

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILE 8672

1357 SCOMM 51: BLUE RIBBON COMN. ON STATE PERSONNEL ACT 1978-1983

members wished to ask questions.

In answer to a question from Lois Jund, Mr. Pax indicated that he believed that minority persons might be more likely to bring their problems to the commission if its membership included minority persons or if there were an intake officer who was a minority person. As an example of what he was suggesting, he pointed out that the Anchorage Equal Rights Commission is composed of nine members, with representation from whites, blacks, Native Alaskans, the Filipino community, and Chicanos or those of Spanish origin, and contains both male and female members.

Verneelia Randall addressed the commission. She has worked for the state for four years, first as a Public Health Nurse and now as the Maternal Child Nurse Coordinator. She is also chairperson for the Department of Health & Social Services EEO Committee. She addressed the commission as a private citizen.

In answer to why so few people chose to speak before the commission, she related reasons given to her by other state employees. These included questioning how many women and minorities would make up the membership on the commission, whether commission members would hold positions of power which could lead to real changes, and the fact that they would have to take annual leave in order to testify. Senator Ray advised Ms. Randall that it is not necessary for state employees to take annual leave to appear before the commission. He indicated that membership on the commission includes the Commissioner of Administration, the Director of the Division of Personnel, representatives of employee unions, the Ombudsman and public members in addition to legislators.

Ms. Randall said that there are two kinds of discriminatory problems, those created by societal habits and those which arise from individual discrimination. Societal problems develop from a system which has not been changed in 30 or 40 years and which have an inadvertent discriminatory effect. Once it is in place, the system tends to resist change, rather than being open to solving the problems which it creates. She gave as an example her own situation. She has a bachelor's degree, a masters, is working on a master's in public health and intends to pursue a Ph.D. in health policy and management. Even then, she will not be eligible for the position of health officer because she is not a doctor, a dentist or a veterinarian. Those requirements were created years ago and may have been appropriate for the position then, but the department has not reviewed them since, even though the health education field has changed significantly.

Ms. Randall criticized testing and experience ratings of applications and pointed out that they work against women and minorities. Tests are culturally based and test a person's ability to take tests more than ability for a job. Experience requirements work against those who have had less opportunity to work. Anyone can learn to take a test and can therefore pass a test. The opposite is also true. For example, until an instructor worked with her on test-taking, she nearly flunked out of nursing school, despite knowing the material thoroughly. After

learning how to take tests, she now does well on them. Because of these problems with tests and experience requirements, the registers work against people from different cultural backgrounds. If they appear at all, they are likely to be low on the registers.

Ms. Randall told the commission that the Governor had recently authorized a new register system in which the names of the top five applicants plus the names of the top five from a protected class are shown for those job classes in which women or minorities are underutilized. The problem with this approach is that it is voluntary. The recruiting agency should be required to hire from an affirmative action register for positions in underutilized job classes.

There is a second type of discrimination -- individual discrimination. It may be either conscious or subconscious. Ms. Randall stated that everyone is racist either consciously or subconsciously. Until we recognize that and work to change it, the implementation of any affirmative action policy will not happen on a regular, consistent basis.

Ms. Randall advised the commission of DHSS statistics on minority and women hires. She suggested that DHSS is one of the best departments because women and minority persons are most likely to be either nurses or social workers or office clerks, and DHSS hires a lot of all of those job classes. The figures are based on the department's EEO plan, which identifies the availability of minorities and women for state employment, as compared to the actual employment.

	<u>Female</u>	<u>Minority</u>
Availability of office clerks	79%	21.1%
Employment by the department	90.3%	17.8%
Availability of officials & administrators	44%	19.3%
Employment by the department	26.7%	11.3%

There is a significant difference between the available market and what is actually happening, even if the figures are off by 5%. Ms. Randall recommended that the state use computers to identify underutilized job classes. When a department requests a register in one of the identified classes, they should get an affirmative action register, whether they wanted it or not. A supervisor should have to justify not hiring a woman or minority person for a vacancy if any appeared on the register. The present system requires the supervisor to justify hiring from below the top five even when hiring for job classes in which minorities or women have been shown to be underutilized.

Ms. Randall acknowledged that this system would be reverse discrimination but pointed out that when you have a relay race and one team started the race 15 minutes after you did, then you cannot expect them to win the race unless you provide some catch-up time. In our society women and minorities began well after the race was underway, and only those minorities and women who are far above the exception even get into the running. You cannot have equal opportunity until society

provides women and minorities a chance to catch up.

Ms. Randall said that she had a personal concern for Alaska. It is unfair to group Alaska Natives with other minorities. Alaska is a state of immigration and many minorities who are highly qualified choose to come here. Statistics show that Native Alaskans, who were here first, get drowned out by blacks, Filipinos and Chicanos who immigrated. While 11.3% of the officials and administrators may be minority, 0% may be Alaska Native. Ms. Randall recommended that in underutilization figures, Alaska Natives should be broken out to insure that they have fair representation and that immigrants not be allowed to take the jobs that they would have had.

Ms. Randall shared another area of concern: that of upward mobility. One problem is the opportunity for training. DHSS provides individual training contracts for its employees. An employee can go to the agency and say "here's a course which relates to my job and will give me added skills and I want to take it." If the agency agrees, it will cover the costs provided the employee signs a contract to remain on the job for a specified length of time. Last year, DHSS had 85 such contracts. There are 71 officials and administrators in the department. Of those, 20% had individual training contracts, while only 4% of the office clerks (who number 421) had them. In answer to a question from Lois Jund, Ms. Randall indicated that she did not know how many applications had been filed for training. She did show that 79% of the officials went out-of-state for their training. None of the office clerks went out-of-state. It's the office clerks who need the training for promotional opportunities. To have affirmative action, the state has to provide opportunities for upward mobility. Therefore, training funds should be part of every budget and there should be some system to insure that a fair portion of those funds reach those on the bottom. If 60% of a department's workforce is classed as officer clerks, then 60% of those employees should be getting training.

Senator Ray pointed out that the legislative finance committees have been reluctant to pay for on-the-job training. The legislators feel that there are requirements which employees should meet before getting the job. The state should not have to pay for it. Therefore, a good share of the inservice training money gets cut from the budget. It's an area which has been abused and is still abused. Ms. Randall replied that it is short-sighted to cut training funds. Recruiting and orienting new employees is more expensive than training existing employees who have proven themselves to be loyal to the state and who will stay in the job for a longer time.

A second difficulty in providing upward mobility is that supervisors may discourage their employees from seeking promotions. If that attitude is to change, it must start at the top. She gave as an example her own promotion to her present position. Her supervisor discouraged her, saying that she wouldn't be able to do the work, and the position was vacant for a whole year.

Ms. Randall agreed with Mr. Pax's recommendations that goals for employment of women and minorities should not be grouped together. Women have different problems and circumstances from those of minorities. Problems women face arise in part from the traditional employment system which is based on the employment of men who could work knowing that their families would be cared for by their wives. That is no longer the case. Single parent families are now prevalent and two-working-parent families are a fact of life. Any employer, whether private or public, will have to recognize that the traditional system of hours of work, work days, and annual leave, was made up for the traditional family system. Day care is necessary for even two-parent working families. The employer should be responsive to that need, although the employee should expect to pay for the care provided. In addition, employers should be sensitive to the needs of working parents. For example, Ms. Randall suggested that women be allowed to take annual leave, sick leave, or leave without pay in order to breast feed children while working. This kind of small accommodation could make a family's life much easier and also free an employee to put more energy into the job.

In closing, Ms. Randall said that any program which is developed must have teeth in order to be effective, especially for those who are low on the pole.

Senator Ray asked whether Ms. Randall had been discriminated against in working for the state because she is a black. She replied that it is hard for a non-minority or a male to understand. It is not that there is clear discrimination, but little things happen. For example, when there is a question in her section, people who are above her will first go to the man who is under her and ask him. If he is not available, they will go to the white woman who is not even in her section and ask her. The end result is that those who have been asked come to Ms. Randall for the answer. Ms. Randall indicated that it is probably because of conscious or subconscious racism. In answer to another question, Ms. Randall indicated that whether the motivation is a personal, individual dislike or racism or sexism, the end result is the same. The cause does not matter. The end result for her as a woman and a black, is discrimination. Senator Ray thanked Ms. Randall for her testimony before the commission.

Brenda Randall-Sadek addressed the commission. She is an Accounting Clerk III for the Department of Transportation and has worked for the state for a year in December without promotion. She first spoke of applying for a position with the Juneau office of the Human Rights Commission. There was a vacancy for an entry level, trainee position which she saw advertised. It required a high school degree, and she has graduated from college. She applied, but received no response. The position was advertised two more times and each time she applied. Only after she went to the office did she receive a letter telling her that she was not qualified for the position.

In the time that she has worked for DOT, Ms. Randall-Sadek said that she has asked to take the state accounting course three times. Her requests have been both oral and in written memos. Although she

wrote that she intended to stay with the department and hoped to be promoted into a position which would require the knowledge the course offered, the only reply she received was written on the bottom of her memo saying "we do send people when we feel that it is related."

Ms. Randall-Sadek said that she had worked at three different clerk desks in the department. When she was in the research section, she learned that her supervisor planned to hire a Tech I. She was planning to leave that section and her supervisor did not want her to leave. He said she was a good worker and encouraged her to stay in the section. However, he did not hire her for the Tech I position, explaining that she was too low on the register. The person who was hired had worked for the department for less time than she had and was a white male. Ms. Randall-Sadek told the supervisor that Tech I's are under-utilized class and he could have hired her if he had wanted to. Furthermore, in her time with DOT she has seen them hold registers for people who they want to hire and justify hiring anyone they want regardless of where they were on the register.

In the time that she has been with DOT, Ms. Randall-Sadek said that the only other minorities she has seen are Filipinos. She asked several people how long they had worked for the department and found that the three or four white people who had been with the department from four to six years all were at the Tech III or Accounting I levels. She knows of two Filipinos who do excellent work and have been with the department for more than five years, but who are still at the Accounting Tech I level.

Ms. Randall-Sadek agreed with Verneelia Randall on the register system and test-taking. Test results depend on your abilities to take tests. However, she said that if that is the system the state is going to use, then they should stick by it, instead of waiting for the people they want to get on the register. Ms. McCurry added that as a personnel officer she calls the tactics Ms. Randall-Sadek mentioned "crafty techniques". All of them are legal. She suggested that the commission should zero in on these practices and fix them. She added that DOT could have called for departmental promotional lists to fill the Tech I position and that probably Ms. Randall-Sadek would have placed well on that register. A second thing at DOT could have done was use the Five-Plus-Five register and gone below the top five to select her. Ms. Randall-Sadek pointed out that DOT cannot use those registers because their EEO plan has not been accepted yet.

Mr. Thayer asked Ms. Randall-Sadek to provide him with copies of her requests to take the training course and added that it is the practice of DOT to use promotional registers. He indicated that he planned to do some checking on the situation.

Senator Ray asked whether Ms. Randall-Sadek's experiences resulted from discrimination against her because of her race or sex rather than being a situation where the supervisor was hiring a friend regardless of who the other people applying for the job were. She replied that the system seems to work most against the blacks and

Filipinos and Indians. Verneelia Randall added that when the system breaks down like this, then white people get caught in it but black people, Indians, Filipinos, minorities get caught in it more. The end result of the race is that since women and minorities are 15 minutes behind to begin with, then when 10 more minutes are added to everyone's time, it makes them 25 minutes behind.

Ms. Jund suggested that the situation might have been better handled if the state's policy were to always provide an EEO register for any vacancy in a job class where underutilization had been shown. The supervisor would have to justify not hiring from that register. This would put it in the proper perspective and get away from the game of crafty techniques.

Senator Ray added that he hoped more people would come to testify and that if anyone used an appearance in front of this commission to discriminate against a witness, that he wanted to know about it because the commission and the Governor would not tolerate that.

Mr. Pax suggested that the state should enforce laws which provide that the state as grantor to political subdivisions can withdraw funding from any grantee who violates anti-discrimination laws. Senator Ray said that he would ask the Legislative Affairs Legal Division to research the area to insure that the laws in effect were adequate.

Ms. Jund suggested that the commission propose legislative intent to insure that any training funds are used proportionately to categories of people to enhance upward mobility. Senator Ray replied that legislative intent is not enforceable and that the language could be put into a statute. He added that he expected that the departments would resist the suggestion. The commissioners would come before the legislative committee and say that where they really needed training funds is for the specialized classes.

Brenda Knapp, a planner with the Central Council of Tlingit-Haida Indian Tribes of Alaska addressed the commission. She indicated that the council would be submitting testimony in written form to the commission and that she wanted to share the introduction now.

Alaska Advisory Committee to the United States Commission on Civil Rights produced a report and initiated a series of open meetings in the fall of 1978, including a meeting in Juneau on 11 September, 1978 and the findings of the Alaska Advisory Committee were published in July, 1980. To date, 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.

In April, 1978, Native people held 518 jobs in state government. This figure represented 5.4% of the total state government workforce. Today, November 3, 1981, 3-1/2 years later, according to figures just released by this commission, Native people hold 5.4% of jobs in

state government workforce. There has been a rise in actual numbers that went from 518 to 694, but the percent of the total state government jobs has not changed, 5.4%.

In other words, despite all of the talks, meetings, reports, plans, commissions, etc., which have taken place during the past 3-1/2 years, Native people in Alaska have not improved their representation in the workforce of state government. Although 16% of the state's population is Native, less than 6% 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 paraprofessional categories. Very few professional and management positions are held by Native people. The underrepresentation and underutilization of Native people affects most job categories and departments of state government. In fact, in nine of the 15 departments of the Executive Branch of state government, the representation of Alaska Native people has declined between April '78 and September '81. Of the remaining six departments, four increased the representation that Native people by less than 1% over earlier figures. Two departments, Community & Regional Affairs and Natural Resources appear to have made substantial gains. But, we have no information as to what really resulted in these gains.

It would appear that the commitment so clearly stated in Administrative Order No. 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 3-1/2 years have provided necessary and useful mechanisms to help state government recruit, select, hire, promote and retain minorities in state employment. 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, represent only the first few steps in an overall plan that must produce results in numbers, rather than intentions.

Senator Ray asked Ms. Knapp whether she knew how many state jobs had been contracted out to Native Corporations. These positions would therefore no longer show up in state employment figures and would probably have been held largely by Native Alaskans. Therefore, the number of Native state employees would have decreased, although the number of employed Natives would not have. Ms. Knapp replied that she did not know. However, she pointed out that since the jobs are no longer part of any of the figures on state employment, that she did not consider them relevant to this question. Of the remaining positions, the state should have been able to do better than maintain 5.4% Alaska Natives over the last three years. Good intentions are not translating into action. She pointed out that many Native people were working under CETA positions and that these programs are being eliminated as a result of the current economic trend. These trainees are available for employment.

In answer to another question from Senator Ray, Ms. Knapp said that she did not know whether the number of Native Alaskans who are applying for state jobs has increased or decreased since 1978, but that there are a significant number of Native people who are now unemployed

and who would like to work. If their number has substantially decreased on state registers, then the important question is "why". Senator Ray agree and said that what the commission is trying to discover is whether there is a discriminatory attitude or whether there is some other problem. Ms. Knapp pointed out that the Native Corporations are able to find, recruit and employ qualified Native people. The state government should also be able to do that. She indicated that the written testimony which the council will provide will include specific recommendations on what the state might do to improve opportunities for Native Alaskans.

Senator Ray thanked Ms. Knapp for testifying.

Mary Lisack, Affirmative Action Officer for the University of Alaska, Juneau, addressed the commission. She reported that the University has been under a compliance review by the federal government since the early 1970's. If it does not show progress in affirmative action, it will lose its federal funding. The University's Affirmative Action Office is under top management rather than part of the personnel office. Her responsibility is to monitor and ensure compliance with affirmative actions plans and employment opportunities. One of the ways in which the University tries to eliminate discrimination is through ensuring that job qualifications are job related. The affirmative action officer has to approve all job qualifications for positions open at the University. The qualifications must be job related. For example, there is no reason that a secretary has to have graduated from high school to do the work. For a large portion of jobs, the qualifications are simply knowledge, skills and ability sufficient to perform the duties of the job. For example, if one of the duties is budgeting, the University will consider that handling a household budget demonstrates the person has the skill to handle that portion of the job.

The University maintains flow charts for every protected group person who applies for a job. The rejection of that person has to be justified on the flow chart. All hiring has to be approved by the Affirmative Action Officer to ensure that the selection process has not been discriminatory. According to the University Affirmative Action Plan, preference is given to members of protected groups wherever applicants are equally qualified.

This year for the first time, the University has funds for staff development. It has earmarked a portion of those funds for training for protected persons, in order to better attract, retain and promote them.

Ms. Lisack pointed out that you can't successfully force affirmative action on a hiring authority. Where a hiring authority, with the agreement of others in the office, has selected a non-protected person, the Affirmative Action Officer cannot require that a protected person be hired. The other employees in the office will say that the only reason for the hire was because of the person's race. The protected person will be made to feel extremely uncomfortable and will probably terminate early. Hiring authorities and co-workers need to be educated. The University does not hire unqualified people. But supervisors need to be trained in how to deal with these situations, how to work with the

people they supervise, how to train them to deal with cultural barriers that exist. One hiring authority complained to her about a minority person who had been hired, saying that she could not do the work. But that was not the problem. When Ms. Lisack went to the office at lunch, everyone went out together leaving the protected person sitting there. The hiring authority made no effort to correct the situation. Instead they said that the person could not function.

In answer to a question from Mr. Huston, Ms. Lisack explained that the University testing is done by reviewing written applications and then interviewing the applicants. They also give typing tests where production typing is required.

Senator Ray thanked Ms. Lisack for her testimony.

A woman in the audience asked about hiring the handicapped. She asked whether the statistics in the commission memos included handicapped in the "Other" category. Ms. Cramer replied that the memo was addressed only to the racial make-up of the state workforce.

Ms. Randall pointed out that there is a problem in getting handicapped state employees to speak out. She conducted a voluntary survey and asked handicapped employees to identify any concerns they had. Few of the questionnaires were returned, and most of those said that there were no problems. Ms. Randall indicated that she suspected that handicapped individuals have a harder time and are more reluctant to identify themselves. For example, if handicapped individuals are to work at their highest capacity, they should be provided with desks and other equipment which best meets their needs. Handicapped individuals are not seen in state employment, particularly where their employment would require a change in the office environment. Perhaps the commission should try to find out why they are not there.

Senator Ray pointed out that in all the time that the commission has been in existence, there has not been one complaint from anyone representing handicapped people. John Pugh added that the Governor's Special Commission on Hiring the Handicapped is a very active group and does a very good job addressing this problem. For the Blue Ribbon Commission to look at the area would be an unnecessary duplication. Ken Kareen pointed out that the Division of Vocational Rehabilitation has counselors who look for job opportunities for handicapped people, either with the state or with private employers. For a position with the state, the counselor can make the referral, the person can be hired as a provisional employee and after four months on the job they can be made permanent. Ms. Jund added that Vocational Rehabilitation also provides training. Another woman asked for a definition of handicapped and wondered why alcohol and drug abuse has been added to it. Mr. Fisher responded that they have been added. The Department of Natural Resources received an award from the Governor's Council for placement of 25 handicapped persons with 80% retention since January, 1981.

Senator Ray pointed out that the Constitution of the State of Alaska provides for a merit system. The state government is supposed to employ people according to their merits. Wages and fringe benefits are

attractice and many of the top class of workers in the state are applying for state jobs. The state should get the best employees they can for the money they spend. That's the way a merit system works. He added that those handicapped persons he has been associated with were the most accommodating people and the best workers. The supervisor will recognize the capabilities of the person and provide the equipment that they need.

The woman indicated that she still had a problem with the definition of handicapped. Mr. Kareen indicated that Vocational Rehabilitation uses federal guidelines because so much of their funding comes from the federal government. Senator Ray added that the legislature tried to prepare legislation to provide for free ferry rides for senior citizens and handicapped individuals, but the word "handicapped" was so hard to define to insure that it included those who should be included, but to exclude those not genuinely handicapped, that they had to give up. They have worked on the problem over the interim and developed another definition which will probably be closely examined next session.

Senator Ray asked the commission whether they wanted to hold an election for the vice chairman's seat. Mr. Huston moved that the matter be held over to a later date. The motion passed without objection.

Senator Ray adjourned the meeting at 4:20 p.m.

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BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT
State Capitol, Juneau, Alaska
October 5, 1981

MINUTES

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

Senator Ray advised the commission of the Letter of Intent passed by the Legislature when it provided funding for the commission. He asked the members to consider the question of affirmative action and minority hiring within the framework of the provision of the Alaska Constitution calling for a merit system for state employment. Ken Kareen pointed out that the constitution also requires that there be equality of citizens regardless of race, and that the framers of the Alaska Constitution would probably not see a constitutional conflict between those provisions. Jack Chenoweth commented that he found it hard to believe that the state's provisions on the merit system would exclude Alaska from having an affirmative action program. At least the constitution gives equal weight to affirmative action and probably the courts would find that helping people to apply for positions with the state would be enhanced by the provisions of the constitution.

Senator Ray added that affirmative action should mean that every citizen has an equal opportunity to apply for jobs. But what is the use of having a testing and classification system if the state is required to hire, for example, 10% Native Americans and 10% Eskimos regardless of qualifications. He added that the state should, in its approach to affirmative action and other programs, recognize the distinct cultural differences between Eskimos and Alaska Natives.

Senator Ray asked whether females should be considered a minority group. Fred Muller answered that women are classified as a "protected class" because there is an institutional bias which has resulted in lower pay for women. In the past, they have been barred from entry to a number of positions.

Mr. Kareen suggested that for continuity, the commission should use the federal government classifications and those that the State Human Rights Commission has established. Senator Ray disagreed. He asked whether this is a first step towards eliminating the merit system.

Darlene Livermore replied that this would not be a step to either eliminate or harm the merit system. Senator Ray added that he

wants to see more minority individuals employed in government, but how can that be done without reverse discrimination?

Greg O'Claray pointed out that if the state has an affirmative action program then, in effect, they are using two hiring systems -- the merit system and another.

Senator Ray commented that the majority of complaints of discrimination against women which the commission has heard appear to have resulted from personality conflict rather than from outright discrimination.

Ms. Livermore pointed out that it depends on how you define discrimination, whether you are looking at covert or overt acts. Covert discrimination is more insidious because it doesn't leap to the surface, you have to look at patterns to identify it. APEA would normally refer a charge of discrimination to the Human Rights Commission. To establish a charge of covert discrimination requires prolonged investigation. You have to consider comments made over a long period of time and work assignments given. There are certain kinds of jokes which may be accepted as humor, but may also reveal a discriminatory intent behind the surface. It is difficult to bring covert discrimination to the surface. In the case of people who are labeled trouble-makers, they frequently become trouble-makers because they want to stand up for themselves, to ease the tension they are feeling.

John Pugh suggested that the commission focus on the under-utilization of women and minorities, on problems of getting on the state's registers and on looking at whether positions are overclassified.

Senator Eliason pointed out that the state does overclassify positions. What is the interest of the state -- getting the best qualified person for a job or providing equal opportunity for all of its people?

Bill Huston added that the Department of Health and Social Services has sent directives to the correctional institutions to try to hire minority applicants, but very few appear on the state's registers. He used to believe that recruitment should be the responsibility of the Division of Personnel, but perhaps the departments should recruit on their own.

In response to the question of overclassification of positions, Mr. Kareen related that several years ago the Governor's Commission on Minority Employment formed a subcommittee which considered every classification in the state. They recommended substitutions for educational requirements in a number of classifications, and now there are very few jobs which have an absolute requirement for educational background. Relevant experience has been substituted. But for people living in rural areas of the state, frequently there is neither the opportunity for academic training nor for gaining the substitute experience required.

Occasionally when an individual does have both the education and the training, he may still be lower on the eligibility list.

Since last spring, Mr. Kareen continued, the state has been using a new hiring system called the Five-Plus-Five system, which allows managers to consider not only the top five applicants on the eligible list but also the top five members of a protected class which has been shown by the department's Affirmative Action Plan to be underrepresented in the department's workforce. Underrepresentation deals with many things. Where the administration recognizes that they do have a shortage of women or minorities, candidates frequently do not exist in the labor force for that position or for work in that location.

Senator Eliason pointed to startling employment figures from the Annual Affirmative Action Report of 1981 which show that of a total of 10,479 employees in the Executive Branch of State Government, only about 250 are Alaska Native. (Page 13 of the Report).

Mr. Huston reported that the Department of Health & Social Services just completed a Prisoner Profile Study which was published on August 10, 1981, and shows the racial composition of the Alaska Correctional Institutions. Senator Ray directed the commission staff to request a copy of the Profile from the Division of Corrections. He also asked the staff to ask the Limited Entry Commission for a breakout on the number of permits originally issued to Natives and to Caucasians and the numbers presently held.

Senator Ray asked the commission to consider the goals it wished to pursue in this project and the things which should be looked at. Senator Eliason suggested the classification procedures and asked who writes the class specifications. Mr. Kareen answered that the position descriptions for each position in the classified service are written either by the employee holding the position or by his or her supervisor. From those position descriptions, the Division of Personnel writes the generalized class specifications.

John Pugh suggested that the commission should look more closely at underutilization of women and minorities. It is not clear how many members of those protected classes are actually on registers. Mr. Kareen pointed out that in Alaska the registers identify the race of ethnic background of applicants. The law permits that kind of identification where the purpose is permissible. It would not be permissible to show race or sex if that information was to be used for discrimination. Mr. Pugh suggested that to decide whether there has been discrimination, you have to know whether there have been minority applicants who have not been hired. It may be that the underutilization results from a limited labor pool, that minority workers are not interested in working for the state government in that job class. Then the solutions to underutilization should focus on increased job training.

Mr. Huston asked how many minorities apply for work but fail to qualify and be placed on the register. Mr. Kareen answered that the Division of Personnel hopes to be able to provide that information soon. They are developing a program to provide data on how many people have applied, how many were tested, then how many were placed on the register. All applications will be entered into the system. Mr. Muller pointed out that since the question on racial and ethnic background on state applications is voluntary, the data captured will not be an entirely true representation of those who have applied for state employment.

Mr. O'Claray noted that the Human Rights Commission Report for 1980 on page 44 shows that of the new cases filed, 51% were filed by Caucasians and 25% were filed by Blacks. Fifty-three per cent were filed by females.

Mr. Thayer suggested that it is also important to consider where the job is. Many Natives do not want to leave their villages. Rep. Fuller agreed. Many people choose to follow their cultural traditions, and prefer to be able to leave work for the spring seal hunt, for example. Mr. Muller added that temporary and nonpermanent employees are excluded from the data on state employees which the Division of Personnel is developing.

Senator Eliason asked whether it would be possible to find out the number of full time state jobs located in the Bush which are filled by Caucasians and by Alaska Natives. Mr. Kareen responded that the data exists for the executive branch, but that it would take considerable time to extract it and put it in a usable form. Rep. Fuller added that there are few state jobs in the villages. Most are located in Kotzebue, Nome, Bethel and Barrow.

Senator Ray suggested that educational requirements for state jobs are too strict. Mr. Kareen replied that the largest number of complaints which the Division of Personnel receives about minimum qualifications are from administrators who say the requirements should be stricter because the lists contain too many people who cannot do the job.

Mr. O'Claray asked about current state practices for increasing the number of women and minorities hired. Mr. Pugh explained that expanded certification is used to meet affirmative action plans. Senator Ray asked whether that short circuited the merit system. Mr. Kareen replied that the courts have disagreed about whether considering race for the purposes of meeting affirmative action goals was constitutional or not. In the Bakke case, Mr. Bakke won, but the court did say that race could be considered. Mr. Thayer added that whether a department uses the expanded certification is an individual departmental choice. If a supervisor has 10 employees who are all white males, then he may decide that for the next vacancy he will hire a woman or a minority

person. He fills out a form and requests an expanded certification. He will get a person who is qualified to do the job, but not necessarily the most qualified person for that job.

Senator Eliason asked how frequently the departments evaluate the progress they are making on their affirmative action plans. Mr. Thayer replied that it depends on the individual department and the Division of Equal Employment Opportunity. For example, DOT has a large staff in their EEO section, and they provide information every month. Mr. Muller added that the EEO Division in the Department of Administration recently began to monitor the statistics closely. There may be a realistic problem in requiring that applicants from a protected class must be hired for some positions. There is also a question, however, of whether ranking on the register actually reveals an ability to perform the job. He added that there are two basic time periods to consider in looking at discrimination. The first is from the time of application to the time of hire. Once members of protected classes become state employees, then that's a separate area.

Senator Ray asked Mr. Chenoweth if he could provide the commission with a paper discussing his views on the compatibility of minority hiring programs with the merit system in the constitution.

James Fisher, Director of the Division of Equal Employment Opportunity addressed the commission. Mr. Fisher explained that he is new to the EEO Division and that he is still learning what has been done, how it is done, and what the division's mission is. The division, under Administrative Order 59 of June, 1980, is to provide management assistance to the executive branch in affirmative action functions, in training functions, and in complaints procedures - to pick up errors in the system. Mr. Fisher said that he is contacting each commissioner of the state government departments to review their EEO systems and to learn how things are going.

Senator Ray asked whether there were any questions for Mr. Fisher. There were none. Senator Ray thanked Mr. Fisher for addressing the commission.

Senator Ray reviewed what the commission needs to do and suggested that one of the statistics it would be helpful to obtain is the percentage of Alaska Natives in the group of employees working in Range 16 and under. Mr. Kareen pointed out that in the information Senator Ray asked for, the Labor Trades and Crafts positions are not covered, since they are on a different salary schedule. Mr. Muller said that the state is in the process of developing statistical tools to track all employees by race, sex, and full employment history (whether they are promoted or not, for example). That statistical review is a year or two away from being operational, however.

Mr. Chenoweth suggested that perhaps the state should consider the diversity of its population. The difference between the state's approach to hiring and the Bureau of Indian Affairs' approach when each had positions in the Bush was that the BIA positions required ability to speak the local language in addition to English. Perhaps the state should consider requiring bilingual speakers for social service positions in the Bush. That would be one way of avoiding a direct consideration of race or ethnic background in hiring. Senator Ray pointed out that many of the social services positions in the rural areas have been eliminated because the state has contracted with Native Corporations to perform those services. Senator Ray asked the staff to check with the Department of Health and Social Services and the Division of Personnel on the number of state employees lost when those services were contracted out. Those positions may have previously been filled by minority group members and those employees may have remained on the job and become employees of the contractor instead of the state. Senator Ray recessed the meeting for lunch at 11:45 a.m.

Senator Ray reconvened the meeting at 1:35 p.m. and reviewed the memo on the status of the bills sponsored by the commission last legislative session. Terry Cramer advised the members that the Senate State Affairs Committee is holding a teleconference hearing in Anchorage on Monday, October 12th, to consider retirement bills.

Senator Ray asked Roger Thayer to review the memo concerning the Marine Highway System hiring procedures. Mr. Thayer explained that all applications for employment on the ferries are group scored and that hiring is done by groups. If there is an opening, then the division contacts all applicants whose scores fall in the top group. Those who respond are interviewed and the selection is made. When the top group has been exhausted, then hiring proceeds from the second group, and so on. However, it's getting harder to find work in the ferry system, and they are beginning a period of reduction in force, so there will be even fewer jobs.

Senator Ray asked why the division could not accept applications all year long. Mr. Thayer explained that there was a discrimination suit filed several years ago which resulted in an agreement that applications would be accepted only for a limited period which would occur before any selections were made. The division advertizes in 32 newspapers around the state beginning in January of each year and accepts applications from February 15 to March 15. The applications are then graded and grouped and selection begins in late March or early April.

Mr. O'Claray asked whether they hired from any source other than those applications received during the "window period". Mr. Thayer replied that for entry level positions, those applications were the only

ones considered. However, for higher level positions, the division accepts and considers applications received all year long. He added that the division has not hired an able-bodied seaman from outside the system in two years.

Mr. O'Claray added that the most frequent complaint he hears is not being able to file an application until February. Senator Ray pointed out that the division's public image would improve if the application period were longer. Mr. Thayer indicated that he thought it might be possible to extend the period from 30 days to 60 days, but that he was uneasy at making it as long as 120 days. The reason for the limited period is to insure that all applications are processed before hiring starts.

Senator Ray asked whether there were any other matters before the commission. Ms. Cramer answered that the commission had received documentation from Betsy McGuire who had applied for a Project Coordinator, Range 18 position in Juneau. Initially, the Division of Personnel advised her that she did not meet the minimum qualifications. Ms. McGuire was successful in having the division staff review her application and her score is now 103.65. She submitted this material to the commission for its information.

Senator Eliason asked whether nonresidents make more money than residents on the ferry system. People in his area believe that they do. Mr. Thayer explained that nonresidents are paid less than residents, but that within the Marine Highway System there are two different salary scales - one for the Southeast Alaska ferries and one for those in Southwest Alaska. In Southeast, the monthly wage is based on 240 hours per month while in Southwest it is based on 182 hours per month. Nonresidents are also responsible for paying their own travel expenses to and from Alaska.

Mr. O'Claray suggested that someone from the Human Rights Commission be invited to the next Blue Ribbon Commission meeting and that they be asked to compare the number and kinds of complaints they receive from the public sector as contrasted with those they receive from the private sector.

Senator Ray asked Mr. Fisher whether the Division of EEO has any outstanding complaints on file. Mr. Fisher replied that there are complaints and that the division is in the process of getting a better handle on what has been filed against the state because of the Governor's requirement that all complaints be served on the EEO Division.

Senator Ray announced that the position of Vice Chairman of the commission is vacant and asked members to consider the question so that the position can be filled at the next meeting. He asked whether

there was any objection to a meeting in Juneau around the 1st of November and then a public hearing on the issues before the commission in Anchorage about two weeks later. There was no objection. 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
February 11, 1981

MINUTES

Senator Bill Ray, chairman, called the meeting to order at 1:30 p.m. Roll call showed all members or alternates present except Don Fisher, Representative Buchholdt, Myrt Charney, Bruce Cummings, Senator Eliason, Greg O'Claray and Fred Muller. The commission began review of the draft of the report to the legislature. Mr. Cummings, Mr. O'Claray, Senator Eliason and Representative Buchholdt arrived.

During the discussion of Section 9, amending AS 39.25.120, page 12 of the report, Mr. O'Claray raised a question concerning the status of employees in the Division of Labor Relations. Mr. O'Claray asked whether those employees negotiate their own salaries. He suggested that it might be more appropriate to place them in the partially exempt service instead of in the classified service.

Mr. Cummings replied that recently those employees had petitioned the Labor Relations Agency to be removed from membership in the Confidential Employees Association. The petition was granted and they are now members of the classified service, but not members of any of the unions which represent state employees. Their salary schedule is the same as the schedule for partially exempt employees. There are 11 or 12 employees in the state who are in the classified service but not members of any collective bargaining unit.

Lynda McCurry added that CEA had released the employees from membership after studying their request. There is nothing to prevent those employees from petitioning the Labor Relations Agency at a later time to be placed back in the CEA membership.

Mr. Cummings pointed out that membership in the classified service insured that selections were made on the basis of merit and that there were some protections for the employees from arbitrary action.

Mr. O'Claray moved that AS 39.25.120 be amended to include the director, deputy director and all of the 12 employees in the Labor Relations Division of the Department of Administration. Discussion followed. Lynda McCurry pointed out that there are clerical employees included in the motion who remain members of the Confidential Employees Association. Their job duties do not directly involve them in negotiations for the state.

Frank Flavin said that the partially exempt and exempt services were created so that the administration can set and control its management policies. It is appropriate to expect that when there is a change

in administration, there will be a change in the division to reflect the new administration's policies. Senator Ray added that collective bargaining negotiations are a sensitive and important area in which the administration should have full control over policies.

Bill Huston pointed out that if the employees were placed in the partially exempt service, persons selected would not have to meet the minimum qualifications as is now the case. Lois Jund added that leaving the positions in the classified service provides a career ladder for those individuals and makes the positions more attractive to qualified people.

Mr. O'Claray amended his motion to provide that the clerical employees who are presently members of CEA should remain in the classified service. Those employees who would be placed in the partially exempt service are: director, deputy director, personnel analysts II, labor relations analysts II, labor relations analysts I, senior negotiators, and research directors. A roll call vote was taken:

Yeas: Senator Bill Ray; Representative Thelma Buchholdt; Senator Dick Eliason; Frank Flavin; Representative Jack Fuller; Greg O'Claray; John Pugh; Cherie Shelley.

Nays: Bruce Cummings; Lois Jund; Lynda McCurry; Bill Huston.

Absent: Don Fisher; Myrt Charney; Fred Muller.

The motion carried.

Bruce Cummings suggested that paragraph (9) of AS 39.25.120 in section 9 of the bill be amended to more clearly state that additional special assistants may be created by the Personnel Board pursuant to AS 39.25.130. There was no objection to the change.

Frank Flavin pointed out a problem in section 13, AS 39.25.150-(17). The word "citizen" has been interpreted to exclude resident aliens. He suggested changing the word to provide for grievances from the general public. There was no objection.

Senator Ray suggested that an effective date of July 1, 1981 be added to the bill. There was no objection.

Senator Ray asked whether the commission favored adopting this part of the report and sponsoring the bill amending the State Personnel Act as amended in the meeting. Without objection, the motion carried.

The commission turned to consideration of the section of the report on the nepotism bill. Roger Thayer advised the membership of a

problem in the present draft of the bill. Subsection (a) prohibits the hiring of someone related to the person doing the hiring. That prohibition could make it impossible to find employees to fill positions in the rural areas of the state. He suggested deleting the phrase referring to the person doing the hiring. Without objection, the motion carried.

The commission discussed the draft bill limiting the adjustment of retirement benefits and the section of the report concerning that bill. Lois Jund suggested that the report be redrafted to reflect the fact that there were many retired Alaskans in the situation described. There was no objection. There were no other changes proposed for that section of the report.

The commission reviewed the section of the report on the bill amending the membership of the Public Employees Retirement Board. There were no objections to its adoption.

The commission reviewed the section concerning the bill applying the Administrative Procedure Act to the adoption of regulations by the state retirement systems. There were no objections to its adoption.

The commission reviewed Chapter II of the report, concerning "Unresolved Personnel Issues". Senator Ray advised the commission that the legislature does not presently have a classification system for their employees. He indicated that he intended to suggest to the presiding officer of each house of the legislature that the Blue Ribbon Commission be delegated the task of drafting a uniform code for hiring and employment practices for the legislature. He added that he also intended to request that the commission be extended for another year. He asked whether there were any objections. There were none.

Senator Ray introduced Chief Buehler from Kotzebue who was a guest of the commission.

Senator Ray advised the commission of correspondence concerning credit for service in the state retirement systems. The Chief of Police of Seward wrote that he was not able to purchase three years of employment with the municipality into the state retirement system. Under the current law a police officer must work for the state for three years before he is eligible to purchase prior law enforcement time into the PERS.

Bruce Cummings explained that originally the retirement law provided that the only extra time for which retirement credit would be given was for employment with the Territory of Alaska. That service was credited without charge to the employee after he or she had worked for the state for at least five years. The period of required employment was then shortened from five years to three and other kinds of service

were added to the list.

Bill Huston added that the concern of law enforcement officers is that the work is for consecutive years, and yet some of the time counts toward retirement credit and some does not, depending on the agreement between the state and the municipality.

Senator Ray suggested that Bill Huston, Bruce Cummings and Terry Cramer investigate the question and consider whether there is merit in amending the statute. Bruce Cummings suggested that it would be more appropriate to include a referral to someone within the Division of Retirement and Benefits. Senator Ray directed the commission staff to pursue the matter.

Greg O'Claray raised an issue which had been brought to his attention. An individual has been a state employee for a number of years and is now placed in the position of losing seven years of retirement credit. He worked as a vessel employee on the state ferries. Then, in 1977, he was appointed to work as port captain. When that happened, he was no longer eligible to participate in the Taft-Hartley Trust Fund which is the retirement system for marine highway employees. At the time that he accepted the position onshore, he was assured by the Division Director of Retirement and Benefits and by Bill Hudson in the Division of Marine Transportation, that he would be able to transfer his period of service with the Taft-Hartley trust into the state retirement system. He therefore accepted the appointment at reduced pay with the understanding that his retirement benefits payments would continue. The Taft-Hartley trust requires 10 years of employment before a member is vested.

In fact the information which he was given was wrong, and he has now been told that he cannot receive credit with PERS for his period of employment on the ferries which was covered by the Taft-Hartley trust. He is left having to consider suing the state.

Senator Ray suggested that Greg O'Claray and any other interested members be constituted a subcommittee to call on Mr. Hudson to ask for his statement and report to the commission. Bruce Cummings pointed out that as a trustee on the NW Marine Highway Trust he has become familiar with the case. Commissioner Hudson does not dispute the facts. He advised the individual that he could transfer his Taft-Hartley service to the PERS system and that was an error. Mr. Cummings suggested that it might be appropriate to consider amending the PERS to allow time with any other retirement system to be credited with PERS under certain circumstances.

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

MEMBERS IN ATTENDANCE

Senator Bill Ray, Chairman
Representative Thelma Buchholdt
Bruce Cummings
Senator Dick Eliason
Frank Flavin
Representative Jack Fuller
Lois Jund
Lynda McCurry
Greg O'Claray
John Pugh
Cherie Shelley
Bill Huston

OTHERS IN ATTENDANCE

Roger Thayer
Robert Maurant
Darlene Livermore
Donald Buehler

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BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT
State Capitol, Juneau, Alaska
January 8, 1981

MINUTES

Senator Bill Ray, Chairman, called the meeting to order at 10:05 a.m. The commission began consideration of the draft bill on nepotism. Senator Ray asked for objections to the commission sponsoring the bill. It was noted that APEA had registered its objections to the bill at a previous commission meeting. Bill Huston pointed out that nepotism laws will prevent a child pursuing the same choice of career with the state as his or her parent. Sandra Withers suggested that the disadvantage of that limitation should be weighed against the alternative, which is the appearance of favoritism given whenever a close family member is employed in an office headed by another family member. Frank Flavin added that he would prefer to see the statute focus on the basis of the hire rather than on the existence of a relationship. Many of the complaints which the Ombudsman receives are based on relationships which are as close as marriage without there being any formal legal tie, rather than on a relationship which the draft bill would address. Senator Ray called for objections to the commission pursuing this bill. Doryce Eggleston, Frank Flavin and Bob Mourant objected.

The commission next considered the draft bill amending the State Personnel Act and discussed the bill section by section.

In Section 4, page 2, line 2, the amendment to existing law was deleted, leaving the line reading "authorized by this chapter".

In Section 7, page 3, line 21, the word "and" was changed to "or", to make the phrase read "temporary or special inquiry".

The commission discussed the section concerning procedures for amending the Personnel Rules, Section 11, which begins on page 7, line 9, and decided to delete the material on page 8, lines 15-28 and to amend the preceding paragraph by adding eligible lists, hours of work, and merit increases to the topics which are included within "matters of public policy".

AS 39.25.150(17). In Section 12, page 11, line 7, procedures for resolving citizen grievances were added to the topics which the rules should address by adding the word "citizen" between the words "employee" and "and".

In discussion of AS 39.25.150(21), Representative Fuller raised a problem which has occurred in the conversion of Fish and Game temporary positions to permanent seasonal positions. He provided commission members with background material and explained that for positions in the bush which used to be classified as temporary positions, the change to permanent seasonal has meant that many fewer local residents are qualifying for the jobs. Permanent seasonal positions must be hired from the

registers, and many residents of the villages in question (Gambell, Savoonga, Diomede, and Shishmaref, for example) either are reluctant to apply at all, or else, because they do not have much formal education, do not score as well as college students when their applications are evaluated. As a result the Fish and Game Technicians I and III who are hired for monitoring marine mammal harvest and collecting biological specimens are more likely to be from Anchorage and Fairbanks than from the local area. This costs the state more because of transportation costs and the technicians spend a substantial period of time initially becoming familiar with the area, rather than being able to begin their substantive work immediately.

Mike McMullen pointed out that the requirement that employees be hired from the register cannot be waived for permanent seasonal positions, while it could be waived by the Division of Personnel if the positions were classified as nonpermanent. Frank Flavin added that block scoring would be appropriate, since to do the job well does not require technical knowledge. This kind of job classification would benefit from essentially a pass/fail application evaluation system.

Senator Ray suggested that the commission authorize him to send a letter to the Governor, perhaps with copies to the Department of Fish and Game and to the Division of Personnel explaining the situation and encouraging the hiring of local residents for these positions. The letter might also be directed to Jerry Reinwand, the Governor's special assistant who had addressed the commission on personnel matters at an earlier commission meeting. There was no objection.

The commission continued review of the bill. In Section 14, AS 39.25.160(i), the word "unlawfully", page 14, line 25, was deleted.

In discussion of Section 15, beginning on page 14, line 28, questions were raised about whether employees who were hired in positions in the classified service only to have those positions transferred into the partially exempt or exempt service have any recourse. Members also asked whether the more routine positions which are presently in the exempt service or the partially exempt service are being transferred into the classified service. Senator Ray suggested that the commission write to Jerry Reinwand asking for a response to the latter question.

Frank Flavin noted that the present draft of the State Personnel Act does not set out a penalty clause. The present statute provides that violation of the Rules is a misdemeanor, but that is not an effective deterrent, since it is rarely enforced. Senator Ray suggested that discussion of the penalty clause should be reserved for future meetings of the commission.

In Section 18, AS 39.25.192, Senator Ray suggested that a state employee's right to make contributions to political candidates and campaigns be listed, since many state employees believe that they are denied this right under the present State Personnel Act. There was no objection. This ended discussion on the State Personnel Act amendments.

Senator Ray brought up recent correspondence to the commission from Donald E. Buehler, Chief of Police in Kotzebue. Chief Buehler has submitted his name for consideration for appointment to the Blue Ribbon Commission. However, since the membership on the commission is full, the commission decided that Chief Buehler should be invited to the next meeting as an observer.

The commission reviewed the draft bill on membership of the Public Employees Retirement Board. The draft dated December 30, 1980 was approved without objection.

The draft bill limiting the adjustment of retirement benefits was under consideration.

The commission considered the draft bill limiting the adjustment of retirement benefits. Lois Jund pointed out that the present draft would not significantly help in the cases about which the commission had initially been concerned. In those cases, the amount of overpayments had exceeded 10 per cent of the amount to which the retired person was actually entitled. Discussion followed. The commission agreed to delete AS 14.25.173(b)(3) page 1, lines 17-18, and AS 39.35.520(b)(4), page 1, lines 28-29.

The commission also decided to eliminate the phrase "which reduces benefits or" from page 1, lines 10 and 20 so that for future payments, retired persons will only be entitled to the correct amount of their payments. A question was raised concerning whether the phrase "credited service with the state" includes territorial service as well as employment after statehood. The commission decided that in order to benefit from the limitation on adjusting retirement benefits, retired people will have to meet all the requirements listed, and therefore decided to add the word "and" between paragraphs (1) and (2) of Section 1, page 1, line 14, and between paragraphs (2) and (3) of Section 2, page 1, line 25.

Paul Arnoldt, Director of the Division of Retirement and Benefits addressed the commission on the retirement bills. He began with a presentation on the bill requiring that the Public Employees Retirement Board comply with the Administrative Procedures Act in adopting future regulations. He pointed out that the intent of the APA is to insure that there is an opportunity for public comment before regulations are promulgated, to provide the Department of Law with an opportunity for review, and to insure that the Governor has input into regulations which are adopted. He indicated that these goals are met by the present system for adoption of regulations. The process of adopting regulations through the APA is involved and if those goals are met now, then it does not seem appropriate to change the system.

Mr. Arnoldt also pointed out that there is a nationwide trend for holding retirement board members personally responsible for their actions which began with the 1974 ARISA Act. It is appropriate therefore

to provide the PERS board members with the tools which they will need to carry out their responsibilities. For example, last session, 10 retirement bills were combined and passed by the Legislature in the closing days of the session. These measures had to be implemented expeditiously. If the board had had to comply with the APA in adopting regulations to put the new laws into effect, then considerable time would have been lost. Lois Jund agreed that many agencies find the APA procedures cumbersome. Frank Flavin pointed out that the APA does provide for the adoption of emergency regulations for that situation.

Mr. Arnoldt continued with discussion of the bill affecting membership of the retirement board. He stated that the provisions of the bill were appropriate and he had no objection to the proposal.

On the adjustment of retirement benefits bill, Mr. Arnoldt stated that he agreed that any errors in retirement benefit payments should be found and corrected quickly, but that the two-year limit imposed by the bill was not really necessary. The appeals procedures presently in the law provide the retirement boards with an opportunity to act in consideration of the circumstances of the retired person and to provide an equitable solution to the error. Since the ARISA Act is imposing personal accountability on private sector retirement boards and since the federal government is expected to impose similar provisions on public sector retirement boards, the authority of the PERS board should not be decreased.

Senator Ray pointed out that while the retirement board has the authority to waive collection of overpayments, they can be quite slow to act. The retired person, who often has only the retirement income to live on, is put through considerable grief and uncertainty. Other procedures which do not put the retired person through that sort of experience should be developed to provide the retirement board with the information and control which it requires. Senator Ray was called away from the meeting and Don Fisher, Vice Chairman of the Commission, chaired the meeting.

Bill Huston suggested that in order to keep the retirement fund solvent, errors should be paid for out of the general fund rather than from the retirement contributions of members and employers. Frank Flavin pointed out that the ARISA provisions are aimed at penalizing board members for improper investments rather than for improper payment of benefits. Greg O'Claray replied that nonetheless, the board cannot sit as a fiduciary and condone improper payment of benefits. They would have to correct the payment and collect the improper back payment unless there were provisions to the contrary in the law. Mr. Arnoldt repeated that he felt that this bill would be taking a wrong turn in the direction of retirement legislation. The national trend is in the other direction. Frank Flavin pointed out that the bill does not take away any present powers, it just states that after two years, the board's power

to act is limited. Mr. Fisher thanked Mr. Arnoldt for coming to the commission meeting and expressing his views.

Mr. Fisher asked the commission to consider when to schedule the next meeting. Wednesday, February 11 at 1:30 p.m. was selected. He adjourned the meeting at 3:40 p.m.

MEMBERS IN ATTENDANCE

Senator Bill Ray, Chairman
Don Fisher, Vice Chairman
Mike McMullen
Frank Flavin
Representative Jack Fuller
Lois Jund
Roger Thayer
Greg O'Claray
Robert Maurant
Doryce Eggleston
Sandra Withers
Bill Huston

OTHERS IN ATTENDANCE

Paddy Moriarty
Paul Arnoldt
John Logan
Ann Wolden

* * * * *

Since the conversion of our temporary help to permanent seasonal positions, we must now hire from a list of eligible applicants on a statewide register, rather than through local Employment Offices. The net result is that normally we must hire someone from outside of the area, as they will be on the top of the list of available applicants. As a result, we usually end up having to pay the individual travel from and back to Fairbanks or Anchorage and often have to provide a subsistence or per diem payment while on the job.

Some of the reasons this happens include:

- 1) Registers are usually open for recruitment for limited periods of the year.
- 2) The time an individual must apply to get on a register is often months away from the time the job will be available.
- 3) Most people indicate they will work anywhere in the State because they know most Technician jobs are of short duration during the summer, and it is an adventurous experience for them. They don't expect to take the same job more than once or twice.
- 4) College students are looking for these type jobs for the experience and money and they will almost always rate higher on the register than someone living say at Gambell, with limited education and work experience.

Some possible solutions include:

- 1) Some preference for hiring local residents.
- 2) More flexibility in getting applicants rated and on registers, by allowing local Employment Offices to examine and rate applicants at the time jobs are actually being filled.
- 3) When it can be demonstrated that hiring a local resident will save the State money, measurably contribute to the success of the program, or provide a more efficient employee, that latitude be granted the employing agency.

January 5, 1981

Maybe an example will illustrate the problem. If we intended to place observers in Gambell, Savoonga Diomed, and Shishmaref to monitor marine mammal harvest and collect biological specimens this summer, here is what we would have to do. The positions would be Fish and Game Technicians I and III's and the registers are only open during December. So, during December we would have to try and contact individuals in those villages telling them to fill out State of Alaska employment applications, and be sure and turn them in for a job that won't start til May. As you know it is most likely that only a limited number of individuals in each village will actually fill them out and send in the application form. Also, anyone who happens to not get the word for whatever reason, but who would be available to work in the summer, obviously will not be on the register.

In April we ask for registers for the positions and find that there are over 100 names on the register, almost all from somewhere other than the four villages that we intend to station the positions. Even if there are individuals from the four villages, they will probably be rated much lower than several of the college students on the register, many of whom will take jobs if they are offered. So instead of hiring someone from the village, we have to hire someone out of Anchorage or Fairbanks, pay their travel to the job site and assist in locating housing for them. For the first two weeks they must spend most of their time getting to know the local hunters.

I should make it clear that I don't have anything against college students working for the Department as seasonal technicians, as they have proven to be exceptional employees, and they need the experience, not to mention money, to round out their education. There are simply some situations where local residents could be a decided advantage to the overall program.

In the past I've recommended hiring individuals in various villages, as part time Department employees to perform a variety of tasks such as, sealing furs, issuing harvest tickets, conducting subsistence surveys, recording harvest by village residents, be a contact person that residents of a village could go to for an explanation of regulations, or to voice their concerns about the effects of various Fish and Game regulations. However, I've backed off pushing the idea the last two budget submissions, because it is essential, for such a program to work, that I be able to hire residents of the individual villages.

There are several advantages to the individuals hired as permanent seasonal as opposed to the old temporaries, but the net result is that Fish and Game is less likely to hire someone from the local area now than we used to two years ago.



RECORDS CERTIFICATION



I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

James O. Smith
Signature of Camera Operator

12/15/89
Date

SCOMM
#51:3B

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

regulations, administrative law, departmental regulations, or in the Alaska Statutes. The council was to discuss the welfare of the community where they were at. It met about four times and then the members of the council lost interest.

In conclusion, Mr. Huston stated that there is no doubt that the state will need a new facility in 1985, and that close custody inmates will make up the majority of its population. There will also need to be provisions in the facility for some maximum custody prisoners. A discussion of parole followed.

John Pugh pointed out that while 32% of the prison population is Alaska Native, they make up only 16-17% of the total state population. He indicated that there is a new prison facility which will open in Nome in two years, and that there are a number of Alaska Natives willing to work in it. The state should be encouraged to train and provide employment opportunities for them. Representative Fuller added that attitudes in the Bush are changing. One of the best things that has happened in that regard is the Village Safety Office program. Instead of sending in a trooper or having the school teacher serve as authority figure, the program enables villagers to take responsibility for themselves in these matters. Mr. Huston indicated that cultural traditions could make it more difficult for Native people to be as aggressive as is required in correctional work.

Mr. Pugh suggested that with the reduction in federal money, and particularly federal money to Native corporations, there needs to be an increase in training programs to develop opportunities for state employment. Senator Ray pointed out that contracting with Native Corporations for services may provide a bridge between the cultures. Representative Fuller added that contracting would provide a mechanism for training in both the skills required and in cultural differences. Mr. Pugh pointed out that it would be an advantage to the state to train local individuals to fill positions in rural Alaska, since there is a large turnover in people brought in from outside to fill those positions. Often rural Alaskans don't know of employment opportunities and therefore don't apply.

The commission turned to a discussion of the difference between a pure merit system of employment and implementing affirmative action plans. James Fisher said that affirmative action plans permit a temporary variance of the merit selection system to overcome past difficulties. Lois Jund pointed out that although the commission hearings were extensively advertised few people had appeared to testify. Many people were probably afraid to come forward. She suggested that more people might speak out if the meeting were held on a weekend or if people were invited to provide written testimony and assured that the commission would hold their identities confidential. She cited figures from page 36 of the 1979 Human Rights Commission report which show that 18% of the state's minority employees held jobs classified as range 15 or above in April 1978 which rose to 22.8% in January of 1980, while 44% of the state's white employees held positions range 15 or above positions in April 1978, and 44.5% did in January, 1980. Similarly, in 1978, 18% of

the state's female employees were in positions at range 15 or above, which increased to 20.6% in 1980. During these same periods, 74.8% of the state's male employees were in jobs classified as range 15 or above in 1978, while in 1980, 75.1% were.

Darlene Livermore pointed out that any complaint about discrimination is difficult to keep secret, since to resolve it, the Human Rights Commission must discuss it with the employer. Mr. Huston added that the Blue Ribbon Commission should consider a Saturday meeting, since any employee wishing to appear would be conspicuous in his or her absence from work otherwise.

Senator Ray asked members whether they had ever received confidential inquiries because of their participation in the commission. Lynda McCurry indicated that several women have spoken with her about being considered but not hired for promotional opportunities. Typically, they were within the top five on the register for the positions involved, and the individual selected was lower on the register than they were. It appears that there may be an "old boys" network, but it is difficult to resolve whether there is discrimination or not.

Mr. Huston suggested that the commission consider recommending a review of departmental and divisional registers to discover criteria which might unintentionally operate to discriminate. Many policies have existed since statehood without anyone questioning them.

Mr. Thayer explained, in answer to another question, that each annual personnel evaluation of a supervisory state employee is supposed to contain a rating on how well that employee is carrying out the department's affirmative action plan. However, he has never seen anyone comment in writing about that factor. Mr. Fisher commented that the Division of EEO is working with the departments on their affirmative action plans. Most have only been in effect for one year. They are presently being revised. The division is also putting out a package of information to encourage affirmative action committees in the departments to use the teleconference network to supplement their meetings, to enhance awareness and for training. He added that he senses a momentum in the EEO division, which was established in the fall of 1978. He hoped it would continue to encourage cooperative activities, to help with preparing the affirmative action plans, with training, and with increasing the awareness within state government.

Lois Jund asked whether the state has a positive recruitment program to help minority persons get on the registers, to encourage them to apply for positions and to advise them of what might be available. Ken Kareen answered that the Division of Personnel has no real outreach recruitment of any kind. The departments do whatever is done. The division does respond to requests for participation in public programs more often if it appears that the audience will be composed of women or minority group members.

John Pugh pointed out one positive note in that area. The Nome Youth Center will be opening in December. The Department of Health

and Social Services with the cooperation of the Division of Personnel recruited extensively to encourage residents in Nome to get on the register. Instead of the usual practice of scoring the tests first and then holding oral exams, they took all of the applicants through the orals and then gave the written exams. However, this kind of change from the normal way of handling applications needs to be planned for well in advance. The department began seven or eight months prior to the time that they knew the facility would be opened. The Division of Personnel has become much more willing in the last few years to work with the departments, despite being inundated with general applications for employment. He suggested that the commission recommend to the departments that to work with the Division of Personnel to come up with creative solutions to the problem of getting minorities on the registers.

Roger Thayer added that most villages now have cable TV. The Department of Transportation uses those scanners to provide information about job openings. Lynda McCurry added that additional resources are available through the Job Service Offices of the Department of Labor.

The commission recessed at 11:55 p.m.

Senator Ray reconvened the meeting at 1:35 p.m. and asked for public testimony.

Florencio Q. Pax addressed the commission. He indicated that he was born in the Philippines and was educated under an American educational system, graduating with an accounting major and later passing the Philippine bar examination. He worked for the government as a quasi-judicial hearing officer for six years and had also worked for 23 years in the accounting field. He served during World War II with American forces in the Philippines but chose not to come to the United States at the end of the war. He recently immigrated to the United States because his wife's family had moved here. He introduced Mrs. Pax to the commission.

Mr. Pax told the commission that Aaron Isaac suggested to him that he apply for the position of the director of the Division of Equal Employment Opportunity. However, Mr. Pax had never seen the vacancy advertised. Senator Ray asked James Fisher, the new director of that division, to let Mr. Pax know why there had been no advertising. Mr. Pax also indicated that he had been a finalist for the Executive Director of the Anchorage Equal Rights Commission. Although he was not finally selected for the post, he did not quarrel with that. However, he was also a finalist for the position of Affirmative Action Officer for the University of Alaska, Juneau. Another finalist for that position told him that the person finally selected was less qualified than she was, and suggested that Mr. Pax should take steps to challenge the appointment.

Mr. Pax indicated that he had reviewed the United States Constitution, and the constitutional provision of the State of Alaska as well as the State Personnel Act, various civil rights provisions, Executive Orders and the equal employment opportunity provisions in the Code of Federal Regulations. He said that he felt that there are adequate provisions of law in this area and that the problem lies in the effective

implementation of those provisions. He suggested that there should be a continuing educational process so that the goals can be effectively met.

On the question of why individuals do not come forward to testify at hearings such as the present one, Mr. Pax suggested that there are a number of reasons. First, there is fear of reprisal. Also, others had suggested to Mr. Pax that individuals do not come before a group composed of white persons to complain about the actions of a white supervisor because they believe that they will not be successful. Mr. Pax added that he does not share this belief. Mrs. Pax also suggested to him that it might be helpful to educate people about the importance of the subject, to encourage them to speak out.

Mr. Pax stated that he has been placed on three registers with the state: executive director of Wage and Hour Officer, as a loan examiner and as a regulations specialist. There were a number of job classes for which he was found not to qualify because the Division of Personnel did not consider his education in the Philippines to satisfy the requirement of graduation from an accredited college or university. Mr. Pax stated that his education had been in the American system and that he is familiar with the curriculum in accounting at the University of Alaska and it is practically the same as the education he received in the Philippines. He also was not credited with his 23 years work experience in the field.

Mr. Pax advised the commission that he and his wife participated in a one-month orientation program when they were first hired by the Seattle Public School District. All persons newly hired were required to take the course which provided information on cultural and ethnic backgrounds as well as topics such as effective communications, office skills, first aid and transportation. He reported that there has been a decision by the U.S. District Court in Oklahoma declaring that a Filipino accent could not be grounds for firing an employee. The case was Karinio (?) vs. University of Oklahoma.

Mr. Pax suggested that there should be separate affirmative action goals for women and for minority persons, and that hiring women should not satisfy the goal for employment of minority persons. He added that he opposes reverse discrimination against whites. In order to meet EEO goals, Mr. Pax suggested that the recruitment system should be computerized to monitor applicants and employees so that it is possible to follow an individual through the application process into the employment history. It should show, for example, whether advanced training for an employee was appropriate and whether he was eligible for promotion. He added that a supervisor should be dutybound to recommend training for a woman or minority person who is qualified for it in order to encourage the promotion of these protected classes.

Mr. Pax concluded his testimony by offering to assist the commission in any capacity, whether as a volunteer or as an employee. Senator Ray thanked him for his testimony and asked whether any commission

members wished to ask questions.

In answer to a question from Lois Jund, Mr. Pax indicated that he believed that minority persons might be more likely to bring their problems to the commission if its membership included minority persons or if there were an intake officer who was a minority person. As an example of what he was suggesting, he pointed out that the Anchorage Equal Rights Commission is composed of nine members, with representation from whites, blacks, Native Alaskans, the Filipino community, and Chicanos or those of Spanish origin, and contains both male and female members.

Verneelia Randall addressed the commission. She has worked for the state for four years, first as a Public Health Nurse and now as the Maternal Child Nurse Coordinator. She is also chairperson for the Department of Health & Social Services EEO Committee. She addressed the commission as a private citizen.

In answer to why so few people chose to speak before the commission, she related reasons given to her by other state employees. These included questioning how many women and minorities would make up the membership on the commission, whether commission members would hold positions of power which could lead to real changes, and the fact that they would have to take annual leave in order to testify. Senator Ray advised Ms. Randall that it is not necessary for state employees to take annual leave to appear before the commission. He indicated that membership on the commission includes the Commissioner of Administration, the Director of the Division of Personnel, representatives of employee unions, the Ombudsman and public members in addition to legislators.

Ms. Randall said that there are two kinds of discriminatory problems, those created by societal habits and those which arise from individual discrimination. Societal problems develop from a system which has not been changed in 30 or 40 years and which have an inadvertent discriminatory effect. Once it is in place, the system tends to resist change, rather than being open to solving the problems which it creates. She gave as an example her own situation. She has a bachelor's degree, a masters, is working on a master's in public health and intends to pursue a Ph.D. in health policy and management. Even then, she will not be eligible for the position of health officer because she is not a doctor, a dentist or a veterinarian. Those requirements were created years ago and may have been appropriate for the position then, but the department has not reviewed them since, even though the health education field has changed significantly.

Ms. Randall criticized testing and experience ratings of applications and pointed out that they work against women and minorities. Tests are culturally based and test a person's ability to take tests more than ability for a job. Experience requirements work against those who have had less opportunity to work. Anyone can learn to take a test and can therefore pass a test. The opposite is also true. For example, until an instructor worked with her on test-taking, she nearly flunked out of nursing school, despite knowing the material thoroughly. After

learning how to take tests, she now does well on them. Because of these problems with tests and experience requirements, the registers work against people from different cultural backgrounds. If they appear at all, they are likely to be low on the registers.

Ms. Randall told the commission that the Governor had recently authorized a new register system in which the names of the top five applicants plus the names of the top five from a protected class are shown for those job classes in which women or minorities are underutilized. The problem with this approach is that it is voluntary. The recruiting agency should be required to hire from an affirmative action register for positions in underutilized job classes.

There is a second type of discrimination -- individual discrimination. It may be either conscious or subconscious. Ms. Randall stated that everyone is racist either consciously or subconsciously. Until we recognize that and work to change it, the implementation of any affirmative action policy will not happen on a regular, consistent basis.

Ms. Randall advised the commission of DHSS statistics on minority and women hires. She suggested that DHSS is one of the best departments because women and minority persons are most likely to be either nurses or social workers or office clerks, and DHSS hires a lot of all of those job classes. The figures are based on the department's EEO plan, which identifies the availability of minorities and women for state employment, as compared to the actual employment.

	<u>Female</u>	<u>Minority</u>
Availability of office clerks	79%	21.1%
Employment by the department	90.3%	17.8%
Availability of officials & administrators	44%	19.3%
Employment by the department	26.7%	11.3%

There is a significant difference between the available market and what is actually happening, even if the figures are off by 5%. Ms. Randall recommended that the state use computers to identify underutilized job classes. When a department requests a register in one of the identified classes, they should get an affirmative action register, whether they wanted it or not. A supervisor should have to justify not hiring a woman or minority person for a vacancy if any appeared on the register. The present system requires the supervisor to justify hiring from below the top five even when hiring for job classes in which minorities or women have been shown to be underutilized.

Ms. Randall acknowledged that this system would be reverse discrimination but pointed out that when you have a relay race and one team started the race 15 minutes after you did, then you cannot expect them to win the race unless you provide some catch-up time. In our society women and minorities began well after the race was underway, and only those minorities and women who are far above the exception even get into the running. You cannot have equal opportunity until society

provides women and minorities a chance to catch up.

Ms. Randall said that she had a personal concern for Alaska. It is unfair to group Alaska Natives with other minorities. Alaska is a state of immigration and many minorities who are highly qualified choose to come here. Statistics show that Native Alaskans, who were here first, get drowned out by blacks, Filipinos and Chicanos who immigrated. While 11.3% of the officials and administrators may be minority, 0% may be Alaska Native. Ms. Randall recommended that in underutilization figures, Alaska Natives should be broken out to insure that they have fair representation and that immigrants not be allowed to take the jobs that they would have had.

Ms. Randall shared another area of concern: that of upward mobility. One problem is the opportunity for training. DHSS provides individual training contracts for its employees. An employee can go to the agency and say "here's a course which relates to my job and will give me added skills and I want to take it." If the agency agrees, it will cover the costs provided the employee signs a contract to remain on the job for a specified length of time. Last year, DHSS had 85 such contracts. There are 71 officials and administrators in the department. Of those, 20% had individual training contracts, while only 4% of the office clerks (who number 421) had them. In answer to a question from Lois Jund, Ms. Randall indicated that she did not know how many applications had been filed for training. She did show that 79% of the officials went out-of-state for their training. None of the office clerks went out-of-state. It's the office clerks who need the training for promotional opportunities. To have affirmative action, the state has to provide opportunities for upward mobility. Therefore, training funds should be part of every budget and there should be some system to insure that a fair portion of those funds reach those on the bottom. If 60% of a department's workforce is classed as officer clerks, then 60% of those employees should be getting training.

Senator Ray pointed out that the legislative finance committees have been reluctant to pay for on-the-job training. The legislators feel that there are requirements which employees should meet before getting the job. The state should not have to pay for it. Therefore, a good share of the inservice training money gets cut from the budget. It's an area which has been abused and is still abused. Ms. Randall replied that it is short-sighted to cut training funds. Recruiting and orienting new employees is more expensive than training existing employees who have proven themselves to be loyal to the state and who will stay in the job for a longer time.

A second difficulty in providing upward mobility is that supervisors may discourage their employees from seeking promotions. If that attitude is to change, it must start at the top. She gave as an example her own promotion to her present position. Her supervisor discouraged her, saying that she wouldn't be able to do the work, and the position was vacant for a whole year.

Ms. Randall agreed with Mr. Pax's recommendations that goals for employment of women and minorities should not be grouped together. Women have different problems and circumstances from those of minorities. Problems women face arise in part from the traditional employment system which is based on the employment of men who could work knowing that their families would be cared for by their wives. That is no longer the case. Single parent families are now prevalent and two-working-parent families are a fact of life. Any employer, whether private or public, will have to recognize that the traditional system of hours of work, work days, and annual leave, was made up for the traditional family system. Day care is necessary for even two-parent working families. The employer should be responsive to that need, although the employee should expect to pay for the care provided. In addition, employers should be sensitive to the needs of working parents. For example, Ms. Randall suggested that women be allowed to take annual leave, sick leave, or leave without pay in order to breast feed children while working. This kind of small accommodation could make a family's life much easier and also free an employee to put more energy into the job.

In closing, Ms. Randall said that any program which is developed must have teeth in order to be effective, especially for those who are low on the pole.

Senator Ray asked whether Ms. Randall had been discriminated against in working for the state because she is a black. She replied that it is hard for a non-minority or a male to understand. It is not that there is clear discrimination, but little things happen. For example, when there is a question in her section, people who are above her will first go to the man who is under her and ask him. If he is not available, they will go to the white woman who is not even in her section and ask her. The end result is that those who have been asked come to Ms. Randall for the answer. Ms. Randall indicated that it is probably because of conscious or subconscious racism. In answer to another question, Ms. Randall indicated that whether the motivation is a personal, individual dislike or racism or sexism, the end result is the same. The cause does not matter. The end result for her as a woman and a black, is discrimination. Senator Ray thanked Ms. Randall for her testimony before the commission.

Brenda Randall-Sadek addressed the commission. She is an Accounting Clerk III for the Department of Transportation and has worked for the state for a year in December without promotion. She first spoke of applying for a position with the Juneau office of the Human Rights Commission. There was a vacancy for an entry level, trainee position which she saw advertised. It required a high school degree, and she has graduated from college. She applied, but received no response. The position was advertised two more times and each time she applied. Only after she went to the office did she receive a letter telling her that she was not qualified for the position.

In the time that she has worked for DOT, Ms. Randall-Sadek said that she has asked to take the state accounting course three times. Her requests have been both oral and in written memos. Although she

wrote that she intended to stay with the department and hoped to be promoted into a position which would require the knowledge the course offered, the only reply she received was written on the bottom of her memo saying "we do send people when we feel that it is related."

Ms. Randall-Sadek said that she had worked at three different clerk desks in the department. When she was in the research section, she learned that her supervisor planned to hire a Tech I. She was planning to leave that section and her supervisor did not want her to leave. He said she was a good worker and encouraged her to stay in the section. However, he did not hire her for the Tech I position, explaining that she was too low on the register. The person who was hired had worked for the department for less time than she had and was a white male. Ms. Randall-Sadek told the supervisor that Tech I's are under-utilized class and he could have hired her if he had wanted to. Furthermore, in her time with DOT she has seen them hold registers for people who they want to hire and justify hiring anyone they want regardless of where they were on the register.

In the time that she has been with DOT, Ms. Randall-Sadek said that the only other minorities she has seen are Filipinos. She asked several people how long they had worked for the department and found that the three or four white people who had been with the department from four to six years all were at the Tech III or Accounting I levels. She knows of two Filipinos who do excellent work and have been with the department for more than five years, but who are still at the Accounting Tech I level.

Ms. Randall-Sadek agreed with Verneelia Randall on the register system and test-taking. Test results depend on your abilities to take tests. However, she said that if that is the system the state is going to use, then they should stick by it, instead of waiting for the people they want to get on the register. Ms. McCurry added that as a personnel officer she calls the tactics Ms. Randall-Sadek mentioned "crafty techniques". All of them are legal. She suggested that the commission should zero in on these practices and fix them. She added that DOT could have called for departmental promotional lists to fill the Tech I position and that probably Ms. Randall-Sadek would have placed well on that register. A second thing at DOT could have done was use the Five-Plus-Five register and gone below the top five to select her. Ms. Randall-Sadek pointed out that DOT cannot use those registers because their EEO plan has not been accepted yet.

Mr. Thayer asked Ms. Randall-Sadek to provide him with copies of her requests to take the training course and added that it is the practice of DOT to use promotional registers. He indicated that he planned to do some checking on the situation.

Senator Ray asked whether Ms. Randall-Sadek's experiences resulted from discrimination against her because of her race or sex rather than being a situation where the supervisor was hiring a friend regardless of who the other people applying for the job were. She replied that the system seems to work most against the blacks and

Filipinos and Indians. Verneelia Randall added that when the system breaks down like this, then white people get caught in it but black people, Indians, Filipinos, minorities get caught in it more. The end result of the race is that since women and minorities are 15 minutes behind to begin with, then when 10 more minutes are added to everyone's time, it makes them 25 minutes behind.

Ms. Jund suggested that the situation might have been better handled if the state's policy were to always provide an EEO register for any vacancy in a job class where underutilization had been shown. The supervisor would have to justify not hiring from that register. This would put it in the proper perspective and get away from the game of crafty techniques.

Senator Ray added that he hoped more people would come to testify and that if anyone used an appearance in front of this commission to discriminate against a witness, that he wanted to know about it because the commission and the Governor would not tolerate that.

Mr. Pax suggested that the state should enforce laws which provide that the state as grantor to political subdivisions can withdraw funding from any grantee who violates anti-discrimination laws. Senator Ray said that he would ask the Legislative Affairs Legal Division to research the area to insure that the laws in effect were adequate.

Ms. Jund suggested that the commission propose legislative intent to insure that any training funds are used proportionately to categories of people to enhance upward mobility. Senator Ray replied that legislative intent is not enforceable and that the language could be put into a statute. He added that he expected that the departments would resist the suggestion. The commissioners would come before the legislative committee and say that where they really needed training funds is for the specialized classes.

Brenda Knapp, a planner with the Central Council of Tlingit-Haida Indian Tribes of Alaska addressed the commission. She indicated that the council would be submitting testimony in written form to the commission and that she wanted to share the introduction now.

Sealaska Advisory Committee to the United States Commission on Civil Rights produced a report and initiated a series of open meetings in the fall of 1978, including a meeting in Juneau on 11 September, 1978 and the findings of the Alaska Advisory Committee were published in July, 1980. To date, 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.

In April, 1978, Native people held 518 jobs in state government. This figure represented 5.4% of the total state government workforce. Today, November 3, 1981, 3-1/2 years later, according to figures just released by this commission, Native people hold 5.4% of jobs in

state government workforce. There has been a rise in actual numbers that went from 518 to 694, but the percent of the total state government jobs has not changed, 5.4%.

In other words, despite all of the talks, meetings, reports, plans, commissions, etc., which have taken place during the past 3-1/2 years, Native people in Alaska have not improved their representation in the workforce of state government. Although 16% of the state's population is Native, less than 6% 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 paraprofessional categories. Very few professional and management positions are held by Native people. The underrepresentation and underutilization of Native people affects most job categories and departments of state government. In fact, in nine of the 15 departments of the Executive Branch of state government, the representation of Alaska Native people has declined between April '78 and September '81. Of the remaining six departments, four increased the representation that Native people by less than 1% over earlier figures. Two departments, Community & Regional Affairs and Natural Resources appear to have made substantial gains. But, we have no information as to what really resulted in these gains.

It would appear that the commitment so clearly stated in Administrative Order No. 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 3-1/2 years have provided necessary and useful mechanisms to help state government recruit, select, hire, promote and retain minorities in state employment. 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, represent only the first few steps in an overall plan that must produce results in numbers, rather than intentions.

Senator Ray asked Ms. Knapp whether she knew how many state jobs had been contracted out to Native Corporations. These positions would therefore no longer show up in state employment figures and would probably have been held largely by Native Alaskans. Therefore, the number of Native state employees would have decreased, although the number of employed Natives would not have. Ms. Knapp replied that she did not know. However, she pointed out that since the jobs are no longer part of any of the figures on state employment, that she did not consider them relevant to this question. Of the remaining positions, the state should have been able to do better than maintain 5.4% Alaska Natives over the last three years. Good intentions are not translating into action. She pointed out that many Native people were working under CETA positions and that these programs are being eliminated as a result of the current economic trend. These trainees are available for employment.

In answer to another question from Senator Ray, Ms. Knapp said that she did not know whether the number of Native Alaskans who are applying for state jobs has increased or decreased since 1978, but that there are a significant number of Native people who are now unemployed

and who would like to work. If their number has substantially decreased on state registers, then the important question is "why". Senator Ray agree and said that what the commission is trying to discover is whether there is a discriminatory attitude or whether there is some other problem. Ms. Knapp pointed out that the Native Corporations are able to find, recruit and employ qualified Native people. The state government should also be able to do that. She indicated that the written testimony which the council will provide will include specific recommendations on what the state might do to improve opportunities for Native Alaskans.

Senator Ray thanked Ms. Knapp for testifying.

Mary Lisack, Affirmative Action Officer for the University of Alaska, Juneau, addressed the commission. She reported that the University has been under a compliance review by the federal government since the early 1970's. If it does not show progress in affirmative action, it will lose its federal funding. The University's Affirmative Action Office is under top management rather than part of the personnel office. Her responsibility is to monitor and ensure compliance with affirmative actions plans and employment opportunities. One of the ways in which the University tries to eliminate discrimination is through ensuring that job qualifications are job related. The affirmative action officer has to approve all job qualifications for positions open at the University. The qualifications must be job related. For example, there is no reason that a secretary has to have graduated from high school to do the work. For a large portion of jobs, the qualifications are simply knowledge, skills and ability sufficient to perform the duties of the job. For example, if one of the duties is budgeting, the University will consider that handling a household budget demonstrates the person has the skill to handle that portion of the job.

The University maintains flow charts for every protected group person who applies for a job. The rejection of that person has to be justified on the flow chart. All hiring has to be approved by the Affirmative Action Officer to ensure that the selection process has not been discriminatory. According to the University Affirmative Action Plan, preference is given to members of protected groups wherever applicants are equally qualified.

This year for the first time, the University has funds for staff development. It has earmarked a portion of those funds for training for protected persons, in order to better attract, retain and promote them.

Ms. Lisack pointed out that you can't successfully force affirmative action on a hiring authority. Where a hiring authority, with the agreement of others in the office, has selected a non-protected person, the Affirmative Action Officer cannot require that a protected person be hired. The other employees in the office will say that the only reason for the hire was because of the person's race. The protected person will be made to feel extremely uncomfortable and will probably terminate early. Hiring authorities and co-workers need to be educated. The University does not hire unqualified people. But supervisors need to be trained in how to deal with these situations, how to work with the

people they supervise, how to train them to deal with cultural barriers that exist. One hiring authority complained to her about a minority person who had been hired, saying that she could not do the work. But that was not the problem. When Ms. Lisack went to the office at lunch, everyone went out together leaving the protected person sitting there. The hiring authority made no effort to correct the situation. Instead they said that the person could not function.

In answer to a question from Mr. Huston, Ms. Lisack explained that the University testing is done by reviewing written applications and then interviewing the applicants. They also give typing tests where production typing is required.

Senator Ray thanked Ms. Lisack for her testimony.

A woman in the audience asked about hiring the handicapped. She asked whether the statistics in the commission memos included handicapped in the "Other" category. Ms. Cramer replied that the memo was addressed only to the racial make-up of the state workforce.

Ms. Randall pointed out that there is a problem in getting handicapped state employees to speak out. She conducted a voluntary survey and asked handicapped employees to identify any concerns they had. Few of the questionnaires were returned, and most of those said that there were no problems. Ms. Randall indicated that she suspected that handicapped individuals have a harder time and are more reluctant to identify themselves. For example, if handicapped individuals are to work at their highest capacity, they should be provided with desks and other equipment which best meets their needs. Handicapped individuals are not seen in state employment, particularly where their employment would require a change in the office environment. Perhaps the commission should try to find out why they are not there.

Senator Ray pointed out that in all the time that the commission has been in existence, there has not been one complaint from anyone representing handicapped people. John Pugh added that the Governor's Special Commission on Hiring the Handicapped is a very active group and does a very good job addressing this problem. For the Blue Ribbon Commission to look at the area would be an unnecessary duplication. Ken Kareen pointed out that the Division of Vocational Rehabilitation has counselors who look for job opportunities for handicapped people, either with the state or with private employers. For a position with the state, the counselor can make the referral, the person can be hired as a provisional employee and after four months on the job they can be made permanent. Ms. Jund added that Vocational Rehabilitation also provides training. Another woman asked for a definition of handicapped and wondered why alcohol and drug abuse has been added to it. Mr. Fisher responded that they have been added. The Department of Natural Resources received an award from the Governor's Council for placement of 25 handicapped persons with 80% retention since January, 1981.

Senator Ray pointed out that the Constitution of the State of Alaska provides for a merit system. The state government is supposed to employ people according to their merits. Wages and fringe benefits are

attractice and many of the top class of workers in the state are applying for state jobs. The state should get the best employees they can for the money they spend. That's the way a merit system works. He added that those handicapped persons he has been associated with were the most accommodating people and the best workers. The supervisor will recognize the capabilities of the person and provide the equipment that they need.

The woman indicated that she still had a problem with the definition of handicapped. Mr. Kareen indicated that Vocational Rehabilitation uses federal guidelines because so much of their funding comes from the federal government. Senator Ray added that the legislature tried to prepare legislation to provide for free ferry rides for senior citizens and handicapped individuals, but the word "handicapped" was so hard to define to insure that it included those who should be included, but to exclude those not genuinely handicapped, that they had to give up. They have worked on the problem over the interim and developed another definition which will probably be closely examined next session.

Senator Ray asked the commission whether they wanted to hold an election for the vice chairman's seat. Mr. Huston moved that the matter be held over to a later date. The motion passed without objection.

Senator Ray adjourned the meeting at 4:20 p.m.

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Testimony of
FLORENCIO Q. PAX
at the
Blue Ribbon Commission of the State Personnel Act
Meeting
November 3, 1981

With the permission of the Chairman and the honorable members of the Blue Ribbon Commission. At the outset I would like to express my sincere thanks for the opportunity extended by your humble letter of invitation from the Commission to express or articulate some problems which although I am new in town is also of concern for me and my family in which I think also would affect also the community in this area. So before I begin, Mr. Chairman, this representation is Florencio Q. Pax. My ethnic background is I was born in the Philippines, I was educated under a American educational system. I finished college as accounting as my major and later on I finished law of the Philippine bar examination and started practicing law since 1964. I served in the Philippine Government under various capacities as a quasi-judicial hearing officer for six years whose duties and functions are similar in some ways of that of the duties and functions of the Commissioner of Natural Resources here in the State of Alaska. I brought along with me my wife who doesn't look, probably, Filipino but looks more of an Indian. Mrs. Pax please stand up.

Senator Ray: Welcome.

Pax: And, four intelligent children, two boys and two girls, who are in the Juneau School District, my two boys are in the senior class 15 and 16 years old and two younger girls, that maybe

I also served under the United States Armed Forces during the Second World War, first as an ammunition carrier as a boy, the youngest probably that ever went to the firing line. And later on I was transferred to be an officers' messboy until the Japanese surrendered during the Second World War. And when the outfit disbanded in Manila I had to return home instead of coming over with some American officers who wanted to bring me over to the United States. So, it was farthest from my thought to come over to the United States as an immigrant. Maybe the reason why I came over was because my wife applied as an immigrant in 1969, she being the oldest daughter of an American citizen who was a Filipino but served in the United States Armed Forces and became a citizen immediately after the war. So my wife wanted to follow the brothers and sister over to the United States. Right now she is the only one who is not a citizen and that holds true with me and my four kids. So we have to establish the residence requirement before we could apply for citizenship as an American citizen. So, with that as a background, Mr. Chairman and members of the Commission, I would like to share with you and articulate before this Commission some observations

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which I feel personally and in representation of the Filipinos in this area, and the other minorities and even women at that. Which I feel would some way alleviate or resolve some of the ticklish problems that are confronting our government and even in the private industry. So if I maybe permitted to search them out I would like to proceed.

Ray: Please do, please do.

Pax: My first inquiry before the commission which is an observation actually, is that I have learned that your EEO Director for the state resigned from his job, as the matter of fact, is now working for the Sealaska Corporation as an Assistant to the President. And jokingly, because we belong to the Juneau Lions Club, when he learned I was no longer working for the City and Borough of Juneau, as the contract compliance officer that prepared the minority and women business enterprise program which is this piece of work, your honor, he was teasing me that I should apply for that job. So I told him, they never published about the vacancy of the position which you vacated as EEO Director of the state. I am referring to Mr. Isaac, Aaron. So I said how can I apply that would give me an opportunity because the position opening is not published? I don't know if that position is still vacant up to now or not.

Ray: No, I don't believe it is. Jamie...

James Fisher: I'm James Fisher, the new Director of EEO.

Ray: You would like to have an explanation perhaps why that job wasn't advertised, is that correct?

Pax: Yes sir.

Ray: Mr. Fisher, would you like to give him an explanation?

Fisher: I don't know if I could give such an explanation, Senator. I might be able to answer him at a later date if I could check.

Ray: OK. Does anybody on the commission know why it wasn't advertised?

(no one indicated that they knew why)

Pax: I ask this, Mr. Senator and the members of the commission, because I just came from Anchorage, I was one of the finalists for the Executive Director position of the Anchorage Equal Rights Commission and I was not lucky to be extended the offer. It was offered to somebody else and I have no quarrel about that. I just recently competed as finalist for the position of Assistant to the Chancellor and affirmative action officer for the University of Alaska. So I was thinking that with my race, background, not only back in the Philippines but here in the United States, along affirmative action, that I would be very much qualified to be extended the offer but I learned from another candidate

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finalist who informed me that she was better qualified than the one who was hired. So I asked her what are your qualifications, and here are my qualifications too, but I wasn't offered the job. So she was trying to insinuate that I should take the proper step to protect not only her rights but also my rights. So I would like to share these observations before this commission this afternoon.

When I came over to Juneau I was working for the Seattle Public School District with my wife, who is an educator by profession. Incidentally, aside from being a certificated teacher in the State of Washington, my wife is a certificated secondary home economics teacher and a guidance counselor here in the State of Alaska. The reason why I am bringing out this background is I will be driving at some problem areas along the recruitment procedures within the state which I feel should be synchronized in order to effectively cope up (?) with employing minorities, women, and even the Native Alaskans, which I observe was one of the problems that cropped up this morning.

I have gone over all the provisions of the United States Constitution, especially after listening to the Chairman that gives me ... American citizen that were admitted legally in court. I have read the constitutional provision of the State of Alaska and the various civil rights provisions, Executive Orders, equal employment opportunity provisions in the Code of Federal Regulations. I feel at this point, Mr. Chairman and members of the commission, that we have adequate provisions of law along the area of implementing equal employment opportunities to women and minorities and even Native Alaskans because there are specific laws that govern this area. I feel from an unbiased observation, honestly Mr. Chairman and members of the commission, that the problem lies in the honest, sincere, implementation of these provisions of law, whether it is the provision of the constitution, which after all was the very basic law under which all these Executive Orders and statutes both state and local have been promulgated or enacted by the distinguished senators and congressmen. So my view is there should be a more sincere and honest implementation of these provisions of the law. In other words, from the director, if I may say so, or the commissioner down to the supervisor, there should be a continuing educational process along these provisions of law in order that we can effectively meet the goals that is called for under these provisions of the law.

Because as I pointed out, and as was pointed out, there are so many reasons why so many silent complainants do not come before this body or before the superiors or the personnel officers for obvious reasons. First, as was mentioned out earlier this morning, for fear for reprisal. Second, which I would like to point out this is not my, my opinion but it is an opinion that I gathered from those who are actually working for the state as well as for the political subdivisions of the state whether it is the City and Borough of Juneau, Anchorage or Kodiak. One observation is why this minority for example not come and complain

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to the supervisors or to the Human Rights Commission is "Look, we complain against the supervisor who is white. It is going to be decided by a white panel or body. Where would we end up to?" I do not share that observation Mr. Chairman, because I honestly and sincerely believe in the American judicial and justice system in this country. But I want to correct that impression among, not only the ethnic tribes coming from the Philippines and the other Asian countries but even let's say the Natives, the Alaska Natives.

So right now, we are very lucky that my wife has been hired as a part-time, shall we say coordinator in adult education that would somehow bring some ideas to this less unfortunate brothers of ours who need to be enlightened so that maybe they can come, they will understand the rights and privileges and probably will respond to a call such as a public hearing like this. I overheard this morning that why is there a very few response to such a public hearing when it covers a very important subject to be discussed. And, my wife and I said, "Maybe one area we have to educate the people about the importance of the subject that this is supposed to be discussed during the public hearing", whether it is in aid of legislation or in aid of the hiring authorities in order they can better assimilate the minorities, the women, the handicapped, the aged so.

The other problem area is, if you have noticed in my brief resume Mr. Chairman, I have only been listed in three openings in the state and that is first as Executive Director of Wage and Hour. Second, that of being a loan examiner. In the last one where they give me a rating of 100 is regulations specialist. Now, quite from those openings Mr. Chairman, I applied for other various openings, like to be a purchasing agent, either to be stationed in Seattle or elsewhere in the state. I received a letter that I cannot qualify because I did not show evidence that I graduated from an accredited college or university. There are other positions opening like accounting where I practiced accounting for 23 years, and based on American accounting systems. I used American accounting books, auditing books, and English books and on. And even going at the subject matter in the University of Alaska the curriculum is practically the same as the curriculum where I graduated from the university. And I was told that I did not graduate from an accredited college. Yet I submitted the evidence of my having graduated in commerce and in law by submitting my official transcript of record.

So, I said there must be something wrong in the synchronization of the evaluation of one's qualifications whether it is the four-month training or the experience in the field. That is the reason why I requested Mr. Chairman this morning that I waive my rights this morning and discuss some matters with the distinguished Executive Director of Human Rights, so that we could see eye-to-eye where the problem is. And I feel Mr. Chairman that it would not be appropriate for me to be discussing some problems which are now pending before Human Rights Office or pending before the Courts because I honestly feel that that would be subjudice unless it is in aid of remedial legislation which Congress or the distinguished senator would want to sponsor or our good benefactor, Representative

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Fuller here, would like to introduce, in congress next session. But I feel that matters that are still subjudice, I'd rather discuss it in private if it will not in anyway prejudice the pending case.

So I would like to dwell more on these generalities if only to contribute my views and opinions and articulate some problems which I feel this commission should try to remedy or resolve one way or the other. If only to make this place a very wonderful place to live in where we expect with my family to live the rest of our lives. And to share our time, our talents in our free share (?) of good will. A reservior of giving our four-month training and work experience in any area of responsibility which we feel we could be of help, not only to the government, but also to the community.

I would like also to concur with some of the views expressed by the Chairman and those who testified this morning. In some of the problem areas like at this moment as I said, we are fortunate that Mrs. Pax has been hired even on a part-time basis although she is more directed to solve the alarming problems that may be cropping among the Filipino ethnic communities. I am still looking forward that her role will not be limited to just the Filipino ethnic tribes because I for one, I would want to work for the general public instead of just for the ethnic tribes or for women because I feel that we are supposed to be given the equal opportunities as provided for under the constitution. So if given the opportunity we would like to share some areas, problem areas and possible solutions whether it is in aid of legislation or in the amendment of the State Personnel Act, which I believe is the goal of this commission to improve or revise. I have gone over already the State Personnel Act once and to the best of my recollection we have a good personnel act, which is complimentary to the general constitutional provision in the Alaska Statutes and the executive orders promulgated together with that of the executive order of the Governor. But I feel like I said earlier that there should be an honest, and sincere implementation of these various acts from the executive down to the lowest supervisor.

The problems came up like evaluation. We were fortunate with my wife, that before we were hired by the Seattle Public School District, we were required to obtain a one month orientation of all new hiring on the background of cultural and ethnic background on various topics like effective communication, office skills, language skills (?) first aid, transportation. And before I forget, I know that you will notice I don't have the American accent or speak the Americans, I have and I must admit that I have, the Filipino accent although I look like a Chinese or a Japanese and my wife of course looks like an Indian, a Native Alaskan. Fortunately the U. S. District Court in Oklahoma declared that Filipino accent could not be grounds for firing personnel. That is decided by the court in the case of Karinio (?) vs. University of Oklahoma, affecting the Filipino (?) who served in the U.S. Navy for 20 years. When he retired he decided to look for a civilian job.

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Now going to the aid of solving some of these ethnic or problems that are confronting the assimilation of minorities and even women, I would like to point out just one flaw. There seems to be a misunderstanding that when you employ women that solves the minority goal of hiring. I think that is superfluous or it is a misnomer. I think that is wrong. So when hiring goals are established in the implementation of equal employment opportunities, you should be specific as to what is the goal for the number of women that should be hired, what is the goal for minorities to be hired, whether it is Asians, Alaska Natives, Indians, or Chicanos or whatnot. So the hiring of women would not, (resolve ?) for the hiring of minorities, or vice versa. Or, as some others also say that is a reverse discrimination. Because the whites are being discriminated out. I will also come to the rescue of the whites in that respect. And if I see that the ... are being discriminated out and there is such thing as reverse discrimination, I will be the first one to come forward and champion the rights of these whites or women. So, that is one area where I feel that with the indulgence and patience of the members of the commission, should be looked into.

In finding a happy solution and still attain the EEO goals that is promulgated by the state or the office, as I understand we have an equal employment opportunity goal that is supposed to be followed by all departments. And I have observed that the comment there is underutilization of minorities and even women. So it always comes to my mind that there must be a solution, there must be something wrong maybe we have to regroup some system of recruitment. In one of the areas, as mentioned earlier, is the synchronization of the recruitment system where there seems to be a divergence of opinions or of those who are even waiting once qualifications whether it is four-month or the experience. So, with our computerized system I feel that the department should be monitoring the flow charts of applicants whether it is in the personnel division or in the various departments so one centralized agency that will, shall we say, synthesize all the qualifications of an applicant, whether he was hired whether he is still applying, or either he should be sent for advance training, whether it is to attend a seminar in order to assimilate him or her to ... promotion to break that possibility.

And I think that is one area where the women and minorities should be considered. To be qualified to be sent for training, a lady or a minority then I think it is the supervisor is dutybound to recommend that this lady or this minority should be sent to attend that type of seminar or training so that in the next possibility that the responsibilities open for a higher position then he or she may qualify for this higher position instead staying all the time at the bottom. And naturally they will not complain as I said from the very beginning because for fear of reprisal.

And sometimes it is the ... there is the reluctance to come over to this public hearing to share their views and opinions to the subject matter that impacts fact on the community. So, I think there is

(Testimony of Florencio Q. Pax)

more, you have all the press, you have the intersatellite system of sharing ones views and opinions, if your article probably doesn't come out in the paper then I think we should feel free to come to the distinguished Senator or to the representative and say Mr. ---

(Changed tape)

--- So, I would like to offer myself, whether it is voluntary or otherwise, Mr. Senator and the members of this commission. I volunteered once to speak before in front of this state capitol building, when there was a rally against the capital move. Fortunately or unfortunately I do not express any opinion for or against, Mr. Senator, because I said, I have some other suggestions, which I would like to share, in aid of legislation of solving the problem instead of going for the transfer of the capital or the retention of the capital. But I said this is not the proper forum for me to discuss the subject matter. If I am called upon to share these views, I will voluntarily and gladly come over whether it is before the Executive Branch, before the Legislative Branch, before the law department, or even in a commission hearing just like this. But I feel at this time, Mr. Senator and members of this commission, that I am going out of the subject matter that should be discussed in this public hearing.

Suffice to state, Mr. Senator and members of this commission, that because of the time constraint that I was notified to come over here in representation of the Filipino community, I did not prepare a well discoursed, well discussed subject matter that should be propounded before this commission. But I assure this commission, Mr. Chairman and members, that in any subject that impacts not only on the ethnic minorities or the women, but from other subjects which you feel this humble representation can share and experience along the line or area, whether it is in budgeting, financing, planning or otherwise, then I would be very glad to come and share my views and opinions and articulate some ideas which I feel would contribute to a solution of the problem that may be plaguing us in this community and even in the old country. Because I feel with my wife that it is our responsibility, that while we have the concomitant guarantee of equal employment opportunity, we also have that responsibility of sharing with you the burden of trying to rectify all these problems that is plaguing our community and country. So we are dutybound to come and speak up our views and opinions if we feel that it can in some way contribute although it is maybe a ... along the solutions of some problems, because we don't want to miss some drunkards for example on the way. Because that is one course of the rising cause of criminality or a drug addict, we will not want our children to be employed by the deteriorating morality that is existing within the community. We would like to share and bring the good qualities that were inculcated upon us also by American educators back in the country of origin from where we came. So that we will really feel happy that we are contributing to the responsibility that is called for from us even if we are not yet citizens because eventually whether we like it or not, I think we are qualified to become good citizens of this country in the true meaning of

(Testimony of Florencio Q. Pax)

the constitution and provisions of the U. S. Constitution and the Alaska State Constitution.

So again, thank you very much Mr. Chairman and members of the Blue Ribbon Commission for the opportunity you have given me and my wife to appear before this distinguished body. And I assure you that while my views and opinions are mine, at least I articulated some problems of some members of the minorities here and even the women and residents (?) that I have gotten in contact with and I hope that I have contributed my share in this responsibility. Thank you very much Mr. Chairman.

Ray: Thank you very much Mr. Pax. And on behalf of the commission and my personal thanks for your appearance. Do you have time for questions sir?

Pax: Yes sir.

Lois Jund: I was very interested in what you had to say. I had a couple of questions and a couple of comments. Now obviously, you are not intimidated by appearing before this commission because you are an attorney and you have been in public life, but how many, for example, of your own ethnic group who felt that there had been discrimination in state employment would come before this large body to voice their problems.

Pax: I would like to inform you ma'am and the members of this commission that I think in all honesty and sincerity with modesty, of all the Filipinos that came over to Alaska, my wife and myself are better prepared to undertake any responsibility in these areas. Yet, it is sad to say, I think we also have been discriminated against and I would not want to go farther because as I said, I cannot discuss cases that are pending before the courts or the Human Rights Commission.

Lois Jund: Would you feel, and I have no idea if it is even possible, that certainly we have women represented on this commission, but we really have no minority representation, would minority representation on this commission be a vehicle through which minority groups could bring their problems to this group.

Pax: Yes Ma'am. As a matter of fact I was going to point that out because one of the areas, the problem areas is for people who have complaints not coming to you, Ma'am, or the members of this commission, or to their supervisors, to voice out their problems or to the Human Rights Commission, as I said, for fear of reprisal. ... of that wrong notion that because you are complaining against the whites, and the panel that will hear your problems is white, that it will be decided in favor of the white. That is, to me that is wrong, but that is a notion that is being entertained by most minorities. Maybe one reason is they have not been exposed to the same exposure educationally work experience-wise the same way that me and my wife have been exposed to. So I feel that this is in aid of probably inviting these people to come and speak up their minds so that we can really help in solving these problems.

(Testimony of Florencio Q. Pax)

Like I will give you an example, a good example, the Anchorage Equal Rights Commission. I was surprised Ma'am, to find out that, I think, there are nine members of the commission, there are 2 whites, 1 male, 1 female; there are 2 Native Alaskans, 1 male and 1 female; there are two blacks, 1 male, 1 female; there is one Filipino, male; there is one representing the Chicanos or the Spanish origin: and that the Chairman, chairperson looks more of a half Asian and a half European, although I did not venture asking. But, I feel that with this representation, Ma'am, if the complainant is not willing to appear before the entire commission, such as the Anchorage Equal Rights Commission, or this Blue Ribbon Commission, if there is a minority whether he or she is a member of this commission or not, or is working under this commission, probably, I am using the word probably, this minority or woman who feels or thinks that this fellow is more sympathetic to their problem might come forward and bring out the problems before this employee or member of the commission. So whether he or she is a member of the commission or somebody working under this commission to be an intake employee or official to receive these complaints, I think it would aid this distinguished commission. And it is a proper step towards the receiving of at least this problem which should be resolved by this distinguished commission.

Jund: I have one more question but I don't want be the....

Ray: Perfectly all right.

Jund: The other question is I wanted to know, you talked about the orientation program of a month in Washington State. Was that only for the ethnic groups or for all new employees in state government?

Pax: It was for all new employees in the school district ma'am, that had to do with the implementation of the desegregation program. So, we were lucky to be mixed and share our views and opinions with black ladies and men, Chicanos, other Asians, to find out that even with this diversities at least we could come up with a happy solution of a problem that is plaguing the school district. So, I feel that with this orientation where we have not been exposed to, back home, because I don't think we have what you call this racial discrimination (that maybe we have our individual discriminative instincts, regionalistic discrimination but not on the basis of race, sex, age, religion, or color but on the region aspect).

But I can assure you Ma'am that as far as equal employment cases are concerned, we also have such cases back home. And that is where I also want to share some experience in handling these cases not only before the administrative agencies and commissions such as this, but even before the courts. So, with this I feel confident that I can be an asset in this community and not a liability. What is now plaguing us with my wife, she's partially employed and I am unemployed but I hate to be because I am willing to work, whether it is with my hands to hold a shovel or to be in an office or to be working with you people like this. I hate to be under unemployment compensation if I can avoid that.

(Testimony of Florencio Q. Pax)

I'd rather be sent to the street and hold a shovel and work even if I had been holding a responsible position as a key government official. Because I want to show and share the experience that we can still start from the bottom and still climb up the ladder. So even if we fall, we still know how to rise.

Jund: Thank you very much, Mr. Pax, I have no other questions.

Ray: Any other members of the commission have a question? Thank you Mr. Pax.

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Testimony of
FLORENCIO Q. PAX
at the
Blue Ribbon Commission of the State Personnel Act
Meeting
November 3, 1981

With the permission of the Chairman and the honorable members of the Blue Ribbon Commission. At the outset I would like to express my sincere thanks for the opportunity extended by your humble letter of invitation from the Commission to express or articulate some problems which although I am new in town is also of concern for me and my family in which I think also would affect also the community in this area. So before I begin, Mr. Chairman, this representation is Florencio Q. Pax. My ethnic background is I was born in the Philippines, I was educated under a American educational system. I finished college as accounting as my major and later on I finished law of the Philippine bar examination and started practicing law since 1964. I served in the Philippine Government under various capacities as a quasi-judicial hearing officer for six years whose duties and functions are similar in some ways of that of the duties and functions of the Commissioner of Natural Resources here in the State of Alaska. I brought along with me my wife who doesn't look, probably, Filipino but looks more of an Indian. Mrs. Pax please stand up.

Senator Ray: Welcome.

Pax: And, four intelligent children, two boys and two girls, who are in the Juneau School District, my two boys are in the senior class 15 and 16 years old and two younger girls, that maybe

I also served under the United States Armed Forces during the Second World War, first as an ammunition carrier as a boy, the youngest probably that ever went to the firing line. And later on I was transferred to be an officers' messboy until the Japanese surrendered during the Second World War. And when the outfit disbanded in Manila I had to return home instead of coming over with some American officers who wanted to bring me over to the United States. So, it was farthest from my thought to come over to the United States as an immigrant. Maybe the reason why I came over was because my wife applied as an immigrant in 1969, she being the oldest daughter of an American citizen who was a Filipino but served in the United States Armed Forces and became a citizen immediately after the war. So my wife wanted to follow the brothers and sister over to the United States. Right now she is the only one who is not a citizen and that holds true with me and my four kids. So we have to establish the residence requirement before we could apply for citizenship as an American citizen. So, with that as a background, Mr. Chairman and members of the Commission, I would like to share with you and articulate before this Commission some observations

(Testimony of Florencio Q. Pax)

which I feel personally and in representation of the Filipinos in this area, and the other minorities and even women at that. Which I feel would some way alleviate or resolve some of the ticklish problems that are confronting our government and even in the private industry. So if I maybe permitted to search them out I would like to proceed.

Ray: Please do, please do.

Pax: My first inquiry before the commission which is an observation actually, is that I have learned that your EEO Director for the state resigned from his job, as the matter of fact, is now working for the Sealaska Corporation as an Assistant to the President. And jokingly, because we belong to the Juneau Lions Club, when he learned I was no longer working for the City and Borough of Juneau, as the contract compliance officer that prepared the minority and women business enterprise program which is this piece of work, your honor, he was teasing me that I should apply for that job. So I told him, they never published about the vacancy of the position which you vacated as EEO Director of the state. I am referring to Mr. Isaac, Aaron. So I said how can I apply that would give me an opportunity because the position opening is not published? I don't know if that position is still vacant up to now or not.

Ray: No, I don't believe it is. Jamie...

James Fisher: I'm James Fisher, the new Director of EEO.

Ray: You would like to have an explanation perhaps why that job wasn't advertised, is that correct?

Pax: Yes sir.

Ray: Mr. Fisher, would you like to give him an explanation?

Fisher: I don't know if I could give such an explanation, Senator. I might be able to answer him at a later date if I could check.

Ray: OK. Does anybody on the commission know why it wasn't advertised?

(no one indicated that they knew why)

Pax: I ask this, Mr. Senator and the members of the commission, because I just came from Anchorage, I was one of the finalists for the Executive Director position of the Anchorage Equal Rights Commission and I was not lucky to be extended the offer. It was offered to somebody else and I have no quarrel about that. I just recently competed as finalist for the position of Assistant to the Chancellor and affirmative action officer for the University of Alaska. So I was thinking that with my race, background, not only back in the Philippines but here in the United States, along affirmative action, that I would be very much qualified to be extended the offer but I learned from another candidate

(Testimony of Florencio Q. Pax)

finalist who informed me that she was better qualified than the one who was hired. So I asked her what are your qualifications, and here are my qualifications too, but I wasn't offered the job. So she was trying to insinuate that I should take the proper step to protect not only her rights but also my rights. So I would like to share these observations before this commission this afternoon.

When I came over to Juneau I was working for the Seattle Public School District with my wife, who is an educator by profession. Incidentally, aside from being a certificated teacher in the State of Washington, my wife is a certificated secondary home economics teacher and a guidance counselor here in the State of Alaska. The reason why I am bringing out this background is I will be driving at some problem areas along the recruitment procedures within the state which I feel should be synchronized in order to effectively cope up (?) with employing minorities, women, and even the Native Alaskans, which I observe was one of the problems that cropped up this morning.

I have gone over all the provisions of the United States Constitution, especially after listening to the Chairman that gives me ... American citizen that were admitted legally in court. I have read the constitutional provision of the State of Alaska and the various civil rights provisions, Executive Orders, equal employment opportunity provisions in the Code of Federal Regulations. I feel at this point, Mr. Chairman and members of the commission, that we have adequate provisions of law along the area of implementing equal employment opportunities to women and minorities and even Native Alaskans because there are specific laws that govern this area. I feel from an unbiased observation, honestly Mr. Chairman and members of the commission, that the problem lies in the honest, sincere, implementation of these provisions of law, whether it is the provision of the constitution, which after all was the very basic law under which all these Executive Orders and statutes both state and local have been promulgated or enacted by the distinguished senators and congressmen. So my view is there should be a more sincere and honest implementation of these provisions of the law. In other words, from the director, if I may say so, or the commissioner down to the supervisor, there should be a continuing educational process along these provisions of law in order that we can effectively meet the goals that is called for under these provisions of the law.

Because as I pointed out, and as was pointed out, there are so many reasons why so many silent complainants do not come before this body or before the superiors or the personnel officers for obvious reasons. First, as was mentioned out earlier this morning, for fear for reprisal. Second, which I would like to point out this is not my, my opinion but it is an opinion that I gathered from those who are actually working for the state as well as for the political subdivisions of the state whether it is the City and Borough of Juneau, Anchorage or Kodiak. One observation is why this minority for example not come and complain

(Testimony of Florencio Q. Pax)

to the supervisors or to the Human Rights Commission is "Look, we complain against the supervisor who is white. It is going to be decided by a white panel or body. Where would we end up to?" I do not share that observation Mr. Chairman, because I honestly and sincerely believe in the American judicial and justice system in this country. But I want to correct that impression among, not only the ethnic tribes coming from the Philippines and the other Asian countries but even let's say the Natives, the Alaska Natives.

So right now, we are very lucky that my wife has been hired as a part-time, shall we say coordinator in adult education that would somehow bring some ideas to this less unfortunate brothers of ours who need to be enlightened so that maybe they can come, they will understand the rights and privileges and probably will respond to a call such as a public hearing like this. I overheard this morning that why is there a very few response to such a public hearing when it covers a very important subject to be discussed. And, my wife and I said, "Maybe one area we have to educate the people about the importance of the subject that this is supposed to be discussed during the public hearing", whether it is in aid of legislation or in aid of the hiring authorities in order they can better assimilate the minorities, the women, the handicapped, the aged so.

The other problem area is, if you have noticed in my brief resume Mr. Chairman, I have only been listed in three openings in the state and that is first as Executive Director of Wage and Hour. Second, that of being a loan examiner. In the last one where they give me a rating of 100 is regulations specialist. Now, quite from those openings Mr. Chairman, I applied for other various openings, like to be a purchasing agent, either to be stationed in Seattle or elsewhere in the state. I received a letter that I cannot qualify because I did not show evidence that I graduated from an accredited college or university. There are other positions opening like accounting where I practiced accounting for 23 years, and based on American accounting systems. I used American accounting books, auditing books, and English books and on. And even going at the subject matter in the University of Alaska the curriculum is practically the same as the curriculum where I graduated from the university. And I was told that I did not graduate from an accredited college. Yet I submitted the evidence of my having graduated in commerce and in law by submitting my official transcript of record.

So, I said there must be something wrong in the synchronization of the evaluation of one's qualifications whether it is the four-month training or the experience in the field. That is the reason why I requested Mr. Chairman this morning that I waive my rights this morning and discuss some matters with the distinguished Executive Director of Human Rights, so that we could see eye-to-eye where the problem is. And I feel Mr. Chairman that it would not be appropriate for me to be discussing some problems which are now pending before Human Rights Office or pending before the Courts because I honestly feel that that would be subjudice unless it is in aid of remedial legislation which Congress or the distinguished senator would want to sponsor or our good benefactor, Representative

(Testimony of Florencio Q. Pax)

Fuller here, would like to introduce, in congress next session. But I feel that matters that are still subjudice, I'd rather discuss it in private if it will not in anyway prejudice the pending case.

So I would like to dwell more on these generalities if only to contribute my views and opinions and articulate some problems which I feel this commission should try to remedy or resolve one way or the other. If only to make this place a very wonderful place to live in where we expect with my family to live the rest of our lives. And to share our time, our talents in our free share (?) of good will. A reservior of giving our four-month training and work experience in any area of responsibility which we feel we could be of help, not only to the government, but also to the community.

I would like also to concur with some of the views expressed by the Chairman and those who testified this morning. In some of the problem areas like at this moment as I said, we are fortunate that Mrs. Pax has been hired even on a part-time basis although she is more directed to solve the alarming problems that may be cropping among the Filipino ethnic communities. I am still looking forward that her role will not be limited to just the Filipino ethnic tribes because I for one, I would want to work for the general public instead of just for the ethnic tribes or for women because I feel that we are supposed to be given the equal opportunities as provided for under the constitution. So if given the opportunity we would like to share some areas, problem areas and possible solutions whether it is in aid of legislation or in the amendment of the State Personnel Act, which I believe is the goal of this commission to improve or revise. I have gone over already the State Personnel Act once and to the best of my recollection we have a good personnel act, which is complimentary to the general constitutional provision in the Alaska Statutes and the executive orders promulgated together with that of the executive order of the Governor. But I feel like I said earlier that there should be an honest, and sincere implementation of these various acts from the executive down to the lowest supervisor.

The problems came up like evaluation. We were fortunate with my wife, that before we were hired by the Seattle Public School District, we were required to obtain a one month orientation of all new hiring on the background of cultural and ethnic background on various topics like effective communication, office skills, language skills (?) first aid, transportation. And before I forget, I know that you will notice I don't have the American accent or speak the Americans, I have and I must admit that I have, the Filipino accent although I look like a Chinese or a Japanese and my wife of course looks like an Indian, a Native Alaskan. Fortunately the U. S. District Court in Oklahoma declared that Filipino accent could not be grounds for firing personnel. That is decided by the court in the case of Karinio (?) vs. University of Oklahoma, affecting the Filipino (?) who served in the U.S. Navy for 20 years. When he retired he decided to look for a civilian job.

(Testimony of Florencio Q. Pax)

Now going to the aid of solving some of these ethnic or problems that are confronting the assimilation of minorities and even women, I would like to point out just one flaw. There seems to be a misunderstanding that when you employ women that solves the minority goal of hiring. I think that is superfluous or it is a misnomer. I think that is wrong. So when hiring goals are established in the implementation of equal employment opportunities, you should be specific as to what is the goal for the number of women that should be hired, what is the goal for minorities to be hired, whether it is Asians, Alaska Natives, Indians, or Chicanos or whatnot. So the hiring of women would not, (resolve ?) for the hiring of minorities, or vice versa. Or, as some others also say that is a reverse discrimination. Because the whites are being discriminated out. I will also come to the rescue of the whites in that respect. And if I see that the ... are being discriminated out and there is such thing as reverse discrimination, I will be the first one to come forward and champion the rights of these whites or women. So, that is one area where I feel that with the indulgence and patience of the members of the commission, should be looked into.

In finding a happy solution and still attain the EEO goals that is promulgated by the state or the office, as I understand we have an equal employment opportunity goal that is supposed to be followed by all departments. And I have observed that the comment there is underutilization of minorities and even women. So it always comes to my mind that there must be a solution, there must be something wrong maybe we have to regroup some system of recruitment. In one of the areas, as mentioned earlier, is the synchronization of the recruitment system where there seems to be a divergence of opinions or of those who are even waiting once qualifications whether it is four-month or the experience. So, with our computerized system I feel that the department should be monitoring the flow charts of applicants whether it is in the personnel division or in the various departments so one centralized agency that will, shall we say, synthesize all the qualifications of an applicant, whether he was hired whether he is still applying, or either he should be sent for advance training, whether it is to attend a seminar in order to assimilate him or her to ... promotion to break that possibility.

And I think that is one area where the women and minorities should be considered. To be qualified to be sent for training, a lady or a minority then I think it is the supervisor is dutybound to recommend that this lady or this minority should be sent to attend that type of seminar or training so that in the next possibility that the responsibilities open for a higher position then he or she may qualify for this higher position instead staying all the time at the bottom. And naturally they will not complain as I said from the very beginning because for fear of reprisal.

And sometimes it is the ... there is the reluctance to come over to this public hearing to share their views and opinions to the subject matter that impacts fact on the community. So, I think there is

(Testimony of Florencio Q. Pax)

more, you have all the press, you have the intersatellite system of sharing ones views and opinions, if your article probably doesn't come out in the paper then I think we should feel free to come to the distinguished Senator or to the representative and say Mr. ---

(Changed tape)

--- So, I would like to offer myself, whether it is voluntary or otherwise, Mr. Senator and the members of this commission. I volunteered once to speak before in front of this state capitol building, when there was a rally against the capital move. Fortunately or unfortunately I do not express any opinion for or against, Mr. Senator, because I said, I have some other suggestions, which I would like to share, in aid of legislation of solving the problem instead of going for the transfer of the capital or the retention of the capital. But I said this is not the proper forum for me to discuss the subject matter. If I am called upon to share these views, I will voluntarily and gladly come over whether it is before the Executive Branch, before the Legislative Branch, before the law department, or even in a commission hearing just like this. But I feel at this time, Mr. Senator and members of this commission, that I am going out of the subject matter that should be discussed in this public hearing.

Suffice to state, Mr. Senator and members of this commission, that because of the time constraint that I was notified to come over here in representation of the Filipino community, I did not prepare a well discoursed, well discussed subject matter that should be propounded before this commission. But I assure this commission, Mr. Chairman and members, that in any subject that impacts not only on the ethnic minorities or the women, but from other subjects which you feel this humble representation can share and experience along the line or area, whether it is in budgeting, financing, planning or otherwise, then I would be very glad to come and share my views and opinions and articulate some ideas which I feel would contribute to a solution of the problem that may be plaguing us in this community and even in the old country. Because I feel with my wife that it is our responsibility, that while we have the concomitant guarantee of equal employment opportunity, we also have that responsibility of sharing with you the burden of trying to rectify all these problems that is plaguing our community and country. So we are dutybound to come and speak up our views and opinions if we feel that it can in some way contribute although it is maybe a ... along the solutions of some problems, because we don't want to missing some drunkards for example on the way. Because that is one course of the rising cause of criminality or a drug addict, we will not want our children to be employed by the deteriorating morality that is existing within the community. We would like to share and bring the good qualities that were inculcated upon us also by American educators back in the country of origin from where we came. So that we will really feel happy that we are contributing to the responsibility that is called for from us even if we are not yet citizens because eventually whether we like it or not, I think we are qualified to become good citizens of this country in the true meaning of

(Testimony of Florencio Q. Pax)

the constitution and provisions of the U. S. Constitution and the Alaska State Constitution.

So again, thank you very much Mr. Chairman and members of the Blue Ribbon Commission for the opportunity you have given me and my wife to appear before this distinguished body. And I assure you that while my views and opinions are mine, at least I articulated some problems of some members of the minorities here and even the women and residents (?) that I have gotten in contact with and I hope that I have contributed my share in this responsibility. Thank you very much Mr. Chairman.

Ray: Thank you very much Mr. Pax. And on behalf of the commission and my personal thanks for your appearance. Do you have time for questions sir?

Pax: Yes sir.

Lois Jund: I was very interested in what you had to say. I had a couple of questions and a couple of comments. Now obviously, you are not intimidated by appearing before this commission because you are an attorney and you have been in public life, but how many, for example, of your own ethnic group who felt that there had been discrimination in state employment would come before this large body to voice their problems.

Pax: I would like to inform you ma'am and the members of this commission that I think in all honesty and sincerity with modesty, of all the Filipinos that came over to Alaska, my wife and myself are better prepared to undertake any responsibility in these areas. Yet, it is sad to say, I think we also have been discriminated against and I would not want to go farther because as I said, I cannot discuss cases that are pending before the courts or the Human Rights Commission.

Lois Jund: Would you feel, and I have no idea if it is even possible, that certainly we have women represented on this commission, but we really have no minority representation, would minority representation on this commission be a vehicle through which minority groups could bring their problems to this group.

Pax: Yes Ma'am. As a matter of fact I was going to point that out because one of the areas, the problem areas is for people who have complaints not coming to you, Ma'am, or the members of this commission, or to their supervisors, to voice out their problems or to the Human Rights Commission, as I said, for fear of reprisal. ... of that wrong notion that because you are complaining against the whites, and the panel that will hear your problems is white, that it will be decided in favor of the white. That is, to me that is wrong, but that is a notion that is being entertained by most minorities. Maybe one reason is they have not been exposed to the same exposure educationally work experience-wise the same way that me and my wife have been exposed to. So I feel that this is in aid of probably inviting these people to come and speak up their minds so that we can really help in solving these problems.

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Jund: I have one more question but I don't want be the....

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Jund: The other question is I wanted to know, you talked about the orientation program of a month in Washington State. Was that only for the ethnic groups or for all new employees in state government?

Pax: It was for all new employees in the school district ma'am, that had to do with the implementation of the desegregation program. So, we were lucky to be mixed and share our views and opinions with black ladies and men, Chicanos, other Asians, to find out that even with this diversities at least we could come up with a happy solution of a problem that is plaguing the school district. So, I feel that with this orientation where we have not been exposed to, back home, because I don't think we have what you call this racial discrimination (that maybe we have our individual discriminative instincts, regionalistic discrimination but not on the basis of race, sex, age, religion, or color but on the region aspect).

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(Testimony of Florencio Q. Pax)

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Jund: Thank you very much, Mr. Pax, I have no other questions.

Ray: Any other members of the commission have a question? Thank you Mr. Pax.

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Testimony of
BRENDA RANDALL-SADEK
at the
Blue Ribbon Commission of the State Personnel Act
Meeting
November 3, 1981

My name is Brenda Randall-Sadek and I am an Accounting Clerk III for the Department of Transportation. I have been with the state and the department for it will be a year in December. I have worked constantly the whole year as a accounting clerk, not that I am not on other registers but it is just that I don't get promoted. I basically came to talk about my own personal experience of working with the state and particularly with the Department of Transportation because that is only the experience I have had since I have been here in Alaska. But before I get started on the Department of Transportation I would like to tell you about an experience I had when I first came here with the Human Rights Commission.

When I first came here in, last summer, a year ago this past summer, there was a position advertised in the paper for the Human Rights Commission. It is was entry level, trainee position, and the minimum qualifications were only a high school degree, which I do have a college degree. It is in art and I have three years in accounting. And I applied for it. Three months later, the same position was out. I put in my application again for it. I put in my application three different times for the same position and only after I had done some investigation did I find out that it was, in fact, the same position. And only after I went into the office and had done the investigation did I receive a letter telling me that I wasn't qualified for it. And I don't know when the position got filled or how, but that position was in the paper for months. And I felt that they were discriminating. But I don't have anymore to say about that. I'll go on to the Department of Transportation.

I have been with the Department of Transportation for a year almost. I have worked as a clerk for them in three different positions. I have, ever since the first, ever since the first week that I was there, I have let them know that I was interested in, I was interested in not only staying with the state but staying with them, staying in accounting and also that I wanted more accounting education. I was interested in taking the state accounting course, which I have yet to take and it is not that I haven't put in the proper procedures of notifying my supervisors or sending out memos, because I have. I just have not been selected as one of the people to take the course. And twice I have gone to the Assistant Director and questioned him about it and both times I was given the answer that it wasn't related to my present position. And the first time even before I went to him, knowing that that is what he was going to say (well, I didn't know that was what he was going to say, but I had the feeling that he was going to say that it wasn't related to my present position) I wrote out a memo, sent it to my supervisor, to him, to the director, and to the director of training, stating that I did plan to stay with DOT, I was interested although it

(Testimony of Brenda R. Sadek)

was not related to my present position, I didn't plan to stay in that position and I felt that the course would not only benefit me but would benefit them because I was planning on staying with them. And I got no response except for "we do," on the bottom of my memo they wrote "we do send people when we feel that it is related". And that was it. I have yet to hear anything else about it.

And then after being there and being transferred to three different clerk desks I ... Something came up just recently, I was in the research section for the financial management and I find out that my supervisor is going to hire a Tech I. Now, I am not in Research any longer but at the time I had made the decision to leave Research and go to Budget. He didn't want me to leave. He kept expressing to me what a good worker I was and how he really didn't want me to leave there and how he was going to help me stay there. And then he decided that he was going to hire a Tech I. But I wasn't the one who got hired. And, he explained to me why I didn't get hired. This was even before I knew that I wasn't hired. He said that he wanted me to know first off why I didn't get hired. He said that I was too low on the register. Yet, the person who did get the Tech I position had been with the department and the section less than I had, hadn't been there as long as I had been there, and was a white male.

And they, and when he first came to me and told me "well, see this is where you are on the register, that's how come we can't hire you now," I told him, I said, "well Tech I's are underutilized classes you can hire me if you want to." Because during my time at DOT I've seen them hold positions for people for who they want. They said you have to be on the register to get the job, which is true. They can pull anybody from those registers they want to hire as long as they justify it. And they can justify it with any means. I have seen them hold positions open waiting for people to get on registers, I have seen them hold other people in positions until the person they wanted to get that position get on the register. I mean, nothing about where they were on the register, or how they were going to get them came up. They held the position until the person they wanted in that position got on the register. And, I felt that -- I got really upset about it. But what can I do?

I feel that in the time that I have been with DOT the only other minorities that I have seen there are some Filipinos. And I was looking, I had questioned several people about how long they had been with the department, how long they have been working with the state, and the difference I came up with amazed me. Out of about 3 or 4 white people I asked that had been there anywhere from four to six years, they were already up into Tech III or Accounting I levels, where I know of two Filipinos who do excellent work, who have been there both over five years, and they're both still at an Accounting Tech I level. And they are not even considered to be moved, being upgraded. I don't know what else to say. I saw the notice on the board and I felt that I had to come here and express how I felt.

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Most of the discrimination that I have noticed is mostly subconscious it is not consciously doing this. Maybe they are, I can't tell. I mean it has got to the point with me where I can't tell where they are conscious or subconscious. Some of it is they are not consciously doing it. But it is still being done. And others of it, ... I feel that they are consciously doing it. Like after I was told of the Tech I, after I was told of the Tech I position that they were going to fill, after I brought this up about underutilized class, I haven't heard nothing else about it. I know only through office gossip that the guy has been promoted. He hasn't told me, no one else has told me, only through office gossip have I heard that he got the position. But once I brought up about the underutilized class and that if he really wanted to hire me he could, I haven't heard another word about it, that position or any other position.

As far as the system of the register, I kind of agree with Verneelia on the point that you know, taking the test depends on your test taking abilities. Just, that test does not accurately show my abilities. That test doesn't accurately show anyone's abilities. But if that's the system that they are going to use, they should stick by it. I don't understand why they, why they sit up and they wait for people to get on registers to hire them when there is already qualified people on the register waiting for positions. And of course, if I was to go to them, they would justify it all. They would justify it to the point that I wouldn't have a leg to stand on to say that they were discriminating against me. If I brought that up about that the Tech I position, the first thing they are going to jump on is "well, see, you are way down here on the register and he's up here so we will have to." In other words they are going to make me feel inadequate or unqualified because I am way down here on the register. But yet I have been with the department, I know the types of work, I know what is going on.

Ray: Then you get the label "troublemaker".

Sadek: Yes.

Ray: And yet, during the testimony that we have here and even with the participation from some other members of the commission here they want to give the supervisors and they want to give the technicians in the department of personnel the highest latitude, or the best latitude they can, to make the tests as they see fit in order to get the highest people in the state. And then they want to give the supervisors the biggest latitude so they can go down and pick out because you have a bunch of cranks up here on the top five, and you have to reach down there to get one of these guys out. And all of them very worthwhile suggestions and all, all of them sensible. But then when you turn it on the other side it gives somebody else a tool to stick in the wheel of the system and to get a flat tire. Just like in your case. I don't know. Of course it's Transportation's fault. Linda would you like to tell us, would you like to apologize for Transportation?

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Lynda McCurry: No, Roger can do that, that is his department. I just wanted to say that Brenda has mentioned, are what I consider, being a Personnel Officer, crafty techniques in working eligible lists. All are perfectly legal within the system. And it seems to me, like, going back to where we were two years ago, those should be the things that we are zeroing in on and fixing. Because if you are a permanent state employee with the Department of Transportation, your department could have called for departmental promotional lists. It would have put you very high, probably, on this list and maybe even reachable. The second thing they could have done is to use the Five Plus Five and gone below to select you. So, these things are available and if the people aren't doing them that's where we should be working.

Sadek: One of the things about DOT is that they can go below the top five but that's only if their EEO plan has been accepted and DOT's EEO plan has not been accepted by the state.

Roger Thayer: The Assistant Director, I won't mention names, but are his initials DG?

Sadek: I'm not going to answer.

Thayer: How many times did you ask to take the course?

Sadek: I have asked for, I have had three different supervisors since I have been there and I had expressed it to all three since I have been there. I've also expressed it to the Assistant Director, because I went to talk to him the first time I was denied.

Thayer: Did you ask, did you do it in writing?

Sadek: No, both verbally and in writing.

Thayer: Would you send me a copy of your request? To the Personnel Officer, DOT, Roger Thayer, 2505.

Sadek: Yes.

Thayer: Lynda is correct when she did say that it has been a practice for the department to use promotional lists. And I will do some checking on that.

Ray: That brings a question to me that the things that we have uncovered here as far as two years ago with the practice and that they, what did you call it, the ...

Lynda: Crafty techniques.

Ray: Crafty techniques. Is this compounded in your own mind because you are a woman or because you are a minority? Now, think for a minute, I mean does this happen to everybody else right along with you is what I

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am trying to get at. They just don't pick you out because -- do they?

Sadek: It is really hard to ... no, I don't find it hard to see discrimination between being discriminated as a woman being discriminated as a black -- Most of the discrimination I feel I receive is because of my race, more so than because of my being a female. At least with this.

Ray: In this particular job you think it had racial connotations rather than just, you happened to be in this particular position when somebody else could have been in the same spot as you?

Sadek: Since I have been there in DOT, I have seen an Assistant Director come in, I have seen 6 or 7 people from the same department that he left come with him, and I have seen three of them get promotions. And I have seen other people that has been there with DOT for awhile that is still sitting in the same position.

Ray: But are they white?

Sadek: Most of them are whites, most of them are whites because that's the majority of the workers; most of them are female.

Ray: I mean in your spot is what I am saying. So, I am trying to zero in on the fact that these people who use the crafty techniques, they aren't just using them on you because you are black, or because you are a woman, you just happen to be sitting there and he is using them and he would use them if there was a six foot tall Norwegian in there.

Sadek: No, no, I don't think that they are just using them on anyone. I do think that they do pick out the black and the Filipinos, and the Indians.

Ray: Verneelia, did you want to say something?

Verneelia: I just wanted to say, Senator Ray, that just goes back to certain assumptions of who picks, I mean you have your favorites. But when the system works like this, when the system breaks down like this, white people get caught in it; black people, Indians, Filipinos, minorities get caught in it more.

Ray: All right, that is what I am trying to identify, that is what I am trying to do.

Verneelia: Certainly it happens to other people as well, but the end results for, since, we are in this race and we are 15 minutes behind and then they introduce a, they give the runner a 10 minute, 10 more minutes, well, everybody else in the race is 10 minutes behind but the minorities and woman are 25 minutes behind.

Ray: But you have to look at it from another point is, I have to be the devil's advocate here, you know if you were late getting there, and there is a difference between you and I eating, I'm sorry that you got there late, but I am going to sit down and eat.

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Verneelia: Sir, I don't begrudge the individual, what I do is begrudge the people who set the rules.

Ray: All right. Go ahead Brenda.

Sadek: I don't know, that's all I had to say.

Lois Jund: You may not know the answer to this, but was this position, was it identified as an underutilized category?

Sadek: Accounting Tech? Yes, all accounting Tech positions are underutilized.

Jund: I am harking back really to Ms. Randall's point that it is not mandatory even if they do provide the affirmative action.

Sadek: It is not mandatory, but they can justify hiring anybody they want to and they do justify hiring anybody they want to. It's just that they don't want to justify hiring people that they don't want to justify hiring. They justify hiring anyone. I've seen them hold positions for people.

Jund: I'm trying to get at one of the points because it ties in here. One of your suggestions which I thought was excellent, if it is possible, was to identify underutilized categories for minorities, really, then automatically provide an EEO register and if they then do not select from the register then they must justify. And I think that is putting it in the proper perspective and will get away from this game of crafty techniques.

Ray: I think it would be to the highest satisfaction of this commission if we could get two people, three people, four people, if we got 100 people in here all saying the same thing and pointing in the same direction, it would -- because I know what you are laboring under right now. I know what you're thinking to yourself, "hey man, when I get back somebody's going to be looking up my PCN Number and wanting to know how they are going to get rid of me." Well, I'm going to tell you this. If you have any indication that anybody in the state government is discriminating against you or using your appearance in front of this commission to eliminate you from state employment, you let me know. You let me know because we will not tolerate that. The Governor will not tolerate it. I know that for a personal fact, because I have talked with him about it. He will not tolerate that kind of activity in the state government. And I want everybody to know that and anybody that gives testimony here, whether they are a private citizen or whether they are a state employee, if they are a state employee and they feel and they can substantiate that they are being discriminating against because of their appearance here, I'll guarantee you we will have who, we will have the guy who is discriminating against head on the table. So if that is any reassurance to you, you can pass that on to the rest of the people that work over in your outfit and tell all those heel draggers over there they can drag

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over here for awhile and we'll put them right up there where they are supposed to be. Sir..

Mr. Pax: I have just one suggestion to make. It is with respect to other political provisions of the state ... (FROM NOTES: which receive grants from the state. Some federal and state laws provide that the grantor can withdraw funding if a grantee violates anti-discrimination laws.)

(changed tape)

Mr. Pax continuing: ... the grantor like the state even with ... funding that is supposed to be extended to that local political subdivision or agency because of the violation that was perpetrated so many of these recipient of political subdivisions or agencies, will be aware of this provision of law. If we know that the state is ... set on imposing the penalty as provided for in law. Then I think they will think also twice before firing, for example, on the ground of communication barrier. Or an agency firing somebody because he is upset because of Filipino or because he looks black or if he's an Indian. So I think I would like to go back in sincerity in applying this very provisions, very simple provisions of the law. This funding for example, the local ... if I may call that when the agency-recipient is found to have violated any of these discrimination factors then the grantor agency can withdraw the funding or terminate the contract.

Ray: I think, Jack, don't we have that in the, aren't those provisions in the law now? Jack Chenoweth?

Jack Chenoweth: Most of the grant documents state departments use do include some provision that requires the recipient to follow, or not violate federal, if there are federal funds involved, and state law in this area. I don't know that the ... has ever been enforced.

Ray: Put that down for research into a possible amendment to the grant laws of the state. I'll get hold of Berrier and have him research that to see if that is, because that is very definitely, would be something very desirable as far as I am concerned.

Jund: I would like to ask a question Senator I noticed that a lot of the things the legislature does, you know they put the legislative intent. I am wondering if this might not be a possibility for training funds, that they seem to be resistant, but if they put legislative intent that they are to be used proportionately to categories of people, percentage-wise and for upward mobility?

Ray: Legislative intent is a document or an instrument to be used and to benefit of a person or the administration as they see fit, if they want to perpetuate it. But it has no standing or no basis except and perhaps a legal investigation where it would have an expression of intent of the legislature in a certain area. But as far as any,

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legal standing, as far as you are trying to get the administration to live up to legislative intent, there is no basis of fact.

Jund: I'm quite cognizant of that. But the agencies always look at legislative intent very, very closely and if at all possible --

Ray: If it serves their purpose.

Jund: As I recall, we used to have to make a report --

Ray: Well, you're outstanding Lois. You were one of the good ones. I mean it.

Jund: I would like to see training funds go to the lower echelons in relation to their percentage and utilize it for upward mobility. It's the only way these people are not going to be kept in forever.

Ray: You could put that in the statutes. You wouldn't have to use that just in legislative intent. You could actually put that in the statutes: a majority of the funds appropriated for inservice training shall be below such and such -- below level 15 or 16 or anyplace you want it.

Jund: I've seen where people were hired from outside because they couldn't have the same training ...

Ray: You could write some legislation on that. Then, you see, you have got to realize that there are two legislators here: one from the House and one from the Senate. We are getting the benefit of your talk and the understanding. The other 58 people are going to be sitting up there and are going to be lobbied by people that is going to tell them. Then they are going to have commissioners come in and they'll say, "Well, hey, you know I can get a clerk a dime a dozen, I can get an accountant, anything that I want. But now this fellow that I really need here, I really need some training, and it is really in the specialized classes I need the training." That is what you are going to get.

McCurry: I think some people will really be willing to talk to them, Senator Ray, as well as if you did see, within the areas authorized training funds, I don't think it should give the departments a license to kill. I think they should have approved training plans.

Ray: Put down there to research the statutes to find a spot for the possible amendment for the delegation of a majority of the funds for inservice training and I'll, I can take it from there. Brenda, thank you very, very much. I certainly do appreciate your testimony. We have another Brenda, Brenda Knapp.

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