

ALASKA LEGISLATURE

HOUSE and SENATE FINANCE COMMITTEE FILES,

1993-1994

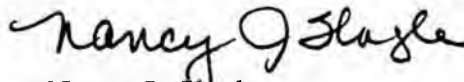
1088

Finally, we ask that a committee substitute be prepared for HB 56. Again, this is a Governor's requested bill that is in House Finance. The following action is requested:

- 1) a new title to read "An act relating to state agency fiscal procedures;"
- 2) the inclusion of the following sections extracted from the original HB 540: 31, 34, and repeal of AS 39.20.250(b) from section 43;
- 3) your consideration of a new section that brings the statute on permanent fund dividend warrants in line with that requested in section 31 of HB 540 (see attached language);and
- 4) the inclusion of the attached replacement language for section 31 that would preserve exceptions to the statutory limitation on payment of warrants.

We are continuing to seek appropriate vehicles that will accommodate the remaining sections of HB 540. We look forward to further discussions with you on this matter.

Sincerely,



Nancy J. Stagle
Director

cc: Raga Elim, Legislative Liaison
Deborah Behr, Assistant Attorney General

WALTER J. HICKEL, GOVERNOR

PLEASE REPLY TO:

- 1031 WEST 4TH AVENUE, SUITE 200
ANCHORAGE, ALASKA 99501-1994
PHONE: (907) 269-5100
FAX: (907) 276-3697
- KEY BANK BUILDING
100 CUSHMAN ST., SUITE 400
FAIRBANKS, ALASKA 99701-4679
PHONE: (907) 451-2811
FAX: (907) 451-2846
- P.O. BOX 110300 - STATE CAPITOL
JUNEAU, ALASKA 99811-0300
PHONE: (907) 465-3600
FAX: (907) 465-6735

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

April 1, 1994

HAND DELIVERED

The Honorable Loren Leman
Chairman of State Senate
Affairs Committee
State Capitol, Room 113
Juneau, Alaska 99801-1182

APR 5 1994

(907) 465-3603
(FAX) 465-2539

Re: Amendment to SB 365

Dear Chairman Leman:

In reviewing * Section 33 of the Governor's omnibus legislation relating to the improvement of state finances and fiscal accountability, it has become apparent that the section was not clearly drafted. We have had several questions regarding its meaning. As a result, we have redrafted the section in a way that more clearly accomplishes what the Governor wanted.

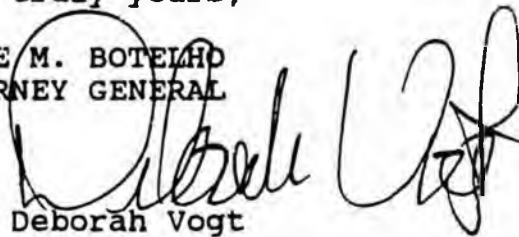
Enclosed is a proposed amendment to the legislation. We would appreciate it if you would submit the proposal to the Senate State Affairs Committee, when it takes up this legislation.

Thank you very much for your consideration.

Very truly yours,

BRUCE M. BOTELHO
ATTORNEY GENERAL

By:


Deborah Vogt
Assistant Attorney General

/DV:ae

Enclosure

cc: Bruce Campbell, Commissioner, DOT & PF
Deborah Behr, Assistant Attorney General
John Gaguine, Assistant Attorney General

Page 13, lines 8 - 18:

Delete all material.

Insert a new bill section to read:

"* Sec. 33. AS 37.07.060 is amended by adding a new subsection to read:

(c) The reporting requirements of (b)(3) of this section are modified with respect to the program of the Department of Transportation and Public Facilities. The governor's report must contain, for that department, the governor's capital improvements construction program for the succeeding construction season, budget recommendations for the succeeding fiscal year, and capital improvements construction program for the succeeding six fiscal years which must include

(1) a general description of each project and the source of financing for the project; and

(2) the information required by (b)(3)(B) - (H) of this section."

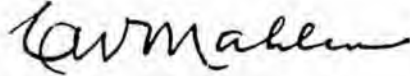
MEMORANDUM

STATE OF ALASKA DEPARTMENT OF LABOR Office of the Commissioner

TO: Nancy Slagle, Director
Division of Budget Review
Office of Management & Budget
Office of the Governor

DATE: April 6, 1994

FILE:



PHONE: 465-2700

FROM: Charles W. Mahlen
Commissioner

SUBJECT: Amendments to
HB 540

Attached is a proposed amendment to House Bill No. 540 which incorporates three changes to the Alaska Workers Compensation Act. We believe that these amendments are related to the improvement of state finances and fiscal accountability by increasing the efficiency and effectiveness of program operations. The amendments are also part of the solution to what we see as a critical problem in meeting the time frame for processing Decisions & Orders that are mandated in statute. The amendments have been reviewed by Raga Elim of the Governor's Legislative Liaison Office.

Amendment #1 proposes to amend AS 23.30.041(e) to adopt the latest federal publication of "Selected Characteristics of Occupations Defined in the Dictionary of Occupational Titles" (SCODDOT). This publication reflects current training and physical requirements of jobs and is the basis for determining eligibility for reemployment benefits under standards established in the 1988 amendments to the Alaska Workers' Compensation Act. Adopting the revised publication will reduce the need for administrative hearings and insure that those applicants who meet current requirements of jobs will qualify for benefits.

Amendment #2 proposes to amend AS 23.30.095(k) to clarify the authority of the Alaska Workers' Compensation Board to delegate its authority to division staff to arrange necessary independent medical evaluations. Clarifying the Board's authority will reduce the need for administrative hearings so that the board can concentrate their effort on the adjudication of claims, rather than on administrative procedures.

Amendment #3 proposes to amend AS 23.30.190(b) to allow the use of the edition of the American Medical Association Guides to the Evaluation of Permanent Impairment in effect at the time of the impairment rating. This publication is the basis for determining eligibility for permanent partial impairment compensation and reemployment benefits adopted in the 1988 amendments to the Alaska Workers' Compensation Act. Allowing the use of the current edition of the publication in effect at the time of the impairment rating will reduce the need for administrative hearings and insure that those applicants who meet current requirements will qualify for benefits.

Attachment

HOUSE AMENDMENT

BY: _____

TO: _____ SENATE BILL NO. _____

TO: Page 5, Line 14 HOUSE BILL NO. HB 540

Insert a new Section 11 to read as follows:

AS 23.30.041(e) is amended to read:

(e) An employee shall be eligible for benefits under this section upon the employee's written request and by having a physician predict that the employee will have permanent physical capacities that are less than the physical demands of the employee's job as described in the United States Department of Labor's "Selected Characteristics of Occupations Defined in the Revised Dictionary of Occupational Titles" for

- (1) the employee's job at the time of injury; or
- (2) other jobs that exist in the labor market that the employee has held or received training for within 10 years before the injury or that the employee has held following the injury for a period long enough to obtain the skills to compete in the labor market, according to specific vocational preparation codes as described in the United States Department of Labor's "Selected Characteristics of Occupations Defined in the Revised Dictionary of Occupational Titles."

Insert a new Section 12 to read as follows:

AS 23.30.095(k) is amended to read:

(k) In the event of a medical dispute regarding determinations of causation, medical stability, ability to enter a reemployment plan, degree of impairment, functional capacity, the amount and efficacy of the continuance of or necessity of treatment, or compensability between the employee's attending physician and the employer's independent medical evaluation, a second independent medical evaluation shall be conducted by a

physician or physicians selected by the board or its designees from a list established and maintained by the board and its designees. The cost of the examination and medical report shall be paid by the employer. The report of the independent medical examiner shall be furnished to the board and to the parties within 14 days after the examination is concluded. A person may not seek damages from an independent medical examiner caused by the rendering of an opinion or providing testimony under this subsection, except in the event of fraud or gross incompetence.

Insert a new Section 13 to read as follows:

AS 23.30.190(b) is amended to read:

(b) All determinations of the existence and degree of permanent impairment shall be made strictly and solely under the whole person determination as set out in the current edition of the American Medical Association Guides to the Evaluation of Permanent Impairment at the time of the impairment rating, except that an impairment rating may not be rounded to the next five percent. The board shall adopt a supplementary recognized schedule for injuries that cannot be rated by use of the American Medical Association Guides.

and renumber accordingly.

AS 28.17.031 (b) is amended to read:

(b) Every application for an original or renewed school license must be accompanied by a fee of [~~\$25~~] **\$100**, and each application for an original or renewed instructor license must be accompanied by a fee of [~~\$5~~] **\$25**. No fee specified in this section may be refunded if a license is refused, suspended, or revoked.

The fees were established in 1976 by statute and have not been changed since that time. The fees collected do not cover the cost of running the program. Personnel costs to issue the school license and instructor permits, travel expenses to conduct inspections exceeds the amount of money being collected. Monitoring the school records and periodic inspections of the school locations are not being done with any consistency due to the lack of funds for the program.

Regulations adopted regarding these schools are being amended this summer and it would be good to have the statute regarding the fees changed so the program can run more effectively. The fee proposed, are in line with the licensing fees charged for other occupations.

The Division of Motor Vehicles currently issue licenses for 13 commercial driving schools, and 25 instructors permits. Setting the school license fee at \$100, and the instructor permits at \$25 would bring in approximately 1.5 in new general fund program receipts. The fiscal note would reflect 1.5 for travel and per-diem to conduct annual inspections of these schools and vehicles.

ALASKA DEPARTMENT OF REVENUE
PERMANENT FUND DIVIDEND DIVISION
RECOMMENDED AMENDMENTS TO HB 540
As of March 25, 1994

Amend AS 43.23.055 (8) to read:

(8) adopt regulations that establish procedures for an individual to apply to have a dividend warrant reissued if it is returned to the department as undeliverable or it is not paid within one year [TWO YEARS] of the date of its issuance; however, the department may not establish a time limit within which an application to have a warrant reissued must be filed; and

AMENDED SECTION 31 of SB 365

* Sec. 31. AS 37.05.180 is amended to read:

Sec. 37.05.180. TIME [TWO YEAR] LIMITATION ON PAYMENT OF WARRANTS. A warrant upon the state treasury may not be paid unless presented at the office of the commissioner of revenue within one year [TWO YEARS] of the date of its issuance. A warrant not presented within that time is considered paid and money held at the expiration of that time in a special fund or account for the payment of the warrant shall be transferred to the general fund, except where the warrant is for the payment of a permanent fund dividend or where the transfer is prohibited by the federal government for state participation in a federal program.

DIVISION OF LEGAL SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101


130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

March 31, 1994

SUBJECT: Single Subject Problems in Governor's Omnibus State Finance Improvement Bill (HB 540)

TO: Representative Ron Larson, Co-chair
House Finance Committee
Attn: Jay Hogan

FROM: David R. Dierdorff 
Revisor of Statutes

Your staff has asked for a review of potential single subject issues related to the governor's "state finance improvement" bill, HB 540.

To understand my review, it is helpful to set out the state of the law with respect to the single subject rule. The law in Alaska flows from article II, section 13, of the state constitution, which provides, in part:

Every bill shall be confined to one subject * * *. The subject of each bill shall be expressed in the title. * * *

With respect to the single subject rule, the courts have given the requirement a liberal interpretation, adopting, in Gellert v. State, 522 P.2d 1120 (Alaska 1974), the position stated by the Minnesota Supreme Court in 1891:

All that is necessary is that [the] act should embrace some one general subject; and by this is meant, merely, that all matters treated of should fall under some one general idea, be so connected with or related to each other, either logically or in popular understanding, as to be parts of, or germane to, one general subject.

Id., at 1123, quoting Johnson v. Harrison, 50 N.W. 923, 924 (Minn. 1891). Five years after Gellert, the court stated that the test

. . . requires no more than that the various provisions of [a] single legislative enactment fairly relate to the same subject, or have a natural

connection therewith. Quoted in Short v. State, 600 P.2d 20, 24 (Alaska 1979).

In construing the single subject rule, the court will "disregard mere verbal inaccuracies" and "resolve doubts in favor of validity"; "in order to warrant the setting aside of enactments for failure to comply, the violation must be substantial and plain." Suber v. Alaska State Bond Committee, 414 P.2d 546, 557 (Alaska 1966). The rule should be "construed with considerable breadth. Otherwise statutes might be restricted unduly in scope and permissible subject matter, thereby multiplying and complicating the number of necessary enactment(s) and their interrelationships." Gellert, at 1122.

Using this broad construction of the rule, the court has approved such single subjects as "water resources" in Gellert; "state taxation" in North Slope Borough v. Sohio Petroleum Corp., 585 P.2d 534 (Alaska 1978); "land" in State v. First Nat'l. Bank of Anchorage, 660 P.2d 406 (Alaska 1982); and "transportation" in Yute Air Alaska, Inc. v. McAlpine, 698 P.2d 1173 (Alaska 1985). The Alaska Court of Appeals has approved the single subjects "liquor regulation" in Van Brunt v. State, 646 P.2d 872 (Ak. App. 1982); and "criminal law" in Galbraith v. State, 693 P.2d 880 (Ak. App. 1985). In fact, the Alaska Supreme Court and the Alaska Court of Appeals have never found that an Alaska statute violated the single subject rule. This is consistent with the record of other states that have substantially the same rule. Generally, only clear violations of the single subject requirement have been found unconstitutional. (cf. State ex rel Hinkle v. Franklin County Board of Elections, 580 N.E.2d 767 (Ohio 1991) finding a violation of the single subject requirement where a bill on a local option for allowing the sale of alcoholic beverages was added to a bill concerning elected judicial offices)

In recent years, however, the Alaska Supreme Court has begun to reevaluate its broad interpretation of the single subject rule. In First Nat'l. Bank of Anchorage, the court expressed reservations about prior cases, but was unwilling in that case to overturn past precedents. In Yute Air Alaska, Inc., the court again expressed concern with the broad interpretation of the rule, but gave three reasons why it was not ready to reject its past approach: (1) "it is not at all clear that there are workable stricter standards"; (2) the legislation in that case was the result of a voter initiative and the sponsors of the initiative had relied on the court's precedents in preparing it; and (3) because the sponsors were not experts at drafting the court was reluctant to invalidate a worthy or popular cause merely because of doubtful legality.

In his dissent in Yute Air Alaska, Inc., Justice Moore blasted the majority's "test" as meaningless. "This court has mistakenly continued to give the rule such an extremely liberal interpretation that the rule has become a farce," he said. Id. at 1182. Moore suggested a new test: "An act or initiative should embrace one subject. By this we mean that all matters treated should be logically connected." This, he said, means

that various provisions of legislation will pass muster if they are inextricably intertwined, if they have an effect on one another, or if they are reasonably interdependent. Moore urged that "[e]nactments should be presented clearly and candidly," and that the court should "use a plainer standard and be more willing to look closely at the logic of an asserted connection and the reasonable interdependence of separate provisions. . . . to discourage logrolling and . . . duplicity." Id. at 1186.

The Moore dissent in Yute Air takes on increased importance in light of the California Supreme Court's decision two years later in Harbor v. Deukmejian, 742 P.2d 1290 (Cal. 1987). Prior to Harbor, the law in California was substantially similar to Alaska. Both states prohibit multiple subjects in the same bill.^{1/} California's courts had interpreted the single subject rule primarily in the context of the expression rule, but when focusing on single subject their pronouncements were remarkably similar to the Alaska cases cited above.^{2/} Justice Mosk's opinion in Harbor summed up the California cases as holding that

. . . a measure complies with the [single subject] rule if its provisions are either functionally related to one another or are reasonably germane to one another or the objects of the enactment. Id. at 1303.

The Harbor case involved a measure relating to "fiscal affairs" and was essentially a budget reconciliation bill, making the "necessary statutory adjustments to implement" the budget enactment. Id. at 1291, quoting from the bill's title and from sec. 71, which set out the justification for the bill's immediate effective date. As the court described the bill, it sounds remarkably similar to HB 540 and its predecessors (e.g. last year's SB 99). The bill contained "71 sections enacting, amending, and repealing numerous provisions in numerous codes." Id. at 1291. The court went on to state, at 1303, that "fiscal affairs" as the subject, and "statutory adjustments" to effect savings consistent with the budget as its object, suffer from "excessive generality" that "violates the purpose and intent of the single subject rule."^{3/} In the heart of its holding, the court said:

^{1/} California's constitution, in art. IV, § 9, provides that "...a statute shall embrace but one subject, which shall be expressed in its title." In context, "statute" is equivalent to "bill," so it can be seen that the constitutional provision under consideration in Harbor is almost identical to Alaska's.

^{2/} See the discussion of the history of California's rule in Harbor, 742 P.2d 1290, at 1298-1303.

^{3/} The "primary and universally recognized purpose" of the single subject rule is to prevent logrolling, the combining of several proposals in a single bill so that legislators can obtain a majority for a measure that might not have been approved as separate measures. See Harbor at 1300.

Representative Ron Larson

March 31, 1994

Page 4

[Fiscal affairs and statutory adjustments] are too broad in scope if, as petitioners appear to claim, they encompass any substantive measure which has an effect on the budget. The number and scope of topics germane to "fiscal affairs" in this sense is virtually unlimited. If petitioners' position were accepted, a substantial portion of the many thousand statutes adopted during each legislative session could be included in a single measure even though their provisions had no relationship to one another or to any single object except that they would have some effect on the state's expenditures as reflected in the budget bill. This would effectively read the single subject rule out of the Constitution. We hold, therefore, that Bill 1379 is invalid as a violation of article IV, section 9 of the California Constitution. Id. at 1303-1304.

See also a prior concurring and dissenting opinion by Justice Mosk in Brosnahan v. Eu, 641 P.2d 200 (Cal. 1982), a case in which an initiative was challenged as violating the single subject rule,^{4/} in which he said:

The constitutional requirement is not satisfied by attaching a broad label to a measure and then claiming that its provisions are encompassed under that wide umbrella. Otherwise, initiatives which refer to "property" or "women" or "public welfare" or "the pursuit of happiness" could also be held to constitute one subject, no matter how diverse their terms.

It is my belief that our supreme court, when presented with the issue in the context of a bill like HB 540 or last year's SB 99 (ch. 63, SLA 1993), will follow the path scouted by Justice Moore in his dissent in Yute Air and more thoroughly explored by Justice Mosk in Harbor (an exploration that was joined, by the way, without dissent by the other justices of California's supreme court). The fact that several of these "omnibus" bills have now been enacted in Alaska provides scant comfort. The practice had gone on for over six years in California before an affected entity brought a challenge.

In HB 540, the stated subject, as expressed in the title, is "the improvement of state finances and fiscal accountability", accomplished through several stated methods (adding fees, collecting more revenue, changing service or eligibility requirements for programs, changing limitation periods, changing functions and procedures of state agencies, allowing certain leases to be extended, etc.). I can see nothing that distinguishes HB 540 from the California measure that was challenged in Harbor. They both attempt to encompass an excessively broad subject matter.

^{4/} In California, as in Alaska, initiatives are subject to the single subject rule.

A quick review of HB 540's substantive provisions illustrates why it violates the single subject rule as interpreted by Harbor. In each case I suggest appropriate subjects, ranging from fairly broad to fairly narrow, that describe the contents of the section or sections discussed.

Section 2 allows the Alcoholic Beverage Control Board to establish by regulation a fee for approval of alcohol server education courses. Proper subjects might include "state agency fees" or "regulations" or "alcoholic beverages".

Section 3 abolishes the doctrine of non-mutual collateral estoppel in civil and criminal cases as applied against the state at the trial court level. Proper subjects might include "civil and criminal procedure" or "collateral estoppel" or "court proceedings".

Sections 4 - 7 all relate to fees charged for activities dealing with fire prevention and safety. Proper subjects might include "state agency fees" or "fire safety" or "public safety".

Sections 8 - 10 and 36 - 37 amend laws relating to transportation planning. Proper subjects might include "transportation planning" or "duties of the Department of Transportation and Public Facilities".

Sections 11 - 26 all deal with various aspects of the regulation of motor vehicles (records, notices, hearings, permits, registration, security deposits, accident reports, and insurance). Proper subjects might include "motor vehicles".

Sections 27 and 28 relate to medical care for prisoners. Proper subjects might include "corrections" or "medical care for prisoners".

Sections 29 and 30 authorize the extension of certain state leases and categorize certain other lease procurements as small procurements. Proper subjects might include "state leases" or "procurement procedures".

Section 31 amends the time within which state warrants must be presented for payment and deletes a provision relating to transfer of funds underlying unrepresented warrants. Proper subjects might include "fiscal procedures" or "payment of state warrants".

Sections 32 and 33 relate to planning for capital improvement programs. Proper subjects might include "capital improvement construction programs" or "capital improvement planning".

Section 34 revises a provision relating to payment of certain prior year obligations. Proper subjects might include "fiscal procedures".

Section 35 eliminates the payment of terminal leave in installments. Proper subjects might include "compensation for state employees" or "payment of terminal leave" or "salaries and allowances" or "public employees".

Section 38 authorizes the establishment of certain fees by the Department of Environmental Conservation. Proper subjects might include "state agency fees".

Sections 39 and 40 relate to the regulation of head start and day care programs. Proper subjects might include "day care" or "fiscal accountability of and eligibility for certain day care programs".

Sections 41 and 42 relate to review and approval of water and sewer systems. Proper subjects might include "water and sewer systems" or "sanitation".

Section 43 repeals statutes relating to motor vehicles, terminal leave for state employees, and transportation planning. There is no proper single subject unless the repeals stood alone and were, for example, repealing obsolete state programs.

There are two other legal questions I need to mention before moving on. First, the content of section 3 is not described in the title. The effect of the section is not included in one of the subordinate clauses that begins with "by", and, as drafted, the introductory clause of the title ("relating to the improvement of state finances and fiscal accountability") does not stand alone. Second, I question whether the retroactive effect given section 3 (see sec. 45) is constitutional. That needs to be carefully researched.

What is the solution to the single subject problems I have described? It might be suggested that a severability provision (or simply the existence of AS 01.10.030) would avoid any damage that a single subject violation would cause. That approach was taken in SB 99. I submit that severability is of no avail to bills that violate the single subject rule. Which provisions should the court sever? How is the court going to choose a subject to be the single subject? I believe that a court would be acting properly if it invalidated the entire enactment. (A court would be more likely to "save" a bill through a prospective decision than by severing any one provision.)

The best solution is to do what the House did last year with HB 65 (its version of SB 99) when it first considered it. The bill was split into three parts, each of which could be defended against any single subject challenge. In the case of HB 540, I suggest the following substitute bills:

- (A) Secs. 1 and 3: Non-mutual collateral estoppel
- (B) Secs. 2, 4-7, and 38: State agency fees

Representative Ron Larson

March 31, 1994

Page 7

(C) Secs. 8-10, 36-37, and part of 43: Transportation and capital project planning

(D) Secs. 11-26 and part of 43: Motor vehicles

(E) Secs. 27 and 28: Corrections (or medical care for prisoners)

(F) Secs. 29 and 30: State leases

(G) Secs. 31 and 34: Fiscal procedures

(H) Secs. 35 and part of 43: Payment of terminal leave (this might be combined with "G" but I think that more than fiscal procedures are implicated in these changes)

(I) Secs. 39 and 40: Day care programs

(J) Secs. 41 and 42: Sanitation (water and sewer)

The above represents a conservative approach, but it does reflect the wide range of subjects (other than "helping the state's fiscal status") encompassed by HB 540. It is possible that some of the separate bills could be combined under a subject like "financial administration of state government", but past bills with that title have been generally limited to the establishment of fees and similar provisions, and even in those cases we expressed our concern that we were treading on thin ice with respect to single subjects.

If the substance of HB 540 is vitally important to FY 95 and future budgets, then the additional effort involved in moving a package of bills instead of just one is worth it. The risk of losing everything if the governor's approach is followed is great.

DRD:gc:pl

94-231.glc

HB

541

HFIN

FILE

STATE OF ALASKA

1994 LEGISLATIVE SESSION

Revision Date: _____
 Title: Advisory Vote Regarding State Revenue

Department Affected: Office of the Governor
 BRU: Division of Elections
 Component: General and Primary Elections

Sponsor: Finance
 Requestor: _____

COMPONENT SERIAL NO. 22

EXPENDITURES/REVENUES:

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	2.2*	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND &	0	0	0	0	0	0
GRANTS.	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL	2.2*	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE						
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FUNDING:

1002 Federal	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	2.2*	0	0	0	0	0
1005 GF/Program	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	2.2*	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 (FY94) impact: 0

ANALYSIS: (Attach a separate page if necessary.)*This figure covers cost of inclusion of information about this issue in the Official Elections Pamphlet as required by AS 15.58, and programming for DataVote counting of votes cast on the measure. However, only 4 measures can be printed on a single ballot card. Should this measure require printing an additional ballot card, the fiscal impact would be 53.4.

Prepared by: Joseph L. Swanson, Director Phone: 465-4611
 Division: Division of Elections Date: 3/25/94

Approved by Commissioner: Lt. Governor John B. Coghill
 Agency: Office of the Lt. Governor Date: _____

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FAX (907) 465-2029
Mail Stop 3101

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105


MEMORANDUM

April 20, 1994

SUBJECT: HCS CSSB 247 (Finance) (Work Order No. 8-LS1447M)

TO: Representative Ron Larson, Co-Chair
Representative Eileen MacLean, Co-Chair
House Finance Committee
ATTN: Louanne

FROM: Jack Chenoweth
Legislative Counsel



This draft incorporates only the committee-adopted amendment # 2 and incorporates it at a place different from where the committee's instructions specified. Since the exception made by amendment # 2 only applies to activity by the Board of Regents of the University of Alaska, I slipped it in to the bill's section 1.

The exception described in the amendment was not a model of clarity. For example, I have no idea what is involved in a "firm commitment." The suggested text of the amendment mentioned "grant or other commitment"--implying a different meaning for the word commitment--but the explanatory statement mentioned only "federal or other contracts"; since "contract" has a clearer meaning, I opted to substitute it. "University receipts" covers "recovery of indirect costs," so I used only the "university receipts" reference. Things paid for from university receipts would not seem to me to have a "firm commitment" period, so I had to make adjustments to take that into consideration. Someone who better understands where the University is going with this needs to review my language to determine whether or not I am on target.

On reflection, I am satisfied that **both amendments -- amendment # 1 terminating a prior approved project and this amendment -- require a bill title change.** The content of the new exception made by this amendment # 2 is not now covered by the current bill title. The title should incorporate, on page 1, line 3, after "and", the additional words ", with certain exceptions,". Amendment # 1 was included in an earlier draft of the bill with appropriate title language, but was removed early in the history of the measure's consideration. Per your instruction, I am holding on amendment # 1 and would also ask guidance on how to handle the title change necessitated by the addition of this amendment.

JBC:pl
94-326.plm

Enclosure

Selected NFIB/Alaska Ballot Results
1993

TAXES/FISCAL

Government Spending

5. Should spending levels of state government be reduced before increasing present taxes or imposing new taxes?

93% Yes 4% No 3% Undecided

5a. If you answered "Yes" to the question above, where should the cuts in state spending be made? (Select all of those that apply.)

29% a. Elementary and secondary education
37% b. Higher education
66% c. Health and welfare
89% d. State legislature
49% e. Judicial system
18% f. Public safety
37% g. Natural resources
36% h. Transportation
56% i. Municipal assistance and revenue sharing

6. If the legislature believes that it must raise additional tax revenue, which of the following possible taxes do you believe to be the most fair? (Select only one.)

43% a. A state sales tax
1% b. A state sales tax on services
2% c. A commercial property tax
22% d. A personal income tax
.4% e. A gross business receipts tax
0% f. A net business receipts tax
.4% g. A business inventory tax
9% h. A sales tax on new vehicles from out of state
9% i. An increase in the gasoline tax
.8% j. An increase in the corporate income tax
13% k. An increase in the tax on tobacco and liquor products

WFIB/ALASKA 1993

COMMENTS

TAXES/FISCAL

ANCHORAGE - Retail

There is tremendous waste in most state budgets. Employees must be made more responsible for their actions. Offices need to be located near the work to eliminate all the expense and waste in travel to and from Juneau.

ANCHORAGE - SERVICE

The main issue in state spending is not only control of programs but overall efficiency. Anyone who has ever dealt with any state agency realizes that they are poorly directed, and highly ineffective. The executive branch has never done a decent job of "running the government".

ANCHORAGE - Retail

The only cut in state spending per question 5 and 5a should be in the state legislature and other government (state) employees pay.

CANTWELL - Retail

No taxes should be instituted until spending has been brought under control.

FAIRBANKS - Insurance

RE: Question #6: YOU MISS THE POINT & are helping to foster an incorrect image. Alaska's governments have too many employees, they are paid too much & their benefits are far too generous. To solve the peoples problem, long term, these must all be reduced 25 to 50%. This can be done & still have many highly qualified people standing in line for the jobs. It's not a question of reducing services but rather one of reducing the cost of those services. This cost cutting has to be in all areas & need not grossly effect services. The goal must be to reduce the cost & effect of government at all levels & to leave as much money as possible in the private sector to build a real & lasting economy. Increasing revenue to the government is 100% wrong & should not be the focus of the debate.

FAIRBANKS - Retail

We need to get labor unions out of the business of representing public employees and get those employment costs back in line. Until we do that, we really do not have control over the budget process, the employees do.

FAIRBANKS - Service

Cut state spending as well as states "benefits" for state employees - including the Legislature!

FAIRBANKS - Retail

RE: Question #6: Increasing the cost of doing business for whatever reason takes money from the productive and transfers it to the non-productive. Mandated employee benefits, increased taxation, exposure to frivolous lawsuits and increased bureaucracy all fit into the same disincentive package.

FAIRBANKS - Service

RE: Question number 6: More taxes only gives all government more money to waste. I believe state and federal government have too much power already. Fewer rules, smaller work force, more efficient work force at government levels can help reduce all deficits. Employees that may lose jobs with this idea would be allowed tax credits to start their own business, putting our country back to the free enterprise democracy instead of the socialistic direction we are heading.

FAIRBANKS - Retail

Spending should be limited to 90% of projected revenue. More responsibility (and funding) should be at the local levels.

FAIRBANKS - Construction

Cut legislative budget by 75%. Cut Governor's budget (Administrative) by 50%. Cut all grants for studies. Cut all public radio & television money.

GUSTAVUS - Construction

- 1) No taxes without first cutting programs.
- 2) Install sunset clauses on existing subsidies.
- 3) No new subsidies.

JUNEAU - Retail

If budget cuts included education then I might say yes to a school tax. However, at times education appears to be above budget constraints and go on spending with little regard to available dollars. IE: it's motherhood & apple pie "it would be un-American to diddle with education !!"

JUNEAU - Service

Eliminate PFD.

JUNEAU - Service

Regarding your question # 6: NO STATE TAXES should be imposed until state spending is at the level it was the year state income tax was

repealed. Every state agency should be required to post a one paragraph statement of service performed and cost per person benefited.

JUNEAU - Retail

The proposed personal Income Tax should merely be a percentage of the tax on Federal Form 1040. The tax should be administered by the Dept. of Revenue by the same people who administer the Permanent Fund Dividend program, not by a new bureaucracy. The P.F.D. should be kept in tact.

JUNEAU - Construction

An overall reduction by % with adjustments for special needs or changes.

JUNEAU - Retail

I feel we should examine what services were offered prior to the influx of oil money and what we have now and make cuts in that area of new services that may be nice but not actually necessary.

JUNEAU - Consultant

Cut the fat out of state government, and start with the bureaucrats. Staff should be cut more than or at least commensurate with field or operational employees. At the same time, the objective of reducing government intrusion into the private sector should be quantified. Like a percentage reduction in regulations, etc.

KENAI -Service

With regards to your question #6: Taxes are out of control and heading toward another "Boston Tea Party" already - I suggest a private businessman take on a "manager" role in state finance.

KETCHIKAN - Retail

NO TO ALL OF THE POSSIBLE TAXES LISTED IN YOUR QUESTION #6: The more money for government spending the more they spend. Anything in the general fund is gone!! Government is no longer of the people but to the people.

NORTH POLE - Service

I think there needs to be across the board cuts in many areas. Many state jobs pay abundant salaries for the same job as being done in the private sector that is not getting near the same salary. It isn't the workers who needs the cuts its' some of the supervisors and administrators that don't need the exorbitant salaries. There are too many chiefs & not enough Indians!!!

PALMER - Retail

Question #6: This question should not have been included and helps foster a bad image. The more money you give the government the more they will spend and then come back again looking for more money. The focus of any debate should not be on increasing taxes/revenues to the government. Leave the money in the private sector which is one heck of a lot more efficient.

PALMER - Professional

Who thought up question #6? To quote your question:

"If the legislature believes that it must raise additional tax revenue. . ."

I would suggest that he or she walk a mile or so in their district to get their head on straight - if they want to get reelected.

SELDOVIA - Tourism

#6 There should have been a selection for stating that WE DO NOT NEED A TAX NO MATTER WHAT THE LEGISLATURE MAY THINK about needing more money. They will not reduce spending no matter what.

SITKA - Service

The state should self-insure itself for health - raise deductible for individuals.

Wasilla: Professional

Your question #6 is very unfair - you did not give us a choice of "none of the above." There are a lot of us out here trying to make a living while somebody is trying to regulate us out of business or tax us until we just throw up our hands and walk away from every thing we have tried to build. Don't let them do it to us! ! !

STATE BALLOT

TAXES/FISCAL

Government Spending

5. Should spending levels of state government be reduced before increasing present taxes or imposing new taxes?

- Yes No Undecided
 1 2 3 17

5a. If you answered "Yes" to the question above, where should the cuts in state spending be made? (Select all of those that apply.)

- 1. Elementary and secondary education
1
- 2. Higher education
2
- 3. Health and welfare
3
- 4. State legislature
4
- 5. Judicial system
5
- 6. Public safety
6
- 7. Natural resources
7
- 8. Transportation
8
- 9. Municipal assistance and revenue sharing
9 18-26

6. If the legislature believes that it must raise additional tax revenue, which of the following possible taxes do you believe to be the most fair? (Select only one.)

- a. A state sales tax
1
- b. A state sales tax on services
2
- c. A commercial property tax
3
- d. A personal income tax
4
- e. A gross business receipts tax
5
- f. A net business receipts tax
6
- g. A business inventory tax
7
- h. A sales tax on new vehicles from out of state
8
- i. An increase in the gasoline tax
9
- j. An increase in the corporate income tax
10
- k. An increase in the tax on tobacco and liquor products
11 17

Background: A large portion of the state general fund money comes from oil production. The production at Prudhoe Bay is on the decline. With petroleum revenues decreasing, some legislators are looking to new taxes in order to cover the expected shortfall in the state budget. During the last session, numerous proposals were put forth for new and increased taxes. It is anticipated that the 1993 legislative session will produce its share of taxing schemes.

Proponents of new taxes and increasing taxes say the state needs these monies in order to fund the many programs that the public has become accustomed to receiving. They also contend that it is time for the public to start paying for the services it receives from the state. These proponents further argue that if new sources of revenue do not come on-line, there will have to be drastic cuts in state programs.

Opponents argue that the lack of revenue is not the real issue — expenditures are the issue. They also believe that the state of Alaska is spending beyond its means. In addition, opponents contend that in order to balance the budget, government spending will need to be systematically and substantially reduced.

NEWS RELEASE

STATE OF ALASKA

OFFICE OF THE GOVERNOR
Post Office Box 110001
Juneau, Alaska 99811-0001

WALTER J. HICKEL
Governor

JOSEF P. HOLBERT
Director of Communications



JOHN MANLY
Press Secretary

JOHN HENDRICKSON
Deputy Press Secretary
Anchorage Office: 561-4228

BRIAN HART
Assistant Press Secretary

907-465-3500
FAX: 907-586-8369

FOR RELEASE: November 17, 1992
No. 92-241

SHORT-TERM REVENUE OUTLOOK IMPROVES BUT LONG TERM STILL POSES PROBLEM

JUNEAU--Governor Walter J. Hickel said today that while the soon-to-be-released fall revenue forecast points to short-term relief for this year and next, the long term doesn't look so rosy. Printed copies of the report are expected to be released on Friday.

"While the report suggests that revenues are better than previously expected, they are still less than this year's appropriations," Hickel said. "We have to make plans for the long term because world oil prices can't be expected to continue to offset the decline of Prudhoe Bay production. This is the main message we will be dealing with at the economic summit in Anchorage at the end of the month."

Darrel Rexwinkel, Commissioner of Revenue, said the mid-case scenario projects revenues for FY93 at about \$331 million more than was thought at the time of the March revenue forecast. To date, the state has received about \$210 million more in royalties and severance taxes than forecast.

"We should, of course, bear in mind that there are different scenarios, both high and low, that could come about instead," Rexwinkel said. "Unknown factors on the world market will play a role. Will Iraq become a player? Will we have a harsh winter or a mild one? Will there be political disruption or global disaster? No one really knows what's going to happen that will impact the price of oil and consequently state revenues."

— Hickel said higher oil prices should allow the minimum necessary spending to take place for FY94 without requiring the Legislature to dip into savings and reserve accounts.

- more -

2-2-2-2

92-241

Nov. 17, 1992

Rexwinkel said the long-term outlook has not changed significantly from the spring forecast. "In real dollars adjusted for inflation, revenues are expected to be only \$1.458 billion in the year 2000, as compared to \$2.271 billion in 1993."

The Governor has invited about 120 Alaskans to meet with him on November 29, 30 and December 1 in an economic summit to discuss the state budget, revenues and solutions. The meetings are scheduled to take place at the Egan Center in Anchorage and are open to the public.

####

**Taxes - Alaska in Comparison to Other States
FY 93**

Chart 8

Tax Type	Alaska	Other States
Individual Income	None	43 States Rates and Structures vary
Sales/Use	None	45 States Rates from 3% to 7%
Corporation Income	9.4%	45 States Rates from 3% to 12.65%
Production	15%	25 States Rates from .3% to 13%
State Property	None	6 States Rates vary
Highway Motor Fuel	\$.08	All states Rates from \$.075 to \$.26 Average \$.18
Cigarette	\$.29	All States Rates from \$.025 to \$.43 Average \$.24
Liquor	\$5.60	All States Rates from \$1.50 to \$6.44 Average \$3.60
Wine	\$.85	All States Rates from \$.11 to \$2.25 Average \$.70
Beer	\$.35	All States Rates from \$.02 to \$.89 Average \$.23

Available Taxes Assumptions

Schedule 6

New Tax Types

Personal Income - Revenue estimates of \$250 - \$400 million are based on a fiscal note prepared by the department in 1987 (HB 154/SB148). Actual revenue increases would depend on the structure of the tax brackets and rates, and exemptions and credits allowed taxpayers. Personal income taxes are currently deductible for federal tax purposes.

Gross Receipts Tax - Each 1% would yield between \$100 - \$150 million based on total state receipts estimated in our fiscal note for HB 523 this year. Total gross receipts was estimated based on revenues reported to the department on corporation tax returns filed with the department. Actual revenue increases would depend on the structure of the tax brackets and rates, and what receipts would be exempted from taxation. Gross receipts tax would apply to sole proprietors, partnerships and corporations.

Sales Tax - Each 1% would yield \$50 to \$100 million, assuming that food purchases and other essential purchases would be exempt from sales tax to reduce the regressivity of this tax type. Sales taxes are currently not be deductible for federal tax purposes.

School Tax - Each \$1 of school tax will yield \$400,000 to \$500,000. Revenue estimates are based on Department of Labor (DOL) figures for total employees in the state, both permanent and seasonal. Total 1990 employees reported by DOL when preparing a fiscal note on school tax (HB 582) was 413,000.

Statewide Property - No additional revenue projection was made because property values statewide are not available.

HB

547

HFIN

FILE

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. HB 547

Revision Date:	Dept. Affected: Revenue
Title: <u>An Act relating to manner of taxable value of oil & gas...</u>	BRU: <u>Revenue Operations</u>
Sponsor: <u>Hs. Judiciary</u>	Component: <u>Oil & Gas Audit</u>
Requestor: <u>Hs. Finance</u>	COMPONENT SERIAL NO. <u>115</u>

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES						
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 FUND SOURCE: General Fund	-33,600.0	-31,800.0	-28,700.0	-26,400.0	-24,500.0	-22,400.0
Constitutional Budget Reserve Fund	-1,600,000.0					

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY94) impact: \$ -33,500.0 prior year impact

ANALYSIS: (Attach a separate page if necessary.)

The legislation, as written, would decrease the State's present claim by an estimated minimum of \$1.6 billion for production taxes, penalties and interest for 1978-1993. In addition, another tax type, separate accounting income tax for 1978-1991, could be impacted by up to \$1.9 billion. These amounts are calculated on the difference between royalty values and tax values.

Continued

Prepared by:	John E. Pilkinton, Director	Phone: 276-1363 ext. 225
Division:	Oil & Gas Audit	Date: April 30, 1994
Approved by Commissioner:	Darrel J. Rexwinkel	Date: April 30, 1994
Agency:	Revenue	

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Fiscal Note - HB 547

continued

For years 1994 - 2000, the estimated losses to the General Fund are calculated by the historical relationships of the tax versus royalty value multiplied by projected production and projected tax rates from the Department's 1994 Spring Forecast.

While the use of settlement values as specified in the legislation would reduce the time required to audit revenues, that possible time savings would be offset by the requirement to perform audits within six months. Therefore, the bill would necessitate additional operating staff and related costs.

The fiscal note assumes only open years of taxpayer assessments are affected and that past agreements remain in effect. If not, the estimated revenue fiscal impacts would change.

HB

548

SFIN

FILE

FN ✓

SENATE FINANCE COMMITTEE REPORT

DATE: 5/5/94

FURTHER:

DATE TURNED INTO OFFICE: 5-7-94

The Finance Committee considered HOUSE BILL NO. 548

"An Act relating to the construction of the Alaska Orbital Launch Complex by the Alaska Aerospace Development Corporation."

and recommends:

- replace with _____ CS _____ (FINANCE)
- or adopt previous _____ CS _____ (_____)
- attaches amendment(s)

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

adopts _____ Letter of Intent

further referral to the _____

do pass

do not pass

no recommendation

individual recommendations

NEW FISCAL NOTES

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTES

Department	Date	Zero	Fiscal
DC&ED	5/2/94	0	

Appropriation No Fiscal Note

DO PASS:

Tom Kelly

OTHER RECOMMENDATIONS:

Boyd Sharp No Rec

1. *Do pass*

Co-Chair: Signature/Recommendation

2. *True finance. 10/2/94*

Co-Chair: Signature/Recommendation

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

No. 1
Bill Version: HB 548
(H) Publish Date: 5/3/94

Revision Date: 5/2/94
Title: Relating to an Alaska Orbital Launch Complex
Sponsor: House Labor and Commerce
Requestor: House Labor and Commerce

Department Affected: Commerce and Economic Development
BRU: _____
Component: Alaska Aerospace Development Corporation
COMPONENT SERIAL NO. _____

Expenditures/Revenues:

OPERATING EXPENDITURES	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
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
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL EXPENDITURES	0	0	0	0	0	0
-----------------------------	---	---	---	---	---	---

CHANGE IN REVENUES ()	0	0	0	0	0	0
-------------------------------	---	---	---	---	---	---

FUND SOURCE

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/Program Receipts	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
Other	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

Estimate of current year (FY 94) cost: \$ 0

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary.)

Prepared by: W. G. Miller
Division: _____

Phone: 465-2500
Date: _____

Approved by Commissioner: Paul Fuhs
Agency: Commerce and Economic Development

Date: 5-2-94

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SENATE FINANCE COMMITTEE REPORT

DATE: 5/5/94

FURTHER:

DATE TURNED INTO OFFICE: 5-7-94

The Finance Committee considered HOUSE BILL NO. 548

"An Act relating to the construction of the Alaska Orbital Launch Complex by the Alaska Aerospace Development Corporation."

and recommends:

- replace with _____ CS _____ (FINANCE)
- or adopt previous _____ CS _____ (_____)
- attaches amendment(s)

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

adopts _____ Letter of Intent

further referral to the _____

do pass

do not pass

no recommendation

individual recommendations

NEW FISCAL NOTES

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTES

Department	Date	Zero	Fiscal
DCLED	5/2/94	0	

Appropriation No Fiscal Note

DO PASS:

Tom Kelly

1. *Don* do pass
 Co-Chair: Signature/Recommendation

OTHER RECOMMENDATIONS:

Yvette AD Rec

Bob Sharp No Rec

2. *True Justice 10/20/94*
 Co-Chair: Signature/Recommendation

**THE FOLLOWING PAGES MAY
NOT FILM LEGIBLY BECAUSE OF
THE POOR QUALITY OF THE ORIGINAL**

NB 548

Launch from Kodiak Island Taurus Stages

Stage 1 (314 nm)

Fairing (1133 nm)

Stage 2 (1384 nm)

Stage 3 (4492 nm)

220

210

200

190

180

170

160

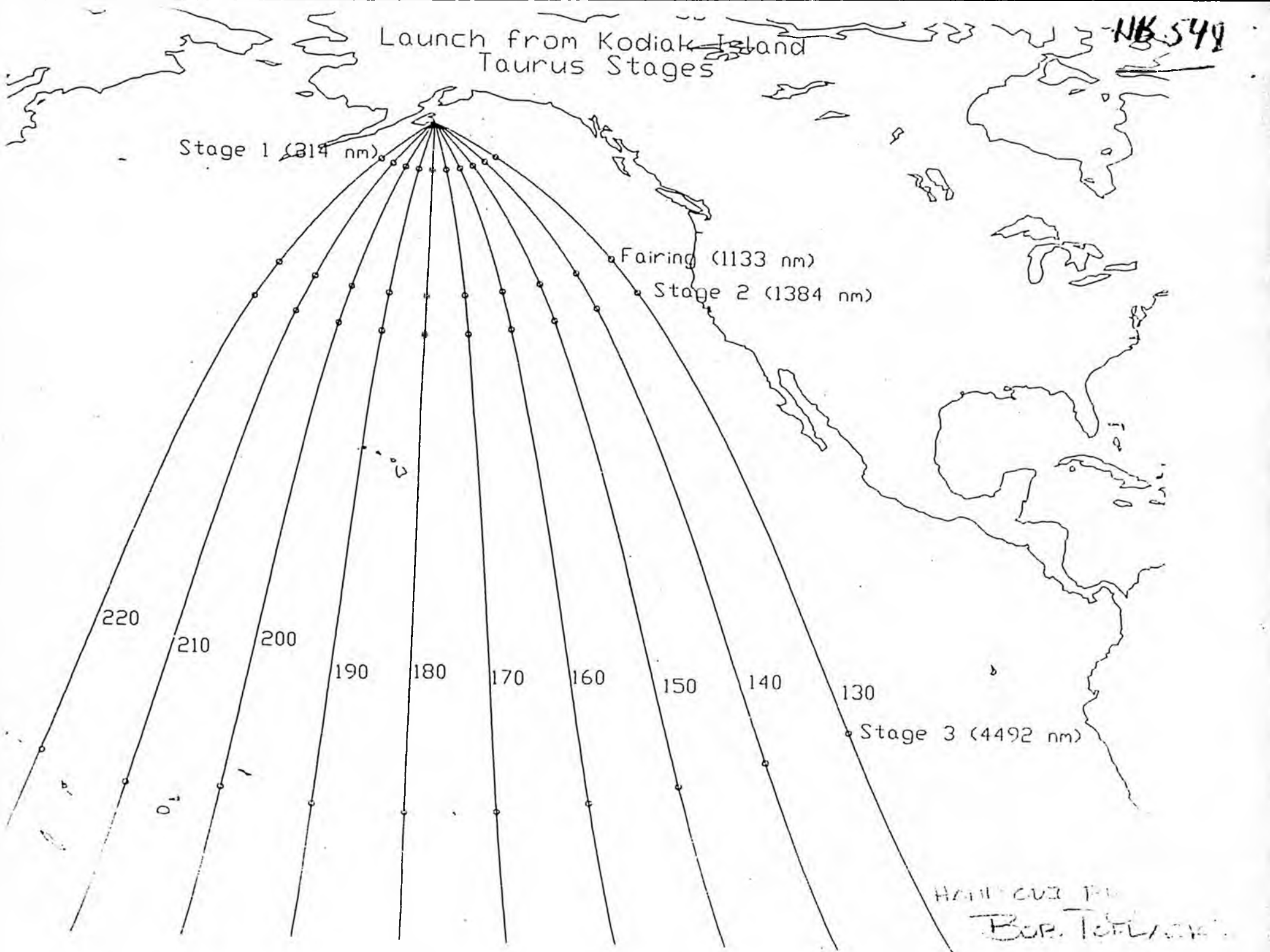
150

140

130

10

Handed out to
Bob Tolson



SPACE LAUNCH COMPLEX 1

Castor 120 and Smaller Based Vehicles

LAUNCH OPERATIONS
& CONTROL CENTER

FUTURE ROCKET
MOTOR STORAGE

INTEGRATION CHECKOUT &
ENCAPSULATION FACILITY

SPACECRAFT
ASSEMBLIES
TRANSFER FACILITY

LAUNCH
PAD & SERVICE
STRUCTURE

ALASKA AEROSPACE DEVELOPMENT CORPORATION

Handwritten notes and signatures in the bottom right corner.



The Alaska Aerospace Development Corporation (AADC) is focused on two major projects: the location of satellite ground stations in the Fairbanks area and the construction of the Alaska Orbital Launch Complex (AOLC) on Kodiak Island. Alaska is a strategic location for aerospace operations and is an intersection to global markets. The aerospace industry being developed by AADC appears to be the answer to commercial exploitation of these advantages.

The aerospace industry and technology that will be brought to Alaska should create a new source of skilled, high-paying jobs, unique educational opportunities for our children, and encourage spin-off industries of direct benefit to a broad range of Alaskans.

All of Alaska will benefit from AADC's activities. The construction of the AOLC and the development of a global ground station center in Fairbanks comes at a crucial time in the emergence of a commercial space industry in the United States. AADC's efforts will enable Alaska to diversify its economy by exploiting one of Alaska's under-used natural resources, its aerospace potential.

ALASKA ORBITAL LAUNCH COMPLEX

The market for polar orbit satellites is increasing rapidly, with a number of large constellations currently in development. These range from Iridium's 66 satellite network to Teledesic's 840 satellite network. We expect the market for polar orbit satellites to continue to increase, jeopardizing the ability of American companies to satisfy market demand. Currently Vandenberg AFB is the only launch site in the United States available for polar orbit launches, and even if it were expanded to its maximum capability, Vandenberg AFB cannot support all of the launches required to maintain the planned satellite constellations. Several new launch vehicles are being developed for this market, and the federal government is expected to make excess Minuteman vehicles available for university and Department of Defense launches.

Kodiak Island is an optimal location for the first commercial rocket launch facility in the United States. The location at Narrow Cape AADC boast unobstructed southern launch paths, safe distances from other development and activities, a minimum of environmental impact, and supportive communities and governments. While the vast number of commercial polar orbit launches are several years away, the commercial sector must be able to plan for those launches now. If launch capability will not be available in the United States, then companies may be forced to look elsewhere, or to scale back their plans. Alaska's plans for the AOLC address the needs of the commercial sector.

**THE
FOLLOWING
DOCUMENTS
ARE
POOR
ORIGINAL
COPIES**

FAIRBANKS GROUND STATIONS

The Fairbanks area is an ideal location for polar orbiting satellite ground stations operations. Fairbanks strategic latitude is complimented with state-of-the-art telecommunications systems, a global reach air transportation system, world-class university faculty and facilities, available skilled employees and contractors, and a warm and receptive community.

Polar orbiting, or near Polar orbiting satellites are best serviced from ground stations located near the Polar regions. The optimal location would also allow an extended North - South horizon to horizon view of the satellite. In both cases, optimal flyover rates and field of view, Fairbanks is arguably one of the best locations on the planet.

Beyond geography, the satellite operator must also consider available infrastructure, local cost of operations, market access (transportation) and community support (tangible and intangible). These things are either already available in Fairbanks or easily developed as part of a strategy to support ground station development.

COST ESTIMATE SUMMARY

CASTOR 120 BASED VEHICLES

a)	Launch Pad and Service Structures (SLC 1)	\$2,981,100
b)	Integration, Checkout and Encapsulation Facility (ICF)	\$1,718,600
c)	Spacecraft Assemblies Transfer Building (SCAT)	\$ 583,250
d)	Launch Operations and Control Center (LOCC)	\$ 324,000
e)	Supporting Roads	\$ 500,000
f)	Fiber Optic System - 30 Fiber	\$ 107,500
g)	Power Generation Facility (750 KW, complete)	\$ 175,000
h)	Security	\$ 20,000
i)	Area Lighting, Utilities	\$ 20,000
j)	Engineering, Testing, Administration	<u>\$ 213,298</u>
	Total	\$7,420,213

k) *Roller Motor Storage BLOC.* \$ 750,000

March 3, 1994

The Honorable Ted Stevens
United States Senate
522 Hart Office Building
Washington, DC 20510-0201

Dear Ted,

It is my understanding that the Alaska Aerospace Development Corporation (AADC) recently selected Kodiak Island as the site for the development of an orbital launch facility. I am writing to express my support for that decision.

The development of an orbital launch facility within the State of Alaska is a positive step towards diversification of the state's economy. It is anticipated that the launch facility will result in increased economic development within the state, including the creation of highly-skilled and high-paying jobs. It is also anticipated that the launch facility and the personnel who work there will provide the citizens of Kodiak Island with valuable educational opportunities.

For the reasons stated above, I urge your continued support of the AADC and its development of an orbital launch facility on Kodiak Island. Thank you for your consideration of this important issue.

With best regards,

Sincerely,

S/S WALTER J. HICKEL

Walter J. Hickel
Governor

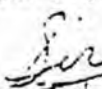
cc: Mr. Pat Ladner
WJH/BPM/ec

0101
Support for AK Aerospace Development
Corp. Kodiak site

ALASKA
AEROSPACE
DEVELOPMENT
CORPORATION

March 10, 1994

The Honorable Walter J. Hickel
Governor, State of Alaska
P.O. Box 110001
Juneau, Alaska 99811-0001


Dear Governor Hickel:


I would like to take the opportunity to inform you of the invaluable contribution Commissioner Paul Fuhs made at the recent meeting between the Alaska Aerospace Development Corporation (AADC) and Lockheed Missiles and Space Company held in Sunnyvale, California on March 8, 1994.

The recent decision of the AADC Board of Directors to designate Kodiak as the location for the Alaska Orbital Launch Complex has generated excitement within the aerospace industry. As you know, Lockheed invited AADC to Sunnyvale to present information about the development of Alaska's launch complex. In addition to design and safety information presented by AADC, Commissioner Fuhs was able to demonstrate Alaska's willingness and ability to support the launch complex. The Commissioner's knowledge and background allowed him to communicate numerous ways in which Alaska stands ready and able to support this venture including, pricing strategies, transportation, and funding for training.

Lockheed executives were so impressed by Commissioner Fuhs and Alaska's ~~commitment to the~~ development of this industry that they immediately decided to undertake a ~~trade study to consider~~ use of the Alaska Orbital Launch Complex for Lockheed's polar launches. ~~AADC and the State~~ of Alaska owe a great deal of gratitude to Commissioner Fuhs, as his efforts ~~made the difference~~ in Lockheed taking the next step toward making a commitment to the Alaska Orbital Launch Complex.

Please do not hesitate to contact me if you have any questions or if I can provide you with additional information.

Sincerely,


Pat Ladner
Executive Director

cc: The Honorable Senator Ted Stevens
The Honorable Senator Frank Murkowski
The Honorable Don Young
Commissioner Paul Fuhs
AADC Board of Directors

HB

549

HFIN

FILE

(11)

Date Referred: September 26, 1994

HOUSE COMMITTEE REPORT

FURTHER REFERRALS:

Date of Committee Action: 9/27/94

The FINANCE Committee considered:

HB 549

HOUSE BILL NO. 549

MENTAL HEALTH LAND TRUST SETTLEMENT

"An Act relating to the mental health land trust, the mental health trust income account, and the mental health land trust litigation, Weiss v. State, 4FA-82-2208 Civil, and amending ch. 66, SLA 1991, and ch. 5, FSSLA 1994 relating to the trust, the account, and the litigation; and providing for an effective date."

- 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 9-26-94 ALL AGENCIES zero fiscal note(s) _____

SIGNING <u>DO</u> PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>E P Machean</i>	✓				
<i>Ronald J. Linn</i>	x				
<i>Mark Stanley</i>	x				
<i>Terry Masten</i>	y				
<i>Steve Harrell</i>	x				
<i>Ben Symonds</i>	x				
<i>Laura Hahn</i>					
<i>Mike Malone</i>	x				
<i>Tan Brown</i>	✓				
<i>Gene Ferrisault</i>	✓				

Ronald J. Linn *E P Machean*
 CHAIRMAN'S SIGNATURE

FISCAL NOTE

No: 1
 Bill Version: HB 549
 (H) Publish Date: 9/26/94

STATE OF ALASKA
1994 LEGISLATIVE SESSION

Revision Date: 9/22/94 Dept. Affected: All Agencies
 Title: An Act relating to the mental health trust, trust income account and litigation BRU: _____
 Sponsor: Rules Committee Component: _____
 Requestor: Office of the Governor COMPONENT SERIAL NO. _____

Expenditures/Revenues	(Thousands of Dollars)					
OPERATING EXPENDITURES	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE	(Thousands of Dollars)					
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY94) cost: \$ _____

POSITIONS						
FULL-TIME						1
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Nancy Slagle *Nancy Slagle* Phone: 465-4681
 Division: Division of Budget Review Date: 9/22/94
 Approved by Commissioner: Nancy Bear User *Nancy Bear User* Date: _____
 Agency: Office of the Governor

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COMMITTEE COPY

HB

550

HFIN

FILE

(11)

HOUSE COMMITTEE REPORT

FURTHER REFERRALS:

Date Referred: September 26, 1994

Date of Committee Action: 9-27-94

The FINANCE Committee considered:

HB 550

HOUSE BILL NO. 550

AMENDMENTS TO MENTAL HEALTH TRUST APPROPS

"An Act making and amending appropriations relating to the mental health trust fund, the mental health trust income account, and the mental health trust settlement income account; and providing for an effective date."

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 _____

[] zero fiscal note(s) _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
Eileen P. Madern	✓				
Ronald J. [Signature]	X				
Mike [Signature]	X				
Mark [Signature]	X				
Terry [Signature]	✓				
Ben [Signature]	X				
[Signature]					
[Signature]	✓				
[Signature]	✓				
[Signature]	✓				

[Signature] E.P. Madern
CHAIRMAN'S SIGNATURE

DRAFT

LETTER OF INTENT

It is the intent of the Eighteenth Alaska State Legislature that, under AS 37.14.039, 37.14.041, and 37.14.045, the Alaska Mental Health Trust Authority have the power to make expenditures from the mental health trust settlement income account (AS 37.14.036(a)) without legislative appropriation.

4/21/94 RECONSTITUTION PROPOSAL
(STATE/VOLLAND)

Third Party Purchases (oil and gas estate only)	5.9
muni ent. and <fmv sales (mineral & oil and gas estates only)	79.4
Long term leases	4.3
Ag tracts-good standing (oil and gas estates only)	1.6
Ag tracts-not in good standing (oil and gas estates only)	4.9
Mat Valley Moose Range (mineral & coal estates only)	19.1
Su Flats (oil and gas estate only)	17.7
Unleased sub parcels Healy	146.8
Unleased sub parcels Beluga	26.0
MRTL encumbered with mining 25% of NSR value	32.6
Undisputed MRTLS	495.5
Returned from Munis	18.0
State agency use-unoccupied	14.7
Healy coal leases under current rules	42.2
Beluga coal leases under current rules	13.7
Thorne Bay	2.3
Uncontested PSLs (SCLDF less state objections)	83.4
New subdivision PSLs from DNR (at \$1500/acre)	3.6
New PSLs oil and gas estate only from DNR	10.4
New PSLs from munis	1.0
New mineral estate only areas	80.5
Cash	200.0
Ft. Knox	8.2
Plaintiffs Total	1,311.8

Document: STATE'S EXHIBIT "A"

Used as: EXHIBIT, PRELIMINARY
APPROVAL HEARING HB 201

Date: JULY 1994

Missing Parcels

Category	Missing parcel value as of Sept. 8, 1994	Missing parcel value after technical corrections
Total MRTLS Fee Estate	\$ 33,216,898.00	\$ 26,808,693.00
TPP Oil and Gas Estate	\$ 1,138,476.00	\$ 466,045.00
AG tracts not in good standing Oil and Gas Estate Only	\$ 630,986.00	\$ -
Muni ent. and < FMV sales Mineral and Oil and Gas Estates	\$ 5,594,895.00	\$ 20,288,006.00
Beluga Unleased Fee Estate	\$ 26,011,003.00	\$ 26,011,003.00
Healy Unleased Fee Estate	\$ 13,253,812.00	\$ 13,253,812.00
Long term Leases Fee Estate	\$ 58,240.00	\$ -
Mat Valley Moose Range Mineral and Coal Estates	\$ 199,329.00	\$ 199,329.00
Uncontested PSLs Fee Estate	\$ 6,337,241.00	\$ 7,780,744.00
	\$ 86,440,880.00	\$ 94,807,532.00

9-27-94
HFC mtg
Attachment.

LAW OFFICES
DAVID T. WALKER
417 HARRIS STREET
JUNEAU, ALASKA 99801
(907) 588-3537

DAVID T. WALKER
GERALD K. DAVIS, JR.

TELECOPIER:
(907) 588-1350

September 20, 1994

Julian L. Mason III
Ashburn and Mason
1130 West Sixth Avenue, Suite 100
Anchorage, Alaska 99501

Re: Weiss et al., v. State

Dear Julian:

We understand the State is preparing legislation to correct deficiencies in the proposed settlement -- the Salcha land exchange, other corrections to the land lists, and the availability of funds to complete the cash portion of the State's commitment. This is our proposal. If it is accepted we will recommend the settlement to our clients without further change.

1. Land Lists.

Yesterday we provided the State with the list of Substitute Lands that were included on the list that made up the valuation used in the State's Exhibit A, but are not on the HB 201 lists. The total value of such omitted land is \$6.3 million¹, bringing the estimated total omitted lands to \$86.2 million. The remaining category to resolve from our perspective is parcels that have been reduced from what they were when they were used on your Exhibit A. The omitted parcels need to be added to the to be conveyed lists in the Special Session.

2. Proposed Amendments

Enclosed are proposed amendments (redline and clean versions) to the proposed settlement that incorporate the representations we understood the State to make at the preliminary approval hearing and address the other items we need resolved before we will recommend the settlement for approval.

¹ The Substitute Land list takes into account the "technical corrections" we have been provided by the State.

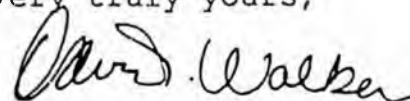
Julian L Mason III
September 20, 1994
Page 2

3. Original Trust Coal.

Original Trust Coal, as we have previously stated, should not be removed from the Trust. We recognize the coal lessees' interest in ensuring that they will be able to mine coal at a fair profit. We remain interested in accomplishing this.

Time is short. We are prepared to do what it takes to attempt to reach an agreement that will allow us to finally put this matter to rest.

Very truly yours,



David T. Walker



James B. Gottstein

cc: Vern T. Weiss
Alaska Mental Health Association
Bruce Botelho
G. Thomas Koester
Tom Waldo/Eric Jorgenson

Jim Gottstein
Philip Volland
Mark Davis
Rick Johannsen
Jeff Jessee

jg\amha94\lit\201cnsdr\fnlapprvl\negs\jlmopng.ltr

Proposed HB 201 Settlement Amendments

David Walker
Jim Gottstein
September 19, 1994

A. HB 201, Section 9(a)(2).⁽¹⁾

*Sec. 9. AS 37.14.009(a)(2), added by sec. 10, ch. 66 SLA 1991 is amended to read:

(a) The Alaska Mental Health Trust Authority

* * *

(2) shall contract with the Department of Natural Resources to manage the land assets of the trust; the contract must provide for the recording of at least one conveyance to the authority by quitclaim deed of mental health trust land in each recording district in the state in which mental health trust land is located and, without charge to the Trust, for a boundary survey of mental health trust land parcels that do not have such a survey * * *.

B. HB 201, Section 16, AS 37.14.039(a).⁽²⁾

Sec. 37.14.039. TRUST INCOME ACCOUNT ADMINISTRATION. (a) The mental health trust income account shall be administered by the Alaska Mental Health Trust Authority. Expenditure of funds by the Alaska Mental Health Trust Authority under AS 37.14.041 (a)(1) through (5) may be made without, and free of legislative appropriation.

C. HB 201, Section 49.⁽³⁾

Sec. 49. If the conditions of sec. 58, ch. 66 SLA 1991, as amended by sec. 37 of this Act, are met on or before December 15, 1994, or on a date determined by the governor under sec. 47 of this Act, then Secs. 1, 10, 11, 40(c), 42, and 44 of this Act, AS 37.14.013, added by sec. 10 of this Act, AS 37.14.023, added by sec. 11 of this Act, AS 47.30.546, and sec. 44 of this Act are repealed.

D. Settlement Agreement, Section IV. 1.⁽⁴⁾

1. Transfer of Land by Quitclaim Deed and Delivery of Conveyances. Land and interests in land conveyed to the Trust Authority shall be granted in trust to the "Alaska Mental Health Trust Authority, trustee" by quitclaim deed. On or before the entry of any order for dismissal, the State shall tender to the Superior Court the required deeds conveying to the Trust Authority the appropriate State interest in the lands designated

as mental health lands pursuant to Section 40(a)(1)&(2). Upon approval of this settlement by the court and dismissal of this action, the deeds shall be placed in escrow for delivery to the Authority upon its request. The parties recognize that certain of these deeds will use parcel numbers which reference the State maps that describe the lands in Attachment A in lieu of full legal descriptions and, accordingly, may not be in recordable form at the time they are tendered to the court. The State agrees to use its best efforts and to work with the Authority, without charge to the Trust, to

(a) complete the preparation of recordable deeds for delivery to the Authority.

(b) complete the identification of encumbrances and interests of record pertaining to the parcels to be conveyed to the Trust Authority as provided in Part V of "MH/work plan 7/28/94" for delivery to the Authority, and

(c) accomplish a boundary survey for parcels that do not have such a survey

as soon as practicable after dismissal. With respect to "(c)," such surveys may take as long as ten years and the State will work with the Trust Authority to prioritize surveying in accord with the Authority's desires.

E. Settlement Agreement, Section V. 6.¹³¹

6. Development of Contracts, Operational Procedures and Regulations. The Authority and DNR shall negotiate in good faith and shall contract for the management of trust assets upon terms that are mutually agreeable to the Authority and DNR, including without limitation, the amount of reimbursement to DNR under AS 37.14.041(a)(4)(B) to be added by section 16 of HB 201, and which reflect the duties and responsibilities imposed on the Authority and DNR pursuant to HB 201 and reflect that the Trust Authority is the client of DNR. DNR and the Trust Authority will provide for the management of Trust Lands for the maximum benefit of the beneficiaries and in a manner that achieves fair market value for use of Trust Land. The parties recognize that the details of contracting procedure, management of trust land, and other operational policies are left to be resolved under HB 201 by the Authority, DNR and other entities through a cooperative and public rulemaking process. Subject to the foregoing, the parties' understanding and intent on how this process will work is set forth in Attachments C and D, which the parties acknowledge are not contractual but are expressions of intent and interpretation only. To facilitate the development of a management unit, and policies and procedures reflecting the intent of the parties in entering into this agreement prior to the effective operation of the Authority, DNR agrees to consult with

a transition team of representatives from the beneficiary community to advise and deliberate with DNR and the affected state agencies.

F. Settlement Agreement, Section VI.5⁽⁶⁾

5. Modification and Future Enforcement. By this agreement, the parties stipulate to a mutual dismissal of all claims and defenses, ~~and acknowledge that the trust is reconstituted in accordance with State v. Weiss, 706 P.2d 681 (Alaska 1985).~~ The provisions of Sections 2 through 9, 12 through 40(a) and (b), 41, 43, 46, 47, 49, 50 and 51 of HB 201 and Sections 1 and 2 of HB 371 constitute material terms upon which the plaintiffs have agreed to a dismissal and are incorporated herein by reference~~acknowledged that the trust is reconstituted.~~ If the Legislature materially alters or repeals any of those provisions, the plaintiffs' shall have the right to reinstate all the claims that they had after the 1978 redesignation, including without limitation, all of their claims to all of the land granted under the Alaska Mental Health Enabling Act of 1956, sole remedy is a new action alleging that the mental health trust has not been adequately reconstituted and to seek such relief as may be appropriate in light of the plaintiffs' claims. In the event the Legislature materially alters or repeals Sections 2 through 9, 12 through 40(a) or (b), 41, 43, 46, 47, 49, 50 or 51 of HB 201 or invades the corpus of the Trust, or any combination thereof, the State hereby agrees that the beneficiaries have the right to reinstate all of their original claims that the Trust has been broken or improperly taken apart free from the impact of HB 201 or any subsequent legislation and hereby waives any argument to the contrary. In light of the dismissal of each parties' claims and in light of this being a class action, no modification of the agreement may be made except in writing signed by all the parties and approved by the court after notice to the class. Nothing in this section shall limit any party's right to enforce this agreement or applicable state statutes.

G. Settlement Agreement, Section VI.6(c).⁽⁷⁾

6. Settlement and Dismissal.

* * *

(c) Subject to the beneficiaries' right to reinstatement of all of their original claims, including without limitation all of those enumerated in this settlement agreement in the event the Legislature materially alters or repeals Sections 2 through 9, 12 through 40(a), 40 (b), 41, 43, 46, 47, 49, 50, or 51 of HB 201 and Sections 1 and 2 of HB 371, or any combination of these sections, dismissing with prejudice all

class claims, including without limitation those of plaintiffs and plaintiffs-intervenors, known or unknown, asserted or unasserted, that arise on or before the date of dismissal and arise from or relate to the 1978 redesignation legislation, any other actions taken by the state since statehood in managing and administering the land granted to the state under the Mental Health Enabling Act or the proceeds generated from that land, or any other actions taken by the state since statehood in managing and administering the trust created by the Alaska Mental Health Enabling Act.

* * *

(g) Expunging the Renotice of Lis Pendens subject to the plaintiffs right to reinstatement of all claims, including without limitation all of those enumerated in this settlement agreement in the event the Legislature materially alters or repeals Sections 2 through 9, 12 through 40(a), 40 (b), 41, 43, 46, 47, 49, 50, or 51 of HB 201 or invades the corpus of the Trust, or any combination thereof.

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Page: 1

~~Page: 1~~

"All Original Trust Land has such a boundary survey or will be surveyed prior to patent. Under the current settlement proposal, some of the parcels conveyed to the Trust Authority will not be surveyed. This will mean that it will not be possible to tell on the ground what the location is of some of these parcels. This will be a significant hindrance to economic utilization of the property. The Trust Authority can theoretically use the Trust's income or require users to survey the ground, but this will prove to be an obstacle to the development of the property. The Trust Authority's using the Trust's income is likely to draw objection from those who think the money should be used for the mental health program instead even if spending the money on survey will increase the Trust's income. Until the land is surveyed, some potential users may not be interested in pursuing the option of using Trust land. In addition, just having the built in delay factor of not having a survey will cost the Trust income. Basically, fairness dictates that the State provide boundary surveys. The related proposed amendment to the settlement agreement, Section IV. 1 makes clear that the surveys can take 10 years and that DNR and the Trust Authority will coordinate in which order surveys should occur.

Page: 1

~~Page: 1~~

"This amendment is to make clear that it is the legislature's intent that the Trust Authority is authorized to spend the Trust's income free of further legislative appropriation (ie., other than the initial appropriation of the \$200 million and conveyance of the land to the Trust).

Page: 1

~~Page: 1~~

"This change repeals the "cram-down" or "non-settlement" portions of HB 201 if the settlement is approved. Unless this is done, it would appear that the State is reserving the right to argue that HB 201 prevents the beneficiaries from re-asserting their claims to all Original Trust Land. The court found the right of the beneficiaries to re-assert their claims was a deterrent against the Legislature changing the HB 201 settlement and this was critical to the court granting preliminary approval.

Page: 1

~~Page: 1~~

"The amendments to this section (a) conforms the survey requirement to the amendment to HB 201 above, and (b) puts into the settlement agreement that DNR will deliver the title information it is already developing to the Trust Authority.

Page: 2

~~Page: 2~~

"The amendments to this section conform the settlement agreement to the testimony of Commissioner Noah at the July 1994 court hearing about how the Trust's land is to be managed.

Page: 3

~~Page: 3~~

"The changes to this section conform the settlement agreement to the representations made by the State's attorney to the court at the July 1994 hearing regarding the beneficiaries' right to reassert their claims in the event the Legislature changes the HB 201 settlement's terms..

Page: 3

~~Page: 3~~

"These are other technical changes to the Settlement Agreement to conform it to the State's representations to the court regarding the beneficiaries' right to reassert their claims in the event the Legislature changes the HB 201 settlement's terms.

Proposed HB 201 Settlement Amendments

David Walker
Jim Gottstein
September 19, 1994

A. HB 201, Section 9(a) (2).

*Sec. 9. AS 37.14.009(a) (2), added by sec. 10, ch. 66 SLA 1991 is amended to read:

(a) The Alaska Mental Health Trust Authority

* * *

(2) shall contract with the Department of Natural Resources to manage the land assets of the trust; the contract must provide for the recording of at least one conveyance to the authority by quitclaim deed of mental health trust land in each recording district in the state in which mental health trust land is located and, without charge to the Trust, for a boundary survey of mental health trust land parcels that do not have such a survey * * *.

B. HB 201, Section 16, AS 37.14.039(a)⁽²⁾

Sec. 37.14.039. TRUST INCOME ACCOUNT ADMINISTRATION. (a) The mental health trust income account shall be administered by the Alaska Mental Health Trust Authority. Expenditure of funds by the Alaska Mental Health Trust Authority under AS 37.14.041 (a) (1) through (5) may be made without, and free of legislative appropriation.

C. HB 201, Section 49

Sec. 49. If the conditions of sec. 58, ch. 66 SLA 1991, as amended by sec. 37 of this Act, are met on or before December 15, 1994, or on a date determined by the governor under sec. 47 of this Act, then Secs. 1, 10, 11, 40(c), 42, and 44 of this Act, are repealed.

D. Settlement Agreement, Section IV. 1.

1. Transfer of Land by Quitclaim Deed and Delivery of Conveyances. Land and interests in land conveyed to the Trust Authority shall be granted in trust to the "Alaska Mental Health Trust Authority, trustee" by quitclaim deed. On or before the entry of any order for dismissal, the State shall tender to the Superior Court the required deeds conveying to the Trust Authority the appropriate State interest in the lands designated as mental health lands pursuant to Section 40(a) (1)&(2). Upon approval of this settlement by the court and dismissal of this

action, the deeds shall be placed in escrow for delivery to the Authority upon its request. The parties recognize that certain of these deeds will use parcel numbers which reference the State maps that describe the lands in Attachment A in lieu of full legal descriptions and, accordingly, may not be in recordable form at the time they are tendered to the court. The State agrees to use its best efforts and to work with the Authority, without charge to the Trust, to

- (a) complete the preparation of recordable deeds for delivery to the Authority,
- (b) complete the identification of encumbrances and interests of record pertaining to the parcels to be conveyed to the Trust Authority as provided in Part V of "MH/work plan 7/28/94" for delivery to the Authority, and
- (c) accomplish a boundary survey for parcels that do not have such a survey

as soon as practicable after dismissal. With respect to "(c)," such surveys may take as long as ten years and the State will work with the Trust Authority to prioritize surveying in accord with the Authority's desires.

E. Settlement Agreement, Section V. 6.

6. Development of Contracts, Operational Procedures and Regulations. The Authority and DNR shall negotiate in good faith and shall contract for the management of trust assets upon terms that are mutually agreeable to the Authority and DNR, including without limitation, the amount of reimbursement to DNR under AS 37.14.041(a)(4)(B) to be added by section 16 of HB 201, and which reflect the duties and responsibilities imposed on the Authority and DNR pursuant to HB 201 and reflect that the Trust Authority is the client of DNR. DNR and the Trust Authority will provide for the management of Trust Lands for the maximum benefit of the beneficiaries and in a manner that achieves fair market value for use of Trust Land. The parties recognize that the details of contracting procedure, management of trust land, and other operational policies are left to be resolved under HB 201 by the Authority, DNR and other entities through a cooperative and public rulemaking process. Subject to the foregoing, the parties' understanding and intent on how this process will work is set forth in Attachments C and D, which the parties acknowledge are not contractual but are expressions of intent and interpretation only. To facilitate the development of a management unit, and policies and procedures reflecting the intent of the parties in entering into this agreement prior to the effective operation of the Authority, DNR agrees to consult with a transition team of representatives from the beneficiary community to advise and deliberate with DNR and the affected

state agencies.

F. Settlement Agreement, Section VI.5

5. Modification and Future Enforcement. By this agreement, the parties stipulate to a mutual dismissal of all claims and defenses. The provisions of Sections 2 through 9, 12 through 40(a) and (b), 41, 43, 46, 47, 49, 50 and 51 of HB 201 and Sections 1 and 2 of HB 371 constitute material terms upon which the plaintiffs have agreed to a dismissal and are incorporated herein by reference. If the Legislature materially alters or repeals any of those provisions, the plaintiffs' shall have the right to reinstitute all the claims that they had after the 1978 redesignation, including without limitation, all of their claims to all of the land granted under the Alaska Mental Health Enabling Act of 1956. In the event the Legislature materially alters or repeals Sections 2 through 9, 12 through 40(a) or (b), 41, 43, 46, 47, 49, 50 or 51 of HB 201 or invades the corpus of the Trust, or any combination thereof, the State hereby agrees that the beneficiaries have the right to reinstate all of their original claims that the Trust has been broken or improperly taken apart free from the impact of HB 201 or any subsequent legislation and hereby waives any argument to the contrary. In light of the dismissal of each parties' claims and in light of this being a class action, no modification of the agreement may be made except in writing signed by all the parties and approved by the court after notice to the class. Nothing in this section shall limit any party's right to enforce this agreement or applicable state statutes.

G. Settlement Agreement, Section VI.6(c).

6. Settlement and Dismissal.

* * *

(c) Subject to the beneficiaries' right to reinstatement of all of their original claims, including without limitation all of those enumerated in this settlement agreement in the event the Legislature materially alters or repeals Sections 2 through 9, 12 through 40(a), 40 (b), 41, 43, 46, 47, 49, 50, or 51 of HB 201 and Sections 1 and 2 of HB 371, or any combination of these sections, dismissing all class claims, including without limitation those of plaintiffs and plaintiffs-intervenors, known or unknown, asserted or unasserted, that arise on or before the date of dismissal and arise from or relate to the 1978 redesignation legislation, any other actions taken by the state since statehood in managing and administering the land granted to the state under the Mental Health Enabling Act or the proceeds generated from that land, or any other actions taken by

the state since statehood in managing and administering the trust created by the Alaska Mental Health Enabling Act.

* * *

(g) Expunging the Renotice of Lis Pendens, subject to the plaintiffs right to reinstatement of all claims, including without limitation all of those enumerated in this settlement agreement in the event the Legislature materially alters or repeals Sections 2 through 9, 12 through 40(a), 40 (b), 41, 43, 46, 47, 49, 50, or 51 of HB 201 or invades the corpus of the Trust, or any combination thereof.

jg\amha94\lit\201cnsdr\fnlapprvl\amendi.cln

**ANCHORAGE ALLIANCE for the MENTALLY ILL
P.O. BOX 243302
ANCHORAGE, AK 99524-3302**

September 23, 1994

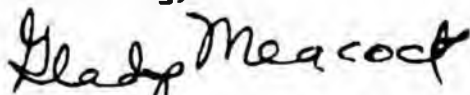
Dear Alaskan Senators and Representatives:

The Board of Directors of the ANCHORAGE ALLIANCE for the MENTALLY ILL urge that you incorporate the changes to the Mental Health Lands Trust settlement as recommended by attorneys Gottstein and Walker. Only with those changes can the settlement be an acceptable replacement for the original mental health lands trust as set up by the Federal Government.

As an advocacy group and as family members of the mentally ill we are concerned with the needs of the beneficiaries. We do not feel that the Governor's proposed settlement was developed with the original beneficiaries in mind. It seems rather to have been developed to satisfy the lawyers of the "intervenor" and to satisfy those who need clear title to land which has been under a cloud since this lawsuit began in 1982.

Please, as 1994 Alaskan legislators, take this opportunity to correct a wrong done by those legislators who attempted to abolish the trust in 1978. Make this a settlement which can be acceptable to those for whom the trust was originally developed, the mentally ill of Alaska. Incorporate the changes as proposed by attorneys Jim Gottstein and David Walker.

Sincerely,



Gladys Meacock
President



P.O. BOX 72543 • FAIRBANKS, ALASKA 99707 • (907) 457-3733

September 24, 1994

Dear Senators and Representatives:

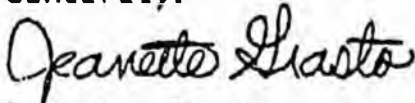
The Fairbanks Alliance for the Mentally Ill urges you to not to merely rubber stamp the governor's bill but to make the changes recommended by attorneys Gottstein and Walker. As Fred Pratt says in his excellent column in today's Fairbanks Daily Newsminer, this legislation was basically written by the governor's people and the intervenors. Most of the mentally ill citizens of Alaska, their families and advocates feel that this settlement does not replace the original mental health lands trust adequately. It is basically a deal for the intervenors and the state government.

As an advocacy group, we are concerned with the needs of the beneficiaries. The current settlement and the changes recommended by the governor are still not adequate. If you will make the changes recommended by Gottstein and Walker, most beneficiary groups will accept the deal, otherwise we owe it to the beneficiaries to go back to the table. I am enclosing a copy of Fred Pratt's column as he expresses FAMI's position very well.

This trust was given to people with mental illness by the Federal Government. They have a right to have it adequately reconstituted. A legislature took it away and you have an opportunity to restore it. If the changes proposed by Walker and Gottstein are made, FAMI will recommend to its members and other regional alliances, that this settlement be accepted.

I urge you to spend these three days working for your mentally ill constituents.

Sincerely:



Jeanette Grasto
President

Our new number is 456-4704

Coal leases, contract finality still issues for special session

The Legislature meets to take up the Mental Health Trust issue Monday. The big question is: how far will they go?

The governor called the special session to change three specific things in the settlement act that the Legislature passed last May.

The current settlement proposal is more the governor's than the Legislature's since it was worked out between the governor's people and two of the four attorneys representing the trust's beneficiaries. It was presented to the Legislature at the end of the session and passed without a lot of tinkering by that body. The problems that surfaced during court briefs and hearings this summer could kill the pact.

The Legislature will doubtless pass the governor's proposals, but they are free to add to them. With major groups of plaintiffs still opposing the settlement, the Legislature might decide to sweeten the pot a little and bring them on line.

If the Legislature just rubber-stamps the governor's proposed amendments, the settlement might well still die in court this winter.

The opposition to the settlement comes from two lawyers for the original plaintiffs who brought the class action case in 1982, David Walker of Juneau and Jim Gottstein of Anchorage. As long as these people and the various groups dealing with mental illness in our state oppose the settlement, it's very much in question.

Hickel's people negotiated the settlement primarily with two attorneys who represent "intervenor" in the case, alcoholics and others outside a strict meaning of the term "mentally ill" that want to be recognized as beneficiaries of the trust as well.

Gov. Walter Hickel's people negotiated the settlement with the intervenors rather than the core group of beneficiaries. In speeding through this process before the end of the regular legislative session, they made a few errors.

They offered land northeast of Salcha that the state won't own any time soon, and they offered money from a source where there isn't

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Pratt

enough money. They also put a strict Dec. 15 deadline on having the court accept the settlement, with a possible extension of only 45 days.

In a way, they painted themselves into a corner. If the court rejects the settlement as unfair to the plaintiffs, as it might in its current form, they would have only the first month of a new Legislature to fix the problems.

Hickel's special session solves this problem, but the basic fairness of the deal remains an issue. The plaintiffs feel they are getting far less than they should to let the state off the hook for its illegal attempt to abolish the trust in 1978.

But if the Legislature wants to tackle the larger issue, they now have an exact prescription from the plaintiffs themselves.

Walker wrote Alaska State Senate President Rick Halford, R-Chugiak, Sept. 5 promising he and Gottstein would support the settlement if only three more changes were made.

The first change they want is to have the legislation formally incorporate commitments made about the settlement in court by the state's attorneys and officials. Primary among these is an under-

standing that if the Legislature ever amends the settlement in the future the plaintiffs will have the right to re-institute all their current legal claims.

This would be a powerful tool for the benefit of everyone involved. It would enlist the thousands of individuals, businesses and local governments who got trust land on the side of the trust to keep the Legislature from tampering with it again.

Second, Walker wants the original trust land now in state coal leases returned to the trust. Much of this land is leased by the Usibelli Coal Mine, which bought the leases from the Department of Natural Resources and understandably wants to keep that landlord and the terms of those leases it made at the time.

But the 1985 Alaska Supreme Court decision in this case ordered all original trust land to be returned to the trust unless it was "sold", and the plaintiffs maintain "sold" doesn't mean "leased." Walker maintains the only reason the leases were not included in the settlement is because Usibelli lobbied to have them removed.

Third, Walker and Gottstein want some clearer language on how the land is surveyed and identified, and what encumbrances exist on access and use.

If these three changes aren't included, he points out, he can kill the settlement by a late appeal of any ruling for it at the Dec. 15 deadline.

So will the legislators take a few extra days to make these changes, or will they just kick the governor's deal through as fast as they can?

Fred Pratt, a free-lance writer in Fairbanks, is a regular time observer of Alaska politics.