

SCOMM

#51:3

BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT
State Capitol, Juneau, Alaska
December 4, 1980

MINUTES

Senator Ray, chairman, called the meeting to order at 10:00 a.m. and asked commission members to consider the draft bill limiting the adjustment of retirement benefits. Paddy Moriarty asked why, in subsections (b)(1) of the first two sections of the bill, the date set was after the incorrect benefit was first paid rather than after the individual had retired from state employment. It was pointed out that the purpose of the bill is to set a statute of limitations and that beginning to run the period from the first incorrect payment was a reasonable decision.

Bruce Cummings pointed out that the Public Employment Retirement System board presently has an appeals procedure to consider cases in which overpayments have been alleged by the Division of Retirement and Benefits and the retired person has difficulty in repaying the amount. However, an individual can knowingly allow an overpayment to be made, and in those cases it would be appropriate for the state to seek to recover the amount overpaid. The review system of the PERS board would permit this but the proposed bill would not.

Senator Ray asked how the state should handle the situation in which an employee retires after having received written computations from the division setting out his years of credited service and the amount of benefits to which he will be entitled and later is told that the figures were incorrectly calculated. Therefore, the amount of his benefits will be reduced. Senator Ray asked whether it would be fair to require the state to rehire the retired employee in the job from which he retired. The retired employee would then have an opportunity to earn the credits which he was initially informed he had.

Bruce Cummings suggested that this would injure the employee who had replaced the retiree on the job. The new employee might have resigned from a job to accept the new position and giving the retired person back his old job would mean injuring the new worker. Some other system for addressing the problem should be developed.

Fred Muller asked what the frequency of error in the computations of length of service credits is. Lois Jund explained that a number of cases had arisen at the same time several years ago when the Division of Retirement and Benefits performed a wholesale audit of the retirement system and discovered a number of errors. Many of the cases which were raised involved overpayments of from \$1000 to \$5000. It was often very difficult for the retired person to repay this large an amount. Mr. Muller asked whether any of the commission members knew how many state

employees retire expecting to be eligible to receive retirement benefits and then discover that an error has been made and that they are not eligible for any benefit at all.

Paddy Moriarty replied that the Ombudsman's office has received information of several cases in which people wrote to the Division asking for a computation of their creditable service. They received a written response and then retired. Later the division reviewed their file and disallowed some portion of the service which had been previously included in the computation. Bill Huston added that some of the computation errors occur because of statutory changes. The formulas for computing creditable service are complicated so that an employee cannot simply add up the number of months he has worked for the state and know the length of creditable service or the retirement benefits he will be entitled to.

Bruce Cummings suggested that there are two possible solutions to the problem which the commission is considering. The state could offer assistance to those whose creditable service has been erroneously computed in returning to work, as has been done for Julie Issac. In addition, the PERS board has the authority to waive recoupment of overpayments in cases of hardship. Senator Ray pointed out that in Mrs. Issac's case, the appeal to the board took 2-1/2 years to reach a decision and that her petition was denied because her husband's resources were considered in evaluating whether collecting the overpayment would be a hardship to her. On that information, the board found that it would not be a hardship if she were required to repay the money to the state. The issue was finally satisfactorily resolved through the efforts of the Governor's Office and the Attorney General.

Senator Ray asked whether there was any objection to adding a statute of limitations to the adjustment provisions of the retirement benefit law. Fred Muller suggested that it would be appropriate to require that the larger cases of overpayments be reviewed by the PERS board rather than automatically waiving any recoupment. He suggested that the statute of limitations should not apply to those cases in which the overpayment had been more than 10 per cent of the monthly benefit to which the retired person was correctly entitled. Senator Ray asked whether there was consensus on Mr. Muller's proposal. There was no objection.

The commission then considered the draft bill relating to the nepotism in state employment. Terry Cramer, the administrative assistant to the commission, explained that this bill was an attempt to place the provisions of the Personnel Rules prohibiting nepotism into statutory form. The drafter changed the language of the Personnel Rule, which uses the term "appointing authority" and instead used the term "person making the appointment" in the draft.

Darlene Livermore stated that the Alaska Public Employees Association has three concerns about the proposed bill. The current statute prohibits employment of persons related to the commissioner of the department. The intent of the legislature was therefore probably to

discourage political patronage in the state employment. The Personnel Rules probably were drafted with the same theory as their basis. Recently in the Civil Service Reform Act of 1978, the federal government repealed a 90-year old nepotism law which had a general application. Congress retained prohibitions against abuse of power by elected officials, aiming again at political patronage. Secondly, Ms. Livermore raised the issue of whether the present draft is in opposition to laws protecting certain classes of people from employment discrimination, particularly, from discrimination based on marital status or change in marital status. The third issue which APEA is concerned about is access to employment. Unlike most locations in the Lower 48, there are a number of communities in Alaska which have only a few major employers. For example, in Valdez there are two -- the division of highways and the division of mental health. Both to provide employment opportunities for the people living in those communities and to provide a pool of employees for the state, the nepotism laws should not be unnecessarily stringent.

Bruce Cummings said that he did not disagree with the points which APEA was raising and that the provision of the Personnel Rules gives the director of the division of personnel authority to waive enforcement of the rule. He added that could not recall an instance in which he had refused to waive enforcement of the rule. However, it is appropriate to have each case of employment of close relatives considered in order to prevent abuse.

Ms. Livermore explained that she did not object to the present situation in which the statute addressed nepotism at the commissioner level and the Rules had broader application, but that putting the provisions of the Rules into the statutes would provide the courts with a greater opportunity for review and limitation. Mr. Cummings explained that the Attorney General has advised the division that the scope of the rule is broader than the rule-making authority granted by the statute. Therefore, enforcement of the rule could probably not be defended successfully in court.

Representative Fuller asked whether there were regulations for elected officials. Senator Ray replied that the State Personnel Act applies only to the executive branch of government. Representative Eliason asked whether nepotism was a lively issue. Mr. Cummings answered that there are some communities in the state in which there has been considerable public interest in the question. Senator Ray asked whether there were any objections to the commission sponsoring a bill which would put the language of the Personnel Rules into the statutes. Darlene Livermore registered APEA's objection.

The commission next considered the draft to require that the regulations adopted by the retirement board be subject to the Administrative Procedure Act. Members commented that the draft did not follow the instructions which the commission had given the drafter and decided to defer consideration of the subject until a redraft was available.

The commission considered the draft bill relating to membership of the Public Employees Retirement Board. Lois Jund suggested that the draft be amended to require that of the four members elected by the members of the retirement system, at least one must be a retired person. The amendment was adopted without objection.

The commission turned to the redraft of the State Personnel Act amendments. Several problems were noted and Senator Ray asked Jack Chenoweth, from the Legal Services Division of the Legislative Affairs Agency to meet with the commission. After reviewing the second draft of the State Personnel Act with Mr. Chenoweth, the commission discussed with him the amendments to the draft limiting adjustments to retirement benefits which had been agreed upon earlier in the meeting.

Terry Cramer advised the commission members of a telephone call from Grace Kack. Ms. Kack is concerned that individuals applying for state positions must be re-examined every two years in order to stay on the register for a job class. Ms. Kack was not concerned on her own behalf, since she is presently employed by the state, but she felt that the requirement was unfair for those who were not presently employed.

Ms. Cramer also advised the commission that several responses had been received from agencies whose employees were placed in the exempt and partially exempt services concerning whether those employees should remain in their present status or should be transferred to the classified service.

Senator Ray stated that the commission would meet to review redrafts of all of the bills probably at the end of December.

Senator Ray adjourned the meeting at 11:45 a.m.

MEMBERS IN ATTENDANCE

Senator Bill Ray, Chairman
Bruce Cummings
Representative Dick Eliason
Representative Jack Fuller
Lois Jund
Lynda McCurry
Fred Muller
Bill Huston
Paddy Moriarty
Robert Maurant
Darlene Livermore

OTHERS IN ATTENDANCE

Roger Thayer

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BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT
State Capitol, Juneau
October 29-30, 1980

MINUTES

The meeting was called to order at 10:00 a.m., by the Chairman, Senator Bill Ray.

John Williams, Commissioner of the Commercial Fisheries Entry Commission, testified in response to the Blue Ribbon Commission's request for information concerning whether his employees should be in the exempt service or would more appropriately be placed in the partially exempt or classified service. Mr. Williams stated that the limited entry commission is a quasi-judicial, independent regulatory body which is granted special status by the Alaska Statutes. According to an Attorney General's opinion, prepared for the Alaska Oil and Gas Conservation Commission, it is appropriate for commissions of this type to remain independent from the executive branch. Therefore, Mr. Williams believes that employees of the commission are most appropriately left in the exempt service. Placing them in the partially exempt or classified service would subject them, and the commission as their employer, to inappropriate regulation by the executive branch.

Mr. Williams stated that the commission had conducted a poll of its employees to learn what their wishes were. Of the 29 employees, 25 participated. Each of the staff was provided with a copy of the State Personnel Act prior to the poll being taken. Every effort was made to insure that the poll was secret. Of those voting, 21 favored remaining in the exempt service and four favored moving to the partially exempt service. None wished to be placed in the classified service.

Mr. Williams added the commission has chosen to follow the practices which the Personnel Rules set out for partially exempt employees.

Greg O'Claray addressed the question which the commission had posed at its last meeting about why the vessel employees of the Marine Highway System are placed in the exempt service. He provided the members with a letter explaining his reasons.

The vessels are, by federal law, under the jurisdiction of the United States Coast Guard for the safe operation, navigation, staffing and examination, and certification of personnel. These federal regulations cover employment rights, health, safety and other conditions of employment of the seamen as well as making requirements concerning the number of qualified personnel who must be on board before the vessel can sail. In addition, employees recruited from the Maritime Unions are covered by

private Taft-Hartley health and welfare and retirement trusts and would not automatically participate in the state retirement system or in its other benefit coverage without considerable loss of benefits. For Merchant Seamen, engineers and mates recruited from the private sector, the state's wage classification system would not provide a competitive salary. Therefore, the state decided at the inception of its involvement in the marine transportation enterprise, that the employees should be exempt from the State Personnel Act. None of these reasons has changed and therefore Mr. O'Claray recommends that the Marine Transportation System employees remain in the exempt service.

Roger Thayer added that the ferry system receives approximately 1200 applications a year. They must be submitted to the department between February 1st and March 10th. The personnel office ranks them based on training and education, and shoreside and maritime experience. Grades range from 70 points for a person without a high school diploma and with no relevant work experience to 110, for someone with the previous shipboard experience in a field directly related to steward's tasks who also holds a Coast Guard license for lifeboatman. Hiring is usually done by late April. This system was developed as a resolution to EEO complaints claiming that the ferry system discriminated against women and minority applicants. Most positions which are above the entry level are filled by promotion.

Senator Ray raised the question of the membership of the Public Employment Retirement System board. The statutes presently require that the three members of the Personnel Board sit on the PERS board as well as on the Labor Relations Agency. He asked whether any of the commission members believed that the overlap in membership was important. Cherie Shelley pointed out that as a result of recent legislation, the PERS board is now responsible for decisions concerning the Alaska Supplemental Benefits program and the Deferred Compensation program, in addition to the retirement program. Therefore, their duties have significantly increased. It makes sense to limit the demands on the time of those board members, who are all volunteers. Without objection the commission agreed to draft a bill to change the membership of the Retirement Board. Two alternatives were proposed: to eliminate the members of the Personnel Board from membership on the PERS board and replace them with one member appointed by the Governor and two members elected from the retirement system; and to increase the size of the PERS board while leaving the members of the Personnel Board on it.

The commission reviewed the memorandum on employee service credits and then recessed for lunch.

The meeting reconvened at 1:30 p.m. Eric Yould, Executive Director of the Alaska Power Authority, addressed the members on the question of why the power authority employees are in the exempt service. Of the 16 employees, 14 have college degrees. He believes that they should remain in the exempt service. The Authority would have difficulty meeting its deadlines if it had to go through the red tape of hiring

employees through the classified system.

The Alaska Power Authority was structured by the Legislature to permit it to become similar to a public utility district which is a form prevalent in the lower 48. Mr. Yould was concerned that changes which might be made in the structure of the Authority now would foreclose flexibility in the future when the Authority has developed to the extent anticipated by the legislature. He wanted to preserve those options for future employees. It is anticipated that there will be power plant operators, linemen and so on, once the structures are in operation.

In answer to a question from Darlene Livermore, Mr. Yould explained that although most of the employees have degrees, they perform general professional kinds of duties rather than highly-technical tasks. Mr. Yould added that he is not opposed to union membership for the clerical employees of the Authority.

The commission began its discussion of the review on the State Personnel Act. See attached comments and recommendations.

Fred Cook, personnel officer for the Department of Fish and Game, addressed the commission about a number of his concerns. The Personnel Division has been receiving a large number of applications for the positions available, especially for permanent seasonal positions. Changing from hiring temporary employees to hiring permanent seasonal employees has increased the Department's recruiting expenses from \$8,000 - \$57,000 this past year. Contacting the applicants through phone calls and telegrams has been difficult because frequently people do not reply. Therefore, the department continues to send them telegrams or to call them for other positions. He knows of one gentleman who received approximately 30 telegrams and didn't answer any of them.

Many applicants state they will accept employment anywhere in the State, but when the department contacts them, they say that they are not interested in going to such and such place. Mr. Cook suggests that if anyone rejects a job offer, he be removed from the state register at once. The application form should specify four regions of Alaska (such as Southcentral, Southeast, Central and West) to narrow down areas in which the applicant says he will work. It would speed up the process for his people and also would save the department a tremendous amount of money. He figures that the department, as a whole, spends upwards of \$200,000 a year just in recruitment.

Another problem area is in insuring that applicants are Alaskan residents. No one verifies the information provided by the applicant.

The scoring of the applications is also a problem. There are approximately 100-200 applicants with the same score all ranking #1 on the register. He suggested a more sophisticated grading system to rank these applications so that the top group would have fewer applicants in it. The department then would have fewer people to consider when filling a position.

Mr. Cook also suggested changing the length of time for recruitment of bush positions. Presently it is 30 days. He would like it changed to 60 days to enable the recruiting people time to have applications corrected and the applicants time to get it done. He gave an example of a problem he had today. The department has a Fish & Game Resource Specialist II position, at range 16, open and there's an Alaska Native in Angoon that they would like to hire. They want a bilingual person. The applicant forgot to sign his application. In order to meet the application deadline, Mr. Cook had to contact him, which took five telephone calls to Angoon, take the application out to Channel Flying and instruct the pilot on what needed to be done, fly the application to Angoon for the gentleman's signature and have it returned by 3:00 p.m. that afternoon. He estimates that particular problem costs his department \$200.

Jerry Reinwand, Executive Assistant to Governor Hammond, addressed the commission at its request. He explained that the Governor's Office is in the process of reviewing the separate agencies which are located within it to decide whether they should remain as part of the Office or whether it would be more appropriate to attach them to one of the departments. There are questions which make the decision difficult in some cases. For example, the Human Rights Commission should avoid even the appearance of being subject to political pressure, and therefore, it would appear to make sense that it be placed in one of the departments rather than the Governor's Office. However, it should also be insulated from the pressures of being a line agency within one department, and therefore, it may be inappropriate to place it in a department. Mr. Reinwand indicated that he has questions about whether the staff of the Division of Budget & Management and the Division of Policy Development & Planning and the Office of Internal Audit need to be in the partially exempt service. Since the review process has not been concluded, Mr. Reinwand suggested that the commission wait for its results as an expression of what the Governor recommends on the question of who needs to be in the exempt service.

The commission recessed at 3:20 p.m. until 10:00 a.m. Thursday, October 30.

Senator Ray, chairman, reconvened the meeting at 10:00 a.m. on October 30.

Kerry Romesburg, Executive Director of the Postsecondary Education Commission spoke in response to the commission's request.

The Postsecondary Education Commission has 30 permanent employees and adds four nonpermanent employees to its staff in the summer. He indicated that although the statutes place himself and the staff in the exempt service, in reality the commission uses the same pay scale as the classified service, the kinds of work which most of the employees do is similar to work done by classified employees and, except for hiring employees from the registers, the commission operates under most of the

procedures of the Personnel Rules. Of the 30 employees, 16 are loan repayment, awards and collection clerks. Three others are clerical employees, two are in the administrative assistant class and the remainder are professional employees. He added that as permanent exempt employees, the commission employees receive benefits as do permanent classified employees.

There being no more questions for Mr. Romesburg, he was thanked and excused.

John Pugh commented that it did not appear that the Post-secondary Education Commission needed to be in the exempt service. He recommended that if the Blue Ribbon Commission is going to clean up the State Personnel Act, that each of the boards and commissions which presently has its staff placed in the exempt or partially exempt service be carefully reviewed.

The commission then returned to reviewing the draft of the State Personnel Act. Comments and recommendations are attached.

Senator Ray stated that when a redraft of the Act is available the commission will meet again. Without objection, the meeting was adjourned at 11:30 a.m.

October 29, 1980

MEMBERS IN ATTENDANCE

Senator Bill Ray, Chairman
Diane DeSimone (for Bruce Cummings)
Bill Huston
Paddy Moriarty (for Frank Flavin)
Fred Muller
Greg O'Claray
John Pugh
Cherie Shelley
Roger Thayer (for Lynda McCurry)

OTHERS IN ATTENDANCE

Darlene Livermore
Bob Maurant

October 30, 1980

MEMBERS IN ATTENDANCE

Senator Bill Ray, Chairman
Diane DeSimone (for Bruce Cummings)
Bill Huston

Fred Muller

John Pugh
Cherie Shelley
Roger Thayer (for Lynda McCurry)

OTHERS IN ATTENDANCE

Darlene Livermore
Bob Maurant

A D D E N D U M

To the
MINUTES

October 29-30, 1980

COMMENTS AND RECOMMENDATIONS ON THE STATE PERSONNEL ACT

Page 2 AS 39.25.080. Public Records.
Line 7

Cherie Shelley was concerned that the Division of Labor Relations might use this section to assert that information APEA needed in preparing cases was confidential and could not be released. Senator Ray suggested adding For the purpose of this Act at the beginning of the sentence on Line 7.

In discussion of paragraphs (1)-(5) members noted that paragraph (1) provides for information on all state employees and that paragraph (2) provides for information about an individual employee. Members decided that the phrase state employee should be used rather than the phrase "state officer or employee".

Page 3 AS 39.25.110. Exempt Service.
Line 1

After discussing the standards proposed in subsection (a), the commission members decided to delete all of (a).

The commission will consider whether the employees of the agencies named in paragraphs (11) and (12) should remain in the exempt service after further testimony on the question.

A question was raised about the difference between the exempt and classified service. An employee in the exempt service is not hired from the register, does not get paid according to the pay plan, and can be fired at will. In the classified service there must be just cause before an employee can be fired.

Page 5 AS 39.25.120. Partially Exempt Service.
Line 23

Assistant Commissioners should be added to paragraph (1).

Page 6 Commission members asked why the state forester, hearing
Line 8, examiners in the Department of Revenue and the Chief of
23 & 27 Subsistence in the Department of Fish & Game should be in the

partially exempt service. The question will be considered later.

Page 6 Bob Mourant pointed out that there are airport managers for
Line 29 smaller airports who are not in the partially exempt service. Only
 the managers of the Anchorage and Fairbanks International Air-
 ports are partially exempt. Paragraph (16) should be changed
 to reflect this.

Page 7 The commission will consider in the future whether the
Line 2 deputy director of the division of tourism and the deputy
 director of the division of insurance should remain in the
 partially exempt service.

Page 8 AS 39.25.140. Amendment of Personnel Rules.
Line 5

 The question of the distinction between public policy and
 internal management was raised. Paddy Moriarty suggested that
 instead of the phrase "public policy", that the draft should
 say whether it affects the public or is used by an agency in
 dealing with the public. Senator Ray suggested looking at the
 language which was used in the Alcoholic Beverage Control Board
 bill last session to help clarify the distinction between public
 policy and internal management regulations. Cherie Shelley
 pointed out that many of the subjects covered in the Personnel
 Rules have been included in the collective bargaining agreements.
 Therefore changes in the Rules which are contrary to the
 substance of the contracts would have little practical effect.

Page 8 The commission decided that the Personnel Rules should be
Line 20 required to be published in the Alaska Administrative Register
 and Code and therefore that the word "may" in paragraph (4)
 should be changed to shall.

Page 8 AS 39.25.150. Scope of the Rules.
Line 27

 The commission decided that the Personnel Board should
 also approve the classification plan.

Page 9 Senator Ray suggested finding a clearer phrase than "sound
Line 18 employee selection methods" for this paragraph.

Page 11 After considerable discussion about the veteran's preference
Line 4 system, the commission decided not to amend this paragraph.
 Under the present system, a veteran receives the five additional
 points only on the applications he files before he is hired.
 Once he has accepted a position with the state, then any appli-
 cations for other positions which he has filed are rescored
 to remove the 5-point bonus.

Page 12 Senator Ray suggested investigating the definition which the
Line 7 director of the division of vocational rehabilitation uses in

determining whether a person is severely handicapped. It might be appropriate to include that definition in the State Personnel Act.

Page 12 In discussion of paragraph (23), the commission questioned the
Line 10 definition of programs and disadvantaged persons. Senator Ray suggested adding that the programs could not be against the standards of a merit system of employment.

Page 12 AS 39.25.153. Personnel Officers.
Line 18

Diana DeSimone pointed out that the Department of Law does not have a Personnel Officer so subsection (a) should be redrafted. It should read: If a principal department of the executive branch requires a personnel officer, then the personnel officer shall be permanently employed by and located within the department.

Page 12 She also suggested that the whole section be deleted since
Line 22 the director of the division of personnel has the authority under AS 39.25.150 to delegate authority for personnel actions to the personnel officers of the departments and since that authority has been delegated recently. Roger Thayer replied that the delegation is recent and that he would prefer to have some authorization for independent action by the personnel officers remain in the Act.

Page 12 The commission decided to delete the language authorizing
Line 22 the personnel officers to act contrary to the Personnel Rules so that subsection (j) begins with the phrase Subject to the provisions.

Page 13 The commission also decided to delete paragraph (4) which
Line 7 would have given the personnel officers authority to make rules concerning the methods and procedures for overtime work and pay.

Page 13 In order to provide for consistency in the personnel policies
Line 15 of the state, the commission decided to require that the commissioner of administration must approve the exercise of any powers under this section, rather than the commissioner of the department in which the employee worked.

Line 13 AS 39.25.160. Generally.
Line 17

After discussion of the meaning of "precinct level" the commission decided that the phrase should be defined in the State Personnel Act.

Page 13 To clarify subsection (b), Senator Ray recommended changing
Line 23 it to read: ... in connection with securing or making an appointment....

Page 13 Senator Ray recommended that subsection (c) be made to
Line 26 apply to all state employees rather than just those in the

classified service.

Page 14 The commission decided that protection against actions based
Line 6 on unlawful discrimination due to race, sex, color, religion,
 national origin, age or handicap should be extended to all
 state employees. Classified employees should be protected
 against discrimination based on political beliefs.

Page 14 Senator Ray recommended adding the word knowingly to the
Line 11 first line of subsection (g) so that it reads: A person may
 not knowingly make a false statement....

 Definitions should be included in the Act for "fraud" and
 for "knowingly".

Page 14 Subsection (h) should be changed to read: "...person may not
Line 16 unlawfully defeat, deceive, or obstruct....

Page 14 AS 39.25.170. Hearings and appeals upon dismissal, demotion, or
Line 27 suspension.

 The commission decided that all state employees should have
 the right to appeal actions based on unlawful discrimination.
 Subsection (c) should be redrafted to provide for this. Classified
 employees should have the right to appeal actions based on
 unlawful discrimination due to political beliefs.

Page 15 Subsection (d) was phrased unclearly. It should be
Line 2 redrafted to read:

 A permanent employee in the classified service who holds
 probationary status in his present position may appeal a
 dismissal from the classified service the Personnel Board.

Page 16 AS 39.25.185. Employment of Federal Employees.
Line 6

 The commission decided that this new section should be
 deleted.

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STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

February 6, 1980

BKC Meeting
10/29/80
JAY S. HAMMOND, GOVERNOR

POUCH K-STATE CAPITOL
JUNEAU, ALASKA 99811

Hoyle H. Hamilton, Chairman
Alaska Oil & Gas Conservation
Commission
3001 Porcupine Drive
Anchorage, Alaska 99501

Re: Commission's Place in State Government
and Status for Budget Purposes.
Our File: J-66-302-80

Dear Commissioner Hamilton:

You requested our opinion on the place that the Alaska Oil and Gas Conservation Commission (hereafter "the Commission") occupies in state government and the Commission's status for budget purposes. In early January, 1980, we gave you preliminary answers to your questions by telephone. This letter is to confirm the answers we gave you at that time.

I. The Commission's Place in State Government.

AS 31.05.005(a) states: "There is created as an independent quasi-judicial agency of the state the Alaska Oil and Gas Conservation Commission, composed of three commissioners appointed by the governor and confirmed by the legislature in joint session." The Commission came into existence on January 1, 1979, assuming the responsibilities and duties of the former Division of Oil and Gas Conservation in the Department of Natural Resources.

The question of the Commission's "place" in state government has two aspects. The first involves the

basic doctrine that governmental powers are separated into three branches: executive, legislative and judicial. The doctrine is recognized in Alaska as the Alaska Constitution provides for a legislature (art. II), executive (art. III) and judiciary (art. IV). See Bradner v. Hammond, 553 P.2d 1 (Alaska 1976) at pp. 5-6 and cases cited.

The Commission, however, cannot easily be "placed" in one of the three branches because it exercises all three types of power. AS 31.05.030(c) provides that "[t]he Commission shall adopt rules, regulations and orders and take other appropriate action to carry out the purposes of this chapter [AS 31.05]." Under its mandate to "adopt rules [and] regulations," the commission takes part "in the legislative function of enacting laws governing the people of the state." Alaska State-Operated School System v. Mueller, 536 P.2d 99, 103 (Alaska 1975). It also has been stated that conservation commission orders "are legislative in character." Cities Services Gas Co. v. Peerless Oil & Gas Co., 220 P.2d 279, 291 (Okla.), aff'd 340 U.S. 179 (1950). Also see California Co. v. State Oil & Gas Bd., 27 So.2d 542 (Miss. 1946). The Commission also acts in a judicial capacity. In addition to the jurisdiction and authority to adopt "orders" under AS 31.05.030(c), the Commission is designated a "quasi-judicial agency of the state" in AS 31.05.005(a), and is given the power to hold hearings, AS 31.05.060(a), and subpoena witnesses. AS

31.05.070. Finally, under AS 31.05.030(c)'s mandate to "take other appropriate action to carry out the purposes of [AS 31.05]," the Commission performs the executive branch function of executing and putting into operation and effect the laws relating to oil and gas conservation. Cf. Alaska State-Operated School System v. Mueller, supra (school system falls within executive branch because function is to execute or put into operation and effect laws relating to public education).

The Commission's blended power makes it impossible to classify the Commission as distinctly executive, legislative or judicial. The difficulty in classifying the Commission was pointed out by Mr. Justice Jackson of the United States Supreme Court, dissenting in FTC v. Ruberoid Co., 343 U.S. 470, 487-488 (1952), as follows:

[Regulatory agencies such as the Commission] have become a veritable fourth branch of the Government, which has deranged our three-branch legal theories as much as the concept of a fourth dimension unsettles our three-dimensional thinking. Courts have differed in assigning a place to the seemingly necessary bodies in our constitutional system. Administrative agencies have been called quasi-legislative, quasi-executive or quasi-judicial, as the occasion required, in order to validate their functions within the separation-of-powers scheme of the Constitution. The mere retreat to the qualifying "quasi" is implicit with confession that all recognized classifications have broken down, and "quasi" is a smooth cover which we draw over our confusion as we might use a counterpane to conceal a disordered bed.

Mr. Justice Jackson's "fourth branch of government" characterization clearly is a fiction, although it points out the difficulty of conceptually placing the Commissioner in one of these branches. However, in an administrative or bureaucratic sense, regulatory agencies like the Commission clearly are in the executive branch of government in Alaska. Ak. Const., art. III, §§ 22, 26. Many such agencies are explicitly created by the legislature in one of the principal executive departments. See e.g., AS 42.05.010 (Alaska Public Utilities Commission in Department of Commerce and Economic Development). On occasion, such placement is coupled with an express statement that the agency is independent from substantive control by that department. See e.g., AS 14.40.913(b) (Alaska Commission on Post Secondary Education in Department of Education for administrative support services but not subject to direction of commissioner or state Board of Education). Still others are merely established without express assignment to a principal department of the executive branch. See e.g., AS 16.43.020(a) (Alaska Commercial Fisheries Entry Commission ". . . is established . . . as a regulatory and quasi-judicial agency of the state").

However, regardless of a regulatory agency's placement in one of the principal executive branch departments, and regardless of any statutory statement of independence, such an agency is not under the supervision of the executive.

In Boehl v. Sabre Jet Room, Inc., 349 P.2d 585, 588 (Alaska 1960), the Alaska Supreme Court stated that in art. III, §§ 22-26, "provision is made for creation by the legislature of regulatory agencies that are not under the supervision of the executive." (Footnote omitted; emphasis added.) In that case, the court was discussing the Alcoholic Beverage Control Board, which "is established . . . within the Department of Revenue." AS 04.05.010(a).

There is no question regarding the Commission's independence, as AS 31.05.005(a) provides that the Commission "is created as an independent quasi-judicial agency of the state." (Emphasis added.) To ensure that the the Commission (assuming the duties of the former Division of Oil and Gas Conservation) no longer is considered a part of the Department of Natural Resources, the legislature expressly stated the relationship between the Commission and the Department of Natural Resources in AS 31.05.026. In subsections (a) and (b), that Department is given standing before the Commission, defined in AS 31.05.026(e) as "the same standing (no more or less) . . . as granted by law to any other proprietary interest." To ensure administrative independence from that Department, AS 31.05.026(d) provides:

For budget and audit procedures and considerations, the Commission shall have the same standing as any other major state agency. Whenever practicable the Commission may enter into state inter-agency agreements concerning administrative, employee relations, and fiscal duties.

Summarizing, it is our opinion that the Commission is an independent regulatory state agency in terms of its program responsibilities and activities. While it is not responsible to (nor the responsibility of) the governor, it is administratively (i.e., bureaucratically) a part of the executive (as opposed to the legislative or judicial) branch of government.

II. Commission's Status for Budget Purposes.

This brings us to the second half of your opinion request, a determination of the Commission's "status" for budget purposes. We understand your question relates particularly to the procedures which must be followed in presenting the Commission's budget to the legislature and in enabling the Commission to draw on any resultant appropriations, and specifically whether the Commission is entitled to its own separate budget code.

AS 31.05.026(d) gives an explicit answer to this question: "For budget and audit procedures and considerations, the Commission shall have the same standing as any other major state agency." While that is a concise answer, making it clear that the Commission is not to be relegated to the subordinate status of a mere division or subdivision of one of the principal executive branch departments for budget purposes, it does not describe with any particularity the

procedures which must be followed in establishing the Commission's budget, presenting it to the legislature, and drawing down any funds ultimately appropriated by the legislature to the Commission. The details of those procedures, as well as the bureaucratic responsibility for carrying them out, must be determined from other provisions of law.

Article IX, § 12 of the Alaska Constitution places responsibility on the governor to submit annually to the legislature "a budget for the next fiscal year setting forth all proposed expenditures and anticipated income of all departments, offices, and agencies of the State." (Emphasis added.) Implementing this section of the Constitution, AS 44.19.015 provides: "The governor shall direct the preparation and administration of the state budget." AS 37.07, the Executive Budget Act, establishes additional guidelines for preparation of the budget by the governor, and makes the Division of Budget and Management the state agency responsible for giving the governor and all state agencies the detailed assistance needed in preparing and submitting the annual budget. For example, AS 37.07.050(a) provides that each state agency, "on the date and in the form and content prescribed by the [D]ivision [of Budget and Management]," is to forward its proposed budget request and supporting documentation to that division and the Legislative Finance Division.

In preparing the budget, the governor has both constitutional and statutory power to organize his annual budget proposal in virtually any manner he chooses. Of course, the process does not end with submission of the annual budget. Article IX, § 13 of the Alaska Constitution provides in part: "No money shall be withdrawn from the treasury except in accordance with appropriations made by law." Statutory language implementing this constitutional provision establishes a budgetary system in which all appropriations are made by legislative act. AS 37.07.030, 37.07.070 and 37.07.100; see Municipality of Anchorage v. Frohne, 568 P.2d 3, 5 n. 5 (Alaska 1977). The legislature is not bound by the budget submitted by the governor; instead, "[t]he legislature shall consider the governor's proposed . . . programs and financial plans, evaluate alternatives to the plans, make program selections among the various alternatives and determine, subject to available revenues, the level of funding required to support authorized state services." AS 37.07.070 (in part).

Once the legislature has made an appropriation, each state agency has full authority to administer its program assignment and is responsible for its proper management "[e]xcept as limited by policy decisions of the governor, appropriations by the legislature, and other provisions of law." AS 37.07.080(a) (in part). The Division of Budget

and Management has general oversight responsibility for program execution. AS 37.07.080(b) - 37.07.080(f). The governor is empowered to direct the withholding or reduction of appropriations to a state agency only if he determines that (1) the planned expenditures cannot be made due to factors outside the control of the state, or (2) the state's estimated receipts will be insufficient to match the proposed expenditures. AS 37.07.080(g). However, the Department of Administration is responsible for all state accounting, including development of the accounting system, maintaining accounting records, etc. AS 37.05.130-37.05.150.

Nothing in AS 31.05 specifies the manner in which the Commission's budget request is to be presented to or acted on by the legislature, nor is any particular accounting or funding mechanism specified. In the absence of such specification and under AS 37.05.320(2) and 37.07.120(1), the provisions of AS 37.05 and AS 37.07 respectively appear to apply to the Commission. Accordingly, the provisions of AS 37.07 control the Commission's budget submission, in effect giving the Division of Budget and Management the power to include the Commission's budget request in the overall budget submitted by the governor in whatever fashion the division deems appropriate. Similarly, under AS 37.05, the Department of Administration has the power to establish whatever accounts it deems appropriate to enable the Commission to draw on appropriations made by the legislature to

Natural Resources would be inadvisable. */ The initial bill establishing the Commission, HB 830, stated explicitly that "[i]t is the intent of the legislature that the state's regulatory responsibilities and the exercise of its police powers with respect to oil and gas development be vested in an independent regulatory commission, and that the exercise of these powers be separated in fact and appearance from the exercise of the state's power as owner or proprietor of oil and gas resources." (Emphasis added.) While the bill as finally enacted did not include this statement of legislative intent, it is clear from the several statutory references to independence and the explicit delineation of the relationship between the Commission and the Department of Natural Resources that the earlier statement accurately reflects the legislative intent underlying AS 31.05.

The basic problem seems to be that, in your view at least, the Division of Budget and Management and the Department of Administration are not honoring the spirit of the statutory language regarding independence. From a purely legal standpoint, we do not believe that those agencies,

*/ We note that the Commission's budget request currently appears under the Department of Natural Resources cover program in the budget submitted by the Governor, HB556. By memo dated February 7, 1980 to Ron Lehr, we have suggested that an appropriate amendment be prepared to move the Commission's request out of the Department of Natural Resources program. It is our understanding that this will be done.

having statutory responsibility to make the very decisions you complain of, can legally be compelled to change those decisions. We can only suggest that, in the spirit of comity and cooperation, you work directly with the Division of Budget and Management and the Department of Administration to reach some accommodation.

In addition, we suggest that you make yourself available to the legislature during its deliberations on the budget. As indicated, the legislature may make whatever changes in the governor's proposed budget it considers necessary.

We hope we have addressed your concerns. An obvious problem is that there is no legal answer to what is, at bottom, a political question. While we share your concerns regarding the appearance of independence for reasons of our own, we do not believe the Division of Budget and Management and the governor can be compelled to submit a proposed budget to the legislature in a form different from the form which they have determined is appropriate. Similarly, we do not believe the Department of Administration can be legally compelled to establish any particular system of accounts. If there is a solution to the problems you perceive, it lies in negotiation between the Commission and the Division of Budget and Management and the Department of Administration.

Alaska Commercial Fisheries Entry Com'n — 10/29/80 meeting

§ 16.43.030

ALASKA STATUTES

§ 16.43.070

(b) The governor shall designate one member of the commission as chairman of the commission. The member designated shall serve as chairman for a term of two years, and may be designated chairman for successive two-year terms. (§ 1 ch 79 SLA 1973)

Sec. 16.43.030. Term of office; vacancy. (a) The members of the commission shall be appointed for terms of four years. Initial appointments shall be as follows: one member for two years, one member for three years, and one member for four years. The governor may remove a commissioner from office for cause including but not limited to incompetence, neglect of duty, or misconduct in office. A commissioner, to be removed for cause, shall be given a copy of the charges against him and afforded an opportunity to be publicly heard in person or by counsel in his own defense upon not less than 10 days notice. If a commissioner is removed for cause, the governor shall file with the lieutenant governor a complete statement of all charges made against the commissioner and his findings based on the charges, together with a complete record of the proceedings.

(b) A vacancy on the commission shall be filled by appointment by the governor and the appointment shall be confirmed by the legislature in joint session. A member selected to fill a vacancy shall hold office for the balance of the full term for which his predecessor on the commission was appointed.

(c) A vacancy on the commission does not impair the authority of a quorum of commissioners to exercise all the powers and perform all the duties of the commission. (§ 1 ch 79 SLA 1973)

Sec. 16.43.040. Quorum. Two members of the commission constitute a quorum for the transaction of business, for the performance of a duty or for the exercise of a power of the commission. (§ 1 ch 79 SLA 1973)

Sec. 16.43.050. Qualifications. The commission shall consist of three members with a broad range of professional experience, none of whom has a vested economic interest in an interim-use permit, entry permit, commercial fishing vessel or gear, or in any fishery resource processing or marketing business. (§ 1 ch 79 SLA 1973)

★ **Sec. 16.43.060. Compensation of members of the Alaska Commercial Fisheries Entry Commission.** Members of the commission are in the exempt service and shall receive an annual salary as established under AS 39.23 (§ 1 ch 79 SLA 1973; am § 5 ch 47 SLA 1974; am § 1 ch 148 SLA 1976; am § 2 ch 263 SLA 1976)

Effect of amendments. — The 1974 amendment rewrote this section.

The first 1976 amendment deleted "payable in equal monthly installments" from the end of the section.

The second 1976 amendment substituted "as established under AS 39.23" for "equal to that of a district court judge payable in equal monthly installments."

Sec. 16.43.070. Legal Counsel. The attorney general is the legal counsel for the commission. He shall advise the commission in legal matters arising in the discharge of its duties and represent the commission in suits to which it is a party. However, the commission may retain additional legal counsel as appropriate. (§ 1 ch 79 SLA 1973)

§ 16.43.080

FISH AND GAME

§ 16.43.100

Sec. 16.43.080. Employment of personnel. (a) The commission may employ those persons necessary to carry out the purposes of this chapter. Employees of the commission are in the exempt service under AS 39.25.110.

(b) In addition to its staff of regular employees, the commission may contract for and engage the services of consultants, experts and hearing officers as necessary. (§ 1 ch 79 SLA 1973)

Article 2. Powers and Duties of the Commission.

Section

100. General Powers

110. Regulations and hearing procedures

Section

120. Application of Administrative Procedure Act

Sec. 16.43.100. General powers. (a) To accomplish the purposes set out in § 10 of this chapter the commission shall:

- (1) regulate entry into the commercial fisheries for all fishery resources in the state;
- (2) establish priorities for the application of the provisions of this chapter to the various commercial fisheries of the state;
- (3) establish administrative areas suitable for regulating and controlling entry into the commercial fisheries;
- (4) establish, for all types of gear, the maximum number of entry permits for each administrative area;
- (5) designate, when necessary to accomplish the purposes of this chapter, particular species for which separate interim-use permits or entry permits will be issued;
- (6) establish qualifications for the issuance of entry permits;
- ★ (7) issue entry permits as provided in §§ 210 — 220 of this chapter;
- ★ (8) establish, for all types of gear, the optimum number of entry permits for each administrative area;
- (9) administer the buy-back program provided for in §§ 310 — 320 of this chapter to reduce the number of outstanding entry permits to the optimum number of entry permits;
- (10) provide for the transfer and reissuance of entry permits to qualified transferees;
- (11) provide for the transfer and reissuance of entry permits for alternative types of legal gear, in a manner consistent with the purposes of this chapter;
- (12) administer the collection of the annual fees provided for in § 160 of this chapter;
- (13) administer the issuance of commercial fishing vessel licenses under AS 16.05.490;
- (14) issue educational entry permits to applicants who qualify under the provisions of §§ 275—285 of this chapter.

(b) The commission may do all things necessary to the exercise of its powers under this chapter, whether or not specifically designated in this chapter. (§ 1 ch 79 SLA; § 14 ch 105 SLA 1977; am § 3 ch 123 SLA 1978)

Effect of amendments.—The 1977 amendment, effective January 1, 1978, added paragraph (14) to subsection (a).

The 1978 amendment, effective July 9, 1978, added paragraph (15) to subsection (a).

- ★ (8) issue interim-use permits as provided in §§ 210-220 of this chapter;

BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT
Capitol Building, Juneau
August 19, 1980

MINUTES

Senator Ray, Chairman, called the meeting to order at 1:35 p.m. The commission continued its discussion of the State Personnel Act begun at its meeting on Monday, August 18th.

AS 39.25.140 (Amendment of the personnel rules). Senator Ray pointed out the distinction between those rules governing the internal management of agencies and those rules which affect the public and should be considered matters of public policy. Rules which affect the public should be subject to public review before being adopted or amended. He suggested that subsection (e) be amended to limit the exemption from the Administrative Procedures Act to those rules affecting only the internal management of state agencies. A new subsection should be added requiring that those rules which affect the public must be enacted pursuant to the APA. He also directed the staff to ask the Attorney General's office and the legal staff of the Legislative Affairs Agency to prepare opinions on what legal authority the rules have.

Darlene Livermore pointed out that most of the collective bargaining agreements which the state has entered contain a clause which says that if there is a conflict between the contract terms and the Personnel Rules, then the contract terms govern. Only if the contract is silent on a subject do the Personnel Rules apply to employees who are members of collective bargaining units. Since almost all of the classified employees in the state are members of collective bargaining units, the Personnel Rules have a very limited application. Because of this, most state employees are probably not even aware that the state has Personnel Rules.

Senator Ray pointed out that the political climate is not necessarily favorable to the present public employee collective bargaining situation and that it is possible that the governor or some legislators will sponsor legislation to change the present system. Therefore, it is appropriate to be concerned about the personnel system.

The commission discussed the distinction between exempt, partially exempt and classified employees. There are about 500 employees in the partially exempt service and 5 employees in the classified service who are not members of collective bargaining units. Senator Ray asked for reasons for preserving both the partially exempt and exempt services. Bruce Cummings replied that partially exempt positions are appropriate where the work performed is essentially similar to other kinds of positions in the state. For example, the salary and job title and most of the duties of a clerk typist in the Office of the Governor are comparable to other clerk typists. However, it is appropriate for the Governor to be able to appoint and dismiss the employee with greater ease than if the position were covered by the protections of the classified service.

Positions are appropriately placed in the exempt service when the salaries which must be offered to attract skilled employees are not included in the

state's pay plan, when the position is not expected to last long or requires unique responsibilities, and for the political appointments which the chief executive needs to be able to make for policy reasons.

The classified service provides salary integrity and protections from arbitrary hiring or firing decisions.

AS 39.25.150 (Scope of the rules). The commission discussed cleaning up the language of this section to delete material more appropriately included in the rules. Bruce Cummings pointed out that subsection (2) does not make provision for paying employees pursuant to a valid collective bargaining agreement, although the state has interpreted the language to permit paying employees based on pay plans adopted under union contracts. The commission agreed that language should be proposed to address this problem. Darlene Livermore added that while she agrees that the section should be cleaned up, she thinks it is important to preserve the statements of principles which are presently there, such as "like pay for like work."

On the question of crediting work experience as an alternative to formal education, and on the question of tests, Bruce Cummings explained that the laws requires employers to be able to demonstrate that any tests for employment are consistently able to predict that those who receive good scores are more likely to be successful employees than those who receive lower scores. The state is trying to develop validated tests, but it is a difficult process and there are only three employees in the division who are assigned to that project. The state has fewer than 15 tests which would be likely to withstand a challenge in court. Furthermore, the tests which the state is discarding for the validated tests have been, in fact, irrelevant. For example, there was an excellent accountant in the Division of Finance who was marked for promotion. He took the old exam five times and failed it each time. When the new, validated exam was ready he took it and was number one on the register.

Senator Ray pointed out that there is another problem - that of being sure that the job description is kept current so that the job classification actually reflects the duties of the position. The state needs a full scale desk audit program.

AS 39.25.153 (Personnel Rules for certain departments). Lynda McCurry reported that the personnel officers in the departments continue to believe that they can perform their jobs better if they are the employees of the departments in which they work rather than the employees of a centralized Division of Personnel. The Division of Personnel has recently begun to decentralize several personnel functions to the departmental personnel offices.

Bruce Cummings raised questions about subsection (b) which gives the departmental personnel officers authority to adopt regulations for those positions unique to their departments. At present those powers have not been exercised, but if they were, the state could find that there were significantly different working conditions for groups of employees based only on which department they worked for. Consistency is important, not only for morale of the employees but also because the state has to comply with the terms of the collective bargaining agreements it enters.

Delegating greater authority to the departmental personnel officers increases the importance of auditing. In the 1980 Report the commission recommended that annual audits be performed either by the Division of Personnel or by some other agency. Mr. Cummings has thought about the question and believes it would be better for a third party to perform the audit since the Division of Personnel needs to remain effective as a service agency, rather than being perceived in a policing role. The division would, of course, work closely with whoever did the audit to provide information and expertise as requested.

Senator Ray suggested that the subsection might be changed to enable departmental personnel officers to adopt only rules which relate to the internal management of the department for classes which are unique to the department.

Don Fisher raised the question of setting up a system for a periodic review of the Personnel Rules to insure that they accurately reflect the changing policies and procedures of the state. Senator Ray directed the staff to investigate the feasibility of doing so.

AS 39.25.155 (Vocational substitution program). Bruce Cummings pointed out that the positions which fall within the program have all been placed in the Local 71 bargaining unit. The program is therefore no longer used, since Local 71 members are hired through a union-operated hiring hall. The union system does not include the kinds of minimum qualifications which the state uses in evaluating applicants.

Lois Jund asked whether subsection (g) which establishes a one-year residency requirement was still legal. Mr. Cummings replied that it wasn't.

AS 39.25.160 (Prohibitions). Senator Ray suggested that subsection (e) should provide that partially exempt employees as well as classified employees are required to resign from their positions in the state service when they seek nomination or become candidates for state or national elective political office.

Bruce Cummings indicated that the Rules do require a partially exempt employee to resign, even though the statute does not.

AS 39.25.170 (Hearings and appeals). Senator Ray asked whether an employee could require that hearing be open to the public. Bruce Cummings replied that the Personnel Rules do give the employee this right. Senator Ray suggested amending the section.

AS 39.25.180 (Status of present employees). Senator Ray pointed out that the first three subsections of this section are obsolete.

AS 39.25.195-200 (Nonpermanent law). The law has not yet been in effect for a full year and therefore it is too early to consider whether it needs to be changed. The commission should review figures on positions which used to be temporary and are now seasonal as a result of the procedures created by the nonpermanent law at a later time.

AS 39.25.210 (Penalties). The commission will consider later the question of implementing a graduated penalty schedule, whether there should be administrative penalties set out in the statute and whether it is appropriate that

being found guilty of a willful violation of the Rules leads to conviction of a misdemeanor.

AS 39.10.010 (Nepotism prohibited). The commission agreed that a stronger statute prohibiting nepotism should be prepared for its review.

Senator Ray directed the staff to prepare a work draft of a revision of the State Personnel Act with the help of the Legislative Affairs Agency legal division. The commission will meet when the draft has been completed, which should be in one month.

Senator Ray adjourned the meeting at 2:55 p.m.

MEMBERS IN ATTENDANCE

Senator Bill Ray, Chairman
Don Fisher, Vice Chairman
Bruce Cummings
Duncan Fowler (for Frank Flavin)
Representative Jack Fuller
Lois Jund
Darlene Livermore (for Cherie Shelley)
Lynda McCurry
John Pugh

OTHERS IN ATTENDANCE

Bob Maurant

BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT
Tuesday, August 19, 1980
State Capitol, Juneau, Alaska

TAPE LOG

The following is an approximate log of events.

Tape 3 - (1:30 - 2:24 p.m.)

0352 - 0920 Discussion of AS 39.25.140 - .153

0921 Put new tape on.

Tape 4 - (2:25 - 2:55 p.m.)

0000 - 0350 Discussion of AS 39.25.144 and other related statutes

0351 MEETING ADJOURNED AT 2:55 p.m.

BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT
Capitol Building, Juneau
August 18, 1980

MINUTES

Senator Ray, Chairman, called the meeting to order at 10:00 a.m. He asked for testimony from the public. Julie Issac called the commission's attention to a problem that she is having with the state's retirement system.

Mrs. Issac retired in 1976, at which time the Retirement Division on four separate occasions had advised her that she was eligible for more than nine years of credited service with the state. As the result of an amendment to the laws three months after she retired, she was also told she would receive credit for an additional three years of military service. Her benefits were calculated on that basis. In 1979 Mrs. Issac received a letter from the Retirement Division advising that their original computations had been in error. She had been credited with 4½ years of service to which she was not entitled, part of which was for employment with the University of Alaska. Furthermore, she had received over \$5000 in overpayments which would have to be paid back to the state. In the beginning of January, 1980, the division began reducing her retirement check by \$100 per month to be credited towards the overpayment, in addition to having reduced her check because of the decrease in the years of credited service.

Mrs. Issac was advised that she could appeal the division's decision to the Retirement Board at their next meeting. She was unable to attend but a friend did read a letter to the board which preserved her appeal rights. Following that hearing, Mrs. Issac asked that the state waive collection of the debt. According to its interpretation of the statutes, the only ground upon which the division can waive repayment is hardship. The division therefore required that she submit information not only about her own financial situation but also about her husband's. Mrs. Issac questioned why her husband's information should be considered since it is her retirement credit which is under question.

Mrs. Issac added that the basis for denying her period of employment with the University of Alaska was a regulation adopted by the Retirement Division in 1978 - two years after she retired. Without credit for the University of Alaska employment, she needs an additional 13 months state employment in order to claim her territorial service.

Early in July, Mrs. Issac wrote to Commissioner Hudson asking for assistance in finding employment with the state so that she could work for the time needed to then receive credit for her territorial service. She was no longer eligible to be placed on the state's rehire lists because more than 2 years had elapsed since she left state employment. She has also asked the Governor's office for assistance in finding a position in which she can earn the necessary service credits. Mrs. Issac pointed out that she had been a loyal and responsible state employee but that she believes that the state has treated her shabbily and that she is becoming bitter.

Lois Jund stated that while she was at the Department of Health and Social Services, several people had talked with her about receiving similar notices from the Division of Retirement. Bruce Cummings explained that while

he was working in the retirement division he noticed that there was a constant flow of files with errors. Therefore, the director of the division ordered a wholesale audit of all of the PERS and TRS records. Any with errors would be adjusted as of the date of the audit. Although he had no sure figures, Mr. Cummings estimated that 3 to 5% of the files contained errors. Because the retirement statutes require that any errors in benefits be corrected, the division does not have the authority to write off any overpayments which a retired person may have received. He suggested that the legislature consider giving the retirement boards authority to waive recoupment of overpayments in certain situations.

Duncan Fowler pointed out that Mrs. Issac's case raises two questions. First, whether the state ought to be prohibited from seeking repayment because she had based her retirement plans on information provided by the state and over 3 years had elapsed since then. The second problem is with the state's investigation into her husband's financial situation when considering whether to grant her a hardship waiver. Lois Jund pointed out that in the federal retirement system there is a statute of limitations and that they can only seek to correct errors which occurred within the past two years.

Dick Smith said that Mrs. Issac has two complaints against the state: being charged with an overpayment which resulted from the state's errors and being denied 4½ years of credited service. It appears that because the Retirement Board is considering her appeal, there can be no immediate appeal to the courts, although, on the basis of the information which she has provided it seems likely that she would be successful in court. He suggested that it would be appropriate to change the retirement statutes to provide for a statute of limitations against attempts by the division to collect for errors which it caused. Bruce Cummings added that since there are between 80 and 90 other employers who participate in PERS and TRS, any changes should be carefully drafted to apply only to the state's employees.

Mr. Smith added that the second part of Mrs. Issac's problems - denial of service credits for her work with the University of Alaska - is harder to remedy since the University is a separate entity according to the state constitution. The University voluntarily joined the retirement system in 1978, but before that work with the University did not apply to the state's retirement system.

Senator Ray suggested that there should also be some recourse for an employee who wanted to return to work for the state to build up retirement credits. Bruce Cummings explained that if there was a 2-year statute of limitations for asserting overpayments, then an employee would still have rehire rights and would therefore be entitled to preference for any vacancy in the job class from which she or he retired. Mrs. Issac also asked that if the commission sponsored any legislation that it be made retroactive to resolve her problems as well as helping other employees.

Senator Ray asked whether the commission approved sending a letter to the Retirement Board concerning the commission's suggestions for future legislation. There was no objection. Staff was directed to work with Deputy Commissioner Smith on a draft of the letter.

The commission began consideration of the memorandum on public inquiries.

Issue 1. Posting of promotional opportunities on bulletin boards. Darlene Livermore explained that APEA and PSEA take different approaches to protecting their members' interests in access to promotional opportunities.

Issue 2. Postsecondary Education Commission. Senator Ray pointed out that whether these positions should be in the exempt or classified service raises the ongoing question of ease of hiring versus protection of the rights of employees. This question will be discussed during the review of the State Personnel Act.

Issue 3. Delay in processing applications. Bruce Cummings explained that the division received some 5,500 applications in July, and that this volume has partly caused the delay. In addition, all of the processing is done manually at present. The division hopes that the number of applications will decrease in August. There has been no turnover in the division staff for the last three months, which should also help reduce the time to process applications. They are implementing a system of block scoring for all job classifications in which that is possible and also hoping to move toward an automated record keeping system. However, if the volume of applications continues to increase, it may not be possible to decrease the time.

Mr. Cummings explained some of his division's long-range plans for speeding up the application process. They are investigating a computerized automatic classification tracking system, but first the state job classification system has to be restructured. This system does not read applications, establish whether the minimum qualifications are met, nor does it score the examinations. However, the state is also investigating a self-administered training and experience rating system which appears to work with the clerical classes but not others. An additional problem in the classification computer system is that it is not designed to fit into the IBM equipment which the state presently uses and therefore there is a conversion problem.

Senator Ray moved that the commission write to the Commissioner of Administration asking him to outline what he thinks needs to be done to shorten the application process time to a more reasonable period. The motion passed without objection.

Issue 5. Geographical cost of living differentials. The commission noted that this is a matter which is addressed in the collective bargaining contracts.

Issue 6. Employee credits. Bruce Cummings explained that employee credits are designed to encourage retention and promotion of state employees and to discourage breaks in service. The system awards these extra points only to permanent classified employees. John Pugh pointed out that the system can work against employees who for family reasons are forced to move from one area of the state to another without having a new job lined up, although they intend to remain in state service if they can find employment. They lose their points as soon as they resign from one job, even though they may return to work within a short period of time. The same thing happens to classified employees who accept employment in the partially exempt or

service. They lose their accumulated credits upon resigning from the classified position. Lois Jund suggested that the commission recommend that the state do away with the system of employee credits. Senator Ray proposed that the staff research the advantages and disadvantages of employee credits and other bonus point systems and report to the commission.

Senator Ray asked whether there were any statistics on the number of permanent seasonal positions created for positions which had been previously filled by temporary employees and how many nonpermanent positions there were. Bruce Cummings replied that it is not yet available. Senator Ray pointed out that the newspapers had reported 1100 new positions created by the budget but that in fact from the information presented to the Finance Committee he thought that there were no more than 300. The rest were already in existence because of Revised Programs which had been started before the new fiscal year or through converting CIP positions.

Senator Ray adjourned the meeting at 11:42 for lunch.

The commission reconvened at 1:30 p.m. and began discussion of the Revision of the State Personnel Act memorandum. Only those sections in which there was discussion will be noted.

AS 39.25.040. Director of personnel. The staff was directed to find out what the statutes say about the position of the Director of Labor Relations and the actual duties of the director.

AS 39.25.060. Personnel board. Senator Ray pointed out that this section includes unnecessary language and should be cleaned up. He asked whether there was a need for the Personnel Board since most of their original functions are now performed through collective bargaining. Mr. Cummings replied that there are still five employees who are in the classified service but not members of any bargaining unit. The State Personnel Act and the Personnel Rules govern all of the terms and conditions of their employment. In addition, some of the members of the Confidential Employees Association have petitioned the Labor Relations Agency to be taken out of the CEA unit, which would add them to this group of five. The Personnel Board adopts the Personnel Rules and amendments and some body is needed to continue to do that. Senator Ray asked the staff to contact the Personnel Board to ask whether they should continue in operation.

AS 39.25.080. Public records. Mr. Cummings explained that the Personnel Rules which implement this section provide for confidentiality for personal information about state employees. The public does have access to information about who is a state employee, where he works, how much he is paid, and how long he has been employed. Confidential records include information about an employee's family and performance evaluations, although any state supervisor who is considering hiring a present state employee does have access to the whole personal file. Every employee can see his entire file at any time and have copies of anything in the file. Secret files are forbidden.

Senator Ray suggested that the statute be changed to specify which information is open to the public and which information is to be kept confidential rather than relying on the Personnel Rules to set those standards. Mr. Cummings mentioned that there are a number of conflicting laws on this subject already.

AS 39.25.110. Exempt service. The commission discussed the groups who are made members of the exempt service and agreed that the section should be recodified. Duncan Fowler suggested that the commission should hear from those entities which have employees in the exempt service to learn whether there are positions which should be transferred to the classified or partially exempt service. Senator Ray also directed the staff to inquire of Greg O'Claray whether there is still a reason for the employees of the ferry system to be in the exempt service.

AS 39.25.120. Partially exempt service. The commission discussed specific language changes which should be made to clean up this section. In addition, Duncan Fowler suggested that the commission should develop a policy statement for the exempt service comparable to the policy statement found in AS 39.25.130 concerning the partially exempt service. Mr. Cummings explained that positions in the partially exempt service are similar to other state jobs and therefore can be placed in the job classification plan and paid according to the pay plan but they are not susceptible to ordinary methods of recruitment or they require greater flexibility in hiring and dismissal than do positions in the classified service.

On the other hand, exempt service positions are not subject to either the state's classification plan or the pay plan. They are generally meant to be jobs which are so unique or of such short duration that it is more appropriate not to try to fit them into the system. The Division of Personnel makes no attempt to develop a job description for exempt positions, to classify them, or to set the salary for them. There is a need for both the exempt and the partially exempt service, in addition to the classified service. Lois Jund added that the state really has four services: the exempt, the partially exempt, the classified service which participates in collective bargaining with the state, and the classified service positions which are not unionized.

AS 39.25.130. Extension of partially exempt and classified services. Senator Ray suggested eliminating the reference to dates in this section.

AS 39.25.140. Amendment of personnel rules. Senator Ray suggested that the law should provide two methods for adoption of the Personnel Rules. Those Rules which affect the public policy should be adopted through the Administrative Procedures Act. Those Rules which are matters of internal management only, could be adopted without the procedural requirements of the APA.

The commission will meet to review a proposed draft of a revised State Personnel Act in September.

Senator Ray adjourned the meeting at 3:45 p.m.

MEMBERS IN ATTENDANCE

Senator Bill Ray, Chairman
Don Fisher, Vice Chairman
Bruce Cummings
Duncan Fowler (for Frank Flavin)
Representative Jack Fuller
Lois Jund
Darlene Livermore (for Cherie Shelley)
Lynda McCurry
John Pugh
Dick Smith

OTHERS IN ATTENDANCE

Bob Maurant

ADDENDUM: Correction for the Merit System/Collective Bargaining and Full Commission minutes of November 15, 1979 - Frank Flavin was present at the meeting. It had been erroneously recorded that he had been absent.

BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT
Monday, August 18, 1980
State Capitol, Juneau, Alaska

TAPE LOG

Tape 1 - (10:00 - 11:42 a.m.)

0000 - 0014 Senator Ray called the meeting to order. He then asked for public testimony.

0015 - 0350 Julie Issac testified on problems with the state retirement system.

0351 - 0486 Commission members questioned Mrs. Issac.

0487 - 0500 Mrs. Issac was excused. Further discussion by Commission members followed.

0501 - 0512 Senator Ray introduced the Public Inquiries memo - starting with:

0513 - 0530 Issue 1. (Darlene Livermore spoke on this matter.)

0531 - 0680 Issue 2. (Bruce Cummings began discussion.)

0681 - 0850 Issue 3. (Bruce Cummings spoke on this matter.)

0851 - 0870 Issue 4 & 5.

0871 - 0900 Issue 6. (John Pugh began discussion.)

0900 - 0910 Issue 7. (Terry Cramer explained this one.)

0915 - ADJOURNED FOR LUNCH AT 11:42 (Put new tape on.)

Tape 2 - (1:30 - 3:00 p.m.)

0000 - 0045 Terry Cramer introduced the Revision of State Personnel Act.

0046 - 0180 Discussion of AS 39.25.080 - personnel record being confidential.

0181 - 0338 More discussion of AS 39.25.080.

0339 - 0383 Discussion of AS 39.25.110.

0384 - 0563 Discussion of AS 39.25.110 - 120.

0564 - 0793 Discussion of AS 39.25.120(22) and (23).

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Page Two

0794 - 0925 Discussion of exempt and partially exempt services.

0926 - ADJOURNED FOR 10 MINUTES - (Put new tape on.)

Tape 3 - (3:15 - 3:45 p.m.)

0000 - 0350 Further discussion of Revision of State Personnel Act.

0351 ADJOURNED AT 3:45 p.m.

BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT
Capitol Building, Juneau
January 9, 1980

MINUTES

Senator Ray, Chairman, called the meeting to order at 1:35 p.m. He asked for testimony from the public. Connor Sorenson addressed the commission on the issue of how the Division of Personnel computes credit for graduate study when evaluating applicants. The individual for whom he was concerned applied for a position which required 7 years of experience. The job announcement indicated that graduate study could be substituted for the experience on a year for year basis. Although the person had more than 7 years of graduate study, the Division of Personnel indicated that a formula must be applied to the education which resulted in education being worth less than the 7 years of experience. The division therefore found that the person did not qualify for the position.

Ken Kareen explained that the division does evaluate the amount of graduate study an applicant has on a semester or quarter hour basis. To be credited with one year of undergraduate study, an applicant must have either 28 semester hours or 45 quarter hours. To receive credit for one year of graduate study, an applicant must show 24 semester hours. Mr. Sorenson replied that this was not the policy which had reduced his friend's credited years of education.

Senator Ray asked Mr. Sorenson to provide the staff with additional information on the situation and directed the staff to find out whether there were any discrepancies and to establish what the division's practices are in rating the educational background of applicants.

The commission considered the second revised draft of the report and made changes. The commission voted without objection to release the report as amended.

Senator Ray adjourned the meeting at 2:40 p.m.

MEMBERS IN ATTENDANCE

Senator Bill Ray, Chairman
Don Fisher, Vice Chairman
Bruce Cummings
Lois Jund
Ken Kareen
Bob Mourant
Pat Murphy

BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT
Capitol Building, Juneau
December 12, 1979

MINUTES

Senator Ray, Chairman, called the meeting to order at 1:30 p.m.. The members reviewed the draft of the Introduction and the first chapter of its report to the Alaska State Legislature. The commission also considered the revised draft of the report. Changes and corrections were made.

The commission decided to meet on Wednesday, January 9th at 1:30 p.m. for a final consideration of the report.

If possible, the staff should be notified of any changes which the members wish to suggest before then.

Senator Ray adjourned the meeting at 2:45 p.m..

MEMBERS IN ATTENDANCE

Senator Bill Ray, Chairman
Don Fisher, Vice Chairman
Doryce Eggleston (for Lynda McCurry)
Frank Flavin
Ken Kareen (for Sandra Withers)
Pat Murphy
Greg O'Claray
John Pugh

BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT
State Office Building, Juneau
November 28, 1979

MINUTES

Senator Ray, Chairman, called the meeting to order and introduced Alexander "Bill" Gillespie, a Finance Officer employed by the Department of Education. Mr. Gillespie was invited to the meeting to address a complaint filed by Lillian Austin regarding a "not recommended for rehire" evaluation she received from the Department of Education.

Ms. Austin filed a complaint with the Human Rights Commission stating that: "I have applied and am eligible for Accounting Clerk II & III positions with Respondent (the State of Alaska), Tlingit & Haida Central Council, Sealaska, and the Bureau of Indian Affairs but have not been hired. I believe that my last evaluation by Respondent which rated me as unsatisfactory and not recommended for rehire is the reason that I am not being hired. I hereby certify that Respondent has violated AS 18.80.220 by unfairly providing me with an unsatisfactory evaluation. I have been employed in different capacities by Respondent for nine years and was rated as satisfactory until the last evaluation which occurred four months after a transfer. I was criticized for not getting along with co-workers, two Caucasian females; but to my knowledge the co-workers were not criticized for not getting along with me. These same co-workers also did not get along with an Oriental co-worker who eventually transferred to another department. I am an Alaska Native female."

Senator Ray stated that the commission is interested in receiving an explanation of the situation because a "black mark" such as not recommending for rehire is a very severe action that usually precludes any chance of being rehired - either in private or state employment.

Mr. Gillespie explained that he is familiar with Ms. Austin as a former employee of the Department of Education. Although he was not Ms. Austin's immediate supervisor, Mr. Gillespie believed that the recommendation had been phrased differently: Ms. Austin was recommended for rehire in a less complex job. Senator Ray responded that if this could be proven with documentation, the problem would be alleviated. Mr. Gillespie elaborated that this information could be found on Ms. Austin's evaluation in Department of Personnel files.

Senator Ray instructed the staff to obtain Ms. Austin's personnel file from the Department of Personnel. Terry Cramer explained that this would be possible if Ms. Austin signed an authorization form to release such confidential material. Senator Ray asked whether the personnel files could be altered. Mr. Gillespie replied that this would be highly unlikely once they are in the personnel system.

Senator Ray pointed out that Ms. Austin had supplied sworn testimony about her evaluation. He asked how she terminated her employment. Mr. Gillespie responded that one day, Ms. Austin became very agitated, told him that she was leaving, and walked out of the office, without supplying a letter of resignation.

Greg O'Claray asked whether Ms. Austin's evaluation was written after she left, or if it was discussed with her. Mr. Gillespie responded that it was written following her termination in 1978. She received a copy

of the evaluation and could have discussed it with her supervisor, Merle Flemming, or could have placed a rebuttal in her personnel file.

Ken Kareen asked if there had been any difficulties or complaints about Ms. Austin prior to her termination. Mr. Gillespie replied that she had never spoken with him about any problems and, to his knowledge, had never spoken with anyone else. Mr. Kareen asked how her resignation was recorded on the final evaluation and personnel action. Mr. Gillespie did not recall. Mr. Kareen stated that an employee is normally expected to give 14 days notice, although the requirement can be waived.

Senator Ray again commented that the commission's concern is whether Ms. Austin was not recommended for rehire. Mr. Gillespie stated that everyone must fill out a termination form when leaving, and Ms. Austin's form must be in her personnel file. In order to receive her last paycheck, Ms. Austin would have had to return to the office, although she probably went to see the departmental personnel officer.

Senator Ray stated that the staff would contact Ms. Austin and investigate the situation. He added that black listing is a very drastic step to take against an individual, especially in Juneau. Ms. Austin must have had a good working relationship with someone after being employed by the state for nine years. Ms. Austin points out that her co-workers were never criticized for not getting along with her. Senator Ray concluded that it is easy to ignore this type of situation. He thanked Mr. Gillespie for attending the meeting, and Mr. Gillespie departed.

Senator Ray recessed for an executive conference, and the staff left the room.

Senator Ray called the meeting to order. Mr. O'Claray moved that the commission extend permanent employee benefits to the staff effective with the hiring of new personnel. There were no objections, and the motion passed.

The commission reviewed the Certification, Classification and Recruitment section of the draft report and corrected errors, made other changes, and added sections on review of recommendations against rehiring terminating state employees and on comprehensive classification guides.

The commission decided to meet next on Wednesday, December 12 at 1:30. Senator Ray adjourned the meeting at 4:00.

MEMBERS IN ATTENDANCE

Senator Bill Ray, Chairman
Don Fisher, Vice Chairman
Lois Jund
Greg O'Claray
Frank Flavin
Ken Kareen (for Sandra Withers)

OTHERS IN ATTENDANCE

Alexander Gillespie

BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT
Capitol Building, Room 124, Juneau
October 17, 1979

MINUTES

Senator Bill Ray, Chairman, called the meeting to order. He said that the commission's report to the legislature should contain recommendations on which there is a consensus. He added that each member is welcome to submit a minority report on any issue. The staff was directed to prepare a draft of the report to be reviewed by the commission at its next meeting.

Senator Ray asked if any conclusions had been drawn on the issue of the partially exempt and exempt services. He was advised that the Categories of Employees subcommittee is waiting for additional information on positions in the exempt service before making any recommendations.

Senator Ray asked whether there is evidence of problems with the nonpermanent law. Lynda McCurry stated that it will be difficult to implement the procedures set out in the law, but it will force action that should have been taken long ago. John Pugh added that it will alleviate the problem of by-passing the registers by hiring temporaries and will increase equal opportunity amongst applicants.

Senator Ray stated that there should be a section in the report addressing problems with maintaining open registers. He added that he hopes the commission will be able to make some recommendations on the issue. Pat Murphy pointed out that the Certification, Classification and Recruitment subcommittee voted in favor of recommending that the Division of Personnel receive additional funding for recruitment and examination functions. Senator Ray stated that the report should also recommend that departments request only needed positions in the budget submitted to the legislature. Legislators require more input from agencies on their operating needs.

Members discussed other topics, including: the veteran's preference system, conflicting roles of supervisors who are also union representatives, meeting equal employment opportunity goals, and providing aggrieved employees with protection from those implicated in grievances.

Senator Ray scheduled the next commission meeting for Thursday, November 15. He adjourned the meeting at 4:10.

MEMBERS IN ATTENDANCE

Senator Bill Ray, Chairman
Lois Jund
Lynda McCurry
Pat Murphy
John Pugh
Ken Kareen (for Sandra Withers)

OTHERS IN ATTENDANCE

Doryce Eggleston
Bob Maurant

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT
Capitol Building, Juneau
October 5, 1979

MINUTES

Senator Ray, Chairman, called the meeting to order and requested reports on subcommittee recommendations.

CATEGORIES OF EMPLOYEES SUBCOMMITTEE

The Categories of Employees subcommittee voted to recommend to the full commission that all personnel sections of the Alaska Statutes be codified into a cohesive form located in one chapter. The commission voted to pass the recommendation without objection.

Ken Kareen mentioned that the implementation of the nonpermanent law initially sponsored by the commission would be delayed in some areas, but all departments would be in compliance by January 1, 1980. Previous issues relating to temporary employees were reviewed. Senator Ray elaborated that nonpermanents will not receive fringe benefits, health insurance or retroactive credit for retirement under the law and that the commission should not address those issues.

On the topic of contracting, Senator Ray asked if the commission should recommend that rules be adopted to prohibit state employees or corporations composed of state employees from subcontracting with the state while employed by the state. Frank Flavin pointed out that this is already in the Personnel Rules and is considered a "conflict of interest". Complaints have been received about how state contracting is handled and the rule that bids do not have to be solicited on jobs costing less than \$2,000. John Pugh pointed out that many of the problems have been cleared up. The state's practice of contracting for services which could be performed by state employees should be left to collective bargaining between the state and the employee unions. Senator Ray stated that he would provide the staff with additional information on the subject if he receives any more complaints.

The subcommittee requested the staff to study the exempt and partially exempt classes in the state and to present a list of those positions and their locations as soon as possible.

The issue of reviewing all vacant PCN's had been brought up during subcommittee discussion. One area of concern is the legislature's "red lining" of vacant positions that have not been filled because of classification and recruitment time delays. John Pugh added that there may be a number of vacant PCN's this year because of underfunding for personal

services. Ken Kareen suggested that the problems may dwindle, because under the nonpermanent law, permanent position dollars cannot be used for hiring temporaries and therefore vacancies in permanent positions may be reduced.

CERTIFICATION, CLASSIFICATION & RECRUITMENT SUBCOMMITTEE

The Certification, Classification and Recruitment Subcommittee voted to recommend to the full commission that the Division of Personnel move towards broader classifications. Ken Kareen elaborated that the Division has been in the process of doing so since the beginning of the year. The commission voted in favor of recommending this to the Division.

Regarding the topic of closing recruitment, John Pugh stated that it was a difficult issue for the subcommittee. If there are no eligibles on registers willing to work in rural locations, appointing authorities must first work the registers and then request authority to recruit locally, which can be a time consuming process. Sandra Withers stated that there are complaints whether the registers are open or closed. To keep registers open, there must be sufficient staff to examine and test applicants in the Division of Personnel. Maintaining access to promotional lists in classes in which the registers are closed has been taken to arbitration. Ms. Withers stated that it would take another four staff members in the Division of Personnel to handle open recruitment at all times.

John Pugh suggested that the commission request that the legislature appropriate more funds to increase the Division's staff. Greg O'Claray concurred that additional staff should be funded and registers should remain open, giving the state the opportunity to choose from the most qualified when a vacancy opens. Sandra Withers pointed out that the new nonpermanent law will inundate the Division with applications from temporaries trying to get on registers for permanent positions, and nonpermanents will have to be hired off registers in accordance with the law. There was a general consensus that recruitment should remain open and that the Division of Personnel should be provided with additional staff funding.

Frank Flavin commented that there appears to be too much paper work involved in the application process and that one solution would be to reduce the submissions to one per applicant, regardless of the number of classes she or he was applying for. Ken Kareen responded that the Division has alleviated some problems by offering to give passing grades for lower classifications within a series to applicants who have passed an advanced level test. In many cases this is not possible because at various levels of classifications, different skills are required, and different tests must be used to evaluate those skills.

Applicants who want to be placed on registers by this method are placed in a single group. The division does not try to rank them with the applicants who were tested for the lower level position. Mr. Kareen elaborated that the Division has abolished 183 classes by merging them with other similar classes or by eliminating them completely. There are now fewer than 1,300 classes in the state.

Mr. Flavin suggested that the commission design the ideal personnel system for 1981, burn everything in existence now and start out all over again. John Pugh asked if the Division has tried using a single application for multiple classifications. Ken Kareen explained that the Division had tried accepting up to five class titles on a single application. The number of positions applied for increased, and the staff still had to review each title separately. Staff members ended up making extra copies of applications themselves to avoid confusion. Sandra Withers elaborated on the ideal system, which would be computerized so that information could be keyed in, applications could be tracked, and classifications for which an individual qualified would print out. Ken Kareen commented that the Department of Transportation and Public Facilities has been working on a system for evaluating and classifying all the planner classes in the department. To date, the department has had to bring in consultants, psychologists and an expert in data processing, and they still don't have a workable system.

Senator Ray asked what role the Division of Budget and Management plays in the classification process. Sandra Withers replied that the Division of Personnel cannot work on a position before there is assurance that it has been funded. The Personnel Rules provide this method for monitoring compliance with legislative changes in the budget. The Division of Budget and Management certifies the availability of funds and has done so since the office was physically located in the Department of Administration. At that time it was an interdepartmental review. The subcommittee had directed the commission staff to invite representatives of the Budget and Management and Governor's office to attend its next meeting (October 11).

Returning to the topic of multiple applications, Ken Kareen commented that the Division of Personnel has come very close to having a production line set up in its offices to handle the large volume of applications. All applications for one classification are gathered together and evaluated at one time. Greg O'Claray observed that the public feels that there is too much paperwork and it doesn't perceive the requirements of the Division of Personnel as reasonable. Sue Greene asked how the Division should be perceived--as an employment agency or as a group of employees performing state functions. The Division's resources are restricted. Is it unreasonable to make things easier for state employees? How far should the Division go to please the public? Which is the top priority--performing services for the user departments or providing

services to the public? There have been many changes in the time needed to perform evaluations of applications in the past few years, but there have been no increases in the number of staffing services. Ken Kareen stated that the state has more records than any private industry would dream of because of it is required to account for its actions.

Senator Ray scheduled the next commission meeting for Thursday October 11, and adjourned the meeting at 4:20.

MEMBERS IN ATTENDANCE

Senator Bill Ray, Chairman
Frank Flavin
Sue Greene (for Commissioner Hudson)
Lynda McCurry
Darlene Livermore (for Pat Murphy)
Greg O'Claray
John Pugh
Sandra Withers

OTHERS IN ATTENDANCE

Doryce Eggleston
Ken Kareen
Bob Maurant

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT
September 26, 1979

I. ISSUES BEFORE THE COMMISSION ON WHICH NO SUBCOMMITTEE HAS ACTED:

At the February 24 meeting of the commission, the following motion was made and then tabled to be placed on the agenda of the next commission hearing:

AS39.25.153 should be amended to read as follows:

Section 39.25.153 Personnel Rules for Departments

- (a) Each department shall appoint a personnel officer to be located within that department.
- (b) The personnel officer specified in (a) of this Section shall adopt regulations providing for the activities specified in Secs. 39.25.150 (1)-(10), (13)-(18), (20), and (22) of this Chapter for those classes of employees which are not common to other departments. The determination as to the classes of employees which are common to the various departments shall be made pursuant to regulations adopted by the director.
- (c) The personnel officers within the departments specified in (a) of this Section are subject to all provisions of this Chapter not in conflict with this Section.
- (d) The Governor may exempt any department with (a) of this Section containing less than 200 employees from the provisions of this Section.
- (e) All regulations adopted pursuant to this Section are subject to the Administrative Procedures Act (AS 44.62).

II. CLASSIFICATION, CERTIFICATION AND RECRUITMENT SUBCOMMITTEE

A. Issues on which the subcommittee has acted.

1. Creation of a department of employee relations. The full commission voted to sponsor legislation on this issue. See SB 256.

2. Adoption of the Personnel Rules in accordance with the requirements of the Administrative Procedures Act. This recommendation is accomplished by language in SB 256, which deletes the exemption from the requirements of the APA presently granted to the Personnel Rules. See Section 4, page 3, lines 26-29.

3. Use of a block scoring system for the evaluation of applicants. At the February 23 meeting of this subcommittee, members recommended that the full commission recommend that the state move away from a rule of five system towards a system of block scoring. The question of the number of blocks to use within the scoring system was left to the discretion of the Department of Administration.

B. Issues pending before the subcommittee.

1. Centralization or decentralization of personnel officers. What authority for independent action in classifying and reclassifying positions should the departmental personnel officers hold? Should they be granted greater authority in other areas? If the commission supports decentralization, what provisions should be made for departments whose personnel offices are not equipped to perform the extra work? What provision should be made for departments which abuse the added responsibility? Should personnel officers be employees of the departments in which they work, of the Division of Personnel and Labor Relations, or of some other entity?

2. Classification of positions. If the problems in the classification process are not resolved by the subcommittee's recommendations on issue one above, are there other solutions to the length of time it takes to have a position classified?

3. Review of existing classifications. Should the Division of Personnel be asked to undertake a comprehensive study of the existing classifications in order to eliminate duplications, particularly in the number of classifications which appear to be unique to one department?

Should the division consolidate generally similar classifications into broader classifications, thereby reducing the number of classes within the state? On the other hand, should the classifications be made more specific (and the number of classes increased) so that the eligible lists are less likely to contain unqualified applicants? How would a change in the number of job classes affect the time it takes to classify new positions? What effect would increasing or decreasing the number of classifications have on the time it takes to certify eligibles? Should the state review its classes to insure effective career ladders for its employees? Are minimum qualifications reasonable?

4. Certification of eligibles. Should the commission address the topic of closing recruitment for some positions? If so, should the policy of limiting recruitment by closing the application periods for some positions continue? Should that policy be extended to other positions? Can the time for certifying eligibles to the registers be shortened by other methods?

5. Multiple applications for job series. Should the Division of Personnel continue to require a separate application for each job within a series? What effect on the time it takes to certify eligibles would changing the present policy have?

6. Validation of tests. Should the Division of Personnel be asked to make a greater effort to validate the written tests administered to applicants? If so, should tests which have not been validated continue to be used in the evaluation of applicants? Are additional funds necessary to meet this objective?

7. Veteran's preference system. Should the present system which gives veterans a five point bonus when they apply for initial entry into state employment be changed?

8. Regional registers. Most of the state's eligibility registers are maintained on a state-wide basis, in conformance with PR 4 02.0. Should the registers be kept on a regional basis instead? Should local offices of the Division of Personnel located within the regions maintain those registers? Would this shorten the time required for an applicant to be certified and placed on a register?

9. Interviews for the top five interested applicants. Should either the Personnel Act or the Personnel Rules provide that each of the top five interested applicants for a position be offered an opportunity for a meaningful interview, either in person or by telephone (transportation to be at the applicant's expense)? If the commission chooses to support a system of block scoring for applicants, should interviews for each of the interested applicants within the top block be required? (See issue IIA3 above.)

10. Requiring that agencies fill authorized permanent positions with permanent employees only. If state agencies could not use non-permanent employees to fill newly created positions, then the classification process would have to be made faster in order for the agencies to be able to meet legislative deadlines imposed at the same time that the positions were created. Forbidding the employment of nonpermanents would provide more accurate budget information, since nonpermanents could not be hired at lower-than-budgeted pay so that the departments "earned the difference" to be used for whatever purposes management saw fit. Should the commission address this issue?

11. Training. The staff will present a proposed position paper on training to the commission for discussion and review as soon as it is drafted.

12. Promotion and equal employment opportunity. Should the commission consider the effect of the state's policy favoring promotion on equal employment opportunity? If so, should some exception to the use of promotional registers be made for members of minority groups to increase their representation in advanced positions in the state?

13. Documentation procedures for work on tasks above class specifications. Should procedures be recommended to implement documentation of work in tasks above job class specifications?

14. Increasing the audit role of the Division of Personnel. The commission recommended in its report that the Division of Personnel increase its auditing role of departmental personnel practices in order to reduce abuses and, to accomplish that, that applicants be provided with the name of a person whose duty it is to investigate and resolve abuses. Should a new position be established to accomplish this goal?

15. Annual audits of the personnel system. Who should perform the audit; who should determine the scope; and, to whom should the auditors report?

16. Creating more effective disciplinary measures for violation of the Personnel Rules. Since the present system for disciplining state employees who violate the personnel rules (particularly those in supervisory roles whose actions as supervisors are improper) are not effective, should some other system be developed or can changes be made in the present system to make it effective?

17. Comprehensive revision of the State Personnel Act. The commission reported that the State Personnel Act is poorly structured. Should a comprehensive revision be undertaken, and if so, by whom?

18. Comprehensive revision of the Personnel Rules. Should a revision be undertaken, and if so, by whom?

III. MERIT SYSTEM/COLLECTIVE BARGAINING SUBCOMMITTEE

A. Issue on which the subcommittee has acted.

1. Creation of a Department of Employee Relations. See SB 256.

2. Exempting members of collective bargaining unions from the scope of the Personnel Rules. At the February 23 meeting, the subcommittee recommended that the commission introduce legislation to exempt members of collective bargaining units from the scope of the Personnel Rules. (See work draft attached.) The full commission has not considered this matter.

B. Issues pending before the subcommittee.

1. Role of the legislature in collective bargaining. Should the legislature's role in the bargaining process be changed? If so, should the legislature take part in bargaining sessions directly or through legislative committee, through a legislative employee, or by some other legislative entity; should the legislature have an opportunity to review and approve collective bargaining contracts before they become effective?

2. Should policy-making supervisors be excluded from collective bargaining rights?

3. Should Alaska adopt a management rights clause? If so, what rights should be reserved to management discretion?

4. Should the Public Employment Relations Act be amended to specify what effect collective bargaining agreements have on conflicting statutes?

5. Cost of living adjustments. Should cost of living adjustments be limited to lump sum increases, or should percentage increases be permitted, as is the present practice? Should the Public Employment Relations Act be amended to address this question?

6. Merit Increases. Should merit increases be in the form of a percentage increase in salary or in a one-time lump sum? If the latter, should the lump sum be constant (e.g. \$500 or \$1,000) or should it be a percentage of the employee's current salary? Who should decide which employees receive merit increases? What standards should apply? How should merit increases be funded? Should personal evaluations be performed on all employees or only on those performing above or below average?

7. Amplification of merit principles in the Public Employment Relations Act. What principles are essential to Alaska's concept of employment practices based on merit principles? Should these principles be set out in the state statutes?

8. Membership of the Labor Relations Agency, the Personnel Board and the Retirement Board. Should the statutory requirements that the membership on the LRA and the Retirement Board include the three members of the Personnel Board be changed?

9. Staff for the Labor Relations Agency. Should the Labor Relations Agency have a staff of its own? If so, what positions should be created and should they be classified employees?

10. Methods of adopting the Personnel Rules and the departmental standard operating procedures. The Personnel Rules would have to be adopted in accordance with the Administrative Procedures Act if SB 256 is adopted in its present form. Should the system by which the departmental standard operating procedures be changed? If so, how?

IV. CATEGORY OF EMPLOYEES SUBCOMMITTEE

A. Issue on which the subcommittee has acted.

1. Temporary employees. (Now nonpermanent employees.) See Chapter 67, SLA, 1979. The statute does not address the issue of whether

nonpermanents should be eligible to receive fringe benefits such as health insurance, earned leave or retirement benefits.

2. Support of retroactive credit towards retirement for work as a temporary when subsequently hired as a permanent employee. SR 26. This position was adopted at the January 26 meeting of the subcommittee.

3. Support for health insurance for temporary employees after 30 days in state service. See SB 22. This position was adopted by the subcommittee at the January 26 meeting.

4. At the February 23 meeting, the subcommittee decided to recommend to the commission that the Personnel Rules be adopted in conformance with the Administrative Procedures Act. Section 4, page 3, lines 26-29 of SB 256 accomplishes this.

B. Issues pending before the subcommittee.

1. State practices in obtaining services or goods by contract.

2. Scope of membership in the exempt and partially exempt service.

3. Investigation of PCN's which remain vacant for excessive lengths of time.

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT
Public Hearing
Capitol Building, Juneau
September 12, 1979

MINUTES

Senator Bill Ray, Chairman, called the hearing to order and presented a telegram from Wasilla to commission members regarding complaints about the 120-day limit on temporary employment. It was decided by members that no action could be taken because of legislation passed on nonpermanent hire. Also presented was a letter from Catherine Hubbard concerning summer employment for students going to school outside of the state. (See attached copies of correspondence.) Don Fisher stated that the Division of Personnel permits submission of applications from students outside of the state, and therefore this shouldn't be a problem.

Senator Ray requested public testimony, and there being no response, brought up the topic of collective bargaining. Is the legislature going to continue giving the responsibility of negotiations to the Department of Administration? What will be the method for transmittal of agreements to the legislature for consideration? One proposed change involves requiring that all contracts expire on July 1. At some time prior to adjournment, there would be a deadline by which the Department of Administration and the unions would have to make a presentation to the legislature on negotiated agreements. The legislature would then have the option of approving or disapproving the contracts, and the unions would take whatever action they required to meet their interests.

Senator Ray asked whether the commission would like to make recommendations on the topic. Ken Spray responded that the problems recently encountered could be a catalyst for the establishment of a Department of Employee Relations. Senator Ray stated that the bill in question (SB256) did not receive affirmative action during the last session, and the consensus was that a separate department was unnecessary. However, the fiasco of the regular and special sessions may have changed some opinions. Mr. Spray suggested that the commission support its passage once again.

Senator Ray elaborated on the legislature's desire to take a more active role in the collective bargaining process. Alternatives under consideration include having the legislature directly responsible for the negotiations on behalf of the state, either through staff hired for that purpose or through a standing committee. However, when the legislature was responsible for negotiating with unions in the past, the outcome depended on which organization contributed the most to lobbying efforts. The system was unsuccessful at that time, and the legislature voted to opt out of direct involvement in negotiations. The current system was successful until this last year. He suggested that some legislators consider the added cost of the second and third years of multi-year contracts to be like paying for a "dead horse".

Senator Ray requested public testimony, and Maria Iverson, Leasing Officer with the Division of General Services and Supply, responded. On the topic of collective bargaining versus the merit system, Ms. Iverson stated that she believes employee unions are necessary to correct management neglect of employee needs and morale.

Ms. Iverson went on to discuss a public notice she had seen posted regarding a new APEA by-law giving the union president the right to fire members who do not honor picket lines. She said that other issues of concern to her and other state employees include the widespread discrimination and retaliation actions of management happening when employees speak out on issues. She added that there is a need for incentive programs to encourage talented state workers.

Senator Ray questioned the ability of any union to fire an individual for crossing a picket line. If this were true, management rights would be negated, as well as constitutional rights to express opinions. The state hires in accordance with the merit system, and a union has neither the right to hire nor fire employees. Senator Ray asked Pat Murphy to speak to the issue. Mr. Murphy stated that it was not true to his knowledge and that the notice may have been posted by someone other than an APEA representative. He added that in any case, by-laws have no control over an employee unless they are included in contract provisions.

Ms. Iverson stated that she has reviewed many laws on equal employment opportunity and human rights, and there is little in the Personnel Rules addressing those issues. She said provisions should be adopted to punish supervisors who willfully discriminate against women and minorities. Anyone found guilty of discrimination should be fired, be banned from further state employment for two years, and be made liable for punitive damages. She added that women in all levels of employment, from clerks to managers, are being discriminated against.

Senator Ray observed that complaints have been received stating that women are given advantages over men in the state. Frank Flavin responded that there is a lack of disciplinary actions to punish those who are proven to be discriminating against minorities. Taxpayers pay for rewards in discrimination cases, not the individuals responsible. The state needs to put a new emphasis on making those who discriminate illegally responsible for their actions.

Senator Ray pointed out that the greater percentage of personnel officers in the state are women, and they must therefore have control over discrimination in the hiring and firing of women. Lynda McCurry responded that personnel officers do not have authority to hire or fire. Ms. Iverson asserted that even top administrators often cannot do anything about discriminatory actions. Mr. Flavin pointed out that the Division of Equal Employment Opportunity only conciliates problems, and the Human Rights Commission cannot take disciplinary action. The only one who can take action is a supervisor or manager. Mr. Murphy commented

that if it is proven that an individual is engaged in discriminatory practices, and the case can be substantiated, this would be just cause for dismissal under the present Personnel Rules. The method is available, but proving discrimination is difficult. Senator Ray suggested that the women on the commission form a subcommittee to look into the matter. Ms. Iverson expressed concern over the operation of the Word Processing Center. Ms. Greene responded that both the Commissioner of Administration and Sandra Withers are reviewing the operation of the center. Senator Ray stated that the operation is successful in one department and not in the other. Ms. Iverson added that she constantly finds errors in work done by the center and that production rates and quality are poor. Ms. Iverson also objects to the piece-rate standards set by the center and the lack of monetary rewards or incentives to perform well.

Senator Ray noted that the commission has discussed the merit system and the monetary aspects of merit increases. One remedy is to award merit increases in lump sums for outstanding service as decided by a board composed of members from various agencies. The commission is still reviewing the relationship between the merit system and collective bargaining. Ms. Greene pointed out that there is incentive award legislation still in committee, but that there is a question about whether funding will be provided.

Peggie Loken addressed the commission regarding her concerns on the merit system, and suggested that pending legislation on incentive awards may resolve many problems. Senator Ray commented that the legislature considers merit increases as a double-dip for state employees. He feels that if the merit system exists, it should be directed towards hiring practices and performance incentives and suggests that performance evaluations only be submitted on below or above average employees. Requests for increases could then be submitted to an incentive board for consideration. Ms. Loken asserted that there is great concern about granting increases to "chair warmers" for average service.

Ms. Loken stated that there are too many job classifications for the state to accommodate. The system can be circumvented in numerous ways. Senator Ray pointed out that this problem is not unique to Alaska. The commission has also heard testimony that the present classifications are too broad. Ms. Loken stated that some employees are getting paid for functions they are not performing. Individuals can also be performing tasks well above what they are being compensated for. As an example of this problem, Ms. Loken said that it might take two or three months to fill a supervisory position through registers, and when the position is filled, subordinates are responsible for training the supervisor. She also mentioned that examinations do not test for skills actually needed to perform jobs. Ms. Loken concluded that the system doesn't encourage productivity and wastes time and effort in hiring employees.

Senator Ray commented that III's on registers may be willing to accept II vacancies, but they are considered over-qualified and never notified of such vacancies. He added that there are many applicants applying for as many registers as possible, thus flooding the system. Ms. Loken commented that "running" the registers is already excessively time consuming. She added that she would never succeed in hiring an individual if she had to consider all applicants on registers in a job series. Senator Ray asked Ms. Loken if she felt that there are too many classifications that are inconsistent with actual job functions. As an example, Ms. Loken said that accountants are performing work that does not meet class specifications. Senator Ray suggested that the reason behind this is that in prior years, the need for an accountant was valid. Although the duties have changed, the position has not been reclassified and the agency has maintained this classification to justify its existence to the legislature.

Ms. Greene explained that there is a backlog in reviews of classifications and job descriptions in the Division of Personnel. Mr. Spray commented that it is disturbing to have classifiers in the Classification and Pay Section downgrading positions in which they lack elemental knowledge of the work. He added that he has heard that the problem is in funding and that employees are being demoralized.

Mr. Flavin stated that improvements can be made in the certification area. One subcommittee came up with a recommendation to have block scoring for eligible lists. He added that there is no way to prove who is more qualified within a certain range or category, and the block scoring approach would allow supervisors more flexibility in hiring eligibles.

Cynthia Butler presented testimony on her experiences in trying to get a job in the state system as a double minority--black and female. She submitted her first applications almost a year ago and is now on 26 registers. Ms. Butler suggested that this might be evidence of problems with the system, and especially with having three sets of eligibility lists used in hiring applicants: open competitive, departmental and interdepartmental. The employer has the option of hiring from any of the three lists, which makes it difficult for new people to get into state service. Ms. Withers responded that departmental and interdepartmental promotional lists are composed of persons eligible for promotion and that they are a necessary part of the merit system.

Ms. Butler gave an example of an instance where a white male with a Bachelor's degree and a test score of 85 received a job she had interviewed for, despite the fact that her score was 95 and she has a Master's degree with honors from Yale University. Ms. Butler believes that the applicant was hired over her because he had been in Alaska some three months longer than she and was not female or black. Ms. Butler's response to this episode was a feeling of abuse and frustration. She stated that she was hoping that it would not be necessary to continue waging a "civil rights battle".

Ms. Butler continued, explaining that she is currently working two jobs as a part-time administrative assistant with the state and as a full-time nurse in the evenings. Between the two jobs, she said that she is still not making enough to live and that this is a sad commentary on the personnel system. Ms. Butler added that she had testified before the commission previously regarding her difficulties with the system.

Certification of eligibles and testing are two areas cited by Ms. Butler as needing attention. Her experiences indicate that the people who evaluate an applicant's experience respond to familiar "buzz words" and lack the technical knowledge of at least some fields of work to properly score an application. For one job classification for which she applied, she was given no credit for having a masters degree in that field, because the title of her academic program was not the commonly used title, which the evaluator would have recognized. The evaluator suggested that Ms. Butler write her resume and application for the layperson, rather than using technical terms. Ms. Butler suggested that an applicant should be able to explain qualifications for technical positions with appropriate technical terms. A resume should not have to be written at an eighth-grade level to be understood by the evaluators. She added that she has also found the state tests are not job related.

Mr. Flavin asked whether she had been offered interviews during her search for a job with the state. Ms. Butler replied that she had had one or two, but of rather unusual character. The positions she applied for were in the health field. She was told that she would be interviewed by one doctor, but received an appointment with another. During her conversation with this second doctor, he asked her a number of "baiting" questions, and the placement of chairs in which they sat suggested that he was trying to intimidate her. He made comments such as "Natives have taken over too much" and "You have three strikes against you: you're a health planner and a Yalie". She did not reply in kind.

Ms. Butler's next encounter in interviewing for a job was an invitation to dinner at the house of the first doctor. He informed her that the department had hired someone else. These were the two interviews which she had during her search for employment with the state.

Ms. Withers pointed out that being on 26 eligible lists does not mean that there are vacancies in all of those classes. There is a low turnover rate in higher salary ranges, and often a list is open for recruitment because there are so few applicants on registers. She added that the Division of Personnel does publish lists of vacancies, but because of the extensive time and work required to create the list, it is difficult to keep current. Ms. Butler presented a different opinion: She believes that she has not been hired because she had not been in Alaska long enough and employers perceive her as being an aggressive and outspoken black female.

Pearl Ancheta, an employee with the Department of Health and Social Services, presented testimony concerning eligible lists and how they discriminate against minorities. She expressed concern over Personnel Rule 4 01.3, which states that the Director of the Division of Personnel may prepare an appropriate list for a vacancy for which there are not appropriate eligible lists from one or more existing related lists. Senator Ray responded that under the merit system, incentives must be given to employees to progress in state service. Ms. Ancheta questioned whether giving preferential treatment to employees was in accordance with equal employment opportunity philosophy. Senator Ray asserted that the EEO system must give equal opportunities to people applying for positions as well as to employees within the system.

Aaron Isaacs, Director of the Division of Equal Employment Opportunity, addressed the commission. He stated that the responsibility of the Division is not only for people in government, but for those trying to get into government employment. Senator Ray responded that competitive lists as well as interdepartmental lists provide equal opportunities. Mr. Flavin suggested that discrimination problems can be attributed to lack of disciplinary measures and the attitudes of people working registers; or, in other words, the "male and pale" syndrome. He stipulated that there is nothing wrong with the lists: Personnel responsibilities of providing equal employment opportunities are being shunted aside and not given proper emphasis. Senator Ray agreed that there is apparently a weakness in supervisory personnel.

Ms. Greene stated that there is a need to monitor supervisory decisions in the hiring process. The Division of Equal Employment Opportunity offers training to supervisors on its policies and procedures which is mandatory for some and optional for others. Mr. Spray commented that the commission should meet with the Chief of the Classification and Pay Section of the Division of Personnel.

Senator Ray pointed out that there is also a problem of supervisors not recommending employees for rehire and issuing unsatisfactory evaluations, as was the case with Charles Dockery in the Division of Data Processing. Again, Mr. Flavin suggested that these problems support an the establishment of a Department of Employee Relations.

Ms. Withers observed that the downgrading of positions is considered negatively, but it is a possibility when identifying actual work being performed by employees. Senator Ray suggested that desk audits may be needed for every position in the system. Ms. Butler asked if there is any way to make sure that any eligible minority person would be considered for any vacant position. In a recent survey taken in the Department of Health and Social Services, Ms. Butler found that only one minority person is employed above range 22, and only about 15% of all departmental employees are minorities.

Marie Darlin, a member of the Juneau Intergovernmental Training Council, testified regarding employee training in state government. (See attached statement.) The Council's main concern is providing education, training and employee development within government. The Council has been in operation since 1967, and with the help of a grant from the Civil Service Commission, some attempts have been made to develop training programs in the state.

Senator Ray asked whether supervisors have guidelines and why they need additional training. Ms. Darlin explained that people need only meet minimum qualifications to be hired, but they have to be trained in the special aspects of jobs. In addition, training teaches employees new developments in their fields and makes them more capable and efficient. She also pointed out that there are no state forms to record an employee's on-the-job or special training. There is training going on, but there is no criteria established to measure results. Senator Ray cited the Word Processing Center as an example of an agency that has established forms for recognition of training and on-the-job performance. Ms. Darlin commented that these are subjective performance evaluations from supervisors.

Senator Ray stated that when the legislature, and especially the Finance Committee, looks at a request for training funds, there is a feeling that an employee should be capable of performing job functions when hired without additional training. He suggested that the staff prepare a draft position paper on the issue of the value and need for training of state employees for submission to the legislature. The commission will review it at a future meeting.

Ms. Darlin stated that training has been addressed in labor agreements and affirmative action plans, but that is the only place where upward mobility and career ladders are addressed. Lynda McCurry suggested that a subcommittee investigate the need for training further. Mr. Isaacs pointed out that the nature of EEO's responsibility is to educate supervisors and managers on the ever-changing nature of laws and regulations. New people in state government must be informed of the technical aspects of equal employment opportunity.

Mr. Fisher added that supervisors in charge of programs have to continue necessary training, even without specific allocations in the budget. He cited data processing as a good example of a field where individuals must keep up-to-date on new aspects of the job. Mr. Flavin observed that the legislature creates training needs whenever they change the laws.

Mr. Spray stated that in hiring program managers, Wisconsin places more emphasis on management skills than on knowledge of actual job functions. Ms. Greene pointed out that the question is what should be expected from supervisors and what status is intended to be given to them: What do we ask of them and how much would be expected in the private sector without additional training and instruction? Don Fisher reiterated that employees need to remain current on new skills, concepts and duties.

In answer to a question on the Intergovernmental Training Council, Ms. Darlin stated that it is composed of state, local and federal agency staff. The objective of the Council is to coordinate training resources available in government agencies. There are not very many individuals responsible for training programs, and training is normally given low priority. Once a year, the Council tries to hold a session in cooperation with the Office of Personnel Management for people in government.

Senator Ray asked what the merit system provides for and what recommendations the commission should make regarding eligible lists: Should we recommend that all lists be open competitive in light of testimony heard? Ms. Withers responded that one merit principle states that employees shall be promoted and encouraged to perform above average. The Personnel Act incorporates the merit principles into the state personnel system. Senator Ray directed the staff to research the merit system and merit principles referred to in the Constitutional Convention in Alaska.

There being no further testimony, Senator Ray adjourned the hearing at 11:30.

Senator Ray called the afternoon session to order at 1:30 and asked if anyone wished to present testimony. There being no response, Senator Ray mentioned a vacancy on the commission and suggested inviting Lois Jund to join. There was unanimous consent.

On the issue of the role of the legislature in collective bargaining, Senator Ray invited discussion on the following recommendation:

1. All contracts should go into effect as of July 1.
2. Notice should be given to the legislature of the findings of the negotiating teams by March 15.
3. The legislature would have to act on the results of the negotiations within 30 days or by the end of the session, whichever came first. The system could provide either that a contract did not take effect unless approved by the legislature, or that the contract would become effective unless disapproved.

Ms. Greene suggested that the commission consider the administration's proposal making the monetary terms of the contract take effect as of July 1, but permit the other terms to take effect whenever the parties specified. Mr. Spray added that effective dates of contracts are a topic of negotiation. He also pointed out that this system may preclude reflection of the quarterly Consumer Price Index in the pay scales negotiated for state employees, since the CPI is figured on a calendar year rather than a fiscal year.

Mr. Spray added that if there was a sudden rise in inflation, state employees would suffer if the contracts did not provide for a pay scale which responded to the CPI. Senator Ray suggested that the legislature might be willing to approve lump sum cost-of-living increases based on figures from the previous quarter.

Mr. Flavin asked where these suggestions originated: Are they from the public or the legislature? He commented that they appear to originate from legislators, negotiators, labor organizations and the administration. Public testimony should be asked for.

Senator Ray noted other areas of legislative concern. One is the issue of cost-of-living adjustments. Many legislators feel that those increases should be in lump sums rather than in a percentage increase. In addition, there is a problem in the funding of multi-year contracts. Can one legislature bind another to continue appropriating money for the later years of a contract? The issue is being researched. Legislators are not in favor of retroactive contract terms and would prefer that all contracts take effect at the beginning of the fiscal year following legislative review.

Returning to the issue of the legislature's role in collective bargaining, Senator Ray listed other proposals which the commission might consider:

1. Return the responsibility of negotiations to the legislature, either through a legislative committee or through staff hired for that purpose.
2. Hire legislative staff to sit with the Department of Administration and the public employee unions in the bargaining process.
3. Require approval by the voters for each contract before it takes effect.
4. Do away with collective bargaining altogether.
5. Present neither recommendations nor proposed legislation on the issue.
6. Recommend that the legislature retain the present system.

Ms. Greene asked if there had been any commission meetings to receive public testimony on the issue. If not, she stated that she hoped the commission would clarify these options and solicit public opinion. Ms. Greene also stated that the administration is backing a proposal for monetary terms to become effective as of July 1, following contract negotiations. Mr. Murphy asked if the commission could work on the proposals from the administration as a starting point. Mr. Spray pointed out that the bill introduced by the House State Affairs Committee during the special session addressed these proposals.

Mr. Murphy moved: If it is the intention of the Blue Ribbon Commission to study changes in the Collective Bargaining Act to make it more compatible, that we consider the two bills proposed by the administration and the Ad Hoc Committee to use in work sessions and for public testimony to come up with a bill to make a change. A vote was taken, and the motion failed.

Ms. Greene suggested that the administration's proposals could be used as a springboard for the commission, but not to limit the discussion to those two. She was also unsure if the commission had decided to make any specific recommendations. Mr. Flavin stated that he was not in favor of presenting only two options to the public and moved that hearings be held on all of the options enumerated. Mr. Fisher spoke in favor of the motion.

Ms. Withers asked what the purpose of the Collective Bargaining subcommittee was and whether this would be within their functions. Senator Ray responded that the issue of collective bargaining is past the point of just subcommittee involvement. He stated that the legislature is appreciative of the commission's efforts and that we have been commended for our activities. The legislature has also made it abundantly clear that collective bargaining and the merit system are concerns we should address. The commission can go forward and create alternative recommendations to present to legislators who do not understand collective bargaining.

Mr. Spray asserted that the merit system should be the number one topic for commission consideration. Senator Ray replied that collective bargaining is the number one issue at the moment but that the merit system deserves attention as well. Ms. Withers pointed out that provisions for a merit system are contained in the state constitution. Senator Ray instructed the staff to research the meaning of the merit system as discussed at the Constitutional Convention.

Phil McMurry, an employee with the Department of Transportation and Public Facilities, presented testimony on the merit system. He stated that after being employed by the state for three years, he and others in the department believe that the merit system should be maintained. In his opinion, cost-of-living increases are important in keeping salaries in balance with inflation, and merit increases are supposed to provide incentives to increase employee productivity.

On the question of merit increases versus seniority ranking, Mr. McMurry stated that the seniority system does have merit. He approved of the way APEA's general government unit contract states that the merit increase and evaluation system will be modified to make it more meaningful to employees. He believes that the longer an individual remains in service, the greater her or his value. He added that a seniority system that rewards longevity makes sense, but increases should not be given without consideration of productivity. Senator Ray asked if Mr. McMurry believed that merit increases should be part of the collective bargaining

process. Mr. McMurry replied that the more contained in contracts, the better. For example, Mr. McMurry suggested that discrimination should be addressed in contracts. Then, an individual would have access to grievance procedures in case of discriminatory actions, rather than having to file a complaint with the Human Rights Commission.

Senator Ray said that the biggest opposition to the merit increase system is due to the way the statutes are presently drafted. Increases are almost automatic and left to the supervisor's discretion. Labor organizations have argued that increases should be incentives to achieve high performance standards. Mr. McMurry asserted that there is a need for better procedures and rules for supervisors to follow. Currently, supervisors discuss performance standards with employees only when writing annual evaluations. This often causes frustration on the employee's behalf, especially when the evaluation is inconsistent with the employee's views. Senator Ray stated that evaluations should be made on either unsatisfactory or above average performance. If there was disagreement on an unsatisfactory evaluation, then the matter could be referred to a commission or board for final decision. Mr. McMurry again pointed out that the only time employees receive feedback from supervisors is at evaluation time. He feels there is a need for better communication between supervisors and employees.

Mr. McMurry stated that in some instances, supervisors must receive approval of evaluations written on subordinates from their supervisors. This often leads to rewritten evaluations and hard feelings. Ms. McMurry pointed out that this relates to the real concern of the lack of funding for both training and merit increases. She stated that personal satisfaction and communication between supervisors and subordinates is needed to improve morale. The present evaluation system has its drawbacks, and we should look at expansion of the system to make it more valuable. Ms. McMurry added that the probationary period could be used more effectively to weed out unsatisfactory performers and suggested that this, as well as consistent application of personnel rules, should be priorities of the commission.

Ms. Withers commented that three terms were being discussed: merit increases, the merit system and merit principles. One of the merit principles of the federal system is that there must be systematic job-related evaluations of employees. Mr. Fisher pointed out that as bad as the evaluation system is, it does require that the employer review and discuss employee performance. However, supervisors are not prepared to do so. Senator Ray asked how employees who are average performers should be provided for. He said that it is not a question of rewarding good employees or punishing bad, but a question of where to draw the line. Mr. Fisher responded that supervisors are inconsistent in evaluations and in making determinations as to who is and who isn't outstanding. Senator Ray again questioned where the line should be drawn. Ms. Withers commented that if this were to become a bargainable item, the legislature would have to grant negotiating authority to the administration.

Ms. Greene stated that there must be concrete criteria for evaluations, which means developing agreed-upon standards of employee performance. That entails skill development in evaluating performance and giving supervisors direction on how to evaluate. Mr. Flavin commented that we could do away with the evaluation forms because they have become automatic. Thus, the process that has changed from a management responsibility to a Personnel requirement could be fitted to each agency in accordance with management needs. This would create a need for stronger audits by the Division of Personnel for enforcement. Mr. Flavin believes that evaluation forms are worthless in most instances, and a personal memo to an employee would be an improvement. Senator Ray responded that judging by personal experiences, he believes communicating with employees is a much better approach. Mr. Spray commented that there should be some method to get away from the negative aspects of the evaluation process, such as supplying better instructions on how to use them. Ms. McCurry pointed out that the probationary period evaluation of employees takes a lot of time and consideration, and it doesn't have to be negative. It can be an effective means of presenting agency objectives and the performance standards expected of an employee. Mr. Flavin thought that beefing up the evaluation of supervisors could solve some problems.

Mr. McMurry told commission members that when his supervisor gets letters of commendation from agency users, he makes it a policy to show them to employees. He also writes personal comments on evaluations, which are very helpful and informative. Supervisors perceive evaluations as a yearly task, but keeping in touch with employees requires more than an annual form. Senator Ray asked if the commission wants to recommend that each state employee get a quarterly "report card". Ms. Withers responded that each employee should have a reasonable expectation of the status on their job, and supervisors are obligated to supply this information. A "report card" or another form is not the key. She stated that the answer is in establishing better communications between people. Senator Ray noted that supervisors are not taking that facet of their jobs into consideration. Mr. Flavin suggested that this was another argument substantiating the need for a Department of Employee Relations responsible for audit functions. Mr. Murphy concurred that there is a need to improve the personnel structure with a strong audit function.

Mr. Fisher pointed out that one of the items asked on evaluation forms is whether position descriptions are correct. In his experience, he has found P402's dating back to the 1960's. He asked why the descriptions are not more current if they are being reviewed annually. Ms. Greene responded that there is a backlog on classification revisions, and it is recognized as a problem. Ms. Withers added that the reason for the position description is to show what an employee is actually doing. It is assumed that supervisors filling out evaluations will inform the Division of Personnel of changes in duties. Senator Ray suggested that the scope of audits be defined. Mr. Fisher elaborated on the different types of audits: operational, program and personnel audits. The topic was left to future consideration.

On the topic of merit increases, Don Fisher said that they are currently a management prerogative. Mr. Murphy pointed out that other unions have chosen to incorporate merit increases into longevity bonus programs. He added that APEA's membership wants to maintain merit increases, and this may mean placing the Personnel Rules into contract provisions. Merit increases are currently addressed in the contract, but if the legislature decides that there is a conflict between bargaining and granting increases, the unions should be allowed the option of bargaining on increases. Mr. Murphy asserted that Pat Hunt, when serving on the commission, agreed that the Personnel Rule provisions should be included in contracts. Senator Ray commented that neither the administration nor the Governor believe the two are compatible. It is the commission's responsibility to explore the two and define the problems that exist.

Senator Ray pointed out that conditions during next year's legislative session are ripe for changes, due to it being an election year. He added that he would like the commission to receive recommendations from the public to present to the legislature. Mr. Murphy stated that during his last meeting with Pat Hunt, they discussed Oregon and New Hampshire statutes that exclude employees who are members of collective bargaining units from the scope of the Personnel Rules. The contracts must be consistent with merit principles. He said that this is an issue that will be negotiated. Senator Ray pointed out that there are many different positions on the subject in other states.

Mr. Flavin asked how members would like to plan the next meeting. Senator Ray responded that the staff would prepare a list of proposals made by subcommittees that have not yet been acted upon. The date was set for Friday, October 5. Subcommittees will meet prior to a full commission meeting.

Ms. McCurry appointed Doryce Eggleston, Personnel Officer in the Department of Public Safety, as her official alternate.

Senator Ray adjourned the meeting.

MEMBERS IN ATTENDANCE

Senator Bill Ray, Chairman
Don Fisher, Vice Chairman
Frank Flavin
Sue Greene (for Commissioner Hudson)
Sandra Withers
Lynda McCurry
Pat Murphy
Ken Spray

OTHERS IN ATTENDANCE

Doryce Eggleston
Darlene Livermore

TELEGRAM

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SEP 11 12 11 02

02109 TDA WASILLA ALASKA 179 09-11 1255P ADT

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WE, THE UNDERSIGNED, AS TEMPORARY EMPLOYEES ARE OPPOSED TO THE 120 DAY WORK LIMIT FOR TEMPORARIES. WE FEEL WE SHOULD HAVE BEEN INFORMED OF THE MEETINGS HELD CONCERNING THIS REVISION BEFORE SEPTEMBER 10, THE DATE WE FIRST HEARD OF THEM. WE ARE CERTAIN THERE ARE OTHER TEMPORARY EMPLOYEES THAT HAVE NO KNOWLEDGE OF THIS MATTER AND WOULD BE OPPOSED IF THEY KNEW. WE FEEL THAT IF THIS REVISION GOES INTO EFFECT IT WILL, REQUIRE CONSTANT RETRAINING OF TEMPORARIES, REDUCE THE QUALITY OF TEMPORARIES WORKING FOR THE STATE, QUALIFIED PERSONS WHO WORK FOR THE STATE AS TEMPORARIES WILL BE FORCED TO SEEK FULL TIME EMPLOYMENT ELSEWHERE, REDUCE THE NUMBER OF ALASKANS WORKING FOR THE STATE, NO ONE CAN LIVE FOR A YEAR IN ALASKA ON FOUR MONTHS EMPLOYMENT, INCREASE UNEMPLOYMENT IN THE STATE, ENCOURAGE SUMMER WORKERS TO COME UP FROM THE LOWER 48. WE ALSO FEEL THAT IF THIS REVISION DOES GO THROUGH PROVISION SHOULD BE MADE FOR ADDITIONAL FOUR MONTH EXTENTIONS TO THE DEPARTMENTS THAT REQUIRE IT.

JILL CUNNINGHAM, DAN MIELKE, RON JOSEPHSON, VIRGINIA RENFROE,
LORAN WALDRON, BRAUN KOPSACK, LEE CHENEY

P.O. Box 1032
Auke Bay, Alaska 99821
September 7, 1979

Senator Bill Ray, Chairman
Blue Ribbon Commission on the State Personnel Act
Pouch AG, Mail Stop 0123
Juneau, Alaska 99811

Dear Senator Ray:

The purpose of this letter is to offer a couple suggestions concerning the hiring practices of the State of Alaska. The two suggestions that I have are student exemptions related to temporary hiring and that agencies respond to all job applications submitted to them.

Part b, sec. 39.25.195 of the proposed Act HCS GSSB 198, chapter 67 says that every appointment for state service shall be made from an applicable eligible list or dispatching register, except for emergencies. This law would eliminate college students seeking summer employment. The time required to get on the register is approximately six weeks, a goodly portion of the summer season. This law would discriminate against Alaskan students and the states future professionals. Because of this, I strongly recommend that students (especially college) be exempt from this law.

My second recommendation is that all state agencies respond to all job applications that they receive, even if a form letter is sent. When an individual applies for a job it takes time, effort, and money. Common courtesy dictates that a response is made, even from the government.

Although the Alaskan student is a minority, we are a part of Alaska's future, therefore, I urge you to consider my recommendations.

Sincerely,

C.A. Hubbard

Catherine A. Hubbard, a life-long
Alaskan resident and student



JUNEAU

INTERGOVERNMENTAL

TRAINING

COUNCIL

September 12, 1979

TO: The Blue Ribbon Commission

RE: Employee Development and Training

Our training council wishes to express to your group the following concerns:

State government seems to be giving less and less attention and priority to employee development and training.

A few years ago an attempt was made to develop and training system for the State and yet none of that was ever implemented.

Currently with no coordinated system for state training efforts:

1. Supervisors and Departments have no guidelines for their training efforts.
2. No recognition of training accomplished or attended is given when no permanent records are kept in the employee's file. (other than what a dept. might elect to do on their own)
3. There is no requirement that training being done by each dept. is being evaluated against any objectives or criteria to show value received.
4. Employees changing careers or jobs are provided no assurance that they will be given help in learning new methods or skills. If a grievance is filed by them should they be terminated, against what standard of performance has the supervisor evaluated them?

Training will still be done by the different departments, particularly those with federal funds and perhaps federal requirements that certain training be done, and the study done by Becky Smith for the Dept. of Education shows that much could be gained from a coordinated effort of State training and employee development.

This presentation is merely to call your attention to the fact that recognition of the important aspect of developing human resources is not spoken to anywhere in the State Personnel rules and regulations, except in the state Affirmative Action Program, and in the negotiated labor agreements.

Marie Darlin
Marie Darlin, Chairman

BLUE RIBBON COMMISSION
March 13, 1979

MINUTES

Senator Ray called the meeting to order.

The commission considered the draft bill on the hiring of non-permanent employees.

Mr. Humphreys explained that the non-permanent bill made four changes from the draft temporary hiring bill: A language change, replacing the word temporary with the word non-permanent; changes in the intent section; addition in section 4 (b), page 2, lines 4 and 5, of the words "dispatching register"; and addition of provisions for a program or project employee, section 4 (c)(4), page 2, lines 21 through 23; and a definition of program or project employee, page 4, line 26 through page 5, line 2.

Mr. Spray objected to the language appearing on page 2, line 5, which appeared to indicate that the director could waive the union contract requirement that temporaries be hired through a dispatching register.

Mr. Hunt pointed out that according to the memorandum prepared by Ken Rosenstein, dated March 9, 1979, this statute would not bind future collective bargaining agreements without the addition of a statement of intent. Mr. Humphreys agreed that according to the memorandum, the safest course to follow if the commission wished to bind all employees would be to include a section spelling out that the bill applied to collective bargaining unit members.

Mr. Murphy moved that the commission sponsor the bill. Mr. Spray objected for the reasons stated above. There were no further objections.

The commission considered the draft of the Department of Employee Relations bill.

Mr. Hunt stated that he was concerned about requiring that the Personnel Rules be adopted under the Administrative Procedures Act given the small group of people to whom the Rules apply. He has heard from several sources that it takes six months to process rules through the A.P.A. Mr. Rosenstein's opinion makes it clear that the rules do not apply to those covered by collective bargaining.

Mr. Murphy stated that the Rules do apply to the employees his union represents. Perhaps 50% of the work life of those employees is covered by the Rules. He objected to the commission adopting the position taken by the memorandum without further research on the matter.

Senator Ray informed the commission that he opposed the

introduction of this bill during the current session.

Mr. Flavin objected to the present draft as not what was intended by the commission's vote taken at the February 24 meeting. The bill should simply repeal those references to the adoption of the Personnel Rules being exempt from the Administrative Procedures Act.

Senator Ray asked whether the Rules were required to be adopted under the A.P.A. at present. Mr. Flavin replied that they are not.

Since the commission voted at the February 24 meeting to sponsor this bill, no further vote was taken.

The commission discussed the preliminary draft of the report to the legislature. Changes were made. The commission agreed to continue the meeting on Wednesday, March 14, to conclude its review of the draft report.

Senator Ray adjourned the meeting.

March 14, 1979

Senator Ray called the meeting to order.

The commission continued to review the draft report to legislature.

The review was concluded, and Greg O'Claray moved and asked unanimous consent that the report as amended be released. The motion carried without objection.

Senator Ray adjourned the meeting.

BLUE RIBBON COMMISSION

February 24, 1979

MINUTES

Don Fisher chaired in the absence of Senator Ray. A quorum was not present, and the Commission met in work session until additional commission members arrived. There was discussion of whether the time limit on temporaries should be shortened from 6 months to 120 days.

Ken Kareen, alternate for Pat Hunt, arrived and a quorum was present. Mr. Fisher called the meeting to order.

Niel Thomas moved that the commission amend the Temporary Hire bill, page 1, line 26, by adding the words "or dispatching register" between the words "eligible list" and the words "unless in exceptional circumstances". A vote was taken. Seven members were in favor, one abstained. The motion failed.

Frank Flavin moved that a sentence be added to page 3, line 2, subsection (g) to read: "No work assignment may be performed by a temporary employee for more than 120 calendar days in a 12-month period." A vote was taken. Six members were in favor, one opposed and one abstained. The motion failed. Mr. Spray served notice of reconsideration.

Mr. Fisher called a recess. The meeting reconvened.

Mr. Flavin asked that the staff prepare a minority report to reflect the views of those in favor of the actions taken today. Mr. Fisher proposed that the staff be directed to prepare the minority report. Mr. Spray objected. Mr. Thomas stated that the commission should make a record and that at a later meeting, the amendments not adopted in the present meeting could be proposed.

Mr. Flavin moved that the draft bill be amended to add a requirement to subsection (h), page 3, line 7 through 13, that the director report to the legislature each year on the hiring of emergency employees as well as on temporary employees. A vote was taken. Eight members were in favor, none opposed. The motion carried.

Mr. Fisher called a break. The meeting was reconvened.

Pat Murphy moved that the commission adopt the draft bill on temporary hire as amended. A vote was taken. Seven members were in favor, and one opposed. The motion failed.

Mr. Murphy moved that members in favor of the draft bill sign the draft copy prepared by Ken Humphreys, containing amendments adopted, in order to place the votes on the record. A roll call vote was taken. Don Fisher, Ken Kareen, Frank Flavin, Lynda McCurry, Pat Murphy, Niel Thomas and John Pugh were in favor. Ken Spray opposed, and Ken Humphreys abstained. The motion failed.

Mr. Flavin moved that the commission recommend to the Division of Personnel and Labor Relations that Section 2 (a) through (e) of the draft bill, adding new sections to the law relating to the methods for hiring temporary employees, be adopted as Personnel Rules by the Personnel Board. A vote was taken. Seven were in favor, two abstained. The motion failed.

Mr. Flavin moved that the commission recommend to the legislature that a Department of Employee Relations be established. A vote was taken. Eight were in favor, none opposed. The motion carried.

Mr. Flavin moved that the Department of Employee Relations to be proposed to the legislature be structured as in the draft bill, without language relating to exemption from the Administrative Procedures Act, which appears on page 3, lines 13 through 16 and page 6, lines 16 through 19. A notation should be made in the report of the commission to the legislature that the section on decentralization of personnel functions, AS39.25.153 (which appears on page 6, lines 8 through 19), is amended only to make the necessary nomenclature changes and that the commission is still considering what course to recommend on the question of centralization or decentralization. Pat Murphy moved to amend the motion to include the language adopted at the meeting on February 23, 1979, relating to the experience required of the Commissioner of the Department. Mr. Flavin agreed to include this amendment in his motion. A vote was taken. Eight members were in favor, one abstained. The motion carried.

The report should include a statement recommending that the legislature consider moving other closely related divisions from the Department of Administration into the Department of Employee Relations.

Mr. Murphy moved to amend the motion to require that the commissioner of employee relations have a total of at least three years of experience in the fields of labor relations and personnel administration. Mr. Spray stated that five years should be the minimum. Mr. Humphreys suggested that the language concerning the experience of the commissioner would be interpreted broadly by the governor making the appointment. Mr. Murphy withdrew his amendment.

Mr. Flavin moved that AS39.25.153 be amended to read as follows:

Section 39.25.153 Personnel Rules for Departments

- (a) Each department shall appoint a personnel officer to be located within that department.

- (b) The personnel officer specified in (a) of this Section shall adopt regulations providing for the activities specified in Secs. 39.25.150 (1)-(10), (13)-(18), (20), and (22) of this Chapter for those classes of employees which are not common to other departments. The determination as to the classes of employees which are common to the various departments shall be made pursuant to regulations adopted by the director.
- (c) The personnel officers within the departments specified in (a) of this Section are subject to all provisions of this Chapter not in conflict with this Section.
- (d) The Governor may exempt any department with (a) of this Section containing less than 200 employees from the provisions of this Section.
- (e) All regulations adopted pursuant to this Section are subject to the Administrative Procedures Act (AS 44.62).

Mr. Thomas moved to table the motion and place it as the first item on the agenda for the next commission meeting. A vote was taken. Nine members were in favor, none opposed. The motion carried.

Lynda McCurry moved that the commission try to resolve all the questions which are before it by June 30, 1979.

Mr. Spray spoke against the motion. He stated that he could not imagine that the commission could reach an adequate resolution of the issues before it in that time. Most of the commission's time so far has been spent in public hearings, receiving and digesting information presented to it. He believed that it is necessary to continue the work of the commission into the next legislative session. He indicated that he believes that the legislature will resolve the issues on finances, and the budget and adjourn within 120 days, especially given the mood of the Senate.

Mr. Thomas explained that the motion would give the commission a goal to try to resolve the questions before it. The commission has considered the major concepts which it confronts. Four months remain in which the commission can work on its recommendations on the remaining issues. The commission has only been meeting for a period of four months, so that may be adequate time to resolve the rest of its work.

Mr. Flavin moved to amend the motion to read that the commission does not seek funding beyond June 30, 1979. Ms. McCurry accepted the amendment. A roll call vote was taken. Don Fisher,

Frank Flavin, Ken Kareen (voting as alternate for Pat Hunt), Lynda McCurry, Pat Murphy, John Pugh and Niel Thomas were in favor. Ken Spray opposed, and Ken Humphreys abstained. The motion failed.

Mr. Spray requested the privilege of the floor. He stated that in regard to the employee relation bill, special interests have been reflected in many issues. The same courtesy has not been extended to the issue of collective bargaining negotiations. Special concerns and interests of Local 71 have been ignored, with preference being given to APEA.

John Pugh responded that Local 71 has a maximum of 1,500 members, whereas APEA represents 10,000 employees. He stated that Mr. Spray received more than his share of time and courtesy from the commission.

Mr. Spray pointed out that Local 71 is affiliated with AFL-CIO in the organized labor movement which represents more than 10,000 employees. The AFL-CIO was instrumental in the enactment of the Public Employment Relations Act.

IN ATTENDANCE

Don Fisher
Ken Humphreys (for Myrt Charney)
Frank Flavin
Ken Kareen (for Pat Hunt)
Lynda McCurry
Pat Murphy
John Pugh
Ken Spray
Niel Thomas

OTHERS IN ATTENDANCE

Janet Bradley
Darlene Howard
Bob Mourant

BLUE RIBBON COMMISSION
February 23, 1979

MINUTES

Senator Ray, Chairman, called the meeting to order. He proceeded to recommend that the commission submit its report outlining the problems which have been identified thus far and as Wisconsin did, wait until an entire legislative package is ready before proposing any substantial changes. He pointed out that the sentiment in the Finance Committees of the legislature may cause trouble for any measures with sizeable fiscal notes attached.

The commission discussed the temporary hire draft bill. Senator Ray recommended adding a provision for a program or project employee. Project employees should receive medical and leave benefits but not be eligible for retirement benefits. He stated that the bill, as drafted, is not ready for introduction to the legislative process.

Frank Flavin suggested changing the language in subsection (g), page 3, line 2, to read at the beginning of that section: "No position may be occupied by a temporary employee..."

Ken Spray suggested three amendments:

In section (b), page 1, line 27, add between the words "eligible list" and "unless" the words "or dispatching register".

On page 3, line 28, to subsection (2), add the words "unless otherwise provided for in a collective bargaining agreement" between the word "means" and the words "an employee".

On page 3, line 2, section (g), Mr. Spray stated that he objected to the inclusion of that section in the draft bill entirely on the grounds that the matter should be left to the arena of collective bargaining.

Senator Ray suggested that the term "temporary" be eliminated, using the term "casual" as a substitute. Ken Spray commented that in Local 71's contract, casual employees are limited to 15 days. Senator Ray offered a word of caution that there are many individuals dependent upon temporary employment who must be taken into consideration. By eliminating temporary employment, budgets may be cut, forcing many employees back into the job market. Representative McKinnon commented that one problem encountered in the House is the reluctance of the Finance Committee members to turn away from temporary hire because of the additional funding demand this would create for permanent PCN's.

Frank Flavin moved that the bill be passed out of the commission and introduced in the legislature under the commission's sponsorship. Pat Murphy moved to table Mr. Flavin's motion. The motion was tabled.

The commission discussed the contents of the report to the legislature. The report should include a discussion of the tasks of the subcommittees, the problems identified, and indication of proposed solutions which the commission is considering. The Issue Summaries should provide the basis of the discussion. It is important to explain to the legislature the nature of the problems which the commission has examined. The report should indicate that the commission is requesting that its existence be extended so that it may fully address the issues presented in the report. There was a general consensus that the report be drafted for presentation to the legislature.

The commission decided to meet on Saturday, February 24, in the conference room of the Department of Transportation and Public Facilities.

IN ATTENDANCE

Senator Ray, Chairman
Frank Flavin
Ken Humphreys (for Myrt Charney)
Pat Hunt
Lynda McCurry
Pat Murphy
John Pugh
Ken Spray
Niel Thomas

OTHERS IN ATTENDANCE

Janet Bradley
Darlene Howard
Ken Kareen
Bob Maurant

BLUE RIBBON COMMISSION
February 15, 1979

MINUTES

Representative Buchholdt, in the absence of Senator Ray, chaired the hearing. She invited public testimony.

PUBLIC TESTIMONY

Lois Jund, retired Deputy Commissioner of the Department of Health and Social Services, was the first speaker. She introduced her remarks to the Commission by noting that the staff of the Division of Personnel has a very tough job to do. They are subject to many pressures from many sources and are understaffed for the job they must do in a centralized system of personnel administration. The state personnel system can be improved--and must be.

Ms. Jund gave a brief summary of her own background. From 1948 to 1956, she was the personnel officer for the Alaska Territorial Health Department, which was then operated under the merit system of personnel administration because it was a federal program. From 1957 to 1958, she was a management consultant with the U.S. Public Health Service in personnel and other areas in Region VII and provided services for five states in that region.

From 1962 to 1974, Ms. Jund had overall responsibility for management of the Arctic Health Research Center, a federal installation, including personnel administration. In that capacity, she had appointment authority through the level of G.S. 15 and classification authority to the G.S. 11 level. She became familiar with the state personnel system when, in 1974, she became Assistant Chief of the Division of Public Health of the state. From 1975 to her retirement in 1978, she held the position of Deputy Commissioner in the Department of Health and Social Services.

There are four major areas of the state's personnel system which Ms. Jund addressed: the classification process, the examination process, the recruitment process, and one very serious aspect of the career service. These areas are the major problem areas as she sees them.

1. CLASSIFICATION

Ms. Jund noted that this is one of the state's greatest problem areas. There is a great disparity in pay ranges based on the level of responsibility, both within and between departments. She is a firm believer in equal pay for equal work. In the state personnel system the only consistency is inconsistency. She gave examples of this problem.

A Clerk IV, which is not a high level position, was handling the entire responsibility for a state-wide program, supervising

a tremendous staff including two regional offices. She had this responsibility for many years. In 1974, after great effort, she was finally given the position of Administrative Assistant I. Administrative Assistant III's were heading programs with none of the responsibility that this individual had. She is still responsible for the entire program, and is presently classified as an Administrative Assistant II.

There is disparity of salaries between PHN's and Sanitariums within the same department, and between PHN's and Physician's Assistants. PHN's work much more on their own, with tremendous responsibility, yet are several pay ranges lower. There is also disparity between sanitarians working for the Department of Health and Social Services and those working for the Department of Environmental Conservation. In fact, the Department of Environmental Conservation is recruiting sanitarians away from the Division of Public Health. There are cases where an Administrative Officer I heads up a large project in the same department where an Administrative Officer III has few responsibilities.

The cause of this disparity is that the Division of Personnel has no standard classification guide, as does the federal government. In the federal system, the level of responsibility is equated with the range of the job. This would go a long way to do away with this tremendous disparity throughout the state government.

The Division of Personnel, in some instances, analyzes jobs and compares them with similar positions in other states. They fail to realize that--for example--comparing positions in California with positions in Alaska is like comparing apples to oranges. California has a wide-spread county government system, with responsibility for service delivery. A person here would be responsible for a state-wide program.

Few desk audits are presently done, and cannot be done without the assistance of a classification guide. After four years with the state government, Ms. Jund could not recall a single desk audit being done, so how can the Division of Personnel ascertain whether proper levels were set for positions?

Ms. Jund made the following recommendation, recognizing that it would cost money initially, but would save a lot of money in the long run: The Division of Personnel should prepare a standard classification guide immediately, equating levels of responsibility with qualifications and pay ranges. This then would permit a greater use of desk audits and would insure that personnel is functioning at its proper level. However, staffing in the Division of Personnel is insufficient to accomplish this project, but there are many things they could use to initiate such a classification guide.

The second greatest problem in the state personnel system is the inordinate amount of time it takes to classify a position once it has been authorized by the legislature. This leads to positions which desperately need to be filled being left vacant; it leads to the hiring of temporaries; and it leads to tremendous frustration on the part of administrators trying to run programs in the state. Ms. Jund has often heard legislators say that since you didn't fill a position, you evidently didn't need it. That isn't true. The position could not be filled.

One of the causes of the inordinate time to classify positions is that all positions must have individualized position descriptions. This is true in the federal government as well. With few exceptions, all positions must be classified by the Division of Personnel in the Department of Administration. One department may have its own classification authority. Unless pressure is brought to bear (and it is brought to bear by commissioners, by legislators, and by the office of the governor), the position will wait the normal classification process, no matter what the urgency of filling the position.

Ms. Jund recommended that we use standard position descriptions in the state. This would require the existence of a standard classification guide. For example, a Clerk Typist II in one department does practically the same thing as a Clerk Typist II in another department, yet each one has to have an individual position description. PHN I's do the same work, wherever they are stationed. The few parts of a job which might be different could be noted on a cover sheet attached to the standard position description. This would cut down the classification time. The federal government has implemented this practice effectively for some clerical positions and for accountant positions.

There should be a decentralization of classification authority with positions and funding provided. Some departments have the authority to do so now; however, few take advantage of this authority because they do not have the positions and funding. This decentralization would be for large agencies only and for professional positions in those agencies, using the standard classification guide. A job analysis should be required to be written for each job to be classified in the department, and sent to the Division of Personnel. They would then assume their proper role of setting standards and monitoring departmental practices. This would call for a greater use of the desk audit mechanism of the Division of Personnel to insure proper alignment of positions.

The next point may be controversial. Qualifications are too low in many instances, due to substitutions, to get the job done. Ms. Jund stated that she firmly supports the principles of equal employment opportunity and believes that substitutions

should be permitted for entry-level positions, up to and including sub-professional level positions. At the professional level, substitutions should not be required, as they are now by the Division of Personnel.

Ms. Jund gave an example of how ludicrous this can become. She referred to a position that she held as Assistant Director in the Division of Public Health. The job description calls for someone with a college degree, with two years of graduate study in public health administration or a closely related field, plus five years of administrative experience, one of which must be at the level of Administrative Officer I with the State of Alaska or an equivalent position elsewhere and one of which must be in public health. Those requirements are reasonable, and a person with those qualifications could do the job. However, additional experience may be substituted for the requirements of college education on a year-for-year basis.

The result (and this did happen on the register) was that an individual with eleven years of administrative experience, with only one year in public health at any level and one year in a position comparable to Administrative Officer I, could be placed on the register. The minimum qualification of eleven years of administrative experience did not specify at what level this experience must be. Many applicants qualified for the register who could not possibly perform the job functions.

Ms. Jund recommended that substitutions either not be required for professional positions or that they be permitted only to the extent that would be realistic.

2. EXAMINATION PROCESS

The staff in the Division of Personnel responsible for rating the training and experience of applicants is not always sufficiently knowledgeable of the field to properly rate an application. This is understandable, given the large number of jobs with a wide variety of qualifications. This leads to well-qualified individuals being rated ineligible and conversely, poorly-qualified individuals may receive high ratings because of the way an application is written.

As an example, Ms. Jund told of her own experience in filling a position for a Health Facilities Surveyor in Life Safety. They had located an individual who was fully qualified and urged him to get on the register. They were aghast to learn from the Division of Personnel that the person was not qualified because the examiner did not understand that being a fire inspector for an insurance company fully qualified the applicant as a life safety surveyor. That is the type of experience that they really

needed. They did manage to get the situation straightened out.

Ms. Jund suggested that professional review panels composed of professionals serving in a volunteer capacity be created to rate applicants for professional positions. The data processing field is an example of the areas where this is most needed. She witnessed its effective use during the time she served on the U.S. Civil Service panel and helped to rate applicants in the professional field of public health.

3. RECRUITMENT

On recruitment, Ms. Jund mentioned only one point: the inordinate amount of time and money spent by agency personnel in working registers. Frequently, the same names appear on registers where the individual has been reported to the Division of Personnel as not available, out of state, not interested and so forth. Yet, when the agency calls for another register in the same category, the same names appear. It is imperative that there be a central clearing of the common registers used by many agencies.

The recruitment process, after a position is classified, is extremely time consuming. Agencies must first advertise in the state, and for certain positions valuable time is lost in having to do so. You don't get doctors usually by advertising in Alaskan newspapers. You get doctors by advertising in the professional journals.

Ms. Jund recommended that there be concurrent advertising for hard-to-fill categories, both within and outside the state. There are many hard-to-fill categories in addition to physicians. This would save time and effort.

Ms. Jund raised another potentially controversial point. The Alaska Hire Law sometimes impedes state agencies from obtaining the best qualified person for the job to be done. She stated that she supports the Alaska Hire Law implicitly, but raised the question: Is the object of the law to give preferential treatment to an Alaskan who is equally or more highly qualified than someone from outside, or is the object to give preferential treatment to Alaskans no matter where they are on the registers (in other words, to foster employment)? She added that she would prefer to think that it was the former, but it doesn't work that way in the Alaska personnel system.

On the state's registers, all Alaskans are ranked ahead of all applicants from elsewhere. She worked a register for a very high-level position. The highest qualified applicant, with a rating of 95, was 18th on the register. The person was

the highest rated applicant from outside the state. The first applicant on the register had a rating of 80, and five points had been included in her score because she was already a state employee. All things being equal (references and so forth), she stated that she would much prefer the applicant with a score of 95 than an applicant who would have rated 75 on appropriate training and experience. The applicant with the score of 95 on the register was not within reach. No wonder agencies are criticized on occasion when they are forced to employ individuals who cannot possibly do the job.

Ms. Jund recommended that all applicants be ranked on the registers by grade, based on qualifications and experience, and not by location of residence. Alaskans who are more highly qualified or who are equally qualified should be and must be given preference by agencies.

4. CAREER SERVICE

Ms. Jund recommended that the commission give attention to merit increases for deserving employees. She distinguished these merit increases from longevity increases. It is argued by some that state employees receive pay increases; so why should the state also give them any more money? However, there is not much incentive for most employees to do an outstanding job for three years when a person hired tomorrow will be receiving the same pay range. This is not the case in private industry, and it leads to a terrible morale problem.

Ms. Jund recommended that agencies prepare standards for performance on which to base merit increases, so that they are given only to deserving employees who are performing at a consistently high level. She also recommended that the legislature specifically allocate funds for merit increases.

It is imperative that personnel functions be decentralized to large agencies. The Division of Personnel should then set standards and monitor performance.

That concluded Ms. Jund's remarks. She stated that she believed she had chosen areas of the greatest concern to most employees of the state of Alaska.

QUESTIONS

In answer to questions on decentralization from Lynda McCurry, Ms. Jund stated that the Division of Personnel will always have to assume classification functions for the smaller

agencies. Some decentralization is the way to go. There is reluctance on the part of the Division of Personnel to relinquish classification authority.

Janet Bradley asked about the apparent difference of opinion on the standard position description. In the classification walk-through, Ken Kareen explained that the position description forms the basis for the Division of Personnel's classification, performance standards and employee evaluations. Because they are frequently out of date, the Division of Personnel is unable to do its job.

How do you reconcile this need for a description tailor-made for each employee with your recommendation for standard descriptions to speed the classification process?

Ms. Jund explained that standard forms could be used only for those positions common to many agencies and in which there was very little variance between the duties of those in the positions, such as Clerk Typist I. Standard descriptions would also be appropriate for Public Health Nurse I's. Pat Murphy pointed out that both employees and managers write position descriptions in order to achieve particular results: for example, eligibility for overtime and placement in a particular bargaining unit.

In answer to a question from Pat Murphy, Ms. Jund explained the way the classification system works in the federal government. The personnel officer for the agency classifies a position in accordance with the standard classification guide. An analysis is written of how the personnel officer chose that classification, and it is sent with the position description to the central headquarters for review. If they believe it to be incorrect, they advise the personnel officer of the error. In addition, there would be periodic audits in which the employee describes actual duties to the auditor, and these are compared with the position description. If an error is found in the classification assigned, then the personnel officer receives a written report advising the corrective action needed. This system retains the proper authority and responsibility appropriate while allowing a faster process. It is appropriate that the people in the field make the initial classification, since they have more knowledge about the position than someone in the Division of Personnel possibly can, especially when personnel is responsible for classifying all positions within the state.

If the corrective action leads to a downgrading of the position, Ms. Jund stated that she believes that federal procedures allow the incumbent of the affected position to remain at his or her existing salary for one year before being placed at the

lower pay rate, although the position would be shown as the lower level from the time that action to correct the error was taken. It is important to remember that it is not what the employee is qualified to do that matters. It's what the job calls for the employee to do.

DIVISION OF DATA PROCESSING

Mr. Dwayne Herrick, an employee in the Division of Data Processing, identified a number of problems within that division.

The agency has in the past neglected to budget for travel for training, and yet training is necessary if employees are to keep their skills current in the rapidly changing data processing field. The division head justifies hiring new employees from outside Alaska because present employees lack this training. Money which has been appropriated for travel is spent on recruiting trips to the lower 48 to hire new employees rather than sending existing employees to programs to increase their skills. Such training programs are not available in Juneau. Training money has also been used to purchase equipment instead of to provide training. There are self-instruction manuals for new computer systems, but they are not sufficient and should not be considered a replacement for more formal and extensive training programs.

Employees who are brought up and whose moving expenses are paid by the state are then obligated to work for the state for two years or else to pay back a portion of their moving expenses. This increases their allegiance to the head of the division. The director is not concerned with complying with the Personnel Rules and has ignored hiring freezes in order to provide a job for a friend.

The staff of the Division of Personnel is unfamiliar with the fields in which they are rating data processing applicants, and they make mistakes. There is now some communication between the Division of Data Processing and Personnel on how applicants should be rated, so the mistakes are decreasing.

There have been a number of desk audits in the Division of Data Processing without any perceptible results.

Lynda McCurry explained that for positions in the field of data processing there is continuing authorization to accept out-of-state applications, unlike most other positions in the state. The person hiring can then use the justification of unique and unusual circumstances to select the applicant he or she is most interested in, regardless of the applicant's ranking on the register.

Charles Dockery, a Systems Analyst II in the Division of Data Processing, gave an example of the kinds of abuses which are occurring in the division. In late 1977 or early 1978, the director and one of his managers decided that they would avoid hiring any of the "dolts on the register" by specifying that the position for which they were hiring require specialized knowledge. People were hired from the lower 48, but they have not had to use this specialized knowledge, except for one employee who helped with the primary election. In addition, the division has since asked another employee to resign. The present staff of the division has the talent to learn the new skills, but they are not being given the opportunity to do so.

Mr. Herrick added that the director has failed to establish his priorities and to set realistic goals.

Mr. Dockery suggested that the Division of Personnel should audit the appointments of outsiders to attempt to establish whether the unique and unusual circumstances which provided the basis for making the hiring decision actually exist.

Representative Buchholdt pointed out that in the last session, there was a bill before the legislature to increase the funding for training, and that Pat Hunt testified that there was adequate training available.

Mr. Dockery asserted that there should be action taken against program managers who violate the Personnel Rules when making their hiring decisions.

Another facet to the training problem is that the state pays for moving a family from the lower 48 to Alaska, instead of paying for a three-day training session offered through IBM for an existing employee. Training would cost substantially less than moving expenses.

Lynda McCurry stated that the Department of Labor hires data processors from the same registers that the Division of Data Processing uses, and that the department hires from below the top five only when they need a programmer skilled in COBOL as opposed to scientific language.

Pat Murphy pointed out that this is an example of the problems created by having the head of personnel at a division level instead of at a departmental commissioner level. He or she should have independent authority to function effectively and to stand up to commissioners of other departments.

Darlene Howard said that APEA studied the use of training funds by the Division of Data Processing. Ninety-five percent

of the training money was used by one percent of the staff-- the rest did not participate in training programs. There did not appear to be any relationship between the people selected to attend training programs and the need for training in the particular program. Training sessions are used to reward employees, not to increase their skills.

Carl Nelson, a Console Operator II with the Division of Data Processing, testified. Several months ago, Mr. Nelson's supervisor advised him that he was due for a merit increase. The forms were returned, and he was told that he would have to wait another two years. He is pursuing this matter through APEA.

In 1972, the person who was then director of data processing decided that the console operators were overpaid, and initiated action to have the salary ranges lowered by two pay ranges. There was, at that time, no one to speak on behalf of the employees, and the action went through. Since then, the equipment has become substantially more complex. A new CPU unit is capable of handling five programs at one time, and there are only two people working on it at any one time. The workers agreed to a 12½ hour shift, so that the system is constantly operating, and the state is obligated to pay only a minimum of overtime to these employees.

There have been two attempts to have the positions reclassified since the 1972 action. Neither was successful. Morale is very low, and when the positions are compared with similar positions in Washington, Oregon and California, it becomes evident that Alaska salaries are not competitive.

There is a Data Processing Job Classification Task Force which has been organized to draft a complete set of new flexible, modern, well-defined data processing job classifications. A questionnaire has been developed to gather information to that end. Mr. Nelson supplied the commission with a copy of his completed questionnaire. Lynda McCurry explained that the task force was created to identify problems within that agency. Membership consists of Data Processing managers and representatives from the Division of Personnel and the Department of Labor. Carolyn Hinkey and Dick Kind, employees in the Division of Personnel, are responsible for compiling this information.

Mr. Nelson has worked for the state for nine years, and he has received only one merit increase during that time. In the absence of merit increases, and since he has reached the top of the pay scale for Console Operator II's, there is no incentive for outstanding performance. There used to be four levels of operators, and that number has now been reduced to two. Therefore, no viable career ladder is provided to Console Operators.

Charles Dockery elaborated on the absence of career ladders available to Data Processing employees. There is a 60% turnover rate in the division caused, in part, by the absence of promotional opportunities and merit increases. Some of the best qualified employees are leaving.

Thousands of dollars are spent on recruiting trips to the lower 48, yet there is no money available for training the existing staff, either for travel to programs offered elsewhere or to provide needed training to Alaskans. The division has continuing authority to accept applications from out of state for the positions of Programmer III or Systems Analyst II--both at Range 17. The division hires people from out of state into these positions, and then promotes them to whatever vacancy the director intended to put them in. There is a need for the state to address the problems of enforcing the Personnel Rules when they are violated, particularly when intentionally violated by state program managers.

The staff of the Division of Personnel lacks the skills to rate applications in the data processing field. Mr. Dockery submitted an application for System Analyst I, and received a score on his training and experience of 80. Two weeks later he submitted a xeroxed copy of the application, this time for Systems Analyst II which is two salary ranges higher than Systems Analyst I, and received a score of 85. There would be problems in having the Division of Data Processing score its own application, since there is no commitment by the manager to abide by the Personnel Rules and treat applicants or employees fairly.

The division does not permit its employees to obtain training or to use what training they have; yet, in order to be considered for promotion, employees are required to have received additional training. This is one of the causes for the high turnover rate in the division.

Mr. Dockery expects that he will receive some retaliation from the division for testifying before the commission. He gave an example of one individual who resigned, stating his reasons for leaving very tactfully. The program manager "vindictively" black listed him for doing so. There are many ways in which to seek revenge, such as finding fault and accumulating material in personnel files. Mr. Dockery added that there are many people who make mistakes in the division.

An example of the problems of the division concerns a bright, 20 year old employee. He was the only person with the skills to broadcast the general election results for the past elections. Despite his ability and the fact that he got along well with his supervisor and the other employees of the division, he has submitted his resignation, stated mildly and tactfully. His letter of resignation was pulled from his personnel file so that

managers would not have access to his account of problems encountered. The head of the division has indicated that he will see that the employee does not receive another state job.

Mr. Nelson testified that console operators are classified at Range 14. Mr. Dockery stated that that was unacceptable. The data processing salaries of the state do not meet the national standard, except for the salaries of the Operations Manager and Director. The others are at least two ranges too low. Data processing salaries in Alaska are equal to those available in the lower 48, but the cost of living in Alaska is much higher.

There was a position which was filled without any public announcement of the vacancy. The person hired was called a resident based on his having worked in the state some years before for a period of six months. The division paid for relocation expenses.

Some of the problems result from poor management. Some are the result of problems in the personnel system. When employees are hired initially, they are placed at advanced steps in the salary schedule in order for the state to compete for the best qualified people, but incumbents are not given the same considerations.

Kit Stewart, a Finance Officer III with the Department of Environmental Conservation, agreed with most of the points made by Ms. Jund. She disagreed on the question of limiting opportunities for substituting experience for college degrees. She felt it was appropriate to allow substitution, except in cases of life and death skills. As an example, engineers who have practiced for 20 years in Alaska are by statute to be treated as though they held engineering degrees.

Small agencies should be able to handle decentralization, just as large agencies are. Specifically, Ms. Stewart indicated that the Department of Environmental Conservation has existing staff with skills to perform classifications capably.

Training is a major problem in her department. For example, one employee felt that a particular training course would be beneficial and offered to pay transportation expenses and to take annual leave for the time required to attend, but asked the department to pay the \$500 entrance fee. The request was denied; and later, the employee was rated as failing to perform tasks which could have been performed had the training been authorized. At least one department has paid full college tuition for one of its employees.

In answer to a question from Don Fiser, Ms. Stewart indicated that the registers are cumbersome. Almost never are all five of the top candidates available for a position. For lower level positions, about 90% of those on the register are not available.

The Division of Personnel should adopt a policy of hand-writing memos on personnel matters so that time would not be lost in waiting for typing to be completed.

Cynthia Butler, Administrative Assistant to Representative Buchholdt, concurred with most of the statements made to the commission. She has had personal experience in difficulties with the raters in the Division of Personnel. She read a position description for a job for which she believed herself well qualified. She submitted her application and a resume in November. As of December, she had not yet been placed on the register. When she was finally placed on the register, she had received a score of only 80.

Ms. Butler inquired about the standards used by the rater in making that evaluation and was told that the information could not be released. Finally, she spoke to the person who had performed the evaluation. She learned that the rater had given her no credit for education or for specific training which she had received that was relevant to the position for which she was applying. She was told that if she had written her application for a lay person, it could have been evaluated to show that experience. She asked a reading expert to evaluate the application, and the expert told her that the language contained nothing above an 8th grade level.

Ms. Butler asked that her application be re-evaluated. The rater said that perhaps that could be done if she would document her education and provide evidence of the field work she had done. Ms. Butler supplied the information, and on inquiry a week later about whether the re-evaluation had occurred, was told that whenever the rater reached that information in her stack of work, it would be done.

Ms. Butler became angry at the time required to correct what she believed to be a mistake on the part of the Division of Personnel staff, particularly since the position for which she had applied was going to be filled soon. She called the Deputy Director to arrange for a personal interview. Subsequently, her application was re-evaluated, placing her from number nine on the list to number one. Because of her inquiries and persistence in asking that the errors of the division be corrected, she now believes that she has been blackballed from working for the state, without ever having held a state position. She was advised that in having her application re-evaluated and having her position on the register moved, the division had made an exception. Normally, the applicants must suffer the consequence of a division error without any recourse.

Ms. Butler indicated that she had been told that the division

was severely understaffed; and if that is so, then she can understand the inordinate amount of time required to process her application. The state should insure that the division has adequate staff to handle its workload.

In answering questions of commission members, Ms. Butler stated that the position for which she had applied was for Emergency Medical Services Coordinator. She had not had a formal interview, but she had spoken by telephone with the manager who was making the hiring decision and with another employee. She had not been to the job site.

Darlene Howard gave an example of another applicant who had had problems similar to Ms. Butler's. The applicant had decided not to testify before the commission for fear that she will be blackballed from state employment. The applicant applied for about 17 jobs, and is highly competent, possessing a B.A. and additional education as a media specialist with an emphasis in library work and three years in other related fields with tremendous research experience in private industry.

When the individual applied for a state librarian position, the division found the applicant unqualified because of the techniques used in evaluating teaching experience. If an applicant has a number of years of teaching experience within the same school system, then the division counts all summer vacation periods as experience, whether or not the teacher works during the summer. If the applicant has changed school districts, then the division only counts the time of the school year, or approximately nine months. Therefore, the applicant in question failed to meet the teaching requirements of the position.

The same individual is a professional artist who has tutored in the field of graphics, owned and operated an art business for several years, has had personal art exhibitions and has one year of professional art education. The division concluded in an evaluation that the individual lacked formal art education, despite the public recognition of the artist's talent, and therefore was unqualified for a position involving art work for the state's publications.

The applicant was also not credited with any experience in management or administration, even though the individual had successfully operated a business for income.

The individual encountered the same problems Ms. Butler discussed when appealing the decisions made by the raters. One position had been advertised as being open until a particular date, and the applicant pushed the division to re-evaluate to meet that deadline, only to learn that despite public notices,

a register had already been sent out to the hiring department. The register had been issued ten days before the publicized closing date for applicants, and the individual's name did not appear on the register for the position.

Written testimony was presented to the commission by Marcella Stutte concerning the eligibility requirements for longevity increases. A copy is attached.

STAFF REPORT

1. Summary of Correspondence

a. Testimony was received from Mr. Scott Semans, Architect, advising that the personnel system is overloaded with red tape which ties the hands of the people who are making hiring decisions, resulting in losing the best qualified applicants. He advocates speeding up the certification process and allowing those hiring to exercise greater judgement in making their selections of employees.

b. Ms. Margaret Clark, an Administrative Officer with the state troopers, testified as follows:

More than once, a desk audit to upgrade a position has resulted in the position being placed in a totally different classification. The incumbent, who is satisfactorily performing the work, therefore may not be technically qualified. If a person is in the position in such a case, no tests should be required to continue holding it.

She disagrees with requiring people to retake tests after two years on a register. In some positions, there are few vacancies, and an applicant can be on the register for the entire two years without receiving notification of an opening.

Tests don't apply to the work done in daily jobs. She recommends testing a person only once prior to hiring him, and then promoting on the basis of experience and performance, as the federal government does.

She has no complaints about the services of the Division of Personnel--it takes a long time to get anything processed, but that's the fault of the system, not the staff.

c. Ms. Gaile Haynes, who testified before the commission in Anchorage on January 27, wrote in regard to the ratings of promotability. A person who appeals or grieves a matter tends to be regarded as a troublemaker, and is therefore regarded as

non-promotable. To have a process not subject to normal review is in effect to insure that boat-rockers will not be promoted, thereby producing a degree of mediocrity in state employees.

2. A work session schedule was set for February 23 and 24.

3. Budget for 1979

Warren Endicott of the Administrative Services Division of Legislative Affairs has inquired about the commission's budget for next year.

4. Theresa Hurt, a student from Juneau-Douglas Community College, is working on a project for the commission as part of a Law Practicum course which she is taking. She will be reviewing the Personnel Rules and the collective bargaining contracts to determine the impact the contracts have upon the Rules.

5. Division of Legislative Finance Computer

Terry Cramer spoke with Jay Hogan, who indicated that the computer programming for tracking vacant permanent positions will not be finished for about six months.

6. USCSC Conference, February 28 and March 1

The commission will be responsible for paying for travel and per diem for those members attending the U.S. Civil Service Commission Conference on Public Personnel Management Reform. Representative Buchholdt may attend in Senator Ray's place. Greg O'Claray and Pat Murphy will also attend.

IN ATTENDANCE

Representative Thelma Buchholdt
Don Fisher
Ken Humphreys (for Myrt Charney)
Lynda McCurry
Representative Joe McKinnon
Pat Murphy
Janet Bradley (for Niel Thomas)

OTHERS IN ATTENDANCE

Darlene Howard

Marcella Stutte
Bridge Design Section
Div. of Highway Design and Construction
Dept. of Transportation and Public Facilities

I went to work for the old Dept. of Highways in 1968. After working for over five years I became seriously ill and left work. After my sick leave ran out, I resigned because I thought I had to. After a two year recovery period, I went back to work for the Department of Highways in my old job, in my old grade and in step F where I was when I resigned. I thought I was returning to the position and status I had before I became ill. It was the intention of my employing department to rehire me under the circumstances that existed prior to my leaving. Later I was told that because of the wording of the Alaska Statutes

"Sec. 39.27.022. Pay increments for longevity in state service. (a) Pay increments, computed at the rate of 3.75 per cent of the employee's base salary, shall be provided for an employee after he has remained in the final step within a given range for two years, provided that the employee has worked continuously for the state for seven years and provided that his current annual rating by his supervisors is designated as "good" or higher."

I would be ineligible for longevity increases for a period of seven years.

I have been back at work for 3 1/2 years and have not received a longevity increase although my evaluations are outstanding.

I don't believe this is fair. Had anyone realized the significance at the time of my resigning, of this situation, I may have been permitted LWOP during my illness and would not have inadvertently lost my eligibility.

What recourse do I have to correct this inequity?

Submitted to the Blue Ribbon Commission on the
Personnel Act at its meeting on Feb. 15, 1979
by Carl Nelson, Console Operator 2, Data
Processing, Dept. of Administration.

The attached questionnaire has been prepared by the Data Processing Job Classification Task Force. The Task Force was organized to draft a complete set of new flexible, modern, well-defined data processing job classifications. In order to accomplish this, we need your input.

The questionnaire has been designed to help identify the various kinds and complexity of data processing oriented work. It covers the range of activities from entry level to data processing managerial functions. Clearly, not all items will relate to you and your work. Please read each item carefully and, if it applies, answer it as accurately as possible. If it does not apply, indicate so and go on to the next item.

Questionnaires should be completed and returned no later than February 16, 1979 to:

Data Processing Job Classification Task Force
Attention: Carolyn Hinke
Department of Administration
Division of Personnel & Labor Relations
Pouch C
Juneau, Alaska 99811

Mail Stop 0201

Thank you for your prompt response and cooperation.

Data Processing Job Classification Task Force

Questionnaire

Name: Carl C. Nelson Job Title: DPEO II PCN: _____
Supervisor: Robert Farrell Job Title: Operations Supervisor PCN: _____
Department: Admin. Division: Data Processing
Location: 5th Floor Optis Phone: 465-2234 Date: 2-11-78

I. GENERAL QUESTIONS

The first portion of the questionnaire deals with the more general aspects of work which are likely to be found in any job.

A. General Description:

1. Describe briefly your job: Under General Direction, console operate multi-partitioned IBM CPU, high speed tape drives, high speed disk drives, high speed printers, card reader/punch, diskette reader, and peripheral equipment for timely and efficient processing of data from/for all state departments.
2. What is/are your major task(s) occupying 20% or more of your time?
60% Monitoring CPU. Listening, watching, analyzing instructions and error messages, error lights and any unusual conditions.
25% each; Retrieving tapes, mounting, dismounting, filing, printing and distributing standard and/or special forms.
3. What title do you feel best describes your work?
Operations Supervisor, Lead or Shift Supervisor

B. Supervision Received:

1. Describe the kind of guidance and/or instructions you receive with assignments (how specific, how detailed, how much discretion do you have in following guidance or devising your own methods, etc.):
During our 12.5 hour prime shift, we receive priority slips for those jobs needing special handling and quick turnaround. Since there are numerous other priority slips throughout the day, they are handled & processed by the discretion of the console operator due to the needs of the job. Example; estimated run time, number of tape and/or disk drives needed, special disk packs, tapewriter, etc... Upon occasion, we do receive special instructions, from technical services, for upgrading the system to handle new needs or to correct existing problems.

2. What, if anything, does your supervisor do to your work before you receive it?
He may, from time to time, check and see how much processing time certain jobs may require. Otherwise, he does nothing.
3. Is your work reviewed while in progress?
No.
4. What does your supervisor do to your work when it is completed?
He only reviews "Problem Reports" if there are any.
5. Who, besides your supervisor, influences your work (technical aspects, staff advisors, outside consultants, etc.)? How? Some 200 outside terminal users via on-line access to CPU. Phone calls from users for information on completed or currently processing jobs. IBM CE Technicians working on system hardware problems. Technical services working on system software problems. Last two may require the entire system, at times, to correct existing problems.

C. Guidelines

1. Describe the guidelines available to you, such as prescribed work practices, policies, procedures, rules, regulations, precedents, etc. IBM owns manual for specific components that covers CPU problems in its entirety. Technical services bulletins. Random special procedures, memos from management/supervisory personnel. Very often, verbal information/instruction from one individual to another, from shift to shift.
2. In what form are the guidelines? (verbal, desk manual, reference books, statutes, procedures manual, etc.)
90% Verbal instructions (as mentioned #1 above).
25% IBM Technical Bulletins and/or Reference manuals
Technical Service Bulletins and/or memos.
10% Everything else.
3. Are the guidelines for your job clear and specific so that it is relatively easy to identify which is applicable to each assignment, task, question or the like?
No. As mentioned in item #1 and #2 above, 90% of our guidelines are verbal from one individual to another, from shift to shift. So, to answer this question, there is no standard procedure, we run and expect spur of the moment changes in so-called established procedures.

D. Problem Solving

See Attached

1. Describe briefly some typical problems you encounter in your work and how you solve them. Power outage, which is very common in Juneau. Entire system is down and manually brought back up when power service is available. Hardware problems with device units (Tape, disk drives, etc...). These units are manually devediced off-line and repaired by IBM CE Technicians and
2. Do you have a choice of methods for doing your work, assigning priorities, etc? If yes, describe how you decide how, when and what you will do. Yes. Availability of time, importance of the job, the need of tape and/or disk drives, are all major factors in determining priorities for processing jobs. When the system is able to handle these needs, we release jobs for processing.
- 3a. Describe your most responsible or judgmental task.
See I A 2 answer under General Description. Page 2.
- b. How often does it occur? Monitoring the system is a very important factor and responsibility. Since there are five partitions, many jobs do require a response from the console operator and if he is not aware of the current status of each partition, time can be wasted if no response is made.
- 4a. What is the most critical error you could make in your work and its consequences? ① Accidentally pull "Emergency Stop" switch on CPU or power supply causing lost user time. ② Mounting wrong tape as output/input during production run. Destroys valuable data or wrong data input into job stream. ③ Print incorrect warrant numbers on pre-printed warrant forms.
- b. Who would be likely to catch the error?
I would catch the error or my co-worker would catch it.
- c. How would it be corrected? ① System powered back up and made available again to all users. ② Message from console would indicate a wrong tape mounted, operator would correct this error and continue processing. ③ Console operator would visually check pre-numbered forms before continuing.
- d. What are the chances of an error such as this happening?
① It has happened once. The switch in question is located in a very bad place. The chances of this happening again are very slim. ② This one happens quite often do to previous jobs canceling and thus those tapes are still mounted. An error message does occur and the operator can correct it, but there is a small chance of it happening. ③ Again, this has happened once before and since this is visually checked, chances of this happening are very slim.

See Attached

5. What responsibility do you have for making recommendations, decisions or commitments that determine or affect plans, programs, policies, procedures, etc? Give examples. Since the console operator has complete control of the system, we often make recommendation to our supervisor on handling procedures which would better serve all users, be more efficient and most practical. 99% of the time, no action is taken on our recommendations. We generally make our own decisions on jobs having bad data or erroneous messages.

E. Supervisory Responsibility (If you do not supervise, go on to item F)

1. List the positions you directly supervise:

<u>No. of Positions</u>	<u>Title</u>
1	DPEO I
1	Peripheral Equip. Optr.

2. Do some of these positions in turn supervise others?
No.

3. Briefly, what is the general purpose or function of the unit you supervise?

Senior Console Operator
Console Operator I
Peripheral Operator

To further answer this question, see IA 1, Page 2.

4. As a supervisor, I (circle appropriate number):

	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>
Interview job applicants	(1)	2	3	4
Hire employees	(1)	2	3	4
Evaluate employees	1	(2)	3	4
Promote employees (to a higher position I also supervise)	(1)	2	3	4
Transfer employees (to a position at the same salary I also supervise)	(1)	2	3	4
Suspend employees	(1)	2	3	4
Discharge employees	(1)	2	3	4
Settle grievances	(1)	2	3	4
Reassign duties	(1)	2	3	4
Train employees	1	2	(3)	4
Explain, interpret policy, procedure	1	2	3	(4)
Set work objectives/performance standards	1	2	3	(4)
Ensure timely work flow	1	2	3	(4)
Ensure the quality of work	1	2	3	(4)
Devise new procedures/work methods	1	2	(3)	4
Assess/plan for future personnel needs	1	(2)	3	4

1 = Does not apply.

2 = Recommend - you independently decide what is needed, gather all information, present it to your supervisor with a specific suggestion as to what should be done. Your supervisor takes the official action.

3 = Prior Approval - as described above BUT you take the official action once your supervisor has approved your doing so.

4 = Inform Supervisor - you gather information, make a decision, and take official action, informing your supervisor afterward of what you have done or how you have handled a problem.

5. What amount of your time is spent doing much the same work as your staff? 95 %
6. What amount of your time is spent doing non-supervisory work that is not similar to that of your staff? 0 %

Briefly, what are these tasks?

7. To what extent are you held accountable for the work of your staff?
At all times, 100 %

F. Managerial Duties

1. Describe the role you play in planning for needs such as personnel, supply, equipment, etc.
2. What are your budgetary/fiscal responsibilities?
3. What is your participation in long-range planning, establishing goals and objectives, etc.?
4. What responsibilities have you for evaluating the progress toward meeting goals/objectives and in devising/implementing measures to ensure their accomplishment?

5. What studies, such as organization, methods, cost analysis, work simplification, etc., have you participated in during the past year? What was the extent of your participation?
6. For what kind and size of organizational unit do you perform the above managerial functions?

G. Job Requirements

1. Winter is here and you cannot face another Taku wind. You requested and were granted an extended leave of absence, and you have set your sights on a warm sunny beach. Before you go, you are to personally pick a replacement for your job. Describe what you would look for in choosing your replacement. The individual must have at least five years of experience. Knowledge of the following:
 1. Multi-programming.
 2. Remote job entry system.
 3. Handling 3705 Terminal users.
 4. Knowledge of batch processing under POWER/DOS/VS.
 5. CICS System.
 6. 2540 Reader/punch.
 7. 2311, 2314 printers.
 8. 2401, 3420 Tape Drives.
 9. 3340, 3344, 3350 Disk Drives.
 10. Willingness to work 12.5 hour shift, day or night, seven on and seven off.
 11. Ability to lift heavy objects, often.
 12. Ability to respond intelligently to outside users.
 13. Ability to work diligently and take supervision.
- II. The next portion of the questionnaire deals with specific data processing related tasks. Please circle the appropriate letter which you feel best describes how often you become involved in each activity. Many of the statements may not apply to your job. Once again, read them carefully and if they do not apply, circle "a" (never) and go on to the next statement.
 14. Willingness to get clothes dirty or torn.
 15. Willingness to accept scratches, cuts or bruises.

Never	Rarely	Occasionally	Frequently	Very Often
a	b	c	d	e

1. I key data from source documents for subsequent batch processing by computer (if "never" go to #2).

a b (c) d e

a. I operate an IBM 029

a (b) c d e

b. I operate an IBM 129

(a) b c d e

c. I operate an IBM 3742

(a) b c d e

d. I operate Mohawk

(a) b c d e

e. I operate other: _____

(a) b c d e

f. I key verify similar data of other operators.

a b (c) d e 2.

I key source data that is immediately processed by a computer in an on-line/teleprocessing environment. (If "never" go to #3)

a b c (d) e

a. I operate an IBM 327x CRT

(a) b c d e

b. I operate a SuperBee

(a) b c d e

c. I operate other: _____

a b (c) d e 3.

I am required to make independent decisions based on the information required in the source document. (If "never", go to #4)

a (b) c d e

a. I decide to accept or reject the document.

a (b) c d e

b. I decide to flag the record for audit

(a) b c d e

c. I can change a field on the document.

a b (c) d e

d. I can contact the user.

(a) b c d e

e. Other: _____

(a) b c d e 4.

I prepare drum cards/programs for the control of keying a series of documents.

Never
Rarely
Occasionally
Frequently
Very Often

- (a) b c d e 5. Estimate number of different document types you key data from (a = less than 10; b = 10-20; c = 20-50; d = 50-75; e = more than 75).
- (a) b c d e 6. Estimate the daily record volume you key. (a = 100; b = 250; c = 500; d = 750; e = 1,000)
- (a) b c d e 7. I perform control scheduling and distribution functions for production computer operations and data entry.
- (a) b c d e 8. I receive and log source documents from users to be keyed for later computer processing.
- (a) b c d e 9. I schedule and stage (set up) production computer job streams, including JCL for those job streams.
- a b (c) d e 10. I take action, in conjunction with the user, to resolve schedule disruptions or run failures.
- a b c d (e) 11. Based on predetermined scheduling instructions, I establish job stream priorities.
- a (b) c d e 12. I refer to a computer console log to resolve job stream problems.
13. I work with the following computer systems:
- a b c d (e) a. IBM 370 series.
- (a) b c d e b. IBM 360 series.
- a b c d (e) c. Other IBM 370, 3031
- a b c (d) e 14. I run utility programs upon user request or as needed to aid scheduling.
- (a) b c d e 15. I routinely, as a primary function of my job, complete source documents for computer processing.

Never
Rarely
Occasionally
Frequently
Very Often

(a) b c d e 16. I proof, balance, and correct computer results and source input prior to the return of those results to the user.

(a) b c d e 17. I act as data control liaison between my agency and the data center which does our computer processing.

a b c d (e) 18. I operate a computer with a central processing unit and attach peripherals. (If "never", go to #19).

a. The equipment I operate is described as:

	Make	Model	Operating System	# of Partitions	Console Attach YES
a b c d (e)	IBM	145	370	4	yes
a b c d (e)	IBM	3431	370	5	yes
a b c d e					
a b c d e					

a b c d (e) 19. I direct other operators in optimizing the work flow of the computer and, as such, act as a console or lead operator.

20. I operate the following attached computer peripherals: (if none, go to #21).

a b c d (e) a. Tape 3420, 11 Drives; 2401, 2 Drives.

a b c d (e) b. Disk 3340, 10 Drives; 3344, 6 Drives.

a b c d (e) c. Reader 2540, 1; 3505, 1.

a b c d (e) d. Printer 3311, 1; 1403, 2.

a b c d (e) e. Punch 2540, 1.

a b c d (e) f. Other: Diskette Reader

a b (c) d e 21. As a routine and major part of my job, I operate off-line equipment, distribute reports, restock supplies, and perform other computer operations support functions.

Never
Rarely
Occasionally
Frequently
Very Often

(a) b c d e 22.

I perform equipment maintenance on the CPU and peripherals beyond routine cleaning. Please describe.

a b c d (e) 23.

I operate a remote job entry station. *During Prime shift.*

(a) b c d e 24.

I supervise a node of a computer network. Please describe.

(a) b c d e 25.

I code new computer programs.

a b c (d) e 26.

I modify the code of existing computer programs. (If 25 and 26 are "never", go to #28)

27. I use the following:

a b c d e

a. BASIC

a b c d e

b. ASSEMBLER

a b c d e

c. COBOL

a b c d e

d. PL/I

a b c d e

e. RPG

a b c d e

f. FORTRAN

a b c d e

g. CICS/DMS

a b c d e

h. EASYTRIEVE

a b c d e

i. SPSS

a b c d e

j. LIBRARIAN

(d)
(c)

k. Ditto

L. EREP

Ditto is used quite frequently during Prime shift.

EREP is used on occasion to help determine hardware problems. This helps the IBM CE Technicians to zero in on problem areas

- | | Never | Rarely | Occasionally | Frequently | Very Often | | |
|-----|-------|--------|--------------|------------|------------|---|--|
| (a) | b | c | d | e | <u>28.</u> | I install and maintain computer operating systems along with vendor supplied proprietary software packages. | |
| (a) | b | c | d | e | <u>29.</u> | I interview users to determine their data processing requirements. | |
| (a) | b | c | d | e | <u>30.</u> | I prepare preliminary study reports. | |
| (a) | b | c | d | e | <u>31.</u> | I develop general systems designs. | |
| (a) | b | c | d | e | <u>32.</u> | I develop detail systems designs. | |
| (a) | b | c | d | e | <u>33.</u> | I develop PERT/CPM or Gaant Charts for project control. | |
| (a) | b | c | d | e | <u>34.</u> | I perform routine maintenance analysis on existing systems. | |
| (a) | b | c | d | e | <u>35.</u> | I manage information system contracts. | |
| (a) | b | c | d | e | <u>36.</u> | I conduct user training classes. | |
| (a) | b | c | d | e | <u>37.</u> | I have project control over systems analysts and programmers. | |
| a | b | (c) | d | e | <u>38.</u> | I provide technical advice to my managers or supervisors. | |

III. The last portion of this questionnaire is for you to provide any additional information which you feel is important or in need of special emphasis.

- A. Describe briefly those aspects of your job which have not been covered in this questionnaire. *Danger in extremely high voltage equipment. Extremely high pressure (constantly!), from our Supervisory/Management personnel, to get the work completed and out from yet a never ending backlog!*
- B. Is there anything about your job you think needs special emphasis? *12.5 hour shift, seven days on seven days off. We are on our feet 90% of the time. We lift heavy paper boxes. Lighting is very poor. Extremely high paper dust in the air. Extremely high noise volume in the working area. And most important, the console operator is looked upon only as a button pusher. He is not!!!*
- C. Do you have any other comments or suggestions? *pusher. He is not!!!*

*See page 3
C 1, 2 & 3.
last
reference*

Yes.

My main concern is for all operation personnel. The employee morale is extremely low and has been since 1972 when Mr. Warren Endicott, then Director of Data Processing, stated that the console operators ^{were} over paid. He recommended a down grade of two pay ranges and Personnel carried his say so through. We were the only ones affected in the entire Division of Data Processing. I personally feel that this action was wrong and unjust. Since then, our duties and responsibilities as console operators have increased substantially and we have, since that time, been requesting a job reclassification to reflect a salary equal to these demands. On two separate occasions we have filled out "P402's" and we were never informed about the results. All we are ever told, from management "we are working on it." They have been working on it for the last five years! Now here we are again filling out this questionnaire, are we again going to get the same results?

(See Attached)

D. Problem Solving: Page 4

1. Continued:

brought back in-line when the problem is resolved. When these units are taken off-line, we have to work around them and run only jobs that will not be affected by the shortage of those units. JCL errors within programmer's job stream, console operator has 99% effectiveness in manual correction and thus saves the state many dollars in computer run time.

D. Problem Solving: Page 5

5. Continued:

As for plans, programs, policies and procedures, we are always able to give input. But we face the 99% no action. Any changes affecting both the Console Operator Monitor and the user, the user comes out on top. Example: Changing priority jobs to a special class to enable quick accessibility by the Console Operator. This recommendation has not as yet been enforced.

Continued:

Personally, I am one employee who is very disappointed. Since the action taken in 1972, I have only received one (ONE!) merit increase! During my last evaluation several months ago, my supervisor informed me that I was due for my merit increase. I was really looking forward to it, but Personnel returned my evaluation form indicating that I was not eligible until 1981. I want you to know that I have only received one merit increase in nine years! Is this how good, loyal, dependable, hard-working employees are to be treated? I want to know what is going to be done about it! Is this questionnaire going to resolve it? This may not be of any concern to you, but it is to me. I am a single parent of two school age children and I find it very difficult to meet my expenses from month to month. I am currently working on my twentieth year for the state. Do I have anything to look forward to?

As I have previously mentioned of the action taken in 1972, our duties and responsibilities have increased substantially. We have worked under continuous upgrading of new sophisticated IBM equipment, the IBM 360/40, IBM 370/40, IBM 370/50, and now most recent IBM 370/3031 which has numerous features. Under each of these models, multi-programming has increased, workload has increased and above all the duties and responsibilities of the console operator has increased.

In multi-programming, there are five jobs occupying at all times. The console operator must be aware of what he is doing at all times, any wrong response could be fatal. In reference to workload, we have nearly 200 terminal outside users who have access to our system and submit jobs for processing. We handle, on the average, 300 plus jobs during any given day. I mention all this because it gives me the basis for making the following recommendations and I might add, they most certainly need to be implemented. We need the following positions with indicated pay range:

Console Operator Trainee	Range	11
Console Operator I	Range	13
Console Operator II	Range	15
Console Operator III	Range	17
Shift Supervisor	Range	19
Operations Supervisor	Range	21
Operations Manager	Range	23

The Shift Supervisor is needed to aid operation's personnel and relieve other pressing matters from the Operations Supervisor and would be directly under him. The Console Operator III position also is needed, three operators should be on shift at all times to handle the workload, two can not handle it properly to keep up the needs of the system.

I want to reiterate that the duties and responsibilities of the console operator have increased at least 400% and expect it to increase again in the near future with the addition of OS installed in the IBM 370/3031. I don't think that my recommendation is ridiculous or unjustified. If anything, upgrading our positions should be granted and made retro-active due to the difficulties we have had in the past in requesting such action. We are not button pushers, we are the backbone of the state and most certainly deserve equal pay for equal work. I rest my case!

Thank you for hearing me out.

BLUE RIBBON COMMISSION HEARING
Anchorage Historical Museum
January 27, 1979

MINUTES

Don Fisher, Vice Chairman, called the meeting to order and invited public testimony.

PUBLIC TESTIMONY

Daniel DeNardo, a Revenue Auditor with the Anchorage Office of the Department of Revenue, read a prepared statement regarding violations of state Personnel Rules. (Attached is a copy of Mr. DeNardo's statement with supporting documentation.)

Don Fisher suggested that the situation presented by Mr. DeNardo warranted further review by the Ombudsman's Office. Ken Spray suggested that because of the legal implications, Mr. DeNardo should bring the matter to the District Attorney's attention.

Ann Lacey, an employee of eight years with the Alaska Transportation Commission, presented problems she has experienced after being placed in a word processing center. Since 1974, Ms. Lacey had been a Secretary I at salary range 10. She has recently been placed in a word processing center, which is the equivalent of a typing pool. Employees in the center are graded on the type of work being done on a minute-by-minute basis. The supervisors assign work to each typist, and points vary for different types of assignments. This leaves the supervisor with substantial control over how many points an employee can obtain. Ms. Lacey pointed out that the work could be compared to that of a Clerk Typist. She started working 11 years ago as a Clerk Stenographer III, and feels that by being placed in the word processing center, her position has been downgraded.

Ms. Lacey stated that though she is on several registers, she has never been offered an interview for a position. She was on the register for the position of Word Processing Supervisor, but another applicant from the same range and classification was appointed. Ms. Lacey stated that the individual hired was informed of the expected vacancy and given an opportunity to take courses relating to the position. The individual was thus able to get on a promotional list for the position, even though possessing less time and experience with the state.

Darlene Howard explained that classifications at the clerical level have recently been altered to Correspondence Secretary and Administrative Technician levels to accommodate the word processing system. With the assistance of IBM, a matrix of positions was developed. Values were given to various forms of typing on piece-rate basis for work flow and count factors. Grounds for promotion and demotion are based on the points a typist earns, which are figured by multiplying the time spent in typing a particular item by the difficulty factor assigned to that type of

work. A supervisor can therefore control the points available to each typist, by the assignment of high or low-value work. As the use of word processing centers expands, morale problems may develop.

The state justifies shifting to a word processing system by pointing out that with such a system, specialized equipment can be used, typing time can be expedited and greater accuracy can be provided. However, only one specialized unit is in use in the Juneau center. All of the other centers are supplied with Mag Card II's, which are commonly used in all state offices. Despite this lack of specialized units, salary ranges of word processing employees are not comparable to those of clerical and secretarial employees using the same equipment.

Questions arise in regard to career ladders for word processing employees. They are no longer exposed to the day-to-day management of the programs for which they type, and therefore have less opportunity to learn the operation of those programs. Thus, they are less likely to be able to advance beyond the secretarial/clerical level.

Pat Hunt explained that the Division of Personnel and Labor Relations has been closely involved in the development of the word processing centers. The idea originates as a management decision, and the Division is responsible for the reclassification of the positions affected.

Pat Murphy asked how eligibility lists are used in hiring for word processing centers: Are applicants competing on registers for word processing center classifications or are they being transferred? Pat Hunt gave an example of seven positions taken out of the Division of Personnel's budget and placed in the word processing center. Pat Murphy commented that the system is in the process of being implemented within other departments. He believes this will affect employees state-wide.

Niel Thomas suggested that the Commission request information from John Mitchell, Word Processing Specialist with the Department of Administration. Don Fisher added that he would be interested in knowing how the supervisor Ms. Lacey referred to was selected.

Fred Jones, Director of the Department of Employee Relations for the Municipality of Anchorage, testified on the structure of the Department of Employee Relations at the request of the Commission.

Prior to the creation of the department, the Municipality of Anchorage had a division of personnel, but did not employ

staff for its labor relation's activity. The Municipality contracted with private attorneys to handle its labor negotiations and grievance proceedings.

In June of 1977, the Mayor formed the Department of Employee Relations, consisting of the personnel division and adding a labor relations staff. Each of the major divisions report directly to Mr. Jones. He listed the divisions as: recruitment, examination, compensation, records, benefits, training, plans and programs (which is headed by the former personnel director) and labor relations. The Municipality has found that this system offers flexibility while maintaining control. The personnel functions and labor relations are combined because of the close relationship of the issues for which they are responsible. He indicated that 87% of the employees of the Municipality are covered by collective bargaining agreements. Mr. Jones, as head of the department, reports directly to the Mayor. This structure is similar to that of those organizations for which he has worked in private industry. This direct line to the chief executive is especially critical in the labor relations area.

Pat Hunt asked if the Municipality has a personnel ordinance. Mr. Jones replied that there is a labor relations ordinance that covers all aspects of labor relations as well as creating an Employee Relations Board. The Municipality chose to adopt its own system rather than be covered by the state's system.

The Employee Relations Board has functions similar to the National Labor Relations Board. Representative Buchholdt questioned what had been gained by opting out of the state system and adopting the present ordinance. Mr. Jones responded that matters can be handled more expeditiously with the Municipality's own system. Department heads are informed of the structure of the Employee Relations Department through a manual prepared on the subject. An Employee Relations manual is also being prepared.

The Municipality is obligated to provide for a merit system by statute. Personnel rules are in the form of an ordinance. Prior to the creation of the new department, the Municipality had various regulations.

Pat Hunt asked whether user departments have personnel officers. Mr. Jones replied negatively. The personnel division and department heads interface, and if a problem in personnel arises, it is brought to the attention of the division head. Niel Thomas explained that the Commission is considering the decentralization of unique job classes and asked for Mr. Jones' thoughts on the subject. Mr. Jones stated that this might lead to problems in proper control and that he is a believer in centralized authority for consistency in personnel and labor rela-

tions.

Mr. Thomas asked if the Department of Employee Relations has a defined audit function. Mr. Jones stated that the Municipality has centralized headquarters to maintain the consistent application of personnel rules and labor contract provisions. Mr. Thomas expressed interest in where the internal equal employment opportunity function was placed. Mr. Jones responded that it is located in a separate department. There is question as to where the function should be placed. He believes that it should be within personnel and labor relations, but it may be placed in the legal department.

Representative McKinnon asked what the application process is. Mr. Jones explained that there is a regular screening and examination process depending on types of positions. Police and Fire Department applicants are subject to sophisticated testing programs. For other positions, the personnel division screens and matches qualifications of applicants with job specification requests. An eligibility list is then created. This list is referred to departments or divisions for interviewing and hiring. Representative McKinnon asked how long it takes for an applicant to be rated and placed on the list. Mr. Jones said that this would depend on the number of applications received for the position. A vacant position must be posted internally for seven days prior to recruiting. If there is no response from Municipality employees, an eligibility list is usually created and issued within three days. Mr. Jones emphasized that there are hiring halls covering two large organizations that supply qualified applicants within 24 hours.

In answer to Mr. Hunt's questions on the Municipality's recruitment practices, Mr. Jones indicated that most of the applicants for positions with the Municipality live in the immediate area. Very few applications are mailed to the department. When the Municipality has to look outside its immediate area to fill a position, as is the case with the present opening for a Director of Public Works, the process for filling a position takes considerably longer. Typically when an individual applies for work with the Municipality, he is interviewed by one of the well-trained examiners who evaluate the skills of the applicant against criteria supplied by the departments on the job. The city does not solicit applications for positions in which it has no openings, although it does maintain active applicant files.

Mr. Spray questioned whether there were any changes made in regard to personnel plans and programs. Mr. Jones replied that procedures have been implemented that were not formerly a part of recruitment and training. As an example, the Personnel Director has created an employee handbook and is working on an

employee relations manual for supervisors.

Mr. Spray requested information on arbitration caseloads. Mr. Jones responded that in 1978, there were a total of 19 cases recorded for 3,000 Municipality employees. Mr. Spray explained that Local 71 had approximately 50 to 60 arbitration cases last year, out of 1,500 members. Mr. Jones commented that the percentage seemed high.

Mr. Spray asked how Mr. Jones would prepare for negotiations on new contracts. Mr. Jones responded that the personnel division would be contacted for statistics and technical information. Otherwise, data is gathered from each user department head on possible improvements, refinements, changes, etc. The negotiating committee consists of various members: labor relations, plans and programs, compensation and classification staff.

Don Fisher asked if the Municipality uses a large number of tests for evaluating applicants. Mr. Jones stated that tests are given to typists, and police and fire department applicants only. He believes that testing should be given only to entry-level and clerical applicants. All others can be evaluated by performing reference checks. John Pugh asked whether there is a requirement to choose from the top five applicants on eligibility lists. Mr. Jones replied that there is a maximum of five applicants on the lists sent to departments. The applicants are not ranked and the department can hire anyone on the list. Don Fisher questioned what reason would be given for rejection of an entire list. Mr. Jones answered that a position can be reannounced, in which case a new list of five applicants would be sent to the department. Reasons would have to be based on in-depth review with the specifics and unique requirements of the job taken into account.

Darlene Howard asked what type of methodology is used to determine who is best qualified and which names should be sent to departments. Mr. Jones replied that interviewers are supplied with in-depth descriptions on each position. There are minimum qualifications that each applicant must meet. Once this is determined, they are matched up with job specifications. The skill of the interviewer is the key. Subjective evaluation is used by the interviewers, and the final selection is made by the user departments.

In answer to a question from Mr. Spray, Mr. Jones explained that all appeals from employees are handled by the labor relations staff, whether or not the employee is a union member. The personnel staff may become involved to answer questions or to provide statistical help.

Ken Humphreys asked how many staff members are in the Employee Relations Department to handle 3,000 employees and how many applications are processed each year. Mr. Jones stated that there are 22 staff members, and approximately 5,000 applications are processed annually.

Darlene Howard asked whether an individual who is not selected as one of the top five for a position can appeal. Mr. Jones replied that any appeal would be made directly to him and that there would be many recourse actions available.

Niel Thomas questioned how new positions are created. Mr. Jones explained that two forms are used (P1 and P2) supplying a description of the actual job functions, which are submitted to Classification and Compensation for review. Once approved, the forms are sent to the Office of Budget and Management and then on to the Mayor. The process is not limited to budget time, but is usually heavier during the beginning of the fiscal year. Mr. Jones also stated that he does not recommend the use of temporaries and cannot understand why the state's classification process takes so long.

Pat Hunt asked who would be responsible for drafting job descriptions for each position. Mr. Jones responded that this is the responsibility of the Compensation and Classification Section. Position descriptions are prepared based on input from departments (P1 and P2 forms) that is included with a supervisor's request.

Ardith Healan, a Park Technician I with the Department of Natural Resources, presented testimony regarding her experiences working in the CETA program. She explained that to become a Park Technician requires certification on a CETA eligibility list. In order to get on the CETA list, an individual must be unemployed for four months. This seems contrary to the goal of the program, which is to reduce unemployment. Ms. Healan mentioned that there is a general concern of departmental employees that \$16.00 monthly union dues are being charged unfairly. Don Fisher pointed out that federally funded CETA programs are classified as temporary positions by the state.

Pat Murphy commented that CETA employees are being used to supplant permanent employees, rather than to supplement the permanent work force. There is a state register for Park Technician I's, but the department has decided not to request positions in that class, since CETA workers are available. Ms. Healan is on the state's register, the application and certification process having taken 15 weeks, yet cannot be hired in that job capacity unless as a CETA.

Ms. Healan also pointed out salary inequities. She is earn-

ing \$1,128 monthly (\$6.90 hourly) as a CETA Park Technician yet Park Rangers doing the same tasks are earning \$10.00 hourly. Ken Spray added that at the same time, CETA employees are being told that the basis of the program is to help individuals find permanent positions. Niel Thomas stated that federal money is allocated for a certain period of time to help make applicants more competitive for permanent positions. He added that CETA's cannot receive preference over permanent employees. Mr. Spray pointed out that departments make a commitment to train and retain a certain percentage of CETA's as permanent employees. Ms. Healan stated that almost everyone in her department is a CETA employee.

Lynne Woods, the Executive Director of the Alaska Commission on the Status of Women, presented testimony on pertinent sections from the Preliminary Study: The Status of Women in Alaska. (Copies may be obtained from the Human Rights Commission.) She explained that the Commission is in the process of recommending status and implementing guidelines on the roles of women and minorities in the Alaska state system. A report is to be released in April.

Representative Buchholdt commented that the draft report on the U.S. Civil Rights Commission suggests that the Blue Ribbon Commission will address the subject of equal opportunity employment and affirmative action. However, Senator Ray mentioned that the Commission will not address these topics. Don Fisher suggested that the concept of incorporating studies on EEO and affirmative action could be included in discussion of merit system principles and hiring from state registers. Niel Thomas stated that there are a variety of approaches in allowing for EEO and affirmative action hire. He cited the following as examples: (1) selective certification - giving priority consideration to minorities. (2) increasing bands of certification to encompass more applicants. Mr. Thomas suggested that one way to address the topic would be to suggest that the Certification, Classification and Recruitment Subcommittee research the options available. Mr. Thomas informed the Commission of an existing Attorney General's opinions on EEO and affirmative action hiring practices.

Ms. Woods said that she had heard of sex discrimination within the state. As an example, she mentioned hearing of women in the state working at range 16 through 20 who are responsible for the same functions as men at range 24 through 26.

Beverly McCartney, an employee with Community and Regional Affairs, testified regarding problems with CETA programs. She believes that permanent positions are filled by CETA employees because they are less expensive to the state and departments are

unable to identify funding for permanent positions.

As a solution, Ms. McCartney suggested that rules be adopted to allow a department to fill a position with a CETA employee only once.

Al Carson, Deputy Director of the Division of Lands, Department of Natural Resources, presented a written statement on two areas of major concern: The state's hiring procedures and the use of temporary employees. (Attached is a copy of Mr. Carson's testimony.)

Don Fisher, in response to Mr. Carson's testimony, asked who should be responsible for deciding on the qualifications of an applicant if they are not ranked. He added that the state is required to abide by merit principles. Mr. Carson responded that presently, an applicant must be hired from the top five and justification must be supplied for not hiring within that group. Scoring the abilities of applicants does not accurately relate to job requirements. Mr. Carson added that he has worked with Ken Kareen in the Division of Personnel trying to make the system work. Mr. Carson stated that individuals in the top five are there because of longevity of service within the state and are not the type of people he wishes to hire. Don Fisher suggested that a system to develop criteria based on input from program managers would identify special job requirements and reliability of tests.

Richard LeFevere and Claude Hoffman (a Cadastral Engineer), both employees of the Department of Natural Resources, presented testimony to Commission members. Discussion revolved around registers that are classified too broadly and do not take into account special qualifications necessary for positions in the Department of Natural Resources. Mr. LeFevere suggested that program managers hire temporaries to extend the probationary period and to circumvent registers to hire individuals most qualified for particular positions.

MEETING SCHEDULES

The Commission decided to hold subcommittee work sessions in Juneau on February 5 and 6.

IN ATTENDANCE

Don Fisher, Vice Chairman
Pat Hunt (for Commissioner Allen)
Representative Thelma Buchholdt
Ken Humphreys (for Myrt Charney)
Paddy Moriarity (for Frank Flavin)
Ken Kareen (for Pat Hunt)
Lynda McCurry
John Pugh
Ken Spray
Niel Thomas
Pat Murphy

OTHERS IN ATTENDANCE

Darlene Howard

STATE
of ALASKA**MEMORANDUM**

TO: Blue Ribbon Commission on the Personnel Act
Chairman: Senator Bill Ray

DATE : 27 January, 1979

FROM: Daniel DeNardo
Revenue Auditor
Department of Revenue
Anchorage Office

SUBJECT: Violations of Personnel
Rules and State Law

I would like to thank the Blue Ribbon Commission on the Personnel Act for the opportunity of addressing them on serious violations of the State Personnel Rules that have been and are now taking place in the Department of Revenue.

My name is Daniel DeNardo and I am employed as a revenue field auditor by the Department of Revenue. I have been employed by the department since 1974 with a break in service for the period April-October 1978.

I have direct knowledge of the facts I will present and they are all documented. The Blue Ribbon Commission presents a unique opportunity that insures action will be taken to correct the grave violations that have been perpetrated. The scope of the facts presented will be confined to those people still employed by the Department of Revenue.

Case No. 1. In 1975 when the Department of Revenue was located at 509 3rd Avenue, a business license number 56874 was taken out under the name Aardvark Interiors of Alaska. The applicants were Larry Williams, Louis E. Nelson, and Mrs. Donna Crawford. All three were revenue auditors.

Mr. Nelson and Mrs. Donna Crawford are ^{still}~~still~~ employed by the Department of Revenue in the Petroleum Revenue Division.

The purpose of the business license was to allow the principals of Aardvark to award themselves a contract for remodeling work of the audit division office at 509 3rd Ave. The remodeling was performed by Aardvark and reimbursement was granted by Gary Jenkins, Audit Director.

No prior approval by the Commissioner of Administration was granted. These actions are in violation of Rule:

- 13.15-Purchases of Commodities and Services
- 13.16-Conflicts of Interests -
- 13.18-Penalties
- 13.18.1-Action to be taken by the Director
- 11.05.1-Dismissal for violation of Rule 13

In these violations there was complicity upon the part of management and full knowledge of the personnel rules violated.

Mr. Williams has left State employment but Mr. Nelson and Mrs. Crawford are still employed by the Department of Revenue in the Petroleum Tax Division.

Case No. 2. Mr. Louis E. Nelson and Mrs. Donna Crawford continually violated State personnel rules by leaving the State Revenue office for extended periods on unofficial business. Many times these extended periods were spent consuming alcoholic drinks at various bars.

These numerous and continual violations also included returning to the State office in an intoxicated condition both during and after business hours.

These violations have occurred over an extended period of time since 1975 and still continue.

These facts were brought to the attention of the Department of Revenue at a grievance hearing in March 1973 in the Diane Painter vs. Louis Nelson case. Mr. John Messenger, Deputy Commissioner of Revenue was in attendance.

Case No. 3. Mr. Nelson was in violation of State of Alaska and Federal law by keeping a secret file on Mrs. Diane Painter. Mr. Messenger so informed Mr. Nelson at the March 1978 hearing. Mr. Nelson was given a new supervisory position in the Petroleum Revenue Division.

Case No. 4. On an audit trip to California in the summer of 1976, circumstances led to the cancellation of a scheduled audit which Mr. Nelson did not report but instead took a weeks leave before proceeding to Los Angeles for the next scheduled audit. Mr. Nelson applied for and received per diem and never submitted a leave slip.

This is a violation of the fraud Statutes and Personnel Rules.

Case No. 5. Gross violations by revenue auditors and management in the fraudulent misuse of travel funds have come to my attention. Because of the location of the records in Juneau, I do not have access to them. I would be willing to sit with the Commission and share what I know.

The grave abuses and violations I have presented are known to the management of the Department of Revenue in particular Mr. Gary Jenkins-Director of Audit, Mr. Thomas Williams-Director of Petroleum Revenue, Mr. Mike McCormick-Director of Enforcement, and Mr. John Messenger-Deputy Commissioner.

It should be reprehensible to the citizens of Alaska that an agency given the responsibility of enforcing law should be operating on another set of principles.

With the sensitivity of the whole subject of taxes, our Alaskan citizens deserve principled, unbiased, and lawful service from those hired to serve them.

The few because of their position have put the Department of Revenue in an untenable position of enforcing the law while those in command ignore and violate the law.

Attached are memos.

A handwritten signature in cursive script, appearing to read "Daniel DeNardo".

Daniel DeNardo

MEMORANDUM

State of Alaska

TO: Thomas Williams
Director, Petroleum Revenue Division

DATE: January 19, 1979

FILE NO:

TELEPHONE NO:

FROM: Daniel DeNardo
Revenue Auditor I

SUBJECT: Inquiry to Correct Personnel
Rules Violation

This Memorandum is a request for a meeting to discuss the action to be taken in rectifying the placement of an individual in our Division who has seriously violated State of Alaska Personnel Rules while employed by the State Department of Revenue.

STATE
of ALASKA

MEMORANDUM

TO: Daniel DeNardo
Revenue Field Auditor I
Petroleum Revenue Division

DATE : January 22, 1979

FROM: Thomas K. Williams *TKW*
Director
Petroleum Revenue Division

SUBJECT: Your Request for a Meeting about
Personnel Rules Violations

Your memorandum of January 19th presents allegations of serious misconduct on the part of someone in this division. However, you do not indicate who the alleged miscreant is, nor do you indicate the nature of the conduct which you assert to have been in violation of the State's personnel rules. Thus, while I do not wish you to underestimate the gravity of my concern in this matter, yet no clear course of action presents itself for me to take because of the unspecific nature of your memorandum.

On the one hand, if the misconduct has been by someone under Lou Nelson's supervision, you should raise this matter with him as your immediate supervisor, since that is the standard procedure under both the personnel rules and prudent management. The importance of talking with Lou is even greater if Lou is the person you are referring to in your memorandum. Communication in an employee-supervisor relationship is the most effective means of resolving differences in opinion, managerial style and other matters of personal incompatibility. If this fails and no resolution of such differences can be achieved through discussions with the supervisor, then is the better time to bring the difference to the attention of the supervisor's supervisor. For the higher echelon supervisor to perform his own tasks effectively, it is imperative that he ordinarily work through, not around, his subordinate supervisory staff.

On the other hand, if the misconduct has been by someone outside Lou's supervision, then you are correct to come immediately to me. If this is in fact the case, I would appreciate your giving me another memo, going into more specific detail about the misconduct. Then I can discuss it with you further in a meeting before deciding what course of action I should take.

Thank you for bringing the matter to my attention.

TKW

January 26, 1979

Tom Williams
Director, Petroleum Revenue


Dan DeNardo
Revenue Auditor

This is a response to your memo of January 22, 1979, and our conversation in your office the morning of January 24, 1979.

The course of action subscribed to by me was a confidential meeting. You chose to ignore this request as you did my verbal request for a meeting on October 23, 1978. The October 23, 1978, request was explicitly in reference to Mr. Nelson.

Your insistence on perceiving my requests as a problem of personal incompatibility is to ignore the allegations of personnel rules violations of a serious nature. To discuss and seek amendment of the violations with the violator is not my responsibility. That responsibility is explicitly given to the Director of the division.

Your comment to me in your office on January 22, 1979, referencing "Aardvark" indicated to me that you already knew about Mr. Nelson's and Mrs. Crawford's violations of the personnel rules which were of a serious nature.

Mr. Messenger should be aware of Mr. Nelson's violation of the personnel rules with regard to an employee's privacy under Federal and State law since both Mr. Messenger and of course, Mr. Nelson, were in attendance at the hearing on that and various other violations which culminated in the total reinstatement of Diane Painter.

Discussion at the hearing also focused on Mr. Nelson's and Mrs. Crawford's unauthorized absences from their place of duty while employed as tax auditors by the Department of Revenue.

It is not a case of the violations not being known, but rather a case of the failure of appointed officials to carry out the rules and regulations in an unbiased manner.

The Department of Revenue should be above reproach if we are going to enforce our Statutes and maintain compliance of the law. As public employees, this is a large part of our responsibility to the citizens of Alaska.

January 27, 1979

DEPARTMENT OF NATURAL RESOURCES STATEMENT
TO THE BLUE RIBBON COMMISSION
ON STATE EMPLOYMENT ACT

Ladies and gentlemen of the Blue Ribbon Commission,

As a representative of the Alaska Department of Natural Resources, I appreciate this opportunity to discuss two items of critical concern to both the Commission and to the Department: state hiring procedures, and the use of temporary positions. My statement will attempt to identify some of the concerns that program managers within a line agency have, and which we feel should be taken into account in this committee's deliberations and recommendations that may be made regarding changes in State Personnel Act legislation. I will identify suggested courses of action which we think would help alleviate some of the problems that have been presented to this committee and which will still allow us to accomplish the many and varied programs that we as managers are hired to do. There are several other line program managers from the Department of Natural Resources in attendance here today who may be able to answer specific questions you may have at the end of this statement.

It is important that this Commission make recommendations which retain sufficient flexibility in the hiring system to allow the program manager to make the choice as to which person he wants to hire to do the job that he or she is responsible for. In order to accomplish this, current state hiring procedures require revisions. We recommend that the Commission consider the following changes in hiring procedures:

1. That applicants no longer be ranked on hiring registers.
Applicants should meet certain minimum qualifications to get on the register, but then the program managers should be allowed to select whoever they feel best qualified for the particular vacancy's responsibilities.
2. Establish a review panel for each professional job class. The function of the panel would be to establish criteria for the job class and to hear appeals from individuals denied certification by the normal process. Individuals who are not certified as being qualified for that job class would have the ability to appeal the decision of the analyst to the review panel. The panel could consist of approximately five individuals: two representatives from the Division of Personnel, specifically the Personnel Analyst responsible for certifying eligible candidates for that job class, and the personnel supervisor responsible for that job class; two representatives either working in that job class within State government or in a similar position in the private sector; and a representative program manager who supervises people in that job class.
3. Permanent fulltime probationary personnel should be evaluated in writing on their job performance quarterly for the length of their probationary period. Quarterly evaluations will assist the program manager in determining if the new employee can perform as needed.

It is my opinion that many of the problems and abuses of temporary hires stem from the current hiring procedures that many times do not allow program managers to hire the people they feel are best qualified to do the work. Therefore, by taking care of these state hiring procedures problems, we will also go a long way toward solving the problems associated with temporary hires in state government.

I have the following recommendations regarding temporaries:

1. They should be hired from the unranked registers (as described above.)
2. The State should provide full fringe benefits for temporaries.
3. A category of project temporaries should be established to be used for carrying out one-time, limited duration tasks with a maximum duration of 36 months. These positions should be used for specific tasks mandated by the legislature or the federal government.
4. Temporaries should be able to work up to a maximum of nine months.

I recognize that there have been cases of temporary hire abuse in the past. However, these abuses can be most effectively dealt with at the departmental or program manager level rather than making sweeping changes in procedures and rules because of isolated cases of abuse.

CONCLUSION

In summary, I feel that there are revisions in state hiring procedures and in the use of temporary employees that should be made to make the system more equitable to the employers, the employees, and the taxpayers of the State of Alaska. I have identified some of these recommendations in a general way in this statement, but recognize that much more work and review is needed. Since any proposed revisions of the State Personnel Act will have a profound impact on our ability to accomplish our job, I suggest that future position papers/draft proposals be circulated within state government for review and comments. Thank you for your time and attention.

Statement presented by Al Carson, Deputy Director, Division of Lands

January 27, 1979

BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT
Capitol Building, Juneau
January 10, 1979

MINUTES

Senator Ray, Chairman, called the hearing to order and invited public testimony.

PUBLIC TESTIMONY

Ivan Lewis, Record and Archives Center Manager, presented testimony concerning problems he has experienced in having his position reclassified and his salary range upgraded. He believes that his classification should be placed in the supervisory unit, in accordance with job responsibilities. Mr. Lewis, under direction of the State Archivist, is responsible for managing the entire Center and supervising Record Handlers. Mr. Lewis' position is at the same range as that of a Records Analyst II, but he must be knowledgeable in the duties of a Records Analyst III to function on a day-to-day basis (attached is the Division of Personnel's job description for Records Center Manager and Records Handler, pertaining to Mr. Lewis' testimony).

Since 1972, Mr. Lewis has been submitting P402's to the Division of Personnel explaining the responsibilities of his position and justification for reclassification. The most recent submission was a total of eight pages, describing his supervisory functions and all other aspects of managing the center. The paperwork was approved by John M. Kinney, State Archivist, and received by the Personnel Department in July, 1978. By October, it reached Carolyn Hinkey, an employee in the Classification and Pay Section of the Division of Personnel. Mr. Lewis pointed out that Ms. Hinkey is a Registered Nurse, but because of general educational requirements, she has been classified as a Register Analyst III. Ms. Hinkey and Mr. Lewis frequently discussed the subject of his reclassification, and Ms. Hinkey eventually requested information on other comparable positions. Mr. Lewis supplied her with information on positions within other states, which were at much higher salary ranges. He also provided detailed information from Robert Martin, President of the Anchorage Records Center, in writing. Mr. Lewis' responsibilities are the equivalent of Mr. Martin's, the only exception being accounting functions which Mr. Martin handles. The state's range 21 would be the equivalent of Mr. Martin's salary.

On January 1, Mr. Lewis was informed by the Division of Personnel that he was reclassified at range 15 at longevity step "J". Mr. Lewis' response to this was discouragement. He has been in this professional position for eight years, yet is being compared to a Mail Run Supervisor. Mr. Lewis stated that Ms. Hinkey misquoted information on comparable positions, and she flatly refused to take information received into consideration. He was told that he should be satisfied with a one step

increase even though his range is below that of a Central File Clerk at range 16.

Senator Ray asked Mr. Lewis how long it would take to retrieve a normal record from the center. Mr. Lewis responded that it would be done within five minutes and that he directly supervises three employees responsible for receiving, classifying, controlling and storing a variety of office records. The files are organized according to needs and systems are audited regularly. All records entering the center must be inventoried daily. Mr. Lewis and two other employees are authorized to handle security files.

Mr. Lewis mentioned his concern about testifying, stating that he had testified before the legislature in 1976. Following his testimony, he submitted a P402 for a salary increase. It was recommended that his position be downgraded two steps. Commissioner Allen questioned the topic of his testimony before the legislature. Mr. Lewis responded that it was in regard to Executive Order 28, on dividing the archives and placing records under Surplus Property.

Senator Ray asked how many employees were involved in the center's operation. Mr. Lewis replied that there are four people who pull and hand deliver files. The central mail system is not used because of the records' importance. Senator Ray asked if there was an active file retention system. Mr. Lewis responded that files are kept active for six months before going into dead storage and that 2,000 searches are done every month.

Mr. Lewis stated that he had tried to bring this matter to the attention of Pat Hunt, but a Personnel Officer refused to give him permission, even if he took a day of annual leave. Pat Hunt responded that he is concerned about the testimony heard. He stated that Mr. Lewis is apparently responsible for heavy supervisory duties and that he should be compensated accordingly. He suggested that there was a discrepancy between what his functions are and how they have been recorded. Mr. Lewis informed the Commission that all the correspondence he received was signed by Mike McMullen, Chief of Classification and Pay. Mr. McMullen reports to Ken Kareen, who reports to Pat Hunt. Senator Ray commented that the problem should have been brought to Pat Hunt's attention. Pat Hunt asked if Mr. Lewis had spoken with the director of his division. Mr. Lewis stated that he was sent to the Deputy Director, who responded in a negative manner. The matter has since been turned over to APEA.

Greg O'Claray pointed out that it is not the Commission's function to become involved in grievances. Senator Ray responded that it is a concern to maintain an open door policy in all departments. Commissioner Allen concurred.

Mr. Lewis mentioned another problem regarding the elimination of a Micro Film Operator III position. It should be classified at a manager level, and upgrading of the position has been stopped in Classification and Pay. Because of a budget cut of \$3,000, the center would be unable to fill the position even if it were classified at a higher range. Mr. Lewis continued, stating that the position could have been filled if the Division of Personnel had acted within six months in reclassifying to a management level. Senator Ray pointed out that if the Finance Committee doesn't hear justification for the existence of a position, it will be cut.

Commissioner Allen stated that he had heard a different version of the story: The Micro Film Operator position was advertised, without any response. Mr. Lewis stated that there had been a response and that if the specifications had been completed for the management reclassification, the applicant would have qualified. There are three individuals employed by the state as Micro Film Operator III's who would seek a management position in that field. This ended Mr. Lewis' testimony.

Bruce Kindred, a temporary employee with the state, suggested that the Commission should recommend that court leave be made available to temporaries. The Personnel Rules state that temporary employees hired for periods of less than 12 consecutive months are not eligible to receive compensation for time spent on jury duty. Section 4 of Article 29 of the APEA contract provides that employees who are called to serve as jurors or subpoenaed as witnesses shall be entitled to court leave. The contract defines the word "employee" as a person in state service who is paid a salary or wage and holds probationary, permanent, or provisional status. The Division of Labor Relations has refused to interpret the definition to include temporaries.

Mr. Kindred pointed out that after being on active jury duty for one week, he lost a sizeable portion of his salary, even though minimally compensated by the court system. He feels that serving on a jury is a civic responsibility and that temporaries should not be treated differently from permanent employees.

Senator Ray suggested that the Commission should recommend that this section of the law be changed. Niel Thomas responded that this might also be applied to military leave for reserve members. Senator Ray pointed out that one chooses to enter the reserves. The question was referred to the Category of Employees Subcommittee.

Don Kinderis, an Alaskan resident, presented his problems in trying to obtain work with the state for over two years. Prior to his relocation to Juneau, he owned a business in mechanical systems balance for commercial enterprises. This work involved knowledge of building mechanics and engineering.

Mr. Kinderis has been on 28 registers during the past two years and is number one on several. He has never had an interview. On many occasions, he has received notification of interviews

two or three days after the date of the interview. In some instances, classifications that he has been registered for have been eliminated.

Pat Hunt stated that vacant positions should be sought out by individuals. Often, applicants are unemployed for so long that they are extremely aggressive in presenting themselves to prospective employers. He suggested that Mr. Kinderis let the departmental personnel offices know of his availability. He emphasized that the Division is responsible only for sending out registers, and that Mr. Kinderis should find out who is looking for employees by stopping by the Division to look at the lists of vacant positions.

Mr. Kinderis mentioned that he knows many people in the design management and energy conservation fields working for the state. He is listed as number 8 out of 24 applicants on the register for Design Manager I, but there are no others in the state with his level of expertise in mechanical systems balance. He is aware of Building Manager Specialist I, II and III positions that have been open in the state, but he has never been notified or interviewed.

Commissioner Allen asked Mr. Kinderis if he knew whom to speak with in the appropriate divisions where the openings had occurred. Mr. Kinderis responded that he knew of one in the Division of Public Works or Buildings. After going to the Division of Personnel and presenting his problems, he never received a response or the service he expected. He has even been sent to the wrong locations at times. Frank Flavin stated that he has seen this type of problem while working in the Ombudsman's Office. It happens because departments are not required to interview each applicant within the top five on a register. Ken Spray noted that because Mr. Kinderis had been on the top five of numerous registers for some time, program managers are probably avoiding any contact with him, believing that he has been judged an undesirable employee.

Pat Murphy stated that an applicant should not have to be an aggressive job seeker to find a position. That would be losing track of the entire register concept. He believes that each of the top five applicants should have the chance to be interviewed. A prospective employer can get a much better perspective of an applicant through a personal interview.

John Pugh interjected that the Department of Health and Social Services is interviewing applicants on the registers in chronological progression, starting with number one. The interviewing process continues until an applicant is hired. He believes that this should be a state requirement.

Niel Thomas questioned Mr. Kinderis on the times he had received notification of interviews too late to be able to attend: Could the delays be attributed to RCA or the postal system? Lynda McCurry responded, stating that there are serious delays in deliveries made by both. Mr. Thomas suggested that either calling applicants or giving them more time to respond would solve the problem.

Frank Flavin pointed out that program managers have previously testified that registers are not valuable because individuals have been on registers for long periods of time and are therefore not qualified for positions. Mr. Kinderis has presented another side of the situation. Senator Ray stated that someone is needed within the Division of Personnel to follow through on service to applicants. Commissioner Allen supported the concept that all five applicants should be offered interviews and that sufficient time should be given for response to notification of interviews. The departments should not rely on RCA or the postal system.

Frank Flavin added that these matters could be handled much faster if the Department of Administration had a grievance person or trouble-shooter. Not all employees or applicants are aware of the concept of the Ombudsman's Office.

Ken Spray brought up the subject of the state paying travel expenses for initial interviewing of applicants. He related examples of non-residents being brought to Alaska at the state's expense to fill high-level positions. John Pugh suggested that one way to avoid travel expenses would be to use outside locations: There is a need to encourage departments to hold interviews state-wide. One particular complaint is that Anchorage residents are never considered for positions in Juneau.

Niel Thomas suggested that telephone interviews could be a solution, especially for rural residents and where there are no staff members to handle interviews in isolated locations. This would eliminate paying for transportation until an initial screening process had been completed.

Ken Spray responded that, because of Local 71's experiences, he believes initial telephone interviews to be an exercise in futility. John Pugh stated that an individual has the right to be interviewed at least by phone.

Senator Ray commented on the tendency to believe that the Division of Personnel is the "bad guy", responsible for the system's problems. The Division's functions are entirely different from what is generally understood by the public.

Frank Flavin stated that when departments avoid filling vacancies, the Ombudsman's Office receives complaints from applicants not being interviewed. If there was a requirement to interview the top five, the Office would lose this indicator. Commissioner Allen responded that an applicant would be able to distinguish the difference between a cursory and a meaningful interview. Pat Murphy suggested that a written record of interviews be maintained consisting of general comments and reason for not hiring. Senator Ray concurred that some type of procedure would have to be implemented to justify not hiring. Commissioner Allen commented that the summaries would be the subjective opinions of each interviewer and that putting this information on the register or within the applicant's personnel file would be unfair to the applicant.

Mr. Kinderis suggested that mandatory interviewing of the top five with a short evaluation given to the person being interviewed as a possibility. There would then be an understanding reached when the applicant is not hired.

Commissioner Allen suggested that frequently, when a name is on a register for long periods of time, an interviewer's attitude toward that applicant may be negative before an interview actually takes place. This may have been Mr. Kinderis' problem in finding employment.

Niel Thomas discussed the possibility of supplying a written explanation for not hiring, which would be available to the applicant upon request. This could be based solely on job requirements and an applicant's qualifications. It would do away with paperwork and complaints.

Ken Spray indicated that with Local 71's preferential hiring system, the union contract specifies that the employer must present justification to both the union and the applicant for not hiring. This justification points out an applicant's strengths and weaknesses for future reference. Mr. Spray elaborated that the public looks upon the Division of Personnel as a service-oriented agency. However, the initial concern of the Division is to provide management with positions.

Frank Flavin stated that when discrepancies or problems are brought to the Division's attention, they respond well. The audit and grievance role has not been emphasized and some type of monitoring system should be initiated. Senator Ray concurred that someone should be placed within the Division to monitor the operational procedures to see that people and registers are treated fairly.

Pat Murphy suggested that the audit function be assigned

to an outside group, thus ensuring compliance with set guidelines. Commissioner Allen stated that he would like to be in a position to receive complaints within the Department before they are brought to the attention of other agencies.

John Pugh expressed his belief that the audit and grievance functions are very important within private businesses and are treated accordingly. He recommended the creation of a proper audition role. Pat Hunt stated that people represented by unions have adequate means of representation. Senator Ray disagreed, stating that representation is only adequate after a complaint has been filed.

Pat Murphy asserted that APEA cannot, at this time, provide representation until a complaint is filed with them. Senator Ray agreed that action can only be taken after the fact by these agencies. Therefore, an active monitoring system is needed. Ken Spray pointed out that the option of filing grievances and going into binding arbitration is open to employees. He added that Local 71 has represented individuals neither employed by the state nor members of that union. Some are reluctant to pursue grievances. Niel Thomas suggested that case-by-case review of past grievances could possibly identify a number of problem areas, which would be helpful in devising recommendations.

Commissioner Allen commented that the discussion had not focused on a solution. He asked if requiring all top five eligibles be interviewed was something the Commission would like to implement. Senator Ray responded that specific recommendations be drafted and prepared for presentation at the next meeting in Anchorage. Commissioner Allen agreed to consider implementing a pilot program requiring interviews for all top five applicants on registers.

Jim Donner, a temporary Correctional Officer at the Lemon Creek facility, testified regarding his reactions to the state's hiring system. He finds that there are insufficient opportunities for temporaries to fill permanent positions. The time it takes to be tested and to have an application processed is a deterrent to applying for permanent positions. Mr. Donner, after working as a temporary in many departments, is an advocate of Local 71's preferential hiring system.

On one occasion, Mr. Donner was hired in an emergency situation, worked for two weeks and was then hired as a temporary. One month later, he was informed that he owed the state money because he had been overpaid. The money he was offered initially was an inaccurate figure, and he was forced to pay the difference back.

Mr. Donner has been a temporary at the Lemon Creek Facility three times in the past, as a Correctional Officer and as a Chief Steward. Each time, he has been paid at an entry-level range 13, while others in the same permanent positions were at much higher ranges.

Mr. Donner believes that Division of Personnel's tests are discriminatory and do not relate to actual job requirements. Too much emphasis is placed on educational requirements and vocabulary testing. He stated that tests should be based on job descriptions and the actual duties to be performed in each class.

Senator Ray asked if the educational requirements are too high, or if there is too much emphasis placed on requirements rather than experience. Mr. Donner responded that entry-level requirements and credit for experience are fine. Sometimes, credit is not given for experience in particular positions. Pat Hunt explained that the Division of Personnel has created many substitutions for requirements and that the Division develops tests from descriptions supplied by departments. Lynda McCurry added that personnel officers have direct input into the makeup of examinations. Mr. Donner expressed his concern that educational requirements are particularly rigid for women and that the entire application and evaluation process is time consuming. Applicants are not given sufficient time to respond to notification of available positions and registers are circumvented continually.

Senator Ray asked if there is some type of pool of permanent employees within the state to fill in when the need arises. This would be particularly useful in supplying an employer with someone while in the process of filling a permanent position.

Dan Haynes, an employee with the state for ten years, testified concerning his recent termination for insubordination. He explained that there was a personality conflict with his supervisor and that he was not recommended for rehire on his evaluation. As a result, he must work for six months as a temporary or in the private sector before he is eligible for testing and placement on registers. Mr. Haynes pointed out that if he were able to work for another six years, he would be able to retire.

Senator Ray asked if a supervisor has the authority to recommend on a termination evaluation that an employee not be rehired. Ken Spray replied that it is possible. Niel Thomas questioned if this meant that the individual's name would be removed from all registers. Senator Ray asked if the decision could be appealed. Pat Hunt replied that it is grievable and that most often, a terminated employee will not be recommended for rehire for a

certain period of time. Commissioner Allen asked why, if Mr. Haynes had been terminated in June, he could not be placed on the registers again, since the time limit had expired. Mr. Haynes responded that he is not eligible because the rule requires that an individual be employed for six months before being considered for rehire.

Senator Ray pointed out that not recommending rehire within the same department would be reasonable, but on a state-wide scope it isn't. Mr. Haynes said that his union did take the matter to the Commissioner's level and then recommended no further action. Ken Spray stated that Local 71 has, in some instances, negotiated "not recommended for rehire" into "voluntary termination". However, clear-cut insubordination is a different story.

Senator Ray expressed concern that one supervisor can stipulate that an employee not be rehired statewide for a certain amount of time. Commissioner Allen agreed that this option should not be used lightly, but said that it seems inconsistent for the state to be able to rehire immediately as a temporary.

Senator Ray suggested that cause for termination should be clearly documented. Frank Flavin stated that he could see no reason for removing an individual from the registers, but did see the need to explain the termination. Niel Thomas pointed out that in state service, everyone has the right to see their written performance evaluations. Ken Spray added that an employee has the right to a rebuttal of any evaluation which is to be included in a permanent employee file. Senator Ray suggested that employee evaluations be reviewed at interviews. He asked if record files follow an employee from job to job. Pat Hunt responded that the Division of Personnel has master files which are maintained for the duration of employment with the state. Departments maintain personnel files for a period of six months, after which they are sent to the Archives Center for storage. Commissioner Allen stated that many employees wish to see evaluations on past performance and that they can be pulled from Division of Personnel's files for review.

Don Kinderis testified again. Three years ago, he worked for the Department of Fish and Game. After ten weeks, he was informend that there was insufficient work to keep him on, and he was dismissed. Two years later, he received a copy of his evaluation, which he had requested many times. The evaluation, dated the day he left, stated that he had too many personal problems to be a state employee and did not address the quality of his work. Mr. Kinderis believes that this information is on his record and is one reason that he has been unable to find a job. Mr. Kinderis explained that his supervisor disliked the fact that he had his own methods of performing his duties, des-

pite the proficiency he displayed. Mr. Kinderis had not seen the evaluation before it was mailed to him, had never signed it and was offered no reason for why it was not discussed at the time of his dismissal.

Senator Ray suggested that this would be a good reason for considering a trouble-shooter or auditor within the Division of Personnel to look into these matters. Don Fisher stated that an evaluation should be made available before an employee leaves a position as well as a statement of the reason for dismissal. Commissioner Allen requested that Mr. Kinderis see Ken Kareen to discuss the discrepancies between his evaluation and the reasons he was given for dismissal.

COMMITTEE BUSINESS

NCSL Conference

Don Fisher brought up the subject of an honorarium for Dr. Couturier. Frank Flavin made a motion that the Commission approve the honorarium in the amount of \$500.00. Don Fisher added that Dr. Couturier might come for less. The motion was adopted for an honorarium in the amount of \$500.00. Senator Ray and Greg O'Claray opposed. Pat Hunt asked why Wisconsin and Minnesota speakers were chosen to present their state personnel procedures. Don Fisher explained that the two states had recently revised their personnel structures and can offer innovative alternatives for the Commission's consideration.

USCSC Meeting in Washington:

Terry Cramer advised the Commission that there will be a meeting of the USCSC in Washington. NCSL is a co-sponsor and would like to invite three Commission members to attend. Senator Ray appointed himself, Greg O'Claray and Pat Murphy to represent the Commission. Niel Thomas also expressed a desire to attend the meeting at his own expense.

Commission Expenses:

Senator Ray stated that he wishes to be advised of anticipated unusual travel expenditures for Commission members (i. e. car rentals). The Chair or the full Commission must approve those expenditures prior to incurring them.

Subcommittee Reports:

John Pugh recommended that the subcommittees prepare reports to use in drafting the Commission's report to the legislature. The Commission agreed to hold a work session in Anchorage on

January 26 for individual subcommittees to prepare recommendations. Senator Ray directed the staff to use the postal service directly to send out summaries and material needed for the next meeting to members in Anchorage.

Niel Thomas asked whether the Commission will request continuation. Senator Ray pointed out that the work of the Commission is in its formative stages, and the Commission should justify its existence by presenting an initial report to the legislature.

PUBLIC TESTIMONY

Kit Stewart, a Finance Officer with the Department of Environmental Conservation, expressed her satisfaction with the state's hiring procedures. One problem that she has encountered is that an employee within the department has a criminal record, which was not revealed in the individual's application.

Senator Ray responded, stating that this is a very sensitive matter. Information on criminal convictions is confidential. Pat Hunt explained that applicants' criminal records are checked when applying for positions in Public Safety or correctional facilities. Greg O'Claray stated that he could not see why it was important that Ms. Stewart have this information. Having to reveal a criminal record could lead to discrimination against the applicant. Ms. Stewart replied that the issue that concerned her was that the applicant had falsified the application form. Ms. Stewart added that, at present, it is impossible to verify whether the employee is misrepresenting facts on an application. Senator Ray questioned the relevance of this in regard to the employee's performance.

Ron McMahon, an Ecologist with the Department of Environmental Conservation, stated that job classifications assigned by the state do not relate to actual job functions. Existing classifications cover many specialized jobs in different departments. Mr. McMahon suggested that the Division of Personnel consider reclassification studies. He is presently coordinating a project review, which has nothing to do directly with Ecologists, and feels that his title should be Program Coordinator. The Division of Personnel had received the position description and said that the closest classification would be Ecologist.

Niel Thomas asked if Mr. McMahon had read the class specifications on what his duties consist of. He also questioned whether a department hiring from that register would be looking for an Ecologist. Mr. McMahon answered that he is not doing the work of an Ecologist, but must be familiar with the field.

Senator Ray commented that possibly the department is afraid to reclassify existing positions because that might result in positions being placed at lower salary ranges.

Mr. McMahon also brought up the subject of entry-level positions for Chemists. In order to qualify for a Chemist I position, an applicant must have one year of experience. There is no Chemist Trainee classification in the state.

Pat Hunt asked whether the departments would request Chemist Trainees if the class were created. Mr. McMahon stated that it would be filled, providing a career ladder for laboratory technicians. Ken Kareen explained that the Chemist series has been examined by the Division of Personnel, and departments stated that they need experienced applicants rather than trainees.

Niel Thomas expressed the Human Rights Commission's perspective in relation to equal employment opportunity. The state should compete with private firms for recent college graduates. The lack of trainee positions is one reason why EEO practices in the state are inadequate. To compete with private firms, Mr. Thomas suggests creating a Chemist Trainee class to provide greater opportunities for women and members of minority groups.

Senator Ray pointed out that trainee positions are looked upon adversely by Budget and Management: Why train on-the-job when applicants have received training in school? Niel Thomas responded that in higher-level positions, orientation can take up to a year, even for new employees with prior experience in the field.

Pat Hunt stated that no department has requested a Chemist Trainee position, and that it would be pointless to create a classification without justification. Mr. McMahon responded that he was not the first person to make the suggestion and that a position of this type would be used in his department. Similar fields do have entry-level starting points. Senator Ray observed that one of the easiest solutions would be to re-write minimum qualifications to allow recent graduates an opportunity to apply. The topic was referred to the Certification, Classification and Recruitment Subcommittee for review.

CORRESPONDENCE RECEIVED

Terry Cramer presented the following summaries on correspondence received:

Mrs. James L. Sumner wrote to the Commission regarding her belief, as a foster parent, that Social Workers should be considered professionals in that field. To maintain the qual-

ity of workers, Mrs. Sumner suggests that either educational requirements be increased or training after hire be closely supervised.

A concerned taxpayer wrote in regard to examinations for semi-professional positions. Examinations were described as outmoded, inaccurate, laborious and invalid, as well as not being pertinent to the actual jobs or selection of candidates. Also mentioned was the time it takes to schedule testing in Anchorage (weeks), which is held in a room with inadequate ventilation. The attitude of Anchorage employees in the personnel office was described as "very rude". The individual concluded the letter by stating that it is hoped that the Commission's investigation will result in procedures to teach these people to act as a service organization.

Marilyn Martin attached to her correspondence a copy of a letter to Governor Hammond pertaining to citizen evaluations of Commissioners. She referred to problems experienced when her position as Wage/Hour Investigator in the Resident Hire program was eliminated. Ms. Martin was assured that she would be transferred to another Department of Labor position if the U.S. Supreme Court ruled the Resident Hire Law unconstitutional. She knew of vacancies in unemployment fraud investigator classification and was on the register for Claims Investigator I. Two positions in Anchorage and Juneau were filled by other state employee transfers. A position in Fairbanks was filled by someone who may not have been a state employee. Ms. Martin was not contacted about any of these positions. She is now unemployed and questions the ethics of the situation and the follow-through of Commissioner Orbeck's policies by the Department of Labor's staff.

A copy of a memo to Jay Hammond, Governor, was received by the staff in reference to the Anchorage Field Office of the Division of Personnel. The staff was described as being rude and condescending. The author suggested that if the Commissioner insisted on courtesy, these rotten attitudes would not have existed for the past several years.

Ms. Irene Price elaborated on her testimony before the Commission on December 1. She emphasized that she spoke only on her own behalf. Ms. Price indicated that she believes communication to be a problem between the Division of Personnel and other state agencies, particularly in the following situations:

1. Initiation of tests for a given job classification without the knowledge of the affected unit.

2. Reclassification of positions without communication with the incumbent.

Dan Crevensten wrote in support of an increase in the use of part-time positions. He identified advantages for the state:

1. The use of temporary positions would be reduced.
2. There would be a better match between available positions and the amount of work.
3. Studies have shown that part-time employees have greater productivity and less absenteeism.
4. Equal employment goals could be easier to meet.

In his experience, Mr. Crevensten felt that state agencies should take into consideration part-time work. By the time an applicant interviews with a supervisor, it is too late to implement such a program.

IN ATTENDANCE

Commissioner Allen
Ken Humphreys (for Myrt Charney)
Frank Flavin
Pat Hunt
Lynda McCurry
Pat Murphy
Greg O'Claray
John Pugh
Ken Spray
Niel Thomas

ALTERNATES IN ATTENDANCE

Ken Kareen
Darlene Howard
Robert Maurant
Janet Bradley

Minimum Qualifications:

One year of experience in maintaining Minicomputer Hardware, Computer Peripheral Equipment and Telecommunications Equipment. AND Four years of experience in computer programming, systems analysis, design of telecommunications networks or system/field engineering for a computer manufacturer.

Two years of the above four years must be at the level of EDP Programmer IV, Systems Analyst II or Systems Programmer II.

Substitution: A college degree in computer science, electrical engineering, physics, mathematics or industrial engineering may substitute for up to two years of the required four years of non-specific work experience.

RECORDS HANDLER Class Code 1832-74-2

General Government Salary Range 12

Positions in: Juneau

Definition:

Under supervision of the Records Center Manager, receives, classifies, controls and stores a variety of office records.

Minimum Qualifications:

Graduation from high school or the equivalent, and two years of experience in the handling of stock, merchandise or inventory, including maintenance of records and/or reports. College education in an appropriate field may be substituted for up to one year of the required experience on a year-for-year basis.

RECORDS CENTER MANAGER Class Code 1836-79-1

General Government Salary Range 15

Positions in: Juneau

Definition:

Under general direction of the State Archivist, participates in planning and is responsible for the day-to-day management of the State Records Center; performs and directs activities to acquire, arrange, describe, preserve, retrieve, and dispose of inactive and semi-active records from any and all state agencies.

Minimum Qualifications:

Graduation from an accredited college or the equivalent with a major in history, government, political science, business or public administration, management, library science or closely related field; AND Two years of experience beyond the clerical level in a full-time records management program where duties concerned receipt, description, organization, disposal and retrieval of records in a records system characterized by a variety of different kinds and sources of documents and/or records.

Substitution: Clerical/secretarial, supply, library or records management experience may substitute for the required college education on a year-for-year basis.

BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT
Full Commission Hearing

Fairbanks North Star Public Library
December 13, 1978

MINUTES

In the absence of Senator Ray and Don Fisher, Representative Buchholdt chaired the meeting.

PUBLIC TESTIMONY

Mr. Fathy A. Elshamma moved to Fairbanks from Egypt in 1976 and worked as an Accountant with the Native Association for 13 months. During a vacation, he returned to Egypt and along with his family relocated to Fairbanks. Mr. Elshamma has been seeking employment since his return. He is listed on six registers and willing to accept employment in Juneau, Anchorage and Ketchikan, as well as in Fairbanks.

Mr. Elshamma was contacted on November 7, 1978, by Tom Lusk about a Bank Examiner I position in Juneau. In his conversation with Mr. Lusk, Mr. Elshamma indicated that he would be willing to accept immediate employment in Juneau and would be willing to take the next plane out of Fairbanks if necessary. Mr. Elshamma was instructed to wait for a response. One week later, he received a letter stating that the position had been filled. He questioned why he was never called back and brought the matter to the Governor's Office. The job was still listed as being open on that date, and the office verified the opening by phone. Mr. Elshamma had received a letter stating that the position had been filled.

Niel Thomas asked Mr. Elshamma if he had tried to contact the individual who was responsible for contacting him. He replied that he had not. Mr. Thomas suggested he call back and request an explanation. Mr. Thomas also suggested that a complaint should be filed if a satisfactory explanation was not provided.

Ms. Marianne Berry, a PHN, advised the committee of the problems they continue to have with reclassification of PHN positions throughout the state. Niel Thomas told the committee that the Assistant U.S. Labor Secretary, who is responsible for enforcing compliance with equal pay for equal work laws, has been in the state and is considering U.S. Government suit.

COMMITTEE DISCUSSION

Representative Buchholdt briefly discussed the written testimony received by a representative of the Classified Personnel Organization dated December 13, 1978. Copies will be sent out with committee minutes.

IN ATTENDANCE

Representative Thelma Buchholdt
Ken Humphreys (for Myrt Charney)
Pat Hunt
Darlene Howard (for Pat Murphy)
Lynda McCurry
Bob Maurant (for John Pugh)
Sheila Gottehrer (for Frank Flavin)
Ken Spray
Niel Thomas

MINUTES

PERSONNEL ACT REVIEW COMMISSION November 16, 1978

The third meeting of the Blue Ribbon Commission on the State Personnel Act was called to order in Room 123 of the State Capitol by Chairman Bill Ray at 1:30 p.m., November 16, 1978. Following roll call, Chairman Ray suggested that the proposed rules of procedure be considered. Adoption of rules was approved by acclamation.

Representative Eliason stated that he had missed the previous meeting and asked for permission to distribute a statement of potential problems the commission should consider.

Chairman Ray suggested that all commission members request and invite their alternates to be present at all meetings. In this way, the alternates will be current on commission activities and can make a meaningful contribution if their principle member is absent. The Chairman asked the secretary to invite the alternates and keep them informed of all meetings. He also reminded the legislators to keep this in mind because of potential conflicts in meeting times during the legislative session.

Don Fisher told the commission about a conference he attended in Olympia, Washington, on October 18 by the National Council of State Legislatures. He explained that the Council's Project TRAIN is focusing on personnel systems and problems involved. The group is headed by Mr. Couturier, who is well known for his work in this field. He suggested that TRAIN would be able to come to Juneau and work with the commission without expense to the State. We only need to furnish a meeting room and group of interested participants for the presentation.

Mr. Fisher moved that TRAIN be invited to Juneau. It was approved by acclamation. The Chairman and secretary will work to set up a couple of days for the presentation, to be scheduled after the legislature is in session.

The Chairman asked for a subcommittee report from the Merit System/Collective Bargaining group. Niel Thomas stated that they did not meet because of the late notification of the November 9 meeting. They will meet at a later date.

Frank Flavin moved to abolish the subcommittee on Merit System/Collective Bargaining, because the merit system question could be addressed in another subcommittee. Chairman Ray disagreed. He stated that the legislature expects to be informed on that topic.

Discussion followed concerning the areas of responsibility of each subcommittee. The commission must be sure to cover all of the important topics.

A vote on Mr. Flavin's motion was taken and failed. The Merit System/Collective Bargaining subcommittee will stand as is.

Representative McKinnon reported on the Category of Employees subcommittee. They plan to first address the problem of temporary, seasonal, and part-time employees. He also expressed a concern about overlooking certain topics because of vague subcommittee assignments. Chairman Ray referred to the October 3, 1978, meeting minutes listing topics of concern for subcommittees. Because of the over-lapping of members on each subcommittee, he feels sure that the commission will be able to cover all necessary topics.

The meeting was opened to public speakers. Roger Thayer, Personnel Officer, Department of Transportation & Public Facilities spoke first. Mr. Thayer suggested that the personnel system be decentralized to some extent. Recruitment, certification, and classification are areas that individual departments could successfully take charge of. Departmental personnel offices could classify their own unique positions, thus increasing accuracy and eliminating Division of Personnel paperwork. Classification of general state-wide jobs could go through the Division of Personnel. He agreed with the concept of promotions within a department whenever possible and of hiring new people at entry-level jobs.

Discussion followed regarding the need for a person to be on several registers for classifications of the same type. Ken Kareen explained that it was necessary to operate that way because higher levels of the same type of job may require additional skills such as supervisory abilities, while placing less emphasis on technical skills.

The Division of Personnel's veto power over classification was discussed and seen as a problem. Many people see the division as impossible to work with, or through, because of the time involved.

Lynda McCurry explained that classification changes need to be looked at when a person has a change in responsibility. If you have a change in tasks, that may call for a re-classification. If you have a larger volume of work, that may call for an additional person at the same classification.

Danny Plotnik, Coordinator of the Office on Aging, addressed the commission next on the problem of workers in the federally-funded SCSEP Program being classified as temporary employees. He introduced Eileen Rehwald, who expanded on the problem. Several of her people have been terminated because of the time limitations on State temporary employees.

These employees, under the federal program, were still eligible for additional hours of work. Also, federal guidelines preclude labeling employees under the SCSEP Program. She introduced one of the employees affected by this problem, Luberta Escholt. Ms. Escholt appealed to the commission to try to do something that would help her and others in the same situation.

Chairman Ray directed the matter to the Classification of Employees subcommittee to look into establishing these as partially-exempt positions. The APEA will also look into this matter. There should be some work completed by November 30.

Mary McClinton was the next speaker. Mary presently has a case being considered by the Human Rights Commission. She was employed by the Department of Community & Regional Affairs, which reorganized its staff, and had been excluded from transfer to another job. She was the only member of the staff to be excluded. Even though she was among the top five on a large number of registers, she has not found another state job. She would like to see the system improved so that this does not happen to others.

Some discussion followed on related problems. Frank Flavin hoped that if Ms. McClinton was found to be qualified and was indeed discriminated against that some disciplinary action would be taken against those persons responsible.

LaRae Jones, Personnel Officer from the Governor's Office, spoke next. She commented on how little training there was in the state system to provide new employees with the technical training needed on the workings of the specific systems. There have been two training sessions since last May, but she felt there should be more. People could do their jobs more effectively if they didn't have to learn by trial and error.

Public participation ended.

Chairman Ray made additions to subcommittee memberships. Ken Spray, Niel Thomas, and Lynda McCurry were added to the Categories of Employees subcommittee. John Pugh was added to the Collective Bargaining subcommittee.

Chairman Ray reported that the Centralization/Decentralization subcommittee met, heard testimony, and will meet again.

Questions arose regarding the appropriate subcommittee for classification and hiring processes. The responsibility was given to the Centralization/Decentralization subcommittee. Niel Thomas asked if it would be possible to rename the committee. It was moved by acclamation that the subcommittee be renamed "Classification, Certification, and Recruitment".

Mr. Thomas asked whether the Commission needed to investigate the other classes of state employees; namely, partially exempt and fully exempt.

Mr. Spray stated that there are presently 253 vacant permanent positions in jobs covered by APSE members. He suggested that the situation be investigated.

Chairman Ray stated that the meetings would continue in the order given previously; the subcommittees followed by the full committee. Work will be given at least one week in advance of the meeting dates. Also, note that a quorum of eight people is not necessary to hold meaningful discussions.

Representative Eliason recommended that the "Merit Increase Paper" be referred to the Merit System/Collective Bargaining subcommittee. It was agreed.

Chairman Ray read correspondence received by the Commission from Loren Jones. The letter was referred to the Certification/Classification/Recruitment subcommittee.

Meeting dates were set for the next meetings in Anchorage. They are November 30 and December 1, 1978. All members will be notified of the meeting place and can receive a T.R. from Legislative Affairs.

The next meeting was tentatively set for December 12 and 13 in Fairbanks.

The meeting was adjourned at 4:00 p.m.

Members in Attendance:

Bill Ray
Don Fisher
B. B. Allen
Dick Eliason
Frank Flavin
Ken Humphreys (for Myrt Charney)
Ken Kareen (for Pat Hunt)
Lynda McCurry
Joseph McKinnon
Pat Murphy
Greg O'Claray
John Pugh
Ken Spray
Niel Thomas

BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT
Full Commission Meeting
Juneau
November 16, 1978

ADDENDA

The following is an addenda to the Full Commission Minutes for the Blue Ribbon Commission hearing of November 16, 1978. The addenda was proposed by Ken Kareen, to be inserted on Page 2, as a substitute for Paragraph 5. The addenda was adopted at the Full Commission hearing on January 10, 1979:

Discussion followed regarding the need for an applicant to take different examinations when the job classes applied for are in the same class series (i.e., Accountant III, IV, V). Ken Kareen explained that different skills may be required and test contents emphasize those differences. Tests for a lower level job are concentrated on technical knowledge in aspects of the work, while higher level jobs in series make more demands on supervisory/management skills and knowledge, which are the subject of testing.

Also, Page 2, Paragraph 6, should read:

The Division of Budget and Management's veto power over classification studies was discussed and seen as a problem.

MINUTES

Personnel Act Review Commission Meeting October 3, 1978

The second meeting of the Personnel Act Review Commission was called to order in Room 123 of the State Capitol by Chairman Bill Ray at 1:30 p.m., October 3, 1978. Following roll call, Don Fisher reported that he had received more than fifty applications for the director's position, had interviewed just about all of those applicants and, in consultation with the chairman, was ready to make a selection in the next few days. Mr. Fisher reported that there was a possibility of using office space on the tenth floor of the State Office Building adjacent to the division of personnel, but that it would not be available until November 1. Senator Ray reviewed the actions of the last meeting and asked if anyone wanted to contribute public input concerning their problems with the personnel system.

Violet Thetford testified and was concerned with hiring practices and felt that the entire personnel system is bogged down with paper. There had been a problem with redundant testing. Mr. Hunt confirmed the basic facts.

Rosalee Walker testified on problems of in-house promotions. She felt that making political appointments to higher level positions instead of promoting long-time, career employees was bad for morale and resulted in poorly trained management. She hoped the commission might design a different system to alleviate this problem.

Gregg Erickson, director of the Research Division of the Legislative Affairs Agency, was asked to the table. Senator Ray explained formally to Mr. Erickson that he had no particular problems with the Legislative Affairs Agency staff and hoped that the issue which arose at the last meeting could be considered closed. Mr. Erickson was agreeable and thanked Senator Ray.

Chairman Ray brought up a problem which had been called to his attention in correspondence from the project coordinator for the office of the aging. The state personnel division has classified Title IX, Older American enrollees as "temporary" so they are now terminated after six months. Pat Hunt was asked to look into this problem and come back to the committee next time with either an answer or a resolution for consideration by the committee. Pat Murphy objected to the assignment. Following clarifying discussion, Mr. Murphy withdrew his objection.

Correspondence regarding priorities for the commission's work was received from Niel Thomas, executive director of the Alaska State Commission for Human Rights, Pat Murphy, executive director of the Alaska Public Employees Association and from Lynda McCurry for the Confidential Employees Association.

The commission discussed the establishment of priorities for subcommittee assignment. Chairman Ray cautioned members to take a non-partisan view on subcommittee assignments. Pat Murphy moved that three subcommittees be established and that "categories of employees" (see A.P.E.A. letter) be one of three priorities to be studied by a subcommittee. The motion passed without objection.

Pat Hunt moved that the commission make a priority of the determination whether we should have a central personnel system or whether it should be decentralized or whether it should be partially decentralized. Don Fisher proposed an amendment to the effect that recruitment, examination, classification and pay be handled separately. Following discussion, Mr. Fisher withdrew the amendment. The motion carried without objection.

Bob Gates moved that the commission make a priority of addressing the merit system and collective bargaining and their relationship. Following discussion, the motion passed without objection.

The commission discussed Equal Employment Opportunity, dress (cleanliness) code for state employees and the problems of training and job performance assessment. Bob Gates suggested that interested members inform themselves in the area of job performance evaluation and ways of dealing with instances of excellent or substandard performance and that the subject be raised again at the next meeting.

John Pugh moved that the commission recommend legislation which would provide for periodic, external audits of the personnel system like the one carried out by the Division of Legislative Audit in 1977. This motion passed without objection.

Chairman Ray raised the question of the job register. Some discussion of this, as well as the hiring of the commission's staff, followed.

Don Fisher moved to clarify the "centralization/decentralization" topic. He moved that the topic on centralization/decentralization include but not be limited to the study of the problems of certification, recruitment, classification and pay, examination, and equal opportunity and that the subcommittee consider the personnel law, the personnel rules and the existing practices and that they give their recommendations as to the solutions of any problems they might find. The motion passed without objection.

The three subcommittees were formed. They are composed of volunteers from the commission with the understanding that a member, through a representative, could serve on more than one subcommittee and that Chairman Ray would appoint a legislator on each subcommittee as chairman. Each subcommittee chairman was asked to appoint a vice chairman, with the understanding that Representative McKinnon (absent) would do so as soon as possible. Chairman Ray is an ex officio member of each subcommittee.

The subcommittees are as follows:

Centralization/Decentralization Subcommittee

Bill Ray, Chairman
Don Fisher, Vice Chairman
Myrt Charney
John Pugh
Pat Hunt
Lynda McCurry
Ken Spray
Dick Eliason
Thelma Buchholdt
Frank Flavin
Niel Thomas

Merit System/Collective Bargaining Subcommittee

Thelma Buchholdt, Chairman
Greg O'Claray, Vice Chairman
Ken Spray
Pat Murphy
Pat Hunt
B. B. Allen
Lynda McCurry
Bill Ray (ex officio)

Categories of Employees Subcommittee

Joe McKinnon, Chairman
Frank Flavin (Patti Moriarty)
Pat Murphy
Jay Yakopatz
Pat Hunt
Bill Ray (ex officio)

Ken Vassar presented a copy of the compilation of statutes dealing with the personnel system and gave a brief explanation. Don Fisher was charged with custody of these materials.

The next meeting of the commission was scheduled for 1:30 p.m., Thursday, November 9, in Room 123 of the State Capitol.

The meeting was adjourned at 4:25 p.m.

Members in attendance

Bill Ray
Bob Gates for B. B. Allen
Thelma Buchholdt
Myrt Charney
Don Fisher
Patti Moriarty for Frank Flavin
Pat Hunt
Lynda McCurry
Pat Murphy
Greg O'Claray
John Pugh
Ken Spray
Niel Thomas

MINUTES

Personnel Act Review Commission

Meeting of September 15, 1978

The following summary minutes are arranged topically, not chronologically, to indicate the actions of the Commission.

The first meeting of the Personnel Act Review Commission (L.R. #27) was called to order at 9:00 a.m., September 15, 1978 by Jack Doyle, Executive Director, Legislative Affairs Agency for Representative Mike Miller, Chairman, Alaska Legislative Council. A list of those in attendance is attached.

Officers

Following the call to order and introductions, Senator Bill Ray was elected Chairman and assumed the chair. Don Fisher was elected Vice Chairman. Myrt Charney was elected as recording secretary.

Staff Support

It was decided that the Commission would not hire a consultant as primary staff but would reserve the option to use one for specific tasks in the future. Senator Ray felt it would not be appropriate to use Legislative Affairs Agency staff exclusively in the role of director/researcher. It was decided that Don Fisher should proceed to advertise and interview for an administrator/research staff person at salary range 20 and for a full time secretary, preferably with shorthand skills, at a salary range not to exceed 12. At the request of the Chairman, Mr. Erickson of the Legislative Affairs Agency directed Mr. Humphreys to assist the Commission with such additional research as they may require, with priorities as among the Commission's various research tasks to be determined by the Commission.

Budget Considerations

Myrt Charney indicated that \$57,000 is currently available to the Commission through June 30, 1979 unless a supplemental appropriation is received or additional Legislative Council funds are made available.

Time Frame

It was suggested that the work of the Committee would probably carry on for at least eight months and possibly up to two years or so.

Office Space

Bob Gates said that permanent quarters could probably be provided through the administration. He was asked to check on that and let Don Fisher know. Senator Ray pointed out that Room 123A in the Capitol Building or other legislative space could be used for meetings, etc. even after the legislature convenes.

Scope and Priorities of the Study

There was some discussion of the scope of the study. Should it broadly embrace the entire personnel system including collective bargaining or be directed primarily toward a revision of the Personnel Act? It was decided that members who were so inclined should submit their thoughts on the scope, priorities and objectives of the Commission in writing at the next meeting. Senator Ray asked Ken Kareen and Pat Murphy to prepare presentations for the group.

There was some discussion of public hearings or meetings and the use of teleconferencing. The general conclusion was that the public needs to be made aware of the study and be given ample opportunity for input before any final product is forthcoming. It was suggested with no objection that releases be given to the press which would alert the public to the Commission's existence and intention to solicit input.

Membership of the Commission

There was some discussion of the possibility of adding additional members to the Commission. A motion by Ken Spray to add a representative from the Alaska Public Safety Employees Association failed. Senator Ray asked Myrt Charney to notify the PSEA that their informal participation was welcomed and to invite them to present their problems to the Commission.

Next Meeting

The next meeting was scheduled for Wednesday, October 3 at 1:30 p.m. in room 123 of the State Capitol, Juneau.

Ken Kareen requested that Legislative Affairs legal staff compile laws that deal with the personnel system besides those in AS 39.25. Senator Ray asked for a survey of the administrative code as well. Pat Murphy was asked to provide material on departmental personnel procedures.

At Frank Flavin's request, Myrt Charney was asked to provide Legislative Audit reports from the past. Mr. Charney was also asked to keep loose-leaf notebooks with minutes and other relevant materials for commission members.

At Janet Bradley's request, Ken Humphreys was asked to provide a copy of the various current collective bargaining agreements.

The meeting was adjourned at 10:55 a.m.

Personnel Act Review Commission

Attendance at the September 15, 1978
Meeting

Members

Ken Spray
Dick Eliason
Bob Gates
Ken Kareen

Joe McKinnon
John Pugh
Lynda McCurry
Pat Murphy
Bill Ray
Janet L. Bradley

Frank Flavin
Myrt Charney
Don Fisher

Others

Sally Smith
Jack Doyle
Kristine Harder
Ken Humphreys
Darlene Howard

Representing

Local 71
Representative, Dist. 3
Dept. of Admin. (for B.B. Allen)
Dept. of Admin., Div. of P. & L.R.
(for Patrick L. Hunt)
Representative, Dist. 9
A.P.E.A.
C.E.A.
A.P.E.A.
Senator, Dist. C
AK Human Rights Commission
(for Neil Thomas)
Ombudsman
Legislative Affairs Agency
D.O.T./P.F.

Representative, Dist. 20
Legislative Affairs Agency
Representative Mike Miller's office
Legislative Affairs Agency
A.P.E.A.

John Phillips - Merit Increase Policy
Recd Anch. mtg 12/1/78

TO: [ALL COMMISSIONERS

DATE November 14, 1977

FILE NO:

TELEPHONE NO:

FROM: Jay S. Hammond
Governor

SUBJECT: Merit Increases

Traditionally, individuals both in and outside of State service have held the view that so-called merit increases are automatic and are primarily based on longevity within a specific job. In certain instances this has been a valid assessment and we must take positive steps to insure that increases in the future are granted for meritorious service only.

The establishment of measurable objectives throughout each department is the key ingredient in eliminating subjective evaluations of employees' performance. Those departments which do not already have their plans and objectives committed to writing should immediately commence work in this area. These measurable objectives need to be established, communicated and understood at all levels in each department.

Based on recommendations made by the Merit Increase Review Committee and if we are to operate within our budgeted funds I have concluded that steps must be immediately taken to strive for a uniform State-wide merit increase policy. To accomplish this objective it will require a great deal of effort on your part and that of your managers. However, I am confident that the long-term rewards of a uniform policy will be significant in terms of improved employee morale, better communications between employees and their supervisors and greater recognition of effective job performance.

Quite obviously we must rely on management at all levels to adequately evaluate the performance of their employees and award increases based on merit. To enhance our abilities in this area, each supervisor is expected to adhere to the following guidelines.

1. Attend a specialized training course. The Division of Personnel and Labor Relations offers a training course entitled "Measuring Job Performance." For your information, a copy of the course outline and objectives is attached. The information presented in these training sessions should better prepare supervisors to rate their employees in an objective manner. No supervisor

W.D. Young, Comm.
B. Saffron
Rogers

November 14, 1977

is exempt from this directive except those who have attended this course within the past 12 months. In that case, however, it is recommended that those supervisors retake the course to review and reinforce their training. In the future all newly appointed supervisors should be scheduled to take this course at the earliest opportunity. (Schedules of the time and place of these training sessions have been distributed to departmental personnel and training officers).

2. Each division director or heads of offices shall review all evaluations with the rater prior to discussion with the employee. This is being requested to insure that effective performance is being emphasized in the evaluation. More frequent interim evaluations are encouraged to provide an opportunity for the supervisor to discuss employees' progress towards meeting expected objectives.
3. A concentrated effort must be made to have each position description jointly reviewed and updated if necessary, by the employee and supervisor. This review should be an effort by management to establish clearly to the employee what his/her job involves and to clarify any misunderstandings which may exist. This should be an ongoing practice in the future.
4. Following the preparation of an accurate job description it is necessary for specified standards of achievement to be communicated in writing to the employee. In addition, agreement must be reached between the employee and supervisor as to the degree to which expected performance must be exceeded in order to expect additional compensation.

Accomplishing a massive project such as this will take considerable time. To assist your department in implementing this directive, I have asked the Director of Personnel and Labor Relations to schedule a meeting for all departmental Personnel and Training Officers to discuss and review the Performance Evaluation System and to describe the content of the Measuring Job Performance course. (A notice of the date and time of this meeting will be sent to each departmental Personnel Officer in the near future). My objective is to have this program commence as quickly as possible and final implementation should be achieved no later than July 1, 1978.

November 14, 1977

During the interim it is necessary for each of you to examine the amount of funds you have available for merit increases and distribute that amount as prudent management would dictate.

In an effort to provide some guidelines I ask that you consider the following criteria prior to awarding a merit increase to your employees:

1. As mentioned previously, instruct the directors of your department to review the employees' performance evaluations with the employees' supervisor (rater) prior to notifying the employee of the merit increase. It is too late to take away corrective action once the employee is aware of the contents of his/her evaluation.
2. Establish in writing on the evaluation form accomplishments achieved by the employee that qualifies him/her for the increase. Accomplishments other than just coming to work on time, being compatible with peers, dressing appropriately, and etc. Outline tasks that you expect the employee to perform during the next period between reviews. Highlight the employees good points, if there are any, and comment on the employees' weaknesses if they exist. The evaluation is not just an instrument to flatter the employee and advise them that they will be receiving more pay in the future, it is a very vital tool of communicating with the employee and exercising prudent management practices.
3. Instruct the raters to include on the performance evaluation the number of sick days the employee has taken during the period prior to the evaluation. The rater should examine the employees' sick leave record to determine not only the frequency of leave but to see if a pattern of sick leave exists, i.e., Mondays, Fridays, before or after holidays. If there is a pattern, comment on same in the evaluation. In the event that the employee does not use the sick leave privilege in excess, comment favorable on that aspect in the evaluation.

November 14, 1977

A top management person in your office should spot-check the employees' performance evaluations from time to time to assure compliance in the above outlined criteria.

As I stated previously, you are aware of the funds available to you and all that I request is you emphasize to your managers to use discretion and manage the resources fairly to the State of Alaska and the employee.

In the event you have any questions regarding the short or long-term plan of this program, please contact Commissioner Allen or Deputy Commissioner Robert Gates for assistance.

MEMORANDUM

DEPARTMENT OF TRANSPORTATION & PUBLIC FACILITIES

TO: William Hudson Herb Lehfeldt
Chuck Meggitt Harry Shawback
Mel Hoversten John Becker
Henry Springer

DATE: March 21, 1978

FILE NO: 400H-2342

TELEPHONE NO:

FROM: James F. O'Sullivan
Deputy Commissioner
Maintenance & Operations

SUBJECT: Attached Document
re Merit Increases

I have dusted off this old memo from our Governor. It discusses employee performance evaluations.

We all originate or are asked to concur in these evaluations continuously. Please take the time to review the contents and apply the methodology to your own department and to those for whom you are responsible.

JFO'S:hj

attachment

cc: John Bates
Carl Johnson
Wendell Miller
Ken Smith

MEMORANDUM

DEPARTMENT OF TRANSPORTATION & PUBLIC FACILITIES

TO: ALL SUPERVISORS
Central Region
Maintenance & Operations

DATE April 14, 1978

FILE NO 410C-

FROM: Harry A. Shawback
Director, Central Region
Maintenance & Operations

TELEPHONE NO 266-1450

SUBJECT Merit Evaluations

I am attaching a memorandum from Governor Hammond which outlines the procedures that we will use in the future when evaluating an employee's performance.

Many State employees have over the years viewed merit increases as being automatic and primarily based on longevity within a position. To correct this, we must emphasize that merit increases will be granted only if it is found that the employee has performed in a manner deserving of such an increase -- in other words, earned it.

You, as raters, have this responsibility in that you must evaluate an employee and make the final determination as to whether the employee will receive a merit increase. Therefore, you should disregard your personal feelings for an employee, and write the evaluation fairly and objectively. It is important that not only good points be brought out and praise given but also the bad points and any constructive comments to correct them. Please remember that an employee rated as "outstanding" should stand head and shoulders above others doing similar work and in fact be looked upon as a special person -- one who could be recommended for greater responsibilities. Ratings are not to be made just to make an employee feel good or bad.

Effective immediately, the following guidelines are to be used when preparing evaluations:

1. All evaluations must be reviewed by the Director, or his designated representative, and discussed with him prior to discussion with the employee. It is too late to take corrective action once the employee is aware of the contents of the evaluation.
2. Establish in the evaluation the achievements, or superior performance, if any, that might qualify the employee for a merit increase. Outline any special improvements that you expect the employee to make prior to next review. Highlight good points and point out weaknesses. Use a second sheet of paper if necessary.

ALL SUPERVISORS
Central Region

-2-

April 14, 1978

3. Include on the evaluation the number of sick leave days the employee has taken since last review. Examine frequency of sick leave and see if a pattern exists, i.e., Mondays, Fridays, before or after holidays. If there is a pattern you must comment on it. If sick leave is not used in excess, it should be so noted.

To assist you in improving your evaluating techniques, we are presently drafting a list of questions to be completed for each evaluation. You will be receiving drafts of them in the very near future.

Attachment -
11/14/77 Memorandum from
Governor Hammond

MEMORANDUM

State of Alaska

TO: All Directors

DATE: May 10, 1978

FILE NO: 400H-2342

TELEPHONE NO:

FROM: James F. O'Sullivan
Deputy Commissioner
Maintenance & Operations

SUBJECT: Merit Increases

Certain directors are recommending merit increases for particular employees at the time of annual evaluation. This is not contrary to the existing system or policy providing . . . that employee has demonstrated outstanding and exceptional accomplishment during the year. Y X

State employees are afforded protection from inflation, and more, by their union contract. The merit increase is to be considered an award and not monetary gain which is due and expected annually.

By copy to Deputy Commissioner Ryan I have requested that a copy of all evaluations which recommend a merit increase be provided me. This is in order that I may share and participate in your recognition of such employees and to gain insight as to the sort of activities that makes for an outstanding employee.

JFO'S:hj

cc: Deputy Commissioner Ryan
Staff