sec. 3. (a) The commissioner of natural resources may dispose of
24 state land located within the Matanuska-Susitna borough in exchange for
25 135.6 acres now owned by the Matanuska-Susitna Borough in the area of
26 Spring Creek near the Palmer Hay Flats State Game Refuge.

27 (b) The exchange permitted under this section shall be accomplished
28 under AS 38.50.

29 (c) The commissioner of natural resources shall include the land

1 acquired from the Matanuska-Susitna Borough under this section in the
2 Palmer Hay Flats State Game Refuge established under AS 16.20.032.

3 * Sec. 4. (a) The commissioner of natural resources may dispose of
4 state land located within the Matanuska-Susitna borough in exchange for
5 privately owned land determined desirable for inclusion in the Palmer Hay
6 Flats State Game Refuge. The commissioner of natural resources may also
7 offer to purchase at fair market value privately owned land determined
8 desirable for inclusion in the Palmer Hay Flats State Game Refuge.

9 (b) An exchange or purchase authorized under (a) of this section
10 shall be accomplished under AS 38.50.

11 (c) The commissioner of natural resources shall include land acquired
12 under this section in the Palmer Hay Flats State Game Refuge established
13 under AS 16.20.032.

14 * Sec. 5. An offer made by the commissioner of natural resources under
15 this Act for a purchase or exchange that remains unaccepted for two years
16 after tender is withdrawn.

17 * Sec. 6. This Act takes effect immediately in accordance with AS 01.-
18 10.070(c).

COMMITTEE REPORT
HOUSE

(11)

FURTHER:

4/11/85

Date: 5-7-85

The Committee on FINANCE has had SB 107

"An Act relating to Alaska bidder preference."

under consideration and recommends:

- do pass do not pass
- do pass with attached amendments(s) same title
- replace with CS for _____ new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation Zero Fiscal Note Attached
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

[Signature]

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CHAIRMAN

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

No. 1

Revision Date: _____

Page 1 of 1

REQUEST

Bill/Resolution No.: SB 106
 Title: An act relating to the Alaska Bidder Preference
 Sponsor: Eliason and Fahrenkamp
 Requestor: _____
 Date of Request: _____

FISCAL DETAIL

Agency Affected: Administration
 Program Category Affected: General Services & Supply
 BRU, Program or Subprogram(s) Affected: Purchasing and Leasing

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

N/A

Prepared By: Robert J. Link *Robert J. Link* **A** Phone: 465-2250
 Division: General Services & Supply Date: 2-11-85

Approved by Commissioner: Lisa Rudd *Lisa Rudd* **A** Date: 2-14-85
 Agency: Department of Administration

Distribution (by Agency preparing fiscal note):

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

Introduced: 1/29/85
Referred: Labor & Commerce

1 IN THE SENATE

BY ELIASON AND FAHRENKAMP

2

SENATE BILL NO. 106

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to Alaska bidder preference."

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

8 * Section 1. AS 37.05 is amended by adding a new section to read:

9 Sec. 37.05.225. PURPOSE. The legislature finds that there
10 exists in the state continuing high unemployment, underutilization of
11 resident construction and supply firms, and high costs unfavorable to
12 the welfare of Alaskans and to the economic health of the state. The
13 purpose of bidder preference for resident firms when the state acts as
14 a market participant is to encourage local industry, strengthen and
15 stabilize the economy, decrease unemployment, and strengthen the tax
16 and revenue base of the state.

17 * Sec. 2. AS 37.05.230(5) is amended to read:

18 (5) an "Alaska bidder," for the purpose of bid awards under

19 (1) (A) of this section, is a person who

20 (A) holds a current Alaska business license; [,]

21 (B) submits a bid for goods or services under the name
22 as appearing on the person's current Alaska business license; [,]

23 (C) has maintained a place of business within the
24 state for a period of six months immediately preceding the date
25 of the bid; and

26 (D) if a joint venture, is composed entirely of ven-
27 turers that qualify under this paragraph;

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

No. 2

REQUEST
Bill/Resolution No.: SB 106
Title: "relating to Alaska bidder preference"
Sponsor: Eliason & Fahrenkamp
Requestor: Senate Labor & Commerce
Date of Request: 03/01/85

FISCAL DETAIL
Agency Affected: Labor
Program Category Affected: social services
BRU, Program or Subprogram(s) Affected: Administrative Services

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: as Judy Knight Judy Knight, Director Phone: 465-2720
 Division: Administrative Services Date: 3/1/85
 Approved by Commissioner: Jim Robinson Date: 3/1/85
 Agency: Labor

Distribution (by Agency preparing fiscal note):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

7/1/84


Bill No. Senate Bill No. 106
Title "An Act relating to Alaska bidder preference."

Date March 1, 1985
Contact: Bob Landau
465-2700

The Department of Labor supports the passage of Senate Bill 106. This legislation would amend the Alaska bidder's preference law, AS 37.05.230(5), to require that each member of a joint venture must separately qualify as an Alaska bidder in order for the joint venture itself to qualify for the bidder preference.

The Department believes that this legislature is necessary to protect against out-of-state firms joining with a nominal Alaska partner in order to gain preferential bidder status on public contracts. In Irby-Northface vs. Commonwealth Electric Co., 664 p. 2d 557 (Alaska 1983), the Alaska Supreme court interpreted existing law to permit a joint venture to qualify for the bidder's preference even though the primary partner in the venture was a large out-of-state construction firm. Because of the higher cost of doing business for Alaska firms, as well as the high rate of unemployment among Alaskans, an amendment to the law is necessary to ensure that the benefits of a bidder's preference flow only to those persons or businesses that have established a bona fide presence in Alaska.

APPROVED:


Jim Robison, Commissioner
Department of Labor

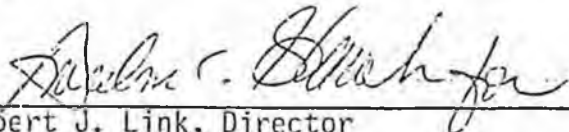
POSITION PAPER Department of Labor

Position Paper
SB 106

The bill affects the Alaska Bidders Preference as it applies to joint ventures. Currently Alaska bidders may enter into joint ventures with non-resident bidders. The joint venture then would qualify for the Alaska Bidders Preference. This bill would change that. This bill would require that all parties involved in a joint venture be Alaskan bidders in order to qualify for the Bidders Preference. This creates the potential of reducing competition and hence raising prices the State must pay.

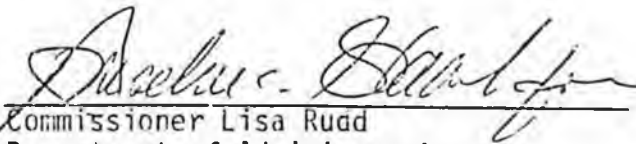
As a practical matter, an Alaskan business may be unable to bid on a contract by itself and may be unable to find another Alaskan business with which to associate on the bid. The Alaskan business may thus be compelled to associate with a nonresident bidder. The bill, as written, would not permit an Alaskan business involved in a joint venture with a nonresident bidder to enjoy the benefit of the Bidders Preference.

The Department ^{of Admin} is neutral on this bill.


Robert J. Link, Director
Division of General Services & Supply

Date

2-11-85


Commissioner Lisa Rudd
Department of Administration

Date

2-14-85



OFFICIAL BUSINESS

ALASKA STATE LEGISLATURE - SENATE
COMMITTEE ON LABOR AND COMMERCE

SENATOR RICHARD I. ELIASON
CHAIRMAN

FOUCH V • JUNEAU, ALASKA 99811
(907) 465-3844

MEMORANDUM

TO: Senator Jalmar Kerttuia
Senate President

FROM: Senator Dick Eliason *Dick*

DATE: March 25, 1983

RE: Alaska Power Authority Anchorage-Fairbanks Intertie Contract
Award

The Labor and Commerce Committee has been advised from numerous sources that the Alaska Power Authority has let the contract for the Anchorage/Fairbanks Intertie in apparent violation of AS 37.05.230. That statute provides that bids should be awarded to an Alaskan bidder if the bid submitted is within five percent of the lowest bid. An Alaska bidder is defined as a person who holds a business license and has maintained a place of business within the state "for a period of six months immediately preceding the date of his bid..."

The bid on the Intertie was awarded to a joint venture made up of an out of state corporation which did not have an Alaska business license for six months prior to the bid and a local corporation which did have such a license for six months preceding the bid. The joint venture had not been in existence for six months prior to the bid. The Power Authority concluded that for a joint venture all that is required is that one of the partners hold an Alaska business license for six months before the bid. This interpretation results in a situation where large outside corporations can gain the benefit of the Alaska bidders preference simply by linking themselves at the last moment before the bid with an Alaskan organization which would qualify for the preference.

If the Power Authority's interpretation is correct, the Committee believes that legislative action may be required to change the law to more accurately state legislative interest. However, before taking action, we would like to obtain an opinion of private counsel to advise

the Committee as to whether the Power Authority is correct in its interpretation and to advise the Committee whether or not amendments to the law are required.

We plan to retain the firm of Gross and Burke to give the Committee an opinion early next week. We are advised that the cost would be less than \$2500, and we ask your authorization to expend those funds to gain the legal assistance necessary.



Official Business

Alaska State Legislature

Senate

Pouch V
State Capitol
Juneau, Alaska 99811

March 28, 1983

The Honorable Jalmar M. Kerttula
President
Alaska State Senate
Juneau, Alaska 99811

Dear Senator Kerttula:

The Special Committee on the Anchorage-Fairbanks Intertie has recently reviewed the decision of the APA to award the bid on the Anchorage-Fairbanks Intertie contract. In making the award, the Authority granted an Alaska bidder's preference to a joint venture, one of whose members has not been doing business in the state for six months. AS 37.05.230(5), however, requires that a bidder who claims the five percent preference has been in business in Alaska for six months preceding the date of the bid. It is the theory of the Power Authority that a bidder's preference may be awarded to a joint venture even if one individual member of the venture would not qualify for the preference so long as another member of the joint venture is entitled to receive the preference.

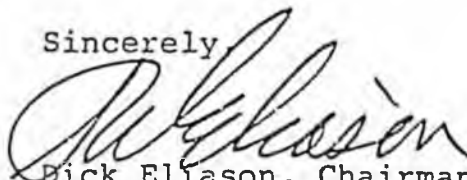
It is our belief that this interpretation is contrary to the clearly expressed intent of the legislature in AS 37.05.230(5) and would reduce the bidder's preference to a meaningless benefit. The purpose of our hearings was to determine whether it was necessary to introduce amendments to the law to clarify legislative intent. Prior to doing so, we retained the firm of Gross & Burke to review the status of the controversy and to advise us whether the interpretation placed on the law by the Power Authority was correct. If the interpretation of the Authority was valid, we asked the firm to assist us in drafting legislation to make it crystal clear that an unqualified party could not obtain an Alaska bidder's preference simply through the means of linking itself with a party that was qualified.

The firm has furnished us with the attached opinion. They are convinced, as is the Committee, that the language and intent of the law is clear and that it requires no amendments at this time. We believe the court presently reviewing this case will hold that the APA violated the terms of AS

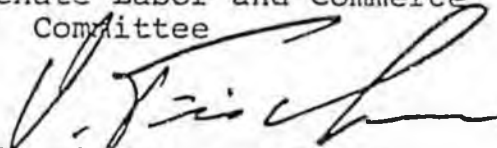
38.05.230(5) when it awarded an Alaska bidder preference to a joint venture, one of whose members was clearly unqualified to receive it.

If for any reason the court concludes that nonqualified bidders can achieve a bidder's preference simply by forming a joint venture with a qualified Alaska corporation, the Committee will immediately submit amendments to the law to make it even clearer that such a practice is not in accord with the intent of the Legislature. It appears at the preset time, however, pending a court decision, that no such amendments are necessary and that the statute sufficiently expresses legislative intent.

Sincerely



Dick Eliason, Chairman
Senate Labor and Commerce
Committee



Vic Fischer, Chairman
Senate State Affairs Committee



Bettye Fahrenkamp, Chairman
Senate Resources Committee

Attachment

LAW OFFICES
GROSS & BURKE
A PROFESSIONAL CORPORATION
424 NORTH FRANKLIN STREET
JUNEAU, ALASKA 99801


AVRUM M. GROSS
SUSAN A. BURKE

(907) 586-2777

March 28, 1983

MEMORANDUM

TO: Richard I. Eliason
Chairman, Special Committee on the Anchorage-Fairbanks
Intertie Contract

FROM: Avrum M. Gross
Susan A. Burke 

RE: AS 37.05.230(5) - Alaska Bidders Preference

One March 3, 1983, the Alaska Power Authority issued a notice of intent to award the bid on the Anchorage/Fairbanks Intertie to a joint venture composed of Irby Construction Company and Northface Construction, Inc. One of the joint venturers (Northface) had maintained a place of business in the state for more than six months prior to the bid. Irby Construction Company had not maintained a place of business here for six months prior to the bid. The joint venture was apparently created for the purpose of submitting the bid and as a joint venture it has not done any prior business in Alaska. APA awarded the joint venture an Alaska bid preference of five percent under the theory that since one of the joint venturers (Northface) qualified, the joint venture of which Northface was a member also qualified.

The Special Committee has expressed concern that through granting a bidder's preference to a joint venture, one of whose members is clearly unqualified to receive the preference, the APA has violated the terms of AS 37.05.230(5). You have asked our opinion on the validity of APA's grant of the bidder's preference and our advice as to whether the bidder's preference statute requires amendment to insure that only qualified Alaskan companies, in whatever legal form they choose to bid, receive the preference.

It is our opinion that the grant of an Alaska bid preference by the Power Authority to Irby-Northface was contrary to the terms of the bidder's preference statute; that only qualified Alaskan bidders are entitled to the preference; and that if bidders choose to submit a bid as a joint venture, all members of the joint venture must qualify for the preference in order for the joint venture to receive the preference. We believe the terms of the statute are clear, and no amendment of those terms is presently required.

In reaching this conclusion, we have reviewed all of the briefs in the litigation presently pending before Judge Johnstone in Anchorage and have independently researched the legislative history of relevant statutes. We will not in this opinion, however, cite extensive legal authority. Suffice it to say that what we say here has been adequately researched and can be supported if necessary.

I. The Wording of AS 37.05.230(5) - The Bidders Preference Statute

AS 37.05.230(5) defines an Alaska bidder as

a person who

- (A) holds a current Alaska business license,
- (B) submits a bid for goods or services under the name as appearing on his current Alaska business license,
- (C) has maintained a place of business within the state for a period of six months immediately preceding the date of his bid...

The words of the statute are clear. They require that a bidder hold an Alaska business license, that the bid be submitted in the name on that license, and finally, that the bidder have maintained a place of business within the state for a period of six months. In the case of an individual bidder, there is no problem whatsoever in determining whether the requirements have been met. In the case of a joint venture, the situation is slightly more complex but still, we believe, obvious. There can be three possible alternatives. The first is that a joint venture itself has been in business for six months prior to the submission of a bid. Such a joint venture would clearly qualify as would all of its component parts since through the mechanism of the joint venture, all parties to it would have been doing business in the state for more than six months. The second alternative is a

joint venture formed less than six months before a bid but made up of parties who were all doing business in the state for more than six months prior to the bid. As the APA mentions in its brief to the court, many joint ventures are formed solely for the purpose of bidding on specific jobs, so the situation presented in this second alternative is not unusual. We believe this type of joint venture would also qualify for the preference. If both firms to a joint venture meet all the requirements of the statute, the fact that they combine into a particular legal organization for the purpose of one job should not in any way affect their status. The whole, in short, is the sum of its parts; and if two firms which would qualify for a bidder's preference set up a legal entity in which they are the only members, that entity should also receive the preference.

The third situation is that found in the Anchorage-Fairbanks Intertie case. The joint venture that was awarded the bid has been in existence for less than six months. One party to the joint venture qualifies for the preference -- the other party does not. In essence, we have a situation where one party seeks to obtain a bidder preference to which it would otherwise not be entitled solely by selecting a particular form of business organization with which to submit its bid.

If the purpose of the bidders preference statute was to encourage the creation of joint ventures, the action of APA in granting a bidder's preference to this particular joint venture might make some sense. But the intent behind the statute has nothing to do with encouraging one particular legal structure as opposed to another. The obvious intent underlying the statute is to insure that Alaska businesses, which have furnished employment to Alaskans but whose costs of doing business here are much higher than elsewhere in the nation, will be able to compete fairly with outside firms who can frequently offer lower bids than Alaska firms. That purpose is only served by granting the preference to Alaska businesses which have been in past operation. As previously noted, the whole is comprised of its parts, and since a part of the joint venture at issue here cannot qualify for the preference, the joint venture itself cannot qualify.

The only conceivable ambiguity in AS 37.05.230(5) is over the question of whether joint ventures, which themselves have not been in existence for six months but both of whose members have been doing business in Alaska for at least six months, qualify for a bidder preference. The ambiguity stems from the fact that a literal reading of AS 37.05.230(5) suggests that if a joint venture has not been in operation for six months, it could not receive a preference no matter how long the members of the venture had done business in the state. As previously noted, we believe that such a literal reading would be contrary to the purpose of the act and that

a joint venture whose individual members would qualify would itself qualify for the preference. But no matter how that question is resolved, we believe there is no ambiguity as to the question of whether nonqualified bidders can gain the benefits of the statute simply by linking themselves in legal organization with a bidder who could so qualify. A contrary interpretation would render the bidder's preference a sham. Large outside corporations could link up with tiny Alaskan firms who by themselves could not even consider bidding on such jobs as the Intertie solely for the purpose of gaining a bidder's preference. The result would be that qualified Alaskan firms which had previously rendered employment opportunities to Alaskans and been subject to the higher costs of doing business in Alaska would not receive the benefits of a statute specifically aimed at affording them those benefits. That was clearly not the legislature's intent when they passed the act, and we are sure it is not the intent today.

II. The Interpretation of the APA

The Power Authority has attempted to justify its interpretation of the act on two primary grounds. First, APA argues that since under AS 08.18.011 (registration of contractors) a joint venture is considered to be registered if only one party to the joint venture is registered, the same theory would allow APA to extend a bidders preference to a joint venture in which only one party is entitled to the preference. Second, APA argues that whatever the statutes may appear to mean, an administrative agency is

permitted to make reasonable interpretations of the law, and its past interpretations have extended the bidders preference to joint ventures which included only one party which by itself would qualify. APA then argues that the past practice of administrative agencies are given great weight by the courts in interpreting the terms of a statute and should be given similar weight here.

Neither of these arguments has any real merit. The contractors registration statute, for instance, has no logical or legal relation to the bidders preference statute -- they are entirely different statutory provisions with entirely different purposes, and the interpretation of one has no bearing on the interpretation of the other. AS 08.18.011 requires the registration of contractors for the purpose of insuring fiscal responsibility. It is no surprise, therefore, that only one member of a joint venture need be registered for the joint venture itself to be registered. All members of a joint venture bear responsibility for the debts of the venture, and if one registered party can insure the financial security of those with whom the venture deals, it is not important whether other members of the venture would also be able to post the necessary proof of financial ability. The bidders preference statute, however, is a special benefit awarded because of past activities within the state, and it makes a great deal of difference whether all parties in the venture are entitled to that benefit. If one party could

simply qualify by joint venturing with a qualified bidder, the otherwise unqualified party would receive a legislatively conferred benefit that they have not earned and to which they are not entitled.

There is another basic flaw in APA's attempting to link the contractors' registration statute with the bidders preference statute. The Alaska bidders preference law covers all bidders for state contractor purchases. If the Authority is correct in applying the interpretation of AS 08.18.011 to the bid preference statute, then an out of state contractor who has never done business in Alaska can obtain the preference simply through linking itself with a qualified Alaska bidder. But what of bidders who are not contractors and are not required to register under AS 08.18.011? Suppose for instance the state seeks a bid for providing office equipment for all state buildings, and an outside office supply firm seeks to form a joint venture with an Alaskan office supply firm which by itself would qualify for a bidder's preference. Since office supply firms are not required to post financial security, there is no comparable provision to AS 08.18.011 for office supply firms, and, therefore, no justification for arguing by analogy that a joint venture made up of qualifying and nonqualifying firms qualifies for a preference. This would mean (at least according to the Power Authority's theory) that outside contractors can achieve an Alaska bidders preference through

means denied to every other outside firm that seeks to bid on state contracts. That makes no sense and it makes no sense because the contractors registration statute has nothing to do with the Alaska bidders preference act. The purposes of the two acts are different, and arguments made by analogy from one to the other inevitably lead to illogical conclusions.

The second argument of APA based on its past interpretations of the bidder's preference statute is also without merit. It is true that a settled administrative interpretation of the terms of an act made by an agency particularly entrusted with its enforcement is given weight by the courts in interpreting the act. That rule has no application if the statute is clear on its face and the agency's interpretation is clearly erroneous as it is in this case. But even if the statute were ambiguous, this is not a situation where agency interpretation would be given any weight at all. The "settled interpretation" of the agency appears to consist of two decisions made roughly six years ago under unknown circumstances by one official in the Department of Administration. There has been no attempt to establish that interpretation as a settled agency interpretation by reducing it to written form or adopting it as a regulation. What we have here is one state employee stating that he interpreted the act this way six years ago as justification for a present judicial interpretation of the act. When one reviews the cases in which

agency interpretations have been given some weight by the court, it becomes clear that this is not remotely like the situation envisioned by those cases.

One further point bears some mention in this analysis because it is raised in the arguments of all the parties to the Intertie litigation. On September 25, 1981 the Superior Court in Anchorage in an unrelated case, concluded that the Power Authority did not violate the law when it awarded a contract to a joint venture, one of whose members apparently did not qualify for the preference at the time the bid was submitted (Pacific Ventures and Dillingham Corporation v. APA et al. and Southeast-Harrison Western, case #3AM-81-6291). The case, however, is entitled to very little weight for two reasons. First, no real analysis of the issue involved here was made by the court. Second, the case is completely confusing on just why the court reached its conclusion. The court held that one of the parties qualified for the preference prior to the submission of the bid and that at the time of the actual award of the contract, the joint venture qualified through having been in existence for more than six months. It is not clear what the court would have done if the joint venture had been in existence for less than six months at the time of the award, nor is it clear why this point was given any significance whatsoever,

since AS 37.05.230(5) requires that a party seeking a preference have been doing business for six months prior to the date of the bid. We do not believe under these circumstances that the decision will be given any real weight by a court resolving the present controversy.

It is, therefore, our view that the statute is clear on its face and that no legislative action at this time is required to clarify its meaning. We are confident that the courts will hold that a joint venture, one of whose members do not qualify for the preference, is not in itself a bidder entitled to the preference.

AMG:yw

Introduced: 1/29/85
Referred: Labor & Commerce

1 IN THE SENATE BY ELIASON AND FAHRENKAMP

2 SENATE BILL NO. 106

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to Alaska bidder preference."

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

8 * Section 1. AS 37.05 is amended by adding a new section to read:

9 Sec. 37.05.225. PURPOSE. The legislature finds that there
10 exists in the state continuing high unemployment, underutilization of
11 resident construction and supply firms, and high costs unfavorable to
12 the welfare of Alaskans and to the economic health of the state. The
13 purpose of bidder preference for resident firms when the state acts as
14 a market participant is to encourage local industry, strengthen and
15 stabilize the economy, decrease unemployment, and strengthen the tax
16 and revenue base of the state.

17 * Sec. 2. AS 37.05.230(5) is amended to read:

18 (5) an "Alaska bidder," for the purpose of bid awards under
19 (1) (A) of this section, is a person who

20 (A) holds a current Alaska business license; [,]

21 (B) submits a bid for goods or services under the name
22 as appearing on the person's current Alaska business license; [,]

23 (C) has maintained a place of business within the
24 state for a period of six months immediately preceding the date
25 of the bid; and

26 (D) if a joint venture, is composed entirely of ven-
27 turers that qualify under this paragraph;

COMMITTEE REPORT
SENATE

FURTHER:

Date _____

Mr. President

The Committee on FINANCE considered HR 100
law to provide for chiropractic services under the medical program.

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

- do pass
- do pass with attached amendment(s)
- ~~replace with/or adopt~~ CS for _____
- new title
- same title and recommends Do Pass
- and attached a "LETTER OF INTENT" [] NEW FISCAL NOTE
- reports it back without recommendation *7/19/40*
\$7.7 MESS
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS

Chairman

Chairman recommendation

Offered: 4/3/85
Referred: Finance

Original sponsors: Josephson, Abood
and Fahrenkamp

1 IN THE SENATE BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2 CS FOR SENATE BILL NO. 109 (HESS)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act related to provision of chiropractic services
7 under the medicaid program."

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

9 * Section 1. AS 47.07.030 is amended to read:

10 Sec. 47.07.030. MEDICAL SERVICES TO BE PROVIDED. Medical ser-
11 vices to be offered to eligible persons include inpatient hospital,
12 outpatient hospital, rural health clinic, outpatient surgical care
13 centers, laboratory and X-ray, refractions and eye examinations by
14 ophthalmologists or optometrists, eyeglasses prescribed by a physician
15 skilled in diseases of the eye or by an optometrist, inpatient psy-
16 chiatric hospital for persons age 65 or older and persons under age
17 21, skilled and intermediate nursing home, physician, nurse midwife,
18 home health care services, early periodic screening diagnosis and
19 treatment of persons under 21 years of age, clinic services, treatment
20 of speech, hearing and language disorders, physical therapy, occupa-
21 tional therapy, chiropractic services, prosthetic devices and medical
22 supplies, long-term care noninstitutional services, and reasonable
23 transportation to and from the point of medical care. Additional
24 services may not be provided unless approved by the legislature.

25 * Sec. 2. AS 47.07.035 is amended to read:

26 Sec. 47.07.035. PRIORITY OF SERVICES. If the funding in a
27 fiscal year is inadequate to finance the total medical assistance
28 program under this chapter, the department shall, to the extent that
29 federal law and funding permits, provide medical assistance in the

1 following order:

2 (1) aged, blind, or disabled persons who

3 (A) do not receive supplemental security income under
4 42 U.S.C. 1381 - 1383c (Title XVI, Social Security Act) because
5 they do not meet income and resources requirements; and

6 (B) are eligible to receive an optional state supple-
7 mentary payment;

8 (2) persons in a medical or intermediate care facility

9 (A) whose income while in the facility does not exceed
10 300 percent of the supplemental security income benefit rate
11 under 42 U.S.C. 1381 - 1383c (Title XVI, Social Security Act);
12 and

13 (B) who would not be eligible for an optional state
14 supplementary payment if they left the facility;

15 (3) persons under 21 years of age

16 (A) who are under the supervision of the department;

17 (B) whose maintenance is paid in whole or in part from
18 public funds; and

19 (C) who are in foster homes or private child-care
20 institutions;

21 (4) persons under 21 years of age who

22 (A) receive treatment in a psychiatric hospital; and

23 (B) are financially eligible as determined by the
24 standards of 42 U.S.C. 601 - 615 (Title IV-A, Social Security
25 Act, Aid to Families with Dependent Children);

26 (5) persons under 21 years of age who are

27 (A) in an institution designated by the department as
28 an intermediate care facility for the mentally retarded; and

29 (B) financially eligible as determined by the

1 standards of the federal aid to families with dependent children
2 program;

3 (6) women who are pregnant;

4 (7) persons under 21 years of age who do not qualify for
5 benefits under the federal aid to families with dependent children
6 program because they are not dependent children;

7 (8) intermediate nursing home services;

8 (9) eye examinations by an ophthalmologist or optometrist;
9 or eyeglasses prescribed by a physician skilled in the diseases of the
10 eye or by an optometrist;

11 (10) treatment of speech, hearing, or language disorders;

12 (11) physical or occupational therapy;

13 (12) care at an intermediate care facility for the mentally
14 retarded;

15 (13) care at an inpatient psychiatric facility;

16 (14) community mental health clinic services;

17 (15) surgical care center services;

18 (16) nurse midwife services;

19 (17) medical supplies and equipment;

20 (18) long-term care noninstitutional services;

21 (19) chiropractic services.

22 * Sec. 3. AS 47.07.900 is amended by adding a new paragraph to read:

23 (7) "chiropractic services" includes only services that are
24 provided by a chiropractor licensed under AS 08.20 that consist of
25 treatment by means of manual manipulation of the spine and x-rays
26 necessary for treatment.

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: SB109
 Title: An Act relating to provision of chiropractic services under Med.
 Sponsor: Josephson, Abood, Fahrenkamp
 Requestor: _____
 Date of Request: 2/6/85

FISCAL DETAIL

Agency Affected: Health & Social Services
 Program Category Affected: _____
 BRU, Program or Subprogram(s) Affected: Medical Assistance

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL	-0-	20.0	-0-	-0-	-0-	-0-
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS	-0-	154.0	160.0	166.4	173.0	180.0
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	174.0	160.0	166.4	173.0	180.0
CAPITAL		-0-	-0-	-0-	-0-	-0-
REVENUE		-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND	87.0	80.0	83.2	86.5	90.0
FEDERAL FUNDS	87.0	80.0	83.2	86.5	90.0
OTHER					
TOTAL	174.0	160.0	166.4	173.0	180.0

POSITIONS:

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

ANALYSIS: Attach a separate page if necessary

Please see attached analysis for method used to determine FY86 cost of \$174.0. A 4% inflator was used to estimate cost for FY87 and each year thereafter.

Prepared By: Rod Betit, Director
 Division: Medical Assistance

Phone: 465-3355
 Date: 2/6/85

Approved by Commissioner: J. A. B.
 Agency: DEPT. OF HEALTH & SOCIAL SERVICES

Date: 2/14/85 JCC

Distribution (by Agency preparing fiscal note):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

Cost Analysis for Chiropractic Services

Additional Contractual Costs

The Alaska Medical Payments System will require modification to pay chiropractors as a new services. The contractual costs include the following: provider manuals, training, a new claims form, tables included in the system for chiropractic services, computer programming, computer reports, the addition of collocation codes, the provision of notice to providers, provider relations, and a computer system test.

Additional Grants/Claims Costs

These figures were adjusted by an inflation factor of 4%. This is the average percent increase experienced during the past two years in chiropractic services. These costs are for only manual manipulation of the spine and the x-rays necessary for diagnosis. Again, these are the only chiropractic services for which federal reimbursement is available. The federal match for Medicaid is 50%.

We did not develop a fiscal note for the full range of chiropractic services included in SB 109. We used the following formula to develop our cost estimates:

$$\left(\frac{\# \text{Recipients}}{\text{Month}} \times \frac{\# \text{Services}}{\text{Month}} \times \frac{\text{Cost/Service}}{\text{Month}} + \frac{\# \text{Recipients}}{\text{mth}} \times \frac{\# \text{X-Rays}}{\text{Month}} \times \frac{\text{Cost/X-Ray}}{\text{Month}} \times 12 \text{ mths} \right)$$

$$[50 \times \$30 \times 2] + (\$65 \times 50 \times 3) \times 12 = \$154.0 + 1 \text{ time Administrative Cost } \$20 = \$174.0$$

Assumption #1:

Alaska's ratio of recipients to eligibles is similar to the ratio of recipients to eligibles in Idaho.

Idaho averaged 75 chiropractic recipients and 30,000 eligibles per month. Therefore we estimate Alaska would average 50 chiropractic recipients out of 20,000 eligibles per month.

Assumption #2:

Services would be limited to 2 visits per month per recipient.

Assumption #3:

X-rays would be limited to three x-ray per month per recipient.

Assumption #4:

Manual manipulation of the spine costs \$30. An x-ray costs \$65.55.

POSITION PAPER
Senate Bill No. 109

"An act relating to provision of chiropractic services under the Medical Assistance program".

I. Background

SB 109 would modify the Medicaid program to add chiropractic services. Currently, approximately 29 states include chiropractic services in their Medicaid program. In addition, many major private insurance programs also include chiropractic coverage. Generally, chiropractors and advocates of their services contend that chiropractic services are an alternative to other, potentially more costly medical treatments.

If chiropractic services are added to Medicaid, they should be limited to the two services covered under federal Medicaid rules i.e., manual manipulation of the spine and x-rays necessary for treatment. The added FY86 costs to include chiropractic services if limited to these two services is anticipated to be \$174.0, (\$87.0 in state funds).

II. Departmental Position:

Chiropractic services would be a good addition to the medical services currently offered under Medicaid, but the added cost associated with this new service is not affordable at the present time. However, if SB 109 is adopted it should be modified to limit chiropractic services to manual manipulation of the spine and x-ray.

Recommended By: Rod Betit
Rod Betit, Director
Division of Medical Assistance

Date: 2/6/85

Approved By: John R. Pugh
John R. Pugh, Commissioner
Department of Health & Social
Services

Date: 2/14/85

SECTIONAL ANALYSIS FOR SENATE BILL 109

An Act related to provision of chiropractic services under the medicaid program

Section 1

Adds chiropractic services to the list of services for Medicaid coverage.

Section 2

Under current law, this section establishes a priority of services in the event that insufficient funding was available to pay for all medicaid coverage. This section makes chiropractic services 19 on a list of 19.

Section 3

Chiropractic services are defined as manual manipulation of the spine and X-rays necessary for treatment when performed by a licensed chiropractor.

There is a \$174,000 fiscal note from the Department of Health and Social Services. \$20,000 is a one-time contractual cost for changes in the computer, new claim forms and instruction manuals. The remaining \$154,000 be used to pay additional claims.

Introduced: 1/30/85
Referred: Health, Education and
Social Services and
Finance

BY JOSEPHSON, ABOOD
AND FAHRENKAMP

1 IN THE SENATE

2 SENATE BILL NO. 109

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act related to provision of chiropractic services
7 under the medicaid program."

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

9 * Section 1. AS 47.07.030 is amended to read:

10 Sec. 47.07.030. MEDICAL SERVICES TOBE PROVIDED. Medical ser-
11 vices to be offered to eligible persons include inpatient hospital,
12 outpatient hospital, rural health clinic, outpatient surgical care
13 centers, laboratory and X-ray, refractions and eye examinations by
14 ophthalmologists or optometrists, eyeglasses prescribed by a physician
15 skilled in diseases of the eye or by an optometrist, inpatient psy-
16 chiatric hospital for persons age 65 or older and persons under age
17 21, skilled and intermediate nursing home, physician, nurse midwife,
18 home health care services, early periodic screening diagnosis and
19 treatment of persons under 21 years of age, clinic services, treatment
20 of speech, hearing and language disorders, physical therapy, occupa-
21 tional therapy, chiropractic services, prosthetic devices and medical
22 supplies, long-term care noninstitutional services, and reasonable
23 transportation to and from the point of medical care. Additional
24 services may not be provided unless approved by the legislature.

25 * Sec. 2. AS 47.07.035 is amended to read:

26 Sec. 47.07.035. PRIORITY OF SERVICES. If the funding in a
27 fiscal year is inadequate to finance the total medical assistance
28 program under this chapter, the department shall, to the extent that
29 federal law and funding permits, provide medical assistance in the

1 following order:

2 (1) aged, blind, or disabled persons who

3 (A) do not receive supplemental security income under

4 42 U.S.C. 1381 - 1383c (Title XVI, Social Security Act) because

5 they do not meet income and resources requirements; and

6 (B) are eligible to receive an optional state supple-

7 mentary payment;

8 (2) persons in a medical or intermediate care facility

9 (A) whose income while in the facility does not exceed

10 300 percent of the supplemental security income benefit rate

11 under 42 U.S.C. 1381 - 1383c (Title XVI, Social Security Act);

12 and

13 (J) who would not be eligible for an optional state

14 supplementary payment if they left the facility;

15 (3) persons under 21 years of age

16 (A) who are under the supervision of the department;

17 (B) whose maintenance is paid in whole or in part from

18 public funds; and

19 (C) who are in foster homes or private child-care

20 institutions;

21 (4) persons under 21 years of age who

22 (A) receive treatment in a psychiatric hospital; and

23 (B) are financially eligible as determined by the

24 standards of 42 U.S.C. 601 - 615 (Title IV-A, Social Security

25 Act, Aid to Families with Dependent Children);

26 (5) persons under 21 years of age who are

27 (A) in an institution designated by the department as

28 an intermediate care facility for the mentally retarded; and

29 (B) financially eligible as determined by the

1 standards of the federal aid to families with dependent children
2 program;

3 (6) women who are pregnant;

4 (7) persons under 21 years of age who do not qualify for
5 benefits under the federal aid to families with dependent children
6 program because they are not dependent children;

7 (8) intermediate nursing home services;

8 (9) eye examinations by an ophthalmologist or optometrist;
9 or eyeglasses prescribed by a physician skilled in the diseases of the
10 eye or by an optometrist;

11 (10) treatment of speech, hearing, or language disorders;

12 (11) physical or occupational therapy;

13 (12) care at an intermediate care facility for the mentally
14 retarded;

15 (13) care at an inpatient psychiatric facility;

16 (14) community mental health clinic services;

17 (15) surgical care center services;

18 (16) nurse midwife services;

19 (17) medical supplies and equipment;

20 (18) long-term care noninstitutional services;

21 (19) chiropractic services.

22 * Sec. 3. AS 47.07.900 is amended by adding a new paragraph to read:

23 (7) "chiropractic" has the meaning given in AS 08.20.220.

COMMITTEE REPORT
SENATE

FURTHER:

FINANCE

1/30/85

Date 4-2-85

Mr. President

The Committee on HESS considered SB 109
related to provision of chiropractic services under the medicaid program.

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

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for SB 109 (HESS)
 new title
- same title and recommends _____
- and attached a "LETTER OF INTENT" [] NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

1 Edm We Van if funding is available

2 Joe Josephson
2 Chris Stunglert

MEMBERS HAVING
OTHER RECOMMENDATIONS

1 Luther Schunkamp
Chairman
Do Pass if funding is worked out
Chairman recommendation