

LEGISLATIVE FINANCE-HOUSE / SENATE FINANCE COMM. FILES 8879

SCR 53 cont. , SCR 62 , SJR 1 , 566 157

**PUBLIC AND PRIVATE  
DONORS**

# **CORRECTION**

**THIS DOCUMENT  
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## INTRODUCTION

### BACKGROUND

In January, 1989, Governor Steve Cowper, in response to his campaign pledge and recommendations of Alaskan delegates to the 1986 White House Conference on Small Business, named a statewide task force of small business persons to plan and implement the Governor's Conference on Small Business.

This task force, known as the Steering Committee for the Governor's Conference on Small Business, generally utilized the format of the White House Conference on Small Business as its model.

To facilitate the Conference, the Steering Committee formed the Small Business Consortium, Inc. which had three purposes:

- 1) Spotlight the economic role of small business in Alaska;
- 2) Establish and maintain a channel of communication for small businesses to positively influence government to support small business issues; and
- 3) Network small business entrepreneurs throughout Alaska to promote opportunities for economic activities.

### PROCESS

The goal was to clearly define and seek solutions to the top twenty economic impediments faced by small business entrepreneurs in twelve broad categories<sup>1</sup>:

Economic Policy  
Education/Training  
Environment/Waste

Finance  
Government Competition  
Insurance/Bonding

International Trade  
Payroll Costs/Benefits  
Procurement  
Regulation/Paperwork

Taxation  
Transportation/Marketing

To accomplish this goal and to achieve a result which was fair, open and accurately reflected the voice of the small business person, the Steering Committee implemented the following multi-level process:

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<sup>1</sup> At both the regional and statewide conferences, these twelve categories were used to organize separate issue sessions which were run by a moderator, resource person and session recorder.

- 1) It conducted a series of thirteen regional conferences to define the top twenty-four problems in each region of the state; this resulted in 297 problem statements statewide. The conference locations were:

Anchorage  
Dillingham  
Juneau  
Kodiak  
Nome

Barrow  
Dutch Harbor  
Kenai Peninsula  
Kotzebue

Bethel  
Fairbanks  
Ketchikan  
Mat-Su

- 2) It asked the participants from each region to elect delegates to represent their region at the state conference. The delegates had to qualify as a small business<sup>2</sup> and had to be certified by the Conference Rules committee. A total of 99 delegates were selected statewide.
- 3) The delegates were asked to meet with themselves and other small businesses in their communities to refine the problem statements they had identified and propose recommend solutions. These revisions were forwarded to the Conference office for compilation.
- 4) Through a process of combining similar issues, the Steering Committee compiled a Briefing Book of 156 problem statements and proposed recommendations which formed the basis of the statewide conference and distributed the Book to all delegates.
- 5) It conducted a statewide conference at which regional delegates a) debated, refined and revised each problem statement; b) prioritized the problem statements; c) debated, refined and revised proposed recommendations to each problem statement; and d) through a series of two general voting sessions arrived at the top twenty problem statements and recommendations for small businesses statewide.

At the end of the conference, the Steering Committee also conducted a resolution session to address issues which were not raised in the issue sessions.

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<sup>2</sup> A small business was defined as having 100 or fewer employees and \$10,000,000 or less in gross annual revenues; the delegate had to be an owner, officer, employee or partner of a qualifying small business.

**PUBLIC AND PRIVATE  
DONORS**

## DONORS

### PRIVATE SECTOR SPONSORS

Large and small businesses and organizations have joined together to sponsor the 1989 Governor's Conference on Small Business. We are pleased to present this list of sponsors and thank them for their support.

**INVESTOR (\$5000 +)**  
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Ak. State Chamber  
Dawson Construction Comp.  
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Fireman's Fund Insurance  
Homer Electric Assoc.  
Alaska Window

### IN-KIND

Providing accounting services for the Conference were Alicia George and Richard Baker from the firm of Cooper's & Lybrand.

Assisting with legal needs were Tony Smith and John Steiner of Davis, Wright & Jones.

Tony Bloomfield of The Bloomfield Company donated a portion of the office rent.

Jack Jessee, Chairman of COMRIM, INC. donated xerox services, FAX, computer and some office furniture.

Planus owner Vern Craig donated the use of a computer and printer.

The Xerox Company, through Jackie Rosen, donated the use of a Xerox 1075 copier during the State Conference.

Bill Wood of Wood & Associates helped with training for moderators and resource people for both the Regional and State Conferences.

## **PUBLIC SECTOR GRANTS**

The Steering Committee of the Governor's Conference on Small Business has worked in a public/private partnership with the Department of Commerce & Economic Development to put on this conference. Our thanks to the Commissioner Larry Mercurieff, Assistant Commissioner Jane Angvik, Director of Business Development, Tom Lawson, and Development Officer Jim Wiedeman for their help and support.

The Department of Community and Regional Affairs Job Training Partnership Office has been supporting the promotion of small business interests in Alaska as a means of increasing job opportunities and training for economically disadvantaged people who are served under the federal Job Training Partnership Act (JTPA). The Steering Committee is pleased to thank Commissioner David Hoffman, Director of Rural Development Mike Harper, JTPA Program Coordinator William Mailer, the Alaska State Job Training Coordinating Council, and Rural Development Division Grants Administrator Jim Gurke for their support.

## **LIST OF TOP 20 PROBLEMS GOVERNOR'S CONFERENCE ON SMALL BUSINESS**

The top 20 small business priorities of the 1989 Governor's Conference on Small Business are:

- 1A. Alaska lacks a statewide long term economic development policy for human and natural resources.
- 1B. There is no safe way for many small businesses to dispose of waste products such as oil, hazardous wastes, and solid waste.
- 1C. Worker's compensation costs too much, is confusing, is difficult to obtain, has a classification system that is inaccurate and encourages lawsuits. This system also is also unfair to small businesses, which must compete with big businesses which can self-insure.
- 4A. Small businesses require better access to loans in the \$10,000 to \$100,000 range.
- 4B. Regulations are often difficult to read, hard to understand and contrary to legislative intent.
- 4C. Small businesses need better access to equity capital.
7. The increasing trend to mandate benefits, such as health insurance, increasing the minimum wage and parental leave, has a negative impact on small business.
8. Many public services could be provided better and less expensively by the private sector. Likewise, non-profits competing with small businesses is a problem.
9. There is a lack of networking between the education sector and the small business sector on such issues as what programs are needed.
10. The State does not have a transportation policy.
11. Small businesses can be put out of business by over-regulation.
12. There is inconsistency of bidding and contracting procedures between state-funded agencies.
13. The cost of health and other insurance/bonding is prohibitive for most small businesses.
14. The State does not have a central repository of business information, access to existing business information nor a mechanism to disseminate business information to small businesses.
15. Curriculum is lacking on basic skills and general business education in the schools.
16. There is an inadequate effort by the state to market both the natural and human resources of Alaska and to attract business to Alaska.
17. There is a lack of State government assistance to small businesses concerning international trade.
18. There are inadequate attractions, facilities and access to meet the demands of tourists in various regions of the state.
19. Small businesses have a hard time competing with wages and benefits offered by local and state governments.
20. The required use of Davis-Bacon wages causes conflicts and problems to small businesses.

**EXECUTIVE SUMMARY**

## **EXECUTIVE SUMMARY OF TOP 20 PROBLEMS**

(Note that the top 3 problems tied for first place and the the next 3 problems tied for fourth place.)

### **1A. PROBLEM: ECONOMIC POLICY**

Alaska lacks a statewide long-term economic development policy for human and natural resources. (93 votes)

#### **RECOMMENDATIONS**

1. Establish a statewide economic development planning process involving public and private sectors.
2. Increase the budget for business development.
3. Draft a statewide fisheries economic policy.
4. Develop more infrastructure.
5. Increase local hire.
6. Emphasize renewable resource development.

### **1B. PROBLEM: ENVIRONMENT/WASTE**

There is no safe way for many small businesses to dispose of waste products such as oil, hazardous wastes, and solid waste. (93 votes)

#### **RECOMMENDATIONS**

1. Construct environmentally safe hazardous waste treatment, disposal and recycling facilities in various regions of the state.
2. Develop lower liability insurance rates.
3. Develop better technology to deal with solid and hazardous wastes.
4. Educate small business owners about all aspects of hazardous wastes and their effect on business.
5. Assist with underground storage tank construction.
6. Develop a policy on recycling and waste reduction.
7. The state should protect public wells and water systems.

### **1C. PROBLEM: INSURANCE AND BONDING**

Worker's compensation costs too much, is confusing, is difficult to obtain, has a classification system that is inaccurate, and encourages lawsuits. This system also unfairly causes small businesses to compete with big businesses who can self-insure. (93 votes)

#### **RECOMMENDATIONS**

1. Develop an insurance pool specifically for small businesses.
2. Assure a safe work environment for small business employees.
3. Develop appropriate job classifications.
4. Have reasonable rates.
5. Change the classification system.

#### **4A. PROBLEM: FINANCE**

Small businesses require better access to loans in the \$10,000 to \$100,000 range. (92 votes)

##### **RECOMMENDATIONS**

1. State guaranteed loan program should be simplified and require less paperwork.
2. Get financial information out to small business people.
3. Provide incentives to banks to make more loans in rural areas.
4. Change the Alaska Industrial & Export Authority to allow greater flexibility for smaller loans.

#### **4B. PROBLEM: REGULATION/PAPERWORK**

Regulations are often difficult to read and hard to understand and contrary to legislative intent. (92 votes)

##### **RECOMMENDATIONS**

1. A Constitutional amendment allowing the legislature to repeal regulations should be presented to the voters.
2. There should be a sunset date on regulations.
3. Establish a Regulatory Review Commission with small business people as members specifically to review regulations as to their impact on small business.
4. Issue regulations within 90 days of passage of new laws.
5. Simplify forms, combine like forms, etc.
6. Coordinate federal, state, and local agencies to decrease duplication of services.
7. Use common sense in regulations.
8. The Ombudsman's office should deal with regulatory problems of small business.
9. Provide a clearinghouse to eliminate duplication and simplify regulations.

#### **4C. PROBLEM: FINANCE**

Small businesses need better access to equity capital. (92 votes)

##### **RECOMMENDATIONS**

1. The State should encourage investments in Alaska using state funds and the Permanent Fund as incentives.
2. Support the Science & Technology Foundation.
3. The State should implement an investment network.

## **7. PROBLEM: PAYROLL COSTS/BENEFITS**

The increasing trend to mandate benefits, such as health insurance, increasing the minimum wage and parental leave, has a negative impact on small business. (91 votes)

### **RECOMMENDATIONS**

1. Discourage mandated benefits.
2. The State should increase the deductible for state employees health insurance.
3. The State should take an active role in coordinating a group insuring pool for health care for its citizens.

## **8. PROBLEM: GOVERNMENT COMPETITION WITH THE PRIVATE SECTOR**

Many public services could be provided better and less expensively by the private sector. Likewise, non-profits competing with small businesses is a problem. (89 votes)

### **RECOMMENDATIONS**

1. Establish a private/public commission (Mini-Grace Commission) to review and evaluate commercial enterprises operated and services provided by the state government.
2. Income producing enterprises such as utilities and corrections should be privatized.
3. Stop government contracts with non-profits where the service could be provided by a for-profit business.
4. Stop government services that could be provided by the private sector - the State should not act as a surrogate business.

## **9. PROBLEM: EDUCATION/TRAINING**

There is a lack of networking between the education sector and the small business sector as to what programs are needed, etc. (88 votes)

### **RECOMMENDATIONS**

1. Provide funding and/or tax credits for an apprentice training program.
2. The Job Training Partnership Act (JTPA) program should be expanded.

## **10. PROBLEM: TRANSPORTATION/MARKETING**

The state does not have a transportation policy. (87 votes)

### **RECOMMENDATIONS**

1. Develop a transportation policy that includes highways, ports, airports, barge service and rail.

2. Establish one commission each for the Department of Transportation and Public Facilities, the Alaska Marine Highway System, and airports similar to the Alaska Rail Road to set policy and long range goals.
3. Provide year-round marine highway service to coastal communities.
4. Encourage more airline competition.
5. Expand the infrastructure at airports and ports.
6. Expand the ground transportation system.
7. Develop deep water port facilities throughout coastal regions.

#### **11. PROBLEM: REGULATIONS/PAPERWORK**

Small businesses can be put out of business by over-regulation. Helping businesses overcome regulatory problems does not seem to be the government's attitude. There is also inconsistent application of regulations. (86 votes)

##### **RECOMMENDATIONS**

1. Regulators should attempt to help businesses resolve problems.
2. The Ombudsman's office should assist small businesses with regulatory problems.
3. There should be a fixed time for agencies to decide permits.
4. An appeal process for regulatory decisions is needed.
5. The Governor's office should have people with authority to assist small businesses in resolving problems with agencies over regulations.

#### **12. PROBLEM: PROCUREMENT**

There is inconsistency of bidding and contracting procedures between state-funded agencies. (84 votes)

##### **RECOMMENDATIONS**

1. Stop advertising for services and products out of state.
2. Charge a handling fee for all out-of-state bid packets.
3. The State should adopt uniform bidding and contracting procedures.

#### **13. PROBLEM: INSURANCE/BONDING**

The cost of health and other insurance/bonding is prohibitive for most small businesses. (79 votes)

##### **RECOMMENDATIONS**

1. Organize and set up pools for self-insurance.
2. Enact risk pooling legislation.
3. Explore measures to help reduce health cost-shifting created by uncompensated care.
4. Discourage mandated insurance/benefits coverage.
5. Tort reform where appropriate.
6. Increase bond requirements to \$50,000 for a general contractors license.

7. Eliminate any requirement for bonding where no reason for bonding exists.
8. Small state and local construction projects (less than \$100,000) should allow exemption of contract bonding requirements.
9. Streamline the bonding process to reduce time and cost to small business.
10. Divide large State-funded jobs into phases in order that more Alaskan businesses can qualify for bonding.

#### **14. PROBLEM: ECONOMIC POLICY**

The State does not have a central repository of business information, access to existing business information nor a mechanism to disseminate business information to small businesses. (77 votes)

##### **RECOMMENDATIONS**

1. Establish a data base on regional basis for use statewide.
2. The State should develop a system to disseminate information relevant to small businesses in a timely manner.

#### **15. PROBLEM: EDUCATION/TRAINING**

Curriculum on basic skills and general business education is lacking in the school systems. (75 votes)

##### **RECOMMENDATIONS**

1. Hold a statewide conference on the development of the workforce within the next year.
2. Need training for employees on how to be employees.
3. Offer entrepreneurship courses in the schools.

#### **16. PROBLEM: TRANSPORTATION/MARKETING**

There is an inadequate effort by the state to market both natural and human resources of Alaska and to attract business to Alaska. (73 votes)

##### **RECOMMENDATIONS**

1. Provide sufficient funding for the Department of Commerce & Economic Development to develop a marketing plan.
2. Encourage better southbound freight rates.
3. Mount a major marketing effort to overcome the negative impact of the Prince William Sound oil spill.
4. The State should have a central place to distribute marketing information.
5. The Governor should name a task force to evaluate the competence of existing agencies to do marketing.
6. The State should more aggressively educate small businesses about available programs.

7. Where appropriate, the State should spend state dollars with Alaska film companies and talent.
8. Seek repeal of Jones Act.

### **17. PROBLEM: INTERNATIONAL TRADE**

There is a lack of state government assistance to small businesses concerning international trade. (71 votes)

#### **RECOMMENDATIONS**

1. Implement a foreign trade information system.
2. There should be a central place for information on importing and exporting.
3. Regional customs offices are needed.
4. Increase funding and personnel for the existing State office on international trade.
5. Distribute more information on European trade.
6. The State should encourage more export trade of natural resources.
7. The State should include the private sector more in the international trade development process.
8. The State and Congressional delegation should be more forceful in getting high seas piracy stopped.
9. Enforce 200 mile limit.
10. Develop foreign trade zones.

### **18. PROBLEM: ECONOMIC POLICY**

There are inadequate attractions, facilities and access to meet the demands of tourists in various regions of the state. (66 votes)

#### **RECOMMENDATIONS**

1. Seek cooperative ventures between public and private sector for developments.
2. Market Alaska as a year round destination.
3. Increase the state tourism marketing budget.

### **19. PROBLEM: PAYROLL COSTS/BENEFITS**

Small businesses have a hard time competing with wages and benefits offered by local and state governments. (65 votes)

#### **RECOMMENDATIONS**

1. Put wage/benefit increases out for public vote.
2. Allow comp time as substitute for overtime pay.

3. Lengthen vesting requirements for retirement and health benefits for state employees.
4. The State should raise its deductible on health coverage and reduce the level of health coverage.

## **20. PROBLEM: PAYROLL COSTS/BENEFITS**

The required use of Davis-Bacon wages causes conflicts and problems to small businesses. (64 votes)

### **RECOMMENDATIONS**

1. Employees should not be allowed to collect back wages when they knowingly accept less than the prevailing wage.
2. The State should add more crafts/job classifications to reflect actual work being performed.
3. The State should require uniform interpretation for Dept. of Labor rules to be the same in all regions of the state.
4. The Department of Labor should modify the current Davis-Bacon system and average the wages from all sources of employment to determine current prevailing wages.

**TOP 20  
PROBLEMS AND RECOMMENDATIONS**

## TOP 20 PROBLEMS AND RECOMMENDATIONS 1,2

### 1A. PROBLEM: ECONOMIC POLICY

Alaska lacks a long term economic development policy for both human and natural resources.

#### RECOMMENDATIONS

1. The State should establish and implement a statewide economic development planning process involving both the public and private sectors that will develop central and regional economic development plans for the highest and best use of resources. This process should:
  - a. Ensure the sustained future economic welfare of the entire state;
  - b. Help keep Alaska's wealth in the state;
  - c. Be all-inclusive for development of renewable and non-renewable resources; and
  - d. Serve as a guide to the Administration and Legislature.

The economic development plans produced by this process should be, to the extent possible, brief action documents, flexible enough to respond to changing conditions and new administrations, involve industry groups that will be affected, have regional components prepared by Alaska Regional Development Organizations (ARDORs), and be done as soon as possible.

The lead agency for development of the plans should be the Division of Business Development, Department of Commerce and Economic Development, in conjunction with a statewide Economic Policy Task Force appointed by the Governor.

#### 2. Elements of an Economic Development Policy

- a. Fisheries policy that would support management of the fisheries resource for the Alaska people. The policy would include increased state funding for fisheries enforcement and management agencies in addition to the domestic observer programs. The policy needs to emphasize the needs of coastal communities for capital to build infrastructure, so that products can be processed on shore in Alaska. The state policy should include the quick processing (mandatory time limit) of the raw fish tax to allow communities to continue to develop their infrastructure which results in the growth of fisheries activities. To implement this policy, there needs to be a cabinet level fisheries person who would be responsible for coordinating all government agencies, individuals and foreign nations in fisheries activities as well as involving Alaskans in the planning process at all levels. This economic policy should look at fishing areas as permanent industrial bases that can be developed and managed. Further, the state needs to develop policy that protects fisheries from impacts of oil, gas and mineral development.

- b. Transportation policy that would enhance economic development through infrastructure such as ports, roads, airports, docks and free trade zones. The state also has a huge investment in the Alaska Marine Highway System (AMHS) which it needs to market and operate for maximum use. There should be a mechanism in the policy for the state to allow or encourage the privatization of some of the profitable runs in the AMHS.
- c. Resource development policy that does not give away the state's resources without receiving any revenue from them (the current exception: oil). Emphasis should be on renewable resource development as a priority. For example: development of a policy on tourism that focuses on infrastructural support which in turn encourages investment in tourism in rural Alaska, such as grants to communities for Visitor Information Centers that campaign in favor of local attractions.
- d. Human resources policy that places emphasis on local hire, especially in rural areas.

## **1B. PROBLEM: ENVIRONMENT/WASTE**

There is no safe way to dispose of waste products (including, but not limited to hazardous wastes, oily wastes, solid wastes, and waste products off boats) in the State of Alaska. Proper statutes of limitation are not in place, and we are at the mercy of the Court System. Liability insurance costs discourage small businesses from getting involved in the hazardous waste disposal business.

### **RECOMMENDATIONS**

1. a. Design and construct environmentally safe hazardous waste treatment, disposal and recycling facilities in various regions of the State.
- b. Make it a policy that fishing vessels and processors and all other generators of large quantities of waste disposing of wastes in shoreside community landfills must certify (on approved Environmental Protection Agency (EPA) and/or Department of Environmental Conservation (DEC) approved containers prior to disposal; lack of certification as above may force denial of onshore landfill facilities, with subsequent penalties to be imposed on communities by the state or federal government.
2. Recommend that the state identify means to lower insurance rates because liability insurance costs discourage small businesses from getting involved with hazardous waste business.
3. The state and federal governments need to recognize and assume the responsibility for the disposal of solid and hazardous waste - this includes providing the facilities and the technology for dealing with solid and hazardous waste. For example, many small areas do not have adequate landfills to deal with waste products off boats as required by the Marpol Agreement.
4. The state needs to assist in the education of communities on various types of hazardous wastes, storage, and disposal such as outreach seminars, education for communities through training programs (CHME through the Alaska Health Project).

5. Support House Bill 220 which would:
  - a. Assist the owners of underground storage tanks to comply with Federal and State requirements governing their tanks.
  - b. Provide a means for owners of underground storage tanks to obtain affordable liability insurance which currently is not available to small businesses.
  - c. Provide funding to assist owners of leaking underground storage tanks with the cost of upgrading or replacing their tanks and the costs of cleaning up contamination related to their tanks.
6.
  - a. The state should develop a recycling and waste reduction policy, economic incentives, financial assistance, and technical information, that will assist rural Alaska communities in disposing of wastes cost effectively.
  - b. Assist in funding transportation for recyclables.
  - c. Encourage businesses in a waste reduction program-Waste Reduction Assistance Program (WRAP).
7. Upon discovery of contaminants, the state shall take immediate steps to protect public wells and water systems at State expense.

#### **1C. PROBLEM: INSURANCE/BONDING**

##### **Worker's Compensation:**

1. Costs too much.
2. Small businesses are unable to self-insure, therefore, are locked into classification rates.
3. Lacks employee responsibility for an accident and does not allow the employer a defense and involvement in the claim process.
4. Difficult for small businesses to obtain information on the operations of the worker's compensation system.
5. Current rate classifications systems are often inaccurate and inappropriately determined.
6. Worker's compensation does not adequately address needs of many Alaskan occupations, i.e. self-employed boat owners as well as crew members.
7. Worker's compensation insurance does not preclude law suits of parties other than the employer to supplement or substitute for the relief available under the Workman's Compensation System.

#### **RECOMMENDATIONS**

1. Develop an insurance pool. Name a task force of small business owners to advise boards and review the process of setting rates.
2. Take care of our own problems by providing a safe work environment. A merit system should be initiated for the employer and employee. The State Division of Insurance shall review high rates in all areas of insurance and recommend and implement changes.
3.
  - a. Develop appropriate rating of all job classifications to allow for actual job performance while protecting insurance industry exposure to claims.
  - b. Increase funding for fraud investigations.
  - c. Require frequent and periodic medical reviews.

- d. Support tort reform.
  - e. Work to place disabled workers into vocational rehab programs at the earliest possible time. This may require increased funding to training programs.
  - f. Give incentives to industry for providing employee safety training; and
  - g. Increased training to prevent on the job injuries.
4. Develop workers' compensation rate system to more adequately classify workers' categories and review process to assure reasonable rates commensurate with risks and experience.
  5. Worker's Compensation Rate Classifications be clearly defined to represent the actual tasks performed and an appeal system be available to businesses. Total compensation for an on-the-job injury shall be limited to the amount established by the Workmen's Compensation System for that injury regardless of the ultimate source of compensation.
  6. Reasonable coverage and rates need to be provided under Worker's Compensation. Coverage needs to be provided for work performed on or off the boat regardless of time frame, i.e. 24 hour fishing period and/or season.

#### **4A. PROBLEM: FINANCE**

Small business requires better access to loans from \$10,000 to \$100,000.

#### **RECOMMENDATIONS**

1. The State guaranteed loan program should be simplified and have less costly documentation process.
2. The State needs to provide for the dissemination of information broadly throughout the state. This can be done through:
  - a. Local workshops, seminars;
  - b. Low cost computer networking;
  - c. Use of local facilities, schools, libraries, etc.;
  - d. PSA announcements;
  - e. Mailings etc. through business license mailing; and
  - f. Installing an 800 number.
3. The State should provide incentives to banks to make \$10,000 - \$100,000 loans to small businesses in rural communities.
4. Support House Bill 123 which would:
  - a. Increase the current AIDA loan guarantees to 80%;
  - b. Require AIDA to share in 80% of the collection and foreclosure expenses;
  - c. Let the banks control the collection and foreclosure status of the loans; and
  - d. Raise the current 2% level for delinquency so the local banks can participate in the loan program.

#### **4B. PROBLEM: REGULATIONS/PAPERWORK**

Regulations, in general, are difficult to read and understand. Many times an agency implements regulations which are contrary to or fail to follow the apparent intent of the legislature. This often results in the formulation and establishment of regulations which respond to motivations and agendas contrary to or not in accordance to what the legislature had intended.

#### **RECOMMENDATIONS**

1. SJR3 proposes a constitutional amendment that would permit the legislature to repeal any regulations adopted by a state agency when the regulation does not reflect the intent of the law passed by the legislature. SJR3 should be brought out of committee and passed into law by the House, Senate and Governor before the end of the current session.
2. To ensure that all existing and new regulations will be scrutinized for their appropriateness and effectiveness, a sunset date of five to seven years should be applied to all regulations.
3. Establish a Regulatory Review Commission to review all existing regulations affecting small business in Alaska for appropriateness and effectiveness. The top 20 issues of this initial Governor's Conference on Small Business will provide the basis for the initial review process. This initial review process will complete its work by June 30, 1991, with the results presented to the second Governor's Conference on Small Business in September, 1991.
4. Regulations covering a new law should be issued within 90 days as some new laws are passed for a specific purpose and regulatory interpretation often impacts the small business for whom the law was passed.
5. Include in the regulatory review commission small business representatives composed of owners and representatives to:
  - a. Review existing rules, regulations and forms to suggest adaptations more appropriate to small businesses. Emphasis should be on simplification, combining related forms, simultaneous due dates, increased consistency between state and federal forms, and increased computer compatibility.
  - b. Each government agency must make a special effort to educate small business owners about existing state rules and regulations.
  - c. Mandate follow-up review of implemented rules by small business advisory group(s).
  - d. Interpretation of rules must be consistent where conditions are the same.
  - e. The number of regulations which must be followed in order to assure the communal health, safety, and welfare should be kept to an absolute minimum.
  - f. The legislature should, when drafting laws, determine the effect of the proposed law on small businesses; and
  - g. All agencies must, when promulgating regulations, review them for conflicts with other agency regulations prior to adoption. Regulations must also be reviewed in light of their effect on small business.

6.
  - a. Provide a clearinghouse/marketing center for small businesses.
  - b. Coordinate federal, state, regional and municipal agency service to eliminate undue duplication of services.
  - c. Simplify regulation and application procedures by streamlining operation and agency mandates.
7. Agencies and legislators need to use common sense in their approach to regulations.
8. A person will be assigned to each ombudsman's office to deal with regulatory concerns of small business and will only be assigned to tasks addressing small business concerns.
9.
  - a. Provide a clearinghouse/marketing center for small businesses.
  - b. Coordinate federal, state, regional and municipal agency service to eliminate undue duplication of services.
  - c. Simplify regulation and application procedures by streamlining operation and agency mandates.

#### **4C. PROBLEM: FINANCE**

Small businesses need better access to equity capital.

##### **RECOMMENDATIONS**

1. The state should try to maximize their contacts to influence and encourage investments in Alaska using state funds and Permanent Fund Investments as leverage.
2. The state should support the role of the Alaska Science & Technology Foundation in providing seed capital for economic development.
3. Use of Uniform Limited Offering Registration (U.L.) similar to Washington State.
4. The state should implement an investment network such as Washington State's investment network (WIN) to match businesses in need of capital with investors.

#### **7. PROBLEM: PAYROLL COSTS/BENEFITS**

There is an increasing trend in Congress and legislature to mandate benefits that will adversely affect small businesses. Small businesses will have a problem if the following occur:

1. Mandatory health insurance.
2. Increasing minimum wage.
3. Parental (men and women) leave and continuing medical benefits with extended leave/leave without pay benefits.

##### **RECOMMENDATIONS**

1. Impress on legislators that mandated benefits and insurance must be discouraged. The two types of mandated benefits involved are as follows:

- a. Those that require all employers to provide a certain level of benefits such as health insurance.
  - b. Those that require all employers to provide certain benefits such as health insurance (i.e. maternity, psychological health benefits, etc.)
2. The state needs to raise its deductible on health coverage and require employees to bear a portion of the cost of dependent coverage. The state needs to take an active role as coordinator in forming a group insuring pool for health care for its citizens.
  3. Mandated benefits must be discouraged. A 20% to 30% rate increase for health insurance in one year simply is prohibitive. Many small business employers would be put out of business if required to carry health insurance. Both are harmful to small business.

The first type is harmful to small business because of the onerous expense it creates for the employer with no lower cost alternatives. For example, in many cases employers would not be able to continue in business if required to provide health insurance for all of their employees. This is especially true for start-up businesses and business hit hard by economic difficulties.

The second type of mandated insurance coverage adds significantly to the cost of insurance. This in turn forces employers to drop coverage because the mandated coverage is so expensive, even though they may be willing and able to provide less comprehensive coverage.

Legislators and the administration should instead be encouraged to enact legislation which would help reduce the cost of benefits; which would encourage more employers to cover their employees. For example, measures should be explored which will help reduce health care costs shifting created by uncompensated care.

## **8. PROBLEM: GOVERNMENT COMPETITION WITH THE PRIVATE SECTOR**

There are many public services that could be provided better and less expensively by the private sector. State financed non-profits compete with for-profit businesses on state, local, private and federal contracts. Also, non-profit organizations compete with private small business to provide services and goods.

### **RECOMMENDATIONS**

1. Establish a private/public commission (Mini-Grace Commission) to review and evaluate commercial enterprises operated and services provided by the state government. This commission would then mandate the state to make public the cost of these various projects to see if the private sector can do them more economically by contracts with small business firms.

This commission should consist of at least 12 members with 6 representatives from the small business sector and 3 representatives from the financial community. It is recommended these 9 be appointed to the commission by the Governor from a list of representatives prepared by the delegates to the Governor's Conference on Small Business. The other 3 representatives

would be appointed by the Governor from various branches of the state government.

As the individual projects are studied, evaluated and selected as candidates for a cost comparison study, the approved projects would then be put out for competitive bidding by small business firms, with the state also submitting a sealed bid. The bids would be opened at a public bid opening and the low bidder, be it the state or a small business firm, being awarded the contract to provide the service. If the state is the low bidder, the service would continue to be performed by the state. Otherwise, it would be awarded to the small business firm. The specific details in implementing this procedure would be worked out within state guidelines and coordinated with the appointed representatives on the established commission.

This commission is a very fair and impartial means of reducing state in-house costs and letting private firms prove they can perform a service more efficiently than the state.

2. Privatization of potential income producing enterprises or portions thereof owned by State and local governments should be considered. Examples which should be considered are utilities, agriculture, housing, finance, transportation, printing, publishing, maintenance, human resource development training/and management, recreation, health care, mental health care, tourism, corrections, and real estate.
3. Federal and state governments should stop the practice of giving grants to non-profits rather than contract with existing businesses who can provide the same services.
4. Reinforce the need for the Federal Government to avoid issuance of grants that compete with private enterprises.
5. a. Recognize that geographic isolation and historically small private sector have created a situation in which state and local governments provide some services more typically filled by private businesses (e.g. document copying, FAX transmission, engine and machine repairs, etc.) We must adhere to the principle that state or local governments and agencies that derive their funding from such governments are put in place to provide necessary public services and not to act as surrogate businesses.  
b. Limit and/or restrict government agencies from competing with small business, with oversight to be provided by a small business advocacy commission whose charge would be to:
  - (1) Prohibit unfair competition in which non-profit, tax-exempt organizations use their tax-exempt status and other advantages in selling products and services also offered by small business;
  - (2) Draft legislation to Congress forbidding direct competition by public agencies or public-funded agencies in providing unrelated services;
  - (3) Draft legislation with similar provisions in a state income tax bill;
  - (4) Review the nature and scope of commercial activities by public agencies and non-profit entities and determine the impact of these on small businesses in the state; and
  - (5) Draft regulations for the IRS with greater specificity.

- c. Definitively state in statutes that non-profit agencies providing services not directly related to their main purpose and which are identified as being in direct competition with an existing business or hindering the establishment of a new profit-making business, must either cease providing that particular service to the public or must pay taxes on those services as "unrelated profit-making ventures."
6. The state should stop competing and contract to private labs with the state being more aware of private services that are available and not duplicate.

**9. PROBLEM: EDUCATION/TRAINING**

There is a lack of networking between the education sector and the small business sector as to what programs are needed, the ability of businesses to train employees or have apprentice programs.

**RECOMMENDATIONS**

- 1. Provide funding and/or tax credits for an apprentice training program to assist small business to develop an effective and more productive work force.
- 2. The State Board of Education and State Vocational Education Board should be separated into two boards to better service Alaskan students.
- 3. The state funded SB191 program similar to the "Job Training Partnership Act" (JTPA) should be expanded with an emphasis on the private sector designing and delivering the training through the RFPO process.

**10. PROBLEM: TRANSPORTATION/MARKETING**

The state does not have a transportation policy.

**RECOMMENDATIONS**

- 1.
  - a. Develop a transportation policy that includes highways, ports, airports, barge service and the railroad; and
  - b. Establish one commission each for DOT, Alaska Marine Highway System, and airports similar to the Alaska Railroad to set policy and long range goals. Each should have their own budget with income generated remaining in the department directly related - i.e. gas tax to DOT, airport feed to airports, etc.
- 2. The Alaska Marine Highway System serves as a vital link to the continental surface transportation network:
  - a. Provide year-round marine highway service to Kodiak, Prince William Sound, Dutch Harbor and all other coastal communities presently served in Southwest Alaska, without lapse.
  - b. The Alaska Marine Highway System should request proposals for emergency replacement vessels immediately upon scheduling of refurbishment.
  - c. Extend the AMHS to include service to Western Alaska.

- d. Transfer terminal operation leases and port powers to local government.
  - e. Seek repeal of the Jones Act.
3. Construct a direct transportation link between Nome and Fairbanks. Develop year-round barge service among Anchorage, Kenai Peninsula and Dutch Harbor.
  4. Airline competition to Southeast Alaska, specifically a Juneau/Vancouver link, opens the Vancouver market to all of Alaska and similar increased competition and service in rural Alaska.
  5. Local communities should work with state to develop infrastructure at airports, terminals, parking, cargo and cold storage facilities so that they can sell space with guaranteed availability.
  6. Expand and improve the ground transportation system to provide better access and resource development.
  7. Promote deep water port facilities throughout all coastal regions for expanded tourism, employment and resource development.

#### **11. PROBLEM: REGULATIONS/PAPERWORK**

Field regulators or low level personnel have the power to put constraints on permits or even put you out of business by over-regulation. Their attitude is not to help you solve problems but to create them. Regulators have too much control over businesses with regulations. They can tell you what you can and cannot do with your own business. There is too much "government regulation." There are often differences between regulations in various agencies in applying their regulations to the same situation.

#### **RECOMMENDATIONS**

1. Regulators should attempt to help businesses resolve problems. Their enforcement activities should be restricted to taking actions on those items specifically prohibited or restricted by a current valid regulation.
2. A person will be assigned to each ombudsman office to deal with regulatory concerns of small businesses and will only be assigned to tasks addressing small business concerns.
3. Each application for permit, regulatory decision or appeal should have a reasonable fixed time for completion by the agency.
4. An appeal process should be established for regulatory decisions. The body hearing the appeal should not be made up of only the regulators.
5. The governor should appoint staff in his office with the authority to facilitate and resolve any discrepancies or differences in the application of different regulations to a specific situation.

## **12. PROBLEM: PROCUREMENT**

There is inconsistency of bidding and contracting procedures between state-funded agencies, for example, Legislative Affairs, Alaska Housing Finance Corporation, Alaska Energy Authority, line agencies, University of Alaska, school districts.

### **RECOMMENDATIONS**

1. All state funded agencies charge a handling fee to out-of-state bidders requesting bid packets.
2. All state funded agencies stop advertising outside Alaska--local (in Alaska) advertising only.
3. Bid prices must be FOB destination to show full price of item with shipping costs.

Concern was expressed about the State procurement procedures often having the state taking delivery of goods in an area convenient for out-of-state vendors, for example, a Seattle warehouse, even though the final destination is in Alaska. This procedure works to the benefit of out-of-state vendors since they can make local deliveries very easily. In-state vendors have no opportunity to use their expertise in expediting the goods to Alaska destinations.

If the cost of getting the goods to final destination were included in the bid prices, then in-state vendors could be more competitive. The state would also save money since the freight cost would be part of the competitive bids.

4. The state should adopt consistent bidding and contracting procedures for all state funded agencies.

## **13. PROBLEM: INSURANCE/BONDING**

The cost of health and other insurance and bonding is prohibitive for most small businesses. At the same time, the level of health care coverage provided by the state sets an unrealistic expectation for the work force and causes a high level of turnover for small businesses.

### **RECOMMENDATIONS**

1. Organize and set up pools for self-insurance.
2. Risk pooling legislation should be encouraged.
3. Measures should be explored which help reduce health cost-shifting created by uncompensated care.
4. Mandated insurance benefits/coverage must be discouraged.
5. Tort reform should be encouraged where appropriate to help lower costs.
6. Increase bond requirements to \$50,000 for a general contractors license.

7. Require the principal(s) of a company to pass a written competency test to obtain a general contractors license.
8. Eliminate the requirement for bonding where no reason for bonding exists.
9. Small state and local construction projects (less than \$100,000) should allow exemption of contract bonding requirements.
10. Streamline the bonding process to reduce time and cost to small business.
11. Divide large state funded jobs into phases in order that more Alaskan businesses may qualify for bonding.

#### **14. PROBLEM: ECONOMIC POLICY**

The State of Alaska does not have a central repository of business information, access to existing business information nor a mechanism to disseminate business information to small businesses. The lack of information and business data on finance, marketing, international trade and other business topic hampers small business development and success.

##### **RECOMMENDATIONS**

1. Establish a data base on regional basis for use statewide.
2. The state must make a concerted effort to information relevant to small businesses. Suggestions include mailings enclosed with business renewals licenses, worker's compensation forms, PSA's, etc.

#### **15. PROBLEM: EDUCATION/TRAINING**

Curriculum is lacking on basic skills and general business education. Employees do not always know how to be good employees. They lack good work habits like getting to work on time, writing, math skills, etc. There is not always a positive and productive employer/employee relationship. There is a lack of entrepreneurial education in the schools. Young people are not understanding business and self-employment.

##### **RECOMMENDATIONS**

1. A statewide conference entitled "The Development of Alaska's Workforce - A Course of Action" should be undertaken within the coming year (before November 30, 1990). The conference should address:
  - a. School curriculum, offerings and expectations for our young people;
  - b. Professional training, in-service training and qualifications of our educators;
  - c. Network public institutional and private educators (trainers, consultants, private training organizations and professional organizations) to address human resource development on a macro-level. Address the need to educate, prepare, train, develop and support the need for improved human resource development in Alaska;
  - d. The role of business in education;

- e. Training and development of Alaska's workforce by non-public institutions, resources, consultants and trainers. Regulatory guidelines, fiscal responsibility and institutional needs, among many other topics to be addressed;
  - f. The training and development of entrepreneurs in Alaska; and
  - g. Distance delivery of business education, economic development, plus knowledge about Alaska's diverse economic conditions, role in the economy of the US, Pacific Rim, and the international trade scene.
2. Training programs must be developed for the following:
    - a. For employees on how to be employees;
    - b. For employers on how to build a positive and productive employee/ employer relationship; and
    - c. Continuous skill training and human development.
  3. Entrepreneurship and small business development courses should be offered in schools. These should include implementing model curriculum and school-based enterprises and include appropriate in-service education.
  4. Information on existing programs should be more accessible.

#### **16. PROBLEM: TRANSPORTATION/MARKETING**

There is an inadequate effort by the State to market both the natural and human resources of Alaska and to attract business to Alaska.

#### **RECOMMENDATIONS**

1. Need sufficient funding for the Department of Commerce and Economic Development to develop a marketing plan designed to market both natural and human resources in Alaska.
2. Need to develop favorable southbound freight rates between Anchorage and the Seattle area to help market Alaska goods.
3. Recommend aquaculture/mariculture be allowed in Alaska.
4. To market Alaska as a tourism destination to overcome the negative impact of the oil spill:
  - a. Market the strengths of the affected and unaffected areas;
  - b. Accommodations for tourists and prevent loss of visitors (whose spaces were taken by clean-up crews);
  - c. Return rental, gas, and grocery prices back to "normal" (pre-oil spill);
  - d. Periodic inspections of impacted areas;
  - e. Promote awareness through litter clean-up;
  - f. Correspond with news media from affected areas.
5. The state needs to have a central position to distribute information to small businesses.

6. a. Involve people with knowledge in a specific regional market; and  
b. "Buy Alaska" and "Alaska Grown" are good examples of good marketing.
7. a. Make sorted labels available to everyone;  
b. The brochure rack at the Anchorage airport should be available to everyone, not just Anchorage Visitor and Convention Board members; and  
c. Name a task force to evaluate the competence of existing agencies and to look at combining services pertaining to small businesses to assist with finance and marketing.
8. The state needs to educate small business about programs that are available.
9. State dollars are being spent in the Lower 48, not in Alaska with Alaskan film companies and Alaskan talent.
10. Once marketing has attracted a company to Alaska business plan review by regulatory agencies must be faster so the project can start in a timely manner.
11. Seek repeal of the Jones Act to facilitate development and transportation from foreign ports utilizing foreign bottoms.

## **17. PROBLEM: INTERNATIONAL TRADE**

There is a lack of State government assistance in support of aggressively promoting awareness, marketing, and facilitating international trade. Information is not being disseminated in a timely and useful manner. Small businesses are not being made aware of the sources and types of assistance available from both State and Federal agencies. Small business is not involved in the planning and implementation of foreign trade missions. The activities and destinations of foreign vessels within the 200 mile zone are not being monitored and made available to small business. The infrastructure necessary to engage in foreign trade is not being developed.

### **RECOMMENDATIONS**

1. Implement foreign trade information system as developed by Washington State.
2. The central places in state government (Anchorage and elsewhere in Alaska) where small businesses can get information on import/export needs to be more aggressively advertised.
3. Promote a state-wide regional customs office to provide better training opportunities for resources and services.
4. The existing State Office of International Trade needs more funding for overseas offices and personnel.
5. The State Trade Office needs to develop more information on European trade.

6. The state should encourage export trading of natural resources that have no value added. The state should encourage imports from Europe and Asia to our trade zones for value added assembly and manufacture of products destined for us consumers.
7. The state must include the private sector in the international trade development process.
8. a. The Governor, Legislature and Alaska Congressional delegation must be more forceful about getting high seas fish interception piracy stopped; and  
b. Funding for enforcement must be increased.
9. The 200 mile limit should be more forcefully monitored by the Coast Guard, including advising port of call of each ship and to which country and port it will return.
10. Use Alaskan cities as receiving, storage and transport areas for goods. Develop foreign trade zones.

#### **18. PROBLEM: ECONOMIC POLICY**

Attractions, facilities and access are inadequate to meet the demands of tourists to various regions of our State. In addition, there is a lack of marketing to attract visitors to these regions as destinations.

#### **RECOMMENDATIONS**

1. The State should provide additional:
  - a. turnouts, camping areas;
  - b. restrooms, reststops;
  - c. historic markers;
  - d. access to rivers, lakes and other attractions;
  - e. accessibility for the physically handicapped; and
  - f. land available for private development of tourist accommodations.
2. Seek cooperative ventures between the public and private sectors to develop and improve tourism opportunities in the various regions of Alaska and market them.
3. Market Alaska as a year round destination with increased emphasis on shoulder and winter seasons.
4. Alaska needs an increase in the state tourism marketing budget, implemented by Alaskan advertising and marketing agencies.

#### **19. PROBLEM: PAYROLL/BENEFITS**

Small businesses have a hard time competing with wages and benefits offered by local and state governments and agencies funded by those governments, such as school districts and grant recipient agencies. This makes it difficult to get and keep good employees.

**RESOLUTIONS**

## RECOMMENDATIONS

1. a. Policy setting bodies need to be educated with "hard-number" charts and valid examples of employees and their training lost to public sector jobs; and
  - b. State and local wage negotiators must put any wage/benefit increase for state employees to voter approval.
  - c. Comp time should be allowed as a substitute for overtime pay for small business.
  - d. State employees should be paid wages and benefits based upon the prevailing wages and benefits in the local area to private sector employees doing similar work.
2. Lengthen the vesting requirements for retirement and health benefits for state employees.
  3. State needs to raise its deductible on health coverage and reduce its level of health coverage.

## 20. PROBLEM: PAYROLL COSTS/BENEFITS

The required use of Davis-Bacon (Title 36) wages cause a conflict between employees paid D-B wages and employees who are not and do not reflect the reality of wages paid at the private, state and federal levels at the same job classifications. These wages make it impossible for small businesses to hold employees.

## RECOMMENDATIONS

1. Employees knowingly accepting less than the prevailing wage should not be allowed to collect back wages, and all certified payroll should include employee's signature on the first payroll that they in fact, are receiving wages as stated;
2. The State of Alaska should add more crafts/job classification to reflect actual work being performed;
3. The State of Alaska should require uniform interpretation for Department of Labor rules to be the same in all regions of the state; and
4. The Department of Labor should modify the current Davis-Bacon system and average wages from all sources of employment to determine current prevailing wages.

- 
1. It should be noted that some of these problems might have previously been addressed by either the administration or legislature. But they were voted in the top 20 because Delegates felt that the previous whole or partial solution did not fully address or solve the problem.
  2. Text in parentheses after a problem or recommendation is added for clarification of intent.

## **RESOLUTIONS**

### **PASSED BY DELEGATES TO THE GOVERNOR'S CONFERENCE ON SMALL BUSINESS SEPTEMBER 30, 1989**

#### **RESOLUTION 89-1**

**WHEREAS, All Alaskans wish to see stable and continued growth in the Alaska economy rather than the Boom and Bust cycles of the past, and because we believe in the future of Alaska, and because we feel the government and the private sector should work in harmony,**

**THEREFORE, The Delegates of the 1989 Governor's Conference on Small Business desire that this Conference be held on a continuing basis every two years to promote the economic growth of Small Business in the State of Alaska; and ask for legislation to authorize funds to continue this conference.**

#### **RESOLUTION 89-2**

**WHEREAS, Without follow-through, the Governor's Conference on Small Business will essentially have been in vain,**

**THEREFORE, The Fairbanks Delegation requests the formation of an ongoing organization to implement the final recommendations of the Governor's Conference on Small Business.**

#### **RESOLUTION 89-3**

**WHEREAS, The small business community from all regions of the State of Alaska have dedicated much time and effort to resolve problems facing small business,**

**THEREFORE, We propose that the Governor appoint a cabinet level task force to implement and carry forth the final recommendations from the Governor's Conference on Small Business.**

#### **RESOLUTION 89-4**

**WHEREAS, A continuing organization is necessary to ensure implementation of the Governors Conference on Small Business agenda,**

**THEREFORE, Be it resolved, that the delegates establish an association and each Delegation shall comprise a chapter of the association and Chapter chairs comprise the statewide Board of Directors. Present Steering Committee members shall automatically become members of their regional chapter. Chairs shall be the liaison to the Administration and the Legislature, and with the small business and other organizations in the region. The name of the Association shall be the ALASKA SMALL BUSINESS CONFERENCE.**

**RESOLUTION 89-5**

**WHEREAS,** Small business needs a strong consistent policy voice in this administration, and

**WHEREAS,** The conference has made it clear that many programs desired by small businesses are already in existence, but have not been communicated to the public, and

**WHEREAS,** There has been no Director of the Division of Business Development for over 11 months,

**THEREFORE,** Be it resolved, that the Governor appoint a small business person to be Director of the Division of Business Development by November 1, 1989.

**RESOLUTION 89-6**

**WHEREAS,** Small businesses have unique public policy considerations which are not adequately addressed at present,

**THEREFORE,** Be it resolved that the Governor's Conference on Small Business ask the Legislature to adopt a resolution expressing its intent that all relevant boards and commissions contain at least one small business person, and that the Governor appoint a small business advisory commission for the Division of Business Development.

**RESOLUTION 89-7**

**WHEREAS,** The Administrative staff, Steering Committee, and Volunteers have worked hard to produce the Governor's Conference on Small Business and have produced a successful conference,

**THEREFORE,** Be it resolved that the Delegates express their appreciation to the staff, Steering Committee and assistants of the Governor's Conference on Small Business, with particular thanks to the Executive Director.

**RESOLUTION 89-8**

**WHEREAS,** The March 24, 1989, Exxon Valdez oil spill in Prince William Sound has been described as the largest man made disaster since Hiroshima, and

**WHEREAS,** The entire State of Alaska has been adversely affected by the oil spill, and

**WHEREAS,** Alaskan coastal communities have suffered ecological, social, and economical losses due to the Exxon oil spill, and

**WHEREAS,** Coastal municipalities absorbed a tremendous financial responsibility due to the lack of fund availability, and

**WHEREAS, The State of Alaska needs to be able to respond immediately to containment and defense of such spills, and**

**WHEREAS, The local municipalities are the ones closest to the problems and are the best able to deal with the issues resulting from spills of oil and other hazardous wastes,**

**THEREFORE, Be it resolved that the Governor's Conference on Small Business support the passage of legislation that would provide funding for any oil or hazardous waste spill, in the form of a contingency fund, which would allow local municipalities to have the immediate ability to defend and clean up any future spills if they occur.**

#### **RESOLUTION 89-9**

**WHEREAS, Small business persons throughout the State have dedicated their time and efforts to identify, prioritize, and propose solutions to problems experienced by small businesses, and**

**WHEREAS, The only reward for time and efforts spent will be for the betterment of small business and government relations throughout the State of Alaska, and**

**WHEREAS, Legislative consideration and action is necessary for this betterment,**

**THEREFORE, We request that the administration make administrative bills in 1990, and if not passed in 1990 to encourage legislative consideration beyond the current administration term.**

**APPENDICES**

## APPENDIX A

### AGENDA

Thursday, Sept. 28, 1989

- 3:00 pm and on - Check-in to Sheraton Hotel
  - 4:00 - 5:00 pm - Training session for Moderators, Resource People #308
  - 5:00 - 6:00 pm - Executive Committee, Governor's Conference on Small Business, #308
  - 5:00 - 7:00 pm - Pre-registration - Hospitality Suite #315  
Regional Caucuses #308, #311
  - 7:00 - 7:30 pm - Rules Committee #311
  - 7:00 - 9:00 pm - Informal Reception for Delegates #303  
Ham & Cheese Croissants, Veggies, Cheese  
No-Host Bar
- 

Friday, Sept. 29, 1989

- 8:00 - 9:00 pm - Exhibits (Atrium)
- 8:00 - 8:30 am - Registration (will continue until 10)  
Coffee/Tea/Muffins/Croissants/Fruit
- 8:30 - 9:30 am - General session - Ballroom A  
Welcome: Jack Jessee, Chairman, Steering  
Committee, Governor's Conference  
on Small Business  
Welcome to Anchorage: Mayor Tom Fink  
Remarks: Larry Mercurieff, Commissioner,  
Dept. of Commerce & Economic  
Development  
  
Keynote Address: Honorable Steve Cowper,  
Governor, State of Alaska  
Goals/Process: Rosie Porter, Steering  
Committee
- 9:30 - 9:45 am - Break  
Coffee/Tea  
Brief Regional Caucuses

# 6 INSURANCE/BONDING  
Moderator: Vern Craig, Northland Systems  
Ballroom A Resource: Earlene Caress, S&S Welding, Jim  
Jordan, Div. of Insurance, C&ED  
Recorder: Frank Thomas-Mears, MRM

# 7 TRANSPORTATION/MARKETING  
Moderator: Rosie Porter, Tundra Drums  
#311 Resource:  
Recorder: Wendy Cucullu, SBDC

# 8 ECONOMIC POLICY  
Moderator: Jack Jessee, COMRIM  
Yukon Resource: Stan Stedman, KEDD, Walter  
Rm. Nayokpuk  
Recorder: Lisa Short, C&ED

3:15 - 3:45 Break  
Coffee/Tea/Iced Tea/Soft Drinks/Chocolate  
Chip Cookies  
Brief Regional Caucuses

3:45 - 5:45 ISSUE SESSIONS

# 9 EDUCATION/TRAINING  
Moderator: Ernie Hall, Limited Editions  
Ballroom A Resource: Linda Van Ballenberg, Office of  
Adult & Vocational Education, DOE, Janet  
Nye, State Director, SBDC, Josie Roetto,  
JTPA, C&RA  
Recorder: Chuck McGee, C&ED

# 10 PAYROLL COSTS/BENEFITS  
Moderator: Frank Thomas-Mears, MRM  
#308 Resource: Dick Ford, SBDC  
Recorder: Joanne McDowell, SBDC

# 11 TAXATION  
Moderator: Ellen Greenberg, BBNA  
#311 Resource: Larry Meyers, Cooper's & Lybrand  
Recorder: Wendy Cucullu, SBDC

# 12 GOVERNMENT COMPETITION WITH PRIVATE SECTOR  
Moderator: Britt Lively, Mapmakers  
Yukon Resource: Wally Carlo, Doyan, Jack Jessee,  
Rm. COMRIM Systems, Inc.  
Recorder: Lisa Short, C&ED

# 13 OTHER  
Moderator: Irene Anderson, Sitnasuak  
Resource: Earl Romans, Alaskan Battery  
Ballroom A Recorder:

9:45 - 11:45 am - ISSUE SESSIONS

- # 1 FINANCE  
Moderator: Jack Jessee, Chairman, COMRIM  
Yukon Resource: Tom Broderson, SBDC, Ed Watkins,  
Rm. Div. of Banking, C&ED, David  
Dougherty, Wash. Bus. Ctr.  
Recorder: Lisa Short, C&ED
- # 2 PROCUREMENT  
Moderator: Dennis Hanoski, Marquis Furn.  
#308 Resource: Ben Milem, SBDC, Wally Carlo,  
Doyan Native Corp.  
Recorder: Wendy Cucullu, SBDC
- # 3 REGULATIONS/PAPERWORK  
Moderator: Ernie Hall, Limited Editions  
Ballroom A Resource: Britt Lively, Mapmakers, Janet  
Nye, SBDC  
Recorder: Penny Graber, SBDC
- # 4 ENVIRONMENT/WASTE  
Moderator: Frank Thomas-Mears, MRM  
#311 Resource: Irene Anderson, Sitnasuak, Russ  
McCurdy, SBA, Seattle  
Recorder: Heather McQueen, SBDC

11:45 - 12:00 - Break

12:00 - 1:00 - Luncheon - Ballroom A

Welcome: Jack Jessee, Chairman  
Remarks: Russ McCurdy, SBA Regional Advocate  
Speaker: David Dougherty, Director  
Washington Business Assistance  
Center, Olympia, Wash.  
"How Can the State Make Small  
Businesses Stronger - How can  
Small Businesses Make the State  
Stronger?"

1:00 - 1:15 - Break  
Brief Regional Caucuses

1:15 - 3:15 - ISSUE SESSIONS

- # 5 INTERNATIONAL TRADE  
Moderator: Irene Anderson, Sitnasuak  
#308 Resource: Gary Jenkins, Jenkins Ent., Earl  
Romans, Alaskan Battery  
Recorder: Chuck McGee, C&ED

# 4 ENVIRONMENT/WASTE  
Moderator: Frank Thomas-Mears, MRM  
Kuskokwim Resource: Irene Anderson, Sitnasuak, Russ  
West McCurdy, SBA  
Recorder: Heather McQueen, SBDC

10:00 - 10:15 Break  
Coffee/Tea  
Brief Regional Caucuses

10:15 - 11:15 ISSUE SESSIONS

# 5 INTERNATIONAL TRADE  
Moderator: Irene Anderson, Sitnasuak  
Kuskokwim Resource: Gary Jenkins, Jenkins Ent.  
East Recorder: Chuck McGee, C&ED

# 6 INSURANCE/BONDING  
Moderator: Vern Craig, Northland Systems  
Ballroom A Resource: Earlene Caress, S&S Welding, Jim  
Jordan, Div. of Ins., C&ED  
Recorder: Frank Thomas-Mears, MRM

# 7 TRANSPORTATION/MARKETING  
Moderator: Rosie Porter, Tundra Drums  
Kuskokwim Resource:  
West Recorder: Wendy Cucullu, SBDC

# 8 ECONOMIC POLICY  
Moderator: Jack Jessee, COMRIM  
Yukon Resource: Stan Stedman, KEDD, Walter  
Rm. Nayokpuk  
Recorder: Lisa Short, C&ED

11:15 - 12:15 ISSUE SESSIONS

# 9 EDUCATION/TRAINING  
Moderator: Ernie Hall, Limited Editions  
Ballroom A Resource: Linda Van Ballenberg, DOE, Janet  
Nye, SBDC, Josie Roetto, JTPA  
Recorder: Chuck McGee, C&ED

# 10 PAYROLL COSTS/BENEFITS  
Moderator: Frank Thomas-Mears, MRM  
Kuskokwim Resource: Dick Ford, SBDC  
East Recorder: Joanne McDowell, SBDC

# 11 TAXATION  
Moderator: Ellen Greenberg, BBNA  
Kuskokwim Resource: Larry Meyers, Cooper's & Lybrand  
West Recorder: Wendy Cucullu, SBDC

5:45 - 6:00 Break  
Regional Caucuses

6:00 - 6:45 GENERAL SESSION  
Issue Sessions summaries  
Distribution of ballots (#1 ballot - yellow)  
for First Conference Vote to determine  
the top 50 recommendations  
Ballots must be turned in by 9:15 pm

Our thanks to Cooper's & Lybrand for their  
assistance with the vote count.

7:00 - 9:00 RECEPTION/BUFFET - Ballroom B  
Sponsored by: AK. State Chamber of Commerce  
ARCO ALASKA, Inc.

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Saturday, Sept. 30, 1989

7:00 Results of First Vote available

7:00 - 8:15 am - Meeting of Regional Delegation Chairs,  
Sheraton Bistro Restaurant

8:00 - 2:00 pm - Exhibits (Atrium)

8:00 - 8:30 am - Coffee/Tea/Muffins/Croissants/Fruit

8:30 - 9:00 am - GENERAL SESSION - Ballroom A  
Results of First Vote - Top 50

9:00 - 10:00 am - ISSUE SESSIONS

# 1 FINANCE  
Moderator: Jack Jessee, COMRIM  
Yukon Resource: Tom Broderson, SBDC, Ed Watkins,  
Rm. C&ED  
Recorder: Lisa Short, C&ED

# 2 PROCUREMENT  
Moderator: Dennis Hanoski, Marquis Furn.  
Kuskokwim Resource: Ben Milem, SBDC, Wally Carlo,  
East Doyan  
Recorder: Wendy Cucullu, SBDC

# 3 REGULATION/PAPERWORK  
Moderator: Ernie Hall  
Ballroom A Resource: Britt Lively, Mapmakers, Janet  
Nye, SBDC  
Recorder: Penny Graber, SBDC

**APPENDIX B**  
**RULES OF THE**  
**GOVERNOR'S CONFERENCE ON SMALL BUSINESS**

**I. Rules Committee**

**A. Objective.**

It is the objective of the Rules Committee to encourage maximum Delegate participation, discussion, and deliberation, within a procedural framework that guarantees fairness and equity to all Delegates.

**B. Membership.**

The Rules Committee will be composed of seven members. The Chair shall be a member of the Steering Committee. The Chair shall appoint six members consisting of one Delegate from each of the following areas:

Anchorage	Fairbanks
Southeast	Kenai/Mat-Su
Northwest/Arctic	Aleutian Chain

**C. The members of the Rules Committee shall interpret, and enforce the rules and procedures governing the Statewide Governor's Conference on Small Business. The Rules Committee will approve the Conference Calendar, the List and petitions. It will direct petitions to the appropriate Issue Sessions and oversee Delegate voting. Although the primary responsibility for certification of the Delegates lies with the Regional Chairs, a Credentials Subcommittee of the Rules Committee shall be appointed by the Rules Chair to resolve any certification disputes that cannot be resolved by the Regional Chairs. The Rules Committee will also establish the following subcommittees:**

Petitions Subcommittee  
Resolutions Subcommittee.

**D. Participation**

Each member of the Rules Committee may attend any Issue Session, and may be an active Issue Session participant. Members of the Rules Committee will receive official ballots for Conference voting and may vote. Members of the Steering Committee will be appointed by the Rules Committee Chair to act as assistant parliamentarians for the Rules Committee during the Issue Sessions and to provide such parliamentary assistance as may be needed.

**E. Organization.**

The Rules Committee shall elect a Vice Chair. The spokesperson for the committee shall be the Chair. The Rules Committee shall have the right to designate and appoint subcommittees other than those in C. to assure that the business of the committee is carried out. The members of such subcommittees shall be Delegates.

**II. Parliamentarian**

A conference Parliamentarian shall be appointed by the Chair of the Rules Committee to provide such parliamentary assistance as may be needed. If circumstances arise which are not covered by these rules, ROBERT'S RULES OF ORDER shall be in force.

# 12 GOVERNMENT COMPETITION WITH PRIVATE SECTOR

Yukon  
Rm.

Moderator: Britt Lively, Mapmakers  
Resource: Wally Carlo, Doyan, Jack Jessee,  
COMRIM Systems, Inc.  
Recorder: Lisa Short, C&ED

- 12:15 - 12:30 Break  
Brief Regional Caucuses
- 12:30 - 1:00 General Session - Ballroom A  
Brief Summary of Issue Sessions  
Final Vote (#2 ballot - green)  
on top 20 recommendations
- 1:00 - 3:00 Lunch - Ballroom B  
RESOLUTION SESSION - Frank Thomas-Mears  
Top 20 Announcement  
Conference Wrap-up
- 3:00 - 4:00 Steering Committee, Governor's Conference on  
Small Business, #315

### III. Issue Sessions

#### A. Purpose of the Issue Sessions shall be to:

1. Refine problems;
2. Prioritize problems to discuss; and
3. Discuss, debate and amend the recommendations.

#### B. Delegate Participation.

##### 1. Session Leadership.

Issue Sessions will be led by Moderators who have substantial expertise and experience in the relevant issue area. Each Moderator will be assisted by a Resource person or persons who have been active in their fields and have demonstrated expertise in a particular issue area, and by a Recorder.

##### 2. Attendance at Issue Sessions.

Delegates may attend any Issue Session of the State Conference. They shall enjoy free access in and out of any Issue Session.

##### 3. Speaking Rights.

Delegates will have equal right to express opinions or make recommendations in any issue Session. Only those individuals accredited as Delegates will be recognized to speak. Alternates or observers may be recognized by the Moderator to take part in the discussion at the request of a Delegate. In order to accommodate everyone, a Delegate's remarks in the Issue Sessions will be limited to three minutes. After a Delegate has spoken to a particular issue, the Moderator will call on all other Delegates who wish to speak on that topic before recognizing the same Delegate again. Any Delegate may offer an amendment to any recommendation as long as, in the judgement of the Moderator, it is timely and germane to the recommendation being discussed.

##### 4. Delegate Credentials.

All delegates will receive credentials upon registration at the Conference. Should a Delegate resign, his or her credentials may be transferred to an authorized Alternate as designated by the Regional Chair. After the Chair has certified the transfer with the Credentials Subcommittee of the Rules Committee, the Alternate will take a position as a Delegate for the remainder of the Conference. There will be no change in the registration fee. Any dispute regarding an individual's credentials will be resolved by the Regional Chair within his or her delegation. Should there be a dispute among the Regional delegation that cannot be resolved by the Chair, the Rules Committee shall resolve the dispute.

#### C. Amendments.

##### 1. Sponsorship.

Only Delegates may offer amendments to recommendations. Upon introduction of an amendment, the Delegate sponsoring the amendment shall deliver to the Rules Chair or their designee, a copy of said amendment.

##### 2. Forms.

Amendment forms are available by contacting the GCSB office. Blank amendment forms will also be available in each of the Issue Session areas during the Conference. Only the approved GCSB form will be accepted.

##### 3. Submission.

Amendments to the recommendations listed on the initial Issue/Recommendation List will be accepted prior to the State Conference and at the Issue Sessions taking place on September 29/30, 1989.

**D. Voting.**

Voting on amendments in Issue Sessions. Passage or failure of amendments to issues/recommendations under consideration in the various Issue Sessions shall be by simple majority vote of Delegates present.

**E. Issue/Recommendation List.**

The List is the comprehensive listing of all recommendations under active consideration. Any of these recommendations may be amended in the appropriate Issue Session of the Conference. Recommendations on the Initial List will be ordered by the Rules Committee within each of the 13 issue areas and will be presented on the List in alphabetical order by issue area.

**F. Petitions.**

**1. Format.**

Recommendations not appearing on the initial List may be placed before the Conference in the form of petitions. Each petition must have at least twenty Delegate signatures with no more than five coming from one Region. A recommendation which the petition is intended to bring forward must be stated exactly as the sponsor wishes it to be considered. If more than one form is used to obtain the required signatures, the wording of the recommendation must be exactly the same on each form.

**2. Submission Date.**

All petitions must be submitted to the Rules Committee for validation under the criteria set forth in the Format section above, no later than 9:00 pm on Friday September 29, 1989. They may be submitted to the GCSB office any time prior to the aforementioned due date. Petitions turned into the GCSB office prior to the start of the Conference will be turned over to the Rules Committee for validation.

**3. Consideration of Petitions.**

Petitions validated by the Rules Committee will be added to the List and discussed in the appropriate Issue Sessions on Friday September 29, 1989. Each validated petition will be assigned to an Issue Session and given a number for consideration in Conference votes. Petitions may be amended.

**4. Definition of a Sponsor.**

For purposes of this section, sponsor is defined as the person whose name appears in the section of the GCSB petition which is labeled "circulated by". If a Region or other organization appears in the "circulated by" section, the chair of the Region shall be considered the sponsor of the petition.

**IV. Conference Votes**

**A. The Two (2) Conference Votes.**

Each Delegate may vote for up to 50 items at the first conference vote and up to 20 items on the second and final conference vote from the Issue/Recommendation List. The List is the comprehensive listing of all recommendations under active consideration. On Friday September 29, 1989, Delegates will receive an updated List that includes amendments adopted in the Friday Issue Sessions. The vote on Friday evening will reduce the list to the top 50 items. Results of the Friday vote will be made available early Saturday September 30. Saturday September 30, 1989, the second and final vote will then produce an overall ranking order list from all recommendations of the top 20. These shall constitute the Final Recommendations of the 1989 Governor's Conference on Small Business.

**B. Voting Procedures for Conference Votes.**

Votes will be cast by means of ballots. Vouchers for these ballots will be distributed to each Delegate at Registration and will not be replaced if lost or

stolen. Vouchers will be exchanged for a ballot at the time of voting. Voting times and locations will be announced in the Conference Agenda distributed at Registration.

#### V. Resolution Session: "Small Business Futures Session".

##### A. Purpose.

The Resolution Session will be devoted to areas of concern not specifically addressed by recommendations in the Issue Sessions. The session will be for discussion of issues such as, but not limited to:

1. Small business's place in the economy of the next decade;
2. Changes in the labor force which will affect small business;
3. Changes in technology which will affect small business; and
4. Determining the role of the private sector in strengthening small business and increasing public awareness of its contributions to our economy.

This session will not be for the purpose of further amendments to others. Thus, resolutions must not repeat recommendations discussed and voted on in the Issue Sessions. Resolutions must be submitted on prescribed forms.

##### B. Attendance at the Resolution Session.

The time of the Resolution Session will be announced on the Conference Agenda and will be open to any Delegate. Only Delegates may offer Resolutions or speak to Resolutions. Alternates and observers may attend.

##### C. Voting at the Resolution Session.

In order to hold a Resolution Session, at least 66 Delegates must be present. Voting will be after discussion on each Resolution. Delegates may vote on as many Resolutions as are presented. All Resolutions passed by this session will be forwarded to the Governor in the Final Report. In order to pass as a Conference Resolution, a Resolution must receive a minimum of two thirds (44) of the minimum of 66 Delegates present.

#### VI. General Sessions

##### A. Session Leadership.

Each General Session will be chaired by the GCSB Steering Committee Chair or their designee with the assistance of the Parliamentarian.

##### B. Purpose.

General Sessions will be scheduled for the purpose of presenting speakers to the Delegates as well as to make housekeeping and procedural announcements.

##### C. Attendance at General Sessions.

General Sessions are open to all Conference participants. Delegates will be seated by Regional delegations in designated sections of the floor. Observers, alternates and others will be seated in other designated areas.

#### VII. Definitions

A. Amendment: a proposal for addition or modification to an item on the Issue/Recommendation List.

B. Delegate: a person who is an owner, partner, corporate officer or employee of a for-profit small business with 100 or fewer permanent employees and that grosses less than \$10 million per year. There cannot be more than one person per business. Delegates must have been elected at a Regional Conference or appointed by the Steering Committee. Delegates shall be apportioned as follows:

Anchorage	36
Barrow	3
Bethel	3
Dillingham	3
Dutch Harbor	3
Fairbanks	15
Juneau	10
Kenai	7
Ketchikan	5
Kodiak	3
Kotzebue	3
Mat-Su	5
Nome	3
<u>TOTAL</u>	<u>99</u>

- C. **Petition:** a formal request, needing at least 20 Delegate signatures, asking that an additional recommendation be considered that is not on the Issue/Recommendation List.
- D. **Recommendation:** an issue area developed at a Regional Conference or by petition that identifies a problem area and suggests how it can be addressed by the private sector, regulatory or administrative changes or by legislation.
- E. **Resolution:** a formal proposal for consideration that concerns small business and that has not been considered in any Issue Session.

**APPENDIX C**  
**DELEGATES TO THE CONFERENCE**

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Fairbanks, AK 99712  
457-6258

Edward Young  
E&T Electronics  
505 West Northern Lts. #104  
Anchorage, AK 99503  
278-4488

\* Served on the Rules Committee

## APPENDIX D

### STEERING COMMITTEE MEMBERS AND REGIONAL COORDINATORS

Irene Anderson  
P.O. Box 905  
Nome, AK 99762  
443-5296

Bill Blachman  
Dean, School of Business  
3211 Providence Dr.  
Anchorage, AK 99508  
786-1753

Wally Carlo  
201 1st. Ave.  
Fairbanks, AK 99709  
452-4755

C. L. Cheshire  
University of Alaska, Southeast  
7th & Madison  
Ketchikan, AK 99901  
225-6171

Vern Craig  
3901 Taft Dr.  
Anchorage, AK 99517  
243-1272

George Easley  
240 W. 68th Ave.  
Anchorage, AK 99518  
344-0531

Ellen Greenberg  
P.O. Box 310  
Dillingham, AK 99576  
842-5257

Ernie Hall  
144 E. Potter Dr.  
Anchorage, AK 99518  
562-2257

Dennis Hanoski  
4360 Calhoun Ct.  
Homer, AK 99603  
235-8669

Gary Jenkins  
P.O. Box 210194  
Auke Bay, AK 99821  
586-4100

Jack Jessee  
560 E. 34th  
Anchorage, AK 99503  
563-0304

Britt Lively  
259 S. Alaska St.  
Palmer, AK 99645  
745-3398

Stephanie Madsen  
P.O. Box 330  
Dutch Harbor, AK 99692  
581-1428

Walter Nayokpuk  
General Delivery  
Shishmaref, AK 99772  
649-3171

Ernie Polley  
634 W. 12th. St.  
Juneau, AK 99801  
586-1437

Rosie Porter  
P.O. Box 868  
Bethel, AK 99559  
543-3500

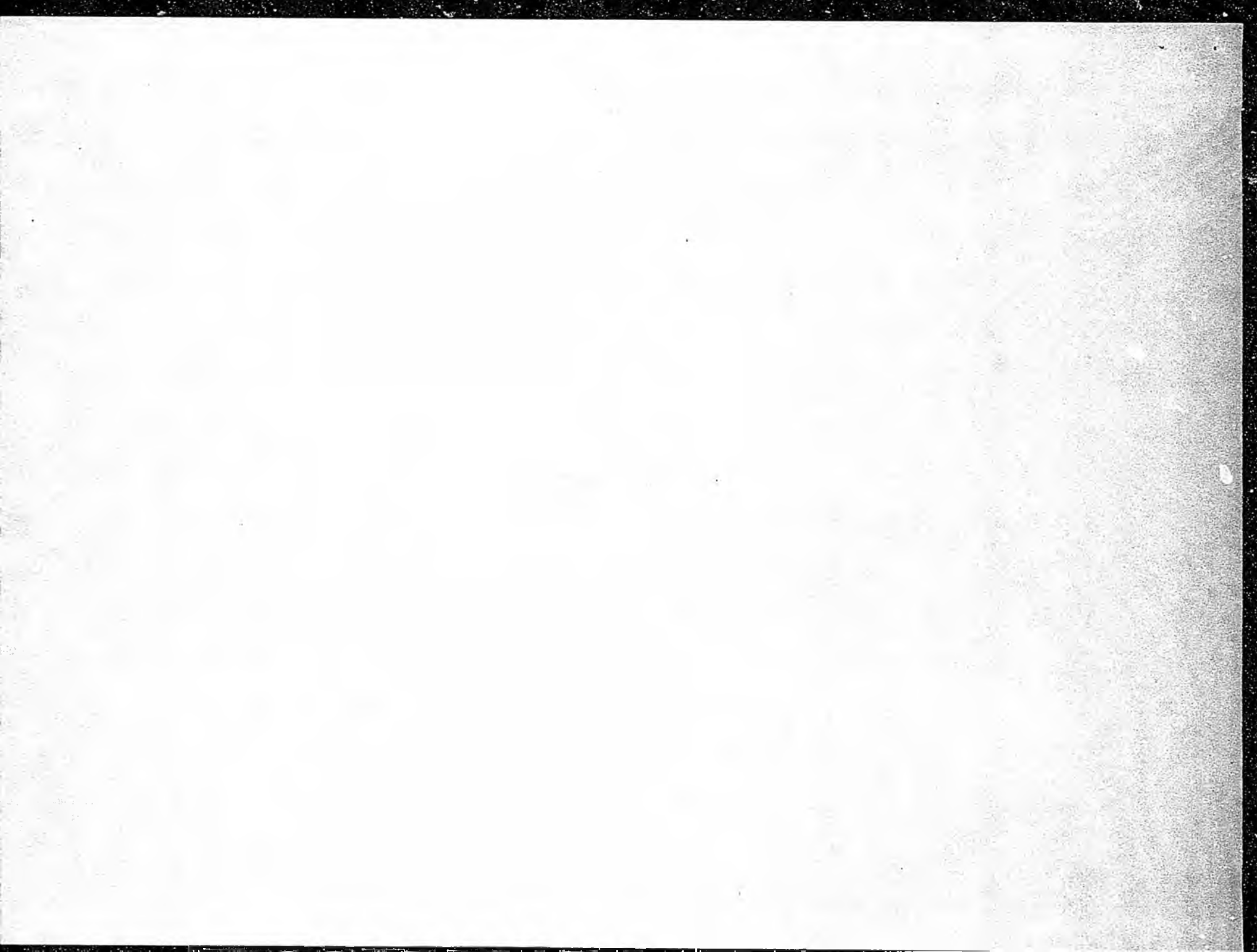
Earl Romans  
157 Old Richardson Hwy.  
Fairbanks, AK 99701  
451-0594

Bill Sykes  
P.O. Box 100839  
Anchorage, AK 99510  
272-1515

Fran Tate  
P.O. Box 403  
Barrow, AK 99723  
852-8200

Frank Thomas-Mears  
P.O. Box 112063  
Anchorage, AK 99511  
345-7181

Al Williams  
1577 C St. Plaza, Suite 200  
Anchorage, AK 99501  
274-5400



501R

62

DATE: 6/27/90

FURTHER:

DATE TURNED INTO OFFICE: 6/28/90

The Finance Committee considered SCR 62

Subsistence priority required under the Alaska National Interest Lands Conservation Act.

and recommended:

- replace with \_\_\_\_\_ CS
- or adopt \_\_\_\_\_ CS SCR 62 (RIS)
- attached amendment(s)
- \_\_\_\_\_ letter of intent adopted

- same title
- new title
- technical title change (HB only)

do pass

do not pass

no recommendation

individual recommendations

further referral to \_\_\_\_\_

ATTACHES NEW FISCAL NOTE(S):  
Dept/Date:

fiscal note(s) \_\_\_\_\_  
\_\_\_\_\_

zero fiscal note(s) \_\_\_\_\_  
SPC - Debra

appropriation-no fiscal note

APPROVES PREVIOUS:  
Dept/Date:

fiscal note(s) \_\_\_\_\_  
\_\_\_\_\_

zero fiscal note(s) \_\_\_\_\_  
\_\_\_\_\_

SIGNING DO PASS:

Paul G. ...  
...  
...

OTHER RECOMMENDATIONS:

Do Not Pass  
Do Not Pass  
Do Not Pass  
...

1. Do Not Pass -- 2.

Co-Chairs: Signatures and Recommendations

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_  
Title: Subsistence priority under ANILCA  
Sponsor: Jones and Faiks  
Requestor: \_\_\_\_\_

Agency Affected: Dept. of Law  
BRU: \_\_\_\_\_  
Components: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
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	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	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)

Prepared by: Senator Rick Gehling, Co-chairman  
Division: Senate Finance Committee

Phone: 465-4821  
Date: June 27, 1990

Approved by Commissioner: \_\_\_\_\_  
Agency: \_\_\_\_\_

Date: \_\_\_\_\_

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

Original sponsor(s): SEN. JONES, Faiks

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2 CS FOR SENATE CONCURRENT RESOLUTION NO. 62 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SPECIAL SESSION

5 Relating to the subsistence priority  
6 required under the Alaska National  
7 Interest Lands Conservation Act.

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

9 WHEREAS the Alaska National Interest Lands Conservation Act (ANILCA)  
10 requires subsistence uses to be given priority on federal land in Alaska  
11 over the taking of subsistence resources for other purposes; and

12 WHEREAS under ANILCA only rural residents are entitled to the subsis-  
13 tence priority; and

14 WHEREAS the Alaska Supreme Court held in McDowell v. State, 785 P.2d 1  
15 (Alaska 1989), that the state law granting a subsistence priority to rural  
16 residents violates secs. 3, 15, and 17 of art. VIII of the state constitu-  
17 tion; and

18 WHEREAS the court did not discuss other grounds advanced by appellants  
19 in McDowell v. State, including the challenge based on the equal protection  
20 and due process clauses of the United States Constitution; and

21 WHEREAS, unless the state implements the subsistence preference, the  
22 federal government is required under ANILCA to take over subsistence re-  
23 source management on federal land from the state; and

24 WHEREAS it has not been determined whether the subsistence priority in  
25 ANILCA can be complied with under the state constitution and whether ANILCA  
26 violates the federal constitution;

27 BE IT RESOLVED by the Alaska State Legislature that the Governor is  
28 respectfully requested to file an original action in the United States  
29 Supreme Court on behalf of the State of Alaska challenging the

1 constitutionalty of the subsistence priority under ANILCA and requesting  
2 that the federal government be enjoined from assuming management over  
3 subsistence resources on federal land in Alaska; and be it

4 FURTHER RESOLVED that the Department of Law is requested to arrange to  
5 have the challenge handled by a private attorney or law firm through con-  
6 tract; and be it

7 FURTHER RESOLVED that the Alaska State Legislature respectfully re-  
8 quests the Alaska Supreme Court to stay the effect of its decision in  
9 McDowell v. State, 785 P.2d 1 (Alaska 1989), until a final decision is  
10 rendered by the United States Supreme Court on the constitutionality of  
11 ANILCA.

12 COPIES of this resolution shall be sent to the Honorable George Bush,  
13 President of the United States; the Honorable Richard Thornburgh, Attorney  
14 General of the United States; the Honorable Ted Stevens and the Honorable  
15 Frank Murkowski, U.S. Senators, and the Honorable Don Young, U.S. Repre-  
16 sentative, members of the Alaska delegation in Congress; the Honorable  
17 Steve Cowper, Governor of the State of Alaska; and to the Honorable Warren  
18 W. Matthews, Chief Justice of the Alaska Supreme Court.

FISCAL NOTE

REQUEST:

Revision Date: 6/26/90  
Title: Relating to Subsistence  
priority on ANILCA  
Sponsor: Jones  
Requestor: Fahrenkamp

Agency Affected: Department of Law  
BRU: \_\_\_\_\_  
Components: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	0	0	0			
TRAVEL	0	0	0			
CONTRACTUAL	500,000	250,000	200,000			
SUPPLIES	0	0	0			
EQUIPMENT	0	0	0			
LAND & STRUCTURES	0	0	0			
GRANTS, CLAIMS	0	0	0			
MISCELLANEOUS	0	0	0			
TOTAL OPERATING	500,000	250,000	200,000			

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND	500,000	250,000	200,000			
FEDERAL FUNDS						
OTHER						
TOTAL	500,000	250,000	200,000			

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

The expenditures reflected in this analysis represent the cost of contracting with a litigation team composed of learned scholars, cultural anthropologists, and other expert witnesses as needed. It is expected that more than one law firm may be needed to provide adequate representation.

Prepared by: James L. Baldwin for Richard Pegues Phone: 465-3600  
Division: Civil Date: 6/26/90

Approved by Commissioner: As per Richard Pegues Date: 6/26/90  
Agency: Office of the Attorney General

Distribution (by preparer):

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

Changes in SCR 62 (Res. )  
have no fiscal impact.  
This fiscal note is  
appropriate.

D.A.  
6/27

**SUR**

**1**

SENATE COMMITTEE REPORT

FURTHER

4/5/89

DATE TURNED INTO OFFICE \_\_\_\_\_

Mr. President:

\_\_\_\_\_ FINANCE \_\_\_\_\_ Committee considered \_\_\_\_\_ SJR 1 \_\_\_\_\_

amending the Constitution of the State of Alaska relating to open meetings  
and recommended

- replace with \_\_\_\_\_ CS \_\_\_\_\_ )  same title
- or adopt \_\_\_\_\_ CS \_\_\_\_\_ )  new title
- attached amendment(s) and  technical title change (HB only)
- \_\_\_\_\_ letter of intent adopted

do pass

do not pass

no recommendation

individual recommendations

further referral to \_\_\_\_\_

FISCAL NOTE(S)  zero  fiscal impact  appropriation no FN  
 new  updated  previous  
 same as previous fiscal note(s) published \_\_\_\_\_

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

\_\_\_\_\_  
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\_\_\_\_\_  
Chairman signature and recommendation

Committee Backup attached

8  
7  
U

SENATE COMMITTEE REPORT

(c)  
6-0013J

FURTHER

FINANCE

2/13/89

DATE TURNED INTO OFFICE \_\_\_\_\_

Mr. President:

JUDICIARY

Committee considered

SJR 1

amending the Constitution of the State of Alaska relating to open meetings

and recommended

- replace with \_\_\_\_\_ CS SJR 1 (SJR) )  same title
- or adopt \_\_\_\_\_ CS \_\_\_\_\_ )  new title
- attached amendment(s) and *+ reports it back as follows:*  technical title change (HB only)
- \_\_\_\_\_ letter of intent adopted

do pass

do not pass

no recommendation

individual recommendations

further referral to \_\_\_\_\_

FISCAL NOTE(S)  zero  fiscal impact  appropriation no FN  
 new  updated  previous  
 same as previous fiscal note(s) published \_\_\_\_\_

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

2 Mr. S. J. ...  
 2 Arthur ...

1 ... office - no rec  
 3 Rick Halford - all show / Needs no go / ...

Chairman signature and recommendation

Committee Backup attached

SENATE COMMITTEE REPORT

6-00132

FIRST COMMITTEE OF REFERRAL

Date of 5-DAY NOTICE 1-25-89  
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER JUDICIARY  
FINANCE

\*\*FISCAL NOTE(S) MUST BE ATTACHED  
IN ACCORDANCE WITH AS 24.08.035

DATE TURNED INTO OFFICE 2-10-89

1/9/89

Mr. President:

STATE AFFAIRS Committee considered SJR 1

amending the Constitution of the State of Alaska relating to open meetings

and recommended:

replace with CS SJR 1 (St Aff)  same title  
 attached amendment(s) and  new title  
 \_\_\_\_\_ letter of intent adopted *+ majority do pass*

- do pass
- do not pass
- no recommendation
- individual recommendations
- further referral to \_\_\_\_\_

*Fiscal Note*

FISCAL NOTE(S) attached  zero  
 appropriation no FN attached

fiscal impact  
 Gov. FN introduced w/ bill

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

*Tim Kelly*  
*Rich [unclear] (no pass) [unclear]*

*2. Jan [unclear] No Rec.*

*[Signature]*  
Chairman signature and recommendation

Committee backup attached

Offered: 4/5/89  
Referred: Finance

6-0013J

Original sponsors: Sturgulewski, Fischer,  
Kerttula, et al.

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 CS FOR SENATE JOINT RESOLUTION NO. 1 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 Proposing an amendment to the Constitu-  
6 tion of the State of Alaska relating to  
7 open meetings.

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

9 \* Section 1. Article I, Constitution of the State of Alaska, is amended  
10 by adding a new section to read:

11 SECTION 24. MEETINGS OPEN. (a) Except as provided in (b) of  
12 this section, private and substantive discussions or debates on legis-  
13 lation under its jurisdiction by a quorum of a house of the legisla-  
14 ture or of a committee are prohibited.

15 (b) The legislature or a committee of the legislature may meet  
16 in executive sessions authorized by law.

17 (c) A court may not prescribe rules or procedures for the con-  
18 duct of legislative business or invalidate legislation because of a  
19 violation of this section.

20 (d) A court may impose a civil fine upon a member of the legis-  
21 lature for an intentional violation of this section and may impose  
22 other sanctions authorized by law.

23 (e) The legislature may implement this section.

24 \* Sec. 2. INTENT. (a) The purpose of the amendment to art. I, Consti-  
25 tution of the State of Alaska, proposed in sec. 1 of this resolution is to  
26 make openness in government the rule and secrecy the exception. The amend-  
27 ment ensures that the public is not excluded during the substantive delib-  
28 erative and decision-making stages of the budgetary and lawmaking process.

29 (b) This amendment provides a basis for judicial enforcement of the  
S

1 existing open meetings law (AS 44.62.310 - 44.62.312); or an amendment to  
2 the extent that the provisions are consistent with the amendment proposed  
3 in sec. 1 of this resolution, notwithstanding art. II, secs. 6 and 12,  
4 Constitution of the State of Alaska. The amount of civil fines authorized  
5 by this amendment may be established by law.

6 (c) This amendment is not intended to prevent the free flow of ideas  
7 among legislators or their participation in public forums, community  
8 events, site visitations, or social events.

9 (d) In the preparation of its neutral summary under AS 15.58.-  
10 020(6)(C), the Legislative Affairs Agency shall consider the statement of  
11 legislative intent contained in (a) - (c) of this section.

12 \* Sec. 3. The amendment proposed by this resolution shall be placed  
13 before the voters of the state at the next general election in conformity  
14 with art. XIII, sec. 1, Constitution of the State of Alaska, and the elec-  
15 tion laws of the state.  
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Original sponsors: Sturgulewski, Fischer,  
Kerttula, et al.

1 IN THE SENATE BY THE STATE AFFAIRS COMMITTEE  
2 CS FOR SENATE JOINT RESOLUTION NO. 1 (State Affairs)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 Proposing an amendment to the Constitu-  
6 tion of the State of Alaska relating to  
7 open meetings.

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

9 \* Section 1. Article I, Constitution of the State of Alaska, is amended  
10 by adding a new section to read:

11 SECTION 24. MEETINGS OPEN. (a) Except as provided in (b) of  
12 this section, private and substantive discussions or debates on legis-  
13 lation under its jurisdiction by a quorum of a house of the legisla-  
14 ture or of a committee are prohibited.

15 (b) The legislature or a committee of the legislature may meet  
16 in executive sessions authorized by law.

17 (c) A court may not prescribe rules or procedures for the con-  
18 duct of legislative business or invalidate legislation because of a  
19 violation of this section.

20 (d) A court may impose a civil fine upon a member of the legis-  
21 lature for a wilful violation of this section and may impose other  
22 sanctions authorized by law.

23 (e) The legislature may implement this section.

24 \* Sec. 2. INTENT. (a) The purpose of the amendment to art. I, Consti-  
25 tution of the State of Alaska, proposed in sec. 1 of this resolution is to  
26 make openness in government the rule and secrecy the exception. The amend-  
27 ment ensures that the public is not excluded during the substantive delib-  
28 erative and decision-making stages of the budgetary and lawmaking process.

29 (b) This amendment provides a basis for judicial enforcement of the  
S

1 existing open meetings law (AS 44.62.310 - 44.62.312) or an amendment to  
2 the extent that the provisions are consistent with the amendment proposed  
3 in sec. 1 of this resolution, notwithstanding art. II, secs. 6 and 12,  
4 Constitution of the State of Alaska. The amount of civil fines authorized  
5 by this amendment may be established by law.

6 (c) This amendment is not intended to prevent the free flow of ideas  
7 among legislators or their participation in public forums, community  
8 events, site visitations, or social events.

9 (d) In the preparation of its neutral summary under AS 15.58.020(6)-  
10 (C), the Legislative Affairs Agency shall consider the statement of legis-  
11 lative intent contained in (a) - (c) of this section.

12 \* Sec. 3. The amendment proposed by this resolution shall be placed  
13 before the voters of the state at the next general election in conformity  
14 with art. XIII, sec. 1, Constitution of the State of Alaska, and the elec-  
15 tion laws of the state.

Introduced: 1/9/89  
Referred: State Affairs, Judiciary  
and Finance

6-0013A

1 IN THE SENATE

BY STURGULEWSKI, FISCHER,  
KERTTULA, PEARCE, SZYMANSKI,  
KELLY, RODEY, DUNCAN

2 SENATE JOINT RESOLUTION NO. 1

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 Proposing an amendment to the Constitu-  
6 tion of the State of Alaska relating to  
7 open meetings.

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

9 \* Section 1. Article I, Constitution of the State of Alaska, is amended  
10 by adding a new section to read:

11 SECTION 24. MEETINGS OPEN. (a) Unless the legislature or a  
12 committee of the legislature is meeting in executive session to con-  
13 sider matters authorized by law, the discussions and debates of each  
14 house of the legislature and its committees shall be open to the  
15 public.

16 (b) Except as provided in (a) of this section, private and  
17 substantive discussions and debates on legislation under its juris-  
18 diction by a quorum of a house of the legislature or a committee is  
19 prohibited. A court may not prescribe rules or procedures for the  
20 conduct of legislative business or invalidate legislation because of a  
21 violation of this section. A court may impose a civil fine upon a  
22 member of the legislature for a wilful violation of this section and  
23 may impose other sanctions authorized by law.

24 (c) The legislature may implement this section.

25 \* Sec. 2. INTENT. (a) The purpose of the amendment to art. I, Consti-  
26 tution of the State of Alaska, proposed in sec. 1 of this resolution is to  
27 make openness in government the rule and secrecy the exception. The amend-  
28 ment ensures that the public is not excluded during the substantive delib-  
29 erative and decision-making stages of the budgetary and lawmaking process.

S  
SJR001a

1 (b) This amendment provides a basis for judicial enforcement of the  
2 existing open meetings law (AS 44.62.310 - 44.62.312) or an amendment to  
3 the extent that the provisions are consistent with the amendment proposed  
4 in sec. 1 of this resolution, notwithstanding art. II, secs. 6 and 12,  
5 Constitution of the State of Alaska. The amount of civil fines authorized  
6 by this amendment may be established by law.

7 (c) This amendment is not intended to prevent the free flow of ideas  
8 among legislators or their participation in public forums, community  
9 events, site visitations, or social events.

10 (d) In the preparation of its neutral summary under AS 15.58.020(6)-  
11 (C), the Legislative Affairs Agency shall consider the statement of legis-  
12 lative intent contained in (a) - (c) of this section.

13 \* Sec. 3. The amendment proposed by this resolution shall be placed  
14 before the voters of the state at the next general election in conformity  
15 with art. XIII, sec. 1, Constitution of the State of Alaska, and the elec-  
16 tion laws of the state.  
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**FISCAL NOTE**

**REQUEST:**

Revision Date: \_\_\_\_\_ Agency Affected: Office of the Governor  
 Title: Const. Amend. - Open Meetings BRU: Division of Elections  
 Sponsor: Sturqulewski Components: I Elections  
 Requestor: Sturqulewski

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	-0-	-0-	2.2*	-0-	-0-	-0-
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>-0-</b>	<b>-0-</b>	<b>2.2*</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

**FUNDING: (Thousands of Dollars)**

GENERAL FUND	-0-	-0-	2.2*	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	<b>-0-</b>	<b>-0-</b>	<b>2.2*</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS :** (Attach a separate page if necessary)

\* Costs included cover 2 to 3 pages in each Official Elections Pamphlet, for printing and typesetting, and costs estimated to cover computer program-ing requirements for vote (Continued)

Prepared by: Linda Edgeworth Phone: 465-4611  
 Division: Elections Date: 1/17/89

Approved by Commissioner: *Sandra Stewart* Date: 1/17/89  
 Agency: Division of Elections

**Distribution (by preparer):**

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

**CONTINUATION of FISCAL NOTE ANALYSIS**

**For Bill/Resolution No. SJR 1**

counting purposes. However, these costs are based on the assumption that all candidates and issues will fit on three ballot cards, which is the norm. It should be noted, however that should the inclusion of this issue require a 4th ballot to be printed, the cost increase would have to be calculated at 16 cents per ballot x approximately 320,000 voters. The total cost of printing the additional ballot card would be \$51.2.

Under these circumstances the fiscal note would be:

53.4

# Alaska State Legislature



2957 SHELDON JACKSON STREET  
ANCHORAGE, ALASKA 99508

SENATOR  
**ARLISS STURGULEWSKI**  
Senate President Pro Tempore  
Chairman, Senate Rules Committee


While in Juneau  
P.O. BOX V  
JUNEAU, ALASKA 99811  
(907) 465-3818

## Senate

M E M O R A N D U M

April 5, 1989

TO: Senator Rick Uehling and Senator John Binkley  
Co-Chairs - Senate Finance Committee

FROM: Senator Arliss Sturgulewski, Chair   
Senate Rules Committee

RE: CSSJR 1 (Jud) Proposing an amendment to the Constitution  
of State of Alaska relating to open meetings.

SJR 1 is in the Senate Finance Committee. I hope that you will schedule this measure at your earliest convenience. I have attached back up material to this memo which you may find helpful.

- 1 - a copy of CSSJR 1 (Jud)
- 2 - a sectional on CSSJR 1 (Jud)
- 3 - a fiscal note for CSSJR 1 (Jud) - a one time expense of \$2.2 thousand for the election)
- 4 - a series of commonly asked questions and answers on open meetings
- 5 - a briefing paper on the initiative process in regard to constitutional amendments
- 6 - several papers prepared by House Research and Legal Services on open meeting statute; and constitutional provisions in other states
- 7 - a copy of the existing open meeting statute and Uniform Rule 22

My staff has additional material available and we look forward to working with you and your staff on this issue. Thank you for your help.

- SPONSOR'S BACKGROUND MATERIAL -

# Alaska State Legislature



2957 SHELDON JACKSON STREET  
ANCHORAGE, ALASKA 99508

SENATOR  
**ARLISS STURGULEWSKI**  
Senate President Pro Tempore  
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## Senate

M E M O R A N D U M

April 5, 1989

**TO:** Senator John Binkley and Senator Rick Uehling  
Co-Chairs - Senate Finance Committee

**FROM:** Senator Arliss Sturgulewski, Chair  
Senate Rules Committee

**RE:** CSSJR 1 (Jud) Proposing an amendment to the  
Constitution of State of Alaska relating to open  
meetings.

SJR 1 is an important and balanced piece of legislation that will guarantee the public a reasonable right of access and openness in the legislative process. It has a one time cost of 2.2 thousand dollars for the printing of the ballot and extra pages in the election pamphlet.

The first words of the existing open meeting act (OMA) are; "All meetings of a legislative body . . . are open". In 1986 the League of Women voters sued after a series of closed meetings by the legislature. In that suit, the Superior Court found the legislature had violated the OMA and Uniform Rule 22, a fact the defense did not dispute, and that the OMA applied to the legislature.

When the Supreme Court reviewed the case, it held that though both the OMA and Uniform Rule 22 had been violated and were intended to apply to the legislature, this statute and rule fall within the legislature's rule making authority, and court could not enforce compliance. The matter was nonjusticiable.

The legislature is left in the position of requiring very stringent open meetings standards of other governmental bodies throughout the state, but being exempt from enforcement of any such requirements for itself. This situation can only be remedied by adoption of a constitutional amendment which will provide a basis for judicial enforcement.

The standard for openness set in SJR 1 is reasonable and

workable. It is the practice currently followed by the legislature in less ambiguous wording. Its presence in the constitution will establish a basis for enforcement of that standard.

SJR 1 is substantially the same as last year's Senate State Affairs committee substitute which was developed after a great deal of work. This year's State Affairs CS restructured Section 1 to further reduce any ambiguity of language. The Judiciary CS changed one word, "wilful" on page 1, line 22, to "intentional". Intentional is a term of art defined in statute while the Alaska Supreme Court has ruled that wilful can mean different things according to the context.

The resolution is divided into three sections. Section 1 is the actual language that will be added to the constitution. Section 2 is legislative intent. Section 3 places the amendment before the voters at the next general election.

#### SECTION 1

Section 1(a) states that except for the executive sessions authorized in 1(b), private and substantive discussions and debates on legislation under its jurisdiction by a quorum of a house of the legislature or a committee is prohibited. This is the heart of the amendment.

Private and substantive discussions and debates on legislation under its jurisdiction by a quorum of a house or its committee is prohibited under all circumstances other than executive sessions. This is the only thing that is prohibited.

The treatment of a caucuses has been a difficult issue in the drafting of this amendment. SJR 1 handles this problem successfully by making clear that a quorum of a committee or of a house is prohibited from holding substantive debate on legislation under its jurisdiction in any private setting, whether that private setting is a caucus, an informal meeting in the chairman's office, or on the bench during a legislative softball game.

Any grouping of legislators that is not a quorum, however, may discuss anything they wish in private and a quorum of legislators may discuss anything in private except substantive discussion and debate on legislation under the jurisdiction of their particular committee or house.

Section 1 (b) allows the legislature or its committees to hold executive sessions to consider matters authorized by law.

Section 1 (c) specifies that a court may not prescribe rules or procedures for the conduct of the legislature nor may it invalidate legislation because of a violation of open meeting requirements.

**Section 1(d)** allows the court to impose civil fines (not civil damages) and other sanctions authorized by the legislature upon individual legislators for intentional violations. This section is a limited grant of authority to the courts. It grants them the authority to impose the sanctions authorized by law (civil fines), but prevents the imposition of any other sanctions.

The imposition of a civil fine on an individual legislator, the amount of which can be set by the legislature, is the only intrusion by the court into the legislative process this amendment allows. This is less draconian than invalidation of legislation which is the penalty prescribed in the OMA and which this amendment prohibits.

**Section 1(e)** specifies that the legislature may implement this section. Implementing legislation would be the appropriate place if the legislature wished to define "legislation," "under its jurisdiction," or other terms, establish a specific fine amount, or require courts to delay consideration of any open meeting law suit filed during the legislative session until the end of the session.

## SECTION 2

This section is legislative intent. It does not go into the constitution nor on the ballot but will be considered by the Legislative Affairs Agency in its preparation of the neutral summary which will be placed in the voter's pamphlet.

**Section 2(a)** states the purpose of the amendment is to make openness in government the rule and secrecy the exception and to ensure the public is not excluded during substantive deliberative and decision making stages of the budgetary and lawmaking process.

**Section 2(b)** states that the amendment provides a basis for judicial enforcement of the existing open meeting law to the extent it is consistent with this amendment, notwithstanding article II, section 6 (legislative immunity) or section 12 (rule making authority). The last sentence makes clear that if the legislature adopts a fine amount or schedule, the court must follow that schedule.

**Section 2(c)** states that the amendment is not intended to prevent the free flow of ideas among legislators or their participation in public forums, community events, site visitations, or social events.

**Section 2(d)** is instructions to the Legislative Affairs Agency.

**Section 3** puts the amendment on the ballot at the next general election.

The constitutional amendment proposed in SJR 1 is balanced, workable, and needed. Thank you for your support.

Senator Sturgulewski's Office

ALASKA SUNSHINE  
SJR 1 Questions and Answers

1)

Q - Shouldn't SJR 1 contain definitions of all its terms and be more detailed and precise in specifying when legislators are required or not required to hold open meetings?

A - The language in section 1 of SJR 1 will become part of the Alaska constitution and the language is "constitutional" in nature rather than "statutory". To the greatest extent possible, SJR 1 uses plain english and unambiguous words. The proper place for definition of terms is in statute.

2)

Q - Won't the existence of a open meetings section in the constitution invite frivolous lawsuits from citizens who are unhappy with a particular piece of legislation?

A - No. Until the Supreme Court's 1986 decision in the suit by the League of Women Voters and the Daily News, it was commonly thought that the legislature was subject to the existing open meetings act which is much stricter than the proposed amendment. During that time there were no open meeting related suits against the legislature.

There are also 160 municipal governments in Alaska and a host of state, municipal, and school related commissions and boards, all of which are subject to suit under the open meetings law. Despite the possibilities, there have been only a handful of open meeting lawsuits against these entities. SJR 1 also prohibits invalidation of legislation which further decreases the motivation for someone who dislikes a particular law to file a frivolous suit.

3)

Q - Why doesn't the amendment make a specific exemption for caucuses and specify what can be discussed in them?

A - How to deal with caucuses has been the most difficult issue in the history of this legislation. Most early drafts contained specific exemptions for caucuses and references to what type of discussion was allowed in them. Most drafts (there have been 41 so far), would have allowed discussion on "organizational matters", "strategy", or "procedure".

Unfortunately there has never been agreement on what these terms mean. Constitutional language does not contain definitions and while it would be appropriate to leave the definitions to implementing legislation, this approach would leave the legislature vulnerable to these terms being redefined in statute by initiative

at a later date.

In the Senate State Affairs Committee last year, the committee resolved the problem by specifying that only one type of discussion is prohibited and it doesn't matter where it occurs; "private and substantive discussions or debates on legislation under its jurisdiction by a quorum of a house of the legislature or of a committee." Any other discussion is permitted anytime, anywhere, including in caucuses.

4)

Q - Will this amendment be the "camel's nose under the tent" which allows the courts to tell the legislature how to conduct its business?

A - No. This has been a favorite argument of persons opposed to the amendment, but the amendment has been amended to specifically prohibit the court from prescribing rules or procedures for the conduct of legislative business or invalidating legislation because of a violation of open meeting requirements.

5)

Q - Should there be a companion bill that amends the existing open meetings statute?

A - The proposed amendment provides that the legislature may implement it. This would appropriately be done by amending the existing open meeting statute and a bill doing so will be desirable once we know the final form of the amendment. The earliest the amendment can become part of the constitution is in time for the 1991 legislative session. This leaves plenty of time to work out the technical aspects of implementing legislation.

6)

Q - Will courts pay attention to the intent contained in section 2 of SJR 1?

A - If a court case arose where Court needed to look at the legislative history of the open meetings amendment the court would look first at the explanations that were before the voters in the official election pamphlet when they voted to ratify the amendment.

Section 2(d) of the intent instructs Legislative Affairs to consider the statement of legislative intent contained in Section 2 in the preparation of its neutral statement for the pamphlet. We would also include the statement of legislative intent in the statement in support of the measure which we are allowed to include in the pamphlet. If the court needed to look beyond that, the intent contained in the resolution itself, would be the preeminent piece of legislative history.

7)

Q - Would passage of this amendment leave the legislature vulnerable to the public passing a very restrictive open meetings statute by initiative?

A - No. The open meetings amendment will provide a basis for judicial enforcement of the existing open meetings law or subsequent amendments to that law to the extent the provisions of the statute are consistent with the amendment. While future statutory changes can and probably will take place, whether they are done by the legislature or the initiative process there can be any enforcement of any provision that does not conform to the amendment.

The best prevention of an initiative process is the public perception that by passing this resolution and obeying it, there is no need for an initiative.

8)

Q - What are Sections 6 and 12, Article II of the state constitution and why does the intent language say "notwithstanding" these sections?

A - Section 6 is legislative immunity and Section 12 is the legislative rule making authority. The proposed amendment is a limitation on the authority of the legislature. When it gives the court the right to enforce a rule in this one specific area and to impose civil fines on individual legislators who willfully violate the law, it creates a tension between Article I and Article II. This intent makes clear how that tension is resolved and avoids unnecessary litigation.

9)

Q - SJR 1 provides for civil fines for violation of the open meetings statute. Is there a limit on the size of the fines and why isn't invalidation of legislation retained as a penalty?

A - A limit on the amount of the civil fines may be established by the legislature in statute. The reason the amendment prohibits invalidation of legislation is because it is a draconian penalty which does not directly penalize the individuals who were responsible for the violation. If the invalidation was used, it could invalidate legislation which has had a whole series of public hearings and was the subject of only one secret meeting. There are also doubts whether invalidation is constitutionally enforceable.

Senator Sturgulewski's Office  
February 1, 1989

**Amending Alaska's Constitution - Step by Step**

Amending Alaska's Constitution requires that a joint resolution be passed by two thirds vote in each house and the question then be approved by a majority of voters at the next general election. The public can express its desire to amend the constitution through a rather convoluted initiative process and advisory vote, but can not force the legislature to adopt the required joint resolution. There is no requirement for public action before the legislature proposes or acts on a resolution proposing an amendment to the constitution.

**1) Initiative Drive**

Initiative Drive would place question on ballot - Should there be a temporary law to instruct the Lt. Governor to place on the ballot at the following general election, an advisory vote asking whether there should be a constitutional open meetings amendment?

**2)**

If initiative drive is successful the directive to the Lt. Governor becomes temporary law and he places the advisory vote on next ballot.

**3) 1st Vote**

If Ballot issue passes -

**4)**

Lt. Governor places advisory vote on next general ballot (two years later).

**5) 2nd Vote**

If advisory vote passes -

**6)**

We are where we are right now, with the legislature considering the issue, no action is mandated.

**7)**

If legislature passes resolution by two thirds vote in each house -

**8)**

Proposed amendment goes on the ballot of the next general election.

**9) 3rd Vote**

If voters approve -

**10)**

Alaska Constitution is amended.



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ALASKA STATE LEGISLATURE  
HOUSE OF REPRESENTATIVES  
RESEARCH AGENCY

December 18, 1986

MEMORANDUM

TO:

FROM: Ginny Fay  
Legislative Analyst

A handwritten signature in cursive script, appearing to read "G. Fay".

RE: Alaska Open Meetings Law  
Research Request 87.049

You requested that we provide information to clarify the applicability of Alaska's open meetings law (Attachment A). You asked which public bodies and what meetings are covered and if there are provisions for spontaneous meetings. With regard to legislative meetings, you asked us to discuss uniform rules as well as the open meetings law. You also wanted to know if there is a relevant model law (either state or federal).

**Applicability of the Alaska Open Meetings Law**

Alaska Statute 44.62.310(a) broadly identifies meetings that are required to be open to the public.

All meetings of a legislative body, of a board of regents, or of an administrative body, board, commission, committee, subcommittee, authority, council, agency, or other organization, including subordinate units of the above groups, of the state or any of its political subdivisions, including but not limited to municipalities, boroughs, school boards, and all other boards, agencies, assemblies, councils, departments, divisions, bureaus, commissions or organizations, advisory or otherwise, of the state or local **government supported in whole or in part by public money or authorized to spend public money**, are open to the public except as otherwise provided by this section [emphasis added].

The wording of this section, especially the phrases in bold, makes it clear that all public bodies that receive or are authorized to spend public money are required to have open meetings unless they are specifically exempted. What is unclear, however, is what constitutes a meeting and, thus, the level of applicability of the law to public bodies. The

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Alaska law provides no guidance regarding the definitions of a meeting, openness, and group or body. In other states as well as Alaska, these terms and their definitions comprise the three basic issues regarding the applicability of open meetings laws.

In other states, applicability is generally specified in statements which tell the purpose of the legislatures in enacting them. Statements of intent also aid judges in interpreting relatively vague sections of open meetings laws. Often these intent statements are part of the meetings laws. Many states have fairly broad statements of legislative intent or policy, but also write into their laws very specific definitions of terms such as meeting, public body, public business, formal and informal, deliberation, decision making, quorum, public notice, and action taken. These definitions determine whether the law applies in a particular instance, thus rendering the activities of public bodies subject to the requirements of openness and thereby made known to the general public.<sup>1,2</sup>

Alaska Statute 44.62.312 provides State policy regarding open meetings. Neither AS 44.62.312 nor the available legislative history provide definitions of pertinent terms or other specific information concerning the applicability of the law. General language leaves specification of relevant terms to the court or Attorney General.

Alaska Attorney General and Supreme Court opinions which help clarify the applicability of the open meetings law are attached (Attachment C). A May 11, 1981 Attorney General opinion (summarized in Geldolf, May 19, 1983) regarding the application of the law to informal meetings may be of particular interest. It concludes that the open meetings law applies only to multi-member bodies which have a fixed membership, which are supported in whole or in part by public monies and which have power pursuant the law to exercise governmental power or provide advice through a vote. According to the opinion, the open meetings law does not apply to meetings of

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<sup>1</sup>National Association of Attorney Generals, "Open Meetings: Actions and Meetings Covered" (Raleigh, N.C.: NAAG), 1979, p.1.

<sup>2</sup>The statement of policy and intent contained in Hawaii's meeting law is representative of such general declarations (Hawaii Rev. Stat. Section 92-1). An example of a very detailed definition of "meeting" is contained in the Connecticut meeting law (Conn. Gen. Stat. Ann. Section 1-18(6)). The state of Nevada open meetings law provides an understanding of what is meant by "meeting" in language that is common to many such laws. Pertinent language from these statutes is found in Attachment B.