

ALASKA LEGISLATURE SPECIAL COMMITTEE/SUBJECT FILES 8672

2740 SCOMM 122: COMMISSION ON PRIVATIZATION. . . , 1999

FISH AND GAME Subcommittee
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* A.D.E.C. SUBCOMMITTEE 8/26/99.

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✓	ANC. 4. KEITH BUCKLIN. AUDIO/VIDEO, INC.	561-1911 ~~251~~ EXT 110	561-4650	
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LEGISLATIVE TELECONFERENCE NETW

90850

SIGN-IN SHEET

SPONSOR: PrivatizationSUBJECT: DECSTART/END TIME: 10 am DATE: 8-18-99

PLEASE PRINT

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Jim Hickel, Chairman

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Annette here's an updated list.

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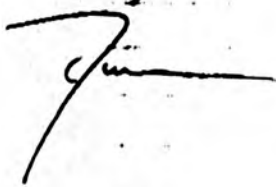
Contact through U.P.A. 907-586-2280
through Sept. 1999.

Identify Issues: Please mail packet
to me at P.O. Box 88
Larson Bay, Ak
99624

- Radio telephone Contact #
907-847-2230

- Conference Call Cut off 1:25 p.m.
Could not Re-establish contact.

- Please also mail my notes.

Thank You


MEMORANDUM
Department of Natural Resources

State of Alaska
Office of the Commissioner

TO: Commission on Privatization

DATE: December 1, 1999

FILE NO:

TELEPHONE NO: 269-8431


FROM: Marty Rutherford
Deputy Commissioner

SUBJECT: Report of Subcommittee on
Privatization of DNR

Attached is the Department of Natural Resources (DNR) response to the Privatization Report on DNR. The format of this document is similar to that provided to the full Commission on Privatization from the DNR Subcommittee, in that it is divided into division/section responses to the division/section reports.

The attachments speak to the details of the comments and recommendations. However, there is one item I would like to note in this cover memo. Throughout the DNR Subcommittee Report are various budget detail. Some of that detail is an accurate reflection of what is in the FY2000 budget, which runs from July 1, 1999 through June 30, 2000, and some of it is not. Recognizing that the budget documents are difficult to use I strongly recommended to the DNR Subcommittee that they work closely with DNR's division managers to understand the documents they were being asked to analyze by their subcommittee chair. When that close coordination did not occur, the Subcommittee Report occasionally reflects detail which is inaccurate and misleading. For that reason I would like to work closely with your staff as you develop your final Commission Report so that I might identify and clarify budget confusions.

Finally, I would like to apologize that I was not available at your initial meeting on November 18th to review the DNR Subcommittee Report. Because our subcommittee chair was out of the country I was unaware that the full Commission was reviewing the DNR Report until the evening of November 17th and at that time I was traveling to Fairbanks and Juneau.

I look forward to working with you and your staff as you prepare your final recommendations.

Attachments

RESPONSE TO PRIVATIZATION REPORT ON RECORDER'S OFFICE

Sadly, the privatization report pertaining to the Recorder's Office is fraught with inaccuracies, incomplete information and adverse personal opinions by the disgruntled former contractor who prepared and presented the report. It is important to state that the preparer of the privatization report did not contact any Recorder's Office manager or other DNR official to confirm statements in the report nor to discuss the proposed recommendations. DNR is hopeful that the legislature and the public will be able to see through the biased nature of this report and recognize the true value of the services provided by the Recorder's Office/UCC component.

The Recorder's Office component is fully funded by program receipts and routinely generates more than \$1 million in excess of its requisite operating funding annually. In FY99 this excess approached \$2.5 million. It is hard to understand why the state would even consider privatizing a money-making program such as this when the state is in such dire need of revenues.

Implementation of the internal indexing system has been beneficial for both the Recorder's Office staff and for the public. The new system offers many new tools and efficiencies that were not available on the prior system operated by a private contractor. Further, the component has the ability to seek continual improvements in the system as needed and can get timely responses to such requests, something that it was unable to achieve while the system was operated by a private contractor under a no cost agreement.

The "History" section of the report seems irrelevant to the issue of privatization. What it does convey is the immense conflict of interest represented by a private vendor who wants to recover the operation of a system for his own purposes. The sole source agreement with Motznik Computer Services expired in June 1996, when the contractor failed to meet the conditions previously agreed to for extension of the agreement. In April 1997, the contractor stated that the processing would not be provided beyond July 1, 1997, unless the state began paying for the service and substantially changed its data entry procedures. Soon thereafter, the House Labor and Commerce Committee instructed the department to resume negotiations with that vendor, and a one-year extension was reached. At about the same time, the Legislature appropriated \$50.0 for the in-house Recorder's Office indexing system in SLA97, CH100, Sec. 82, P54, line 22. When the agreement with MCS again expired in 1998, DNR was ready to transition to the new system that the legislature had authorized the previous year.

The transition to the new system occurred in January 1999. For the first time in a very long time, our employees felt they were in control of their daily work. They do not have to worry about losing a lengthy document that took many hours to input (a frequent occurrence under the old system), as the new system enables them to save their work in progress. The many operational and data entry efficiencies offered by the new system have enabled staff to keep pace with the daily work and to minimize the incessant backlogs incurred under the prior system. Further, the new system enables the public to

get the information much sooner than before, and corrections to data show up immediately (rather than up to six months later as under the prior system).

One of our frequent customers had this to say about the new system: "The state's new system is superior to Motznik's slow and expensive system (\$1.25 per minute) because data can now be searched by recording district, document type and date. These features alone save me about 95% of the time I would normally spend searching the Motznik system."

RESPONSE TO RECOMMENDATION 1

The FY00 CIP request for Y2K funding was submitted in good faith on the best available information at the time. DOA expressed Y2K issues for the SNA network and told agencies they needed to migrate to the Wide Area Network (WAN). Increased costs would occur for agencies that chose not to migrate. Later, however, DOA clarified that there was no Y2K issue driving the SNA to WAN conversion. DNR withdrew its request as soon as it received the updated information.

The Recorder's Office received Revised Program funding for two front-line staff at the height of the refinance activity in FY94. When the high volumes tapered off in the years following FY94, they remained well above volumes in the early 1990's when staffing levels were higher. There was no excess staffing, but rather a continued need to address the incoming workload under an indexing system that was cumbersome and difficult to use.

Recording offices process and film much documentation that is never reported in the page count statistics for recorded documents (i.e. plat attachments, UCC attachments, etc.) The fact is that the component filmed and processed more than 560,000 pages in FY99. Less than 380,000 pages were filmed in FY94.

RESPONSE TO RECOMMENDATION 2

The informational letters distributed by the State Recorder were designed to inform the user groups about potential adverse impacts of budget reductions. Our managers believe they have an obligation to keep the public informed of possible impacts. There would be overwhelming negative response from the public if offices were closed or otherwise impacted and the public was not informed.

RESPONSE TO RECOMMENDATION 3

The report states that the processing was provided for 12 years "at no cost to the state". Because the contractor was not compensated by the state, the system was not maintained with current technology and did not meet the needs of the public. You get what you pay for! The state did seek other vendors who would be interested in providing the system at no cost. Responses indicated this would only be possible if the state would provide them with an exclusive license to market the data or meet other unreasonable requirements.

We suggest our customers be asked the question whether the system is serving their needs. The current system is meeting our internal and customer needs far better than the prior system did.

RESPONSE TO RECOMMENDATION 4

Contracting out the entire recorder's office process is an unrealistic suggestion. The state would be relinquishing a revenue-generating program at a time when revenues are critical to state operation. Further, the original historic records of Alaska should never be placed into private hands. The registry process is rightly a governmental role and the government should not abandon this responsibility. The suggestion that a title company could perform this role would result in a massive conflict of interest issue.

RESPONSE TO RECOMMENDATION 5

In order to protect the integrity of the original permanent record, the archival film should never be used for duplicating. The component contracts out for film services it does not have the capability of providing. Fiche duplication is an in-house service that has been provided by the component for many years.

RESPONSE TO RECOMMENDATION 6

Document policing is not a role that should be played by recording staff. In fact, AS 40.17.035 mandates that recorders "may not consider whether the contents of a document are legally sufficient to achieve the purpose of the document." The responsibility to prepare documents correctly is on the party preparing those documents, not on the recording staff. Recording staff examine documents for compliance with minimum acceptance criteria only. Legal descriptions are not required on documents, but are indexed if they are present.

Benefits of New DNR System**Problems with Motznik System**

Y2K compliant	Was not Y2K compliant
Significantly Faster Response Time	Slow Response Time
Indexing of documents kept current	Routine Backlog of Data Entry
99% or better system availability	Frequent down time
Unlimited Indexing Capability	No capacity for indexing large documents (>999 lines)
Corrections applied immediately.	Long Delays in applying corrections to documents, up to 6 months
Ability to save partially indexed document	No ability to save partially indexed document
No loss of long documents.	Common to lose lengthy documents before completed, work is lost
Ability to share work on large document, supports simultaneous data entry per specific rules	Large documents entered under temp id, programmer work to merge pieces.
Ability to view verified and unverified	Customers could not see unverified documents
No delay in viewing, view after entered	Overnight delay to view verified documents
No loss of documents	Some documents dropped or lost
Automatic Line Sequencing	Manual typing of line numbers
Abbreviations expanded to full name	Required extensive knowledge of abbreviations
Efficient data entry software and procedures	Data entry was labor intensive
Expanded customer options for searching at district level.	Limited search ability at the district level
- Search by district	- Not available
- Search by date	- Not available
- Search by document type	- Not available
- Search by book and page	- Not available
- Search by plat number statewide	- Not available

ERIK HANSEN

Geologist / Land Status Specialist

P.O. Box 97 • Ester, Alaska 99725 • Phone (907) 479-2195

March 16, 1999

Commissioner John Shively
Department of Natural Resources,
Juneau, AK 99801

NEW COMPUTERIZED RECORDER/UCC INDEX SYSTEM.

I have been in the Alaskan mining industry for almost 30 years as a geologist and land man, and I have spent thousands of hours researching mining documents at the State's recorder's offices.

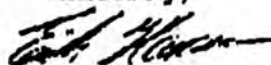
I am writing this letter primarily to express my appreciation for the new computerized index system now available to the public at a number of state offices. This system was created by the Department of Natural Resources and implemented on January 4, 1999, and it is far superior to the previously available Motznik (privately owned) system.

The state's new system is superior to Motznik's slow and expensive system (\$1.25 per minute) because data can now be searched by recording district, document type, and date. These features alone save me about 95% of the time I would normally spend searching the Motznik system.

It is my hope that the virtual monopoly by Motznik Computer Services has come to an end and that this important public data base can now freely be made available to the public. Ideally, the data should be made available free on the Internet, however, as a subscriber (\$500/year) and frequent user of the State's LAS system I would be glad to pay an extra fee just to be able to access this system at my home office. For some reason, private subscribers to the State's LAS system are still specifically barred from accessing the new Recorder's Office System.

I would appreciate if you help making the new system available to private subscribers, and I would also be very interested in knowing who in the Administration decided to block this data base from public access and why? Could it be that the monopoly is not quite broken yet?

Sincerely,





Edward J. Palmer & Associates
Registered Land Surveyor

April 28, 1999

The Anchorage Times
P.O.Box 100040
Anchorage, Alaska
To: The Editors

Concerning your editorial about the new State Recorder's Office computerized record retrieval system Vs Motznik Computer Service's "free" computer system.

The only reason Motznik's computer service was free was so he can sell the Recorder's Office data through his system to subscribers on-line. The data is input into his system by State Recorder's Office personnel on a daily basis; his system simply sorts the data and stores it. He does nothing more than maintain the computers.

I have been a user of Motznik's computer system in the Palmer Recorder's Office and have complained about that system since the first day I used it. Motznik's computer system is old and very slow and is poorly set up to retrieve data and presents the info in a manner that makes it difficult to find what I need. I was very unsatisfied with Motznik's computer system. The Palmer Recorder's Office was aware of the problems with that system and contrary to what you printed they were not satisfied with what Motznik was providing. I was told by them that Motznik refused to upgrade or change his system and in my opinion that left the Recorder's Office little option but to go it on their own.

I have used the new system in the Recorder's Office in Palmer and have found it to be an excellent replacement for Motznik's system. The new system is very fast with data retrieval and best of all it presents the all the available data in a manner which makes it much easier to find what I need. With Motznik's system I had to look in four or five different places to ensure I hadn't missed anything. With this new system all the available data is presented in one easy to scroll through screen. In fact now I can find in five minutes what used to take one-half hour to one hour to find and am sure I've found all the data to be found in the system.

I think the State's investment in the new system is well worth the money involved. My congratulations to Sharon Young and the State Recorder's Office for a job well done and for having the guts to do what's right for us, the end users of all the data archived by the State. They've done a good job with this new system.

I think you were dead wrong in your editorial and ought to re-think your position on this matter. I think the money invested in this system was well worth the price. Furthermore, I think the State can provide (for a fee, of course) the same on-line service to subscribers that Motznik provided. And to your complaint that this is getting into the field of private enterprise you can squelch that by remembering that Motznik had his chance to upgrade his system and refused. There are other options too: let the State farm the system out to private enterprise to run, for a fee,

Yours truly,

Edward J. Palmer, R.L.S.

MEMORANDUM

State of Alaska

**Department of Natural Resources
Division of Mining, Land and Water**

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November 21, 1999

To: Marty Rutherford
Deputy Commissioner

From: Bob Loeffler
Director

Subject: Privatization Recommendations.

Recommendations for Mining and Water Components

The analysis of the Mining, Geologic, and Water Development Component analyzed the wrong budget. That is, it indicated that the FY 98 budget for the component was \$31.6 million and the FY 99 budget was \$21.5 million. This isn't our budget. I do not know whose it was. Just to review a few examples, my staff did not spend \$9.5 million on travel in FY 98; nor did we spend \$331,378 on room rental. I do not know whose budget these recommendations are made on, but they are not made after analyzing anything related to the old Division of Mining and Water Management.

Recommendations for Land Development Component

The subcommittee recommendations included the following.

1. Marketing of land disposals. "The marketing of land disposals...could be accomplished by a private company for a fixed fee or commission."

Response: Marketing land disposals requires very little staff time by the department. Costs are basically printing and mailing. Thus, there is very little opportunity to save funds by privatizing this function. While significantly greater marketing could be accomplished by the private section, this would increase exposure of the program but would cost significantly more. Thus, privatizing marketing is not a cost-saving measure.

2. Appraisal and Survey of land for lease or sale. "There may be opportunities for privatization in the appraisal and surveying of land for lease or sale. The division has already undertaken to contract some of the lease appraisals to private entities. At this time only a portion of the land for disposal requires a state funded survey (i.e., a lease applicant must pay for his or her own survey). Depending on cost effectiveness and the perceived necessity for review, privatization in this area could be expanded."

7 1
Response: We are please that the analysis recognized DNR's efforts in this area. Most appraisal and survey at this time is accomplished by private parties. We will look for other opportunities use private firms for this as cost-effective opportunities arise.

3. Customer Service – Dissemination of information to the public via web sites. The report recognizes that we should leverage technology and make increased use of web sites to disseminate information.

Response: We agree.

Response to Privatization Subcommittee November 22, 1999

Agricultural Revolving Loan Fund (ARLF)

The Audit Report issued on ARLF in March of 1998, control number 10-4557-98, was favorable towards the current operations of the ARLF. It did give recommendations, most of which were agreed to and have either been implemented or are in the process of being implemented.

The facts and observations listed by the committee warrant the following comments:

1. Most of the projects fell short of their goals--Various factors led up to the difficulties with the large projects attempted in the 1980s; however, those were through the efforts of the Agricultural Action Council and not the ARLF. ARLF inherited those problem accounts after the Agricultural Action Council was disbanded. The Division has moved past these project problems. Agricultural production has shown steady, moderate growth in the past decade.
2. Success in increased vegetable production may have occurred without ARLF--this is speculative, given that some of the most consistent and reliable borrowers with ARLF are larger producers of lettuce, potatoes, and carrots. A borrower in the Delta region has financed his carrot operation through ARLF and serves the interior market as well as breaking through in the export market to Taiwan this year.
3. Barley export is no longer the focus of the Delta project; in fact, the area has a healthy diversity of agricultural enterprises. However, barley is still a viable product, which is grown and utilized within Alaska for dairy ration and other animal feed.
4. The ARLF cash balance is not falling at the rate projected in the audit, and because of conservative management and sale of assets is actually higher, at \$6,776 million at the start of FY2000. ARLF direct expenses have been exceeded by income by \$275,000 over the past four years.
5. There are still significant assets to dispose of, indicating the cash balance decline may not be as drastic as forecasted, delaying the need for a large infusion of funds.
6. We agree that Division of Agriculture functions besides ARLF should be funded with General Funds.
7. Since the audit report we have been aggressive in collection on bad loans and court judgements. Currently a full-time attorney works on these cases.
8. Recent disposals of ARLF assets (agricultural lands) have exceeded appraisals in outcry auctions. We agree that vegetation re-growth is not a positive development and will be minimized through disposals of land within two years.

9. Most private banks do not participate in agricultural lending because they lack knowledge of it and see it as too great of a risk. Federal programs are lenders of last resort and ARRC is undercapitalized.

Suggestions:

1. Private lending institutions have not shown an interest in agricultural lending nor do they have experience or expertise.
2. Is it government's role to assist banks in generating profits, especially when the intent of ARLF is to assist agricultural development.
3. We agree the non-ARLF division programs should be funded with general funds.
4. We have made significant progress on bad loans and judgements and by late 1999 will determine whether some cases can be contracted to private collection agencies.
5. We are currently pursuing an aggressive sale schedule to dispose of these properties.
6. Until general funds for division functions are restored, this action would essentially cease all state agricultural functions, many of which are statutory.

Division of Agriculture Functions

[(Land Management, Inspection and Marketing, Plant Materials Center (PMC)]

1. We agree we have numerous duties, many legislatively mandated.
2. We agree with this partial list of services the division provides.
3. We concur; however, note that the seasonal employees at the PMC are not included in this number.
4. This is true; our federal inspections are a good example as well as our land sales programs.
5. This is correct.
6. This is essentially correct also.
7. We appreciate this observation.
8. We will continue to look for efficiencies.
9. Our limited general funds come from these land sales in the form of program receipts from interest generated on the sales.

We cannot ignore the fact that at this point ARLF and the rest of Division of Agriculture functions are interrelated and interdependent and that connection does not seem to be recognized in these two reports, as evidenced by extremely different conclusions.

MEMORANDUM
Department of Natural Resources
Division of Forestry

State of Alaska
Central Office

TO: Marty Rutherford

DATE: November 22, 1999

FILE NO:

TELEPHONE NO.: 265-3379

FROM: Jeff Jahnke
State Forester

SUBJECT: Privatization Report

Privatization Report -- Resource Management Response

Comments on Summary

- Small sales. We appreciate the recognition that we are adequately meeting the demands of small operators. In southeast Alaska, this is our main niche given the limited amount of state-owned forest land. Throughout the state, support to local operators is one of our goals.
- Large sales. The report asserts that the state doesn't offer enough large sales to allow major investments in new and expanded forest operations, but notes that the value-added sale program (under AS 38.05.123) may help. DOF is indeed using .123 to offer larger sales in Southeast and Interior Alaska, and can use the program for appropriate proposals in southcentral as well. However, the state owns little of the forested land in SE Alaska, and can provide only limited long-term support to major processors. There may be more opportunity for expansion in southcentral and Interior Alaska, if there is demand for under utilized species, particularly low-quality hardwoods. Large sales should only be offered if we can continue to support small local operations as well.
- Forest Management Agreements. The state does not support Forest Management Agreements. State land is public land managed for multiple use and sustainability of all renewable resources, and the track record of multiple use management by private firms is weak. The history of large, long-term contracts on public land elsewhere in the U.S. and Canada raises serious questions about their long-term economic and environmental desirability.

Comments on Suggestions

1. DOF provides appropriate detail on management costs. State forests are managed for multiple use and sustained yield of renewable resources, not solely for economic

returns for timber. Therefore, the state bears different costs than private forest managers.

2. Fire management and forest resource management are intertwined, and one of the Division's goals is to better integrate the programs. Staff have responsibilities in both programs, and separating the budgets is counterproductive.
3. We appreciate increased flexibility in timber sale options. However, our ability to offer 20-year sales is limited by the amount and type of forest land in state ownership, and by obligations to offer sales in a range of sizes to support a variety of operations.

Comments on Fire Suppression:

Comments on Summary:

The section concerning the Division's Fire Management Program was quite complementary and reinforced our belief that our efforts to continually improve the program are having a positive effect. It was quite pleasant to hear an opinion from the private sector that we are doing some things right in state government. Mr. Tasker made two recommendations for consideration at the end of his report. I would like to address those recommendations in detail:

Comments on Recommendations:

1. More extensive use of the internet. The Division utilizes the internet for the posting of fire status and information as Mr. Tasker mentions. We also have a website that has a great deal of information on it concerning a lot of the Division's activities. We are always looking for additional ways to use the "net" as it is quite cost effective and is accessible not only to the public, but also all of our employees and cooperators.
2. More support for the Tanana Hotshot fire fighting crew. I am assuming that Mr. Tasker means the Tazlina Hotshots in his recommendation. The Tazlina's have become a very successful semi-private crew. We call them semi-private because they are a private crew until they are hired as emergency firefighters (making them temporary state employees) and dispatched to a fire. The Division provides training and logistical support to the crew in an effort to keep them ready for immediate fire dispatch. The Division also has the authority to hire the crew as non-emergency EFF to work on a variety of non-fire related activities. Funding to payroll the crew on non-fire projects comes from cooperating agencies such as the BLM and Municipality of Anchorage. One way to support the crew would be to increase the authorization level on the amount of money the Division can receive from cooperating agencies.

**Alaska Division of Parks and Outdoor Recreation
Response to Privatization Report**

The Alaska Division of Parks and Outdoor Recreation recognizes the benefits of contracting certain units of the state park system for private operation. Since 1995, 11 units have been contracted including two historical sites (Rika's Roadhouse and House of Wickersham), one trail system (Juneau/Perseverance), one visitor/nature center (Eagle River in Chugach State Park) and seven campgrounds (Montana Creek, Porcupine Creek, Dry Creek, Little Tonsina, Squirrel Creek, Blueberry, and Liberty Falls). Three additional sites are planned for 2000.

The existing contract operations are not fully privatized operations. The Division of Parks retains primary responsibility for major maintenance. The cash flow is too low to expect a private operator to fund daily operations and maintenance and also have the ability to invest in reducing decades of deferred maintenance. The Alaska State Park system has identified \$35 million in deferred maintenance needs. The revenue projections identified in the report are roughly the same figure as Parks currently spends to operate those same facilities. This simply leaves no extra funds for large deferred maintenance projects. Only if the deferred maintenance backlog is reduced could park units truly be privatized.

Two issues recognized by Parks in its contracting to date were also identified by the privatization committee. Many park units are not economical to individually contract. The privatization report refers to "bundling" park units to make a more economic package for a potential operator. This strategy is currently employed in over half of the campgrounds contracted to date. Parks "clusters" our units together to make an acceptable economic package.

The second issue relates to the camping pass. Based on past experience when park camping passes were not required to be honored at contracted park units, the Division of Parks implemented a policy requiring that park camping passes must be honored at park units operated by private contractor. The public confusion and resulting camper anger when they were not honored was horrific and resulted in a black eye for the state. Recognizing that this requirement costs private operators revenue, State Parks is already implementing one of the recommendations of the committee by canceling the non-resident camping pass beginning in the 2000 camping season.

The viability of a massive privatization move, as suggested in the privatization report, is based on a cancellation of the resident camping pass. Revenue from nightly campground fees and camping pass sales in the four park areas identified in the report totaled almost \$700,000 in FY98. The report calculates potential revenue of \$1.2 million from the same campgrounds if no pass were available. The \$500,000 difference is caused not by commercial RV pass sales, as suggested in the report, but by the 3,500 Alaskans who purchase a resident camping pass. This is a benefit that Alaskans are very keen on and

the political fallout of canceling this program, as suggested in the report, could be very high. As such, we have not considered canceling the camping pass for Alaskan residents.

Parks also agrees with another of the strategies suggested in the privatization report, that all campgrounds must have an onsite presence. The report suggests that this can only be efficiently achieved with paid staff. We disagree. Parks has a vibrant and successful volunteer program where volunteer campground hosts are recruited, trained, paid a small stipend, and put to work in our campgrounds doing exactly the same tasks the report suggests as only possible with a paid staff. Parks is currently providing most of these services with volunteers.

One service we do not currently provide is reservations. We were evaluating a reservation system for the Kenai Peninsula when we doubled the price of the non-resident camping pass three years ago. The resulting drop in non-resident pass purchases and subsequent drop in non-resident visitation left more campsites open for Alaskans. Complaints dropped off significantly. With the complete cancellation of the non-resident camping pass next summer, we anticipate even more campsites will be available for Alaskans. This would alleviate the expense of a reservation system and the probable ill will caused by having Alaskans call an out-of-state phone bank to make an Alaskan reservation.

Reasons why privatization of certain areas of the Division of Oil and gas is not in Alaska's best interest:

Note: The numbers in brackets (#) refer to numbered sections in the report and the **Bold** section names correspond to those in the report.

(2) Resource Evaluation. Although the report correctly notes that privatizing the resource section would cause inefficiencies, likely raise not decrease costs, and create conflicts of interest it still concludes that "Amount Potential for Privatization" is \$200,000. Except for mentioning "potential leverage of outside knowledge" this privatization amount is not explained. What exactly is being privatized? Following are some comments appropriate to this section, whatever the intent of the report:

- ♦ The Resource Evaluation relies on confidential information regarding exploration and development plans and proposals provided by the private sector. There would be a natural reluctance by operators to reveal such information to a private contractor. The data collected and used is confidential. If a private firm handles the confidential data how will it be protected? Won't the private firm need to set up groups almost identical to the division's existing groups to do the same work? The Resource Evaluation section deals almost exclusively with proprietary confidential data supplied by permittees under stringent protective rules. Industry would not be willing to deal with an out-sourced contractor.
- ♦ The public data would end up in the hands of only one private party. Presently access to public data is not controlled or manipulated by a for-profit entity. Who will maintain the existing public info on the department's digital databases?
- ♦ In leasing, permitting and unitization decisions there is a negotiated balancing of economic and environmental benefits and costs. It is not appropriate for a private for-profit firm to make these decisions. Will the private firm have the engineers, geologists, geophysicists, lawyers, and technicians to do the job correctly?

- ♦ Determinations of what is or what is not in the state's best interest would end up in private hands. What is to prevent them from looking out for their own best interests and profit? Can the commissioner contract away his statutory obligation to make decisions in the state's best interest? Will another state, federal or local agency be willing to negotiate with a private firm who now represents DNR's interests?
- ♦ Appeals—who will defend/support the appeal and who will the appeal be made to?
- ♦ Fees and revenue - we seriously question whether money will be saved. The private firm will have to replicate or even increase staff relative to the division to maintain the same expertise. How will the two entities interact and can they form the believed synergies?

(3) Leasing/Tech Support

Areawide leasing and exploration licensing—the report completely confuses the two programs and misstates the effect of the added programs. We are doing more, not less. We are now offering more acres than ever before, and we are offering these acres in regularly scheduled sales each year. The statement in the report "the Oil & Gas Development unit has had one major change in recent years that required adjustments in how they complete new development" (emphasis ours) has no meaning that we can decipher.

In addition, the results of the current outsourcing of the best interest finding for the Copper River area are less than satisfactory. Hopefully, the outsourcing process and work product/performance of the contractor can be improved.

The reason we issue a Five Year Leasing Program report is because it is required by law —AS 38.05.180(b). It is issued every OTHER year (at the beginning of each new Legislature).

(4) Revenue Development

As explained below, we see no benefit, either in service or cost, provided by an out-of-state consultant. We agree the opinion that outsourcing may lead to increased costs.

Revenue Development expertise needs to be maintained in-house

1. Royalty settlement agreements, TAPS settlements, lease contracts, and other agreements made with industry are numerous, complex and arcane. Outside consultants are unlikely to have the expertise on hand and would have to make a considerable investment to develop this knowledge.
2. Issues arise abruptly and outside the control of the division. In order to successfully anticipate the state's need for timely analysis, outside consultants would have to be retained on an ad-hoc basis with little opportunity for any real savings.
3. The division must retain a sufficient staff to preserve the division's institutional memory. Without an institutional memory the state would pay dearly each time it hired a consultant and had to educate him on the complex issues with which we deal routinely.
4. In a practical sense, the division has already privatized. When very important and potentially costly disputes arise, the division relies on outside consultants. Through our representation by the Department of Law, expert economists, lawyers, and analysts are hired to conduct the research and support the state's position in these situations. The small staff in the Revenue Development acts as an informed buyer for the state when these services are hired. This staff also collaborates with the outside consultants by contributing its unique expertise.
5. The various settlements and contracts with industry are often intertwined. Sometimes trade-offs are made in one agreement based on the trade-offs made in previous agreements. Sometimes the state's interests in an agreement are affirmed in later agreements. Outside consultants hired on a case-by-case basis cannot represent the state's best interest without this knowledge.

6. In every issue where Revenue Development participates in the division's decision making, confidential data is acquired from industry. Providing this data to outside consultants creates a potential security lapse.
7. The division may also be severely restricted in what data may be revealed to its consultants, e.g., data received from one lessee may be relevant in determining the best interests of the state in an issue involving another lessee. Sharing these data with an outside consultant is probably illegal.

(5) Units Although privatization of the Units section is not contemplated in this report there are some very serious misconceptions put forward in the "General Opinion" section. The question is posed "Would not the producers establish agreements to maximize production if left to their own vices?" Perhaps they would, but that is not the point.

Assume a Unit composed of four leases. Three of the leases have a royalty rate of 20% and the fourth has a royalty rate of 12.5%. Where do you think industry "left to its own vices" will allocate the majority of the oil? Tract allocation is an essential and important role in unitization. Further, the crucial staff to determine equitable allocation are the very geologists being "privatized" in section (2). The state is not a merely "facilitator" as stated in the report, it is an OWNER of a percentage of the resource and as such must act to protect its interest.

(6) Lease Administration/Royalty Accounting

There is significant concern on the part of lessees about the use of confidential reported data and especially in the case of confidential economic and market data. With the implementation of the new royalty reporting standards, more of the price (value per bbl) data has been requested to be held confidential by the lessees.

There is a significant liability should confidential data be leaked to non-authorized entities. Lessees look upon the state as the guardian of the data provided, and would probably raise concerns about the access to such data by any outside companies. Should such work and analysis be farmed out to a private company, bonds should be required to cover those liabilities in the case of inappropriate uses of confidential data.

The other observation is that Royalty Accounting is very complex. The new automated system provides tremendous support for tracking many of the complexities. Even so, efficiencies can be provided through a stable work force that retains historical knowledge about the requirements and procedures associated with the multitude of lessees, leases, units and royalty valuation formulas.

Fees are also in place to reimburse the state where inefficiencies are due to non-responsive lessees. If a lessee fails to provide required information in a timely fashion, which in turn increases the state's administrative costs, administrative fees can be charged to cover situations where the lessee impacts the administrative burden beyond the normal daily expected costs.

Automation of many of the procedures to administer accounting of royalties for the state are increasing all the time. Will a private firm support these systems so audits can be performed in an efficient way?

MMS Oil & Gas Audit

This makes no sense to us. There is no cost to the state to have the benefit of an in-house auditor for federal issues. Production from some North Slope federal properties will start as early as next year (Northstar) and will continue in the years following (Liberty, NPRA). The "reasoning" stated in the report certainly does not outweigh the obvious benefits of having a close working relation between state and federal auditors. Moreover, it is unlikely the federal government would approve outsourcing this position. If we don't get their approval then the funding for the position is lost.

In conclusion, while privatization may make good sense in some situations (as in "privatizing" SOME parts of our Best Interest Findings) it certainly cannot be applied without careful scrutiny by knowledgeable people. Destroying the symbiosis that has been developed in this division over a number of years to fulfill some broad policy objective simply is without merit. It is particularly objectionable if there are, in fact, no benefits—monetary or otherwise.

We appreciate the author's summary conclusion that "The overall budget of the Oil & Gas BRU is not excessive considering the revenue it provides for the state". We agree, and in addition to providing revenue we also provide a number of highly technical services at much lower than industry cost. We also appreciate and agree with the author when he talks about the uncertainties created by the BP-Amoco—ARCO merger. One thing that is certain—the amount of work this division will need to do will increase dramatically over the next year or so.

**COMMISSION ON PRIVATIZATION AND
DELIVERY OF GOVERNMENT SERVICES**

ALASKA RAILROAD CORPORATION
SUBCOMMITTEE REPORT

NOVEMBER 30, 1999

Subcommittee Members: Lee Wareham, Chair;
David Cottrell, Gene Furman, John Haxby, Don Schroer, Samantha Wilson,

PRIVATIZATION SUBCOMMITTEE ON THE ALASKA RAILROAD

PROPOSED RECOMMENDATIONS

1. The legislature shall cause to be issued a Request for Proposals for the purchase or operating lease of the Alaska Railroad. The RFP may offer for sale the ROW and shall offer for sale other land, equipment and assets necessary for operation of the railroad. The RFP shall exclude land that is not necessary for rail operations.

- The ARRC shall pay all costs associated with the preparation and advertising of the RFP.
- The RFP shall be advertised for not less than six months.
- The RFP shall be prepared in accordance with statute by qualified counsel and with oversight and guidance by an RFP Preparation Committee composed of:
 - An appointee of the Governor
 - An appointee of the Senate President
 - An appointee of the House Speaker
 - An appointee employed by the Alaska Railroad
 - A private sector appointee of the Governor
 - A private sector appointee of the Senate President
 - A private sector appointee of the House Speaker
- Criteria for mandatory acceptance of a respondent's proposal shall be included in the RFP to ensure that a proposal will be accepted if it meets the prescribed criteria.
- The RFP shall stipulate that if the purchaser ceases operation of the railroad then ownership and control shall revert to the State of Alaska.
- The sale shall be effected with existing labor contracts in place.
- Proposers must stipulate that railroad employee pension benefits will be maintained on par with existing plans.
- ARRC shall make all operating and financial information available to prospective respondents.
- The evaluation team shall be identified in the proposal and subject to confirmation by the Legislature. They shall be required to avoid ex parte communication with prospective proposers. Not more than one of five evaluators shall be employed ARRC. Not more than one member shall be from outside Alaska.

- The evaluation team's selection of a successful proposer, if any, shall be ratified by the legislature.

2. The Alaska Railroad shall offer to sell land presently leased to leaseholders to the leaseholders for fair market value.

3. The Alaska Railroad shall offer to sell for fair market value all land that is non-essential to railroad operations and is non-revenue generating.

4. The Alaska Railroad shall implement a vegetation control program including use of herbicides. (See Appendix A)

Appendix A

Alaska Railroad Response to Information Request on Herbicides dated November 24, 1999

ALASKA RAILROAD CORPORATION SUBCOMMITTEE

**COMMISSION ON PRIVATIZATION AND
DELIVERY OF GOVERNMENT SERVICES**

Re: Information Request on Herbicides
Date: Wed, 24 Nov 1999 11:45:24 -0900
From: "Ernie Piper" <PIPERE@akrr.com>
To: <Marco_Pignalberi@legis.state.ak.us>

1. The direct cost for vegetation control on the Alaska Railroad is approximately \$900,000 for 1999, which includes burning, hot water, brush cutting, and use of other on-track equipment such as a spreader, undercutter, or ballast regulator. Some of the maintenance work is not entirely attributable to uncontrolled vegetation, but it is substantially a result of fouled ballast. This also includes fines levied against us by the FRA for failing to adequately control vegetation. The alternative methods aren't good enough.
2. To repair the cumulative cost of damage caused by 15 years of uncontrolled vegetation would require a minimum of \$1.2 million in work.
3. In all states (with the possible exception of Vermont, which is changing its policies) right of way vegetation control is largely achieved with the use of herbicides of varying kinds. Most states with large-scale agriculture industries have more substantial regulatory control of herbicide use, which actually makes it easier for companies to use it. Because of fairly complete public oversight, the public is more comfortable with herbicide use. Alaska has a very limited regulatory program, and, ironically, I think this gets in the way of both state and private agencies when they consider using herbicides. Again, ironically, there is more Roundup sold on a May weekend at Eagle Hardware than would have been used in the entire 1999 ARRC program, had we been allowed to proceed.
4. So-called "alternative" methods of control do not work, and have been proven not to work not only in Alaska but in other states and provinces as well. People not familiar with the subject put this in the category of, "Well, if we can put a man on the moon, we MUST be able to . . . etc." But the fact is, our space program notwithstanding, no consistently effective non-chemical control has been developed to solve the most pressing problems faced by railroads by vegetation.
5. Mr. Wareham asked if we would net about \$2 million more if we were allowed to use herbicides. We would certainly net more, but more on the order of \$750,000. The reason is, that if we were able to free up maintenance crews from vegetation control work, we would move them on to other pressing maintenance projects. Where we would save actual money is on direct costs of contracting for ineffective methods year after year. An herbicide program would cost about \$120,000 a year, as opposed to the cost of flaming, steaming, hand-pulling, etc.

>>> Marco Pignalberi <Marco_Pignalberi@legis.state.ak.us> 11/22/99 10:09AM >>>
Ernie,

This is Andree McLeod using Marco Pignalberi's e-mail address.
The Alaska Railroad Subcommittee of the Commission on Privatization and Delivery of Government Services would like to make a positive recommendations concerning herbicide use by the railroad.

In support of this recommendation, we would like some backup.

How much money is used for the herbicide project? What are the costs and benefits of the using herbicides? What do they do in other states?

Please include anything that would justify the use of herbicides. Thank you for your prompt attentions to this request

Andree

STATE OF ALASKA

DEPARTMENT OF FISH AND GAME

OFFICE OF THE COMMISSIONER

✓
TONY KNOWLES, GOVERNOR

P.O. BOX 25526
JUNEAU, AK 99802-5526
PHONE: (907) 465-4100
FAX: (907) 465-2332

December 3, 1999

Honorable John Cowdery
Co-Chair, Commission on Privatization
Alaska State Legislature
716 West Fourth Avenue, Suite 320
Anchorage, AK 99501-2133

Dear Representative Cowdery:

You requested comments from the Department of Fish and Game on the recommendations on privatization and the delivery of government services prepared for the Commission on Privatization by the Department of Fish and Game subcommittee. Commission staff also invited the department to comment on the issue papers. Since the issue papers provide background to the discussions of specific recommendations, we will include any comments we have on the issue papers within our comments on the respective recommendations.

The department enjoyed a good working relationship with the members of the subcommittee. The subcommittee members were widely dispersed geographically, with members participating telephonically from Ketchikan, Petersburg, Juneau, Cordova, Kodiak, and Anchorage.

The department especially appreciates the effort of those members who volunteered to research specific issues and prepare background papers on their findings. In addition to preparing background papers, the subcommittee chairman also prepared the initial draft of the subcommittee report. After review by subcommittee members, the department formatted the report and submitted it to the commission.

The department would also like to express its appreciation to Representative Tom Brice for his participation in the subcommittee deliberations.

Department Response to Recommendations:

In reviewing the recommendations and the issue papers, it is important to remember that only the recommendations represent the views of the subcommittee. The issue papers were the products of individuals and presented to the subcommittee for its deliberation. The subcommittee discussed the issue papers, but did not always endorse the proposals as presented in the issue papers.

A: Other State and National Privatization Efforts Offer Suggestions

The recommendations in this item resulted from the research done by Patrick Simpson and presented by him in the first issue paper. His investigations revealed reservations among those with whom he spoke about the wholesale privatizing of stock assessment and related research. The department has similar reservations.

The department does contract some stock assessment work, and will continue to do so where it is appropriate and cost effective. However, stock assessment activities and actual management of fisheries, for example, need to be closely coordinated. It is also important that stock assessment work be conducted in a consistent manner from year to year. The individuals with whom Mr. Simpson spoke expressed similar concerns.

The department is unable to comment on the use of task order contracts, because more information is required to properly evaluate their costs and benefits. We are also uncertain as to whether the current state procurement code would permit the use of task order contracts.

The suggestion for a long-range research plan was a frequent subject of discussion within the subcommittee. This item is also addressed in recommendation B and in two other issue papers.

The department agrees that planning is an important ingredient in conducting successful and useful research, and department research is guided by planning on a project-by-project basis. However, stable funding is necessary to develop and carry out a long-term research plan. Stable funding is something the department, especially the Division of Commercial Fisheries, has lacked for many years. The funding for developing and implementing such a plan would have to be taken from ongoing fisheries management and stock assessment programs. This is something the subcommittee adamantly opposed. The department also objects to this.

B: Research Plans and Partnerships

This recommendation was partially addressed in our comments on the previous recommendation. The proposal described in the issue paper entitled, "Cooperation with Other Research Institutions for Improved Stock Assessment, Modeling, Biological/Ecological Knowledge, and Management" generated a lot of discussion during

several subcommittee meetings. It was the most controversial idea the subcommittee considered and a majority of the subcommittee opposed it. The department was also opposed.

This issue paper describes an alternative process for coordinating, prioritizing, planning, and conducting marine research. The department has no disagreement about the need to coordinate, plan, and involve the public in the development of marine research proposals. But in the department's view, existing processes are adequate, or can be improved, and there is no real need to invent a new process.

The department is also concerned, as were many of the subcommittee members, that in a time of budget reductions for fisheries management, this proposal is likely to divert money from management to research planning and ecosystem modeling. While ecosystem modeling may be an appealing idea, it is also a task that is complex, difficult, and therefore expensive. The marine environment is complex and dynamic. It is entirely possible to spend large sums of money, like the amount estimated in the issue paper, and still be unable to accurately model the marine environment.

The recommendation approved by the subcommittee urges increased communication, coordination, and planning between various entities that will be performing marine research in Alaska with the increased funding coming from the Federal government and the EVOS endowment. The department supports this recommendation. The department also supports the recommendations to utilize new technologies in fisheries management and forecasting and to provide opportunities for local involvement in the scientific work leading to decisions in fisheries management.

C: Funding for New Fishery Development Opportunities

The department concurs with the subcommittee recommendation that the legislature earmark funds provided by industry for fishery research and management to the purposes intended by the industry. This new funding should be supplemental to existing budgets and should not be viewed as an opportunity to reduce state general fund support for existing fishery management and research.

D: Electronic Data Collection and Reporting

The department concurs with these subcommittee recommendations.

E: License Sales

In the department's view, the opportunities to raise revenues from the sale of "collector edition art prints" of duck stamps or king salmon stamps are limited and problematic. Existing art collector duck stamp sales are declining in many states, including Alaska. We know of no successful fish stamp art print collector program. The market for these products is limited and has been saturated by the many states producing art prints. While

the department will continue to look at any opportunity to generate program receipts like the art print program, we do not believe this is a viable option.

F: Stream Watch Programs

The department has no comment on this recommendation other than to note that it is really more of an issue for consideration by the Department of Public Safety than for ADF&G.

G: Further Use of Private Vessels/Chartering Out of Department Research Vessels

The department is interested in the most cost-effective use of its research vessels. The department already contracts extensively with private vessels for conducting research as well as making its own vessels available for contract by other agencies. Potential enhancements to existing efforts will be welcomed and carefully evaluated.

H: Improve Enforcement by Use of Retired Officers/Better Fine and Settlement Policies

No comment. Defer to Department of Public Safety.

I: Contract Out Management of Protected Areas Where Economic Savings Would Be Achieved

The department does not support the privatization of developed wildlife viewing facilities on state wildlife sanctuaries or refuges. There are only 3 programs where the department charges the public to participate in wildlife viewing programs and little state money is spent on these programs. They are: Round Island (walrus viewing), McNeil River (bear viewing), and Pack Creek (bear viewing). Access to Creamers Field in Fairbanks and Potter Marsh in Anchorage is free. The later programs are primarily for education, not wildlife viewing.

Refuges, critical habitat areas, and sanctuaries are open to the public at minimal or no cost. Fees, where they exist, are set at levels to recoup operating expenses for specific facilities. McNeil River and Pack Creek are essentially self-supporting. The Division of Wildlife Conservation subsidizes the program at Round Island, because personnel at Round Island also collect valuable research data.

The benefit of this approach is that it provides the maximum public access. To interest a private operator, fees would have to be increased, probably substantially. High fees will discourage public use.

Many private businesses are already making money from state refuges and sanctuaries. Business like air taxi operators, charter boats, and eco-tours bring clients to these special areas. Secondary businesses like hotels, restaurants, retail stores and outfitters also benefit.

It is the department's view that the management of these public resources should be conducted by a public agency to insure that the viewing programs are conducted consistently with the purposes for which the areas were established. There may be opportunities to lease or permit private facilities in some portions of these areas as long as it can be done in a manner that is consistent with the purposes for which the areas were established.

This concludes the department's comments. We appreciate the opportunity to comment and hope our comments are useful. Please contact my office if you have any questions.

Sincerely,

Frank Rue
Commissioner



ALASKA INDUSTRIAL DEVELOPMENT
AND EXPORT AUTHORITY



480 WEST TUDOR

ANCHORAGE, ALASKA 99503

907 / 269-3000

FAX 907 / 269-3044

MEMORANDUM

To: Marco Pignalberi
Commission on Privatization and Delivery of Government Services

From: Keith Laufer
Financial and Legal Affairs Manager
Alaska Industrial Development and Export Authority

Subject: Alaska Intertie

Date: December 1, 1999

This memorandum is provided in response to the request related to the Alaska Intertie made by Senator Ward at the Commission on Privatization meeting on November 30, 1999.

The Alaska Energy Authority (AEA) owns the Alaska Intertie (the Intertie"). An approximately 26-mile segment of transmission line is owned by Matanuska Electric Association and, by agreement, has been incorporated as part of the Intertie. Operation and use of the Intertie is governed by the Alaska Intertie Agreement (the "Intertie Agreement") between AEA (formerly known as the Alaska Power Authority) and the participating utilities.

Under the terms of the Intertie Agreement, the participating utilities are required to pay all Intertie operating, maintenance, repair, renewal and replacement and other costs. The utilities are not required, however, to make any payments to AEA (as a return of capital or otherwise) for use of the Intertie. Accordingly, AEA generates no revenues from its ownership of the Intertie. Any participating utility may terminate its participation in the Intertie upon 48 months notice. AEA may terminate the Intertie Agreement upon 48 months notice but only if it determines that termination is "required to improve Power systems serving the Alaska Railbelt Utilities."

As the operation and use of the Intertie is governed by an existing Agreement which provides no revenue to the owner of the line, we believe it is unlikely that a purchaser could be found that would be willing to pay for this non-revenue producing asset. While it is conceivable that the Intertie or the Intertie corridor could have value for uses other than the transmission of energy (for example telecommunications), currently no one has expressed interest in the Intertie for such uses. Moreover, a legal analysis would be necessary to determine if the rights of way underlying the Intertie allow for such ancillary uses and if so, what rights the participating utilities might have in the benefits derived from any such uses.

If the Commission has additional questions, please feel free to call.

LEGISLATIVE RESEARCH REPORT

NOVEMBER 4, 1999



REPORT NUMBER 00.015

IRS CONFIDENTIALITY REQUIREMENTS AFFECTING PRIVATIZATION OF CHILD SUPPORT ENFORCEMENT

PREPARED BY PATRICIA YOUNG, LEGISLATIVE ANALYST

You wished to know if any U.S. Internal Revenue Service (IRS) rule or regulation on confidentiality precludes the privatization of state child support enforcement efforts. You asked for copies of any such federal provisions.

According to Robert Uhar, Office of Safeguards and Tax Credits with the Internal Revenue Service, nothing in the Internal Revenue Code precludes the possibility of privatization of child support enforcement services.¹ However, federal tax laws limit the IRS information about individuals that state agencies may release: agencies may release only the address, the social security number, and the amount of any tax overpayment that would be applied to past-due support.² The tax laws prohibit federal, state, and local child support agencies from disclosing other IRS information, even to private contractors performing child support enforcement services.

Thus, according to Mr. Uhar, states may privatize any enforcement function that can occur without other information supplied by the IRS. Functions such as paternity establishment, locating absent parents, and collections might readily be privatized; determination of assets, on the other hand, would likely prove more difficult.³ In this regard, however, he notes that the actual source of the information is critical. If the information comes from a source other than the IRS, then it need not be protected. For example, IRS documents contain information on assets such as income from stocks and bonds, other investments, other dividends, interest-bearing accounts,

¹ Robert Uhar, Office of Safeguards and Tax Credits with the Internal Revenue Service, can be reached at (202) 622-3367.

² Confidentiality requirements relating to child support agencies are codified in the Internal Revenue Code at 26 U.S.C. § 6103 (l)(6) and (10), and § 6402 (c). Copies of these sections are attached.

³ Mr. Uhar suggests that Ms. M. Berumen, disclosure officer for the IRS Pacific Northwest region, would be a helpful resource in developing privatization plans for child support enforcement services. Ms. Berumen may be reached at (206) 220-8678.

and lottery winnings. The IRS releases such documents only to the federal, state, and local child support agencies, and those agencies may not disclose such information. Child support agencies may, however, disclose any asset information they have independently verified.

Donna Bonar, Director of Program Operations with the federal Office of Child Support Enforcement (OCSE), notes that OCSE and the IRS disagree on the meaning of "local child support agency." The IRS considers "local child support agencies" to refer only to governmental agencies, and not to contractors. According to the OCSE, contractors who are subject to the same regulations and restrictions as state agencies may be considered "local child support agencies" and may, therefore, have access to IRS information. Ms. Bonar notes that the issue is currently in dispute, and the Department of Health and Human Services' general counsel has recently sent a brief to the IRS general counsel arguing, in effect, that the IRS is not in a position to define the child support laws.⁴

Despite that significant disagreement between the agencies, Ms. Bonar concurs with Mr. Uhar in regard to what information is protected from disclosure. They likewise concur in regard to enforcement functions that states might readily privatize.⁵

I hope you find this information useful. Please let us know if you have questions or need further information.

⁴ We requested a copy of the brief and will forward it to you when it is available.

⁵ Donna Bonar, Director of Program Operations with the federal Office of Child Support Enforcement, may be reached at (202) 401-9271. Although we refer to certain functions being "readily privatized," we acknowledge that in actuality, a state child support enforcement agency might have considerable difficulty segregating confidential IRS information into files that are inaccessible to contractors.

Attachment A

Internal Revenue Code, 26 U.S.C. § 6103 (l)(6) and (10), and § 6402 (c)

Title 26 U.S.C. § 6103 (1)(6) Disclosure of return information to Federal, State, and local child support enforcement agencies

(A) Return information from Internal Revenue Service
The Secretary may, upon written request, disclose to the appropriate Federal, State, or local child support enforcement agency -

(i) available return information from the master files of the Internal Revenue Service relating to the social security account number (or numbers, if the individual involved has more than one such number), address, filing status, amounts and nature of income, and the number of dependents reported on any return filed by, or with respect to, any individual with respect to whom child support obligations are sought to be established or enforced pursuant to the provisions of part D of title IV of the Social Security Act and with respect to any individual to whom such support obligations are owing, and

(ii) available return information reflected on any return filed by, or with respect to, any individual described in clause (i) relating to the amount of such individual's gross income (as defined in section 61) or consisting of the names and addresses of payors of such income and the names of any dependents reported on such return, but only if such return information is not reasonably available from any other source.

(B) Disclosure to certain agents

The following information disclosed to any child support enforcement agency under subparagraph (A) with respect to any individual with respect to whom child support obligations are sought to be established or enforced may be disclosed by such agency to any agent of such agency which is under contract with such agency to carry out the purposes described in subparagraph (C):

- (i) The address and social security account number (or numbers) of such individual.
(ii) The amount of any reduction under section 6402(c) (relating to offset of past-due support against overpayments) in any overpayment otherwise payable to such individual.

(C) Restriction on disclosure

Information may be disclosed under this paragraph only for purposes of, and to the extent necessary in, establishing and collecting child support obligations from, and locating, individuals owing such obligations.

Title 26 U.S.C. § 6103 (1)(10) Disclosure of certain information to agencies requesting a reduction under section 6402(c) or 6402(d)

(A) Return information from Internal Revenue Service
The Secretary may, upon receiving a written request, disclose to officers and employees of any agency seeking a reduction under subsection (c) or (d) of section 6402 and to officers and employees of the Department of the Treasury in connection with such reduction -

- (i) taxpayer identity information with respect to the taxpayer against whom such a reduction was made or not made

and with respect to any other person filing a joint return with such taxpayer,

(ii) the fact that a reduction has been made or has not been made under such subsection with respect to such taxpayer,

(iii) the amount of such reduction,

(iv) whether such taxpayer filed a joint return, and

(v) the fact that a payment was made (and the amount of the payment) to the spouse of the taxpayer on the basis of a joint return.

(B) Restriction on use of disclosed information

Any officers and employees of an agency receiving return information under subparagraph (A) shall use such information only for the purposes of, and to the extent necessary in, establishing appropriate agency records, locating any person with respect to whom a reduction under subsection (c) or (d) of section 6402 is sought for purposes of collecting the debt with respect to which the reduction is sought, or in the defense of any litigation or administrative procedure ensuing from a reduction made under subsection (c) or (d) of section 6402.

Title 26 U.S.C. § 6402 (c). Offset of past-due support against overpayments

The amount of any overpayment to be refunded to the person making the overpayment shall be reduced by the amount of any past-due support (as defined in section 464(c) of the Social Security Act) owed by that person of which the Secretary has been notified by a State in accordance with section 464 of the Social Security Act. The Secretary shall remit the amount by which the overpayment is so reduced to the State collecting such support and notify the person making the overpayment that so much of the overpayment as was necessary to satisfy his obligation for past-due support has been paid to the State. A reduction under this subsection shall be applied first to satisfy any past-due support which has been assigned to the State under section 402(a)(26) [1] or 471(a)(17) of the Social Security Act, and shall be applied to satisfy any other past-due support after any other reductions allowed by law (but before a credit against future liability for an internal revenue tax) have been made. This subsection shall be applied to an overpayment prior to its being credited to a person's future liability for an internal revenue tax.



CHI Energy, Inc.

680 Washington Boulevard, 5th Floor
Stamford, CT 06901
(203) 425-8850
Fax (203) 425-8880

Christopher Hocker
Vice President
Business Development and Corporate Affairs

VIA FAX

December 7, 1999

**Hon. John Cowdery
Alaska Commission on Privatization**

Subject: Proposal to Purchase Four Dam Pool

Dear Rep. Cowdery:

Last spring, I had the privilege of testifying before the House Finance Committee regarding our proposed purchase of the Four Dam Pool for a cash price in excess of \$80 million.

As indicated by the attached November 16 letter from the president of CHI Energy, Inc., we remain keenly interested in purchasing the Four Dam Pool assets. We are willing to discuss this purchase with any and all affected parties in order to fashion a possible "public-private" ownership arrangement that would achieve a true "win-win" for local, public, and private interests.

Please don't hesitate to contact Mr. Stern or me if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Chris Hocker', written over a horizontal line.

Christopher Hocker



CHI Energy, Inc.

680 Washington Boulevard, 5th Floor
Stamford, CT 06901
(203) 425-8850
Fax (203) 425-8880

Edward M. Stern
President and
Chief Operating Officer

November 16, 1999

Mr. D. Randy Simmons
Executive Director
Alaska Energy Authority
480 West Tudor Road
Anchorage, AK 99503

Subject: Proposal to Purchase Four Dam Pool Hydroelectric Assets

Dear Mr. Simmons:

Earlier this year, in testimony before the House Finance Committee, CHI Energy, Inc. ("CHI") expressed our interest in purchasing the hydroelectric assets of the Four Dam Pool. We have since been following the State's fiscal situation with considerable interest.

The purpose of this letter is to restate and confirm that CHI is prepared to make a cash payment in excess of \$80 million for the Four Dam Pool assets. This proposal includes the following key points:

1. Our valuation is preliminary, but we believe it is conservative. A final valuation would be based on several factors, including: (i) the condition of the assets; (ii) operating costs; (iii) financing terms; and (iv) power purchase rates. These and other material aspects of the transaction would be determined in negotiations with the Authority and other stakeholders, and confirmed during due diligence.
2. The agreed-upon purchase price would be paid in full at closing. The purchase would be financed using conventional private sector sources, with no additional financial liability to be borne by the State.
3. We believe closing could take place 60 to 90 days after execution of a binding, duly authorized Purchase and Sale Agreement between the Authority and CHI.
4. CHI will, if requested, share ownership of the assets with the communities currently served by the Four Dam Pool, with their ownership shares to be proportional to their usage of Pool capacity. The communities' ownership shares can be structured to require little or no cash payment, although such a structure would likely reduce the purchase price of the assets.
5. The existing Power Sales Agreement between the Authority and the communities need not be materially changed. Any such change would be only if deemed in the best interests of all parties.

Mr. D. Randy Simmons
November 16, 1999
Page 2

6. The existing day-to-day operation and maintenance arrangements for the assets need not be materially changed.
7. CHI's purchase of the assets would relieve the Authority of ownership and operational risk you currently bear.

As noted above, the final purchase price for the assets would depend on a wide range of factors that would be addressed in the course of discussions with you and other affected parties. Nevertheless, we are confident that the price will not only be substantial, but also that the transaction and cash payment can be accomplished quickly.

By way of background, CHI is the largest independent (non-utility affiliated) owner and operator of hydroelectric facilities in the U.S., with a portfolio of 79 plants ranging between 1 MW and 25 MW in size. Established in 1988, our principal owners are Morgan Stanley & Co., Inc. and UBS, AG. We have both the management expertise and the financial experience and resources to complete the purchase of the Four Dam Pool assets.

For references on CHI, please contact Michael J. Petrick, Managing Director at Morgan Stanley, at (212) 761-1558.

To discuss this proposal further, please contact me at (203) 425-8862, or Christopher Hocker, Vice President, at (203) 425-8864.

We look forward to your response.

Very truly yours,


Edward M. Stern

EMS:afc

cc: House Finance Committee Members

Study of privatizing state services thoroughly flawed

By DON VALESKO

The Commission on Privatization and Delivery of Government Services produced a product which, if followed, will create a dream situation for some politicians who want to reward their political cronies with lucrative state contracts.

Certain political insiders, and a few legislators, are claiming a slick conquest in the reworking of state government because of the 400-plus subcommittee recommendations and the 20 full commission recommendations to the Legislature and the governor. This is not what the public deserves. In fact, when one logically views the process used to arrive at such claims, it becomes quite clear that most of the recommendations, if enacted, would create a system of political cronyism where a few would profit at the ex-

COMPASS

pense of Alaska taxpayers.

Subcommittees were told by the commission's staff to look for ways to privatize and were told not to do anything else. State services were proposed for privatization regardless of whether the state could do the function cheaper than by private outsourcing. For example: One subcommittee participant, who happened to be a contractor doing water inspections, put forth an idea to the commission that would have increased those inspection costs by 50 percent over what the state charges now.

There's also the situation where one of the sub-subcommittees had its report pulled and was disbanded by the co-chair and staff of the

commission. A new hand-picked sub-subcommittee was appointed, and a substitute report was submitted to the main subcommittee. During this process a call complaining about the report was made by one of the co-chairs to the employer of the original sub-subcommittee. This is not what one would call a fair process or an honest public-inspired report.

Repeatedly I asked subcommittee members if they had studied the existing privatization practices of the state and had determined whether they were a success or failure. They all said they had not done so. I also asked why they were proposing to privatize a certain function — which they reported as a dismal failure (i.e. Corrections' Inmate Education) — when it was already privatized. They said, "It seemed like a good idea to us."

Moreover, I asked many

times why they had not tried to determine if the state could save money by performing a certain service. I was told they were instructed to only look at ways to privatize.

Even though the full commission used less than 5 percent of the subcommittees' work in its final report, people are going full steam ahead with a number of recommendations that were rejected by the full commission. This is what certain politicians are now doing in Juneau. They are picking the recommendations that fit their purpose and parading them around as if they were fully thought-out, commission-sanctioned ideas.

From the beginning to the end, I saw conflicts of interest on the commission level and on the subcommittee level. Contractors and business representatives wanting to profit by delivering state ser-

vices were afforded every opportunity to get their ideas included in the much-heralded recommendations, while a number of state employee representatives were denied access to parts of the process. As a result, those employees who provide the services were not able to be a part of the subcommittee process in a substantial and positive way.

In the beginning phase of the process, we on the commission were lectured by the federal government officials on how they took up the task of privatization. They stressed that it took a long time to do it right. They also put forth, as an important facet, the fact that they did everything they could to insure existing workers weren't swept under the rug in a rush to let contractors make a quick profit.

Instead of following such advice, our commission took

this advice and swept it under the rug.

Some politicians are about to take some of the commission (or subcommittee) recommendations and use them as stalking horses for their pet legislation. There are a lot of companies outside and inside Alaska who will claim they can provide state services as good as the state or even better while still making a profit. The question I ask here is: Can we afford to hurt working families in Alaska, most likely lose quality in the services we now receive, just so some politicians can reward their political cronies with lucrative state contracts?

□ Don Valesko, a 45-year resident of Alaska, is the business manager of Public Employees Local 71. He was appointed by the Alaska State AFL-CIO to serve as the only labor representative on the Privatization Commission.

Recommendation from Kathryn Thomas

For several months volunteer citizens have reviewed the functions and activities of various departments in state government. I've participated in many, many meetings, where I've heard the common concerns and questions from each subcommittee as they attempted to complete their reports. How much does it cost to perform the work or provide the service? How are the overhead and management costs allocated?? All subcommittees reflected a level of discomfort in not having good financial information available to them, something that they commonly use as management tools in the daily operations of the business world.

Their second concern was that their effort and time would be in vain. Will Alaska have the ability to recognize, acknowledge or implement their recommendations?

These are the same concerns that we have on the Commission; Was the budget and cost information adequate for us to make well informed recommendations? How do we go forward and complete our report? What is our strategy?

As I have given considerable thought to the concerns of the subcommittee members, and to my own concerns as a Commissioner, I have focused on the development of a future strategy for privatization, outsourcing, managed competition and efficient, economical delivery of services. I am forwarding to the Commission the following recommendation.

Recommendation for Alaskan Operational Governance Commission

To continue fully exploring the efficient, economical delivery of government services, Alaska must establish by statute an **Alaskan Operational Governance Commission (AOGC)** with the authority to recommend, audit and update an operational plan for the efficient, economical delivery of government services. This commission should have the legal authority, responsibility and accountability to conduct its mission for a minimum ten-year period so that its initial recommendations and enhancements can be implemented fully.

The AOGC's mission would be to recommend operational governmental changes to provide Alaska efficient, economical governmental services for action by the Legislature and the Administration. All public and private sector Alaskan Stakeholders shall be accountable for the successful implementation of this governance process.

The AOGC operational plan should include the following key goals:

- Recommend the state government financial system require clearly understandable activity based cost accounting

- Recommend the state government financial system require a budget performance reporting format

- Make recommendations of management and overhead expenditures for activity components,

- Implement performance standard for government service activities, competitions and contracts,

- Establish a process to determine which services are appropriate for possible out sourcing and/or private sector competition.

- Review information and reports of the Independent audit committee to adjust programs and activities.

Review and consider the information and recommendations in the reports of the subcommittees provide to the Privatization Commission.

The development and implementation of a financial system that provides citizens the ability to fully understand and acknowledge the state's cost of providing a service is essential. Timely accurate cost information will allow for orderly public and private sector competition to provide government services. The operational financial system must provide a method to insure that this essential governmental function is transparent to change in the Legislature and the Administrative.

The plan shall allow for managed competition to provide any service or activity by providing opportunity for government employees to competitively bid against the private sector vendors.

Suggestions for Strategy Formulation

Identify Service Cost

An accounting system with the uniform accounting codes and consistent application must be implemented for all state government departments. It should provide for allocation of general and overhead costs; management costs, services, labor and materials.

External audit controls should be in place to assure individual and departmental responsibility for accurate attribution of costs.

Besides the compilation of a statutory budget, this system should provide Alaskans two major additional components, an **Activity Based Cost System (ABC)** and a **Popular Budget**. These components should be reported as management tools to department managers, the Administration, the Legislature, and the public. Alaskans then can make valid value judgements and "apples to apples" comparison of public and private costs.

Activity Based Cost System

Activity Based Costing will include the *total* cost per service or program: labor, materials, vehicles, equipment, services, management expense and overhead as well as the *unit* cost of a service or activity in a program. The cost of a service becomes clear and publicly available.

ABC provide the tools to:

- ◆ Illustrate benefits for increasing or eliminating activities.
- ◆ Establish accurate user fees.
- ◆ Provide information for performance measures and budgeting.
- ◆ Compare unit costs between regions for the similar facility, function or service.
- ◆ Adopt best management practices in all regions for the similar facility, function or service
- ◆ Identify the overhead and management cost for any activity or service.
- ◆ Comparing contracting out to performing an activity in house.

- ◆ Provide an accurate evaluation of state overhead and management costs for state employee union to compete with private vendors in managed competition programs.

Popular Budget

The creation of a **Popular Budget** that will provide a clear concise explanation of expenditures and the costs of items to be accomplished which any citizen can understand,

This budget should describe the goal of each department and their mission with a clear acknowledgment of the external outcome that the public expects; a clear description of performance activities; including the costs of performing the activity and the method of the performance measurement.

With a Popular Budget taxpayers can specify & influence what activities should be prioritized.

It invites and facilitates debate over whether the activities are appropriate to pursue.

There is a better assessment of operations by managers, legislatures, and Governors; because activities are better defined and outlined.

It increases the accountability of everyone involved, including the public.

Independent Government Audit Committee

An Independent Government Audit Committee of which the members possess the expertise in accounting, auditing and financial statements, selected from outside the government, should be charged with forming annual audit work plan; with reviewing all internal reports; the accuracy of the methods determining performance standards. This audit committee should then report to the Executive Branch the Legislature and the Alaska Operations Governance Committee.

Establish Performance Standards and Evaluate

Performance Standards should assure a high level of service, identify standards for evaluation of the quality of work and goals for achievement.

Performance can be evaluated by *output*, measuring how much of a service or activity is performed; or by *outcome*, such as efficiency and effectiveness.

Efficiency measures the use of resources, will provide for comparison with others by department, regions or industry. It can also provide a means to evaluate the performance over time.

Effectiveness is the level of satisfaction with the provision of the activity or service. (i.e. is the wait in line to long to receive the service?)

Performance standards will assist in judging contract performance and evaluate the quality of the service by the provider; insuring that the standards are met. It provides the basis for nonperformance penalties.

There should also be a cost to benefit analysis for performance and provision of the service.

Labor Considerations

The Public Employment Relations Act must be amended to ensure that a collective bargaining agreement cannot thwart a legislative directive to explore privatization or to devolve a State function to a political subdivision or to the private sector.

Review of the employee classification system to provide for broad classifications so that managers have flexibility in hiring and compensation; also allowing for a broader range in employee responsibilities.

Administrators and middle line managers should be encouraged to consult with front line employees, actively engaging them in constructing improvements to the performance of activities and potential cost savings in providing the service. Would an Incentive reward program be in order?

Have we ask the workforce itself to redesign it self in ways to increase productivity and reduce costs? That's what they will do if they choose to bid in a managed competition.

Develop a merit system for pay increases tied to job performance. A good means for evaluating performance will be necessary in managed competition contracts.

Preparing for the Proposal

An initiative action should check for cost savings and performance improvements, then identify expectations and contract obligations.

Study and formulate methods for preparing proposals for competitions, which would include an analysis of contract implementation ensuring contract oversight as a standardized process.

<O:P</O:P

Financial and quality results should have internal controls to determine whether the results will be reliable.

Ellen

*Do no harm ... Prevent harm from being done.
"So far we've been successful."*

*Series - "cut budget" - We're on the rocks.
We need budget plan.*

[Fwd: Request for report]

Subject: [Fwd: Request for report]

Date: Sat, 19 Feb 2000 14:22:11 -0900

From: Marco Pignalberi <Marco_Pignalberi@legis.state.ak.us>

To: Annette Deal <Annette_Deal@legis.state.ak.us>

Subject: Request for report

Date: Wed, 09 Feb 2000 14:29:07 -0900

From: Llewellyn Lutchansky <Llewellyn_Lutchansky@legis.state.ak.us>

Organization: Alaska State Legislature

To: marco <Marco_Pignalberi@legis.state.ak.us>

Marco,

Would you please send a Privatization Report to the following persons:

Alaskans for a Just Society
c/o Sylvia Sullivan - President
P.O. box 2684
Valdez, AK 99686

DONE 2-21-00

Also Ms. Sullivan would like to have the names, addresses and fax numbers of the Commissioners, "especially the Executive Director's address (Marco Pignalberi)."

Thanks. I'll drop by her letter later.

Llewellyn

Looking Out For Business...

A report from the Alaska State Chamber of Commerce - The Voice of Alaska Business



The Commission on Privatization and Delivery of Government Services, established by the Legislature at the behest of the Alaska State Chamber of Commerce, has delivered the report on its findings and recommendations to the Governor and the Legislature. The report represents an extraordinary effort on the part of a great many Alaskans. Nearly 300 volunteers worked on 20 different subcommittees over an 18-week period. Most subcommittees had more than 15 members and included at least one member of the state employee unions. Collectively, they convened over 200 meetings in their effort to understand how state government works and how it might work better through privatization.

Subcommittees focused on each department in state government, the University, the legislature and the court system. Additional panels focused on state owned hydroelectric projects, the Alaska Railroad Corporation and the Alaska Housing Finance Corporation. In all 408 recommendations were made by the subcommittees to the Commission.

The volume of work represented by the subcommittee reports is extraordinary and, said Senator Jerry Ward and Representative John Cowdery, co-chairs of the Commission, "We have never seen such a prolific contribution by Alaskan citizens to their state government."

The Commission heard the presentations and read the reports of each subcommittee, but in the time available could not assimilate and debate all information received. So just 20 recommendations, representing a clear consensus among commissioners, were adopted and the remaining corpus of work was recommended for further consideration by the Administration and the Legislature.

The resounding complaint from the majority of subcommittees was that state budget documents are frustrating and incomprehensible to ordinary citizens. They do not reveal the cost of performing state services and the services themselves are not well defined. The structure and format of the budget does not serve the public and should be changed or supplemented to accommodate public interest.

In addition to the call for a better budget format, the

Commission concluded that in Alaska, privatization is an especially good idea, reported Marco Pignalberi, Executive Director of the Commission.

"After the federal government, State government is the largest owner of Alaska's land and resource wealth. The state owns the Alaska Railroad, the most extensive ferry system in the U.S., all airport gateways into the state, more than 250 rural airports, a fleet of aircraft, fish hatcheries, a variety of laboratories, most docks and

harbors, a rocket launch facility, and a dairy. Additionally, the state owns every major hydro-electric dam, the main electrical transmission grid, one eighth of the oil flowing through the pipeline and is the major

financier for residential housing and development financing within Alaska. This unique preponderance of government ownership and control inevitably leads to government growth, often at the expense of private sector growth," said Pignalberi.

Legislation which may be forthcoming as a result of the Commission's work would require the executive branch to identify activities that are inherently non-governmental. If any activities are proposed for outsourcing, a competitive procurement process allowing state workers to compete with the private sector would be in place.

The Alaska State Chamber thanks the individuals responsible for the tremendous effort of the Commission. In addition to co-chairing the Commission, Senator Jerry Ward was prime sponsor of the enabling legislation that made the effort possible. Representative John Cowdery, in addition to serving as Commission co-chair, provided his very competent staff, Marco Pignalberi and Annette Deal, to serve as full-time staff to the Commission.

There were so many others, too numerous to mention, who should be recognized. We suggest you read the report, which is available at www.privatizealaska.org or from your local legislative affairs office. Whether or not you agree with the Committee outcome, it was a citizens' effort of which we can all be proud.

Advertisement

"We have never seen such a prolific contribution by Alaskan citizens to their state government."

Co-Chairs, Commission on Privatization and Delivery of Government Services

COLLECTIONS FUNCTIONS OF THE DEPARTMENT OF LAW

Prepared by Joan Kasson

The Commission on Privatization and the Delivery of Government Services requested additional information on the collection functions performed by the Department of Law. The specific areas identified were agricultural revolving loan collections, student loan collections, and the collection of criminal fines for the court system. The first two types of collections are handled by the Commercial section. The Collections unit in the Collections and Support section handles the collection of criminal fines.

Commercial section:

The Alaska Commission on Post-secondary Education (ACPE) pays for the legal services of approximately two-thirds of an attorney position, and a half-time paraprofessional. The ACPE has unusual administrative powers to collect defaulted Alaska student loans. Those powers provide for an improved administrative process for denial of renewals of occupational licenses, an improved administrative process for permanent fund dividend seizures, and administrative garnishment of wages. The administrative processes permit in-state collections without the need to seek judgments from the court. Computer notices and computer matches are instead used to handle these collections.

The Department of Law primarily advises the commission on procedures and answers legal questions. In addition, the last "warning" letter before a loan goes into default is sent out on Department of Law letterhead in the belief more attention and credence will be given to the letter by borrowers. As a result of this warning letter, the department now fields many more phone calls from borrowers.

The subcommittee on the Department of Natural Resources stated that the collection of ARLF bad loans and court judgments was "almost nonexistent." This is incorrect. The Agricultural Revolving Loan Fund (ARLF) pays for the legal services of one full-time attorney. Collection activities comprise an estimated one-third of that attorney's time. In addition, contract outside counsel are retained, if necessary, when debtors reside outside of Alaska.

Over the last two years, numerous collection judgments have been successfully resolved and delinquent loan payments recovered by the Department of Law without court action. In addition, the department works closely with ARLF loan officers during the application process to minimize the number of bad loans. The department also assists the ARLF and Division of Agriculture on land disposals and protection of state property obtained due to foreclosures and bankruptcies.

In addition to these two collection activities, the Commercial section provides collection-related legal services to the Division of Investments, the Alaska Housing Finance Corporation, and the Employment Security Division of the

directed the two agencies to consider all alternatives in developing a plan, including contracting out the service.

The response of the Department of Law was: "In view of the variety of collections to be handled, and the requirement for in-depth knowledge of the many state administrative processes involved, it is the department's recommendation that these collections can be accomplished more effectively in-house. Similar Department of Law collections efforts for certain revolving loan programs, such as the Division of Investments and the Agricultural Revolving Loan Fund, have proven both cost efficient and effective."

A budget increment to establish the Collections unit was requested in the FY89 budget. The increment request described the need for a mechanized system to handle the volume of small debts the unit would handle. The unit was funded by the legislature at the requested amount, and it began with 3,600 cases. In the intervening ten years, the Collections unit caseload has grown to more than 100,000 cases.

- *Current Collections Process*

The Collections unit in the Collections and Support section collects criminal fines, cost of appointed counsel, cost of incarceration, forfeited bonds, civil judgments (including legal fees and costs for state attorneys), and OSHA and APOC penalties.

Collection sources include voluntary payments, garnishment of wages, writs of execution against other assets (bank sweeps), and, the most common source for criminal fines and related costs, permanent fund dividend attachments.

Two paralegals, two legal secretaries, and two administrative clerks staff the Collections unit. The unit is supervised by an attorney, but uses little attorney-provided legal assistance. The collection function is highly automated.

Information on over 100,000 civil and criminal judgments owed to the state is housed on the collections database, an Oracle system located in Anchorage. Judgment information from 66 state courts is provided to the Collections unit and loaded into the database. Using the database, over 20,000 inquiries a year from debtors and from the courts can easily be answered.

The collections database is used to track voluntary payments, to prepare Writs of Execution to obtain court approval to garnish PFDs, to match those who owe debts to the state with those who are eligible for the dividend, and produce a final list of PFD applicants whose dividends will be attached. After the dividend is attached, each individual's record is adjusted to show the payment to their debt, and a receipt is automatically generated. The database is also used to generate refunds, if necessary, and to report to client agencies on payments, *i.e.*, the

CORRECTION

**THE FOLLOWING DOCUMENT(S)
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ASSURE LEGIBILITY OR PAGINATION**



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State of Alaska

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In addition to these two collection activities, the Commercial section provides collection-related legal services to the Division of Investments, the Alaska Housing Finance Corporation, and the Employment Security Division of the

Department of Labor. Legal services performed for these agencies and the ARLF, as well as the ACPE to some extent, include converting defaulted loans to a judgment, initiating foreclosures, representing the agencies in bankruptcies, and doing bank sweeps, permanent fund dividend executions, and judgment debtor exams, as appropriate. Assistant attorneys general also represent the agencies in administrative appeals before the Alaska courts.

Experience has shown that using in-house counsel is much more cost efficient than using outside counsel. The FY00 hourly rate for Department of Law Civil Division attorney is \$92.49. This rate includes all normal overhead items such as clerical support, data processing, lease space, etc. The overhead portion of the rate also includes any clerical overtime, faxes, copies, telecommunications costs, and postage – items that are often used as cost centers by private law firms, or at a minimum, billed at cost on top of the hourly rate.

The department typically pays from \$125 to \$200 per hour for the services of private Alaska counsel to handle cases for the state. The rates paid will usually include a discount of ten to twenty percent from any given firm's standard billing rate.

The department also has the advantage of being a statewide firm with offices in the three major cities of the state. Computer networking and faxing court filings, affidavits, and other casework saves the state money. There are also more intangible benefits to having in-house legal staff. Department of Law attorneys work with their client agencies on a daily basis providing advice and assistance to insure consistency in treatment of individuals and reduce the potential for state liability.

As government attorneys, assistant attorneys general will often have other advantages. In dealing with foreign judgments, those in other states, the attorney general's office in that state will often assist Alaska with its collection activities, making the hiring of local outside counsel unnecessary. Sheriff's departments have been known to serve debtors without charge because we are a government agency. These interstate networks developed by having in-house, agency attorneys are invaluable. And in-house attorneys are motivated to resolve cases, not by fees. Their salaries remain the same, no matter how many hours they bill.

Collections unit:

- *Background*

The Collections unit was formed in response to legislative intent language in the FY88 budget. The legislature requested the Department of Law and the Alaska Court System establish a system for collecting unpaid court fines. The language

directed the two agencies to consider all alternatives in developing a plan, including contracting out the service.

The response of the Department of Law was: "In view of the variety of collections to be handled, and the requirement for in-depth knowledge of the many state administrative processes involved, it is the department's recommendation that these collections can be accomplished more effectively in-house. Similar Department of Law collections efforts for certain revolving loan programs, such as the Division of Investments and the Agricultural Revolving Loan Fund, have proven both cost efficient and effective."

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Public Defender on cost of appointed counsel payments, and the Department of Corrections on payments toward cost of incarceration.

The automation of the process saves a considerable amount of time and money. For example, when dividend seizure time arrives, the database is used to generate a list of debts for each of four judgment types for every one of the 66 state courts.¹ Each of the 264 lists includes a Writ of Execution for all debts on the list. Because of the number of cases involved and the time limitations inherent in seizing dividends, this process would not be possible without the database.

The table below lists the revenue generated by the Collections unit, in thousands, for each of the past three fiscal years:

	FY97	FY98	FY99
Criminal fines ²	\$790.8	\$999.1	\$1,330.0
Cost of counsel	\$661.3	\$751.8	\$888.9
Cost of incarceration	\$767.9	\$624.3	\$741.6
Civil judgments ³	\$12.0	\$18.4	\$49.2
Unposted collections ⁴	\$46.5	\$76.3	\$101.4
Total	\$2,278.5	\$2,469.9	\$3,111.1

Actual expenditures to pay for the unit were \$198.0 in FY97, \$206.7 in FY98, and \$210.3 in FY99. The average return over the three-year period was almost \$13 for each dollar spent, or average costs were just 8 percent of the total revenues generated by the unit.⁵

As the table above illustrates, criminal fines, cost of appointed counsel, and cost of incarceration represent the bulk of the funds collected by the unit. Between 80 and 90 percent of the amount collected each year comes from PFD attachments, and the remainder from voluntary payments. By definition, people

¹The four judgment types include cost of appointed counsel, cost of incarceration, fines established by statute, and forfeited bonds. Sorting by judgment type is necessary because AS 43.23.065 prioritizes the order in which a dividend may be seized, i.e., child support obligations and monies owed to the IRS take precedence over other types of debt, and criminal fines have a higher priority than cost of appointed counsel.

² Includes collection of forfeited bonds.

³ Includes collection of OSHA and APOC penalties.

⁴ Payments received during a fiscal year, which cannot be posted to an individual's case before the year changes. For example, if a voluntary payment is made before a judgment is received from the court, the payment cannot be posted to a case. These are reconciled during subsequent years, but recorded as miscellaneous in the year payment was made to avoid duplicate income reporting.

⁵ The amount collected from year to year varies depending on a number of factors including: number of judgments transferred by the court system, number and value of voluntary payments, size of the Permanent Fund Dividend, number of defendants who apply for a dividend, number of defendants who are eligible for the dividend (while incarcerated, felons are not eligible), other money owed with a higher statutory authority for dividend seizure (child support, IRS taxes).

receiving court appointed counsel are indigent. And if an individual is in jail, they are not making a large salary, and may have other higher priority obligations as well, such as child support or restitution. If they are incarcerated for a felony conviction, they will not be getting a dividend to garnish until release. This is generally not a population with a lot of funds at their disposal, and we expect PFDs will continue to be the source of most of the collection revenue generated.

In conclusion, the Department of Law does a cost-effective and efficient job of handling thousands of collections matters for the state in a wide variety of areas. We think it unlikely a private firm would be willing to handle this service for the state at less cost.

MEMORANDUM**State of Alaska
Department of Military & Veterans' Affairs**

To: Annette Deal
Legislative Privatization Committee

From: Jim Chase
Deputy Commissioner

Date: December 1, 1999

Phone: 428 6854

E-Mail: <jim_chase@ak-prepared.com>

Subject: Follow-up

Attached is a status data page for the Alaska Military Youth Academy (AMYA). From this you can obtain the historical and projected per graduate cost from the beginning of the program through the classes of SFY2000.

The following is a quote from Governor Knowles during one of his 'state of the children' speeches. "...it costs an average of just over \$60,000 for a young person to be placed in Alaska's Youth Corrections facilities. According to 1996 statistics from the Alaska Department of Corrections, it costs about \$30,000 to \$55,000 a year to keep an adult in prison in Alaska." The message which is relevant to the AMYA is that the state gets a predictable return-on-investment. The monies spent on youth and adult corrections cannot be considered an investment for which you can reap a positive return.

The AMYA has a Memorandum of Agreement (MOA) with the Cook Inlet Native Association for their support of any Alaska Native cadet. We have not explored the capability of the Bureau of Indian Affairs (BIA) to support the AMYA program since the basic funding comes from federal sources that require a state match. Should the BIA have funds, we first would require state authorization to receive the funds and secondly also be liable for providing a state match. These are two issues that would be counterproductive considering the effort which would have to be expended.

I have enclosed Chapter 5 of Alaska Statute Section 26 that speaks to the Military Code of Alaska. In it is described the Alaska National Guard, the Alaska Naval Militia and the Alaska State Militia, (aka the Alaska State Defense Force, (ASDF)) The language throughout this chapter is confusing to say the least. The department is proposing clarifying legislation this session. The department has historically supported the ASDF with an internal annual budget allocation of \$25,000. This meager amount supports the 'housekeeping' needs of the force.

Some of their most memorable response efforts in the last few years are:

1. The Miller's Reach Fire.
2. The Western Alaska Fisheries Disaster.
3. The Turnagain Pass Snowmobile Disaster.

The ASDF have recently been trained and are ready for a possible stand-up should the Y2K issue turn into a disaster situation.

Alaska Military Youth Academy

Report on Graduate Compliance and Stipend payments:

In classes 94-2 through 97-1, Cadets received, before graduation, a stipend letter stating very clearly the criteria for being eligible to receive the Stipend. The requirements were simple but direct and stated that the cadet must comply in the following three areas:

- 1) The Cadet must work or be in school full time
- 2) The Cadet must have weekly contact with their mentor
- 3) The Cadet must send in a Post-Residential Quarterly Report

The class of 94-2 averaged 79.5% compliance

The class of 95-1 averaged 82.0% compliance

The class of 95-2 averaged 86.5% compliance

The class of 96-1 averaged 90.0% compliance

The class of 96-2 averaged 85.0% compliance

The Stipend for these classes was \$2,200

The class of 97-1 averaged 82.0% compliance (with a \$1,200 stipend)

The class of 98-1 is averaging 81% compliance (no stipend letters were provided)

The class of 98-2 is averaging 70% compliance (no stipend letters were provided)

The class of 99-1 is averaging 90.5% compliance (\$2,200 stipend letters were provided)

The class of 99-2 just graduated in Sep 99 (\$2,200 stipend letters were provided)

Graduation statistics: State Fiscal Year - Cost:

Class 94-1: 43 graduates	SFY94 - \$1,560.7 (\$36,295 per graduate)
Class 94-2: 43 graduates	
Class 95-1: 49 graduates	SFY95 - \$2,456.6 (\$26,695 per graduate)
Class 95-2: 63 graduates	
Class 96-1: 76 graduates	SFY96 - \$2,755.8 (\$19,820 per graduate)
Class 96-2: 62 graduates	
Class 97-1: 72 graduates	SFY97 - \$3,052.6 (\$22,776 per graduate)
Class 98-1: 55 graduates	
Class 98-2: 81 graduates	SFY98 - \$3,188.4 (\$23,441 per graduate)
Class 99-1: 84 graduates	
Class 99-2: 91 graduates	SFY99 - \$3,758.5 (\$21,474 per graduate)
Total 719 graduates	

Projected for SFY2000

Class 99-3: 122 graduates

Class 00-1: 100 graduates SFY00 - \$4,336.3 (\$19,531 per graduate)

Note:

The \$2,200 post-graduation stipends are paid as follows:

- \$700 is paid at graduation
- \$750 is paid six months after graduation based on compliance
- \$750 is paid after 12 months and satisfactory compliance with the requirements

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§ 26.05.010

MILITARY AFFAIRS AND VETERANS

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Chapter 05. Military Code of Alaska.

Section

- 10. Alaska militia established
- 20. Exemption from military service
- 30. Composition of organized militia
- 50. Authority for organization
- 60. Control of Alaska National Guard and Alaska Naval Militia
- 70. Governor may order organized militia into active service
- 75. Reemployment rights of the organized militia
- 80. Decision of governor final
- 90. Proclamations of martial law
- 100. State militia
- 110. Governor may order unorganized militia into active service
- 120. Penalty for failure to obey call
- 130. Penalty for physician making false certificate
- 135. Suspension of enforcement of civil liabilities
- 140. Suits against officers and enlisted persons
- 150. Not liable for exercise of judgment
- 160. Appointment, qualifications, and duties of adjutant general
- 170. Governor's command and instructions exercised through the adjutant general
- 180. Headquarters staff of Alaska National Guard
- 190. Administration
- 200. Officers' qualifications, appointment and tenure
- 210. Removal of officers
- 220. Retired list
- 222. Creation and administration of Alaska National Guard and Alaska Naval Militia retirement system

Section

- 223. Commencement of participation in system
- 234. Retirement benefits
- 235. Earlier service
- 236. Contributions
- 238. Accounting and investment
- 239. Definitions
- 250. Armories, training sites, and maintenance facilities
- 253. Active duty training sites
- 240. Enlisted persons
- 250. Discharges
- 260. Pay and allowances
- 265. Reenlistment bonus
- 270. Payment of military claims
- 280. Transportation, subsistence, and supplies
- 290. Further equipment and armories
- 295. Educational assistance for enlisted personnel
- 296. Tuition assistance
- 298. Definition for AS 26.05.295 and 26.05.296
- 300. Statement of policy on military justice
- 310. Military courts for the Alaska militia
- 320. General court-martial
- 322. Special court-martial
- 324. Summary court-martial
- 326. Appeal from court-martial convictions
- 330. Expenses of military courts
- 340. Miscellaneous provisions
- 350. Short title

Sec. 26.05.010. Alaska militia established. (a) The militia of the state consists of all able-bodied citizens of the United States and all other able-bodied persons who have declared their intention to become citizens of the United States, who reside in the state, who are at least 17 years of age, and who are eligible for military service under the laws of the United States or this state.

(b) The militia is divided into two classes:

- (1) the organized militia, consisting of the Alaska National Guard, the Alaska Naval Militia, and the Alaska State Militia, and
- (2) the unorganized militia, consisting of all qualified persons available for service but not serving in the organized militia.

(c) The adjutant general may, by regulation, prescribe the maximum age for eligibility in the militia. (§ 2 ch 160 SLA 1955; am § 1 ch 44 SLA 1968; am § 1 ch 141 SLA 1972; am § 1 ch 5 SLA 1987)

NOTES TO DECISIONS

Use of National Guard to execute search warrant. — Under Alaska Const., art. III, § 19, the governor is authorized to use of National Guard to execute the laws, and there is no provision of this

chapter that prohibited the use of National Guard soldiers to execute search warrants. *Wallace v. State*, 928 P2d 1157 (Alaska Ct. App. 1997).

Collateral references. — 53 Am. Jur. 2d, Military, and Civil Defense, § 1 et seq.; 54 Am. Jur. 2d, Military, and Civil Defense, § 149 et seq.
57 C.J.S., Militia, § 1 et seq.

Validity and construction of state statutes requiring employers to compensate employees for absences occasioned by military service. § ALR4th 704.

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Sec. 26.05.020. Exe militia service: persons the state, and member

Sec. 26.05.030. Cor consists of

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Sec. 26.05.050. A may organize units tion of at least two s northern Arctic regi States Department

Sec. 26.05.060. (The governor as ex Alaska National Gu. service. The governc U.S.C. 473 — 479. E Guard and the Alas regulations relating territories and of th

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MILITARY CODE OF ALASKA

§ 26.05.060

Sec. 26.05.020. Exemption from military service. The following are exempt from militia service: persons exempt by the laws of the United States, judges of the courts of the state, and members and officers of the state legislature. (§ 3 ch 150 SLA 1955)

Sec. 26.05.030. Composition of organized militia. (a) The Alaska National Guard consists of

(1) members of the militia who have voluntarily enlisted and who, upon original enlistment, are organized, armed, equipped, and federally recognized according to the laws of the United States; and

(2) commissioned officers and warrant officers who are citizens of the United States, having the qualifications prescribed by federal law and regulations, and who are appointed and commissioned or warranted by the governor.

(b) Former members of the regular Army, Navy or Marine Corps under 64 years of age may enlist in the Alaska Militia.

(c) The Alaska Naval Militia consists of units authorized by the governor, organized, equipped, trained, and administered as prescribed by state and federal law and regulation, and manned by personnel who are

(1) members of the United States Naval Reserve or the United States Marine Corps Reserve and

(2) enlisted, appointed, commissioned, or warranted under the laws and regulations of the United States.

(d) The Alaska State Militia consists of units authorized by the governor, and manned by volunteer personnel qualifying under state law and regulation. All State Militia personnel shall be

(1) appointed, commissioned, or warranted, and assigned by the governor or the adjutant general as the governor's designee;

(2) subject to serve on state active duty at the call and by order of the governor

(e) *[Repealed, § 102 ch 127 SLA 1974.]* (§ 4 ch 150 SLA 1955; am § 2 ch 44 SLA 1968; am § 13 ch 141 SLA 1972; am § 102 ch 127 SLA 1974)

Sec. 26.05.040. Ratification and confirmation of existing military forces. *[Repealed, § 38 ch 30 SLA 1992.]*

Sec. 26.05.050. Authority for organization. The governor as commander in chief may organize units in communities so requesting and specifically provide for organization of at least two scout battalions in the western and northwestern coastal areas and northern Arctic regions of the state, in accordance with special authority of the United States Department of Defense. (§ 6 ch 150 SLA 1955)

Sec. 26.05.060. Control of Alaska National Guard and Alaska Naval Militia. The governor as ex officio commander of the militia of the state has command of the Alaska National Guard and the Alaska Naval Militia while they are not in active federal service. The governor may adopt necessary regulations for them not inconsistent with 48 U.S.C. 473 — 479. Except as otherwise prescribed by those sections, the Alaska National Guard and the Alaska Naval Militia and their members are subject to all federal laws and regulations relating to the National Guard and Naval Militia of the several states and territories and of the United States. (§ 7 ch 150 SLA 1955; am § 1 ch 34 SLA 1973)

Editor's notes. — With regard to 48 U.S.C. 473 — 479, cited in this section, page 11732 of the 1970 edition of the United States Code contains the following: "Sections 21 — 408f of this title, applicable to the Territory of Alaska, are omitted from this title since the scope of this title limits it to general and permanent laws applicable to Territories and Insular Po-

sessions, and Alaska was admitted into the Union as a State on January 3, 1959. See the notes following the heading of this chapter.

"Many of the provisions encompassed by former sections 21 — 408f of this title were enacted by the Legislature of the State of Alaska on February 19, 1963, as part of the Alaska Statutes."

NOTES TO DECISIONS

Application of federal law. — In the absence of any supplementary regulation pursuant to this section or AS 26.05.040, the state has adopted federal law and regulation for administering and managing full-time National Guard personnel; therefore, a member

who was involuntarily terminated was not entitled to the protections of the Alaska Personnel Act. State, Dep't of Military & Veterans Affairs v. Bowen, 963 P.2d 888 (Alaska 1998).

Sec. 26.05.070. Governor may order organized militia into active service. In the event of war, disaster, insurrection, rebellion, tumult, catastrophe, invasion, or riot; or if a mob or body of men act together by force with intent to commit a felony or to offer violence to persons or property, or by force and violence to break and resist the laws of the state, or the United States; or in the case of imminent danger of the occurrence of any of these events; or whenever responsible civil authorities fail to preserve law and order, or protect life and property, or the governor believes that failure is imminent, the governor may order the organized militia or any part of it, into active state service to execute the laws and to perform duties in connection with them that the governor considers proper. Whenever any portion of the militia is ordered into active service by the governor, it becomes an additional police force, retaining its separate entity and operating at all times as a military organization under military command, with power to cooperate with but not to supersede the existing civilian law enforcement officers whenever possible, for the re-establishment of law and order and for the protection of life and property. The governor may also order members of the organized militia to active state service, with their consent, for the purpose of training or for full-time duty with the office of the adjutant general. (§ 8 ch 150 SLA 1955)

Sec. 26.05.075. Reemployment rights of the organized militia. (a) An employer shall grant to an employee who is a member of the organized militia a leave of absence to perform active state service under AS 26.05.070.

(b) When an employee is released from a period of active state service under AS 26.05.070 or discharged from hospitalization that arose from active state service, the employee is entitled to return to the employee's former position, or a comparable position, at the pay, seniority, and benefit level the employee would have had if the employee had not been absent as a result of active state service. An employee, other than an employee who has been hospitalized, shall report for work at the beginning of the workday following the last calendar day necessary to travel from the site of active state service to the employee's work site. An employee who has been hospitalized shall report for work at the beginning of the workday following the last calendar day necessary to travel from the hospital or place of recuperation to the employee's work site. If the employee fails to return to work at that time, the employer may impose whatever discipline is provided by the employer's rules of conduct for unexcused absence from work.

(c) If an employee is not qualified to perform the duties of the employee's position as a result of permanent disability sustained because of the employee's active state service but is qualified to perform the duties of another position with the employer, the employer shall offer an employee who requests reemployment the available, vacant position that most closely approximates the pay and benefits of the employee's previous position and that the employee is qualified for and capable of performing. An employee loses the right to reemployment under this subsection unless the employee requests reemployment within 30 days after receiving a statement from the employee's treating physician indicating both that the employee has reached maximum recovery and that the employee is released to return to full-time work.

(d) For employees other than state employees, the Department of Labor shall enforce this section by appropriate regulations. For state employees, the division of personnel in the Department of Administration shall enforce this section. Regulations adopted under

this section may provide employees other than as be handled under AS 44 made to the personnel b grievances.

(e) Notwithstanding an action in superior es of Labor, or, in the case The action must be bro

(f) A collective barga of this Act may not con

(g) This section does reinstatement of state. 1990)

Sec. 26.05.080. De-ordered to duty by the ch 150 SLA 1955)

Sec. 26.05.090. Pr law when the public as and may order all or a the proclamation. Th specified by the goveri be assumed in order t law may not continue members of the legial 1968)

Legislative history re 46, SLA 1968 (HCSB 246 p. 422.

Sec. 26.05.100. St enlistments under re; the governor. During Militia, or any part federal service, or the its state mission, the § 1 ch 159 SLA 1966

Sec. 26.05.110. G In the event of immi in AS 26.05.070, if organized militia or i order the unorganize and have them per circumstances requi

Sec. 26.05.120. I ordered into active s time and place and i is guilty of desertion member produces a