

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILE 8672

1352 SCOMM 51: BLUE RIBBON COMN. ON STATE PERSONNEL ACT 1978-1983

that particular job. If the department does not hire that person, then they send over a second and so on. The union is required to abide by the Department of Labor's policy of Alaska hire and of local hire.

EFFECT OF FEDERAL REQUIREMENTS

Federal regulations governing how states must hire for programs which are funded in part by federal money limit the options which Alaska can consider without losing that source of money. Originally, Alaska used a Rule of Three when hiring for a position. That proved too restrictive, and the state tried a system in which applicants were tested and ranked without limit to the numbers provided to the department. Then the U.S. Civil Service Commission stated that such a system was not consistent with the merit system required for hiring with federal monies and therefore, the state adopted a Rule of Five, with modifications permitted through selective certification for unique requirements of a particular position. The state must conform to federal regulations on hiring in any program which receives federal money for its operation. The federal regulations have recently been changed.

Don Fisher moved that the committee request an Attorney General's opinion on the definition of "merit system" and the conflicts that arise from various federal regulations. The motion was adopted without objection. An opinion will also be obtained from the Legislative Affairs Agency.

IN ATTENDANCE

Senator Bill Ray, Chairperson
 Don Fisher, Vice Chairperson
 Myrt Charney
 Lynda McCurry
 Ken Kareen (for Pat Hunt)
 Ken Spray
 Representative Dick Eliason
 John Pugh
 Bob Maurant (Alternate for John Pugh)
 Frank Flavin
 Niel Thomas

ABSENT

Representative Thelma Buchholdt

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.



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Date

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MINUTES OF
BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT

from

August 18, 1980 through December 15, 1982

AND

Membership Lists

MINUTES OF THE
BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

August 18, 1980	Full Commission Meeting
August 19, 1980	" " "
October 29,30, 1980	" " "
December 4, 1980	" " "
January 3, 1981	Full Commission Meeting
February 11, 1981	" " "
October 5, 1981	" " "
November 3, 1981	" " "
November 19, 1981	" " "
December 21, 1981	" " "
March 11, 1982	Full Commission Meeting
August 30, 1982	" " "
September 21, 1982	" " "
October 15, 1982	" " "
November 9, 1982	" " "
December 7, 1982	" " "
December 15, 1982	" " "

M E M B E R S H I P

February, 1983

Senator Bill Ray, Chairman

Rep. Jack Fuller, Vice Chairman

Members and Alternates:

Myrton Charney, Executive Director, Legislative Affairs Agency

John Chenoweth, Ombudsman

Senator Richard Eliason

William Huston, Superintendent, S.E. Regional Correctional Institution

Lois Jund, Retired State Employee
(Dorothy Whitney)

Frank Raye, Director, Division of Personnel

Lynda McCurry, Personnel Officer, Department of Labor
(Roger Thayer, Personnel Officer, DOT)

Greg O'Claray, Inlandboatmen's Union - SIUNA

John Pugh, Director, Division of Social Services
(Robert Maurant, DOT)

Lisa Rudd, Commissioner, Department of Administration
(Director, Division of Labor Relations)
(Deputy Commissioner, Department of Administration)
(James Fisher, Director Division of EEO)

Cherie Shelley, Executive Director, APEA
(Darlene Livermore, APEA)
(Doryce Eggleston, APEA)
(Dianne Corso, APEA)

(Alternates)

Two vacancies

MEMBERSHIP OF THE
BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

June, 1982 to December, 1982

Senator Bill Ray, Chairman

Representative Jack Fuller, Vice-Chairman

* Representative Sally Smith

Myrton R. Charney, Executive Director, Legislative Affairs Agency

John Chenoweth, Ombudsman

Senator Richard Eliason

Carole Burger, Commissioner, Department of Administration

* Fred Muller, Deputy Commissioner

* James Fisher, Director, Division of Equal Employment Opportunity

* Sandra Withers, Director, Division of Labor Relations

William Huston, Superintendent, S.E. Regional Correctional Institution

Lois Jund, Retired State Employee

* Dorothy Whitney

Kenneth Kareen, Director of Personnel, Department of Administration

Lynda McCurry, Personnel Officer, Department of Labor

* Roger Thayer, Personnel Officer, Department of Transportation
and Public Facilities

Greg S. O'Claray, Inlandboatmen's Union - SIUNA

John Pugh, Director, Division of Social Services, Dept. Health & Social Services

* Robert Mourant, Department of Transportation and Public
Facilities

Cherie Shelley, Executive Director, Alaska Public Employees Assn.

* Darlene Livermore, Alaska Public Employees Assn.

* Doryce Eggleston, Alaska Public Employees Assn.

* Alternates

Staff: Teresa B. Cramer, Administrative/Research Assistant
Loretta M. Knightlinger, Secretary



JUNEAU, ALASKA

Alaska State Legislature

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

Senator Bill Ray, Chairman

Pouch YG
Mail Stop 3123
Juneau, Alaska 99811
(907) 465-4442

M E M B E R S H I P

March 15, 1982

Senator Bill Ray, Chairman

Rep. Jack Fuller, Vice Chairman

Members and Alternates:

Myrton Charney, Executive Director, Legislative Affairs Agency

John Chenoweth, Ombudsman

Senator Richard Eliason

Bill Huston, Superintendent, S.E. Regional Correctional Institution

Lois Jund
(Dorothy Whitney)

Kenneth Kareen, Director, Division of Personnel

Lynda McCurry, Personnel Officer, Department of Labor
(Roger Thayer)

William R. Hudson, Commissioner, Department of Administration
(Sandra Withers)
(Fred Muller)
(James Fisher)

Greg O'Claray, Inlandboatmen's Union SIUNA

John Pugh, Director, Division of Social Services
(Robert Maurant)

Cherie Shelley, Executive Director, APEA
(Darlene Livermore)
(Doryce Eggleston)

(Alternates)



JUNEAU, ALASKA

Alaska State Legislature

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

Senator Bill Ray, Chairman

Pouch YG
Mail Stop 3123
Juneau, Alaska 99811
(907) 465-4442

M E M B E R S H I P

November 3, 1981

Senator Bill Ray, Chairman

Vice Chairman Vacant

Members and Alternates:

Myrton Charney, Executive Director, Legislative Affairs Agency

John Chenoweth, Ombudsman

Senator Richard Eliason

Representative Jack Fuller
(Representative Sally Smith)

Bill Huston, Superintendent, S.E. Regional Correctional Institution

Lois Jund
(Dorothy Whitney)

Kenneth Kareen, Director, Division of Personnel

Lynda McCurry, Personnel Officer, Department of Labor
(Roger Thayer)

William R. Hudson, Commissioner, Department of Administration
(Sandra Withers)
(Fred Muller)
(James Fisher)

Greg O'Claray, Inlandboatmen's Union - SIUNA

John Pugh, Director, Division of Social Services
(Robert Maurant)

Cherie Shelley, Executive Director, APEA
(Darlene Livermore)

(Alternates)

January 8, 1981

MEMBERSHIP OF THE
BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

Senator Bill Ray - Chairman

Donald P. Fisher, Fiscal Analyst, Legislative Finance - Vice Chairman

Representative Thelma Buchholdt

* Representative Mike Miller

Myrton R. Charney, Executive Director, Legislative Affairs Agency

Bruce Cummings, Director, Division of Personnel

* Michael McMullen

Senator Richard Eliason

Frank Flavin, Ombudsman

* Paddy Moriarty

Representative Jack Fuller

* Representative Sally Smith

William Huston, Superintendent, Southeast Regional Correctional
Institution

Lois Jund

Lynda McCurry, Personnel Officer, Department of Labor

* Roger Thayer

Fred Muller, Deputy Commissioner, Department of Administration

* Sandra Withers

Greg S. O'Claray, Inlandboatmen's Union - SIUNA

John Pugh, Director, Division of Social Services

* Robert Maurant

Cherie Shelley, Executive Director, Alaska Public Employees Assn.

* Darlene Livermore

* Alternates



JUNEAU, ALASKA

Alaska State Legislature

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT
Pouch AG/Mail Stop 0123
Juneau, Alaska 99811
(907) 465-4442

Senator Bill Ray
Chairman

M E M B E R S H I P

October 29, 1980

Senator Bill Ray, Chairman

Don Fisher, Vice Chairman

Members:

Representative Thelma Buchholdt
(Representative Mike Miller)

Myrton Charney, Executive Director, Legislative Affairs Agency

Bruce Cummings, Director, Division of Personnel

Representative Richard Eliason

Frank Flavin, Ombudsman
(Duncan Fowler or Paddy Moriarty)

Representative Jack Fuller
(Representative Sally Smith)

Bill Huston, Superintendent, S.E. Regional Correctional Institution

Lois Jund

Lynda McCurry, Personnel Office, Department of Labor
(Roger Thayer)

Fred Muller, Deputy Commissioner, Department of Administration

Greg O'Claray, Inlandboatmen's Union - SIUNA

John Pugh, Director, Division of Social Services
(Robert Maurant)

Cherie Shelley, Executive Director, APEA
(Darlene Livermore)

(Alternates)

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

August 20, 1980

Membership

Senator Bill Ray, Chairman

Don Fisher, Vice Chairman

Representative Thelma Buchholdt
(Representative Mike Miller)

Myrton Charney, Executive Director, Legislative Affairs Agency

Bruce Cummings, Director of Division of Personnel

Representative Richard Eliason

Frank Flavin, Ombudsman
(Duncan Fowler)

Representative Jack Fuller
(Representative Sally Smith)

Lois Jund

Lynda McCurry, Personnel Officer, Department of Labor
(Vacant)

Greg O'Claray, Inland Boatmen's Union - SIUNA

John Pugh, Director of Division of Social Services
(Robert Maurant)

Cherie Shelley, Executive Director, APEA
(Darlene Livermore)

Dick Smith, Deputy Commissioner, Department of Administration

(Alternates)

BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT
State Capitol, Juneau, Alaska
December 15, 1982

MINUTES

Senator Bill Ray, Chairman, called the meeting to order at 1:40 p.m. The roll call showed Senator Ray, Representative Jack Fuller, Myrt Charney, John Chenoweth, James Fisher (alternate for Commissioner Rudd), Lois Jund, Mike McMullen (alternate for Ken Kareen), Roger Thayer (alternate for Lynda McCurry), Greg O'Claray, Bob Maurant (alternate for John Pugh), and Lee Powelson (alternate for Cherie Shelley) as present.

The commission reviewed a letter dated December 14, 1982, from Allen K. Korhonen, Acting Commissioner of the Department of Health and Social Services, concerning the status of medical doctors employed by the department. Mr. O'Claray moved that the commission sponsor legislation as requested by the department to place public health doctors in the classified service. There was no objection and the motion passed by unanimous consent.

The commission considered information on the state's nepotism statute. Ms. Jund moved that the commission reintroduce the legislation on nepotism that it had sponsored in the 1981 legislative session. There was no objection and the motion passed by unanimous consent.

The commission discussed recommendations against rehire. Senator Ray suggested that perhaps a committee of impartial individuals should review every performance evaluation which recommends that an employee not be rehired before that recommendation becomes part of the employee's personnel file. Ms. Jund added that a two-step review process might be appropriate. A departmental panel would review the evaluations before they were approved by the department. A second panel would review them before they became part of the employee's personnel file. She also suggested that the information on the back of the personnel evaluation form should include more detail about recommendations about rehire. Senator Ray suggested that the commission write to the Commissioner of Administration to relate these suggestions.

Tom O'Donnell, personnel officer for the Department of Health and Social Services, pointed out that employees receive copies of the evaluation form and have an opportunity to comment before the evaluation becomes final. A review panel would probably not have enough information to act contrary to the supervisor's recommendation. The important thing to bring about is better training for supervisors in making their evaluations. They should also be held accountable for their actions. Mr. Charney replied that many supervisors and employees do not know the effect of recommendations against rehire and therefore employees do not grieve when they receive one. Senator Ray asked the staff to write to the Commissioner of Administration asking that the department consider expanding the information on the personnel evaluation form and implementing review panels for all evaluations on which that recommendation appears and asking for her response within a reasonable time.

Ms. Jund offered some comments on the memorandum on employee discipline which had been discussed at the previous commission meeting. She suggested that the levels of discipline should include

verbal warnings, which should be documented by the employee's supervisor in writing;

written admonishments, which are not made part of the employee's permanent personnel file but which the employee is asked to sign;

written reprimands, which the employee is asked to sign and which do become part of the personnel file, although they may be removed at a later time; and

suspensions, which the employee is also asked to acknowledge receipt of.

In the section on conduct prejudicial to the best interests of the service (F.3), she suggested that the list include soliciting gifts for political purposes. In the discussion of improper conduct related to state property or vehicles, (F.4), she suggested that operating a state vehicle while under the influence of drugs or alcohol should be listed there as well as in the section on improper use of intoxicants or drugs. Mr. O'Claray moved that the commission write to the Commissioner of Administration asking that she include this information as well as the memorandum previously sent to her when she considers the commission's request that the department adopt a written policy on employee discipline. There was no objection voiced.

Senator Ray adjourned the meeting at 2:10 p.m.

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BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT
State Capitol, Juneau, Alaska
December 7, 1982

MINUTES

Senator Bill Ray, Chairman, called the meeting to order at 10:00 a.m. The roll call showed Senator Ray, Representative Jack Fuller, Myrt Charney, John Chenoweth, Senator Dick Eliason, Fred Muller (alternate for Commissioner Rudd), Ken Kareen, Roger Thayer (alternate for Lynda McCurry), Greg O'Claray, John Pugh, and Doryce Eggleston (alternate for Cherie Shelley) as present. Also present were James Fisher, Mike McMullen and Bob Maurant.

Senator Ray asked the members to consider the memorandum on Minimum Qualifications for the Internal Auditor Job Series. Bob Janes, Chief of the Office of Internal Review in the Department of Transportation, addressed the commission in support of permitting work experience to substitute for the educational requirements of the job series. He said that before the auditing kinds of job classes were combined some years ago, his office was staffed by Audit Review Specialists. That job series had less extensive minimum qualifications than does the internal auditor series. When the classes were combined, employees were transferred into the internal auditor classes. If those employees, some of whom have many years of experience, were to resign and then later try to return to work in the same position, they could find that they no longer qualify because they lack the added educational requirements.

Mr. Kareen said that the Division of Personnel would review the internal auditor job series and consider whether it ought to be replaced with two parallel series.

Marcia Anne Lutterman, Internal Auditor III, testified in support of permitting work experience to substitute for the college degree requirement. She said that she was initially employed as a Fiscal Compliance Officer before that job class was deleted and her position transferred into the internal auditor series. She pointed out an additional problem with the educational substitutions presently permitted. The State of Alaska now requires that applicants for the CPA exam hold college degrees, so there is no way to qualify for an internal auditor without a college education. She will not be eligible for promotion until she completes the hours required for a college degree which is difficult to do while holding a fulltime job.

Carolyn Guess, Chairman of the Alaska Public Utilities Commission, addressed the commission concerning the associate attorney position in the PUC. The position is currently staffed on a reimbursable services contract with the Department of Law because the position needs to be in the partially exempt service, but the PUC does not have authorization to make it so. While the position is staffed through the Department of Law, it is statutorily placed in the partially exempt service. She

asked that if the Blue Ribbon Commission is sponsoring amendments to the State Personnel Act, an amendment to AS 39.25.120 be included to permit the PUC to hire partially exempt associate attorneys. Mr. Kareen pointed out that the PUC could request the Personnel Board to place the position in the partially exempt service without having to amend any statutes. Senator Ray added that the Blue Ribbon Commission would be happy to write to the personnel Board in support of the PUC's request.

The commission discussed and revised the memorandum on Employee Discipline. Mr. Muller suggested that the commission send a copy of the revised memorandum to the Commissioner of Administration and request that the department include the information in an employee handbook. Senator Ray asked the staff to prepare the materials to send to Commissioner Rudd.

The commission reviewed the memorandum on Recommendations Against Rehire. Senator Ray recessed the meeting at 11:45 a.m.

Senator Ray reconvened the commission at 1:30 p.m. and continued the discussion on recommendations against rehire. Mr. Charney suggested that the commission ask for a review of the memorandum from the Commissioner of Administration. Senator Ray directed the staff to ask for a response from the department for the next commission meeting.

The commission reviewed the memorandum on the Office Skills Test and the accompanying memorandum from Kaye Hogan, deputy director, Division of Equal Employment Opportunity. Mike McMullen, deputy director of personnel, explained that the Office Skills Test results have been found to be predictive of performance and the psychometrist has established its job-relatedness. The state is in the second year of a two-year experiment in which the minimum qualifications for clerical job classes are waived. The Division of Personnel will review the effect of waiving the minimum qualifications later in the study. For two or three job classes the minimum qualifications are not waived because the division believed that the experience or educational requirement was necessary. For both the retirement and benefits technician classes and the natural resource technician classes the experience requirement is still in effect. A college degree may be substituted. In addition, applicants for those classes must pass the Office Skills Test.

Chet Cottongim, personnel officer for the Department of Public Safety, said that managers in his department have found that employees who have been out of school for a long time have been getting poorer scores on the Office Skills Test than recent graduates. The department has asked the Division of Personnel to look into the situation. It is important to recognize and give credit to experienced good employees and to provide them with opportunities for promotion. The Office Skills Test may block them from qualifying for promotional opportunities. Mr. McMullen pointed out that 96.8% of the applicants who take the test pass it. Senator Ray responded that ranking can be as important as passing the test. Mr. McMullen added that long term employees will have earned employee credits which are added to their scores and a department wanting

to promote a current employee can fill a vacancy using an intra-departmental register. There methods ought to provide adequate opportunities to promote deserving employees.

Mr. Chenoweth suggested that the commission review the Division of Personnel's response to the Division of EEO's request that it seriously consider making the Office Skills Test only one component in the determination of qualifications of applicants.

The commission considered correspondence received from Marilyn Martin. Mr. McMullen explained that he had met with Ms. Martin and advised her that if credits from the California Coastal University are recognized by an accredited college or university then the Division of Personnel will accept her degree. Ms. Martin is currently writing to the University to gather the necessary documents and should receive credit for the degree when she presents them to the division.

The commission considered draft legislation on Credit for BIA service under the Teachers Retirement System. Mr. Charney moved that the commission sponsor the legislation in the next legislative session. Representative Fuller asked to abstain from voting. The vote showed eight (8) in favor, none opposed and one (1) abstention. The motion carried.

The commission considered correspondence received from David Hickok, chairman of the Alaska Council on Science and Technology, together with a memorandum prepared by Jim Lear, Legislative Counsel, addressing the points raised in Mr. Hickok's letter. Mr. Hickok addressed the commission. He suggested that the legislation should provide that supervisors of inventors be made aware of the discovery at the time that the inventor discloses the invention to the Council on Science and Technology. Senator Ray responded that the Council has authority under the bill to adopt regulations which provide that the inventor do so. Mr. Hickok asked whether the Council would have authority under the proposed legislation to contract with a nonprofit corporation to develop and market an invention and to grant a share of the royalties to the corporation as well as to the employee-inventor. Senator Ray responded that on page 3, section 39.52.020 the Council is authorized to grant monetary recognition for creations in intellectual work products and that the form could be a share of the royalties.

Mr. O'Claray moved that the commission sponsor the legislation on government interests in intellectual work products developed at the expense of the state in the next legislative session. The motion carried without objection.

The commission considered the draft bill on collective bargaining. Mr. McMullen pointed out that the language on lines 14 and 15 "whichever is later" could create a problem and suggested that those words be deleted. Mr. O'Claray moved that the bill, as amended, be introduced by the commission. The motion carried without objection.

The commission considered court leave for nonpermanent employees, item B in the Staff Memo. Senator Ray asked the staff to write to the Personnel Board asking that they act immediately, at the earliest possible time. He asked whether any commission members would object to sponsoring legislation on the issue if that should prove necessary. No objections were voiced.

The commission considered the status of state-employed medical doctors, item C of the Staff Memo. Tom O'Donnell, personnel officer for the Department of Health and Social Services addressed the commission. He said that his department had not been consulted by the Senate State Affairs Committee when the committee amended the State Personnel Act to place all medical doctors in the exempt service. Senator Ray asked that the department present suggested legislation on the question for the commission's consideration at its next meeting.

Senator Ray asked that commission members review the information about the state's nepotism statute for the next meeting. He asked for recommendations about filling the vacancy on the commission. Mr. Thayer suggested that the vacancy be filled after the legislative organization has been completed. Patsy Fletcher, Assistant Director of the Human Rights Commission, spoke in support of the application of James Chase.

Senator Ray adjourned the meeting at 3:00 p.m.

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BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT
State Capitol, Juneau, Alaska
November 9, 1982

MINUTES

Senator Bill Ray, Chairman, called the meeting to order at 10:05 a.m. The roll call showed Senator Ray, Representative Jack Fuller, John Chenoweth, Fred Muller (alternate for Commissioner Carole Burger) Lois Jund, Ken Kareen, Roger Thayer (alternate for Lynda McCurry) Greg O'Claray, Bob Maurant (alternate for John Pugh), and Doryce Eggleston (alternate for Cherie Shelley) as present.

Senator Ray asked the commission to consider the draft bill relating to the state's interest in intellectual work products. Jim Lear, legislative counsel, explained the changes he had made at the commission's instructions and answered questions. Representative Fuller moved that the commission approve the bill as drafted for introduction in the 1983 Legislative Session. The motion carried without objection.

The commission took up the draft bill relating to collective bargaining. Don Kubley, representing IBU-Pacific and the International Order of Masters, Mates and Pilots, addressed the commission. He pointed out a problem in the present language which requires that agreements be submitted to the legislature within 30 days after the convening of the session. If negotiations are delayed past the convening of the session, then employees would have to work without a contract for almost a year, until the convening of the next regular session. He suggested that the language be changed.

Senator Ray suggested that the second sentence of the draft, lines 15-18 be deleted. Greg O'Claray read a telegram from Steve Franks of the Marine Engineers Beneficial Association in Seattle, opposing an earlier version of the bill. Roger Thayer suggested the bill be amended by deleting "30 days after the" in line 14 and adding "10 days after signing by the parties or" in its place. Mr. O'Claray moved that the second sentence of the draft be deleted and that the bill be amended as suggested by Mr. Thayer. The motion carried without objection.

The commission considered the draft relating to PERS credit for BIA service. Mr. Muller explained that the bill would preclude state employees with federal BIA service from receiving retirement benefits from both the federal government and the state for the same period of service. Mr. O'Claray asked how the credit for BIA service was funded. Mr. Muller was not sure. Further consideration of the legislature was held until the next commission meeting.

Terry Cramer read the commission a fiscal note from the Division of Retirement and Benefits for the draft bill limiting the adjustment of retirement benefits which the commission has approved for introduction. The division expects there will be some cost but they cannot be measured and in most instances they are expected to be small.

The commission considered court leave for nonpermanent state employees. Mr. O'Claray said that most collective bargaining contracts provide for jury duty pay and that nonpermanents may be the only group of employees who are not entitled to receive pay while serving on a jury. Ms. Cramer advised the commission that the Personnel Board would be meeting next week to consider amendments to the Personnel Rules. Mr. Kareen added that the Rules which the Personnel Board would be considering do not include leave provisions. The State Personnel Act does not direct that the Personnel Rules address leave for state employees. Those provisions will be placed in other regulations. Senator Ray asked Ms. Cramer to advise the Personnel Board of the commission's support for court leave for nonpermanent employees.

The commission considered the request that it recommend a preference for student-loan recipients.

The commission considered the requirement that internal auditors hold college degrees. Mr. Kareen said that the Division of Personnel reflects the views of state managers in setting the minimum qualifications for job classes. Mr. O'Claray asked for more information on how the minimum qualifications for this job class were established, since most minimum qualifications permit substitution of training and experience for educational requirements. Senator Ray asked the staff to invite the Director of the Division of Internal Audit to the next commission meeting.

The commission discussed employee discipline and recommendations against rehire. Senator Ray suggested that the problem with recommendations against rehire is that a supervisor has control of an employee's entire job future with the state. Mr. Muller explained that the Division of Personnel reviews recommendations against rehire to insure that their scope is appropriate. The recommendations can be limited to that job class, to the department as a whole, or to any state employment. Mr. Kareen added that there are adequate departmental review procedures to insure that the recommendation against rehire is imposed only in appropriate circumstances. The employee's immediate supervisor prepares the recommendation. It is then reviewed at the next level of supervision, and finally there is a department level review, frequently by the Personnel Officer for the department. Unfortunately, the reviews are sometimes cursory, and the recommendations are signed automatically. Mr. O'Claray asked whether there were any guidelines to assist supervisors. Guidelines would help insure consistency. Ms. Jund added that many supervisors do not understand what a recommendation against rehire means. Could there be something written to let them know? Senator Ray asked the staff to work with Mr. Muller on this issue.

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

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BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT
State Capitol, Juneau, Alaska
October 15, 1982

MINUTES

Senator Bill Ray, Chairman, called the meeting to order at 10:00 a.m. The roll call showed Senator Ray, Myrt Charney, John Chenoweth, Senator Dick Eliason, Sandra Withers (alternate for Commissioner Carole Burger), William Huston, Mike McMullen (alternate for Ken Kareen), Roger Thayer (alternate for Lynda McCurry), Greg O'Claray, and John Pugh as present. Also present was Bob Mourant.

Terry Cramer, Administrative Assistant to the commission, advised the members that the minutes of the meeting held September 21, 1982, should be corrected. The second sentence of the third paragraph should read:

With objection from the Department of Administration, the commission approved the draft bill limiting the adjustment of retirement benefits for introduction next session.

The correction to the minutes was approved without objection.

The commission considered the draft bill amending AS 14.25.107 prepared by the Division of Retirement and Benefits at the request of the commission. Senator Ray explained that the bill addressed a potential problem in the current statutes which could allow individuals to receive retirement benefits from both the federal and state governments for the same period of employment with the federal government. Greg O'Claray moved that the bill be prepared as legislation for introduction next session by the commission. The motion passed without objection.

The commission considered the draft bill relating to collective bargaining. Senator Ray suggested that the draft be amended to provide that if the legislature does not act within 60 days, then the agreement would be considered rejected. Mr. O'Claray suggested that the time for legislative consideration should be limited to 30 days. Mike McMullen asked whether the language in line 15 required that agreement reached after the legislature convened would have to wait until the next session before being considered by the legislature. Senator Ray suggested that the work should be done before the session to avoid any delays. Senator Ray asked that another draft of the bill be prepared for the commission's consideration at its next meeting.

The commission considered the draft bill relating to government interests in intellectual work products developed at the expense of the state. Jim Lear, Legislative Counsel, explained the changes he made in preparing this draft. The commission discussed the proposed AS 39.52.020, and asked that Mr. Lear prepare language providing that the Council on

Science and Technology may, subject to appropriation, either award the inventor a share of the royalties or give him or her a cash award for any discovery, regardless of whether it provides the state with net revenues or whether it is a cost-saving discovery. In addition, the commission requested that he draft language excluding the provisions of the legislation from the scope of collective bargaining and exempting legislators from the provisions of the bill.

The commission discussed standards for recommendations against rehire and for employee discipline. Senator Ray asked Sandra Withers to draft generalized standards with examples of the kind of conduct which would merit that level of discipline for the commission to consider at the next meeting.

Senator Ray announced that the commission would be meeting in November, December and January. He adjourned the meeting at 11:45 a.m.

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BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT
State Capitol, Juneau, Alaska
September 21, 1982

MINUTES

Senator Bill Ray, Chairman, called the meeting to order at 10:10 a.m. The roll call showed Senator Ray, Representative Jack Fuller, Myrt Charney, Senator Dick Eliason, Fred Muller (alternate for Commissioner Carole Burger), Ken Kareen, Lynda McCurry, John Pugh, Darlene Livermore (alternate for Cherie Shelley) present. Bill Huston and Cherie Shelley arrived late. Also present were Roger Thayer and Jim Fisher. Jack Chenoweth, Lois Jund and Greg O'Claray were absent.

The commission considered draft legislation on government interest in discoveries and inventions made by public officers and employees of the state. Jim Lear, legislative counsel, explained the provisions of the draft and answered questions from the commission. He said that legislation from the State of Connecticut and the federal Executive Order on patents by employees formed the basis of the draft. Senator Eliason moved that page 4, lines 1 and 2 be amended to delete the exceptions for the Alaska Energy Center and for the Alaska Resources Corporation. The motion passed without objection. The commission requested other changes and also asked Mr. Lear to prepare draft legislation relating to the state's interests in copywrites, particularly in computer programs. Mr. Don Bennett of the Council on Science and Technology was present, but did not testify.

The commission held review of the draft relating to collective bargaining until the next meeting. Without objection the commission approved the draft bill limiting the adjustment of retirement benefits for introduction next session.

Senator Ray stated that selection of a new commission member would be held until the next meeting. He asked commission members to be prepared to discuss employee discipline at that meeting.

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

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BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT
State Capitol, Juneau, Alaska
August 30, 1982

MINUTES

Senator Ray, Chairman, called the meeting to order at 10:00 a.m. The roll call showed Senator Ray, Representative Fuller, Myrt Charney, John Chenoweth, Fred Muller (alternate for Commissioner Carole Burger), Lois Jund, Mike McMullen (alternate for Ken Kareen), Lynda McCurry, Greg O'Claray, John Pugh, and Dianne Corso (alternate for Cherie Shelley) as present. Senator Eliason and Bill Huston were absent. Also present were James Fisher, Roger Thayer, Bob Mourant and Doryce Eggleston.

Senator Ray asked Chet Cottongim, personnel officer for the Department of Public Safety, to address the commission concerning correspondence received from Sgt. Richard A. Hemmen who lives in Fairbanks. Mr. Cottongim explained that a vacancy had occurred in the Fish and Wildlife Protection Division in Anchorage which required a seasoned supervisor, ideally one who was also a pilot. The department considered six sergeants and decided that Sgt. Hemmen was the most desirable. Neither Sgt. Hemmen nor the other five candidates for the position were from the Anchorage area. Although the department seldom invokes involuntary transfer, it did so in this case because of the special needs of the position. Sgt. Hemmen refused the transfer because of the financial hardship resulting from the loss of geographic pay differential and having to sell his house in the depressed market in Fairbanks. The department offered him the choice of accepting the transfer, resigning, or being suspended and, if he did not then accept the transfer, being fired. Sgt. Hemmen resigned effective August 1, 1982. He filed a grievance on the involuntary transfer which was decided in favor of the department.

Mr. Cottongim added that Sgt. Hemmen had refused a transfer once before on the grounds of financial hardship. The department accepted his refusal and he remained in Fairbanks and subsequently received two promotions. The Anchorage position actually became vacant on July 16th. Mr. Cottongim stated that so far as he knew, it had not yet been filled. He indicated that the department had hoped that Sgt. Hemmen would change his mind.

Mike McMullen explained that he had served on the contract negotiating team for the Public Safety Employees' Association labor agreement. The terms of the agreement recognize the employer's need to transfer employees, particularly commissioned officers, from one area to another. The contract provides that the employee's moving expenses will be paid by the state.

Mr. Cottongim added that the department's criteria for making transfer decisions are to provide an opportunity for officers to broaden their careers and to meet the needs of the department. The department tries to avoid imposing a hardship on employees, but the needs of the department must be met.

Senator Ray asked whether there was any evidence that the transfer was discriminatory or a disciplinary measure. Mr. Cottongim said that there did not appear to be any indication of that. He added that the department considered Sgt. Hemmen an outstanding employee. Senator Ray said that there appeared to be no further basis for the Blue Ribbon Commission to consider the matter. He was sympathetic to the situation Sgt. Hemmen had been placed in, but the transfer appeared to be the exercise of a valid management prerogative.

Dale Young addressed the commission concerning issues raised in his earlier correspondence with the commission. He was employed by the Department of Fish & Game, F.R.E.D. Division as the Southeast Alaska Regional Hatchery Manager in 1976. When he was first employed, the state needed to develop a production-scale salmon incubator. He asked his supervisor if he could work on the project privately and was advised to request an Attorney General's opinion on conflict of interest. In 1977 the Attorney General granted him permission to proceed with his work and to obtain a patent provided he followed strict guidelines. Mr. Young secured a patent, and in cooperation with a private corporation, developed an incubator and fish rearing system.

Mr. Young stated that following his patenting of the incubator, his work situation deteriorated, leading ultimately to his layoff on August 15. His performance evaluations changed from rating his work as highly acceptable to finding his work unacceptable and recommending his termination. His supervisor had not spoken with him about the change in the performance of his work or made suggestions on how he could improve. He believed the evaluations and other unfavorable situations in his employment were in retaliation for his having secured the patent.

Mr. Young added that in addition to his personal difficulties, Fish and Game had broken state and federal laws to avoid purchasing his products. The Ombudsman's office had twice investigated the department's purchasing practices and found them in violation of the applicable laws. During the second investigation, they referred the complaint to the Governor's Internal Auditors. The auditors confirmed that the department was violating purchasing procedures.

In answer to a question, Jack Chenoweth, Ombudsman, said that his office had investigated the incubator purchasing practices over the past several years. The purchases involve three agencies - the Departments of Public Transportation, Fish and Game, and Administration. Correction of the problem would require the cooperation of the administration, and therefore, his office had asked for a review by the Internal

Auditors. The Ombudsman's office also made several recommendations to each department, but did not receive an entirely favorable response. The Ombudsman's investigation did not consider the employment problems which Mr. Young was raising before the Blue Ribbon Commission.

Mr. Muller asked Mr. Young whether APEA was still involved on his behalf. Mr. Young said that they were. Mr. Muller suggested that the Blue Ribbon Commission should not intervene in the matter until the pending grievances are resolved. Senator Ray replied that in his opinion it was appropriate for an individual to bring anything before the commission at any time. He also requested the commission staff to invite Deputy Commissioner Collinsworth from the Department of Fish and Game to address the commission on this matter at 1:30.

Representative Fuller asked whether Mr. Young's product was used outside the state. Mr. Young replied that there is some small use by private nonprofit concerns on an experimental basis and added that tests have proved the success of the process and equipment. It provides high quality production with a higher survival rate and is the least labor-intensive process available. In response to a question from Ms. Jund, Mr. Young indicated that he had been employed as an assistant hatchery manager by the State of Missouri prior to his coming to Alaska to accept the Hatchery Manager position. In addition, he had owned a private hatchery in Missouri where he began the development work which he continued in Alaska. He believed that his work on incubators was one of the reasons he was selected for the position, but two weeks after he began working it became clear that he would not have time on the job to continue.

Mr. Young added that Fish and Game is justifying his layoff by saying that they are responding to legislative intent that they reduce the numbers of managers in the department. He pointed out that the department has not eliminated any top-level management positions. All of the layoffs in management positions have occurred in mid-level management.

In response to a question from Greg O'Claray, Dianne Corso from APEA explained that Mr. Young has several grievances pending. The grievance addressing the reasonableness of his layoff is under consideration for filing at the Step III level. Mr. Young has the right to pursue that issue through arbitration.

Senator Ray brought a letter from Ms. Eileen Oliver to the attention of the commission and asked Mr. Chenoweth whether there were any recent developments he wished to report. Mr. Chenoweth replied that at Ms. Oliver's request his office has not proceeded further with the complaint, since the position she applied for has not yet been filled.

The commission considered the Issue Summary dated July 20, 1982, concerning issues raised recently.

A. RECOMMENDATIONS AGAINST REHIRE

Mike McMullen explained the state's system on recommendations against rehire. When employees resign in good standing, they have the right to be placed at the top of registers for job classes for which they qualify. Supervisors are not required to hire them but may select

them without considering any of the top five applicants if they wish to. When an employee is not recommended for rehire, he or she loses those rehire rights. In addition, if the recommendation against rehire applies to all state employment, the employee's name will be removed from all registers and no applications will be accepted until the employee has worked for another employer for the length of the probationary period for that job class, either six months or one year.

Senator Ray suggested that the penalty is too severe. Unless an employee is dismissed for an indictable offense, a supervisor should not recommend against rehire by the state. Prospective employers should be notified of the employee's unsatisfactory conduct and be allowed to decide whether they wish to employ that person. Mr. McMullen replied that the Division of Personnel is charged with evaluating applicants to insure that they meet minimum qualifications. Part of that review should include consideration of previous work history. If the history shows that there has been a serious problem, then it is appropriate to find the applicant unqualified until he or she demonstrates that the problem has been resolved.

Dianne Corso pointed out that although the system provides for review of recommendations against rehire by the Division of Personnel, in fact employees may have to go through considerable effort to have Personnel reconsider the supervisor's recommendation. Mr. McMullen explained that the departments have an internal review system before Personnel is involved. Recommendations against rehire are part of the employee's final performance evaluation. After a supervisor prepares the evaluation, it is reviewed by the supervisor's supervisor, typically a division director. If the division director approves it, then the commissioner's office reviews it. That review is frequently delegated to the departmental personnel office. Lynda McCurry pointed out that recommendations against rehire can be attached to voluntary resignations as well as to situations in which an employee is fired. Departments do not impose them consistently and internal review is not always adequate. Ms. Corso added that some supervisors have no knowledge of the effects of the recommendation.

Mr. O'Claray asked whether the state has standards for imposing recommendations against rehire. How does a supervisor know whether it is appropriate to impose that penalty on an employee? Mr. Muller replied that there were no standards. Each case is considered separately on its merits. This allows for consideration of mitigating factors such as a crisis in the employee's home life which is temporarily affecting job performance. Mr. O'Claray pointed out that if you notify employees of the standard which you expect them to adhere to, then in most cases they will do so. Mr. Muller answered that the issue is grievable. Ms. Corso replied that if there were standards, then there would be fewer grievances.

Representative Fuller asked whether the final performance evaluation would not be sufficient to alert future employers to the problem. John Pugh explained that, particularly for positions with high

turnover, supervisors are unlikely to request that Personnel send them copies of performance evaluations. Therefore, they would be unaware of an applicant's unsatisfactory work history. Ms. McCurry said that the Department of Labor requests applicants to provide copies of their last several evaluations when they are interviewed.

Ms. Jund suggested that standards should be developed for applying recommendations against rehire within that section, agency, department, or by the state as a whole. Senator Ray said that the commission would consider the federal guidelines on penalties at its next meeting.

B. RETALIATORY LAYOFF

Mr. Pugh suggested that the commission consider both the issue of retaliatory layoffs and also the development of whistleblower legislation. He added that layoffs will become an increasingly important issue in the near future. Private employers, such as Boeing, have systems which permit considering both productivity and seniority when deciding who will be laid off. Unions favor a seniority system. Standards based on seniority tie the hands of management when it tries to improve productivity.

Mr. McMullen explained that the States uses a table to compute layoff points. Points are given based on the quality of job performance established by the employee's last three evaluations, with that figure multiplied by the length of service within the unit. Since layoffs are made by division or region, layoff points may not mean much. An employee with considerable seniority and good work performance may still be the only person within the unit and therefore may be laid off while less senior and less productive employees in other units may remain on the job. Senator Ray suggested that the layoff system should provide a forum for challenging possible discriminatory action and that the issue should be addressed on an individual basis.

C. CONFLICT OF INTEREST

Ms. Corso pointed out that the conflict of interest issue is similar to the recommendation against rehire issue in that standards of employee conduct are not clear in either case. She added that APEA is finding that the problem is coming up with increasing frequency.

Senator Ray recessed the meeting until 1:30 p.m.

Senator Ray reconvened the meeting at 1:30 p.m. and invited Don Collinsworth, Deputy Commissioner for Resource Management in the Department of Fish & Game to address the commission on the employment issues raised by Mr. Dale Young.

Mr. Collinsworth stated that it was his understanding that the commission was interested in Mr. Young's layoff and also in the issues surrounding the patenting of the incubation system. With reference to

the layoff issues, he introduced Stan Moberly, Director of the F.R.E.D. Division in which Mr. Young had been employed. He added that because of funding cuts, the department would have to lay off about 11 employees, some of whom have as much as 15 years employment with the state. He pointed out that the Attorney General is investigating the patent issues raised by Mr. Young, and that the Ombudsman has investigated the issue. In addition there are grievances pending on the employment issues.

Mr. Moberly addressed the commission. He stated that he was regional supervisor of the F.R.E.D. Division from 1975 through November, 1980. He has been director of the division since this past June. As regional supervisor he had been Mr. Young's supervisor and had written favorable performance evaluations of his work. Mr. Moberly indicated that he did not know the basis for the unfavorable evaluations written after he left the division.

Mr. Collinsworth explained that in making layoff decisions, he and Mr. Moberly had reviewed the division staff, looking at positions, duties and responsibilities. They did not consider the individuals in those positions when deciding who should be laid off. Mr. Young was not laid off because of his performance, but because the department had to trim the SE program staff. Rep. Fuller asked whether any of the layoffs occurred in upper level management. Mr. Moberly replied that some managerial staff were laid off in response to the Legislature's directions. In Anchorage, the managerial staff was reduced from four to three positions and in Juneau, it was reduced from three to two positions. The Anchorage office is responsible for hatcheries in all parts of the state except Southeast.

Mr. Moberly added that in 1976 when Mr. Young was hired there was just one hatchery in the Southeast region. The organization was growing fast and focused its energies on technological development. Since that time the division's task has changed to management of the existing hatcheries.

Mr. Collinsworth said that he had brought Mr. Young's personnel file and asked whether the commission had the authority to review personnel files. Mr. Young stated that he had no objection to the commission reviewing his performance evaluations. Senator Ray asked Mr. Collinsworth to summarize why Mr. Young's work became unacceptable.

Mr. Moberly explained that following Mr. Young's patenting of the incubator processes, it became much more difficult for him to function in a role of regional hatchery manager. Mr. Young's co-workers were unwilling to discuss things openly with him, so there was no free flow of ideas. At the same time the division's focus was changing from technological to managerial in nature. In his job as regional hatchery manager, Mr. Young was unable to recommend what incubators the department ought to install in their hatcheries because of the conflict of interest created by his holding the patent. In addition, his co-workers felt that they had contributed to the development of the incubator system and that in applying for a patent, Mr. Young had plagiarized their ideas.

Mr. Collinsworth explained that when Mr. Young was first employed, the division was developing hatcheries and various types of equipment, incubators, water systems and processes. Mr. Young was working as part of a group which was considering incubators. He had, obviously, contributed to the conception of the equipment, but his colleagues felt that they had as well. Because he took the initiative to patent the process, he is the one to benefit financially from the incubation system when the state or other purchaser pay royalties for its use.

Mr. Young replied that he had acted in good faith after securing an opinion from the Attorney General's office that it would be legal for him to proceed. He added that a person cannot patent something that is not original. The concepts involved in the incubator system were ideas that he had brought with him from Missouri. Mr. Moberly suggested that the commission should request a copy of the Attorney General's report on the conflict of interest question when it is available. In answer to a question from Rep. Fuller, he said that the work that Mr. Young had been doing on the incubator system was part of his job assignment with the state. Mr. Moberly added that whether the situation with the patent has developed into a conflict of interest has not yet been ruled on. It has caused managerial problems and finally led to Mr. Young's being asked not to serve as a member of the facility design team.

Mr. Moberly said that the division has offered Mr. Young another position as the Snettisham hatchery manager. Ms. Corso pointed out that the position would require that he move away from Juneau without his family. Mr. Moberly explained that it was the only job that the division had open. He added that he had told APEA and the labor relations division staff that the F.R.E.D. Division would, to the extent possible, add steps in grade to the position, which is a Range 18, to have as little financial impact on Mr. Young as possible. His last position was at Range 20. Fish and Game tries to return employees who have been laid off to their previous leveles as quickly as possible. Mr. Moberly added that the Hatchery Manager job is important because the Snettisham hatchery is highly visible and has an inventory of several million fish. Mr. Young would be expected to work at the position, not just draw a paycheck while looking for other employment. Mr. O'Claray asked what the timing on the offer was. Mr. Moberly replied that the offer was made about a week ago, immediately after the position became vacant.

Mr. Young challenged Mr. Moberly's statement that there had been no other positions available. He added that when he inquired about the Snettisham hatchery manager position, the supervisor told him that he would have to work the register and that he hadn't made his final decision about how he was going to fill the position. Mr. Moberly replied that he had not been able to offer Mr. Young any other position and that the division cannot let one layoff dictate the management of the whole fisheries program. He explained that the division probably would work the register for the hatchery manager position, but that Mr. Young can be placed on it and that the department's policy is to give preference to employees who have been laid off whenever possible.

Ms. Jund pointed out that in private industry scientists have to sign a release stating that if anything develops during their work which is patentable, it is the property of the employer. She asked whether the state had any similar requirement. The answer was no. She asked whether Mr. Young would have lost his effectiveness with the division if the state had had such a policy. Mr. Collinsworth replied that he believed that Mr. Young would not have. Such a policy would be of benefit to the state and would improve the work environment for scientists.

Senator Ray stated that as chairman he believed that any more discussions by the committee would be premature. The commission will hold the matter until there have been final determinations in the proceedings presently going on. He thanked Mr. Collinsworth and Mr. Moberly for attending.

C. CONFLICT OF INTEREST (continued)

The commission returned to discussion of Conflict of Interest from the Issue Summary. Janet Bradley, Director of the Alaska State Human Rights Commission, pointed out that there is a balance between the employer's needs and the employee's First Amendment rights. Ms. Jund asked whether the conflict of interest Personnel Rules were inadequate. If they are, should the commission try to improve them and make employees aware of their terms? Roger Thayer replied that he had tried to write a conflict of interest policy for DOT/PF and the Attorney General's office had said that it couldn't be done because of First Amendment rights. Senator Ray suggested that the commission look at the issue at its next meeting.

D. ACCESS TO STATE EMPLOYMENT

Myrt Charney suggested that it was appropriate for the state to give higher priority to promotional opportunities than to give access to new employees. Ms. Corso pointed out that a supervisor can choose whether to hire from an open competitive list or from an interdepartmental promotional list. Senator Ray stated that the majority of complaints which most legislators receive is that state employment is a closed shop. Once a person finds employment with the state, he is in, but getting in is very difficult. Ms. Bradley added that the Human Rights Commission has been considering the impact of promotional registers on Affirmative Action. Give that a large proportion of the state workforce is white, limiting access to jobs to those already employed is, in fact, a barrier for other persons who include minorities.

Senator Ray summarized correspondence received from Larry Korkowski. Janet Bradley explained that when the Human Rights Commission receives complaints about its own employment practices, they refer the complainant to other organizations including the Blue Ribbon Commission, the Ombudsman, the Division of EEO and the Equal Employment Opportunity Commission.

Senator Ray suggested that in a pure merit system there would be no Affirmative Action program. Employment decisions would be based solely on the person's qualifications. Rep. Fuller asked how many people take advantage of veterans' points. Jim Fisher, Director of the Division of EEO, replied that the state has not done any studies. In the federal government, a large percentage of the workforce - perhaps 25 or 50% - who are veterans have benefitted from the additional points. Senator Ray pointed out that the commission had sponsored legislation last session which limited application of veterans' points to one time. He added that the commission would look further at the issues of employee credits and promotional lists.

The commission considered the state's retirement system laws. Chuck Elrod, Retirement Supervisor, addressed the commission. The state actually has about six different retirement systems. Senator Ray asked whether it would be feasible to merge some of the systems into PERS. Mr. Elrod replied that that was outside his purview. Major problems in PERS are with the temporary service credit for both federal and state employment. The Attorney General has issued three separate opinions stating that temporary service cannot be considered credited service unless the statute specifically includes it. In practical terms, it is difficult to verify pre-1961 earnings and service.

The commission reviewed and discussed the PERS and TRS statutes.

AS 14.25.045. PARTICIPATION BY NATIONAL EDUCATION ASSOCIATION EMPLOYEES

Mr. Elrod reported that there is an Attorney General's opinion which says that including NEA employees in TRS is unconstitutional. The Division of Retirement has identified the employees involved. Future NEA employees will not be covered under TRS.

AS 14.25.060. ARREARAGE INDEBTEDNESS

There is also a problem brewing with the state taking over responsibility for the BIA schools. What retirement arrangements will be made for the classified BIA school employees? That will depend on the terms of the participation agreements between school districts and the state, but it will probably be limited to including service from the beginning of state involvement. There will also be a large financial impact on the system from BIA teachers who retire from the state. The TRS statutes allow a teacher with five years with the state to claim up to 20 years of BIA service. A similar impact will occur in PERS if the state buys the Alaska Railroad from the federal government.

AS 14.20.107. CREDIT FOR ALASKA BIA SERVICE

Mr. Elrod pointed out a loophole in the present statute. A person may have worked for the federal government long enough to qualify for federal retirement. If he then works for the state, he is entitled to buy in five years of that federal service. The statute requires that the state reduce the amount of retirement benefit it pays by the amount

of benefits which the person is receiving from the federal government for the same period of service. However, if the person takes a lump sum payment from the federal government before retiring from the state, there will be no federal retirement benefits. After his state benefits are established, he can repay the amount into the federal retirement system and then be eligible to draw retirement benefits from both systems for the same years of service.

Senator Ray asked Mr. Elrod to prepare proposed legislation to address the double credit for federal service. He announced that the commission would meet again in two or three weeks and would consider applicants for the vacancy in the commission membership as well as the other issues which have been raised.

Senator Ray adjourned the meeting at 4:00 p.m.

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BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT
State Capitol, Juneau, Alaska
March 11, 1982

MINUTES

The meeting was called to order by Senator Bill Ray, Chairman, at 1:35 p.m. The roll call showed Senator Ray, John Chenoweth, Senator Dick Eliason, James Fisher (alternate for Commissioner Hudson), Lois Jund, Ken Kareen, Lynda McCurry, Greg O'Claray, John Pugh and Darlene Livermore (alternate for Cherie Shelley) as present. Representative Jack Fuller, Myrt Charney, and William Huston were absent. Also present were Roger Thayer and Bob Maurant.

The commission reviewed the draft of the 1982 Report to the Legislature and corrected errors and made changes. It was moved that the report as amended be presented to the Legislature. There were no objections and Senator Ray so ordered. The commission adjourned at 3:00 p.m.

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BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT
State Capitol, Juneau, Alaska
December 21, 1981

MINUTES

The meeting was called to order by Senator Bill Ray, Chairman, at 10:00 a.m. The roll call showed Senator Ray, Representative Jack Fuller, John Chenoweth, Senator Dick Eliason, Lois Jund, Ken Kareen, Roger Thayer (alternate for Lynda McCurry), Fred Muller (alternate for Commissioner Hudson), Greg O'Claray, John Pugh and Doryce Eggleston (alternate for Cherie Shelley) present. Myrt Charney and Bill Huston were absent. Also present was James Fisher.

Senator Ray asked for public testimony. Charlie Mae Moore addressed the commission. She said that she represents a conglomerate of people who asked that she speak. She works for the Department of Education and has been employed in the field of education in Alaska for 28 years. For a period from 1970 to 1978 she served on the Governor's EEO Commission. For three or four years, the Commission worked closely with the state personnel office, and conducted an overview of the personnel system. Ms. Moore worked for the division for one summer and looked at minimum qualifications and requirements for jobs. She discovered one that she hasn't forgotten. A firefighter couldn't fight a fire unless he was 5'8" tall, which she found ridiculous. The EEO Commission was able to work with the personnel office to resolve some of these instances.

In the course of her tenure with the EEO Commission, Ms. Moore said that she became very upset and disturbed for people who came to her and the other commissioners because they couldn't get on with the state system or because they had been with the system for a long time but couldn't move. The EEO Commission did not have enforcement power, so there was nothing that they could do but listen to people. She began to question what they were accomplishing. Through the personnel division, they were able to do some things. They came up with some specific recommendations which the Governor considered and implemented. They revamped the employment application. But problems still remain.

Women employed in ranges 9 to 15 are generally unaware of the possibility of a career ladder. They are provided with very little orientation to the job and they feel frustrated because they do not get enough career counseling. They aren't advised of their function, of what the state government is about and as to their role. So they become discouraged. Ms. Moore suggested that the 18 departmental personnel offices need to relate more to people, especially to women.

Minorities are underutilized in state government. Ms. Moore said that she was concerned about qualified people being hired and then being able to move forward. The buddy system has become more sophisticated in the State of Alaska but it is still used. It is disturbing to see a job advertized when there is already someone who has been chosen for the position.

On middle management, Ms. Moore pointed out that minorities seem to be trapped in ranges 9 to 21. They can never shake that 21. She said that she wasn't asking for preference, but she was talking about qualified people who are productive employees, who commit themselves to take on more to get the job done. Employees should not fear that they will be retaliated against if they speak out about problems. When setting EEO goals, women should be kept as a separate category from minorities. Advancing women does not satisfy the need to advance minority people.

Ms. Moore said that there has been some strengthening in the personnel system, particularly in career counseling. Employees understand what the requirements are for promotions and what classes they might take to become eligible for better jobs. In some cases, classes are paid for to enhance an employee's performance in his present job.

Ms. Moore said that she has talked with people who have said that all they are interested in as far as the departmental Affirmative Action Plan, is to have the plan approved. If things are going to happen, it means more than having the paper produced and getting the Governor's signature on it. Another state employee came out of an EEO meeting and said that he couldn't wait to get out of there. Attitude is what really bothers her, said Ms. Moore. She asks three things: that minority people are thought about, that they be given an opportunity, and that the Blue Ribbon Commission be endowed to do some of the things that EEOC couldn't do -- to act to correct the problems which were identified.

Senator Ray asked Ms. Moore whether she had any recommendations for overcoming the subtleness of discrimination which can happen when an office has five caucasian employees and one minority group employee and the five employees make the office a miserable place for the one minority person.

Ms. Moore replied that she didn't have an answer to that kind of sophisticated discrimination. She also worries about verbal abuse, which can destroy a person. She was once subjected to it and became so angry that tears came to her eyes, and yet, one hour later, the person who had done it was perfectly friendly. People who discriminate can stay within the guidelines so that there is no avenue of recourse open to the person injured, and yet still be effective. She said that when she has been told of problems in her office, she will act as an intermediary to tell the person who did it that the other person is upset, and that he should talk with the other person. Sometimes they are unaware of the effect of what they have done. One-on-one contact is important, to provide some encouragement and to alleviate frustration. Personnel officers or supervisors can fill this role. If minority people find only putdowns and embarrassment in their jobs, they will leave, even if its more money than they've ever made in their lives. Having someone to talk with personally can allay fears of discrimination and show that a new policy is affecting all employees, or that one individual is like that with everyone, not just the minority employee.

Promotions for minority people are another problem. Ms. Moore said that she has been asked "if I promote this person, will the people who work for them resent them because they are a minority?" If a person is a good supervisor, showing compassion and caring for people, employees will work themselves to death to make the supervisor look good.

The high turnover in jobs between ranges 9 and 15 hurts the employer because of the time invested in employees, in training them, in getting the terminology of the department or unit familiar to them. It's important to be supportive of them, to find out whether there is a problem. Senator Ray suggested that what you really need is a group of people who work for the administration who take care of problems as they crop up. Ms. Moore agreed and added that it is crucial that they work for the administration.

Senator Ray thanked Ms. Moore for her testimony. He asked for any other people who wished to testify. No one came forward at this time and the commission turned to considering the issues presented in a memo dated December 18, 1981 prepared by the commission staff.

A. PROBLEMS IN THE HIRING PROCESS

1. Classification of positions.

Lois Jund pointed out that a review of the entire state classification system is long overdue. When positions with comparable duties are classified differently, it results in a great deal of discrimination against employees. Ken Kareen said that the state is working at a slow pace toward that goal and added that it concerns two different items, the classification system and the state pay plan. Senator Ray added that other problems occur when the duties for a position change over time. When the position is finally reclassified, the person who has been fulfilling them may lack the technical requirements for the new job classification. Mr. Kareen pointed out that there are two different considerations -- fairness to the employee who developed the job vs. appearances of the "buddy system" which cases those who want the job to say "it isn't fair because I didn't have a chance to compete for that job".

Greg O'Claray asked about the use of the classification system to encourage employment of protected classes. Is the state interested in hiring the person most qualified for the job? Should the classification system be used to broaden the selection process? John Pugh explained that the Social Services Associates are entry level positions. The minimum qualifications for that job class are lower than for social workers and the state provides closer supervision of the new employee. The Social Services Associate does not do all of the social worker tasks. A career ladder has been developed and after three years as a Social Service Associate, the employee will qualify as a social worker.

Mr. Kareen added that trainee job classes assume that a training plan will be part of the job duties and that the job will be structured to provide close supervision. Where the training is haphazard, the use

of trainee job classes doesn't work well. There are also some skills such as typing which are better learned away from the office. On-the-job training should be mixed with appropriate training away from the job site.

Senator Ray asked whether providing training was the state's job. Mr. Kareen responded that it was, in some cases. Most successful private employers spend time training their employees. He added that in comparing the state with private employers, it is important to remember that there is no private employer in Alaska whose workforce is as large as the states's. Senator Ray said that you can't expect the state to provide training to people applying for positions in which the registers are already full of qualified applicants.

Mr. Thayer returned to the question of using the classification system to remedy underutilization and suggested that there should be more flexible staffing of positions. Very few departments make use of the system. They hire at the highest level of a job class instead of opening a trainee position and then upgrading the position and the employee as skills are learned.

Mr. O'Claray suggested that in order to attack discrimination, you have to look at the numbers, and the numbers on underutilized classes are pretty plain. So far there has been no tool which is effective to change the numbers, because there is no mandatory requirement that anyone do anything on EEO. If you decide that you want to do something to correct past inequities then you may have to use affirmative action tools which give a preference to those who have been discriminated against. Senator Ray pointed out that those tools may not be fair to the individual who is not covered by the affirmative action plan. Mr. O'Claray asked whether there was an EEO office in every department. Mr. Kareen explained that there are individuals designated as EEO officers and there are EEO committees in the departments, but for many employees, it's a duty added on to their other job responsibilities.

Mr. O'Claray moved that the commission support a review of the classification system. Mr. Kareen suggested that until the review is made, it would be premature to suggest whether the classification system should be used to encourage employment of protected classes, and that the motion should be limited as it was phrased. Mr. Pugh asked whether there were resources available either for an outside contract or for staff time within the division to accomplish such a review. Senator Ray said that he would look at the budget to find funds to at least provide a preliminary review to identify areas of great concentration in the future. The motion carried without objection.

2. Recruitment.

Representative Fuller said that he had intended to talk with Mr. Pugh about the Nome Youth Facility before raising the question in the meeting. He has heard that positions have been upgraded which has meant that some people who applied have been eliminated from consideration

for the positions. Mr. Pugh explained that the positions had not been upgraded, but that there were a number of individuals who did not pass examinations conducted in Nome, so the department held a second recruitment there. The positions are what is called coupled classes. The majority are Youth Counselor I positions, and after six months on the job, the employees will be eligible for promotion to Youth Counselor II.

MEMO ON MALES AND FEMALES ON SELECTED REGISTERS

Senator Ray asked the commission to look at the memo on the numbers of males and females on selected registers. The commission has heard much testimony about the large number of women working in the lower salary ranges. The memo shows that there are few female applicants for higher range positions. He asked whether it would be safe to assume that if there is discrimination in the higher ranges, it is in the partially exempt and exempt services rather than in the classified service. Mr. Pugh suggested that it raises another question about why there is such a discrepancy in the numbers applying. Mr. Kareen added that as an employer, the state inherits the difficulties in society and in the educational system. Higher range jobs usually require that the applicants meet educational and work experience criteria. In the past, women have been discouraged from seeking careers in many areas, so they are unlikely to be well represented in the applicant pool for those jobs. You can't expect a balance to be achieved overnight.

Senator Ray pointed out that the memo under discussion did not show the male/female ratio of presently employed in the job classes. Therefore, it is difficult to know whether the state is doing what it should in its hiring decisions. Mr. Kareen said that the state is working to develop applicant flow data which would consolidate that information. The information is stored now, but not in a coherent form.

Representative Fuller asked how many complaints the commission has received about women not being upgraded. Senator Ray replied that the majority of people were complaining about the low number of women in executive positions. He asked the staff to prepare figures on the number of male and female employees presently employed in the job classes addressed in the memo.

Mr. O'Claray asked about the success ratio of the commission with respect to handling individual complaints. He said that he tends to believe that the most effective way of handling discrimination is on an individual basis because it shows results. Senator Ray said that he believes it is about 90 percent. Ms. Cramer added that the commission staff has not kept a formal summary of the results of the complaints received. Mr. O'Claray added that many of these cases can be better resolved on an informal basis rather than through a formal process like a charge before the Human Rights Commission. People tend to solidify their positions if they think they're going to go through legal proceedings. Senator Eliason pointed out there can be some value to having a public airing of a situation. Senator Ray agreed when the situation affects many people, but when it is an individual matter, public hearings can harm the person involved more than help.

A.3. Five-Plus-Five Certification System.

Mr. O'Claray said he has talked with a few of the people responsible for hiring in several different divisions of the state and asked them about the five-plus-five registers. Some use them and some don't seem to have any working relationship with them. Unless there is some instruction given by the division director or the commissioner of that department, the system is not going to be used. Senator Ray asked whether the register system was fair to use or constitutional within the merit system, when it results in going below the top five to reach others less qualified? Mr. O'Claray responded that if you have an affirmative action plan which says that you intend to meet certain goals, then that is the policy, whether or not it is fair. Mr. Thayer explained that each department either has or is developing an Affirmative Action Plan. Mr. Kareen added that the five-plus-five registers can only be used in job classes where underutilization has been shown to exist. Senator Ray asked whether use of the registers in those cases was mandatory? Mr. O'Claray suggested that use of the expanded registers should be mandatory where underutilization is established.

Mr Muller explained that every person on a register is qualified to do that job. Some people rank higher than others, but all are qualified. The five-plus-five register just gives qualified minorities or women a chance to be interviewed and considered for a position. The system is relatively new. On the constitutional question, he added that similar systems have been considered by courts elsewhere. The courts have recognized that under the federal constitution, where there is underutilization, employers can use instruments of this type until the employer achieves a better balance in the work force. Once that has been accomplished, then the employer returns to a system strictly based on merit principles. Mr. Muller added that it is now mandatory that departments receive the five-plus-five list. Hiring from the minority list is voluntary.

Senator Ray asked whether the commission wished to encourage use of the five-plus-five registers. Members agreed that they did. Mr. O'Claray added that according to Mr. Muller, calling for those registers is mandatory. Mr. Thayer asked for clarification because he knew of nothing which had made that the state policy. Mr Muller answered that where underutilization exists in a job class within a division or a department and the appointing authority calls for a register, the system should, as a matter of course, provide the supplementary register. The decision as to whether the appointing authority will hire from the expanded register is voluntary. Mr. Chenoweth asked whether the source for the mandatory nature of the system is the combination of the Governor's Affirmative Action Order and the Personnel Rules. Mr. Muller agreed and said that the motive force behind it is that you do have underutilization and the only way to resolve it is to allow the appointing authority to reach further down the register when hiring. Ms. Cramer read from regulations dated March 25th from Bruce Cummings which said that "when underutilization has been shown to exist the five-plus-five registers

can and should request discretionary authorization to appoint from below the top five". She asked whether that regulation had been amended? Mr. Muller said that they had talked about the question at length and decided that so much confusion existed that providing the list to the appointing authority would be mandatory. He added that if the policy had not yet been implemented, it would be shortly.

Senator Ray recessed the meeting for lunch.

Senator Ray reconvened the meeting and the commission returned to discussing the Issues Memo.

A.2. Recruitment

Senator Ray asked the commission to consider the issue of recruitment. Representative Fuller said that he'd like to wait for the discussion on rural hiring before commenting on the issue. Senator Ray suggested that recruitment should be the responsibility of those in the rural areas who are interested in applying for positions, including rural organizations. Representative Fuller added that recruitment is made more difficult because the Native Corporations are actively looking for qualified employees to staff their offices. Mr. Pugh added that Sealaska Corporation has a special assistant to the president whose sole responsibility is placing stockholders in jobs with the corporation, so there is considerable competition for workers.

Senator Ray asked for public testimony. Mr. Paul Blank addressed the commission on the issues of non-resident hire and also Native hire. He was offered a job in Bristol Bay, which is mostly a Yupik village. He wanted to accept the job offer, but he talked with people in Dillingham who said that they wanted a Yupik person in the job. But according to the state policy, the department must hire from the top five applicants, no matter where they live. There is strong resentment to that in the bush.

Mr. Blank suggested that perhaps people should get extra points for living in the region where the hiring is taking place. For example, no white person could possibly go to a place like Bristol Bay and expect to understand the needs and desires of the Yupik people there, especially in a job like public assistance. Senator Ray pointed out that many of those programs are funded with federal money, so there is a problem in giving preference to anybody. Ms. Jund added that the commission had discussed having local registers but that there were tremendous problems in administering them.

Mr. Kareen said that since 1959 the state has operated under a basic philosophy that this is a State of Alaska position, and all residents of Alaska have an equal chance at being hired regardless of where they

reside. The state will not distinguish between its citizens. He added that there are other states which have tried to address this problem. One remedy is to say that anyone in the state can take the test to qualify for the position, but it will only be given in the place where the job is. Senator Ray pointed out that this would work against the person in Dillingham who wanted to move to Juneau. Mr. Blank answered that there were plenty of jobs in Juneau and the other cities in the state so there isn't any problem of resentment against the outsider.

Mr. Kareen suggested that there are ways of lawfully addressing the problem. The Department of Health and Social Services in the Lower Yukon and Lower Kuskokwim had a number of positions working in villages to provide liaison between the local population and the department. If the employees were going to be able to do that job they had to speak Yupik and also have an ability in the English language. So ability in both languages was made a job requirement. The Village Council served as a review board for part of the examination and a portion of the interview with them was conducted in Yupik. The Council rated applicants on how well they would get along with the people in the village they would be servicing. The bilingual requirement was bona fide and not used specifically to promote employment of Alaska Natives.

Senator Eliason asked what job Mr. Blank had been going to take and whether the resentment against state employees from outside the village would be the same for all departments or just Health and Social Services. Mr. Blank replied that the job was as an Eligibility Technician I. There's a particular problem with the kind of job he was offered, because most of the people in the village are on public assistance for part of the year and the eligibility technician hands out the emergency funds and gives tentative approvals or disapprovals for long-term public assistance. When the Eligibility Technician can't even speak the language, there's a particular resentment. The only work available is seasonal fishing and cannery work. But the resentment would be there for anyone coming in who gets a better salary than anyone else around.

Senator Ray asked what problems would develop if the eligibility technician were a black or hispanic, for example, and wanted the job and was number one on the register. Mr. Blank replied that that would not make any difference in the village. Senator Ray pointed out that the state has a merit system of employment which must be honored. Mr. Blank replied that the tests don't necessarily show who is the most qualified to do the job. Senator Ray asked whether he meant that in some rural areas, particular job skills should not be counted as strongly as knowing the language, the people and the customs. Mr. Blank said yes.

Mr. Kareen asked Mr. Blank what the reaction would be if some of the services now provided by the state were turned over to the local

government instead. He added that he did not know whether it would be possible under federal and state regulations. Senator Ray said that it would be better if there were a requirement in the job description which would correct the problem. Where there's a job in an area where the dominant language is Yupik, then for a position which is supposed to serve the people, there should be a requirement that the state employee speak Yupik.

Mr. Kareen pointed out that in order to make that requirement under the human rights laws and the federal equal employment opportunity laws, the state would have to show that speaking both languages was a bona fide occupational qualification. In villages in which almost everyone speaks English or for jobs like Fish and Game Technician which don't require talking with people as part of the job, a language requirement would probably run into difficulties. The situation is different for jobs requiring interviewing local people and gathering information from them. In answer to a question from Ms. Jund, Mr. Kareen explained that Village Safety Officers are employed by the villages under funds that are granted to them by the state. The village selects the individual who is trained by the state but remains an employee of the village.

Senator Ray proposed that the commission recommend that knowledge of the predominant language be a job requirement for rural positions requiring communications and knowledge of the cultural background. The commission should further point out that in jobs with no emphasis on communication, the regular job requirements should apply. It would be good business for the state. Mr. Blank suggested that the recommendation should go further, and Senator Ray replied that constitutionally the commission could not go any further. He added that he fought for Alaska hire, but that he would not support a situation which sets one Alaskan against another.

Senator Ray thanked Mr. Blank and asked if there was anyone else wishing to give testimony.

Sandra Borbridge spoke to the commission about discriminatory practices in the hiring of not only minorities and women, but minority women. She identified three areas: entry into state employment through the registers; the availability of unemployment benefits for women who are seeking administrative positions; and the attitude of Department of Labor employees towards Native applicants and Native organizations.

Ms. Borbridge suggested that there should be a central information clearing house for state positions. When she first went to the Juneau Employment Center a year ago, she completed an application, had an interview and was classified as eligible for an administrative position. From that time to the present she has never been informed about the state register, and she still does not know what it is.

On the availability of unemployment benefits to women seeking administrative positions, she related her own experience. When she interviewed with the Juneau Employment Center after becoming unemployed, she was classified as seeking an administrative position. The application asked whether she could type. Before she would answer, she asked whether that would affect either referrals for employment or her unemployment benefits. She was told that it would not, so she said that yes, she could type. She was later referred to a clerical job requiring that she type 30 percent of her time and paying only 60 percent of her previous wages. She refused that job referral because it would be a waste of both her and the employer's time. One week later she received notice from the state unemployment office that her benefits would be cut.

Then she went through a second referral. She went into the Job Service Center office and spoke with the interviewer about the job requirements. When she objected to the typing, the interviewer agreed that she would be overqualified for the position and that she should not bother to go for an interview. So there were two different policies within the Center.

Ms. Borbridge appealed the denial of unemployment benefits. At the arbitration hearing the initial decision was upheld. In an appeal to the Commissioner of Labor, the decision was overturned because she should not have been referred to a clerical job. Ms. Borbridge said that many women do not have the financial means to wait for an appeals decision, and so they accept clerical jobs. Women should not be penalized for wanting challenging work even if they know how to type.

Ms. Borbridge spoke about the attitude of people working in the Juneau Employment Center and in the Department of Labor towards Natives and Native organizations. In 1975, she completed an application and stated her minimum salary requirement. She was asked whether that wasn't a little high for someone with her education and experience. She was also told that she was acting a little "spoiled". A week later she was offered a job with a private firm at a salary higher than her minimum requirement. During the hearings on her unemployment benefits, someone mentioned that Native organizations overpay their employees. She found the statement uncalled for, unprofessional, and reflective of attitudes which she and others, as Natives, encounter. Until these three different problem areas are addressed, Ms. Borbridge suggested that problems will continue to exist.

Senator Ray asked Mr. Kareen to explain the register system to Ms. Borbridge. Mr. Kareen said that when individuals apply for a job with the state, they go through an examining process. Based on the score they receive, they are posted on a register, also called an eligible list. When a vacancy opens in that job class, the Division of Personnel issues an eligible list to the department with the vacancy. The list ranks the names of all those people who are interested in that job class and have passed the test. Then the department proceeds from that point to contact the individuals on the list, interview them and make a selection.

Ms. Jund suggested that there hasn't been a central place where people can go to find out what jobs are available, how to apply

for those jobs, how to get on the register and what a register is. When she was unemployed once, the unemployment office had a large screen which showed all the jobs the Center was recruiting for. There were books to find out what the requirements of the jobs were, but there was no one to explain how to use the information.

Ms. Borbridge said that she still did not know how to get on the register. Mr. Kareen explained that you complete an application for employment and turn it in or mail it to the Division of Personnel. He added that the Division has a public service counter to answer questions from people who want to apply for state jobs. However, the state does not have a job counselor to deal with the people coming in. The individual at the counter is also responsible for answering the telephone on seven incoming lines and handling some paperwork.

Barbara Fallon said that she is presently unemployed and has been applying for jobs. It would help job applicants if they understood that the Division of Personnel is not an employment service for the individual. Its task is to fill vacancies for the state. No one sits down with an applicant and asks for qualifications, experience and work history and then suggests jobs for which the person might apply. She added that the Division of Personnel staff have been very helpful, within the system.

Senator Ray added that applicants misunderstand another part of the state hiring system. When they are notified that they are on the register they automatically assume that they will be offered a job. They don't understand that they are not much closer to being employed than they were before.

Mr. Kareen said that the job service offices are federally funded, and have suffered from cutbacks so they have had to reduce their job counseling services. The new budget will not provide funds for employing job counselors. All federal funds for the offices will be contingent upon how many placements the office makes.

Senator Ray suggested that there should be a handbook or a flyer providing information about state employment. Roy Henderson, an employee of the Department of Education, commented that there is information presently available through the Career Information System at the Southeast Regional Resource Center. It tells about job descriptions and how an individual's qualifications fit into certain jobs. Senator Ray said that that system is not well known. It would still be helpful to have a short pamphlet for all prospective employees to use. Mr. Muller added that the Resource Center was for the Southeastern area. What about the Southcentral area and the bush? Mr. Henderson replied that the information is available at all Alaska Job Information Centers. Most of the information comes from the Department of Labor.

Senator Ray asked Mr. Muller to explain the state's affirmative action program and the five-plus-five certification system to Ms. Borbridge. Mr. Muller said that one of the biggest problems which the state has in

terms of employing both women and minorities is potential barriers to ranking high on the registers. Everyone on the eligible list is capable of doing whatever the job is in that class. To bring people to the attention of the appointing authorities, the state developed a device which allows an appointing authority to hire a minority or a woman who ranks below the top five for jobs in any class in which that protected group is underutilized. The system is still in a formative stage, but it should be an invaluable tool to develop greater parity. Ms. Jund suggested that there still should be a pamphlet to notify applicants about what registers means, and all of the other ramifications of the employment system.

On the issue of Ms. Borbridge's unemployment benefits, Ms. Jund said that, as she understood the system, a person is not required to take employment at less than the previous level of employment. Since Ms. Borbridge had been working in an administrative position and was not interested in returning to a clerical position, they were not supposed to cut off her benefits when she refused to interview for the clerical position.

Ken Kareen handed out copies of a booklet which describe the state hiring system. Senator Ray said that he is still in favor of a one sheet flyer, which would be cheaper and could be updated as changes are made in the system. Ms. Jund suggested that the sheets should be distributed through places like women's resource centers, the NAACP and Native Corporations to get the widest distribution possible.

The commission returned to consideration of the Issues Memo. Senator Ray suggested that bilingual requirements which had been discussed with Mr. Blank should be added to the position descriptions. Mr. Kareen explained that the state has a general description of what, for example, an eligibility technician is required to do wherever the position is located. Then there are individual position descriptions, and those should reflect the language requirements of that particular position. If a position with a language requirement were open, then only bilingual applicants would be considered for that position. That decision should be made in describing the job, before the department is filling a vacancy.

Representative Fuller asked whether there was anything that could be done about the problems which Fish and Game has in filling their seasonal positions. Mr. Muller suggested that Fish and Game should open the registers in the winter and encourage people in the Bush to apply then. When summer comes and the positions need to be filled, they will have people from the local area who they can legally hire. He added that as the executive branch works with the nonpermanent law, it is becoming acceptable and understood. Senator Ray suggested that the registers could be open in February or March, and they could even make selections after that, with the job to begin the first of June. Mr. Kareen agreed. It all depends on the management attitude of the department. Senator Ray suggested that the commission write to the Department of Fish and Game, recommending that they open their registers in the winter and make their commitments then for June hire. Mr. Pugh pointed

out that H&SS found that they needed some travel funds to carry out their special recruitment effort for the Nome Youth Center. The commission might want to make the legislature aware of this possibility. Representative Fuller replied that the rural areas have a responsibility too, and that the Native Corporations might be helpful in any recruiting effort.

A.5. Inclusion of handicapped individuals and people over 40 in the five-plus-five procedures.

Mr. Kareen explained that age discrimination under federal law starts at 40. He added that the state has a program to assist the severely handicapped in finding positions without having to go through the regular examination procedures. Senator Ray said that he had never received any complaints from handicapped people about discrimination.

A.6. Employee credit for any type of Alaskan employment.

Senator Ray said that the suggestion was worthwhile, but that it would not be possible to put it into effect under constitutional requirements. Mr. Pugh added that usually those with work experience in Alaska will make a better impression in the job interview, so there will be some recognition given at that time.

A.7. Credit for experience.

Senator Ray said that he favors the idea that job requirements should emphasize practical work experience and place less emphasis on educational requirements although there has to be a balance. He added that some of the test questions he has seen have no bearing at all to the job requirements.

Mr. Kareen responded that federal guidelines about tests require that first, the division study all the jobs within a class and identify what skills it takes to do them. Then they develop the test based on that information. After the test is developed, the division gives it to all those who are actually working in that job class. They evaluate the employees' test results and ask their supervisors to evaluate how well each employee actually performs on the job. Then the division compares the test results with the supervisor's rating. Those who do well on the test are supposed to be those who are rated well by their supervisors. The federal guidelines expect that the test results will be correct 94 percent of the time. The majority of the tests which the state presently uses were borrowed from other states and a number of them were provided by the federal government. Mr. Pugh suggested that the commission meet with Dr. Dilley from the Division of Personnel to learn more about the topic. Senator Ray agreed.

B. ISSUES CONCERNING PRESENT EMPLOYEES

1. Training for Supervisors

Mr. Thayer pointed out that according to a governor's directive, all supervisors have to attend EEO classes which are continuously given by the Department of Administration. Mr. Pugh suggested that the training

given now is addressed more to attitudes. Most supervisors don't know about the practical questions - how to use the five-plus-five certification procedures, for example. Senator Ray suggested that a letter notifying supervisors of the procedures and where to go if they had questions about the fine points would resolve the problem.

Ms. Jund asked whether in actuality all supervisors take the EEO training. Mr. Fisher, Director of EEO, replied that in the past two or three years, 1,500 people have gone through the training offered by the division. It is focused mostly on behavior. It might be appropriate to include more emphasis on the law. Ms. Jund suggested that a refresher course for those who have had the initial program would help to provide current information. Mr. Fisher agreed, but pointed out that there is a problem of staffing within the division.

Mr. Pugh asked about the Attorney General's opinion concerning whether the five-plus-five procedures could legally be made mandatory. Mr. Muller replied that the Attorney General had said that it would not be legal to ignore all of the other people on the register when using the five-plus-five certifications, but that if all of the top five were considered as well as the top five minority applicants or women, then the problem was avoided. In regard to supervisory EEO training, Mr. Muller pointed out that the programs are given statewide, not just in Juneau.

B.2. EEO Evaluation of Supervisors.

Mr. Kareen pointed out that the present evaluation form has a box which asks about each supervisor's performance in EEO matters. Ms. Jund suggested that the supervisor's performance should be written in the narrative portion rather than just being recorded by a check mark. Mr. Kareen replied that the narrative portion of an evaluation is to address areas where a person has done particularly well or particularly poorly.

B.4. Changes in the Traditional Work System.

Senator Ray said that the commission should most strongly recommend that the Administration develop the use of flex time. The legislature passed a resolution permitting its development and the Governor was interested in it at one time. Flex time would help people in the rest of the state to do business with Juneau. Offices should also be open during the lunch hour, when people need to do business with the state.

Mr. Kareen pointed out one problem he has run into when calling a federal office in Seattle. The individual he wants to speak to is on flex time. He is never there, the office has no schedule of when he will be there because it varies from day-to-day and he is the only person in the office with the background to answer Mr. Kareen's questions.

Mr. Pugh added that he has found difficulty with employees in trying to set up flexible work schedules. Employees believe that flex

time should be a voluntary scheduling and resist management forcing changes in work hours. For example, employees in Anchorage want to work from 7:00 to 3:00 p.m. so that they are off when their children are home. That does not answer management's need to keep the offices open for an hour after people are off work, from 5:00 to 6:00 p.m. Mr. Kareen added that union contracts require that the state pay a swing shift differential for employees who begin work at 10:00 a.m. or after. Senator Ray suggested that that could be changed in bargaining.

Representative Fuller added that the farther you are away from Juneau the more difficult it is to do business with the state. In the far north, there is a three-hour time difference. Juneau state employees need to remember that they provide support services for people around the state. He added that you need to have a decision-maker available. If management is not there, there is no sense in having the office open. Mr. Thayer suggested that one option to include is a four-day work week in which employees would work longer hours for four days and then have three days off. It might permit keeping state offices open for six days a week. Mr. Pugh added that the system should be uniform. If one office is open and another isn't, then the public becomes irritated.

In answer to Mr. Thayer's suggestion, Mr. Kareen said that research elsewhere has shown that flex time is desirable for management because it can increase productivity. However, in the vast majority of cases, compressing the workweek into four days results in a drop in productivity. Mr. Pugh pointed out another problem created by the number of holidays for state employees. If employees are working only four days a week normally, then they go to a three-day workweek during each of the 11 weeks in which a state holiday falls.

B.3. Training Opportunities.

Ms. Jund said that this came from Ms. Randall's testimony at an earlier meeting and that she concurred with her. It is always the top level brass that goes for training. Senator Ray pointed out that this comes down to a budget problem. The commission should mention the suggestion, but it is an administrative problem. Mr. Kareen added that when done properly, some midmanagement training will multiply when the employee who was trained shares the information with other employees. Funds spent for midmanagement training can actually benefit lower range employees too. He added that the budget could identify what level the training was to be geared for. Senator Ray pointed out that there was an Attorney General's opinion which says that the legislature infringes on the executive branch when it tries to direct how money is to be spent through Legislative Intent. Mr. Kareen asked whether the appropriation itself could be directed to a particular level of training. Senator Ray said that it could. However, that still leaves the problem of gaining legislative approval for any training funds at all.

Mr. Pugh added that because of the large turnover of employees in the lower salary ranges, he finds it difficult to justify spending the limited training funds in his division on those employees. Senator Eliason said that the person who has more responsibility should have the

majority of the training. Mr. Pugh suggested that there should be a central statewide career development program. For example, he recently tried to hire a secretary, using both the Clerk Typist III and the Corresponding Secretary I registers. There were 80 names on the the two registers. Out of those 80 names, three people responded and of those three people, the highest typing skill level was 35 words per minute with 18 mistakes. The office made a provisional appointment and found two people who were not yet certified but who were taking a word processing course through the University. Both typed better than 60 words per minute with fewer than 10 mistakes. Training can be an asset to the state, but there is a question of how to accomplish it.

Ms. Jund added that in testimony before the commission a couple of years ago, a computer programmer pointed out that if he were sent to training programs it would save the state from having to bring in a new employee at a higher level from outside. Training an existing employee would save money. Senator Ray said that the way the system works, it is difficult to get training funds through the Finance Committees of the legislature. Senator Eliason suggested that it should be possible to use the community college programs to provide opportunities for students to find job-related training. Student loans are available if needed.

Senator Ray adjourned the meeting.

* * * * *



CENTRAL COUNCIL

Tlingit and Haida Indian Tribes of Alaska
One Sealaska Plaza - Suite 200
Juneau, Alaska 99801
(907) 586-1432 or 586-3613

January 15, 1982

Senator Bill Ray, Chairperson
Blue Ribbon Commission on the
State Personnel Act
Pouch YG
Mail Stop 3123
Juneau, Alaska 99811

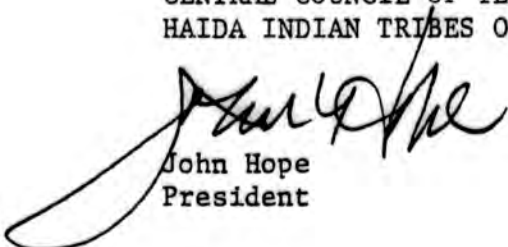
Dear Senator Ray:

The attached document contains the testimony presented to the Blue Ribbon Commission on November 3rd by Brenda Knapp of the Central Council's staff. Additionally, the document contains three recommendations for action that were not included in the oral testimony.

The Central Council Tlingit and Haida Indian Tribes of Alaska would be pleased to work with the Blue Ribbon Commission, the Legislature or the administrative branch of government to develop and implement more equitable hiring practices for Alaska Natives.

Sincerely,

CENTRAL COUNCIL OF TLINGIT AND
HAIDA INDIAN TRIBES OF ALASKA


John Hope
President

JH/BK/ae

Central Council of
Tlingit & Haida
Indian Tribes of Alaska

TESTIMONY FOR PRESENTATION TO THE STATE'S
BLUE RIBBON COMMISSION ON THE PERSONNEL ACT

ALASKA NATIVE HIRE IN STATE GOVERNMENT

CHANGING COMMITMENT INTO ACTION - ON NOVEMBER 2, 1981 THE BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT RELEASED A MEMORANDUM TITLED "COMPARISON OF ALASKA NATIVES EMPLOYMENT BY THE STATE IN 1979, 1980 AND 1981". DURING THE THREE YEAR PERIOD, A GREAT DEAL OF EFFORT HAS BEEN MADE TO CORRECT AND IMPROVE THE EMPLOYMENT REPRESENTATION OF ALASKA NATIVES (AND OTHER MINORITIES) IN STATE GOVERNMENT. REPORTS HAVE BEEN FILED, PLANS DEVELOPED, RESPONSIBILITIES PINPOINTED, ROLES CLARIFIED, DATA SYSTEMS IMPLEMENTED, POLICY EXPOUNDED AND THE BLUE RIBBON COMMISSION ESTABLISHED. YET, ACCORDING TO FIGURES TAKEN FROM APPENDIX A TO THE 1979 ANNUAL REPORT TO THE HUMAN RIGHTS COMMISSION, IN APRIL, 1978 NATIVE PEOPLE HELD 518 JOBS IN STATE GOVERNMENT. THIS FIGURE REPRESENTED 5.4% OF THE TOTAL STATE GOVERNMENT EMPLOYEES (9,635). TODAY (NOVEMBER 3rd, 1981), THREE AND ONE-HALF YEARS LATER, ACCORDING TO FIGURES JUST RELEASED BY THE LEGISLATURE'S BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT (MEMORANDUM DATED NOVEMBER 1981), NATIVE PEOPLE HOLD 694 JOBS (5.4%) OUT OF A STATE GOVERNMENT WORKFORCE OF 12,903. IN OTHER WORDS, DESPITE ALL THE DIALOGUE, MEETINGS, REPORTS, PLANS, and COMMISSION ACTIVITIES WHICH HAVE TAKEN PLACE DURING THE PAST THREE AND ONE-HALF YEARS, NATIVE PEOPLE IN ALASKA HAVE NOT IMPROVED THEIR TOTAL REPRESENTATION IN THE WORKFORCE OF STATE GOVERNMENT BY EVEN ONE TENTH OF ONE PERCENTAGE POINT.

ALTHOUGH 16 PERCENT OF THE STATE'S POPULATION IS ALASKA NATIVE, LESS THAN SIX PERCENT OF THE JOBS IN STATE GOVERNMENT ARE HELD BY NATIVE PEOPLE. MOST OF THESE JOBS ARE, AS EVERYONE KNOWS, CONCENTRATED IN THE CLERICAL, CRAFT AND PARA-PROFESSIONAL CATEGORIES. VERY FEW PROFESSIONAL AND MANAGEMENT POSITIONS ARE HELD BY NATIVE PEOPLE. THE UNDER REPRESENTATION AND UNDER UTILIZATION OF NATIVE PEOPLE AFFECTS MOST JOB CATEGORIES AND ALL DEPARTMENTS OF THE STATE GOVERNMENT. IN FACT, IN NINE OF THE FIFTEEN DEPARTMENTS OF THE EXECUTIVE BRANCH OF STATE GOVERNMENT, THE REPRESENTATION OF ALASKA NATIVE PEOPLE HAS DECLINED BETWEEN APRIL 1978 AND SEPTEMBER 1981. OF THE REMAINING SIX DEPARTMENTS FOUR INCREASED THE REPRESENTATION OF NATIVE PEOPLE BY LESS THAN ONE PERCENT OVER EARLIER FIGURES. TWO DEPARTMENTS (COMMUNITY & REGIONAL AFFAIRS AND NATURAL RESOURCES) APPEAR TO HAVE MADE SUBSTANTIAL GAINS. (WE WOULD LIKE TO KNOW WHAT THE ACTUAL CHANGES HAVE BEEN.)

IT WOULD APPEAR THAT THE COMMITMENT, SO CLEARLY STATED IN ADMINISTRATIVE ORDER NUMBER 59 AS EXPRESSING THE EQUAL EMPLOYMENT POLICY OF THE EXECUTIVE BRANCH OF STATE GOVERNMENT, NEEDS TO BE MORE FORCEFULLY AND IMAGINATIVELY TRANSLATED INTO ACTION. THE ACTIONS OF THE PAST THREE AND ONE-HALF YEARS HAVE PROVIDED NECESSARY AND USEFUL MECHANISMS TO HELP STATE GOVERNMENT RECRUIT, SELECT, HIRE, PROMOTE AND RETAIN MINORITIES IN STATE GOVERNMENT.

THE EXPANDED CERTIFICATION POLICY IS A PARTICULARLY USEFUL STEP IN BRINGING QUALIFIED NATIVE PEOPLE TO THE ATTENTION OF HIRING DEPARTMENTS. BUT WE BELIEVE THAT WHAT HAS BEEN ACCOMPLISHED TO DATE REPRESENTS ONLY THE FIRST FEW STEPS IN AN OVERALL PLAN THAT MUST PRODUCE RESULTS IN NUMBERS RATHER THAN RHETORIC.

ACCORDINGLY, WE WOULD LIKE TO RECOMMEND THREE MAJOR EFFORTS THAT WE BELIEVE ARE JUSTIFIED AND NECESSARY:

1. EMPLOYMENT OPPORTUNITIES. A FOUR YEAR EFFORT TO ANALYZE EXISTING JOB DESCRIPTIONS AND ACTUAL DUTIES AND TO REVISE THE JOB STRUCTURE WITHIN ALL DEPARTMENTS TO INSURE:

- A. ENTRY LEVEL POSITIONS ARE AVAILABLE TO THE MAXIMUM EXTENT POSSIBLE.
- B. CAREER LADDERS (INCLUDING ALTERNATIVES) ARE AVAILABLE WHICH PROVIDE AMPLE OPPORTUNITY FOR UPWARD MOBILITY.
- C. SUPPORT SERVICES ARE AVAILABLE INCLUDING BUT NOT LIMITED TO, DAY CARE, CAREER AND EDUCATIONAL COUNSELING, TUITION REIMBURSEMENT AND TIME-OFF-WITH-PAY FOR EDUCATIONAL PURPOSES TO PROVIDE ASSISTANCE TO MINORITIES EMPLOYED BY STATE GOVERNMENT AND SEEKING TO IMPROVE THEIR EDUCATION AND TRAINING. THIS PROGRAM SHOULD BE FUNDED AS A SEPARATE AND HIGHLY VISIBLE EFFORT WITHIN STATE GOVERNMENT, PREFERABLY BY THE OFFICE OF THE GOVERNOR. IT SHOULD BE CONTINUED UNTIL PROPORTIONATE REPRESENTATION IS ACHIEVED.

2. NATIVE RECRUITMENT. WE BELIEVE THE STATE SHOULD CONTRACT WITH EACH OF THE NATIVE REGIONAL NON-PROFIT CORPORATIONS TO PROVIDE ASSISTANCE TO THE STATE IN THE IDENTIFICATION AND RECRUITMENT OF MINORITY APPLICANTS. THE SIZE OF EACH CONTRACT SHOULD BE RELATED TO THE NUMBER OF POTENTIAL CONTACTS (THE SIZE OF THE REGION'S ENROLLMENT). SPECIFICALLY, THE CONTRACT SHOULD BE LARGE ENOUGH TO ENABLE EACH REGIONAL CORPORATION TO HIRE ONE OR MORE RECRUITERS TO SEEK OUT AND WORK WITH POTENTIAL NATIVE APPLICANTS.

3. MINORITY INTERNSHIP AND WORK-STUDY. WE BELIEVE A SPECIAL PROGRAM WHICH WOULD PROVIDE SUMMER WORK EXPERIENCE OPPORTUNITIES (WITH GOOD PAY AND REASONABLE BENEFITS) WOULD BE HELPFUL IN ATTRACTING NATIVE YOUTH INTO PUBLIC SERVICE. WE BELIEVE A SPECIAL PROGRAM NEEDS TO BE DESIGNED AND FUNDED WHICH WILL OPEN UP SUMMER JOBS IN VARIOUS AGENCIES AND DEPARTMENTS OF GOVERNMENT. THESE ARE TO BE JOBS LEADING TO PROFESSIONAL EMPLOYMENT UPON GRADUATION. IF THE JOBS TAKE STUDENTS AWAY FROM THEIR HOMES WE BELIEVE ADDITIONAL HELP IN THE WAY OF HOUSING ALLOWANCES AND TRANSPORTATION STIPENDS SHOULD BE INCLUDED. WHILE THIS PROGRAM NEEDS TO BE COORDINATED WITH THE UNIVERSITY OF ALASKA AND THE NATIVE CORPORATIONS, WE BELIEVE IT NEEDS TO BE DEVELOPED AS A HIGHLY VISIBLE PROGRAM WITHIN STATE GOVERNMENT. IF SUCCESSFUL, THE PROGRAM MIGHT GROW BY ADDING AN ADDITIONAL NUMBER OF INTERNSHIPS IN FOLLOWING YEARS.

THESE IDEAS REPRESENT JUST A FEW INITIAL SUGGESTIONS AND PROGRAM CONCEPTS FOR ADDITIONAL ACTION WHICH WE BELIEVE THE STATE MUST UNDERTAKE IF IT HAS A REAL COMMITMENT TO CORRECT THE UNDER REPRESENTATION AND UNDER UTILIZATION OF ONE OF ITS GREATEST RESOURCES - ITS NATIVE PEOPLE. EVEN IF THE COMMITMENT EXISTS, A QUESTION REMAINS AS TO WHETHER THE STATE IS WILLING TO VOLUNTARILY TRANSLATE ITS COMMITMENT INTO ACTION.

BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT
Legislative Information Office, Anchorage, Alaska
November 19, 1981

MINUTES

Senator Ray, chairman, called the meeting to order at 10:00 a.m. The roll call showed the following members present: Senator Bill Ray, Myrt Charney, Lynn Wegener (alternate for John Chenoweth), Senator Richard Eliason, Representative Jack Fuller, Kenneth Kareen, Lynda McCurry, Sandra Withers (alternate for Commissioner Hudson), Greg O'Claray, and Cherie Shelley. The following members were absent: Bill Huston, Lois Jund and John Pugh. The following were also present: Roger Thayer, James E. Fisher and Darlene Livermore.

Senator Ray announced receipt of an application for membership on the Blue Ribbon Commission from Mr. James Chase, who is a member of the Human Rights Commission. He asked the Blue Ribbon Commission members to consider extending an invitation to Mr. Chase to join the commission. Mr. Chase was not present and the question was held for later consideration.

Senator Ray opened nominations for the position of Vice Chairman of the commission. Myrt Charney nominated Representative Fuller. Senator Ray asked for other nominations. No others were received. He closed the nominations and announced that since Representative Fuller was the only candidate, he was appointed Vice Chairman of the commission.

Senator Ray called for public testimony. No one came forward at this time. He asked Cherie Shelley, executive director of Alaska Public Employees Union, to relate how APEA handles any discrimination complaints they receive. She replied that typically they receive few complaints. They refer those they do receive to the Human Rights Commission. She suggested that Darlene Livermore, who handles employment complaints from APEA members, would be better able to answer the question. Ms. Livermore explained that APEA does receive a number of contacts on issues of discrimination, both on the basis of sex (which are the more frequent) and on the basis of minority group membership. In addition, APEA receives a number of sexual harassment complaints. The staff investigates to determine whether there is a legitimate charge to take before the Human Rights Commission. If the complaint is not specious, then APEA makes a referral to the Human Rights Commission and continues to give support to the complainant through the complaint processing procedures. She added that the logic pattern of complaints from men and women is roughly the same. Where men are seeking employment in a job class typically occupied by women they use the same kinds of arguments that women use in seeking employment in job classes predominately occupied by men.

In answer to a question from Senator Ray, Myrt Charney, executive director of the Legislative Affairs Agency, indicated that he is not aware of any complaints within the agency. There was one sexual harassment

charge filed against a legislator one or two years ago which was investigated and found to be without merit.

Ken Kareen, Director of the Division of Personnel, indicated that he does receive inquiries from individuals about whether they may have been discriminated against. They typically are seeking background information to show whether they have come to the wrong conclusion. In one specific instance which happened three years ago, a woman applied for a position and was interviewed. She later received a call at home from the man who had interviewed her asking for a date. She turned him down. She later learned that someone else was appointed to the position. She filed a complaint with the Human Rights Commission and did receive a damage award. Ms. Shelley added that the case was settled without an admission of guilt on the part of the state.

Mr. Kareen added that in the three months that he has been back working for the state, he has been approached by three women who have wondered whether positions which have been offered to them have been offered because of their capabilities or because the person hiring was seeking to fill a quota.

Senator Ray pointed out that it is popular to assume there is a great deal of discrimination in state hiring. However, the commission has found few instances were formalized in the face of complaint. He suggested that one area that should be scrutinized in-depth is the policy of advancement of people who work for the state to the exclusion of first-time hires. A spin-off of this policy is to exclude many members of minority groups, since they are typically not already state employees. This doesn't mean that promotion in itself is bad, since it is also important to bring people up through the ranks, so to speak. Mr. Kareen pointed out that the State Personnel Act and the Personnel Rules provide that current state employees shall receive additional consideration for promotion. The state does benefit by promoting people who know the program already. However, it can also be an advantage to have a new perspective on policies which everyone may have taken for granted, and a new employee can bring some fresh insights into the operation. It is important to balance between the two policies.

Al Baffone, Sr., Business Manager of Local 71, addressed the commission. He explained that the union is presently pursuing a case on behalf of a black member, Mr. Berkley, who was trained as an equipment operator and is now in Wage Group IV, which is one step below journeyman status. There was an opening for a higher position in the duty station in which the member worked. Under Local 71's labor agreement with the state, the employer is supposed to post vacancies before filling them. However, the state transferred another employee from a different duty station instead of posting the vacancy and filling by promotion. Local 71 took the case to arbitration, but the arbitrator ruled that the labor agreement permitted the transfer. The member will file charges with other agencies to contest the matter. He was brought into Local 71 under an affirmative action program four or five years ago and has been waiting for some time for this promotion.

Mr. Baffone added that if there is a subsequent layoff, Mr. Berkley, who has four years of duty station seniority, could be laid off because he is at a lower level than the person transferred. Senator Ray indicated that if Mr. Baffone would provide the commission with the background information on the matter, the staff would investigate it.

Senator Ray asked Senator Eliason whether he received many complaints. Senator Eliason replied that he had not received many about discrimination, probably because there are so few state employees among his constituents.

Senator Ray asked Representative Fuller whether he had received many. Representative Fuller indicated that he had not received too many, but that there are problems in the rural areas of his district. For example, where a new state employee moves to the area, usually his wife will be well qualified and therefore will end up working for the state, rather than that job being filled by someone from the area. He suggested that the only solution is to get the people trained for some of those jobs. He also addressed the question of educational requirements for state jobs. Within the Department of Fish & Game, there are positions for counting sea mammals during the spring hunting season. There are people in the villages who are well qualified to do that work, but most of the people who get the jobs are college students who have applied early and been placed on the state registers. Since they are new to the area, it takes a month or so for them to get adjusted and oriented. Representative Fuller added that times are changing and there are a number of young people in the villages who are interested in getting jobs and are willing to leave the subsistence life style. He pointed out that it does not take an educational background to do a good job. He has a friend in St. Lawrence Island who neither reads nor writes English well, but the department has been depending on him to take the walrus count. He is able to keep the job because he began about 14 years ago before there were tight educational requirements.

Mr. Kareen pointed out that the state does accept experience as a substitute for educational requirements for Fish & Game technician positions, and includes volunteer experience. Representative Fuller agreed but said that the system isn't working. You still have to get your name on a register.

Nancy Groshek suggested that the state institute a pilot project to go out to the Bush and solicit applications and explain the hiring process to the people there, particularly for jobs like the Fish & Game technicians.

Cherie Shelley pointed out that one of the complaints she hears frequently is that there is no provision permitting hiring from the immediate area in special situations. For example, when she was in Kodiak, Fish & Game needed someone to work on a boat. They hired a person from Anchorage, but as soon as he arrived in Kodiak, he took a different job on a fishing boat. Then the department hired someone from Kodiak on an emergency hire basis. The Fish & Game boat was out longer than 30 days and Fish & Game was required to get him off the boat. They

spent more on helicopters than they paid the person hired. She suggested that the commission consider recommending that the Division of Personnel set up local registers for some situations. Senator Ray questioned how this would fit into the merit system.

Representative Fuller agreed that the authority to hire locally would help. In most cases, the Fish & Game supervisors would know the qualifications of the people they would be hiring. Ms. Groshek added that the state would be saving money in transportation costs for new employees and that regulations could probably be instituted by next summer.

Mr. O'Claray asked if he could return to Mr. Baffone's earlier testimony. He asked whether the grievance which Local 71 had filed with the state alleged that their member had been denied a promotional opportunity on the basis of his race. Mr. Baffone replied that the grievance filed had addressed the legality of the transfer rather than the denial of the promotional opportunity. Therefore they had not addressed the question of discrimination in the complaint. The union believes that Mr. Berkley's case is still alive. However, they have been informed that when his case is submitted for arbitration, the state will submit the decision of the transfer arbitration and say that the case has already been heard since Mr. Berkley figured in the initial case. Mr. Baffone stated that he is taking the position that they have exhausted their internal avenues under the labor agreement.

Sandy Withers, Director of the Division of Labor Relations, offered a comment on the case. The underlying question in the grievance was whether there was promotional opportunity in the first place. She explained that two employees had transferred, and had they not transferred there would not have been a vacancy in the first place. Mr. Baffone replied that because the labor agreement provides for duty station seniority, Mr. Berkley will be laid off if a layoff comes, even though the transferee has less seniority. Under the new classification system, the lower guy in the equipment operator group gets laid off before the higher guy. Senator Ray asked how the situation centered into racial discrimination. Mr. Baffone replied that it did because Mr. Berkley is black and is qualified to do the job. He added that if Mr. Berkley were white, he would not be addressing the Blue Ribbon Commission.

Ms. Shelley asked Mr. Baffone what Local 71's position would have been if one of the transferees had been black and the man seeking promotion had been caucasian. Would the union have objected to the transfer under those circumstances? Mr. Baffone replied that since there is specific language in the agreement that transfers will only take place after promotional opportunities have been exhausted, the union would have objected.

Mr. O'Claray asked again whether Mr. Baffone alleged at this time that the state acted in a discriminatory manner against the black worker. Mr. Baffone replied that he did. In answer to a question from Representative Fuller, Mr. Baffone replied that had the member not promoted been a white person, the union would have arbitrated that

failure to promote, too.

Senator Ray asked James Chase to tell the commission a little about his background and why he was interested in membership on the commission. Mr. Chase replied that he came to Alaska as a result of a military assignment to a remote radar station in 1969. He later transferred to Elmendorf Air Force Base and then decided in 1972 to remain in Alaska. He retired from the Air Force in 1974 and went job hunting. His first job was with the Human Relations Commission of the Municipality of Anchorage. While he was there, the city changed to a municipality and he helped to create the Equal Rights Commission. Then he went to the Alaska Native Foundation where he traveled throughout the state working with school districts, helping them to desegregate. When it was defunded he had to seek other employment. He is now the affirmative action officer for the University of Alaska, Anchorage, and for the community college. In addition to his work, Mr. Chase said that he has been involved in community activities and is currently a commissioner on the Alaska State Commission for Human Rights. He added that that is the position he would like to represent on the Blue Ribbon Commission, since there had been a seat for the Human Rights Commission when the Blue Ribbon Commission was originally established.

Senator Ray explained that the Blue Ribbon Commission has not set aside seats for any particular representation, and that he hoped members represented their own personal convictions rather than their employment. Greg O'Claray asked Mr. Chase whether his employment with the University would offer him opportunity to attend meetings of the Blue Ribbon Commission in other cities. Mr. Chase replied that he would be able to. The University believes that activities like membership on the Blue Ribbon Commission would be ancillary to his job and that he would be permitted to attend, provided only that he met his prime responsibility of getting his job done.

Senator Ray asked whether Mr. Chase saw a pattern in state employment of discrimination on the basis of race. Mr. Chase replied that what appears to him to have happened is that there is a sort of inertia in the system. People become set in their ways and entrenched in their positions. Nothing motivates them to change. Procedures and policies meet with resistance, and unless the total management goes along with a new policy, it's very hard to implement a change. There are people who have been given an "extraordinary opportunity" because of their gender and their race and when they are asked to implement an affirmative action program, they react to it right away because it means they have to move something. Mr. Chase added that he is stubborn enough to believe that change can come about and there can be improvement in the system.

Senator Ray pointed out that frequently what is perceived as discrimination is not understood by the person doing it as discriminatory. Mr. Chase replied that he believes that it is a requirement of all managers not only to show that there is no discrimination, but also that

there is nothing perceived as discrimination.

Mr. O'Claray asked Mr. Chase how he perceived the effectiveness of the current EEO program in the state or the University system. Mr. Chase replied that the University system has changed considerably in the 2-1/2 years that he has been there. When he began, the University did not even know how many employees it had, not to mention the racial mixture. They now have a lot of information about their employees and are working with supervisors to convince them to hire minority applicants and that affirmative action is a necessary thing. The affirmative action job is multi-facted, and at the same time that he has to get the managers involved in the program, he also has to insure that people are applying for positions and that they understand how to write a resume for the University. There has been progress. He added that he knows a little about the state's EEO program and that they have also made progress.

In answer to a question from Mr. Kareen, Mr. Chase said that the University has developed a base on the availability of the workforce in his hiring area for different occupations. It is broken into the seven EEO categories and is further defined by disciplines. He explained that the University recruits locally for positions in the clerical and crafts fields and therefore they use a local base for those job categories. For executives and professional positions, they use a national base.

In answer to questions from Senator Ray, Mr. Chase indicated that he believed that the goal of anti-discrimination laws is to control a person's behavior, not his thoughts. Once behavior is modified, particularly in a hiring situation, then people who may have latent bigotries discover that "it isn't so bad after all" and their attitudes may also begin to change.

Ms. Shelley suggested that, while Mr. Chase was obviously well-qualified for membership on the commission, notice of the vacancy should be given so that others who might be interested could submit applications. She pointed out that the principal membership of the commission is composed of 10 males, one of whom is a minority person, and three females, none of whom are minority group members. Senator Ray responded that the commission has three applications for membership and that it will always accept applications, but that we are not recruiting for them. He urged members not to become sectionalized.

Senator Ray recessed the meeting at 11:30 a.m. for lunch.

The meeting was called back to order at 1:35 p.m. Senator Ray asked for public testimony.

Donna Brooks, a concerned citizen and a previous state employee, addressed the commission.

In 1974 she terminated from state employment and six months later attempted to return. The position was still available, but later the state discontinued her job classification. Since 1975 she has not been notified of the discontinuation of the job class nor has she been offered a rehire position, although she was contacted once about a 30-

day emergency position. She is between first and fourth on the registers. Ms. Brooks asked whether hiring authorities automatically receive the names of rehires when they request a register and whether they have to contact the individuals on the top of the list.

Mr. Kareen replied that rehires and transfers are listed on the registers as additional candidates which a manager may consider. Managers are not required to contact those individuals, however. In fact, in working the eligible list, a manager can contact one applicant and as long as that individual is one of the highest five on the list, the manager can give that person the position without considering anyone else. The Division of Personnel recommends that managers contact all of the top five because they won't know which person is best until they make that check.

Ms. Brooks asked what is happening with the affirmative action policy of the state. Mr. James E. Fisher, the Director of the Equal Employment Opportunity Division of the state, responded. The state Division of EEO has three general functions. One is planning, another is training, and the third is handling complaints. Affirmative action is part of the planning area. The plans are goals set which the state can use to measure its accomplishments. The state has only gone through one cycle of departmental affirmative action plans. It is now in the process of revising those plans for the first time.

Mr. Fisher continued. One of things that the state service has been criticized for is not having accurate records to be able to measure precisely what is happening in affirmative action. The state is improving the records available so that it will be able to point out the actual specific problems in affirmative action.

With respect to affirmative action itself, there are ongoing activities within the state which vary from agency to agency, with turnover, and with location. The Division of EEO has an office in Anchorage where Mr. Fisher suggested that Ms. Brooks might wish to inquire for the most accurate answer to her specific concern. Senator Ray added that while all departments may have affirmative action programs, some of them don't work.

Mr. O'Claray asked about the circumstances surrounding Ms. Brooks' termination in 1975. She explained that she had been hospitalized. All her performance evaluations while she was working were above average. She was not aware of any personality conflicts which might have followed her in seeking reemployment. In answer to a question from Lynn Wegener, Ms. Brooks indicated that she is on the registers for Nurse III, II, and I. She had been working for the Department of Health & Social Services at API, the Alaska Psychiatric Institution. Since leaving there she has worked part-time for other employers and is now so employed.

Barbara Schuhmann, Chair of the Alaska Commission on the Status of Women, addressed the Blue Ribbon Commission. She stated that the Commission on the Status of Women had wanted to undertake an overall review of the state's personnel system because of testimony they received criticizing the system itself as discriminating against women. However,

they lacked the money and time to undertake such a study and also believed that the study should not be limited to questions of sex discrimination, but should include questions as to other bases of unconstitutional discrimination as well. She asked that the Blue Ribbon Commission undertake the review that the Status of Women Commission would have done if it had the time and resources.

Ms. Schuhmann continued. The most recent comprehensive study of the distribution of women and minorities in state government was done by the Alaska Advisory Committee to the United States Commission on Civil Rights in July, 1980. Among the findings of that study were that: state employment "tends to be mostly white male"; the state offers no child care facilities to encourage women to work for the state; when women are hired they are "for the most part relegated to the lowest paying jobs in clerical, secretarial and technical fields"; the hiring procedures in some departments are "both consciously and unconsciously discriminatory"; and the state has not adequately communicated hiring and promotional opportunities. Ms. Schuhmann added that while there has been some progress since the release of that report, the statistics which it included have not changed significantly.

Ms. Schuhmann pointed out that persons claiming discrimination on the basis of race or sex against private employers often prove their cases by use of statistics. If a statistical case were built against the State of Alaska, the state would have a hard time showing that it has not discriminated in hiring and promotion on the basis of race and sex. A report published by the Civil Rights Commission in 1977 showed that only 8% of the people in the top salary ranges (22-28) were women, while at the same time women occupied over 85% of the positions in the lowest end of the scale (05-09). In five departments, not a single woman occupied a position in those top salary ranges. Minority women fared even worse. In all of the departments of the state government, only one solitary minority woman could be found who occupied a position in the top salary ranges.

Ms. Schuhmann added that a more recent survey of the state's affirmative action effort was released by the Division of Equal Employment Opportunity this year, and it does not show much change from this situation. These figures support what the Commission on the Status of Women believes to be the case -- that despite the fact that Alaska has a preponderance of highly educated, capable, and experienced women in the population, many of them have a tremendous difficulty in breaking into the state personnel system or rising in it once they have entered.

In testimony before the Commission on the Status of Women, women have cited repeated instances where the inflexibility of the personnel system prevented them from obtaining suitable employment or achieving upward mobility. Women in professional positions have had difficulty advancing to supervisory positions and receiving equal compensation for equal work. From the testimony, it appears that women in the lower paid clerical positions are afforded practically no incentive to learn new skills or take on additional responsibility, little on-the-job training for career advancement, and no career ladders. Ms. Schuhmann

suggested that a bonus system based on performance to encourage workers to grow and develop is an essential management tool. The existing merit increase system does not fulfill this function and discriminates against those employees in lower salary ranges, since employees in ranges 05 to 09 receive between a 2.6% and a 3% increase when moving from Step A to Step B, while for positions in range 15 or above, the first increase is never less than 3.5%.

Ms. Schuhmann reported that in hiring staff for their own Commission, they found that the classifications of the state personnel system were too rigid to allow for their needs for people with very diverse skills. Too often, this inflexibility causes managers to create more exempt positions, which are outside the EEO directives which the Commission strongly supports.

On a more positive note, Ms. Schuhmann indicated that there are several efforts underway which have great potential for correcting some of the systemic problems in personnel procedures. First, the practice of expanded certification, or the "5 + 5" system, is a valuable management tool for providing managers an opportunity to interview the five most qualified women and minorities to achieve better representation in all levels of the workforce. It enables managers to go beyond paper credentials of applicants and beyond tests which may be culturally biased, neither of which may be predictive of job performance. Female state employees have testified before the Commission on the Status of Women that the main problem with the "5 + 5" system is that it is optional and many managers never request the additional names. The Commission also supports job sharing, since it provides women in particular with the opportunity to combine homemaking and careers. That program as well as flextime and part-time work options and internships or tuition reimbursement plans should be well publicized. It should not require long distance telephone calls to Juneau to find out about these programs, as is often the case today.

The Commission on the Status of Women supports two bills introduced last session. House Bill 906, sponsored by the Blue Ribbon Commission ^{1/} amends the veterans' preference point system. Passage of a bill limiting the duration of any veterans' preference will have a significant impact on what has been a major source of systemic discrimination against women in the state personnel system.

The Committee Substitute for Senate Bill 248 deserves attention next session. The Division of Equal Employment Opportunity now has the responsibility for carrying out the state's policy on equal opportunity, for monitoring the activities of all departments and ensuring that compliance occurs. The bill would define those responsibilities in state law. Ms. Schuhmann said that the Commission on the Status of Women believes that it is essential to have a fully functioning, adequately staffed Division of Equal Employment Opportunity. She urged the Blue

1/ Note: HB 906 was actually introduced in 1980

Ribbon Commission's support of the bill as well as support for a fiscal note sufficient to appoint an Equal Employment Officer for each department within the executive branch.

Senator Ray asked Ms. Schuhmann about the problem of having to make long distance telephone calls to Juneau instead of being able to get the information in the branch offices. She indicated that testimony they had received reported that often the local offices don't have the information readily at hand, so callers are referred to Juneau. In addition, in their own offices, they have had to call Juneau for questions they thought should be able to be answered in the branch offices. Mr. Kareen replied that on specific information concerning an application, there is only one file kept and that is in Juneau. However, for general recruitment schedules and for the process and procedures of the state, the branch offices are equipped for most questions. In addition, Anchorage does hold the records for some applications, which on occasion have to be referred down to Juneau, should an applicant move there.

Ms. Schuhmann introduced Chris Callahan to answer the questions more specifically, and explained that the reason for addressing this topic is to alert the Blue Ribbon Commission to the fact that not all of the Division of Personnel offices in every part of the state always have all the information which they might have.

Ms. Callahan stated that the majority of the primary points raised in the statement of Ms. Schuhmann are well-documented, and added that indications of difficulty in dealing with decentralized offices is not unique to this state. Senator Ray replied that in order for the commission to be constructive, we need specific information. He asked Niel Thomas, Executive Director of the Human Rights Commission how many cases of discrimination in the state personnel system their commission had on file. Mr. Thomas replied that at the last Blue Ribbon Commission meeting he had provided statistics about individual people who have complaints on file, but that does not include cases filed by the executive director on class-wide discrimination, for example.

Ms. Schuhmann added that the purpose of her coming before the Blue Ribbon Commission is to urge that someone take a look at the big picture of state employment. It is a large undertaking, but there are indications of problems. One example is the public health nurse lawsuit. That group of nurses was doing very similar, if not identical, work as were another group of state employees who all happen to be male. And the male counterparts were doing very similar, if not identical, work to the nurses, but are paid more. Another indication that there may be problems is that all women are bunched, at least according to statistics, at the low end of the pay scale.

Senator Ray pointed out that in a pure merit system, the person who had the highest score would be the person hired. On the other hand, some people have suggested that the system should allow anyone with minimal skills to be considered for jobs and then let the

hiring authority select whomever he wanted. Under this system, you would have the highest instances of discrimination, both against males and females. To remedy past discrimination, people suggest reverse discrimination. Ms. Schuhmann suggested that perhaps the other side of the coin to affirmative action is the veterans' preference. In a pure merit system, you just depend on an individual's credentials. She reported that she has talked with people in Fairbanks who lost out for a state job by a tenth of a point, and usually a veteran is hired because of the 5-point preference. Senator Ray responded that the veterans' preference provides equal discrimination against males and females who are not veterans.

Mr. O'Claray asked Ms. Schuhmann whether the Commission on the Status of Women had figured the cost of a study of the personnel system. She replied that they had decided it would probably have to be done by a contract with an outside source. She doubted it would cost less than \$100,000. Senator Ray pointed out that the Blue Ribbon Commission operates on less than that amount.

Senator Eliason asked whether the Commission on the Status of Women had figures on the effect of the veterans' preference on women. Ms. Schuhmann replied that they do not, and that is one of the reasons they are urging that a comprehensive study of the personnel system be done. She added that federal law is quite clear on the number of women who can be employed in the military and who can be employed in combat. Congress may have a valid state reason for limiting the numbers, but the fact remains that veterans are far more likely to be male than female.

Mr. Charney commented that there are success stories -- the women who do succeed in rising into the top salary ranges in state employment. He suggested that it might be useful to find out what contributed to their success. Ms. Schuhmann agreed and added that her own suspicion is that many of those women are professionals, such as lawyers in the Attorney General's Office.

Ms. Withers suggested that it can be misleading to look at only one part of the statistics. If all of the women who applied to work in the Attorney General's office were hired, then the 8% represents 100% of the applicants.

Ms. Schuhmann agreed. Availability studies are difficult to obtain, as the Commission on the State of Women has discovered in attempting to get studies for the pipeline workers. In addition, one thing the commission heard at least on the pipeline workers experience is that you can't have systematic discrimination against women, sexual harassment and the like, and expect women to call themselves available for those jobs.

Representative Fuller asked how the Commission on the Status of Women had collected its material. Ms. Schuhmann explained that they looked at reports from the U.S. Commission on Civil Rights, the Annual Affirmative Action Report of the State of Alaska and held public hearings.

In answer to a question from Senator Eliason, she explained that her commission did not try to resolve complaints against an individual who was discriminating against someone. Those cases were referred to the Human Rights Commission. Where there appeared to be a policy in a department which had a discriminatory effect, they would contact the department head to resolve the issue, with fairly good response. Senator Ray thanked Ms. Schuhmann for addressing the Blue Ribbon Commission.

Nancy Groshek spoke for herself. She said that she is a legislative staff employee, working for Senator Fisher, and the committee aide for the Senate State Affairs Committee. She asked that the Blue Ribbon Commission endorse SB 248 which is currently in the Senate Finance Committee. It is important and addresses some of what Mr. Chase spoke of earlier in the meeting. It has teeth in it and makes merit raises depend on how well a supervisor complies with the affirmative action program. It also addresses other forms of discrimination.

Ms. Groshek suggested that the commission look at some of the forms used by the state. When she became a legislative employee, the form she was given asked for her marital status and sex. Those questions are prohibited by the equal rights amendment to the state constitution. When the forms were sent to the Division of Retirement, someone had added that information over Ms. Groshek's signature. She filed a complaint and believes that the form will be corrected. The University of Alaska also has application forms for programs such as learning to repair airplanes which ask for marital status.

Ms. Groshek also asked the commission to look at the word "qualified". It has become synonymous with "white male". For example, on the Superior Court or the Supreme Court, the Judicial Council says they cannot find any women who are experienced or qualified. But the reason is that women have not been allowed in the legal profession for that long. Ms. Groshek added that while she supports a veterans' preference for the transition period between military service and civilian life, she thought it should be limited to three or five years. People who have had careers in the military will receive credit for their work experience and the bonus of five points on top of that can make a significant difference.

Representative Fuller asked Ms. Groshek whether she believed that it makes much difference to an employer whether a person is single or married. She replied that she did, absolutely. In her own career she knew that some of the people she had interviews with had problems because of her marital status.

Senator Ray thanked Ms. Groshek for her testimony.

Senator Ray asked Mr. Baffone whether he wished to testify. Mr. Baffone replied that he did not.

Dee Lane addressed the commission on the issue of discrimination against women and minorities in state employment. She said that everyone knows that discrimination is rampant in Alaska state employment. She urged the commission to concentrate on solutions to the problems rather than going over and over the statistics. Women don't have the support

of the administration. If they speak out, they get the reputation of being a complainer. If there were support in the state government to see that people were treated fairly, there would be more people coming forward to talk about the problems.

Ms. Lane said that she would relate some of her early problems, but not the current ones because she was afraid. She pointed out that retired military persons are replacing women in the upper echelons of the Division of Energy and Power Development. Outsiders are often better educated than Alaskans and are flooding the state. The Molly Hooch case insured educational opportunities for Native Alaskans, but still education in Alaska does not compete with education outside. We only have one university and a community college system that is just recently developed. Parents have to send their children Outside, which means that they must be in the upper salary ranges.

Ms. Lane reported that in 1960 she was hired to merge the records of the Bureau of Public Roads with the newly formed state records. A couple of men, earning three levels higher than she was, had been asked to do it before she was and they had not succeeded, so she was assigned the task. When she was nearly done, she asked her supervisor, a preconstruction engineer, for a raise. She pointed out that the people who preceded her had failed in the job, and that she was doing it on her own schedule and that it would be finished shortly. He replied that (1) women don't belong in the Department of Highways, and then asked (2) do you think that someone on a lower level can maintain this system when you have it completed? She replied that she had set it up so that it could be maintained simply. He then said that he would not give her a raise.

Ms. Lane pointed out that people are afraid of retaliation if they speak out. For example, she was one of the people involved in the Kevin Waring case. He was the Director for the State Division of Planning and he always chose to hire from outside the state. She indicated that she was not one of the people he hired; he overlooked her. Mr. Waring is no longer with the state, but Ms. Lane said that she knows that she has been retaliated against. Senator Ray suggested that perhaps the retaliation is because of her vocal advocacy rather than because of discrimination.

Ms. Lane continued. She suggested that the state should work with Native leaders to improve educational opportunities. It would benefit everyone in the state. In answer to a comment from Senator Ray she pointed out that in state employment, all of the upper echelons are male and the lower echelons are female. How can you possibly say that there isn't discrimination? The women want to be at the top. Senator Ray suggested that there are more men who apply for the upper echelon jobs, and that is why there are more men who get them.

Ms. Lane suggested that there should be a career ladder and definite policy statements that the administration and the Blue Ribbon Commission care about women and minorities in state employment. Many women don't even apply for state employment because they believe they

won't be hired. She added that supervisors should get training on their obligation to be nondiscriminatory in hiring. There is much that can be done to establish a climate where people are made to feel that women and minorities have opportunities to be in the upper echelons, too.

A woman from the Tundra Times pointed out that the advertisement for the meeting said that it was on Tuesday rather than Thursday and perhaps that was part of the problem for the low attendance. Another woman said that if state employees knew of the meeting, they would have come to testify. She learned of the meeting through a women's club. Terry Cramer, administrative assistant for the commission, explained that the personnel officers for each department had been asked to circulate notice of the meeting to all of their employees in Anchorage.

Ed Wesley, president of the Anchorage branch of the National Association for the Advancement of Colored People addressed the commission. He suggested that the commission should look back to the civil rights legislation and more specifically the voters' rights legislation. The burden then was not put on the state to prove discrimination. They looked at the amount of utilization and representation. Similarly, once you look at state employment numbers and the population make-up of the state, that should be a signal that more aggressive affirmative action should take place to alleviate the situation. He asked how many blacks who work for the state make more than \$50,000. Senator Ray asked how many positions which pay over \$50,000 are blacks qualified for, and added that he did not know how many blacks make more than \$50,000. Mr. Kareen pointed out that it is difficult to answer the question of qualifications generally. The qualifications will vary greatly between, for example, a judge and a regional biologist or an engineer.

Mr. Wesley suggested that the commission should look at those figures. He agreed with Ms. Lane that until there is visible support of equal employment policy, people will not be willing to testify on the issue. Once the commission looks at the numbers and sees that there is no representation in that top range of positions, then it should use the same concept that the voters' rights legislation used, and decide that the state must take some action to do something with the heads of those departments.

Representative Fuller asked Mr. Wesley how many blacks there are in Alaska. He replied that something like 3.2% of the state's population is black and that there are approximately 9,700 blacks in Anchorage. Representative Fuller suggested that with the rapid inflow of people to Alaska, there might be few blacks in the higher paying positions because they have not been in the state long enough to work their way upwards.

Mr. Wesley reported that there was one gentleman who was a pathologist for the Department of Fish & Game. The department had something like 900 employees and one black. He had problems there from the beginning of his employment in 1976. For example, the department placed a statement that he was hired to meet affirmative action goals in his personnel file. He requested that the statement be removed from his file and from then on he had problems. Eventually the department fired him.

In the Department of Transportation, Mr. Wesley reported that there was a gentleman making over \$50,000 as a facility engineer. The department reorganized and abolished his job. There were other people in the same status as he was, all of whom found jobs within the system. He was left out. Mr. Wesley said that he believes the number of blacks making over \$50,000 is cut to about five or six in the state.

Senator Eliason asked how the commission can find out what causes these problems. If people are reluctant to talk about the problems, how can change be focused on the regulations which discriminate? Mr. Wesley replied that there needs to be an aggressive approach. He suggested that if the administration has adopted the "5 + 5" policy, that managers should be required to select from the list, even if they have to go Outside in order to meet their goals. Senator Eliason responded that he would not be willing to solicit applications outside the State of Alaska when only 5.3% of the state employees are Alaskan Natives.

Mr. Wesley asked whether there were any blacks on the commission. Senator Ray replied that there has been one application from Mr. Chase, who testified before the commission earlier in the meeting. Mr. Wesley suggested that in addressing a problem that affects individuals or a segment of the community, the commission should utilize members of the group to solve that problem.

He pointed out that historically there has been an overt problem of discrimination, especially with black people, in the State of Alaska back to the 60's. He explained that by discrimination, he meant actions rather than attitudes. Those problems still exist, and when people went to the streets and protested, then there was some change. He added that we know there was not a revolutionary change. The problem still exists. Senator Ray added that when he came to Alaska in 1930 there were signs in the movies "Natives here, and Whites here". There was no mixing. There was rabid bigotry against Native people.

Mr. Wesley suggested that one way to address the problem of discrimination in state employment is to refuse to fund any department that doesn't meet its affirmative action goals. It is not reverse discrimination, it is saying that the person is charged with the task, that the description of his duty to perform includes meeting the affirmative action goal. When that person doesn't carry out his duty, then you don't pay him or else you fire him.

Senator Eliason asked for suggestions which could be implemented into law or regulations to overcome some of the obstacles that have existed. What is the tool to overcome discrimination? He pointed out that APEA would probably resist any firing of a supervisor as Mr. Wesley had suggested and that the Legislature could not cut off funding a department for failure to meet its affirmative action goals.

Ms. Shelley added that it would be difficult to hold one supervisor responsible for meeting a specific affirmative action goal, since registers may or may not include minority individuals and since there might not be any turnover in an office at all.

In answer to a question from Representative Fuller, Mr. Wesley suggested that if the commission were interested in information about what was happening elsewhere in the Lower 48, the NAACP national office has all the historical data and information about problems in every state in the country. They could provide answers if the commission were to pay someone to spend time there working on the question. He added that there is a particular problem in Alaska because there aren't as many blacks here compared with the population as a whole.

Senator Ray thanked Mr. Wesley for testifying before the commission.

Niel Thomas, executive director of the Alaska State Commission for Human Rights, addressed the commission. He indicated that he had not planned to testify, but that a woman had approached him during a break. He offered to speak for her since, for reasons of shyness, she had decided not to testify herself.

She works in a state office which has a very large clerical workforce. There are three people classified at Range 12, probably as administrative assistants, more people at Range 10, probably secretaries, and a group of people who are Range 8 clerk typists. The person who he spoke with is one of the three top people, and the only one who is an Alaska Native. Every time one of the secretaries or somebody further down in the organization is out of the office, somebody has to run that machine or answer that phone. The person who always has to do that, who is in effect demoted for the day, is the Alaska Native. She has been told, "Well, I know that you were a secretary once, and frankly, I can't think of you as anything but a secretary." Mr. Thomas added that he can't help wondering whether the organization isn't losing an opportunity to take someone else and train them on something that is higher level work to cover these situations.

Mr. Thomas said that the woman he spoke with reported that one of the lower level people there is prejudiced and frequently makes disparaging remarks about a black woman who also works there. She also has told the administrative assistant things like "you people have so much catching up to do". He said that his impression of the person he spoke with is that she is a very intelligent, forward-looking person who would like to advance herself in state government but runs into barriers of this type from time to time. He suggested that conduct in the office probably discourages people like her from continuing in state employment. She may be the next \$33,000 administrative assistant to a president of some corporation because the state has permitted people to treat other people like that.

Senator Ray asked Mr. Thomas to encourage the lady to contact him either directly or through the Human Rights Commission. Mr. Thomas replied that he had suggested that before she makes a formal complaint, she should talk with an individual who is at the top of her organization who he knows will not tolerate that kind of behavior. Senator Eliason added that you may not be able to control what people think but you certainly can control their actions when they are employed by the state government. He asked Mr. Thomas whether he had suggestions of what the

commission could do through regulations or legislation to change some of the obvious vehicles used for discrimination.

Mr. Thomas suggested that the commission consider the Committee Substitute to SB 248. Its approach is in the right direction. For instance it insures that an evaluation really does address an employee's EEO performance. The commission might look at both the bill and the fiscal note to see whether they could be improved. Senator Ray pointed out that the Administration is not supporting the bill, even though they are responsible for the affirmative action program. Mr. Thomas suggested that since the commission includes so many people from the Administration, if it could come up with a substitute bill, then the bill should have the support of the Administration.

Mr. Kareen asked Mr. Thomas for suggestions for finding available workforce data which could be used by all employers in Alaska. Mr. Thomas suggested that the Department of Labor has put together a widely-used book called Data for Affirmative Action Planners. They will probably be working on another book based on the 1980 census as it becomes available. If the commission were to meet with the people in the department who are putting the new edition together, they could share any difficulties they are having in developing the material. Everybody in both the private and public sectors needs workforce availability data, so that would be one of the most helpful services the state could perform in the equal employment opportunity area.

Senator Ray advised the commission that he anticipated holding one more meeting before the legislature convenes. He thanked the participants and adjourned the meeting at 4:15 p.m.

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BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT
State Capitol, Juneau, Alaska
November 3, 1981

MINUTES

Senator Ray, Chairman, called the meeting to order at 10:05 a.m. The roll call showed Ken Kareen, John Chenoweth, Representative Jack Fuller, Lois Jund, John Pugh, Cherie Shelley, Bill Huston, James Fisher, (alternate for Commissioner William Hudson) and Senator Bill Ray present. Myrt Charney, Senator Dick Eliason, and Greg O'Claray were absent. Also present were Roger Thayer, Robert Mourant, Darlene Livermore, and Dorothy Whitney.

Senator Ray opened the meeting by asking for public testimony. The first to testify was Niel Thomas, Director of the Alaska State Commission on Human Rights. Mr. Thomas addressed the question of how the number of employment discrimination complaints against the state compares with the number of complaints filed against private employers. He indicated that the information requested by the Blue Ribbon Commission was similar to the material that the Human Rights Commission developed recently at the request of the U. S. Civil Rights Commission. He distributed copies of a computer printout entitled "Total Statistics by Region", dated 10/17/81, R01-GGU-0001. Based on the information on the printout and handwritten information he had added to the sheet, he reported that of the 410 cases presently pending before the Human Rights Commission, 75 are cases involving the State of Alaska, which is 18.3% of the total. He added that the 18% could be misleading, since of the 75 cases involving the state, 24 of them raise one issue, which is now pending at the public hearing state. That issue is the state's classification of public health nurses when compared with physician's assistants. Treating those 24 cases as a single case, which he indicated gives a fairer representation of the situation, the proportion of cases filed with the Human Rights Commission against the state is 13.4%.

Mr. Thomas continued explaining the handwritten numbers on the printout. Of the 3172 employment cases filed with the Human Rights Commission since the beginning of 1975 or open on January 1, 1975, 321 have been cases against the state. Two years ago the Alaska Advisory Committee to the U. S. Civil Rights Commission requested similar information. As of August, 1978, the total number of cases filed was 2162, of which 200 involved the state as the employer. The percentage of the total then was 9.3% and now is 10.1%. He added that the statistics would seem to indicate that the Human Rights Commission is getting something of an upturn in business from the State of Alaska, but that he did not know whether a statistician would consider the increase significant.

When the Human Rights Commission was preparing information for the U. S. Civil Rights Commission, they asked the Department of Labor what proportion of the total nonfarm workers in the state were employed

by state government. The answer was 8 or 9%. Therefore, in 1978, the state employed 8 or 9% of the workforce and was being complained of in 9% of the employment discrimination cases filed with the Human Rights Commission. Mr. Thomas indicated that he did not know whether the proportion of the workforce employed in state government had increased since 1978. If it hasn't, then it would appear that the Human Rights Commission is getting more business from the state than before. Mr. Thomas added that he was providing additional computer printouts to the Blue Ribbon Commission which together represent all of the cases (employment, housing and everything else) filed against the state since 1975.

In answer to a question from Senator Ray, Mr. Thomas stated that of all the discrimination cases filed, about 50% allege race discrimination. He added that he did not have that percentage figured on the cases specifically filed against the state as an employer.

Mr. Thomas continued, addressing the question of what is discrimination. People customarily know that it's discrimination when someone is consciously out to get somebody saying, "I'm not going to hire this person because she is a female and women should not be doing this kind of work" or "we don't want minorities doing this work." This is overt discrimination and is only a small proportion of the cases which involve agencies or wind up in the courts. The majority of discrimination cases arise because a system of rules or a customary way of doing things works out to the detriment of a certain group of people. For example, suppose you believe that to be an effective police officer you need to be an imposing figure who commands respect. You therefore say that police officers must be over 6'6". The last thing that enters your mind is the effect of that rule, which would be to completely exclude women and to exclude most Asian people and most Alaska Natives, except possibly the Indian population. When you discover this unintentional result, you have to review the situation and come up with an alternative which still serves the legitimate purpose of the rule (hiring quality people) but which doesn't have that discriminatory effect.

One of the problems in dealing with discrimination questions is how to get data. Mr. Thomas continued using the example of the tall trooper. Suppose statistics for the Department of Public Safety as a whole indicate that 40% of the workforce is female. You might therefore conclude that the department is not liable to be sued in sex discrimination cases because women are well-represented in its workforce. However, perhaps if you had data by divisions within the department, you would discover that in hiring troopers there is a problem because there are no women. You also need that data by geography, in order to answer whether there is a problem in hiring in a particular office or location. Another kind of data which Mr. Thomas indicated it is extremely important to have is applicant flow data. It shows what happens to the applications as they are processed. In the tall trooper example, for instance, it might reveal that half the people who applied to be troopers are women but that none of those applications get past the review for height

qualifications. Therefore, it would show that Public Safety did not need to increase its recruitment efforts but should reexamine the minimum qualifications for the position.

It is also useful to have availability data, which shows the numbers of people available for or interested in a particular type of work. You need that information when setting goals and percentages for each job-type. Without it, they are extremely difficult to set, and involve a certain amount of guesswork. Mr. Thomas indicated that Chuck LaViege, the counterpart to the Director of EEO in the state, has asked the Department of Labor for information to more fully develop figures on availability data. He urged the Blue Ribbon Commission to encourage the development of better population and availability data.

In answer to a question from Roger Thayer, Mr. Thomas indicated that the information provided in the computer printouts on employment discrimination against the state would indicate the types of employment discrimination: whether they arose in hiring practices, promotional practices or other situations. Senator Ray thanked Mr. Thomas for his testimony.

Dove Kull addressed the commission. She indicated that she was representing herself only, although she was a member of the Alaska Advisory Committee to the U. S. Civil Rights Commission and had represented the state at the annual planning and budget meeting. She indicated that, having lived longer than most others in the room, she had seen many changes, and noted that in 1980, the Ku Klux Klan rode for the first time in 75 years, and in the State of Connecticut, not in the South. She recently visited relatives in Mississippi and was amazed and a little frightened at the unleashing of old attitudes and beliefs. She noted that of President Reagan's appointments as reported in a June 18th document, 10% were women (38 out of 375), 4% were Hispanics (14) and 4% were Blacks (13).

She added that as a result of work she had done in the Aleutian Chain, she felt that people there were neglected and isolated. They have something to contribute. She felt that there was discrimination against dark-skinned people and pointed to the situation in the cannery workers union. Stereotyping limits the opportunities for women, too. Although she had heard one boss say that women cannot lift heavy objects, women do so all the time when raising children. She also felt that the canneries did not provide adequate day care.

Senator Ray asked for further public testimony. Florencio Q. Pax replied that he would prefer to testify in the afternoon. There was no other response.

The commission turned to consideration of the "Prisoner Profile Study" from the Division of Corrections, Department of Health & Social Services. Senator Ray asked Bill Huston to introduce it. Mr. Huston indicated that the profile is based on 100% of the prisoners of the State of Alaska on August 19, 1981. The purpose was to determine the

kind of long-term facilities needed by the state and what kind of prisoners would be in prison when it opened in 1985. He reviewed the information gathered which indicates that 37% of the state's prisoners are between the ages of 20 and 24; that the highest percentage have a high school diploma and many have completed some college coursework. In 1967 the Criminal Justice Commission indicated that the average educational background for the nation's prisoners was between 8 and 9 years. The average at the correctional institution in Juneau is over 13. In addition, the average educational background of state prisoners housed with the Federal Bureau of Prisons (FBP) is even higher. Caucasians represent 54% of the state's prisoners, 9% are Black, 12% and 32% are Alaska Native, which includes American Indian (12%), Eskimo (18%) and Aleut (2%). This is twice as high as their representation in the general population, which is about 16%. Most prisoners had lived in the state at least three years before committing the crime for which they were incarcerated.

The largest category of prisoners is sentenced for a Class A felony (49%). Presumptive sentencing does not appear to have had an impact yet on the population statistics. Mr. Huston didn't expect that to show up for another few years. (Under presumptive sentencing, for the second or third felony conviction a person must serve the time sentenced, rather than being released on parole early.)

Of the crime classes, 62% of all felonies were considered violent offenses. However, that category was not defined to include property and sex offenses, so the percentage would increase where crimes in those categories which were committed with violence included. Of the state prisoners who are considered to have committed violent offenses, 43% are presently housed under the jurisdiction of the Federal Bureau of Prisons, and will be returning to the state as the FBP decreases its housing of state prisoners.

Bethel had the highest percentage of crimes in the villages. Mr. Huston suggested that this was probably because it is the hub of the Kuskokwim area which covers 85,000 square miles, with 56 villages and between 26,000 and 30,000 people.

He indicated that the report also addresses the current custody classification (maximum, close, medium or minimum) of the prison population, and rule infractions. It indicates that 150 prisoners out of the total population commit the majority of the infractions. He offered to provide Commission members with a tour of the facility if any were interested.

Mr. Huston discussed the Administrative Council which was set up at Lemon Creek following some unrest among the population. He indicated that he structured it differently from similar councils found elsewhere to insure representation from the whole population. He required that the prisoners write by-laws, but limited the topics which could be considered at the council to those matters which were not covered in the