

Leg. Finance-House & Senate Finance Comte Files (1991-1992) 756

**HB2006**

# SENATE FINANCE COMMITTEE REPORT

DATE: 5/16/91

FURTHER:

DATE TURNED INTO OFFICE: 5-19-91

The Finance Committee considered CS FOR HOUSE BILL NO. 206 (FINANCE) am-

"An Act revising the loan authority of the Alaska Industrial Development and Export Authority, and relating to the authority's loan guarantees under its business assistance program; and providing for an effective date."

and recommended:

- replace with \_\_\_\_\_ CS \_\_\_\_\_
- or adopt \_\_\_\_\_ CS \_\_\_\_\_
- 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) \_\_\_\_\_  
\_\_\_\_\_

appropriation-no fiscal note

SIGNING DO/PASS:

*[Handwritten signatures: Ruth Beck, [unclear], [unclear], [unclear]]*

APPROVES PREVIOUS:

Dept/Date:  
 fiscal note(s) \_\_\_\_\_  
\_\_\_\_\_

zero fiscal note(s) 0 DDED  
250 Capital  
4/30/91

OTHER RECOMMENDATIONS:

*[Handwritten signature: Lynn Hoffman - No Rec]*

1. *[Handwritten signature]*

2. *[Handwritten signature]* ~~Do not pass~~

Co-Chairs: Signatures and Recommendations

FISCAL NOTE

STATE OF ALASKA  
1991 LEGISLATIVE SESSION

No. 2

Bill Version: CSHB 206(FIN)

(H) Publish Date: 5/6/91

Revision Date: April 15, 1991

Department Affected: Commerce & Economic Dev.

Title: An Act revising the loan authority of the AK Industrial Dev. & Export Authority

BRU: AK Industrial Dev. & Export Authority

Authority Sponsor: Choquette, Baker

Component: \_\_\_\_\_

Requestor: \_\_\_\_\_

COMPONENT SERIAL NO.

1	2	3	4
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	25,000	25,000	25,000	25,000	25,000	25,000
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REVENUE	25,000	25,000	25,000	25,000	25,000	25,000
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER	25,000	25,000	25,000	25,000	25,000	25,000
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: \_\_\_\_\_

ANALYSIS: (Attach a separate page if necessary.)

SEE ATTACHED

Prepared By: Bertram L. Wagnon, Executive Director Phone: (907) 561-8050

Division: AK Industrial Dev. & Export Authority Date: April 15, 1991

Approved by Commissioner: Glenn A. Olds

Agency: Department of Commerce & Economic Development Date: 4/30/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

FISCAL NOTE - CSSB 206 (L&C)

**ANALYSIS:**

Raising the loan limits from \$10 to \$15 million will tend to increase the amounts loaned and, in conjunction with shorter amortization on the originators' (banks) part, increase the number of loans. The new language restricting the program to "new business ventures" will tend to decrease usage of the program. The preparer's best estimate is that the net effect will result in the \$25 million range subject, of course, to external economic factors which impact lending.

Note: All funds are available for these purposes and require no appropriation from the Legislature.

CS FOR HOUSE BILL NO. 206 (FINANCE) am  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE FINANCE COMMITTEE

Amended: 5/7/91  
Offered: 5/6/91  
Referred: Rules

Sponsor(s): REPRESENTATIVES CHOQUETTE, Baker, Ulmer

A BILL

FOR AN ACT ENTITLED

1 "An Act revising the loan authority of the Alaska Industrial Development and Export  
2 Authority, and relating to the authority's loan guarantees under its business assistance  
3 program; and providing for an effective date."

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

5 \* Section 1. AS 44.88.155(d) is amended to read:

6 (d) A loan purchased in whole or in part by the authority with assets of the enterprise  
7 development account or with proceeds of bonds secured by assets of the enterprise development  
8 account, other than a loan which is financed with the proceeds of bonds of the authority and  
9 secured only by a project applicant or a project,

10 (1) may not exceed \$15,000,000 [\$10,000,000];

11 (2) may not exceed the cost of the project or 75 percent of the appraised value  
12 of the project, whichever is less, unless the amount of the loan in excess of this limit is federally  
13 insured or guaranteed or is insured by a qualified mortgage insurance company;

14 (3) may not be for a term longer than three-quarters of the authority's estimate

1 of the life of the project or 25 years from the date the loan is made, whichever is earlier;

2 (4) shall contain [COMPLETE] amortization provisions; the amortization  
3 provisions

4 (A) must be complete and satisfactory to the authority and require  
5 [REQUIRING] periodic payments by the borrower;

6 (B) may allow the loan originator to amortize the portion of the loan  
7 retained by the loan originator using a shorter amortization schedule than the  
8 amortization schedule for the portion of the loan held by the authority if

9 (i) in the authority's opinion, the project financed can support  
10 the increased debt service; and

11 (ii) the accelerated amortization schedule is required to induce  
12 the originator to make the loan;

13 (5) shall be in the form and contain the terms and provisions with respect to  
14 insurance, repairs, alterations, payment of taxes and assessments, default reserves, delinquency  
15 charges, default remedies, acceleration of maturity, secondary liens, and other matters the  
16 authority prescribes;

17 (6) shall be secured as to repayment by a mortgage or other security instrument  
18 in the manner the authority determines is feasible to assure timely repayment under a loan  
19 agreement entered into with the borrower;

20 (7) may not be made unless

21 (A) the project applicant is not, or, if the applicant is not a single  
22 proprietorship, all members of the business enterprise or enterprises constituting the  
23 project applicant are not, in default on another loan made by the state or by a  
24 public corporation of the state; and

25 (B) with respect to the loan,

26 (i) at least 20 percent of the principal amount of the loan is  
27 retained by the loan originator [OF THE LOAN AS LONG AS THE LOAN IS  
28 OUTSTANDING]; or

29 (ii) [(B)] 100 percent of the principal amount of the loan is  
30 guaranteed by the United States or an agency or instrumentality of the United  
31 States;

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(8) must be

(A) financed from the proceeds of bonds; or

(B) expected by the authority to be financed from the proceeds of bonds.

\* Sec. 2. AS 44.88.535(a) is amended to read:

(a) The authority may guarantee a loan under AS 44.88.500 - 44.88.599 if the

(1) loan

(A) is commercially reasonable;

(B) [,] contains amortization provisions satisfactory to the authority;

(C) [,] is secured by adequate collateral; however, the authority may waive on a case-by-case basis the requirement of collateral for a loan guarantee of \$50,000 or less for which the proposed loan amortization period does not exceed five years, but the ability to waive the requirement of this subparagraph or the grant of a waiver does not prevent the financial institution that holds the loan guaranteed by the authority from requiring reasonable collateral for the loan;

(2) [AND THE] net cash flow from the borrower provides adequate coverage for the debt service on the loan;

(3) [(2)] term of the loan does not exceed 20 years;

(4) [(3)] loan is originated with and serviced by a state chartered or federally chartered financial institution;

(5) [(4)] portion of the loan not guaranteed by the authority is held by the originating financial institution or another financial institution approved by the authority;

(6) [(5)] loan is made to a business with a majority interest held by state residents; and

(7) [(6)] loan guarantee provides a benefit to the borrower.

\* Sec. 3. AS 44.88.535(b) is amended to read:

(b) The authority may provide a guarantee from the fund

(1) of 80 percent of a loan of \$50,000 or less that qualifies under AS 44.88.500 - 44.88.599;

(2) for up to 80 percent of a loan of more than \$50,000 that qualifies under AS 44.88.500 - 44.88.599; the [ . THE] ratio of the guarantee to the outstanding principal of the loan may not increase over the term of the loan.

1 \* Sec. 4. Section 4, ch. 162, SLA 1988, is amended to read:

2           Sec. 4. AS 44.88.500 - 44.88.599 are repealed July 1, 1993 [1991].

3 \* Sec. 5. LOAN RATIOS NOT TO BE INCREASED. For a loan of \$50,000 or less for which a loan  
4 guarantee was made from the business assistance fund of the Alaska Industrial Development and Export  
5 Authority before the effective date of this Act, the authority may not increase the ratio of the guarantee  
6 to the outstanding principal of the loan in effect on the effective date of this Act over the term of the  
7 loan.

8 \* Sec. 6. This Act takes effect immediately under AS 01.10.070(c).

Alaska State Legislature  
House of Representatives

INTERIM

3111 C Street  
Anchorage, Alaska 99503  
(907) 561-2032



SESSION

P.O. Box V  
Juneau, Alaska 99811  
(907) 465-2995

Representative Dave Choquette

To: Senator Pat Pourchot  
Chair, Finance

From: Representative Dave Choquette *DAV*

Re: CSHB206 (Finance), an act relating to the Authority of the Alaska Industrial Development and Export Authority providing requirements relating to the authority's loan guarantees under the Business Assistance Program, and providing for an effective date.

HB206 has received careful review since its introduction. You have requested a list of changes that occurred to HB206 throughout the legislative process. Those changes are as follows:

1. We have removed the provision in the original bill that AIDEA provide a differential amortization rate in all cases. In turn, we have instituted a process where AIDEA can choose to apply a differential amortization schedule if doing so will induce the participation of the bank.
2. We have added the requirement that AIDEA may not finance a loan under the commercial loan program if the project applicant is currently in default on a state loan.
3. We have increased the size of a loan that may be financed through AIDEA from \$10 million to \$15 million.
4. As to the business assistance program, amendments have been incorporated to:
  - a. extend the business assistance program an additional two years. Sunset provisions within the original legislation call for a repeal of the program effective July 1, 1991;
  - b. allow AIDEA to waive a collateral requirement for loans of \$50,000 or less on a case by case basis, and to allow for bank determination of what a reasonable collateral requirement may be. Original provisions in the bill mandated the collateral waiver in all cases; and

★ ★

★ ★

c. remove a provision to waive applicant fees for loans of \$25,000 or less.

Thank you. If I can be of further assistance, please let me know.

Alaska State Legislature  
House of Representatives



INTERIM

3111 C Street  
Anchorage, Alaska 99503  
(907) 561-2032

SESSION

P.O. Box V  
Juneau, Alaska 99811  
(907) 465-2995

Representative Dave Choquette

May 16, 1991

To: Senator Pat Pourchot  
Chair, Senate Finance Committee

From: Representative Dave Choquette *Dave*

Re: CSHB206 (Finance), An Act relating to the Authority of the Alaska Industrial Development and Export Authority providing requirements relating to the authority's loan guarantees under the Business Assistance Program, and providing for an effective date.

Thank you for hearing CSHB206 (Finance).

HB206 was introduced for two reasons. First, to increase bank participation in AIDEA programs, and, second, to foster a small business loan guarantee program better suited to meet the needs of this sector of the economy.

CSHB 206 has four components.

- a. It provides authority for AIDEA to allow a differential amortization schedule in order to induce bank participation in the commercial loan program.
- b. It increases the size of loans that may be made under the commercial loan program from \$10 million to \$15 million.
- c. It provides that AIDEA may increase the loan guarantee from 60% to 80% for loans of \$50,000 or less.
- d. It provides that AIDEA may waive on a case by case basis the collateral requirement for loan guarantees of \$50,000 or less provided for commercially worthwhile business ventures.

Thank you for your attention to this matter. CSHB206 (Finance) will go a long way to to further AIDEA's resolve to advance the economic prosperity of this state.



## AIDEA BACKGROUND

The Alaska Industrial Development and Export Authority (AIDEA) is a public corporation of the State of Alaska, and a political subdivision within the Department of Commerce and Economic Development (DCED). It maintains a separate and independent legal existence from DCED. AIDEA's objective is to promote, develop, and advance the general prosperity of Alaskans. It serves this end by financing industrial, manufacturing, and other business enterprises located within the state, and by developing projects that will provide employment and economic development opportunities.

AIDEA activities are funded through the revolving fund established in the authority. The fund consists of legislative appropriations, money or assets transferred to the revolving fund by the authority, and unrestricted payments on loans made or purchased by the authority.

The activities of the AIDEA revolving fund are accounted for in the Enterprise Development Account and the Economic Development Account. Both accounts were established by the Legislature for separate and distinct purposes. The Enterprise Development Account is a trust fund established to finance industrial, manufacturing, and business enterprises not owned or operated by AIDEA.<sup>1</sup> The Economic Development Account is used only to finance, acquire, manage, and operate development projects that AIDEA intends to own or operate.

### A. The commercial loan program

The commercial loan program is funded within the Enterprise

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<sup>1</sup> According to AIDEA's 1990 Annual Report, since July 1, 1980, this account consists of:

- a. \$32,212,300 in appropriations
- b. all rights, title, and interest in loans, with principal balances totalling approximately \$166,000,000 at the date of transfer, previously held by the Department of Revenue and the Department of Commerce and Economic Development.
- c. assets and liabilities of the Alaska State Development Corporation, the Small Business Development Corporation, and the Alaska Toll Bridge Authority, with a fund balance of \$2,554,055.

Development Account. At present, money within the account may be used to purchase loans or to secure bonds issued to finance the purchase of loans for commercial projects. At present, a loan may be secured by bond or purchased so long as it:

1. does not exceed, \$10,000,000:
2. does not exceed the cost of the project or 75% of the appraised value of the project, whichever is less, unless the amount in excess of this limit is federally insured or guaranteed or insured by a qualified mortgage insurance company;
3. is not for a term longer than 3/4 of the authority's estimate of the life of the project, or for 25 years from the date of the loan, whichever is earlier;
4. contains complete amortization provisions, these provisions set the schedule for liquidation of a debt by installment payments; and
5. contains provisions with respect to insurance, repairs, alterations, payment of taxes and assessments, etc.

Additionally:

repayment is to be secured by mortgage, or another security instrument;

at least 20% of the principal amount of the loan is required to be retained by the originator of the loan, or 100% of the principal is to be guaranteed by the United States;

and the loan should be financed or expected to be financed from the proceeds of bonds.

#### Proposed Amendments to the Commercial Loan Program

The commercial loan guarantee program has not been a resounding success. Banks are reticent to participate in it. According to the Alaska Banker's Association, the loan program could better fulfill its purpose of providing capital to small and medium sized businesses by allowing banks participating in the AIDEA program to be paid back on a faster amortization schedule than AIDEA.

As it presently stands, the requirement that a bank retain at least 20% of the principal amount of the loan for as much as 25 years works against the capital structure under which banks operate. Banks do not have a lot of capital available for long term lending

because virtually all their cash, in the form of customer deposits, is short term. To tie up a disproportionate share of assets in long term loans would be detrimental to the banks, and would subject them to a high degree of scrutiny by bank examiners. AIDEA, on the other hand, is an instrument capable of maintaining long term loans.

The amendments proffered in Section 1 of the bill address this needed change. First, they allow the banks to amortize their portion of the loan over a time period less than the amortization period for the portion of the loan held by the authority; or for ten years, whichever is less. Second, they remove the requirement that at least 20% of the principal amount of the loan be retained by the bank for as long as the loan is outstanding.

Section One also increases the size of loans that AIDEA may purchase or finance from \$10 million to \$15 million. This increase will allow AIDEA to provide additional support to commercially sound projects. Funds within the Enterprise Development Account are quite sufficient to handle this increase.

Lastly, as a security to protect the financial well-being of the Enterprise Development Account, Section One requires that AIDEA may not guarantee a loan if the project applicant is currently in default on another loan made by the state or a public corporation of the state.

#### **B. Business Assistance Program**

AIDEA also operates a business assistance fund, commonly known as a loan guarantee program. The purpose of the loan guarantee program is to furnish up to an 80% guarantee of the principal balance to the financial institution making the loan. This added degree of support is intended to make project financing, refinancing, and working capital loans, available to borrowers that might not otherwise be financed.

The fund is established in the authority from money within the authority's reserves. By statute as much as \$50,000,000 may be reserved for the program, with at least \$25,000,000 of this amount reserved for loans of \$500,000 or less. At present, the authority only has \$3.6 million within the fund, and has only lent out \$500,000. The program is not filling the financing void it was created to alleviate.

#### **Amendments to the Business Assistance Program**

The business assistance program can be more successful if incentives can be created to make private banks more willing participants in the program. Just as importantly, it can be an effective vehicle for financing the programs and needs of Alaska's small business community. These amendments are an attempt to meet these ends. Additionally, they respond to the recommendations of the 1989 Governor's Conference on Small Business on this matter.

Sections 2 through 5 of the bill lay out the amendments.

Section 2 addresses the conditions by which the authority may guarantee a loan under the business assistance program. At present, the authority may guarantee a loan made to a business with a majority interest held by state residents so long as that loan is: commercially reasonable; contains satisfactory amortization provisions; is secured by adequate collateral; so long as the net cash flow of the borrower provides adequate coverage for debt service; and so long as the borrower's credit check is satisfactory.

Section 2 amends the framework by providing that the authority may guarantee a commercially reasonable loan of \$50,000 or less that amortizes in five years without requiring security. Currently, AIDEA regulations place a difficult burden on Alaskan businesses attempting to get small loans. Namely, they provide that a bank will only get a guarantee on a loan if the business provides collateral for up to 75% of the requested amount. Despite the fact that the borrower's loan request may be commercially sound, that he or she may have adequate cash flow to service the debt, and that their credit history is satisfactory, many Alaskan small business owners simply cannot fulfill this collateral requirement. Resultingly, many cannot get an AIDEA guaranteed loan from the bank.

This amendment will allow the bank to more accurately weigh the security requirement for worthy loans of \$50,000 or less, and to accordingly set up differential collateral requirements.

Section 3 amends existent statute and provides that the authority may guarantee 80% of a loan of \$50,000 or less. By regulation, the authority guarantees only 60% of loans of this total.

Often banks find~~s~~ that a small loan is not worth the time and expense of administering it. As a matter of practice, many small loans made to businesses for inventory, accounts receivable, or working capital do not exceed one year in duration. A bank manager generating this type of credit might turn down marginally qualifying loans due to time considerations and administrative costs.

Increasing the guarantee to 80% is intended to offset this difficulty and to offer opportunities for credit to new businesses and marginally capitalized businesses that otherwise would have a difficult time obtaining credit. A 20% risk factor for most bankers would be sufficient for a bank to maintain quality standards. The collection of excess bad debts by a bank is a drain on profitability which they are not willing to undertake.

Section 4 provides that the authority may not increase its guarantee of loan of \$50,000 or less for loans made before the

effective date of these amendments.

Lastly, section 5 provides an immediate effective date.

### C. Conclusion

House Bill 206 is an attempt to further AIDEA's resolve to advance the economic prosperity of the State. This is completed by increasing bank participation within the AIDEA framework and by responding to the call of Alaskan small businesses unable to secure loans of \$50,000 or less. We look forward to working with the committee to achieve these ends.  
Thank you.

# STATE OF ALASKA

## DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

WALTER J. HICKEL, GOVERNOR

P. O. BOX D  
JUNEAU, ALASKA 99811-0800  
PHONE: (907) 465-2500

May 2, 1991

The Honorable Dave Chouquette  
House of Representatives  
State Of Alaska  
PO Box V  
Juneau, Alaska 99811

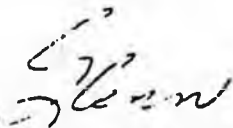
Dear Representative Chouquette:

I am most grateful for your leadership in sponsoring House Bill 206 as now amended to accommodate our concerns for rendering AIDEA more response to Alaska's needs for economic development.

Raising the cap to \$15,000,000 will permit two important initiatives in the pipeline essential to our development in the energy field. Permitting latitude in collaboration with lending banks re: lending time frames, and their important role in private initiatives will strengthen our support leverage for larger private sector involvement in development loans.

I trust this legislation will move forward smoothly. I fully expect AIDEA to play an increasingly important role in the development of Alaska's diversified economy. This effort legislatively should help. Thanks.

Cordially,



Glenn A. Olds  
Commissioner  
Department of Economic Development

# National Bank of Alaska



Corporate Headquarters P.O. Box 100600 Anchorage, Alaska 99510-0600 (907) 276-1132

April 29, 1991

Alaska State Legislature  
House Finance Committee

Re: Alaska Industrial Development and Export Authority

Dear Honorable Co-Chairman:

The Alaska Banker's Association recommended a proposal which we felt would make AIDEA a more viable enterprise for providing capital to small and medium sized businesses in the state of Alaska. Our proposal was based on a resolution from the Alaska Banker's Association which would support legislation and an ammendment to AIDEA's regulations which would allow their required participation in an AIDEA loan to be paid back on a faster amortization schedule than funds advanced by AIDEA. This concept was gleaned from the recent recommendations of the Institute of Social and Economic Research of the University of Alaska Anchorage which indicated that commercial banks and AIDEA have different capital structures which cause some conflict. They stated that "since banks abhor long-term financing, the joint financing could be arranged so that banks could be paid back more quickly and since AIDEA's main interest is long-term economic development, it could be paid back over a longer period, possibly accepting smaller principal payments at the start and higher ones as the cash flow was adequate."

We believe that such a program would facilitate the movement of long-term capital which is otherwise not available in the state of Alaska today to business enterprises throughout the state and secondarily enhance and strengthen the banking community, which was seriously shaken by the economic depression in Alaska to the late 1980s, which ultimately resulted in the failure of over half of the banking institutions.

Since the 1950s, NBA acted as a catalyst for attracting capital into the state from various sources. Until the introduction of Industrial Revenue Bond financing in the 1980s, NBA did not

Alaska State Legislature  
House Finance Committee  
April 26, 1991  
Page Two

generate for our own portfolio long-term real estate or development loans to any extent as we felt these loans did not match our capital structure and our inability to meet the long-term capital demands for development in the state.

We were able to attract labor union pension funds, state pension funds, insurance companies, and thrift institutions into investing in various projects. We also participated with such programs as the Farmer's Home Administration Business and Industrial Loan Program, the SBA Guaranteed Loan Program, the Bureau of Indian Affairs, and various government programs. In recent years, all of these programs except the Federal SBA and the BIA have dried up. In discussions with other commercial banks, I can find no recent instance where a major institutional investor has recently provided new long-term capital in the state. Robert Gray, President of NBA, in a recent talk indicated that he felt, due to the credit crunch in the United States, that Alaska would be the last state in the union to begin to attract long-term capital when the credit crunch relaxes, primarily due to the more attractive investment opportunities in other parts of the U.S. and problems lenders sustained during the 80s.

Alaska is rapidly coming out of an economic depression and once again seems poised for economic expansion without a ready source of long-term capital available for the development. The state does have the Alaska Industrial Development and Export Authority with a substantial capacity due to its credit rating and capital reserves to meet the needs of small and medium sized business expansion. Our loan policy of terms to ten years does not suit well with impact projects that generally relied on 20 to 25-year amortization. The recommended program should provide somewhat higher payments than a normal 20-year amortization but not substantially higher as can be demonstrated by the examples. We are aware of projects and commercial development waiting for suitable financing in Kenai, Kodiak, Anchorage, and Fairbanks.

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House Finance Committee  
April 26, 1991  
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What sort of effect on small and medium size businesses will the availability of long-term capital have? I have over 15 years of experience in economic development financing in the state of Alaska plus an additional seven years of banking experience in the state. Certainly, in the earlier years of my development experience we did not have long-term capital to provide. We used a combination of programs in attracting capital. Such projects as a fisheries plant in Homer created substantial employment that was not previously available in the community.

Due to the combining of various capital sources and guaranteed programs, we were able to provide the company with a market interest rate loan comparable to other rates available and created a facility that in itself employs in excess of 200 people in season. Such a plant also creates a substantial multiplier effect in the employment of fishermen, local merchants, and the supply and transportation industry.

The reason for this recommendation for a change in the law was the general differences in corporate structures between commercial banks which are predominate in Alaska and AIDEA which was created with the intent to provide long-term capital which is lacking in the state of Alaska. Our internal policies consider a long-term financing as amortizing over 10 years. We therefore would strongly support a resolution that has been prepared by the Alaska Bankers Association to the effect to amend AIDEA's laws and regulations which would allow the banks required participation's in AIDEA's various loan programs to be paid on a faster amortization schedule than funds advanced by AIDEA. The risk to AIDEA should decrease as actual equity build up in loans would increase.

During the 1990 legislature, AIDEA obtained changes to the law which changed the bank participation requirements under Section 44.88.155(7)(A) to "at least 20% of the principal amount of the loan is retained by the originator of the loan as long as the loan is outstanding. This change increased the bank participation from 10% to 20% and required the bank to retain that percentage as long as the loan is outstanding." AIDEA also made changes in their regulations under Section 3AAC 99.350(a) to read "the originator of the loan shall retain at least a 20% share of the principal amount of the loan as loan as the loan is outstanding." Due to these changes in the last legislature, it would seem that a change in the law and regulations is required to bring about the changes we request.

Alaska State Legislature  
House Finance Committee  
April 26, 1991  
Page Four

If you have any questions, please feel free to contact me at  
265-2991 or my fax number 263-2582.

Sincerely yours,

A handwritten signature in cursive script that reads "Jan Sieberts".

Jan Sieberts  
Senior Vice President

mlc

# STATE OF ALASKA

## DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

WALTER J. HICKEL, GOVERNOR

P.O. BOX D  
JUNEAU, ALASKA 99811-0800  
PHONE: (907) 465-2500

April 15, 1991

Mr. Bruce Kendall  
Legislative Liaison  
Office of the Governor  
P.O. Box A  
Juneau, AK 99811-0101

Dear Bruce,

Regarding our meeting today concerning Hydrocarb, I believe we have firmed up everything as follows:

- (1) We will be supportive of the legislative action to extend the cap for AIDEA to \$15 million.
- (2) It is our understanding that the request is for a loan, not a grant, and that all of the funding is in place for an appropriate assessment of a good faith capability on the part of AIDEA when the proposal comes before them on whose board I serve.
- (3) We are agreed that we will have consultation before any final agreement regarding the possibility of some share in whatever profits might come from the technology and the demonstration development here in Alaska to the state for its early support and initiative.
- (4) We are agreed that this should not be conceived narrowly as a pure research indoor demonstration project but should be linked to a wider service function even in the early stages of its development.

I hope very much that this will go well, as the prospect of cleaning up coal and rendering it more comprehensively relevant without environmental pollution is one of the critical tasks of our world and our time.

Cordially,



Glenn A. Olds  
Commissioner

Post-it brand fax transmittal memo 7671 # of pages 1

To: DAVE / JOAN	From: V. SAMSON
Co.	Co.
Dept.	Phone #
Fax # 465-7274	FAX # 278-5891

To: Rep. Dave Choquette

From: Virginia Samson, (Former) Executive Director  
Governor's Conference on Small Business

Date: March 17, 1991

Subject: HB 206

Thank you for your follow up on the Recommendations from the 1989 Governor's Conference on Small Business and for asking me to comment on HB 206. Also, thanks to Rep. Baker for co-sponsoring the bill.

HB 206 responds to Problem 4A: "Small business requires better access to loans from \$10,000 to \$100,000". Within that problem area, this bill seems to address Recommendations:

1. The State guaranteed loan program should be simplified and have less costly documentation process; and
3. The State should provide incentives to banks to make \$10,000 - \$100,000 loans to small businesses in rural communities.

The main thrust of the bill seems to be to expand and clarify AID&EA's involvement with loan guarantees by allowing 80% guarantee for a qualifying loan under \$50,000 and allows the option of no security for an amortization period under 5 years.

To the extent that AID&EA will work with and provide incentives to private banks to make funds available to small businesses around the state, this bill will help. But, if the banks continue to think that "it's not worth the trouble to do small loans" (ie they can't make enough money for the time and paperwork it takes), no bill will help.

Administrative follow up is still needed on Recommendation 3: "The State needs to provide for the dissemination of information broadly throughout the state." Lack of knowledge about what financing programs are available through or assisted by the state is a big problem.

In summary, I support the general idea of HB 206 as a great step in the right direction to help make small loan amounts available to small businesses.

HOUSE BILL NO. 206

ALL ASPECTS OF THIS BILL APPEAR TO IMPROVE AIDEA'S  
AUTHORITY TO ASSIST ALASKAN SMALL BUSINESSES.

HOWEVER, TO MY KNOWLEDGE AIDEA HAS NOT BEEN AN ACTIVE  
SUPPORTER OF ALASKAN SMALL BUSINESS FIRMS. IT WOULD BE  
INTERESTING TO KNOW JUST HOW MANY LOANS AIDEA HAS MADE TO  
ALASKA SMALL BUSINESS FIRMS IN AMOUNTS OF \$100,000 OR LESS  
IN THE PAST FIVE YEARS. I BELIEVE NONE.

SUGGESTED IMPROVEMENT TO HB 206 WOULD BE TO INCREASE THE  
\$50,000 to \$100,000 UNDER THE 80% LOAN GUARANTEE.



KENAI PENINSULA BOROUGH

ECONOMIC  
DEVELOPMENT  
DISTRICT, INC.

March 19, 1991

To: House Labor and Commerce Committee

From: Mike Tagliavento, Executive Director, Kenai Peninsula  
Borough Economic Development District

RE: HB 206, Act Revising Loan Authority of AIDEA

Our organization is working very closely with local entrepreneurs to create employment through the retention, expansion and creation of small businesses. I applaud the efforts of this bill's sponsors to find creative ways to overcome the problems small businesses are having in accessing capital.

AIDEA has the potential of contributing to the capital needs of small businesses to a greater extent than it has in the past. HB 206 provides new options for AIDEA in this regard, and I would urge your support.

MBT/ss

HB207

**HOUSE COMMITTEE REPORT**

(11)

Date Referred: May 10, 1991

FURTHER REFERRALS:

Date of Committee Action: 5/13/91

The FINANCE Committee considered:

HB 207

HOUSE BILL NO. 207

VILLAGE SAFE WATER PROGRAM

"An Act relating to the Village Safe Water Program."

**RECOMMENDATIONS:**

be replaced with \_\_\_\_\_  the same title

a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) \_\_\_\_\_

APPROVES PREVIOUS: (Dept/Date) \_\_\_\_\_

fiscal impact \_\_\_\_\_

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

zero fiscal note \_\_\_\_\_

2  zero fiscal note(s) DCRA 4/5/91 - DEC 4/5/91

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
Mike Navarre	✓	Bea Sharp			
Ed Machan	✓	F. Wilson		X	
Ron Barnes	X				
Fan Brown	✓				
Mark Boyer	X				
Koponen	X				
Rock Phillips	✓				
Ronald Hanson	X				

Mike Navarre Ed Machan  
COCHAIRMAN'S SIGNATURE

HOUSE BILL NO. 207

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE LINCOLN

Introduced: 3/11/91

Referred: Community & Regional Affairs, Resources, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the Village Safe Water Program."

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

3 \* Section 1. AS 46.07.080(2) is amended to read:

4 (2) "village" means an unincorporated community that [WHICH] has between 25  
5 and 600 people residing within a two-mile radius, [OR] a second class city, or a first class city  
6 with not more than 600 residents.

FISCAL NOTE

No. 1  
 Bill Version: HB 207  
 (H) Publish Date: 4/5/91

STATE OF ALASKA  
 1991 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_ Department Affected: Community & Regional Affairs  
 Title: "An Act relating to the Village Safe Water Program." BRU: \_\_\_\_\_  
 Sponsor: Representative Lincoln Component: \_\_\_\_\_  
 Requestor: \_\_\_\_\_ COMPONENT SERIAL NO. 

--	--	--	--

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS. CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-

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

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

Estimate of current year impact: \_\_\_\_\_

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Remond Henderson, Director *Remond Henderson* Phone: 465-4708  
 Division: Administrative Services Date: 4/1/91  
 Approved by Commissioner: Edgar Blatchford *Edgar Blatchford*  
 Agency: Community & Regional Affairs Date: 4/1/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies)

FISCAL NOTE

STATE OF ALASKA  
1991 LEGISLATIVE SESSION

No. 2  
Bill Version: HB 207  
(H) Publish Date: 4/5/91

Revision Date: \_\_\_\_\_  
Title: relating to village sewerwater  
Sponsor: Rep. Lincoln  
Requestor: Rep. Lincoln

Department Affected: DEC  
BRU: Facilities, Construction and Operations  
Component: Village Sewerwater

COMPONENT SERIAL NO. 

1	6	3	1	3
---	---	---	---	---

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND&STRUCTURES						
GRANTS,CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND	0.0	0.0	0.0	0.0	0.0	0.0
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.)

Prepared by: Janice Adair  
Division: Commissioner's Office

Phone: 465-2600  
Date: 4/3/91

Approved by Commissioner: [Signature]  
Agency: Dept. of Environmental Conservation

Date: 4/3/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

ALASKA STATE LEGISLATURE

Representative Georgianna Lincoln

HESS Committee, Co-Chair  
Resources Committee, Vice-Chair

Budget Subcommittees  
Health and Social Services  
Revenue




P.O. Box V  
Juneau, Alaska 99811

Phone: (907) 465-3732  
FAX: (907) 465-2652

MEMORANDUM

Alatna  
Allakaket  
Aniak  
Anvik  
Arctic Village  
Beaver  
Bettles  
Birch Creek  
Chalkyitsik  
Chuathbaluk  
Crooked Creek  
Evansville  
Fort Yukon  
Galena  
Grayling  
Holy Cross  
Iliamna  
Huslia  
Kalskag  
Kaltag  
Koyukuk  
Lake Minchumina  
Lime Village  
Lower Kalskag  
Manley Hot Springs  
Marshall  
McGrath  
Minto  
Mountain Village  
Nikolai  
Nulato  
Pilot Station  
Pitkas Point  
Rampart  
Red Devil  
Ruby  
Russian Mission  
Shageluk  
Sleetmute  
St. Mary's  
Stevens Village  
Stony River  
Takatna  
Tanana  
Telida  
Tuluksak  
Tyonek  
Venetie  
Wiseman

**TO:** House Finance Committee  
Representative Eileen MacLean, Co-Chair  
Representative Mike Navarre, Co-Chair

**FROM:** Representative Georgianna Lincoln   
House District 24

**RE:** House Bill 207

**DATE:** May 13, 1991

House Bill 207, an act relating to the Village Safe Water Program, was introduced at the request of one of the villages in my district. This village has a population of 491, is located in rural Alaska, and has identified water system repairs/improvements as a top priority for funding. However, because this village has incorporated as a First Class City, it does not qualify for funding under the Village Safe Water Program.

House Bill 207 proposes to do only one thing--amend the definition of "village" under AS 46.07.080(2). Changing the definition of "village" will add first class cities with a population of not more than 600 residents to the eligibility list for funding under the Village Safe Water Program.

According to the population list based on the 1990 population and certified by the Department of Community and Regional Affairs, only six additional villages would become eligible for Village Safe Water Program funding under provisions of House Bill 207. These

villages are: Tanana, St. Mary's, Pelican, Yakutat, Hydaburg and Seldovia.

There is a zero fiscal note attached to this bill; no additional funding would be required to implement its provisions. The six villages that would be added to the Village Safe Water Program eligibility list are similarly situated to those already on the list and would be competing for the same funds.

In reviewing historical information pertaining to the Village Safe Water Program, there is no indication as to why small, rural villages incorporated as first class cities were not included. However, in testimony before the House Community & Regional Affairs Committee April 4, 1991, the City Manager for St. Mary's reminded committee members that a number of villages opted to incorporate as first class cities in order to form their own school districts. This took place after the Village Safe Water Program was established by legislation.

House Bill 207 passed out of the House Resources Committee on Friday May 10, with a unanimous "do pass" recommendation.

Because water and sewer are such basic necessities for these six villages, I am asking your favorable consideration of this bill to add them to the eligibility list for the VSW Program.

STATE OF ALASKA

STEVE COWPER, GOVERNOR

**DEPT. OF COMMUNITY & REGIONAL AFFAIRS**

OFFICE OF THE COMMISSIONER

P.O. BOX B  
JUNEAU, ALASKA 99811-2100  
PHONE: (907) 465-4700

949 E. 36TH AVENUE, SUITE 400  
ANCHORAGE, ALASKA 99508-4302  
PHONE: (907) 563-1073

April 3, 1991

POSITION PAPER

RE: House Bill 207

SPONSOR: Representative Lincoln

Program Effects of the Bill

This bill extends eligibility for the village safe water program to first class cities with populations less than 600. Presently only unincorporated communities with a population less than 600 and second class cities are eligible.

Six cities would be affected by this legislation, they are: Hydaburg, Pelican, Saint Mary's, Seldovia, Tanana, and Yakutat.

Comments

The Department supports this bill because it furthers the concept of making similarly situated communities eligible for the same State benefits.

*Remond Henderson for*  
Edgar Blatchford, Commissioner



CITY OF TANANA  
P.O. Box 181  
Tanana, Alaska 99777  
(907) 366-7159

"NUCHALAWOYYA" - Where the two rivers meet.

April 5, 1991

Rep. Georjianna Lincoln  
District 24  
Capital Building  
Juneau, Alaska 99811

Dear Georjianna:

Thank you for introducing the amendment to HR 207 adding first class cities under 600 population.

Small first-class cities are mandated to provide more services with essentially the same municipal assistance as second class cities and villages, yet are excluded from state-assisted programs such as VSW. Your recognition of this is to be commended.

Along these same lines, would it be possible to sponsor a similar amendment to the funding for the VPSO program? If Tanana was forced to drop the Dept. of Public Safety position due to budget considerations, I am sure that the State troopers would be unable to provide the level of law enforcement necessary.

May I hear from you on this?

Sincerely,

  
Peter L. Platten, Mayor

Post-It™ brand fax transmittal memo 7871		# of pages > 1	
To	GEORJIANNA LINCOLN Representative	From	Peter Platten
Co.	DIST 24	Co.	City of Tanana
Dept.	ATTN: PET JACKSON	Phone	366-7159
Fax	465-2652	Fax	366-7249

*J*

City of Seldovia

P.O. Drawer B  
Seldovia, Alaska 99663

RECEIVED  
APR - 3 P.M.

March 26, 1991

Honorable Georgianna Lincoln  
Alaska State Legislature  
P.O. Box "V" (MS 3100)  
Juneau, Alaska 99811

SUBJECT: House Bill No. 207

Dear Representative Lincoln:

Thank you very much for sponsoring HB 207. We support passage of it and are writing to all of the members of the referral committees in the affirmative.

Your Bill is one of key significance to the smaller, rural towns. Keep up the good work.

Very truly yours,

THE CITY OF SELDOVIA

*Vern McCorkle*  
Vern C McCorkle  
City Manager

HB2009

# HOUSE COMMITTEE REPORT

(11)

Date Referred: March 25, 1991

FURTHER REFERRALS:

Date of Committee Action: 4-10-91

The FINANCE Committee considered:

HB 209

HOUSE BILL NO. 209

FILING OF PERIODIC BANK REPORTS

"An Act relating to time of filing periodic bank reports of condition."

- RECOMMENDATIONS:  the same title  
 be replaced with \_\_\_\_\_  a new title  
 have attached amendments(s)  
 do pass  
 do not pass  
 no recommendations  
 individual recommendations  
 additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of Intent

- ATTACHES NEW FISCAL NOTE(s): (Dept) \_\_\_\_\_ APPROVES PREVIOUS: (Dept/Date) \_\_\_\_\_  
 fiscal impact \_\_\_\_\_  fiscal note(s) \_\_\_\_\_  
 zero fiscal note \_\_\_\_\_  zero fiscal note(s) OCEO

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Ronald J. Lane</i>	x	<i>F. Ulmer</i>		✓	
<i>ROD E. CLEGG</i>	✓	<i>Kopman</i>		✓	
<i>Bob May</i>	✓	<i>Fay Brown</i>		✓	
<i>Danena Barnes</i>	✓	<i>E. Eden P. Machean</i>		✓	
<i>George Skokofv.</i>	✓				
<i>CHRIS BOWEN</i>					
<i>Mike Yavane</i>					

*Mike Yavane* *Eileen P. Machean*  
 CHAIRMAN'S SIGNATURE

## HOUSE BILL NO. 209

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 3/11/91

Referred: Labor &amp; Commerce, Finance

## A BILL

## FOR AN ACT ENTITLED

1 "An Act relating to time of filing periodic bank reports of condition."

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

3 \* Section 1. AS 06.05.045(a) is amended to read:

4 (a) Each state bank shall make at least four reports of condition each year to the  
5 department on days designated by [IT], and on forms prescribed by, the department [it]. The  
6 report shall be verified by an oath of the president, vice president, or cashier and by at least three  
7 directors, certifying and subscribing under oath that they and each of them have personal  
8 knowledge of the facts stated in the report and that the facts are true. The reports shall exhibit  
9 in detail and under appropriate heads the resources and liabilities of the bank, and must be  
10 received by the department within 30 calendar days after the end of the period covered by  
11 the report [AND SHALL BE TRANSMITTED OR MAILED TO THE DEPARTMENT  
12 WITHIN 10 DAYS OF THE RECEIPT OF THE REQUEST FROM THE DEPARTMENT].

FISCAL NOTE

No. 1  
 Bill Version: HB 209  
 (H) Publish Date: 3/11/91

STATE OF ALASKA  
 1991 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_ Department Affected: Commerce & Economic Dev.  
 Title: An act relating to time of filing periodic bank reports of condition. BRU: Banking, Securities & Corporations  
 Component: Banking, Securities & Corporations

Sponsor: \_\_\_\_\_  
 Requestor: Governor COMPONENT SERIAL NO. 

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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
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
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REVENUE	0	0	0	0	0	0
---------	---	---	---	---	---	---

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

Estimate of current year impact: 0

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Willis F. Kirkpatrick, Director Phone: 465-2521  
 Division: Banking, Securities & Corporations Date: \_\_\_\_\_

Approved by Commissioner: Dr. Glenn Olds *[Signature]* Spec Asst. Dir.  
 Agency: Department of Commerce & Economic Development Date: 2/14/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Contacted Agency(ies).

WALTER J. HICKEL  
GOVERNOR



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

March 11, 1991

The Honorable Ben Grussendorf  
Speaker of the House  
Alaska State Legislature  
P.O. Box V  
Juneau, AK 99811

Dear Speaker Grussendorf:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to periodic bank reports of condition.

Under existing AS 06.05.045, state banks are required to file periodic reports of condition with the Department of Commerce and Economic Development. That statute requires these reports to be filed within 10 days after receipt of a request for filing from the department. This bill extends that filing deadline to 30 days following the end of the period covered by the report.

When the current law was passed, the financial report required consisted of a one-page balance sheet. Now, the call of condition frequently requires over 20 pages of financial information on all aspects of the bank. Additional time is necessary to ensure that this report will be complete and accurate. The 30-day period set by the bill corresponds with the time permitted by the Federal Deposit Insurance Corporation (FDIC) to file similar reports.

The bill also makes a minor technical amendment to the statute.

I urge your support of this bill.

Sincerely,

A handwritten signature in black ink that reads "Walter J. Hickel".

Walter J. Hickel  
Governor

HB210

HOUSE COMMITTEE REPORT

(11)

Date Referred: May 9, 1991

FURTHER REFERRALS:

Date of Committee Action: 5/13/91

The FINANCE Committee considered:

HB 210

HOUSE BILL NO. 210

REGISTRATION OF SECURITIES

"An Act amending the Alaska Securities Act of 1959 to allow fees related to registration to be established by regulation, to provide for registration, examination, and other procedures that avoid duplication, and to provide for exemption from registration for certain securities."

RECOMMENDATIONS:

the same title

be replaced with \_\_\_\_\_

a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal impact \_\_\_\_\_

fiscal note(s) DCED 3/11/91

zero fiscal note \_\_\_\_\_

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

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
EP McLean <i>MacLean</i>	<input checked="" type="checkbox"/>	Tamara Baines <i>Baines</i>		X	
Mike Favara <i>NAVARRE</i>	<input checked="" type="checkbox"/>	Best Shog <i>SHOG</i>		L	
Taylor Brown <i>BROWN</i>	<input checked="" type="checkbox"/>	A. Ulmer <i>Ulmer</i>		X	
Mark Suter <i>Suter</i>	<input checked="" type="checkbox"/>				
Eric & Cecil Phillips <i>Phillips</i>	<input checked="" type="checkbox"/>				
Donald L. Lanson <i>Lanson</i>	<input checked="" type="checkbox"/>				

*NAVARRE* *EP McLean*  
 Mike Favara *MacLean*  
 CO-CHAIRMAN'S SIGNATURE

FISCAL NOTE

No. 1  
 Bill Version: HB 210  
 (H) Publish Date: 3/11/91

STATE OF ALASKA  
 1991 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_ Department Affected: Commerce & Economic Dev.  
 Title: Amend the Alaska Securities Act of 1959 BRU: Banking, Securities & Corporations  
 Component: Banking & Securities  
 Sponsor: Rules Committee  
 Requestor: Governor

COMPONENT SERIAL NO.	1	2	3	3
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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
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	400.0	500.0	500.0	550.0	550.0	550.0
---------	-------	-------	-------	-------	-------	-------

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

Estimate of current year impact: \_\_\_\_\_

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Willis F. Kirkpatrick, Director Phone: 465-2521  
 Division: Banking, Securities & Corporations Date: 2/20/91  
 Approved by Commissioner: Glenn A. Olds  
 Agency: Department of Commerce & Economic Development Date: 2/20/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

## HOUSE BILL NO. 210

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 3/11/91

Referred: Labor &amp; Commerce, Judiciary, Finance

## A BILL

## FOR AN ACT ENTITLED

1 "An Act amending the Alaska Securities Act of 1959 to allow fees related to registration  
 2 to be established by regulation, to provide for registration, examination, and other  
 3 procedures that avoid duplication, and to provide for exemption from registration for  
 4 certain securities."

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

6 \* Section 1. AS 45.55.040(c) is amended to read:

7 (c) Every broker-dealer, [APPLICANT FOR INITIAL REGISTRATION SHALL PAY  
 8 A REGISTRATION FEE OF \$125. EVERY] agent, [APPLICANT] and investment adviser  
 9 applicant for initial registration shall pay a registration fee established by the department by  
 10 regulation [OF \$50]. Every broker-dealer, [APPLICANT FOR ANNUAL RENEWAL OF  
 11 REGISTRATION SHALL PAY AN ANNUAL RENEWAL FEE OF \$75. EVERY] agent,  
 12 [APPLICANT] and investment adviser applicant for annual renewal of registration shall pay an  
 13 annual renewal fee established by the department by regulation [OF \$30].

14 \* Sec. 2. AS 45.55.040(d) is amended to read:

1 (d) A registered broker-dealer or investment adviser may file an application for  
2 registration of a successor, whether or not the successor is then in existence, for the unexpired  
3 portion of the year. A broker-dealer may file a request to transfer from a previous broker-dealer  
4 an agent's unexpired portion of the registration if the provisions of AS 45.55.030(b) have been  
5 met. The [THERE IS A] filing fee [OF \$10] for filing applications under this subsection shall  
6 be established by the department by regulation.

7 \* Sec. 3. AS 45.55.040 is amended by adding a new subsection to read:

8 (g) The administrator may permit initial and renewal registration filings required under  
9 this chapter to be filed with the Securities and Exchange Commission, the National Association  
10 of Securities Dealers or other similar authorities. The administrator may accept uniform  
11 securities examinations or other procedures designed to implement a uniform national securities  
12 regulatory system or facilitate common practices and procedures among the states.

13 \* Sec. 4. AS 45.55.110(b) is amended to read:

14 (b) Every person filing a registration statement shall pay a filing fee [OF \$50] and a  
15 registration fee in amounts established by the department by regulation [OF ONE-TENTH  
16 OF ONE PER CENT OF THE MAXIMUM AGGREGATE OFFERING PRICE AT WHICH  
17 THE REGISTERED SECURITIES ARE TO BE OFFERED IN THIS STATE, BUT THE  
18 REGISTRATION FEE SHALL IN NO CASE BE LESS THAN \$50 OR MORE THAN \$1,500].  
19 When a registration statement is withdrawn before the effective date or a pre-effective stop order  
20 is entered under AS 45.55.120, the administrator shall retain the [\$50] filing fee.

21 \* Sec. 5. AS 45.55.140(a)(10) is amended to read:

22 (10) a security listed or approved for listing upon notice of issuance on the New  
23 York Stock Exchange, the American Stock Exchange, the Midwest Stock Exchange, [OR] the  
24 Pacific Coast Stock Exchange, the Chicago Board Options Exchange, or any other securities  
25 exchange designated by order of the administrator, or any security designated or approved  
26 for designation upon notice of issuance as a national market system security on the National  
27 Association of Securities Dealers Automated Quotation National Market System or on any  
28 other quotation system designated by order of the administrator, or any other security of the  
29 same issuer which is of senior or substantially equal rank; a security called for by subscription  
30 rights or warrants so listed or approved; or a warrant or right to purchase or subscribe to any of  
31 the foregoing;

1 \* Sec. 6. AS 45.55.140(f) is amended to read:

2 (f) The administrator shall by regulation prescribe a schedule of fees for the application  
3 for or the examination or investigation of a claimed exemption.



Nancy L. Nielsen  
Assistant Corporate Secretary

LaSalle at Van Buren  
Chicago, Illinois 60606 312 786-7468

May 10, 1991

Federal Express

Representative Mike Navarro  
Co-Chairman  
House Finance Committee  
State Capitol  
P.O. Box V  
Juneau, AK 99811-0101

Re: House Bill 210

Dear Representative Navarro:

We understand House Bill 210 was reported out of the Judiciary Committee on May 8th and that a Finance Committee hearing may be scheduled early next week. In connection with the hearing, we thought you might be interested in the enclosed report of the Ad Hoc Marketplace Committee of the North American Securities Administrators Association (NASAA). The Committee conducted a due diligence study of the Chicago Board Options Exchange, the results of which are summarized in the report. As noted in Nancy Crossman's letter of April 26th, the Report, which recommended that the states accord CBOE a marketplace exemption, was delivered at the April NASAA Conference.

We respectfully request that you and your colleagues favorably report this bill. If you have any questions, please call me at (312) 786-7466.

Sincerely,

A handwritten signature in cursive script that reads 'Nancy L. Nielsen'.

Nancy L. Nielsen  
Assistant Corporate Secretary

Enclosures

cc: Lawrence P. Carroll

January 1991

SUMMARY OF CBOE REGULATORY AND LEGAL FUNCTIONS

The following memoranda provide profiles of the regulatory, legal and enforcement programs of the Chicago Board Options Exchange ("Exchange" or "CBOE"), primarily as these programs relate to the disciplinary process.

REGULATORY STRUCTURE

The Exchange is a self-regulatory organization ("SRO"), subject to the oversight authority of the Securities and Exchange Commission ("SEC"). The Exchange is responsible to enforce compliance by its members with SEC rules, provisions of the Securities Exchange Act of 1934 (the "Act"), Federal Reserve Board credit requirements, and the rules of the Exchange. The Regulatory Services Division, which is separate from the Legal Division, performs the surveillance, examination and investigative functions of the self-regulatory process. The Division also plays a vital role in the development of new, and the modification of existing, rules and policies to ensure reasonable and effective regulation of the options markets.

When it is the Division's belief that probable cause exists for determining that a violation of Exchange or other relevant rules has occurred, the Division presents a written case to the Business Conduct Committee ("BCC"), along with a recommendation that a Statement of Charges, or some lesser action, be authorized by the BCC. Should the BCC authorize Charges, the Division supports the efforts of the Legal Division's Office of Enforcement in its settlement negotiations, and generally acts as the expert witness for the Enforcement staff in a hearing.

Both the Regulatory Services Division and the Office of Enforcement are subject to routine inspections by the SEC's Division of Market Regulation, which oversees Exchange effectiveness as an SRO. The SEC staff review and comment upon the procedures used in the regulatory and enforcement process, as well as the results of cases brought before the BCC.

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There are four departments in the Regulatory Services Division. The breakdown of the regulatory areas, by function and personnel is as follows:

REGULATORY SERVICES DIVISION - DEPARTMENT OF FINANCIAL COMPLIANCE

The Department of Financial Compliance is responsible for enforcing the financial, margin, books and records requirements of the SEC, Federal Reserve Board and the Exchange, with respect to those broker-dealers for which CBOE is the designated examining authority ("DEA"). This is accomplished through financial monitoring, routine examinations and special investigations.

The financial monitoring program includes a daily net capital computation for clearing members, to insure that the net capital is sufficient to meet SEC and Exchange minimum requirements. The Department also monitors deficit market maker accounts to determine that appropriate notification has been received or liquidation is proceeding. The Department reviews on a monthly basis, the financial statements and net capital computations (the FOCUS Report) submitted by members subject to the SEC net capital rule. Additionally, the Department reviews the haircut methodologies used by member firms and monitors the risk analysis procedures of market maker clearing firms.

The Department conducts routine annual examinations which focus on the following areas: net capital, status of the books and records, customer protection, margin, financial reporting, proprietary trading, risk control and operational efficiency. Additional inspections are performed if problems arise at a particular firm. The Department conducts joint examinations with the NYSE and cooperates with the CME and CBOT in their exam programs. The Department also conducts exams on a contract basis for other SRO's which have no examining authority.

The Department works with staff members of the SEC and Federal Reserve Board to interpret and develop financial regulations and to seek relief where appropriate. Interpretive advice is provided to members and non-members on a regular basis.

The Department provides input to the Exchange's Clearing Procedures Committee and provides support for the administration of the Business Conduct Committee. It also participates in the Securities Industry Association's Net Capital Committee and Credit Division, and the Intermarket Financial Surveillance Group, which includes all U.S. securities and commodities exchanges.

REGULATORY SERVICES DIVISION - DEPARTMENT OF COMPLIANCE

The Department of Compliance is responsible for monitoring adherence to sales practice rules by member firms and their associated persons. The Department's main tasks in enforcing the sales practice rules (set forth in Chapter 9 of the Exchange's rules) are as follows:

Ensure sales practice compliance by conducting periodic examinations of main and branch offices of member firms for whom CBOE is the Designated Options Examining Authority ("DOEA"). CBOE is one of four authorized DOEA's.

Participate in the Options Self-Regulatory Council, to allocate sales practice regulatory responsibilities among self-regulatory organizations, and to insure uniform sales practice rules.

Conduct sales practice investigations of member firms and persons associated with member firms, including investigations initiated by complaints, matters discovered during examinations, referrals, and notifications of terminations and claims (i.e., U-5, RE-3 notifications). Major areas of concern are unsuitable recommendations, inappropriate risk disclosure, unauthorized trading, improper use of discretion, excessive trading, lack of supervision.

Ensure compliance with rules relating to options communications, including sales literature, advertising, and option "program" descriptions. The function includes the review of sales literature as well as providing informal guidance to member firms and their associated persons.

Participate in development of appropriate examinations to assure minimum level of competency of registered representatives, including development and maintenance of examination Series 4, 5, 7, 8, 15.

Provide informal interpretive advice to member firms on rules compliance, including assistance in devising appropriate supervisory structures and compliance with Exchange rules and provisions of the Act.

#### REGULATORY SERVICES DIVISION - DEPARTMENT OF MARKET SURVEILLANCE

The purpose of the Department of Market Surveillance is to detect virtually all types of trading-related violations, both on and off the floor, including improper activity involving related market places. Major areas of effort are discussed below.

Stock and option activity are compared and evaluated to detect stock\option manipulation, notably capping, pegging and manipulation, as well as to detect possible front-running. Trading of index options, index futures and stock program trades are monitored to detect potential manipulation or misuse of non-public information.

Trading-floor related abuses which are monitored include, but are not limited to, pre-arranged trading, abuse of error accounts, marking, failure to adhere to market-maker obligations, market-makers entering orders from off-floor, book executions of firm and market-maker orders, dual representation of orders/market-maker in

crowd while floor broker representing order, joint account participants trading with the joint accounts, and improper use of adjustments.

The Department examines significant activity in customer, firm and market-maker accounts prior to important news announcements in order to detect possible insider trading. As most such suspicious activity occurs in customer accounts, such activity is generally referred to the SEC for further review.

Most types of potential violations are referred to the Department of Market Regulation for formal investigation. However, the Department has complete responsibility for detection and presentation to the Committee of position limit, exercise limit, and index exercise advice violations. In addition, the department spearheaded development, and is responsible for administration, of a recently adopted summary fine program for failure to record accurate times of trades or failure to submit trades to price reporting. The Department will present egregious and recidivist violations to the Committee.

In addition to its violation-detection role, The Department provides staff support to the Exemption Committee, administers the customer index hedge exemption program, and helps administer registration of joint accounts, including RAES group accounts. Furthermore, the Department, along with the Systems Division, continues to develop new computer applications to increase efficiency and effectiveness.

The Department also provides the Exchange representation to the Intermarket Surveillance Group.

#### REGULATORY SERVICES DIVISION - DEPARTMENT OF MARKET REGULATION

The Department of Market Regulation investigates all regulatory complaints and referrals relating to possible violations of rules concerning conduct of business on the trading floor including the following: complaints and/or referrals from individual members, member firms, customers, the SEC, other self-regulatory organizations, Exchange employees and floor officials.

Complaints and referrals are investigated by the use, as appropriate, of document review, interviews of witnesses, and analysis of data.

The primary areas of concern are noted above in the discussion of market surveillance functions concerning trading floor related abuses.

The Department also performs the following functions:

Provides informal rule interpretations to members, the public and Exchange staff.

Acts as primary support to the Equity Floor Procedure and Floor Officials Committees.

Prepares educational materials concerning rules which are used to introduce new rules and interpret existing rules.

Prepares tests and study guide materials for the New Member Orientation Program.

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## LEGAL AND MEMBERSHIP DIVISION

Counsel to the Business Conduct Committee is provided by the Legal and Enforcement Departments. The Legal Division, which is headed by the General Counsel, is divided into four departments which perform the following functions.

### 1. Corporate

#### General

- Provides legal counsel regarding corporate matters. Includes drafting or reviewing contracts and agreements. Advising on new products, procedures and policies with emphasis on overcoming legal obstacles and avoiding placing the Exchange at risk of litigation.

#### Regulatory

- Formulates, drafts and files rule changes with SEC. Issues regulatory bulletin and oversees circulars distributed to membership. Monitors and comments on applications and rule changes proposed by other exchanges. Advises and assists other departments regarding interpretations of rules and other matters.

#### Committees

- Provides general support including attendance at meetings and advising on proposed actions.

#### Stock List

- Processes and approves listing applications. Interprets equity rules. Seeks to obtain exchange exemptions from state securities commissioners.

#### Appeals and

#### Litigation

- Represents Exchange committees or other bodies at appeals hearings and represents the Exchange in arbitration matters. Engages and works with outside counsel on litigation matters.

### 2. Enforcement

#### General

- Prepares statements of charges authorized by Business Conduct Committee and handles all such cases to their conclusion. Includes negotiating with all respondents, preparing settlement offers, and representing the Exchange at hearings and on appeal.

Prepares summaries of completed cases for dissemination.

3. Arbitration and Appeals - Administers Exchange's arbitration facility which is available to members, member firms, associated persons, and public customers. Determines whether matters qualify for arbitration, selects arbitration panels, and prepares written decisions. Performs similar functions for appeals of Exchange actions by members or member organizations.
4. Membership  
General - Handles applications for membership, changes in status, and other matters. Administers the seat sale market and operates the Members Library.
- Office of  
Secretary - Records minutes of board and executive meetings and carries out other duties of the Secretary of the Exchange.

**MEMORANDUM**

**TO:** NASAA Board of Directors  
NASAA Members

**FROM:** Ad Hoc Marketplace Committee

**DATE:** March 8, 1991

**RE:** CBOE Exemption Request

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In April, 1990, the Chicago Board Options Exchange ("CBOE") began contacting state administrators to request that it be treated as an exempt marketplace for purposes of the "exchange exemption." Subsequently, the NASAA Board established the Ad Hoc Marketplace Exemption Committee and directed it to review the request for an exemption for CBOE-listed securities, to make recommendations to the states with respect to that request, and to determine the appropriateness of entering into the Memorandum of Understanding Regarding a Model Marketplace Exemption with the CBOE. This document sets forth the findings and recommendations of the committee.

**CRITERIA FOR MARKETPLACE EXEMPTIONS**

In dealing with the CBOE request, the committee quickly recognized that in light of initiatives in other United States marketplaces and the globalization of the markets, it was necessary to consider the matter of marketplace exemptions from a broader perspective. Accordingly, the committee determined that its first task should be to establish criteria to apply to any marketplace seeking an exemption from state registration requirements.

The committee initially focused on the MOU which NASAA entered into with the NASD. That document essentially contains quantitative and qualitative listing criteria for issuers, plus a commitment to cooperate and share information. The Committee perceived this to be an excellent starting point, but has since developed additional minimum standards which deal with other aspects of a marketplace's operation.

As a result of the process briefly described above, the committee formulated the following four-part test which it believes a marketplace should be required to meet to qualify for a marketplace exemption:

1. Listing criteria. The marketplace should be willing to execute a Memorandum of Understanding with NASAA, which contains listing criteria at least as high as those included in the MOU which NASAA executed with the NASD.

2. **Products.** Except for products which are subject to listing criteria in the MOU, the marketplace should only include products which are not of significant regulatory concern from a corporate finance perspective.

3. **Customer protection.** The marketplace should provide an adequate level of customer protection. This would include mechanisms for handling customer complaints, reviewing sales practices, and implementing disciplinary measures for violations. Rules and institutional mechanisms should be in place to protect customers from sales and trading abuses.

4. **Surveillance.** The marketplace should provide for minimum levels of surveillance. This standard will be deemed to have been met if Securities and Exchange Commission oversight exists, and there is satisfactory compliance with SEC standards. The Committee does not propose, at this time, that NASAA make an independent analysis of the surveillance systems of a marketplace, but rather that it review SEC concerns and compliance.

#### EVALUATION OF CBOE

In order to apply these criteria to CBOE, as required by its charge, the committee took a number of steps. First, Susan Bryant and Craig Goettsch visited the CBOE headquarters on November 29, 1990. In the course of that visit, they toured the floor of the exchange and met some of its officers, its legal counsel, and key members of its Regulatory Services Division. The visiting committee members subsequently delivered a report of their observations to the full committee. Second, the committee received considerable written information from CBOE concerning its operations and procedures, as well as the products it intends to list. Indeed, much of the discussion in this memorandum of the more technical aspects of the CBOE's operation is taken from the information provided by the exchange. Third, the committee reviewed an SEC examination report on CBOE procedures.

With respect to the committee's evaluation of CBOE, it is important to note the Committee's expertise is in state corporate finance matters. Monitoring the operation of securities marketplaces is not a traditional state function, a fact which the committee does not propose to change. Similarly, state regulators generally have limited involvement with certain types of products which CBOE intends to list. Thus, to some extent, the recommendations set forth in this memorandum rest on the existence of SEC oversight and on the belief that some of the more exotic products to be listed on CBOE are not likely to involve individual investors in general, and small investors in particular.

The format for the rest of this memorandum will be as follows. There will be a brief background discussion of CBOE, to be followed by a section outlining the current status, in terms of state registration requirements, of the exchange and the options which trade there. After that, CBOE will be analyzed against each of the standards set forth above, namely: listing criteria, products, customer protection, and surveillance. Finally, the memorandum will summarize the committee's conclusions and set forth its recommendations.

### CBOE - BACKGROUND

CBOE is a national securities exchange registered as such under the Securities Exchange Act of 1934 and regulated by the SEC. CBOE was created in 1973 by members of the Chicago Board of Trade, but it has always been an entity wholly independent of the Board of Trade. Prior to 1973, the only available stock options were non-standardized, unregistered options guaranteed by individual brokerage firms and traded "over-the-counter." CBOE introduced trading in options with standardized terms that are issued and guaranteed by a registered clearing agency and registered and regulated under the federal securities laws. Today standardized options are traded on five national securities exchanges including the New York Stock Exchange and the American Stock Exchange.

In 1980, CBOE acquired the Midwest Stock Exchange's options business. CBOE now lists options on over 200 widely-traded stocks. During 1990, over 60 percent of all U.S. listed securities options trading took place at CBOE. CBOE also developed options on broad-based stock indexes, a major innovation in the securities markets. The first such index, now known as the Standard and Poor's 100 Index (ticker symbol OEX), was introduced on March 11, 1983. OEX has become the most active index product on the market, trading an average of over 275,000 contracts per day during fiscal 1990. CBOE also trades options on the Standard and Poor's 500 Index (SPX), the index that many U.S. money managers use as a benchmark for portfolio performance. During 1990, trading in these two indexes at CBOE represented more than 91 percent of the total U.S. index option market.

Due to increased volume in the early 1980s, CBOE outgrew its original trading facilities and in 1984 moved into its own building which it had designed and built. Trading takes place in a 45,000 square foot space (the world's largest exchange trading floor) with another floor of the same size in reserve. CBOE also appears to be well-capitalized. Total members' equity at June 30, 1990 stood at \$58,070,000, with a working capital of almost \$35,000,000.

### CURRENT STATUS

CBOE is currently exempt as a marketplace in 21 states pursuant to statute or rule. Only a few states would need a statutory amendment to provide for an exemption for CBOE.

The standardized options currently listed on CBOE, like standardized options listed on the four other national securities exchanges that trade options, are issued by The Options Clearing Corporation ("OCC"), a clearing agency registered under the Securities Exchange Act of 1934. OCC-issued options are currently registered in Alabama, Maryland, Ohio and Virginia. In the remaining jurisdictions, options are sold in reliance upon one or more exemptions from registration.

In 21 states, CBOE is an approved exchange and options traded thereon are accordingly exempt under the exchange exemption. The exchange exemption is also applicable to OCC-issued options traded on CBOE in most states where CBOE is not currently a recognized exchange. This is so because the typical exchange exemption applies to "any security listed or approved for listing upon notice of issuance on [certain approved exchanges, which always include NYSE and AMEX]; any other security of the same issuer which is of senior or substantially equal rank." OCC-issued options listed on CBOE are of equal rank with other OCC-issued options that are listed on NYSE and AMEX. Accordingly, CBOE-listed options are exempt under the "equal rank" provision of the exemption.

The RUSA option exemption or some other form of option exemption is applicable to OCC-listed options in states having such an exemption; and OCC-issued options listed on CBOE are generally eligible for the "blue chip" exemption in states having a "blue chip" exemption. Unique exemptions or special exemptive orders are applicable in three states.

#### LISTING CRITERIA

At the time that CBOE initiated its current effort to expand the number of states in which CBOE is recognized under the exchange exemption, CBOE had just filed with the SEC proposed rule changes that would permit CBOE to list common stocks and other securities in addition to standardized options. The listing criteria for stocks and other securities were substantially identical to the corresponding criteria of AMEX. CBOE has indicated that it originally patterned its listing criteria after AMEX in part because it was aware that AMEX is an approved exchange in virtually every state and therefore thought that AMEX criteria were acceptable to state securities administrators.

Largely in response to subsequent comments and concerns expressed by state administrators, CBOE amended its proposed standards to: (i) insure that CBOE standards would be at least equal to those of the NASDAQ/NMS in every respect and (ii) make clear that CBOE's listing criteria are strict minimum standards and not simply "guidelines." As originally filed, CBOE's listing criteria were referred to as "guidelines" which "will be considered in evaluating listing eligibility together with all other pertinent data." The final rules approved by the SEC state that "the Exchange has established certain numerical and other criteria (Rules 31.9 through 31.36), which issuers will be required to meet." CBOE's listing criteria for each type of security that it proposes to list are attached as Appendix 1 to this report.

CBOE has informed us that it has never waived or made exceptions to its criteria for the listing of options and that it has no committee for the purpose of considering such exceptions. CBOE has also said that it does not intend to make exceptions to its criteria for the listing of other securities and that, as noted above, its rules would not permit it to do so.

CBOE's listing standards also require delisting if the minimum maintenance criteria are not met. Delisting proceedings would be initiated promptly and would take about 20 days.

CBOE has agreed to enter into a Memorandum of Understanding ("MOU") with NASAA substantially identical to the MOU between NASAA and the NASD except that CBOE has agreed to an additional condition, which is described below, relating to new products. NASAA's purpose would be to "lock in" minimum uniform listing criteria for a marketplace exemption.

#### CBOE PRODUCTS

CBOE currently lists only standardized put and call options. It has also obtained unlisted trading privileges in 500 stocks listed on NYSE, AMEX and NASDAQ/NMS for the purpose of trading in "baskets" comprised of such stocks, although trading in such baskets has been discontinued. CBOE is the only options exchange that does not also trade stocks and other securities. CBOE has accordingly adopted listing standards for equity securities and certain other securities referred to below. CBOE cannot predict what proportion of its trading activity will be represented by any of the specific types of securities because that will depend upon its success in attracting issuers. CBOE has stressed that the availability of the exchange exemption for its listed securities is an important factor in attracting issuers. Its principal competitors, NYSE and AMEX, are able to offer exempt status in nearly every state.

CBOE's new listing standards, which were approved by the SEC in October of 1990, cover common stock, preferred stock, debt securities, stock warrants and currency and index warrants. Listing standards covering certain unit investment trusts are pending SEC approval. Listing standards covering "other securities" were approved by the SEC in November, 1990. The "other securities" category corresponds to identical rules of NYSE and AMEX and is intended to cover "hybrid" securities having characteristics of more than one of the other categories of securities. The numerical listing criteria for "other securities" are generally higher than for equity securities and are similar to, and in some respects higher than, the standards applicable to index warrants. Although the rule gives the exchange some flexibility in listing securities with unique combinations of features, the SEC made clear in its approval order that "the listing of securities that raise significant new regulatory issues would require a separate filing with the Commission." At the request of the Committee, CBOE has agreed to furnish to NASAA and/or the states a copy of all its SEC filings seeking to list new products, and this agreement will be set forth in the MOU.

**Common Stocks.** The exchange has prepared and printed a listing application and related informational materials to be distributed to prospective listed companies. CBOE has sent out four such packets to date. CBOE anticipates that the most likely source for stock listings would be Midwestern companies.

**Hybrid Debt Securities.** CBOE currently expects to approve an application to list zero-coupon S&P 500-Linked Notes that meet its listing criteria for bonds and debentures as well as the stricter criteria for "other securities." The securities are repayable at the option of the holder after 6 months at a repurchase price linked to the S&P 500 Index. At maturity, the issuer is obligated to redeem the notes at the greater of their par value or the index-linked repurchase price. These notes are intended to provide the holder a potential participation in any appreciation of the S&P 500 index over a five year period. These securities are an example of the hybrid securities intended to be covered by CBOE's "other securities" category. In general, hybrid securities allow the investor to obtain in a single transaction risk and reward characteristics that would otherwise be obtainable only by the purchase or sale of a combination of traditional securities.

**Index Warrants.** CBOE anticipates that among the first securities that it expects to list under its new listing criteria will be warrants. The Exchange is preparing to begin trading in various domestic and foreign stock index warrants. The Exchange has filed for, or obtained, SEC approval to trade warrants on the following stock indexes:

Compagnie des Agents de Change (CAC 40)  
Deutscher Aktien Index (DAX)  
Financial Times - Stock Exchange (FT-SE 100)  
Standard and Poors 100 (S & P 100)  
Standard and Poors 500 (S & P 500)

Index warrants are securities based on the movement in a stock market index. Warrant holders are entitled to receive an amount of cash determined by the difference between the current value of the index at the time the warrant is exercised and the fixed exercise price of the warrant. There has been much recent growth in the trading of index warrants. Warrants on several foreign indexes are now listed on AMEX, and NYSE has also proposed to list index warrants. AMEX-listed warrants are also traded on other exchanges pursuant to unlisted trading privileges, and CBOE itself has been trading one such warrant on a UTP basis since January in order to test its systems. CBOE believes that it is in a good position to attract listings of index warrants because of their similarity to standardized options. CBOE believes that these warrants have the characteristics of options, and will require that investors in index warrants meet the same suitability requirements applicable to options customers. Risk disclosure and suitability requirements similar to those applicable to options trading are also being required by the SEC, and approval to trade warrants on domestic indexes will not be granted until the risk disclosure procedures have been approved.

CBOE's listing standards for index warrants are the same as those of the AMEX and are actually higher than the listing standards for issuers of common stock. They require that: (1) the issuer shall have assets in excess of \$100,000,000 and otherwise substantially exceed the Exchange's size and earnings requirements; (2) the term of the warrants shall be for a period ranging from one to five years from the date of issuance; and (3) the minimum public distribution of such issues shall be 1,000,000 warrants together with a minimum of 400 public holders, and have an aggregate market value of \$4,000,000.

Index warrants have been issued primarily by sovereign governments such as the Kingdom of Denmark and the Republic of Austria, and by investment banking firms such as Saloman, Paine Webber, and Merrill Lynch. Other entities could issue index warrants so long as they meet CBOE's listing standards.

Unit Investment Trusts. CBOE also has proposed listing standards for unit investment trusts. CBOE has indicated to the committee that these standards are intended primarily to permit the listing of "Super Shares", a product which they have been developing for some time. Super Shares are securities consisting of four components that may be traded separately: Appreciation Super Shares, which provide leveraged participation in market advances; Priority Super Shares, which provide additional income in flat or declining markets; Protection Super Shares, which provide protection for a stock portfolio in a market decline of up to 30 percent; and Income and Residual Super Shares which provide additional income in flat or rising markets. Super Shares are intended to allow sophisticated investors to separate (and to retain or dispose of) specific elements of the risk and return characteristics of a portfolio of stocks that replicates the S&P 500. Applications to register Super Shares have been filed in many states, and they are still under review at the SEC.

CBOE has emphasized that its listing standards for unit investment trusts are intended to provide only for the listing of Super Shares and perhaps other innovative products of a generally similar nature. CBOE has emphasized that it does not intend to list traditional unit investment trusts of the type that are now registered in large numbers in many jurisdictions.

It should be noted that innovative products such as index warrants and unit investment trusts are not only subject to the disclosure requirements under the Securities Act of 1933, but they are also subject to substantive review by the SEC under the Securities Exchange Act of 1934. The products are intended for sophisticated investors with specific investment objectives, and they will be subject to the same suitability requirements that apply to trading in standardized options. CBOE's listing standards for these products are the same as those of the AMEX and require the issuer to meet financial requirements that are generally higher than the requirements applicable to issuers of common stocks. CBOE believes that there is demand for innovative products and that it is a preferred marketplace for such instruments. CBOE also believes, however, that potential issuers of these securities as well as issuers of stock and debt securities will likely list on NYSE or AMEX if

listing on CBOE involves the expense and potential delay of numerous state registrations when the securities would be exempt if listed on those exchanges.

### TRADING SYSTEMS AND CUSTOMER PROTECTION

Most option classes listed at CBOE are traded in an open outcry system where certain members of the Exchange may trade as market-makers. Market-makers provide liquidity in option trading by risking their own capital for personal trading, and are the backbone of CBOE's trading system. They take the opposite side of public orders by competing in an open outcry auction market. Floor brokers, on the other hand, act only as agents, executing orders for others. "Dual trading," which refers to a member simultaneously trading for his own account and for customers, is prohibited at the CBOE in that a market-maker may not also act as a floor broker in the same or a related class of options on the same business day.

Although institutional participation has increased in recent years, the principal users of the securities options markets are retail customers. CBOE's rules provide special protections for the transactions of those customers. For example, CBOE recently developed the RAES system, which provides for computerized and automatic execution of smaller customer orders on a priority basis. RAES acts much like the NASD's SOES system. The Retail Automatic Execution System (RAES) automatically executes 10-contracts or less customer market orders and marketable limit orders at the prevailing market quote in the most active series. RAES provides retail customers with a guaranteed firm quote, instantaneous turnaround time to the originating branch office, and reduces member firms' execution, fill reporting and trade match costs. It makes CBOE's price reporting more timely and efficient while facilitating an accurate time and sales audit trail. RAES executes one in five customer orders at CBOE.

Another development took effect in July, 1989, when the SEC approved a CBOE rule filing which codified the "Firm Quote" program, a policy which had been in effect since June, 1988. Under this rule, which applies only to non-broker/dealer orders for options which expire in the two near-term trading months, the trading crowd (made up of "market-makers") is required (except during trading rotations and fast markets) to fill at least 10 contracts of a customer order at the posted bid or offer when the order reaches the crowd. In conjunction with the firm quote rule, CBOE instituted rule changes that narrowed the bid/ask spreads that are allowed under normal market conditions. Additionally, public customer limit orders that are not close to the current market quote are routed to the "public limit order" book. The public limit order book is available only to public customers at CBOE. Market orders that arrive prior to the opening and limit orders are the only types of orders accepted in the book and have priority over all other similar orders from the trading crowd at a given price. Exchange-employed order book officials execute the orders in the book and are prohibited from trading for their own account. The book's highest bid, lowest offer and the size of those orders

are displayed to market-makers on the trading floor. Orders on the book are executed on a first-in/first-out basis at each price, regardless of the order's size.

CBOE has informed us that during the "mini crash" of October, 1989 CBOE honored all orders on the public customer order book at the opening prices even though the large number of orders placed on the book at the opening could not be sorted and effected at the opening in an orderly manner. In so doing, CBOE incurred a loss of over \$2.5 million from assigning opening prices to such orders as if they had been effected at the opening prices when in fact the orders had to be executed in the rising market after the opening. CBOE has continued to automate its systems by expanding the use of the electronic order book in order to avoid another such loss in the future.

### SEC OVERSIGHT

Prior to our visit, the Committee reviewed the most recent SEC inspection report of CBOE surveillance and the response of CBOE to that inspection. The SEC had raised two areas of critical concern. Firstly, they asked whether the implementation of the CBOE's Comprehensive Automated Surveillance System, termed The Market Surveillance Systems ("MSS"), was on track. Management of CBOE reported to us that the MSS is on track with all three areas mentioned by the SEC after their November, 1988 inspection being completed within time lines promised by the CBOE. "Front running" was completed in December of 1989; "Mini-manipulation" and "capping and pegging" were operational in March and May of 1990 respectively, and it is expected that MSS will be operational for index options surveillance by May of 1991.

The second SEC concern pertained to audit trails. CBOE has responded to this concern by adopting a new rule providing for summary fines. On page three of their response letter to the SEC there is a chart of these fines. There has also been a recidivism provision added to this system to escalate fines for repeat offenders. A rule was adopted in December, 1989 which imposes a fine if fewer than 70% of a trader's reported times are accurate. Another provision of the rule imposes a \$1000 fine if fewer than 50% of a trader's OEX trades are reported with the required degree of accuracy. More stringent parameters are being added for all classes of options. From September 21st to October 20th, 69 people were fined pursuant to this rule. From October 21st to November 20th, only 27 people were fined. CBOE has more recently received a letter from the SEC which says they are doing well, but could continue to improve. The letter was not pursuant to an audit but was limited to a review of accuracy rates. CBOE has filed rules requiring that the percentage of mistakes go down from 30 percent to 25 percent. They later cut that figure to 20 percent.

### SURVEILLANCE AND REGULATION

The Regulatory Services Division of CBOE consists of 89 people. A current summary of the structure and functions of the Regulatory Services Division was provided to us by the exchange and is attached as Appendix 2.

CBOE's Department of Compliance investigates sales practice violations and terminations. The most frequent complaints involve suitability or unauthorized use of discretion. The exchange receives approximately 30 notifications of termination per month, of which about 10% involve customer complaints. Complaints of sales practice abuses are responded to immediately in writing. The customer is advised that the complaint is under review and that the exchange cannot award compensation to customers, although the exchange's arbitration facilities are available to customers seeking to recover losses. Sales practice cases average 7 to 12 months from the beginning of the investigation before going to the Business Conduct Committee.

CBOE is an active participant in the Options Self Regulatory Council. Other participants in the Council include representatives of the American Stock Exchange, Midwest Stock Exchange, National Association of Securities Dealers, New York Stock Exchange, Philadelphia Stock Exchange and Pacific Stock Exchange. The Council facilitates an equitable distribution of regulatory responsibilities for all aspects of the sales practices of organizations that are members of more than one exchange or the NASD. The Council also acts as a forum for the development, revision or interpretation of rules and regulations in an effort to ensure consistent enforcement of such rules and regulations. The council coordinates yearly examinations and investigations of such matters as terminations for cause and customer complaints. For such purposes, each firm is assigned to one of four Designated Options Examining Authorities (CBOE, AMEX, NASD, or NYSE) and it is reassigned every two years. Routine examinations are performed primarily at the firm's main office, extending to the branch office level on an "as needed" basis. Routine examinations include such matters as supervision of branch offices by the main office, account approvals, and suitability of trading.

The exchange's Department of Market Regulation investigates possible violations of exchange and SEC rules governing business conduct on the trading floor, supports exchange committees which deal with floor policies to insure compliance with the rules, and educates the exchange membership and the public regarding trading floor rules and policies. At February 12, 1991 the total number of open investigations was 164. The average number of customer complaints received per month during 1990 was 10. As in the case of sales practice violations, customers are sent an acknowledgment letter immediately upon receipt of the complaint advising them of the exchange's procedures. Customer complaints in which the staff determines there is no apparent rule violation are generally closed within two weeks of receipt. Cases in which the staff believes that there may be a rule violation take an average of about 8 months before they are reviewed by the Business Conduct Committee. The SEC's August 23, 1989 inspection letter states: "The 1988 inspection found that, overall, the CBOE surveillance, investigatory and disciplinary programs for trading abuses continue to function effectively."

The exchange's Business Conduct Committee is similar to that of the NASD. This committee determines, based on staff investigations and recommendations, when probable cause exists to bring charges of rule violations, authorizes charges against members, and either settles or holds hearings with regard to those violations. For sales practice violations it

can take up to a maximum of two years from initiation to resolution of the problems. The Business Conduct Committee has used consent procedures very successfully to expedite a resolution. A chart favorably comparing the number of actions taken and sanctions imposed by CBOE with other SROs was provided.

CBOE also participates in the Intermarket Surveillance Group ("ISG"), which is comprised of the major national securities exchanges with the major commodities exchanges and certain foreign exchanges as affiliated members. The ISG was created originally to serve as a forum to negotiate routine sharing of information between exchanges for regulatory purposes. It also serves as a forum for negotiating uniform rules and regulatory policies when appropriate. The CFTC and SEC staff also attend these meetings.

CBOE has worked actively with Florida, California and Wisconsin, as well as with NASAA, to provide training for securities department staff. CBOE is currently assisting the Colorado Securities Department in connection with a large case involving options trading by an investment advisor (over whom the CBOE had no jurisdiction). CBOE has indicated its willingness to share complaint information with the states as it is authorized under its rules to do and otherwise to cooperate with the regulatory activities of the states. It should also be noted that CBOE disciplinary decisions are reported on the CRD system on Form U-6.

#### CONCLUSIONS

The committee developed a four-part test to determine whether to recommend that NASAA execute an MOU with CBOE and whether states should accord the exchange a marketplace exemption. After applying that test, we are satisfied that an MOU should be executed and that the exchange should be granted the exemption.

CBOE's listing criteria match those of NASDAQ-NMS, and CBOE is more than willing to enter into an MOU and to include a notice requirement in the event it takes steps to list new products. Most of the products currently listed or planned for listing are not subject to state registration review. Moreover, those products, particularly options and index warrants, raise market regulation, rather than traditional corporate finance issues.

From a regulatory perspective, CBOE operates much like the NASD, with a business conduct committee and a separate regulatory division. Restrictions on certain types of trading practices, along with systems like the SOES, provide further consumer protection. In addition, the regulatory and surveillance systems are subject to SEC audit and oversight. Finally, CBOE welcomes visits by state administrators to examine its operations and it is prepared to cooperate with the states in handling investigations and customer complaints.

For the reasons stated above, the committee recommends that:

1. NASAA execute an MOU with CBOE; and
2. States accord CBOE a marketplace exemption

**APPENDIX ONE**  
**CBOE**  
**LISTING CRITERIA**

**APPENDIX TWO**  
**REGULATORY SERVICES DIVISION**

**Booklets will be provided at the Spring Conference.**

May 9, 1991

National Association of  
Securities Dealers, Inc.  
1735 K Street, N.W.  
Washington, D.C. 20006  
(202) 728-8000

BY FAX

The Honorable Mike Navarre, Co-Chair  
House Finance Committee  
Alaska State Legislature  
State Capitol  
Box V  
Juneau, Alaska 99811

RE: House Bill 210

Dear Representative Navarre:

On behalf of the National Association of Securities Dealers, Inc. (NASD), I am writing to urge your support of House Bill 210 to amend the Alaska Securities Act. The NASD is charged with the responsibility of regulating both the National Association of Securities Dealers Automated Quotation System (NASDAQ), which is the second largest securities market in the United States, and the over-the-counter securities markets. This task encompasses both regulation of virtually every broker/dealer firm in the country that conducts business with the public and the regulation and operation of the NASDAQ system.

The NASD strongly supports passage of HB 210 since it includes an important provision to exempt from state registration those securities that are listed on the NASDAQ National Market System (NMS). This legislation recognizes the equality of securities listed on NMS, like National Bancorp of Alaska, MCI and Apple Computer, with those listed on the New York and American Stock Exchanges. Passage of HB 210 also promotes uniformity with the 45 states that have already provided this exemption for securities listed on NMS.

We respectfully request that you schedule a hearing on HB 210 and urge you to favorably report the bill. If you have any questions, please feel free to call me at (202) 728-8289.

Sincerely,



Frank J. Formica  
Vice President  
Office of Congressional and  
State Liaison

cc: Mr. Larry Carroll

WALTER J. HICKEL  
GOVERNOR



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

March 11, 1991

The Honorable Ben Grussendorf  
Speaker of the House  
P.O. Box V  
Juneau, AK 99811

Dear Speaker Grussendorf:

Under the authority of art. III, sec. 18 of the Alaska Constitution, I am transmitting a bill to amend the Alaska Securities Act of 1959. The bill addresses three administrative problems.

First, the bill would change existing statutes to allow the Department of Commerce and Economic Development (department) to set securities registration-related fees by regulation. Sections 1, 2, 4, and 6. Currently, almost all registration-related fees are expressly set by statute. Because those statutes have not been updated for many years, the fees are significantly below those charged by other jurisdictions and are inadequate to pay for the services provided. The intent of the department is to set the fees by regulation at an amount consistent with that charged by other states.

Second, in an effort to reduce the amount of duplicate filings and unnecessary paperwork handled by the department, the bill provides that the administrator of securities (the director of the division of banking, securities and corporations) may arrange with the National Association of Securities Dealers or the Securities and Exchange Commission to have coordinated national filings, and may accept certain uniform registration-related procedures. Section 3.

Third, the bill provides for new exemptions from the registration requirement for securities. At present, securities listed under a number of national stock exchanges are exempt from registration. AS 45.55.140(a)(10). The bill will add to that list two other recognized exchanges, the Chicago Board Options Exchange and the National Association of Securities Dealers Automated Quotation National Market System (NASDAQ/NMS). Additionally, the administrator would have the flexibility to add to that list as conditions dictated. Most jurisdictions have a similar form of administrator exemption approval.

The Honorable Ben Grussendorf -2-

The bill updates the Alaska Securities Act to bring it in line with current practice and to permit coordination with national enforcement authorities. I urge your support of this measure.

Sincerely,

A handwritten signature in cursive script that reads "Walter J. Hickel". The signature is written in dark ink and is positioned above the typed name.

Walter J. Hickel  
Governor

1873

# HOUSE COMMITTEE REPORT

(11)

Date Referred: March 13, 1991

FURTHER REFERRALS:

Date of Committee Action: 3/25/91

The FINANCE Committee considered:

HB 213

HOUSE BILL NO. 213

EXXON VALDEZ SETTLEMENT

"An Act requiring the governor to notify the legislature about settlement negotiations on Exxon Valdez oil spill claims; requiring the governor to submit proposed settlements of those claims to the legislature for review; restricting the power of the governor to settle claims arising from the Exxon Valdez oil spill; relating to the confidentiality of settlement negotiations; and providing for an effective date."

**RECOMMENDATIONS:**

be replaced with CS HB 213 (FIN)  the same title

a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of Intent

ATTACHES NEW FISCAL NOTE(S): \_\_\_\_\_ (Dept)

APPROVES PREVIOUS: \_\_\_\_\_ (Dept/Date)

fiscal impact \_\_\_\_\_

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

zero fiscal note \_\_\_\_\_

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

SIGNING <u>DO</u> PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Eileen P. McLean</i> <span style="float: right;">McLean</span>	X	<i>George Phillips</i> <span style="float: right;">Phillips</span>		✓	
<i>Mike Navarre</i> <span style="float: right;">Navarre</span>	X	<i>Barbara Barnes</i> <span style="float: right;">Barnes</span>		✓	
<i>Mark Boyer</i> <span style="float: right;">Boyer</span>	X	<i>Bob Sharp</i> <span style="float: right;">Sharp</span>		✓	
<i>Jacko</i> <span style="float: right;">Jacko</span>	X	<i>Harold Larson</i> <span style="float: right;">Larson</span>		X	
<i>Brown</i> <span style="float: right;">Brown</span>	X				

*Mike Navarre*  
CHAIRMAN'S SIGNATURE  
Navarre

*Eileen P. McLean*  
McLean

7-LS0949D  
Gaguine  
3/22/91

CS FOR HOUSE BILL NO. 213 ( F-114 )  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
SEVENTEENTH LEGISLATURE - FIRST SESSION

BY

Offered:  
Referred:

Sponsor(s): REPRESENTATIVES GRUENBERG, Koponen, Moyer, MacLean, Ulmer, Brown, B.Davis, Bruckman,  
Lincoln

A BILL

FOR AN ACT ENTITLED

1 "An Act providing for legislative review; and approval of current and future proposed  
2 settlements of the state's claims against the Exxon Corporation and its subsidiaries arising  
3 out of the Exxon Valdez oil spill; requiring the governor to notify the legislature about  
4 ongoing settlement negotiations; relating to the confidentiality of information relevant to  
5 proposed settlements; and providing for an effective date."

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

7 \* Section 1. FINDINGS. The legislature finds that

8 (1) the possible settlement of the state's actual and potential claims against the Exxon  
9 Corporation and its subsidiaries arising from the Exxon Valdez oil spill would have far-reaching effects  
10 on the welfare of the people of the state, the disposition of state funds, and the status of large areas of  
11 state land;

12 (2) it is of paramount importance to the state's interests that any settlement proposal  
13 regarding these claims be submitted to the legislature for review, that the state not bind itself with regard

1 to any settlement until the legislature has had an opportunity to review the proposal, and that the  
2 legislature be given the opportunity to prevent any settlement that is not in the public interest; and

3           (3) the present administration has submitted a proposed settlement to the legislature for  
4 public review and approval.

5   \* Sec. 2. The state may not bind itself with regard to the proposed settlement described in sec. 1(3)  
6 of this Act unless the legislature gives its assent to that settlement. The state may bind itself with regard  
7 to that settlement if both houses of the legislature pass a concurrent resolution giving assent.

8   \* Sec. 3. The governor or the governor's designee shall keep the legislature, through the president  
9 of the senate and the speaker of the house or their designees, informed, on a daily basis if possible, of  
10 any ongoing settlement negotiations of the actual or potential claims described in sec. 1(1) of this Act,  
11 including settlement negotiations that occur while the legislature is reviewing a proposed settlement  
12 under this Act.

13   \* Sec. 4. (a) Before the state binds itself with regard to any proposed settlement to resolve the actual  
14 or potential claims described in sec. 1(1) of this Act, the governor shall submit the settlement to the  
15 president of the senate and the speaker of the house.

16           (b) If a proposed settlement of claims described in (a) of this section is submitted to the  
17 legislature, the state may not bind itself with regard to that settlement unless the legislature by concurrent  
18 resolution either waives its right to review the settlement or assents to it.

19   \* Sec. 5. (a) Information relevant to any proposed settlement submitted to the legislature under sec. 2  
20 or 4 of this Act, including the terms of the settlement, is not confidential, except as required by law.

21           (b) The Department of Law shall maintain for public review full documentation of each proposed  
22 settlement submitted to the legislature, as well as the final settlement.

23   \* Sec. 6. This Act takes effect immediately under AS 01.10.070(c).

FISCAL NOTE

STATE OF ALASKA  
1991 LEGISLATIVE SESSION

BILL NO: HB 213

Revision Date: \_\_\_\_\_  
Title: "An Act requiring the governor to notify the legislature... negotiations on Exxon oil spill claims..."  
Sponsor: Representative Gruenberg  
Requestor: House Finance

Department Affected: Legislative Affairs Agency  
BRU: Legislative Council

Component: Session Expenses  
Salaries & Allowances

COMPONENT SERIAL NO: 782 & 776

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
<b>TOTAL OPERATING</b>	0	0	0	0	0	0

<b>CAPITAL</b>	0	0	0	0	0	0
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<b>REVENUE</b>	0	0	0	0	0	0
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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
<b>TOTAL</b>	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

Estimate of current year impact: \_\_\_\_\_

ANALYSIS: (Attach a separate page if necessary)

HB 213 requires the Governor to notify the Legislature regarding settlement negotiations on Exxon Valdez oil spill claims. A section in the bill says the Governor may not enter into the settlement until the Governor has convened the Legislature in Special Session, or the Legislature has convened itself into Special Session. The estimated cost of a Special Session is as follows: \$30,000 for travel and \$20,000 per day for limited floor staff & other personal services, per diem, contractual, supplies, etc. There is no fiscal impact unless a Special Session is called.

Prepared By: Pamela A. Stoops, Director  
Division: Administrative Services

*Pamela A. Stoops*

Phone: 465-3850  
Date: 3/14/91

Approved By: Warren W. Endicott, Executive Director  
Agency: Legislative Affairs Agency

*Warren W. Endicott*

Date: 3/14/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).