ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILE 8672
1349 SCOMM 51: BLUE RIBBON COMN. ON STATE PERSONNEL ACT 1978-1983

SCOMM 51: BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT, 1978-83

LIST OF FILES (PAGE 1) MICROFICHE #

1. MINUTES, 9/15/1978-1/9/1980
2. MINUTES, 8/18/1980-12/15/1982
3. FULL COMMISSION MINUTES, 9/78-12/80
3A. FULL COMMISSION MINUTES, 1981-82
3B. 11/3/1981: TRANSCRIPTS OF TESTIMONY
4. CATEGORIES OF EMPLOYEES MINUTES, 1978-79
5. CERTIFICATION, CLASSIFICATION AND RECRUITMENT MINUTES, 1978-79
6. MERIT SYSTEM/COLLECTIVE BARGAINING MINUTES, 1978-79
7. COLLECTIVE BARGAINING REPORT, BLUE RIBBON COMMISSION, 1979
8. REPORT TO LEGISLATURE, 1979
9. REPORT TO LEGISLATURE, 1980
10. REPORT TO LEGISLATURE, 1981
11. REPORT TO LEGISLATURE, 1982
12. BILLS SPONSORED BY COMMISSION, 1979-80
13. BILLS SPONSORED BY COMMISSION, 1980
14. BILLS SPONSORED BY COMMISSION, 1981
15. SB 193, 1981-82, PART A
16. SB 193, 1981-82, PART B
17. SB 55, 1983
18. SB 56, 1983
19. SB 57, 1983
20. SB 58, 1983
21. SB 59, 1983

SCOMM 51: BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT, 1978-83

LIST OF FILES (PAGE 2) MICROFICHE #

22. SB 64, 1983
23. SB 83, 1983
24. SB 116, 1983
25. SCR 3 and HCR 3, 1983
26. HB 49, 1983
27. HB 50, 1983
28. HB 51, 1983
29. HB 52, 1983
30. HB 53, 1983
31. HB 108, 1983
32. HB 135, 1983
33. HB 207, HB 209, 1983

    (HCR 3, 1983 - SEE FILE ON SCR 3, 1983)

34. MISCELLANEOUS REPORTS

RECORDS CERTIFICATION

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02-519 (REV 8/78)

SCOMM

#51:1

MINUTES OF

Categories of Employees Subcommittee

Certification, Classification & Recruitment Subcommittee

Merit System/Collective Bargaining Subcommittee

Full Blue Ribbon Commission

MINUTES FROM

September 15, 1978 through January 9, 1980

AND

Membership Lists

MINUTES OF THE
BLUE RIBBON COMISSION ON THE
STATE PERSONNEL ACT

September 15, 1978	Personnel Act Review Commission
October 3, 1978	Personnel Act Review Commission
November 15, 1978	Classification, Certification & Recruitment Subcommittee
November 16, 1978	Categories of Employees Subcommittee
November 16, 1978	Full Commission - Addenda
November 16, 1978	Personnel Act Review Commission
November 30, 1978	Merit System/Collective Bargaining Subcommittee
November 30, 1978	Categories of Employees Subcommittee
December 1, 1978	Certification, Classification & Recruitment Subcommittee
December 12, 1978	Categories of Employees Subcommittee
December 13, 1978	Merit System/Collective Bargaining
December 13, 1978	Certification, Classification & Recruitment Subcommittee
December 13, 1978	Full Commission Hearing
January 4, 1979	Categories of Employees Subcommittee
January 10, 1979	Full Commission
January 26, 1979	Merit System/Collective Bargaining Subcommittee
January 26, 1979	Certification, Classification & Recruitment Subcommittee
January 26, 27, 1979	Categories of Employees Subcommittee
January 27, 1979	Full Commission Meeting
February 5, 1979	Merit System/Collective Bargaining Subcommittee
February 5, 1979	Classification, Certification & Recruitment Subcommittee
February 6, 1979	Categories of Employees Subcommittee
February 15, 1979	Full Commission Meeting
February 23, 1979	Merit System/Collective Bargaining Subcommittee
February 23, 1979	Classification, Certification & Recruitment Subcommittee
February 23, 1979	Categories of Employees Subcommittee
February 23, 1979	Full Commission Meeting
February 24, 1979	Full Commission Meeting
March 13, 1979	Full Commission Meeting
April 17, 1979	Classification, Certification & Recruitment Subcommittee
September 12, 1979	Full Commission Meeting
October 5, 1979	Merit System/Collective Bargaining Subcommittee
October 5, 1979	Certification, Classification & Recruitment Subcommittee
October 5, 1979	Categories of Employees Subcommittee
October 5, 1979	Full Commission Meeting
October 11, 1979	Merit System/Collective Bargaining Subcommittee
October 11, 1979	Certification, Classification & Recruitment Subcommittee
October 11, 1979	Categories of Employees Subcommittee - Summary
October 17, 1979	Merit System/Collective Bargaining Subcommittee
October 17, 1979	Certification, Classification & Recruitment Subcommittee
October 17, 1979	Categories of Employees Subcommittee
October 17, 1979	Full Commission Meeting
November 15, 1979	Merit System Collective Bargaining Subcommittee
November 28, 1979	Full Commission Meeting
December 12, 1979	Full Commission Meeting
January 9, 1980	Full Commission Meeeting

MEMBERSHIP ON THE SUBCOMMITTEES OF
BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

1978:

Senator Bill Ray, Chairman
Don Fisher, Vice Chairman
B. B. Allen, Administration (Robert Gates)
Representative Thelma Buchholdt (Rep. Mike Miller)
Myrt Charney, Admin. Serv. LAA
Representative Dick Eliason
Frank Flavin, Ombudsman (Paddy Moriarty)
Patrick Hunt, Personnel & Labor Relations
Lynda McCurry, Labor
Representative Joe McKinnon (Rep. Sally Smith)
Patrick Murphy APEA (Darlene Howard)
Greg O'Claray, Inlandboatmens Union (Homer Sarber)
John Pugh, APEA (Robert Mourant)
Ken Spray, Local #71
Niel Thomas, AK Human Rights (Janet Bradley

November 6, 1979:

Senator Bill Ray, Chairman
Don Fisher, Vice Chairman
Representative Thelma Buchholdt, (Rep. Mike Miller)
Myrton Charney, Executive Director LAA
Representative Richard Eliason
Frank Flavin, Ombudsman (Paddy Moriarty)
William R. Hudson, Administration (Sue Greene)
Lois Jund
Lynda McCurry, Labor (Doryce Eggleston)
Representative Sally Smith (for former member Rep. Joe McKinnon)
Patrick Murphy, Executive Director APEA (Darlene Livermore)
Greg O'Claray, Inlandboatmens Union (Homer Sarber)
John Pugh, APEA (Robert Mourant
Sandra Withers, Personnel & Labor Relations (Ken Kareen)

SUBCOMMITTEE

CLASSIFICATION, CERTIFICATION & RECRUITMENT
MINUTES

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

Senator Bill Ray, Chairman
Don Fisher, Vice Chairman
Representative Thelma Buchholdt
Myrt Charney
Representative Richard Eliason
Frank Flavin
Lois Jund
Lynda McCurry
John Pugh
Sandra Withers

Meetings:

November 15, 1978
December 1, 1978
December 13, 1978 ~~1978~~ JAN. 26, 1979 (Work Session Summary)
February 5, 1979
February 23, 1979
April 17, 1979
October 5, 1979
October 11, 1979
October 17, 1979

SUBCOMMTTEE
CATEGORIES OF EMPLOYEES

BLUE RIBBON COMMISSION
ON THE
STATE PERSONNEL ACT

Frank Flavin, Chairman
Lois Jund
Lynda McCurry
Pat Murphy
Sandra Withers
Senator Bill Ray, Ex Officio

Meetings:

November 16, 1978
November 30, 1978
December 12, 1978
January 4, 1979 ~~January 26-27, 1979~~ (Work Session Summary)
February 23, 1979 ~~Feb 6, 1979~~ (Work Session Summary)
October 5, 1979
October 11, 1979
October 17, 1979

SUBCOMMITTEE

MERIT SYSTEM/COLLECTIVE BARGAINING MINUTES

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

Representative Thelma Buchholdt, Chairperson
Greg O'Claray, Vice Chairman
Bill Hudson
Lois Jund
Lynda McCurry
Pat Murphy
John Pugh
Sandra Withers
Senator Bill Ray, Ex Officio

Meetings:

November 30, 1978
December 13, 1978 Jan. 26, 1979 (Work Session Summary)
February 5, 1979
February 23, 1979
October 5, 1979
October 11, 1979
October 17, 1979
November 15, 1979

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

MINUTES

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

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

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

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

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

MEMBERS IN ATTENDANCE

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

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

MINUTES

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

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

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

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

MEMBERS IN ATTENDANCE

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

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

MINUTES

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

MEMBERS IN ATTENDANCE

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

OTHERS IN ATTENDANCE

Alexander Gillespie

MERIT SYSTEM/COLLECTIVE BARGAINING &
BLUE RIBBON COMMISSION MEETING
Capitol Building, Juneau
November 15, 1979

MINUTES

Senator Bill Ray, Chairman, called the meeting to order and introduced Steve Halfling, Chairman of the Alaska State Personnel Board and Labor Relations Agency, and member of the Retirement Board.

Mr. Halfling briefly described his background as a 40-year Alaska resident and presented a summary of his views on the functions of the three boards. He believes that the Labor Relations Agency (LRA) is one of the most misunderstood operations in the state. It is effective and very frugal. A summary of the LRA's activities in 1979 was handed out to members.

Mr. Halfling was first appointed to the Personnel Board in 1960, when the agency met only three or four times annually to handle final steps in employee grievances. Following the adoption of the Public Employment Relations Act (P.E.R.A.) in 1972, the members of the Personnel Board were given additional duties as members of the LRA. The LRA has been meeting 30 to 35 times annually ever since. The first major task of the LRA was action on petitions to place positions in bargaining units. Since then, it has been responsible for refereeing disputes between the administration and collective bargaining units, hearing unfair labor practice allegations, monitoring strike votes, and generally performing functions similar to those of the National Labor Relations Board. In 1976, the agency heard over 250 disputes and held 60 hearings to make determinations. The LRA now spends an average of two days each month on hearings, investigations and research. Six or seven LRA decisions have been challenged in court, and all of them have been upheld.

Pat Murphy commented that the three members of the boards are volunteers who are not reimbursed for their assistance and that the subcommittee had questioned whether the agency should be given the support of a full-time staff or have full-time members. Mr. Murphy added that the present members have always impressed him with their performance. Mr. Halfling explained that the boards are funded by the state, but members don't work for any department. Therefore, members and staff can remain absolutely objective. The other two members of the boards, Morgan Reed of Skagway and Ron Henry of Fairbanks, and Mr. Halfling are longtime Alaskan residents and volunteers. The agency has a part-time secretary who handles office functions and who works on a contract basis for $2,000 monthly. A consulting attorney in Anchorage, who is a former Assistant Attorney General, Mark Ertichek, is also contracted on an hourly basis. He receives approximately $24,000-30,000 annually, which is half the cost of the former agency attorney, who lived out of state.

Mr. Halfling asserted that there is insufficient work on a continuing basis to justify having full-time agency members or staff. He doesn't believe that offices should be encouraged to justify their existence by creating work. As an example of this problem, Mr. Hafling cited the Labor Relations Office in the Municipality of Anchorage as a full-time office that appears to have created a lot of labor turmoil. The only unsolved business before the LRA for this year is the dispute between the University of Alaska and community college teachers. The LRA does not look for problems, and the law is written in such a way as to allow the agency to refuse cases that are frivolous.

Lois Jund commented that the members wear three hats. Mr. Halfling elaborated that as Personnel Board members, they have practically no workload since the advent of collective bargaining. The board holds semi-annual meetings to review changes to the Personnel Rules. The Retirement Board meets only occasionally to hear appeals. Their only real workload is as members of the LRA, and it is difficult to predict what the future volume might be. If all contracts are administered properly, the volume will decrease. Mr. Murphy stated that all states with numerous public employee unions have full-time labor relations agencies. He added that these positions are extremely vulnerable to political appointments and preconceived ideas and asked what will happen when present members choose to resign. Mr. Halfling responded that the boards must remain neutral--neither pro-union nor pro-administration.

Senator Ray asked whether the LRA's attorney's fees were excessive. Mr. Halfling replied that the Commissioner of Administration has questioned the expense of the legal consultant. Mr. Halfling believes that the finished product must be able to stand up in court, and the cost of a professional with experience in labor relations is therefore justifiable. Any inexperienced employee would be incapable of handling the demands of the position, and anyone on the state's payroll would have to be loyal to her or his employer. The LRA's secretary is also on contract for this reason. The total cost of services provided by the agency last year totalled under $40,000.

Ms. Jund asked how members of the boards are presently appointed. Mr. Halfling replied that the Governor appoints members for six-year terms, although he wasn't sure what criteria are used in the selection process. The appointments are confirmed by the legislature. Ms.. Jund asked what the duties of the Personnel Board include, and Mr. Halfling explained that the board did promulgate the initial Personnel Rules and acted as an appeals board in employee disputes. Senator Ray questioned whether the Personnel Board functions are obsolete. Mr. Halfling replied that the board hears only two or three appeals per year but must still act on changes to the Personnel Rules and changes in employee status from the partially exempt service to the classified service or vice versa.

Ms. Jund asked whether the Personnel Board or the Department of Administration would be responsible for a comprehensive revision of the Personnel Rules. Mr. Halfling replied that the Personnel Board only has authority to accept or reject Personnel Rule changes proposed by the Commissioner. The Board cannot write them nor modify them.

Senator Ray questioned whether the LRA has received inquiries or complaints regarding the hire of applicants from outside of Alaska. Mr. Halfling explained that in the early part of statehood, the Personnel Rules gave a five-point preference to anyone who had been an Alaskan resident for at least one year. Senator Ray commented that he has heard complaints about agencies and commissions hiring outside of the state without considering Alaskan applicants. Mr. Halfling stated that there is a Superior Court ruling that preferential treatment of state residents is in violation of the interstate commerce clause of the constitution. Senator Ray cited a written complaint he received from a long-time Alaskan who was not considered for a position with the Renewable Resources Corporation, even though he was extremely qualified. Mr. Kareen stated that the Renewable Resources Corporation is exempted by statute from the merit system hiring practices set out in the Personnel Rules. Mr. Halfling asserted that if the legislature could reenact the residential preference hiring system in Alaska, the Personnel Board would adopt it immediately if it were legal.

Mr. Halfling added that the Personnel Board must approve positions being placed in the partially exempt service, and the agency has turned down requests in the past which were unjustified. The board has also witnessed cases where partially exempt employees were dismissed without any appeal rights. He hopes that the commission can review these appointments to the exempt and partially exempt services.

Mr. Murphy asserted that preference for Alaskans might be provided for in collective bargaining contracts. Senator Ray stated that for strictly state-funded positions, the legislature might require a hiring preference towards individuals who had paid a state income tax during the previous year. Mr. Kareen commented that the argument for a preferential hiring system was turned down by the state's own Supreme Court, and federal funding did not enter into the question or the final decision. He added that he would be in favor of such a system, but there are exceptions when it is necessary to hire out-of-state applicants. He also pointed out that federal law requires that any minimum qualifications for positions be job-related. Ms. Jund stated that she would also favor the system when state applicants are better qualified. She proposed that agencies be required to justify the hire of out-of-state applicants in writing. Mr. Halfling asserted that employee turnover rates are increased when applicants are recruited from outside of the state. Mr. Kareen commented that this argument was raised in the state's unsuccessful court case.

Mr. Halfling concluded his discussion by reiterating his opinion that the LRA can maintain its neutrality by keeping its present structure. Mr. Kareen asked whether the agency would want additional staff if their workload increased. Mr. Halfling responded affirmatively, but said that he would not want the employees placed in the classified or partially exempt service. He also commented that an ideal candidate for board member would be someone who is retired, financially independent (to resist temptations) and objective.

Since the LRA formed, it has reached 55 formal decisions which were almost all unanimous. The most controversial of its decisions have gone to court and have been upheld.

Senator Ray summarized the situation of the LRA: The agency can work satisfactorily with its present contract attorney and part-time office staff as long as members are and continue to be completely neutral. He thanked Mr. Halfling for being candid in testifying before the commission and extended the commission's appreciation for his service on the boards.

The commission proceeded to review the Merit System/Collective Bargaining section of its draft report to the legislature, discussed changes, and added a section on positions in the partially exempt and exempt services which might be more appropriately placed in the classified service.

Senator Ray scheduled the next meeting for November 26 at 1:30 and adjourned the meeting.

MEMBERS IN ATTENDANCE

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

OTHERS IN ATTENDANCE

Doryce Eggleston
Steve Halfling (guest speaker)

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

MINUTES

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

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

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

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

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

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

MEMBERS IN ATTENDANCE

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

OTHERS IN ATTENDANCE

Doryce Eggleston
Bob Mourant

CATEGORIES OF EMPLOYEES
Capitol Building, Juneau
October 17, 1979

MINUTES

In the absence of Representative Buchholdt and Frank Flavin, Lynda McCurry chaired the meeting. Ms. McCurry referred to the issue of contractual services and employees discussed at the last meeting. Terry Cramer pointed out that the legislative resolution creating the commission specifically directs members to address the feasibility of establishing "a method for regularizing the hiring of specialists who, because of higher comparable salaries in the private sector for the skills involved, must be paid at levels in excess of the salary schedule".

Ken Kareen explained that the state is supposed to use Internal Revenue Service guidelines to distinguish between employees and contractors. Exceptions are made for attorneys and for part-time medical doctors. Teacher contracts are covered by special provisions, and they are technically the only contract employees in the state. All others are considered contractors.

Pat Murphy described his experiences with state contracts used by the Department of Education. In 1971, the Department of Education was delegated the authority to contract out for teacher services, and this privilege was abused when employee services were contracted even though they did not fulfill teaching requirements. Mr. Murphy commented that it took four or five months to straighten out the problem after bringing it to the Commissioner's attention. He added that there are also problems arising in the Division of Data Processing. There are 35 PCN's in the Division, and 16 are vacant because they are being filled with contract employees. There appears to be a question of contracting for services that can be performed by classified employees.

Mr. Kareen explained the procedure for justifying the need for contractual services: When an agency intends to contract for services, it must fill out a form requesting authorization. The request is submitted to the Division of Finance for presentation before a committee of three individuals for consideration. No contract is binding until approved by the Division of Finance. Construction contracts let on bids are exempted from this process. Mr. Kareen added that Mr. Murphy's concerns are universal between any management and union, whether private or public. Mr. Murphy asserted that the issue should be reviewed, citing the Department of Education as an example of 40-45 positions being placed back in the classified service following the 1971 review of contracts. The issue is not necessarily a union/management question, and it should be considered by the commission.

Ms. McCurry pointed out that data-entry services were contracted out for some time by the Division of Data Processing. She asked if there is a cost analysis done prior to contracting. Lois Jund stated that the Department of Administration makes a determination on whether they will approved contracting from what agencies submit. The problem in the Division of Data Processing became evident when that division could not finish a project in time to meet federal deadlines. There was insufficient staff to get the job done, and the division recommended contracting for services. Pat Murphy responded that at least some of the Data Processing contractors were state employees who were terminated and immediately place under contract with the Division.

Ken Kareen explained that development and modification of soft-ware is also considered a contractual job in the Division of Data Processing. John Pugh commented that contracting has also increased recently in the Department of Health and Social Service's Medicaid Program. Mr. Pugh added that he believes there should be some procedure for determining whether contracting is in the best interests of the state. Mr. Kareen commented that contractual services are identified in agency budgets, and inquiries on such expenditures vary from one legislative session to the next. However, the issue is never really ignored because the costs must be justified in the budget process. The subcommittee decided to ask the Director of the Division of Finance to address members on his division's practices in approving contracts. There was no further discussion on the topic.

Referring to the memos on partially exempt positions, Terry Cramer stated that the last memo distributed showed positions placed in that service. There was general agreement that a list of exempt positions would contain the positions on which the subcommittee has questions. Lois Jund commented that the partially exempt list did not appear to be complete. She knew of additional Division Directors in the Department of Health and Social Services who did not appear on the list. Mr. Kareen pointed out that Directors, Deputy Directors and their secretaries are in the partially exempt service by statutory definition. There are criteria set out in the statutes giving the Personnel Board authority to extend the partially exempt service. Positions responsible for the formulation or implementation of policy and those whose duties are not susceptible to normal methods of recruitment and examination may be placed in the partially exempt service.

Pat Murphy mentioned that changes to the classified and partially exempt services handled by the Personnel Board are performed without any advance notice to either the bargaining units or to incumbents. He objected to the methods in which positions are being moved from the classified to partially exempt service. When the Older American Program General Government Unit positions in the Department of Health and Social Services were placed in the partially exempt service, APEA wasn't notified of the action until two weeks after it was taken. Mr. Kareen

explained that the Division of Personnel received verbal directions from the Personnel Board following the incident to notify unions and incumbents of such actions in the future. Mr. Murphy pointed out that the Personnel Board consists of volunteers who have no formal staff to perform such functions. Mr. Kareen stated that the statutes were written from a model over 20 years old which did not anticipate collective bargaining in the state. The allocation of positions to the classified or partially exempt service is treated by the Act as a management prerogative. The Commissioner of Administration is petitioned for changes in services, and he/she submits the proposal to the Personnel Board, which has discretion as to whether a notice of the change is posted. The Division of Personnel has always understood that hearings are held at the Personnel Board's discretion. In a few instances, Mr. Kareen mentioned that the Personnel Board has called an incumbent in a position being changed, but that has not been an established procedure. Mr. Murphy commented that in one situation, a Director was moved from the classified to partially exempt service and was then terminated the following day. The procedure can be used to the detriment of state employees.

Lynda McCurry suggested recommending that a procedure manual be written for the Personnel Board. Mr. Murphy stated that it would be helpful to have guidelines for everyone to follow. Terry Cramer pointed out that the Personnel Board has the authority to adopt its own rules of procedure, which are exempt from the Administration Procedures Act. John Pugh stated that the Personnel Board has the authority to adopt its own procedures.

Mr. Kareen asserted that there is another area in the service which is recognized by the federal government as partially exempt: employees who don't promulgate or interpret policy but who must advocate existing policy. There is no provision in the statutes for placing these employees in the partially exempt service. Mr. Pugh responded that the subparagraph permitting positions with responsibility for policy implementation would include those required to advocate the policy.

Mr. Pugh stated that it is critical to reconcile the clash between rights granted to management under the Personnel Act with rights granted to unions under the P.E.R.A. Unions have a right to those positions which fall within their units as established by the Labor Relations Agency. Therefore, they have an interest in changes of positions within each unit from classified to partially exempt. Mr. Kareen commented that in comparison to other states, Alaska has a very low percentage of partially exempt employees. He added that there is concern about excluding career employees with major responsibilities in administering contracts from collective bargaining practices. Mr. Pugh commented that he doesn't believe that this mid-level management group should be removed from the classified service, although it should be prohibited

from collective bargaining. Those employees are career service employees. There are dangers to politicizing those positions--they need protection from removal every time a new boss comes in. They should therefore remain in the classified service. In addition, incumbents in positions whose service is changed by the legislature should have appeal rights to the Personnel Board. Ms. Jund asserted that there is a need for another service providing the benefits of the classified service but not collective bargaining. Terry Cramer commented that Mike McMullen in the Classification and Pay Section had informed her of five state employees who are in this situation. However, their right to bargain has not been affected: The Labor Relations Agency held that they were not within any existing units, but they were not forbidden from organizing a separate bargaining unit.

The subcommittee decided to examine the list of exempt positions before making a recommendation on the partially exempt service. There were no objections. Ms. McCurry adjourned the meeting.

MEMBERS IN ATTENDANCE

Lynda McCurry
Pat Murphy
Lois Jund
Ken Kareen (for Sandra Withers)

OTHERS IN ATTENDANCE

Doryce Eggleston
Bob Mourant
John Pugh

CERTIFICATION, CLASSIFICATION & RECRUITMENT
Capitol Building, Juneau
October 17, 1979

MINUTES

Senator Bill Ray, Chairman, called the meeting to order and referred to the memo on partially exempt employees prepared by Terry Cramer. She explained that partially exempt employees do not belong to collective bargaining unions because they have never petitioned for representation. Under current statutes, all employees in the Governor's Office are in the partially exempt service, unless their positions are federally funded.

The subcommittee reviewed the list of partially exempt positions in the memo and raised questions on the following:

DEPARTMENT OF REVENUE
- Revenue Hearing Examiners
- Investment Officers I-III

DEPARTMENT OF HEALTH & SOCIAL SERVICES
- Staff Psychiatrist

DEPARTMENT OF COMMERCE
- Executive Officer of the Nursing Board
- Executive Secretary of the Real Estate Commission
- Regional Loan Manager

DEPARTMENT OF FISH & GAME
- Special Assistant

DEPARTMENT OF ENVIRONMENTAL CONSERVATION
- Administrative Officer I

DEPARTMENT OF TRANSPORTATION & PUBLIC FACILITIES
- Special Assistant

Senator Ray stated that he would discuss with Governor Hammond the possible removal of some partially exempt positions from his office and the addition of policy-making supervisors to the partially exempt service. Pat Murphy pointed out that it is possible for employees to have the protection of the classified service while being excluded from collective bargaining. Employees in this special class are not subject to termination each time a new Governor is elected. Mr. Murphy added that he is sure there will be a bill introduced next session to remove Deputy and Assistant Directors from bargaining units. Senator Ray pointed out that Deputy and Assistant Directors should be in the par-

tially exempt service because they make policy decisions. If they were placed in the classified service as career employees, they would be less sensitive to implementing the Governor's policy.

Lois Jund cited her experiences in being offered a partially exempt position and her reluctance to accept it because of the possibility of making unpopular policy decisions and the unsure tenure of the partially exempt service. She believes that Deputy and Assitant Directors should be part of the career ladders in the classified service, but should not be part of the collective bargaining process. Ms. Jund recommended that these employees be moved into the special class Mr. Kareen referred to. Ken Kareen explained that the Governor has already proposed that these positions be removed from the collective bargaining process.

Senator Ray mentioned that he had received a complaint regarding APEA representatives being employed in policy-making positions with the state. Pat Murphy commented that this has not been a problem, but John Pugh, for example, resigned as President of APEA because the Commissioner of the Department of Health and Social Services felt that the office might conflict with his job responsibilities.

Ken Kareen stated that because of unique requirements, he feels that the Governor's staff should remain in the partially exempt service. However, there is a question about why some agencies are placed in the Governor's Office. Lois Jund pointed out that the public sector often applies pressure to have certain functions placed under the Governor's Office for visibility purposes. Ken Kareen added that there are instances when there is no logical place to put agencies other than in the Office of the Governor.

Senator Ray addressed the issue of auditing the personnel system. Lois Jund commented that audits of state agencies should be a role of the Division of Personnel. Senator Ray asked whether there is an internal audit function in the Department of Administration, and Ken Kareen responded that the internal audit function was deleted from the department's budget and reestablished under the Office of the Governor. The Department of Administration does have some audit responsibilities. Senator Ray suggested that a departmental ombudsman position might be created to handle such studies. Lois Jund mentioned that the Civil Service Commission's Personnel Branch performs personnel audits in agencies, examines specific positions, training and EEO functions, and writes reports containing recommendations for improvement. Ken Kareen elaborated that the Personnel Branch is then audited by the General Services Administration, which has a similar function.

Senator Ray moved that the subcommittee recommend that audits be performed in agencies by the Division of Personnel and that the Legislative Budget and Audit Committee determine the scope of the audits and be the recipient of reports. There were no objections.

Lois Jund asked who would be responsible for auditing the Division of Personnel, and Ken Kareen suggested that the study be performed jointly by the Division of Legislative Audit and the Department of Administration. Senator Ray pointed out that current legislative audit methods are time consuming, and reviews are not performed annually. Presently, the Legislative Audit Division reviews the system and reports findings to the Legislative Budget and Audit Committee, which submits the report to the department involved. The department then considers the report and submits a reply to the Legislative Audit Division. Mr. Kareen stated that legislative audits performed on the Division of Personnel are extremely time consuming. Mr. Murphy asserted that the Division of Personnel would be capable of handling performance audits on agencies if other functions were decentralized and the Division was responsible for administering the personnel system. Senator Ray moved that the subcommittee recommend that there be annual audits of the personnel system performed either by the Division of Personnel, the Legislative Audit Division or a combination of both. Lois Jund amended the motion by deleting reference to "annual". There were no objections.

On the issue of creating more effective disciplinary measures for violation of Personnel Rules, Senator Ray observed that supervisors are apparently lacking selfdiscipline. Ms. Jund stated that the U.S. Civil Service Commission has rules on offenses and publishes a table of penalties covering each offense. Mr. Kareen commented that under the present system, violations of Alaska's Personnel Rules are considered misdemeanors. He remembered only one prosecution in the history of the state.

Senator Ray cited an example of problems arising when the desire to prosecute is lacking. Ms. Jund commented that employees found violating the Personnel Rules should have an opportunity for hearing or appeal. Pat Murphy explained that collective bargaining unit representatives are responsible for representing employees in all disciplinary actions. All employees are responsible for abiding by the Personnel Rules, and if it is proved that they are willfully violating them, management has the right to take disciplinary action. Senator Ray asked whether the subcommittee agreed that the present disciplinary system is ineffective. Pat Murphy did not concur. Ms. Jund asserted that disciplinary measures are not applied consistently, because they are left to the supervisor's discretion and because there are no established guidelines. Ken Kareen stated that there are many parties involved when violations occur who are concerned with assisting the employee. He advocates uniform application of disciplinary measures and penalties less severe than misdemeanors. Senator Ray suggested that the subcommittee recommend an amendment to the Personnel Act to provide disciplinary action commensurate with the seriousness of violations. There were no objections.

Senator Ray brought up the issue of recommending comprehensive revision of both the Personnel Act and the Personnel Rules. The subcommittee had already voted affirmatively on recodifying the State Personnel Act. Senator Ray suggested that the decision on who should conduct the recodification process be left to the legislature's discretion. Members concurred, and suggested that the Personnel Rules be redrafted following revision of the statutes.

Senator Ray adjourned the meeting at 11:45.

MEMBERS IN ATTENDANCE

Senator Bill Ray, Chairman
Lynda McCurry
Lois Jund
John Pugh
Sandra Withers

OTHERS IN ATTENDANCE

Doryce Eggleston
Ken Kareen
Bob Mourant
Pat Murphy

MERIT SYSTEM/COLLECTIVE BARGAINING
Capitol Building, Juneau
October 17, 1979

MINUTES

Senator Bill Ray, Chairman, called the subcommittee meeting to order and raised questions on the topic of merit increases. Lynda McCurry explained that merit increases are provided to employees in accordance with step-increase plans. For most state employees, merit increases (steps B-F in the pay plan) constitute the only raises provided by the state. Once the top step has been reached, there are no raises except for the longevity increments provided by statute. Pat Murphy commented that raises are provided in a number of ways by collective bargaining contracts. APEA has incorporated merit increase steps into its contracts. Mr. Murphy distributed copies of another union's pay plan which has two steps (APEA has six) and a service bonus plan as an alternative to the statutory longevity increments. The two steps provided for in the other union's contract represent salary increases equivalent to APEA's six steps (A-F). However, the other union contract provides it's members with a lump-sum increase after six months of employment, and APEA's are available on an annual basis at management's discretion.

Lois Jund asserted that concerns over merit increases arise when the system is abused. She added that merit increase awards should be based on specific performance criteria. Ken Kareen elaborated that agencies have no performance-based standards established. Even if there were, each supervisor would interpret them differently. Senator Ray stated that present practices are unfair, and merit increases are being applied indiscriminately. Mr. Kareen stated that he is in favor of developing performance standards and maintaining the merit increase system, although he is skeptical of the results.

Ms. Jund commented that it is easier to evaluate employees who have lower-level functions than those in the higher echelons. There is nothing precluding supervisors from setting up performance standards, and the Division of Personnel encourages agencies to do so. Mr. Kareen observed that there will always be a certain amount of subjectivity involved in the evaluation of employees.

Senator Ray stated that the legislature is dissatisfied with the lack of uniformity in the granting of merit increases and is convinced that it is not the best way to reward employee performance. Unions can bargain about providing their members with raises. He added that the merit system is not compatable with collective bargaining on the

issue of merit increases. Senator Ray asserted that if an employee's performance is exemplary, that employee should receive an annual bonus at the discretion of the employer. Bob Mourant pointed out that a state supervisor cannot grant a bonus. Ms. Jund asked whether the legislature would be in favor of merit increases if some method could be devised for granting increases for meritorious service only. Senator Ray responded that the legislature apparently does not care for the terminology and would be more receptive to a system of rewarding longevity or seniority.

Senator Ray commented that few legislators are actually familiar with collective bargaining contracts, and they don't understand why the state provides raises to employees based on both the cost of living clause in contracts and merit increse provisions of the merit system. Mr. Kareen stated that there are not very many employees who advance through the final merit increase step. There is a 60% turnover rate of employees in the first three steps. Senator Ray responded that the turnover rate is decreasing as state employment becomes more popular because of benefits provided by both the merit system and collective bargaining unions.

Ken Kareen explained that merit increase steps A through F were originally provided for in Title 39, and steps J through M were added to provide for longevity in state service. Not all employees are hired at the initial step because there are instances when it is difficult to recruit for positions. Positions beginning at advanced steps are used as inducements to recruit valuable skills from the private sector. Ms. Jund commented that merit increases are necessary for recruiting and retaining valuable employee services, as well as for rewarding exceptional performance. She recommended that performance-based standards be mandatory for granting merit increases. Mr. Kareen asserted that a multi-step pay plan is better than granting a flat rate. Senator Ray stated that he doesn't believe employees should be hired at anything other than the beginning step. Ms. Jund added that if an employee in the private sector is earning more than step A, the state must compete with private industry for professional skills.

Senator Ray pointed out that although the economy in Juneau is dependent upon state and federal job income, government employees are minorities in other parts of Alaska. Mr. Murphy responded that government employees make up about 40% of Alaska's workforce, and 60-65% of the state's economy is impacted by government expenditures.

Senator Ray repeated that the legislature believes merit increases to be incompatable with collective bargaining. Ken Kareen stated that merit increase plans are presently negotiated, and changing the Personnel Act will not affect most classified state employees. Pat Murphy added that the only employees who would be affected by legislative

changes to the Personnel Act, unless collective bargaining is restricted, would be partially exempt and exempt employees. Mr. Murphy pointed out that although some believe that merit increases are automatically granted on an annual basis, they have not been funded by the legislature for the past year. Therefore, departments have been applying them inconsistently depending upon how much is left in the budget because of vacancy factors, etc. Some departments are better able to supply merit increases than others. Senator Ray suggested that the subcommittee list the alternatives in the commission's report to the legislature and that current practices be explained. The report will address: a bonus for meritorious service, collective bargaining impact, step increase plans, performance standards, etc. There was no further discusssion of the issue.

On the topic of amplifying the merit principles in the Public Employment Relations Act (P.E.R.A.), Senator Ray commented that one essential principle is the concept of basing merit on ability and performance. Mr. Kareen elaborated that the evaluation of employees and retention in state service are also essential merit principles. He pointed out that although merit increases are not specifically defined under the merit principles, almost every state provides employees with increases for meritorious service. Alaska's problems with the system are not unique to state government. Terry Cramer commented that a memo from Commissioner Hudson states that merit increases are almost universally granted to public employees and include graduated pay plans.

Senator Ray asked what principles are essential to Alaska's personnel system. Mr. Kareen replied that the five principles outlined in Terry Cramer's memo (selection and retention of employees based on ability, including examination for positions; equal treatment of those seeking employment; regular integrated salary programs based on the nature of the work to be performed; selection or retention of one's position to be secure from political influences; and tenure during the time that employees perform well) should be applied to all public employees. Senator Ray observed that equal treatment of applicants seeking state employment is especially important according to recent testimony.

Senator Ray stated that the five merit principles should be defined in the Personnel Act. Mr. Kareen explained that collective bargaining impacts merit principles by implementing alternative provisions for each unit. The state does not comply with the principle of equal pay for equal work, for example, given that each unit bargains for a different pay plan. Unless the Collective Bargaining Act is revised, statutory changes to the Personne Act will cover only partially exempt and exempt employees. Senator Ray and Mr. Murphy agreed that merit principles should be statutority defined.

Senator Ray was advised that the Categories of Employees subcommittee had discussed the issue of statutory changes to the membership of the Labor Relations Agency, Retirement and Personnel Boards. Mr. Murphy pointed out that the Personnel Board meets only occasionally, and members do not have enough time to get the job done. An executive assistant has been holding hearings for members. Senator Ray asked whether there is a need for the boards. He was informed that the Personnel Board is the only agency authorized to adopt changes to the Personnel Rules, and it consists of three voluntary members. Terry Cramer explained that the statutes provide for the same three volunteers to be members of both the Personnel Board and the Labor Relations Agency. The Retirement Board consists of five members, three of whom must be the members of the Personnel Board and the Labor Relations Agency. Mr. Kareen commented that it is difficult for the Division of Personnel and Labor Relations to provide staff support for the boards, because of their involvement in labor relation disputes.

Senator Ray suggested that statutory requirements on the membership of the Labor Relations Agency, the Personnel Board and the Retirement Board be reevaluated, and recommended that the Legislative Budget and Audit Committee review the overall functions of the Boards to consider whether they should continue. There was a consensus that the Labor Relations Agency should be provided with a staff of classified employees.

Senator Ray directed the staff to prepare additional information on the topic of adopting Personnel Rules in accordance with the Administrative Procedures Act.

Senator Ray adjourned the meeting at 2:40.

MEMBERS IN ATTENDANCE

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

CATEGORIES OF EMPLOYEES
Capitol Building, Juneau
October 11, 1979

SUMMARY

The Categories of Employees subcommittee was scheduled to meet at 8:30 to discuss positions in both the exempt and partially exempt service. Due to a lack of members present, it was decided that the report prepared by the staff would be put on the agenda for the next scheduled meeting on October 17 at 8:30.

MEMBERS IN ATTENDANCE

Lois Jund
Doryce Eggleston (for Lynda McCurry)
Sandra Withers

OTHERS IN ATTENDANCE

Ken Kareen

CERTIFICATION, CLASSIFICATION & RECRUITMENT
Capitol Building, Juneau
October 11, 1979

MINUTES

Senator Ray, Chairman, called the subcommittee meeting to order and invited Ron Lehr, Director of the Division of Budget and Management, to address questions on the role of his division in the classification and reclassification proccesses. Karen Corey was also present, representing the Governor's Office.

In the classification of new positions, the Division of Budget and Management is responsible for preparing position authorization forms, known as SA 21's. The agency requests that the division authorize the creation of a new position. This form is returned to the agency, which submits it with a position description (P402) to the Division of Personnel for their action on the proposed classification. The role of Budget and Management is to verify that funds are available for the position and to insure that the position is in accordance with the operations plan of the agency.

Senator Ray commented that the subcommittee has heard testimony regarding frequent delays in the classification process that was attri--buted to Budget and Management. Mr. Lehr responded that in most instances, SA21's are prepared by the division in May or June, well before the beginning of the fiscal year. Senator Ray mentioned the subcommittee's concern over Budget and Management's veto powers. Mr. Lehr explained that the Division of Budget and Management staff acts as the staff of the Governor's Budget Review Committee during the preparation of the Governor's budget, just as the Legislative Finance Division serves as staff of the Legislative Finance Committees during their review. In neither case do the staff members have decision-making powers. He added that there were some delays this year, since the legislative cut-back on the proposed budget required agencies to revise their operational plans. To insure that this was done, the division held up processing other documents for each agency, including authorizing expenditures for new positions, until the operations plan of the agency had been cleared.

Lynda McCurry commented that in the Department of Labor, the establishment of new positions doesn't present a problem. However, there have been problems in reclassifying positions, from seasonal to part-time for example. Ms. McCurry cited delays in the delete/reestablish process of up to several weeks. She was informed by Budget and Management analysts that reclassification actions were low on the division's list of priorities. She does not feel that agencies should be respon-

sible for calling the division to expedite the process. Mr. Lehr stated that reclassification actions should not take more than a few days. The division only has to verify that funding is available and that the reclassification is in accordance with the operation plan intended in the budget.

Ms. McCurry stated that from the program manager's point of view, it is difficult to obtain answers to questions over which Budget and Management and the Division of Personnel have authority. Mr. Lehr responded that the division revised its procedures manual, in August or September, and it may help in identifying the source for answers.

Senator Ray pointed out that there are some who feel that the Division of Budget and Management consists of a group of elitists who give everyone a bad time. Apparently, some staff members act as though they have more authority than is actually the case. Mr. Lehr replied that he would have to hear specific complaints to respond to the accusation.

Senator Ray asked whether each analyst in the division is assigned to one department. Mr. Lehr explained that each analyst works on a budget category, and there is one category for each department, with the exception of Natural Resources. He added that the division's task is quite simple, and it is easy to complete authorization forms, which are not very complex.

Senator Ray noted that personnel officers and agencies do not care to call the division whenever they have difficulties, because this often leads to being labeled as a trouble-maker. Mr. Lehr stated that the division has a control function responsible for excercising the Governor's authority. Some friction is inherent, given that role. Lynda McCurry observed that one on the problems appears to be a lack of communication between the division and the user agencies.

There are only certain instances when the division has to get involved in the classification process, such as in the delete/reestablish actions and when reclassifications require additional money. Doryce Eggleston stated that there are no clear operating procedures outlined for personnel officers, thus there is confusion as to the role of the division. Senator Ray suggested that the first step in the process, submitting the forms to the Division of Personnel, could be eliminated. Thus, P402's and SA21's could be sent directly to the Division of Budget and Management for authorization. Mr. Lehr stated that the Division of Personnel serves as a screening function, and his division would be overrun with requests if that step were eliminated.

Senator Ray recommended that the division write a handbook outlining procedures for all entities coming in contact with the division.

Mr. Lehr stated that the division has been writing a procedures manual for internal use, but it is a time consuming task and not a high priority. Senator Ray suggested that a short-form manual be prepared in the meantime in collaboration with the Division of Personnel and some of the agencies experiencing difficulties. There were no more questions for Mr. Lehr. Senator Ray expressed the commission's thanks for his participation in the meeting and offered congratulations on his recent promotion to the position of Director. Mr. Lehr and Ms. Corey left.

Lois Jund suggested that agencies could expedite the process by preparing position descriptions prior to receipt of SA21's. Ms. McCurry noted that APEA representatives have referred to problems in the process of upgrading classifications. Ken Kareen explained that their problems are results of grievances over position reclassifications. When the Division of Budget and Management receives requests for upgrading, they have to verify that funds are available and in accordance with legislative intent. Often, funds have not been appropriated for the elevated classifications, and the Division must delay authorization until funds have been approved.

Senator Ray addressed subcommittee members, stating his hopes that the commission can remain objective on issues that members are personally involved with. He informed the subcommittee that he had made a report to the Legislative Council on the commission's activities and their lack of action on the merit system/collective bargaining issues. The council indicated that the collective bargaining issue is a priority for commission consideration. Senator Ray assured the council that all information researched and all public testimony heard on the topic will be placed in the final report to the legislature. He invited members to prepare their own reports on any of the issues discussed during meetings. Senator Ray asserted that the commission is a legislative entity that is responsible for disseminating whatever information it acquires to the legislature.

On the issue of multiple applications, Ms. Jund commented that in the civil service system, an application may be submitted for all levels in a job series. Sandra Withers stated that the Division of Personnel operates with a limited number of employees and is designed to utilize their time and effort in the most productive manner. Senator Ray asked whether it would be possible to save time by accepting one application for a series, and then if an individual passed a test for the highest level, he or she could be scored for the lower levels accordingly. Ken Kareen explained that the Division of Personnel is working on computer backup that would allow for this in some instances. However, different values are assigned to experience and skills at different levels. Final scores are based on a combination of experience and knowledge of applicants, and individuals with both should be the best candidates for the job.

Senator Ray commented that individuals from academic backgrounds fare better on tests than those who have had more actual on-the-job experience. Mr. Kareen pointed out that the Division of Personnel is trying to develop a detailed questionnaire to evaluate experience in a more efficient manner. Evaluating experience described on applications and resumes can be difficult. Some applicants write autobiographies, and some scribble only a few lines. The recruitment responsibilities of the Division of Personnel are becoming more complicated because of state and federal regulations. The division cannot, at this time, interview an applicant for a position unless there is statistical documentation that the interview is nondiscriminatory.

Senator Ray moved that the subcommittee recommend that the Division of Personnel be encouraged to get away from the necessity of multiple applications, provided that the process doesn't become more labor intensive than it is presently. There were no objections.

The issue of test validation was addressed, and Ken Kareen asserted that the commission should not address the issue because of the complexity of state and federal regulations. Presently, a competent professional is required to study jobs and then construct validated tests. There are many alternatives, such as multiple choice, essay and combination tests. The Division must show statistically that people performing well on tests will perform best on the job. Lois Jund asked if there is an agency that validates tests nation wide. Mr. Kareen explained that there are a number of consulting firms that do, but there is no one agency involved. The leader in this area is the U.S. Civil Service Commission. Ms. Jund asked whether it would be possible to obtain validated tests to be used in Alaska. Mr. Kareen replied that the test couldn't be used unless it was validated for use in Alaska. The test on which the Civil Service Commission (Office of Personnel Management) spent the most money is currently being challenged in the courts because there is some question of its validity. The state is required by federal regulation to validate tests, but only some have been at this time. Ms. Jund asked if additional funding is necessary to complete the task. Mr. Kareen stated that he has mixed feelings on requesting additional funds because he doesn't believe that the state will ever be able to validate all tests. The subcommittee took no action on the issue.

On the issue of the veteran's preference system, Senator Ray suggested that it be abolished. Mr. Kareen stated that the Division of Personnel receives applications from career military people who are drawing retirement benefits from the federal government, and they expect to receive preference in state employment as well. Senator Ray suggested that the subcommittee recommend that veterans be given preference when applying for positions within a three-year period following discharge from the service. He believes that the present ten-point preference system for disabled veterans should not be changed. There was general agreement on the issue.

Referring to the topic of regional registers, it was pointed out that limiting registers to applicants from one region would restrict competition. Applicants presently have the option of choosing the area in which they are willing to accept employment on application forms. Ken Kareen pointed out that certification of some registers are handled in Anchorage. However, individuals indicate on applications that they are willing to work anywhere in the state but frequently turn down interviews for openings in rural areas. The state is required to hire from among the best available applicants, and limiting applicants to just one area would conflict with equal employment opportunity policies. Mr. Kareen stated that the U.S. Civil Service Commission (Office of Personnel Management) has regional registers requiring one application for each region. This type of system would increase the influx of paperwork in the Division of Personnel drastically. Lois Jund suggested that the state might be able to give hiring preference to residents in some rural areas. Senator Ray moved that the issue be noted in the commission's report and identified as a problem. There were no objections.

Members addressed the issue of interviewing the top five interested applicants on a register. Senator Ray suggested that requiring a cursory interview could alleviate some grievances from individuals who believe that they should have such opportunities. Lois Jund stated that appointing authorities work under time constraints, and a requirement would present difficulties. The procedure for requiring interviews for those on block scored registers was discussed. On some registers using block scoring, there are as many as 70 applicants in the top group. Terry Cramer commented that an individual had presented his views to her on an interview at the University of Alaska. He had been told that the position might be filled by promotion, and he felt that the interview was a waste of time. Senator Ray moved that the subcommittee recommend that the top five interested applicants be notified of position openings and given an opportunity to request a meaningful interview. The recommendation does not address registers using block scoring. There were no objections.

Senator Ray mentioned that the commission's recommendations on filling authorized permanent positions with only permanent employees had been taken care of in the new nonpermanent hiring law. He made a presentation on the new law to the Council of State Government's meeting, and it has been printed in their publication as a model for other legislatures. The staff is preparing a memo on the changes being implemented by the state.

On the issue of training, Senator Ray stated that the staff is preparing a report designed to inform the legislature of the commission's views.

There was general agreement that the issues of promotion and equal employment opportunities are matters for Division of Equal Employment

Opportunity consideration. Ken Kareen elaborated that the subcommittee is sympathetic tc EEO philosophies and believes that the Division of Equal Employment Opportunity provides adequate representation of the issues.

Sentor Ray commented that on the topic of documentiny tasks performed above class specifications, there are sufficient means for promotional advancement and compensation. Documentation procedures are available, which are the responsibilities of supervisors and managers. The issue is also a bargainable item. Senator Ray moved that the subcommittee recommend that thi, continue to be a bargainable item. Mr. Kareen added that it is management's responsibility to insure that the position description of their employees are current. There were no objections.

Senator Ray adjourned the meeting at 11:50.

MEMBERS IN ATTENDANCE

Senator Bill Ray, Chairman
Lois Jund
Lynda McCurry
Sandra Withers

OTHERS IN ATTENDANCE

Doryce Eggleston
Ken Kareen

MERIT SYSTEM/COLLECTIVE BARGAINING
AND BLUE RIBBON COMMISSION
Capitol Building, Juneau
October 11, 1979

MINUTES

Senator Ray, Chairman, called the meeting to order and referred to Senate Bill # 256, creating a Department of Employee Relations. He suggested that the commission consider recommending the separation of labor relations and personnel functions from others in the Department of Administration as an alternative to the creation of a new department. A Deputy Commissioner would be appointed to head each division. If the structure showed an improvement, the argument for a separate department would be substantiated. The commission could recommend to the legislature that it provide funding for the separation of functions to alleviate problems evidenced in the operation of the personnel system. Senator Ray moved that the commission include the recommendation in its report to the legislature. There were no objections.

On the issue of the legislature's involvement in collective bargaining, Senator Ray stated that the legislature doesn't appear to want to be directly involved in the bargaining process at this time. However, it must meet constitutional requirements of appropriating money to fund the contracts, and legislators want some form of veto power over unreasonable contracts in the name of the public. Senator Ray asserted that there should be some provision for legislative action on negotiated contracts within a specific time frame. A deadline for legislative action has been proposed, and if contracts are not acted upon within the time allotted, unions would be able to take any steps they believe are necessary.

Greg O'Claray stated that a legislative veto would be preferable to no legislative action. He added that he does not believe the legislature should be given two chances at approving or rejecting contracts. Sandra Withers pointed out that it is not uncommon for a government body to review contracts and order renegotiations. Mr. O'Claray responded that he doesn't believe contracts should be looked at piecemeal because the legislature would then be able to procrastinate in making a decision.

Sandra Withers commented that unions would have two opportunities to strike if the legislature had the authority to order renegotiations. Presently, all state contracts contain "no strike" clauses which provide that there will be no work stoppages during the life of the contracts. Therefore, when negotiations reach an impasse, unions are precluded from petitioning the Labor Relations Agency for striking authority until the existing contracts expire. If all contracts were to expire on December 31, and negotiations reached an impasse, unions would be able to strike

if mediation was unsuccessful. If negotiations resumed and an agreement was reached, it would then be submitted to the legislature. Unions would again be able to petition for a strike vote if the contract was not funded, unless the agreement had some legal force during the interim and also contained a "no strike" clause.

Senator Ray stated that agreements should be negotiated and transmitted to the legislature by a date convenient to the parties. The legislature would then have 30 days to either accept or reject the negotiated contract. If all contract expiration dates were changed to June 30, the unions would not be able to petition for a strike vote until after adequate time for renegotiations. The Department of Administration would thus only be responsible for handling negotiations, and strikes would have to be handled by the legislature. Mr. O'Claray questioned how a strike would be resolved. Senator Ray replied that either the Governor or the legislature would call a special session. Ms. Withers suggested that the commission research other state statutes that address legislative procedures for funding negotiated contracts. Senator Ray responded that public employee strikes are not uncommon, and they should be accepted as a possibility when the legislature does not approve the monetary terms.

Senator Ray asserted that the legislature is only interested in the monetary terms of the contracts. Mr. O'Claray reiterated his belief that the legislature should not be able to exercise a line-item veto over contracts. Ken Kareen commented that there are two large cost items: wages and benefits. Senator Ray stated that the legislature is only interested in the total price tag. Mr. O'Claray suggested that the commission recommend that the legislature be required to vote on negotiated contracts between the 90th and 120th day of the session. Senator Ray suggested that the legislature be required to take action by March 15 or within 30 days after receipt of contracts or before adjournment.

Ms. Withers pointed out that the expiration dates of contracts are currently considered bargainable items. Senator Ray stated that the commission should recommend that contracts coincide with the fiscal year. He added that language could be drafted to provide for multi-year contracts.

Senator Ray moved that the commission recommend that a time limit be set for legislative action on negotiated contracts. There were no objections. He added that the discussion should include alternatives to the procedure such as: negotiations being handled by the legislature, by a private negotiator hired by the legislature, or by the Department of Administration.

Mr. O'Claray stated that there should be a mechanism in the law for resolution of disputes if the legislature rejects a negotiated agreement. The method presently provided in the statutes is a strike. However, Mr. Kareen pointed out that some bargaining units are precluded from striking by statute. Lois Jund commented that if the timetable for legislative action was early enough, it could allow for renegotiation of contracts prior to the end of the session. Ms. Withers asserted that the legislature's role in collective bargaining is not unique to Alaska, and she suggested that other statutes be examined to get ideas on timetables. Mr. O'Claray stated that if the Finance Committee can give consideration to contracts in 30 days, then a negotiated agreement should be submitted by February 15. Mr. Kareen voiced concerns about the transition period on contracts, and Senator Ray responded that special provisions have to be made for implementing any new law.

On the issue of excluding policy-making supervisors from collective bargaining, Senator Ray commented that the partially exempt service appears to be another classification problem. Ken Kareen responded that some supervisors are responsible for policy making and others are required to enforce policy and collective bargaining contract terms. Mr. O'Claray mentioned that APEA representatives had testified at a House Committee meeting that they were willing to remove 90 supervisors from collective bargaining units. Senator Ray directed the staff to call the Governors Office to find out which classifications were proposed for removal from collective bargaining.

Senator Ray addressed the topic of a non-negotiable management rights clause and asked what would be included in such a clause. Terry Cramer explained that statutes in other states include hiring, promotion, tranfer, and the establishment of personnel rules as management rights. Mr. Kareen elaborated that the issue relates to problems that arose when the Department of Administration negotiated with a collective bargaining union on hiring hall practices, which do infringe upon management's ability to recruit and examine applicants. He added that merit principles must be adhered to by both parties. The fundamental question is what should and what should not be bargainable. Ms. Withers stated that the Commissioner of Administration is attempting to define what is bargainable. Currently, the classification, recruitment and examination processes are bargainanble, and a management rights clause would be a vehicle for setting out things that should remain consistent for all state employees. Ms. Withers added that the state negotiated an alternative to the statutory longevity system with one union. The only thing presently exempted from collective bargaining is retirement benefits. Changes to the Personnel Act are bargainable items.

Senator Ray recommended that the commission advise the legislature that certain items which are currently negotiable such as health benefits, classification, recruitment and examination might be exempted

from collective bargaining. He instructed the staff to make clear in the draft of the commission's report that collective bargaining has created inconsistencies in employee's health insurance and medical benefits. Mr. O'Claray pointed out that each union placed emphasis on different contract components. He added that IBU is tied into Taft-Hartley Act retirement trusts, and the state would have to amortize should it decide to require ferry workers to belong to the state's retirement system. Senator Ray directed the staff to point out in the commission's draft report that unions trade in different ways and place varying degrees of importance on increasing wages or benefits. This has prompted some discussion within the commission on the possibility of adopting a management rights clause to exclude certain topics from the collective bargaining process. Further investigation and study is needed before the commission will be prepared to make any definitive recommendations.

On the issue of cost of living adjustments, Senator Ray observed that there are two ways to go about it: lump sum or percentage increases. Mr. O'Claray suggested that there is no single answer to the question. The legislature is against percentage increases, but across-the-board increases create problems with compression of salaries. Senator Ray concurred that both systems have inherent problems. He suggested that this might be a topic for review each year. Ms. Withers commented that the country's economic situation will determine the continuation of such increases. Senator Ray stated that in the public's viewpoint, a hamburger costs the same amount for the guy who runs the elevator as it does for a commissioner. He does not believe that life styles should determine the allocations of increases. Lois Jund suggested that a third alternative is possible: varying percentage increases so that lower salary levels receive larger increases. Senator Ray reminded members that cost of living adjustments are not actual salary increases. They are not tied to geographical differences or anything else.

On the issue of merit increases, Senator Ray stated his belief that they should be done away with. Ken Kareen pointed out that they are currently negotiable items. Lois Jund commented that without merit increases, employee productivity is not encouraged. Senator Ray responded that a meritorious service award could be granted by a committee to deserving employees. The panel/committee could consider recommendations from supervisors and could have discretion on the amount of awards. Ms. Jund stated that it is not fair to pay a long term employee who is extremely productive the same amount that a new employee with no experience would receive. In addition, there are some positions in specialized fields where there is no career ladder and therefore no opportunity for advancement. She recommended that performance standards be created for evaluation of meritorious service, so that merit increases would not be considered "living and breathing" awards. Senator Ray asserted that

collective bargaining is not compatable with the merit system, and it is perceived as a double dip for state employees. Ken Kareen stated that he believes there should be performance evaluations, but that it would be impossible to have a uniform system of application because of the subjectivity inherent in any evaluation system. Mr. O'Claray pointed out that most labor organizations don't believe in merit increases, because it provides supervisors with a method for "playing favorites". He stated that a seniority system does not allow for favoritism. Senator Ray repeated that the legislature is seriously considering the incompatability of the merit system and collective bargaining.

Senator Ray adjourned the meeting at 4:25.

MEMBERS IN ATTENDANCE

Senator Bill Ray, Chairman
Greg O'Claray, Vice Chairman
Lynda McCurry
Lois Jund
Sandra Withers

OTHERS IN ATTENDANCE

Doryce Eggleston
Ken Kareen

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

MINUTES

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

CATEGORIES OF EMPLOYEES SUBCOMMITTEE

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

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

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

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

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

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

CERTIFICATION, CLASSIFICATION & RECRUITMENT SUBCOMMITTEE

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

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

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

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

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

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

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

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

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

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

MEMBERS IN ATTENDANCE

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

OTHERS IN ATTENDANCE

Doryce Eggleston
Ken Kareen
Bob Mourant

CATEGORIES OF EMPLOYEES
Capitol Building, Juneau
October 5, 1979

MINUTES

Frank Flavin, Vice Chairman, called the meeting to order and asked members if there were issues other than those outlined in the September 26 summary they wished to address. There were no additions.

On the nonpermanent hire law, Mr. Flavin asked if part-time temporaries are limited to 120 days of employment or the equivalent in hours. He also asked if the law applies to exempt employees. The law limits part-time temporaries to 120 calendar days as it does full-time temporaries (nonpermanents). Ken Kareen responded that it does not apply to partially-exempt or exempt employees.

On the issue of state practices in obtaining services or goods by contract, Mr. Flavin pointed out that there are two components to the issue: contractual employees and contractual services. Darlene Livermore stated that the state is drastically expanding areas of contracting and cited the Division of Data Processing as an example of where this is taking place. Mr. Flavin commented that he has found instances where contracted employees should actually be employed by the state, under Internal Revenue Service regulations. Ken Kareen explained that the the Division of Finance in the Department of Administration monitors contracting practices. The procedure calls for their authorization before a contract is negotiated and again before a contract is entered. The standards for distinguishing between someone whose services are contracted for and a state employee are the same as those followed by the IRS. Mr. Kareen believes that the number of contracts entered into by the state has diminished. The Division of Personnel doesn't usually get involved in the procedure. However, in some instances, the Division of Finance does request input from the division. The Department of Education did request assistance from the Division of Personnel on teachers' contracts when there was some question as to the legitimacy of the practices.

Mr. Flavin asserted that the subcommittee could recommend that there be more enforcement of contracting regulations. Mr. Kareen explained that the Division of Personnel does not monitor contracts and not all agencies are subject to review by the Division of Finance.

Darlene Livermore stated that the Division of Finance is responsible for reviewing only monetary terms of contracts to verify that they are consistant with IRS standards. Mr. Flavin asked if the forms used by the Division of Finance question whether services could be performed by a state employee. Mr. Kareen explained that there are different forms, and one is used only by the Department of Education for teachers. At one point, the Department of Education form was used improperly for administrative employees.

Ms. Livermore pointed out that there are former employees of the Division of Data Processing who are now performing the same functions for the division under contracts. Mr. Kareen stated that these employees are now working for contractors used by the state. John Pugh asserted that the Division of Data Processing is a good example of an agency that is contracting for personnel services ineffectively. Mr. Flavin suggested that monitoring contracting practices could be another function of a Department of Employee Relations. Abusing contracting privileges is already illegal, but there is an apparent lack of monitoring and enforcement.

Ms. Livermore commented that some collective bargaining contracts contain provisions regarding contracting and subcontracting. In response to Mr. Flavin's question on the extent of state policy, Mr. Kareen stated that policies differ from agency to agency. Mr. Pugh cited a need for planning of future personnel and program requirements. This should be done on a long-term basis as a cost saving mechanism. Mr. Kareen pointed out that there is another committee studying the practices of the Division of Data Processing.

Mr. Flavin asked whether there are personnel planners to perform such functions. Ms. Livermore replied that there are people who specialize in staffing. Mr. Kareen stated that each manager in the state has responsibility for program planning. The state does not employ any manpower specialists because in addition to the knowledge of personnel planning, they must have expertise in various fields. The state is too small to support such a function. Mr. Flavin commented that there is a need in the budget process for review of new projects to justify their objectives. He asked whether the Division of Budget and Management could question personnel projections and examine the cost efficiency factors. Mr. Pugh observed that presently, only monetary terms are considered in determining what is most economical for a single fiscal year. There is no consideration given to long-term planning of staff and funding requirements. Ms. Livermore pointed out that the federal system has a personnel management office that provides specialists who consult with agencies on program objectives.

Mr. Pugh asked what type of studies are required prior to the authorization of contracts. Mr. Kareen responded that one collective bargaining contract provides that a study be performed to verify the ability of the contractor to provide services at less cost to the state than could state employees. Otherwise, there must be justification through the budget process that contracts are more economical. Mr. Kareen commented that the theory of obtaining the best and most economical services is good. However, it is difficult to identify how services can be accomplished and the costs of alternatives. The ideal would be providing the highest quality and quantity of service to the public at the least expense. He added that there will always be disagreement on whether the proper choice was made. John Pugh suggested that there needs to be more than a study of the financial aspects of contracts. The best alternative for one year isn't necessarily the best alternative in the long run. Mr. Kareen commented that many agencies operate with federal monies and therefore cannot plan for a long-term program.

The subcommittee took no position on the issue.

On the issue of excluding policy-making supervisors from collective bargaining, Ms. Livermore stated that there are many employees in the partially exempt service who have little policy-making authority, but are excluded from bargaining. A number of these positions were assigned to the partially exempt service by legislative action that was not based on policy-making criteria. In the Limited Entry Program, for example, there are 40 or 50 employees who are classified as such without those responsibilities. Mr. Flavin stated that there are some supervisors in the classified service who should be in the partially exempt service. He suggested that the subcommittee review both services. Mr. Pugh commented that any changes made in those services would require statutory revisions.

Mr. Kareen explained that there are three ways in which positions are placed in the various services. The State Personnel Act initially placed legislative and court system employees in the exempt service. Employees in the Office of the Governor, unless their positions are federally funded, are in the partially exempt service, as are attorney members of the Attorney General's Office. Commissioners are exempt, and their secretaries are partially exempt.

The second method by which positions are placed in the exempt or partially exempt service is as a result of case-by-case legislative action. The legislature enacts laws which state that a certain position (s) will be exempt or partially exempt. For example, the Director of the Division of Personnel and Labor Relations was recently placed in the partially exempt service. The legislature does not appear to follow clear standards in making its decisions about which service positions should be in.

The third method is created by the State Personnel Act. By action of the Personnel Board, following petitioning of the Commissioner of the Department of Administration, a position may be moved from the partially exempt to the classified service or the other way around. The petition must demonstrate that certain criteria are met before the Personnel Board may act. The Personnel Board has no jurisdiction to change the status of those positions which have been placed in one service by legislative action. Ms. Livermore added that the employees of the Limited Entry Commission has all been placed in the exempt service by legislative action. Mr. Flavin recommended that the subcommittee initiate a study on the numbers of positions in the partially exempt and exempt service to determine placement patterns. The staff was directed to present an overview on the subject.

On another issue, Mr. Kareen stated that someone from the Legislative Affairs Agency had searched through the statutes to isolate references to the personnel system. The results were lengthy, and he feels that the Personnel Act is not codified well. He added that the Personnel Act makes no mention of those scattered positions which are to be in the

partially exempt and exempt services. Mr. Flavin moved that the subcommittee recommend that all personnel sections in the statutes be codified into a cohesive form located in one chapter. There were no objections, and the motion passed.

The subcommittee addressed the issue of initiating a study of PCN's remaining vacant for excessive lengths of time. Mr. Pugh stated that because of underfunding in many agencies, there would be difficulty in studying vacant PCN's at this time. Lynda McCurry pointed out that vacant PCN's are going to be used when reclassifying temporaries under the nonpermanent hiring law. Mr. Flavin suggested that the subcommittee table the issue until it has seen the reaction to the new law.

Mr. Flavin adjourned the meeting at 9:30.

MEMBERS IN ATTENDANCE

Frank Flavin, Vice Chairman
Lynda McCurry
Darlene Livermore (for Pat Murphy)
Ken Kareen (for Sandra Withers)

OTHERS IN ATTENDANCE

Doryce Eggleston
Bob Mourant
John Pugh

CERTIFICATION, CLASSIFICATION & RECRUITMENT SUBCOMMITTEE
Capitol Building--Juneau
October 5, 1979

MINUTES

Senator Ray, Chairman, called the meeting to order and referred to the September 26 issues summary as an agenda for discussion. Items IIA1 (creation of a Department of Employee Relations) and IIA2 (adopting the Personnel Rules in compliance with the Administrative Procedures Act) were reviewed by members. Under language drafted into SB256, Personnel Rules would no longer be exempted from Administrative Procedure Act requirements. Under the present law, the Personnel Board has discretion as to whether a public hearing is held on proposed changes.

On the issue of a block scoring system (IIA3), Ken Kareen explained that the subcommittee's previous recommendation was viewed by the Division of Personnel as an encouragement to continue moving in that direction. He stated that currently, almost all clerical examinations are block scored. There are numerous federal requirements for compliance with examination regulations, and it is possible that further subcommittee refinements would not be in compliance. The federal government permits the use of block scoring in its own system where there is sufficient statistical information available.

Sue Greene stated that the "rule of five" is restrictive for some classes and not so for others. There are certain types of positions that require employee qualities that do not show up through testing. Ken Kareen commented that to meet this need, there are provisions in the Personnel Rules where an appointing authority has discretion to hire below the top five. When an exception is made, the burden is placed on the appointing authority to supply a reasonable explanation for such action.

Senator Ray stated that people's expectations of getting hired when within the top five are being thwarted, written examinations are ambiguous, experience is erroneously evaluated and "buzz words" are the most significant factors in evaluations. Darlene Livermore responded that final ratings are usually based 60% on experience and 40% on test scores. There are inherent difficulties in classifying people, and there is always a question of subjectivity. On another topic, it was noted that after an individual is tested and hired, the emphasis on training is dependent upon the position. If a classification is for training purposes, the examination is created to predict which individual has the greatest learning potential.

John Pugh pointed out that the Division of Personnel has improved certain classifications by consolidating them into larger classes. When his department needs a program coordinator, it requests the specific qualifications necessary. The Division of Personnel provides an eligible list of those persons on the general program coordinator list who meet the specific qualifications requested. However, this can be very time consuming for the Division of Personnel, and generalizations cannot always be made in classifications.

Senator Ray elaborated on existing classification problems, such as requests for accountants, when a position only requires an accounting clerk. Sue Greene responded that the Division of Personnel relies on information from supervisors, who are required to review each of their employees' position descriptions during the annual performance evaluations. There is a need to improve the system. Ken Kareen pointed out that a recommendation to create a stronger audit function in the Division of Personnel would make the division even less popular than it is now. Members discussed some possibilities for reviewing the classification system. Washington contracts with a consulting firm on an ongoing basis. Alaska has previously contracted with a firm to examine and make recommendations on the system. Although the firm was well respected, their recommendations were unpopular and not acted upon. Ken Kareen agreed with Sue Greene that a study performed by an outside firm would be more objective, but credibility would be better from the Division of Personnel. If a study were to be done, it would be important for the current division staff to work with the firm conducting the study because they would be responsible for maintaining the revised system.

Lynda McCurry stated that several agencies have highly developed classification review plans. However, there is a lack of resources for all departments to do so. Departments and personnel sections should be more responsible for position classifications. John Pugh suggested that register ranking could be better handled by departmental personnel, especially unique classes which some departments are responsible for now. Some classification problems can be attributed to the departmental employees who write evaluations and minimum qualifications. How much authority for independent action should personnel officers have? Personnel officers in some departments are classifying positions. In various agencies, employees are responsible for writing their own job descriptions and evaluations, which are reviewed by supervisors and then sent to personnel sections. Lynda McCurry stated that if an incumbent is familiar with the work, he or she will usually be able to write a very honest job description. In the Word Processing Center, for example, it was found that almost universally, the staff rated its work with fewer points than actually earned. John Pugh mentioned his belief that "padding" is more prevalent for positions in Juneau offices than those located in other parts of the state. Positions with a higher level of decision-making authority are better paid in the state than are those with less authority but more daily responsibilities.

Senator Ray asked the subcommittee whether personnel officers should be centralized or decentralized. Darlene Livermore replied that it would appear to be easier to have them congregated in one central location. However, good logic dictates a decentralized system to the maximum degree possible, where the personnel officers have a great amount of authority and some type of uniformity in regulation application. John Pugh commented that there are some functions that need to remain in the Division of Personnel. He recommends a centralized system to establish and maintain policies and procedures, with a strong audit function. Lynda McCurry added that the Confidential Employees Association recommends that personnel officers with classification authority be located in each department and that there be a strong audit function in the Division of Personnel.

Sue Greene said that there are two points of concern in maintaining a cohesive system of equitable application. In the long term, fragmentation can occur in a decentralized system. She recommends that personnel officers be hired and managed by departments and be delegated different levels of authority, depending upon their capabilities. Presently, each department has a personnel section, and the Division of Personnel employs individuals to service all the departments. Employees in the division distribute some activities to departments and ask for assistance in various tasks. Ms. Greene advocates moving in the direction of greater delegation of tasks to the departments at the discretion of the Division of Personnel.

Senator Ray observed that the decentralization of personnel officers appeared to be favored by members and that the biggest argument against such an action would be the veto power of the Divsion of Personnel. Classification procedures could be performed by personnel officers in agencies, but the Division of Personnel would have the final word. Ken Kareen explained that there are many variables that must be taken into consideration when delegating tasks to departments such as different management skills, personalities, general abilities and knowledge of procedures of personnel officers and their staffs. The Division of Personnel responds in proportion to the input and performance qualifications of departments.

Senator Ray commented on complaints the commission has received regarding reclassifications that originate in departments, are approved by personnel officers and then denied by the Division of Personnel. Ken Kareen responded that this problem relates to control at the commissioner's level. How much authority should they have in the process? Even if personnel officers were employed by the Division, they would still be subjected to pressure from commissioners and would have to consider priorities. Darlene Livermore recommended the delegation of functions from a centralized division, responsible for overseeing rules

and regulations on how to distribute tasks. That is how the Department of Labor is working now. Ms. Livermore stated that delegation of responsibilities could work on a performance basis to the benefit of all. Those personnel offices incapable of performing could be dealt with by providing training to the staff or by whatever action became necessary.

John Pugh cited the prompt classification of new positions as being a major problem. New positions are assigned to a class in the budget enacted by the legislature and should be handled by departments so that programs can start on time. Ms. Livermore stated that the problem in classification of new positions is created by the Division of Budget and Management. In a study initiated by Senator Croft two years ago, it was found that delays are most often due to delays in receiving position descriptions or in Budget and Management's authorization process. Once a department has written a job description (P402), after the budget has been authorized by the legislature and signed by the Governor, the entire mass of paperwork must be submitted to Budget and Management so that the source of funding can be identified and documents can be coded into the budget process.

Senator Ray asked why Budget and Management is involved in the process. It was explained that they must verify the existence of funds appropriated to agencies for their classifications and that the use of funds is consistent with the legislature's intent. The staff was directed to request that a representative of the Office of Budget and Management attend the next subcommittee meeting.

On the question of reviewing all existing classifications, Senator Ray stated that he would prefer to have someone other than the Division of Personnel perform the study. It was noted that there is presently insufficient staff in the division to perform a comprehensive review. Darlene Livermore commented that she had been in contact with other states that had hired personnel consulting firms to investigate the feasibility of utilizing their services. The responses she received on some of the most respected firms were not favorable. The state or municipalities involved experienced extreme difficulties with the recommendations of the firms that were implemented.

Senator Ray suggested to the subcommittee that it recommend that the legislature fund a comprehensive review of existing classifications to identify troubled areas. Ms. McCurry stated that dealing with outside consultants had been disastrous in the past and that funds could be better spent by giving the Division of Personnel additional resources. Other options such as utilizing the Civil Service Commission (Office of Personnel Management), the Legislative Audit Division or the Division of Personnel were mentioned. Senator Ray modified his recommendation: A study should be performed by either the Division of Personnel, Legislative Audit, the Civil Service Commission, an outside consulting firm or a combination of the above. A vote was taken. Two were in favor and two opposed. The motion failed.

John Pugh moved that the subcommittee recommend that the Division of Personnel head towards broader classifications. There were no objections, and the motion passed.

On the topic of closing eligibility registers, Ken Kareen stated that the issue has gone to arbitration, and a decision has not been made. The grievance is based on the fact that once registers are closed, unionized employees are precluded from promotional openings because they cannot get on registers. John Pugh stated that open recruitment on all positions is ridiculous. The grievance arose when permanent employees were denied access to promotional lists. Mr. Pugh added that it makes sense to limit recruitment because of the insufficient amount of employees in the Division of Personnel.

Ken Kareen pointed out that the Division of Personnel is trying to schedule recruitment and staff workloads so that every job classification will be open for a minimum of 30 days per year. Senator Ray observed that applicants might be allowed to test for closed positions at any time. From the public standpoint, testing should be available at all times. Lynda McCurry pointed out that there are instances where only four positions exist in one classification, yet the Division of Personnel receives 185 applications annually. Ken Kareen stated that the state is spending funds on recruitment that is unnecessary. Last year, the Division of Personnel processed 60,000 applications from approximately 28,000 individuals. Mr. Kareen stated that the present Division of Personnel policy is to close recruitment for a maximum of 11 months when there are sufficient numbers of eligibles on registers to meet the state's needs for one year. Mr. Pugh asserted that registers should not be closed to permanent employees. Senator Ray asked why a present employee should be treated better than a citizen.

Senator Ray moved that the subcommittee recommend the continuation of open registers in a modified form. There were no objections, and the motion passed.

Members agreed to hold a meeting next week to receive testimony from Ron Lehr of Budget and Management and possibly from a representative of the Governor's Office.

Senator Ray adjourned the meeting at 12:10.

MEMBERS IN ATTENDANCE	OTHERS IN ATTENDANCE
Senator Bill Ray, Chairman	Doryce Eggleston
Lynda McCurry	Sue Greene
John Pugh	Darlene Livermore
Ken Kareen (for Sandra Withers)	Bob Mourant

MERIT SYSTEM/COLLECTIVE BARGAINING SUBCOMMITTEE
Capitol Building, Juneau
October 5, 1979

MINUTES

Greg O'Claray, Vice Chairman, called the meeting to order and referred to the September 26 issues summary as the topic of subcommittee discussion. The meeting was recessed briefly to prioritize the issues to be addressed (issue numbers in parenthesis reflect those in the summary). Mr. O'Claray reconvened the meeting.

1. The legislative role in collective bargaining. (IIIB1)

The only place where the legislature's involvement in collective bargaining is addressed in the statutes is in AS23.40.215 of the Personnel Employment Relations Act. Presently, the legislature takes no active role in the bargaining process. The Constitution requires that the legislature enact all appropriations, including those for collective bargaining contracts. The result is that unions must deal initially with the Administration at the negotiation tables and then with the legislature to encourage appropriation of funds. John Pugh commented that the legislature appears to want more information about contracts and a better method of communication from the administration.

In discussing alternatives, Terry Cramer stated that Wisconsin has a joint committee consisting of the leadership of both houses and parties that is consulted by state negotiating teams. Sandra Withers commented that the legislature is considering taking a more active role in negotiations through a legislative employee at the bargaining table. The legislative representative could have either a moderating or approval role, but in either case it would be impossible. If the legislature sits at the table, it should take the entire responsibility for bargaining. Otherwise, the unions would be asked to bargain with people (Department of Administration staff) who do not have authority to make any committments. Ms. Withers added that in some states, an elected body passes on both monetary and contract terms.

Greg O'Claray stated that he doesn't believe that the legislature should be involved in the process at all. Right now, it is not clear what role they play, and he does not feel that they want to bargain at the negotiating table. Sandra Withers suggested that the topic is beyond the subcommittee's purview. Mr. O'Claray disagreed, stating that the legislature is seeking information and direction on the topic from the commission. Darlene Livermore recommended that legislative involvement not be changed because 95% of collective bargaining contracts do

not deal with monetary terms and could be divorced from the legislative process. John Pugh commented that this is a constitutional issue that may be resolved in the courts.

Sandra Withers stated that if it is a legislative concern, there should be a vehicle for communicating concerns. Has the commission received any directives? Ken Kareen concurred and added that this is a relationship between the legislature and the Governor. Frank Flavin suggested that the subcommittee ask some legislators how they perceive the problem if the commission is going to address this issue. Greg O'Claray tabled the issue for discussion at a future subcommittee meeting.

2. Amplification of merit principles in the Personnel Employment Relations Act. (IIIB7)

John Pugh commented that Pat Hunt, former Director of the Division of Personnel and Labor Relations, had suggested placing merit principles in the statutes. Frank Flavin suggested that the subcommittee consider what part of the merit system or what merit principles are bargainable. It had been Mr. Hunt's belief that all principles are bargainable. There is a constitutional requirement for a merit system, but it may be provided for by collective bargaining contracts.

Ken Kareen stated that neither the state Constitution nor the statutes defines the principles. In practice, Alaska generally follows those of the federal government. Sandra Withers pointed out that the Personnel Act sets out the operation of merit principles. Mr. Flavin commented that this also relates to whether Alaska should adopt a management rights clause. Greg O'Claray asked whether merit principles should be spelled out in the P.E.R.A. John Pugh stated that they have been written out in the Model Personnel Administration Law.

Greg O'Claray tabled discussion of the topic for future subcommittee deliberation.

3. Membership of the Labor Relations Agency, the Personnel Board and the Retirement Board. (IIIB8 and IIIB9)

The subcommittee is on record as recommending the establishment of a full-time Labor Relations Agency. The issue was brought about due to concerns based on accessibility to the agency. The Labor Relations Agency is established by statute as a three member board and members serve on a voluntary basis, operating on limited resources. Both John Pugh and Greg O'Claray stated that they had never experienced problems with accessibility to the agency, but Darlene Livermore stated that bargaining unit changes end up being delayed for months due to the infrequency of agency meetings. The agency has never spoken before the subcommittee on problems.

Frank Flavin questioned the interrelationship of the three boards, and it was explained that membership overlaps. The three members of the Labor Relations Agency are required by statute to be the three members of the Personnel Board. Three of the five members of the Retirement Board are required to be the Personnel Board members. Ken Kareen explained that the function of the Retirement Board is to oversee the retirement system, to make decisions on investment of retirement funds and to act as an appellate board on claims, such as early retirement. The staff was asked to invite a member of the Labor Relations Agency to attend its next meeting and to research the function of the three boards. Ken Kareen mentioned that Title 39 does outline the agencies' duties.

4. Methods of adopting Personnel Rules and standard operating procedures. (IIIB10)

Sandra Withers pointed out that the Personnel Rules are exempted from the Administrative Procedures Act review. However, SB 256 as currently drafted deletes the exemption. Ken Kareen elaborated that the issue relates to concerns that the Personnel Rules do not detail procedures for implementation, and departments have been writing their own standard operating procedures. In many instances, the procedures differ and have impacted employees differently.

Mr. Kareen added that standard operating procedures are also subjects of collective bargaining. Frank Flavin commented that there is nothing in the Administrative Procedures Act that prohibits collective bargaining on the issue. The A.P.A. requires that before rules are adopted, they must be subject to public comment. Contracts are not considered rules and are therefore not subject to the A.P.A. Mr. Flavin added that those standard operating procedures which affect the public would be required to conform to the A.P.A. Those procedures which are solely concerned with internal management are excluded. Lynda McCurry asked if there is a problem in how standard operating procedures implement the Personnel Rules. Does the subcommittee want to recommend a review of the departmental standard operating procedures to determine whether there is consistency of treatment of state employees in various departments?

Greg O'Claray tabled the issue for future subcommittee consideration.

5. Exclusion of policy-making supervisors from collective bargaining. (IIIB2)

John Pugh stated that all supervisors are involved in some form of policy making, whether it be in disciplinary actions for subordinates or actual regulation formulation. However, it is possible for supervisors

to be in the classified service and exempt from collective bargaining. They would not have to be removed from the classified service and placed in the partially exempt service. However, this exclusion from bargaining would have to be provided for in the P.E.R.A. John Pugh stated that APEA has already agreed to the removal of some supervisors from collective bargaining.

Greg O'Claray tabled the topic for future subcommittee discussion and adjourned the meeting at 2:45.

MEMBERS IN ATTENDANCE

Greg O'Claray, Vice Chairman
Sandra Withers (for Commissioner Hudson)
Lynda McCurry
Darlene Livermore (for Pat Murphy)
John Pugh
Ken Kareen (for Sandra Withers)

OTHERS IN ATTENDANCE

Doryce Eggleston
Frank Flavin
Bob Mourant

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

MINUTES

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. All contracts should go into effect as of July 1.

2. Notice should be given to the legislature of the findings of the negotiating teams by March 15.

3. The legislature would have to act on the results of the negotiations within 30 days or by the end of the session, whichever came first. The system could provide either that a contract did not take effect unless approved by the legislature, or that the contract would become effective unless disapproved.

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

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

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

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

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

1. Return the responsibility of negotiations to the legislature, either through a legislative committee or through staff hired for that purpose.

2. Hire legislative staff to sit with the Department of Administration and the public employee unions in the bargaining process.

3. Require approval by the voters for each contract before it takes effect.

4. Do away with collective bargaining altogether.

5. Present neither recommendations nor proposed legislation on the issue.

6. Recommend that the legislature retain the present system.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Senator Ray adjourned the meeting.

MEMBERS IN ATTENDANCE

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

OTHERS IN ATTENDANCE

Doryce Eggleston
Darlene Livermore

TELEGRAM

[illegible]

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PMS SEN BILL RAY[illegible]

JUNEAU AK 99801

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

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

SEP 11 [illegible] 11 02

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

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

Dear Senator Ray:

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

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

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

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

Sincerely,

C.A. Hubbard

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

JUNEAU INTERGOVERNMENTAL TRAINING COUNCIL

September 12, 1979

TO: The Blue Ribbon Commission

RE: Employee Development and Training

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

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

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

Currently with no coordinated system for state training efforts:

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

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

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

Marie Darlin

Marie Darlin, Chairman

CLASSIFICATION, CERTIFICATION & RECRUITMENT SUBCOMMITTEE
Governor's Conference Room, Juneau
April 17, 1979

MINUTES

Senator Ray, Chairman, called the meeting to order and invited testimony from individuals present. He stated that the Commission requires information from people regarding all sides of the issues it is considering. The commission feels strongly that people should be able to speak freely without fear of repercussions from their supervisors or others. Members will weigh all information and opinions expressed in making their decisions.

TESTIMONY

Lynda McCurry presented testimony on the question of centralization/decentralization. In her estimation, it would be possible to decentralize personnel functions to some departments without additional cost to the state. Many unique job classes are presently examined and classified by personnel officers who are experienced in working with departmental job classifications.

Ms. McCurry believes that personnel officers should be employed by departments rather than by the Division of Personnel to assure access to departmental commissioners. Regarding the placement of personnel officers in departments, Ms. McCurry recommended as her personal opinion either placement in the commissioners' offices or at least as supervisors in offices of directors of administrative services one level below. It is essential for personnel officers to have a direct line of communication with the commissioners' offices in order to keep the chief executives up-to-date.

Senator Ray asked if there are instances when there is not ready access to the commissioners. Ms. McCurry responded that this is the case in some instances, and she does not believe that commissioners are fully aware of the problem.

Senator Ray questioned whether changing the statutes to require that personnel officers be administrative assistants for labor relations in order to have direct access to commissioners would eliminate this problem. Ken Kareen asked if a law stating that personnel officers shall have access to the commissioners would improve the situation. He added that there are a wide variety of commissioners and that the Personnel Rules are subject to different interpretations by them. Ms. McCurry stated that it is not uncommon for division directors to take action without the knowledge of personnel officers.

Senator Ray inquired if a change in the law would lessen the number of problems and complaints received by the Ombudsman's Office. Frank Flavin responded that if it were the specific intent of the law, commissioners would be more likely to give the personnel officer's position the responsibility needed. Pat Hunt said that the responsibilities of the positions are diminished in some instances. If positions were put into the law, they would become partially exempt because of policy role. Ms. McCurry stated that this could upset the personnel officers' departmental status if positions were placed in law as part of the commissioner's office. The change in the law might not have the desired effect.

Senator Ray commented that he could not comprehend a personnel officer not having access to the department's commissioner. Ms. McCurry recommended that centralization/decentralization should be based on the cooperation of the Division of Personnel and agencies, depending on the abilities of the individual department. Personnel officers who abuse the authority given them should be held accountable for their actions, and the delegation of authority should be removed to correct the situation if necessary. This would require a strict audit system to be developed by the Division of Personnel and Labor Relations.

Ken Kareen elaborated that in the State Personnel Act, delegation of this authority is discretionary rather than mandatory. Testimony from Wisconsin indicated that when their Department of Employment Relations withdrew delegation of authority, they also withdrew funding for departmental personnel office staff. Should the same thing be possible in Alaska?

Senator Ray pointed out that the non-permanent employee bill is moving through the legislature and that the section on punitive damages is an innovative approach to discouraging abuses of rules and regulations. He has recently been appointed to the Council of State Governments. If the Commission so wishes, he will present this approach to the Council so that other states may consider it.

Doryce Eggleston, Personnel Officer for the Department of Public Safety, presented testimony regarding her department's Personnel Office, which is in the Division of Administrative Service. The office does have access to the commissioner, deputy commissioner and division director.

The question of centralization vs. decentralization can be broken dwon into two separate issues: personnel officers and personnel functions. These two aspects may have direct

impact on the general public, applicants and on the departments.

On the centralization or decentralization of personnel officers, Ms. Eggleston stated that there would be great impact on departments if personnel officers were made employees of the Division of Personnel. As indicated in the Commission's report, the goals of this move include better communication between the Division of Personnel and departments, uniformity of application of the Personnel Rules and control by the Division of Personnel. These can be achieved within the present structure. The Personnel Rules need to be clarified and redrafted in accordance with changes in the statutes to limit the many different interpretations within departments. There is no reason why regular meetings cannot be held between the Division of Personnel and the departmental personnel officers to discuss various aspects of labor relations and personnel administration such as arbitration proceedings, union contracts, negotiation results and ambiguous Personnel Rules. These meetings would insure better communication and more uniform interpretation of the Personnel Rules by the departments.

Possible problems for personnel officers moved into the Division of Personnel would include loss of credibility and trust of employees within departments and difficulties in remaining part of departmental management teams. Personnel officers would be considered outsiders, and this might lead to departmental staff circumventing them on some matters. For example, she would not have been included in the Director's staff meeting where strategy and planning were discussed with the new Commissioner if she had been an employee of the Division of Personnel. No one can successfully serve two masters. It would be possible to be caught in the middle of problems between the two. Problems could also arise in funding for the position, performance evaluations, training, approval of leave, etc. Impact upon applicants would be minimal, but user agencies would be affected by the change.

On the centralization or decentralization of personnel functions, Ms. Eggleston agrees with Ms. McCurry that functions cannot be decentralized across the board. She believes that this type of program should be optional for each department, depending on the feasibility of operating the system with present staff. There would be a significant impact on applicants and the general public as well as on the departments if functions were decentralized.

Recruitment and advertising could be performed by departments with information, assistance and review provided by the Division of Personnel. These could be made more selective, especially for regional positions. This would also be an advan-

tage for rural areas.

Ms. Eggleston advocates the review of unique job applications by user departments. The Division of Personnel reviewed over 55,000 applications in 1978. If this responsibility was shared with departments, more time could be spent on those applications, and better judgements could be made. The departmental staff have more technical knowledge on the positions unique to their departments. The register process, placment on eligible lists and hiring would also be expedited. The Division of Personnel could provide guidance and oversight when necessary.

Classifications could be performed by departments with guidance and oversight from the Division on general job classes. The departments could work directly with the Office of Management and Budget on funding. The processes could be speeded up through departmental participation.

There should be no adverse impact on the number of staff in the Division of Personnel. Staff functions could be changed to guidance and oversight roles by the Division, and studies could be done on employee turnover, career ladders, classification, counseling, minority recruitment, etc. One of the reasons for the lengthy delays in the Division of Personnel is the time needed for examination and recruitment. The result of decentralization would be less frustration on the part of applicants, the general public and the departments. All must work together to resolve time problems.

Senator Ray suggested a hypothetical situation. What if a department decided to reclassify its Personnel Officer positions to some other classification and to ask the Division of Personnel to handle all its personnel functions for it. That would provide the department with two positions for other work and yet insure that the necessary personnel functions were performed without using departmental funds. This possibility is one reason why he favors providing for personnel officers in departments by statute.

Pat Murphy pointed out that each department should have a personnel officer. The Commission has already put together a bill on the Department of Employee Relations. Problems can develop when trying to be too specific in legislation. Each department in the bill will have a personnel officer. Not all departments are ready for decentralization. He leans towards an audit function within the Department of Employee Relations.

Pat Hunt added that he wouldn't mind seeing jobs in the statutes and that it would be important to specify the level of responsibility as well as the titles. Frank Flavin asked

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILE 8672
1350 SCOMM 51: BLUE RIBBON COMN. ON STATE PERSONNEL ACT 1978-1983

if the intent was for the departmental personnel officers to have the responsibility of recruiting, advertising and examining for unique positions. Would the departments be in a position to do this better than the Division of Personnel? Ms. Eggleston replied that an employee in her office could handle the paperwork faster in regard to unique job classes. Mr. Flavin rephrased his question to general terms: Is a personnel officer in a department more capable of making decisions? Ms. Eggleston responded affirmatively.

Pat Murphy stated that the Commission has received a number of complaints in the area of rating education and training where people believe they have been judged erroneously. The Division of Personnel has no time to check these areas. If unique job classes were handled through the departments, more time would be spent on these evaluations. Technical job classes cannot be handled by generalists. Mr. Murphy asked how applicants would be routed to the correct departments in a decentralized system. Ms. Eggleston replied that the Division could act as a receiving agency for applicants and direct forms to the proper agencies. Ken Kareen pointed out that this is being done now in the Department of Education.

Senator Ray pointed out that the Commission has received testimony regarding the difficulties of "fighting city hall" and the adverse results this may bring about. One concern is the "black marks" individuals receive for speaking out about problems encoutered within the state system. Frank Flavin elaborated that he does receive cases of this type, but that they are difficult to verify. Senator Ray referred to previous testimony before the Commission where one individual's score had been changed noticably by the Division of Personnel after she complained to them.

Ken Kareen countered that in the central office of the Division of Personnel, everything is documented. Those individuals responsible for rating applicants have practically no influence over selection of applicants. There is little chance that the hiring authority will know about problems in the Division. Therefore, problems in ratings will not influence final hiring decisions. Senator Ray asked if this meant that there is no communication between the Division and departments. Mr. Kareen stated that this type of communication would not be tolerated in his office.

Mr. Flavin quesitoned what role personnel officers play in the evaluation of merit violations. Ms. Eggleston responded that personnel actions, such as selection from eligible lists, are reviewed before they are returned to the Division of Personnel for placement of the person selected on the state payroll.

All material is checked before it is sent out by personnel officers. Advice may be sought from the Division of Personnel and commissioners, deputy commissioners or directors where questionable circumstances appear.

Senator Ray asked what happens if a commissioner or deputy commissioner asks a personnel officer to break the rules. Ms. Eggleston replied that there are legal implications, and steps may be taken. She gave an example of one individual who was fired because he refused to do what the director requested. Through a grievance procedure, he was reinstated. Personnel officers can and do refuse to certify anything illegally. The commissioner and deputy commissioner are each certifying officers and can sign positions authorizations (PA's) thereby taking responsibility for any impropriety if they insist on pursuing the matter over the objections of the personnel officer. Frank Flavin asked if Ms. Eggleston's personnel files have ever been audited. She replied that there is a post-audit procedure. Lynda McCurry commented that the Department of Labor has been subject to numerous federal audits. Ken Kareen stated that there are certain review procedures handled by the Division of Personnel, but there are no audits in that sense.

Wells Gabier, a state employee for over seven years and current employee of the Alaska Occupational Information Coordination Committee (AOICC) testified regarding his experiences with the committee, the Department of Health and Social Services, the Department of Labor and the state Manpower Service. He addressed the topic of his PCN and gave a brief description of his background.

In 1970, Mr. Gabier was hired out of Colorado for a position in Alaska, and his relocation expenses were paid by the state. Upon arrival, he was classified as an Employment Counselor III. One year later, he was reclassified as State Counseling Supervisor for the Department of Labor, and spent five years in that capacity. During this time, he communicated with the Division of Personnel frequently on the subject of upgrading the Counselor-level positions by one range. He worked with Lee Antrim (the Departments of Labor's representative in reviewing tests for employment interviewers) on the reclassification.

Mr. Gabier then took a voluntary demotion of one range step to go to work for the Department of Health and Social Services. One year later, he retired from state employment and moved to Mississippi for a short period of time. Upon his return to Alaska, he experienced the trials and tribulations of applying for state employment and of having his experience rated. He was subsequently placed on 18 registers, and was asked to interview with the AOICC for his present position. The following

is description of events that took place after his initial interview:

March 10, 1978--The position description was first written by committee member Phyllis Woodman, Personnel Officer for the Department of Education which controls the funding of the state AOICC.

March 14, 1978--The position description was transmitted to Mike McMullen in the Classification Section of the Division of Personnel as that of a Social Research Coordinator at range 20. Both Ms. Woodman and committee members supported this classification level.

April 6, 1978--A decision was returned to the department that the classification should be at the Research Analyst III level. It appears that the Social Research Coordinator class was being eliminated, and this was considered an equitable substitute. Wishing to get started on the program, the committee decided to accept the classification given by the Division of Personnel and requested the Analyst III register. Unable to find a qualified applicant for the position on this register, the committee requested parallel registers which required approximately the same range and job functions. Mr. Gabier was within the top five on two of these and was hired for the position.

Mr. Gabier pointed out he had qualified for these registers without receiving employee credit or veteran's preference points. Prior to his appointment, he had applied for the Research Analyst II and III registers. His examination results came back as below passing. The committee had hired him for a position that the Division of Personel had deemed him to be ineligible for. Entering the position, Mr. Gabier realized that the responsibilities were not consistent with the Research Analyst III level. The committee had indicated during a meeting that they would push for a reclassification of the position at a later date.

November 20, 1978--The committee submitted a reclassification request to the Division of Personnel.

December 28, 1978--The delete/establish form was sent to Budget and Managment by the Division of Personnel.

February 9, 1979--Mr. Gabier checked with the Division of Personnel on the status of his reclassification, after having waited for a response for a number of months. The Division advised him that the request would be signed within a week by the Office of Budget and Management.

The position description and authorization came back listed as a Project Coordinator. Again, the advice of Phyllis Woodman

had been ignored, although she had supplied first-hand information on the job functions. It had been stated on the request that if the position came back as anything other than a Program Coordinator, a desk audit would be requested. Ms. Woodman was advised that more detailed paperwork would have to be supplied to justify a desk audit performed by the Division of Personnel.

April 12, 1979--A request was submitted for a desk audit.

Due to the fact that the position remains classified improperly after a period of over one year, Mr. Gabier felt that the matter should be brought to the attention of the commission.

Ken Kareen spoke from the vantage point of the classifier. The personnel officer came to him seeking advice and assistance on the best way to get the job filled. In this instance, the classification of Research Analyst III was not appropriate, and alternate lists were suggested by Mr. Kareen, such as Project Coordinator.

Mr. Flavin asked for the definition of a desk audit. Mr. Gabier explained that a classification specialist actually goes to the place of employment and gets a verbal description of the job. In his experience, Mr. Gabier feels that the Division of Personnel has difficulty in interpreting anything that is not in writing. Ken Kareen responded that the demand for desk audits cannot be satisfied by the Division of Personnel, given the limited amount of staff available. There is a reluctance on the Division's part to conduct an audit unless the need is perceived. Quite often, the Division receives inadequate position descriptions.

Pat Murphy stated that the commission has heard a lot of testimony along similar lines, where employees and technical authorities have different opinions. It is very difficult to ascertain who is right and who is wrong.

Mr. Kareen pointed out that there is also a third party involved in this type of dispute: the collective bargaining union. Mr. Gabier commented that he has never felt that this is a problem for grievance procedures. It should have been handled when it was initially brought to the Division's attention. If the system were decentralized, this responsibility would be given to the personnel officers who are more qualified to make judgements.

Fred Cook, Personnel Officer with the Department of Fish and Game, testified on the question of centralization/decentralization. He believes that personnel officers should be a part of the management teams of departments. Fisheries Biologists

are convinced that the Department of Administration is a regulatory agency rather than a service-oriented agency. This is consistent with the feeling of the troops in the field.

Mr. Cook feels that personnel functions should be delegated to the departments if they are willing to accept the responsibility. Personnel officers would not be able to supervise their staff members if they were centralized in the Division of Personnel. If there were instances where opinions differed, it would be difficult to argue with supervisors in the Division of Personnel.

Mr. Cook does not see any way that centralization would make the personnel system more efficient. If a person is not employed by a department, they are left out of policy-making decisions and information is then relayed down to them. The Division of Personnel should have more positions assigned to them, and he urged the Blue Ribbon Commission to make that recommendation.

One suggestion Mr. Cook presented was to have personnel officers exchange positions with staff in the Division of Personnel intermittently. This is something that has been discussed in the past and seen by many as workable. This might relieve the schism between Personnel and the departments by increasing the awareness of each others' problems.

Frank Flavin asked which functions personnel officers in departments could perform better than the Division of Personnel, assuming adequate resources exist. Mr. Cook suggested that the Department of Fish and Gaeme could rate applicants for positions in technical areas generally above range 16. In the case of biometricians, for example, a committee consisting of other specialists in that field would be better qualified to make evaluations than generalists in the Division of Personnel.

Mr. Flavin pointed out that past testimony has revealed problems on the rating of biologists: Is an adequate job being done? Mr. Cook responded that in higher-level classes, the departmental personnel officers could do a better job, assuming the department has the staff to do so.

Mildred Zenger, Personnel Officer with the Department of Natural Resources, concurred with testimony presented. She expressed the following, representing her personal opinions:

Ms. Zenger stated that the Division of Personnel could better handle rating and examinations if they were given additional funding. Her department lacks staff to handle decentralization, but is in a better position to handle certain unique

job classes. Ms. Zenger does not believe that qualified judgements are made by the Division of Personnel examiners in those cases. The Department of Natural Resources specialists used to help the Division of Personnel rate applications in the more technical fields.

Over the years, personnel officers' access to the commissioner has varied. At present, access is more limited than in the past. Access and support are essential for providing back-up to personnel officers when program managers disagree with their decisions. Ms. Zenger also made it clear that though the Department of Natural Resources is under fire for many reasons, some accidental and some intentional, she is not defending those who hire illegally. She has never certified a document illegally in her 30 years of state service.

Ms. Zenger believes that some functions handled by the Division of Personnel could be delegated to the individual departments. A better means of communication between personnel officers and the Division is one solution. Removing personnel officers from departments would cause problems. It would then be difficult to convince employees in the department that personnel officers are actually working for them and trying to help the department. This might also lead to the belief that personnel officers were regulatory oriented.

Frank Flavin asked if the problems within the department were geographical in nature, due to the large number of staff in field offices. Ms. Zenger answered they are due to the influx of new employees who don't understand the system and lack education in the standards of the system rather than poor intent. Ms. McCurry concurred that cycles do run good and bad depending on who's who in the zoo. Ms. Zenger reiterated that there are many new people who do not understand what they are supposed to do. Senator Ray pointed out that this might call for some type of statutory identification.

Mr. Flavin asked Ms. Zenger if she has access to personnel files in departmental field offices as a personnel officer. Ms. Zenger answered that her travel is limited. She did not have a large staff until the past year. The central office does perform a monthly audit on departmental personnel actions.

Senator Ray commented that this is ample reason to have a trouble shooter to take care of these matters. As an example, he mentioned two Public Safety officers who are responsible for presenting informational programs in schools to juveniles.

Frank Flavin stated that in his experience, problems were more prevalent in agencies where personnel officers do not have

high status. There are significantly fewer personnel problems in those departments with strong personnel officers. Pat Murphy agreed that certain departments have more problems than others. The departments of Health and Social Services, Transportation and the Division of Corrections have strong commissioners or directors who typically insist on independence, which can lead to union grievances. APEA has been able to resolve problems before they develop into major crises by negotiating with personnel officers with stronger positions in their departments. Another aspect of the problem is that in departments with high turnover rates, the management staff is less well informed about the requirements of union contracts and the Personnel Rules.

Senator Ray pointed out that the reorganization of the secretarial staff of the Department of Administration into a typing pool is a topic which the commission has overlooked. Pat Murphy commented that there is general agreement that the program has created a mess.

Ken Kareen responded that a previous commissioner of Administration thought that if the equipment were upgraded and typists were combined in one location, there would be more work performed at less cost to the state. Many of the people in the pool have fallen behind on the typing requirments set by the program. Mr. Kareen also asked about Don Fisher's report to the commission on the subject. Pat Murphy replied that APEA is doing investigative work on the matter and that information will be available at a later date.

Senator Ray requested a resume of the information available to date and said that he was interested in pursuing the matter personally. Experimenting with state employees is not an acceptable procedure. Pat Murphy commented that the coordinator of the typing pool program has been on contract with the state for two or three years. He believes that this should be a permanent position.

Frank Flavin requested that the staff prepare a breakdown of where personnel officers are located in each department and to whom they report. Lynda McCurry offered to supply this information to him. Senator Ray directed the staff to write to each department advising them that attempts to keep individuals from testifying at commission meetings or to punish them for speaking will not be tolerated.

Lois Wingo, Personnel Officer for the Department of Military Affairs, concurred with testimony heard. She stated that employee/personnel officer relationships are stronger when the personnel officer is in the department. Ms. Wingo acts as Training Coordinator, EEO Officer and Payroll Supervisor in addition

to her functions as the department's personnel officer. She does have access to the commissioner's office and receives support from high-level management. She is not expected to circumvent the Division of Personnel in fulfilling her duties. The department was audited once, about a year ago, by the Legislative Audit Division. Leave records were checked against the files, and employee records were spot-checked.

Senator Ray asked whether Ms. Wingo had ever been in a catch-22 sitaution where her superior asked her to do something contrary to her beliefs. Ms. Wingo replied that this happens very rarely.

Frank Flavin asked if there was any conflict of interest in being an EEO Officer and a Personnel Officer. Ms. Wingo answered that some perceive a conflict between the two functions, and some don't. It depends on who is the Director of EEO. Lynda McCurry pointed out that there is a problem with adding EEO funcitons to the duties of personnel officers in departments. However, this function must be placed in a position where the person will do the job. When EEO functions were taken out of the Personnel Office of the Department of Labor and given to someone else, no progress was made on the reports required to be filed. Eventually, the EEO responsibilites returned to the personnel officer. Ms. Wingo stated that she doesn't have hiring authority, so there is not a direct conflict. She does encourage the hiring of women and minorities. Frank Flavin asked if she has "double clout" with the additional EEO responsibilities. Ms. Wingo said that this did give her additional authority.

Senator Ray asked for input from commission members on the continuation of additional meetings. He stated that they will have to be after the legislative session is over.

Ken Kareen offered his thoughts on the decentralization issue. An employee starts his employment by pledging his loyalty and credibility to a department. The supervisor giving direction may severely test the loyalty of the employee to do the job and advance his career vs. state rules and compliance with the laws. Elements of regulation and compliance should be built into Personnel. This would serve to limit the flexibility, but would avert capricious and arbitraty proceedings. At what cost should the state encourage dedication to the department? What is the cost to the state for decentralization? In some cases, 18 departments could be working on 18 different systems. There has to be some uniform application of rules to give employees constants. Employees do not know where these lines are. Mr. Kareen offered an observation: There are tremendous variations based on the personality of the personnel officers and person-

ality of their supervisors. Senator Ray elaborated that it is a question of either having a cut and dried or a flexible system. Ken Kareen stated that an employee starts with an investment in state employment. If a new boss gives a questionable direction, that will severely test the loyalty of the employee to his or her career vs. the state rules. Some stand up to the tests, and some don't. The problem does exist.

Mr. Kareen expressed his feelings that examination and review boards do not work well, judging by his past experiences. One of the most frequent problems encountered is in rating applications. For example, his staff is instructed not to make assumptions in rating applicants. What is judged is the information provided in writing. A review board may be tempted to consider information not on the record, thereby favoring applicants they know over those they do not. This could cause problems if the decision were ever audited. There will always be errors and mistakes.

Responding to Mr. Gabier's testimony, Mr. Kareen stated that Mr. Gabier has two options open to him: to go through the union or through supervisory channels. Bob Mourant commented that as a former union negotiator, he has had problems with the Division of Personnel. There are no checks made on the ethics of the Division of Personnel staff. There is no assurance that a check will be made if there is no violation of union contract. An individual has no assurance of ethics in force.

Mr. Gabier addressed the philosophical difference between himself and Mr. Kareen. He observed that the attitude seems to be "If you don't like it, fight it". What happened to settling these matters fairly? If he followed the proper channels, he would be told in two months that his complaint is not a grievable matter. He believes that this is an example of violation of merit principles. In his opinion, the Division of Personnel thinks only in terms of dollars rather than in terms of people.

Senator Ray asked commission members if they would agree to his making a personal investigation into the word processing center problems. There was no dissent.

Senator Ray suggested another meeting in Anchorage following the end of the session. Pat Murphy commented that issues might best be dealt with in subcommittee meetings on particular problems, followed by a full commission meeting to review subcommittee suggestions. Meetings to receive public testimony are also necessary. No decision was made on a future schedule.

IN ATTENDANCE

Senator Bill Ray, Chairman
Frank Flavin
Patrick Hunt
Lynda McCurry
Bob Mourant (for John Pugh)
Ken Spray

OTHERS IN ATTENDANCE

Darlene Howard
Ken Kareen
Pat Murphy

BLUE RIBBON COMMISSION
March 13, 1979

MINUTES

Senator Ray called the meeting to order.

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

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

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

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

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

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

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

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

Senator Ray informed the commission that he opposed the

introduction of this bill during the current session.

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

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

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

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

Senator Ray adjourned the meeting.

March 14, 1979

Senator Ray called the meeting to order.

The commission continued to review the draft report to legislature.

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

Senator Ray adjourned the meeting.

BLUE RIBBON COMMISSION
February 24, 1979

MINUTES

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

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

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

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

Mr. Fisher called a recess. The meeting reconvened.

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

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

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

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

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

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

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

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

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

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

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

Section 39.25.153 <u>Personnel Rules for Departments</u>

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

(b) The personnel officer specified in (a) of this Section shall adopt regulations providing for the activities specified in Secs. 39.25.150 (1)-(10), (13)-(18), (20), and (22) of this Chapter for those classes of employees which are not common to other departments. The determination as to the classes of employees which are common to the various departments shall be made pursuant to regulations adopted by the director.

(c) The personnel officers within the departments specified in (a) of this Section are subject to all provisions of this Chapter not in conflict with this Section.

(d) The Governor may exempt any department with (a) of this Section containing less than 200 employees from the provisions of this Section.

(e) All regulations adopted pursuant to this Section are subject to the Administrative Procedures Act (AS 44.62).

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

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

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

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

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

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

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

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

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

IN ATTENDANCE

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

OTHERS IN ATTENDANCE

Janet Bradley
Darlene Howard
Bob Mourant

BLUE RIBBON COMMISSION
February 23, 1979

MINUTES

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

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

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

Ken Spray suggested three amendments:

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

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

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

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

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

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

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

IN ATTENDANCE

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

OTHERS IN ATTENDANCE

Janet Bradley
Darlene Howard
Ken Kareen
Bob Mourant

CATEGORIES OF EMPLOYEES
Work Session Summary
February 23, 1979

Representative McKinnon chaired the work session. A summarization follows:

SUBCOMMITTEE DISCUSSION

Ken Humphreys presented a revised copy of the Temporary Hire Bill, pointing out changes that had been made to the draft in accordance with amendments discussed at the last work session.

Pat Hunt asked what would happen if a department tried to have a permanent position authorized but the legislature refused to fund the position: Would the director be able to authorize the department to hire a temporary for this position, assuming the department had other funds availabe? Mr. Humphreys explained that the bill, as drafted, might prohibit the hiring of temporaries in such cases. Authorization could be granted if either the legislature authorized the work to be done by temporaries or if an urgent program need unexpectedly developed and permanent staff could not handle the workload. (Page 2, line 3, subsection (1) and line 10, subsection (3).) However, the Director could find under subsection (3) that the department could not reasonably meet the program need through a permanent position since the authorization was denied and therefore could permit hiring a temporary. These cases would have to be addressed as they arise, considering the individual facts. In addition, if the department had requested that new positions be created, but the Governor refused to include them in the budget, the director might then be able to provide for them. If funding is made available for personal service, but the legislature refuses to authorize permanent positions, then the director will have to authorize the department to hire temporaries.

If the legislature provides a personal services appropriation to a department, then this act sets a priority on permanent positions, and the department should hire permanent employees instead of temporaries.

Pat Murphy questioned whether only the legislature can create a permanent position. He referred to Kelly vs. Hammond, where a position was authorized by the executive branch. Representative McKinnon clarified Mr. Murphy's reference, stating that the Office of Management and Budget may authorize a permanent position during the legislative interim, which automatically becomes a request for a new permanent position for the next legislative session.

Discussion followed on a proposed effective date for the draft bill. There was a general concensus that the subcommittee recommend to the Commission that the effective date be September 30, 1979. This would not coincide with the peak temporary

employment period and would allow sufficient time for notification of departments.

Niel Thomas brought up the topic of violations of the 120-day limit on temporary employment. He asked what provision is made for federally funded programs and projects which exceed that time frame. Ken Humphreys expressed doubt that the limit would be violated because the director would have the authority to decide whether a temporary position could be extended, as would be the case in projects of limited duration exceeding 120 days. In this instance, an employee would have to be informed of the duration of the project in advance. The civil liability section (page 3, line 19) applies only to appointments of temporaries and not to violations of the time limit set.

The topic of benefits provided to temporaries was introduced by Niel Thomas: What is the subcommittee's intent? Pat Murphy explained that a bill is in the House State Affairs Committee which, if passed, would provide medical (health) insurance to temporaries after a 90-day employment period. The bill originally read after a 30-day employment period, but has been changed by the Committee. There was general agreement that the topic should be addressed at the Commission work session.

The Legislative Affairs Agency has researched the question of what effect changes in the Personnel Act (AS39.25) have on the scope of collective bargaining. Their informal opinion is that if the Personnel Act amendment is clearly intended to apply, then it would control contract negotiations in the future, though it would not amend existing contracts. If the draft temporary hire bill were introduced and passed by the legislature, then it would establish the limits within which collective bargaining could occur. A contract could further limit the times permitted. Personnel Rules are changes which are made without legislative action and therefore do not affect the scope of collective bargaining, except to the extent that the rules are implementation of statutory direction. Representative McKinnon requested a memo from Legislative Affairs on that subject.

Frank Flavin moved that the subcommittee recommend to the Commission that the Personnel Rules be made subject to the Administrative Procedures Act (A.P.A.). This would open the process and would provide the legislature with an opportunity to consider changes made in the rules. A member of the public (or an employee of the state or a union representing employees) could petition for a rule change, but the department cannot be required to propose rules. There is no recourse if the department refuses to act on a suggested change.

The A.P.A. requires that a notice of intent to adopt rules be given and that an opportunity for testimony be provided, al-

though that opportunity can be in the form of accepting written comments only. The comment time is a minimum of 30 days. Then, before the rules can become effective, they must be filed with the Lieutenant Governor's office for 30 days. In emergency situations, the department can adopt emergency rules which have effect for 60 days, and also begin the process of adopting permanent rules. If the rules govern only the internal management policy, then they are exempted from the process. To the extent the rules affect the general public, they would not be exempt. The Department of Law provides advice to the other departments on what is and is not exempt, but the departments are free (as is any attorney's client) to ignore that advice. The question arises only when the department has labeled a rule as an internal matter and someone has challenged that ruling.

VOTE: Four (4) were in favor. One (1) opposed.

IN ATTENDANCE

Representative McKinnon, Chairman
Frank Flavin
Pat Hunt
Pat Murphy
Niel Thomas

OTHERS IN ATTENDANCE

Ken Kareen
Darlene Howard
Janet Bradley
Bob Mourant
Ken Humphreys
John Pugh

CLASSIFICATION, CERTIFICATION & RECRUITMENT SUBCOMMITTEE
February 23, 1979

MINUTES

Don Fisher chaired the meeting in the absence of Senator Ray.

Ken Spray provided information to the subcommittee on SB194, an act relating to public employment. The bill would disallow payment of differentials based on geographic location in the state or cost-of-living differences in an attempt to increase the appointment of residents in rural locations where there is relatively severe unemployment in jobs which are located in their home locations. The bill proposes amendments to the Vocational Substitution Program.

Mr. Thomas suggested that a better way to accomplish the goals of Senator Sumner's bill would be to invigorate recruitment taking place in rural areas for positions in rural areas. The state's selection processes are questionable in evaluating the skills of applicants, but they do appear to be effective in screening out native Alaskans.

Mr. Spray suggested that the Blue Ribbon Commission might wish to consider the problem and propose a committee substitute to the present bill.

CERTIFICATION OF ELIGIBLES

MOTION: Frank Flavin moved that the subcommittee recommend to the commission that a pass/fail certification system be adopted until a reliability based broad band certification system could be developed.

Subcommittee discussion followed. The fundamental idea of the merit system is to select the best qualified applicant for the position, not simply to select someone meeting minimum qualifications. Ms. McCurry said that a pass/fail system would present problems in meeting constitutional requirements for a merit system and could jeopardize federal funding. Mr. Thomas responded that the broad band certification system is acceptable to the federal government.

John Pugh asked how this system would affect the system which the commission had recommended of requiring interviews for the top five applicants.

Ken Humphreys pointed out that while the tests given by the Division of Personnel may not be wholely accurate, they do have a considerable degree of accuracy in ranking the skills of those who achieve first place on the list versus those who place last. He suggested that the subcommittee might wish to consider a system of five grades, in which all those who scored within a range on the test would receive an equal score; for example, A-B-C-D-E.

Mr. Pugh added that he has worked for five years as a supervisor, and during that time has hired approximately 150 to 200 employees. Initially, he had thought that the top five was not meaningful, but experience has demonstrated that the system does test with accuracy for the kinds of skills needed to fill the position. (Verbal skills are a necessity for the positions he recruits for.) However, some tests are irrelevant and need to be updated.

Mr. Thomas replied that this belief in the system may be misplaced. The troopers were required, two years ago, to use a rule of the whole list in order to remedy past discriminatory practices. Hiring has been done from all parts of the list, and no one has yet argued that the standards or efficiency of the services of the employees hired under this system have been lower. The commission should not be closed to the idea of change.

Mr. Murphy suggested that if the object of Mr. Flavin's motion was to increase the openinings for women and minority applicants, the the commission could consider adopting the kinds of systems of Wisconsin or Minnesota without doing away with the state's rating system.

Mr. Spray pointed out that this dilemma is one reason why his members favor a seniority system.

Ken Kareen defended the concept of the top five. It is an integral part of the merit system. There is a misapprehension among some that the top five is limited to five individuals. In fact, all of those whose score equals that of the fifth person on the list are included in the group. The majority of appointments made in state service are, in fact, made from the top five eligibles, so there is less tampering with the system than testimony may have indicated.

Mr. Kareen added that the majority of job classes do not require written testing. There are 147 state tests of which only seven or eight have been validated. Validating tests has been slow because the process is time consuming and there are only two staff members available to do the work.

The question of whether a pass/fail system would increase possible political abuses in hiring decisions was raised. Ms. McCurry warned that the system might lead to no control and utter chaos. There will always be some instances in which who you know will be instrumental in obtaining employment. Just because there are laws against such preferential hiring does not mean that violations are not going to occur.

Mr. Humphreys pointed out that while it would be much more difficult to justify not hiring within the certified group if

a pass/fail system were implemented, there would be fewer controls and less opportunity to review and regulate who was selected from that group.

VOTE: A vote was taken. Four were in favor, and four opposed. The motion failed.

MOTION: Niel Thomas moved that the subcommittee recommend to the commission that some alternative be adopted which would broaden the rule of the top five. There was brief discussion.

VOTE: A vote was taken. The motion passed unanimously.

Discussion followed on alternative systems. Mr. Flavin suggested that the sumbcommittee consider the structure used by the court system. Applicants are evaluated and placed in one of three categories: outstanding, acceptable or unacceptable.

In answer to Mr. Spray's question of what's wrong with hiring the first person on the list, and if that person is found unacceptable, then requiring that the second person be hired, and so on, Mr. Kareen explained that the broad classifications used for many classes prohibit that sort of system. For example, if the state wants to hire a medical examiner, it is probably looking not just for someone qualified to be a medical examiner, but someone with a specialty in a particular field and background in the same. That person best qualified might well appear below the top five on the list of those qualified to be medical examiners.

Mr. Thomas added that becaused the selection devices are inaccurate, the best person on the list might actually appear at number 16 instead of number one.

Mr. Flavin reviewed the types of evaluation systems which Ken Humphreys enumerated in his memorandum. The rule of the whole list was rejected by previous action of the subcommittee. The rule of __ number is the present system, and has been found wanting. The other two alternatives presented are zone or category scoring, and block scoring. Mr. Humphreys explained that zone scoring occurs when a list is created from the ranked applications and then divided into zones. All those within a zone are then treated as having performed equally on the evaluation device. Block scoring, on the other hand, is a system in which blocks of scores are pre-established without regard to the new list, but based on prior experience with the performance of previous applicants. The new applicants are evaluated and placed in one of the groups or blocks based on the raw score they receive.

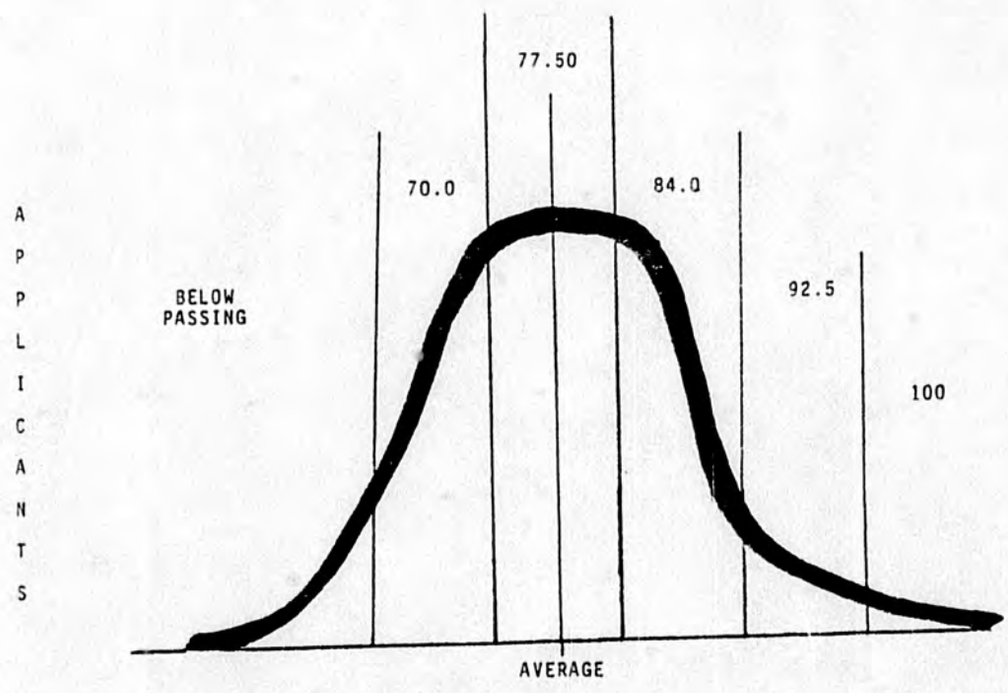
All those within a particular block are treated thereafter as having secured identical scores.

Mr. Murphy reminded the committee that the lists which the state uses are not solely ranked in order of performance, but include preference points for prior state service, for previous service in the military, and for being a resident of the state.

Mr. Kareen explained the system which the state now uses in evaluating applicants for those classes in which it has sufficient experience in testing to be able to establish averages. Once the average is established, general score ranges are determined. All applicants who fall within that range receive the same score on the register. If there are six who fall within the top range, they are all consider number one, and their names all appear as such on the register. The next name on the register would be number 7, and all of those who appeared within the second range of scores would appear as number 7. This system can be represented here graphically.

DIVISION OF PERSONNEL

Method of Assigning Scores for Certification



The bell-shaped curve represents the number of applicants who achieve a particular score on their evaluation of experience, training and any written test given. The numbers above the line represent, in the example, the converted scores given to all applicants whose score falls within the range indicated. Those who recieve an average score, for example, receive 77.50 points. The average for that particular class may have been 80 or it may have been 60, but all who tested as average will be credited with 77.50 points.

MOTION: Frank Flavin moved that the commission recommend to the Department of Administration that they move away from a rule of five system towards a system of block scoring. He indicated that his motion intended to leave the question of the number of blocks to the discretion of the department.

VOTE: A vote was taken. The motion pass unanimously.

Mr. Fisher adjourned the meeting.

IN ATTENDANCE

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

OTHERS IN ATTENDANCE

Darlene Howard
Ken Kareen
Bob Mourant
Pat Murphy

MERIT SYSTEM/COLLECTIVE BARGAINING
Work Session Summary
February 23, 1979

The session was chaired by Ken Humphreys in the absence of Representative Buchholdt and Greg O'Claray.

DEPARTMENT OF EMPLOYEE RELATIONS DRAFT BILL

The subcommittee received copies of the Department of Employee Relations draft bill and discussed adding provisions concerning the structure and functions of the Labor Relations Agency, the Personnel Board, and the Retirement Board. These agencies should be structured and staffed to insure insularity from pressure and independence of action. Pat Murphy pointed out that the subcommittee should focus on establishing the new department and avoid opposition where possible. Changes to those agencies can be proposed in another measure.

Pat Hunt suggested amendment to Section 10, page 4, line 21, to reflect that the P.E.R.A. limits the ability of the division to remove people from collective bargaining units. The subcommittee agreed to amend the section by adding "Except as provided in AS23.40.090" to the beginning of the sentence.

The subcommittee discussed the qualifications for the commissioner of Employee Relations (Section 1, page 1, lines 13 and 14). John Pugh moved that the qualifications for the commissioner read: "shall have experience in both personnel administration and labor relations either in the public or private sector. The commissioner shall have a total of at least five years of full-time experience in those fields." The motion was adopted unanimously.

Changes were also made to the bill to require that the director of the Division of Labor Relations have at least three years of practical working experience in the field of labor relations. Pat Hunt moved that the subcommittee recommend to the Commission that this bill be submitted to the legislature. The motion passed unanimously.

Ken Humphreys presented a draft bill providing for a bargainable merit system. Pat Murphy pointed out that what is bargainable will remain discretionary between the parties involved. He also expressed his reluctance to be responsible for personnel functions such as training, recruitment, etc. Ken Kareen moved that the subcommittee recommend to the Commission that the bill be introduced in the legislature. The motion passed unanimously.

Ken Humphreys explained that this bill, if enacted, would

exempt all employees covered by collective bargaining from AS39.25. If the temporary hire draft bill was passed along with this, temporary hire rules would not apply to bargaining unit members. Bargaining agreements would therefore have to contain language addressing AS39.25 or offer alternatives. The statute would not apply to people covered by collective bargaining.

NON-CERTIFIED SCHOOL DISTRICT EMPLOYEES

Ken Spray requested the subcommittee recommend that the Commission support SB213, introduced by Senator Bennett, allowing non-certified school district employees the opportunity to bargain collectively under the P.E.R.A. Pat Hunt pointed out that the legislation addresses those employees not in the state system. It is not within the Division's nor the Commission's purview. Ken Spray moved that the subcommittee recommend that the Commission support SB213. Three (3) were in favor. Four (4) opposed. The motion failed.

IN ATTENDANCE

Ken Humphreys
Pat Hunt
Ken Kareen
Lynda McCurry
Pat Murphy
John Pugh
Ken Spray
Niel Thomas

OTHERS IN ATTENDANCE

Darlene Howard
Bob Mourant
Frank Flavin

KS motioned that the subcommittee (MS/CB) recommend to the full Commission that this bill be supported.

Vote. 3-4

Introduced: 2/13/79
Referred: Health, Education & Social Services and Finance

IN THE SENATE BY BENNETT BY REQUEST

SENATE BILL NO. 213

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to labor relations between school boards and other public employers and their employees."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 23.40.100(b) is amended to read:

(b) If the labor relations agency has reasonable cause to believe that a question of representation exists, it shall provide for an appropriate hearing upon due notice. If the labor relations agency finds that there is a question of representation, it shall direct an election by secret ballot to determine whether or by which organization the employees desire to be represented and shall certify the results of the election. Nothing in this section prohibits the waiving of hearings by stipulation for the purpose of a consent election in conformity with the regulations of the labor relations agency or an election in a bargaining unit agreed upon by the parties. The labor relations agency shall determine who is eligible to vote in an election and shall establish rules governing the election. <u>In an initial election for representation held under this section, one of the choices on the ballot shall be "no representation".</u> In an election in which none of the choices on the ballot receives a majority of the votes cast, a runoff election shall be conducted, the ballot providing for selection between the two choices receiving the largest and the second largest number of valid votes cast in the election. If an organization receives the majority of the votes cast in the election it shall be certified by the labor relations agency as exclusive representative of all the employees in the bargaining unit.

* Sec. 2. AS 23.40.200(c) is amended to read:

(c) The class in (a)(2) of this section is composed of public utility, snow removal, sanitation, and [PUBLIC SCHOOL AND OTHER] educational institution employees, except noncertificated employees of school boards. Employees in this class may engage in a strike after mediation, subject to the voting requirement of (d) of this section, for a limited time. The limit is determined by the interests of the health, safety or welfare of the public. The public employer or the labor relations agency may apply to the superior court in the judicial district in which the strike is occurring for an order enjoining the strike. A strike may not be enjoined unless it can be shown that it has begun to threaten the health, safety or welfare of the public. A court, in deciding whether or not to enjoin the strike, shall consider the total equities in the particular class. "Total equities" includes not only the impact of a strike on the public but also the extent to which employee organizations and public employers have met their statutory obligations. If an impasse or deadlock still exists after the issuance of an injunction, the parties shall submit to arbitration to be carried out under AS 09.43.-030.

* Sec. 3. AS 23.40.250(5) is amended to read:

(5) "public employee" means any employee of a public employer, whether or not in the classified service of the public employer, except elected or appointed officials or certificated [TEACHERS OR NONCERTIFICATED] employees of school boards [DISTRICTS];

* Sec. 4. AS 23.40.250(6) is amended to read:

(6) "public employer" means the state or a political subdivision of the state, including without limitation, a town, city, borough, district, school board, board of regents, public and quasi-public corporation, housing authority or other authority established by

law, and a person designated by the public employer to act in its interest in dealing with public employees;

* Sec. 5. AS 23.40.250 is amended by adding a new paragraph to read:

(8) "school board" includes a regional educational attendance area school board.

* Sec. 6. Notwithstanding sec. 4, ch. 113, SLA 1972, a school board, including a regional educational attendance area school board, may not reject having the provisions of the Public Employment Relations Act apply to its relations with its noncertificated employees.

* Sec. 7. Nothing in this Act terminates or modifies a collective bargaining unit, recognition of exclusive bargaining representative, or collective bargaining agreement if the unit, recognition, or agreement is in effect on the effective date of this Act.

KS DH JP
KH BM
EK JB
PH FF
NT LMc
PM

Introduced: 2/13/79
Referred: Health, Education & Social Services and Finance

IN THE SENATE BY BENNETT BY REQUEST

Failed to support

SENATE BILL NO. 213

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - FIRST SESSION

A BILL

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* Sec. 7. Nothing in this Act terminates or modifies a collective bargaining unit, recognition of exclusive bargaining representative, or collective bargaining agreement if the unit, recognition, or agreement is in effect on the effective date of this Act.

BLUE RIBBON COMMISSION
February 15, 1979

MINUTES

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

PUBLIC TESTIMONY

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

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

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

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

1. CLASSIFICATION

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2. EXAMINATION PROCESS

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

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

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

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

3. RECRUITMENT

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

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

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

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

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

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

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

4. CAREER SERVICE

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

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

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

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

QUESTIONS

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

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

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

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

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

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

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

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

DIVISION OF DATA PROCESSING

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

STAFF REPORT

1. Summary of Correspondence

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

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

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

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

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

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

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

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

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

3. Budget for 1979

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

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

5. Division of Legislative Finance Computer

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

6. USCSC Conference, February 28 and March 1

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

IN ATTENDANCE

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

OTHERS IN ATTENDANCE

Darlene Howard

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

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

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

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

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

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

What recourse do I have to correct this inequity?

CATEGORIES OF EMPLOYEES
Work Session Summary, February 6, 1979

Representative Joe McKinnon chaired the work session. A brief summary of the subcommittee discussion follows:

A. Review and discussion of the draft bill on hiring of temporary employees.

1. Add language to subsection 2 (c) (2), page 2, line 6, concerning the hiring of temporaries where new positions have been created but have not yet been authorized by the Division of Budget and Management and the Division of Personnel to read:

(2) there is an urgent need to fill an authorized permanent position and it is impractical to complete the establishment of that position, or there is an urgent need to fill a vacant, permanent position and it is impractical to make certification within a reasonable time because of a lack of eligibles for that position; or

2. The penalty section (page 3, line 6) was discussed briefly. The approach is to establish a rebuttable presumption that an illegally hired temporary can recover from the supervisor who authorized the hire personally for the amount of past wages.

3. Goals of the bill: (1) to provide maximum controls on the hiring of temporaries without (2) stepping over the bounds of the separation of powers, and (3) without ham-stringing the executive branch from operating its programs effectively.

4. Technical amendments were suggested:

Page 1, line 17, add "permanent seasonal" to "permanent full-time and permanent part-time".

Page 3, line 5, substitute the word "terminate" for the word "dismiss".

Page 3, line 18, substitute the word "employee" for the word "person".

5. There was discussion of the effect of the bill. It may serve to aid collective bargaining negotiation, since there will be one readily identifiable person authorizing all temporary positions.

The bill would give considerable discretion to the Director

of the Division of Personnel and Labor Relations in making a determination that a temporary position should be authorized. The Director is required to consider the standards provided, but there is no review of his decision.

There was concern expressed that the review of requests for temporary employees by the Director must be immediate, so that delays do not occur.

Ken Humphreys will redraft the bill and bring it to the next subcommittee meeting for further consideration.

B. Imposing a maximum on the number of temporaries a department may hire.

It was suggested that the subcommittee propose that a limit of 10% of the departmental PCN's be established.

Opposition to the proposal pointed out that this should be left in the collective bargaining arena.

If the Director of the Division of Personnel and Labor Relations is required to report each year on the number of temporary employees he has authorized, then there will be review and consideration of the issue each year.

It is more important to evaluate the effectiveness of departmental hiring practices than to focus on the numbers of temporaries hired.

C. Imposing a maximum time limit on the length of temporary service.

Mr. Murphy moved that a section be added to the work draft of the bill on temporary hiring to set a maximum of 120 days on the service of a temporary, with a provision that under extenuating circumstances, justified to the Director in writing, he may approve the extension of that time limit.

Mr. Spray proposed an amendment: That the issue of time limits of temporary employment be left in the arena of collective bargaining.

Mr. Murphy objected to the proposed amendment on the grounds that it was a new motion, not an amendment.

VOTE: A vote was taken on Mr. Murphy's motion. It was adopted four (4) to two (2).

D. Scope of Commission activity: Concern was expressed that

the Commission avoid intrusion into collective bargaining issues. The Commission risks jeopardizing its effectiveness and credibility if it enters into this area, and may create increasing divisiveness both internally and within the legislature. Commission time would be better spent on other matters.

E. Issue of Contract Employees: When the subcommittee considers this issue, it should request information from the Department of Transportation and Public Facilities on Deputy Commissioner Scoogil's memo stating that the department should limit the size of the state work force by contracting out jobs where possible.

F. Issue of Vacant Permanent Positions: Staff was requested to check with Jay Hogan, Director of the Division of Legislative Finance, on the computer programming which his division is implementing to track vacant PCN's.

G. Scope of Exempt and Partilly Exempt Categories: There was some discussion of this topic. The subcommittee should consider this subject at a later time.

STAFF NOTE:

Terry Cramer checked with Jay Hogan, Director of the Division of Legislative Finance, on the computer program to track vacant PCN's. He indicated that the program should be completed in about six months. It has been held in abeyance because of a change in computers. When completed, the program will track the source of the money used to fund a position and whether the position is vacant.

CLASSIFICATION, CERTIFICATION & RECRUITMENT SUBCOMMITTEE
Work Session Summary, February 5, 1979

Don Fisher chaired the work session in the absence of Senator Ray.

ISSUES DISCUSSED (See Issue Summary, dated January 21, 1979)

1. Centralization or decentralization of Personnel Administration.

There was general discussion on this topic and of the questions raised in the issue summary. Some of the points mentioned follow:

Collective bargaining has acted as a centralizing force in personnel matters. Where disputes arise, the grievance procedure which, in step IV, results in a decision by the Commissioner on the question, creates uniformity of application for all members of that bargaining unit.

Decentralization would further diversify the state's personnel practices. The state must be concerned with providing fair and consistent treatment for all of its employees. Decentralization increases the likelihood of abuse by departmental staff. Increased auditing would be required of the Division of Personnel. Decentralization may also require an increase in departmental personnel staff and therefore be more expensive. A decentralized system could result in a more cumbersome application process if each department maintained its own application files.

In a centralized system, there will be fewer checks on the authority of the head of that system. The Division of Personnel and Labor Relations has unclear authority to set uniform policies in some areas of personnel procedure which has been delegated to departments, leading to a diversity of practices among the departments.

Some of the problems which have been identified in the personnel system (for example, the time required to evaluate applications) result from inadequate staffing and budget within the Division of Personnel. Providing increased funding to the Division would resolve a number of these.

It is possible to decentralize the authority to perform certain tasks while leaving the policy setting and interpretation role in a centralized agency.

The question of whether to centralize or to decentralize

should be resolved after the Commission makes its decisions on what kind of system it wishes to recommend. For example, if the Commission recommends that the state adopt a broad-band classification system and a Department of Employee Relations, then those decisions would lean towards a centralized system. The Commission needs to recognize in its debate that parts of the personnel system are people oriented (examination and application processes) and that parts are management oriented (classification and pay).

The Commission should analyze personnel functions and ask for each whether the present vehicle works well or whether changes are needed. If changes are indicated, is the problem a result of understaffing or do the methods need to be stream-lined or the priorities re-defined?

Departmental Personnel Officers. Whether the system is centralized or decentralized, there will still have to be departmental personnel officers, either employed by the department or by the central agency. The kinds of tasks they do and the skills they need will depend upon the decisions the Commission reaches on the question of centralization or decentralization.

At present, personnel officers can be caught in a battle between the departmental commissioners, who may want to do something in conflict with the rules, and the Director of the Division of Personnel and Labor Relations. A centralized system, with personnel officers as employees of the Division, would require the commissioners to argue directly with the Director instead of placing the personnel officer in the middle.

Wherever the personnel officers are employed, they will still be subject to two sources of authority, and between those two will still be an undefined area, the limits of which will have to be resolved in a case-by-case manner.

The question of who should employ departmental personnel officers deserves a full subcommittee hearing to which each of the personnel officers of the departments should be invited.

Department of Employee Relations. There was general agreement that the subcommittee should recommend the creation of a new Department of Employee Relations for Commission consideration. Some of the points raised in discussion follow:

The Commissioner of the new department should be required by statute to have labor relations experience, either in the public or private sector. The Commissioners of Administration of the state have not understood the intricacies of labor relation prior to assuming their posts, which required that there

be a time spent in gaining the necessary background.

Functions of the new department:

1. Labor Relations
2. Personnel
3. Benefits - The negotiation of benefits would be part of the labor relations functions of the new department. The running of the Public Employees Retirement System would remain the responsibility of the Department of Administration, as would the details of the Blue Cross-Blue Shield contract and the record keeping for credit under the retirement programs of the state.
4. Safety and training programs - See discussion in the Merit System/Collective Bargaining issue summary.
5. Equal Employment Opportunity. The subcommittee suggested that the new department would be a logical place to house the state's EEO office.

The Human Rights Commission has adopted a position that wherever the state EEO office is located, it should receive the prestige, support, budget and technical advisors it needs to be effective. It has been recommended that the office be located in the Office of the Governor. Given the increased status that a Department of Employee Relations would have when compared to a division within the Department of Administration, the Human Rights Commission might be receptive to the placement of the EEO office within the new department, provided that its importance and effectiveness were recognized and maintained.

The Department of Administration would be left with the following divisions: Data Processing, Finance, General Services and Supply, Pioneer's Benefits, Retirement and Benefits, and Internal Audit.

Ken Kareen doubted that there is any other state where government employment has as great an impact on the state's economy as is the case in Alaska, and where the state is as deeply involved in collective bargaining. What rank should the person in charge of these functions hold in state government?

Cost of the new department. The existing staff of the Division of Personnel and Labor Relations would be transferred, as would the staff of the EEO office, should that office be placed within the new department. A commissioner's salary would have to be added to the budget.

When the Department of Transportation and Public Facilities was created, there was a zero increase fiscal note acompanying the legislation.

It is possible that ultimately, the state would save money by creating the new department, since the increased authority and access to the Governor by the Commissioner of the department would result in a more consistent application of the terms of the collective bargaining agreements and lead to fewer arbitrations.

Some federal programs in which the state participates identify a portion of the funding to be used for administrative services. The state's practice is to charge the department for support services provided by the Department of Administration but to place those portions of the federal funds into the general fund rather than to transfer them directly to the Department of Administration.

Ken Humphreys was requested to review statutes of other states (such as Hawaii and Pennsylvania, as well as Wisconsin) when drafting the statutes for the Department of Employee Relations.

2. Audits of the personnel system. There was general agreement that annual audits of the system would be useful. Discussion revolved around who should perform the audit, what the scope should be, and to whom the auditor should report.

Scope

1. Audit against the goals adopted by the Division of Personnel and Labor Relations.

2. The Blue Ribbon Commission should set goals of the audit, identifying different functions for different audits.

3. The Blue Ribbon Commission should set the scope for review of its recommendations so that there would be identification of problems or non-compliance with its proposals.

4. Audit according to the standards established in the Personnel Rules and the labor contracts.

By Whom

1. Legislative Audit - There would need to be guidelines for the audit clearly stated so that Legislative Audit would know the intent of the audit.

2. Internal audit office within the department.

3. An outside CPA firm.

Report to Whom

1. The legislature.

2. A special committee of the legislature, for example, composed of the commissioner from another department and the chairperson of the State Affairs Committee. This committee should have the authority to define the annual audit as they felt necessary and to delegate audit responsibilities accordingly. They should have an adequate budget for this purpose.

There was general concern that the audit be non-political and be performed against standards that were valid for the conditions in Alaska. The scope should be defined to make the topic manageable and useful. As the Commission adopts recommendations, it should consider defining the results it expects so that these would be the basis for future audits.

The subcommittee decided to hold the questions of the audit until the Commission has decided what it wishes to recommend on other topics. It was generally agreed that some provision should be made for audits to evaluate the effectiveness of the Commission's recommendations and the effectiveness of the personnel system as a whole.

Committee consideration of EEO matters. The subcommittee will invite Karen Cory, the Director of the state's EEO office, to join in discussions when it is ready to consider the state hiring practices in detail. Her comments will be most useful and important in that context.

Word processing centers. The subcommittee will also arrange for a later meeting with John Mitchell, Coordinator of Word Processing, on the question of the word processing centers and the selection of supervisors for those centers.

MERIT SYSTEM/COLLECTIVE BARGAINING
Work Session Summary, February 5, 1979

The session was chaired by Representative Thelma Buchholdt. The Issue numbers, as follows, refer to the Summary of Issues dated January 21, 1979.

Issue 1. Structure of the Division of Personnel and Labor Relations.

SUBCOMMITTEE MOTION: Pat Murphy moved that the subcommittee request the Legislative Affairs Agency to draft a bill for further subcommittee review to create a Department of Employee Relations encompassing the functions of personnel, labor relations, training, and for the purposes of this bill, equal employment opportunity and affirmative action. Ken Spray requested that the functions include safety and training. Mr. Murphy agreed.

DISCUSSION

Retirement functions. Responsibility for maintaining the retirement system should remain in the Department of Administration.

Budget. The budget for the new department should result from the transfer of the budget of the existing divisions plus appropriation of additional funds for the creation of the position of the new Commissioner.

Safety. Safety should be included in the new department because there needs to be central coordination of safety programs. The system now is that user departments are supposed to coordinate with the Department of Labor, which supplies trainers on request. The requirements of OSHA, which directs that the state provide safety training for its employees, are not being met.

Pat Hunt suggested that money for safety and training programs could be provided by the user departments, who would compensate the Division or the new department for the cost of materials used. The training which the Division of Personnel has been able to provide to date (given limited staffing and funding) has been very well received. Money allocated for training is one of the first items to be cut in a lean budget year.

CLARIFICATION OF MOTION: The question of which state agency has the authority and responsibility to negotiate with the Marine Transit unions is not resolved. The state Supreme Court has ruled that those unions are now covered by the Public Employees Relations Act, and that therefore, they negotiate with the Division of Personnel and Labor Relations. Prior to that decision, the Commissioner of Public Works held that authority.

It was generally agreed that the motion applied to those unions representing employees of the University of Alaska.

Affirmative Action/EEO. At present, the state EEO office is in the Department of Administration, having moved from the Office of the Governor. In addition to this central EEO office, each department has its own EEO officer, who is responsible for providing information to and counseling employees within that department as well as for preparing and monitoring the departmental affirmative action plan. There is a need to have trained, sensitive people who are aware of legal requirements in the departments. The departmental EEO officers hold other jobs within the departments and usually place priority on those other duties.

The central EEO office has placed a priority on providing training to supervisors and managers in state agencies, as well as reviewing the personnel practices and procedures of the state and monitoring Division of Personnel compliance, revising the affirmative actions plans, and gathering statistics on the state's work force.

Placing the central EEO office as a division of the new Department of Employee Relations would ensure that there was communication between that division and the divisions of personnel and labor relations. Much of the functions of those divisions (recruitment, examination, certification and training) is of great concern to the EEO office, and therefore having an opportunity to affect decisions in those areas as they are made is important. Making the EEO office a division would ensure that it had the status necessary to act effectively and would help emphasize the state's committment to equal opportunity.

Departmental Personnel and Training Officers. The creation of this new department does not address, at this stage, the placement of the departmental personnel officers. They could either remain departmental employees or become employees of the new department. Training officers in the departments could also

Training. The state's training programs, like the safety and EEO functions, need central coordination, which could be achieved by making the new department responsible for that role. Individual departments would continue to provide their own, specialized programs, but the central office in the new department would provide information on what programs were being offered and would provide technical assistance in programs as its own staffing and expertise permitted. Having one central person in charge of that oversight would help to ensure that training programs which the state was required (by union contract, for example) to provide would take place. If the programs did not occur, then there

would be one person to whom the union could turn to question why they had not.

Training is often misunderstood in Alaska. There is a feeling that employees should know all the intricacies of their jobs at the time that they are hired. But government procedures are different from those in private industry - for example, in accounting - and the unique orientation to governmental work means that there will have to be an orientation for the new employee, whether that person is just out of school or has worked for a number of years in that field in private industry.

The efficiency and productivity of state employees depends in a large part upon the intial training they receive.

Orientation of the New Department. There is a hope that the Department of Employee Relations would be people oriented, rather than fiscally oriented, as the Department of Administration is. Most of the programs within the Department of Administration are financial in nature, while those programs proposed for transfer to the new department concern people directly: What happens to a new employee on entering and while serving in state government?

Model. The Department of Employee Relations should be modeled along the lines of the Anchorage Municipal ordinance, but without creating separate divisions for the separate functions in the Division of Personnel. There should be provision for the Commissioner of the department to delegate some personnel functions to the individual departments.

VOTE ON THE SUBCOMMITTEE MOTION: A vote was taken on the motion. It carried unanimously, nine (9) members voting.

Issue 2. Relationship of collective bargaining contract terms to statutes, Personnel Rules and departmental standard operating procedures.

SUBCOMMITTEE MOTION: Pat Hunt moved that staff be directed to design language to add to Title 39 which limits application of Title 39 to those not covered by collective bargaining units and to define merit principles which must be negotiatied in all collective bargaining agreements. The draft should be brought to the subcommittee for further review.

DISCUSSION

There is confusion about what standards govern employees covered by both collective bargaining contracts and the Personnel Rules. The language suggested by the motion would clearly

make each union contract the operating system for determining all conditions of work for covered employees, while ensuring that merit principles would be recognized in each agreement and complied with. The Rules would then apply only to those solely affected by them. (At the work session on February 7, Mr. Hunt indicated that there are five classified employees in the state who are not members of a union. Ken Kareen represents 20% of that group.) The Rules are therefore needed to set out the conditions of employment for those five employees, as well as for any employees added to the group in the future.

At present, to chage a Personnel Rule, the Personnel Board must consider not only the merits of the proposed change but also how that rule affects each contract. If the scope of the rule has been partially affected by any contract, then a change would have to be agreed to by the union in question.

Unions have established different systems to implement the merit principles (which are made applicable to union contracts by AS23.40.070:

> The legislature further finds that the enactment of positive legislation establishing guidelines for public employment relations is the best way to...strengthen the merit principle where civil service is in effect...)

For example, employees hired for positions in APEA bargaining units are hired from the eligibility lists maintained by the state. Employees hired for positions within Local 71's bargaining unit are hired from eligibility list maintained by the union, except that OSHA inspectors are hired from the state's registers. The Marine Transit unions maintain their own retirement program, whereas APEA and Local 71 members participate in the program administered by the state.

There are also differing views on the policy of hiring by seniority. Local 71 members strongly support seniority hiring while members of APEA support hiring of the most qualified without direct consideration of seniority. If supervisors are responsible about disciplining and firing unsatisfactory employees, then a policy favoring seniority should ensure that fully-qualified individuals are at the top of the eligibility lists.

Wages negotiated by unions are ususally passed on to non-unionized employees by management. This policy is followed by almost all states.

CLARIFICATION OF AMENDMENT OF MOTION:

Ken Humphreys suggested two amendments: that a section

be added requiring that any contract negotiated must meet federal merit principle standards, and that a savings clause be added, saying that if the contract does not comply with those standards, then the parties will renegotiate to provide for compliance.

General Policy Statement. There should be a policy statement identifying those topics which are essential to a merit system and which must be covered by all contracts. The list would include promotion, selection of the most qualified, career ladders, employee development potential, an agreed guiding principle on classification, and like pay for like work. Section 1 of the Model Public Personnel Administration Law is an example:

> The general purpose of this act is to establish a system of personnel administration that meets the social, economic and program needs of the people of the state. This system shall provide means to recruit, select, develop and maintain an effective and responsive work force, and shall include policies and procedures for employee hiring and advancement, training and career development, job classification, salary administration, retirement, fringe benefits, discipline, discharge and other related activities. All appointments and promotions in the state service shall be made without regard to sex, race, religion or political affiliation, and shall be based on merit and fitness.

Legislative Concern. The legislature is concerned about how the merit system and collective bargaining intertwine. The Commission should explain the two systems in its report as well as why it is important to retain each of them.

Exempt and Partially Exempt Employees. Janet Bradley expressed her personal concern that partially exempt employees have none of the benefits or protections of permanent employees, even though many of those placed in that category are not holding jobs appropriately considered political. The Categories of Employees Subcommittee should consider this issue.

VOTE ON SUBCOMMITTEE MOTION: The motion was adopted, eight (8) members of the subcommittee voting in favor, and one (1) opposed.

Issue 3. Method of adopting Personnel Rules and departmental standard operating procedures. (Discussion of this topic was postponed until the report of the group examining departmental standard operating procedures is prepared.)

Issue 4. Membership of the Alaska State Labor Relations Agency, the Personnel Board and the Retirement Board.

Issue 5. Scope of authority of the Labor Relations Agency and the Personnel Board.

These issues were combined for purposes of discussion. The subcommittee requested that Ken Humphreys research two bills introduced in previous sessions concerning the Labor Relations Agency. The subcommittee will discuss these issues in a later meeting.

Issue 6. Inclusion of non-certified school district employees under the Public Employment Relations Act.

A bill was introduced last session to include non-certified school district employees within the Public Employment Relations Act. It passed the House, but not the Senate.

Dwayne Carlson, the lobbyist for the AFL-CIO has indicated that passage of legislation in this area is priority number 2 of the AFL-CIO this session. Ken Humphreys will research the past bills in this area, and the subcommittee will then consider this issue.

Issue 7. Inequity of wages between union members and non-union state employees. This issue is incorrectly stated in the Issue Summary. It should read inequity of wages between members of two different unions.

The subcommittee decided to table this issue.

Issue 8. Due process rights for temporary employees.

This issue is within the scope of the Categories of Employees Subcommittee. The Merit System/Collective Bargaining Subcommittee decided to leave the topic for their consideration.

BLUE RIBBON COMMISSION HEARING
Anchorage Historical Museum
January 27, 1979

MINUTES

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

PUBLIC TESTIMONY

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

tions.

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

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

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

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

employee relations manual for supervisors.

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

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

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

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

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

Ken Humphreys asked how many staff members are in the Employee Relations Department to handle 3,00 employees and how many applications are processed each year. Mr. Jones stated that there are 22 staff members, and approximately 5,000 applications are processed annually.

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

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

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

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

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

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

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

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

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

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

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

unable to identify funding for permanent positions.

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

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

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

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

MEETING SCHEDULES

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

IN ATTENDANCE

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

OTHERS IN ATTENDANCE

Darlene Howard

02-001B

STATE
of ALASKA

MEMORANDUM

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

DATE : 27 January, 1979

FROM: Daniel DeNardo
Revenue Auditor
Department of Revenue
Anchorage Office

SUBJECT: Violations of Personnel Rules and State Law

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

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

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

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

Mr. Nelson and Mrs. Donna Crawford are sto;; employed by the Department of Revenue in the Petroleum Revenue Division.

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

No prior approval by the Commissioner of Administration was granted. These actions are in violation of Rule:
13.15-Purchases of Commodities and Services
13.16-Conflicts of Interests
13.18-Penalties
13.18.1-Action to be taken by the Director
11.05.1-Dismissal for violation of Rule 13

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

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

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

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

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

These facts were brought to the attention of the Department of Revenue at a grievance hearing in March 1978 in the Diane Painter vs. Louis Nelson case. Mr. John Messenger, Deputy Commissioner of Revenue was in attendance.

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

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

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

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

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

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

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

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

Attached are memos.

Daniel DeNardo

MEMORANDUM State of Alaska

TO: Thomas Williams
Director, Petroleum Revenue Division

DATE: January 19, 1979

FILE NO:

TELEPHONE NO:

FROM: Daniel DeNardo
Revenue Auditor I

SUBJECT: Inquiry to Correct Personnel Rules Violation

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

02-0018

STATE
of ALASKA

MEMORANDUM

TO: Daniel DeNardo
Revenue Field Auditor I
Petroleum Revenue Division

DATE : January 22, 1979

FROM: Thomas K. Williams TKW
Director
Petroleum Revenue Division

SUBJECT: Your Request for a Meeting about Personnel Rules Violations

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

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

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

Thank you for bringing the matter to my attention.

TKW

January 26, 1979

Tom Williams
Director, Petroleum Revenue

Dan DeNardo
Revenue Auditor

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

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

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

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

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

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

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

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

January 27, 1979

DEPARTMENT OF NATURAL RESOURCES STATEMENT

TO THE BLUE RIBBON COMMISSION

ON STATE EMPLOYMENT ACT

Ladies and gentlemen of the Blue Ribbon Commission,

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

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

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILE 8672

1351 SCOMM 51: BLUE RIBBON COMN. ON STATE PERSONNEL ACT 1978-1983

1. That applicants no longer be ranked on hiring registers. Applicants should meet certain minimum qualifications to get on the register, but then the program managers should be allowed to select whoever they feel best qualified for the particular vacancy's responsibilities.

2. Establish a review panel for each professional job class. The function of the panel would be to establish criteria for the job class and to hear appeals from individuals denied certification by the normal process. Individuals who are not certified as being qualified for that job class would have the ability to appeal the decision of the analyst to the review panel. The panel could consist of approximately five individuals: two representatives from the Division of Personnel, specifically the Personnel Analyst responsible for certifying eligible candidates for that job class, and the personnel supervisor responsible for that job class; two representatives either working in that job class within State government or in a similar position in the private sector; and a representative program manager who supervises people in that job class.

3. Permanent fulltime probationary personnel should be evaluated in writing on their job performance quarterly for the length of their probationary period. Quarterly evaluations will assist the program manager in determining if the new employee can perform as needed.

January 27, 1979

DEPARTMENT OF NATURAL RESOURCES STATEMENT

TO THE BLUE RIBBON COMMISSION

ON STATE EMPLOYMENT ACT

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

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

I have the following recommendations regarding temporaries:

1. They should be hired from the unranked registers (as described above.)

2. The State should provide full fringe benefits for temporaries.

3. A category of project temporaries should be established to be used for carrying out one-time, limited duration tasks with a maximum duration of 36 months. These positions should be used for specific tasks mandated by the legislature or the federal government.

4. Temporaries should be able to work up to a maximum of nine months.

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

CONCLUSION

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

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

January 27, 1979

WORK SESSION SUMMARY
CATEGORIES OF EMPLOYEES SUBCOMMITTEE
Anchorage, January 26 & 27, 1979

The following are points raised in response to an APEA proposal passed out at the meeting (copy attached):

POINTS RAISED

1. Restricting temporary employment time to 60 days would be too restrictive on departments. A more appropriate solution would be to audit departmental use of temporaries.

2. Legislative finance committees should be informed of the problems inherent in using temporaries, so that they will be willing to create additional permanent positions.

3. The Department of Health and Social Services' policy on hiring temporaries was discussed. A subcommittee will review the policy and make a presentation. Appointed to the subcommittee were John Pugh, Lynda McCurry and Ken Humphreys. In the review, the subcommittee should research the possibility of requiring that temporaries be assigned salary ranges comparable to those assigned to similar permanent classifications.

4. There was discussion of the effects of Kelly vs. Hammond: What effect will the case have on legislative authority? Can the legislature require that departments create and fill permanent rather than temporary positions? Ken Humphreys will research the question and report to the subcommittee.

5. There was discussion on problems within the CETA program. CETA employees are being used by the state as an inexpensive work force. However, under federal regulations, CETA's cannot replace permanent employees. A letter was received from Jean S. Conway dated January 8, 1978 (copy attached). Also attached is a copy of CETA regulations.

The subcommittee adjourned and reconvened on Saturday afternoon. The following are motions adopted:

MOTIONS ADOPTED

1. Pat Murphy moved that the subcommittee recommend legislation on temporaries be introduced this session. The motion was adopted: One member opposed.

2. Don Fisher moved that the subcommittee shall recommend that a maximum time limit be required on temporary employment. The motion was adopted: Two members opposed.

There was discussion on the question of whether the Commission should recommend modification of the Collective Bargaining Act. It was decided that subcommittee proposals should be presented as joint legislative resolutions to have the effect of a policy statement, except where statute amendment is clearly

necessary.

3. Don Fisher moved that all temporaries shall be hired from eligibility lists (registers). The motion was adopted: One member opposed.

4. Pat Murphy moved that the number of temporaries shall be limited to 10% of the previous fiscal year's man-months worked, based on permanent classified positions within each department. The motion was adopted. Three members opposed.

Paddy Moriarty amended the motion that the number of temporaries shall be limited according to future figures, after futher research. The amendment was adopted. Three members opposed.

5. Representative McKinnon moved that the subcommittee shall adopt a resolution to support the bill sponsored by Senator Ray on retroactive retirement benefits for permanent employees for prior temporary employment. The motion was adopted. Two members opposed.

6. Pat Murphy moved that the subcommittee shall adopt a resolution to support legislation introduced in the Senate recommending health insurance benefits for all employees after 30 days in service with the State of Alaska. The motion was adopted. Two members opposed.

DISCUSSION

The subcommittee discussed requiring Division of Personnel authorization before any department could hire a temporary. Justification for hiring a temporary rather than a permanent employee would be required, as is currently required by the Department of Health and Social Services. Pat Hunt and Ken Kareen will present their evaluation of the proposal at a later subcommittee meeting.

The subcommittee work session was chaired by Representative McKinnon.

Ombudsman

MEMO

Date: January 26, 1979

To: Members, Blue Ribbon Commission on the Personnel Act

From: Paddy Moriarty
Deputy Ombudsman

Subject: Ombudsman position on APEA's 1/22/79 proposal

At the meeting of the Subcommittee on Categories of Employees this morning, it was requested that Subcommittee members express their agreement or disagreement with an APEA recommendation of January 22, 1979, proposing specific statutory changes.

For the record, the Ombudsman is in support of this proposal (See Mr. Flavin's January 11 memo attached). Mr. Flavin would prefer that the APEA proposal #2 read: (6) the procedure for certifying eligibles to any position in state service other than interim or emergency positions.

The specific language in APEA's proposal #3 and #4 may need some further review, but in substance and intent it has Ombudsman support. Perhaps an administrative appeal mechanism could be devised to address those few exceptions mentioned at this morning's meeting which do not fall within language in #3 or #4. It will not be possible to draft these sections to encompass each set of meritorious special circumstances.

Attachment

Ombudsman

MEMO

Date: Jan. 11, 1979

To: Interested Folks

From: Frank Flavin

Subject: Eliminating the concept of temporary employees

1) add to AS 39.25.150 (6) so it reads:

(6) the procedure for certifying eligibles ~~for~~ to any positions in the state service other then interim or emergency positions.

OR

(6) the procedure for certifying eligibles for full-time, part time, project or seasonal positions in state service.

2) Expand AS 39.25.150 (8) to read:

(8) emergency appointments to positions in the state service for a period not to exceed thirty days, made under conditions necessitating immediate action to provide for carrying on work that must be continued in the public interest. Successive emergency appointments or more than three emergency appointments for one person within one calendar year are prohibited.

3) Eliminate reference to temporary and seasonal appointments in AS 39.25.150 (9) and replace it with an interim appointment concept:

(9) interim appointments to positions in the state service for a period not to exceed sixty days, made where appropriate eligible lists are unavailable. Successive interim appointments to the same position are prohibited. No position in the state service shall be filled through ~~an~~ interim appointments for a period in excess of sixty days. Interim appointments may be made without competitive examination.

4) Repeal AS 39.25.150 (10) dealing with provisional appointments.

WORK SESSION SUMMARY
CERTIFICATION, CLASSIFICATION & RECRUITMENT SUBCOMMITTEE
Anchorage, January 26, 1979

1. There was discussion on the decentralization of responsibilities for unique job classifications to departments.

a) Staff was instructed to arrange a "walk through" showing the process for classifying a position in a chosen department, Division of Personnel and Budget and Management.

2. Three subcommittee members, Ken Humphreys, Lynda McCurry and John Pugh, will examine the Department of Labor's Standard Operating Procedures Manual and advise the subcommittee on how that department has interpreted Personnel Rules.

3. Staff was instructed to find out how difficult it would be to identify unique job classes within departments.

4. The subcommittee proposed (not by formal motion) that the Commission should recommend that topics covered by Personnel Rules be negotiable through the collective bargaining process.

The subcommittee work session was chaired by Don Fisher.

WORK SESSION SUMMARY
MERIT SYSTEM/COLLECTIVE BARGAINING SUBCOMMITTEE
Anchorage, January 26, 1979

The subcommittee discussed recommending the following to the Commission:

RECOMMENDATIONS

1. Creation of a new department composed of the Division of Personnel and Labor Relations. This would ensure that the Governor would receive prompt notification on Labor Relation's activities, since there would be a Commissioner in his cabinet. The state of Wisconsin has adopted such a system. The subcommittee will consider whether to make a formal recommendation after hearing from a representative from Wisconsin at the conference on February 6.

2. Composition and duties of Labor Relations, the Personnel Board and the Retirement Board. The Labor Relations Agency has no permanent staff and relies on the Labor Relations section to provide support. Its workload is increasing, and a need for permanent staffing has been indicated. The Personnel Board meets only two or three times a year and is not very busy.

Ken Humphreys will research bills from the last two legislative sessions on the creation of a full-time Labor Relations Agency. He will also compile examples of Labor Relations Agencies in other states and in federal government.

The subcommittee work session was chaired by Don Fisher, upon the request of Representative Buchholdt, Chairperson.

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

MINUTES

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

PUBLIC TESTIMONY

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Pat Murphy suggested that the audit function be assigned

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

COMMITTEE BUSINESS

NCSL Conference

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

USCSC Meeting in Washington:

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

Commission Expenses:

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

Subcommittee Reports:

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

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

Niel Thomas asked whether the Commission will request continuation. Senator Ray pointed out that the work of the Commission is in its formative stages, and the Commission should justify its existence by presenting an initial report to the legislature.

PUBLIC TESTIMONY

Kit Stewart, a Finance Officer with the Department of Environmental Conservation, expressed her satisfaction with the state's hiring procedures. One problem that she has encountered is that an employee within the department has a criminal record, which was not revealed in the individual's application.

Senator Ray responded, stating that this is a very sensitive matter. Information on criminal convictions is confidential. Pat Hunt explained that applicants' criminal records are checked when applying for positions in Public Safety or correctional facilities. Greg O'Claray stated that he could not see why it was imprortant that Ms. Stewart nave this information. Having to reveal a criminal record could lead to discrimination against the applicant. Ms. Stewart replied that the issue that concerned her was that the applicant had falsified the application form. Ms. Stewart added that, at present, it is impossible to verify whether the employee is misrepresenting facts on an application. Senator Ray questioned the relevance of this in regard to the employee's performance.

Ron McMahon, an Ecologist with the Department of Environmental Conservation, stated that job classifications assigned by the state do not relate to actual job functions. Existing classifications cover many specialized jobs in different departments. Mr. McMahon suggested that the Division of Personnel consider reclassification studies. He is presently coordinating a project review, which has nothing to do directly with Ecologists, and feels that his title should be Program Coordinator. The Division of Personnel had received the position description and said that the closest classification would be Ecologist.

Niel Thomas asked if Mr. McMahon had read the class specifications on what his duties consist of. He also questioned whether a department hiring from that register would be looking for an Ecologist. Mr. McMahon answered that he is not doing the work of an Ecologist, but must be familiar with the field.

Senator Ray commented that possibly the department is afraid to reclassify existing positions because that might result in positions being placed at lower salary ranges.

Mr. McMahon also brought up the subject of entry-level positions for Chemists. In order to qualify for a Chemist I position, an applicant must have one year of experience. There is no Chemist Trainee classification in the state.

Pat Hunt asked whether the departments would request Chemist Trainees if the class were created. Mr. McMahon stated that it would be filled, providing a career ladder for laboratory techinicians. Ken Kareen explained that the Chemist series has been examined by the Division of Personnel, and departments stated that they need experienced applicants rather than trainees.

Niel Thomas expressed the Human Rights Commission's perspective in relation to equal employment opportunity. The state should compete with private firms for recent college graduates. The lack of trainee positions is one reason why EEO practices in the state are inadequate. To compete with private firms, Mr. Thomas suggests creating a Chemist Trainee class to provide greater opportunities for women and members of minority groups.

Senator Ray pointed out that trainee positions are looked upon adversely by Budget and Management: Why train on-the-job when applicants have received training in school? Niel Thomas responded that in higher-level positions, orientation can take up to a year, even for new employees with prior experience in the field.

Pat Hunt stated that no department has requested a Chemist Trainee position, and that it would be pointless to create a classification without justification. Mr. McMahon responded that he was not the first person to make the suggestion and that a position of this type would be used in his department. Similar fields do have entry-level starting points. Senator Ray observed that one of the easiest solutions would be to rewrite minimum qualifications to allow recent graduates an opportunity to apply. The topic was referred to the Certification, Classification and Recruitment Subcommittee for review.

CORRESPONDENCE RECEIVED

Terry Cramer presented the following summaries on correspondence received:

Mrs. James L. Sumner wrote to the Commission regarding her belief, as a foster parent, that Social Workers should be considered professionals in that field. To maintain the qual-

ity of workers, Mrs. Sumner suggests that either educational requirements be increased or training after hire be closely supervised.

A concerned taxpayer wrote in regard to examinations for semi-professional positions. Examinations were described as outmoded, inaccurate, laborious and invalid, as well as not being pertinent to the actual jobs or selection of candidates. Also mentioned was the time it takes to schedule testing in Anchorage (weeks), which is held in a room with inadequate ventilation. The attitude of Anchorage employees in the personnel office was described as "very rude". The individual concluded the letter by stating that it is hoped that the Commission's investigation will result in procedures to teach these people to act as a service organization.

Marilyn Martin attached to her correspondence a copy of a letter to Governor Hammond pertaining to citizen evaluations of Commissioners. She referred to problems experienced when her position as Wage/Hour Investigator in the Resident Hire program was eliminated. Ms. Martin was assured that she would be transferred to another Department of Labor position if the U.S. Supreme Court ruled the Resident Hire Law unconstitutional. She knew of vacancies in unemployment fraud investigator classification and was on the register for Claims Investigator I. Two positions in Anchorage and Juneau were filled by other state employee transfers. A position in Fairbanks was filled by someone who may not have been a state employee. Ms. Martin was not contacted about any of these positions. She is now unemployed and questions the ethics of the situation and the follow-through of Commissioner Orbeck's policies by the Department of Labor's staff.

A copy of a memo to Jay Hammond, Governor, was received by the staff in reference to the Anchorage Field Office of the Division of Personnel. The staff was described as being rude and condescending. The author suggested that if the Commissioner insisted on courtesy, these rotten attitudes would not have existed for the past several years.

Ms. Irene Price elaborated on her testimony before the Commission on December 1. She emphasized that she spoke only on her own behalf. Ms. Price indicated that she believes communication to be a problem between the Division of Personnel and other state agencies, particularly in the following situations:

1. Initiation of tests for a given job classification without the knowledge of the affected unit.

2. Reclassification of positions without communication with the incumbent.

Dan Crevensten wrote in support of an increase in the use of part-time positions. He identified advantages for the state:

1. The use of temporary positions would be reduced.

2. There would be a better match between available positions and the amount of work.

3. Studies have shown that part-time employees have greater productivity and less absenteeism.

4. Equal employment goals could be easier to meet.

In his experience, Mr. Crevensten felt that state agencies should take into consideration part-time work. By the time an applicant interviews with a supervisor, it is too late to implement such a program.

IN ATTENDANCE

Commissioner Allen
Ken Humphreys (for Myrt Charney)
Frank Flavin
Pat Hunt
Lynda McCurry
Pat Murphy
Greg O'Claray
John Pugh
Ken Spray
Niel Thomas

ALTERNATES IN ATTENDANCE

Ken Kareen
Darlene Howard
Robert Mourant
Janet Bradley

Minimum Qualifications:

One year of experience in maintaining Minicomputer Hardware, Computer Peripheral Equipment and Telecommunications Equipment. AND Four years of experience in computer programming, systems analysis, design of telecommunications networks or system/field engineering for a computer manufacturer.

Two years of the above four years must be at the level of EDP Programmer IV, Systems Analyst II or Systems Programmer II.

Substitution: A college degree in computer science, electrical engineering, physics, mathematics or industrial engineering may substitute for up to two years of the required four years of non-specific work experience.

RECORDS HANDLER Class Code 1832-74-2
General Government Salary Range 12
Positions in: Juneau

Definition:

Under supervision of the Records Center Manager, receives, classifies, controls and stores a variety of office records.

Minimum Qualifications:

Graduation from high school or the equivalent, and two years of experience in the handling of stock, merchandise or inventory, including maintenance of records and/or reports. College education in an appropriate field may be substituted for up to one year of the required experience on a year-for-year basis.

RECORDS CENTER MANAGER Class Code 1836-79-1
General Government Salary Range 15
Positions in: Juneau

Definition:

Under general direction of the State Archivist, participates in planning and is responsible for the day-to-day management of the State Records Center; performs and directs activities to acquire, arrange, describe, preserve, retrieve, and dispose of inactive and semi-active records from any and all state agencies.

Minimum Qualifications:

Graduation from an accredited college or the equivalent with a major in history, government, political science, business or public administration, management, library science or closely related field; AND Two years of experience beyond the clerical level in a full-time records management program where duties concerned receipt, description, organization, disposal and retrieval of records in a records system characterized by a variety of different kinds and sources of documents and/or records.

Substitution: Clerical/secretarial, supply, library or records management experience may substitute for the required college education on a year-for-year basis.

BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT
Categories of Employees Subcommittee
Anchorage Legislative Information Office
January 4, 1979

MINUTES

The Categories of Employees Subcommittee hearing was called to order by Representative McKinnon. Public testimony was invited.

PUBLIC TESTIMONY

Jim Thiele, a temporary employee with the Department of Fish and Game, presented his views on the six-month limitation of temporary employment as specified in the new APEA union contract. Mr. Thiele explained that it is not economically feasible to live the whole year on six-month's salary. He feels that his position could be classified as a permenent seasonal category since it is recurrent. The new limitation on temporaries in the APEA contract denies individuals the right to return to employment within a department for a period of six months after termination from that department. The explanation provided Mr. Thiele on why the Department of Fish and Game did not reclassify his position to permanent seasonal was that each PCN number must be approved by the legislature. He does not believe temporary employees consider receiving fringe benefits as necessary as having opportunities for employment available.

Mr. Thiele is on a number of registers, but has never been hired from one. After being tested for a Fisheries Biologist I position, he worked as temporary in that classification for two years. When he took a reexamination, he received a lower score despite his additional two years of experience. Another inequity in the testing process was highlighted when Mr. Thiele took two tests, Game Biologist I and II, and scored much higher on the more difficult test for Game Biologist II. Mr. Thiele, in answer to Frank Flavin's question on whether he would prefer to become a full-time employee, stated that he preferred to have the flexibility available to temporaries.

Pam Rogers, a permanent employee with the Planning and Research Division of the Department of Natural Resources, expressed her concerns regarding the lack of opportunities available to temporaries to fill permanent positions. Temporaries working within the department are not considered for employment in newly classified permanent positions because many are not within the top five on registers, even though they have experience in working in the department. Ms. Rogers believes that time spent in temporary positions should be counted towards the probationary period for permanent postions.

On the topic of registers within the state, Ms. Rogers stated that supervisors are circumventing the eligible lists to hire temporaries. Upon initial hire in temporary positions, individuals are being promised permanent positions as soon as funding is approved and PCN's are created. These temporaries are hired at salary ranges that are inconsistent with their level

of skill. People already employed by a department are given preference over others on registers in hiring.

Pat Kirschner, an employee with the Planning and Classification Section of the Department of Natural Resources, asked committee members if, after the six-month temporary has ended, whether an employee can work for another state department as a temporary. She had heard many conflicting rumors. Niel Thomas answered that you can be employed by the state again within another department. Representative McKinnon believed that was part of the new contract provisions. He stated that in the past, a temporary could go from one position to another within the department after the period had expired. Ms. Kirschner expressed her desire to continue working in a section where she is familiar with the work for more than six months.

Ms. Kirschner sees the move to severely limit the temporary employment period, or to do away with it altogether, as being undesirable. Even if additional permanent positions were created, her department would still have to use temporaries on various projects that are not recurrent but do last longer than six months. Representative McKinnon agreed that there is a valid need within the Department of Natural Resources for temporaries because of the fluctuating time periods of projects. The duration of these projects is dependent upon the time needed for completion and the funding available. As an alternative to temporary employment without benefits, Ms. Kirschner suggests that promotions and merit increases be available to temporary employees based on performance and longevity of the individual's employment on the project. Niel Thomas commented that a "project" category would also be valuable to employees within the Department of Fish and Game.

Ms. Kirschner concluded by stating that she prefers a nine-month period for temporaries, because the individuals could at least survive economically on that basis. The six-month period presents economic problems for specialists who are limited by their expertise in a particular position in only one department.

Jim Curatolo, a temporary employee with the Department of Fish and Game, presented his belief that temporaries are being taken advantage of more than ever because of restrictions imposed by the new union contract. He stated that many temporaries work in that capacity because they find it preferable to work only nine months a year, gaining experience and skills that would otherwise be unavailable to them.

Mr. Curatolo believes that salary ranges for temporaries are much lower than those of permanent employees, regardless

of skills and qualifications. Temporaries can provide for their own benefits and retirement if they are compensated with higher salaries.

As previous witnesses testified, Mr. Curatolo would like to continue working on his present project for an extended amount of time. He is aware of another project that will be available after his six months has ended, but because it is within the same department, he will not be eligible. The project he is working on is federally subsidized with OCS funding. Niel Thomas asked how Mr. Curatolo's position would be classified if he were working as a permanent employee. Mr. Curatolo explained that his is a Biologist II position, but that he is being paid at a Biologist I level. Representative McKinnon asked whether the proposal for the project could have included provision for a permanent position which would terminate at the end of the project.

Mr. Curatolo said that he would rather have the option of choosing the project he wants to work on each year, and that if a permanent seasonal position classification was authorized, this choice would be eliminated. Representative McKinnon asked whether he would be required to return to the project he had last worked on. Niel Thomas asked whether there would be a number of positions within the same classification which he might apply for. Mr. Curatolo responded that his experience in a particular project would lead to being employed in the same position.

Frank Flavin inquired whether the six-month temporary period was a product of APEA bargaining or if it was a decision between the state and the Legislature. Representative McKinnon noted that judging by testimony heard, temporaries are being misused and are not given the benefits of permanent employees. Using temporaries is a way of avoiding application of merit principles. Instead of improving the abusive treatment of temporaries, the APEA contract has created many additional difficulties. Niel Thomas added that it seems there is a need for a "project" category which would not apply to seasonal recurrent positions and would allow the position to last for the duration of the project.

Claude Hoffman, a Cadastral Engineer with the Department of Natural Resources, presented his opinions as a Program Manager. Mr. Hoffman supervises 31 employees. He is involved in a departmental survey that has been funded with $7 million by the Legislature for 12 months. Permanent positions were authorized by the Legislature at the end of the last session. Mr. Hoffman has been hiring temporaries for the program who are capable of doing the job. Many of his professional staff were in the top five on the registers and were temporaries within

the department. Mr. Hoffman believes that he has been hiring temporaries fairly and placing them in permanent status whenever possible. He has reduced the number of temporaries in his department by 80% over the past six months. Despite the reduction, he must retain some temporary positions, and would like to be able to offer temporary employees the same benefits as permanent employees. Mr. Hoffman does not believe that program managers should hire temporaries and promise permanent position when they are unsure whether that is a possibility. He prefers to have permanent employees in the department, but because of the process involved in writing out P402's, having them put into the budget and approved by the Division of Personnel, creating PCN's and getting registers, this is very difficut when there are immediate deadlines set. These "crash" programs leave very little time to plan for the department's employment needs. Mr. Hoffman suggests that a possible solution would be in having the Division of Personnel work jointly with the department in preparing a budget package to include positions in permanent, seasonal and temporary employment categories.

Niel Thomas asked if there would be any problem in hiring temporaries from the registers. Mr. Hoffman replied that a major problem is the time involved in the processing of paperwork to and from Juneau. Mr. Thomas suggested that temporary positions could be reduced to very short terms, with exceptions for employment on specific projects to permit time to have permanent positions classified. Mr. Hoffman also pointed out that in order to get qualified people, Department of Natural Resources had to advertise state-wide. Mr. Thomas stated that some type of incentive for Personnel to move as fast as possible in classifying permanent positions would be helpful. Mr. Hoffman agreed that the Division has problems in the extensive workload involved in filling new positions. His department has the budget for positions, but is unable to expedite the creation of permanent positions, and has had to use temporaries in the mean time.

Niel Thomas inquired whether Mr. Hoffman believes there are too many classifications. Mr. Hoffman replied that was not a problem in his department's series of positions. Frank Flavin asked what Mr. Hoffman's opinions were regarding the registers. Mr. Hoffman answered that he is please with registers and the way applicants are placed on them. He also believes they provide an adequate selection.

Mr. Hoffman also expressed his ideas on the ranking of individuals on the registers. He believes that there are inequities in scoring which result from different personnal analysts within the Division of Personnel using a variety of scoring standards. He suggested that evaluation of applications be based on qualifications and skills gained during work rather

than on number of years in service. Mr. Hoffman stated that he had spent quite a bit of time with the Division of Personnel earlier in the year, and the staff members there had probably been rated on longevity and been hired from the top five on the register.

Frank Flavin asked whether working with the top five or with the top one-third on the registers would be preferable. Mr. Hoffman responded that working with the top five is not difficult. Normally, one or two eligibles will decline to take a position because of special duties they cannot handle. Sometimes, Mr. Hoffman does have to go below the top five to fill a vacancy because some applicants refuse the positions and others are still on the register although they have found employment.

Niel Thomas asked where Mr. Hoffman reports in the department. Mr. Hoffman answered that he reports to the Assistant Commissioner, who oversees three divisions. Niel Thomas asked if he had been instructed in Equal Employment Opportunity and Affirmative Action matters. Mr. Hoffman replied that the basics had been covered. Representative McKinnon inquired concerning whether restrictions are placed on hiring temporaries for new positions. Mr. Hoffman answered that no restrictions were put upon hiring of temporaries, and he initially hired temporaries and had positions classifications changed to permanent. Many temporaries have left because they were unable to get on the top of registers to be hired as permanent. He does not believe in using unethical methods to come in below budget and is not tempted in hiring temporaries to cut down on spending.

Ed Levy, an Engineering Technician with the Department of Transporation and Public Facilities, offered a different perspective. He is the only permanent seasonal employee working in his division. The majority of the employees within the division are college students who cannot complete the six-month period of seasonal employment because they have to return to school in the fall. These temporaries are being trained by the division, but cannot achieve permanent seasonal status even though they return each year. Local 71 will send them back out to the department annually because they are familiar with particulars of the work, but does not allow their classification as permanent seasonal because they are not able to finish the season. This problem is causing financial difficulties for temporaries because they are not credited with their time in service and cannot go beyond initial temporary wages. Representative McKinnon asked what happens when the students return to school. Mr. Levy explained that the division fills in as best it can until the end of the season. College students feel that they are being used by Local 71 and that they are paying dues for nothing. Mr. Thomas asked if Mr. Levy would lose his job as a permanent

seasonal if he left in September. Mr. Levy answered affirmatively, and added that the Local 71 contract does not permit an employee to be considered as permanent seasonal unless the individual can work the entire duration of the season.

Patricia Fowler, a permanent employee with the Department of Natural Resources, is an Associate Planner. She presented her complaints regarding the time it takes to get on a register and the difficulties in trying to be promoted to a higher classification. Ms. Fowler was promoted from her position as a temporary Research Analyst II to her present classification. If she had wanted to try for a permanent position as a Research Analyst II, she would have been unable to get on the top of the register because her specialty is planning. Four to six weeks after Ms. Fowler applied for the position of Associate Planner, she tried to find out what her status was concerning the application. She was unable to get an answer.

Ms. Fowler pointed out that in the past, temporaries had been employed by the department for up to 18 months. This practice is only now beginning to change. Ms. Fowler began as a temporary employee and worked towards getting a permanent position. Methods suggested by her colleagues included making herself invaluable to the department. Experience as a temporary, according to Ms. Fowler, is not considered in the placement of temporaries in permanent classifications. Because of the turnover in temporaries, the department has to train employees over and over again. She has observed that in order to place temporary employees into permanent positions, her department notifies the top five applicants on the register, but discourages interest in the positions to be able to get to the people they want. Ms. Fowler has personally responded to notifications, only to be told that the position is extremely undesirable. Temporaries are one way of getting around the register.

Ms. Fowler continued, commenting on the fact that offices with a large number of temporaries are subject to recurrent turnover and have organizational problems. Most temporaries have no future with a department, and because they are aware of this, they have no incentive to perform well.

Niel Thomas asked what Ms. Fowler's position is within the department. Ms. Fowler replied that she is a Coordinator for A95, which is a permanent position where she works on casual management. Mr. Thomas also asked how the duties of the position were presented to her when she began as a temporary. She replied that the person occupying the position prior to her arrival had taken a leave of absence. Ms. Fowler took over her functions within the office and was never asked if she wanted permanent employment. She was never informed by the department

that there was a vacant permanent position available. Ms. Fowler, like many temporary employees does not like short-term positions. She enjoys being able to get involved in her work and not having to spend her time constantly seeking permanent employment. She was informed at the time of her hire as a temporary that the duration of her employment would not exceed four to six weeks. At that time, she thought that it would be highly unlikely that the position would be for such a short period of time. Other employees in the department explained to her that everyone there had started out as a temporary, and that supervisors liked hiring temporaries because it gave them additional opportunity to observe an employee's performance. Ms. Fowler added that it is very difficult to terminate permanent employees because supervisors don't want to go through grievance proceedings. Another discrepancy that Ms. Fowler had noted was that permanent postions at higher ranges are not being filled. Temporaries are being hired to fill these positions at lower ranges to make up for budget limitations.

Brent Petrie, Chief of the Water Department Section of the Department of Natural Resources, testified regarding problems he has witnessed as a program manager. The problems he addressed were in hiring, administrative budgets, and putting in proposal for changes. Mr. Petrie has worked as a temporary, permanent, supervisory and general government unit employee during his tenure with the state. He currently is working under a program supplemented by a federal grant, where temporary employees are needed for more than 30 days. Some temporary positions can last for up to nine months. To put temporaries into permanent classifications, he must identify funds available. Federal programs run for specific projects that may only last for a year. By the time Budget and Management and Legislative Finance have approved the permanent classifications, only six months may be left in the fiscal year. The program would need temporaries, in that instance, for the six months spent in getting approval for permanent positions. It is difficult to plan for positions in recurrent federal grant programs subsidized by discretionary state funds since the formula application must be approved annually by Budget and Management.

Niel Thomas inquired concerning Mr. Petrie's definition of discretionary funding. Mr. Petrie explained that this funding is generally used in contracted projects. Temporary employees often do a variety of jobs on short-term projects of up to nine months. It is very difficult to get permanent classifications based on discretionary funding. Some funds are coming in annually, in which case estimates can be made of tasks to be accomplished. Mr. Petrie added that he would prefer to create permanent classifications for this need. Budget and Management can authorize the classification of positions through confirmation that funds

are available. Program managers are reluctant to spend the time involved.

Mr. Petrie offered an example of the time it takes to have a permanent classification created. He wrote a P402 in May of 1978, and it took until December before he could actually request a register. Something had to be done in the interim to provide the staffing necessary to handle the project. Pressure is applied by the Legislature to complete projects on schedule, but the task is made very difficult by the lengthy procedures involved in processing paperwork through the state. Mr. Petrie suggested that the Legislature should examine a package including P402's and the departmental budget to expedite the implementation of new programs.

Mr. Petrie suggested that when a large grant or appropriation comes through, the Division of Personnel might consider adding to its staff with funds appropriated from the agency's project budget to process P402's for that program. Representative McKinnon commented that this is a fairly common practice in other states. Projects created by the Legislature are forcing departments to submit large amounts of paperwork to the Division of Personnel.

Another suggestion presented by Mr. Petrie was to create a means of compensating temporary employees for their lack of benefits through a pro-rated hourly salary adjustment that would increase depending upon the duration of employment. Mr. Petrie thought that by staggering the paperwok submitted to the Division, some of the delays might be avoided. Frank Flavin pointed out that there may be too many categories of employees and that a solution would be to combine categories. He also suggested that benefits of permanent employees be available to temporaries after 90 days.

Mr. Petrie listed a number of problems the commission should consider:

1) lower salary ranges and lower classifications put on temporary employees

2) discouraging employees from accepting positions so as to reach applicants below the top five on the register

3) Unqualified applicants being placed on registers because personnel analysts lack knowledge of skills needed for positions and their dependency on the descriptions supplied in P402's

4) inconsistent evaluations and ratings of applicant skills and experience

Representative McKinnon questioned whether the department could more accurately describe job classifications. Mr. Petrie replied that they could if personnel officers in both the Department and the Division of Personnel conferred with program managers to create lists of qualifications and backgrounds essential to the work involved. Niel Thomas asked if he was referring to the decentralization of personnel functions into individual departments. Mr. Petrie believes that the personnel offices of the departments could handle this function with additional staff.

Mr. Petrie asked how someone would go about applying to departments and how applicants could be consistently rated by each department. Niel Thomas answered that applicants would probably not know where to go and that an information pamphlet would have to be written with instructions on how to go about applying for a job. Frank Flavin pointed out that this would leave audit functions the responsibility of the Division of Personnel.

Mr. Petrie concluded his testimony by stating that he will encourage others to testify at the January 27 meeting in Anchorage.

Peggy Merritt, a temporary Game Biologist I with the Department of Fish and Game, agreed with previous testimony offered by her colleagues within the Department. In regard to recruitment, Ms. Merritt has found that the Division of Personnel often evalautes applicants incorrectly. In one case, an applicant who knew very little about the special skills involved in working in a certain position was on the top of the register. The department was forced to hire someone very low on the register to find an applicant with the skills necessary. She suggested applicants be judged by a peer group and not by the Division of Personnel. Her supervisor would like her to stay on longer than six months, but she cannot regardless of the inefficiency resulting from her termination.

There is one PCN for Game Biologist I for that division, and the position was moved to Nome. Her supervisor, who has been in the same division for many years, has been unable to get a permanent classification for anyone else in the division. The funding is unavailable, yet there is a great need for someone who is familiar with new scientific methods to renovate the archaic practices still used by the division.

Niel Thomas asked what percentage of temporaries in the department are women. She replied that there is one woman work-

ing as a permanent Game Biologist and approximately six women temporaries elsewhere in the department. Mr. Thomas also asked if the department has a hard time reaching applicants with skills necessary for the job. Ms. Merritt explained that some of the most qualified applicants are very low on registers, although their peers would rate them very highly.

Ms. Merritt continued, explaining that she resents the cut off of temporary employment to six months when the job still needs to be completed. Because of budget cuts, permanent positions are no longer available and termination of temporaries is now mandatory because of the APEA contract. The union has taken action that temporary employees do not approve of and never voted on.

One other problem not mentioned previously is the non-existence of hazard pay for temporaries. Ms. Merritt travels by air continuously in hazardous conditions, yet receives no additional compensation as do permanent employees. Niel Thomas asked if she is paid for actual hourly work. Ms. Merritt responded that once above a certain pay range, extra hours put in on the job are not compensated. Ms. Merritt would like to be compensated for this lack of benefits.

Ruth Moulton, an employee with the Department of Natural Resources, presented her questions to the committee members: Why are temporaries being penalized to eliminate abuses within the personnel system? Aren't the unions, Division of Personnel and the Legislature aware of the fact that employees become more and more valuable with time spent in positions? Representative McKinnon explained that the APEA contract with the Division of Personnel and Labor Relations sets out the rules which departments must follow. Frank Flavin stated that none of these parties has the unilateral ability to change the policies. Representative McKinnon continued by explaining that there are laws in the books stating that temporaries cannot receive benefits, retirement and annual leave. Temporaries benefit from salary increases negotiated by unions and from lobbying efforts to increase fringe benefits available to them. Therefore, they do receive some return for their dues. Ms. Moulton replied that her best interests have not been represented by the union. Frank Flavin noted that the union is concerned with the supervisory abuse of temporary employees and has tried to eliminate this problem by limiting the duration of temporary employment. Temporary employees are not receiving benefits and are working unlimited amounts of time. Ms. Moulton pointed out that one advantage of being a temporary is in being able to go from one position to another, thereby gaining valuable experience.

IN ATTENDANCE

Representative Joe McKinnon, Chairman
Frank Flavin, Vice Chairman
Niel Thomas

BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT
Full Commission Hearing

Fairbanks North Star Public Library
December 13, 1978

MINUTES

In the absence of Senator Ray and Don Fisher, Representative Buchholdt chaired the meeting.

PUBLIC TESTIMONY

Mr. Fathy A. Elshamma moved to Fairbanks from Egypt in 1976 and worked as an Accountant with the Native Association for 13 months. During a vacation, he returned to Egypt and along with his family relocated to Fairbanks. Mr. Elshamma has been seeking employment since his return. He is listed on six registers and willing to accept employment in Juneau, Anchorage and Ketchikan, as well as in Fairbanks.

Mr. Elshamma was contacted on November 7, 1978, by Tom Lusk about a Bank Examiner I position in Juneau. In his conversation with Mr. Lusk, Mr. Elshamma indicated that he would be willing to accept immediate employment in Juneau and would be willing to take the next plane out of Fairbanks if necessary. Mr. Elshamma was instructed to wait for a response. One week later, he received a letter stating that the position had been filled. He questioned why he was never called back and brought the matter to the Governor's Office. The job was still listed as being open on that date, and the office verified the opening by phone. Mr. Elshamma had received a letter stating that the position had been filled.

Niel Thomas asked Mr. Elshamma if he had tried to contact the individual who was responsible for contacting him. He replied that he had not. Mr. Thomas suggested he call back and request an explanation. Mr. Thomas also suggested that a complaint should be filed if a satisfactory explanation was not provided.

Ms. Marianne Berry, a PHN, advised the committee of the problems they continue to have with reclassification of PHN positions throughout the state. Niel Thomas told the committee that the Assistant U.S. Labor Secretary, who is responsible for enforcing compliance with equal pay for equal work laws, has been in the state and is considering U.S. Government suit.

COMMITTEE DISCUSSION

Representative Buchholdt briefly discussed the written testimony received by a representative of the Classified Personnel Organization dated December 13, 1978. Copies will be sent out with committee minutes.

IN ATTENDANCE

Representative Thelma Buchholdt
Ken Humphreys (for Myrt Charney)
Pat Hunt
Darlene Howard (for Pat Murphy)
Lynda McCurry
Bob Mourant (for John Pugh)
Sheila Gottehrer (for Frank Flavin)
Ken Spray
Niel Thomas

BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT
Certification, Classification & Recruitment
Subcommittee Meeting
North Star Public Library
December 13, 1978

MINUTES

The Certification, Classification and Recruitment Subcommittee was called to order by Representative Buchholdt, in the absence of Senator Ray, Chairman.

PUBLIC TESTIMONY

Will Conwell, a Mining Engineer with the Department of Natural Resources, spoke of several state practices which he finds objectionable. The first items he brought to the committee's attention were the inequities in the hiring system and the mismanagement within individual departments rather than in the Division of Personnel. Specifically, he mentioned the lack of equal pay for equal work for similar job classifications and misuse of temporary hires. The guidelines set by the Governor are not being followed by departmental management.

Mr. Conwell gave examples of similar positions with quite broad salary range differences. Studies of these positions had been done by departmental employees, comparing them to similar positions in private industry. The findings confirmed that the jobs were similar and salary ranges should have been equal. After submitting the study to the commissioner of the department, Mr. Conwell was told that it would have to be disregarded because it should have been conducted by the Division of Personnel. The matter was taken to Ed Styer, and employee of the Division, for a desk audit. The results were never made available, nor were the recommendations on classifications. The P402's for the department had not been done since 1971.

Mr. Conwell also described an experience he had in applying for a promotion to a new position. After receiving a very high rating when tested by the Division of Personnel, he received no further indication of an opening being available. Mr. Conwell felt that he was overlooked, probably because of misues of the register, and someone else filled the position.

Other examples Mr. Conwell presented in regard to temporary employment were of up-grading or down-grading positions to appoint favored applicants, misuse of evaluation forms and the hiring of temporaries who lack minimum qualifications. He believes that there are sufficient names on the registers to hire permanent employees. The temporaries being hired stay in the positions long enough to enable them to gain minimum qualifications, and thus be hired in permanent status.

Niel Thomas stated that there is a tendency within the state to place newly created classes of positions at higher salary ranges than similar long-standing positions. This has resulted in the large number of similar classifications at different pay ranges.

Kathy Carr-Lundfelt, Assistant Director of the Human Rights Commission for the Northern Region, testified that the northern region and rural communities are neglected by the state personnel system. Employee concerns about terms of employment are constantly delayed because they have to be answered by Juneau or Anchorage. The staffing of the Personnel Department in Fairbanks is inadequate, being limited to two employees. For this reason, recruitment is insufficient, especially in the case of minorities and Alaskan natives. Program managers are not trained in recruitment, and registers do not contain people interested in working in rural areas. When the top five or ten names on the register are not available, program managers become frustrated and hire temporaries as an alternative.

One particular problem Ms. Carr-Lundfelt encountered was in organizing a Better Writing Workshop, a program given by the Division of Personnel. For a period of 18 months, she constantly arranged for classes which were then cancelled by the instructor. The delay was due to the instructor's having to be flown out of Juneau. Ms. Carr-Lundfelt suggested that the Division of Personnel should station instructional staff in Fairbanks or should contract with firms there to provide resources to state employees.

Also not to be overlooked are the range classification problems, Ms. Carr-Lundfelt asserted. "Secretaries" are made available only to supervisors at the Director level or above. Others below that level are allowed to hire only clerk typists even though the responsibilities may be equal to those of a secretary. The Division of Personnel has three secretarial classifications: Secretary I, II and III. Directors are allowed to have Secretary I's, Deputy Commissioners can hire Secretary II's and Commissioners are assigned Secretary III's. Ms. Carr-Lundfelt has had to hire temporaries in the clerical class to maintain office functions. Clerical employees are reluctant to fill permanent positions in clerk classifications when their actual duties are secretarial in nature. Ms. Carr-Lundfelt's classification and salary range were established a long while ago, and Division of Personnel is reluctant to reclassify. There appears to be more control over classifying new positions than reclassifying old.

Ms. Carr-Lundfelt pointed out the discrepancies between requirements for entry level clerical positions, where a high

school degree is required, and entry level draftsman positions, where only a year of experience is required. Despite the greater educational requirement for clerical positions, draftsman positions are classified at higher salary ranges. Minimum qualifications don't accurately reflect skills necessary for the job. Artificial minimum qualifications discourage both women and minorities.

Ms. Carr-Lundfelt expressed the belief that the unions are as responsible as the Division of Personnel in taking action on these matters. Career ladders are not available to many individuals and across-the-board percentage increases in salary provide less compensation for clerical employees than for employees in different classifications at higher salary ranges. Ms. Carr-Lundfelt suggests cost-of-living increases be concentrated at lower salary ranges to compensate for this effect.

Ron Galbraith, a former Assistant Professor of English with the University of Alaska, commented on the register system. He has been seeking state employment since last summer and is on 15 registers. After being placed on the registers, he followed instructions by keeping in touch with the Personnel Department. When a program manager is filling a position, only one call is made to an applicant. If the individual is not reached at that time, no further effort is made to contact him or her.

Lynda McCurry asked whether Mr. Galbraith had ever been contacted as a result of being on a register. Mr. Galbraith answered that only once within the last few months had he been contacted, and that was a call to ask whether he wished to remain on the register.

David Giles, a Field Representative of APEA, brought to the committee's attention four distinct problems that he feels should be addressed. He sees these problems as typical within the state's recruitment, examination and hiring processes.

1) Temporary Hire. Program managers have a tendency to hire temporary employees over permanent employees and use the temporary period as an addition to the probationary period required. During their temporary employment, these individuals are encouraged to get on registers so that they may be hired and placed in the permanent position.

2) Notification of Job Openings. Individuals listed on registers are supposed to be notified of openings. Mr. Giles gave an example of one individual who was removed from a register because he had not replied to a notification of a position open in his classification. In actuality, the notification was never sent. The department claimed to have sent an RCA night

but RCA indicated that no letters had been sent on the date specified.

3) Bush Positions. Within the Department of Community and Regional Affairs, individuals applying for "bush" positions are submitting applications and being interviewed, but no action is being taken in hiring. The registers are being requested repeatedly. The people interviewed from the first register were not notified that a second register had been requested. The department indicated that the position requires someone with experience in the bush, and that therefore, they were unable to hire from the first register. However, not only did one of the applicants on the first register have bush experience, but Mr. Giles also does not believe there could be any need for bush experience in these positions.

4) Applying for New Positions. One person tried to apply for a particular position for a period of two years, submitting applications to Juneau every three months. He was continually informed that they were lost. The application was finally sent by registered mail, and the individual was informed that there would be a delay in processing the application because of an overload in paperwork. Mr. Giles believes this is a typical problem experienced in the Fairbanks region.

Niel Thomas asked Mr. Giles whether he was familiar with the personnel rule of justifying hire of an applicant below the top five on the register in unique and unusual circumstances. He replied that he was not familiar with any department having used that practice in Fairbanks.

George Morrisson, a Personnel Assistant with the Department of Health and Social Services, asked that the commission not recommend tightening of rules so much that he and other supervisors cannot accomplish their duties. He has experienced many difficulties in finding qualified individuals for positions both in Fairbanks and the bush areas. Many applicants desire to relocate out of Fairbanks to Anchorage or Juneau. Many times after working an entire register, Mr. Morrisson has been unable to find an applicant qualified for a permanent position and willing to work in the bush. The only alternative left to him is to hire temporaries who may not meet minimum qualifications but who can do the job. These temporaries often cannot pass the examinations to be placed on registers, because the examinations do not test for the skills needed.

Niel Thomas inquired about the recruiting practices in the Health and Social Services Personnel Office. Mr. Morrisson indicated that he is the only personnel employee in Fairbanks. In an aside, he indicated that has salary range problems also. Because his position is classified by the number of employees

dealt with, he stated that he is at a lower salary range than he should be. Mr. Thomas also asked if Mr. Morrisson was instructed to actively recruit because of the lack of applicants. Recuritment is handled by the personnel office in Juneau. Only after discovering people are not available on registers is he instructed to recruit applicants.

Representative Buchholdt questioned whether testing administered orally would be a possible solution to written tests that must be processed through Juneau. Mr. Morrisson replied that it would be difficult to administer the tests in certain areas, because there would be a problem in finding qualified people to give the tests.

Ms. Lucille Owen, a Supervisor in the Unemployment Insurance Section of the Department of Labor, testified regarding the problems in using the register in hiring permanent employees. She has a total of 21 employees in her office. Ms. Owen once sent out 49 telegrams to applicants on a register, receiving replies from only a very few. Many were already working and did not want the position, but wished to remain on the register in case a better opportunity became available. The entire process took ten days. Ms. Owen would like to see applicants removed from the register if they are holding equivalent classifactions or above. She stated that names are not being removed from the register when applicants are hired.

Niel Thomas asked when she would be permitted by Personnel to request removal of a name from a register. Ms. Owen circles "failure to respond" on the register after unsuccessful attempts to reach applicants. Lynda McCurry stated that that should be sufficient reason for a name to be removed from the register, but it is not unusual for a name to be sent out a number of times when a department requests registers for the same classification for several vacancies.

Pat Hunt explained that updating the data base within the Division of Personnel is secondary to other functions such as recruitment, certification and payroll. Eligible lists are certified for 60 days, and before one is returned, others may be sent out.

Another complaint Ms. Owen presented to the committee was that Division of Personnel no longer tests applicants for proficiency in typing and shorthand. She has had to give her own tests to applicants, and they have not met the requirements for the job classifications despite their claims on applications. Ms. Owen suggested that applicants be investigated more thoroughly by Personnel, both by experience and testing.

In hiring temporaries, Ms. Owen would like to have some means of changing the classifications to permanent once the temporary has been trained. Lynda McCurry asked how many permanent seasonal classifications were authorized within the department. Ms. Owen replied there are 18, and an additional five or six would be needed for peak workload periods if the department were to avoid hiring temporaries.

Ms. Owen also expounded on the incomplete information supplied on bulletins describing positions. They do not accurately reflect the type of work experience needed, nor the duties to be performed. She must rely on the registers when hiring, and only recruits when seeking temporaries.

Niel Thomas asked what the percentage for minority hire was within the department. Ms. Owen replied approximately 20% of her employees are minorities who have been hired from a register.

Darlene Howard asked if there is sufficient interest in the Fairbanks region to fill seasonal positions. Ms. Owen replied that because of the availability of temporaries, she assumes that seasonal positions would also be filled. The lay-off time would be in summer, which is considered a desirable time to be out of work. Ms. Howard asked if seasonal position programs were generally understood by the public. Ms. Owen answered affirmatively. Ms. Howard also asked if a cost model report on productivity based on volume versus staffing had been done. Ms. Owen replied that she can anticipate yearly lay-offs, and in the past, the attrition of temporaries handled the necessary decrease in staff.

Ms. Owen also pointed out that security checks are not made by the Division of Personnel, although she thought it a necessity when the employee would be handling cash flow. Shiela Gottehrer asked whether she meant more than verification of references. Ms. Owen answered that a total security check of an applicant's background would not be difficult. Representative Buchholdt asked for statistics on how many people were found to create problems which could have been avoided by security checks. Ms. Owen responded that there have been only a very few; only three cases where an employee was dishonest. In one instance this resulted in termination of an employee. She felt very uncomfortable with the situation and had to be very careful in handling it. Ms. Owen also stated that nonperformance had never been a problem in her office.

Bob Mourant questioned her procedures in checking backgrounds: Is the employee given a chance for rebuttal? Ms. Owen answered that she had been successful in contacting former employers either by phone or correspondence to determine and employee's past performance. Pat Hunt stated that the

the Division of Personnel does not require a security check, except when the position requires that the employee be bondable.

Mr. Leo Winegar, a resident of Fairbanks for three years, presented testimony on his dissatisfaction with the state's hiring procedures. Since his arrival in the state, Mr. Winegar has put in many applications for positions he qualifies for. He is on nine or ten registers and holds a B.A. and a Master degree in Business Administration and Economics. He also has one year of study towards a Ph.D. On many of the registers, he is listed number one. Mr. Winegar has been notified only once of an opening. A number of the positions he had been registered for have been abolished over the past three years, leaving him discouraged by the system.

IN ATTENDENCE

Representative Thelma Buchholdt
Pat Hunt
Lynda McCurry
Ken Spray
Niel Thomas
Shiela Gottehrer (for Frank Flavin)
Ken Humphreys (for Myrt Charney)
Bob Mourant (for John Pugh)
Darlene Howard (for Pat Murphy)

BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT
Merit System/Collective Bargaining Subcommittee
Fairbanks North Star Public Library
December 13, 1978

MINUTES

Representative Buchholdt, Chairperson, called the meeting to order. There being no response to an invitation for public testimony, the hearing was opened to committee discussion.

COMMITTEE DISCUSSION

Pat Hunt began the discussion by stating that all issues covered by the committee indicate that the question of the merit system versus collective bargaining must be addressed. He asked if it is the intention of the committee to limit the scope of bargaining available to employees. What effect would the amendment of statutes have on future union contracts? Mr. Hunt also questioned the role of the legislature in the area of union contracts: Would it be politically feasible to limit bargaining rights?

Ken Spray responded by stating that he believes the committee does not want to limit collective bargaining rights. He suggested the separation of personnel and labor relations functions. At present, personnel is more regulatory than service oriented, and labor relations is influenced by this emphasis.

Niel Thomas questioned what is negotiable under collective bargaining. Pat Hunt replied that all conditions of employment are negotiable. The only exception, in accordance with an Attorney General's opinion, is retirement plans. The leave system, salary, wages, hours, insurance and classification are all negotiable.

Niel Thomas asked if anyone could conceive of a system in which the Legislature basically funds the personnel structure that emerges from the collective bargaining process without any other particular role over what is bargained. Ken Spray responded by stating that the Public Employment Relations Act is structured so that the responsibility is left to the Executive Branch. The Legislature maintains control over funding the agreement reached.

Representative Buchholdt suggested the major question appears to be the continuation of collective bargaining in conjunction with the merit system, modification of one or both, or elimination of one.

Ken Humphreys explained that as it stands, the Alaska Collective Bargaining Act is very broad in scope. The trend in other states has been towards very broad definitions of collective bargaining acts. It is within the Legislature's authority to limit and define conditions. However, he believes this would put additional constraints upon the unions and the

state government, causing additional conflicts.

Pat Hunt stated that the Constitutional mandate for a merit system for state employees could be fulfilled by a statutory requirement that those principles be incorporated in each collective bargaining agreement. The Personnel Rules would then set out a merit system to govern the terms of employment of non-unionized state employees not otherwise exempt from its coverage.

Niel Thomas questioned the testimony of individuals seeing the merit system as being against their rights for freedom of expression. Ken Spray added that labor relations was created for stability of labor, and that collective bargaining draws power from the labor movement, supplying employees with individual representation.

Niel Thomas brought up the question of the cost impact of collective bargaining. Ken Humphreys stated that his research indicates employee's salaries increased more before collective bargaining was enacted. In his study, he compared the increased percentages in employee salary seven years prior to the collective bargaining act implementation and seven years after. The salaries increased a total of 35% over the 73% cost-of-living increase within the past 14 years. This averaged out to a 2.5% annual increase. The cost of fringe benefits was not taken into consideration in his analysis. Mr. Humphreys is in the process of completing additional studies which he will make available to the committee.

PUBLIC TESTIMONY

Mary Langan, a freelance writer with Alaska Industrial Magazine, presented her views on the state personnel system. She had experienced working in both clerical and supervisory levels as a temporary with the state. Ms. Langan pointed out five major problems she had faced while employed by the state:

1) In 80 to 90% of government jobs, employee enthusiasm, creativity and initiative are stifled. The ideal employee is one whose attendace is prompt, who does not express new ideas which are contrary to "the system".

2) The recruitment of minorities and women is very limited. In some instances, temporaries are hired for permanent positions to avoid minority hiring.

3) There are inequities in the implementation of rules and federal regulations within both management levels and within the Division of Personnel. One example Ms. Langan mentioned was a delay in receiving her paycheck after termination. Federal law requires payment within three days of employee termination. The state took two weeks in sending out her check, and when

she protested, she was advised that the state was exempt from that provision of the law. Ken Spray explained that the state is not exempt from this federal statute.

4) At the job service office of the state, books on vacancies in state government are not readily available to the public.

5) The promotional ladder and the merit system are subject to misinterpretation and office politics, resulting in discrimination against women and minorities. Ms. Langan suggested that promotions be decided by a committee consisting of objective members not employed by the state.

COMMITTEE REVIEW

Representative Buchholdt directed the committee to consider the possibilities to recommend and refine during the next meeting in Anchorage. Each committee member will prepare a list of ideas for consideration. The staff will provide a summary of information presented to date.

In conclusion, Representative Buchholdt pointed out the advantages of having both the merit system--employee motivation and reward for performance--and the collective bargaining process--mandated by the Legislature to provide a voice to employees.

Niel Thomas presented his opinion that there is a general misunderstanding of the two by the public. He suggests the distinctions and definitions be clarified for the benefit of state employees.

Darlene Howard addressed the problems she sees within the systems--procedural and operational methods at the administrative level.

IN ATTENDANCE

Representative Thelma Buchholdt, Chairperson
Pat Hunt
Lynda McCurry
Ken Spray
Niel Thomas
Ken Humphreys
Darlene Howard (for Pat Murphy)
Bob Mourant (for John Pugh)

BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT
CERTIFICATION, CLASSIFICATION & RECRUITMENT SUBCOMMITTEE
December 1, 1978

The meeting was called to order by Don Fisher. Public testimony was invited. A summary of the testimony follows.

PUBLIC TESTIMONY

1. Personnel Systems in Private Industry

Upon the invitation of Niel Thomas, three personnel officers employed in private Alaskan industry presented their views on personnel functions and offered suggestions to resolve state problems.

Lee Valwalt, an Employee Relations Supervisor with the Alaska Gas & Service Company, attested to her belief in a centralized personnel department. However, she emphasized the absolute necessity of an operable communication system between individual department heads and personnel officers within the personnel department. Ms. Valwalt's company is relatively small, with 100 unionized employees (technically skilled) and 45 exempt employees (management and supervisory). The union contract applies to promotions, evaluations and merit increases. The company has three categories of employment: regular (full-time), part-time (20-30 hours weekly) and casual (limited duration of six months employment). After the six month period has ended, casual help has the option of being hired on a regular employee basis (depending on vacancies)or of being laid off.

All non-exempt employees are required to become members of the union within one month of their initial hire, in accordance with contract provisions. All benefits are available to regular employees; part-time employee benefits are pro-rated. Casual help is not eligible for benefits.

Employees do receive annual increases and are subject to annual reviews. A committee of department heads evaluates the company employees in conjuction with personnel officers and decides on promotions and merit increases. Contract interpretations support a centralized control for promotions and merit reviews.

The union can request that a group of jobs/positions be reclassified. It is not clear whether a failure of the company to reclassify as requested is a grievable issue. In practice, the company consults with the union shop steward before initiating a reclassification on its own. To date, the union has been satisfied with the grade system, so the issue has not been raised.

Notice of vacant positions is posted on a bulletin board for 72 hours to give employees the opportunity to apply for promotions or transfers. If no employees are interested in the vacancy, then the personnel officer looks through the applicant files. Applications are retained for a period of two years grouped

by skill level without numerical rank designations, which is similar to the register concept. If the files do not produce a qualified applicant, the company recruits from outside sources such as referrals and employment agencies.

The personnel office interviews all applicants for a position and eliminates those who fail to meet the minimum requirements. All qualifying applications are submitted to the department head, who conducts his or her own interview. The personnel officer and the department head discuss the candidates prior to the department head's decision to hire an applicant. There are no written tests for applicants--they are evaluated through a personalized interviewing system which has apparently been effective for Alaska Gas & Electric Company.

The authority to hire, fire, evaluate and promote employees is coordinated between the personnel officers and the department heads. A department cannot create, reclassify or abolish a position without personnel's consent. The decision-making process is a combined effort, where both must be aware of all activities.

Dave Eubanks, a Personnel Director with an oil and gas production and exploration company which has corporate offices in Ohio, expressed his belief that a non-structured personnel system is a major contributing factor to employee motivation. In private industry, employee productivity directly relates to the company's profit. Thus, incentives such as merit increases and promotion have an effect upon the overall budget. It is important to have ample ways and means of evaluating and providing incentives. Ms. Valwalt also mentioned that a certain percentage of her company's budget would be allocated for merit increases after discussion with department heads.

Jerry Thorn, the third witness, concurred with the other's opinions. He also added that as a Personnel Director with the Cargosteen Company (approximately 300 employees throughout Alaska), he interfaces with many established unions from time to time. His bargaining thrust is to maintain management prerogatives to retain control over operation of the business.

Mr. Thorn does not have job descriptions for every job, but does have them for management positions. The issue on classification of positions is grievable, and he checks with unions prior to classification of new positions. Standards used for determining qualifications for positions are accomplished through job analysis and qualitative evaluation. Promotions are based on proven performance and merit increases are considered upon request. The company gives a cost-of-living increase every six months and fringe benefits are taken into consideration.

2. State Employees

Mr. Albert Carson, Deputy Director of the Division of Lands, Department of Natural Resources, had four major areas of concern:

1) Class specification categories are too broad in definitions of minimum qualifications. Because of this, applicants on registers do not possess the skills necessary for positions open to them. Departments use preferential recruitment methods to avoid the process of eliminating these unsatisfactory applicants. 2) Pay levels are inconsistent for comparable positions. 3) Division of Personnel's evaluations and point systems are inaccurate in measuring experience, skills and qualifications. Professional skills are often not recognized and may be misjudged. 4) The forms used for analysis do not identify areas of expertise.

Carmen Price an employee with the Department of Transportation, testified that the performance of duties above an assigned job classification is not credited to the employee. Supervisors have the ability to document the functions being performed by an employee in order for the employee to be given credit for this experience when applying for promotions or increases. Apparently, it is not common for supervisors to verify an increase of duties and responsibilities being handled by an employee. In many cases, this is because of personality clashes and extensive amounts of time and paperwork involved.

Jo Fenety, a Leasing Officer with the Department of Transportation, had a few additional comments: Applications phrased in personnel language receive higher evaluations than applications not using those terms. She believes that the Division of Personnel presently appears to employees as a regulatory body and that it should increase its emphasis on the provision of services.

Irene Price, Right-of-Way Assistant with the Department of Transportation, agreed with prior testimony regarding the lack of interaction between departments and Division of Personnel. One problem not previously brought to the Committee's attention is the unwillingness of supervisors to fire unsatisfactory employees. There is a tendency to pass these employees from department to department, causing frustration for both the employee and the departments in addition to hindering departmental performance.

Cecilia Kleinhoff, a Social Worker with the state, offered additional testimony to the problems within Division of Personnel. She opposed the substitution of experience for accredited degrees, especially in regard to Social Workers. She feels that generalizing qualifications in that instance is objectionable and that testing is not adequate to determine professional skills.

3. Flex Time

Ms. Kleinhoff also suggested that flex time and job sharing were two methods of providing better service to the state. Darlene Howard stated that some departments are using a flex-time system and that each program manager can decide whether to allow the employees to shift their work hours. Ms. Howard also suggested that the Commission research the response to flex time and study the pros and cons of operations in other states. Senator Ray

pointed out that the convenience of having offices open during lunch time and after hours would be of benefit to the public.

IN ATTENDENCE

Senator Bill Ray
Donald Fisher
Representative Richard Eliason
Darlene Howard (for Pat Murphy)
Ken Humphreys (for Myrt Charney)
Ken Kareen (for Pat Hunt)
Lynda McCurry
Greg O'Claray
John Pugh
Ken Spray
Niel Thomas
Representative Thelma Buchholdt

BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT
CATEGORIES OF EMPLOYEES SUBCOMMITTEE
Legislative Information Office, Anchorage
November 30, 1978

MINUTES

The meeting was called to order by Representative McKinnon, Chairperson. Public testimony was invited. A summary of the points raised follows.

QUESTIONS AND ISSUES PRESENTED

1. Temporary employees working within a bargaining unit are required to belong to the appropriate union.

A. Temporaries have to pay the same union dues as permanent employees but do not receive the same benefits.

B. Employees who have philosophical disagreements with belonging to unions are required to join the appropriate union to hold a state job.

Discussion

Unions are required by law to represent all employees within the bargaining units which they represent. Union negotiating and lobbying efforts benefit both permanent employees and temporary employees, at least on the issues of salary levels. Recent APEA efforts resulted in securing holiday pay for temporary employees. Over half of the lobbying effort of APEA last legislative session was spent trying to persuade the legislature to extend to temporary employees the health and annual leave benefits provided to permanent employees of the state. The legislation passed the House but not the Senate.

C. Have temporary employees been polled or the union's negotiating priorities?

D. Have temporary employees ever been represented on the governing board of APEA?

E. Can members of the union have a prioritized list of the union's bargaining positions?

F. Has a temporary employee ever served as a member of the union negotiating team?

G. There should be a board position for a temporary employee to represent directly the concerns of other temporaries.

Discussion

Before new contract proposals are drafted, APEA polls all of its members, including temporary employees, on negotiating priorities. The questionnaire indicates the employment status of the

person answering, so that issues can be identified according to class of employment. The union uses results of the questionnaire in preparing its proposals.

There is nothing to prevent a temporary employee from holding office in the APEA, although Ms. Howard is not aware of any temporary employee who has ever been elected to the board. Under the present by-laws, a temporary could be an active union member only during the time of employment for the state.

2. Benefits for temporaries.

   A. No medical leave or retirement benefits.

   B. No job security.

   C. Temporary employment does not apply to the probationary period, even if the temporary employee is hired as a permanent for the same job.

   D. Union contracts can address the inequities of benefits for temporary employees.

Discussion

Lack of medical, leave and retirement benefits can only be addressed through the legislature, and, as indicated above, APEA spent considerable effort last session attempting to have legislation passed to do so. By union contract, APEA members can have one-third of their time as a temporary applied towards the probationary period required of a permanent position provided that there is no break in service and that the jobs are the same.

Local No. 71, Public Employees union, has negotiated to increase the wages of temporary employees to compensate for the lack of benefits. Temporaries receive an additional $1.32 per hour during the first 120 days they work as temporaries. If that period is extended by agreement, then the base salary of the temporary shifts from Level A of the wage scale to Level B. This system discourages the state from hiring temporaries for positions which should be classified as permanent. The union has found cases in which the state has ignored the union contract provisions about increased pay and has had to force compliance through arbitration.

3. Time limitations on length of temporary jobs.

   A. A limit of six months as a temporary was recently instituted for positions within the APEA bargaining unit. The limit used to be nine months.

   B. Local No. 71 has negotiated a 120-day limit to temporary employment, with extensions possible by mutual agreement between the union and the state.

Discussion

The new time limit for APEA members has caused a problem where supervisors were misinformed and therefore misinformed temporaries. The problem came about partly because there were a number of new supervisors in that particular job in a short period of time.

For discussion of the Local No. 71 system, see discussion under (2) above, Benefits for temporaries.

4. Promises to temporary employees about being hired for future permanent positions.

A. Division of Personnel does not always classify a new position as the program manager may have expected.

B. The better practice is to make no promises about permanent hire to temporary employees.

Discussion

If a program manager promises a permanent position to a temporary employee and then learns that the Division of Personnel has classified that position at a lower range than expected, then the temporary must wait while the position is reclassified. The time required for that process may extend beyond the time the temporary is permitted to work. That will cause the temporary to lose the cross-over of time served toward probationary period.

No promises should be made to temporary employees about permanent employment beyond a committment to consider them as any candidate with similar experience and skills will be considered. This is to ensure that the program manager is not locked into a committment and therefore unable to hire someone more qualified, should such an applicant appear on the register at the time of permanent hire.

5. Compensation for temporary employees who take time from work to testify before this commission.

Some supervisors are refusing to consider the time that their temporary employees spend testifying to the committee as time spent working for the state. Therefore, some temporaries were unable to attend the meetings. The APEA representative in Anchorage will work with the employees who did attend and with their supervisors to ensure that they are compensated for their time. If she is unable to do so, she will advise the commission.

6. None of the temporary employees who addressed the committee had been required to be on the register before being hired for their present positions.

7. The use of temporary employees in positions for which there are permanent funds available.

A. Local No. 71 has identified some 500 unfilled permanent positions within the scope of its bargaining units which it believes should be filled or deleted from the budget.

Discussion

Local No. 71 believes that the state is hiring temporary employees rather than filling presently vacant permanent positions in significant numbers. The union secured from the Division of Personnel and Labor Relations a list showing vacant PCN's within its bargaining unit. It has identified some 500 such vacancies, some of which have been vacant since the early 1970's. (A copy of the list is available from the commission staff.)

Some of the 500 positions may be funded through the Capital Improvement Funds, and therefore, the statistics may be skewed to that extent. Sue Greene of the Governor's office indicated that perhaps 100 of the positions might be CIF positions.

Local No. 71 has received requests for temporary employees within the job classes covered by the permanent-position vacancies on the list.

The Legislative Budget and Audit Committee is programming a computer to provide information on all PCN's vacant for more than a reasonable length of time. The legislature can then delete the position from the agency's budget, should it wish to do so. There is presently a monthly list prepared by the Division of Personnel which shows all of the vacant PCN's in the state and indicates the date of vacancy. Mr. Kareen estimated that approximately 20% of the PCN's are vacant at any one time.

B. Departments contract with private firms for work which could be performed by state employees. Contracting costs more to the state and increases the risk that public services will be jeopardized through a strike.

Discussion

Departments can contract with private firms for work which state employees could perform as well without any oversight by the Division of Personnel. In some cases, contractors with the state fail to fulfill all of the contract committments, leaving the state to hire its own employees to pick up the slack. For example, one contract called for the private contractor to provide janitorial services. When the contractor failed to do so, the state had to hire a member of Local 71 to fill the gap. One private contractor submitted two bids for a construction job, one based upon using his own equipment, and the other, at about $40,000 less, based on using the state's equipment. The higher cost bid was accepted, but then the contractor used the state's equipment to perform the work.

In some cases, the higher cost of subcontracting with private firms results from the higher wages charged by members of private industry unions.

Since state statutes place limitations on public service unions' right to strike, which are not placed on unions operating in the private industry field, there is greater danger that projects will be impeded by strikes when the state contracts with employers using private industry members than when the state hires its own employees.

Albert Baffone charged that the state of Alaska was following a policy of reducing the size of the Local 71 membership with the aim of drying up that union.

8. Problems with the use of CETA program employees within the Department of Corrections.

A. As temporary employees, CETA's within the Department of Corrections are limited to a nine-month period of service and receive no benefits, as permanent employees do.

B. CETA employees are taking the place of permanent employees within the Department, in violation of federal regulations.

C. Some CETA's are placed in supervisory positions over permanent employees who are paid at a higher salary rate than the CETA's.

D. CETA's are paid much less than permanent employees doing the same job.

E. Because of the Department of Correction's reorganization of staff, the state has frozen the Correctional Officer I register, and CETA's cannot apply for permanent positions.

The Comprehensive Employment Training Act is a federal legislative program aimed at providing people who are members of groups which traditionally have difficulty finding jobs with experience to enable them to find permanent employment. Federal regulations prohibit replacing permanent employees with those paid through the CETA program. The federal government provides $1,039 maximum per month in salary for those employed under the program. States using the program are free to supplement that salary if they desire.

The Division of Corrections has a number of CETA employees, classified as temporary employees by the state, who are paid at a salary range 9. The positions were meant to be Media Appreciation and Recreation Aides. However, because the Ridgeview

Correctional Center (where approximately 27 CETA's work) is severely understaffed, the CETA employees have been doing the work of Correctional Officer I's, who are classified at SR 13. These positions have just been reclassified from SR 11. CETA's are paid $2.00 less per hour than Correctional Officer I's. Since CETA's are classified as temporary employees, they have no benefits or job security. There is nothing in the federal legislation requiring that CETA's be classified as temporaries. There are non-CETA temporary employees who are paid at the Correctional Officer I salary range. There are CETA employees working in supervisory roles over Correctional Officer I's who make substantially more than they do, which is bad management practice.

Niel Thomas suggested that the commission should consider recommending that the legislature provide a supplement to CETA funds so that departments are required to pay appropriate salaries for the CETA's they employ. The federal government could also be asked to provide a wage supplement to the salary money it provides to Alaska, since the Alaskan cost of living is so much higher than the cost of living in the lower 48 states.

Aggravating the other problems faced by the CETA's employed in the Division of Corrections is the fact that the Division is undergoing reclassification of Correctional Officer positions. No job applications are being accepted for the positions of Correctional Officer I, so CETA's whose period of temporary employment must end because the six or nine-month period has elapsed cannot get on the register for a permanent position in the field in which they have been working.

The Division of Corrections has answered these problems by deciding to employ no more CETA's rather than by trying to keep the program and provide an opportunity for the underemployed to gain skills and experience to make them employable by adjusting the inequities in the present system.

At one time, there were a number of CETA positions within the bargaining unit of Local No. 71. However, by contract, the state was required to pay each CETA employee the existing wage rate for any union member. The state no longer has any CETA positions within the bargaining unit.

The CETA regulations require that people employed under that program receive equal treatment with other employees similarly situated. That language has been interpreted by the state to mean treatment comparable to any other temporary employee. The Municipality of Anchorage, which has a substantial number of CETA's, treats them as permanent employees entitled to all the benefits provided other permanent employees.

9. Problems of Program Managers in staffing programs.

   1. Time to get permanent positions filled from register and yet to meet legislative directives.

2. Treatment of temporary employees.

Discussion

Because creating new positions and hiring form the register takes a considerable amount of time, departments cannot use that system when given legislative directive to remedy a problem quickly. Last session, the legislature passed HB720, directing that by November 1, 1978, the Department of Natural Resources designate 30,000 acres of state land for disposal under the homesite entry program and the open-to-entry program. The act included other directions, and the legislature appropriated funds for 100 new positions for the department. By the time that the legislation had passed (it was approved by the Governor on July 18, 1978), enough time did not remain to both meet the legislative deadline and also to hire permanent employees from the register to fill the new positions. Temporary employees were hired and the department at the same time began the process of creating new permanent positions. (P402's had to be prepared for each new position describing the particular duties of the employee in this job, even though most fell within existing job classes.)

In order to allow the department to staff the program quickly, the Division of Personnel set aside all other tasks for four to six days to speed the paperwork. There was some delay in the Division of Budget and Management, which had to sort through four different appropriation bills affecting this program to ensure that proper authorization existed to establish these positions.

Departments may have short term projects to handle which require particular expertise. If the department lacks the time to be able to hire a permanent employee, it will hire a temporary while beginning the paperwork to establish a permanent position. The project may last beyond the six-month limit on the employment of a temporary, but it is quite possible that the permanent position may not yet be authorized. This hinders the department in the operation of its programs.

When hiring temporaries for professional positions, there is a problem using the register. Most professional people who are good candidates for a particular position are likely to already be employed and will be unwilling to leave a permanent job, with the benefits and protections it affords, for a temporary position, even if there will be a permanent position to replace the temporary one. Furthermore, it is bad management practice to advise any temporary employee that she or he will be hired for a future permanent position, since not only is there the possibility that the permanent positions will be established at a lower salary range than the department expects, but also, by the time that the department is authorized to fill the permanent position, there may be someone more qualified on the register whom the department will prefer to hire.

When filling a temporary position, the registers may be of some assistance in locating possible employees. Mr. Reed stated

that it was his practice to call for a register, to review the applications of those on the register and to contact those whom he did not know personally to inquire whether they were interested in the temporary position available. Those whose situation he knew, he would not contact unless he expected them to want a change.

WITNESSES

1. Barbara Eakin, temporary Administrative Assistant II with the Division of Lands of the Department of Natural Resources since July 31, 1978. The Division of Lands is in the process of seeking classification of a permanent position of Accounting Clerk III for which she expects to be "strongly considered."

2. Karen Holser, a temporary Water Technician with the South Central Division of Water Section of the Department of Natural Resources. She is working under a program created by HB720 to reduce the backlog in water rights applications. The legislature authorized 52 permanent positions, all of which have been filled. In addition, the department created temporary positions funded from money made available problable through the vacancy of permanent positions.

3. Ruth Moulton, a temporary employee of the Division of Planning and Classification of the Department of Natural Resources. She has held temporary positions with the state three times and prefers to work as a temporary employee.

4. Al Baffone, Business Manager of Local No. 71 of the Public Employees Union.

5. Helen Collier, a temporary employee under the Comprehensive Employment Training Act (CETA), working as a Media Appreciation and Recreational Aide with the Department of Corrections.

6. Barbara Kelly, a temporary Accounting Clerk I with the Division of Lands of the Department of Natural Resources.

7. Steven Reed, Chief of the Planning and Classification Division of the Department of Natural Resources. He has held the position for one year.

8. Bob Dawkins, Journeyman Plumber with the state.

9. Eleanor Andrews, Field Representative with the Anchorage APEA.

INVITED WITNESS

Frank Flavin advised the Committee that he had invited Mike Smith, Assistant Commissioner/Director of Lands with the Department of Natural Resources. Mr. Smith was unable to attend.

Materials Distributed:

APEA Interoffice Memo on Categories of Employees

IN ATTENDANCE

Representative Joseph McKinnon
Representative Richard Eliason
Ombudsman Frank Flavin
Darlene Howard (for Pat Murphy)
Ken Humphreys (for Myrt Charney)
Ken Kareen (for Pat Hunt)
Lynda McCurry
Greg O'Claray
John Pugh
Ken Spray
Niel Thomas

BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT
MERIT SYSTEM/COLLECTIVE BARGAINING SUBCOMMITTEE
Municipality of Anchorage Assembly Chambers
November 30, 1978

MINUTES

The meeting was called to order by Representative Buchholdt, Chairperson. Public testimony was invited.

PUBLIC TESTIMONY

Tom Phillips, an employee with the Department of Transportation, Division of Maintenance and Operation, presented his views on the implementation of Governor Hammond's policy on merit increases by the Department of Transportation and Public Facilities. Deputy Commissioner James O'Sullivan has changed previous departmental policy by requiring that the evaluation of employee performance be "outstanding" or "exceptional" to qualify the employee for a merit increase. The new policy requires that the director of each region review all evaluations. When the employee's performance justifies awarding a merit increase, the evaluation is reviewed by the Deputy Commissioner. As part of the new system, all supervisors were required to attend a training course on "Measuring Job Performance".

Apparently, the Governor's policy is not being applied consistently within state government. Mr. Phillips indicated that in the department across the hall from him, merit increases were being awarded on the basis of "acceptable" evaluations, as well as "outstanding".

Darlene Howard advised the committee that in the APEA supervisory unit contract, the contract language spells out when merit increases may be awarded. These contract provisions are consistent with Personnel Rules.

Mr. Phillips has filed a grievance after being denied a merit increase. (His supervisor, Clyde Dolly, confirmed his position and testified later in the meeting.) Deputy Commissioner Patrick Ryan has received the grievance form submitted by Mr. Phillips, and as of the meeting date had not acknowledged the situation. Mr. Phillips is awaiting further action.

In response to Representative Buchholdt's inquiry as to how many employees within his department could be considered "outstanding", Mr. Phillips replied that a very small percentage of state employees are evaluated as outstanding. He believes that employees deserving merit increases are not receiving them as a direct result of interpretation of the Governor's policy.

Albert Baffone, Business Manager of Public Employees Local No. 71, was next to testify in regard to the merit system. He regards the merit system as counter-productive and inadequate in covering all employees. Mr. Baffone suggests that the merit system be governed by a collective bargaining process. He pointed out that the legislature is burdened with many problems in labor relations and could expedite proceedings by considering solution adopted by unions.

Public Employees Local No. 71 works on a preferential hiring system. When the state calls the local seeking an applicant, the name of a qualified individual is given within 48 hours. The state provides a description of the position, classification, and any particular qualifications necessary. These specifications are taken into c nsideration by the union in referring an applicant, in accordance with contract guidelines. The employer may reject the applicant referred from the union, in which case another applicant will be recommended. There are no tests given by the union. Applicant are evaluated on the basis of their experience. Mr. Baffone stated that the system has approximately a 95% accuracy rate in placing these applicants. Under current laws, this system could be adopted by the state.

In addition, Mr. Baffone testified that despite the inference made that state employees cannot be fired, Local No. 71 has many cases of employees who were in fact fired. It is their policy to file a grievance on every case which a member brings to them, so that they have standing to investigate the matter. If their research shows that the management action was justified, then they withdraw the grievance, documenting for their own protection their reasons for doing so. Unions are liable to their members for failure to represent.

Clyde Dolly, Manager of the Department of Transportation and Public Facilities, proceeded to testify that he is in favor of employees' associations and merit increases. Merit increases are one of the tools applicable to employees for inspiring and rewarding performance.

Mr. Dolly further indicated that employee morale has declined because of the change in the merit increase policy and the inconsistent application by different departments. Because there is a lack of funding, there is also little opportunity for supervisors to recognize the abilities of their employees by promoting them.

In answer to a question, Mr. Dolly stated that if a supervisor recommends a merit increase, the evaluation form is returned to the supervisor with directions to rewrite it. In Mr. Dolly's opinion, the instructions given on how to evaluate employee performance discourage a supervisor from evalauting an employee

as outstanding or exceptional. This was the basis for Tom Phillip's grievance.

Mr. Dolly continued, adding that he is in favor of the register system. Ken Spray asked how long it took him to get employees off the register. Mr. Dolly explained that it takes at least three weeks to hire through the register, but he is given the top five names to consider. As a program manager in a previous position, he had experience working with the preferential hiring system. In hiring from the union, he received a response within three days. However, he was sent one individual at a time, and had to justify not selecting the first person sent. There was no way for the supervisor to know whether the second person would be more qualified for a particular job.

Greg O'Claray asked why it took Mr. Dolly three weeks to be able to hire someone from the register. Mr. Kareen responded that it was probably a result of internal departmental procedures. Lynda McCurry indicated that it takes her department an average of two days to receive a register from the Division of Personnel once requested.

Mr. Dolly concluded that although the register system takes a minimum of three weeks to hire an employee, as opposed to 48 hours when using the preferential hiring system, he would rather be given a choice of five applicants who have been tested for qualifications and experience. With the preferential system, the first candidate to meet minimum qualifications must be hired, and the opportunity to have a choice is not supplied.

Ron Felty, an employee with the Municipality of Anchorage, stated briefly that he was present to observe proceedings because of an interest in the concept of the merit system and the application to the labor environment. Representative Buchholdt explained that the commission is designed to take an overall view of personnel practice within the state and to cover as many topics as possible, including all government entities.

Beverly McCartney, an employee with Community and Regional Affairs Department, was present to observe proceedings and offered a few comments on another problem within the state. She indicated that her department is not filling permanent positions in order to create vacancy funds to use to provide merit increases to remaining employees. For example, the Property Control office has lost staff members who have not been replaced. As a result, none of the new property received has been tagged during the last four months. This vacancy factor has not been articulated in writing, yet it is currently practiced by numerous departments.

Darlene Howard amplified this point. A November memo from

the Governor indicated changes in procedures and funding for merit increases. APEA challenged the provisions of the memo and their contract now specifies how merit increases are to be awarded. In response, Niel Thomas commented that concern over expenditures controls the work force. Budgetary procedures are left to the discretion of divisional management. Misinterpretations of guidelines, insufficient funds and lack of controls lead to manipulation of budgetary allowances.

Ken Kareen pointed out that the process in itself controls the state work force and the amount of money spent. First, there are a set number of positions, designated as "man-months", authorized in the budget. Second, each department is authorized a set amount of money. The department cannot hire more than the combination of what the two permit.

Niel Thomas suggested that better management oversight would be performed by the legislature if the concentration were on the executive performance of tasks and goals set, rather than the structural aspects of the executive branch--how many people are employed and where they are placed. The legislature needs to hold the executive branch accountable for achieving the goals the legislature sets.

Representative Buchholdt questioned Ms. McCartney on whether she felt that her department was providing adequate service. Ms. McCartney indicated that because of vacancies, employees in the department are doing considerably more work and not receiving sufficient compensation for additional responsibilities and a heavier workload. State employees are becoming frustrated with their work, lack of recognition and insufficient funding for increases and promotions. There is a serious decline in employee morale.

John Pugh asked Representative Buchholdt whether, as a legislator, she had been aware that the merit increases for present employees had not been funded for the past two years. She did not recall. He asked because APEA has been castigated for seeking both merit increases and cost-of-living adjustments for its membership, while the administration uses the existence of merit increase possibilities to hold down wage increases.

Representative Eliason suggested that there are two solutions to the inequities in the present system: 1) have a single bargaining unit for all state employees, or 2) repeal the collective bargaining act.

Ken Spray pointed out that there are inequities in the private sector, where different unions representing different trades had negotiated different wages.

Representative Eliason pointed out that it is not the responsibility of the legislature to bring about equal pay scales between unions. Mr. O'Claray explained that unions that grew out of the private industry unions have philosophical problems with the concept of a merit increase system. This comes about because of the control which The Boss exercised over his work force and the resentment felt by workers towards his potentially arbitrary and unchecked discretion. Therefore, unions rely on salary increases for time in service and the promotional ladder as the way to reward competence.

Ken Foot, a State Trooper from the Fairbanks office of the Public Safety Employees Association, indicated that because of personal experiences, he believes there are not sufficient promotional opportunities available to reward service to the state. Therefore, in his opinion, merit increases should be retained to compensate for this lack of upward mobility.

After a brief discussion on possibilities for rewarding deserving employees, John Pugh suggested that President Carter's Productivity Bonus may be worth consideration.

IN ATTENDENCE

Representative Buchholdt, Chairperson
Representative Eliason
Ken Kareen (for Pat Hunt)
Lynda McCurry
Darlene Howard (for Pat Murphy)
Greg O'Claray
John Pugh
Ken Spray
Niel Thomas
Ken Humphreys (for Myrt Charney)

MINUTES

PERSONNEL ACT REVIEW COMMISSION
November 16, 1978

The third meeting of the Blue Ribbon Commission on the State Personnel Act was called to order in Room 123 of the State Capitol by Chairman Bill Ray at 1:30 p.m., November 16, 1978. Following roll call, Chairman Ray suggested that the proposed rules of procedure be considered. Adoption of rules was approved by acclaimation.

Representative Eliason stated that he had missed the previous meeting and asked for permission to distribute a statement of potential problems the commission should consider.

Chairman Ray suggested that all commission members request and invite their alternates to be present at all meetings. In this way, the alternates will be current on commission activities and can make a meaningful contribution if their principle member is absent. The Chairman asked the secretary to invite the alternates and keep them informed of all meetings. He also reminded the legislators to keep this in mind because of potential conflicts in meeting times during the legislative session.

Don Fisher told the commission about a conference he attended in Olympia, Washington, on October 18 by the National Council of State Legislatures. He explained that the Council's Project TRAIN is focusing on personnel systems and problems involved. The group is headed by Mr. Couturier, who is well known for his work in this field. He suggested that TRAIN would be able to come to Juneau and work with the commission without expense to the State. We only need to furnish a meeting room and group of interested participants for the presentation.

Mr. Fisher moved that TRAIN be invited to Juneau. It was approved by acclaimation. The Chairman and secretary will work to set up a couple of days for the presentation, to be scheduled after the legislature is in session.

The Chairman asked for a subcommittee report from the Merit System/Collective Bargaining group. Niel Thomas stated that they did not meet because of the late notification of the November 9 meeting. They will meet at a later date.

Frank Flavin moved to abolish the subcommittee on Merit System/Collective Bargaining, because the merit system question could be addressed in another subcommittee. Chairman Ray disagreed. He stated that the legislature expects to be informed on that topic.

Discussion followed concerning the areas of responsibility of each subcommittee. The commission must be sure to cover all of the important topics.

A vote on Mr. Flavin's motion was taken and failed. The Merit System/Collective Bargaining subcommittee will stand as is.

Representative McKinnon reported on the Category of Employees subcommittee. They plan to first address the problem of temporary, seasonal, and part-time employees. He also expressed a concern about overlooking certain topics because of vague subcommittee assignments. Chairman Ray referred to the October 3, 1978, meeting minutes listing topics of concern for subcommittees. Because of the over-lapping of members on each subcommittee, he feels sure that the commission will be able to cover all necessary topics.

The meeting was opened to public speakers. Roger Thayer, Personnel Officer, Department of Transportation & Public Facilities spoke first. Mr. Thayer suggested that the personnel system be decentralized to some extent. Recruitment, certification, and classification are areas that individual departments could successfully take charge of. Departmental personnel offices could classify their own unique positions, thus increasing accuracy and eliminating Division of Personnel paperwork. Classificaiton of general state-wide jobs could go through the Division of Personnel. He agreed with the concept of promotions within a department whenever possible and of hiring new people at entry-level jobs.

Discussion followed regarding the need for a person to be on several registers for classifications of the same type. Ken Kareen explained that it was necessary to operate that way because higher levels of the same type of job may require additional skills such as supervisory abilities, while placing less emphasis on technical skills.

The Division of Personnel's veto power over classification was discussed and seen as a problem. Many people see the division as impossible to work with, or through, because of the time involved.

Lynda McCurry explained that classification changes need to be looked at when a person has a change in responsibility. If you have a change in tasks, that may call for a re-classification. If you have a larger volume of work, that may call for an additional person at the same classification.

Danny Plotnik, Coordinator of the Office on Aging, addressed the commission next on the problem of workers in the federally-funded SCSEP Program being classified as temporary employees. He introduced Eileen Rehwald, who expanded on the problem. Several of her people have been terminated because of the time limitations on State temporary employees.

These employees, under the federal program, were still eligible for additional hours of work. Also, federal guidelines preclude labeling employees under the SCSEP Program. She introduced one of the employees affected by this problem, Luberta Escholt. Ms. Escholt appealed to the commission to try to do something that would help her and others in the same situation.

Chairman Ray directed the matter to the Classification of Employees subcommittee to look into establishing these as partially-exempt positions. The APEA will also look into this matter. There should be some work completed by November 30.

Mary McClinton was the next speaker. Mary presently has a case being considered by the Human Rights Commission. She was employed by the Department of Community & Regional Affairs, which reorganized its staff, and had been excluded from transfer to another job. She was the only member of the staff to be excluded. Even though she was among the top five on a large number of registers, she has not found another state job. She would like to see the system improved so that this does not happen to others.

Some discussion followed on related problems. Frank Flavin hoped that if Ms. McClinton was found to be qualified and was indeed discriminated against that some disciplinary action would be taken against those persons responsible.

LaRae Jones, Personnel Officer from the Governor's Office, spoke next. She commented on how little training there was in the state system to provide new employees with the technical training needed on the workings of the specific systems. There have been two training sessions since last May, but she felt there should be more. People could do their jobs more effectively if they didn't have to learn by trial and error.

Public participation ended.

Chairman Ray made additions to subcommittee memberships. Ken Spray, Niel Thomas, and Lynda McCurry were added to the Categories of Employees subcommittee. John Pugh was added to the Collective Bargaining subcommittee.

Chairman Ray reported that the Centralization/Decentralization subcommittee met, heard testimony, and will meet again.

Questions arose regarding the appropriate subcommittee for classification and hiring processes. The responsibility was given to the Centralization/Decentralization subcommittee. Niel Thomas asked if it would be possible to rename the committee. It was moved by acclaimation that the subcommittee be renamed "Classification, Certification, and Recruitment".

Mr. Thomas asked whether the Commission needed to investigate the other classes of state employees; namely, partially exempt and fully exempt.

Mr. Spray stated that there are presently 253 vacant permanent positions in jobs covered by APSE members. He suggested that the situation be investigated.

Chairman Ray stated that the meetings would continue in the order given previously; the subcommittees followed by the full committee. Work will be given at least one week in advance of the meeting dates. Also, note that a quorum of eight people is not necessary to hold meaningful discussions.

Representative Eliason recommended that the "Merit Increase Paper" be referred to the Merit System/Collective Bargaining subcommittee. It was agreed.

Chairman Ray read correspondence received by the Commission from Loren Jones. The letter was referred to the Certification/Classification/Recruitment subcommittee.

Meeting dates were set for the next meetings in Anchorage. They are November 30 and December 1, 1978. All members will be notified of the meeting place and can receive a T.R. from Legislative Affairs.

The next meeting was tentatively set for December 12 and 13 in Fairbanks.

The meeting was adjourned at 4:00 p.m.

Members in Attendence:

Bill Ray
Don Fisher
B. B. Allen
Dick Eliason
Frank Flavin
Ken Humphreys (for Myrt Charney)
Ken Kareen (for Pat Hunt)
Lynda McCurry
Joseph McKinnon
Pat Murphy
Greg O'Claray
John Pugh
Ken Spray
Niel Thomas

BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT
Full Commission Meeting
Juneau
November 16, 1978

ADDENDA

The following is an addenda to the Full Commission Minutes for the Blue Ribbon Commission hearing of November 16, 1978. The addenda was proposed by Ken Kareen, to be inserted on Page 2, as a substitute for Paragraph 5. The addenda was adopted at the Full Commission hearing on January 10, 1979:

Discussion followed regarding the need for an applicant to take different examinations when the job classes applied for are in the same class series (i.e., Accountant III, IV, V). Ken Kareen explained that different skills may be required and test contents emphasize those differences. Tests for a lower level job are concentrated on technical knowledge in aspects of the work, while higher level jobs in series make more demands on supervisory/management skills and knowledge, which are the subject of testing.

Also, Page 2, Paragraph 6, should read:

The Division of Budget and Management's veto power over classification studies was discussed and seen as a problem.

MINUTES

CATEGORIES OF EMPLOYEES SUBCOMMITTEE HEARING
November 16, 1978

The Subcommittee on Categories of Employees met at 9:00 a.m., Thursday, November 16, 1978, in Room 123 A of the State Capitol Building, Representative Joseph McKinnon, Chairperson, presiding.

Representative McKinnon suggested that the subcommittee identify short and long-term goals.

TOPICS IDENTIFIED

1. Use of Temporary Employees: The use of temporaries circumvents the merit system because departments are not required to hire from the register. Temporaries do not receive most state employee benefits and are therefore cheaper to employ. Departments can hire individuals as temporaries in order to allow them to fulfill experience or residency requirements and then hire them as permanent employees.

2. Contractual Employees: The same kinds of abuses (by-passing of tests, eligibility lists and mininum job qualifications) that occur in the use of temporaries can occur when departments contract out work that could be done by permanent employees.

3. Categories of State Employees: Is it appropriate for the state to have all of the categories presently in use--permanent full-time, permanent part-time, permanent seasonal, probationary, emergency, temporary and contractual?

4. Proliferation of Unique Job Classifications: Alaska has an excessive number of classifications when compared with other states having a similar number of state employees.

5. Equal Pay for Equal Work: Job categories which were created many years ago tend to be set at lower salary ranges than those created more recently, even though they may require the same kinds of training, experience and responsibilities. The salary ranges of some positions, such as secretarial, are tied to the salary range of the employee's supervisor rather than the requirements of the job.

6. Delays in processing applications to get on eligibility registers.

7. University of Alaska employees and court system employees are outside the state's merit system because of constitutional provisions.

8. Effect of the Rule of Five on Affirmative Action: Where EEO problems exist, affirmative action hiring can be accomplished by establishing EEO compliance as a justification for looking below the top five candidates.

9. The state's system of reclassifying positions.

SUGGESTIONS ON OPERATION OF THE COMMISSION

1. The Committee Structure: Care should be taken that problems are not overlooked because they fail to fall within existing committee structure. After more public input, the committee structure should be examined to consider modifications. Is the Merit System/Collective Bargaining Subcommittee necessary?

2. Adequate input from program managers who have particular knowledge of problems in the state's personnel system needs to be gathered. The Commission should consider preparing a questionnaire for distribution to state employees.

3. A crash course or dictionary on the terminology and paper flow in the personnel system for commission members. Staff will work on this.

JOB CATEGORIES IN THE STATE PERSONNEL SYSTEM

1. Trainees are generally employed in short term, probationary positions in which the employee involved is trained for a particular permanent job classification. Individuals employed under a federal program in which there is no assurance of continued funding (for example, the CETA program) are also classified as trainees.

2. Permanent seasonal positions are used where the job is needed for less than the full year, and departments concerned expect the individual to return to fill that job from year to year. For example, Fish & Game has salmon counters who are permanent seasonal employees. If the department does not expect to have the same individual returning to the job from year to year, then the department lists the job as a temporary position. The Personnel Division encourages departments to use the permanent seasonal category, but since there are adequate applicants for temporary jobs, departments with budget limitations will use the temporary category.

3. Emergency employees are appointed by some departments only where there is danger to life or property. Others will use an emergency appointment where it saves them money. An emergency appointment is authorized for 30 days with three one-month extensions possible. The employee does not have to meet the minimum qualifications, and the department can appoint to any job classification it wishes. Division of Personnel is notified of the appointment after it has been made. There are two categories of recurring emergency appointments: escorts for mental patients and for prisoners.

4. The temporary employee category was designed to meet the short-term needs of an agency. It can be used where a permanent position becomes vacant, and the agency needs to have someone to do the work during the selection process. Temporaries usually do only part of the work assigned to the permanent position.

A temporary position lasts for a period of six months with a possible three-month extension. Unlike emergency appointments, temporary employees must meet the minimum qualifications of the job class to which they are appointed, and the duties they are to perform must be consistent with the duties of that job classification.

The Division of Personnel does a post-audit of the departments temporary positions. Presently, the division examines about 10% of the positions. The division has the authority to remove a person improperly filling a temporary position. It gives notice to the department involved, and the department has two weeks to correct the error (for example, by reclassifying the positon to one for which the holder has the necessary minimum qualifications), or to let the employee go.

In making temporary appointments, the department is not required to consult the register for the job classification. The Department of Health & Social Services is the only department that has a policy of hiring temporary employees from the register. A system could be established to accomodate a requirement that departments hire temporaries from the register, though it would require some time to ensure that applicants on the temporary register were willing to be considered for temporary positions and to speed up the process of providing registers to departments.

Sometimes departments are put in a position of having to use temporaries because of a delay in receiving federal funds. The department makes timely application for a program to the federal government indicating, for example July 1 as the starting date of the state program. The department gets no formal response from the federal government until August 15--45 days into the program's life. In order to get the program going quickly, the department hires temporaries immediately, rather than take additional time to advertise and screen applicants for permanent positions. The department may have received verbal assurances that the funding would be approved prior to receipt of the formal approval. It could therefore have gambled on formal approval being granted, and could have begun hiring for permanent positions to permit program operation as soon as federal funds were received. However, if the federal money did not appear, the state would have to pay for salaries it had not intended to finance. Emergency appointments are not used in the same way, as an alternative to permanent appointments.

Mr. Thomas suggested that the use of emergency appointments could be expanded, but the requirements for temporary appointments should be tightened. If an agency had a vacant secretarial position, it could hire someone instantly for the five days it would take to hire a secretary from the register.

APEA has gathered information on the use of temporaries by the state, which show that many of the needs temporaries are

filling are permanent needs, either seasonal or full-time. Pat Murphy presented the following data:

	TOTAL # OF TEMPS	DEPT. OF FISH & GAME	DEPT. OF LABOR
July, 1978	1,701	522	93
July, 1977	1,863	508	158
July 1976	1,887	500	112

In answer to a question about whether those needs are year-long or seasonal, Mr. Murphy provided the following figures:

	TOTAL # OF TEMPS	DEPT. OF FISH & GAME
November, 1977	1,146	163
November, 1976	1,196	177
November, 1975	1,148	109

Mr. Murphy asserted that the Department of Fish & Game appears to have a recurring need for some 500 to 525 permanent employees each summer, and the Department of Labor some 100 to 150 permanent employees.

Mr. Kareen pointed out that a temporary position stays on the payroll, whether or not it is filled by an employee, until the department fills out papers indicating that position is no longer needed. Wages are drawn only according to the time sheets turned in to the Division of Finance. Mr. Murphy indicated that his figures were not checked for whether the position was actually filled.

Mr. Murphy stated that he had no problems with managers having discretion to hire temporaries for 45 to 60 days, but did have problems with 6 to 9 month terms.

Mr. Kareen asked whether there was anything that precluded APEA from negotiations on the length of time of a temporary position. Mr. Murphy explained that Mr. Hunt held the position that the length of temporary employment was statutory, and therefore non-negotiable.

PUBLIC TESTIMONY

Eileen Maki, a Public Health Nurse I (PHN I) working at the Juneau Health Center, spoke. She identified problems of concern to PHN's.

1.) Classification: At present, Public Health Nurse I's are classified at Range 14, Public Health Nurse II's at Range 15, and Public Health Nurse III's at Range 17. Public Health Nurse Trainees are at Range 12. In February, 1978, the Chief of the Section of Nursing requested that all PHN's prepare P402's describing their duties and justifying reclassification of those positions to higher salary ranges. The deadline for delivering the P402's to each nurse's supervisor was March 17. The forms were reviewed, and in early April, they were sent to the Section of Nursing for further review and for the development of a uniform job description for each job class. They apparently remained in the Section of Nursing for about six months, until the end of October or the beginning of November.

On November 3, Ms. Maki and another PHN I from the Juneau Health Center, Constance Trollan, met with Mike McMillan, a Personnel Analyst with the Division of Personnel. Mr. McMillan told then that he had just received the requests for reclassification and that he would not be able to perform his evaluation until after the Division of Budget & Management had identified funding for the potential increase of the Health & Social Services budget.

At the November 3 meeting, Ms. Maki and Ms. Trollan discussed with Mr. McMillan the discrepancy between the salary ranges assigned PHN's and those assigned other positions in state employment, such as institutional nurses. In particular, they questioned Mr. McMillan about the classification of Physician's Assistants to Range 17, while PHN I's are at Range 14.

The justification for classifying Physician's Assistants reads, in its entirety:

> This new class aligns internally with the class of Associate Attorney I at SR-17. It also aligns with SR-17 pay-wise for similar jobs in private industry. (Memo from Daniel H. Morrissey, Chief, Classification and Employee Development, Division of Personnel & Labor Relations, and Lee Antrim, Personnel Analyst, April 15, 1976)

Mr. McMillan checked the PHN files kept by the Division of Personnel for a classification analysis for PHN I's to compare with that of the Physician's Assistant. Apparently, none exists, since Mr. McMillan was unable to find one.

Ms. Maki explained the educational and training requirements for PHN I's and Physician's Assistants. A PHN must have a B.A. in Nursing from a school accredited by the National League of Nursing, with course work in the public health field. She or he must be licensed as a Registered Nurse by the State of Alaska. A PHN is authorized to practice within her area of expertise without the supervision of an M.D., including diagnosis and treatment of some conditions. In addition, she or he is responsible for nursing kinds of care for some of the patients, beyond the responsibilities of Physician's Assistants. Physician's Assis-

tant is required by the state to have a Certificate of Competency from an Physician's Assistants Program. The state does not examine the source of the certificate to evaluate its program nor is a college degree required. Some have been military medical programs, others have more extensive training. The state does not have an examination and licensing program for Physician's Assistants, as it does for Registered Nurses. Physician's Assistants are allowed to diagnose and treat conditions within the level of their training and are required to be supervised by an M.D.

Some discrepancy in range assignments may result from the fact that the PHN classification has existed since statehood, while the Physician's Assistant classification was only recently created. Of more concern is the fact that apparently all of the Physician's Assistants employed by the state are men, and all of the PHN's are women.

2. Career Ladder: At present, there is no career ladder in the PHN's field, since there are only a limited number of supervisory positions and the itinerant PHN is located only in rural areas. To advance beyond the PHN I level, an employee is forced to relocate.

The Trainee position cannot be considered an entry-level position for PHN I, since advancement to that level requires a B.A. with public health course work. Experience cannot be considered a substitute.

There is a PHN Trainee in Ketchikan who has just completed a training program in Women's Health Care, but despite the added skill she brings to her job, she remains a PHN Trainee because she lacks a four-year degree.

COMMITTEE DISCUSSION

1. Reclassification procedures: Mr. Kareen explained that the Division of Personnel policy requiring identification of funding sources before proceeding with a review of the reclassification requests was established when Joe Henry was Commissioner of the Department of Administration. Because of the magnitude of the reclassification of PHN's, the Division of Personnel can only proceed after it receives approval from the Governor's Division of Budget & Management, which will first get approval from the department in question. This ensures that the Governor is informed of the fiscal impact of proposed changes. Given its present level of staffing, the Division of Personnel can only afford to do a limited number of reclassification studies, and this system provides some insurance that those on which further action will be taken receive priority. The Division of Personnel does not have the authority to change this system unilaterally.

A member of the audience pointed out that a budget document justifying the requested reclassifications should be prepared by the department and sent with the P402's to the Division of Per-

sonnel for transmittal to the Division of Budget & Management and that if this were not done, that Budget & Management might refuse to act. Mr. Thomas pointed out that in private industry, this kind of insistance on paper flow would not hold up a valid personnel action.

Representative McKinnon asked whether a department could reclassify a position to become effective at the beginning of the next fiscal year if funding were approved by the legislature. Mr. Murphy answered that that was proposed for the position of Pioneer Home Aides, but the Commissioner of Administration refused to allow it.

It was proposed that the system be changed to provide that the Division of Personnel have the responsibility for initiating reclassifications where inequities exist. Personnel should make its recommendations to the Division of Budget & Management, which would have the responsibility for identifying funding needs. If Budget & Management determined that sufficient funds were not available in the department, then it would prepare a supplemental appropriation for submission to the legislature. Once the Division of Personnel decides that a reclassification is valid, the those positions should have to be appropriately reclassified.

At a minimum, the Division of Personnel should make recommendations on all reclassification requests submitted to it so that the Division of Budget & Management has sufficient information on which to make its decision. APEA has found a number of instances in which Budget & Management refused to ask for additional funding for what were valid reclassifications, and therefore, the legislature was never presented with the question on funding for its consideration.

2. Potential State liability for failure to reclassify: If the PHN's of the state choose to bring suit under the Federal Equal Pay Act, the state would face a potential liability in the neighborhood of $2.5 million. Assuming 50 PHN's at Range 14 earn an average of $20,000 annually, the total present salary of PHN's is $1 million. If PHN's were reclassified to Range 17 (the Physician's Assistant range) averaging $26,000 annually, the total salaries would be $1.3 million. The Federal Equal Pay Act allows consideration of the salary levels of the past two years, and if the plaintiff/employee proves willful misconduct, damages may be awarded for the pst three years. In addition, the court may award attorney's fees and interest to successful litigants. In some cases, attorneys will work on a contingent-fee basis. Instead of charging clients by the hour for time spent on the case and requiring payment as the case progresses, an attorney will charge clients a predetermined percentage of the judgement in the event the case is successful. This enables clients who cannot afford to pay attorney's fees in advance to bring suit.

The state should recognize that there is a chance that if suit were brought, the state could lose. In private industry, that kind of potential liability is enough to cause the employer to ensure that appropriate changes are made so that the employees affected do not choose to sue.

One of the reasons that the state does not respond in the same manner is the budgetary system of paying for judgements. Payment for judgements against the state is proposed by an Attorney General's bill, which the legislature rarely scrutinizes. On the other hand, increased funds for reclassifications of positions within a department become part of the department's operating budget, which the legislature may examine and question in some detail. The system therefore makes it easier to pay a more expensive judgement than for the department to act on its own initiative at a lower overall cost.

Pat Murphy pointed out that the legislature appropriates money for permanent positions (PCN's) as part of the general appropriation. Therefore, permanent positions do not decrease the funds available for departmental programs. However, temporary positions are not part of that general appropriation, and funding for temporary employees may have to come from program funds.

3. Legislative budgetary process: Representative McKinnon noted that the House automatically, in most instances, adds the necessary funds for reclassifications to the maintenance budget. Legislative oversight should not hinder valid reclassifications.

Senator Ray cautioned that a decision by a department to reclassify positions does not bind the legislature to fund all of those positions. The legislature cannot reclassify the positions, but it can refuse to fund some of them, causing the department to have to decrease the number of its employees in order to pay the increased amount.

4. Letter to the Governor: Representative McKinnon, as Chairperson of the subcommittee, will write Governor Hammond requesting his position on the reclassification difficulties experienced by the PHN's. The staff will assist in drafting the letter.

5. Future subcommittee meetings: The next subcommittee meetings will focus on temporary employees. Later meetings will consider the reclassification question.

IN ATTENDENCE

Senator Bill Ray
Representative Joe McKinnon
Ombudsman Frank Flavin
Niel Thomas
Linda McCurry
Ken Kareen (for Patrick Hunt)
Patrick Murphy
Darlene Howard (Alternate for Patrick Murphy)
Ken Humphreys (for Myrt Charney)

MINUTES

CLASSIFICATION, CERTIFICATION & RECRUITMENT SUBCOMMITTEE HEARING

November 15, 1978

The Subcommittee on Classification, Certification & Recruitment met at 1:30 p.m. on Wednesday, November 15, 1978. Chairman Bill Ray opened the meeting to public testimony.

CENTRALIZED PERSONNEL OFFICERS

Fred Cook, a member of the Confidential Employees Association, spoke on behalf of the Association. A poll of its membership showed that the personnel officers of the state believe that the personnel functions of the state should not all be placed in the Division of Personnel. Reasons given were that the Division of Personnel regulates rather than provides services and that personnel officers employed directly by the Division of Personnel would be seen by the departments in which they worked as outsiders, owing no loyalty to the department. They would therefore be less effective in working with the departmental planning process and meeting departmental staffing needs.

Lynda McCurry spoke of her experience as a personnel officer employed by the Division of Personnel and placed in a department from 1973 to 1975. She found that there was considerable friction between the commissioner of her department and the Director of Personnel about her role. Others in her department looked upon her as an outsider, and the expectations about her duties were unclear. The stormy relationship between her department and personnel, partly caused by personality problems, led to an extensive contract being written about her position.

Under the existing system, personnel officers should be placed directly under the head of the agency in which they are working, so that they have the base of authority to operate effectively. The relationship between Personnel and personnel officers needs to be changed.

Senator Ray asked Mr. Kareen for the Division's problems with the decentralization of personnel officers. The problem is in having a personnel officer provide adequate information to the Division for the action which needs to be taken. Although the Division tries to rely on personnel officers, sometimes they have to meet with program managers to get accurate information. If the information is inadequate or incorrect, then the personnel analyst may have to return the forms to the department in question to be redone, causing considerable delay. In response to a question of whether the Division of Personnel entered into the departmental grievance collective bargaining process, Ms. McCurry's answer was negative. They had overturned an a[illegible]ement which she had negotiated, however.

TEMPORARY HIRING

Mr. Kareen explained that each department has the authority to establish job qualifications and to hire whomever they wish, provided

that the employee meets the minimum qualifications for that job class, and that Alaska hire laws are complied with. Division of Personnel audits a certain number of the temporary positions after the department has acted to ensure compliance.

CLASSIFICATION

Ms. McCurry told the committee that at present the final decision on the classification of a particular position is made by the Division of Personnel. Normally, the Division can process the papers to create a new position within two days after receiving them from the department. The classification is made by a personnel analyst after reviewing the department's recommendations. She suggested that decisions about classification of unique job classes and recruitment for open positions within them become the responsibilities of the department concerned. All decisions should be made in full compliance with the merit principles of the state. General job classes should remain the responsibility of Personnel.

The commissioner of a department has the authority to abolish a particular job within the department and contract out the work, without review by the Division of Personnel. Should the commissioner decide to increase the salary range of an employee of the department, then the Division of Personnel has and should retain a reviewing and controlling role.

The Division of Personnel puts first priority on the classification of new positions, and second on reclassifications of existing jobs. Last upon their list is the updating of duties on existing jobs. All departments should review the requirements of each job every two or three years to determine whether the position should be reclassified because the duties have changed.

Frank Flavin told the committee that the Ombudsman's office has found two major problem areas: isolated instances of individual abuse which need attention, and frustration with the time consumed in going through the Division of Personnel which leads program managers to cut corners. In addition, the Division is so occupied with day to day functions, it is incapable of devoting time to its audit functions.

DELEGATION OF PERSONNEL FUNCTIONS TO DEPARTMENTS

Phyllis Woodman, Personnel Officer for the Department of Education, told the committee of the system her department uses. Staff from the department worked with the Division of Personnel to learn how to evaluate applications for the unique job classes within their department. Division of Personnel collects applications for those job classes and then sends them to the department. It takes a day or two for the department to evaluate, score and rank them. They are then returned to the Division of Personnel for inclusion on the eligibility register. New listings appear on the division's computer within five to seven days. Division of Personnel audits the department's work to ensure compliance with the merit system. Mr. Kareen pointed out that this system is available to other departments, should they choose to learn how to do it, but that Division of Personnel is responsible for insurance that the merit system principles are adhered to, and therefore that training is necessary.

Ken O'Donnell, Personnel Officer from the Department of Health & Social Services, told the committee that when Health & Social Services tried handling classification and certification for the 150 unique job classes, they found that they did not have the staff to properly handle the volume of paper and therefore they no longer use that system, except for a few laboratory and nursing assistant positions. Health & Social Services has a large number of employees and a high rate of turnover in some classes. The system used in the Department of Education would only work if the staffing in Health & Social Services was increased. The department has not had problems in making changes in its 150 unique job classes through the Division of Personnel.

Mr. O'Donnell stated that he believes that the job of personnel officer belongs within the departmental structure and that it is important for the personnel officer to have ready access to the commissioner of the department. Otherwise, too much pressure can be generated by program managers.

Roger Thayer, Personnel Officer with the Department of Transportation and Public Facilities, spoke. He indicated that Commissioner Harris of the Department of Transportation and Public Facilities favors the complete decentralization of personnel functions, with all decisions left to the individual department. Mr. Thayer, himself, favors decentralization of some personnel functions. The Department of Transportation and Public Facilities presently handles recruitment, examination and certification in more than 50 job classes which are unique to that department. Division of Personnel establishes minimum qualifications for those positions. If experience shows that the minimum qualifications either screen out all applicants by being too stringent, or fail to screen out applicants who lack the necessary skills, then the department asks the Division of Personnel to change the minimum qualifications, and the department regrades those applications in the job class. Some controls need to be kept on a department's use of redefinition of minimum qualifications to avoid abuse.

ELIGIBILITY LISTS

Ms. McCurry indicated that the major problem with the hiring process is the time it takes an applicant to get on the eligibility list. Mr. Kareen said that being put on a register can take from 10 days to 8 or 9 weeks. Evaluation of work experience and education takes longer than grading the tests given by the department, although time for notification of examinations adds to the time required for those positions tested.

The Ombudsman's office receives complaints that the eligibility lists sent to departments are irrelevant--either the list is too long to be useful or it lacks people with the qualifications to do the job.

Ms. McCurry said that the time that it takes a department to receive a list of eligibles is short, although in the case of clerical registers, the lists are usually out of date, due to failure of the people on the list to advise the Division of a change in address or status.

Mr. Thayer said that because the Division of Personnel lacks ade-

quate staff, there is little coordination between program managers and the Division on establishing criteria to analyze the applications for a particular position. That problem would be resolved by delegating responsibility for hiring in unique job classifications to the individual departments. Ms. McCurry added that even if the department did not become solely responsible for rating applicants, that when there is a difference between the department and the division about the rating for a particular candidate in a unique job class, the department should make the final decision.

Mr. Spray stated that if an applicant uses the "magic words" in detailing his past experience, the Division of Personnel will rate that applicant much higher than someone with the same experience who hasn't used those key words.

The Ombudsman's office receives complaints from people who have been in the top 5 on the register for some time and have never been considered for a position.

The Human Rights Commission has found that minority applicants for state jobs have been having difficulty in actually being hired. Minority applicants are frequently found in the middle of the register and therefore, departments who are required to hire from the top five do not have an opportunity to consider them for open positions.

Mr. Flavin asked whether there was a meaningful distinction between the top five and the top ninety-five on the common job class registers. Mr. Thayer indicated that for the most part, the distinction is artificial. Mr. Flavin suggested that the Division of Personnel should select those applicants who are generally qualified, without ranking, so that more time could be spent on other division functions. Mr. Kareen pointed out that where a particular job takes unique skills, the supervisor can select someone from below the top five, provided that a written justification is filed. For example, in data processing there are a number of different machines, languages and systems. If the top five on the register do not have a background in the particular system in use, the the supervisor can look lower on the list for someone who does. Mr. Thomas pointed out that this system can also be used to address affirmative action, where a department has been found to have a problem in that area.

Mr. Thayer related that the Department of Transportation and Public Facilities does not use this selective certification system, although it had been used in the past. There had been problems, and the practice was dropped. Most of the department's positions are filled through promotions rather than through hiring new people, so the limitation on considering the top five has not been a problem. People on the promotional list are not counted when the top five are indicated.

Mr. Flavin suggested that the Division of Personnel should audit the use of promotional lists for hiring to ensure compliance with the merit principles of the state.

There was discussion about the requirement that applicants take

the examinations for each level in a job class such as secretary or accountant. Mr. Kareen explained that one reason the state requires tests at each level is to provide a fair system for ranking candidates at lower level positions. Studies have shown that when switching to different levels, there is no consistent grouping of higher-level applicants. Further, lower levels in a job class may require more extensive technical knowledge, while the higher, supervisory level will require more managerial and supervisory skills. This is true, for example, with the positions of Accountant III and Accountant IV.

Many job applicants with the state expect to eventually be hired, once they have been placed on a register. They become upset when others, lower on the list, receive jobs before they do. Confusion may result from thinking of the register as a union-hall hiring list, although the Division of Personnel provides information explaining what being on the register means. In addition, a number of the higher level jobs within a class are filled by promotion, limiting those people who are considered and hired from the register.

RURAL RECRUITMENT AND HIRING

Representative Sally Smith addressed the committee from Fairbanks through the teleconferencing system. She pointed out that, at the regional level, the state personnel system functions even less quickly than in Juneau. Some personnel actions are routed through Anchorage offices before reaching Juneau for a decision. Job specifications may not reflect the skills needed to do the work in the regional office and therefore, the list of eligibles provided will be inappropriate.

For filling positions in the bush areas, the minimum qualifications become a more severe problem. Frequently, the educational requirements in the minimum qualifications preclude hiring someone who could do the work lacking the formal education specified. More emphasis should be placed on knowledge of the immediate community and its needs, with less emphasis on education in writing specifications for rural jobs. Recruitment of candidates for particular jobs could be handled on a decentralized basis, provided the Division of Personnel maintained an active auditing role to guard against favoritism.

Rep. Smith also said that being removed from central departmental decision-making causes other problems. While she was working for the Department of Community and Regional Affairs, she tried to fire an unsatisfactory employee. She was required by the department to schedule an interview between the employee and the department's personnel officer. The personnel officer did not come to Fairbanks until after the employee's probationary period had ended.

ALASKA PUBLIC SERVICE EMPLOYEES HIRING

The APSE contract with the state affects the procedures for hiring their members. When there is a vacancy, the union is notified of the position and the skills required. They search their membership list and then send over the next person on their list who is qualified for

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILE 8672
1352 SCOMM 51: BLUE RIBBON COMN. ON STATE PERSONNEL ACT 1978-1983

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

EFFECT OF FEDERAL REQUIREMENTS

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

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

IN ATTENDANCE

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

ABSENT

Representative Thelma Buchholdt

MINUTES

Personnel Act Review Commission Meeting
October 3, 1978

The second meeting of the Personnel Act Review Commission was called to order in Room 123 of the State Capitol by Chairman Bill Ray at 1:30 p.m., October 3, 1978. Following roll call, Don Fisher reported that he had received more than fifty applications for the director's position, had interviewed just about all of those applicants and, in consultation with the chairman, was ready to make a selection in the next few days. Mr. Fisher reported that there was a possibility of using office space on the tenth floor of the State Office Building adjacent to the division of personnel, but that it would not be available until November 1. Senator Ray reviewed the actions of the last meeting and asked if anyone wanted to contribute public input concerning their problems with the personnel system.

Violet Thetford testified and was concerned with hiring practices and felt that the entire personnel system is bogged down with paper. There had been a problem with redundant testing. Mr. Hunt confirmed the basic facts.

Rosalee Walker testified on problems of in-house promotions. She felt that making political appointments to higher level positions instead of promoting long-time, career employees was bad for morale and resulted in poorly trained management. She hoped the commission might design a different system to alleviate this problem.

Gregg Erickson, director of the Research Division of the Legislative Affairs Agency, was asked to the table. Senator Ray explained formally to Mr. Erickson that he had no particular problems with the Legislative Affairs Agency staff and hoped that the issue which arose at the last meeting could be considered closed. Mr. Erickson was agreeable and thanked Senator Ray.

Chairman Ray brought up a problem which had been called to his attention in correspondence from the project coordinator for the office of the aging. The state personnel division has classified Title IX, Older American enrollees as "temporary" so they are now terminated after six months. Pat Hunt was asked to look into this problem and come back to the committee next time with either an answer or a resolution for consideration by the committee. Pat Murphy objected to the assignment. Following clarifying discussion, Mr. Murphy withdrew his objection.

Correspondence regarding priorities for the commission's work was received from Niel Thomas, executive director of the Alaska State Commission for Human Rights, Pat Murphy, executive director of the Alaska Public Employees Association and from Lynda McCurry for the Confidential Employees Association.

The commission discussed the establishment of priorities for subcommittee assignment. Chairman Ray cautioned members to take a non-partisan view on subcommittee assignments. Pat Murphy moved that three subcommittees be established and that "categories of employees" (see A.P.E.A. letter) be one of three priorities to be studied by a subcommittee. The motion passed without objection.

Pat Hunt moved that the commission make a priority of the determination whether we should have a central personnel system or whether it should be decentralized or whether it should be partially decentralized. Don Fisher proposed an amendment to the effect that recruitment, examination, classification and pay be handled separately. Following discussion, Mr. Fisher withdrew the amendment. The motion carried without objection.

Bob Gates moved that the commission make a priority of addressing the merit system and collective bargaining and their relationship. Following discussion, the motion passed without objection.

The commission discussed Equal Employment Opportunity, dress (cleanliness) code for state employees and the problems of training and job performance assessment. Bob Gates suggested that interested members inform themselves in the area of job performance evaluation and ways of dealing with instances of excellent or substandard performance and that the subject be raised again at the next meeting.

John Pugh moved that the commission recommend legislation which would provide for periodic, external audits of the personnel system like the one carried out the the Division of Legislative Audit in 1977. This motion passed without objection.

Chairman Ray raised the question of the job register. Some discussion of this, as well as the hiring of the commission's staff, followed.

Don Fisher moved to clarify the "centralization/decentralization" topic. He moved that the topic on centralization/decentralization include but not be limited to the study of the problems of certification, recruitment, classification and pay, examination, and equal opportunity and that the subcommittee consider the personnel law, the personnel rules and the existing practices and that they give their recommendations as to the solutions of any problems they might find. The motion passed without objection.

The three subcommittees were formed. They are composed of volunteers from the commission with the understanding that a member, through a representative, could serve on more than one subcommittee and that Chairman Ray would appoint a legislator on each subcommittee as chairman. Each subcommittee chairman was asked to appoint a vice chairman, with the understanding that Representative McKinnon (absent) would do so as soon as possible. Chairman Ray is an ex officio member of each subcommittee.

The subcommittees are as follows:

Centralization/Decentralization Subcommittee

Bill Ray, Chairman
Don Fisher, Vice Chairman
Myrt Charney
John Pugh
Pat Hunt
Lynda McCurry
Ken Spray
Dick Eliason
Thelma Buchholdt
Frank Flavin
Niel Thomas

Merit System/Collective Bargaining Subcommittee

Thelma Buchholdt, Chairman
Greg O'Claray, Vice Chairman
Ken Spray
Pat Murphy
Pat Hunt
B. B. Allen
Lynda McCurry
Bill Ray (ex officio)

Categories of Employees Subcommittee

Joe McKinnon, Chairman
Frank Flavin (Patti Moriarty)
Pat Murphy
Jay Yakopatz
Pat Hunt
Bill Ray (ex officio)

Ken Vassar presented a copy of the compilation of statutes dealing with the personnel system and gave a brief explanation. Don Fisher was charged with custody of these materials.

The next meeting of the commission was scheduled for 1:30 p.m., Thursday, November 9, in Room 123 of the State Capitol.

The meeting was adjourned at 4:25 p.m.

Members in attendance

Bill Ray
Bob Gates for B. B. Allen
Thelma Buchholdt
Myrt Charney
Don Fisher
Patti Moriarty for Frank Flavin
Pat Hunt
Lynda McCurry
Pat Murphy
Greg O'Claray
John Pugh
Ken Spray
Niel Thomas

MINUTES

Personnel Act Review Commission

Meeting of September 15, 1978

The following summary minutes are arranged topically, not chronologically, to indicate the actions of the Commission.

The first meeting of the Personnel Act Review Commission (L.R. #27) was called to order at 9:00 a.m., September 15, 1978 by Jack Doyle, Executive Director, Legislative Affairs Agency for Representative Mike Miller, Chairman, Alaska Legislative Council. A list of those in attendance is attached.

Officers

Following the call to order and introductions, Senator Bill Ray was elected Chairman and assumed the chair. Don Fisher was elected Vice Chairman. Myrt Charney was elected as recording secretary.

Staff Support

It was decided that the Commission would not hire a consultant as primary staff but would reserve the option to use one for specific tasks in the future. Senator Ray felt it would not be appropriate to use Legislative Affairs Agency staff exclusively in the role of director/researcher. It was decided that Don Fisher should proceed to advertise and interview for an administrator/research staff person at salary range 20 and for a full time secretary, preferably with shorthand skills, at a salary range not to exceed 12. At the request of the Chairman, Mr. Erickson of the Legislative Affairs Agency directed Mr. Humphreys to assist the Commission with such additional research as they may require, with priorities as among the Commission's various research tasks to be determined by the Commission.

Budget Considerations

Myrt Charney indicated that $57,000 is currently available to the Commission through June 30, 1979 unless a supplemental appropriation is received or additional Legislative Council funds are made available.

Time Frame

It was suggested that the work of the Committee would probably carry on for at least eight months and possibly up to two years or so.

Office Space

Bob Gates said that permanent quarters could probably be provided through the administration. He was asked to check on that and let Don Fisher know. Senator Ray pointed out that Room 123A in the Capitol Building or other legislative space could be used for meetings, etc. even after the legislature convenes.

Scope and Priorities of the Study

There was some discussion of the scope of the study. Should it broadly embrace the entire personnel system including collective bargaining or be directed primarily toward a revision of the Personnel Act? It was decided that members who were so inclined should submit their thoughts on the scope, priorities and objectives of the Commission in writing at the next meeting. Senator Ray asked Ken Kareen and Pat Murphy to prepare presentations for the group.

There was some discussion of public hearings or meetings and the use of teleconferencing. The general conclusion was that the public needs to be made aware of the study and be given ample opportunity for input before any final product is forthcoming. It was suggested with no objection that releases be given to the press which would alert the public to the Commission's existence and intention to solicit input.

Membership of the Commission

There was some discussion of the possibility of adding additional members to the Commission. A motion by Ken Spray to add a representative from the Alaska Public Safety Employees Association failed. Senator Ray asked Myrt Charney to notify the PSEA that their informal participation was welcomed and to invite them to present their problems to the Commission.

Next Meeting

The next meeting was scheduled for Wednesday, October 3 at 1:30 p.m. in room 123 of the State Capitol, Juneau.

Ken Kareen requested that Legislative Affairs legal staff compile laws that deal with the personnel system besides those in AS 39.25. Senator Ray asked for a survey of the administrative code as well. Pat Murphy was asked to provide material on departmental personnel procedures.

At Frank Flavin's request, Myrt Charney was asked to provide Legislative Audit reports from the past. Mr. Charney was also asked to keep loose-leaf notebooks with minutes and other relevant materials for commission members.

At Janet Bradley's request, Ken Humphreys was asked to provide a copy of the various current collective bargaining agreements.

The meeting was adjourned at 10:55 a.m.

Personnel Act Review Commission

Attendance at the September 15, 1978 Meeting

Members	Representing
Ken Spray	Local 71
Dick Eliason	Representative, Dist. 3
Bob Gates	Dept. of Admin. (for B.B. Allen)
Ken Kareen	Dept. of Admin., Div. of P.& L.R. (for Patrick L. Hunt)
Joe McKinnon	Representative, Dist. 9
John Pugh	A.P.E.A.
Lynda McCurry	C.E.A.
Pat Murphy	A.P.E.A.
Bill Ray	Senator, Dist. C
Janet L. Bradley	AK Human Rights Commission (for Neil Thomas)
Frank Flavin	Ombudsman
Myrt Charney	Legislative Affairs Agency
Don Fisher	D.O.T./P.F.

Others

Sally Smith	Representative, Dist. 20
Jack Doyle	Legislative Affairs Agency
Kristine Harder	Representative Mike Miller's office
Ken Humphreys	Legislative Affairs Agency
Darlene Howard	A.P.E.A.

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Signature of Camera Operator

12/15/89
Date

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SCOMM

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MINUTES OF

BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT

from

August 18, 1980 through December 15, 1982

AND

Membership Lists

MINUTES OF THE
BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

August 18, '980	Full Commission Meeting
August 19, 1980	" " "
October 29,30, 1980	" " "
December 4, 1980	" " "
January 3, 1981	Full Commission Meeting
February 11, 1981	" " "
October 5, 1981	" " "
November 3, 1981	" " "
November 19, 1981	" " "
December 21, 1981	" " "
March 11, 1982	Full Commission Meeting
August 30, 1982	" " "
September 21, 1982	" " "
October 15, 1982	" " "
November 9, 1982	" " "
December 7, 1982	" " "
December 15, 1982	" " "

MEMBERSHIP

February, 1983

Senator Bill Ray, Chairman — Rep. Jack Fuller, Vice Chairman

Members and Alternates:

Myrton Charney, Executive Director, Legislative Affairs Agency

John Chenoweth, Ombudsman

Senator Richard Eliason

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

Lois Jund, Retired State Employee
(Dorothy Whitney)

Frank Raye, Director, Division of Personnel

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

Greg O'Claray, Inlandboatmen's Union - SIUNA

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

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

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

(Alternates)

Two vacancies

MEMBERSHIP OF THE BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT

June, 1982 to December, 1982

Senator Bill Ray, Chairman

Representative Jack Fuller, Vice-Chairman
* Representative Sally Smith

Myrton R. Charney, Executive Director, Legislative Affairs Agency

John Chenoweth, Ombudsman

Senator Richard Eliason

Carole Burger, Commissioner, Department of Administration
* Fred Muller, Deputy Commissioner
* James Fisher, Director, Division of Equal Employment Opportunity
* Sandra Withers, Director, Division of Labor Relations

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

Lois Jund, Retired State Employee
* Dorothy Whitney

Kenneth Kareen, Director of Personnel, Department of Administration

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

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

John Pugh, Director, Division of Social Services, Dept. Health & Social Services
* Robert Mourant, Department of Transportation and Public Facilities

Cherie Shelley, Executive Director, Alaska Public Employees Assn.
* Darlene Livermore, Alaska Public Employees Assn.
* Doryce Eggleston, Alaska Public Employees Assn.

* Alternates

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

Alaska State Legislature

JUNEAU, ALASKA

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

Senator Bill Ray, Chairman

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

MEMBERSHIP

March 15, 1982

Senator Bill Ray, Chairman — Rep. Jack Fuller, Vice Chairman

Members and Alternates:

Myrton Charney, Executive Director, Legislative Affairs Agency

John Chenoweth, Ombudsman

Senator Richard Eliason

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

Lois Jund
(Dorothy Whitney)

Kenneth Kareen, Director, Division of Personnel

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

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

Greg O'Claray, Inlandboatmen's Union SIUNA

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

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

(Alternates)

Alaska State Legislature

JUNEAU, ALASKA

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

Senator Bill Ray, Chairman

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

MEMBERSHIP

November 3, 1981

Senator Bill Ray, Chairman — Vice Chairman Vacant

Members and Alternates:

Myrton Charney, Executive Director, Legislative Affairs Agency

John Chenoweth, Ombudsman

Senator Richard Eliason

Representative Jack Fuller
(Representative Sally Smith)

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

Lois Jund
(Dorothy Whitney)

Kenneth Kareen, Director, Division of Personnel

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

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

Greg O'Claray, Inlandboatmen's Union - SIUNA

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

Cherie Shelley, Executive Director, APEA
(Darlene Livermore)

(Alternates)

January 8, 1981

MEMBERSHIP OF THE BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT

Senator Bill Ray - Chairman

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

Representative Thelma Buchholdt
* Representative Mike Miller

Myrton R. Charney, Executive Director, Legislative Affairs Agency

Bruce Cummings, Director, Division of Personnel
* Michael McMullen

Senator Richard Eliason

Frank Flavin, Ombudsman
* Paddy Moriarty

Representative Jack Fuller
* Representative Sally Smith

William Huston, Superintendent, Southeast Regional Correctional Institution

Lois Jund

Lynda McCurry, Personnel Officer, Department of Labor
* Roger Thayer

Fred Muller, Deputy Commissioner, Department of Administration
* Sandra Withers

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

John Pugh, Director, Division of Social Services
* Robert Mourant

Cherie Shelley, Executive Director, Alaska Public Employees Assn.
* Darlene Livermore

* Alternates

Alaska State Legislature

JUNEAU, ALASKA

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

Senator Bill Ray
Chairman

MEMBERSHIP

October 29, 1980

Senator Bill Ray, Chairman

Don Fisher, Vice Chairman

Members:

Representative Thelma Buchholdt
(Representative Mike Miller)

Myrton Charney, Executive Director, Legislative Affairs Agency

Bruce Cummings, Director, Division of Personnel

Representative Richard Eliason

Frank Flavin, Ombudsman
(Duncan Fowler or Paddy Moriarty)

Representative Jack Fuller
(Representative Sally Smith)

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

Lois Jund

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

Fred Muller, Deputy Commissioner, Department of Administration

Greg O'Claray, Inlandboatmen's Union - SIUNA

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

Cherie Shelley, Executive Director, APEA
(Darlene Livermore)

(Alternates)

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

August 20, 1980

Membership

Senator Bill Ray, Chairman

Don Fisher, Vice Chairman

Representative Thelma Buchholdt
(Representative Mike Miller)

Myrton Charney, Executive Director, Legislative Affairs Agency

Bruce Cummings, Director of Division of Personnel

Representative Richard Eliason

Frank Flavin, Ombudsman
(Duncan Fowler)

Representative Jack Fuller
(Representative Sally Smith)

Lois Jund

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

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

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

Cherie Shelley, Executive Director, APEA
(Darlene Livermore)

Dick Smith, Deputy Commissioner, Department of Administration

(Alternates)

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

MINUTES

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

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

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

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

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

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

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

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

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

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

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

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

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

MINUTES

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

MINUTES

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

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

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

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

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

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

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

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

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

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

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

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

MINUTES

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

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

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

The correction to the minutes was approved without objection.

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

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

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

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

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

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

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

MINUTES

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

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

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

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

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

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

MINUTES

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

A. RECOMMENDATIONS AGAINST REHIRE

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

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

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

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

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

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

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

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

B. RETALIATORY LAYOFF

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

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

C. CONFLICT OF INTEREST

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

C. CONFLICT OF INTEREST (continued)

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

D. ACCESS TO STATE EMPLOYMENT

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

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

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

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

The commission reviewed and discussed the PERS and TRS statutes.

AS 14.25.045. PARTICIPATION BY NATIONAL EDUCATION ASSOCIATION EMPLOYEES

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

AS 14.25.060. ARREARAGE INDEBTEDNESS

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

AS 14.20.107. CREDIT FOR ALASKA BIA SERVICE

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

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

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

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

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

MINUTES

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

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

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

MINUTES

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

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

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

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

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

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

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

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

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

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

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

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

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

A. PROBLEMS IN THE HIRING PROCESS

1. Classification of positions.

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

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

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

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

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

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

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

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

2. Recruitment.

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

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

MEMO ON MALES AND FEMALES ON SELECTED REGISTERS

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

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

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

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

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

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

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

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

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

Senator Ray recessed the meeting for lunch.

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

A.2. Recruitment

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Corrected

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

A.7. Credit for experience.

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

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

B. ISSUES CONCERNING PRESENT EMPLOYEES

1. Training for Supervisors

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

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

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

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

B.2. EEO Evaluation of Supervisors.

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

B.4. Changes in the Traditional Work System.

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

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

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

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

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

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

B.3. Training Opportunities.

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

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

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

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

Senator Ray adjourned the meeting.

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CENTRAL COUNCIL
tlingit and haida indian tribes of alaska
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(907) 586-1432 or 586-3613

January 15, 1982

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

Dear Senator Ray:

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

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

Sincerely,

CENTRAL COUNCIL OF TLINGIT AND
HAIDA INDIAN TRIBES OF ALASKA

John Hope
President

JH/BK/ae

Central Council of
Tlingit & Haida
Indian Tribes of Alaska

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

ALASKA NATIVE HIRE IN STATE GOVERNMENT

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

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

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

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

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

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

   A. ENTRY LEVEL POSITIONS ARE AVAILABLE TO THE MAXIMUM EXTENT POSSIBLE.

   B. CAREER LADDERS (INCLUDING ALTERNATIVES) ARE AVAILABLE WHICH PROVIDE AMPLE OPPORTUNITY FOR UPWARD MOBILITY.

   C. SUPPORT SERVICES ARE AVAILABLE INCLUDING BUT NOT LIMITED TO, DAY CARE, CAREER AND EDUCATIONAL COUNSELING, TUITION REIMBURSEMENT AND TIME-OFF-WITH-PAY FOR EDUCATIONAL PURPOSES TO PROVIDE ASSISTANCE TO MINORITIES EMPLOYED BY STATE GOVERNMENT AND SEEKING TO IMPROVE THEIR EDUCATION AND TRAINING. THIS PROGRAM SHOULD BE FUNDED AS A SEPARATE AND HIGHLY VISIBLE EFFORT WITHIN STATE GOVERNMENT, PREFERABLY BY THE OFFICE OF THE GOVERNOR. IT SHOULD BE CONTINUED UNTIL PROPORTIONATE REPRESENTATION IS ACHIEVED.

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

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

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

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

MINUTES

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

failure to promote, too.

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

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

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

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

there is nothing perceived as discrimination.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1/ Note: HB 906 was actually introduced in 1980

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Senator Ray thanked Ms. Groshek for her testimony.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Niel Thomas, executive director of the Alaska State Commission for Human Rights, addressed the commission. He indicated that he had not planned to testify, but that a woman had approached him during a break. He offered to speak for her since, for reasons of shyness, she had decided not to testify herself.

She works in a state office which has a very large clerical workforce. There are three people classified at Range 12, probably as administrative assistants, more people at Range 10, probably secretaries, and a group of people who are Range 8 clerk typists. The person who he spoke with is one of the three top people, and the only one who is an Alaska Native. Every time one of the secretaries or somebody further down in the organization is out of the office, somebody has to run that machine or answer that phone. The person who always has to do that, who is in effect demoted for the day, is the Alaska Native. She has been told, "Well, I know that you were a secretary once, and frankly, I can't think of you as anything but a secretary." Mr. Thomas added that he can't help wondering whether the organization isn't losing an opportunity to take someone else and train them on something that is higher level work to cover these situations.

Mr. Thomas said that the woman he spoke with reported that one of the lower level people there is prejudiced and frequently makes disparaging remarks about a black woman who also works there. She also has told the administrative assistant things like "you people have so much cathing up to do". He said that his impression of the person he spoke with is that she is a very intelligent, forward-looking person who would like to advance hereself in state government but runs into barriers of this type from time to time. He suggested that conduct in the office probably discourages people like her from continuing in state employment. She may be the next $33,000 administrative assistant to a president of some corporation because the state has permitted people to treat other people like that.

Senator Ray asked Mr. Thomas to encourage the lady to contact him either directly or through the Human Rights Commission. Mr. Thomas replied that he had suggested that before she makes a formal complaint, she should talk with an individual who is at the top of her organization who he knows will not tolerate that kind of behavior. Senator Eliason added that you may not be able to control what people think but you certainly can control their actions when they are employed by the state government. He asked Mr. Thomas whether he had suggestions of what the

commission could do through regulations or legislation to change some of the obvious vehicles used for discrimination.

Mr. Thomas suggested that the commission consider the Committee Substitute to SB 248. Its approach is in the right direction. For instance it insures that an evaluation really does address an employee's EEO performance. The commission might look at both the bill and the fiscal note to see whether they could be improved. Senator Ray pointed out that the Administration is not supporting the bill, even though they are responsible for the affirmative action program. Mr. Thomas suggested that since the commission includes so many people from the Administration, if it could come up with a substitute bill, then the bill should have the support of the Administration.

Mr. Kareen asked Mr. Thomas for suggestions for finding available workforce data which could be used by all employers in Alaska. Mr. Thomas suggested that the Department of Labor has put together a widely-used book called Data for Affirmative Action Planners. They will probably be working on another book based on the 1980 census as it becomes available. If the commission were to meet with the people in the department who are putting the new edition together, they could share any difficulties they are having in developing the material. Everybody in both the private and public sectors needs workforce availability data, so that would be one of the most helpful services the state could perform in the equal employment opportunity area.

Senator Ray advised the commission that he anticipated holding one more meeting before the legislature convenes. He thanked the participants and adjourned the meeting at 4:15 p.m.

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BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT
State Capitol, Juneau, Alaska
November 3, 1981

MINUTES

Senator Ray, Chairman, called the meeting to order at 10:05 a.m. The roll call showed Ken Kareen, John Chenoweth, Representative Jack Fuller, Lois Jund, John Pugh, Cherie Shelley, Bill Huston, James Fisher, (alternate for Commissioner William Hudson) and Senator Bill Ray present. Myrt Charney, Senator Dick Eliason, and Greg O'Claray were absent. Also present were Roger Thayer, Robert Mourant, Darlene Livermore, and Dorothy Whitney.

Senator Ray opened the meeting by asking for public testimony. The first to testify was Niel Thomas, Director of the Alaska State Commission on Human Rights. Mr. Thomas addressed the question of how the number of employment discrimination complaints against the state compares with the number of complaints filed against private employers. He indicated that the information requested by the Blue Ribbon Commission was similar to the material that the Human Rights Commission developed recently at the request of the U. S. Civil Rights Commission. He distributed copies of a computer printout entitled "Total Statistics by Region", dated 10/17/81, RO1-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 amoung 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

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILE 8672
1353 SCOMM 51: BLUE RIBBON COMN. ON STATE PERSONNEL ACT 1978-1983

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-judical 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.

	Female	Minority
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 clases in which minorities or women have been shown to be underutilizied.

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 resultsdepend 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 persepective and get away from the game of crafty techniques.

Senator Ray added that he hoped more people would come to tesity 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 significatnt 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 point 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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TOTAL STATISTICS BY REGION BEGIN-DATE 010181 END-DATE 093081

	CASES OPEN AT END OF PRIOR PERIOD	NEW FILINGS THIS PERIOD	CASES CLOSED THIS PERIOD	CASES OPEN AT END OF THIS PERIOD
CENTRAL	162	098	080	180
SYSTEMIC	003	000	000	003
NORTHERN	104	043	071	076
SOUTHEASTERN	086	033	024	095
OTHER	057	003	004	056
STATE TOTALS	412 86	177 26	179 15	410 75 = 18.3% *

TOTAL EMPLOYMENT CASES IN SYSTEM SINCE 1975: 3172
SOA: 321
} = 10.1% SOA Cases

* Note: 24 SOA Cases have been consolidated at hearing (1 issue)

AS OF 8/16/78 (CIVIL RTS COMM TESTIMONY)

TOTAL: 2162
SOA: 200
} = 9.3%

SOA Proportion if 24 Cases Counted as one: $\frac{321}{52} = 13.4\%$

NOTE: NON FARM WORKFORCE 8.0%
EMPLOYED BY SOA = 9.0% (1978)

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, hey 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 underutilization 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 oppportunity 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 classificiations, 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 compatability 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 divison 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 Cummmings 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 Mourant
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 evalution 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 (?) 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 Mourant
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 flexability 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.

Maybe an example will illustrate the problem. If we intended to place observers in Gambell, Savoonga Diomede, 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 that 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.

BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT
State Capitol, Juneau, Alaska
December 4, 1980

MINUTES

Senator Ray, chairman, called the meeting to order at 10:00 a.m. and asked commission members to consider the draft bill limiting the adjustment of retirement benefits. Paddy Moriarty asked why, in subsections (b)(1) of the first two sections of the bill, the date set was after the incorrect benefit was first paid rather than after the individual had retired from state employment. It was pointed out that the purpose of the bill is to set a statute of limitations and that beginning to run the period from the first incorrect payment was a reasonable decision.

Bruce Cummings pointed out that the Public Employment Retirement System board presently has an appeals procedure to consider cases in which overpayments have been alleged by the Division of Retirement and Benefits and the retired person has difficulty in repaying the amount. However, an individual can knowingly allow an overpayment to be made, and in those cases it would be appropriate for the state to seek to recover the amount overpaid. The review system of the PERS board would permit this but the proposed bill would not.

Senator Ray asked how the state should handle the situation in which an employee retires after having received written computations from the division setting out his years of credited service and the amount of benefits to which he will be entitled and later is told that the figures were incorrectly calculated. Therefore, the amount of his benefits will be reduced. Senator Ray asked whether it would be fair to require the state to rehire the retired employee in the job from which he retired. The retired employee would then have an opportunity to earn the credits which he was initially informed he had.

Bruce Cummings suggested that this would injure the employee who had replaced the retiree on the job. The new employee might have resigned from a job to accept the new position and giving the retired person back his old job would mean injuring the new worker. Some other system for addressing the problem should be developed.

Fred Muller asked what the frequency of error in the computations of length of service credits is. Lois Jund explained that a number of cases had arisen at the same time several years ago when the Division of Retirement and Benefits performed a wholesale audit of the retirement system and discovered a number of errors. Many of the cases which were raised involved overpayments of from $1000 to $5000. It was often very difficult for the retired person to repay this large an amount. Mr. Muller asked whether any of the commission members knew how many state

employees retire expecting to be eligible to receive retirement benefits and then discover that an error has been made and that they are not eligible for any benefit at all.

Paddy Moriarty replied that the Ombudsman's office has received information of several cases in which people wrote to the Division asking for a computation of their creditable service. They received a written response and then retired. Later the division reviewed their file and disallowed some portion of the service which had been previously included in the computation. Bill Huston added that some of the computation errors occur because of statutory changes. The formulas for computing creditable service are complicated so that an employee cannot simply add up the number of months he has worked for the state and know the length of creditable service or the retirement benefits he will be entitled to.

Bruce Cummings suggested that there are two possible solutions to the problem which the commission is considering. The state could offer assistance to those whose creditable service has been erroneously computed in returning to work, as has been done for Julie Issac. In addition, the PERS board has the authority to waive recoupment of overpayments in cases of hardship. Senator Ray pointed out that in Mrs. Issac's case, the appeal to the board took 2-1/2 years to reach a decision and that her petition was denied because her husband's resources were considered in evaluating whether collecting the overpayment would be a hardship to her. On that information, the board found that it would not be a hardship if she were required to repay the money to the state. The issue was finally satisfactorily resolved through the efforts of the Governor's Office and the Attorney General.

Senator Ray asked whether there was any objection to adding a statute of limitations to the adjustment provisions of the retirement benefit law. Fred Muller suggested that it would be appropriate to require that the larger cases of overpayments be reviewed by the PERS board rather than automatically waiving any recoupment. He suggested that the statute of limitations should not apply to those cases in which the overpayment had been more then 10 per cent of the monthly benefit to which the retired person was correctly entitled. Senator Ray asked whether there was consensus on Mr. Muller's proposal. There was no objection.

The commission then considered the draft bill relating to the nepotism in state employment. Terry Cramer, the administrative assistant to the commission, explained that this bill was an attempt to place the provisions of the Personnel Rules prohibiting nepotism into statutory form. The drafter changed the language of the Personnel Rule, which uses the term "appointing authority" and instead used the term "person making the appointment" in the draft.

Darlene Livermore stated that the Alaska Public Employees Association has three concerns about the proposed bill. The current statute prohibits employment of persons related to the commissioner of the department. The intent of the legislature was therefore probably to

discourage political patronage in the state employment. The Personnel Rules probably were drafted with the same theory as their basis. Recently in the Civil Service Reform Act of 1978, the federal government repealed a 90-year old nepotism law which had a general application. Congress retained prohibitions against abuse of power by elected officials, aiming again at political patronage. Secondly, Ms. Livermore raised the issue of whether the present draft is in opposition to laws protecting certain classes of people from employment discrimination, particularly, from discrimination based on marital status or change in marital status. The third issue which APEA is concerned about is access to employment. Unlike most locations in the Lower 48, there are a number of communities in Alaska which have only a few major employers. For example, in Valdez there are two -- the division of highways and the division of mental health. Both to provide employment opportunities for the people living in those communities and to provide a pool of employees for the state, the nepotism laws should not be unnecessarily stringent.

Bruce Cummings said that he did not disagree with the points which APEA was raising and that the provision of the Personnel Rules gives the director of the division of personnel authority to waive enforcement of the rule. He added that could not recall an instance in which he had refused to waive enforcement of the rule. However, it is appropriate to have each case of employment of close relatives considered in order to prevent abuse.

Ms. Livermore explained that she did not object to the present situation in which the statute addressed nepotism at the commissioner level and the Rules had broader application, but that putting the provisions of the Rules into the statutes would provide the courts with a greater opportunity for review and limitation. Mr. Cummings explained that the Attorney General has advised the division that the scope of the rule is broader than the rule-making authority granted by the statute. Therefore, enforcement of the rule could probably not be defended successfully in court.

Representative Fuller asked whether there were regulations for elected officials. Senator Ray replied that the State Personnel Act applies only to the executive branch of government. Representative Eliason asked whether nepotism was a lively issue. Mr. Cummings answered that there are some communities in the state in which there has been considerable public interest in the question. Senator Ray asked whether there were any objections to the commission sponsoring a bill which would put the language of the Personnel Rules into the statutes. Darlene Livermore registered APEA's objection.

The commission next considered the draft to require that the regulations adopted by the retirement board be subject to the Administrative Procedure Act. Members commented that the draft did not follow the instructions which the commission had given the drafter and decided to defer consideration of the subject until a redraft was available.

The commission considered the draft bill relating to membership of the Public Employees Retirement Board. Lois Jund suggested that the draft be amended to require that of the four members elected by the members of the retirement system, at least one must be a retired person. The amendment was adopted without objection.

The commission turned to the redraft of the State Personnel Act amendments. Several problems were noted and Senator Ray asked Jack Chenoweth, from the Legal Services Division of the Legislative Affairs Agency to meet with the commission. After reviewing the second draft of the State Personnel Act with Mr. Chenoweth, the commission discussed with him the amendments to the draft limiting adjustments to retirement benefits which had been agreed upon earlier in the meeting.

Terry Cramer advised the commission members of a telephone call from Grace Kack. Ms. Kack is concerned that individuals applying for state positions must be re-examined every two years in order to stay on the register for a job class. Ms. Kack was not concerned on her own behalf, since she is presently employed by the state, but she felt that the requirement was unfair for those who were not presently employed.

Ms. Cramer also advised the commission that several reponses had been received from agencies whose employees were placed in the exempt and partially exempt services concerning whether those employees should remain in their present status or should be transferred to the classified service.

Senator Ray stated that the commission would meet to review redrafts of all of the bills probably at the end of December.

Senator Ray adjourned the meeting at 11:45 a.m.

MEMBERS IN ATTENDANCE

Senator Bill Ray, Chairman
Bruce Cummings
Representative Dick Eliason
Representative Jack Fuller
Lois Jund
Lynda McCurry
Fred Muller
Bill Huston
Paddy Moriarty
Robert Mourant
Darlene Livermore

OTHERS IN ATTENDANCE

Roger Thayer

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BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT
State Capitol, Juneau
October 29-30, 1980

MINUTES

The meeting was called to order at 10:00 a.m., by the Chairman, Senator Bill Ray.

John Williams, Commissioner of the Commercial Fisheries Entry Commission, testified in response to the Blue Ribbon Commission's request for information concerning whether his employees should be in the exempt service or would more appropriately be placed in the partially exempt or classified service. Mr. Williams stated that the limited entry commission is a quasi-judicial, independent regulatory body which is granted special status by the Alaska Statutes. According to an Attorney General's opinion, prepared for the Alaska Oil and Gas Conservation Commission, it is appropriate for commissions of this type to remain independent from the executive branch. Therefore, Mr. Williams believes that employees of the commission are most appropriately left in the exempt service. Placing them in the partially exempt or classified service would subject them, and the commission as their employer, to inappropriate regulation by the executive branch.

Mr. Williams stated that the commission had conducted a poll of its employees to learn what their wishes were. Of the 29 employees, 25 participated. Each of the staff was provided with a copy of the State Personnel Act prior to the poll being taken. Every effort was made to insure that the poll was secret. Of those voting, 21 favored remaining in the exempt service and four favored moving to the partially exempt service. None wished to be placed in the classified service.

Mr. Williams added the commission has chosen to follow the practices which the Personnel Rules set out for partially exempt employees.

Greg O'Claray addressed the question which the commission had posed at its last meeting about why the vessel employees of the Marine Highway System are placed in the exempt service. He provided the members with a letter explaining his reasons.

The vessels are, by federal law, under the jurisdiction of the United States Coast Guard for the safe operation, navigation, staffing and examination, and certification of personnel. These federal regulations cover employment rights, health, safety and other conditions of employment of the seamen as well as making requirements concerning the number of qualified personnel who must be on board before the vessel can sail. In addition, employees recruited from the Maritime Unions are covered by

private Taft-Hartley health and welfare and retirement trusts and would not automatically participate in the state retirement system or in its other benefit coverage without considerable loss of benefits. For Merchant Seamen, engineers and mates recruited from the private sector, the state's wage classification system would not provide a competitive salary. Therefore, the state decided at the inception of its involvement in the marine transportation enterprise, that the employees should be exempt from the State Personnel Act. None of these reasons has changed and therefore Mr. O'Claray recommends that the Marine Transportation System employees remain in the exempt service.

Roger Thayer added that the ferry system receives approximately 1200 applications a year. They must be submitted to the department between February 1st and March 10th. The personnel office ranks them based on training and education, and shoreside and maritime experience. Grades range from 70 points for a person without a high school diploma and with no relevant work experience to 110, for someone with the previous shipboard experience in a field directly related to steward's tasks who also holds a Coast Guard license for lifeboatman. Hiring is usually done by late April. This system was developed as a resolution to EEO complaints claiming that the ferry system discriminated against women and minority applicants. Most positions which are above the entry level are filled by promotion.

Senator Ray raised the question of the membership of the Public Employment Retirement System board. The statutes presently require that the three members of the Personnel Board sit on the PERS board as well as on the Labor Relations Agency. He asked whether any of the commission members believed that the overlap in membership was important. Cherie Shelley pointed out that as a result of recent legislation, the PERS board is now responsible for decisions concerning the Alaska Supplemental Benefits program and the Deferred Compensation program, in addition to the retirement program. Therefore, their duties have significantly increased. It makes sense to limit the demands on the time of those board members, who are all volunteers. Without objection the commission agreed to draft a bill to change the membership of the Retirement Board. Two alternatives were proposed: to eliminate the members of the Personnel Board from membership on the PERS board and replace them with one member appointed by the Governor and two members elected from the retirement system; and to increase the size of the PERS board while leaving the members of the Personnel Board on it.

The commission reviewed the memorandum on employee service credits and then recessed for lunch.

The meeting reconvened at 1:30 p.m. Eric Yould, Executive Director of the Alaska Power Authority, addressed the members on the question of why the power authority employees are in the exempt service. Of the 16 employees, 14 have college degrees. He believes that they should remain in the exempt service. The Authority would have difficulty meeting its deadlines if it had to go through the red tape of hiring

employees through the classified system.

The Alaska Power Authority was structured by the Legislature to permit it to become similar to a public utility district which is a form prevalant in the lower 48. Mr. Yould was concerned that changes which might be made in the structure of the Authority now would foreclose flexibility in the future when the Authority has developed to the extent anticipated by the legislature. He wanted to preserve those options for future employees. It is anticipated that there will be power plant operators, linemen and so on, once the structures are in operation.

In answer to a question from Darlene Livermore, Mr. Yould explained that although most of the employees have degrees, they perform general professional kinds of duties rather than highly-technical tasks. Mr. Yould added that he is not opposed to union membership for the clerical employees of the Authority.

The commission began its discussion of the review on the State Personnel Act. See attached comments and recommendations.

Fred Cook, personnel officer for the Department of Fish and Game, addressed the commission about a number of his concerns. The Personnel Division has been receiving a large number of applications for the positions available, especially for permanent seasonal positions. Changing from hiring temporary employees to hiring permanent seasonal employees has increased the Department's recruiting expenses from $8,000 - $57,000 this past year. Contacting the applicants through phone calls and telegrams has been difficult because frequently people do not reply. Therefore, the department continues to send them telegrams or to call them for other positions. He knows of one gentleman who received approximately 30 telegrams and didn't answer any of them.

Many applicants state they will accept employment anywhere in the State, but when the department contacts them, they say that they are not interested in going to such and such place. Mr. Cook suggests that if anyone rejects a job offer, he be removed from the state register at once. The application form should specify four regions of Alaska (such as Southcentral, Southeast, Central and West) to narrow down areas in which the applicant says he will work. It would speed up the process for his people and also would save the department a tremendous amount of money. He figures that the department, as a whole, spends upwards of $200,000 a year just in recruitment.

Another problem area is in insuring that applicants are Alaskan residents. No one verifies the information provided by the applicant.

The scoring of the applications is also a problem. There are approximately 100-200 applicants with the same score all ranking #1 on the register. He suggested a more sophisticated grading system to rank these applications so that the top group would have fewer applicants in it. The department then would have fewer people to consider when filling a position.

Mr. Cook also suggested changing the length of time for recruitment of bush positions. Presently it is 30 days. He would like it changed to 60 days to enable the recruiting people time to have applications corrected and the applicants time to get it done. He gave an example of a problem he had today. The department has a Fish & Game Resource Specialist II position, at range 16, open and there's an Alaska Native in Angoon that they would like to hire. They want a bilingual person. The applicant forgot to sign his application. In order to meet the application deadline, Mr. Cook had to contact him, which took five telephone calls to Angoon, take the application out to Channel Flying and instruct the pilot on what needed to be done, fly the application to Angoon for the gentleman's signature and have it returned by 3:00 p.m. that afternoon. He estimates that particular problem costs his department $200.

Jerry Reinwand, Executive Assistant to Governor Hammond, addressed the commission at its request. He explained that the Governor's Office is in the process of reviewing the separate agencies which are located within it to decide whether they should remain as part of the Office or whether it would be more appropriate to attach them to one of the departments. There are questions which make the decision difficult in some cases. For example, the Human Rights Commission should avoid even the appearance of being subject to political pressure, and therefore, it would appear to make sense that it be placed in one of the departments rather than the Governor's Office. However, it should also be insulated from the pressures of being a line agency within one department, and therefore, it may be inappropriate to place it in a department. Mr. Reinwand indicated that he has questions about whether the staff of the Division of Budget & Management and the Division of Policy Development & Planning and the Office of Internal Audit need to be in the partially exempt service. Since the review process has not been concluded, Mr. Reinwand suggested that the commission wait for its results as an expression of what the Governor recommends on the question of who needs to be in the exempt service.

The commission recessed at 3:20 p.m. until 10:00 a.m. Thursday, October 30.

Senator Ray, chairman, reconvened the meeting at 10:00 a.m. on October 30.

Kerry Romesburg, Executive Director of the Postsecondary Education Commission spoke in response to the commission's request.

The Postsecondary Education Commission has 30 permanent employees and adds four nonpermanent employees to its staff in the summer. He indicated that although the statutes place himself and the staff in the exempt service, in reality the commission uses the same pay scale as the classified service, the kinds of work which most of the employees do is similar to work done by classified employees and, except for hiring employees from the registers, the commission operates under most of the

procedures of the Personnel Rules. Of the 30 employees, 16 are loan repayment, awards and collection clerks. Three others are clerical employees, two are in the administrative assistant class and the remainder are professional employees. He added that as permanent exempt employees, the commission employees receive benefits as do permanent classified employees.

There being no more questions for Mr. Romesburg, he was thanked and excused.

John Pugh commented that it did not appear that the Post-secondary Education Commission needed to be in the exempt service. He recommended that if the Blue Ribbon Commission is going to clean up the State Personnel Act, that each of the boards and commissions which presently has its staff placed in the exempt or partially exempt service be carefully reviewed.

The commission then returned to reviewing the draft of the State Personnel Act. Comments and recommendations are attached.

Senator Ray stated that when a redraft of the Act is available the commission will meet again. Without objection, the meeting was adjourned at 11:30 a.m.

October 29, 1980

MEMBERS IN ATTENDANCE

Senator Bill Ray, Chairman
Diane DeSimone (for Bruce Cummings)
Bill Huston
Paddy Moriarty (for Frank Flavin)
Fred Muller
Greg O'Claray
John Pugh
Cherie Shelley
Roger Thayer (for Lynda McCurry)

OTHERS IN ATTENDANCE

Darlene Livermore
Bob Mourant

October 30, 1980

MEMBERS IN ATTENDANCE

Senator Bill Ray, Chairman
Diane DeSimone (for Bruce Cummings)
Bill Huston

Fred Muller

John Pugh
Cherie Shelley
Roger Thayer (for Lynda McCurry)

OTHERS IN ATTENDANCE

Darlene Livermore
Bob Mourant

A D D E N D U M

To the

MINUTES

October 29-30, 1980

COMMENTS AND RECOMMENDATIONS ON THE STATE PERSONNEL ACT

Page 2
Line 7

AS 39.25.080. Public Records.

Cherie Shelley was concerned that the Division of Labor Relations might use this section to assert that information APEA needed in preparing cases was confidential and could not be released. Senator Ray suggested adding For the purpose of this Act at the beginning of the sentence on Line 7.

In discussion of paragraphs (1)-(5) members noted that paragraph (1) provides for information on all state employees and that paragraph (2) provides for information about an individual employee. Members decided that the phrase state employee should be used rather than the phrase "state officer or employee".

Page 3
Line 1

AS 39.25.110. Exempt Service.

After discussing the standards proposed in subsection (a), the commission members decided to delete all of (a).

The commission will consider whether the employees of the agenices named in paragraphs (11) and (12) should remain in the exempt service after further testimony on the question.

A question was raised about the difference between the exempt and classified service. An employee in the exempt service is not hired from the register, does not get paid according to the pay plan, and can be fired at will. In the classified service there must be just cause before an employee can be fired.

Page 5
Line 23

AS 39.25.120. Partially Exempt Service.

Assistant Commissioners should be added to paragraph (1).

Page 6
Line 8,
23 & 27

Commission members asked why the state forester, hearing examiners in the Department of Revenue and the Chief of Subsistence in the Department of Fish & Game should be in the

partially exempt service. The question will be considered later.

Page 6 Line 29 — Bob Mourant pointed out that there are airport managers for smaller airports who are not in the partially exempt service. Only the managers of the Anchorage and Fairbanks International Airports are partially exempt. Paragraph (16) should be changed to reflect this.

Page 7 Line 2 — The commission will consider in the future whether the deputy director of the division of tourism and the deputy director of the division of insurance should remain in the partially exempt service.

Page 8 Line 5 — AS 39.25.140. Amendment of Personnel Rules.

The question of the distinction between public policy and internal management was raised. Paddy Moriarty suggested that instead of the phrase "public policy", that the draft should say <u>whether it affects the public or is used by an agency in dealing with the public</u>. Senator Ray suggested looking at the language which was used in the Alcoholic Beveral Control Board bill last session to help clarify the distinction between public policy and internal management regulations. Cherie Shelley pointed out that many of the subjects covered in the Personnel Rules have been included in the collective bargaining agreements. Therefore changes in the Rules which are contrary to the substance of the contracts would have little practical effect.

Page 8 Line 20 — The commission decided that the Personnel Rules should be required to be published in the Alaska Administrative Register and Code and therefore that the word "may" in paragraph (4) should be changed to <u>shall</u>.

Page 8 Line 27 — AS 39.25.150. Scope of the Rules.

The commission decided that the Personnel Board should also approve the classification plan.

Page 9 Line 18 — Senator Ray suggested finding a clearer phrase than "sound employee selection methods" for this paragraph.

Page 11 Line 4 — After considerable discussion about the veteran's preference system, the commission decided not to amend this paragraph. Under the present system, a veteran receives the five additional points only on the applications he files before he is hired. Once he has accepted a position with the state, then any applications for other positions which he has filed are rescored to remove the 5-point bonus.

Page 12 Line 7 — Senator Ray suggested investigating the definition which the director of the division of vocational rehabilitation uses in

determining whether a person is severely handicapped. It might be appropriate to include that definition in the State Personnel Act.

Page 12 Line 10 — In discussion of paragraph (23), the commission questioned the definition of programs and disadvantaged persons. Senator Ray suggested adding that the programs could not be against the standards of a merit system of employment.

Page 12 Line 18 — AS 39.25.153. Personnel Officers.

Diana DeSimone pointed out that the Department of Law does not have a Personnel Officer so subsection (a) should be redrafted. It should read: <u>If a principal department of the executive branch requires a personnel officer, then the personnel officer shall be permanently employed by and located within the department</u>.

Page 12 Line 22 — She also suggested that the whole section be deleted since the director of the division of personnel has the authority under AS 39.25.150 to delegate authority for personnel actions to the personnel officers of the departments and since that authority has been delegated recently. Roger Thayer replied that the delegation is recent and that he would prefer to have some authorization for independent action by the personnel officers remain in the Act.

Page 12 Line 22 — The commission decided to delete the language authorizing the personnel officers to act contrary to the Personnel Rules so that subsection (b) begins with the phrase <u>Subject to the provisions</u>.

Page 13 Line 7 — The commission also decided to delete paragraph (4) which would have given the personnel officers authority to make rules concerning the methods and procedures for overtime work and pay.

Page 13 Line 15 — In order to provide for consistency in the personnel policies of the state, the commission decided to require that the commissioner of administration must approve the exercise of any powers under this section, rather than the commissioner of the department in which the employee worked.

Line 13 Line 17 — AS 39.25.160. Generally.

After discussion of the meaning of "precinct level" the commission decided that the phrase should be defined in the State Personnel Act.

Page 13 Line 23 — To clarify subsection (b), Senator Ray recommended changing it to read: ... in connection with <u>securing or making</u> an appointment....

Page 13 Line 26 — Senator Ray recommended that subsection (c) be made to apply to all state employees rather than just those in the

classified service.

Page 14 Line 6 — The commission decided that protection against actions based on unlawful discrimination due to race, sex, color, religion, national origin, age or handicap should be extended to all state employees. Classified employees should be protected against discrimination based on political beliefs.

Page 14 Line 11 — Senator Ray recommended adding the word knowingly to the first line of subsection (g) so that it reads: A person may not knowingly make a false statement....

Definitions should be included in the Act for "fraud" and for "knowingly".

Page 14 Line 16 — Subsection (h) should be changed to read: "...person may not unlawfully defeat, deceive, or obstruct....

Page 14 Line 27 — AS 39.25.170. Hearings and appeals upon dismissal, demotion, or suspension.

The commission decided that all state employees should have the right to appeal actions based on unlawful discrimination. Subsection (c) should be redrafted to provide for this. Classified employees should have the right to appeal actions based on unlawful discrimination due to political beliefs.

Page 15 Line 2 — Subsection (d) was phrased unclearly. It should be redrafted to read:

A permanent employee in the classified service who holds probationary status in his present position may appeal a dismissal from the classified service the Personnel Board.

Page 16 Line 6 — AS 39.25.185. Employment of Federal Employees.

The commission decided that this new section should be deleted.

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BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT
Capitol Building, Juneau
August 19, 1980

MINUTES

Senator Ray, Chairman, called the meeting to order at 1:35 p.m. The commission continued its discussion of the State Personnel Act begun at its meeting on Monday, August 18th.

AS 39.25.140 (Amendment of the personnel rules). Senator Ray pointed out the distinction between those rules governing the internal management of agencies and those rules which affect the public and should be considered matters of public policy. Rules which affect the public should be subject to public review before being adopted or amended. He suggested that subsection (e) be amended to limit the exemption from the Administrative Procedures Act to those rules affecting only the internal management of state agencies. A new subsection should be added requiring that those rules which affect the public must be enacted pursuant to the APA. He also directed the staff to ask the Attorney General's office and the legal staff of the Legislative Affairs Agency to prepare opinions on what legal authority the rules have.

Darlene Livermore pointed out that most of the collective bargaining agreements which the state has entered contain a clause which says that if there is a conflict between the contract terms and the Personnel Rules, then the contract terms govern. Only if the contract is silent on a subject do the Personnel Rules apply to employees who are members of collective bargaining units. Since almost all of the classified employees in the state are members of collective bargaining units, the Personnel Rules have a very limited application. Because of this, most state employees are probably not even aware that the state has Personnel Rules.

Senator Ray pointed out that the political climate is not necessarily favorable to the present public employee collective bargaining situation and that it is possible that the governor or some legislators will sponsor legislation to change the present system. Therefore, it is appropriate to be concerned about the personnel system.

The commission discussed the distinction between exempt, partially exempt and classified employees. There are about 500 employees in the partially exempt service and 5 employees in the classified service who are not members of collective bargaining units. Senator Ray asked for reasons for preserving both the partially exempt and exempt services. Bruce Cummings replied that partially exempt positions are appropriate where the work performed is essentially similar to other kinds of positions in the state. For example, the salary and job title and most of the duties of a clerk typist in the Office of the Governor are comparable to other clerk typists. However, it is appropriate for the Governor to be able to appoint and dismiss the employee with greater ease than if the position were covered by the protections of the classified service.

Positions are appropriately placed in the exempt service when the salaries which must be offered to attract skilled employees are not included in the

state's pay plan, when the position is not expected to last long or requires unique responsibilities, and for the political appointments which the chief executive needs to be able to make for policy reasons.

The classified service provides salary integrity and protections from arbitrary hiring or firing decisions.

AS 39.25.150 (Scope of the rules). The commission discussed cleaning up the language of this section to delete material more appropriately included in the rules. Bruce Cummings pointed out that subsection (2) does not make provision for paying employees pursuant to a valid collective bargaining agreement, although the state has interpreted the language to permit paying employees based on pay plans adopted under union contracts. The commission agreed that language should be proposed to address this problem. Darlene Livermore added that while she agrees that the section should be cleaned up, she thinks it is important to preserve the statements of principles which are presently there, such as "like pay for like work."

On the question of crediting work experience as an alternative to formal education, and on the question of tests, Bruce Cummings explained that the laws requires employers to be able to demonstrate that any tests for employment are consistently able to predict that those who receive good scores are more likely to be successful employees than those who receive lower scores. The state is trying to develop validated tests, but it is a difficult process and there are only three employees in the division who are assigned to that project. The state has fewer than 15 tests which would be likely to withstand a challenge in court. Furthermore, the tests which the state is discarding for the validated tests have been, in fact, irrelevant. For example, there was an excellent accountant in the Division of Finance who was marked for promotion. He took the old exam five times and failed it each time. When the new, validated exam was ready he took it and was number one on the register.

Senator Ray pointed out that there is another problem - that of being sure that the job description is kept current so that the job classification actually reflects the duties of the position. The state needs a full scale desk audit program.

AS 39.25.153 (Personnel Rules for certain departments). Lynda McCurry reported that the personnel officers in the departments continue to believe that they can perform their jobs better if they are the employees of the departments in which they work rather than the employees of a centralized Division of Personnel. The Division of Personnel has recently begun to decentralize several personnel functions to the departmental personnel offices.

Bruce Cummings raised questions about subsection (b) which gives the departmental personnel officers authority to adopt regulations for those positions unique to their departments. At present those powers have not been exercised, but if they were, the state could find that there were significantly different working conditions for groups of employees based only on which department they worked for. Consistency is important, not only for morale of the employees but also because the state has to comply with the terms of the collective bargaining agreements it enters.

Delegating greater authority to the departmental personnel officers increases the importance of auditing. In the 1980 Report the commission recommended that annual audits be performed either by the Division of Personnel or by some other agency. Mr. Cummings has thought about the question and believes it would be better for a third party to perform the audit since the Division of Personnel needs to remain effective as a service agency, rather than being perceived in a policing role. The division would, of course, work closely with whoever did the audit to provide information and expertise as requested.

Senator Ray suggested that the subsection might be changed to enable departmental personnel officers to adopt only rules which relate to the internal management of the department for classes which are unique to the department.

Don Fisher raised the question of setting up a system for a periodic review of the Personnel Rules to insure that they accurately reflect the changing policies and procedures of the state. Senator Ray directed the staff to investigate the feasibility of doing so.

AS 39.25.155 (Vocational substitution program). Bruce Cummings pointed out that the positions which fall within the program have all been placed in the Local 71 bargaining unit. The program is therefore no longer used, since Local 71 members are hired through a union-operated hiring hall. The union system does not include the kinds of minimum qualifications which the state uses in evaluating applicants.

Lois Jund asked whether subsection (g) which establishes a one-year residency requirement was still legal. Mr. Cummings replied that it wasn't.

AS 39.25.160 (Prohibitions). Senator Ray suggested that subsection (e) should provide that partially exempt employees as well as classified employees are required to resign from their positions in the state service when they seek nomination or become candidates for state or national elective political office.

Bruce Cummings indicated that the Rules do require a partially exempt employee to resign, even though the statute does not.

AS 39.25.170 (Hearings and appeals). Senator Ray asked whether an employee could require that hearing be open to the public. Bruce Cummings replied that the Personnel Rules do give the employee this right. Senator Ray suggested amending the section.

AS 39.25.180 (Status of present employees). Senator Ray pointed out that the first three subsections of this section are obsolete.

AS 39.25.195-200 (Nonpermanent law). The law has not yet been in effect for a full year and therefore it is too early to consider whether it needs to be changed. The commission should review figures on positions which used to be temporary and are now seasonal as a result of the procedures created by the nonpermanent law at a later time.

AS 39.25.210 (Penalties). The commission will consider later the question of implementing a graduated penalty schedule, whether there should be administrative penalties set out in the statute and whether it is appropriate that

being found guilty of a willful violation of the Rules leads to conviction of a misdemeanor.

AS 39.10.010 (Nepotism prohibited). The commission agreed that a stronger statute prohibiting nepotism should be prepared for its review.

Senator Ray directed the staff to prepare a work draft of a revision of the State Personnel Act with the help of the Legislative Affairs Agency legal division. The commission will meet when the draft has been completed, which should be in one month.

Senator Ray adjourned the meeting at 2:55 p.m.

MEMBERS IN ATTENDANCE

Senator Bill Ray, Chairman
Don Fisher, Vice Chairman
Bruce Cummings
Duncan Fowler (for Frank Flavin)
Representative Jack Fuller
Lois Jund
Darlene Livermore (for Cherie Shelley)
Lynda McCurry
John Pugh

OTHERS IN ATTENDANCE

Bob Mourant

BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT
Capitol Building, Juneau
August 18, 1980

MINUTES

Senator Ray, Chairman, called the meeting to order at 10:00 a.m. He asked for testimony from the public. Julie Issac called the commission's attention to a problem that she is having with the state's retirement system.

Mrs. Issac retired in 1976, at which time the Retirement Division on four separate occasions had advised her that she was eligible for more than nine years of credited service with the state. As the result of an amendment to the laws three months after she retired, she was also told she would receive credit for an additional three years of military service. Her benefits were calculated on that basis. In 1979 Mrs. Issac received a letter from the Retirement Division advising that their original computations had been in error. She had been credited with 4½ years of service to which she was not entitled, part of which was for employment with the University of Alaska. Furthermore, she had received over $5000 in overpayments which would have to be paid back to the state. In the beginning of January, 1980, the division began reducing her retirement check by $100 per month to be credited towards the overpayment, in addition to having reduced her check because of the decrease in the years of credited service.

Mrs. Issac was advised that she could appeal the division's decision to the Retirement Board at their next meeting. She was unable to attend but a friend did read a letter to the board which preserved her appeal rights. Following that hearing, Mrs. Issac asked that the state waive collection of the debt. According to its interpretation of the statutes, the only ground upon which the division can waive repayment is hardship. The division therefore required that she submit information not only about her own financial situation but also about her husband's. Mrs. Issac questioned why her husband's information should be considered since it is her retirement credit which is under question.

Mrs. Issac added that the basis for denying her period of employment with the University of Alaska was a regulation adopted by the Retirement Division in 1978 - two years after she retired. Without credit for the University of Alaska employment, she needs an additional 13 months state employment in order to claim her territorial service.

Early in July, Mrs. Issac wrote to Commissioner Hudson asking for assistance in finding employment with the state so that she could work for the time needed to then receive credit for her territorial service. She was no longer eligible to be placed on the state's rehire lists because more than 2 years had elapsed since she left state employment. She has also asked the Governor's office for assistance in finding a position in which she can earn the necessary service credits. Mrs. Issac pointed out that she had been a loyal and responsible state employee but that she believes that the state has treated her shabbily and that she is becoming bitter.

Lois Jund stated that while she was at the Department of Health and Social Services, several people had talked with her about receiving similar notices from the Division of Retirement. Bruce Cummings explained that while

he was working in the retirement division he noticed that there was a constant flow of files with errors. Therefore, the director of the division ordered a wholesale audit of all of the PERS and TRS records. Any with errors would be adjusted as of the date of the audit. Although he had no sure figures, Mr. Cummings estimated that 3 to 5% of the files contained errors. Because the retirement statutes require that any errors in benefits be corrected, the division does not have the authority to write off any overpayments which a retired person may have received. He suggested that the legislature consider giving the retirement boards authority to waive recoupment of overpayments in certain situations.

Duncan Fowler pointed out that Mrs. Issac's case raises two questions. First, whether the state ought to be prohibited from seeking repayment because she had based her retirement plans on information provided by the state and over 3 years had elapsed since then. The second problem is with the state's investigation into her husband's financial situation when considering whether to grant her a hardship waiver. Lois Jund pointed out that in the federal retirement system there is a statute of limitations and that they can only seek to correct errors which occurred within the past two years.

Dick Smith said that Mrs. Issace has two complaints against the state: being charged with an overpayment which resulted from the state's errors and being denied 4½ years of credited service. It appears that because the Retirement Board is considering her appeal, there can be no immediate appeal to the courts, although, on the basis of the information which she has provided it seems likely that she would be successful in court. He suggested that it would be appropriate to change the retirement statutes to provide for a statute of limitations against attempts by the division to collect for errors which it caused. Bruce Cummings added that since there are between 80 and 90 other employers who participate in PERS and TRS, any changes should be carefully drafted to apply only to the state's employees.

Mr. Smith added that the second part of Mrs. Issac's problems - denial of service credits for her work with the University of Alaska - is harder to remedy since the University is a separate entity according to the state constitution. The University voluntarily joined the retirement system in 1978, but before that work with the University did not apply to the state's retirement system.

Senator Ray suggested that there should also be some recourse for an employee who wanted to return to work for the state to build up retirement credits. Bruce Cummings explained that if there was a 2-year statute of limitations for asserting overpayments, then an employee would still have rehire rights and would therefore be entitled to preference for any vacancy in the job class from which she or he retired. Mrs. Issac also asked that if the commission sponsored any legislation that it be made retroactive to resolve her problems as well as helping other employees.

Senator Ray asked whether the commission approved sending a letter to the Retirement Board concerning the commission's suggestions for future legislation. There was no objection. Staff was directed to work with Deputy Commissioner Smith on a draft of the letter.

The commission began consideration of the memorandum on public inquiries.

Issue 1. Posting of promotional opportunities on bulletin boards. Darlene Livermore explained that APEA and PSEA take different approaches to protecting their members' interests in access to promotional opportunities.

Issue 2. Postsecondary Education Commission. Senator Ray pointed out that whether these positions should be in the exempt or classified service raises the ongoing question of ease of hiring versus protection of the rights of employees. This question will be discussed during the review of the State Personnel Act.

Issue 3. Delay in processing applications. Bruce Cummings explained that the division received some 5,500 applications in July, and that this volume has partly caused the delay. In addition, all of the processing is done manually at present. The division hopes that the number of applications will decrease in August. There has been no turnover in the division staff for the last three months, which should also help reduce the time to process applications. They are implementing a system of block scoring for all job classifications in which that is possible and also hoping to move toward an automated record keeping system. However, if the volume of applications continues to increase, it may not be possible to decrease the time.

Mr. Cummings explained some of his division's long-range plans for speeding up the application process. They are investigating a computerized automatic classification tracking system, but first the state job classification system has to be restructured. This system does not read applications, establish whether the minimum qualifications are met, nor does it score the examinations. However, the state is also investigating a self-administered training and experience rating system which appears to work with the clerical classes but not others. An additional problem in the classification computer system is that it is not designed to fit into the IBM equipment which the state presently uses and therefore there is a conversion problem.

Senator Ray moved that the commission write to the Commissioner of Administration asking him to outline what he thinks needs to be done to shorten the application process time to a more reasonable period. The motion passed without objection.

Issue 5. Geographical cost of living differentials. The commission noted that this is a matter which is addressed in the collective bargaining contracts.

Issue 6. Employee credits. Bruce Cummings explained that employee credits are designed to encourage retention and promotion of state employees and to discourage breaks in service. The system awards these extra points only to permanent classified employees. John Pugh pointed out that the system can work against employees who for family reasons are forced to move from one area of the state to another without having a new job lined up, although they intend to remain in state service if they can find employment. They lose their points as soon as they resign from one job, even though they may return to work within a short period of time. The same thing happens to classified employees who accept employment in the partially exempt or

service. They lose their accumulated credits upon resigning from the classified position. Lois Jund suggested that the commission recommend that the state do away with the system of employee credits. Senator Ray proposed that the staff research the advantages and disadvantages of employee credits and other bonus point systems and report to the commission.

Senator Ray asked whether there were any statistics on the number of permanent seasonal positions created for positions which had been previously filled by temporary employees and how many nonpermanent positions there were. Bruce Cummings replied that it is not yet available. Senator Ray pointed out that the newspapers had reported 1100 new positions created by the budget but that in fact from the information presented to the Finance Committee he thought that there were no more than 300. The rest were already in existence because of Revised Programs which had been started before the new fiscal year or through converting CIP positions.

Senator Ray adjourned the meeting at 11:42 for lunch.

The commission reconvened at 1:30 p.m. and began discussion of the Revision of the State Personnel Act memorandum. Only those sections on which there was discussion will be noted.

AS 39.25.040. Director of personnel. The staff was directed to find out what the statutes say about the position of the Director of Labor Relations and the actual duties of the director.

AS 39.25.060. Personnel board. Senator Ray pointed out that this section includes unnecessary language and should be cleaned up. He asked whether there was a need for the Personnel Board since most of their original functions are now performed through collective bargaining. Mr. Cummings replied that there are still five employees who are in the classified service but not members of any bargaining unit. The State Personnel Act and the Personnel Rules govern all of the terms and conditions of their employment. In addition, some of the members of the Confidential Employees Association have petitioned the Labor Relations Agency to be taken out of the CEA unit, which would add them to this group of five. The Personnel Board adopts the Personnel Rules and amendments and some body is needed to continue to do that. Senator Ray asked the staff to contact the Personnel Board to ask whether they should continue in operation.

AS 39.25.080. Public records. Mr. Cummings explained that the Personnel Rules which implement this section provide for confidentiality for personal information about state employees. The public does have access to information about who is a state employee, where he works, how much he is paid, and how long he has been employed. Confidential records include information about an employee's familyand performance evaluations, although any state supervisor who is considering hiring a present state employee does have access to the whole personal file. Every employee can see his entire file at any time and have copies of anything in the file. Secret files are forbidden.

Senator Ray suggested tha the statute be changed to specify which information is open to the public and which information is to be kept confidential rather than relying on the Personnel Rules to set those standards. Mr. Cummings mentioned that there are a number of conflicting laws on this subject already.

AS 39.25.110. Exempt service. The commission discussed the groups who are made members of the exempt service and agreed that the section should be recodified. Duncan Fowler suggested that the commission should hear from those entities which have employees in the exempt service to learn whether there are positions which should be transferred to the classified or partially exempt service. Senator Ray also directed the staff to inquire of Greg O'Claray whether there is still a reason for the employees of the ferry system to be in the exempt service.

AS 39.25.120. Partially exempt service. The commission discussed specific language changes which should be made to clean up this section. In addition, Duncan Fowler suggested that the commission should develop a policy statement for the exempt service comparable to the policy statement found in AS 39.25.130 concerning the partially exempt service. Mr. Cummings explained that positions in the partially exempt service are similar to other state jobs and therefore can be placed in the job classification plan and paid according to the pay plan but they are not susceptible to ordinary methods of recruitment or they require greater flexibility in hiring and dismissal than do positions in the classified service.

On the other hand, exempt service positions are not subject to either the state's classification plan or the pay plan. They are generally meant to be jobs which are so unique or of such short duration that it is more appropriate not to try to fit them into the system. The Division of Personnel makes no attempt to develop a job description for exempt positions, to classify them, or to set the salary for them. There is a need for both the exempt and the partially exempt service, in addition to the classified service. Lois Jund added that the state really has four services: the exempt, the partially exempt, the classified service which participates in collective bargaining with the state, and the classified service positions which are not unionized.

AS 39.25.130. Extension of partially exempt and classified services. Senator Ray suggested eliminating the reference to dates in this section.

AS 39.25.140. Amendment of personnel rules. Senator Ray suggested that the law should provide two methods for adoption of the Personnel Rules. Those Rules which affect the public policy should be adopted through the Administrative Procedures Act. Those Rules which are matters of internal management only, could be adopted without the procedural requirements of the APA.

The commission will meet to review a proposed draft of a revised State Personnel Act in September.

Senator Ray adjourned the meeting at 3:45 p.m.

MEMBERS IN ATTENDANCE

Senator Bill Ray, Chairman
Don Fisher, Vice Chairman
Bruce Cummings
Duncan Fowler (for Frank Flavin)
Representative Jack Fuller
Lois Jund
Darlene Livermore (for Cherie Shelley)
Lynda McCurry
John Pugh
Dick Smith

OTHERS IN ATTENDANCE

Bob Mourant

ADDENDUM: Correction for the Merit System/Collective Bargaining and Full Commission minutes of November 15, 1979 - Frank Flavin was present at the meeting. It had been erroneously recorded that he had been absent.

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.

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Signature of Camera Operator

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Date

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SCOMM

#51:3

BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT
State Capitol, Juneau, Alaska
December 4, 1980

MINUTES

Senator Ray, chairman, called the meeting to order at 10:00 a.m. and asked commission members to consider the draft bill limiting the adjustment of retirement benefits. Paddy Moriarty asked why, in subsections (b)(1) of the first two sections of the bill, the date set was after the incorrect benefit was first paid rather than after the individual had retired from state employment. It was pointed out that the purpose of the bill is to set a statute of limitations and that beginning to run the period from the first incorrect payment was a reasonable decision.

Bruce Cummings pointed out that the Public Employment Retirement System board presently has an appeals procedure to consider cases in which overpayments have been alleged by the Division of Retirement and Benefits and the retired person has difficulty in repaying the amount. However, an individual can knowingly allow an overpayment to be made, and in those cases it would be appropriate for the state to seek to recover the amount overpaid. The review system of the PERS board would permit this but the proposed bill would not.

Senator Ray asked how the state should handle the situation in which an employee retires after having received written computations from the division setting out his years of credited service and the amount of benefits to which he will be entitled and later is told that the figures were incorrectly calculated. Therefore, the amount of his benefits will be reduced. Senator Ray asked whether it would be fair to require the state to rehire the retired employee in the job from which he retired. The retired employee would then have an opportunity to earn the credits which he was initially informed he had.

Bruce Cummings suggested that this would injure the employee who had replaced the retiree on the job. The new employee might have resigned from a job to accept the new position and giving the retired person back his old job would mean injuring the new worker. Some other system for addressing the problem should be developed.

Fred Muller asked what the frequency of error in the computations of length of service credits is. Lois Jund explained that a number of cases had arisen at the same time several years ago when the Division of Retirement and Benefits performed a wholesale audit of the retirement system and discovered a number of errors. Many of the cases which were raised involved overpayments of from $1000 to $5000. It was often very difficult for the retired person to repay this large an amount. Mr. Muller asked whether any of the commission members knew how many state

employees retire expecting to be eligible to receive retirement benefits and then discover that an error has been made and that they are not eligible for any benefit at all.

Paddy Moriarty replied that the Ombudsman's office has received information of several cases in which people wrote to the Division asking for a computation of their creditable service. They received a written response and then retired. Later the division reviewed their file and disallowed some portion of the service which had been previously included in the computation. Bill Huston added that some of the computation errors occur because of statutory changes. The formulas for computing creditable service are complicated so that an employee cannot simply add up the number of months he has worked for the state and know the length of creditable service or the retirement benefits he will be entitled to.

Bruce Cummings suggested that there are two possible solutions to the problem which the commission is considering. The state could offer assistance to those whose creditable service has been erroneously computed in returning to work, as has been done for Julie Issac. In addition, the PERS board has the authority to waive recoupment of overpayments in cases of hardship. Senator Ray pointed out that in Mrs. Issac's case, the appeal to the board took 2-1/2 years to reach a decision and that her petition was denied because her husband's resources were considered in evaluating whether collecting the overpayment would be a hardship to her. On that information, the board found that it would not be a hardship if she were required to repay the money to the state. The issue was finally satisfactorily resolved through the efforts of the Governor's Office and the Attorney General.

Senator Ray asked whether there was any objection to adding a statute of limitations to the adjustment provisions of the retirement benefit law. Fred Muller suggested that it would be appropriate to require that the larger cases of overpayments be reviewed by the PERS board rather than automatically waiving any recoupment. He suggested that the statute of limitations should not apply to those cases in which the overpayment had been more then 10 per cent of the monthly benefit to which the retired person was correctly entitled. Senator Ray asked whether there was consensus on Mr. Muller's proposal. There was no objection.

The commission then considered the draft bill relating to the nepotism in state employment. Terry Cramer, the administrative assistant to the commission, explained that this bill was an attempt to place the provisions of the Personnel Rules prohibiting nepotism into statutory form. The drafter changed the language of the Personnel Rule, which uses the term "appointing authority" and instead used the term "person making the appointment" in the draft.

Darlene Livermore stated that the Alaska Public Employees Association has three concerns about the proposed bill. The current statute prohibits employment of persons related to the commissioner of the department. The intent of the legislature was therefore probably to

discourage political patronage in the state employment. The Personnel Rules probably were drafted with the same theory as their basis. Recently in the Civil Service Reform Act of 1978, the federal government repealed a 90-year old nepotism law which had a general application. Congress retained prohibitions against abuse of power by elected officials, aiming again at political patronage. Secondly, Ms. Livermore raised the issue of whether the present draft is in opposition to laws protecting certain classes of people from employment discrimination, particularly, from discrimination based on marital status or change in marital status. The third issue which APEA is concerned about is access to employment. Unlike most locations in the Lower 48, there are a number of communities in Alaska which have only a few major employers. For example, in Valdez there are two -- the division of highways and the division of mental health. Both to provide employment opportunities for the people living in those communities and to provide a pool of employees for the state, the nepotism laws should not be unnecessarily stringent.

Bruce Cummings said that he did not disagree with the points which APEA was raising and that the provision of the Personnel Rules gives the director of the division of personnel authority to waive enforcement of the rule. He added that could not recall an instance in which he had refused to waive enforcement of the rule. However, it is appropriate to have each case of employment of close relatives considered in order to prevent abuse.

Ms. Livermore explained that she did not object to the present situation in which the statute addressed nepotism at the commissioner level and the Rules had broader application, but that putting the provisions of the Rules into the statutes would provide the courts with a greater opportunity for review and limitation. Mr. Cummings explained that the Attorney General has advised the division that the scope of the rule is broader than the rule-making authority granted by the statute. Therefore, enforcement of the rule could probably not be defended successfully in court.

Representative Fuller asked whether there were regulations for elected officials. Senator Ray replied that the State Personnel Act applies only to the executive branch of government. Representative Eliason asked whether nepotism was a lively issue. Mr. Cummings answered that there are some communities in the state in which there has been considerable public interest in the question. Senator Ray asked whether there were any objections to the commission sponsoring a bill which would put the language of the Personnel Rules into the statutes. Darlene Livermore registered APEA's objection.

The commission next considered the draft to require that the regulations adopted by the retirement board be subject to the Administrative Procedure Act. Members commented that the draft did not follow the instructions which the commission had given the drafter and decided to defer consideration of the subject until a redraft was available.

The commission considered the draft bill relating to membership of the Public Employees Retirement Board. Lois Jund suggested that the draft be amended to require that of the four members elected by the members of the retirement system, at least one must be a retired person. The amendment was adopted without objection.

The commission turned to the redraft of the State Personnel Act amendments. Several problems were noted and Senator Ray asked Jack Chenoweth, from the Legal Services Division of the Legislative Affairs Agency to meet with the commission. After reviewing the second draft of the State Personnel Act with Mr. Chenoweth, the commission discussed with him the amendments to the draft limiting adjustments to retirement benefits which had been agreed upon earlier in the meeting.

Terry Cramer advised the commission members of a telephone call from Grace Kack. Ms. Kack is concerned that individuals applying for state positions must be re-examined every two years in order to stay on the register for a job class. Ms. Kack was not concerned on her own behalf, since she is presently employed by the state, but she felt that the requirement was unfair for those who were not presently employed.

Ms. Cramer also advised the commission that several reponses had been received from agencies whose employees were placed in the exempt and partially exempt services concerning whether those employees should remain in their present status or should be transferred to the classified service.

Senator Ray stated that the commission would meet to review redrafts of all of the bills probably at the end of December.

Senator Ray adjourned the meeting at 11:45 a.m.

MEMBERS IN ATTENDANCE

Senator Bill Ray, Chairman
Bruce Cummings
Representative Dick Eliason
Representative Jack Fuller
Lois Jund
Lynda McCurry
Fred Muller
Bill Huston
Paddy Moriarty
Robert Mourant
Darlene Livermore

OTHERS IN ATTENDANCE

Roger Thayer

* * * * * * * * * *

BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT
State Capitol, Juneau
October 29-30, 1980

MINUTES

The meeting was called to order at 10:00 a.m., by the Chairman, Senator Bill Ray.

John Williams, Commissioner of the Commercial Fisheries Entry Commission, testified in response to the Blue Ribbon Commission's request for information concerning whether his employees should be in the exempt service or would more appropriately be placed in the partially exempt or classified service. Mr. Williams stated that the limited entry commission is a quasi-judicial, independent regulatory body which is granted special status by the Alaska Statutes. According to an Attorney General's opinion, prepared for the Alaska Oil and Gas Conservation Commission, it is appropriate for commissions of this type to remain independent from the executive branch. Therefore, Mr. Williams believes that employees of the commission are most appropriately left in the exempt service. Placing them in the partially exempt or classified service would subject them, and the commission as their employer, to inappropriate regulation by the executive branch.

Mr. Williams stated that the commission had conducted a poll of its employees to learn what their wishes were. Of the 29 employees, 25 participated. Each of the staff was provided with a copy of the State Personnel Act prior to the poll being taken. Every effort was made to insure that the poll was secret. Of those voting, 21 favored remaining in the exempt service and four favored moving to the partially exempt service. None wished to be placed in the classified service.

Mr. Williams added the commission has chosen to follow the practices which the Personnel Rules set out for partially exempt employees.

Greg O'Claray addressed the question which the commission had posed at its last meeting about why the vessel employees of the Marine Highway System are placed in the exempt service. He provided the members with a letter explaining his reasons.

The vessels are, by federal law, under the jurisdiction of the United States Coast Guard for the safe operation, navigation, staffing and examination, and certification of personnel. These federal regulations cover employment rights, health, safety and other conditions of employment of the seamen as well as making requirements concerning the number of qualified personnel who must be on board before the vessel can sail. In addition, employees recruited from the Maritime Unions are covered by

private Taft-Hartley health and welfare and retirement trusts and would not automatically participate in the state retirement system or in its other benefit coverage without considerable loss of benefits. For Merchant Seamen, engineers and mates recruited from the private sector, the state's wage classification system would not provide a competitive salary. Therefore, the state decided at the inception of its involvement in the marine transportation enterprise, that the employees should be exempt from the State Personnel Act. None of these reasons has changed and therefore Mr. O'Claray recommends that the Marine Transportation System employees remain in the exempt service.

Roger Thayer added that the ferry system receives approximately 1200 applications a year. They must be submitted to the department between February 1st and March 10th. The personnel office ranks them based on training and education, and shoreside and maritime experience. Grades range from 70 points for a person without a high school diploma and with no relevant work experience to 110, for someone with the previous shipboard experience in a field directly related to steward's tasks who also holds a Coast Guard license for lifeboatman. Hiring is usually done by late April. This system was developed as a resolution to EEO complaints claiming that the ferry system discriminated against women and minority applicants. Most positions which are above the entry level are filled by promotion.

Senator Ray raised the question of the membership of the Public Employment Retirement System board. The statutes presently require that the three members of the Personnel Board sit on the PERS board as well as on the Labor Relations Agency. He asked whether any of the commission members believed that the overlap in membership was important. Cherie Shelley pointed out that as a result of recent legislation, the PERS board is now responsible for decisions concerning the Alaska Supplemental Benefits program and the Deferred Compensation program, in addition to the retirement program. Therefore, their duties have significantly increased. It makes sense to limit the demands on the time of those board members, who are all volunteers. Without objection the commission agreed to draft a bill to change the membership of the Retirement Board. Two alternatives were proposed: to eliminate the members of the Personnel Board from membership on the PERS board and replace them with one member appointed by the Governor and two members elected from the retirement system; and to increase the size of the PERS board while leaving the members of the Personnel Board on it.

The commission reviewed the memorandum on employee service credits and then recessed for lunch.

The meeting reconvened at 1:30 p.m. Eric Yould, Executive Director of the Alaska Power Authority, addressed the members on the question of why the power authority employees are in the exempt service. Of the 16 employees, 14 have college degrees. He believes that they should remain in the exempt service. The Authority would have difficulty meeting its deadlines if it had to go through the red tape of hiring

employees through the classified system.

The Alaska Power Authority was structured by the Legislature to permit it to become similar to a public utility district which is a form prevalant in the lower 48. Mr. Yould was concerned that changes which might be made in the structure of the Authority now would foreclose flexibility in the future when the Authority has developed to the extent anticipated by the legislature. He wanted to preserve those options for future employees. It is anticipated that there will be power plant operators, linemen and so on, once the structures are in operation.

In answer to a question from Darlene Livermore, Mr. Yould explained that although most of the employees have degrees, they perform general professional kinds of duties rather than highly-technical tasks. Mr. Yould added that he is not opposed to union membership for the clerical employees of the Authority.

The commission began its discussion of the review on the State Personnel Act. See attached comments and recommendations.

Fred Cook, personnel officer for the Department of Fish and Game, addressed the commission about a number of his concerns. The Personnel Division has been receiving a large number of applications for the positions available, especially for permanent seasonal positions. Changing from hiring temporary employees to hiring permanent seasonal employees has increased the Department's recruiting expenses from $8,000 - $57,000 this past year. Contacting the applicants through phone calls and telegrams has been difficult because frequently people do not reply. Therefore, the department continues to send them telegrams or to call them for other positions. He knows of one gentleman who received approximately 30 telegrams and didn't answer any of them.

Many applicants state they will accept employment anywhere in the State, but when the department contacts them, they say that they are not interested in going to such and such place. Mr. Cook suggests that if anyone rejects a job offer, he be removed from the state register at once. The application form should specify four regions of Alaska (such as Southcentral, Southeast, Central and West) to narrow down areas in which the applicant says he will work. It would speed up the process for his people and also would save the department a tremendous amount of money. He figures that the department, as a whole, spends upwards of $200,000 a year just in recruitment.

Another problem area is in insuring that applicants are Alaskan residents. No one verifies the information provided by the applicant.

The scoring of the applications is also a problem. There are approximately 100-200 applicants with the same score all ranking #1 on the register. He suggested a more sophisticated grading system to rank these applications so that the top group would have fewer applicants in it. The department then would have fewer people to consider when filling a position.

Mr. Cook also suggested changing the length of time for recruitment of bush positions. Presently it is 30 days. He would like it changed to 60 days to enable the recruiting people time to have applications corrected and the applicants time to get it done. He gave an example of a problem he had today. The department has a Fish & Game Resource Specialist II position, at range 16, open and there's an Alaska Native in Angoon that they would like to hire. They want a bilingual person. The applicant forgot to sign his application. In order to meet the application deadline, Mr. Cook had to contact him, which took five telephone calls to Angoon, take the application out to Channel Flying and instruct the pilot on what needed to be done, fly the application to Angoon for the gentleman's signature and have it returned by 3:00 p.m. that afternoon. He estimates that particular problem costs his department $200.

Jerry Reinwand, Executive Assistant to Governor Hammond, addressed the commission at its request. He explained that the Governor's Office is in the process of reviewing the separate agencies which are located within it to decide whether they should remain as part of the Office or whether it would be more appropriate to attach them to one of the departments. There are questions which make the decision difficult in some cases. For example, the Human Rights Commission should avoid even the appearance of being subject to political pressure, and therefore, it would appear to make sense that it be placed in one of the departments rather than the Governor's Office. However, it should also be insulated from the pressures of being a line agency within one department, and therefore, it may be inappropriate to place it in a department. Mr. Reinwand indicated that he has questions about whether the staff of the Division of Budget & Management and the Division of Policy Development & Planning and the Office of Internal Audit need to be in the partially exempt service. Since the review process has not been concluded, Mr. Reinwand suggested that the commission wait for its results as an expression of what the Governor recommends on the question of who needs to be in the exempt service.

The commission recessed at 3:20 p.m. until 10:00 a.m. Thursday, October 30.

Senator Ray, chairman, reconvened the meeting at 10:00 a.m. on October 30.

Kerry Romesburg, Executive Director of the Postsecondary Education Commission spoke in response to the commission's request.

The Postsecondary Education Commission has 30 permanent employees and adds four nonpermanent employees to its staff in the summer. He indicated that although the statutes place himself and the staff in the exempt service, in reality the commission uses the same pay scale as the classified service, the kinds of work which most of the employees do is similar to work done by classified employees and, except for hiring employees from the registers, the commission operates under most of the

procedures of the Personnel Rules. Of the 30 employees, 16 are loan repayment, awards and collection clerks. Three others are clerical employees, two are in the administrative assistant class and the remainder are professional employees. He added that as permanent exempt employees, the commission employees receive benefits as do permanent classified employees.

There being no more questions for Mr. Romesburg, he was thanked and excused.

John Pugh commented that it did not appear that the Post-secondary Education Commission needed to be in the exempt service. He recommended that if the Blue Ribbon Commission is going to clean up the State Personnel Act, that each of the boards and commissions which presently has its staff placed in the exempt or partially exempt service be carefully reviewed.

The commission then returned to reviewing the draft of the State Personnel Act. Comments and recommendations are attached.

Senator Ray stated that when a redraft of the Act is available the commission will meet again. Without objection, the meeting was adjourned at 11:30 a.m.

October 29, 1980

MEMBERS IN ATTENDANCE

Senator Bill Ray, Chairman
Diane DeSimone (for Bruce Cummings)
Bill Huston
Paddy Moriarty (for Frank Flavin)
Fred Muller
Greg O'Claray
John Pugh
Cherie Shelley
Roger Thayer (for Lynda McCurry)

OTHERS IN ATTENDANCE

Darlene Livermore
Bob Mourant

October 30, 1980

MEMBERS IN ATTENDANCE

Senator Bill Ray, Chairman
Diane DeSimone (for Bruce Cummings)
Bill Huston

Fred Muller

John Pugh
Cherie Shelley
Roger Thayer (for Lynda McCurry)

OTHERS IN ATTENDANCE

Darlene Livermore
Bob Mourant

A D D E N D U M

To the

MINUTES

October 29-30, 1980

COMMENTS AND RECOMMENDATIONS ON THE STATE PERSONNEL ACT

Page 2 Line 7 — AS 39.25.080. Public Records.

Cherie Shelley was concerned that the Division of Labor Relations might use this section to assert that information APEA needed in preparing cases was confidential and could not be released. Senator Ray suggested adding For the purpose of this Act at the beginning of the sentence on Line 7.

In discussion of paragraphs (1)-(5) members noted that paragraph (1) provides for information on all state employees and that paragraph (2) provides for information about an individual employee. Members decided that the phrase state employee should be used rather than the phrase "state officer or employee".

Page 3 Line 1 — AS 39.25.110. Exempt Service.

After discussing the standards proposed in subsection (a), the commission members decided to delete all of (a).

The commission will consider whether the employees of the agenices named in paragraphs (11) and (12) should remain in the exempt service after further testimony on the question.

A question was raised about the difference between the exempt and classified service. An employee in the exempt service is not hired from the register, does not get paid according to the pay plan, and can be fired at will. In the classified service there must be just cause before an employee can be fired.

Page 5 Line 23 — AS 39.25.120. Partially Exempt Service.

Assistant Commissioners should be added to paragraph (1).

Page 6 Line 8, 23 & 27 — Commission members asked why the state forester, hearing examiners in the Department of Revenue and the Chief of Subsistence in the Department of Fish & Game should be in the

partially exempt service. The question will be considered later.

Page 6 Line 29 — Bob Mourant pointed out that there are airport managers for smaller airports who are not in the partially exempt service. Only the managers of the Anchorage and Fairbanks International Airports are partially exempt. Paragraph (16) should be changed to reflect this.

Page 7 Line 2 — The commission will consider in the future whether the deputy director of the division of tourism and the deputy director of the division of insurance should remain in the partially exempt service.

Page 8 Line 5 — AS 39.25.140. Amendment of Personnel Rules.

The question of the distinction between public policy and internal management was raised. Paddy Moriarty suggested that instead of the phrase "public policy", that the draft should say whether it affects the public or is used by an agency in dealing with the public. Senator Ray suggested looking at the language which was used in the Alcoholic Beveral Control Board bill last session to help clarify the distinction between public policy and internal management regulations. Cherie Shelley pointed out that many of the subjects covered in the Personnel Rules have been included in the collective bargaining agreements. Therefore changes in the Rules which are contrary to the substance of the contracts would have little practical effect.

Page 8 Line 20 — The commission decided that the Personnel Rules should be required to be published in the Alaska Administrative Register and Code and therefore that the word "may" in paragraph (4) should be changed to shall.

Page 8 Line 27 — AS 39.25.150. Scope of the Rules.

The commission decided that the Personnel Board should also approve the classification plan.

Page 9 Line 18 — Senator Ray suggested finding a clearer phrase than "sound employee selection methods" for this paragraph.

Page 11 Line 4 — After considerable discussion about the veteran's preference system, the commission decided not to amend this paragraph. Under the present system, a veteran receives the five additional points only on the applications he files before he is hired. Once he has accepted a position with the state, then any applications for other positions which he has filed are rescored to remove the 5-point bonus.

Page 12 Line 7 — Senator Ray suggested investigating the definition which the director of the division of vocational rehabilitation uses in

determining whether a person is severely handicapped. It might be appropriate to include that definition in the State Personnel Act.

Page 12 Line 10 — In discussion of paragraph (23), the commission questioned the definition of programs and disadvantaged persons. Senator Ray suggested adding that the programs could not be against the standards of a merit system of employment.

Page 12 Line 18 — AS 39.25.153. Personnel Officers.

Diana DeSimone pointed out that the Department of Law does not have a Personnel Officer so subsection (a) should be redrafted. It should read: If a principal department of the executive branch requires a personnel officer, then the personnel officer shall be permanently employed by and located within the department.

Page 12 Line 22 — She also suggested that the whole section be deleted since the director of the division of personnel has the authority under AS 39.25.150 to delegate authority for personnel actions to the personnel officers of the departments and since that authority has been delegated recently. Roger Thayer replied that the delegation is recent and that he would prefer to have some authorization for independent action by the personnel officers remain in the Act.

Page 12 Line 22 — The commission decided to delete the language authorizing the personnel officers to act contrary to the Personnel Rules so that subsection (b) begins with the phrase Subject to the provisions.

Page 13 Line 7 — The commission also decided to delete paragraph (4) which would have given the personnel officers authority to make rules concerning the methods and procedures for overtime work and pay.

Page 13 Line 15 — In order to provide for consistency in the personnel policies of the state, the commission decided to require that the commissioner of administration must approve the exercise of any powers under this section, rather than the commissioner of the department in which the employee worked.

Line 13 Line 17 — AS 39.25.160. Generally.

After discussion of the meaning of "precinct level" the commission decided that the phrase should be defined in the State Personnel Act.

Page 13 Line 23 — To clarify subsection (b), Senator Ray recommended changing it to read: ... in connection with securing or making an appointment....

Page 13 Line 26 — Senator Ray recommended that subsection (c) be made to apply to all state employees rather than just those in the

classified service.

Page 14 Line 6 — The commission decided that protection against actions based on unlawful discrimination due to race, sex, color, religion, national origin, age or handicap should be extended to all state employees. Classified employees should be protected against discrimination based on political beliefs.

Page 14 Line 11 — Senator Ray recommended adding the word knowingly to the first line of subsection (g) so that it reads: A person may not knowingly make a false statement....

Definitions should be included in the Act for "fraud" and for "knowingly".

Page 14 Line 16 — Subsection (h) should be changed to read: "...person may not unlawfully defeat, deceive, or obstruct....

Page 14 Line 27 — AS 39.25.170. Hearings and appeals upon dismissal, demotion, or suspension.

The commission decided that all state employees should have the right to appeal actions based on unlawful discrimination. Subsection (c) should be redrafted to provide for this. Classified employees should have the right to appeal actions based on unlawful discrimination due to political beliefs.

Page 15 Line 2 — Subsection (d) was phrased unclearly. It should be redrafted to read:

A permanent employee in the classified service who holds probationary status in his present position may appeal a dismissal from the classified service the Personnel Board.

Page 16 Line 6 — AS 39.25.185. Employment of Federal Employees.

The commission decided that this new section should be deleted.

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BKC Meeting 10/29/80

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K–STATE CAPITOL
JUNEAU, ALASKA 99811

February 6, 1980

Hoyle H. Hamilton, Chairman
Alaska Oil & Gas Conservation
Commission
3001 Porcupine Drive
Anchorage, Alaska 99501

Re: Commission's Place in State Government
and Status for Budget Purposes.
Our File: J-66-302-80

Dear Commissioner Hamilton:

You requested our opinion on the place that the Alaska Oil and Gas Conservation Commission (hereafter "the Commission") occupies in state government and the Commission's status for budget purposes. In early January, 1980, we gave you preliminary answers to your questions by telephone. This letter is to confirm the answers we gave you at that time.

I. The Commission's Place in State Government.

AS 31.05.005(a) states: "There is created as an independent quasi-judicial agency of the state the Alaska Oil and Gas Conservation Commission, composed of three commissioners appointed by the governor and confirmed by the legislature in joint session." The Commission came into existence on January 1, 1979, assuming the responsibilities and duties of the former Division of Oil and Gas Conservation in the Department of Natural Resources.

The question of the Commission's "place" in state government has two aspects. The first involves the

basic doctrine that governmental powers are separated into three branches: executive, legislative and judicial. The doctrine is recognized in Alaska as the Alaska Constitution provides for a legislature (art. II), executive (art. III) and judiciary (art. IV). See Bradner v. Hammond, 553 P.2d 1 (Alaska 1976) at pp. 5-6 and cases cited.

The Commission, however, cannot easily be "placed" in one of the three branches because it exercises all three types of power. AS 31.05.030(c) provides that "[t]he Commission shall adopt rules, regulations and orders and take other appropriate action to carry out the purposes of this chapter [AS 31.05]." Under its mandate to "adopt rules [and] regulations," the commission takes part "in the legislative function of enacting laws governing the people of the state." Alaska State-Operated School System v. Mueller, 536 P.2d 99, 103 (Alaska 1975). It also has been stated that conservation commission orders "are legislative in character." Cities Services Gas Co. v. Peerless Oil & Gas Co., 220 P.2d 279, 291 (Okla.), aff'd 340 U.S. 179 (1950). Also see California Co. v. State Oil & Gas Bd., 27 So.2d 542 (Miss. 1946). The Commission also acts in a judicial capacity. In addition to the jurisdiction and authority to adopt "orders" under AS 31.05.030(c), the Commission is designated a "quasi-judicial agency of the state" in AS 31.05.005(a), and is given the power to hold hearings, AS 31.05.060(a), and subpoena witnesses. AS

31.05.070. Finally, under AS 31.05.030(c)'s mandate to "take other appropriate action to carry out the purposes of [AS 31.05]," the Commission performs the executive branch function of executing and putting into operation and effect the laws relating to oil and gas conservation. Cf. Alaska State-Operated School System v. Mueller, supra (school system falls within executive branch because function is to execute or put into operation and effect laws relating to public education).

The Commission's blended power makes it impossible to classify the Commission as distinctly executive, legislative or judicial. The difficulty in classifying the Commission was pointed out by Mr. Justice Jackson of the United States Supreme Court, dissenting in FTC v. Ruberoid Co., 343 U.S. 470, 487-488 (1952), as follows:

> [Regulatory agencies such as the Commission] have become a veritable fourth branch of the Government, which has deranged our three-branch legal theories as much as the concept of a fourth dimension unsettles our three-dimensional thinking. Courts have differed in assigning a place to the seemingly necessary bodies in our constitutional system. Administrative agencies have been called quasi-legislative, quasi-executive or quasi-judicial, as the occasion required, in order to validate their functions within the separation-of-powers scheme of the Constitution. The mere retreat to the qualifying "quasi" is implicit with confession that all recognized classifications have broken down, and "quasi" is a smooth cover which we draw over our confusion as we might use a counterpane to conceal a disordered bed.

Mr. Justice Jackson's "fourth branch of government" characterization clearly is a fiction, although it points out the difficulty of conceptually placing the Commissioner in one of these branches. However, in an administrative or bureaucratic sense, regulatory agencies like the Commission clearly are in the executive branch of government in Alaska. Ak. Const., art. III, §§ 22, 26. Many such agencies are explicitly created by the legislature in one of the principal executive departments. See e.g., AS 42.05.010 (Alaska Public Utilities Commission in Department of Commerce and Economic Development). On occassion, such placement is coupled with an express statement that the agency is independent from substantive control by that departme.t. See e.g., AS 14.40.913(b) (Alaska Commission on Post Secondary Education in Department of Education for administrative support services but not subject to direction of commissioner or state Board of Education). Still others are merely established without express assignment to a principal department of the executive branch. See e.g., AS 16.43.020(a) (Alaska Commercial Fisheries Entry Commission ". . . is established . . . as a regulatory and quasi-judicial agency of the state").

However, regardless of a regulatory agency's placement in one of the principal executive branch departments, and regardless of any statutory statement of independence, such an agency is not under the supervision of the executive.

In Boehl v. Sabre Jet Room, Inc., 349 P.2d 585, 588 (Alaska 1960), the Alaska Supreme Court stated that in art. III, §§ 22-26, "provision is made for creation by the legislature of regulatory agencies that are not under the supervision of the executive." (Footnote omitted; emphasis added.) In that case, the court was discussing the Alcoholic Beverage Control Board, which "is established . . . within the Department of Revenue." AS 04.05.010(a).

There is no question regarding the Commission's independence, as AS 31.05.005(a) provides that the Commission "is created as an independent quasi-judicial agency of the state." (Emphasis added.) To ensure that the the Commission (assuming the duties of the former Division of Oil and Gas Conservation) no longer is considered a part of the Department of Natural Resources, the legislature expressly stated the relationship between the Commission and the Department of Natural Resources in AS 31.05.026. In subsections (a) and (b), that Department is given standing before the Commission, defined in AS 31.05.026(e) as "the same standing (no more or less) . . . as granted by law to any other proprietary interest." To ensure administrative independence from that Department, AS 31.05.026(d) provides:

> For budget and audit procedures and considerations, the Commission shall have the same standing as any other major state agency. Whenever practicable the Commission may enter into state inter-agency agreements concerning administrative, employee relations, and fiscal duties.

Summarizing, it is our opinion that the Commission is an independent regulatory state agency in terms of its program responsibilities and activities. While it is not responsible to (nor the responsibility of) the governor, it is administratively (i.e., bureaucratically) a part of the executive (as opposed to the legislative or judicial) branch of government.

II. Commission's Status for Budget Purposes.

This brings us to the second half of your opinion request, a determination of the Commission's "status" for budget purposes. We understand your question relates particularly to the procedures which must be followed in presenting the Commission's budget to the legislature and in enabling the Commission to draw on any resultant appropriations, and specifically whether the Commission is entitled to its own separate budget code.

AS 31.05.026(d) gives an explicit answer to this question: "For budget and audit procedures and considerations, the Commission shall have the same standing as any other major state agency." While that is a concise answer, making it clear that the Commission is not to be relegated to the subordinate status of a mere division or subdivision of one of the principal executive branch departments for budget purposes, it does not describe with any particularity the

procedures which must be followed in establishing the Commission's budget, presenting it to the legislature, and drawing down any funds ultimately appropriated by the legislature to the Commission. The details of those procedures, as well as the bureaucratic responsibility for carrying them out, must be determined from other provisions of law.

Article IX, § 12 of the Alaska Constitution places responsibility on the governor to submit annually to the legislature "a budget for the next fiscal year setting forth all proposed expenditures and anticipated income of all departments, offices, and agencies of the State." (Emphasis added.) Implementing this section of the Constitution, AS 44.19.015 provides: "The governor shall direct the preparation and administration of the state budget." AS 37.07, the Executive Budget Act, establishes additional guidelines for preparation of the budget by the governor, and makes the Division of Budget and Management the state agency responsible for giving the governor and all state agencies the detailed assistance needed in preparing and submitting the annual budget. For example, AS 37.07.050(a) provides that each state agency, "on the date and in the form and content prescribed by the [D]ivision [of Budget and Management]," is to forward its proposed budget request and supporting documentation to that division and the Legislative Finance Division.

In preparing the budget, the governor has both constitutional and statutory power to organize his annual budget proposal in virtually any manner he chooses. Of course, the process does not end with submission of the annual budget. Article IX, § 13 of the Alaska Constitution provides in part: "No money shall be withdrawn from the treasury except in accordance with appropriations made by law." Statutory language implementing this constitutional provision establishes a budgetary system in which all appropriations are made by legislative act. AS 37.07.030, 37.07.070 and 37.07.100; see Municipality of Anchorage v. Frohne, 568 P.2d 3, 5 n. 5 (Alaska 1977). The legislature is not bound by the budget submitted by the governor; instead, "[t]he legislature shall consider the governor's proposed . . . programs and financial plans, evaluate alternatives to the plans, make program selections among the various alternatives and determine, subject to available revenues, the level of funding required to support authorized state services." AS 37.07.070 (in part).

Once the legislature has made an appropriation, each state agency has full authority to administer its program assignment and is responsible for its proper management "[e]xcept as limited by policy decisions of the governor, appropriations by the legislature, and other provisions of law." AS 37.07.080(a) (in part). The Division of Budget

and Management has general oversight responsibility for program execution. AS 37.07.080(b) - 37.07.080(f). The governor is empowered to direct the withholding or reduction of appropriations to a state agency only if he determines that (1) the planned expenditures cannot be made due to factors outside the control of the state, or (2) the state's estimated receipts will be insufficient to match the proposed expenditures. AS 37.07.080(g). However, the Department of Administration is responsible for all state accounting, including development of the accounting system, maintaining accounting records, etc. AS 37.05.130-37.05.150.

Nothing in AS 31.05 specifies the manner in which the Commission's budget request is to be presented to or acted on by the legislature, nor is any particular accounting or funding mechanism specified. In the absence of such specification and under AS 37.05.320(2) and 37.07.120(1), the provisions of AS 37.05 and AS 37.07 respectively appear to apply to the Commission. Accordingly, the provisions of AS 37.07 control the Commission's budget submission, in effect giving the Division of Budget and Management the power to include the Commission's budget request in the overall budget submitted by the governor in whatever fashion the division deems appropriate. Similarly, under AS 37.05, the Department of Administration has the power to establish whatever accounts it deems appropriate to enable the Commission to draw on appropriations made by the legislature to

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILE 8672
1354 SCOMM 51 BLUE RIBBON COMN. ON STATE PERSONNEL ACT 1978-1983

Natural Resources would be inadvisable. */ The initial bill establishing the Commission, HB 830, stated explicitly that "[i]t is the intent of the legislature that the state's regulatory responsibilities and the exercise of its police powers with respect to oil and gas development be vested in an independent regulatory commission, and that the exercise of these powers be separated in fact and appearance from the exercise of the state's power as owner or proprietor or oil and gas resources." (Emphasis added.) While the bill as finally enacted did not include this statment of legislative intent, it is clear from the several statutory references to independence and the explicit delineation of the relationship between the Commission and the Department of Natural Resources that the earlier statement accurately reflects the legislative intent underlying AS 31.05.

The basic problem seems to be that, in your view at least, the Division of Budget and Management and the Department of Administration are not honoring the spirit of the statutory language regarding independence. From a purely legal standpoint, we do not believe that those agencies,

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*/ We note that the Commission's budget request currently appears under the Department of Natural Resources cover program in the budget submitted by the Governor, HB556. By memo dated February 7, 1980 to Ron Lehr, we have suggested that an appropriate amendment be prepared to move the Commission's request out of the Department of Natural Resources program. It is our understanding that this will be done.

having statutory responsibility to make the very decisions you complain of, can legally be compelled to change those decisions. We can only suggest that, in the spirit of comity and cooperation, you work directly with the Division of Budget and Management and the Department of Administration to reach some accommodation.

In addition, we suggest that you make yourself available to the legislature during its deliberations on the budget. As indicated, the legislature may make whatever changes in the governor's proposed budget it considers necessary.

We hope we have addressed your concerns. An obvious problem is that there is no legal answer to what is, at bottom, a political question. While we share your concerns regarding the appearance of independence for reasons of our own, we do not believe the Division of Budget and Management and the governor can be compelled to submit a proposed budget to the legislature in a form different from the form which they have determined is appropriate. Similarly, we do not believe the Department of Administration can be legally compelled to establish any particular system of accounts. If there is a solution to the problems you preceive, it lies in negotiation between the Commission and the Division of Budget and Management and the Department of Administration.

Alaska Commercial Fisheries Entry Com'n — 10/29/80 Meeting

(b) The governor shall designate one member of the commission as chairman of the commission. The member designated shall serve as chairman for a term of two years, and may be designated chairman for successive two-year terms. (§ 1 ch 79 SLA 1973)

Sec. 16.43.030. Term of office; vacancy. (a) The members of the commission shall be appointed for terms of four years. Initial appointments shall be as follows: one member for two years. Initial appointments shall be as follows: one member for two years, one member for three years, and one member for four years. The governor may remove a commissioner from office for cause including but not limited to incompetence, neglect of duty, or misconduct in office. A commissioner, to be removed for cause, shall be given a copy of the charges against him and afforded an opportunity to be publicly heard in person or by counsel in his own defense upon not less than 10 days notice. If a commissioner is removed for cause, the governor shall file with the lieutenant governor a complete statement of all charges made against the commissioner and his findings based on the charges, together with a complete record of the proceedings.

(b) A vacancy on the commission shall be filled by appointment by the governor and the appointment shall be confirmed by the legislature in joint session. A member selected to fill a vacancy shall hold office for the balance of the full term for which his predecessor on the commission was appointed.

(c) A vacancy on the commission does not impair the authority of a quorum of commissioners to exercise all the powers and perform all the duties of the commission. (§ 1 ch 79 SLA 1973)

Sec. 16.43.040. Quorum. Two members of the commission constitute a quorum for the transaction of business, for the performance of a duty or for the exercise of a power of the commission. (§ 1 ch 79 SLA 1973)

Sec. 16.43.050. Qualifications. The commission shall consist of three members with a broad range of professional experience, none of whom has a vested economic interest in an interim-use permit, entry permit, commercial fishing vessel or gear, or in any fishery resource processing or marketing business. (§ 1 ch 79 SLA 1973)

* **Sec. 16.43.060. Compensation of members of the Alaska Commercial Fisheries Entry Commission.** Members of the commission are in the exempt service and shall receive an annual salary as established under AS 39.23.(§ 1 ch 79 SLA 1973; am § 5 ch 47 SLA 1974; am § 1 ch 148 SLA 1976; am § 2 ch 263 SLA 1976)

Effect of amendments. — The 1974 amendment rewrote this section.

The first 1976 amendment deleted "payable in equal monthly installments" from the end of the section.

The second 1976 amendment substituted "as established under AS 39.23" for "equal to that of a district court judge payable in equal monthly installments."

Sec. 16.43.070. Legal Counsel. The attorney general is the legal counsel for the commission. He shall advise the commission in legal matters arising in the discharge of its duties and represent the commission in suits to which it is a party. However, the commission may retain additional legal counsel as appropriate. (§ 1 ch 79 SLA 1973)

Sec. 16.43.080. Employment of personnel. (a) The commission may employ those persons necessary to carry out the purposes of this chapter. Employees of the commission are in the exempt service under AS 39.25.110. *

(b) In addition to its staff of regular employees, the commission may contract for and engage the servcies of counsultants, experts and hearing officers as necessary. (§ 1 ch 79 SLA 1973)

Article 2. Powers and Duties of the Commission.

Section
100. General Powers
110. Regulations and hearing procedures
120. Application of Administrative Procedure Act

Sec. 16.43.100. General powers. (a) To accomplish the purposes set out in § 10 of this chapter the commission shall:

(1) regulate entry into the commercial fisheries for all fishery resources in the state;

(2) establish priorities for the application of the provisions of this chapter to the various commercial fisheries of the state;

(3) establish administrative areas suitable for regulating and controlling entry into the commercial fisheries;

(4) establish, for all types of gear, the maximum number of entry permits for each administrative area;

(5) designate, when necessary to accomplish the purposes of this chapter, particular species for which separate interim-use permits or entry permits will be issued;

(6) establish qualifications for the issuance of entry permits;

(7) issue entry permits as provided in §§ 210 — 220 of this chapter;

* (9) establish, for all types of gear, the optimum number of entry permits for each administrative area;

(10) administer the buy-back program provided for in §§ 310 — 320 of this chapter to reduce the number of outstanding entry permits to the optimum number of entry permits;

(11) provide for the transfer and reissuance of entry permits to qualified transferees;

(12) provide for the transfer and reissuance of entry permits for alternative types of legal gear, in a manner consistent with the purposes of this chapter;

(13) administer the collection of the annual fees provided for in § 160 of this chapter;

(14) administer the issuance of commercial fishing vessel licenses under AS 16.05.490;

(15) issue educational entry permits to applicants who qualify under the provisions of §§ 275—285 of this chapter.

(b) The commission may do all things necessary to the exercise of its powers under this chapter, whether or not specifically designated in this chapter. (§ 1 ch 79 SLA; § 14 ch 105 SLA 1977; am § 3 ch 123 SLA 1978)

Effect of amendments.—The 1977 amendment, effective January 1, 1978, added paragraph (14) to subsection (a).

The 1978 amendment, effective July 9, 1978, added paragraph (15) to subsection (a).

* (8) issue interim-use permits as provided in §§ 210-220 of this chapter;

BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT
Capitol Building, Juneau
August 19, 1980

MINUTES

Senator Ray, Chairman, called the meeting to order at 1:35 p.m. The commission continued its discussion of the State Personnel Act begun at its meeting on Monday, August 18th.

AS 39.25.140 (Amendment of the personnel rules). Senator Ray pointed out the distinction between those rules governing the internal management of agencies and those rules which affect the public and should be considered matters of public policy. Rules which affect the public should be subject to public review before being adopted or amended. He suggested that subsection (e) be amended to limit the exemption from the Administrative Procedures Act to those rules affecting only the internal management of state agencies. A new subsection should be added requiring that those rules which affect the public must be enacted pursuant to the APA. He also directed the staff to ask the Attorney General's office and the legal staff of the Legislative Affairs Agency to prepare opinions on what legal authority the rules have.

Darlene Livermore pointed out that most of the collective bargaining agreements which the state has entered contain a clause which says that if there is a conflict between the contract terms and the Personnel Rules, then the contract terms govern. Only if the contract is silent on a subject do the Personnel Rules apply to employees who are members of collective bargaining units. Since almost all of the classified employees in the state are members of collective bargaining units, the Personnel Rules have a very limited application. Because of this, most state employees are probably not even aware that the state has Personnel Rules.

Senator Ray pointed out that the political climate is not necessarily favorable to the present public employee collective bargaining situation and that it is possible that the governor or some legislators will sponsor legislation to change the present system. Therefore, it is appropriate to be concerned about the personnel system.

The commission discussed the distinction between exempt, partially exempt and classified employees. There are about 500 employees in the partially exempt service and 5 employees in the classified service who are not members of collective bargaining units. Senator Ray asked for reasons for preserving both the partially exempt and exempt services. Bruce Cummings replied that partially exempt positions are appropriate where the work performed is essentially similar to other kinds of positions in the state. For example, the salary and job title and most of the duties of a clerk typist in the Office of the Governor are comparable to other clerk typists. However, it is appropriate for the Governor to be able to appoint and dismiss the employee with greater ease than if the position were covered by the protections of the classified service.

Positions are appropriately placed in the exempt service when the salaries which must be offered to attract skilled employees are not included in the

state's pay plan, when the position is not expected to last long or requires unique responsibilities, and for the political appointments which the chief executive needs to be able to make for policy reasons.

The classified service provides salary integrity and protections from arbitrary hiring or firing decisions.

AS 39.25.150 (Scope of the rules). The commission discussed cleaning up the language of this section to delete material more appropriately included in the rules. Bruce Cummings pointed out that subsection (2) does not make provision for paying employees pursuant to a valid collective bargaining agreement, although the state has interpreted the language to permit paying employees based on pay plans adopted under union contracts. The commission agreed that language should be proposed to address this problem. Darlene Livermore added that while she agrees that the section should be cleaned up, she thinks it is important to preserve the statements of principles which are presently there, such as "like pay for like work."

On the question of crediting work experience as an alternative to formal education, and on the question of tests, Bruce Cummings explained that the laws requires employers to be able to demonstrate that any tests for employment are consistently able to predict that those who receive good scores are more likely to be successful employees than those who receive lower scores. The state is trying to develop validated tests, but it is a difficult process and there are only three employees in the division who are assigned to that project. The state has fewer than 15 tests which would be likely to withstand a challenge in court. Furthermore, the tests which the state is discarding for the validated tests have been, in fact, irrelevant. For example, there was an excellent accountant in the Division of Finance who was marked for promotion. He took the old exam five times and failed it each time. When the new, validated exam was ready he took it and was number one on the register.

Senator Ray pointed out that there is another problem - that of being sure that the job description is kept current so that the job classification actually reflects the duties of the position. The state needs a full scale desk audit program.

AS 39.25.153 (Personnel Rules for certain departments). Lynda McCurry reported that the personnel officers in the departments continue to believe that they can perform their jobs better if they are the employees of the departments in which they work rather than the employees of a centralized Division of Personnel. The Division of Personnel has recently begun to decentralize several personnel functions to the departmental personnel offices.

Bruce Cummings raised questions about subsection (b) which gives the departmental personnel officers authority to adopt regulations for those positions unique to their departments. At present those powers have not been exercised, but if they were, the state could find that there were significantly different working conditions for groups of employees based only on which department they worked for. Consistency is important, not only for morale of the employees but also because the state has to comply with the terms of the collective bargaining agreements it enters.

Delegating greater authority to the departmental personnel officers increases the importance of auditing. In the 1980 Report the commission recommended that annual audits be performed either by the Division of Personnel or by some other agency. Mr. Cummings has thought about the question and believes it would be better for a third party to perform the audit since the Division of Personnel needs to remain effective as a service agency, rather than being perceived in a policing role. The division would, of course, work closely with whoever did the audit to provide information and expertise as requested.

Senator Ray suggested that the subsection might be changed to enable departmental personnel officers to adopt only rules which relate to the internal management of the department for classes which are unique to the department.

Don Fisher raised the question of setting up a system for a periodic review of the Personnel Rules to insure that they accurately reflect the changing policies and procedures of the state. Senator Ray directed the staff to investigate the feasibility of doing so.

AS 39.25.155 (Vocational substitution program). Bruce Cummings pointed out that the positions which fall within the program have all been placed in the Local 71 bargaining unit. The program is therefore no longer used, since Local 71 members are hired through a union-operated hiring hall. The union system does not include the kinds of minimum qualifications which the state uses in evaluating applicants.

Lois Jund asked whether subsection (g) which establishes a one-year residency requirement was still legal. Mr. Cummings replied that it wasn't.

AS 39.25.160 (Prohibitions). Senator Ray suggested that subsection (e) should provide that partially exempt employees as well as classified employees are required to resign from their positions in the state service when they seek nomination or become candidates for state or national elective political office.

Bruce Cummings indicated that the Rules do require a partially exempt employee to resign, even though the statute does not.

AS 39.25.170 (Hearings and appeals). Senator Ray asked whether an employee could require that hearing be open to the public. Bruce Cummings replied that the Personnel Rules do give the employee this right. Senator Ray suggested amending the section.

AS 39.25.180 (Status of present employees). Senator Ray pointed out that the first three subsections of this section are obsolete.

AS 39.25.195-200 (Nonpermanent law). The law has not yet been in effect for a full year and therefore it is too early to consider whether it needs to be changed. The commission should review figures on positions which used to be temporary and are now seasonal as a result of the procedures created by the nonpermanent law at a later time.

AS 39.25.210 (Penalties). The commission will consider later the question of implementing a graduated penalty schedule, whether there should be administrative penalties set out in the statute and whether it is appropriate that

being found guilty of a willful violation of the Rules leads to conviction of a misdemeanor.

AS 39.10.010 (Nepotism prohibited). The commission agreed that a stronger statute prohibiting nepotism should be prepared for its review.

Senator Ray directed the staff to prepare a work draft of a revision of the State Personnel Act with the help of the Legislative Affairs Agency legal division. The commission will meet when the draft has been completed, which should be in one month.

Senator Ray adjourned the meeting at 2:55 p.m.

MEMBERS IN ATTENDANCE

Senator Bill Ray, Chairman
Don Fisher, Vice Chairman
Bruce Cummings
Duncan Fowler (for Frank Flavin)
Representative Jack Fuller
Lois Jund
Darlene Livermore (for Cherie Shelley)
Lynda McCurry
John Pugh

OTHERS IN ATTENDANCE

Bob Mourant

BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT
Tuesday, August 19, 1980
State Capitol, Juneau, Alaska

TAPE LOG

The following is an approximate log of events.

Tape 3 - (1:30 - 2:24 p.m.)

0352 - 0920 Discussion of AS 39.25.140 - .153

0921 Put new tape on.

Tape 4 - (2:25 - 2:55 p.m.)

0000 - 0350 Discussion of AS 39.25.144 and other related statutes

0351 MEETING ADJOURNED AT 2:55 p.m.

BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT
Capitol Building, Juneau
August 18, 1980

MINUTES

Senator Ray, Chairman, called the meeting to order at 10:00 a.m. He asked for testimony from the public. Julie Issac called the commission's attention to a problem that she is having with the state's retirement system.

Mrs. Issac retired in 1976, at which time the Retirement Division on four separate occasions had advised her that she was eligible for more than nine years of credited service with the state. As the result of an amendment to the laws three months after she retired, she was also told she would receive credit for an additional three years of military service. Her benefits were calculated on that basis. In 1979 Mrs. Issac received a letter from the Retirement Division advising that their original computations had been in error. She had been credited with 4½ years of service to which she was not entitled, part of which was for employment with the University of Alaska. Furthermore, she had received over $5000 in overpayments which would have to be paid back to the state. In the beginning of January, 1980, the division began reducing her retirement check by $100 per month to be credited towards the overpayment, in addition to having reduced her check because of the decrease in the years of credited service.

Mrs. Issac was advised that she could appeal the division's decision to the Retirement Board at their next meeting. She was unable to attend but a friend did read a letter to the board which preserved her appeal rights. Following that hearing, Mrs. Issac asked that the state waive collection of the debt. According to its interpretation of the statutes, the only ground upon which the division can waive repayment is hardship. The division therefore required that she submit information not only about her own financial situation but also about her husband's. Mrs. Issac questioned why her husband's information should be considered since it is her retirement credit which is under question.

Mrs. Issac added that the basis for denying her period of employment with the University of Alaska was a regulation adopted by the Retirement Division in 1978 - two years after she retired. Without credit for the University of Alaska employment, she needs an additional 13 months state employment in order to claim her territorial service.

Early in July, Mrs. Issac wrote to Commissioner Hudson asking for assistance in finding employment with the state so that she could work for the time needed to then receive credit for her territorial service. She was no longer eligible to be placed on the state's rehire lists because more than 2 years had elapsed since she left state employment. She has also asked the Governor's office for assistance in finding a position in which she can earn the necessary service credits. Mrs. Issac pointed out that she had been a loyal and responsible state employee but that she believes that the state has treated her shabbily and that she is becoming bitter.

Lois Jund stated that while she was at the Department of Health and Social Services, several people had talked with her about receiving similar notices from the Division of Retirement. Bruce Cummings explained that while

he was working in the retirement division he noticed that there was a constant flow of files with errors. Therefore, the director of the division ordered a wholesale audit of all of the PERS and TRS records. Any with errors would be adjusted as of the date of the audit. Although he had no sure figures, Mr. Cummings estimated that 3 to 5% of the files contained errors. Because the retirement statutes require that any errors in benefits be corrected, the division does not have the authority to write off any overpayments which a retired person may have received. He suggested that the legislature consider giving the retirement boards authority to waive recoupment of overpayments in certain situations.

Duncan Fowler pointed out that Mrs. Issac's case raises two questions. First, whether the state ought to be prohibited from seeking repayment because she had based her retirement plans on information provided by the state and over 3 years had elapsed since then. The second problem is with the state's investigation into her husband's financial situation when considering whether to grant her a hardship waiver. Lois Jund pointed out that in the federal retirement system there is a statute of limitations and that they can only seek to correct errors which occurred within the past two years.

Dick Smith said that Mrs. Issace has two complaints against the state: being charged with an overpayment which resulted from the state's errors and being denied 4½ years of credited service. It appears that because the Retirement Board is considering her appeal, there can be no immediate appeal to the courts, although, on the basis of the information which she has provided it seems likely that she would be successful in court. He suggested that it would be appropriate to change the retirement statutes to provide for a statute of limitations against attempts by the division to collect for errors which it caused. Bruce Cummings added that since there are between 80 and 90 other employers who participate in PERS and TRS, any changes should be carefully drafted to apply only to the state's employees.

Mr. Smith added that the second part of Mrs. Issac's problems - denial of service credits for her work with the University of Alaska - is harder to remedy since the University is a separate entity according to the state constitution. The University voluntarily joined the retirement system in 1978, but before that work with the University did not apply to the state's retirement system.

Senator Ray suggested that there should also be some recourse for an employee who wanted to return to work for the state to build up retirement credits. Bruce Cummings explained that if there was a 2-year statute of limitations for asserting overpayments, then an employee would still have rehire rights and would therefore be entitled to preference for any vacancy in the job class from which she or he retired. Mrs. Issac also asked that if the commission sponsored any legislation that it be made retroactive to resolve her problems as well as helping other employees.

Senator Ray asked whether the commission approved sending a letter to the Retirement Board concerning the commission's suggestions for future legislation. There was no objection. Staff was directed to work with Deputy Commissioner Smith on a draft of the letter.

The commission began consideration of the memorandum on public inquiries.

Issue 1. Posting of promotional opportunities on bulletin boards. Darlene Livermore explained that APEA and PSEA take different approaches to protecting their members' interests in access to promotional opportunities.

Issue 2. Postsecondary Education Commission. Senator Ray pointed out that whether these positions should be in the exempt or classified service raises the ongoing question of ease of hiring versus protection of the rights of employees. This question will be discussed during the review of the State Personnel Act.

Issue 3. Delay in processing applications. Bruce Cummings explained that the division received some 5,500 applications in July, and that this volume has partly caused the delay. In addition, all of the processing is done manually at present. The division hopes that the number of applications will decrease in August. There has been no turnover in the division staff for the last three months, which should also help reduce the time to process applications. They are implementing a system of block scoring for all job classifications in which that is possible and also hoping to move toward an automated record keeping system. However, if the volume of applications continues to increase, it may not be possible to decrease the time.

Mr. Cummings explained some of his division's long-range plans for speeding up the application process. They are investigating a computerized automatic classification tracking system, but first the state job classification system has to be restructured. This system does not read applications, establish whether the minimum qualifications are met, nor does it score the examinations. However, the state is also investigating a self-administered training and experience rating system which appears to work with the clerical classes but not others. An additional problem in the classification computer system is that it is not designed to fit into the IBM equipment which the state presently uses and therefore there is a conversion problem.

Senator Ray moved that the commission write to the Commissioner of Administration asking him to outline what he thinks needs to be done to shorten the application process time to a more reasonable period. The motion passed without objection.

Issue 5. Geographical cost of living differentials. The commission noted that this is a matter which is addressed in the collective bargaining contracts.

Issue 6. Employee credits. Bruce Cummings explained that employee credits are designed to encourage retention and promotion of state employees and to discourage breaks in service. The system awards these extra points only to permanent classified employees. John Pugh pointed out that the system can work against employees who for family reasons are forced to move from one area of the state to another without having a new job lined up, although they intend to remain in state service if they can find employment. They lose their points as soon as they resign from one job, even though they may return to work within a short period of time. The same thing happens to classified employees who accept employment in the partially exempt or

service. They lose their accumulated credits upon resigning from the classified position. Lois Jund suggested that the commission recommend that the state do away with the system of employee credits. Senator Ray proposed that the staff research the advantages and disadvantages of employee credits and other bonus point systems and report to the commission.

Senator Ray asked whether there were any statistics on the number of permanent seasonal positions created for positions which had been previously filled by temporary employees and how many nonpermanent positions there were. Bruce Cummings replied that it is not yet available. Senator Ray pointed out that the newspapers had reported 1100 new positions created by the budget but that in fact from the information presented to the Finance Committee he thought that there were no more than 300. The rest were already in existence because of Revised Programs which had been started before the new fiscal year or through converting CIP positions.

Senator Ray adjourned the meeting at 11:42 for lunch.

The commission reconvened at 1:30 p.m. and began discussion of the Revision of the State Personnel Act memorandum. Only those sections in which there was discussion will be noted.

AS 39.25.040. Director of personnel. The staff was directed to find out what the statutes say about the position of the Director of Labor Relations and the actual duties of the director.

AS 39.25.060. Personnel board. Senator Ray pointed out that this section includes unnecessary language and should be cleaned up. He asked whether there was a need for the Personnel Board since most of their original functions are now performed through collective bargaining. Mr. Cummings replied that there are still five employees who are in the classified service but not members of any bargaining unit. The State Personnel Act and the Personnel Rules govern all of the terms and conditions of their employment. In addition, some of the members of the Confidential Employees Association have petitioned the Labor Relations Agency to be taken out of the CEA unit, which would add them to this group of five. The Personnel Board adopts the Personnel Rules and amendments and some body is needed to continue to do that. Senator Ray asked the staff to contact the Personnel Board to ask whether they should continue in operation.

AS 39.25.080. Public records. Mr. Cummings explained that the Personnel Rules which implement this section provide for confidentiality for personal information about state employees. The public does have access to information about who is a state employee, where he works, how much he is paid, and how long he has been employed. Confidential records include information about an employee's familyand performance evaluations, although any state supervisor who is considering hiring a present state employee does have access to the whole personal file. Every employee can see his entire file at any time and have copies of anything in the file. Secret files are forbidden.

Senator Ray suggested tha the statute be changed to specify which information is open to the public and which information is to be kept confidential rather than relying on the Personnel Rules to set those standards. Mr. Cummings mentioned that there are a number of conflicting laws on this subject already.

AS 39.25.110. Exempt service. The commission discussed the groups who are made members of the exempt service and agreed that the section should be recodified. Duncan Fowler suggested that the commission should hear from those entities which have employees in the exempt service to learn whether there are positions which should be transferred to the classified or partially exempt service. Senator Ray also directed the staff to inquire of Greg O'Claray whether there is still a reason for the employees of the ferry system to be in the exempt service.

AS 39.25.120. Partially exempt service. The commission discussed specific language changes which should be made to clean up this section. In addition, Duncan Fowler suggested that the commission should develop a policy statement for the exempt service comparable to the policy statement found in AS 39.25.130 concerning the partially exempt service. Mr. Cummings explained that positions in the partially exempt service are similar to other state jobs and therefore can be placed in the job classification plan and paid according to the pay plan but they are not susceptible to ordinary methods of recruitment or they require greater flexibility in hiring and dismissal than do positions in the classified service.

On the other hand, exempt service positions are not subject to either the state's classification plan or the pay plan. They are generally meant to be jobs which are so unique or of such short duration that it is more appropriate not to try to fit them into the system. The Division of Personnel makes no attempt to develop a job description for exempt positions, to classify them, or to set the salary for them. There is a need for both the exempt and the partially exempt service, in addition to the classified service. Lois Jund added that the state really has four services: the exempt, the partially exempt, the classified service which participates in collective bargaining with the state, and the classified service positions which are not unionized.

AS 39.25.130. Extension of partially exempt and classified services. Senator Ray suggested eliminating the reference to dates in this section.

AS 39.25.140. Amendment of personnel rules. Senator Ray suggested that the law should provide two methods for adoption of the Personnel Rules. Those Rules which affect the public policy should be adopted through the Administrative Procedures Act. Those Rules which are matters of internal management only, could be adopted without the procedural requirements of the APA.

The commission will meet to review a proposed draft of a revised State Personnel Act in September.

Senator Ray adjourned the meeting at 3:45 p.m.

MEMBERS IN ATTENDANCE

Senator Bill Ray, Chairman
Don Fisher, Vice Chairman
Bruce Cummings
Duncan Fowler (for Frank Flavin)
Representative Jack Fuller
Lois Jund
Darlene Livermore (for Cherie Shelley)
Lynda McCurry
John Pugh
Dick Smith

OTHERS IN ATTENDANCE

Bob Mourant

ADDENDUM: Correction for the Merit System/Collective Bargaining and Full Commission minutes of November 15, 1979 - Frank Flavin was present at the meeting. It had been erroneously recorded that he had been absent.

BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT
Monday, August 18, 1980
State Capitol, Juneau, Alaska

TAPE LOG

Tape 1 - (10:00 - 11:42 a.m.)

0000 - 0014	Senator Ray called the meeting to order. He then asked for public testimony.
0015 - 0350	Julie Issac testified on problems with the state retirement system.
0351 - 0486	Commission members questioned Mrs. Issac.
0487 - 0500	Mrs. Issac was excused. Further discussion by Commission members followed.
0501 - 0512	Senator Ray introduced the Public Inquiries memo - starting with:
0513 - 0530	Issue 1. (Darlene Livermore spoke on this matter.)
0531 - 0680	Issue 2. (Bruce Cummings began discussion.)
0681 - 0850	Issue 3. (Bruce Cummings spoke on this matter.)
0851 - 0870	Issue 4 & 5.
0871 - 0900	Issue 6. (John Pugh began discussion.)
0900 - 0910	Issue 7. (Terry Cramer explained this one.)
0915 -	ADJOURNED FOR LUNCH AT 11:42 (Put new tape on.)

Tape 2 - (1:30 - 3:00 p.m.)

0000 - 0045	Terry Cramer introduced the Revision of State Personnel Act.
0046 - 0180	Discussion of AS 39.25.080 - personnel record being confidential.
0181 - 0338	More discussion of AS 39.25.080.
0339 - 0383	Discussion of AS 39.25.110.
0384 - 0563	Discussion of AS 39.25.110 - 120.
0564 - 0793	Discussion of AS 39.25.120(22) and (23).

0794 - 0925 Discussion of exempt and partially exempt services.

0926 - ADJOURNED FOR 10 MINUTES - (Put new tape on.)

Tape 3 - (3:15 - 3:45 p.m.)

0000 - 0350 Further discussion of Revision of State Personnel Act.

0351 ADJOURNED AT 3:45 p.m.

BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT
Capitol Building, Juneau
January 9, 1980

MINUTES

Senator Ray, Chairman, called the meeting to order at 1:35 p.m. He asked for testimony from the public. Connor Sorenson addressed the commission on the issue of how the Division of Personnel computes credit for graduate study when evaluating applicants. The individual for whom he was concerned applied for a position which required 7 years of experience. The job announcement indicated that graduate study could be substituted for the experience on a year for year basis. Although the person had more than 7 years of graduate study, the Division of Personnel indicated that a formula must be applied to the education which resulted in education being worth less than the 7 years of experience. The division therefore found that the person did not qualify for the position.

Ken Kareen explained that the division does evaluate the amount of graduate study an applicant has on a semester or quarter hour basis. To be credited with one year of undergraduate study, an applicant must have either 28 semester hours or 45 quarter hours. To receive credit for one year of graduate study, an applicant must show 24 semester hours. Mr. Sorenson replied that this was not the policy which had reduced his friend's credited years of education.

Senator Ray asked Mr. Sorenson to provide the staff with additional information on the situation and directed the staff to find out whether there were any discrepancies and to establish what the division's practices are in rating the educational background of applicants.

The commission considered the second revised draft of the report and made changes. The commission voted without objection to release the report as amended.

Senator Ray adjourned the meeting at 2:40 p.m.

MEMBERS IN ATTENDANCE

Senator Bill Ray, Chairman
Don Fisher, Vice Chairman
Bruce Cummings
Lois Jund
Ken Kareen
Bob Mourant
Pat Murphy

BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT
Capitol Building, Juneau
December 12, 1979

MINUTES

Senator Ray, Chairman, called the meeting to order at 1:30 p.m.. The members reviewed the draft of the Introduction and the first chapter of its report to the Alaska State Legislature. The commission also considered the revised draft of the report. Changes and corrections were made.

The commission decided to meet on Wednesday, January 9th at 1:30 p.m. for a final consideration of the report.

If possible, the staff should be notified of any changes which the members wish to suggest before then.

Senator Ray adjourned the meeting at 2:45 p.m..

MEMBERS IN ATTENDANCE

Senator Bill Ray, Chairman
Don Fisher, Vice Chairman
Doryce Eggleston (for Lynda McCurry)
Frank Flavin
Ken Kareen (for Sandra Withers)
Pat Murphy
Greg O'Claray
John Pugh

BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT
State Office Building, Juneau
November 28, 1979

MINUTES

Senator Ray, Chairman, called the meeting to order and introduced Alexander "Bill" Gillespie, a Finance Officer employed by the Department of Education. Mr. Gillespie was invited to the meeting to address a complaint filed by Lillian Austin regarding a "not recommended for rehire" evaluation she received from the Department of Education.

Ms. Austin filed a complaint with the Human Rights Commission stating that: "I have applied and am eligible for Accounting Clerk II & III positions with Respondent (the State of Alaska), Tlingit & Haida Central Council, Sealaska, and the Bureau of Indian Affairs but have not been hired. I believe that my last evaluation by Respondent which rated me as unsatisfactory and not recommended for rehire is the reason that I am not being hired. I hereby certify that Respondent has violated AS 18.80.220 by unfairly providing me with an unsatisfactory evaluation. I have been employed in different capacities by Respondent for nine years and was rated as satisfactory until the last evaluation which occurred four months after a transfer. I was criticized for not getting along with co-workers, two Caucasian females; but to my knowledge the co-workers were not criticized for not getting along with me. These same co-workers also did not get along with an Oriental co-worker who eventually transferred to another department. I am an Alaska Native female."

Senator Ray stated that the commission is interested in receiving an explanation of the situation because a "black mark" such as not recommending for rehire is a very severe action that usually precludes any chance of being rehired - either in private or state employment.

Mr. Gillespie explained that he is familiar with Ms. Austin as a former employee of the Department of Education. Although he was not Ms. Austin's immediate supervisor, Mr. Gillespie believed that the recommendation had been phrased differently: Ms. Austin was recommended for rehire in a less complex job. Senator Ray responded that if this could be proven with documentation, the problem would be alleviated. Mr. Gillespie elaborated that this information could be found on Ms. Austin's evaluation in Department of Personnel files.

Senator Ray instructed the staff to obtain Ms. Austin's personnel file from the Department of Personnel. Terry Cramer explained that this would be possible if Ms. Austin signed an authorization form to release such confidential material. Senator Ray asked whether the personnel files could be altered. Mr. Gillespie replied that this would be highly unlikely once they are in the personnel system.

Senator Ray pointed out that Ms. Austin had supplied sworn testimony about her evaluation. He asked how she terminated her employment. Mr. Gillespie responded that one day, Ms. Austin became very agitated, told him that she was leaving, and walked out of the office, without supplying a letter of resignation.

Greg O'Claray asked whether Ms. Austin's evaluation was written after she left, or if it was discussed with her. Mr. Gillespie responded that it was written following her termination in 1978. She received a copy

of the evaluation and could have discussed it with her supervisor, Merle Flemming, or could have placed a rebuttal in her personnel file.

Ken Kareen asked if there had been any difficulties or complaints about Ms. Austin prior to her termination. Mr. Gillespie replied that she had never spoken with him about any problems and, to his knowledge, had never spoken with anyone else. Mr. Kareen asked how her resignation was recorded on the final evaluation and personnel action. Mr. Gillespie did not recall. Mr. Kareen stated that an employee is normally expected to give 14 days notice, although the requirement can be waived.

Senator Ray again commented that the commission's concern is whether Ms. Austin was not recommended for rehire. Mr. Gillespie stated that everyone must fill out a termination form when leaving, and Ms. Austin's form must be in her personnel file. In order to receive her last paycheck, Ms. Austin would have had to return to the office, although she probably went to see the departmental personnel officer.

Senator Ray stated that the staff would contact Ms. Austin and investigate the situation. He added that black listing is a very drastic step to take against an individual, especially in Juneau. Ms. Austin must have had a good working relationship with someone after being employed by the state for nine years. Ms. Austin points out that her coworkers were never criticized for not getting along with her. Senator Ray concluded that it is easy to ignore this type of situation. He thanked Mr. Gillespie for attending the meeting, and Mr. Gillespie departed.

Senator Ray recessed for an executive conference, and the staff left the room.

Senator Ray called the meeting to order. Mr. O'Claray moved that the commission extend permanent employee benefits to the staff effective with the hiring of new personnel. There were no objections, and the motion passed.

The commission reviewed the Certification, Classification and Recruitment section of the draft report and corrected errors, made other changes, and added sections on review of recommendations against rehiring terminating state employees and on comprehensive classification guides.

The commission decided to meet next on Wednesday, December 12 at 1:30. Senator Ray adjourned the meeting at 4:00.

MEMBERS IN ATTENDANCE

Senator Bill Ray, Chairman
Don Fisher, Vice Chairman
Lois Jund
Greg O'Claray
Frank Flavin
Ken Kareen (for Sandra Withers)

OTHERS IN ATTENDANCE

Alexander Gillespie

BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT
Capitol Building, Room 124, Juneau
October 17, 1979

MINUTES

Senator Bill Ray, Chairman, called the meeting to order. He said that the commission's report to the legislature should contain recommendations on which there is a consensus. He added that each member is welcome to submit a minority report on any issue. The staff was directed to prepare a draft of the report to be reviewed by the commission at its next meeting.

Senator Ray asked if any conclusions had been drawn on the issue of the partially exempt and exempt services. He was advised that the Categories of Employees subcommittee is waiting for additional information on positions in the exempt service before making any recommendations.

Senator Ray asked whether there is evidence of problems with the nonpermanent law. Lynda McCurry stated that it will be difficult to implement the procedures set out in the law, but it will force action that should have been taken long ago. John Pugh added that it will alleviate the problem of by-passing the registers by hiring temporaries and will increase equal opportunity amongst applicants.

Senator Ray stated that there should be a section in the report addressing problems with maintaining open registers. He added that he hopes the commission will be able to make some recommendations on the issue. Pat Murphy pointed out that the Certification, Classification and Recruitment subcommittee voted in favor of recommending that the Division of Personnel receive additional funding for recruitment and examination functions. Senator Ray stated that the report should also recommend that departments request only needed positions in the budget submitted to the legislature. Legislators require more input from agencies on their operating needs.

Members discussed other topics, including: the veteran's preference system, conflicting roles of supervisors who are also union representatives, meeting equal employment opportunity goals, and providing aggrieved employees with protection from those implicated in grievances.

Senator Ray scheduled the next commission meeting for Thursday, November 15. He adjourned the meeting at 4:10.

MEMBERS IN ATTENDANCE

Senator Bill Ray, Chairman
Lois Jund
Lynda McCurry
Pat Murphy
John Pugh
Ken Kareen (for Sandra Withers)

OTHERS IN ATTENDANCE

Doryce Eggleston
Bob Mourant

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT
Capitol Building, Juneau
October 5, 1979

MINUTES

Senator Ray, Chairman, called the meeting to order and requested reports on subcommittee recommendations.

CATEGORIES OF EMPLOYEES SUBCOMMITTEE

The Categories of Employees subcommittee voted to recommend to the full commission that all personnel sections of the Alaska Statutes be codified into a cohesive form located in one chapter. The commission voted to pass the recommendation without objection.

Ken Kareen mentioned that the implementation of the nonpermanent law initially sponsored by the commission would be delayed in some areas, but all departments would be in compliance by January 1, 1980. Previous issues relating to temporary employees were reviewed. Senator Ray elaborated that nonpermanents will not receive fringe benefits, health insurance or retroactive credit for retirement under the law and that the commission should not address those issues.

On the topic of contracting, Senator Ray asked if the commission should recommend that rules be adopted to prohibit state employees or corporations composed of state employees from subcontracting with the state while employed by the state. Frank Flavin pointed out that this is already in the Personnel Rules and is considered a "conflict of interest". Complaints have been received about how state contracting is handled and the rule that bids do not have to be solicited on jobs costing less that $2,000. John Pugh pointed out that many of the problems have been cleared up. The state's practice of contracting for services which could be performed by state employees should be left to collective bargaining between the state and the employee unions. Senator Ray stated that he would provide the staff with additional information on the subject if he receives any more complaints.

The subcommittee requested the staff to study the exempt and partially exempt classes in the state and to present a list of those positions and their locations as soon as possible.

The issue of reviewing all vacant PCN's had been brought up during subcommittee discussion. One area of concern is the legislature's "red lining" of vacant positions that have not been filled because of classification and recruitment time delays. John Pugh added that there may be a number of vacant PCN's this year because of underfunding for personal

services. Ken Kareen suggested that the problems may dwindle, because under the nonpermanent law, permanent position dollars cannot be used for hiring temporaries and therefore vacancies in permanent positions may be reduced.

CERTIFICATION, CLASSIFICATION & RECRUITMENT SUBCOMMITTEE

The Certification, Classification and Recruitment Subcommittee voted to recommend to the full commission that the Division of Personnel move towards broader classifications. Ken Kareen elaborated that the Division has been in the process of doing so since the beginning of the year. The commission voted in favor of recommending this to the Division.

Regarding the topic of closing recruitment, John Pugh stated that it was a difficult issue for the subcommittee. If there are no eligibles on registers willing to work in rural locations, appointing authorities must first work the registers and then request authority to recruit locally, which can be a time consuming process. Sandra Withers stated that there are complaints whether the registers are open or closed. To keep registers open, there must be sufficient staff to examine and test applicants in the Division of Personnel. Maintaining access to promotional lists in classes in which the registers are closed has been taken to arbitration. Ms. Withers stated that it would take another four staff members in the Division of Personnel to handle open recruitment at all times.

John Pugh suggested that the commission request that the legislature appropriate more funds to increase the Division's staff. Greg O'Claray concurred that additional staff should be funded and registers should remain open, giving the state the opportunity to choose from the most qualified when a vacancy opens. Sandra Withers pointed out that the new nonpermanent law will inundate the Division with applications from temporaries trying to get on registers for permanent positions, and nonpermanents will have to be hired off registers in accordance with the law. There was a general consensus that recruitment should remain open and that the Division of Personnel should be provided with additional staff funding.

Frank Flavin commented that there appears to be too much paper work involved in the application process and that one solution would be to reduce the submissions to one per applicant, regardless of the number of classes she or he was applying for. Ken Kareen responded that the Division has alleviated some problems by offering to give passing grades for lower classifications within a series to applicants who have passed an advanced level test. In many cases this is not possible because at various levels of classifications, different skills are required, and different tests must be used to evaluate those skills.

Applicants who want to be placed on registers by this method are placed in a single group. The division does not try to rank them with the applicants who were tested for the lower level position. Mr. Kareen elaborated that the Division has abolished 183 classes. by merging them with other similar classes or by eliminating them completely. There are now fewer than 1,300 classes in the state.

Mr. Flavin suggested that the commission design the ideal personnel system for 1981, burn everything in existence now and start out all over again. John Pugh asked if the Division has tried using a single application for multiple classifications. Ken Kareen explained that the Division had tried accepting up to five class titles on a single application. The number of positions applied for increased, and the staff still had to review each title separately. Staff members ended up making extra copies of applications themselves to avoid confusion. Sandra Withers elaborated on the ideal system, which would be computerized so that information could be keyed in, applications could be tracked, and classifications for which an individual qualified would print out. Ken Kareen commented that the Department of Transportation and Public Facilities has been working on a system for evaluating and classifying all the planner classes in the department. To date, the department has had to bring in consultants, psychologists and an expert in data processing, and they still don't have a workable system.

Senator Ray asked what role the Division of Budget and Management plays in the classification process. Sandra Withers replied that the Division of Personnel cannot work on a position before there is assurance that it has been funded. The Personnel Rules provide this method for monitoring compliance with legislative changes in the budget. The Division of Budget and Management certifies the availability of funds and has done so since the office was physically located in the Department of Administration. At that time it was an interdepartmental review. The subcommittee had directed the commission staff to invite representatives of the Budget and Management and Governor's office to attend its next meeting (October 11).

Returning to the topic of multiple applications, Ken Kareen commented that the Division of Personnel has come very close to having a production line set up in its offices to handle the large volume of applications. All applications for one classification are gathered together and evaluated at one time. Greg O'Claray observed that the public feels that there is too much paperwork and it doesn't perceive the requirements of the Division of Personnel as reasonable. Sue Greene asked how the Division should be perceived--as an employment agency or as a group of employees performing state functions. The Division's resources are restricted. Is it unreasonable to make things easier for state employees? How far should the Division go to please the public? Which is the top priority--performing services for the user departments or providing

services to the public? There have been many changes in the time needed to perform evaluations of applications in the past few years, but there have been no increases in the number of staffing services. Ken Kareen stated that the state has more records than any private industry would dream of because of it is required to account for its actions.

Senator Ray scheduled the next commission meeting for Thursday October 11, and adjourned the meeting at 4:20.

MEMBERS IN ATTENDANCE

Senator Bill Ray, Chairman
Frank Flavin
Sue Greene (for Commissioner Hudson)
Lynda McCurry
Darlene Livermore (for Pat Murphy)
Greg O'Claray
John Pugh
Sandra Withers

OTHERS IN ATTENDANCE

Doryce Eggleston
Ken Kareen
Bob Mourant

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT
September 26, 1979

I. ISSUES BEFORE THE COMMISSION ON WHICH NO SUBCOMMITTEE HAS ACTED:

At the February 24 meeting of the commission, the following motion was made and then tabled to be placed on the agenda of the next commission hearing:

AS39.25.153 should be amended to read as follows:

Section 39.25.153 Personnel Rules for Departments

(a) Each department shall appoint a personnel officer to be located within that department.

(b) The personnel officer specified in (a) of this Section shall adopt regulations providing for the activities specified in Secs. 39.25.150 (1)-(10), (13)-(18), (20), and (22) of this Chapter for those classes of employees which are not common to other departments. The determination as to the classes of employees which are common to the various departments shall be made pursuant to regulations adopted by the director.

(c) The personnel officers within the departments specified in (a) of this Section are subject to all provisions of this Chapter not in conflict with this Section.

(d) The Governor may exempt any department with (a) of this Section containing less than 200 employees from the provisions of this Section.

(e) All regulations adopted pursuant to this Section are subject to the Administrative Procedures Act (AS 44.62).

II. CLASSIFICATION, CERTIFICATION AND RECRUITMENT SUBCOMMITTEE

A. Issues on which the subcommittee has acted.

1. Creation of a department of employee relations. The full commission voted to sponsor legislation on this issue. See SB 256.

2. Adoption of the Personnel Rules in accordance with the requirements of the Administrative Procedures Act. This recommendation is accomplished by language in SB 256, which deletes the exemption from the requirements of the APA presently granted to the Personnel Rules. See Section 4, page 3, lines 26-29.

3. Use of a block scoring system for the evaluation of applicants. At the February 23 meeting of this subcommittee, members recommended that the full commission recommend that the state move away from a rule of five system towards a system of block scoring. The question of the number of blocks to use within the scoring system was left to the discretion of the Department of Administration.

B. Issues pending before the subcommittee.

1. Centralization or decentralization of personnel officers. What authority for independent action in classifying and reclassifying positions should the departmental personnel officers hold? Should they be granted greater authority in other areas? If the commission supports decentralization, what provisions should be made for departments whose personnel offices are not equipped to perform the extra work? What provision should be made for departments which abuse the added responsibility? Should personnel officers be employees of the departments in which they work, of the Division of Personnel and Labor Relations, or of some other entity?

2. Classification of positions. If the problems in the classification process are not resolved by the subcommittee's recommendations on issue one above, are there other solutions to the length of time it takes to have a position classified?

3. Review of existing classifications. Should the Division of Personnel be asked to undertake a comprehensive study of the existing classifications in order to eliminate duplications, particularly in the number of classifications which appear to be unique to one department?

Should the division consolidate generally similar classifications into broader classifications, thereby reducing the number of classes within the state? On the other hand, should the classifications be made more specific (and the number of classes increased) so that the eligible lists are less likely to contain unqualified applicants? How would a change in the number of job classes affect the time it takes to classify new positions? What effect would increasing or decreasing the number of classifications have on the time it takes to certify eligibles? Should the state review its classes to insure effective career ladders for its employees? Are minimum qualifications reasonable?

4. Certification of eligibles. Should the commission address the topic of closing recruitment for some positions? If so, should the policy of limiting recruitment by closing the application periods for some positions continue? Should that policy be extended to other positions? Can the time for certifying eligibles to the registers be shortened by other methods?

5. Multiple applications for job series. Should the Division of Personnel continue to require a separate application for each job within a series? What effect on the time it takes to certify eligibles would changing the present policy have?

6. Validation of tests. Should the Division of Personnel be asked to make a greater effort to validate the written tests administered to applicants? If so, should tests which have not been validated continue to be used in the evaluation of applicants? Are additional funds necessary to meet this objective?

7. Veteran's preference system. Should the present system which gives veterans a five point bonus when when they apply for initial entry into state employment be changed?

8. Regional registers. Most of the state's eligibility registers are maintained on a state-wide basis, in conformance with PR 4 02.0. Should the registers be kept on a regional basis instead? Should local offices of the Division of Personnel located within the regions maintain those registers? Would this shorten the time required for an applicant to be certified and placed on a register?

9. Interviews for the top five interested applicants. Should either the Personnel Act or the Personnel Rules provide that each of the top five interested applicants for a position be offered an opportunity for a meaningful interview, either in person or by telephone (transportation to be at the applicant's expense)? If the commission chooses to support a system of block scoring for applicants, should interviews for each of the interested applicants within the top block be required? (See issue IIA3 above.)

10. Requiring that agencies fill authorized permanent positions with permanent employees only. If state agencies could not use nonpermanent employees to fill newly created positions, then the classification process would have to be made faster in order for the agencies to be able to meet legislative deadlines imposed at the same time that the positions were created. Forbidding the employment of nonpermanents would provide more accurate budget information, since nonpermanents could not be hired at lower-than-budgeted pay so that the departments "earned the difference" to be used for whatever purposes management saw fit. Should the commission address this issue?

11. Training. The staff will present a proposed position paper on training to the commission for discussion and review as soon as it is drafted.

12. Promotion and equal employment opportunity. Should the commission consider the effect of the state's policy favoring promotion on equal employment opportunity? If so, should some exception to the use of promotional registers be made for members of minority groups to increase their representation in advanced positions in the state?

13. Documentation procedures for work on tasks above class specifications. Should procedures be recommended to implement documentation of work in tasks above job class specifications?

14. Increasing the audit role of the Division of Personnel. The commission recommended in its report that the Division of Personnel increase its auditing role of departmental personnel practices in order to reduce abuses and, to accomplish that, that applicants be provided with the name of a person whose duty it is to investigate and resolve abuses. Should a new position be established to accomplish this goal?

15. Annual audits of the personnel system. Who should perform the audit; who should determine the scope; and, to whom should the auditors report?

16. Creating more effective disciplinary measures for violation of the Personnel Rules. Since the present system for disciplining state employees who violate the personnel rules (particularly those in supervisory roles whose actions as supervisors are improper) are not effective, should some other system be developed or can changes be made in the present system to make it effective?

17. Comprehensive revision of the State Personnel Act. The commission reported that the State Personnel Act is poorly structured. Should a comprehensive revision be undertaken, and if so, by whom?

18. Comprehensive revision of the Personnel Rules. Should a revision be undertaken, and if so, by whom?

III. MERIT SYSTEM/COLLECTIVE BARGAINING SUBCOMMITTEE

A. Issue on which the subcommittee has acted.

1. Creation of a Department of Employee Relations. See SB 256.

2. Exempting members of collective bargaining unions from the scope of the Personnel Rules. At the February 23 meeting, the subcommittee recommended that the commission introduce legislation to exempt members of collective bargaining units from the scope of the Personnel Rules. (See work draft attached.) The full commission has not considered this matter.

B. Issues pending before the subcommittee.

1. Role of the legislature in collective bargaining. Should the legislature's role in the bargaining process be changed? If so, should the legislature take part in bargaining sessions directly or through legislative committee, through a legislative employee, or by some other legislative entity; should the legislature have an opportunity to review and approve collective bargaining contracts before they become effective?

2. Should policy-making supervisors be excluded from collective bargaining rights?

3. Should Alaska adopt a management rights clause? If so, what rights should be reserved to management discretion?

4. Should the Public Employment Relations Act be amended to specify what effect collective bargaining agreements have on conflicting statutes?

5. Cost of living adjustments. Should cost of living adjustments be limited to lump sum increases, or should percentage increases be permitted, as is the present practice? Should the Public Employment Relations Act be amended to address this question?

6. Merit Increases. Should merit increases be in the form of a percentage increase in salary or in a one-time lump sum? If the latter, should the lump sum be constant (e.g. $500 or $1,000) or should it be a percentage of the employee's current salary? Who should decide which employees receive merit increases? What standards should apply? How should merit increases be funded? Should personal evaluations be performed on all employees or only on those performing above or below average?

7. Amplification of merit principles in the Public Employment Relations Act. What principles are essential to Alaska's concept of employment practices based on merit principles? Should these principles be set out in the state statutes?

8. Membership of the Labor Relations Agency, the Personnel Board and the Retirement Board. Should the statutory requirements that the membership on the LRA and the Retirement Board include the three members of the Personnel Board be changed?

9. Staff for the Labor Relations Agency. Should the Labor Relations Agency have a stafff of its own? If so, what positions should be created and should they be classified employees?

10. Methods of adopting the Personnel Rules and the departmental standard operating procedures. The Personnel Rules would have to be adopted in accordance with the Administrative Procedures Act if SB 256 is adopted in its present form. Should the system by which the departmental standard operating procedures be changed? If so, how?

IV. CATEGORY OF EMPLOYEES SUBCOMMITTEE

A. Issue on which the subcommittee has acted.

1. Temporary employees. (Now nonpermanent employees.) See Chapter 67, SLA, 1979. The statute does not address the issue of whether

nonpermanents should be eligible to receive fringe benefits such as health insurance, earned leave or retirement benefits.

2. Support of retroactive credit towards retirement for work as a temporary when subsequently hired as a permanent employee. SR 26. This position was adopted at the January 26 meeting of the subcommittee.

3. Support for health insurance for temporary employees after 30 days in state service. See SB 22. This position was adopted by the subcommittee at the January 26 meeting.

4. At the February 23 meeting, the subcommittee decided to recommend to the commission that the Personnel Rules be adopted in conformance with the Administrative Procedures Act. Section 4, page 3, lines 26-29 of SB 256 accomplishes this.

B. Issues pending before the subcommittee.

1. State practices in obtaining services or goods by contract.

2. Scope of membership in the exempt and partially exempt service.

3. Investigation of PCN's which remain vacant for excessive lengths of time.

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT
Public Hearing
Capitol Building, Juneau
September 12, 1979

MINUTES

Senator Bill Ray, Chairman, called the hearing to order and presented a telegram from Wasilla to commission members regarding complaints about the 120-day limit on temporary employment. It was decided by members that no action could be taken because of legislation passed on nonpermanent hire. Also presented was a letter from Catherine Hubbard concerning summer employment for students going to school outside of the state. (See attached copies of correspondence.) Don Fisher stated that the Division of Personnel permits submission of applications from students outside of the state, and therefore this shouldn't be a problem.

Senator Ray requested public testimony, and there being no response, brought up the topic of collective bargaining. Is the legislature going to continue giving the responsibility of negotiations to the Department of Administration? What will be the method for transmittal of agreements to the legislature for consideration? One proposed change involves requiring that all contracts expire on July 1. At some time prior to adjournment, there would be a deadline by which the Department of Administration and the unions would have to make a presentation to the legislature on negotiated agreements. The legislature would then have the option of approving or disapproving the contracts, and the unions would take whatever action they required to meet their interests.

Senator Ray asked whether the commission would like to make recommendations on the topic. Ken Spray responded that the problems recently encountered could be a catalyst for the establishment of a Department of Employee Relations. Senator Ray stated that the bill in question (SB256) did not receive affirmative action during the last session, and the consensus was that a separate department was unnecessary. However, the fiasco of the regular and special sessions may have changed some opinions. Mr. Spray suggested that the commission support its passage once again.

Senator Ray elaborated on the legislature's desire to take a more active role in the collective bargaining process. Alternatives under consideration include having the legislature directly responsible for the negotiations on behalf of the state, either through staff hired for that purpose or through a standing committee. However, when the legislature was responsible for negotiating with unions in the past, the outcome depended on which organization contributed the most to lobbying efforts. The system was unsuccessful at that time, and the legislature voted to opt out of direct involvement in negotiations. The current system was successful until this last year. He suggested that some legislators consider the added cost of the second and third years of multi-year contracts to be like paying for a "dead horse".

Senator Ray requested public testimony, and Maria Iverson, Leasing Officer with the Division of General Services and Supply, responded. On the topic of collective bargaining versus the merit system, Ms. Iverson stated that she believes employee unions are necessary to correct management neglect of employee needs and morale.

Ms. Iverson went on to discuss a public notice she had seen posted regarding a new APEA by-law giving the union president the right to fire members who do not honor picket lines. She said that other issues of concern to her and other state employees include the widespread discrimination and retaliation actions of management happening when employees speak out on issues. She added that there is a need for incentive programs to encourage talented state workers.

Senator Ray questioned the ability of any union to fire an individual for crossing a picket line. If this were true, management rights would be negated, as well as constitutional rights to express opinions. The state hires in accordance with the merit system, and a union has neither the right to hire nor fire employees. Senator Ray asked Pat Murphy to speak to the issue. Mr. Murphy stated that it was not true to his knowledge and that the notice may have been posted by someone other than an APEA representative. He added that in any case, by-laws have no control over an employee unless they are included in contract provisions.

Ms. Iverson stated that she has reviewed many laws on equal employment opportunity and human rights, and there is little in the Personnel Rules addressing those issues. She said provisions should be adopted to punish supervisors who willfully discriminate against women and minorities. Anyone found guilty of discrimination should be fired, be banned from further state employment for two years, and be made liable for punitive damages. She added that women in all levels of employment, from clerks to managers, are being discriminated against.

Senator Ray observed that complaints have been received stating that women are given advantages over men in the state. Frank Flavin responded that there is a lack of disciplinary actions to punish those who are proven to be discriminating against minorities. Taxpayers pay for rewards in discrimination cases, not the individuals responsible. The state needs to put a new emphasis on making those who discriminate illegally responsible for their actions.

Senator Ray pointed out that the greater percentage of personnel officers in the state are women, and they must therefore have control over discrimination in the hiring and firing of women. Lynda McCurry responded that personnel officers do not have authority to hire or fire. Ms. Iverson asserted that even top administrators often cannot do anything about discriminatory actions. Mr. Flavin pointed out that the Division of Equal Employment Opportunity only conciliates problems, and the Human Rights Commission cannot take disciplinary action. The only one who can take action is a supervisor or manager. Mr. Murphy commented

that if it is proven that an individual in engaged in discriminatory practices, and the case can be substantiated, this would be just cause for dismissal under the present Personnel Rules. The method is available, but proving discrimination is difficult. Senator Ray suggested that the women on the commission form a subcommittee to look into the matter. Ms. Iverson expressed concern over the operation of the Word Processing Center. Ms. Greene responded that both the Commissioner of Administration and Sandra Withers are reviewing the operation of the center. Senator Ray stated that the operation is successful in one department and not in the other. Ms. Iverson added that she constantly finds errors in work done by the center and that production rates and quality are poor. Ms. Iverson also objects to the piece-rate standards set by the center and the lack of monetary rewards or incentives to perform well.

Senator Ray noted that the commission has discussed the merit system and the monetary aspects of merit increases. One remedy is to award merit increases in lump sums for outstanding service as decided by a board composed of members from various agencies. The commission is still reviewing the relationship between the merit system and collective bargaining. Ms. Greene pointed out that there is incentive award legislation still in committee, but that there is a question about whether funding will be provided.

Peggie Loken addressed the commission regarding her concerns on the merit system, and suggested that pending legislation on incentive awards may resolve many problems. Senator Ray commented that the legislature considers merit increases as a double-dip for state employees. He feels that if the merit system exists, it should be directed towards hiring practices and performance incentives and suggests that performance evaluations only be submitted on below or above average employees. Requests for increases could then be submitted to an incentive board for consideration. Ms. Loken asserted that there is great concern about granting increases to "chair warmers" for average service.

Ms. Loken stated that there are too many job classifications for the state to accomodate. The system can be circumvented in numerous ways. Senator Ray pointed out that this problem is not unique to Alaska. The commission has also heard testimony that the present classifications are too broad. Ms. Loken stated that some employees are getting paid for functions they are not performing. Individuals can also be performing tasks well above what they are being compensated for. As an example of this problem, Ms. Loken said that it might take two or three months to fill a supervisory position through registers, and when the position is filled, subordinates are responsible for training the supervisor. She also mentioned that examinations do not test for skills actually needed to perform jobs. Ms. Loken concluded that the system doesn't encourage productivity and wastes time and effort in hiring employees.

Senator Ray commented that III's on registers may be willing to accept II vacancies, but they are considered over-qualified and never notified of such vacancies. He added that there are many applicants applying for as many registers as possible, thus flooding the system. Ms. Loken commented that "running" the registers is already excessively time consuming. She added that she would never succeed in hiring an individual if she had to consider all applicants on registers in a job series. Senator Ray asked Ms. Loken if she felt that there are too many classifications that are inconsistent with actual job functions. As an example, Ms. Loken said that accountants are performing work that does not meet class specifications. Senator Ray suggested that the reason behind this is that in prior years, the need for an accountant was valid. Although the duties have changed, the position has not been reclassified and the agency has maintanined this classification to justify its existence to the legislature.

Ms. Greene explained that there is a backlog in reviews of classifications and job descriptions in the Division of Personnel. Mr. Spray commented that it is disturbing to have classifiers in the Classification and Pay Section downgrading positions in which they lack elemental knowledge of the work. He added that he has heard that the problem is in funding and that employees are being demoralized.

Mr. Flavin stated that improvements can be made in the certification area. One subcommittee came up with a recommendation to have block scoring for eligible lists. He added that there is no way to prove who is more qualified within a certain range or category, and the block scoring approach would allow supervisors more flexibility in hiring eligibles.

Cynthia Butler presented testimony on her experiences in trying to get a job in the state system as a double minority--black and female. She submitted her first applications almost a year ago and is now on 26 registers. Ms. Butler suggested that this might be evidence of problems with the system, and especially with having three sets of eligibility lists used in hiring applicants: open competitive, departmental and interdepartmental. The employer has the option of hiring from any of the three lists, which makes it difficult for new people to get into state service. Ms. Withers responded that departmental and interdepartmental promotional lists are composed of persons eligible for promotion and that they are a necessary part of the merit system.

Ms. Butler gave an example of an instance where a white male with a Bachelor's degree and a test score of 85 received a job she had interviewed for, despite the fact that her score was 95 and she has a Master's degree with honors from Yale University. Ms. Butler believes that the applicant was hired over her because he had been in Alaska some three months longer than she and was not female or black. Ms. Butler's response to this episode was a feeling of abuse and frustration. She stated that she was hoping that it would not be necessary to continue waging a "civil rights battle".

Ms. Butler continued, explaining that she is currently working two jobs as a part-time administrative assistant with the state and as a full-time nurse in the evenings. Between the two jobs, she said that she is still not making enough to live and that this is a sad commentary on the personnel system. Ms. Butler added that she had testified before the commission previously regarding her difficulties with the system.

Certification of eligibles and testing are two areas cited by Ms. Butler as needing attention. Her experiences indicate that the people who evaluate an applicant's experience respond to familiar "buzz words" and lack the technical knowledge of at least some fields of work to properly score an application. For one job classification for which she applied, she was given no credit for having a masters degree in that field, because the title of her academic program was not the commonly used title, which the evaluator would have recognized. The evaluator suggested that Ms. Butler write her resume and application for the layperson, rather than using technical terms. Ms. Butler suggested that an applicant should be able to explain qualifications for technical positions with appropriate technical terms. A resume should not have to be written at an eighth-grade level to be understood by the evaluators. She added that she has also found the state tests are not job related.

Mr. Flavin asked whether she had been offered interviews during her search for a job with the state. Ms. Butler replied that she had had one or two, but of rather unusual characther. The positions she applied for were in the health field. She was told that she would be interviewed by one doctor, but received an appointment with another. During her conversation with this second doctor, he asked her a number of "baiting" questions, and the placement of chairs in which they sat suggested that he was trying to intimidate her. He made comments such as "Natives have taken over too much" and "You have three strikes against you: you're a health planner and a Yalie". She did not reply in kind.

Ms. Butler's next encounter in interviewing for a job was an invitation to dinner at the house of the first doctor. He informed her that the department had hired someone else. These were the two interviews which she had during her search for employment with the state.

Ms. Withers pointed out that being on 26 eligible lists does not mean that there are vacancies in all of those classes. There is a low turnover rate in higher salary ranges, and often a list is open for recruitment because there are so few applicants on registers. She added that the Division of Personnel does publish lists of vacancies, but because of the extensive time and work required to create the list, it is difficult to keep current. Ms. Butler presented a different opinion: She believes that she has not been hired because she had not been in Alaska long enough and employers perceive her as being an aggressive and outspoken black female.

Pearl Ancheta, an employee with the Department of Health and Social Services, presented testimony concerning eligible lists and how they discriminate against minorities. She expressed concern over Personnel Rule 4 01.3, which states that the Director of the Division of Personnel may prepare an appropriate list for a vacancy for which there are not appropriate eligible lists from one or more existing related lists. Senator Ray responded that under the merit system, incentives must be given to employees to progress in state service. Ms. Ancheta questioned whether giving preferential treatment to employees was in accordance with equal employment opportunity philosophy. Senator Ray asserted that the EEO system must given equal opportunities to people applying for positions as well as to employees within the system.

Aaron Isaacs, Director of the Division of Equal Employment Opportunity, addressed the commission. He stated that the responsibility of the Division is not only for people in government, but for those trying to get into government employment. Senator Ray responded that competitive lists as well as interdepartmental lists provide equal opportunities. Mr. Flavin suggested that discrimination problems can be attributed to lack of disciplinary measures and the attitudes of people working registers; or, in other words, the "male and pale" syndrome. He stipulated that there is nothing wrong with the lists: Personnel responsibilities of providing equal employment opportunities are being shunted aside and not given proper emphasis. Senator Ray agreed that there is apparently a weakness in supervisory personnel.

Ms. Greene stated that there is a need to monitor supervisory decisions in the hiring process. The Division of Equal Employment Opportunity offers training to supervisors on its policies and procedures which is mandatory for some and optional for others. Mr. Spray commented that the commission should meet with the Chief of the Classification and Pay Section of the Division of Personnel.

Senator Ray pointed out that there is also a problem of supervisors not recommending employees for rehire and issuing unsatisfactory evaluations, as was the case with Charles Dockery in the Division of Data Processing. Again, Mr. Flavin suggested that these problems support an the establishment of a Department of Employee Relations.

Ms. Withers observed that the downgrading of positions is considered negatively, but it is a possibility when identifying actual work being performed by employees. Senator Ray suggested that desk audits may be needed for every position in the system. Ms. Butler asked if there is any way to make sure that any eligible minority person would be considered for any vacant position. In a recent survey taken in the Department of Health and Social Services, Ms. Butler found that only one minority person is employed above range 22, and only about 15% of all departmental employees are minorities.

Marie Darlin, a member of the Juneau Intergovernmental Training Council, testified regarding employee training in state government. (See attached statement.) The Council's main concern is providing education, training and employee development within government. The Council has been in operation since 1967, and with the help of a grant from the Civil Service Commission, some attempts have been made to develop training programs in the state.

Senator Ray asked whether supervisors have guidelines and why they need additional training. Ms. Darlin explained that people need only meet minimum qualifications to be hired, but they have to be trained in the special aspects of jobs. In addition, training teaches employees new developments in their fields and makes them more capable and efficient. She also pointed out that there are no state forms to record an employee's on-the-job or special training. There is training going on, but there is no criteria established to measure results. Senator Ray cited the Word Processing Center as an example of an agency that has established forms for recognition of training and on-the-job performance. Ms. Darlin commented that these are subjective performance evaluations from supervisors.

Senator Ray stated that when the legislature, and especially the Finance Committee, looks at a request for training funds, there is a feeling that an employee should be capable of performing job functions when hired without additional training. He suggested that the staff prepare a draft position paper on the issue of the value and need for training of state employees for submission to the legislature. The commission will review it at a future meeting.

Ms. Darlin stated that training has been addressed in labor agreements and affirmative action plans, but that is the only place where upward mobility and career ladders are addressed. Lynda McCurry suggested that a subcommittee investigate the need for training further. Mr. Isaacs pointed out that the nature of EEO's responsibility is to educate supervisors and managers on the ever-changing nature of laws and regulations. New people in state government must be informed of the technical aspects of equal employment opportunity.

Mr. Fisher added that supervisors in charge of programs have to continue necessary training, even without specific allocations in the budget. He cited data processing as a good example of a field where individuals must keep up-to-date on new aspects of the job. Mr. Flavin observed that the legislature creates training needs whenever they change the laws.

Mr. Spray stated that in hiring program managers, Wisconsin places more emphasis on management skills than on knowledge of actual job functions. Ms. Greene pointed out that the question is what should be expected from supervisors and what status is intended to be given to them: What do we ask of them and how much would be expected in the private sector without additional training and instruction? Don Fisher reiterated that employees need to remain current on new skills, concepts and duties.

In answer to a question on the Intergovernmental Training Council, Ms. Darlin stated that it is composed of state, local and federal agency staff. The objective of the Council is to coordinate training resources available in government agencies. There are not very many individuals responsible for training programs, and training is normally given low priority. Once a year, the Council tries to hold a session in cooperation with the Office of Personnel Management for people in government.

Senator Ray asked what the merit system provides for and what recommendations the commission should make regarding eligible lists: Should we recommend that all lists be open competitive in light of testimony heard? Ms. Withers responded that one merit principle states that employees shall be promoted and encouraged to perform above average. The Personnel Act incorporates the merit principles into the state personnel system. Senator Ray directed the staff to research the merit system and merit principles referred to in the Constitutional Convention in Alaska.

There being no further testimony, Senator Ray adjourned the hearing at 11:30.

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Senator Ray called the afternoon session to order at 1:30 and asked if anyone wished to present testimony. There being no response, Senator Ray mentioned a vacancy on the commission and suggested inviting Lois Jund to join. There was unanimous consent.

On the issue of the role of the legislature in collective bargaining, Senator Ray invited discussion on the following recommendation:

1. All contracts should go into effect as of July 1.

2. Notice should be given to the legislature of the findings of the negotiating teams by March 15.

3. The legislature would have to act on the results of the negotiations within 30 days or by the end of the session, whichever came first. The system could provide either that a contract did not take effect unless approved by the legislature, or that the contract would become effective unless disapproved.

Ms. Greene suggested that the commission consider the administration's proposal making the monetary terms of the contract take effect as of July 1, but permit the other terms to take effect whenever the parties specified. Mr. Spray added that effective dates of contracts are a topic of negotiation. He also pointed out that this system may preclude reflection of the quarterly Consumer Price Index in the pay scales negotiated for state employees, since the CPI is figured on a calendar year rather than a fiscal year.

Mr. Spray added that if there was a sudden rise in inflation, state employees would suffer if the contracts did not provide for a pay scale which responded to the CPI. Senator Ray suggested that the legislature might be willing to approve lump sum cost-of-living increases based on figures from the previous quarter.

Mr. Flavin asked where these suggestions originated: Are they from the public or the legislature? He commented that they appear to originate from legislators, negotiators, labor organizations and the administration. Public testimony should be asked for.

Senator Ray noted other areas of legislative concern. One is the issue of cost-of-living adjustments. Many legislators feel that those increases should be in lump sums rather than in a percentage increase. In addition, there is a problem in the funding of multi-year contracts. Can one legislature bind another to continue appropriating money for the later years of a contract? The issue is being researched. Legislators are not in favor of retroactive contract terms and would prefer that all contracts take effect at the beginning of the fiscal year following legislative review.

Returning to the issue of the legislature's role in collective bargaining, Senator Ray listed other proposals which the commission might consider:

1. Return the responsibility of negotiations to the legislature, either through a legislative committee or through staff hired for that purpose.

2. Hire legislative staff to sit with the Department of Administration and the public employee unions in the bargaining process.

3. Require approval by the voters for each contract before it takes effect.

4. Do away with collective bargaining altogether.

5. Present neither recommendations nor proposed legislation on the issue.

6. Recommend that the legislature retain the present system.

Ms. Greene asked if there had been any commission meetings to receive public testimony on the issue. If not, she stated that she hoped the commission would clarify these options and solicit public opinion. Ms. Greene also stated that the administration is backing a proposal for monetary terms to become effective as of July 1, following contract negotiations. Mr. Murphy asked if the commission could work on the proposals from the administration as a starting point. Mr. Spray pointed out that the bill introduced by the House State Affairs Committee during the special session addressed these proposals.

Mr. Murphy moved: If it is the intention of the Blue Ribbon Commission to study changes in the Collective Bargaining Act to make it more compatible, that we consider the two bills proposed by the administration and the Ad Hoc Committee to use in work sessions and for public testimony to come up with a bill to make a change. A vote was taken, and the motion failed.

Ms. Greene suggested that the administration's proposals could be used as a springboard for the commission, but not to limit the discussion to those two. She was also unsure if the commission had decided to make any specific recommendations. Mr. Flavin stated that he was not in favor of presenting only two options to the public and moved that hearings be held on all of the options enumerated. Mr. Fisher spoke in favor of the motion.

Ms. Withers asked what the purpose of the Collective Bargaining subcommittee was and whether this would be within their functions. Senator Ray responded that the issue of collective bargaining is past the point of just subcommittee involvement. He stated that the legislature is appreciative of the commission's efforts and that we have been commended for our activities. The legislature has also made it abundantly clear that collective bargaining and the merit system are concerns we should address. The commission can go forward and create alternative recommendations to present to legislators who do not understand collective bargaining.

Mr. Spray asserted that the merit system should be the number one topic for commission consideration. Senator Ray replied that collective bargaining is the number one issue at the moment but that the merit system deserves attention as well. Ms. Withers pointed out that provisions for a merit system are contained in the state constitution. Senator Ray instructed the staff to research the meaning of the merit system as discussed at the Constitutional Convention.

Phil McMurry, an employee with the Department of Transportation and Public Facilities, presented testimony on the merit system. He stated that after being employed by the state for three years, he and others in the department believe that the merit system should be maintained. In his opinion, cost-of-living increases are important in keeping salaries in balance with inflation, and merit increases are supposed to provide incentives to increase employee productivity.

On the question of merit increases versus seniority ranking, Mr. McMurry stated that the seniority system does have merit. He approved of the way APEA's general government unit contract states that the merit increase and evaluation system will be modified to make it more meaningful to employees. He believes that the longer an individual remains in service, the greater her or his value. He added that a seniority system that rewards longevity makes sense, but increases should not be given without consideration of productivity. Senator Ray asked if Mr. McMurry believed that merit increases should be part of the collective bargaining

process. Mr. McMurry replied that the more contained in contracts, the better. For example, Mr. McMurry suggested that discrimination should be addressed in contracts. Then, an individual would have access to grievance procedures in case of discriminatory actions, rather than having to file a complaint with the Human Rights Commission.

Senator Ray said that the biggest opposition to the merit increase system is due to the way the statutes are presently drafted. Increases are almost automatic and left to the supervisor's discretion. Labor organizations have argued that increases should be incentives to achieve high performance standards. Mr. McMurry asserted that there is a need for better procedures and rules for supervisors to follow. Currently, supervisors discuss performance standards with employees only when writing annual evaluations. This often causes frustration on the employee's behalf, especially when the evaluation is inconsistent with the employee's views. Senator Ray stated that evaluations should be made on either unsatisfactory or above average performance. If there was disagreement on an unsatisfactory evaluation, then the matter could be referred to a commission or board for final decision. Mr. McMurry again pointed out that the only time employees receive feedback from supervisors is at evaluation time. He feels there is a need for better communication between supervisors and employees.

Mr. McMurry stated that in some instances, supervisors must receive approval of evaluations written on subordinates from their supervisors. This often leads to rewritten evaluations and hard feelings. Ms. McCurry pointed out that this relates to the real concern of the lack of funding for both training and merit increases. She stated that personal satisfaction and communication between supervisors and subordinates is needed to improve morale. The present evaluation system has its drawbacks, and we should look at expansion of the system to make it more valuable. Ms. McCurry added that the probationary period could be used more effectively to weed out unsatisfactory performers and suggested that this, as well as consistent application of personnel rules, should be priorities of the commission.

Ms. Withers commented that three terms were being discussed: merit increases, the merit system and merit principles. One of the merit principles of the federal system is that there must be systematic job-related evaluations of employees. Mr. Fisher pointed out that as bad as the evaluation system is, it does require that the employer review and discuss employee performance. However, supervisors are not prepared to do so. Senator Ray asked how employees who are average performers should be provided for. He said that it is not a question of rewarding good employees or punishing bad, but a question of where to draw the line. Mr. Fisher responded that supervisors are inconsistent in evaluations and in making determinations as to who is and who isn't outstanding. Senator Ray again questioned where the line should be drawn. Ms. Withers commented that if this were to become a bargainable item, the legislature would have to grant negotiating authority to the administration.

Ms. Greene stated that there must be concrete criteria for evaluations, which means developing agreed-upon standards of employee performance. That entails skill development in evaluating performance and giving supervisors direction on how to evaluate. Mr. Flavin commented that we could do away with the evaluation forms because they have become automatic. Thus, the process that has changed from a management responsibility to a Personnel requirement could be fitted to each agency in accordance with management needs. This would create a need for stronger audits by the Division of Personnel for enforcement. Mr. Flavin believes that evaluation forms are worthless in most instances, and a personal memo to an employee would be an improvement. Senator Ray responded that judging by personal experiences, he believes communicating with employees is a much better approach. Mr. Spray commented that there should be some method to get away from the negative aspects of the evaluation process, such as supplying better instructions on how to use them. Ms. McCurry pointed out that the probationary period evaluation of employees takes a lot of time and consideration, and it doesn't have to be negative. It can be an effective means of presenting agency objectives and the performance standards expected of an employee. Mr. Flavin thought that beefing up the evaluation of supervisors could solve some problems.

Mr. McMurry told commission members that when his supervisor gets letters of commendation from agency users, he makes it a policy to show them to employees. He also writes personal comments on evaluations, which are very helpful and informative. Supervisors perceive evaluations as a yearly task, but keeping in touch with employees requires more than an annual form. Senator Ray asked if the commission wants to recommend that each state employee get a quarterly "report card". Ms. Withers responded that each employee should have a reasonable expectation of the status on their job, and supervisors are obligated to supply this information. A "report card" or another form is not the key. She stated that the answer is in establishing better communications between people. Senator Ray noted that supervisors are not taking that facet of their jobs into consideration. Mr. Flavin suggested that this was another argument substantiating the need for a Department of Employee Relations responsible for audit functions. Mr. Murphy concurred that there is a need to improve the personnel structure with a strong audit function.

Mr. Fisher pointed out that one of the items asked on evaluation forms is whether position descriptions are correct. In his experience, he has found P402's dating back to the 1960's. He asked why the descriptions are not more current if they are being reviewed annually. Ms. Greene responded that there is a backlog on classification revisions, and it is recognized as a problem. Ms. Withers added that the reason for the position description is to show what an employee is actually doing. It is assumed that supervisors filling out evaluations will inform the Division of Personnel of changes in duties. Senator Ray suggested that the scope of audits be defined. Mr. Fisher elaborated on the different types of audits: operational, program and personnel audits. The topic was left to future consideration.

On the topic of merit increases, Don Fisher said that they are currently a management prerogative. Mr. Murphy pointed out that other unions have chosen to incorporate merit increases into longevity bonus programs. He added that APEA's membership wants to maintain merit increases, and this may mean placing the Personnel Rules into contract provisions. Merit increases are currently addressed in the contract, but if the legislature decides that there is a conflict between bargaining and granting increases, the unions should be allowed the option of bargaining on increases. Mr. Murphy asserted that Pat Hunt, when serving on the commission, agreed that the Personnel Rule provisions should be included in contracts. Senator Ray commented that neither the administration nor the Governor believe the two are compatible. It is the commission's responsibility to explore the two and define the problems that exist.

Senator Ray pointed out that conditions during next year's legislative session are ripe for changes, due to it being an election year. He added that he would like the commission to receive recommendations from the public to present to the legislature. Mr. Murphy stated that during his last meeting with Pat Hunt, they discussed Oregon and New Hampshire statutes that exclude employees who are members of collective bargaining units from the scope of the Personnel Rules. The contracts must be consistent with merit principles. He said that this is an issue that will be negotiated. Senator Ray pointed out that there are many different positions on the subject in other states.

Mr. Flavin asked how members would like to plan the next meeting. Senator Ray responded that the staff would prepare a list of proposals made by subcommittees that have not yet been acted upon. The date was set for Friday, October 5. Subcommittees will meet prior to a full commission meeting.

Ms. McCurry appointed Doryce Eggleston, Personnel Officer in the Department of Public Safety, as her official alternate.

Senator Ray adjourned the meeting.

MEMBERS IN ATTENDANCE

Senator Bill Ray, Chairman
Don Fisher, Vice Chairman
Frank Flavin
Sue Greene (for Commissioner Hudson)
Sandra Withers
Lynda McCurry
Pat Murphy
Ken Spray

OTHERS IN ATTENDANCE

Doryce Eggleston
Darlene Livermore

TELEGRAM

RCA ALASKA COMMUNICATIONS, INC.
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JUNEAU, ALASKA 99802

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PMS SEN BILL RAY[illegible]7

JUNEAU AK 99801

WE, THE UNDERSIGNED, AS TEMPORARY EMPLOYEES ARE OPPOSED TO THE 120 DAY WORK LIMIT FOR FOR TEMPORARIES. WE FEEL WE SHOULD HAVE BEEN INFORMED OF THE MEETINGS HELD CONCERNING THIS REVISION BEFORE SEPTEMBER 10, THE DATE WE FIRST HEARD OF THEM. WE ARE CERTAIN THERE ARE OTHER TEMPORARY EMPLOYEES THAT HAVE NO KNOWLEDGE OF THIS MATTER AND WOULD BE OPPOSED IF THEY KNEW. WE FEEL THAT IF THIS REVISION GOES INTO EFFECT IT WILL, REQUIRE CONSTANT RETRAINING OF TEMPORARIES, REDUCE THE QUALITY OF TEMPORARIES WORKING FOR THE STATE, QUALIFIED PERSONS WHO WORK FOR THE STATE AS TEMPORARIES WILL BE FORCED TO SEEK FULL TIME EMPLOYMENT ELSEWHERE, REDUCE THE NUMBER OF ALASKANS WORKING FOR THE STATE, NO ONE CAN LIVE FOR A YEAR IN ALASKA ON FOUR MONTHS EMPLOYMENT, INCREASE UNEMPLOYMENT IN THE STATE, ENCOURAGE SUMMER WORKERS TO COME UP FROM THE LOWER 48. WE ALSO FEEL THAT IF THIS REVISION DOES GO THROUGH PROVISION SHOULD BE MADE FOR ADDITIONAL FOUR MONTH EXTENTIONS TO THE DEPARTMENTS THAT REQUIRE IT.

JILL CUNNINGHAM, DAN MIELKE, RON JOSEPHSON, VIRGINIA RENFROE, LORAN WALDRON, BRAUN KOPSACK, LEE CHENEY

P.O. Box 1032
Auke Bay, Alaska 99821
September 7, 1979

Senator Bill Ray, Chairman
Blue Ribbon Commission on the State Personnel Act
Pouch AG, Mail Stop 0123
Juneau, Alaska 99811

Dear Senator Ray:

The purpose of this letter is to offer a couple suggestions concerning the hiring practices of the State of Alaska. The two suggestions that I have are student exemptions related to temporary hiring and that agencies respond to all job applications submitted to them.

Part b, sec. 39.25.195 of the proposed Act HCS CSSB 198, chapter 67 says that every appointment for state service shall be made from an applicable eligible list or dispatching register, except for emergencies. This law would eliminate college students seeking summer employment. The time required to get on the register is approximately six weeks, a goodly portion of the summer season. This law would discriminate against Alaskan students and the states future professionals. Because of this, I strongly recommend that students (especially college) be exempt from this law.

My second recommendation is that all state agencies respond to all job applications that they receive, even if a form letter is sent. When an individual applies for a job it takes time, effort, and money. Common courtesy dictates that a response is made, even from the government.

Although the Alaskan student is a minority, we are a part of Alaska's future, therefore, I urge you to consider my recommendations.

Sincerely,

C.A. Hubbard

Catherine A. Hubbard, a life-long
Alaskan resident and student

JUNEAU INTERGOVERNMENTAL TRAINING COUNCIL

September 12, 1979

TO: The Blue Ribbon Commission

RE: Employee Development and Training

Our training council wishes to express to your group the following concerns:

State government seems to be giving less and less attention and priority to emplovee development and training.

A few years ago an attempt was made to develop and training system for the State and yet none of that was ever implemented.

Currently with no coordinated system for state training efforts:

1. Supervisors and Departments have no guidelines for their training efforts.
2. No recognition of training accomplished or attended is given when no permanent records are kept in the employee's file. (other than what a dept. might elect to do on their own)
3. There is no requirement that training being done by each dept. is being evaluated against any objectives or criteria to show value received.
4. Employees changing careers or jobs are provided no assurance that they will be given help in learning new methods or skills. If a greivance is filed by them should they be terminated, against what standard of performance has the supervisor evaluated them?

Training will still be done by the different departments, particularly those with federal funds and perhaps federal requirements that certain training be done, and the study done by Becky Smith for the Dept. of Education shows that much could be gained from a coordinated effort of State training and employee development.

This presentation is merely to call your attention to the fact that recognition of the important aspect of developing human resources is not spoken to anywhere in the State Personnel rules and regulations, except in the state Affirmative Action Program, and in the negotiated labor agreements.

Marie Darlin

Marie Darlin, Chairman

BLUE RIBBON COMMISSION
March 13, 1979

MINUTES

Senator Ray called the meeting to order.

The commission considered the draft bill on the hiring of non-permanent employees.

Mr. Humphreys explained that the non-permanent bill made four changes from the draft temporary hiring bill: A language change, replacing the word temporary with the word non-permanent; changes in the intent section; addition in section 4 (b), page 2, lines 4 and 5, of the words "dispatching register"; and addition of provisions for a program or project employee, section 4 (c)(4), page 2, lines 21 through 23; and a definition of program or project employee, page 4, line 26 through page 5, line 2.

Mr. Spray objected to the language appearing on page 2, line 5, which appeared to indicate that the director could waive the union contract requirement that temporaries be hired through a dispatching register.

Mr. Hunt pointed out that according to the memorandum prepared by Ken Rosenstein, dated March 9, 1979, this statute would not bind future collective bargaining agreements without the addition of a statement of intent. Mr. Humphreys agreed that according to the memorandum, the safest course to follow if the commission wished to bind all emp'oyees would be to include a section spelling out that the bill applied to collective bargaining unit members.

Mr. Murphy moved that the commission sponsor the bill. Mr. Spray objected for the reasons stated above. There were no further objections.

The commission considered the draft of the Department of Employee Relations bill.

Mr. Hunt stated that he was concerned about requiring that the Personnel Rules be adopted under the Administrative Procedures Act given the small group of people to whom the Rules apply. He has heard from several sources that it takes six months to process rules through the A.P.A. Mr. Rosenstein's opinion makes it clear that the rules do not apply to those covered by collective bargaining.

Mr. Murphy stated that the Rules do apply to the employees his union represents. Perhaps 50% of the work life of those employees is covered by the Rules. He objected to the commission adopting the position taken by the memorandum without further research on the matter.

Senator Ray informed the commission that he opposed the

introduction of this bill during the current session.

Mr. Flavin objected to the present draft as not what was intended by the commission's vote taken at the February 24 meeting. The bill should simply repeal those references to the adoption of the Personnel Rules being exempt from the Administrative Procedures Act.

Senator Ray asked whether the Rules were required to be adopted under the A.P.A. at present. Mr. Flavin replied that they are not.

Since the commission voted at the February 24 meeting to sponsor this bill, no further vote was taken.

The commission discussed the preliminary draft of the report to the legislature. Changes were made. The commission agreed to continue the meeting on Wednesday, March 14, to conclude its review of the draft report.

Senator Ray adjourned the meeting.

March 14, 1979

Senator Ray called the meeting to order.

The commission continued to review the draft report to legislature.

The review was concluded, and Greg O'Claray moved and asked unanimous consent that the report as amended be released. The motion carried without objection.

Senator Ray adjourned the meeting.

BLUE RIBBON COMMISSION
February 24, 1979

MINUTES

Don Fisher chaired in the absence of Senator Ray. A quorom was not present, and the Commission met in work session until additional commission members arrived. There was discussion of whether the time limit on temporaries should be shortened from 6 months to 120 days.

Ken Kareen, alternate for Pat Hunt, arrived and a quorum was present. Mr. Fisher called the meeting to order.

Niel Thomas moved that the commission amend the Temporary Hire bill, page 1, line 26, by adding the words "or dispatching register" between the words "eligible list" and the words "unless in exceptional circumstances". A vote was taken. Seven members were in favor, one abstained. The motion failed.

Frank Flavin moved that a sentence be added to page 3, line 2, subsection (g) to read: "No work assignment may be performed by a temporary employee for more than 120 calendar days in a 12-month period." A vote was taken. Six members were in favor, one opposed and one abstained. The motion failed. Mr. Spray served notice of reconsideration.

Mr. Fisher called a recess. The meeting reconvened.

Mr. Flavin asked that the staff prepare a minority report to reflect the views of those in favor of the actions taken today. Mr. Fisher proposed that the staff be directed to prepare the minority report. Mr. Spray objected. Mr. Thomas stated that the commission should make a record and that at a later meeting, the amendments not adopted in the present meeting could be proposed.

Mr. Flavin moved that the draft bill be amended to add a requirement to subsection (h), page 3, line 7 through 13, that the director report to the legislature each year on the hiring of emergency employees as well as on temporary employees. A vote was taken. Eight members were in favor, none opposed. The motion carried.

Mr. Fisher called a break. The meeting was reconvened.

Pat Murphy moved that the commission adopt the draft bill on temporary hire as amended. A vote was taken. Seven members were in favor, and one opposed. The motion failed.

Mr. Murphy moved that members in favor of the draft bill sign the draft copy prepared by Ken Humphreys, containing amendments adopted, in order to place the votes on the record. A roll call vote was taken. Don Fisher, Ken Kareen, Frank Flavin, Lynda McCurry, Pat Murphy, Niel Thomas and John Pugh were in favor. Ken Spray opposed, and Ken Humphreys abstained. The motion failed.

Mr. Flavin moved that the commission recommend to the Division of Personnel and Labor Relations that Section 2 (a) through (e) of the draft bill, adding new sections to the law relating to the methods for hiring temporary employees, be adopted as Personnel Rules by the Personnel Board. A vote was taken. Seven were in favor, two abstained. The motion failed.

Mr. Flavin moved that the commission recommend to the legislature that a Department of Employee Relations be established. A vote was taken. Eight were in favor, none opposed. The motion carried.

Mr. Flavin moved that the Department of Employee Relations to be proposed to the legislature be structured as in the draft bill, without language relating to exemption from the Administrative Procedures Act, which appears on page 3, lines 13 though 16 and page 6, lines 16 through 19. A notation should be made in the report of the commission to the legislature that the section on decentralization of personnel functions, AS39.25.153 (which appears on page 6, lines 8 through 19), is amended only to make the necessary nomenclature changes and that the commission is still considering what course to recommend on the question of centralization or decentralization. Pat Murphy moved to amend the motion to include the language adopted at the meeting on February 23, 1979, relating to the experience required of the Commissioner of the Department. Mr. Flavin agreed to include this amendment in his motion. A vote was taken. Eight members were in favor, one abstained. The motion carried.

The report should include a statement recommending that the legislature consider moving other closely related divisions from the Department of Administration into the Department of Employee Relations.

Mr. Murphy moved to amend the motion to require that the commissioner of employee relations have a total of at least three years of experience in the fields of labor relations and personnel administration. Mr. Spray stated that five years should be the minimum. Mr. Humphreys suggested that the language concerning the experience of the commissioner would be interpreted broadly by the governor making the appointment. Mr. Murphy withdrew his amendment.

Mr. Flavin moved that AS39.25.153 be amended to read as follows:

Section 39.25.153 <u>Personnel Rules for Departments</u>

(a) Each department shall appoint a personnel officer to be located within that department.

(b) The personnel officer specified in (a) of this Section shall adopt regulations providing for the activities specified in Secs. 39.25.150 (1)-(10), (13)-(18), (20), and (22) of this Chapter for those classes of employees which are not common to other departments. The determination as to the classes of employees which are common to the various departments shall be made pursuant to regulations adopted by the director.

(c) The personnel officers within the departments specified in (a) of this Section are subject to all provisions of this Chapter not in conflict with this Section.

(d) The Governor may exempt any department with (a) of this Section containing less than 200 employees from the provisions of this Section.

(e) All regulations adopted pursuant to this Section are subject to the Administrative Procedures Act (AS 44.62).

Mr. Thomas moved to table the motion and place it as the first item on the agenda for the next commission meeting. A vote was taken. Nine members were in favor, none opposed. The motion carried.

Lynda McCurry moved that the commission try to resolve all the questions which are before it by June 30, 1979.

Mr. Spray spoke against the motion. He stated that he could not imagine that the commission could reach an adequate resolution of the issues before it in that time. Most of the commission's time so far has been spent in public hearings, receiving and digesting information presented to it. He believed that it is necessary to continue the work of the commission into the next legislative session. He indicated that he believes that the legislature will resolve the issues on finances, and the budget and adjourn within 120 days, especially given the mood of the Senate.

Mr. Thomas explained that the motion would give the commission a goal to try to resolve the questions before it. The commission has considered the major concepts which it confronts. Four months remain in which the commission can work on its recommendations on the remaining issues. The comssion has only been meeting for a period of four months, so that may be adequate time to resolve the rest of its work.

Mr. Flavin moved to amend the motion to read that the commission does not seek funding beyond June 30, 1979. Ms. McCurry accepted the amendment. A roll call vote was taken. Don Fisher,

Frank Flavin, Ken Kareen (voting as alternate for Pat Hunt), Lynda McCurry, Pat Murphy, John Pugh and Niel Thomas were in favor. Ken Spray opposed, and Ken Humphreys abstained. The motion failed.

Mr. Spray requested the privilege of the floor. He stated that in regard to the employee relation bill, special interests have been reflected in many issues. The same courtesy has not been extended to the issue of collective bargaining negotiations. Special concerns and interests of Local 71 have been ignored, with preference being given to APEA.

John Pugh responded that Local 71 has a maximum of 1,500 members, whereas APEA represents 10,000 employees. He stated that Mr. Spray received more than his share of time and courtesy from the commission.

Mr. Spray pointed out that Local 71 is affiliated with AFL-CIO in the organized labor movement which represents more than 10,000 employees. The AFL-CIO was instrumental in the enactment of the Public Employment Relations Act.

IN ATTENDANCE

Don Fisher
Ken Humphreys (for Myrt Charney)
Frank Flavin
Ken Kareen (for Pat Hunt)
Lynda McCurry
Pat Murphy
John Pugh
Ken Spray
Niel Thomas

OTHERS IN ATTENDANCE

Janet Bradley
Darlene Howard
Bob Mourant

BLUE RIBBON COMMISSION
February 23, 1979

MINUTES

Senator Ray, Chairman, called the meeting to order. He proceeded to recommend that the commission submit its report outlining the problems which have been identified thus far and as Wisconsin did, wait until an entire legislative package is ready before proposing any substantial changes. He pointed out that the sentiment in the Finance Committees of the legislature may cause trouble for any measures with sizeable fiscal notes attached.

The commission discussed the temporary hire draft bill. Senator Ray recommended adding a provision for a program or project employee. Project employees should receive medical and leave benefits but not be eligible for retirement benefits. He stated that the bill, as drafted, is not ready for introduction to the legislative process.

Frank Flavin suggested changing the language in subsection (g), page 3, line 2, to read at the beginning of that section: "No position may be occupied by a temporary employee..."

Ken Spray suggested three amendments:

In section (b), page 1, line 27, add between the words "eligible list" and "unless" the words "or dispatching register".

On page 3, line 28, to subsection (2), add the words "unless otherwise provided for in a collective bargaining agreement" between the word "means" and the words "an employee".

On page 3, line 2, section (g), Mr. Spray stated that he objected to the inclusion of that section in the draft bill entirely on the grounds that the matter should be left to the arena of collective bargaining.

Senator Ray suggested that the term "temporary" be eliminated, using the term "casual" as a substitute. Ken Spray commented that in Local 71's contract, casual employees are limited to 15 days. Senator Ray offered a word of caution that there are many individuals dependent upon temporary employment who must be taken into consideration. By eliminating temporary employment, budgets may be cut, forcing many employees back into the job market. Representative McKinnon commented that one problem encountered in the House is the reluctance of the Finance Committee members to turn away from temporary hire because of the additional funding demand this would create for permanent PCN's.

Frank Flavin moved that the bill be passed out of the commission and introduced in the legislature under the commission's sponsorship. Pat Murphy moved to table Mr. Flavin's motion. The motion was tabled.

The commission discussed the contents of the report to the legislature. The report should include a discussion of the tasks of the subcommittees, the problems identified, and indication of proposed solutions which the commission is considering. The Issue Summaries should provide the basis of the discussion. It is important to explain to the legislature the nature of the problems which the commission has examined. The report should indicate that the commission is requesting that its existence be extended so that it may fully address the issues presented in the report. There was a general concensus that the report be drafted for presentation to the legislature.

The commission decided to meet on Saturday, February 24, in the conference room of the Department of Transportation and Public Facilities.

IN ATTENDANCE

Senator Ray, Chairman
Frank Flavin
Ken Humphreys (for Myrt Charney)
Pat Hunt
Lynda McCurry
Pat Murphy
John Pugh
Ken Spray
Niel Thomas

OTHERS IN ATTENDANCE

Janet Bradley
Darlene Howard
Ken Kareen
Bob Mourant

BLUE RIBBON COMMISSION
February 15, 1979

MINUTES

Representative Buchholdt, in the absence of Senator Ray, chaired the hearing. She invited public testimony.

PUBLIC TESTIMONY

Lois Jund, retired Deputy Commissioner of the Department of Health and Social Services, was the first speaker. She introduced her remarks to the Commission by noting that the staff of the Division of Personnel has a very tough job to do. They are subject to many pressures from many sources and are understaffed for the job they must do in a centralized system of personnel administration. The state personnel system can be improved--and must be.

Ms. Jund gave a brief summary of her own background. From 1948 to 1956, she was the personnel officer for the Alaska Territorial Health Department, which was then operated under the merit system of personnel administration because it was a federal program. From 1957 to 1958, she was a management consultant with the U.S. Public Health Service in personnel and other areas in Region VII and provided services for five states in that region.

From 1962 to 1974, Ms. Jund had overall responsibility for management of the Artic Health Research Center, a federal installation, including personnel administration. In that capacity, she had appointment authority through the level of G.S. 15 and classification authority to the G.S. 11 level. She became familiar with the state personnel system when, in 1974, she became Assistant Chief of the Division of Public Health of the state. From 1975 to her retirement in 1978, she held the positon of Deputy Commissioner in the Department of Health and Social Services.

There are four major areas of the state's personnel system which Ms. Jund addressed: the classification process, the examination process, the recruitment process, and one very serious aspect of the career service. These areas are the major problem areas as she sees them.

1. CLASSIFICATION

Ms. Jund noted that this is one of the state's greatest problem areas. There is a great disparity in pay ranges based on the level of responsibility, both within and between departments. She is a firm believer in equal pay for equal work. In the state personnel system the only consistency is inconsistency. She gave examples of this problem.

A Clerk IV, which is not a high level position, was handling the entire responsibility for a state-wide program, supervising

a tremendous staff including two regional offices. She had this responsibility for many years. In 1974, after great effort, she was finally given the position of Administrative Assistant I. Administrative Assistant III's were heading programs with none of the responsibility that this individual had. She is still responsible for the entire program, and is presently classified as an Administrative Assistant II.

There is disparity of salaries between PHN's and Sanitarians within the same department, and between PHN's and Physician's Assistants. PHN's work much more on their own, with tremendous responsibility, yet are several pay ranges lower. There is also disparity between sanitarians working for the Department of Health and Social Services and those working for the Department of Environmental Conservation. In fact, the Department of Environmental Conservation is recruiting sanitarians away from the Division of Public Health. There are cases where an Administrative Officer I heads up a large project in the same department where an Administrative Officer III has few responsibilities.

The cause of this disparity is that the Division of Personnel has no standard classification guide, as does the federal government. In the federal system, the level of responsibility is equated with the range of the job. This would go a long way to do away with this tremendous disparity throughout the state government.

The Division of Personnel, in some instances, analyzes jobs and compares them with similar positions in other states. They fail to realize that--for example--comparing positions in California with positions in Alaska is like comparing apples to oranges. California has a wide-spread county government system, with responsibility for service delivery. A person here would be responsible for a state-wide program.

Few desk audits are presently done, and cannot be done without the assistance of a classification guide. After four years with the state government, Ms. Jund could not recall a single desk audit being done, so how can the Division of Personnel ascertain whether proper levels were set for positions?

Ms. Jund made the following recommendation, recognizing that it would cost money initially, but would save a lot of money in the long run: The Division of Personnel should prepare a standard classification guide immediately, equating levels of responsibility with qualifications and pay ranges. This then would permit a greater use of desk audits and would insure that personnel is functioning at its proper level. However, staffing in the Division of Personnel is insufficient to accomplish this project, but there are many things they could use to initiate such a classification guide.

The second greatest problem in the state personnel system is the inordinate amount of time it takes to classify a position once it has been authorized by the legislature. This leads to positions which desperately need to be filled being left vacant; it leads to the hiring of temporaries; and it leads to tremendous frustration on the part of administrators trying to run programs in the state. Ms. Jund has often heard legislators say that since you didn't fill a position, you evidently didn't need it. That isn't true. The position could not be filled.

One of the causes of the inordinate time to classify positions is that all positions must have individualized position descriptions. This is true in the federal government as well. With few exceptions, all positions must be classified by the Division of Personnel in the Department of Administration. One department may have its own classification authority. Unless pressure is brought to bear (and it is brought to bear by commissioners, by legislators, and by the office of the governor), the position will wait the normal classification process, no matter what the urgency of filling the position.

Ms. Jund recommended that we use standard position descriptions in the state. This would require the existence of a standard classification guide. For example, a Clerk Typist II in one department does practiclaly the same thing as a Clerk Typist II in another department, yet each one nas to have an individual position description. PHN I's do the same work, wherever they are stationed. The few parts of a job which might be different could be noted on a cover sheet attached to the standard position description. This would cut down the classification time. The federal government has implemented this practice effectively for some clerical positions and for accountant positions.

There should be a decentralization of classification authority with positions and funding provided. Some departments have the authority to do so now; however, few take advantage of this authority because they do not have the positions and funding. This decentralization would be for large agencies only and for professional positions in those agencies, using the standard classification guide. A job analysis should be required to be written for each job to be classified in the department, and sent to the Division of Personnel. They would then assume their proper role of setting standards and monitoring departmental practices. This would call for a greater use of the desk audit mechanism of the Division of Personnel to insure proper alignment of positions.

The next point may be controversial. Qualifications are too low in many instances, due to substitutions, to get the job done. Ms. Jund stated that she firmly supports the principles of equal employment opportunity and believes that substitutions

should be permitted for entry-level positions, up to and including sub-professional level positions. At the professional level, substitutions should not be required, as they are now by the Division of Personnel.

Ms. Jund gave an example of how ludicrous this can become. She referred to a position that she held as Assistant Director in the Division of Public Health. The job description calls for someone with a college degree, with two years of graduate study in public health administration or a closely related field, plus five years of administrative experience, one of which must be at the level of Administrative Officer I with the State of Alaska or an equivalent position elsewhere and one of which must be in public health. Those requirements are reasonable, and a person with those qualifications could do the job. However, additional experience may be substituted for the requirements of college education on a year-for-year basis.

The result (and this did happen on the register) was that an individual with eleven years of administrative experience, with only one year in public health at any level and one year in a position comparable to Administrative Officer I, could be placed on the register. The minimum qualification of eleven years of administrative experience did not specify at what level this experience must be. Many applicants qualified for the register who could not possibly perform the job functions.

Ms. Jund recommended that substitutions either not be required for professional positions or that they be permitted only to the extent that would be realistic.

2. EXAMINATION PROCESS

The staff in the Division of Personnel responsible for rating the training and experience of applicants is not always sufficiently knowledgeable of the field to properly rate an application. This is understandable, given the large number of jobs with a wide variety of qualifications. This leads to well-qualified individuals being rated ineligible and conversely, poorly-qualified individuals may receive high ratings because of the way an application is written.

As an example, Ms. Jund told of her own experience in filling a position for a Health Facilities Surveyor in Life Safety. They had located an individual who was fully qualified and urged him to get on the register. They were aghast to learn from the Division of Personnel that the person was not qualified because the examiner did not understand that being a fire inspector for an insurance company fully qualified the applicant as a life safety surveyor. That is the type of experience that they really

needed. They did manage to get the situation straightened out.

Ms. Jund suggested that professional review panels composed of professionals serving in a volunteer capacity be created to rate applicants for professional positions. The data processing field is an example of the areas where this is most needed. She witnessed its effective use during the time she served on the U.S. Civil Service panel and helped to rate applicants in the professsional field of public health.

3. RECRUITMENT

On recruitment, Ms. Jund mentioned only one point: the inordinate amount of time and money spent by agency personnel in working registers. Frequently, the same names appear on registers where the individual has been reported to the Division of Personnel as not available, out of state, not interested and so forth. Yet, when the agency calls for another register in the same category, the same names appear. It is imperative that there be a central clearing of the common registers used by many agencies.

The recruitment process, after a position is classified, is extremely time consuming. Agencies must first advertise in the state, and for certain positions valuable time is lost in having to do so. You don't get doctors usually by advertising in Alaskan newspapers. You get doctors by advertising in the professional journals.

Ms. Jund recommended that there be concurrent advertising for hard-to-fill categories, both within and outside the state. There are many hard-to-fill categories in addition to physicians. This would save time and effort.

Ms. Jund raised another potentially controversial point. The Alaska Hire Law sometimes impedes state agencies from obtaining the best qualified person for the job to be done. She stated that she supports the Alaska Hire Law implicitly, but raised the question: Is the object of the law to give preferential treatment to an Alaskan who is equally or more highly qualified than someone from outside, or is the object to give preferential treatment to Alaskans no matter where they are on the registers (in other words, to foster employment)? She added that she would prefer to think that it was the former, but it doesn't work that way in the Alaska personnel system.

On the state's registers, all Alaskans are ranked ahead of all applicants from elsewhere. She worked a register for a very high-level position. The highest qualified applicant, with a rating of 95, was 18th on the register. The person was

the highest rated applicant from outside the state. The first applicant on the register had a rating of 80, and five points had been included in her score because she was already a state employee. All things being equal (references and so forth), she stated that she would much prefer the applicant with a score of 95 than an applicant who would have rated 75 on appropriate training and experience. The applicant with the score of 95 on the register was not within reach. No wonder agencies are criticized on occasion when they are forced to employ individuals who cannot possibly do the job.

Ms. Jund recommended that all applicants be ranked on the registers by grade, based on qualifications and experience, and not by location of residence. Alaskans who are more highly qualified or who are equally qualified should be and must be given preference by agencies.

4. CAREER SERVICE

Ms. Jund recommended that the commission give attention to merit increases for deserving employees. She distinguished these merit increases from longevity increases. It is argued by some that state employees receive pay increases; so why should the state also give them any more money? However, there is not much incentive for most employees to do an outstanding job for three years when a person hired tomorrow will be receiving the same pay range. This is not the case in private industry, and it leads to a terrible morale problem.

Ms. Jund recommended that agencies prepare standards for performance on which to base merit increases, so that they are given only to deserving employees who are performing at a consistently high level. She also recommended that the legislature specifically allocate funds for merit increases.

It is imperative that personnel functions be decentralized to large agencies. The Division of Personnel should then set standards and monitor performance.

That concluded Ms. Jund's remarks. She stated that she believed she had chosen areas of the greatest concern to most employees of the state of Alaska.

QUESTIONS

In answer to questions on decentralization from Lynda McCurry, Ms. Jund stated that the Division of Personnel will always have to assume classification functions for the smaller

agencies. Some decentralization is the way to go. There is reluctance on the part of the Division of Personnel to relinquish classification authority.

Janet Bradley asked about the apparent difference of opinion on the standard position description. In the classification walk-through, Ken Kareen explained that the position description forms the basis for the Division of Personnel's classification, performance standards and employee evaluations. Because they are frequently out of date, the Division of Personnel is unable to do its job.

How do you reconcile this need for a description tailor-made for each employee with your recommendation for standard descriptions to speed the classification process?

Ms. Jund explained that standard forms could be used only for those positions common to many agencies and in which there was very little variance between the duties of those in the positions, such as Clerk Typist I. Standard descriptions would also be appropriate for Public Health Nurse I's. Pat Murphy pointed out that both employees and managers write position descriptions in order to achieve particular results: for example, eligibility for overtime and placement in a particular bargaining unit.

In answer to a question from Pat Murphy, Ms. Jund explained the way the classification system works in the federal government. The personnel officer for the agency classifies a position in accordance with the standard classification guide. An analysis is written of how the personnel officer chose that classification, and it is sent with the position description to the central headquarters for review. If they believe it to be incorrect, they advise the personnel officer of the error. In addition, there would be periodic audits in which the employee describes actual duties to the auditor, and these are compared with the position description. If an error is found in the classification assigned, then the personnel officer receives a written report advising the corrective action needed. This system retains the proper authority and responsibility appropriate while allowing a faster process. It is appropriate that the people in the field make the initial classification, since they have more knowledge about the position than someone in the Division of Personnel possibly can, especially when personnel is responsible for classifying all positions within the state.

If the corrective action leads to a downgrading of the position, Ms. Jund stated that she believes that federal procedures allow the incumbent of the affected position to remain at his or her existing salary for one year before being placed at the

lower pay rate, although the position would be shown as the lower level from the time that action to correct the error was taken. It is important to remember that it is not what the employee is qualified to do that matters. It's what the job calls for the employee to do.

DIVISION OF DATA PROCESSING

Mr. Dwayne Herrick, an employee in the Division of Data Processing, identified a number of problems within that division.

The agency has in the past neglected to budget for travel for training, and yet training is necessary if employees are to keep their skills current in the rapidly changing data processing field. The division head justifies hiring new employees from outside Alaska because present employees lack this training. Money which has been appropriated for travel is spent on recruiting trips to the lower 48 to hire new employees rather than sending existing employees to programs to increase their skills. Such training programs are not available in Juneau. Training money has also been used to purchase equipment instead of to provide training. There are self-instruction manuals for new computer systems, but they are not sufficient and should not be considered a replacement for more formal and extensive training programs.

Employees who are brought up and whose moving expenses are paid by the state are then obligated to work for the state for two years or else to pay back a portion of their moving expenses. This increases their allegiance to the head of the division. The director is not concerned with complying with the Personnel Rules and has ignored hiring freezes in order to provide a job for a friend.

The staff of the Division of Personnel is unfamiliar with the fields in which they are rating data processing applicants, and they make mistakes. There is now some communication between the Division of Data Processing and Personnel on how applicants should be rated, so the mistakes are decreasing.

There have been a number of desk audits in the Division of Data Processing without any perceptible results.

Lynda McCurry explained that for positions in the field of data processing there is continuing authorization to accept out-of-state applications, unlike most other positions in the state. The person hiring can then use the justification of unique and unusual circumstances to select the applicant he or she is most interested in, regardless of the applicant's ranking on the register.

Charles Dockery, a Systems Analyst II in the Division of Data Processing, gave an example of the kinds of abuses which are occuring in the division. In late 1977 or early 1978, the director and one of his managers decided that they would avoid hiring any of the "dolts on the register" by specifying that the position for which they were hiring require specialized knowledge. People were hired from the lower 48, but they have not had to use this specialized knowledge, except for one employee who helped with the primary election. In addition, the division has since asked another employee to resign. The present staff of the division has the talent to learn the new skills, but they are not being given the opportunity to do so.

Mr. Herrick added that the director has failed to establish his priorities and to set realistic goals.

Mr. Dockery suggested that the Division of Personnel should audit the appointments of outsiders to attempt to establish whether the unique and unusual circumstances which provided the basis for making the hiring decision actually exist.

Representative Buchholdt pointed out that in the last session, there was a bill before the legislature to increase the funding for training, and that Pat Hunt testified that there was adequate training available.

Mr. Dockery asserted that there should be action taken against program managers who violate the Personnel Rules when making their hiring decisions.

Another facet to the training problem is that the state pays for moving a family from the lower 48 to Alaska, instead of paying for a three-day training session offered through IBM for an existing employee. Training would cost substantially less than moving expenses.

Lynda McCurry stated that the Department of Labor hires data processors from the same registers that the Division of Data Processing uses, and that the department hires from below the top five only when they need a programer skilled in COBOL as opposed to scientific language.

Pat Murphy pointed out that this is an example of the problems created by having the head of personnel at a division level instead of at a departmental commissioner level. He or she should have independent authority to function effectively and to stand up to commissioners of other departments.

Darlene Howard said that APEA studied the use of training funds by the Division of Data Processing. Ninety-five percent

of the training money was used by one percent of the staff--the rest did not participate in training programs. There did not appear to be any relationship between the people selected to attend training programs and the need for training in the particular program. Training sessions are used to reward employees, not to increase their skills.

Carl Nelson, a Console Operator II with the Division of Data Processing, testified. Several months ago, Mr. Nelson's supervisor advised him that he was due for a merit increase. The forms were returned, and he was told that he would have to wait another two years. He is pursuing this matter through APEA.

In 1972, the person who was then director of data processing decided that the console operators were overpaid, and initiated action to have the salary ranges lowered by two pay ranges. There was, at that time, no one to speak on behalf of the employees, and the action went through. Since then, the equipment has become substantially more complex. A new CPU unit is capable of handling five programs at one time, and there are only two people working on it at any one time. The workers agreed to a 12½ hour shift, so that the system is constantly operating, and the state is obligated to pay only a minimum of overtime to these employees.

There have been two attempts to have the positions reclassified since the 1972 action. Neither was successful. Morale is very low, and when the positions are compared with similar positions in Washington, Oregon and California, it becomes evident that Alaska salaries are not competitive.

There is a Data Processsing Job Classification Task Force which has been organized to draft a complete set of new flexible, modern, well-defined data processing job classifications. A questionnaire has been developed to gather information to that end. Mr. Nelson supplied the commission with a copy of his completed questionnaire. Lynda McCurry explained that the task force was created to identify problems within that agency. Membership consists of Data Processing managers and representatives from the Division of Personnel and the Department of Labor. Carolyn Hinkey and Dick Kind, employees in the Division of Personnel, are responsible for compiling this information.

Mr. Nelson has worked for the state for nine years, and he has received only one merit increase during that time. In the absence of merit increases, and since he has reached the top of the pay scale for Console Operator II's, there is no incentive for outstanding performance. There used to be four levels of operators, and that number has now been reduced to two. Therefore, no viable career ladder is provided to Console Operators.

Charles Dockery elaborated on the absence of career ladders available to Data Processing employees. There is a 60% turnover rate in the division caused, in part, by the absence of promotional opportunities and merit increases. Some of the best qualified employees are leaving.

Thousands of dollars are spent on recruiting trips to the lower 48, yet there is no money available for training the existing staff, either for travel to programs offered elsewhere or to provide needed training to Alaskans. The division has continuing authority to accept applications from out of state for the positions of Programmer III or Systems Analyst II--both at Range 17. The division hires people from out of state into these positions, and then promotes them to whatever vacancy the director intended to put them in. There is a need for the state to address the problems of enforcing the Personnel Rules when they are violated, particularly when intentionally violated by state program managers.

The staff of the Division of Personnel lacks the skills to rate applications in the data processing field. Mr. Dockery submitted an application for System Analyst I, and received a score on his training and experience of 80. Two weeks later he submitted a xeroxed copy of the application, this time for Systems Analyst II which is two salary ranges higher than Systems Analyst I, and received a score of 85. There would be problems in having the Division of Data Processing score its own application, since there is no committment by the manager to abide by the Personnel Rules and treat applicants or employees fairly.

The division does not permit its employees to obtain training or to use what training they have; yet, in order to be considered for promotion, employees are required to have received additional training. This is one of the causes for the high turnover rate in the division.

Mr. Dockery expects that he will recieve some retaliation from the division for testifying before the commission. He gave an example of one individual who resigned, stating his reasons for leaving very tactfully. The program manager "vindictively" black listed him for doing so. There are many ways in which to seek revenge, such as finding fault and accumulating material in personnel files. Mr. Dockery added that there are many people who make mistakes in the division.

An example of the problems of the division concerns a bright, 20 year old employee. He was the only person with the skills to broadcast the general election results for the past elections. Despite his ability and the fact that he got along well with his supervisor and the other employees of the division, he has submitted his resignation, stated mildly and tactfully. His letter of resignation was pulled from his personnel file so that

managers would not have access to his account of problems encountered. The head of the division has indicated that he will see that the employee does not receive another state job.

Mr. Nelson testified that console operators are classified at Range 14. Mr. Dockery stated that that was unacceptable. The data processing salaries of the state do not meet the national standard, except for the salaries of the Operations Manager and Director. The others are at least two ranges too low. Data processing salaries in Alaska are equal to those avialable in the lower 48, but the cost of living in Alaska is much higher.

There was a position which was filled without any public announcement of the vacancy. The person hired was called a resident based on his having worked in the state some years before for a period of six months. The division paid for relocation expenses.

Some of the problems result from poor management. Some are the result of problems in the personnel system. When employees are hired initially, they are placed at advanced steps in the salary schedule in order for the state to compete for the best qualified people, but incumbents are not given the same considerations.

Kit Stewart, a Finance Officer III with the Department of Environmental Conservation, agreed with most of the points made by Ms. Jund. She disagreed on the question of limiting opportunities for substituting experience for college degrees. She felt it was appropriate to allow substitution, except in cases of life and death skills. As an example, engineers who have practiced for 20 years in Alaska are by statute to be treated as though they held engineering degrees.

Small agencies should be able to handle decentralization, just as large agencies are. Specifically, Ms. Stewart indicated that the Department of Environmental Conservation has existing staff with skills to perfrom classifications capably.

Training is a major problem in her department. For example, one employee felt that a particular training course would be beneficial and offered to pay transportation expenses and to take annual leave for the time required to attend, but asked the department to pay the $500 entrance fee. The request was denied; and later, the employee was rated as failing to perform tasks which could have been performed had the training been authorized. At least one department has paid full college tuition for one of its employees.

In answer to a question from Don Fiser, Ms. Stewart indicated that the registers are cumbersome. Almost never are all five of the top candidates available for a position. For lower level positions, about 90% of those on the register are not available.

The Division of Personnel should adopt a policy of handwriting memos on personnel matters so that time would not be lost in waiting for typing to be completed.

Cynthia Butler, Administrative Assistant to Representative Buchholdt, concurred with most of the statements made to the commission. She has had personal experience in difficulties with the raters in the Division of Personnel. She read a position description for a job for which she believed herself well qualified. She submitted her application and a resume in November. As of December, she had not yet been placed on the register. When she was finally placed on the register, she had received a score of only 80.

Ms. Butler inquired about the standards used by the rater in making that evaluation and was told that the information could not be released. Finally, she spoke to the person who had performed the evaluation. She learned that the rater had given her no credit for education or for specific training which she had received that was relevant to the position for which she was applying. She was told that if she had written her application for a lay person, it could have been evaluated to show that experience. She asked a reading expert to evaluate the application, and the expert told her that the language contained nothing above an 8th grade level.

Ms. Butler asked that her application be re-evaluated. The rater said that perhaps that could be done if she would document her education and provide evidence of the field work she had done. Ms. Butler supplied the information, and on inquiry a week later about whether the re-evaluation had occurred, was told that whenever the rater reached that information in her stack of work, it would be done.

Ms. Butler became angry at the time required to correct what she believed to be a mistake on the part of the Division of Personnel staff, particularly since the position for which she had applied was going to be filled soon. She called the Deputy Director to arrange for a personal interview. Subsequently, her application was re-evaluated, placing her from number nine on the list to number one. Because of her inquiries and persistence in asking that the errors of the division be corrected, she now believes that she has been blackballed from working for the state, without ever having held a state position. She was advised that in having her application re-evaluated and having her positionn on the register moved, the division had made an exception. Normally, the applicants must suffer the consequence of a division error without any recourse.

Ms. Butler indicated that she had been told that the division

was severely understaffed; and if that is so, then she can understand the inordinate amount of time required to process her application. The state should insure that the division has adequate staff to handle its workload.

In answering questions of commission members, Ms. Butler stated that the positon for which she had applied was for Emergency Medical Services Coordinator. She had not had a formal interview, but she had spoken by telephone with the manager who was making the hiring decision and with another employee. She had not been to the job site.

Darlene Howard gave an example of another applicant who had had problems similar to Ms. Butler's. The applicant had decided not to testify before the commission for fear that she will be blackballed from state employment. The applicant applied for about 17 jobs, and is highly competent, possessing a B.A. and additional education as a media specialist with an emphasis in library work and three years in other related fields with tremendous research experience in private industry.

When the individual applied for a state librarian position, the division found the applicant unqualified because of the techniques used in evaluating teaching experience. If an applicant has a number of years of teaching experience within the same school system, then the division counts all summer vacation periods as experience, whether or not the teacher works during the summer. If the applicant has changed school districts, then the division only counts the time of the school year, or approximately nine months. Therefore, the applicant in question failed to meet the teaching requirements of the position.

The same individual is a professional artist who has tutored in the field of graphics, owned and operated an art business for several years, has had personal art exhibitions and has one year of professional art education. The division concluded in an evaluation that the individual lacked formal art education, despite the public recognition of the artist's talent, and therefore was unqualified for a position involving art work for the state's publications.

The applicant was also not credited with any experience in management or administration, even though the individual had successfully operated a business for income.

The individual encountered the same problems Ms. Butler discussed when appealing the decisions made by the raters. One position had been advertised as being open until a particular date, and the applicant pushed the division to re-evaluate to meet that deadline, only to learn that despite public notices,

a register had already been sent out to the hiring department. The register had been issued ten days before the publicized closing date for applicants, and the individual's name did not appear on the register for the position.

Written testimony was presented to the commission by Marcella Stutte concerning the eligibility requirements for longevity increases. A copy is attached.

STAFF REPORT

1. Summary of Correspondence

a. Testimony was received from Mr. Scott Semans, Architect, advising that the personnel system is overloaded with red tape which ties the hands of the people who are making hiring decisions, resulting in losing the best qualified applicants. He advocates speeding up the certification process and allowing those hiring to exercise greater judgement in making their selections of employees.

b. Ms. Margaret Clark, an Administrative Officer with the state troopers, testified as follows:

More than once, a desk audit to upgrade a position has resulted in the position being placed in a totally different classification. The incumbent, who is satisfactorily performing the work, therefore may not be technically qualified. If a person is in the position in such a case, no tests should be required to continue holding it.

She disagrees with requiring people to retake tests after two years on a register. In some positions, there are few vacancies, and an applicant can be on the register for the entire two years without receiving notification of an opening.

Tests don't apply to the work done in daily jobs. She recommends testing a person only once prior to hiring him, and then promoting on the basis of experience and performance, as the federal government does.

She has no complaints about the services of the Division of Personnel--it takes a long time to get anything processed, but that's the fault of the system, not the staff.

c. Ms. Gaile Haynes, who testified before the commission in Anchorage on January 27, wrote in regard to the ratings of promotability. A person who appeals or grieves a matter tends to be regarded as a troublemaker, and is therefore regarded as

non-promotable. To have a process not subject to normal review is in effect to insure that boat-rockers will not be promoted, thereby producing a degree of mediocrity in state employees.

2. A work session schedule was set for February 23 and 24.

3. Budget for 1979

Warren Endicott of the Administrative Services Division of Legislative Affairs has inquired about the commission's budget for next year.

4. Theresa Hurt, a student from Juneau-Douglas Community College, is working on a project for the commission as part of a Law Practicum course which she is taking. She will be reviewing the Personnel Rules and the collective bargaining contracts to determine the impact the contracts have upon the Rules.

5. Division of Legislative Finance Computer

Terry Cramer spoke with Jay Hogan, who indicated that the computer programming for tracking vacant permanent positions will not be finished for about six months.

6. USCSC Conference, February 28 and March 1

The commission will be responsible for paying for travel and perdiem for those members attending the U.S. Civil Service Commission Conference on Public Personnel Management Reform. Representative Buchholdt may attend in Senator Ray's place. Greg O'Claray and Pat Murphy will also attend.

IN ATTENDANCE

Representative Thelma Buchholdt
Don Fisher
Ken Humphreys (for Myrt Charney)
Lynda McCurry
Representative Joe McKinnon
Pat Murphy
Janet Bradley (for Niel Thomas)

OTHERS IN ATTENDANCE

Darlene Howard

Marcella Stutte
Bridge Design Section
Div. of Highway Design and Construction
Dept. of Transportation and Public Facilities

I went to work for the old Dept. of Highways in 1968. After working for over five years I became seriously ill and left work. After my sick leave ran out, I resigned because I thought I had to. After a two year recovery period, I went back to work for the Department of Highways in my old job, in my old grade and in step F where I was when I resigned. I thought I was returning to the position and status I had before I became ill. It was the intention of my employing department to rehire me under the circumstances that existed prior to my leaving. Later I was told that because of the wording of the Alaska Statutes

> "Sec. 39.27.022. Pay increments for longevity in state service. (a) Pay increments, computed at the rate of 3.75 per cent of the employee's base salary, shall be provided for an employee after he has remained in the final step within a given range for two years, provided that the employee has worked continuously for the state for seven years and provided that his current annual rating by his supervisors is designated as "good" or higher."

I would be ineligible for longevity increases for a period of seven years.

I have been back at work for 3 1/2 years and have not received a longevity increase although my evaluations are outstanding.

I don't believe this is fair. Had anyone realized the significance at the time of my resigning, of this situation, I may have been permitted LWOP during my illness and would not have inadvertently lost my eligibility.

What recourse do I have to correct this inequity?

Submitted to the Blue Ribbon Commission on the Personnel Act at its meeting on Feb. 15, 1979 by Carl Nelson, Console Operator 2, Data Processing, Dept. of Administration.

The attached questionnaire has been prepared by the Data Processing Job Classification Task Force. The Task Force was organized to draft a complete set of new flexible, modern, well-defined data processing job classifications. In order to accomplish this, we need your input.

The questionnaire has been designed to help identify the various kinds and complexity of data processing oriented work. It covers the range of activities from entry level to data processing managerial functions. Clearly, not all items will relate to you and your work. Please read each item carefully and, if it applies, answer it as accurately as possible. If it does not apply, indicate so and go on to the next item.

Questionnaires should be completed and returned no later than February 16, 1979 to:

Data Processing Job Classification Task Force
Attention: Carolyn Hinke
Department of Administration
Division of Personnel & Labor Relations
Pouch C
Juneau, Alaska 99811

Mail Stop 0201

Thank you for your prompt response and cooperation.

Data Processing Job Classification Task Force

Questionnaire

Name: Carl C. Nelson Job Title: DPEO II PCN:

Supervisor: Robert Farrell Job Title: Operations Supervisor PCN:

Department: Admin. Division: Data Processing

Location: 5th Floor Optn's Phone: 465-2234 Date: 2-11-7

I. GENERAL QUESTIONS

The first portion of the questionnaire deals with the more general aspects of work which are likely to be found in any job.

A. General Description:

1. Describe briefly your job: Under General Direction, console operate multi-partitioned IBM CPU, high speed tape drives, high speed disk drives, high speed printers, card reader/punch, diskette readers, and peripheral equipment for timely and efficient processing of data from/for all state departments.
2. What is/are your major task(s) occupying 20% or more of your time?
100% Monitoring CPU. Listening, watching, analyzing instructions and error messages, error lights and any unusual conditions.
25% each; Retrieving tapes, mounting, dismounting, filing, printing and distributing standard and/or special forms.
3. What title do you feel best describes your work?
Operations Supervisor, Lead or Shift Supervisor

B. Supervision Received:

1 Describe the kind of guidance and/or instructions you receive with assignments (how specific, how detailed, how much discretion do you have in following guidance or devising your own methods, etc.):
During our 12.5 hour prime shift, we receive priority slips for those jobs needing special handling and quick turnaround. Since there are numerous other priority slips throughout the day, they are handled & processed by the discretion of the console operator due to the needs of the job. Example; estimated run time, number of tape and/or disk drives needed, special disk packs, tapewriter, etc... Upon occasion, we do receive special instructions, from technical services, for upgrading the system to handle new needs or to correct existing problems.

2. What, if anything, does your supervisor do to your work before you receive it?
He may, from time to time, check and see how much processing time certain jobs may require. Otherwise, he does nothing!

3. Is your work reviewed while in progress?
No.

4. What does your supervisor do to your work when it is completed?
He only reviews "Problem Reports" if there are any.

5. Who, <u>besides</u> your supervisor, influences your work (technical aspects, staff advisors, outside consultants, etc.)? How? Some 200 outside terminal users via on-line access to CPU. Phone calls from users for information on completed or currently processing jobs. IBM CE Technicians working on system hardware problems. Technical Services working on system software problems. Last two they require the entire system, at times, to correct existing problems

C. <u>Guidelines</u>

1. Describe the guidelines available to you, such as prescribed work practices, policies, procedures, rules, regulations, precedents, etc. IBM owners manual for specific components that covers CPU problems in its entirety. Technical Services bulletins. Random special procedures, memos from management/supervisory personnel. Very often, verbal information/instruction from one individual to another, from shift to shift.

2. In what form are the guidelines? (verbal, desk manual, reference books, statutes, procedures manual, etc.)
90% verbal instructions (as mentioned #1 above).
25% IBM Technical Bulletins and/or Reference manuals Technical Service Bulletins and/or memos.
10% Everything else.

3. Are the guidelines for your job clear and specific so that it is relatively easy to identify which is applicable to each assignment, task, question or the like?
NO. As mentioned in item #1 and #2 above, 90% of our guidelines are verbal from one individual to another, from shift to shift. So, to answer this question, there is no standard procedure, we Run and expect spur of the moment changes in so-called established procedures!

D. Problem Solving

1. Describe briefly some typical problems you encounter in your work and how you solve them. Power outage, which is very common in Juneau. Entire system is down and manually brought back up when power service is available. Hardware problems with device units (Tape, disk drives, etc...). These units are manually devices off-line and repaired by IBM CE Technicians and

See attached

2. Do you have a choice of methods for doing your work, assigning priorities, etc? If yes, describe how you decide how, when and what you will do. Yes. Availability of time, importance of the job, the need of tape and/or disk drives, are all major factors in determining priorities for processing jobs. When the system is able to handle these needs, we release jobs for processing.

3a. Describe your most responsible or judgmental task.

See IA2 answer under General Description. Page 2.

b. How often does it occur? Monitoring the system is a very important factor and responsibility. Since there are two partitions, many jobs do require a response from the console operator and if he is not aware of the current status of each partition, time can be wasted if no response is made.

4a. What is the most critical error you could make in your work and its consequences? ① Accidently pull "Emergency Stop" switch on CPU or power supply causing lost user time. ② Mounting wrong tape as output/input during production run. Destroys valuable data or wrong data input into job stream. ③ Print incorrect warrant numbers on pre-printed warrant forms.

b. Who would be likely to catch the error?

I would catch the error or my co-worker would catch it.

c. How would it be corrected? ① System powered back up and made available again to all users. ② Message from console would indicate a wrong tape mounted, operator would correct this error and continue processing. ③ Console operator would visually check pre-numbered forms before continuing.

d. What are the chances of an error such as this happening?

① It has happened once. The switch in question is located in a very bad place. The chances of this happening again are very slim. ② This one happens quite often do to previous jobs canceling and thus those tapes are still mounted. An error message does occur and the operator can correct it, but there is a small chance of it happening. ③ Again, this has happened once before and since this is visually checked, chances of this happening are very slim.

5. What responsibility do you have for making recommendations, decisions or commitments that determine or affect plans, programs, policies, procedures, etc? Give examples. See Attached Since the console operator has complete control of the system, we often make recommendation to our Supervisor on handling procedures which would better serve all users, be more efficient and most practical. 99% of the time, no action is taken on our recommendations. We generally make our own decisions on jobs having bad data or erroneous messages.

E. Supervisory Responsibility (If you do not supervise, go on to item F)

1. List the positions you directly supervise:

No. of Positions	Title
1	DPEO I
1	Peripheral Equip. Optr.

2. Do some of these positions in turn supervise others?
No.

3. Briefly, what is the general purpose or function of the unit you supervise?
Senior Console Operator
Console Operator I
Peripheral Operator
To further answer this question, see I A 1, Page 2.

4. As a supervisor, I (circle appropriate number):

	1	2	3	4
Interview job applicants	(1)	2	3	4
Hire employees	(1)	2	3	4
Evaluate employees	1	(2)	3	4
Promote employees (to a higher position I also supervise)	(1)	2	3	4
Transfer employees (to a position at the same salary I also supervise)	(1)	2	3	4
Suspend employees	(1)	2	3	4
Discharge employees	(1)	2	3	4
Settle grievances	(1)	2	3	4
Reassign duties	(1)	2	3	4
Train employees	1	2	(3)	4
Explain, interpret policy, procedure	1	2	3	(4)
Set work objectives/performance standards	1	2	3	(4)
Ensure timely work flow	1	2	3	(4)
Ensure the quality of work	1	2	3	(4)
Devise new procedures/work methods	1	2	(3)	4
Assess/plan for future personnel needs	1	(2)	3	4

1 = Does not apply.

2 = Recommend - you independently decide what is needed, gather all information, present it to your supervisor with a specific suggestion as to what should be done. Your supervisor takes the official action.

3 = Prior Approval - as described above BUT you take the official action once your supervisor has approved your doing so.

4 = Inform Supervisor - you gather information, make a decision, and take official action, informing your supervisor afterward of what you have done or how you have handled a problem.

5. What amount of your time is spent doing much the same work as your staff? 95 %

6. What amount of your time is spent doing non-supervisory work that is not similar to that of your staff? 0 %

   Briefly, what are these tasks?

7. To what extent are you held accountable for the work of your staff?
   At all times, 100 %

F. Managerial Duties

1. Describe the role you play in planning for needs such as personnel, supply, equipment, etc.

2. What are your budgetary/fiscal responsibilities?

3. What is your participation in long-range planning, establishing goals and objectives, etc.?

4. What responsibilities have you for evaluating the progress toward meeting goals/objectives and in devising/implementing measures to ensure their accomplishment?

5. What studies, such as organization, methods, cost analysis, work simplification, etc., have you participated in during the past year? What was the extent of your participation?

6. For what kind and size of organizational unit do you perform the above managerial functions?

G. Job Requirements

1. Winter is here and you cannot face another Taku wind. You requested and were granted an extended leave of absence, and you have set your sights on a warm sunny beach. Before you go, you are to personally pick a replacement for your job. Describe what you would look for in choosing your replacement. The individual must have at least five years of experience. Knowledge of the following:
   1. Multi-programming.
   2. Remote job entry system.
   3. Handling 3705 Teminal users.
   4. Knowledge of batch processing under POWER/DOS/VS.
   5. CICS System.
   6. 2540 reader/punch.
   7. 2311, 2314 printers.
   8. 2401, 3420 Tape Drives.
   9. 3340, 3344, 3350 Disk Drives.
   10. Willingness to work 12.5 hour shift, day or night, seven on and seven off.
   11. Ability to lift heavy objects, often.
   12. Ability to respond intelligently to outside users.
   13. Ability to work diligently and take supervision.

II. The next portion of the questionnaire deals with specific data processing related tasks. Please circle the appropriate letter which you feel best describes how often you become involved in each activity. Many of the statements may not apply to your job. Once again, read them carefully and if they do not apply, circle "a" (never) and go on to the next statement.

   14. Willingness to get clothes dirty or torn.
   15. Willingness to accept scratches, cuts or bruises.

Never	Rarely	Occasionally	Frequently	Very Often		
a	b	c	d	e	1.	I key data from source documents for subsequent batch processing by computer (if "never" go to #2).
a	b	(c)	d	e		a. I operate an IBM 029
a	(b)	c	d	e		b. I operate an IBM 129
(a)	b	c	d	e		c. I operate an IBM 3742
(a)	b	c	d	e		d. I operate Mohawk
(a)	b	c	d	e		e. I operate other: _____ _____
(a)	b	c	d	e		f. I key verify similar data of other operators.
a	b	(c)	d	e	2.	I key source data that is immediately processed by a computer in an on-line/teleprocessing environment. (If "never" go to #3)
a	b	c	(d)	e		a. I operate an IBM 327x CRT
(a)	b	c	d	e		b. I operate a SuperBee
(a)	b	c	d	e		c. I operate other: _____ _____
a	b	(c)	d	e	3.	I am required to make independent decisions based on the information required in the source document. (If "never", go to #4)
a	(b)	c	d	e		a. I decide to accept or reject the document.
a	(b)	c	d	e		b. I decide to flag the record for audit
(a)	b	c	d	e		c. I can change a field on the document.
a	b	(c)	d	e		d. I can contact the user.
(a)	b	c	d	e		e. Other: _____
(a)	b	c	d	e	4.	I prepare drum cards/programs for the control of keying a series of documents.

Never	Rarely	Occasionally	Frequently	Very Often		
(a)	b	c	d	e	5.	Estimate number of <u>different</u> document <u>types</u> you key data from (a = less than 10; b = 10-20; c = 20-50; d = 50-75; e = more than 75).
(a)	b	c	d	e	6.	Estimate the daily record volume you key. (a = 100; b = 250; c = 500; d = 750; e = 1,000)
(a)	b	c	d	e	7.	I perform control scheduling and distribution functions for <u>production</u> computer operations and data entry.
(a)	b	c	d	e	8.	I receive and log source documents from users to be keyed for later computer processing.
(a)	b	c	d	e	9.	I schedule and stage (set up) production computer job streams, including JCL for those job streams.
a	b	(c)	d	e	10.	I take action, in conjunction with the user, to resolve schedule disruptions or run failures.
a	b	c	d	(e)	11.	Based on predetermined scheduling instructions, I establish job stream priorities.
a	(b)	c	d	e	12.	I refer to a computer console log to resolve job stream problems.
					13.	I work with the following computer systems:
a	b	c	d	(e)		a. IBM 370 series.
(a)	b	c	d	e		b. IBM 360 series.
a	b	c	d	(e)		c. Other IBM 370, 3031
a	b	c	(d)	e	14.	I run utility programs upon user request or as needed to aid scheduling.
(a)	b	c	d	e	15.	I routinely, as a primary function of my job, complete source documents for computer processing.

Never	Rarely	Occasionally	Frequently	Very Often		
(a)	b	c	d	e	16.	I proof, balance, and correct computer results and source input prior to the return of those results to the user.
(a)	b	c	d	e	17.	I act as data control liaison between my agency and the data center which does our computer processing.
a	b	c	d	(e)	18.	I operate a computer with a central processing unit and attach peripherals. (If "never", go to #19).

a. The equipment I operate is described as:

					Make	Model	Operating System	# of Partitions	Consol Attach YES
a	b	c	d	(e)	IBM	145	37ϕ	4	yes
a	b	c	d	(e)	IBM	3ϕ31	37ϕ	5	yes
a	b	c	d	e					
a	b	c	d	e					

a	b	c	d	(e)	19.	I direct other operators in optimizing the work flow of the computer and, as such, act as a console or lead operator.
					20.	I operate the following attached computer peripherals: (if none, go to #21).
a	b	c	d	(e)		a. Tape 342ϕ, 11 Drives ; 24ϕ1, 2 Drives.
a	b	c	d	(e)		b. Disk 334ϕ, ϕ Drives; 3344, 6 Drives.
a	b	c	d	(e)		c. Reader 254ϕ, 1 ; 35ϕ5, 1.
a	b	c	d	(e)		d. Printer 3811, 1 ; 14ϕ3, 2.
a	b	c	d	(e)		e. Punch 254ϕ, 1.
a	b	c	d	(e)		f. Other: Diskette Reader
a	b	(c)	d	e	21.	As a routine and major part of my job, I operate off-line equipment, distribute reports, restock supplies, and perform other computer operations support functions.

Never	Rarely	Occasionally	Frequently	Very Often		
(a)	b	c	d	e	22.	I perform equipment maintenance on the CPU and peripherals beyond routine cleaning. Please describe.
a	b	c	d	(e)	23.	I operate a remote job entry station. *During Prime shift.*
(a)	b	c	d	e	24.	I supervise a node of a computer network. Please describe.
(a)	b	c	d	e	25.	I code new computer programs.
a	b	c	(d)	e	26.	I modify the code of existing computer programs. (If 25 and 26 are "never", go to #28)

27. I use the following:

a	b	c	d	e		a. BASIC
a	b	c	d	e		b. ASSEMBLER
a	b	c	d	e		c. COBOL
a	b	c	d	e		d. PL/I
a	b	c	d	e		e. RPG
a	b	c	d	e		f. FORTRAN
a	b	c	d	e		g. CICS/DMS
a	b	c	d	e		h. EASYTRIEVE
a	b	c	d	e		i. SPSS
a	b	c	d	e		j. LIBRARIAN
			(d)			K. Ditto
		(c)				L. EREP

Ditto is used quite frequently during Prime shift.

EREP is used on occasion to help determine Hardware problems. This helps the IBM CE Technicians to zero in on problem areas

Never	Rarely	Occasionally	Frequently	Very Often		
(a)	b	c	d	e	28.	I install and maintain computer operating systems along with vendor supplied proprietary software packages.
(a)	b	c	d	e	29.	I interview users to determine their data processing requirements.
(a)	b	c	d	e	30.	I prepare preliminary study reports.
(a)	b	c	d	e	31.	I develop general systems designs.
(a)	b	c	d	e	32.	I develop detail systems designs.
(a)	b	c	d	e	33.	I develop PERT/CPM or Gaant Charts for project control.
(a)	b	c	d	e	34.	I perform routine maintenance analysis on existing systems.
(a)	b	c	d	e	35.	I manage information system contracts.
(a)	b	c	d	e	36.	I conduct user training classes.
(a)	b	c	d	e	37.	I have project control over systems analysts and programmers.
a	b	(c)	d	e	38.	I provide technical advice to my managers or supervisors.

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILE 8672
1355 SCOMM 51: BLUE RIBBON COMN. ON STATE PERSONNEL ACT 1978-1983

III. The last portion of this questionnaire is for you to provide any additional information which you feel is important or in need of special emphasis.

A. Describe briefly those aspects of your job which have not been covered in this questionnaire. Danger in extremely high voltage equipment. Extremely high pressure (constantly!), from our Supervisory/Management personnel, to get the work completed and out from yet a never ending backlog!

B. Is there anything about your job you think needs special emphasis? 12.5 hour shift, seven days on seven days off. We are on our feet 90% of the time. We lift heavy paper boxes. Lighting is very poor. Extremely high paper dust in the air. Extremely high noise volume in the working area. And most important, the console operator is looked upon only as a button pusher. He is not!!!

See page 3 C 1, 2 & 3. last paragraph

C. Do you have any other comments or suggestions?

Yes.

My main concern is for all operation personnel. The employee morale is extremely low and has been since 1972 when Mr. Warren Endicott, then Director of Data Processing, stated that the console operators were overpaid. He recommended a down grade of two pay ranges and Personnel carried his say so through. We were the only ones affected in the entire Division of Data Processing. I personally feel that this action was wrong and unjust. Since then, our duties and responsibilities as console operators have increased substantially and we have, since that time, been requesting a job reclassification to reflect a salary equal to these demands. On two separate occasions we have filled out "P402's" and we were never informed about the results. All we are ever told, from management "we are working on it." They have been working on it for the last five years! Now here we are again filling out this questionnaire, are we again going to get the same results? (See Attached)

D. Problem Solving: Page 4

1. Continued:

brought back in-line when the problem is resolved. When these units are taken off-line, we have to work around them and run only jobs that will not be affected by the shortage of those units. JCL errors within programmmers job stream, console operator has 99% effectiveness in manual correction and thus saves the state many dollars in computer rueun time.

D. Problem Solving: Page 5

5. Continued:

As for plans, progeams, policies and procedures, we are always able to give input. But we face the 99% no action. Any changes effecting both the Console Operator Monitor and the user, the user comes out on top. Example: Changing priority jobs to a special class to enable quick accessibility by the Console Operator. This recommendation has not as yet been enforced.

Continued:

Personally, I am one employee who is very disappointed. Since the action taken in 1972, I have only received one (ONE!) merit increase! During my last evaluation several months ago, my supervisor informed me that I was do for my merit increase. I was really looking forward to it, but Personnel returned my evaluation form indicating that I was not eligible until 1981. I want you to know that I have only received one merit increase in nine years! Is this how good, loyal, dependable, hard-working employees are to be treated? I want to know what is going to be done about it! Is this questionnaire going to resolve it? This may not be of any concern to you, but it is to me. I am a single parent of two school age children and I find it very difficult to meet my expenses from month to month. I am currently working on my twentieth year for the State. Do I have anything to look forward to?

As I have previously mentioned of the action taken in 1972, our duties and responsibilities have increased substantially. We have worked under continuous upgrading of new sophisticated IBM equipment, the IBM 360/40, IBM 370/40, IBM 370/50, and now most recent IBM 370/3031 which has numerous features. Under each of these models, multi-programming has increased, workload has increased and above all the duties and responsibilities of the console operator has increased.

In multi-programming, there are five jobs occupying at all times. The Console operator must be aware of what he is doing at all times, any wrong response could be fatal. In reference to workload, we have nearly 200 terminal outside users who have access to our system and submit jobs for processing. We handle, on the average, 300 plus jobs during any given day. I mention all this because it gives me the basis for making the following recommendations and I might add, they most certainly need to be implemented. We need the following positions with indicated pay range:

Console Operator Trainee	Range	11
Console Operator I	Range	13
Console Operator II	Range	15
Console Operator III	Range	17
Shift Supervisor	Range	19
Operation's Supervisor	Range	21
Operations Manager	Range	23

The Shift Supervisor is needed to aid operation's personnel and relieve other pressing matters from the Operations Supervisor and would be directly under him. The Console Operator III position also is needed, three operators should be on shift at all times to handle the workload, two can not handle it properly to keep up the needs of the system.

I want to reiterate that the duties and responsibilities of the console operators have increased at least 400% and expect it to increase again in the near future with the addition of OS installed in the IBM 370/3031. I don't think that my recommendation is ridiculous or unjustified. If anything, upgrading our positions should be granted and made retroactive due to the difficulties we have had in the past in requesting such action. We are not button pushers, we are the backbone of the state and most certainly deserve equal pay for equal work. I rest my case!

Thank you for hearing me out.

BLUE RIBBON COMMISSION HEARING
Anchorage Historical Museum
January 27, 1979

MINUTES

Don Fisher, Vice Chairman, called the meeting to order and invited public testimony.

PUBLIC TESTIMONY

Daniel DeNardo, a Revenue Auditor with the Anchorage Office of the Department of Revenue, read a prepared statement regarding violations of state Personnel Rules. (Attached is a copy of Mr. DeNardo's statement with supporting documentation.)

Don Fisher suggested that the situation presented by Mr. DeNardo warranted further review by the Ombudsman's Office. Ken Spray suggested that because of the legal implications, Mr. DeNardo should bring the matter to the District Attorney's attention.

Ann Lacey, an employee of eight years with the Alaska Transportation Commission, presented problems she has experienced after being placed in a word processing center. Since 1974, Ms. Lacey had been a Secretary I at salary range 10. She has recently been placed in a word processing center, which is the equivalent of a typing pool. Employees in the center are graded on the type of work being done on a minute-by-minute basis. The supervisors assign work to each typist, and points vary for different types of assignments. This leaves the supervisor with substantial control over how many points an employee can obtain. Ms. Lacey pointed out that the work could be compared to that of a Clerk Typist. She started working 11 years ago as a Clerk Stenographer III, and feels that by being placed in the word processing center, her position has been downgraded.

Ms. Lacey stated that though she is on several registers, she has never been offered an interview for a position. She was on the register for the position of Word Processing Supervisor, but another applicant from the same range and classification was appointed. Ms. Lacey stated that the individual hired was informed of the expected vacancy and given an opportunity to take courses relating to the postion. The individual was thus able to get on a promotional list for the position, even though possessing less time and experience with the state.

Darlene Howard explained that classifications at the clerical level have recently been altered to Correspondence Secretary and Administrative Technician levels to accomodate the word processing system. With the assistance of IBM, a matrix of positions was developed. Values were given to various forms of typing on piece-rate basis for work flow and count factors. Grounds for promotion and demotion are based on the points a typist earns, which are figured by multiplying the time spent in typing a particular item by the difficulty factor assigned to that type of

work. A supervisor can therefore control the points available to each typist, by the assignment of high or low-value work. As the use of word processing centers expands, morale problems may develop.

The state justifies shifting to a word processing system by pointing out that with such a system, specialized equipment can be used, typing time can be expedited and greater accuracy can be provided. However, only one specialized unit is in use in the Juneau center. All of the other centers are supplied with Mag Card II's, which are commonly used in all state offices. Despite this lack of specialized units, salary ranges of word processing employees are not comparable to those of clerical and secretarial employees using the same equipment.

Questions arise in regard to career ladders for word processing employees. They are no longer exposed to the day-to-day management of the programs for which they type, and therefore have less opportunity to learn the operation of those programs. Thus, they are less likely to be able to advance beyond the secretarial/clerical level.

Pat Hunt explained that the Division of Personnel and Labor Relations has been closely involved in the development of the word processing centers. The idea originates as a management decision, and the Division is responsible for the reclassification of the positions affected.

Pat Murphy asked how eligibility lists are used in hiring for word processing centers: Are applicants competing on registers for word processing center classifications or are they being transferred? Pat Hunt gave an example of seven positions taken out of the Division of Personnel's budget and placed in the word processing center. Pat Murphy commented that the system is in the process of being implemented within other departments. He believes this will affect employees state-wide.

Niel Thomas suggested that the Commission request information from John Mitchell, Word Processing Specialist with the Department of Administration. Don Fisher added that he would be interested in knowing how the supervisor Ms. Lacey referred to was selected.

Fred Jones, Director of the Department of Employee Relations for the Municipality of Anchorage, testified on the structure of the Department of Employee Relations at the request of the Commission.

Prior to the creation of the department, the Municipality of Anchorage had a division of personnel, but did not employ

staff for its labor relation's activity. The Municipality contracted with private attorneys to handle its labor negotiations and grievance proceedings.

In June of 1977, the Mayor formed the Department of Employee Relations, consisting of the personnel division and adding a labor relations staff. Each of the major divisions report directly to Mr. Jones. He listed the divisions as: recruitment, examination, compensation, records, benefits, training, plans and programs (which is headed by the former personnel director) and labor relations. The Municipality has found that this system offers flexibility while maintaining control. The personnel functions and labor relations are combined because of the close relationship of the issues for which they are responsible. He indicated that 87% of the employees of the Municipality are covered by collective bargaining agreements. Mr. Jones, as head of the department, reports directly to the Mayor. This structure is similar to that of those organizations for which he has worked in priviate industry. This direct line to the chief executive is especially critical in the labor relations area.

Pat Hunt asked if the Municipality has a personnel ordinance. Mr. Jones replied that there is a labor relations ordinance that covers all aspects of labor relations as well as creating an Employee Relations Board. The Municipality chose to adopt its own system rather than be covered by the state's system.

The Employee Relations Board has functions similar to the National Labor Relations Board. Representative Buchholdt questioned what had been gained by opting out the the state system and adopting the present ordinance. Mr. Jones responded that matters can be handled more expeditiously with the Municipality's own system. Department heads are informed of the structure of the Employee Relations Department through a manual prepared on the subject. An Employee Relations manual is also being prepared.

The Municipality is obligated to provide for a merit system by statute. Personnel rules are in the form of an ordinance. Prior to the creation of the new department, the Municipality had various regulations.

Pat Hunt asked whether user departments have personnel officers. Mr. Jones replied negatively. The personnel division and department heads interface, and if a problem in personnel arises, it is brought to the attention of the division head. Niel Thomas explained that the Commission is considering the decentralization of unique job classes and asked for Mr. Jones' thoughts on the subject. Mr. Jones stated that this might lead to problems in proper control and that he is a believer in centralized authority for consistency in personnel and labor rela-

tions.

Mr. Thomas asked if the Department of Employee Relations has a defined audit function. Mr. Jones stated that the Municipality has centralized headquaters to maintain the consistent application of personnel rules and labor contract provisions. Mr. Thomas expressed interest in where the internal equal employment opportunity function was placed. Mr. Jones responded that it is located in a separate department. There is question as to where the function should be placed. He believes that it should be within personnel and labor relations, but it may be placed in the legal department.

Representative McKinnon asked what the application process is. Mr. Jones explained that there is a regular screening and examination process depending on types of positions. Police and Fire Department applicants are subject to sophisticated testing programs. For other positions, the personnel division screens and matches qualifications of applicants with job specification requests. An eligibility list is then created. This list is referred to departments or divisions for interviewing and hiring. Representative McKinnon asked how long it takes for an applicant to be rated and placed on the list. Mr. Jones said that this would depend on the number of applications received for the position. A vacant position must be posted internally for seven days prior to recruiting. If there is no response from Municipality employees, an eligibility list is usually created and issued within three days. Mr. Jones emphasized that there are hiring halls covering two large organizations that supply qualified applicants within 24 hours.

In answer to Mr. Hunt's questions on the Municipality's recruitment practices, Mr. Jones indicated that most of the applicants for positions with the Municipality live in the immediate area. Very few applications are mailed to the department. When the Municipality has to look outside its immediate area to fill a position, as is the case with the present opening for a Director of Public Works, the process for filling a position takes considerably longer. Typically when an individual applies for work with the Municipality, he is interviewed by one of the well-trained examiners who evaluate the skills of the applicant against criteria supplied by the departments on the job. The city does not solicit applications for positions in which it has no openings, although it does maintain active applicant files.

Mr. Spray questioned whether there were any changes made in regard to personnel plans and programs. Mr. Jones replied that procedures have been implemented that were not formerly a part of recruitment and training. As an example, the Personnel Director has created an employee handbook and is working on an

employee relations manual for supervisors.

Mr. Spray requested information on arbitration caseloads. Mr. Jones responded that in 1978, there were a total of 19 cases recorded for 3,000 Municipality employees. Mr. Spray explained that Local 71 had approximately 50 to 60 arbitration cases last year, out of 1,500 members. Mr. Jones commented that the percentage seemed high.

Mr. Spray asked how Mr. Jones would prepare for negotiations on new contracts. Mr. Jones responded that the personnel division would be contacted for statistics and technical information. Otherwise, data is gathered from each user department head on possible improvements, refinements, changes, etc. The negotiating committee consists of various members: labor relations, plans and programs, compensation and classification staff.

Don Fisher asked if the Municipality uses a large number of tests for evaluating applicants. Mr. Jones stated that tests are given to typists, and police and fire department applicants only. He believes that testing should be given only to entry-level and clerical applicants. All others can be evaluated by performing reference checks. John Pugh asked whether there is a requirement to choose from the top five applicants on eligibility lists. Mr. Jones replied that there is a maximum of five applicants on the lists sent to departments. The applicants are not ranked and the department can hire anyone on the list. Don Fisher questioned what reason would be given for rejection of an entire list. Mr. Jones answered that a position can be reannounced, in which case a new list of five applicants would be sent to the department. Reasons would have to be based on in-depth review with the specifics and unique requirements of the job taken into account.

Darlene Howard asked what type of methodology is used to determine who is best qualified and which names should be sent to departments. Mr. Jones replied that interviewers are supplied with in-depth descriptions on each position. There are minimum qualifications that each applicant must meet. Once this is determined, they are matched up with job specifications. The skill of the interviewer is the key. Subjective evaluation is used by the interviewers, and the final selection is made by the user departments.

In answer to a question from Mr. Spray, Mr. Jones explained that all appeals from employees are handled by the labor relations staff, whether or not the employee is a union member. The personnel staff may become involved to answer questions or to provide statistical help.

Ken Humphreys asked how many staff members are in the Employee Relations Department to handle 3,00 employees and how many applications are processed each year. Mr. Jones stated that there are 22 staff members, and approximately 5,000 applications are processed annually.

Darlene Howard asked whether an individual who is not selected as one of the top five for a position can appeal. Mr. Jones replied that any appeal would be made directly to him and that there would be many recourse actions available.

Niel Thomas questioned how new positions are created. Mr. Jones explained that two forms are used (P1 and P2) supplying a description of the actual job functions, which are submitted to Classification and Compensation for review. Once approved, the forms are sent to the Office of Budget and Management and then on to the Mayor. The process is not limited to budget time, but is usually heavier during the beginning of the fiscal year. Mr. Jones also stated that he does not recommend the use of temporaries and cannot understand why the state's classification process takes so long.

Pat Hunt asked who would be responsible for drafting job descriptions for each position. Mr. Jones responded that this is the responsibility of the Compensation and Classification Section. Position descriptions are prepared based on input from departments (P1 and P2 forms) that is included with a supervisor's request.

Ardith Healan, a Park Technician I with the Department of Natural Resources, presented testimony regarding her experiences working in the CETA program. She explained that to become a Park Technician requires certification on a CETA eligibility list. In order to get on the CETA list, an individual must be unemployed for four months. This seems contrary to the goal of the program, which is to reduce unemployment. Ms. Healan mentioned that there is a general concern of departmental employees that $16.00 monthly union dues are being charged unfairly. Don Fisher pointed out that federally funded CETA programs are classified as temporary positions by the state.

Pat Murphy commented that CETA employees are being used to supplant permanent employees, rather than to supplement the permanent work force. There is a state register for Park Technician I's, but the department has decided not to request positions in that class, since CETA workers are available. Ms. Healan is on the state's register, the application and certification process having taken 15 weeks, yet cannot be hired in that job capacity unless as a CETA.

Ms. Healan also pointed out salary inequities. She is earn-

ing $1,128 monthly ($6.90 hourly) as a CETA Park Technician yet Park Rangers doing the same tasks are earning $10.00 hourly. Ken Spray added that at the same time, CETA employees are being told that the basis of the program is to help individuals find permanent positions. Niel Thomas stated that federal money is allocated for a certain period of time to help make applicants more competitive for permanent positions. He added that CETA's cannot receive preference over permanent employees. Mr. Spray pointed out that departments make a committment to train and retain a certain percentage of CETA's as permanent employees. Ms. Healan stated that almost everyone in her department is a CETA employee.

Lynne Woods, the Executive Director of the Alaska Commission on the Status of Women, presented testimony on pertinent sections from the Preliminary Study: The Status of Women in Alaska. (Copies may be obtained from the Human Rights Commission.) She explained that the Commission is in the process of recommending status and implementing guidelines on the roles of women and minorities in the Alaska state system. A report is to be released in April.

Representative Buchholdt commented that the draft report on the U.S. Civil Rights Commission suggests that the Blue Ribbon Commission will address the subject of equal opportunity employment and affirmative action. However, Senator Ray mentioned that the Commission will not address these topics. Don Fisher suggested that the concept of incorporating studies on EEO and affirmative action could be included in discussion of merit system principles and hiring from state registers. Niel Thomas stated that there are a variety of approaches in allowing for EEO and affirmative action hire. He cited the following as examples: (1) selective certification - giving priority consideration to minorities. (2) increasing bands of certification to encompass more applicants. Mr. Thomas suggested that one way to address the topic would be to suggest that the Certification, Classification and Recruitment Subcommittee research the options available. Mr. Thomas informed the Commission of an existing Attorney General's opinions on EEO and affirmative action hiring practices.

Ms. Woods said that she had heard of sex discrimination within the state. As an example, she mentioned hearing of women in the state working at range 16 through 20 who are responsible for the same functions as men at range 24 through 26.

Beverly McCartney, an employee with Community and Regional Affairs, testified regarding problems with CETA programs. She believes that permanent positions are filled by CETA employees because they are less expensive to the state and departments are

unable to identify funding for permanent positions.

As a solution, Ms. McCartney suggested that rules be adopted to allow a department to fill a position with a CETA employee only once.

Al Carson, Deputy Director of the Division of Lands, Department of Natural Resources, presented a written statement on two areas of major concern: The state's hiring procedures and the use of temporary employees. (Attached is a copy of Mr. Carson's testimony.)

Don Fisher, in response to Mr. Carson's testimony, asked who should be responsible for deciding on the qualifications of an applicant if they are not ranked. He added that the state is required to abide by merit principles. Mr. Carson responded that presently, an applicant must be hired from the top five and justification must be supplied for not hiring within that group. Scoring the abilities of applicants does not accurately relate to job requirements. Mr. Carson added that he has worked with Ken Kareen in the Division of Personnel trying to make the system work. Mr. Carson stated that individuals in the top five are there because of longevity of service within the state and are not the type of people he wishes to hire. Don Fisher suggested that a system to develop criteria based on input from program managers would identify special job requirements and reliability of tests.

Richard LeFevere and Claude Hoffman (a Cadastral Engineer), both employees of the Department of Natural Resources, presented testimony to Commission members. Discussion revolved around registers that are classified too broadly and do not take into account special qualifications necessary for positions in the Department of Natural Resources. Mr. LeFevere suggested that program managers hire temporaries to extend the probationary period and to circumvent registers to hire individuals most qualified for particular positions.

MEETING SCHEDULES

The Commission decided to hold subcommittee work sessions in Juneau on February 5 and 6.

IN ATTENDANCE

Don Fisher, Vice Chairman
Pat Hunt (for Commissioner Allen)
Representative Thelma Buchholdt
Ken Humphreys (for Myrt Charney)
Paddy Moriarity (for Frank Flavin)
Ken Kareen (for Pat Hunt)
Lynda McCurry
John Pugh
Ken Spray
Niel Thomas
Pat Murphy

OTHERS IN ATTENDANCE

Darlene Howard

STATE of ALASKA

MEMORANDUM

TO: Blue Ribbon Commission on the Personnel Act
Chairman: Senator Bill Ray

DATE : 27 January, 1979

FROM: Daniel DeNardo
Revenue Auditor
Department of Revenue
Anchorage Office

SUBJECT: Violations of Personnel Rules and State Law

I would like to thank the Blue Ribbon Commission on the Personnel Act for the opportunity of addressing them on serious violations of the State Personnel Rules that have been and are now taking place in the Department of Revenue.

My name is Daniel DeNardo and I am employed as a revenue field auditor by the Department of Revenue. I have been employed by the department since 1974 with a break in service for the period April-October 1978.

I have direct knowledge of the facts I will present and they are all documented. The Blue Ribbon Commission presents a unique opportunity that insures action will be taken to correct the grave violations that have been perpetrated. The scope of the facts presented will be confined to those people still employed by the Department of Revenue.

Case No. 1. In 1975 when the Department of Revenue was located at 509 3rd Avenue, a business license number 56874 was taken out under the name Aardvark Interiors of Alaska. The applicants were Larry Williams, Louis E. Nelson, and Mrs. Donna Crawford. All three were revenue auditors.

Mr. Nelson and Mrs. Donna Crawford are ~~sto;~~ STILL employed by the Department of Revenue in the Petroleum Revenue Division.

The purpose of the business license was to allow the principals of Aardvark to award themselves a contract for remodeling work of the audit division office at 509 3rd Ave. The remodeling was performed by Aardvark and reimbursement was granted by Gary Jenkins, Audit Director.

No prior approval by the Commissioner of Administration was granted. These actions are in violation of Rule:
13.15-Purchases of Commodities and Services
13.16-Conflicts of Interests.
13.18-Penalties
13.18.1-Action to be taken by the Director
11.05.1-Dismissal for violation of Rule 13

In these violations there was complicity upon the part of management and full knowledge of the personnel rules violated.

Mr. Williams has left State employment but Mr. Nelson and Mrs. Crawford are still employed by the Department of Revenue in the Petroleum Tax Division.

Case No. 2. Mr. Louis E. Nelson and Mrs. Donna Crawford continually violated State personnel rules by leaving the State Revenue office for extended periods on unofficial business. Many times these extended periods were spent consuming alcoholic drinks at various bars .

These numerous and continual violations also included returning to the State office in an intoxicated condition both during and after business hours.

These violations have occured over an extended period of time since 1975 and still continue.

These facts were brought to the attention of the Department of Revenue at a grievance hearing in March 1978 in the Diane Painter vs. Louis Nelson case. Mr. John Messenger, Deputy Commissioner of Revenue was in attendance.

Case No. 3. Mr. Nelson was in violation of State of Alaska and Federal law by keeping a secret file on Mrs. Diane Painter. Mr. Messenger so informed Mr. Nelson at the March 1978 hearing. Mr. Nelson was given a new supervisory position in the Petroleum Revenue Division.

Case No. 4. On an audit trip to California in the summer of 1976, circumstances led to the cancellation of a scheduled audit which Mr. Nelson did not report but instead took a weeks leave before proceeding to Los Angeles for the next scheduled audit. Mr. Nelson applied for and received perdiem and never submitted a leave slip.

This is a violation of the fraud Statutes and Personnel Rules.

Case No. 5. Gross violations by revenue auditors and management in the fraudulent misuse of travel funds have come to my attention. Because of the location of the records in Juneau, I do not have access to them. I would be willing to sit with the Commission and share what I know.

The grave abuses and violations I have presented are known to the management of the Department of Revenue in particular Mr. Gary Jenkins-Director of Audit, Mr. Thomas Williams-Director of Petroleum Revenue, Mr. Mike McCormick-Director of Enforcement, and Mr. John Messenger-Deputy Commissioner.

It should be reprehensible to the citizens of Alaska that an agency given the responsibility of enforcing law should be operating on another set of principles.

With the sensitivity of the whole subject of taxes, our Alaskan citizens deserve principled, unbiased, and lawful service from those hired to serve them.

The few because of their position have put the Department of Revenue in an untenable position of enforcing the law while those in command ignore and violate the law.

Attached are memos.

David DeNardo

Daniel DeNardo

MEMORANDUM State of Alaska

TO: Thomas Williams
Director, Petroleum Revenue Division

DATE: January 19, 1979

FILE NO:

TELEPHONE NO:

FROM: Daniel DeNardo
Revenue Auditor I

SUBJECT: Inquiry to Correct Personnel Rules Violation

This Memorandum is a request for a meeting to discuss the action to be taken in rectifying the placement of an individual in our Division who has seriously violated State of Alaska Personnel Rules while employed by the State Department of Revenue.

02-0018

STATE
of ALASKA

MEMORANDUM

TO: Daniel DeNardo
Revenue Field Auditor I
Petroleum Revenue Division

DATE : January 22, 1979

FROM: Thomas K. Williams TKW
Director
Petroleum Revenue Division

SUBJECT: Your Request for a Meeting about Personnel Rules Violations

Your memorandum of January 19th presents allegations of serious misconduct on the part of someone in this division. However, you do not indicate who the alleged miscreant is, nor do you indicate the nature of the conduct which you assert to have been in violation of the State's personnel rules. Thus, while I do not wish you to underestimate the gravity of my concern in this matter, yet no clear course of action presents itself for me to take because of the unspecific nature of your memorandum.

On the one hand, if the misconduct has been by someone under Lou Nelson's supervision, you should raise this matter with him as your immediate supervisor, since that is the standard procedure under both the personnel rules and prudent management. The importance of talking with Lou is even greater if Lou is the person you are referring to in your memorandum. Communication in an employee-supervisor relationship is the most effective means of resolving differences in opinion, managerial style and other matters of personal incompatibility. If this fails and no resolution of such differences can be achieved through discussions with the supervisor, then is the better time to bring the difference to the attention of the supervisor's supervisor. For the higher echelon supervisor to perform his own tasks effectively, it is imperative that he ordinarily work through, not around, his subordinate supervisory staff.

On the other hand, if the misconduct has been by someone outside Lou's supervision, then you are correct to come immediately to me. If this is in fact the case, I would appreciate your giving me another memo, going into more specific detail about the misconduct. Then I can discuss it with you further in a meeting before deciding what course of action I should take.

Thank you for bringing the matter to my attention.

TKW

January 26, 1979

Tom Williams
Director, Petroleum Revenue

Dan DeNardo
Revenue Auditor

This is a response to your memo of January 22, 1979, and our conversation in your office the morning of January 24, 1979.

The course of action subscribed to by me was a confidential meeting. You chose to ignore this request as you did my verbal request for a meeting on October 23, 1978. The October 23, 1978, request was explicitly in reference to Mr. Nelson.

Your insistence on perceiving my requests as a problem of personal incompatibility is to ignore the allegations of personnel rules violations of a serious nature. To discuss and seek amendment of the violations with the violator is not my responsibility. That responsibility is explicitly given to the Director of the division.

Your comment to me in your office on January 22, 1979, referencing "Aardvark" indicated to me that you already knew about Mr. Nelson's and Mrs. Crawford's violations of the personnel rules which were of a serious nature.

Mr. Messenger should be aware of Mr. Nelson's violation of the personnel rules with regard to an employee's privacy under Federal and State law since both Mr. Messenger and of course, Mr. Nelson, were in attendence at the hearing on that and various other violations which culminated in the total reinstatement of Diane Painter.

Discussion at the hearing also focused on Mr. Nelson's and Mrs. Crawford's unauthorized absences from their place of duty while employed as tax auditors by the Department of Revenue.

It is not a case of the violations not being known, but rather a case of the failure of appointed officials to carry out the rules and regulations in an unbiased manner.

The Department of Revenue should be above reproach if we are going to enforce our Statutes and maintain compliance of the law. As public employees, this is a large part of our responsibility to the citizens of Alaska.

January 27, 1979

DEPARTMENT OF NATURAL RESOURCES STATEMENT

TO THE BLUE RIBBON COMMISSION

ON STATE EMPLOYMENT ACT

Ladies and gentlemen of the Blue Ribbon Commission,

As a representative of the Alaska Department of Natural Resources, I appreciate this opportunity to discuss two items of critical concern to both the Commission and to the Department: state hiring procedures, and the use of temporary positions. My statement will attempt to identify some of the concerns that program managers within a line agency have, and which we feel should be taken into account in this committee's deliberations and recommendations that may be made regarding changes in State Personnel Act legislation. I will identify suggested courses of action which we think would help alleviate some of the problems that have been presented to this committee and which will still allow us to accomplish the many and varied programs that we as managers are hired to do. There are several other line program managers from the Department of Natural Resources in attendance here today who may be able to answer specific questions you may have at the end of this statement.

It is important that this Commission make recommendations which retain sufficient flexibility in the hiring system to allow the program manager to make the choice as to which person he wants to hire to do the job that he or she is responsible for. In order to accomplish this, current state hiring procedures require revisions. We recommend that the Commission consider the following changes in hiring procedures:

1. That applicants no longer be ranked on hiring registers. Applicants should meet certain minimum qualifications to get on the register, but then the program managers should be allowed to select whoever they feel best qualified for the particular vacancy's responsibilities.

2. Establish a review panel for each professional job class. The function of the panel would be to establish criteria for the job class and to hear appeals from individuals denied certification by the normal process. Individuals who are not certified as being qualified for that job class would have the ability to appeal the decision of the analyst to the review panel. The panel could consist of approximately five individuals: two representatives from the Division of Personnel, specifically the Personnel Analyst responsible for certifying eligible candidates for that job class, and the personnel supervisor responsible for that job class; two representatives either working in that job class within State government or in a similar position in the private sector; and a representative program manager who supervises people in that job class.

3. Permanent fulltime probationary personnel should be evaluated in writing on their job performance quarterly for the length of their probationary period. Quarterly evaluations will assist the program manager in determining if the new employee can perform as needed.

It is my opinion that many of the problems and abuses of temporary hires stem from the current hiring procedures that many times do not allow program managers to hire the people they feel are best qualified to do the work. Therefore, by taking care of these state hiring procedures problems, we will also go a long way toward solving the problems associated with temporary hires in state government.

I have the following recommendations regarding temporaries:

1. They should be hired from the unranked registers (as described above.)

2. The State should provide full fringe benefits for temporaries.

3. A category of project temporaries should be established to be used for carrying out one-time, limited duration tasks with a maximum duration of 36 months. These positions should be used for specific tasks mandated by the legislature or the federal government.

4. Temporaries should be able to work up to a maximum of nine months.

I recognize that there have been cases of temporary hire abuse in the past. However, these abuses can be most effectively dealt with at the departmental or program manager level rather than making sweeping changes in procedures and rules because of isolated cases of abuse.

CONCLUSION

In summary, I feel that there are revisions in state hiring procedures and in the use of temporary employees that should be made to make the system more equitable to the employers, the employees, and the taxpayers of the State of Alaska. I have identified some of these recommendations in a general way in this statement, but recognize that much more work and review is needed. Since any proposed revisions of the State Personnel Act will have a profound impact on our ability to accomplish our job, I suggest that future position papers/draft proposals be circulated within state government for review and comments. Thank you for your time and attention.

Statement presented by Al Carson, Deputy Director, Division of Lands

January 27, 1979

BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT
Capitol Building, Juneau
January 10, 1979

MINUTES

Senator Ray, Chairman, called the hearing to order and invited public testimony.

PUBLIC TESTIMONY

Ivan Lewis, Record and Archives Center Manager, presented testimony concerning problems he has experienced in having his position reclassified and his salary range upgraded. He believes that his classification should be placed in the supervisory unit, in accordance with job responsibilities. Mr. Lewis, under direction of the State Archivist, is responsible for managing the entire Center and supervising Record Handlers. Mr. Lewis' position is at the same range as that of a Records Analyst II, but he must be knowledgeable in the duties of a Records Analyst III to function on a day-to-day basis (attached is the Division of Personnel's job description for Records Center Manager and Records Handler, pertaining to Mr. Lewis' testimony).

Since 1972, Mr. Lewis has been submitting P402's to the Division of Personnel explaining the responsibilities of his position and justification for reclassification. The most recent submission was a total of eight pages, describing his supervisory functions and all other aspects of managing the center. The paperwork was approved by John M. Kinney, State Archivist, and received by the Personnel Department in July, 1978. By October, it reached Carolyn Hinkey, an employee in the Classification and Pay Section of the Division of Personnel. Mr. Lewis pointed out that Ms. Hinkey is a Registered Nurse, but because of general educational requirements, she has been classified as a Register Analyst III. Ms. Hinkey and Mr. Lewis frequently discussed the subject of his reclassification, and Ms. Hinkey eventually requested information on other comparable positions. Mr. Lewis supplied her with information on positions within other states, which were at much higher salary ranges. He also provided detailed information from Robert Martin, President of the Anchorage Records Center, in writing. Mr. Lewis' responsibilities are the equivalent of Mr. Martin's, the only exception being accounting functions which Mr. Martin handles. The state's range 21 would be the equivalent of Mr. Martin's salary.

On January 1, Mr. Lewis was informed by the Division of Personnel that he was reclassified at range 15 at longevity step "J". Mr. Lewis' response to this was discouragement. He has been in this professional position for eight years, yet is being compared to a Mail Run Supervisor. Mr. Lewis stated that Ms. Hinkey misquoted information on comparable positions, and she flatly refused to take information received into consideration. He was told that he should be satisfied with a one step

increase even though his range is below that of a Central File Clerk at range 16.

Senator Ray asked Mr. Lewis how long it would take to retrieve a normal record from the center. Mr. Lewis responded that it would be done within five minutes and that he directly supervises three employees responsible for receiving, classifying controlling and storing a variety of office records. The files are organized according to needs and systems are audited regularly. All records entering the center must be inventoried daily. Mr. Lewis and two other employees are authorized to handle security files.

Mr. Lewis mentioned his concern about testifying, stating that he had testified before the legislature in 1976. Following his testimony, he submitted a P402 for a salary increase. It was recommended that his position be downgraded two steps. Commissioner Allen questioned the topic of his testimony before the legislature. Mr. Lewis responded that it was in regard to Executive Order 28, on dividing the archives and placing records under Surplus Property.

Senator Ray asked how many employees were involved in the center's operation. Mr. Lewis replied that there are four people who pull and hand deliver files. The central mail system is not used because of the records' importance. Senator Ray asked if there was an active file retention system. Mr. Lewis responded that files are kept active for six months before going into dead storage and that 2,000 searches are done every month.

Mr. Lewis stated that he had tried to bring this matter to the attention of Pat Hunt, but a Personnel Officer refused to give him permission, even if he took a day of annual leave. Pat Hunt responded that he is concerned about the testimony heard. He stated that Mr. Lewis is apparently responsible for heavy supervisory duties and that he should be compensated accordingly. He suggested that there was a discrepancy between what his functions are and how they have been recorded. Mr. Lewis informed the Commission that all the correspondence he received was signed by Mike McMullen, Chief of Classification and Pay. Mr. McMullen reports to Ken Kareen, who reports to Pat Hunt. Senator Ray commented that the problem should have been brought to Pat Hunt's attention. Pat Hunt asked if Mr. Lewis had spoken with the director of his division. Mr. Lewis stated that he was sent to the Deputy Director, who responded in a negative manner. The matter has since been turned over to APEA.

Greg O'Claray pointed out that it is not the Commission's function to become involved in grievances. Senator Ray responded that it is a concern to maintain an open door policy in all departments. Commissioner Allen concurred.

Mr. Lewis mentioned another problem regarding the elimination of a Micro Film Operator III position. It should be classified at a manager level, and upgrading of the position has been stopped in Classification and Pay. Because of a budget cut of $3,000, the center would be unable to fill the position even if it were classified at a higher range. Mr. Lewis continued, stating that the position could have been filled if the Division of Personnel had acted within six months in reclassifying to a management level. Senator Ray pointed out that if the Finance Committee doesn't hear justification for the existence of a position, it will be cut.

Commissioner Allen stated that he had heard a different version of the story: The Micro Film Operator position was advertised, without any response. Mr. Lewis stated that there had been a response and that if the specifications had been completed for the management reclassificatuon, the applicant would have qualified. There are three individuals employed by the state as Micro Film Operator III's who would seek a management position in that field. This ended Mr. Lewis' testimony.

Bruce Kindred, a temporary employee with the state, suggested that the Commission should recommend that court leave be made available to temporaries. The Personnel Rules state that temporary employees hired for periods of less than 12 consecutive months are not eligible to receive compensation for time spent on jury duty. Section 4 of Article 29 of the APEA contract provides that employees who are called to serve as jurors or subpoenaed as witnesses shall be entitled to court leave. The contract defines the word "employee" as a person in state service who is paid a salary or wage and holds probationary, permanent, or provisional status. The Division of Labor Relations has refused to interpret the definition to include temporaries.

Mr. Kindred pointed out that after being on active jury duty for one week, he lost a sizeable portion of his salary, even though minimally compensated by the court system. He feels that serving on a jury is a civic responsibility and that temporaries should not be treated differently from permanent employees.

Senator Ray suggested that the Commission should recommend that this section of the law be changed. Niel Thomas responded that this might also be applied to military leave for reserve members. Senator Ray pointed out that one chooses to enter the reserves. The question was referred to the Category of Employees Subcommittee.

Don Kinderis, an Alaskan resident, presented his problems in trying to obtain work with the state for over two years. Prior to his relocation to Juneau, he owned a business in mechanical systems balance for commercial enterprises. This work involved knowledge of building mechanics and engineering.

Mr. Kinderis has been on 28 registers during the past two years and is number one on several. He has never had an interview. On many occasions, he has received notification of interviews

two or three days after the date of the interview. In some instances, classifications that he has been registered for have been eliminated.

Pat Hunt stated that vacant positions should be sought out by individuals. Often, applicants are unemployed for so long that they are extremely agressive in presenting themselves to prospective employers. He suggested that Mr. Kinderis let the departmental personnel offices know of his availability. He emphasized that the Division is responsible only for sending out registers, and that Mr. Kinderis should find out who is looking for employees by stopping by the Division to look at the lists of vacant positions.

Mr. Kinderis mentioned that he knows many people in the design management and energy conservation fields working for the state. He is listed as number 8 out of 24 applicants on the register for Design Manager I, but there are no others in the state with his level of expertise in mechanical systems balance. He is aware of Building Manager Specialist I, II and III positions that have been open in the state, but he has never been notified or interviewed.

Commissioner Allen asked Mr. Kinderis if he knew whom to speak with in the appropriate divisions where the openings had occurred. Mr. Kinderis responded that he knew of one in the Division of Public Works or Buildings. After going to the Division of Personnel and presenting his problems, he never received a response or the service he expected. He has even been sent to the wrong locations at times. Frank Flavin stated that he has seen this type of problem while working in the Ombudsman's Office. It happens because departments are not required to interview each applicant within the top five on a register. Ken Spray noted that because Mr. Kinderis had been on the top five of numerous registers for some time, program managers are probably avoiding any contact with him, believing that he has been judged an undesirable employee.

Pat Murphy stated that an applicant should not have to be an aggressive job seeker to find a position. That would be losing track of the entire register concept. He believes that each of the top five applicants should have the chance to be interviewed. A prospective employer can get a much better perspective of an applicant through a personal interview.

John Pugh interjected that the Department of Health and Social Services is interviewing applicants on the registers in chronological progression, starting with number one. The interviewing process continues until an applicant is hired. He believes that this should be a state requirement.

Niel Thomas questioned Mr. Kinderis on the times he had received notification of interviews too late to be able to attend: Could the delays be attributed to RCA or the postal system? Lynda McCurry responded, stating that there are serious delays in deliveries made by both. Mr. Thomas suggested that either calling applicants or giving them more time to respond would solve the problem.

Frank Flavin pointed out that program managers have previously testified that registers are not valuable because individuals have been on registers for long periods of time and are therefore not qualified for positions. Mr. Kinderis has presented another side of the situation. Senator Ray stated that someone is needed within the Division of Personnel to follow through on service to applicants. Commissioner Allen supported the concept that all five applicants should be offered interviews and that sufficient time should be given for response to notification of interviews. The departments should not rely on RCA or the postal system.

Frank Flavin added that these matters could be handled much faster if the Department of Administration had a grievance person or trouble-shooter. Not all employees or applicants are aware of the concept of the Ombudsman's Office.

Ken Spray brought up the subject of the state paying travel expenses for initial interviewing of applicants. He related examples of non-residents being brought to Alaska at the state's expense to fill high-level positions. John Pugh suggested that one way to avoid travel expenses would be to use outside locations: There is a need to encourage departments to hold interviews state-wide. One particular complaint is that Anchorage residents are never considered for positions in Juneau.

Niel Thomas suggested that telephone interviews could be a solution, especially for rural residents and where there are no staff members to handle interviews in isolated locations. This would eliminate paying for transportation until an initial screening process had been completed.

Ken Spray responded that, because of Local 71's experiences, he believes initial telephone interviews to be an exercise in futility. John Pugh stated that an individual has the right to be interviewed at least by phone.

Senator Ray commented on the tendency to believe that the Division of Personnel is the "bad guy", responsible for the system's problems. The Division's functions are entirely different from what is generally understood by the public.

Frank Flavin stated that when departments avoid filling vacancies, the Ombudsman's Office receives complaints from applicants not being interviewed. If there was a requirement to interview the top five, the Office would lose this indicator. Commissioner Allen responded that an applicant would be able to distinguuish the difference between a cursory and a meaningful interview. Pat Murphy suggested that a written record of interviews be maintained consisting of general comments and reason for not hiring. Senator Ray concurred that some type of procedure would have to be implemented to justify not hiring. Commissioner Allen commented that the summaries would be the subjective opinions of each interviewer and that putting this information on the register or within the applicant's personnel file would be unfair to the applicant.

Mr. Kinderis suggested that mandatory interviewing of the top five with a short evaluation given to the person being interviewed as a possibility. There would then be an understanding reached when the applicant is not hired.

Commissioner Allen suggested that frequently, when a name is on a register for long periods of time, an interviewer's attitude toward that applicant may be negative before an interview actually takes place. This may have been Mr. Kinderis' problem in finding employment.

Niel Thomas discussed the possibility of supplying a written explanation for not hiring, which would be available to the applicant upon request. This could be based solely on job requirements and an applicant's qualifications. It would do away with paperwork and complaints.

Ken Spray indicated that with Local 71's preferential hiring system, the union contract specifies that the employer must present justification to both the union and the applicant for not hiring. This justification points out an applicant's strengths and weaknesses for future reference. Mr. Spray elaborated that the public looks upon the Division of Personnel as a service-oriented agency. However, the initial concern of the Division is to provide management with positions.

Frank Flavin stated that when discrepancies or problems are brought to the Division's attention, they respond well. The audit and grievance role has not been emphasized and some type of monitoring system should be initiated. Senator Ray concurred that someone should be placed within the Division to monitor the operational procedures to see that people and registers are treated fairly.

Pat Murphy suggested that the audit function be assigned

to an outside group, thus ensuring compliance with set guidelines. Commissioner Allen stated that he would like to be in a position to receive complaints within the Department before they are brought to the attention of other agencies.

John Pugh expressed his belief that the audit and grievance functions are very important within private businesses and are treated accordingly. He recommended the creation of a proper audition role. Pat Hunt stated that people represented by unions have adequate means of representation. Senator Ray disagreed, stating that representation is only adequate after a complaint has been filed.

Pat Murphy asserted that APEA cannot, at this time, provide representation until a complaint is filed with them. Senator Ray agreed that action can only be taken after the fact by these agencies. Therefore, an active monitoring system is needed. Ken Spray pointed out that the option of filing grievances and going into binding arbitration is open to employees. He added that Local 71 has represented individuals neither employed by the state nor members of that union. Some are reluctant to pursue grievances. Niel Thomas suggested that case-by-case review of past grievances could possibly identify a number of problem areas, which would be helpful in devising recommendations.

Commissioner Allen commented that the discussion had not focused on a solution. He asked if requiring all top five eligibles be interviewed was something the Commission would like to implement. Senator Ray responded that specific recommendations be drafted and prepared for presentation at the next meeting in Anchorage. Commissioner Allen agreed to consider implementing a pilot program requiring interviews for all top five applicants on registers.

Jim Donner, a temporary Correctional Officer at the Lemon Creek facility, testified regarding his reactions to the state's hiring system. He finds that there are insufficient opportunities for temporaries to fill permanent positions. The time it takes to be tested and to have an application processed is a deterrent to applying for permanent positions. Mr. Donner, after working as a temporary in many departments, is an advocate of Local 71's preferential hiring system.

On one occasion, Mr. Donner was hired in an emergency situation, worked for two weeks and was then hired as a temporary. One month later, he was informed that he owed the state money because he had been overpaid. The money he was offered initially was an inaccurate figure, and he was forced to pay the difference back.

Mr. Donner has been a temporary at the Lemon Creek Facility three times in the past, as a Correctional Officer and as a Chief Steward. Each time, he has been paid at an entry-level range 13, while others in the same permanent positions were at much higher ranges.

Mr. Donner believes that Division of Personnel's tests are discriminatory and do not relate to actual job requirements. Too much emphasis is placed on educational requirements and vocabulary testing. He stated that tests should be based on job descriptions and the actual duties to be performed in each class.

Senator Ray asked if the educational requirements are too high, or if there is too much emphasis placed on requirements rather than experience. Mr. Donner responded that enty-level requirements and credit for experience are fine. Sometimes, credit is not given for experience in particular positions. Pat Hunt explained that the Division of Personnel has created many substitutions for requirements and that the Division develops tests from descriptions supplied by departments. Lynda McCurry added that personnel officers have direct input into the makeup of examinations. Mr. Donner expressed his concern that educational requirements are particularly rigid for women and that the entire application and evaluation process is time consuming. Applicants are not given sufficient time to respond to notification of available positions and registers are circumvented continually.

Senator Ray asked if there is some type of pool of permanent employees within the state to fill in when the need arises. This would be particularly useful in supplying an employer with someone while in the process of filling a permanent position.

Dan Haynes, an employee with the state for ten years, testified concerning his recent termination for insubordination. He explained that there was a personality conflict with his supervisor and that he was not recommended for rehire on his evaluation. As a result, he must work for six months as a temporary or in the private sector before he is eligible for testing and placement on registers. Mr. Haynes pointed out that if he were able to work for another six years, he would be able to retire.

Senator Ray asked if a supervisor has the authority to recommend on a termination evaluation that an employee not be rehired. Ken Spray replied that it is possible. Niel Thomas questioned if this meant that the individual's name would be removed from all registers. Senator Ray asked if the decision could be appealed. Pat Hunt replied that it is grievable and that most often, a terminated employee will not be recommended for rehire for a

certain period of time. Commissioner Allen asked why, if Mr. Haynes had been terminated in June, he could not be placed on the registers again, since the time limit had expired. Mr. Haynes responded that he is not eligible because the rule requires that an individual be employed for six months before being considered for rehire.

Senator Ray pointed out that not recommending rehire within the same department would be reasonable, but on a state-wide scope it isn't. Mr. Haynes said that his union did take the matter to the Commissioner's level and then recommended no further action. Ken Spray stated that Local 71 has, in some instances, negotiated "not recommended for rehire" into "voluntary termination". However, clear-cut insubordination is a different story.

Senator Ray expressed concern that one supervisor can stipulate that an employee not be rehired statewide for a certain amount of time. Commissioner Allen agreed that this option should not be used lightly, but said that it seems inconsistent for the state to be able to rehire immediately as a temporary.

Senator Ray suggested that cause for termination should be clearly documented. Frank Flavin stated that he could see no reason for removing an individual from the registers, but did see the need to explain the termination. Niel Thomas pointed out that in state service, everyone has the right to see their written performance evaluations. Ken Spray added that an employee has the right to a rebuttal of any evaluation which is to be included in a permanent employee file. Senator Ray suggested that employee evaluations be reviewed at interviews. He asked if record files follow an employee from job to job. Pat Hunt responded that the Division of Personnel has master files which are maintained for the duration of employment with the state. Departments maintain personnel files for a period of six months, after which they are sent to the Archives Center for storage. Commissioner Allen stated that many employees wish to see evaluations on past performance and that they can be pulled from Division of Personnel's files for review.

Don Kinderis testified again. Three years ago, he worked for the Department of Fish and Game. After ten weeks, he was informend that there was insufficient work to keep him on, and he was dismissed. Two years later, he received a copy of his evaluation, which he had requested many times. The evaluation, dated the day he left, stated that he had too many personal problems to be a state employee and did not address the quality of his work. Mr. Kinderis believes that this information is on his record and is one reason that he has been unable to find a job. Mr. Kinderis explained that his supervisor disliked the fact that he had his own methods of performing his duties, des-

pite the proficiency he displayed. Mr. Kinderis had not seen the evaluation before it was mailed to him, had never signed it and was offered no reason for why it was not discussed at the time of his dismissal.

Senator Ray suggested that this would be a good reason for considering a trouble-shooter or auditor within the Division of Personnel to look into these matters. Don Fisher stated that an evaluation should be made available before an employee leaves a position as well as a statement of the reason for dismissal. Commissioner Allen requested that Mr. Kinderis see Ken Kareen to discuss the discrepancies between his evaluation and the reasons he was given for dismissal.

COMMITTEE BUSINESS

NCSL Conference

Don Fisher brought up the subject of an honorarium for Dr. Couturier. Frank Flavin made a motion that the Commission approve the honorarium in the amount of $500.00. Don Fisher added that Dr. Couturier might come for less. The motion was adopted for an honorarium in the amount of $500.00. Senator Ray and Greg O'Claray opposed. Pat Hunt asked why Wisconsin and Minnesota speakers were chosen to present their state personnel procedures. Don Fisher explained that the two states had recently revised their personnel structures and can offer innovative alternatives for the Commission's consideration.

USCSC Meeting in Washington:

Terry Cramer advised the Commission that there will be a meeting of the USCSC in Washington. NCSL is a co-sponsor and would like to invite three Commission members to attend. Senator Ray appointed himself, Greg O'Claray and Pat Murphy to represent the Commission. Niel Thomas also expressed a desire to attend the meeting at his own expense.

Commission Expenses:

Senator Ray stated that he wishes to be advised of anticipated unusual travel expenditures for Commission members (i.e. car rentals). The Chair or the full Commission must approve those expenditures prior to incurring them.

Subcommittee Reports:

John Pugh recommended that the subcommittees prepare reports to use in drafting the Commission's report to the legislature. The Commission agreed to hold a work session in Anchorage on

January 26 for individual subcommittees to prepare recommendations. Senator Ray directed the staff to use the postal service directly to send out summaries and material needed for the next meeting to members in Anchorage.

Niel Thomas asked whether the Commission will request continuation. Senator Ray pointed out that the work of the Commission is in its formative stages, and the Commission should justify its existence by presenting an initial report to the legislature.

PUBLIC TESTIMONY

Kit Stewart, a Finance Officer with the Department of Environmental Conservation, expressed her satisfaction with the state's hiring procedures. One problem that she has encountered is that an employee within the department has a criminal record, which was not revealed in the individual's application.

Senator Ray responded, stating that this is a very sensitive matter. Information on criminal convictions is confidential. Pat Hunt explained that applicants' criminal records are checked when applying for positions in Public Safety or correctional facilities. Greg O'Claray stated that he could not see why it was imprortant that Ms. Stewart have this information. Having to reveal a criminal record could lead to discrimination against the applicant. Ms. Stewart replied that the issue that concerned her was that the applicant had falsified the application form. Ms. Stewart added that, at present, it is impossible to verify whether the employee is misrepresenting facts on an application. Senator Ray questioned the relevance of this ir regard to the employee's performance.

Ron McMahon, an Ecologist with the Department of Environmental Conservation, stated that job classifications assigned by the state do not relate to actual job functions. Existing classifications cover many specialized jobs in different departments. Mr. McMahon suggested that the Division of Personnel consider reclassification studies. He is presently coordinating a project review, which has nothing to do directly with Ecologists, and feels that his title should be Program Coordinator. The Division of Personnel had received the position description and said that the closest classification would be Ecologist.

Niel Thomas asked if Mr. McMahon had read the class specifications on what his duties consist of. He also questioned whether a department hiring from that register would be looking for an Ecologist. Mr. McMahon answered that he is not doing the work of an Ecologist, but must be familiar with the field.

Senator Ray commented that possibly the department is afraid to reclassify existing positions because that might result in positions being placed at lower salary ranges.

Mr. McMahon also brought up the subject of entry-level positions for Chemists. In order to qualify for a Chemist I position, an applicant must have one year of experience. There is no Chemist Trainee classification in the state.

Pat Hunt asked whether the departments would request Chemist Trainees if the class were created. Mr. McMahon stated that it would be filled, providing a career ladder for laboratory techinicians. Ken Kareen explained that the Chemist series has been examined by the Division of Personnel, and departments stated that they need experienced applicants rather than trainees.

Niel Thomas expressed the Human Rights Commission's perspective in relation to equal employment opportunity. The state should compete with private firms for recent college graduates. The lack of trainee positions is one reason why EEO practices in the state are inadequate. To compete with private firms, Mr. Thomas suggests creating a Chemist Trainee class to provide greater opportunities for women and members of minority groups.

Senator Ray pointed out that trainee positions are looked upon adversely by Budget and Management: Why train on-the-job when applicants have received training in school? Niel Thomas responded that in higher-level positions, orientation can take up to a year, even for new employees with prior experience in the field.

Pat Hunt stated that no department has requested a Chemist Trainee position, and that it would be pointless to create a classification without justification. Mr. McMahon responded that he was not the first person to make the suggestion and that a position of this type would be used in his department. Similar fields do have entry-level starting points. Senator Ray observed that one of the easiest solutions would be to rewrite minimum qualifications to allow recent graduates an opportunity to apply. The topic was referred to the Certification, Classification and Recruitment Subcommittee for review.

CORRESPONDENCE RECEIVED

Terry Cramer presented the following summaries on correspondence received:

Mrs. James L. Sumner wrote to the Commission regarding her belief, as a foster parent, that Social Workers should be considered professionals in that field. To maintain the qual-

ity of workers, Mrs. Sumner suggests that either educational requirements be increased or training after hire be closely supervised.

A concerned taxpayer wrote in regard to examinations for semi-professional positions. Examinations were described as outmoded, inaccurate, laborious and invalid, as well as not being pertinent to the actual jobs or selection of candidates. Also mentioned was the time it takes to schedule testing in Anchorage (weeks), which is held in a room with inadequate ventilation. The attitude of Anchorage employees in the personnel office was described as "very rude". The individual concluded the letter by stating that it is hoped that the Commission's investigation will result in procedures to teach these people to act as a service organization.

Marilyn Martin attached to her correspondence a copy of a letter to Governor Hammond pertaining to citizen evaluations of Commissioners. She referred to problems experienced when her position as Wage/Hour Investigator in the Resident Hire program was eliminated. Ms. Martin was assured that she would be transferred to another Department of Labor position if the U.S. Supreme Court ruled the Resident Hire Law unconstitutional. She knew of vacancies in unemployment fraud investigator classification and was on the register for Claims Investigator I. Two positions in Anchorage and Juneau were filled by other state employee transfers. A position in Fairbanks was filled by someone who may not have been a state employee. Ms. Martin was not contacted about any of these positions. She is now unemployed and questions the ethics of the situation and the follow-through of Commissioner Orbeck's policies by the Department of Labor's staff.

A copy of a memo to Jay Hammond, Governor, was received by the staff in reference to the Anchorage Field Office of the Division of Personnel. The staff was described as being rude and condescending. The author suggested that if the Commissioner insisted on courtesy, these rotten attitudes would not have existed for the past several years.

Ms. Irene Price elaborated on her testimony before the Commission on December 1. She emphasized that she spoke only on her own behalf. Ms. Price indicated that she believes communication to be a problem between the Division of Personnel and other state agencies, particularly in the following situations:

1. Initiation of tests for a given job classification without the knowledge of the affected unit.

2. Reclassification of positions without communication with the incumbent.

Dan Crevensten wrote in support of an increase in the use of part-time positions. He identified advantages for the state:

1. The use of temporary positions would be reduced.

2. There would be a better match between available positions and the amount of work.

3. Studies have shown that part-time employees have greater productivity and less absenteeism.

4. Equal employment goals could be easier to meet.

In his experience, Mr. Crevensten felt that state agencies should take into consideration part-time work. By the time an applicant interviews with a supervisor, it is too late to implement such a program.

IN ATTENDANCE

Commissioner Allen
Ken Humphreys (for Myrt Charney)
Frank Flavin
Pat Hunt
Lynda McCurry
Pat Murphy
Greg O'Claray
John Pugh
Ken Spray
Niel Thomas

ALTERNATES IN ATTENDANCE

Ken Kareen
Darlene Howard
Robert Mourant
Janet Bradley

Minimum Qualifications:

One year of experience in maintaining Minicomputer Hardware, Computer Peripheral Equipment and Telecommunications Equipment. AND Four years of experience in computer programming, systems analysis, design of telecommunications networks or system/field engineering for a computer manufacturer.

Two years of the above four years must be at the level of EDP Programmer IV, Systems Analyst II or Systems Programmer II.

Substitution: A college degree in computer science, electrical engineering, physics, mathematics or industrial engineering may substitute for up to two years of the required four years of non-specific work experience.

RECORDS HANDLER Class Code 1832-74-2
General Government Salary Range 12
Positions in: Juneau

Definition:

Under supervision of the Records Center Manager, receives, classifies, controls and stores a variety of office records.

Minimum Qualifications:

Graduation from high school or the equivalent, and two years of experience in the handling of stock, merchandise or inventory, including maintenance of records and/or reports. College education in an appropriate field may be substituted for up to one year of the required experience on a year-for-year basis.

RECORDS CENTER MANAGER Class Code 1836-79-1
General Government Salary Range 15
Positions in: Juneau

Definition:

Under general direction of the State Archivist, participates in planning and is responsible for the day-to-day management of the State Records Center; performs and directs activities to acquire, arrange, describe, preserve, retrieve, and dispose of inactive and semi-active records from any and all state agencies.

Minimum Qualifications:

Graduation from an accredited college or the equivalent with a major in history, government, political science, business or public administration, management, library science or closely related field; AND Two years of experience beyond the clerical level in a full-time records management program where duties concerned receipt, description, organization, disposal and retrieval of records in a records system characterized by a variety of different kinds and sources of documents and/or records.

Substitution: Clerical/secretarial, supply, library or records management experience may substitute for the required college education on a year-for-year basis.

BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT
Full Commission Hearing

Fairbanks North Star Public Library
December 13, 1978

MINUTES

In the absence of Senator Ray and Don Fisher, Representative Buchholdt chaired the meeting.

PUBLIC TESTIMONY

Mr. Fathy A. Elshamma moved to Fairbanks from Egypt in 1976 and worked as an Accountant with the Native Association for 13 months. During a vacation, he returned to Egypt and along with his family relocated to Fairbanks. Mr. Elshamma has been seeking employment since his return. He is listed on six registers and willing to accept employment in Juneau, Anchorage and Ketchikan, as well as in Fairbanks.

Mr. Elshamma was contacted on November 7, 1978, by Tom Lusk about a Bank Examiner I position in Juneau. In his conversation with Mr. Lusk, Mr. Elshamma indicated that he would be willing to accept immediate employment in Juneau and would be willing to take the next plane out of Fairbanks if necessary. Mr. Elshamma was instructed to wait for a response. One week later, he received a letter stating that the position had been filled. He questioned why he was never called back and brought the matter to the Governor's Office. The job was still listed as being open on that date, and the office verified the opening by phone. Mr. Elshamma had received a letter stating that the position had been filled.

Niel Thomas asked Mr. Elshamma if he had tried to contact the individual who was responsible for contacting him. He replied that he had not. Mr. Thomas suggested he call back and request an explanation. Mr. Thomas also suggested that a complaint should be filed if a satisfactory explanation was not provided.

Ms. Marianne Berry, a PHN, advised the committee of the problems they continue to have with reclassification of PHN positions throughout the state. Niel Thomas told the committee that the Assistant U.S. Labor Secretary, who is responsible for enforcing compliance with equal pay for equal work laws, has been in the state and is considering U.S. Government suit.

COMMITTEE DISCUSSION

Representative Buchholdt briefly discussed the written testimony received by a representative of the Classified Personnel Organization dated December 13, 1978. Copies will be sent out with committee minutes.

IN ATTENDANCE

Representative Thelma Buchholdt
Ken Humphreys (for Myrt Charney)
Pat Hunt
Darlene Howard (for Pat Murphy)
Lynda McCurry
Bob Mourant (for John Pugh)
Sheila Gottehrer (for Frank Flavin)
Ken Spray
Niel Thomas

MINUTES

PERSONNEL ACT REVIEW COMMISSION
November 16, 1978

The third meeting of the Blue Ribbon Commission on the State Personnel Act was called to order in Room 123 of the State Capitol by Chairman Bill Ray at 1:30 p.m., November 16, 1978. Following roll call, Chairman Ray suggested that the proposed rules of procedure be considered. Adoption of rules was approved by acclaimation.

Representative Eliason stated that he had missed the previous meeting and asked for permission to distribute a statement of potential problems the commission should consider.

Chairman Ray suggested that all commission members request and invite their alternates to be present at all meetings. In this way, the alternates will be current on commission activities and can make a meaningful contribution if their principle member is absent. The Chairman asked the secretary to invite the alternates and keep them informed of all meetings. He also reminded the legislators to keep this in mind because of potential conflicts in meeting times during the legislative session.

Don Fisher told the commission about a conference he attended in Olympia, Washington, on October 18 by the National Council of State Legislatures. He explained that the Council's Project TRAIN is focusing on personnel systems and problems involved. The group is headed by Mr. Couturier, who is well known for his work in this field. He suggested that TRAIN would be able to come to Juneau and work with the commission without expense to the State. We only need to furnish a meeting room and group of interested participants for the presentation.

Mr. Fisher moved that TRAIN be invited to Juneau. It was approved by acclaimation. The Chairman and secretary will work to set up a couple of days for the presentation, to be scheduled after the legislature is in session.

The Chairman asked for a subcommittee report from the Merit System/Collective Bargaining group. Niel Thomas stated that they did not meet because of the late notification of the November 9 meeting. They will meet at a later date.

Frank Flavin moved to abolish the subcommittee on Merit System/Collective Bargaining, because the merit system question could be addressed in another subcommittee. Chairman Ray disagreed. He stated that the legislature expects to be informed on that topic.

Discussion followed concerning the areas of responsibility of each subcommittee. The commission must be sure to cover all of the important topics.

A vote on Mr. Flavin's motion was taken and failed. The Merit System/Collective Bargaining subcommittee will stand as is.

Representative McKinnon reported on the Category of Employees subcommittee. They plan to first address the problem of temporary, seasonal, and part-time employees. He also expressed a concern about overlooking certain topics because of vague subcommittee assignments. Chairman Ray referred to the October 3, 1978, meeting minutes listing topics of concern for subcommittees. Because of the over-lapping of members on each subcommittee, he feels sure that the commission will be able to cover all necessary topics.

The meeting was opened to public speakers. Roger Thayer, Personnel Officer, Department of Transportation & Public Facilities spoke first. Mr. Thayer suggested that the personnel system be decentralized to some extent. Recruitment, certification, and classification are areas that individual departments could successfully take charge of. Departmental personnel offices could classify their own unique positions, thus increasing accuracy and eliminating Division of Personnel paperwork. Classificaiton of general state-wide jobs could go through the Division of Personnel. He agreed with the concept of promotions within a department whenever possible and of hiring new people at entry-level jobs.

Discussion followed regarding the need for a person to be on several registers for classifications of the same type. Ken Kareen explained that it was necessary to operate that way because higher levels of the same type of job may require additional skills such as supervisory abilities, while placing less emphasis on technical skills.

The Division of Personnel's veto power over classification was discussed and seen as a problem. Many people see the division as impossible to work with, or through, because of the time involved.

Lynda McCurry explained that classification changes need to be looked at when a person has a change in responsibility. If you have a change in tasks, that may call for a re-classification. If you have a larger volume of work, that may call for an additional person at the same classification.

Danny Plotnik, Coordinator of the Office on Aging, addressed the commission next on the problem of workers in the federally-funded SCSEP Program being classified as temporary employees. He introduced Eileen Rehwald, who expanded on the problem. Several of her people have been terminated because of the time limitations on State temporary employees.

These employees, under the federal program, were still eligible for additional hours of work. Also, federal guidelines preclude labeling employees under the SCSEP Program. She introduced one of the employees affected by this problem, Luberta Escholt. Ms. Escholt appealed to the commission to try to do something that would help her and others in the same situation.

Chairman Ray directed the matter to the Classification of Employees subcommittee to look into establishing these as partially-exempt positions. The APEA will also look into this matter. There should be some work completed by November 30.

Mary McClinton was the next speaker. Mary presently has a case being considered by the Human Rights Commission. She was employed by the Department of Community & Regional Affairs, which reorganized its staff, and had been excluded from transfer to another job. She was the only member of the staff to be excluded. Even though she was among the top five on a large number of registers, she has not found another state job. She would like to see the system improved so that this does not happen to others.

Some discussion followed on related problems. Frank Flavin hoped that if Ms. McClinton was found to be qualified and was indeed discriminated against that some disciplinary action would be taken against those persons responsible.

LaRae Jones, Personnel Officer from the Governor's Office, spoke next. She commented on how little training there was in the state system to provide new employees with the technical training needed on the workings of the specific systems. There have been two training sessions since last May, but she felt there should be more. People could do their jobs more effectively if they didn't have to learn by trial and error.

Public participation ended.

Chairman Ray made additions to subcommittee memberships. Ken Spray, Niel Thomas, and Lynda McCurry were added to the Categories of Employees subcommittee. John Pugh was added to the Collective Bargaining subcommittee.

Chairman Ray reported that the Centralization/Decentralization subcommittee met, heard testimony, and will meet again.

Questions arose regarding the appropriate subcommittee for classification and hiring processes. The responsibility was given to the Centralization/Decentralization subcommittee. Niel Thomas asked if it would be possible to rename the committee. It was moved by acclaimation that the subcommittee be renamed "Classification, Certification, and Recruitment".

Mr. Thomas asked whether the Commission needed to investigate the other classes of state employees; namely, partially exempt and fully exempt.

Mr. Spray stated that there are presently 253 vacant permanent positions in jobs covered by APSE members. He suggested that the situation be investigated.

Chairman Ray stated that the meetings would continue in the order given previously; the subcommittees followed by the full committee. Work will be given at least one week in advance of the meeting dates. Also, note that a quorum of eight people is not necessary to hold meaningful discussions.

Representative Eliason recommended that the "Merit Increase Paper" be referred to the Merit System/Collective Bargaining subcommittee. It was agreed.

Chairman Ray read correspondence received by the Commission from Loren Jones. The letter was referred to the Certification/Classification/Recruitment subcommittee.

Meeting dates were set for the next meetings in Anchorage. They are November 30 and December 1, 1978. All members will be notified of the meeting place and can receive a T.R. from Legislative Affairs.

The next meeting was tentatively set for December 12 and 13 in Fairbanks.

The meeting was adjourned at 4:00 p.m.

Members in Attendence:

Bill Ray
Don Fisher
B. B. Allen
Dick Eliason
Frank Flavin
Ken Humphreys (for Myrt Charney)
Ken Kareen (for Pat Hunt)
Lynda McCurry
Joseph McKinnon
Pat Murphy
Greg O'Claray
John Pugh
Ken Spray
Niel Thomas

BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT
Full Commission Meeting
Juneau
November 16, 1978

ADDENDA

The following is an addenda to the Full Commission Minutes for the Blue Ribbon Commission hearing of November 16, 1978. The addenda was proposed by Ken Kareen, to be inserted on Page 2, as a substitute for Paragraph 5. The addenda was adopted at the Full Commission hearing on January 10, 1979:

Discussion followed regarding the need for an applicant to take different examinations when the job classes applied for are in the same class series (i.e., Accountant III, IV, V). Ken Kareen explained that different skills may be required and test contents emphasize those differences. Tests for a lower level job are concentrated on technical knowledge in aspects of the work, while higher level jobs in series make more demands on supervisory/management skills and knowledge, which are the subject of testing.

Also, Page 2, Paragraph 6, should read:

The Division of Budget and Management's veto power over classification studies was discussed and seen as a problem.

MINUTES

Personnel Act Review Commission Meeting
October 3, 1978

The second meeting of the Personnel Act Review Commission was called to order in Room 123 of the State Capitol by Chairman Bill Ray at 1:30 p.m., October 3, 1978. Following roll call, Don Fisher reported that he had received more than fifty applications for the director's position, had interviewed just about all of those applicants and, in consultation with the chairman, was ready to make a selection in the next few days. Mr. Fisher reported that there was a possibility of using office space on the tenth floor of the State Office Building adjacent to the division of personnel, but that it would not be available until November 1. Senator Ray reviewed the actions of the last meeting and asked if anyone wanted to contribute public input concerning their problems with the personnel system.

Violet Thetford testified and was concerned with hiring practices and felt that the entire personnel system is bogged down with paper. There had been a problem with redundant testing. Mr. Hunt confirmed the basic facts.

Rosalee Walker testified on problems of in-house promotions. She felt that making political appointments to higher level positions instead of promoting long-time, career employees was bad for morale and resulted in poorly trained management. She hoped the commission might design a different system to alleviate this problem.

Gregg Erickson, director of the Research Division of the Legislative Affairs Agency, was asked to the table. Senator Ray explained formally to Mr. Erickson that he had no particular problems with the Legislative Affairs Agency staff and hoped that the issue which arose at the last meeting could be considered closed. Mr. Erickson was agreeable and thanked Senator Ray.

Chairman Ray brought up a problem which had been called to his attention in correspondence from the project coordinator for the office of the aging. The state personnel division has classified Title IX, Older American enrollees as "temporary" so they are now terminated after six months. Pat Hunt was asked to look into this problem and come back to the committee next time with either an answer or a resolution for consideration by the committee. Pat Murphy objected to the assignment. Following clarifying discussion, Mr. Murphy withdrew his objection.

Correspondence regarding priorities for the commission's work was received from Niel Thomas, executive director of the Alaska State Commission for Human Rights, Pat Murphy, executive director of the Alaska Public Employees Association and from Lynda McCurry for the Confidential Employees Association.

The commission discussed the establishment of priorities for subcommittee assignment. Chairman Ray cautioned members to take a non-partisan view on subcommittee assignments. Pat Murphy moved that three subcommittees be established and that "categories of employees" (see A.P.E.A. letter) be one of three priorities to be studied by a subcommittee. The motion passed without objection.

Pat Hunt moved that the commission make a priority of the determination whether we should have a central personnel system or whether it should be decentralized or whether it should be partially decentralized. Don Fisher proposed an amendment to the effect that recruitment, examination, classification and pay be handled separately. Following discussion, Mr. Fisher withdrew the amendment. The motion carried without objection.

Bob Gates moved that the commission make a priority of addressing the merit system and collective bargaining and their relationship. Following discussion, the motion passed without objection.

The commission discussed Equal Employment Opportunity, dress (cleanliness) code for state employees and the problems of training and job performance assessment. Bob Gates suggested that interested members inform themselves in the area of job performance evaluation and ways of dealing with instances of excellent or substandard performance and that the subject be raised again at the next meeting.

John Pugh moved that the commission recommend legislation which would provide for periodic, external audits of the personnel system like the one carried out the the Division of Legislative Audit in 1977. This motion passed without objection.

Chairman Ray raised the question of the job register. Some discussion of this, as well as the hiring of the commission's staff, followed.

Don Fisher moved to clarify the "centralization/decentralization" topic. He moved that the topic on centralization/decentralization include but not be limited to the study of the problems of certification, recruitment, classification and pay, examination, and equal opportunity and that the subcommittee consider the personnel law, the personnel rules and the existing practices and that they give their recommendations as to the solutions of any problems they might find. The motion passed without objection.

The three subcommittees were formed. They are composed of volunteers from the commission with the understanding that a member, through a representative, could serve on more than one subcommittee and that Chairman Ray would appoint a legislator on each subcommittee as chairman. Each subcommittee chairman was asked to appoint a vice chairman, with the understanding that Representative McKinnon (absent) would do so as soon as possible. Chairman Ray is an ex officio member of each subcommittee.

The subcommittees are as follows:

Centralization/Decentralization Subcommittee

Bill Ray, Chairman
Don Fisher, Vice Chairman
Myrt Charney
John Pugh
Pat Hunt
Lynda McCurry
Ken Spray
Dick Eliason
Thelma Buchholdt
Frank Flavin
Niel Thomas

Merit System/Collective Bargaining Subcommittee

Thelma Buchholdt, Chairman
Greg O'Claray, Vice Chairman
Ken Spray
Pat Murphy
Pat Hunt
B. B. Allen
Lynda McCurry
Bill Ray (ex officio)

Categories of Employees Subcommittee

Joe McKinnon, Chairman
Frank Flavin (Patti Moriarty)
Pat Murphy
Jay Yakopatz
Pat Hunt
Bill Ray (ex officio)

Ken Vassar presented a copy of the compilation of statutes dealing with the personnel system and gave a brief explanation. Don Fisher was charged with custody of these materials.

The next meeting of the commission was scheduled for 1:30 p.m., Thursday, November 9, in Room 123 of the State Capitol.

The meeting was adjourned at 4:25 p.m.

Members in attendance

Bill Ray
Bob Gates for B. B. Allen
Thelma Buchholdt
Myrt Charney
Don Fisher
Patti Moriarty for Frank Flavin
Pat Hunt
Lynda McCurry
Pat Murphy
Greg O'Claray
John Pugh
Ken Spray
Niel Thomas

MINUTES

Personnel Act Review Commission

Meeting of September 15, 1978

The following summary minutes are arranged topically, not chronologically, to indicate the actions of the Commission.

The first meeting of the Personnel Act Review Commission (L.R. #27) was called to order at 9:00 a.m., September 15, 1978 by Jack Doyle, Executive Director, Legislative Affairs Agency for Representative Mike Miller, Chairman, Alaska Legislative Council. A list of those in attendance is attached.

Officers

Following the call to order and introductions, Senator Bill Ray was elected Chairman and assumed the chair. Don Fisher was elected Vice Chairman. Myrt Charney was elected as recording secretary.

Staff Support

It was decided that the Commission would not hire a consultant as primary staff but would reserve the option to use one for specific tasks in the future. Senator Ray felt it would not be appropriate to use Legislative Affairs Agency staff exclusively in the role of director/researcher. It was decided that Don Fisher should proceed to advertise and interview for an administrator/research staff person at salary range 20 and for a full time secretary, preferably with shorthand skills, at a salary range not to exceed 12. At the request of the Chairman, Mr. Erickson of the Legislative Affairs Agency directed Mr. Humphreys to assist the Commission with such additional research as they may require, with priorities as among the Commission's various research tasks to be determined by the Commission.

Budget Considerations

Myrt Charney indicated that $57,000 is currently available to the Commission through June 30, 1979 unless a supplemental appropriation is received or additional Legislative Council funds are made available.

Time Frame

It was suggested that the work of the Committee would probably carry on for at least eight months and possibly up to two years or so.

Office Space

Bob Gates said that permanent quarters could probably be provided through the administration. He was asked to check on that and let Don Fisher know. Senator Ray pointed out that Room 123A in the Capitol Building or other legislative space could be used for meetings, etc. even after the legislature convenes.

Scope and Priorities of the Study

There was some discussion of the scope of the study. Should it broadly embrace the entire personnel system including collective bargaining or be directed primarily toward a revision of the Personnel Act? It was decided that members who were so inclined should submit their thoughts on the scope, priorities and objectives of the Commission in writing at the next meeting. Senator Ray asked Ken Kareen and Pat Murphy to prepare presentations for the group.

There was some discussion of public hearings or meetings and the use of teleconferencing. The general conclusion was that the public needs to be made aware of the study and be given ample opportunity for input before any final product is forthcoming. It was suggested with no objection that releases be given to the press which would alert the public to the Commission's existence and intention to solicit input.

Membership of the Commission

There was some discussion of the possibility of adding additional members to the Commission. A motion by Ken Spray to add a representative from the Alaska Public Safety Employees Association failed. Senator Ray asked Myrt Charney to notify the PSEA that their informal participation was welcomed and to invite them to present their problems to the Commission.

Next Meeting

The next meeting was scheduled for Wednesday, October 3 at 1:30 p.m. in room 123 of the State Capitol, Juneau.

Ken Kareen requested that Legislative Affairs legal staff compile laws that deal with the personnel system besides those in AS 39.25. Senator Ray asked for a survey of the administrative code as well. Pat Murphy was asked to provide material on departmental personnel procedures.

At Frank Flavin's request, Myrt Charney was asked to provide Legislative Audit reports from the past. Mr. Charney was also asked to keep loose-leaf notebooks with minutes and other relevant materials for commission members.

At Janet Bradley's request, Ken Humphreys was asked to provide a copy of the various current collective bargaining agreements.

The meeting was adjourned at 10:55 a.m.

Personnel Act Review Commission

Attendance at the September 15, 1978
Meeting

Members	Representing
Ken Spray	Local 71
Dick Eliason	Representative, Dist. 3
Bob Gates	Dept. of Admin. (for B.B. Allen)
Ken Kareen	Dept. of Admin., Div. of P.& L.R. (for Patrick L. Hunt)
Joe McKinnon	Representative, Dist. 9
John Pugh	A.P.E.A.
Lynda McCurry	C.E.A.
Pat Murphy	A.P.E.A.
Bill Ray	Senator, Dist. C
Janet L. Bradley	AK Human Rights Commission (for Neil Thomas)
Frank Flavin	Ombudsman
Myrt Charney	Legislative Affairs Agency
Don Fisher	D.O.T./P.F.

Others	
Sally Smith	Representative, Dist. 20
Jack Doyle	Legislative Affairs Agency
Kristine Harder	Representative Mike Miller's office
Ken Humphreys	Legislative Affairs Agency
Darlene Howard	A.P.E.A.

ALASKA

MEMORANDUM

Tom Phillips - Merit Increase Policy
Rec'd Anch. mtg 12/1/78

TO: ALL COMMISSIONERS

DATE: November 14, 1977

FILE NO:

TELEPHONE NO:

FROM: Jay S. Hammond
Governor

SUBJECT: Merit Increases

Traditionally, individuals both in and outside of State service have held the view that so-called merit increases are automatic and are primarily based on longevity within a specific job. In certain instances this has been a valid assessment and we must take positive steps to insure that increases in the future are granted for meritorious service only.

The establishment of measurable objectives throughout each department is the key ingredient in eliminating subjective evaluations of employees' performance. Those departments which do not already have their plans and objectives committed to writing should immediately commence work in this area. These measurable objectives need to be established, communicated and understood at all levels in each department.

Based on recommendations made by the Merit Increase Review Committee and if we are to operate within our budgeted funds I have concluded that steps must be immediately taken to strive for a uniform State-wide merit increase policy. To accomplish this objective it will require a great deal of effort on your part and that of your managers. However, I am confident that the long-term rewards of a uniform policy will be significant in terms of improved employee morale, better communications between employees and their supervisors and greater recognition of effective job performance.

Quite obviously we must rely on management at all levels to adequately evaluate the performance of their employees and award increases based on merit. To enhance our abilities in this area, each supervisor is expected to adhere to the following guidelines.

1. Attend a specialized training course. The Division of Personnel and Labor Relations offers a training course entitled "Measuring Job Performance." For your information, a copy of the course outline and objectives is attached. The information presented in these training sessions should better prepare supervisors to rate their employees in an objective manner. No supervisor

All Dyning Comm
Bud Saffers
Roger T. Rogers

is exempt from this directive except those who have attended this course within the past 12 months. In that case, however, it is recommended that those supervisors retake the course to review and reinforce their training. In the future all newly appointed supervisors should be scheduled to take this course at the earliest opportunity. (Schedules of the time and place of these training sessions have been distributed to departmental personnel and training officers).

2. **Each division director or heads of offices** shall **review all evaluations** with the rater prior to discussion with the employee. This is being requested **to insure that effective performance** is being emphasized in the evaluation. More frequent interim evaluations are encouraged to provide an opportunity for the supervisor to discuss employees' progress towards meeting expected objectives.

3. A concentrated effort must be made to have **each position description jointly reviewed and updated** if necessary, b the employee and supervisor. This review should be an effort by management to establish clearly to the employee what his/her job involves and to clarify any misunderstandings which may exist. This should be an ongoing practice in the future.

4. Following the preparation of an accurate job description it is necessary for **specified standards of achievement to be communicated in writing to the employee.** In addit on, agreement must be reached between the employee and supervisor as to the degree to which expected perfor ance must be exceeded in order to expect additional compensation.

Accomplishing a massive project such as this will take considerabl time. To assist your department in implementing this directive, I have asked the Director of Personnel and Labor Relations to sche a meeting for all departmental Personnel and Training Officers to discuss and review the Performance Evaluation System and to descri the content of the Measuring Job Performance course. (A notice of the date and time of this meeting will be sent to each departmenta Personnel Officer in the near future). My objective is to have this program commence as quickly as possible and **final implementat** should be achieved no later than **July 1, 1978.**

During the interim it is necessary for each of you to examine the amount of funds you have available for merit increases and distribute that amount as prudent management would dictate.

In an effort to provide some guidelines I ask that you consider the following criteria prior to awarding a merit increase to your employees:

1. As mentioned previously, instruct the directors of your department to review the employees' performance evaluations with the employees' supervisor (rater) prior to notifying the employee of the merit increase. It is too late to take away corrective action once the employee is aware of the contents of his/her evaluation.

2. Establish in writing on the evaluation form accomplishments achieved by the employee that qualifies him/her for the increase. Accomplishments other than just coming to work on time, being compatible with peers, dressing appropriately, and etc. Outline tasks that you expect the employee to perform during the next period between reviews. Highlight the employees good points, if there are any, and comment on the employees' weaknesses if they exist. The evaluation is not just an instrument to flatter the employee and advise them that they will be receiving more pay in the future, it is a very vital tool of communicating with the employee and exercising prudent management practices.

3. Instruct the raters to include on the performance evaluation the number of sick days the employee has taken during the period prior to the evaluation. The rater should examine the employees' sick leave record to determine not only the frequency of leave but to see if a pattern of sick leave exists, i.e., Mondays, Fridays, before or after holidays. If there is a pattern, comment on same in the evaluation. In the event that the employee does not use the sick leave privilege in excess, comment favorable on that aspect in the evaluation.

A top management person in your office should spot-check the employees' performance evaluations from time to time to assure compliance in the above outlined criteria.

As I stated previously, you are aware of the funds available to you and all that I request is you emphasize to your managers to use discretion and manage the resources fairly to the State of Alaska and the employee.

In the event you have any questions regarding the short or long-te plan of this program, please contact Commissioner Allen or Deputy Commissioner Robert Gates for assistance.

STATE
of ALASKA

MEMORANDUM

DEPARTMENT OF TRANSPORTATION & PUBLIC FACILITIES

TO: William Hudson, Herb Lehfeldt, Chuck Meggitt, Harry Shawback, Mel Hoversten, John Becker, Henry Springer

DATE: March 21, 1978

FILE NO: 400H-2342

TELEPHONE NO:

FROM: James F. O'Sullivan
Deputy Commissioner
Maintenance & Operations

SUBJECT: Attached Document re Merit Increases

I have dusted off this old memo from our Governor. It discusses employee performance evaluations.

We all originate or are asked to concur in these evaluations continuously. Please take the time to review the contents and apply the methodology to your own department and to those for whom you are responsible.

JFO'S:hj

attachment

cc: John Bates
Carl Johnson
Wendell Miller
Ken Smith

STATE
of ALASKA

MEMORANDUM

DEPARTMENT OF TRANSPORTATION & PUBLIC FACILITIES

TO: ALL SUPERVISORS
Central Region
Maintenance & Operations

DATE: April 14, 1978

FILE NO: 410C-

TELEPHONE NO: 266-1450

FROM: Harry A. Shawback
Director, Central Region
Maintenance & Operations

SUBJECT: Merit Evaluations

I am attaching a memorandum from Governor Hammond which outlines the procedures that we will use in the future when evaluating an employee's performance.

Many State employees have over the years viewed merit increases as being automatic and primarily based on longevity within a position. To correct this, we must emphasize that merit increases will be granted only if it is found that the employee has performed in a manner deserving of such an increase -- in other words, earned it.

You, as raters, have this responsibility in that you must evaluate an employee and make the final determination as to whether the employee will receive a merit increase. Therefore, you should disregard your personal feelings for an employee, and write the evaluation fairly and objectively. It is important that not only good points be brought out and praise given but also the bad points and any constructive comments to correct them. Please remember that an employee rated as "outstanding" should stand head and shoulders above others doing similar work and in fact be looked upon as a special person -- one who could be recommended for greater responsibilities. Ratings are not to be made just to make an employee feel good or bad.

Effective immediately, the following guidelines are to be used when preparing evaluations:

1. All evaluations must be reviewed by the Director, or his designated representative, and discussed with him prior to discussion with the employee. It is too late to take corrective action once the employee is aware of the contents of the evaluation.

2. Establish in the evaluation the achievements, or superior performance, if any, that might qualify the employee for a merit increase. Outline any special improvements that you expect the employee to make prior to next review. Highlight good points and point out weaknesses. Use a second sheet of paper if necessary.

3. Include on the evaluation the number of sick leave days the employee has taken since last review. Examine frequency of sick leave and see if a pattern exists, i.e., Mondays, Fridays, before or after holidays. If there is a pattern you must comment on it. If sick leave is not used in excess, it should be so noted.

To assist you in improving your evaluating techniques, we are presently drafting a list of questions to be completed for each evaluation. You will be receiving drafts of them in the very near future.

Attachment -
11/14/77 Memorandum from
Governor Hammond

MEMORANDUM State of Alaska

TO: All Directors

DATE: May 10, 1978

FILE NO: 400H-2342

TELEPHONE NO:

FROM: James F. O'Sullivan
Deputy Commissioner
Maintenance & Operations

SUBJECT: Merit Increases

Certain directors are recommending merit increases for particular employees at the time of annual evaluation. This is not contrary to the existing system or policy providing . . . that employee has demonstrated outstanding and exceptional accomplishment during the year.

State employees are afforded protection from inflation, and more, by their union contract. The merit increase is to be considered an award and not monetary gain which is due and expected annually.

By copy to Deputy Commissioner Ryan I have requested that a copy of all evaluations which recommend a merit increase be provided me. This is in order that I may share and participate in your recognition of such employees and to gain insight as to the sort of activities that makes for an outstanding employee.

JFO'S:hj

cc: Deputy Commissioner Ryan
Staff

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

02-519 (REV 8/78)

SCOMM

#51:3A

Alaska State Legislature

JUNEAU, ALASKA

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

Senator Bill Ray, Chairman

Pouch YG
Mail Stop 3123
Juneau, Alaska 99811
(907) 465-4442

December 15, 1982

AGENDA

Proposed legislation on the status of medical doctors in H&SS

Nepotism statute

Department of Administration response to Recommendations against Rehire

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

TAPE LOG

Date of Meeting December 15, 1982

Place of Meeting Butrovich Room, State Capitol, Juneau

Side Tape 1, Side 1 (only)

	No.	Subject
Tape 1 Side 1	007-035	Opening of meeting and roll call
	040-070	Discussion/Correspondence re: physician legislation
	074-115	Nepotism Legislation; motion to sponsor; carried
	120-235	Recommendations against rehire: Ltr to Comm. Administration
	245-420	Tom O'Donnell; HSS, testified: Ltr to Comm Administration
	425-630	Ms Jund's recommendations re employee discipline
	630-675	Hold Vacancy; adjourned meeting 2:10 p.m.

BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT
State Capitol, Juneau, Alaska
December 15, 1982

MINUTES

Senator Bill Ray, Chairman, called the meeting to order at 1:40 p.m. The roll call showed Senator Ray, Representative Jack Fuller, Myrt Charney, John Chenoweth, James Fisher (alternate for Commissioner Rudd), Lois Jund, Mike McMullen (alternate for Ken Kareen), Roger Thayer (alternate for Lynda McCurry), Greg O'Claray, Bob Mourant (alternate for John Pugh), and Lee Powelson (alternate for Cherie Shelley) as present.

The commission reviewed a letter dated December 14, 1982, from Allen K. Korhonen, Acting Commissioner of the Department of Health and Social Services, concerning the status of medical doctors employed by the department. Mr. O'Claray moved that the commission sponsor legislation as requested by the department to place public health doctors in the classified service. There was no objection and the motion passed by unanimous consent.

The commission considered information on the state's nepotism statute. Ms. Jund moved that the commission reintroduce the legislation on nepotism that it had sponsored in the 1981 legislative session. There was no objection and the motion passed by unanimous consent.

The commission discussed recommendations against rehire. Senator Ray suggested that perhaps a committee of impartial individuals should review every performance evaluation which recommends that an employee not be rehired before that recommendation becomes part of the employee's personnel file. Ms. Jund added that a two-step review process might be appropriate. A departmental panel would review the evaluations before they were approved by the department. A second panel would review them before they became part of the employee's personnel file. She also suggested that the information on the back of the personnel evaluation form should include more detail about recommendations about rehire. Senator Ray suggested that the commission write to the Commissioner of Administration to relate these suggestions.

Tom O'Donnell, personnel officer for the Department of Health and Social Services, pointed out that employees receive copies of the evaluation form and have an opportunity to comment before the evaluation becomes final. A review panel would probably not have enough information to act contrary to the supervisor's recommendation. The important thing to bring about is better training for supervisors in making their evaluations. They should also be held accountable for their actions. Mr. Charney replied that many supervisors and employees do not know the effect of recommendations against rehire and therefore employees do not grieve when they receive one. Senator Ray asked the staff to write to the Commissioner of Administration asking that the department consider expanding the information on the personnel evaluation form and implementing review panels for all evaluations on which that recommendation appears and asking for her response within a reasonable time.

Ms. Jund offered some comments on the memorandum on employee discipline which had been discussed at the previous commission meeting. She suggested that the levels of discipline should include

verbal warnings, which should be documented by the employee's supervisor in writing;

written admonishments, which are not made part of the employee's permanent personnel file but which the employee is asked to sign;

written reprimands, which the employee is asked to sign and which do become part of the personnel file, although they may be removed at a later time; and

suspensions, which the employee is also asked to acknowledge receipt of.

In the section on conduct prejudicial to the best interests of the service (F.3), she suggested that the list include soliciting gifts for political purposes. In the discussion of improper conduct related to state property or vehicles, (F.4). she suggested that operating a state vehicle while under the influence of drugs or alcohol should be listed there as well as in the section on improper use of intoxicants or drugs. Mr. O'Claray moved that the commission write to the Commissioner of Administration asking that she include this information as well as the memorandum previously sent to her when she considers the commission's request that the department adopt a written policy on employee discipline. There was no objection voiced.

Senator Ray adjourned the meeting at 2:10 p.m.

* * * * * * * * * *

Alaska State Legislature

JUNEAU, ALASKA

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

Senator Bill Ray, Chairman

Pouch YG
Mail Stop 3123
Juneau, Alaska 99811
(907) 465-4442

A G E N D A

December 7, 1982

Minimum Qualifications for Internal Auditors

Request for Legislation Placing P.U.C. associate attorneys in the partially exempt service.
(Letter from Carolyn Guess, Chairman, dated December 6, 1982)

Employee Discipline

Recommendations Against Rehire

Office Skills Test

Recognition of Advanced Degrees by the Division of Personnel
(Letter from Marilyn Martin dated November 29, 1982)

Draft Legislation Before the Commission
- Credit in the TRS for BIA service
- Intellectual Work Products
  - Letter and testimony from David Hickok, Chairman of the Alaska Council on Science and Technology
- Collective Bargaining Bill
  - New Draft received November 29, 1982

Staff Memorandum
- TRS Credit for BIA Service
- Classification of medical doctor positions
- Court leave - Letter from the Personnel Board
- Nepotism statutes and regulations

Vacancy on the Commission

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

TAPE LOG

Date of Meeting December 7, 1982

Place of Meeting Butrovich Room, 2nd Flr, State Capitol, JUneau

Side Tape 1, Sides 1&2; Tape 2, Sides 1&2; Tape 3, Side 1 only

	No.	Subject
Tape 1 Side 1	000-020	Opening of meeting; roll call
	025-075	Considering Minimum Qualification of Internal Auditor Job Series Bob Janes; Chief Off.Int'lReview;DOT testimony
	076-080	Kareen;Div.Personnel would review internal auditor job series
	080-140	Marcia Anne Lutterman testimony re: Internal Auditor position
	145-200	Carolyn Guess;Com'r PUC testimony re Associate Attorney position Sen Ray Commission will write supporting their request
Tape 1 Side 2	250-720	Discussed Employee Discipline
	000-720	Commission requesting Handbook re Employee Discipline
Tape 2 Side 1	000-250	Reviewed Memo on Recommendations Against Rehire; Recesssed for lunch
	260-270	Reconvened; cont'd discussion; request response from Administration
	275-448	Reviewed Office Skills Test; Memo fr K.Hogan
	450-600	Chet Cottongim Testimony re OST
	610-640	J.Chenoweth suggested review re: OST; Responses of Pers./EEO
	650-end	Marilyn Martin correspondence
Tape 2 Side 2	000-020	Draft Legislation Credit for BIA service TRS; Motion carried sponsor
	075-170	David Hickok ACST Testimony Intellectual work products
	175-180	Motion to sponsor - carried
	180-395	Draft bill on collective bargaining with amendment motion carried
	400-470	Court leave for nonpermanent employees; letter to Personnel Board
	475-530	State-employed Medical Doctors; Tom O'Donnell HSS
	535-end	Nepotism discussion; held; Vacancy on Commission Held;
Tape 3 Side 1	000-050	Next Meeting items; adjourned at 3:00 p.m.

BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT
State Capitol, Juneau, Alaska
December 7, 1982

MINUTES

Senator Bill Ray, Chairman, called the meeting to order at 10:00 a.m. The roll call showed Senator Ray, Representative Jack Fuller, Myrt Charney, John Chenoweth, Senator Dick Eliason, Fred Muller (alternate for Commissioner Rudd), Ken Kareen, Roger Thayer (alternate for Lynda McCurry), Greg O'Claray, John Pugh, and Doryce Eggleston (alternate for Cherie Shelley) as present. Also present were James Fisher, Mike McMullen and Bob Mourant.

Senator Ray asked the members to consider the memorandum on Minimum Qualifications for the Internal Auditor Job Series. Bob Janes, Chief of the Office of Internal Review in the Department of Transportation, addressed the commission in support of permitting work experience to substitute for the educational requirements of the job series. He said that before the auditing kinds of job classes were combined some years ago, his office was staffed by Audit Review Specialists. That job series had less extensive minimum qualifications than does the internal auditor series. When the classes were combined, employees were transferred into the internal auditor classes. If those employees, some of whom have many years of experience, were to resign and then later try to return to work in the same position, they could find that they no longer qualify because they lack the added educational requirements.

Mr. Kareen said that the Division of Personnel would review the internal auditor job series and consider whether it ought to be replaced with two parallel series.

Marcia Anne Lutterman, Internal Auditor III, testified in support of permitting work experience to substitute for the college degree requirement. She said that she was initially employed as a Fiscal Compliance Officer before that job class was deleted and her position transferred into the internal auditor series. She pointed out an additional problem with the educational substitutions presently permitted. The State of Alaska now requires that applicants for the CPA exam hold college degrees, so there is no way to qualify for an internal auditor without a college education. She will not be eligible for promotion until she completes the hours required for a college degree which is difficult to do while holding a fulltime job.

Carolyn Guess, Chairman of the Alaska Public Utilities Commission, addressed the commission concerning the associate attorney position in the PUC. The position is currently staffed on a reimbursable services contract with the Department of Law because the position needs to be in the partially exempt service, but the PUC does not have authorization to make it so. While the position is staffed through the Department of Law, it is statutorily placed in the partially exempt service. She

asked that if the Blue Ribbon Commission is sponsoring amendments to the State Personnel Act, an amendment to AS 39.25.120 be included to permit the PUC to hire partially exempt associate attorneys. Mr Kareen pointed out that the PUC could request the Personnel Board to place the position in the partially exempt service without having to amend any statutes. Senator Ray added that the Blue Ribbon Commission would be happy to write to the personnel Board in support of the PUC's request.

The commission discussed and revised the memorandum on Employee Discipline. Mr. Muller suggested that the commission send a copy of the revised memorandum to the Commissioner of Administration and request that the department include the information in an employee handbook. Senator Ray asked the staff to prepare the materials to send to Commissioner Rudd.

The commission reviewed the memorandum on Recommendations Against Rehire. Senator Ray recessed the meeting at 11:45 a.m.

Senator Ray reconvened the commission at 1:30 p.m. and continued the discussion on recommendations against rehire. Mr. Charney suggested that the commission ask for a review of the memorandum from the Commissioner of Administration. Senator Ray directed the staff to ask for a response from the department for the next commission meeting.

The commission reviewed the memorandum on the Office Skills Test and the accompanying memorandum from Kaye Hogan, deputy director, Division of Equal Employment Opportunity. Mike McMullen, deputy director of personnel, explained that the Office Skills Test results have been found to be predictive of performance and the psychometrist has established its job-relatedness. The state is in the second year of a two-year experiment in which the minimum qualifications for clerical job classes are waived. The Division of Personnel will review the effect of waiving the minimum qualifications later in the study. For two or three job classes the minimum qualifications are not waived because the division believed that the experience or educational requirement was necessary. For both the retirement and benefits technician classes and the natural resource technician classes the experience requirement is still in effect. A college degree may be substituted. In addition, applicants for those classes must pass the Office Skills Test.

Chet Cottongim, personnel officer for the Department of Public Safety, said that managers in his department have found that employees who have been out of school for a long time have been getting poorer scores on the Office Skills Test than recent graduates. The department has asked the Division of Personnel to look into the situation. It is important to recognize and give credit to experienced good employees and to provide them with opportunities for promotion. The Office Skills Test may block them from qualifying for promotional opportunities. Mr. McMullen pointed out that 96.8% of the applicants who take the test pass it. Senator Ray responded that ranking can be as important as passing the test. Mr. McMullen added that long term employees will have earned employee credits which are added to their scores and a department wanting

to promote a current employee can fill a vacancy using an intra-departmental register. There methods ought to provide adequate opportunities to promote deserving employees.

Mr. Chenoweth suggested that the commission review the Division of Personnel's response to the Division of EEO's request that it seriously consider making the Office Skills Test only one component in the determination of qualifications of applicants.

The commission considered correspondence received from Marilyn Martin. Mr. McMullen explained that he had met with Ms. Martin and advised her that if credits from the California Coastal University are recognized by an accredited college or university then the Division of Personnel will accept her degree. Ms. Martin is currently writing to the University to gather the necessary documents and should receive credit for the degree when she presents them to the division.

The commission considered draft legislation on Credit for BIA service under the Teachers Retirement System. Mr. Charney moved that the commission sponsor the legislation in the next legislative session. Representative Fuller asked to abstain from voting. The vote showed eight (8) in favor, none opposed and one (1) abstention. The motion carried.

The commission considered correspondence received from David Hickok, chairman of the Alaska Council on Science and Technology, together with a memorandum prepared by Jim Lear, Legislative Counsel, addressing the points raised in Mr. Hickok's letter. Mr. Hickok addressed the commission. He suggested that the legislation should provide that supervisors of inventors be made aware of the discovery at the time that the inventor discloses the invention to the Council on Science and Technology. Senator Ray responded that the Council has authority under the bill to adopt regulations which provide that the inventor do so. Mr. Hickok asked whether the Council would have authority under the proposed legislation to contract with a nonprofit corporation to develop and market an invention and to grant a share of the royalties to the corporation as well as to the employee-inventor. Senator Ray responded that on page 3, section 39.52.020 the Council is authorized to grant monetary recognition for creations in intellectual work products and that the form could be a share of the royalties.

Mr. O'Claray moved that the commission sponsor the legislation on government interests in intellectual work products developed at the expense of the state in the next legislative session. The motion carried without objection.

The commission considered the draft bill on collective bargaining. Mr. McMullen pointed out that the language on lines 14 and 15 "whichever is later" could create a problem and suggested that those words be deleted. Mr. O'Claray moved that the bill, as amended, be introduced by the commission. The motion carried without objection.

The commission considered court leave for nonpermanent employees, item B in the Staff Memo. Senator Ray asked the staff to write to the Personnel Board asking that they act immediately, at the earliest possible time. He asked whether any commission members would object to sponsoring legislation on the issue if that should prove necessary. No objections were voiced.

The commission considered the status of state-employed medical doctors, item C of the Staff Memo. Tom O'Donnell, personnel officer for the Department of Health and Social Services addressed the commission. He said that his department had not been consulted by the Senate State Affairs Committee when the committee amended the State Personnel Act to place all medical doctors in the exempt service. Senator Ray asked that the department present suggested legislation on the question for the commission's consideration at its next meeting.

Senator Ray asked that commission members review the information about the state's nepotism statute for the next meeting. He asked for recommendations about filling the vacancy on the commission. Mr. Thayer suggested that the vacancy be filled after the legislative organization has been completed. Patsy Fletcher, Assistant Director of the Human Rights Commission, spoke in support of the application of James Chase.

Senator Ray adjourned the meeting at 3:00 p.m.

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BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

TAPE LOG

Date of Meeting December 7, 1982

Place of Meeting Butrovich Room, 2nd Flr, State Capitol, JUneau

Side Tape 1, Sides 1&2; Tape 2, Sides 1&2; Tape 3, Side 1 only

	No.	Subject
Tape 1 Side 1	000-020	Opening of meeting; roll call
	025-075	Considering Minimum Qualification of Internal Auditor Job Series Bob Janes; Chief Off.Int'lReview;DOT testimony
	076-080	K een;Div.Personnel would review internal auditor job series
	080-140	Marcia Anne Lutterman testimony re: Internal Auditor position
	145-200	Carolyn Guess;Com'r PUC testimony re Associate Attorney position Sen Ray Commission will write supporting their request
Tape 1 Side 2	250-720	Discussed Employee Discipline
	000-720	Commission requesting Handbook re Employee Discipline
Tape 2 Side 1	000-250	Reviewed Memo on Recommendations Against Rehire; Recesssed for lunch
	260-270	Reconvened; cont'd discussion; request response from Administration
	275-448	Reviewed Office Skills Test; Memo fr K.Hogan
	450-600	Chet Cottongim Testimony re OST
	610-640	J.Chenoweth suggested review re: OST; Responses of Pers./EEO
	650-end	Marilyn Martin correspondence
Tape 2 Side 2	000-020	Draft Legislation Credit for BIA service TRS; Motion carried sponsor
	075-170	David Hickok ACST Testimony Intellectual work products
	175-180	Motion to sponsor - carried
	180-395	Draft bill on collective bargaining with amendment motion carried
	400-470	Court leave for nonpermanent employees; letter to Personnel Board
	475-530	State-employed Medical Doctors; Tom O'Donnell HSS
	535-end	Nepotism discussion; held; Vacancy on Commission Held;
Tape 3 Side 1	000-050	Next Meeting items; adjourned at 3:00 p.m.

Alaska State Legislature

JUNEAU, ALASKA

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

Senator Bill Ray, Chairman

Pouch YG
Mail Stop 3123
Juneau, Alaska 99811
(907) 465-4442

A G E N D A

December 7, 1982

Minimum Qualifications for Internal Auditors

Request for Legislation Placing P.U.C. associate attorneys in the partially exempt service.
(Letter from Carolyn Guess, Chairman, dated December 6, 1982)

Employee Discipline

Recommendations Against Rehire

Office Skills Test

Recognition of Advanced Degrees by the Division of Personnel
(Letter from Marilyn Martin dated November 29, 1982)

Draft Legislation Before the Commission
- Credit in the TRS for BIA service
- Intellectual Work Products
  - Letter and testimony from David Hickok, Chairman of the Alaska Council on Science and Technology
- Collective Bargaining Bill
  - New Draft received November 29, 1982

Staff Memorandum
- TRS Credit for BIA Service
- Classification of medical doctor positions
- Court leave - Letter from the Personnel Board
- Nepotism statutes and regulations

Vacancy on the Commission

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

TAPE LOG

Date of Meeting November 9, 1982

Place of Meeting State Capitol, Juneau, Alaska

Side Tape 1, Sides 1 and 2; Tape 2, Side 1

	No.	Subject
Tape 1 Side 1	000-040	Opening of meeting
	070-380	Jim Lear (LAA) explained the changes in the Intellectual Work Product Bill; questions from the commission members
	390-400	Commission reviewing Collective Bargaining Bill Draft
	405-500	Don Kubley (IBU-Pac & IUMMP) testified on their behalf. Asked changes in draft; Commission members discussed/questioned the draft
	505-610	Members offered suggestions on draft/discussed them
	615-680	Greg O'Claray read wire from Steve Franks of MEBA
	690-780	Members continued discussion on draft
	785-end	Greg O'Claray moved to change draft So carried
Tape 1 Side 2	000-110	Discussed PERS credit for BIA serivice - held until next meeting
	115-130	T.Cramer read fiscal note for above draft
	140-200	Commission considered staff memo - jury pay for nonpermanents
	205-220	Commission considered student loan recipients preference points
	225-450	Commission considered Internal Auditor qualifications
	455-end	Commission considered discipline/recommendations against rehire
Tape 2 Side 1	000-400	Discussion continued
	405-435	Discussion/suggestions and meeting adjourned at 11:45 a.m.

BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT
State Capitol, Juneau, Alaska
November 9, 1982

MINUTES

Senator Bill Ray, Chairman, called the meeting to order at 10:05 a.m. The roll call showed Senator Ray, Representative Jack Fuller, John Chenoweth, Fred Muller (alternate for Commissioner Carole Burger) Lois Jund, Ken Kareen, Roger Thayer (alternate for Lynda McCurry) Greg O'Claray, Bob Mourant (alternate for John Pugh), and Doryce Eggleston (alternate for Cherie Shelley) as present.

Senator Ray asked the commission to consider the draft bill relating to the state's interest in intellectual work products. Jim Lear, legislative counsel, explained the changes he had made at the commission's instructions and answered questions. Representative Fuller moved that the commission approve the bill as drafted for introduction in the 1983 Legislative Session. The motion carried without objection.

The commission took up the draft bill relating to collective bargaining. Don Kubley, representing IBU-Pacific and the International Order of Masters, Mates and Pilots, addressed the commission. He pointed out a problem in the present language which requires that agreements be submitted to the legislature within 30 days after the convening of the session. If negotiations are delayed past the convening of the session, then employees would have to work without a contract for almost a year, until the convening of the next regular session. He suggested that the language be changed.

Senator Ray suggested that the second sentence of the draft, lines 15-18 be deleted. Greg O'Claray read a telegram from Steve Franks of the Marine Engineers Beneficial Association in Seattle, opposing an earlier version of the bill. Roger Thayer suggested the bill be amended by deleting "30 days after the" in line 14 and adding "10 days after signing by the parties or" in its place. Mr. O'Claray moved that the second sentence of the draft be deleted and that the bill be amended as suggested by Mr. Thayer. The motion carried without objection.

The commission considered the draft relating to PERS credit for BIA service. Mr. Muller explained that the bill would preclude state employees with federal BIA service from receiving retirement benefits from both the federal government and the state for the same period of service. Mr. O'Claray asked how the credit for BIA service was funded. Mr. Muller was not sure. Further consideration of the legislature was held until the next commission meeting.

Terry Cramer read the commission a fiscal note from the Division of Retirement and Benefits for the draft bill limiting the adjustment of retirement benefits which the commission has approved for introduction. The division expects there will be some cost but they cannot be measured and in most instances they are expected to be small.

The commission considered court leave for nonpermanent state employees. Mr. O'Claray said that most collective bargaining contracts provide for jury duty pay and that nonpermanents may be the only group of employees who are not entitled to receive pay while serving on a jury. Ms. Cramer advised the commission that the Personnel Board would be meeting next week to consider amendments to the Personnel Rules. Mr. Kareen added that the Rules which the Personnel Board would be considering do not include leave provisions. The State Personnel Act does not direct that the Personnel Rules address leave for state employees. Those provisions will be placed in other regulations. Senator Ray asked Ms. Cramer to advise the Personnel Board of the commission's support for court leave for nonpermanent employees.

The commission considered the request that it recommend a preference for student-loan recipients.

The commission considered the requirement that internal auditors hold college degrees. Mr. Kareen said that the Division of Personnel reflects the views of state managers in setting the minimum qualifications for job classes. Mr. O'Claray asked for more information on how the minimum qualifications for this job class were established, since most minimum qualifications permit substitution of training and experience for educational requirements. Senator Ray asked the staff to invite the Director of the Division of Internal Audit to the next commission meeting.

The commission discussed employee discipline and recommendations against rehire. Senator Ray suggested that the problem with recommendations against rehire is that a supervisor has control of an employee's entire job future with the state. Mr. Muller explained that the Division of Personnel reviews recommendations against rehire to insure that their scope is appropriate. The recommendations can be limited to that job class, to the department as a whole, or to any state employment. Mr. Kareen added that there are adequate departmental review procedures to insure that the recommendation against rehire is imposed only in appropriate circumstances. The employee's immediate supervisor prepares the recommendation. It is then reviewed at the next level of supervision, and finally there is a department level review, frequently by the Personnel Officer for the department. Unfortunately, the reviews are sometimes cursory, and the recommendations are signed automatically. Mr. O'Claray asked whether there were any guidelines to assist supervisors. Guidelines would help insure consistency. Ms. Jund added that many supervisors do not understand what a recommendation against rehire means. Could there be something written to let them know? Senator Ray asked the staff to work with Mr. Muller on this issue.

Senator Ray adjourned the meeting at 11:45 a.m.

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BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

TAPE LOG

Date of Meeting October 15, 1982

Place of Meeting Butrovich Room, State Capitol, Juneau

Side Tapes 1 Sides 1 and 2; Tape 2 Side 1

	No.	Subject
Tape 1 Side 1	000-025	Opening of meeting and Roll Call
	026-050	T.Cramer correction of 9/21/82 minutes
	051-080	Motion to Accept & introduce next session Div. Retirement/Benefits draft bill amending AS 14.25.107
	085-362	Draft bill on collective bargaining/Discussion/redraft w/changes
	365-end	Intellectual work products/Discussion w/Jim Lear
Tape 1 Side 2	000-500	Continued Discussion w/Jim Lear
	510-end	Discussion on Discipline Actions -State Employees/Each Department
Tape 2 Side 1	000-150	Continued discussion
	151-190	Sen Ray announced meetings in Nov., Dec., Jan. and adjourned at 11:45

BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT
State Capitol, Juneau, Alaska
October 15, 1982

MINUTES

Senator Bill Ray, Chairman, called the meeting to order at 10:00 a.m. The roll call showed Senator Ray, Myrt Charney, John Chenoweth, Senator Dick Eliason, Sandra Withers (alternate for Commissioner Carole Burger), William Huston, Mike McMullen (alternate for Ken Kareen), Roger Thayer (alternate for Lynda McCurry), Greg O'Claray, and John Pugh as present. Also present was Bob Mourant.

Terry Cramer, Administrative Assistant to the commission, advised the members that the minutes of the meeting held September 21, 1982, should be corrected. The second sentence of the third paragraph should read:

> With objection from the Department of Administration, the commission approved the draft bill limiting the adjustment of retirement benefits for introduction next session.

The correction to the minutes was approved without objection.

The commission considered the draft bill amending AS 14.25.107 prepared by the Division of Retirement and Benefits at the request of the commission. Senator Ray explained that the bill addressed a potential problem in the current statutes which could allow individuals to receive retirement benefits from both the federal and state governments for the same period of employment with the federal government. Greg O'Claray moved that the bill be prepared as legislation for introduction next session by the commission. The motion passed without objection.

The commission considered the draft bill relating to collective bargaining. Senator Ray suggested that the draft be amended to provide that if the legislature does not act within 60 days, then the agreement would be considered rejected. Mr. O'Claray suggested that the time for legislative consideration should be limited to 30 days. Mike McMullen asked whether the language in line 15 required that agreement reached after the legislature convened would have to wait until the next session before being considered by the legislature. Senator Ray suggested that the work should be done before the session to avoid any delays. Senator Ray asked that another draft of the bill be prepared for the commission's consideration at its next meeting.

The commission considered the draft bill relating to government interests in intellectual work products developed at the expense of the state. Jim Lear, Legislative Counsel, explained the changes he made in preparing this draft. The commission discussed the proposed AS 39.52.020, and asked that Mr. Lear prepare language providing that the Council on

Science and Technology may, subject to appropriation, either award the inventor a share of the royalties or give him or her a cash award for any discovery, regardless of whether it provides the state with net revenues or whether it is a cost-saving discovery. In addition, the commission requested that he draft language excluding the provisions of the legislation from the scope of collective bargaining and exempting legislators from the provisions of the bill.

The commission discussed standards for recommendations against rehire and for employee discipline. Senator Ray asked Sandra Withers to draft generalized standards with examples of the kind of conduct which would merit that level of discipline for the commission to consider at the next meeting.

Senator Ray announced that the commission would be meeting in November, December and January. He adjourned the meeting at 11:45 a.m.

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BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

TAPE LOG

Date of Meeting September 21, 1982

Place of Meeting Butrovich Room, State Capitol, Juneau, Alaska

Side Tape 1, sides 1 and 2

	No.	Subject
Tape 1 Side 1	000-end	Opening of Meeting; Jim Lear, Legislative Counsel explaining section by section draft bill on patents; discussion by members; proposed changes;
Tape 1 Side 2	000-550	continued discussion on above
	555-680	collective bargaining bill hold until next meeting retirement benefits approved retroactive date stet
	680-end	closing meeting and discussions on various miscellaneous items

BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT
State Capitol, Juneau, Alaska
September 21, 1982

MINUTES

Senator Bill Ray, Chairman, called the meeting to order at 10:10 a.m. The roll call showed Senator Ray, Representative Jack Fuller, Myrt Charney, Senator Dick Eliason, Fred Muller (alternate for Commissioner Carole Burger), Ken Kareen, Lynda McCurry, John Pugh, Darlene Livermore (alternate for Cherie Shelley) present. Bill Huston and Cherie Shelley arrived late. Also present were Roger Thayer and Jim Fisher. Jack Chenoweth, Lois Jund and Greg O'Claray were absent.

The commission considered draft legislation on government interest in discoveries and inventions made by public officers and employees of the state. Jim Lear, legislative counsel, explained the provisions of the draft and answered questions from the commission. He said that legislation from the State of Connecticut and the federal Executive Order on patents by employees formed the basis of the draft. Senator Eliason moved that page 4, lines 1 and 2 be amended to delete the exceptions for the Alaska Energy Center and for the Alaska Resources Corporation. The motion passed without objection. The commission requested other changes and also asked Mr. Lear to prepare draft legislation relating to the state's interests in copywrites, particularly in computer programs. Mr. Don Bennett of the Council on Science and Technology was present, but did not testify.

The commission held review of the draft relating to collective bargaining until the next meeting. Without objection the commission approved the draft bill limiting the adjustment of retirement benefits for introduction next session.

Senator Ray stated that selection of a new commission member would be held until the next meeting. He asked commission members to be prepared to discuss employee discipline at that meeting.

Senator Ray adjourned the meeting at 11:45 a.m.

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BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT
State Capitol, Juneau, Alaska
August 30, 1982

MINUTES

Senator Ray, Chairman, called the meeting to order at 10:00 a.m. The roll call showed Senator Ray, Representative Fuller, Myrt Charney, John Chenoweth, Fred Muller (alternate for Commissioner Carole Burger), Lois Jund, Mike McMullen (alternate for Ken Kareen), Lynda McCurry, Greg O'Claray, John Pugh, and Dianne Corso (alternate for Cherie Shelley) as present. Senator Eliason and Bill Huston were absent. Also present were James Fisher, Roger Thayer, Bob Mourant and Doryce Eggleston.

Senator Ray asked Chet Cottongim, personnel officer for the Department of Public Safety, to address the commission concerning correspondence received from Sgt. Richard A. Hemmen who lives in Fairbanks. Mr. Cottongim explained that a vacancy had occurred in the Fish and Wildlife Protection Division in Anchorage which required a seasoned supervisor, ideally one who was also a pilot. The department considered six sergeants and decided that Sgt. Hemmen was the most desirable. Neither Sgt. Hemmen nor the other five candidates for the position were from the Anchorage area. Although the department seldom invokes involuntary transfer, it did so in this case because of the special needs of the position. Sgt. Hemmen refused the transfer because of the financial hardship resulting from the loss of geographic pay differential and having to sell his house in the depressed market in Fairbanks. The department offered him the choice of accepting the transfer, resigning, or being suspended and, if he did not then accept the transfer, being fired. Sgt. Hemmen resigned effective August 1, 1982. He filed a grievance on the involuntary transfer which was decided in favor of the department.

Mr. Cottongim added that Sgt. Hemmen had refused a transfer once before on the grounds of financial hardship. The department accepted his refusal and he remained in Fairbanks and subsequently received two promotions. The Anchorage position actually became vacant on July 16th. Mr. Cottongim stated that so far as he knew, it had not yet been filled. He indicated that the department had hoped that Sgt. Hemmen would change his mind.

Mike McMullen explained that he had served on the contract negotiating team for the Public Safety Employees' Association labor agreement. The terms of the agreement recognize the employer's need to transfer employees, particularly commissioned officers, from one area to another. The contract provides that the employee's moving expenses will be paid by the state.

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILE 8672
1356 SCOMM 51: BLUE RIBBON COMN. ON STATE PERSONNEL ACT 1978-1983

Mr. Cottongim added that the department's criteria for making transfer decisions are to provide an opportunity for officers to broaden their careers and to meet the needs of the department. The department tries to avoid imposing a hardship on employees, but the needs of the department must be met.

Senator Ray asked whether here was any evidence that the transfer was discriminatory or a disciplinary measure. Mr. Cottongim said that there did not appear to be any indication of that. He added that the department considered Sgt. Hemmen an outstanding employee. Senator Ray said that there appeared to be no further basis for the Blue Ribbon Commission to consider the matter. He was sympathetic to the situation Sgt. Hemmen had been placed in, but the transfer appeared to be the exercise of a valid management prerogative.

Dale Young addressed the commission concerning issues raised in his earlier correspondence with the commission. He was employed by the Department of Fish & Game, F.R.E.D. Division as the Southeast Alaska Regional Hatchery Manager in 1976. When he was first employed, the state needed to develop a production-scale salmon incubator. He asked his supervisor if he could work on the project privately and was advised to request an Attorney General's opinion on conflict of interest. In 1977 the Attorney General granted him permission to proceed with his work and to obtain a patent provided he followed strict guidelines. Mr. Young secured a patent, and in cooperation with a private corporation, developed an incubator and fish rearing system.

Mr. Young stated that following his patenting of the incubator, his work situation deteriorated, leading ultimately to his layoff on August 15. His performance evaluations changed from rating his work as highly acceptable to finding his work unacceptable and recommending his termination. His supervisor had not spoken with him about the change in the performance of his work or made suggestions on how he could improve. He believed the evaluations and other unfavorable situations in his employment were in retaliation for his having secured the patent.

Mr. Young added that in addition to his personal difficulties, Fish and Game had broken state and federal laws to avoid purchasing his products. The Ombudsman's office had twice investigated the department's purchasing practices and found them in violation of the applicable laws. During the second investigation, they referred the complaint to the Governor's Internal Auditors. The auditors confirmed that the department was violating purchasing procedures.

In answer to a question, Jack Chenoweth, Ombudsman, said that his office had investigated the incubator purchasing practices over the past several years. The purchases involve three agencies - the Departments of Public Transportation, Fish and Game, and Administration. Correction of the problem would require the cooperation of the administration, and therefore, his office had asked for a review by the Internal

Auditors. The Ombudsman's office also made several recommendations to each department, but did not receive an entirely favorable response. The Ombudsman's investigation did not consider the employment problems which Mr. Young was raising before the Blue Ribbon Commission.

Mr. Muller asked Mr. Young whether APEA was still involved on his behalf. Mr. Young said that they were. Mr. Muller suggested that the Blue Ribbon Commission should not intervene in the matter until the pending grievances are resolved. Senator Ray replied that in his opinion it was appropriate for an individual to bring anything before the commission at any time. He also requested the commission staff to invite Deputy Commissioner Collinsworth from the Department of Fish and Game to address the commission on this matter at 1:30.

Representative Fuller asked whether Mr. Young's product was used outside the state. Mr. Young replied that there is some small use by private nonprofit concerns on an experimental basis and added that tests have proved the success of the process and equipment. It provides high quality production with a higher survival rate and is the least labor-intensive process available. In response to a question from Ms. Jund, Mr. Young indicated that he had been employed as an assistant hatchery manager by the State of Missouri prior to his coming to Alaska to accept the Hatchery Manager position. In addition, he had owned a private hatchery in Missouri where he began the development work which he continued in Alaska. He believed that his work on incubators was one of the reasons he was selected for the position, but two weeks after he began working it became clear that he would not have time on the job to continue.

Mr. Young added that Fish and Game is justifying his layoff by saying that they are responding to legislative intent that they reduce the numbers of managers in the department. He pointed out that the department has not eliminated any top-level management positions. All of the layoffs in management positions have occurred in mid-level management.

In response to a question from Greg O'Claray, Dianne Corso from APEA explained that Mr. Young has several grievances pending. The grievance addressing the reasonableness of his layoff is under consideration for filing at the Step III level. Mr. Young has the right to pursue that issue through arbitration.

Senator Ray brought a letter from Ms. Eileen Oliver to the attention of the commission and asked Mr. Chenoweth whether there were any recent developments he wished to report. Mr. Chenoweth replied that at Ms. Oliver's request his office has not proceeded further with the complaint, since the position she applied for has not yet been filled.

The commission considered the Issue Summary dated July 20, 1982, concerning issues raised recently.

A. RECOMMENDATIONS AGAINST REHIRE

Mike McMullen explained the state's system on recommendations against rehire. When employees resign in good standing, they have the right to be placed at the top of registers for job classes for which they qualify. Supervisors are not required to hire them but may select

them without considering any of the top five applicants if they wish to. When an employee in not recommended for rehire, he or she loses those rehire rights. In addition, if the recommendation against rehire applies to all state employment, the employee's name will be removed from all registers and no applications will be accepted until the employee has worked for another employer for the length of the probationary period for that job class, either six months or one year.

Senator Ray suggested that the penalty is too severe. Unless an employee is dismissed for an indictable offense, a supervisor should not recommend against rehire by the state. Prospective employers should be notified of the employee's unsatisfactory conduct and be allowed to decide whether they wish to employ that person. Mr. McMullen replied that the Division of Personnel is charged with evaluating applicants to insure that they meet minimum qualifications. Part of that review should include consideration of previous work history. If the history shows that there has been a serious problem, then it is appropriate to find the applicant unqualified until he or she demonstrates that the problem has been resolved.

Dianne Corso pointed out that although the system provides for review of recommendations against rehire by the Division of Personnel, in fact employees may have to go through considerable effort to have Personnel reconsider the supervisor's recommendation. Mr. McMullen explained that the departments have an internal review system before Personnel is involved. Recommendations against rehire are part of the employee's final performance evaluation. After a supervisor prepares the evaluation, it is reviewed by the supervisor's supervisor, typically a division director. If the division director approves it, then the commissioner's office reviews it. That review is frequently delegated to the departmental personnel office. Lynda McCurry pointed out that recommendations against rehire can be attached to voluntary resignations as well as to situations in which an employee is fired. Departments do not impose them consistently and internal review is not always adequate. Ms. Corso added that some supervisors have no knowledge of the effects of the recommendation.

Mr. O'Claray asked whether the state has standards for imposing recommendations against rehire. How does a supervisor know whether it is appropriate to impose that penalty on an employee? Mr. Muller replied that there were no standards. Each case is considered separately on its merits. This allows for consideraon of mitigating factors such as a crisis in the employee's home life which is temporarily affecting job performance. Mr. O'Claray pointed out that if you notify employees of the standard which you expect them to adhere to, then in most cases they will do so. Mr. Muller answered that the issue is grievable. Ms. Corso replied that if there were standards, then there would be fewer grievances.

Representative Fuller asked whether the final performance evaluation would not be sufficient to alert future employers to the problem. John Pugh explained that, particularly for positions with high

turnover, supervisors are unlikely to request that Personnel send them copies of performance evaluations. Therefore, they would be unaware of an applicant's unsatisfactory work history. Ms. McCurry said that the Department of Labor requests applicants to provide copies of their last several evaluations when they are interviewed.

Ms. Jund suggested that standards should be developed for applying recommendations against rehire within that section, agency, department, or by the state as a whole. Senator Ray said that the commission would consider the federal guidelines on penalties at its next meeting.

B. RETALIATORY LAYOFF

Mr. Pugh suggested that the commission consider both the issue of retaliatory layoffs and also the development of whistleblower legislation. He added that layoffs will become an increasingly important issue in the near future. Private employers, such as Boeing, have systems which permit considering both productivity and seniority when deciding who will be laid off. Unions favor a seniority system. Standards based on seniority tie the hands of management when it tries to improve productivity.

Mr. McMullen explained that the States uses a table to compute layoff points. Points are given based on the quality of job performance established by the employee's last three evaluations, with that figure multiplied by the length of service within the unit. Since layoffs are made by division or region, layoff points may not mean much. An employee with considerable seniority and good work performance may still be the only person within the unit and therefore may be laid off while less senior and less productive employees in other units may remain on the job. Senator Ray suggested that the layoff system should provide a forum for challenging possible discriminatory action and that the issue should be addressed on an individual basis.

C. CONFLICT OF INTEREST

Ms. Corso pointed out that the conflict of interest issue is similar to the recommendation against rehire issue in that standards of employee conduct are not clear in either case. She added that APEA is finding that the problem is coming up with increasing frequency.

Senator Ray recessed the meeting until 1:30 p.m.

Senator Ray reconvened the meeting at 1:30 p.m. and invited Don Collinsworth, Deputy Commissioner for Resource Management in the Department of Fish & Game to address the commission on the employment issues raised by Mr. Dale Young.

Mr. Collinsworth stated that it was his understanding that the commission was interested in Mr. Young's layoff and also in the issues surrounding the patenting of the incubation system. With reference to

the layoff issues, he introduced Stan Moberly, Director of the F.R.E.D. Division in which Mr. Young had been employed. He added that because of funding cuts, the department would have to lay off about 11 employees, some of whom have as much as 15 years employment with the state. He pointed out that the Attorney General is investigating the patent issues raised by Mr. Young, and that the Ombudsman has investigated the issue. In addition there are grievances pending on the employment issues.

Mr. Moberly addressed the commission. He stated that he was regional supervisor of the F.R.E.D. Division from 1975 through November, 1980. He has been director of the division since this past June. As regional supervisor he had been Mr. Young's supervisor and had written favorable performance evaluations of his work. Mr. Moberly indicated that he did not know the basis for the unfavorable evaluations written after he left the division.

Mr. Collinsworth explained that in making layoff decisions, he and Mr. Moberly had reviewed the division staff, looking at positions, duties and responsibilities. They did not consider the individuals in those positions when deciding who should be laid off. Mr. Young was not laid off because of his performance, but because the department had to trim the SE program staff. Rep. Fuller asked whether any of the layoffs occurred in upper level management. Mr Moberly replied that some managerial staff were laid off in response to the Legislature's directions. In Anchorage, the managerial staff was reduced from four to three postions and in Juneau, it was reduced from three to two positions. The Anchorage office is responsible for hatcheries in all parts of the state except Southeast.

Mr. Moberly added that in 1976 when Mr. Young was hired there was just one hatchery in the Southeast region. The organization was growing fast and focused its energies on technological development. Since that time the division's task has changed to management of the existing hatcheries.

Mr. Collinsworth said that he had brought Mr. Young's personnel file and asked whether the commission had the authority to review personnel files. Mr. Young stated that he had no objection to the commission reviewing his performance evaluations. Senator Ray asked Mr. Collinsworth to summarize why Mr. Young's work became unacceptable.

Mr. Moberly explained that following Mr. Young's patenting of the incubator processes, it became much more difficult for him to function in a role of regional hatchery manager. Mr. Young's co-workers were unwilling to discuss things openly with him, so there was no free flow of ideas. At the same time the division's focus was changing from technologicial to managerial in nature. In his job as regional hatchery manager, Mr. Young was unable to recommend what incubators the department ought to install in their hatcheries because of the conflict of interest created by his holding the patent. In addition, his co-workers felt that they had contributed to the development of the incubator system and that in applying for a patent, Mr. Young had plagerized their ideas.

Mr. Collinsworth explained that when Mr. Young was first employed, the divison was developing hatcheries and various types of equipment, incubators, water systems and processes. Mr. Young was working as part of a group which was considering incubators. He had, obviously, contributed to the conception of the equipment, but his colleagues felt that they had as well. Because he took the initiative to patent the process, he is the one to benefit financially from the incubation system when the state or other purchaser pay royalties for its use.

Mr. Young replied that he had acted in good faith after securing an opinion from the Attorney General's office that it would be legal for him to proceed. He added that a person cannot patent something that is not original. The concepts involved in the incubator system were ideas that he had brought with him from Missouri. Mr. Moberly suggested that the commission should request a copy of the Attorney General's report on the conflict of interest question when it is available. In answer to a question from Rep. Fuller, he said that the work that Mr. Young had been doing on the incubator system was part of his job assignment with the state. Mr. Moberly added that whether the situation with the patent has developed into a conflict of interest has not yet been ruled on. It has caused managerial problems and finally led to Mr. Young's being asked not to serve as a member of the facility design team.

Mr. Moberly said that the divison has offered Mr. Young another position as the Snettisham hatchery manager. Ms. Corso pointed out that the position would require that he move away from Juneau without his family. Mr. Moberly explained that it was the only job that the division had open. He added that he had told APEA and the labor relations division staff that the F.R.E.D. Division would, to the extent possible, add steps in grade to the position, which is a Range 18, to have as little financial impact on Mr. Young as possible. His last position was at Range 20. Fish and Game tries to return employees who have been laid off to their previous levesla as quickly as possible. Mr. Moberly added that the Hatchery Manager job is important because the Snettisham hatchery is highly visible and has an inventory of several million fish. Mr. Young would be expected to work at the position, not just draw a paycheck while looking for other employment. Mr. O'Claray asked what the timing on the offer was. Mr. Moberly replied that the offer was made about a week ago, immediately after the position became vacant.

Mr. Young challenged Mr. Moberly's statement that there had been no other positions available. He added that when he inquired about the Snettisham hatchery manager position, the supervisor told him that he would have to work the register and that he hadn't made his final decision about how he was going to fill the position. Mr. Moberly replied that he had not been able to offer Mr. Young any other position and that the division cannot let one layoff dictate the management of the whole fisheries program. He explained that the division probably would work the register for the hatchery manager position, but that Mr. Young can be placed on it and that the department's policy is to give preference to employees who have been laid off whenever possible.

Ms. Jund pointed out that in private industry scientists have to sign a release stating that if anything develops during their work which is patentable, it is the property of the employer. She asked whether the state had any similar requirement. The answer was no. She asked whether Mr. Young would have lost his effectiveness with the division if the state had had such a policy. Mr. Collinsworth replied that he believed that Mr. Young would not have. Such a policy would be of benefit to the state and would improve the work environment for scientists.

Senator Ray stated that as chairman he believed that any more discussions by the committee would be premature. The commission will hold the matter until there have been final determinations in the proceedings presently going on. He thanked Mr. Collinsworth and Mr. Moberly for attending.

C. CONFLICT OF INTEREST (continued)

The commission returned to discussion of Conflict of Interest from the Issue Summary. Janet Bradley, Director of the Alaska State Human Rights Commission, pointed out that there is a balance between the employer's needs and the employee's First Amendment rights. Ms. Jund asked whether the conflict of interest Personnel Rules were inadequate. If they are, should the commission try to improve them and make employees aware of their terms? Roger Thayer replied that he had tried to write a conflict of interest policy for DOT/PF and the Attorney General's office had said that it couldn't be done because of First Amendment rights. Senator Ray suggested that the commission look at the issue at its next meeting.

D. ACCESS TO STATE EMPLOYMENT

Myrt Charney suggested that it was appropriate for the state to give higher priority to promotional opportunities than to give access to new employees. Ms. Corso pointed out that a supervisor can choose whether to hire from an open competitive list or from an interdepartmental promotional list. Senator Ray stated that the majority of complaints which most legislators receive is that state employment is a closed shop. Once a person finds employment with the state, he is in, but getting in is very difficult. Ms. Bradley added that the Human Rights Commission has been considering the impact of promotional registers on Affirmative Action. Give that a large proportion of the state workforce is white, limiting access to jobs to those already employed is, in fact, a barrier for other persons who include minorities.

Senator Ray summarized correspondence received from Larry Korkowski. Janet Bradley explained that when the Human Rights Commission receives complaints about its own employment practices, they refer the complainant to other organizations including the Blue Ribbon Commission, the Ombudsman, the Division of EEO and the Equal Employment Opportunity Commission.

Senator Ray suggested that in a pure merit system there would be no Affirmative Action program. Employment decisions would be based solely on the person's qualifications. Rep. Fuller asked how many people take advantage of veterans' points. Jim Fisher, Director of the Division of EEO, replied that the state has not done any studies. In the federal government, a large percentage of the workforce - perhaps 25 or 50% - who are veterans have benefitted from the additional points. Senator Ray pointed out that the commission had sponsored legislation last session which limited application of veterans' points to one time. He added that the commission would look further at the issues of employee credits and promotional lists.

The commission considered the state's retirement system laws. Chuck Elrod, Retirement Supervisor, addressed the commission. The state actually has about six different retirement systems. Senator Ray asked whether it would be feasible to merge some of the systems into PERS. Mr. Elrod replied that that was outside his purview. Major problems in PERS are with the temporary service credit for both federal and state employment. The Attorney General has issued three separate opinions stating that temporary service cannot be considered credited service unless the statute specifically includes it. In practical terms, it is difficult to verify pre-1961 earnings and service.

The commission reviewed and discussed the PERS and TRS statutes.

AS 14.25.045. PARTICIPATION BY NATIONAL EDUCATION ASSOCIATION EMPLOYEES

Mr. Elrod reported that there is an Attorney General's opinion which says that including NEA employees in TRS is unconstitutional. The Division of Retirement has identified the employees involved. Future NEA employees will not be covered under TRS.

AS 14.25.060. ARREARAGE INDEBTEDNESS

There is also a problem brewing with the state taking over responsibility for the BIA schools. What retirement arrangements will be made for the classified BIA school employees? That will depend on the terms of the participation agreements between school districts and the state, but it will probably be limited to including service from the beginning of state involvement. There will also be a large financial impact on the system from BIA teachers who retire from the state. The TRS statutes allow a teacher with five years with the state to claim up to 20 years of BIA service. A similar impact will occur in PERS if the state buys the Alaska Railroad from the federal government.

AS 14.20.107. CREDIT FOR ALASKA BIA SERVICE

Mr. Elrod pointed out a loophole in the present statute. A person may have worked for the federal government long enough to qualify for federal retirement. If he then works for the state, he is entitled to buy in five years of that federal service. The statute requires that the state reduce the amount of retirement benefit it pays by the amount

of benefits which the person is receiving from the federal government for the same period of service. However, if the person takes a lump sum payment from the federal government before retiring from the state, there will be no federal retirement benefits. After his state benefits are established, he can repay the amount into the federal retirement system and then be eligible to draw retirement benefits from both systems for the same years of service.

Senator Ray asked Mr. Elrod to prepare proposed legislation to address the double credit for federal service. He announced that the commission would meet again in two or three weeks and would consider applicants for the vacancy in the commission membership as well as the other issues which have been raised.

Senator Ray adjourned the meeting at 4:00 p.m.

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BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

TAPE LOG

Date of Meeting August 30, 1982

Place of Meeting Butrovich Room, Capitol, Juneau, Alaska

Side 3 tapes, both sides

	No.	Subject
Tape 1 Side 1	000-020	Opening of meeting; introduce Mr. Cottingim, Pers. Off Dept P.S.
	023-317	Testimony of Mr. Cottingim and Questions: Sen Ray; Rep. Fuller; M. Charney; J. Pugh; L. Jund; E.Muller; J.Chenoweth: Re: Sgt. Hemmen
	321-665	Testimony & Questions of Dale Young: Re: F & G Position
Tape 1 Side 2	000-037	Sen Ray; J. Chenoweth; Muller; D. Corso; Jund; O'Claray Re: D.Young
	043-060	Corres; Ms. E. Oliver; Chenoweth; Sen. Ray
	064-662	Disc: Sen Ray; Muller; Corso; McMullen; Jund; McCurry; O'Claray Fuller; R.Thayer; Re: Not Recommended for Rehire Evaluations
Tape 2 Side 1	000-180	Disc Cont'd; Retalitory; Conflict of Interest; Cahill; Admin. Hse Rls Recessing for lunch 11:45
	183-747	Introduction/Testimony Don Collinsworth/Stan Moberly Dept F&G
Tape 2 Side 2	000-305	Discussions/Questions Sen Ray; Fuller; D. Young; McCurry; O'Claray; Re: Dale Young
	309-699	Discuss Issues Raised Memo: Hiring Conditions/Conflict Interest: Janet Bradley; O'Claray; Jund; Thayer; Charney; Sen Ray
Tape 3 Side 1	000-220	Discuss EE/Vet's Credits/Suggestion Awards/Merit Increase-Cash Awards Sen Ray; Thayer; Charney; Jund; O'Claray' Bradley; Fisher; Pugh
	227-745	Testimony/Discuss of PERS/TRS with Chuck Elrod Retirement Division; w/Ray; Muller/Fuller
Tape 3 Side 2	000-153	Above Discussion continued
	155-186	Vacancy on Commission; Next meeting 2-3 weeks Meeting adjourned at 4:00 p.m.

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BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT
State Capitol, Juneau, Alaska
March 11, 1982

MINUTES

The meeting was called to order by Senator Bill Ray, Chairman, at 1:35 p.m. The roll call showed Senator Ray, John Chenoweth, Senator Dick Eliason, James Fisher (alternate for Commissioner Hudson), Lois Jund, Ken Kareen, Lynda McCurry, Greg O'Claray, John Pugh and Darlene Livermore (alternate for Cherie Shelley) as present. Representative Jack Fuller, Myrt Charney, and William Huston were absent. Also present were Roger Thayer and Bob Mourant.

The commission reviewed the draft of the 1982 Report to the Legislature and corrected errors and made changes. It was moved that the report as amended be presented to the Legislature. There were no objections and Senator Ray so ordered. The commission adjourned at 3:00 p.m.

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APPLYING FOR A

JOB

WITH THE STATE OF

ALASKA...

WHAT YOU NEED TO
KNOW BEFORE YOU START



10M 11/79

Are you interested in working for the State of Alaska? It may help you in your search for public employment to know something about our state government and its personnel system.

Over 15,000 people are employed by the State of Alaska in the three government branches — Legislative, Judicial, and Executive.

The **Legislative branch** is composed of the elected members of the State Senate and House of Representatives, various legislative agencies and committees, and the staff directly serving them. Its function is to enact laws for the benefit of the people.

The **Judicial branch** interprets the meaning of the laws and the Constitution. It is headed by the Alaska Supreme Court and includes the judges of Alaska's Superior and District Courts as well as the administrative and support staff of the Alaska Court System.

The **Executive branch** is responsible for enforcement and administration of the laws. The Governor is the chief executive officer responsible for managing the affairs of the government and providing necessary public services. To assist him in this task, the Legislature has established fifteen Departments, each one responsible for particular programs.

The majority of people working for our state government are employed in positions within these fifteen Departments. They are involved in keeping the state government operating and providing us with public services. It is ninety-five percent of these positions that comprise the **Classified Service** of state employment.

The State of Alaska has a **merit system** of personnel administration for positions in the Classified Service.

Why have a MERIT SYSTEM?

As residents of Alaska, we pay taxes and, in return, expect our state government to maintain order and provide us with many public services: roads, airports, health services, management of natural resources and so on. The responsiveness of the government, the

quality of public services provided, as well as the most effective use of our tax dollars are all dependent on the quality of the people working for the government. Therefore, we all have an interest in seeing that the best qualified people not only are hired to fill positions in state government, but also that good workers are motivated to stay and make public service a career.

The means of attracting, hiring, and keeping the most qualified people in state government service is through a merit system of personnel administration.

What are some elements of the MERIT SYSTEM?

At the heart of the merit personnel system is the idea that hiring decisions should be based on individual merit. This means that hires are made from among those applicants best qualified to do the job. People interested in a state position must compete with all other interested applicants. They all receive equal consideration in this competition. Each applicant is evaluated on the basis of his/her individual qualifications for the job AND on the basis of how their qualifications compare to those of the other applicants.

Equal employment opportunity is central to the merit system. Each applicant and employee receives fair treatment in all aspects of personnel administration without regard to race, color, religion, creed, national orgin, sex, age, physical or mental handicap, marital status, changes in martial status, pregnancy or parenthood, or other nonmerit factors.

Comparable pay for comparable work is another important principle of the merit system. Salary levels are established according to a plan which takes into account the responsibility and difficulty of the work as it compares to that of existing state job classes. Consideration is also given to conditions in the competitive labor market. The actual salary amount assigned to each level is determined through the collective bargaining process.

Finally, under a merit system, retention of employees is based on the adequacy of their performance as determined by the quantity

and quality of their work, the manner in which it is performed, and their faithfulness to their duties. When first hired in a permanent position, employees are subject to a probationary period. During this "working test period," employees demonstrate their ability to do the work and adjust to the demands of the position. Employees must "pass" this trial period before they earn permanent status. Once employees have permanent status, they are regularly evaluated to ensure that they continue to perform in the expected manner.

How did we get a MERIT SYSTEM?

The basic authority for our merit system is found in the State of Alaska Constitution. It required the Legislature to "... establish a system under which the merit principle will govern the employment of persons by the State." The Legislature then passed Title 39 of the Alaska Statutes, "Public Officers and Employees."

Chapter 25 of this law outlines the merit system organization and establishes the Division of Personnel and Labor Relations (in the Department of Administration) as the state's central personnel agency. The Division is responsible for administering the merit system. The law also provides for the establishment of regulations to govern personnel administration under the merit system. The regulations, known as the Personnel Rules, are adopted by the Personnel Board which is a regulatory body created by this law.

Who is included in the MERIT SYSTEM?

ALL positions in state government are part of the merit system **except** those which Title 39 specifically exempts from all or part of the provisions of the law.

Positions that are totally exempt from the rules and regulations of the merit system are in the **Exempt Service** of state government. The Exempt Service consists of:

- elected and appointed state officials,
- positions in the Legislative and Judicial branches including employees of the State Court System and persons working for the State Legislature or its agencies,
- all University of Alaska employees,

- members of special boards and commis sions,
- the Commissioners of the fifteen Depar ments,
- the masters and crew members aboar the State ferries,
- and certain other positions specificall listed in the law.

Positions in the **Partially-Exempt Service** ar excluded from some of the merit system rule and regulations including those coverin recruitment, selection, appointment, promo tion and separation. Partially-Exempt position include:

- Deputy Commissioners of the fiftee Departments,
- attorneys in the Department of Law,
- those Division Directors specifical listed in Title 39 as well as any s designated by the Governor,
- all employees of the Office of the Gove nor and Lieutenant Governor,
- and certain other positions specifical listed in the law.

The majority of positions in Alaska stat government, however, ARE fully covered b the rules and regulations of the merit syste except where modified by collective bargai ing agreements. These covered positions co stitute the **Classified Service**. Classified Se vice positions are all in the fifteen Departmen of the Executive branch.

There are approximately **8,000** individual positions in the state's Classified Service performing all kinds of work: engineers, nurses, clerk-typists, state troopers, biologists, accountants, and park rangers, to name a few.

These positions are organized by occupation or according to the general type of work (i.e., clerical, physical sciences, administrative). Then, within each occupation, positions are "classified" or grouped together according to the similarities in their duties, responsibilites, and the qualifications required.

Individual positions are grouped together into a single **job class** when (1) they are involved in the same kind of work, (2) are very similar in:

a. their actual duties,
b. how much responsibility they have,
c. the degree of supervision they exercise and receive;

and (3) when the same skills, ability, and background experience or education are needed to do the job.

All positions assigned to a job class are generally treated the same, no matter which of the Departments the positions are in. They all have the same official job class title, the same class specification, the same salary range, and the same minimum qualifications.

There are about 1000 different job classes in the Classified Service.

Job classes are organized into a **job series** if they are in the same specialized line of work, but differ in the level of difficulty or responsibility and therefore in salary range. A job series may be thought of as job classes grouped together in the most natural line of promotion.

Who is responsible for personnel administration in the CLASSIFIED SERVICE?

Each of the fifteen Departments has a personnel office responsible for administering the personnel system in their Department. However, the Division of Personnel and Labor Relations is the state's central personnel agency, with the primary responsibility for statewide personnel administration.

Among other things, the Division of Personnel and Labor Relations recruits, examines, and provides eligible lists of qualified candidates for most of the job classes in the Classified Service.

When filling a vacancy in a Classified Service position, a Department requests an eligible list from the Division of Personnel and Labor Relations. The Division certifies to them the names of available candidates in that job class. The decision of whom to actually hire is made by the Department.

All of the competitive job classes are not "open" to application on a continuous basis. The Division of Personnel and Labor Relations projects the needs of the fifteen Departments and schedules recruitment for each job class so that sufficient candidates are available when a position needs to be filled.

How are positions in the CLASSIFIED SERVICE filled?

Remember, the Classified Service is a merit personnel system with the goal of obtaining the best qualified people in each position. To determine who is best qualified, candidates must participate in a competitive examination process in which they are evaluated as to their relative merit, qualifications, fitness and ability to do the work of the job class.

The competitive examination process has four main elements.

Recruitment

When there is a need to establish or expand a list of qualified candidates for a job class, the Division of Personnel and Labor Relations will open recruitment for that job class.

Recruitment openings are made public so that all interested people have a reasonable opportunity to know about them. Interested persons are given a chance to apply and be considered for the job class.

Recruitment may be open to all interested candidates or it may be limited in some way. For example, some job classes are part of a natural

career ladder and therefore are usually filled through promotion, so recruitment is limited to candidates with permanent status in the Classified Service. If the position to be filled is in a particular location, recruitment may be open only to those candidates interested in working in that location. For some job classes, however, the need for candidates is constant and recruitment is open continuously.

Application

In order to obtain candidates that have the best potential for success in a position, job related minimum requirements have been established for each job class. The requirements are related to the knowledges, skills, abilities, and other characteristics needed for successful job performance. The minimum requirements are usually a statement of the amount, type, and level of experience or formal education that is needed to qualify for the job class.

Each applicant must possess the minimum requirements and be considered "qualified" before they can continue in the examination process.

Examination

Since the goal is to find the best qualified applicant, there must be a method for drawing distinctions among the qualifications of competing applicants.

A specific examination procedure has been designed for each job class to evaluate and determine the relative merit, ability, capacity, and fitness of competing candidates.

Written tests are not the only method used in the examination process. Other evaluation methods include performance tests, a rating of promotability, or an evaluation and rating of training and experience. A combination of these methods with each

other or with written tests may also be used for a job class.

Qualified applicants must pass all parts of the examination process. Successful applicants receive a final score or rating based on the results of the examination. Their names are then placed on an eligible list for the job class, ranked in the order of their final score.

Certification

When a department has an opening, they inform the Division of Personnel and Labor Relations of the job class of the position and where in the State it is located.

The Division certifies the eligible list to the Department with names of candidates for that job class who have indicated they are available for positions in that particular location. The person in the Department responsible for hiring "works" the eligible list. This may involve reviewing candidates' applications, arranging interviews with some or all of the candidates, and checking past work history and references. If a selection is made from the list, it must be from among the top five candidates who are interested and available for the position.

How do you apply for the **CLASSIFIED SERVICE?** What you need to do and where to go for information is described in detail on following pages.

Very briefly, the steps are as follows:

1. Find out what job classes are "open."
2. Complete an application for EACH job class you are interested in.
3. Complete the examination process.
4. Receive Report of Exam Results.
5. Interview/Selection.

1. Find out which job classes are currently open for application.

Recruitment for job classes is advertised on recruitment bulletins and in a booklet called *JOBS*. Advertisements are also sometimes placed in the newspaper or on the radio or a special pamphlet is distributed.

You may apply ONLY for those job classes which are described on recruitment bulletins or in the *JOBS* booklet. If the job class is not described in one of these places, we are currently not accepting applications. If you send in an application, it will be returned to you.

The recruitment information gives a short description of each job class, the minimum qualifications that you need, the salary, and where the positions are located.

When you are deciding which job classes to apply for, choose those that are in locations you are willing to work. Also, read the minimum qualifications carefully and apply only for those job classes for which you are fairly sure you qualify.

Recruitment bulletins and the *JOBS* booklet are available in the Division of Personnel and Labor Relations offices in Juneau, Anchorage, and Fairbanks and at all State Employment Centers (addresses on the last page).

In smaller towns the mayor, postmaster, or school may receive recruitment information. Chances are

recruitment information is available at the place you picked up this booklet.

If you do not know where to find recruitment information in your town, write to the following address to find out:

Recruitment Coordinator
Division of Personnel and Labor Relations
Pouch C
Juneau, Alaska 99811

If recruitment information is not available in your town or village, write to the Recruitment Coordinator at the address above and ask for help in applying. When you write, include the type of work you want, the places in Alaska you are willing to work, your education, and your work experience. The Recruitment Coordinator will write back to you suggesting the kinds of jobs you can apply for.

2. Completing the Application.

You need to fill out and submit a separate State of Alaska Employment Application (form 02-250) for each job class you wish to apply for. You can get applications from Division of Personnel and Labor Relations offices, State Employment Centers, from any Department personnel office, and many other state offices.

The application form is an important part of getting a job in the Classified Service. Fill it out carefully and accurately. The information you include is usually the only basis for determining whether or not you meet minimum qualifications.

Listed below are explanations and instructions for some sections of the application form. The numbers correspond with the numbered sections on the State application form (revision date 9/79). Other items on the form are self-explanatory and are not listed here.

#1. POSITION APPLYING FOR

Use only the title that you found in the recruitment information. Only one job class title can be used for each application unless the announcement specifically states that you may apply for several job classes using one application.

#3 and #5. MAILING ADDRESS and TELEPHONE NUMBERS

List your CURRENT mailing address and telephone numbers. Should your mailing address or telephone numbers change any time after you submit your application, BE SURE to write to the Division of Personnel and Labor Relations and inform them of the changes.

The Division needs to provide current address and telephone information to hiring Departments so they are able to contact you about possible job openings. Your failure to promptly report any address and telephone number changes may result in your losing the opportunity to be considered for a particular job and the state losing the opportunity to hire a well-qualified employee.

#4. SOCIAL SECURITY NUMBER

You are not REQUIRED to put your social security number on the application. The Division of Personnel and Labor Relations uses the number as a cross check to separate the files of people with the same or similar names. The computer also uses social security numbers to sort names of candidates when it produces an eligible list.

Social security numbers must be provided at the time of hire to enable the State to make required payroll deductions.

#6. RESIDENT OF ALASKA

A person applying for a state job is considered a resident if he/she is domiciled in Alaska at the time of application. This means that your true and permanent home must be in Alaska; that you have no present plans of moving from your home in Alaska; and that whenever you are away you intend to return. Should there be any questions about your domicile, you will be asked to complete a residency affidavit.

If, after being placed on an eligible list, you change your residence to outside of

Alaska, your name may be removed from the list until you resume residency in Alaska.

Residents of Alaska are given preference in all appointments to the Classified Service. Since there are usually enough qualified Alaskans available to meet the state's employment needs, most job classes are not open for recruitment outside Alaska. We accept applications from non-Alaskan residents only for those job classes for which we have been unable to find qualified Alaskans (about 2% of the job classes).

#8 *I AM APPLYING FOR*

There are two types of positions in the Classified Service, **permanent** and **nonpermanent.**

Permanent positions are established when there is a continuous and on-going job that needs to be done. There are three kinds of permanent positions:

- Permanent full-time. Work hours are 37.5 hours per week, year round.
- Permanent seasonal. Jobs that last a few months each year. Usually they are 37.5 hours per week.
- Permanent part-time. Work hours are 30 hours or less per week, year round.

Nonpermanent positions are limited by time or by the special nature of the work. There are three kinds of nonpermanent positions:

- Temporary jobs that last for 120 days or less.
- "Project" or "program" positions which may last longer than 120 days. Before a person is hired, they are told how long the job will last.

- Temporary substitute for a permanent employee on leave. The job lasts until the regular employee returns.

Employees in permanent positions are eligible for certain benefits (such as earned leave, participation in the retirement program, and the like) that people in nonpermanent positions do not receive.

Look for information in your local State Employment Center or Division of Personnel and Labor Relations office about the kinds of nonpermanent positions that will be available.

#11. EEO INFORMATION

You do not HAVE to complete this section. This is voluntary information and failure to provide it will not subject you to adverse treatment. However, if you do, you will be helping the State of Alaska gather needed information required by federal and state laws.

#12. CERTIFICATION

BE SURE TO SIGN AND DATE YOUR APPLICATION **IN INK**. If it does not have an original signature, we will return it to you.

When you sign your application, this signifies that all of the information you have included is true and correct to the best of your knowledge. You may be disqualified for consideration for any or all job classes in the Classified Service if you deliberately enter false or misleading information on your application.

#13. WORK HISTORY

Describe all the jobs you have held, beginning with the most recent one. When describing your experience, including volunteer experience, be sure to complete all the blanks: starting date (month/year), ending date, hours worked per week, and so on.

If you were in the military, list separately each new duty assignment in which you had substantially different duties. Include your military ranks and the dates you held them.

Give detailed information about the duties and responsibilities of each of your jobs. Be specific. Do not use general terms or "jargon." Describe your previous work in terms of activities you had. Explain your supervisory or management duties (if any), what kinds of decisions you made, or how much supervision you received.

For many job classes, the examination procedure includes a score based on your previous training and experience. The information you provide in your application will be the only basis for this score.

If you have a detailed resume, it can be a helpful supplement to your application. Please do not try to use your resume to avoid completing the application.

#14. *VETERAN'S PREFERENCE CLAIM*

Active duty for the purpose of determining Veteran's preference points is defined as:

> periods during which members are assigned by written orders to perform military duties on a full-time basis for an enlistment period that has been determined prior to taking the oath of enlistment.

Active duty which is performed for training purposes (i.e., Basic Training, Military Occupational Training, and Summer Camp) while a member of a reserve component is not qualifying "active duty" status for Veteran's preference points. Members of reserve components who have served on "active duty" for a period of 90 consecutive days or more, as distinguished from "active duty for training", qualify for Veteran's Preference points.

#15. *CONVICTIONS*

If you have been convicted of a misdemeanor in the last five years or felony in the last ten years, please explain it on a separate sheet of paper.

Whether or not this affects the action taken on your application during the examination process depends on the recency and type of conviction and its relatedness to the job class you are applying for. (For instance, since convicted felons may not carry a hand gun, they are not eligible for such job classes as State Trooper Recruit or Correctional Officer I).

A conviction will not automatically cause your application to be rejected.

#20. *EDUCATION AND TRAINING*

In **Section A**, list the names and addresses of colleges you have attended.

Minimum qualifications for state job classes often state that "education will substitute for required experience on a year-for-year basis." A bachelors degree is equated to four years of experience and an associate degree is equivalent to two years of experience. Undergraduate study that has not ended in a degree is counted at the rate of 32 semester hours or 48 quarter hours equals one year. For graduate study, 24 semester hours or 36 quarter hours equates to one year.

When the minimum qualifications state "college graduation", this means a four-year degree is required.

In order to be used to meet the minimum qualifications for a job class, college study must have been from a college or university accredited through one of the regional accrediting associations.

Credits earned from a nonaccredited college can be counted if they are recognized and transferable to an accredited college or university. In such

cases, it is the responsibility of the applicant to provide verification that an accredited institution will accept the credits in question.

In **Section B**, list any training you received at a vocational, technical, business or correspondence school. Typically, these schools do not give semester or quarter credits like colleges do. Therefore, you should list the number of hours that you spent in the classroom or, if it was a correspondence study course, list the number of assignments you have completed.

These kinds of training are equated to work experience on an hour for hour basis; i.e., one hour spent in a classroom equals one hour of work experience.

The training can count toward meeting minimum qualifications only if was from an approved school. This means the school must be approved by one of the accrediting groups recognized by the Council on Post Secondary Education.

#21. *TRANSCRIPTS AND SUPPLEMENTAL INFORMATION*

Transcripts are not always required, but you are encouraged to include them with your application. If we need to verify the courses you took, we may ask you for them. Transcripts are most commonly needed if: (1) the job class you have applied for requires a certain number of hours in a particular field (such as 15 semester hours in accounting) or (2) if your college degree is not the major specified in the minimum qualifications but is "closely related" to it. In such cases, the coursework on your college transcripts will be compared to the coursework needed for that major.

If you are including a resume with your application or have submitted one with a previous application, mark the appropriate box in the "Supplemental Information" section.

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#22. TYPING CERTIFICATION

When you complete the statement indicating how many words you can type and sign your name to it, this is your assurance to a prospective employer of how fast and well you can type. You will be asked to take a typing test if any doubts arise as to your typing ability. If you are uncertain of your current typing skill, you can make arrangements to take a typing test through most State Employment Centers.

#23. CONDITIONS OF EMPLOYMENT

Work Location: List the cities, towns, or villages in which you would like to work. (Do not list regional areas, list only specific places). You will be considered only for positions that are in the locations you have marked.

Note: ANY means just that, including many rural areas. If you mark ANY and then are not willing to accept a position in any location offered, your name may be removed from the eligible list.

Department: You have more opportunities to be called about a job if you are willing to work for ANY Department. However, if you do **NOT** wish to work for a certain Department, mark it on the application. Again, should you indicate that you are willing to work in ANY Department and then not accept a position because of the Department it is in, your name may be removed from the eligible list.

After you have completed your application, you should keep a copy of it and your transcripts. You may need them later to apply for a different job class or to take with you to a job interview.

Submit your completed application to one of the Division of Personnel and Labor Relations offices in Juneau, Anchorage, or Fairbanks.

3. The Examination Process

When the Division of Personnel and Labor Relations receives your application, it is first checked to make sure:

a. you have used an official job class title
b. the job class you are applying for is open for recruitment
c. you have signed the application in ink
d. you are an Alaskan resident

Your application is **"accepted"** for processing by the Division of Personnel and Labor Relations only after it passes this first check. If it does not pass this check, it is returned to you with a note explaining why or what is missing.

Accepted applications are examined by trained Personnel Technicians. The Technicians compare the training and work experience you describe in your application to the training and experience required by the job class you applied for. They determine if you possess the minimum amount, level, and kind of training and experience required to **qualify**.

If you do not qualify for a job class, you are sent a letter explaining what additional training and/or experience you need to meet the minimum qualifications.

You and your application proceed in the **examination process** only if you meet the minimum qualifications and are therefore qualified for that job class.

Keep in mind that there are different types of evaluation methods used in the examination process. The specific examination procedure for any one job class can involve one or a combination of the following:

Written test:

All written tests are multiple choice. The *Examination Contents* booklet, available at Division of Personnel and Labor Relations offices, lists the job classes that require written tests and the kinds of questions that are asked on each test. If the job class you applied for has a written test, you are mailed a notice informing you when and where to take the test. People living outside the vicinity of Anchorage, Fairbanks or Juneau are told whom to contact in their area to make testing arrangements.

Evaluation of training and experience

Your application is all that is needed for this method of examination. A Personnel Technician evaluates the training and experience you have described in your application and compares it to a reference sheet specifically developed for that job class.

A reference sheet is a scoring chart which lists the kinds of education and experience that would be useful preparation for doing the work of the job class. Points are assigned to each kind of work based on how relevant and useful that kind of background is to the job class.

The Personnel Technician matches your education and experience to the education and experience listed on the reference sheet. From this the number of points that should be included in your final score is determined.

The reference sheet and point values assigned to experience and training are different for each job class. If you apply for several different job classes, you will most likely get a different score for each one. This is because your training and experience are not equally useful preparation for all job classes.

Performance tests

You must physically demonstrate that you possess a skill or ability required for the work of the job class. If you need to take a performance test, you are mailed a notice informing you when and where to report.

Rating of Promotability

Positions in some job classes are nearly always filled by promotion from lower levels in the same job series. For these job classes, part of the examination process is an evaluation that must be completed by the applicant's supervisor(s). We send the evaluation form to your supervisor.

If you are applying for a job class which uses a combination of these methods, you must pass each one in order to continue in the examination process.

You are given a score based on the results of the examination process.

4. Receive "Report of Exam Results"

You are sent a "Report of Exam Results" form for each job class you apply and qualify for.

A score is entered for each type of evaulation method used in the examination process. BELOW PASSING is stamped in red if you failed any one of the tests.

The column to the right of each score indicates what percentage that score is of your "average" score. The average score consists of these individual scores, averaged together according to the weight (or percentage) each part has been assigned.

There are two kinds of "extra" points which may be added to the average scores of people who are eligible for them — Veteran's Preference points or Employee Credits. Veteran's Points are given only for entry into the Classified Service. If you already have a permanent position in the Classified Service, you will not have Veteran's Points added to your score. Employee Credits are awarded only to employees currently working in a permanent position in the Classified Service. They must have satisfactorily completed their probationary period and achieved permanent status before they can earn Employee Credits.

The number entered in the box marked FINAL SCORE is the average score plus Veteran's Points or Employee Credits. Unless you are eligible for these extra points, your final score will be the same as your average score.

Names are placed on the eligible list in the order of final score. If you got a higher score than most candidates, your name will be placed high on the list. If you got a low score, your name will appear lower on the list. Your place on the list is called your rank.

Once you complete the examination process for a job class, it is "good" for two years. Your name will stay on the eligible list for that length of time. This is the maximum amount of time that the examination process is considered valid for any job class. Over

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the course of two years you may gain additional work experience or new and different types of knowledges and skills. Therefore, you need to be reexamined for a job class after two years to take into account the changes in your relative qualifications.

5. Interview/Selection

You have received a Report of Exam Results form from the Division of Personnel and Labor Relations for a job class. This means your name has been placed on the eligible list of qualified candidates for that job class, ranked in the place your final score has "earned" you.

Now, you wait to be contacted about a job opening in that job class. The contact, in the form of a telephone call, letter, or telegram, will come from whatever Department the vacant position is in. Whether or not you are contacted will, of course, depend on certain other conditions: your rank on the eligible list in relation to all other candidates on that list, if there is a vacancy in the locations you wish to work, and so forth.

You will be asked to let them know if you are interested in the particular position they have open. It is very important that you always respond to these contacts, even if you are not interested in the position. Otherwise, your name may be removed from the active eligible as someone who is currently not interested in positions in that job class.

The Department representative may arrange to interview you and ask you to bring a copy of your application and/or transcripts to the interview. If you are selected to fill a position, the hiring Department will inform you of when and where to report.

The Division of Personnel and Labor Relations is **NOT** responsible for contacting, interviewing, and hiring employees for the Classified Service. This is the responsibility of the managers of the fifteen Departments.

A. Staying on an eligible list.

Your name may be taken off an eligible list and placed in the inactive file if:

- -- you do not reply to a letter or telegram about an opening
- -- you move and do not send us a written note of your address change
- -- you refuse a job that is offered to you under conditions you stated on your application you would accept
- -- you take a position in the Classified Service at the same or higher salary range
- -- you are not available for employment
- -- your Alaskan residency has changed

If your name is taken off the "active" eligible list, we write and inform you of the reason. You may request in writing that your name be returned to the active eligible list at any time within your two year period of eligibility. Be sure to include in the note the locations(s) you want to work and whether or not you would like to work for all Departments.

It is **extremely** important that you remember to:

- -- always report address or telephone number changes in writing to the Division of Personnel and Labor Relations. Otherwise, we cannot provide correct information to the Departments so they can contact you.
- -- always answer a letter or telegram concerning a job class.

Your name may be completely removed from an eligible list for reasons which include the following:

- -- you made a false statement of material fact in your application.
- -- you are dismissed from public service for delinquency, misconduct, unsatisfactory performance of duties, or other similar cause.
- -- you use or attempt to use political pressure or bribery to secure an advantage in the examination or selection process.

- you have unsatisfactory references that result in your rejection by one or more hiring Departments.

- two or more Departments request that your name not be certified to them again after they have considered but not selected you from three separate certified lists.

- you directly or indirectly obtain information regarding examinations to which, as an applicant, you are not entitled.

B. Reapplying.

If you would like to try for a better score in a job class, you may reapply and be reexamined if:

1. recruitment is still "open" for the job class.

2. three months have passed since you first completed the examination process for the job class.

You must request to be reexaminined in writing. Include any additional work experience or education you have gained since the last examination process. If more than a year has passed since you first applied, you need to complete a new application.

ALL portions of the examination process must be repeated. If your original score included a Training and Experience rating, your application will be reexamined for this again. If you took a written test before, you will need to take the written test again.

BE AWARE! The newest score will be used, whether it is higher or lower than your original score.

C. If you fail a written test.

You may retake the written test. The same conditions apply as stated above for reapplying. The job class must be open for recruitment, you must wait three months, and all portions of the examination process must be repeated.

D. The Appeal Process

If you receive a letter telling you that you do not have the required experience and/or education as stated in the mimimum qualifications for a job class you applied for and you feel an error has been made, you may appeal this determination.

Your appeal should be in the form of a letter to the Personnel Technician who examined your application. Please explain why you think you meet the required qualifications for the job class. Include any additional details about your previous work experience and/or education that you might not have included in your original application.

Your application will be reviewed by the Technician's supervisor and you will be informed of the results of the reevaluation.

If you do not agree with the supervisor's determination, you can appeal at three more levels: to the Chief of the Recruitment and Examining Section; then to the Deputy Director of Personnel; and finally, to the Director of Personnel and Labor Relations.

The previous section described application procedures for the majority of job classes in the Classified Service. The Division of Personnel and Labor Relations is primarily responsible for recruiting, examining, and certifying qualified applicants for positions in these job classes.

There are, however, other positions with the State of Alaska for which the application procedures are different and you need to apply elsewhere. This section lists addresses where you may write for information about applying for these other types of positions.

CLASSIFIED SERVICE

Jobs in Labor, Trades, and Crafts

The collective bargaining agreement between the State of Alaska and the Alaska Public Service Employees' Local # 71 (AFL-CIO) includes a hiring hall provision. Certain kinds of positions such as heavy equipment operators, carpenters, plumbers, maintenance workers, electricians, cooks, and housekeepers are filled by referral from their hiring halls.

For more information contact the nearest Alaska Public Service Employees' Union Hall.

Alaska Public Service Employees' Local 71
114 South Franklin Street
Room 103
Juneau, Alaska 99801
Telephone: 586-6993

Alaska Public Employees' Local 71
3400 Spenard Road
P.O. Box 4-1535
Anchorage, Alaska 99509
Telephone: 276-7211

Alaska Public Service Employees' Local 71
208 Wendell Street
Room 205
Fairbanks, Alaska 99701
Telephone: 452-5024

Delegated Job Classes

For certain job classes, an operating Department has been delegated responsibility for accepting applications.

The majority of these are highway engineering positions for which the Department of Transportation and Public Facilities accepts applications. Other Departments that cur-

rently accept applications for classified positions are Administration, Fish and Game, and Health and Social Services.

A list of job classes recruited by hiring Departments is in the front section of the *JOBS* booklet. You can write to the personnel officers of the Departments listed above (addresses inside back cover) for specific information.

PARTIALLY-EXEMPT SERVICE

There is a small number of partially exempt positions in each of the fifteen Departments. To inquire about partially-exempt positions, contact the personnel officer of the Department(s) you are interested in working for.

Nearly all positions in the Office of the Governor and Lieutenant Governor are partially-exempt. Attorney positions in the Department of Law and in the Public Defender's office are also partially-exempt.

To ask about any of these postions, you may write to:

Personnel Officer
Office of the Governor
Pouch A
Juneau, Alaska 99811

The address for the Department of Law is:

Personnel Officer
Department of Law
Pouch K
Juneau, Alaska 99811

EXEMPT SERVICE

Jobs on State Ferries

Applications for unskilled workers such as stewards and ordinary seamen are accepted only once per year, usually during the month of February. Applications for licensed marine officers, engineers, and able-bodied seamen are accepted year-round. For more information write to:

Personnel Officer
Division of Marine Transportation
Pouch Z
Juneau, Alaska 99811
Telephone: 465-4050

The Legislative Branch

The Legislative Branch employs a number of full-time and

temporary workers. The full-time employees work for the Legislative Affairs, Legislative Audit, or Legislative Finance agencies. A large number of temporary employees are hired when the Legislature is in session. Application can be made in person or by sending a resume or State Employment application to:

Personnel Officer
Legislative Affairs Agency
Pouch Y
Juneau, Alaska 99811
Telephone: 465-3854

If you apply while the Legislature is in session, your resume can be sent to a particular legislator at the following address:

Name of Legislator
Pouch V
Juneau, Alaska 99811

Generally most hiring is completed by the first week of the legislative session.

The Judicial Branch

The Alaska State Court System employs approximately 500 people statewide. They continuously recruit for three types of openings that constitute 70% of their hiring: Clerical Aide, Court Clerk I and Court Clerk II.

To get an application or to inquire about job openings, write:

Attention: Personnel
Alaska State Court System
Pouch K
Juneau, Alaska 99811
Telephone: 465-3420

Attention: Personnel
Alaska State Court System
303 K Street
Anchorage, Alaska 99501
Telephone: 264-0570

Attention: Personnel
Alaska State Court System
604 Barnette Street
Fairbanks, Alaska 99701
Telephone: 456-4387

ALASKA STATE EMPLOYMENT CENTERS

ANCHORAGE
2636 Spenard Road
P.O. Box 2240
Anchorage, AK 99503
Phone: 277-2491

BARROW
P.O. Box 525
Barrow, AK 99723
Phone: 852-4500

BETHEL
P.O. Box 187
Bethel, AK 99559
Phone: 543-2210

DILLINGHAM
P.O. Box 261
Dillingham, AK 99576
Phone: 842-5579

FAIRBANKS
22nd and Cushman
P.O. Box 1010
Fairbanks, AK 99707
Phone: 452-1893

GLENNALLEN
P.O. Box 145
Glennallen, AK 99508
Phone: 882-3350

JUNEAU
123 Seward Street
Juneau, AK 99801
Phone: 586-1150

KENAI
Drawer 1091
Kenai, AK 99611
Phone: 283-3140

KETCHIKAN
P.O. Box 7878
Ketchikan, AK 99901
Phone: 225-3181

KODIAK
P.O. Box 1546
Kodiak, AK 99615
Phone: 486-3105

KOTZEBUE
P.O. Box 295
Kotzebue, AK 99752
Phone: 442-3280

MAT-SU
Pouch Z
Wasilla, AK 99867
Phone: 376-2407

NOME
P.O. Box 161
Nome, AK 99762
Phone: 442-2626

PETERSBURG
P.O. Box 389
Petersburg, AK 99833
Phone: 772-3791

SEWARD
P.O. Box 875
Seward, AK 99664
Phone: 224-5276

SITKA
P.O. Box 1189
Sitka, AK 99835
Phone: 747-3423

TOK
P.O. Box 439
Tok, AK 99780
Phone: 883-4221

DEPARTMENT PERSONNEL OFFICES

DEPARTMENT	LOCATION
OFFICE OF THE GOVERNOR Pouch A Juneau 99811 465-3546	Capitol Bldg Room 309
ADMINISTRATION Pouch C Juneau 99811 465-4402	State Office Bldg 10th Floor
EDUCATION Pouch F Juneau 99811 465-2880	State Office Bldg 6th Floor
REVENUE Pouch SA Juneau 99811 465-2307	State Office Bldg 11th Floor
COMMERCE AND ECONOMIC DEVELOPMENT Pouch D Juneau 99811 465-2507	State Office Bldg 9th Floor
MILITARY AFFAIRS Pouch L Juneau 99811 465-4602	Goldstein Bldg 5th Floor Rm 508
NATURAL RESOURCES Pouch M Juneau 99811 465-2410	State Office Bldg 11th Floor
LABOR Box 1149 Juneau 99811 465-2794	Seaplane Bldg 3rd Floor
FISH AND GAME 221 S Franklin St Juneau 99811 465-4140	Miner Publishing Bldg 2nd Floor
PUBLIC SAFETY Pouch N Juneau 99811 465-4365	Public Safety Bldg 450 Whittier Street
TRANSPORTATION AND PUBLIC FACILITIES Pouch Z Juneau 99811 465-4045	Glacier Ave Bldg 159 Glacier Ave
ENVIRONMENTAL CONSERVATION Pouch O Juneau 99811 465-2076	3.5 Mile Egan Drive
LAW Pouch K Juneau 99811 465-3695	Capitol Bldg Room 410 120 4th Street
COMMUNITY AND REGIONAL AFFAIRS Pouch B Juneau 99811 465-4727	150 3rd Street Room [illegible]
HEALTH AND SOCIAL SERVICES Pouch HO2B Juneau 99811 465-3068	Alaska Office Bldg Room [illegible]

DIVISION OF PERSONNEL AND LABOR RELATIONS

JUNEAU
Pouch C
Juneau, Alaska 99811
465-4430

FAIRBANKS
675 7th Avenue Stn. J
Fairbanks, Alaska 99701
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ANCHORAGE
3341 Fairbanks Street
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THE STATE OF ALASKA
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NOVEMBER 1979

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government instead. He added that he did not know whether it would be possible under federal and state regulations. Senator Ray said that it would be better if there were a requirement in the job description which would correct the problem. Where there's a job in an area where the dominant language is Yupik, then for a position which is supposed to serve the people, there should be a requirement that the state employee speak Yupik.

Mr. Kareen pointed out that in order to make that requirement under the human rights laws and the federal equal employment opportunity laws, the state would have to show that speaking both languages was a bona fide occupational qualification. In villages in which almost everyone speaks English or for jobs like Fish and Game Technician which don't require talking with people as part of the job, a language requirement would probably run into difficulties. The situation is different for jobs requiring interviewing local people and gathering information from them. In answer to a question from Ms. Jund, Mr. Kareen explained that Village Safety Officers are employed by the villages under funds that are granted to them by the state. The village selects the individual who is trained by the state but remains an employee of the village.

Senator Ray proposed that the commission recommend that knowledge of the predominant language be a job requirement for rural positions requiring communications and knowledge of the cultural background. The commission should further point out that in jobs with no emphasis on communication, the regular job requirements should apply. It would be good business for the state. Mr. Blank suggested that the recommendation should go further, and Senator Ray replied that constitutionally the commission could not go any further. He added that he fought for Alaska hire, but that he would not support a situation which sets one Alaskan against another.

Senator Ray thanked Mr. Blank and asked if there was anyone else wishing to give testimony.

Sandra Borbridge spoke to the commission about discriminatory practices in the hiring of not only minorities and women, but minority women. She identified three areas: entry into state employment through the registers; the availability of unemployment benefits for women who are seeking administrative positions; and the attitude of Department of Labor employees towards Native applicants and Native organizations.

Ms. Borbridge suggested that there should be a central information clearing house for state positions. When she first went to the Juneau Employment Center a year ago, she completed an application, had an interview and was classified as eligible for an administrative position. From that time to the present she has never been informed about the state register, and she still does not know what it is.

On the availability of unemployment benefits to women seeking administrative positions, she related her own experience. When she interviewed with the Juneau Employment Center after becoming unemployed, she was classified as seeking an administrative position. The application asked whether she could type. Before she would answer, she asked whether that would affect either referrals for employment or her unemployment benefits. She was told that it would not, so she said that yes, she could type. She was later referred to a clerical job requiring that she type 30 percent of her time and paying only 60 percent of her previous wages. She refused that job referral because it would be a waste of both her and the employer's time. One week later she received notice from the state unemployment office that her benefits would be cut.

Then she went through a second referral. She went into the Job Service Center office and spoke with the interviewer about the job requirements. When she objected to the typing, the interviewer agreed that she would be overqualified for the position and that she should not bother to go for an interview. So there were two different policies within the Center.

Ms. Borbridge appealed the denial of unemployment benefits. At the arbitration hearing the initial decision was upheld. In an appeal to the Commissioner of Labor, the decision was overturned because she should not have been referred to a clerical job. Ms. Borbridge said that many women do not have the financial means to wait for an appeals decision, and so they accept clerical jobs. Women should not be penalized for wanting challenging work even if they know how to type.

Ms. Borbridge spoke about the attitude of people working in the Juneau Employment Center and in the Department of Labor towards Natives and Native organizations. In 1975, she completed an application and stated her minimum salary requirement. She was asked whether that wasn't a little high for someone with her education and experience. She was also told that she was acting a little "spoiled". A week later she was offered a job with a private firm at a salary higher than her minimum requirement. During the hearings on her unemployment benefits, someone mentioned that Native organizations overpay their employees. She found the statement uncalled for, unprofessional, and reflective of attitudes which she and others, as Natives, encounter. Until these three different problem areas are addressed, Ms. Borbridge suggested that problems will continue to exist.

Senator Ray asked Mr. Kareen to explain the register system to Ms. Borbridge. Mr. Kareen said that when individuals apply for a job with the state, they go through an examining process. Based on the score they receive, they are posted on a register, also called an eligible list. When a vacancy opens in that job class, the Division of Personnel issues an eligible list to the department with the vacancy. The list ranks the names of all those people who are interested in that job class and have passed the test. Then the department proceeds from that point to contact the individuals on the list, interview them and make a selection.

Ms. Jund suggested that there hasn't been a central place where people can go to find out what jobs are available, how to apply

Alaska State Legislature

JUNEAU, ALASKA

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

Senator Bill Ray, Chairman

Pouch YG
Mail Stop 3123
Juneau, Alaska 99811
(907) 465-4442

MEMORANDUM

March 8, 1982

TO: Members of the Blue Ribbon Commission

FROM: Teresa B. Cramer
Administrative Assistant

SUBJECT: Corrected Minutes for December 21, 1981

In preparing the final copies of Minutes for the Commission meeting of December 21, 1981, we inadvertently left out material on three mag cards. Please discard the copy you previously received and replace it with this corrected copy.

TBC:lmk

Attachment

BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT
State Capitol, Juneau, Alaska
December 21, 1981

MINUTES

The meeting was called to order by Senator Bill Ray, Chairman, at 10:00 a.m. The roll call showed Senator Ray, Representative Jack Fuller, John Chenoweth, Senator Dick Eliason, Lois Jund, Ken Kareen, Roger Thayer (alternate for Lynda McCurry), Fred Muller (alternate for Commissioner Hudson), Greg O'Claray, John Pugh and Doryce Eggleston (alternate for Cherie Shelley) present. Myrt Charney and Bill Huston were absent. Also present was James Fisher.

Senator Ray asked for public testimony. Charlie Mae Moore addressed the commission. She said that she represents a conglomerate of people who asked that she speak. She works for the Department of Education and has been employed in the field of education in Alaska for 28 years. For a period from 1970 to 1978 she served on the Governor's EEO Commission. For three or four years, the Commission worked closely with the state personnel office, and conducted an overview of the personnel system. Ms. Moore worked for the division for one summer and looked at minimum qualifications and requirements for jobs. She discovered one that she hasn't forgotten. A firefighter couldn't fight a fire unless he was 5'8" tall, which she found ridiculous. The EEO Commission was able to work with the personnel office to resolve some of these instances.

In the course of her tenure with the EEO Commission, Ms. Moore said that she became very upset and disturbed for people who came to her and the other commissioners because they couldn't get on with the state system or because they had been with the system for a long time but couldn't move. The EEO Commission did not have enforcement power, so there was nothing that they could do but listen to people. She began to question what they were accomplishing. Through the personnel division, they were able to do some things. They came up with some specific recommendations which the Governor considered and implemented. They revamped the employment application. But problems still remain.

Women employed in ranges 9 to 15 are generally unaware of the possibility of a career ladder. They are provided with very little orientation to the job and they feel frustrated because they do not get enough career counseling. They aren't advised of their function, of what the state government is about and as to their role. So they become discouraged. Ms. Moore suggested that the 18 departmental personnel offices need to relate more to people, especially to women.

Minorities are underutilized in state government. Ms. Moore said that she was concerned about qualified people being hired and then being able to move forward. The buddy system has become more sophisticated in the State of Alaska but it is still used. It is disturbing to see a job advertized when there is already someone who has been chosen for the position.

On middle management, Ms. Moore pointed out that minorities seem to be trapped in ranges 9 to 21. They can never shake that 21. She said that she wasn't asking for preference, but she was talking about qualified people who are productive employees, who commit themselves to take on more to get the job done. Employees should not fear that they will be retaliated against if they speak out about problems. When setting EEO goals, women should be kept as a separate category from minorities. Advancing women does not satisfy the need to advance minority people.

Ms. Moore said that there has been some strengthening in the personnel system, particularly in career counseling. Employees understand what the requirements are for promotions and what classes they might take to become eligible for better jobs. In some cases, classes are paid for to enhance an employee's performance in his present job.

Ms. Moore said that she has talked with people who have said that all they are interested in as far as the departmental Affirmative Action Plan, is to have the plan approved. If things are going to happen, it means more than having the paper produced and getting the Governor's signature on it. Another state employee came out of an EEO meeting and said that he couldn't wait to get out of there. Attitude is what really bothers her, said Ms. Moore. She asks three things: that minority people are thought about, that they be given an opportunity, and that the Blue Ribbon Commission be endowed to do some of the things that EEOC couldn't do -- to act to correct the problems which were identified.

Senator Ray asked Ms. Moore whether she had any recommendations for overcoming the subtleness of discrimination which can happen when an office has five caucasian employees and one minority group employee and the five employees make the office a miserable place for the one minority person.

Ms. Moore replied that she didn't have an answer to that kind of sophisticated discrimination. She also worries about verbal abuse, which can destroy a person. She was once subjected to it and became so angry that tears came to her eyes, and yet, one hour later, the person who had done it was perfectly friendly. People who discriminate can stay within the guidelines so that there is no avenue of recourse open to the person injured, and yet still be effective. She said that when she has been told of problems in her office, she will act as an intermediary to tell the person who did it that the other person is upset, and that he should talk with the other person. Sometimes they are unaware of the effect of what they have done. One-on-one contact is important, to provide some encouragement and to alleviate frustration. Personnel officers or supervisors can fill this role. If minority people find only putdowns and embarrassment in their jobs, they will leave, even if its more money than they've ever made in their lives. Having someone to talk with personally can allay fears of discrimination and show that a new policy is affecting all employees, or that one individual is like that with everyone, not just the minority employee.

Promotions for minority people are another problem. Ms. Moore said that she has been asked "if I promote this person, will the people who work for them resent them because they are a minority?" If a person is a good supervisor, showing compassion and caring for people, employees will work themselves to death to make the supervisor look good.

The high turnover in jobs between ranges 9 and 15 hurts the employer because of the time invested in employees, in training them, in getting the terminology of the department or unit familiar to them. It's important to be supportive of them, to find out whether there is a problem. Senator Ray suggested that what you really need is a group of people who work for the administration who take care of problems as they crop up. Ms. Moore agreed and added that it is crucial that they work for the administration.

Senator Ray thanked Ms. Moore for her testimony. He asked for any other people who wished to testify. No one came forward at this time and the commission turned to considering the issues presented in a memo dated December 18, 1981 prepared by the commission staff.

A. PROBLEMS IN THE HIRING PROCESS

1. Classification of positions.

Lois Jund pointed out that a review of the entire state classification system is long overdue. When positions with comparable duties are classified differently, it results in a great deal of discrimination against employees. Ken Kareen said that the state is working at a slow pace toward that goal and added that it concerns two different items, the classification system and the state pay plan. Senator Ray added that other problems occur when the duties for a position change over time. When the position is finally reclassified, the person who has been fulfilling them may lack the technical requirements for the new job classification. Mr. Kareen pointed out that there are two different considerations -- fairness to the employee who developed the job vs. appearances of the "buddy system" which cases those who want the job to say "it isn't fair because I didn't have a chance to compete for that job".

Greg O'Claray asked about the use of the classification system to encourage employment of protected classes. Is the state interested in hiring the person most qualified for the job? Should the classification system be used to broaden the selection process? John Pugh explained that the Social Services Associates are entry level positions. The minimum qualifications for that job class are lower than for social workers and the state provides closer supervision of the new employee. The Social Services Associate does not do all of the social worker tasks. A career ladder has been developed and after three years as a Social Service Associate, the employee will qualify as a social worker.

Mr. Kareen added that trainee job classes assume that a training plan will be part of the job duties and that the job will be structured to provide close supervision. Where the training is haphazard, the use

of trainee job classes doesn't work well. There are also some skills such as typing which are better learned away from the office. On-the-job training should be mixed with appropriate training away from the job site.

Senator Ray asked whether providing training was the state's job. Mr. Kareen responded that it was, in some cases. Most successful private employers spend time training their employees. He added that in comparing the state with private employers, it is important to remember that there is no private employer in Alaska whose workforce is as large as the states's. Senator Ray said that you can't expect the state to provide training to people applying for positions in which the registers are already full of qualified applicants.

Mr. Thayer returned to the question of using the classification system to remedy underutilization and suggested that there should be more flexible staffing of positions. Very few departments make use of the system. They hire at the highest level of a job class instead of opening a trainee position and then upgrading the position and the employee as skills are learned.

Mr. O'Claray suggested that in order to attack discrimination, you have to look at the numbers, and the numbers on underutilized classes are pretty plain. So far there has been no tool which is effective to change the numbers, because there is no mandatory requirement that anyone do anything on EEO. If you decide that you want to do something to correct past inequities then you may have to use affirmative action tools which give a preference to those who have been discriminated against. Senator Ray pointed out that those tools may not be fair to the individual who is not covered by the affirmative action plan. Mr. O'Claray asked whether there was an EEO office in every department. Mr. Kareen explained that there are individuals designated as EEO officers and there are EEO committees in the departments, but for many employees, it's a duty added on to their other job responsibilities.

Mr. O'Claray moved that the commission support a review of the classification system. Mr. Kareen suggested that until the review is made, it would be premature to suggest whether the classificaiton system should be used to encourage employment of protected classes, and that the motion should be limited as it was phrased. Mr. Pugh asked whether there were resources available either for an outside contract or for staff time within the division to accomplish such a review. Senator Ray said that he would look at the budget to find funds to at least provide a preliminary review to identify areas of great concentration in the future. The motion carried without objection.

2. Recruitment.

Representative Fuller said that he had intended to talk with Mr. Pugh about the Nome Youth Facility before raising the question in the meeting. He has heard that positions have been upgraded which has meant that some people who applied have been eliminated from consideration

for the positions. Mr. Pugh explained that the positions had not been upgraded, but that there were a number of individuals who did not pass examinations conducted in Nome, so the department held a second recruitment there. The positions are what is called coupled classes. The majority are Youth Counselor I positions, and after six months on the job, the employees will be eligible for promotion to Youth Counselor II.

MEMO ON MALES AND FEMALES ON SELECTED REGISTERS

SenatoR Ray asked the commission to look at the memo on the numbers of males and females on selected registers. The commission has heard much testimony about the large number of women working in the lower salary ranges. The memo shows that there are few female applicants for higher range positions. He asked whether it would be safe to assume that if there is discrimination in the higher ranges, it is in the partially exempt and exempt services rather than in the classified service. Mr. Pugh suggested that it raises another question about why there is such a discrepancy in the numbers applying. Mr. Kareen added that as an employer, the state inherits the difficulties in society and in the educational system. Higher range jobs usually require that the applicants meet educational and work experience criteria. In the past, women have been discouraged from seeking careers in many areas, so they are unlikely to be well represented in the applicant pool for those jobs. You can't expect a balance to be achieved overnight.

Senator Ray pointed out that the memo under discussion did not show the male/female ratio of presently employed in the job classes. Therefore, it is difficult to know whether the state is doing what it should in its hiring decisions. Mr. Kareen said that the state is working to develop applicant flow data which would consolidate that information. The information is stored now, but not in a coherent form.

Representative Fuller asked how many complaints the commission has received about women not being upgraded. Senator Ray replied that the majority of people were complaining about the low number of women in executive positions. He asked the staff to prepare figures on the number of male and female employees presently employed in the job classes addressed in the memo.

Mr. O'Claray asked about the success ratio of the commission with respect to handling individual complaints. He said that he tends to believe that the most effective way of handling discrimination is on an individual basis because it shows results. Senator Ray said that he believes it is about 90 percent. Ms. Cramer added that the commission staff has not kept a formal summary of the results of the complaints received. Mr. O'Claray added that many of these cases can be better resolved on an informal basis rather than through a formal process like a charge before the Human Rights Commission. People tend to solidify their positions if they think they're going to go through legal proceedings. Senator Eliason pointed out there can be some value to having a public airing of a situation. Senator Ray agreed when the situation affects many people, but when it is an individual matter, public hearings can harm the person involved more than help.

A.3. Five-Plus-Five Certification System.

Mr. O'Claray said he has talked with a few of the people responsible for hiring in several different divisions of the state and asked them about the five-plus-five registers. Some use them and some don't seem to have any working relationship with them. Unless there is some instruction given by the division director or the commissioner of that department, the system is not going to be used. Senator Ray asked whether the register system was fair to use or constitutional within the merit system, when it results in going below the top five to reach others less qualified? Mr. O'Claray responded that if you have an affirmative action plan which says that you intend to meet certain goals, then that is the policy, whether or not it is fair. Mr. Thayer explained that each department either has or is developing an Affirmative Action Plan. Mr. Kareen added that the five-plus-five registers can only be used in job classes where underutilization has been shown to exist. Senator Ray asked whether use of the registers in those cases was mandatory? Mr. O'Claray suggested that use of the expanded registers should be mandatory where underutilization is established.

Mr Muller explained that every person on a register is qualified to do that job. Some people rank higher than others, but all are qualified. The five-plus-five register just gives qualified minorities or women a chance to be interviewed and considered for a position. The system is relatively new. On the constitutional question, he added that similar systems have been considered by courts elsewhere. The courts have recognized that under the federal constitution, where there is underutilization, employers can use instruments of this type until the employer achieves a better balance in the work force. Once that has been accomplished, then the employer returns to a system strictly based on merit principles. Mr. Muller added that it is now mandatory that departments receive the five-plus-five list. Hiring from the minority list is voluntary.

Senator Ray asked whether the commission wished to encourage use of the five-plus-five registers. Members agreed that they did. Mr. O'Claray added that according to Mr. Muller, calling for those registers is mandatory. Mr. Thayer asked for clarification because he knew of nothing which had made that the state policy. Mr Muller answered that where underutilization exists in a job class within a division or a department and the appointing authority calls for a register, the system should, as a matter of course, provide the supplementary register. The decision as to whether the appointing authority will hire from the expanded register is voluntary. Mr. Chenoweth asked whether the source for the mandatory nature of the system is the combination of the Governor's Affirmative Action Order and the Personnel Rules. Mr. Muller agreed and said that the motive force behind it is that you do have underutilization and the only way to resolve it is to allow the appointing authority to reach further down the register when hiring. Ms. Cramer read from regulations dated March 25th from Bruce Cummings which said that "when underutilization has been shown to exist the five-plus-five registers

can and should request discretionary authorization to appoint from below the top five". She asked whether that regulation had been amended? Mr. Muller said that they had talked about the question at length and decided that so much confusion existed that providing the list to the appointing authority would be mandatory. He added that if the policy had not yet been implemented, it would be shortly.

Senator Ray recessed the meeting for lunch.

Senator Ray reconvened the meeting and the commission returned to discussing the Issues Memo.

A.2. Recruitment

Senator Ray asked the commission to consider the issue of recruitment. Representative Fuller said that he'd like to wait for the discussion on rural hiring before commenting on the issue. Senator Ray suggested that recruitment should be the responsibility of those in the rural areas who are interested in applying for positions, including rural organizations. Representative Fuller added that recruitment is made more difficult because the Native Corporations are actively looking for qualified employees to staff their offices. Mr. Pugh added that Sealaska Corporation has a special assistant to the president whose sole responsibility is placing stockholders in jobs with the corporation, so there is considerable competition for workers.

Senator Ray asked for public testimony. Mr. Paul Blank addressed the commission on the issues of non-resident hire and also Native hire. He was offered a job in Bristol Bay, which is mostly a Yupik village. He wanted to accept the job offer, but he talked with people in Dillingham who said that they wanted a Yupik person in the job. But according to the state policy, the department must hire from the top five applicants, no matter where they live. There is strong resentment to that in the bush.

Mr. Blank suggested that perhaps people should get extra points for living in the region where the hiring is taking place. For example, no white person could possibly go to a place like Bristol Bay and expect to understand the needs and desires of the Yupik people there, especially in a job like public assistance. Senator Ray pointed out that many of those programs are funded with federal money, so there is a problem in giving preference to anybody. Ms. Jund added that the commission had discussed having local registers but that there were tremendous problems in administering them.

Mr. Kareen said that since 1959 the state has operated under a basic philosophy that this is a State of Alaska position, and all residents of Alaska have an equal chance at being hired regardless of where they

reside. The state will not distinguish between its citizens. He added that there are other states which have tried to address this problem. One remedy is to say that anyone in the state can take the test to qualify for the position, but it will only be given in the place where the job is. Senator Ray pointed out that this would work against the person in Dillingham who wanted to move to Juneau. Mr. Blank answered that there were plenty of jobs in Juneau and the other cities in the state so there isn't any problem of resentment against the outsider.

Mr. Kareen suggested that there are ways of lawfully addressing the problem. The Department of Health and Social Services in the Lower Yukon and Lower Kuskokwim had a number of positions working in villages to provide liasion between the local population and the department. If the employees were going to be able to do that job they had to speak Yupik and also have an ability in the English language. So ability in both languages was made a job requirement. The Village Council served as a review board for part of the examination and a portion of the interview with them was conducted in Yupik. The Council rated applicants on how well they would get along with the people in the village they would be servicing. The bilingual requirement was bona fide and not used specifically to promote employment of Alaska Natives.

Senator Eliason asked what job Mr. Blank had been going to take and whether the resentment against state employees from outside the village would be the same for all departments or just Health and Social Services. Mr. Blank replied that the job was as an Eligibility Technician I. There's a particular problem with the kind of job he was offered, because most of the people in the village are on public assistance for part of the year and the eligibility technician hands out the emergency funds and gives tentative approvals or disapprovals for long-term public assistance. When the Eligibility Technician can't even speak the language, there's a particular resentment. The only work available is seasonal fishing and cannery work. But the resentment would be there for anyone coming in who gets a better salary than anyone else around.

Senator Ray asked what problems would develop if the eligibility technician were a black or hispanic, for example, and wanted the job and was number one on the register. Mr. Blank replied that that would not make any difference in the village. Senator Ray pointed out that the state has a merit system of employment which must be honored. Mr. Blank replied that the tests don't necessarily show who is the most qualified to do the job. Senator Ray asked whether he meant that in some rural areas, particular job skills should not be counted as strongly as knowing the language, the people and the customs. Mr. Blank said yes.

Mr. Kareen asked Mr. Blank what the reaction would be if some of the services now provided by the state were turned over to the local

for those jobs, how to get on the register and what a register is. When she was unemployed once, the unemployment office had a large screen which showed all the jobs the Center was recruiting for. There were books to find out what the requirements of the jobs were, but there was no one to explain how to use the information.

Ms. Borbridge said that she still did not know how to get on the register. Mr. Kareen explained that you complete an application for employment and turn it in or mail it to the Division of Personnel. He added that the Division has a public service counter to answer questions from people who want to apply for state jobs. However, the state does not have a job counselor to deal with the people coming in. The individual at the counter is also responsible for answering the telephone on seven incoming lines and handling some paperwork.

Barbara Fallon said that she is presently unemployed and has been applying for jobs. It would help job applicants if they understood that the Division of Personnel is not an employment service for the individual. Its task is to fill vacancies for the state. No one sits down with an applicant and asks for qualifications, experience and work history and then suggests jobs for which the person might apply. She added that the Division of Personnel staff have been very helpful, within the system.

Senator Ray added that applicants misunderstand another part of the state hiring system. When they are notified that they are on the register they automatically assume that they will be offered a job. They don't understand that they are not much closer to being employed than they were before.

Mr. Kareen said that the job service offices are federally funded, and have suffered from cutbacks so they have had to reduce their job counseling services. The new budget will not provide funds for employing job counselors. All federal funds for the offices will be contingent upon how many placements the office makes.

Senator Ray suggested that there should be a handbook or a flyer providing information about state employment. Roy Henderson, an employee of the Department of Education, commented that there is information presently available through the Career Information System at the Southeast Regional Resource Center. It tells about job descriptions and how an individual's qualifications fit into certain jobs. Senator Ray said that that system is not well known. It would still be helpful to have a short pamphlet for all prospective employees to use. Mr. Muller added that the Resource Center was for the Southeastern area. What about the Southcentral area and the bush? Mr. Henderson replied that the information is available at all Alaska Job Information Centers. Most of the information comes from the Department of Labor.

Senator Ray asked Mr. Muller to explain the state's affirmative action program and the five-plus-five certification system to Ms. Borbridge. Mr. Muller said that one of the biggest problems which the state has in

terms of employing both women and minorities is potential barriers to ranking high on the registers. Everyone on the eligible list is capable of doing whatever the job is in that class. To bring people to the attention of the appointing authorities, the state developed a device which allows an appointing authority to hire a minority or a woman who ranks below the top five for jobs in any class in which that protected group is underutilized. The system is still in a formative stage, but it should be an invaluable tool to develop greater parity. Ms. Jund suggested that there still should be a pamphlet to notify applicants about what registers means, and all of the other ramifications of the employment system.

On the issue of Ms. Borbridge's unemployment benefits, Ms. Jund said that, as she understood the system, a person is not required to take employment at less than the previous level of employment. Since Ms. Borbridge had been working in an administrative position and was not interested in returning to a clerical position, they were not supposed to cut off her benefits when she refused to interview for the clerical position.

Ken Kareen handed out copies of a booklet which describe the state hiring system. Senator Ray said that he is still in favor of a one sheet flyer, which would be cheaper and could be updated as changes are made in the system. Ms. Jund suggested that the sheets should be distributed through places like women's resource centers, the NAACP and Native Corporations to get the widest distribution possible.

The commission returned to consideration of the Issues Memo. Senator Ray suggested that bilingual requirements which had been discussed with Mr. Blank should be added to the position descriptions. Mr. Kareen explained that the state has a general description of what, for example, an eligibility technician is required to do wherever the position is located. Then there are individual position descriptions, and those should reflect the language requirements of that particular position. If a position with a language requirement were open, then only bilingual applicants would be considered for that position. That decision should be made in describing the job, before the department is filling a vacancy.

Representative Fuller asked whether there was anything that could be done about the problems which Fish and Game has in filling their seasonal positions. Mr. Muller suggested that Fish and Game should open the registers in the winter and encourage people in the Bush to apply then. When summer comes and the positions need to be filled, they will have people from the local area who they can legally hire. He added that as the executive branch works with the nonpermanent law, it is becoming acceptable and understood. Senator Ray suggested that the registers could be open in February or March, and they could even make selections after that, with the job to begin the first of June. Mr. Kareen agreed. It all depends on the management attitude of the department. Senator Ray suggested that the commission write to the Department of Fish and Game, recommending that they open their registers in the winter and make their commitments then for June hire. Mr. Pugh pointed

out that H&SS found that they needed some travel funds to carry out their special recruitment effort for the Nome Youth Center. The commission might want to make the legislature aware of this possibility. Representative Fuller replied that the rural areas have a responsibility too, and that the Native Corporations might be helpful in any recruiting effort.

A.5. Inclusion of handicapped individuals and people over 40 in the five-plus-five procedures.

Mr. Kareen explained that age discrimination under federal law starts at 40. He added that the state has a program to assist the severely handicapped in finding positions without having to go through the regular examination procedures. Senator Ray said that he had never received any complaints from handicapped people about discrimination.

A.6. Employee credit for any type of Alaskan employment.

Senator Ray said that the suggestion was worthwhile, but that it would not be possible to put it into effect under constitutional requirements. Mr. Pugh added that usually those with work experience in Alaska will make a better impression in the job interview, so there will be some recognition given at that time.

A.7. Credit for experience.

Senator Ray said that he favors the idea that job requirements should emphasize practical work experience and place less emphasis on educational requirements although there has to be a balance. He added that some of the test questions he has seen have no bearing at all to the job requirements.

Mr. Kareen responded that federal guidelines about tests require that first, the division study all the jobs within a class and identify what skills it takes to do them. Then they develop the test based on that information. After the test is developed, the division gives it to all those who are actually working in that job class. They evaluate the employees' test results and ask their supervisors to evaluate how well each employee actually performs on the job. Then the division compares the test results with the supervisor's rating. Those who do well on the test are supposed to be those who are rated well by their supervisors. The federal guidelines expect that the test results will be correct 94 percent of the time. The majority of the tests which the state presently uses were borrowed from other states and a number of them were provided by the federal government. Mr. Pugh suggested that the commission meet with Dr. Dilley from the Division of Personnel to learn more about the topic. Senator Ray agreed.

B. ISSUES CONCERNING PRESENT EMPLOYEES

1. Training for Supervisors

Mr. Thayer pointed out that according to a governor's directive, all supervisors have to attend EEO classes which are continuously given by the Department of Administration. Mr. Pugh suggested that the training

given now is addressed more to attitudes. Most supervisors don't know about the practical questions - how to use the five-plus-five certification procedures, for example. Senator Ray suggested that a letter notifying supervisors of the procedures and where to go if they had questions about the fine points would resolve the problem.

Ms. Jund asked whether in actuality all supervisors take the EEO training. Mr. Fisher, Director of EEO, replied that in the past two or three years, 1,500 people have gone through the training offered by the division. It is focused mostly on behavior. It might be appropriate to include more emphasis on the law. Ms. Jund suggested that a refresher course for those who have had the initial program would help to provide current information. Mr. Fisher agreed, but pointed out that there is a problem of staffing within the division.

Mr. Pugh asked about the Attorney General's opinion concerning whether the five-plus-five procedures could legally be made mandatory. Mr. Muller replied that the Attorney General had said that it would not be legal to ignore all of the other people on the register when using the five-plus-five certifications, but that if all of the top five were considered as well as the top five minority applicants or women, then the problem was avoided. In regard to supervisory EEO training, Mr. Muller pointed out that the programs are given statewide, not just in Juneau.

B.2. EEO Evaluation of Supervisors.

Mr. Kareen pointed out that the present evaluation form has a box which asks about each supervisor's performance in EEO matters. Ms. Jund suggested that the supervisor's performance should be written in the narrative portion rather than just being recorded by a check mark. Mr. Kareen replied that the narrative portion of an evaluation is to address areas where a person has done particularly well or particularly poorly.

B.4. Changes in the Traditional Work System.

Senator Ray said that the commission should most strongly recommend that the Administration develop the use of flex time. The legislature passed a resolution permitting its development and the Governor was interested in it at one time. Flex time would help people in the rest of the state to do business with Juneau. Offices should also be open during the lunch hour, when people need to do business with the state.

Mr. Kareen pointed out one problem he has run into when calling a federal office in Seattle. The individual he wants to speak to is on flex time. He is never there, the office has no schedule of when he will be there because it varies from day-to-day and he is the only person in the office with the background to answer Mr. Kareen's questions.

Mr. Pugh added that he has found difficulty with employees in trying to set up flexible work schedules. Employees believe that flex

time should be a voluntary scheduling and resist management forcing changes in work hours. For example, employees in Anchorage want to work from 7:00 to 3:00 p.m. so that they are off when their children are home. That does not answer management's need to keep the offices open for an hour after people are off work, from 5:00 to 6:00 p.m. Mr. Kareen added that union contracts require that the state pay a swing shift differential for employees who begin work at 10:00 a.m. or after. Senator Ray suggested that that could be changed in bargaining.

Representative Fuller added that the farther you are away from Juneau the more difficult it is to do business with the state. In the far north, there is a three-hour time difference. Juneau state employees need to remember that they provide support services for people around the state. He added that you need to have a decision-maker available. If management is not there, there is no sense in having the office open. Mr. Thayer suggested that one option to include is a four-day work week in which employees would work longer hours for four days and then have three days off. It might permit keeping state offices open for six days a week. Mr. Pugh added that the system should be uniform. If one office is open and another isn't, then the public becomes irritated.

In answer to Mr. Thayer's suggestion, Mr. Kareen said that research elsewhere has shown that flex time is desirable for management because it can increase productivity. However, in the vast majority of cases, compressing the workweek into four days results in a drop in productivity. Mr. Pugh pointed out another problem created by the number of holidays for state employees. If employees are working only four days a week normally, then they go to a three-day workweek during each of the 11 weeks in which a state holiday falls.

B.3. Training Opportunities.

Ms. Jund said that this came from Ms. Randall's testimony at an earlier meeting and that she concurred with her. It is always the top level brass that goes for training. Senator Ray pointed out that this comes down to a budget problem. The commission should mention the suggestion, but it is an administrative problem. Mr. Kareen added that when done properly, some midmanagement training will multiply when the employee who was trained shares the information with other employees. Funds spent for midmanagement training can actually benefit lower range employees too. He added that the budget could identify what level the training was to be geared for. Senator Ray pointed out that there was an Attorney General's opinion which says that the legislature infringes on the executive branch when it tries to direct how money is to be spent through Legislative Intent. Mr. Kareen asked whether the appropriation itself could be directed to a particular level of training. Senator Ray said that it could. However, that still leaves the problem of gaining legislative approval for any training funds at all.

Mr. Pugh added that because of the large turnover of employees in the lower salary ranges, he finds it difficult to justify spending the limited training funds in his division on those employees. Senator Eliason said that the person who has more responsibility should have the

BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT
State Capitol, Juneau, Alaska
March 11, 1982

MINUTES

The meeting was called to order by Senator Bill Ray, Chairman, at 1:35 p.m. The roll call showed Senator Ray, John Chenoweth, Senator Dick Eliason, James Fisher (alternate for Commissioner Hudson), Lois Jund, Ken Kareen, Lynda McCurry, Greg O'Claray, John Pugh and Darlene Livermore (alternate for Cherie Shelley) as present. Representative Jack Fuller, Myrt Charney, and William Huston were absent. Also present were Roger Thayer and Bob Mourant.

The commission reviewed the draft of the 1982 Report to the Legislature and corrected errors and made changes. It was moved that the report as amended be presented to the Legislature. There were no objections and Senator Ray so ordered. The commission adjourned at 3:00 p.m.

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CENTRAL COUNCIL
tlingit and haida indian tribes of alaska
One Sealaska Plaza - Suite 200
Juneau, Alaska 99801
(907) 586-1432 or 586-3613

January 15, 1982

Senator Bill Ray, Chairperson
Blue Ribbon Commission on the
State Personnel Act
Pouch YG
Mail Stop 3123
Juneau, Alaska 99811

Dear Senator Ray:

The attached document contains the testimony presented to the Blue Ribbon Commission on November 3rd by Brenda Knapp of the Central Council's staff. Additionally, the document contains three recommendations for action that were not included in the oral testimony.

The Central Council Tlingit and Haida Indian Tribes of Alaska would be pleased to work with the Blue Ribbon Commission, the Legislature or the administrative branch of government to develop and implement more equitable hiring practices for Alaska Natives.

Sincerely,

CENTRAL COUNCIL OF TLINGIT AND
HAIDA INDIAN TRIBES OF ALASKA

John Hope
President

JH/BK/ae

Central Council of
Tlingit & Haida
Indian Tribes of Alaska

TESTIMONY FOR PRESENTATION TO THE STATE'S
BLUE RIBBON COMMISSION ON THE PERSONNEL ACT

ALASKA NATIVE HIRE IN STATE GOVERNMENT

CHANGING COMMITMENT INTO ACTION - ON NOVEMBER 2, 1981 THE BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT RELEASED A MEMORANDUM TITLED "COMPARISON OF ALASKA NATIVES EMPLOYMENT BY THE STATE IN 1979, 1980 AND 1981". DURING THE THREE YEAR PERIOD, A GREAT DEAL OF EFFORT HAS BEEN MADE TO CORRECT AND IMPROVE THE EMPLOYMENT REPRESENTATION OF ALASKA NATIVES (AND OTHER MINORITIES) IN STATE GOVERNMENT. REPORTS HAVE BEEN FILED, PLANS DEVELOPED, RESPONSIBILITIES PINPOINTED, ROLES CLARIFIED, DATA SYSTEMS IMPLEMENTED, POLICY EXPOUNDED AND THE BLUE RIBBON COMMISSION ESTABLISHED. YET, ACCORDING TO FIGURES TAKEN FROM APPENDIX A TO THE 1979 ANNUAL REPORT TO THE HUMAN RIGHTS COMMISSION, IN APRIL, 1978 NATIVE PEOPLE HELD 518 JOBS IN STATE GOVERNMENT. THIS FIGURE REPRESENTED 5.4% OF THE TOTAL STATE GOVERNMENT EMPLOYEES (9,635). TODAY (NOVEMBER 3rd, 1981), THREE AND ONE-HALF YEARS LATER, ACCORDING TO FIGURES JUST RELEASED BY THE LEGISLATURE'S BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT (MEMORANDUM DATED NOVEMBER 1981), NATIVE PEOPLE HOLD 694 JOBS (5.4%) OUT OF A STATE GOVERNMENT WORKFORCE OF 12,903. IN OTHER WORDS, DESPITE ALL THE DIALOGUE, MEETINGS, REPORTS, PLANS, and COMMISSION ACTIVITIES WHICH HAVE TAKEN PLACE DURING THE PAST THREE AND ONE-HALF YEARS, NATIVE PEOPLE IN ALASKA HAVE NOT IMPROVED THEIR TOTAL REPRESENTATION IN THE WORKFORCE OF STATE GOVERNMENT BY EVEN ONE TENTH OF ONE PERCENTAGE POINT.

ALTHOUGH 16 PERCENT OF THE STATE'S POPULATION IS ALASKA NATIVE, LESS THAN SIX PERCENT OF THE JOBS IN STATE GOVERNMENT ARE HELD BY NATIVE PEOPLE. MOST OF THESE JOBS ARE, AS EVERYONE KNOWS, CONCENTRATED IN THE CLERICAL, CRAFT AND PARA-PROFESSIONAL CATEGORIES. VERY FEW PROFESSIONAL AND MANAGEMENT POSITIONS ARE HELD BY NATIVE PEOPLE. THE UNDER REPRESENTATION AND UNDER UTILIZATION OF NATIVE PEOPLE AFFECTS MOST JOB CATEGORIES AND ALL DEPARTMENTS OF THE STATE GOVERNMENT. IN FACT, IN NINE OF THE FIFTEEN DEPARTMENTS OF THE EXECUTIVE BRANCH OF STATE GOVERNMENT, THE REPRESENTATION OF ALASKA NATIVE PEOPLE HAS <u>DECLINED</u> BETWEEN APRIL 1978 AND SEPTEMBER 1981. OF THE REMAINING SIX DEPARTMENTS FOUR INCREASED THE REPRESENTATION OF NATIVE PEOPLE BY LESS THAN ONE PERCENT OVER EARLIER FIGURES. TWO DEPARTMENTS (COMMUNITY & REGIONAL AFFAIRS AND NATURAL RESOURCES) APPEAR TO HAVE MADE SUBSTANTIAL GAINS. (WE WOULD LIKE TO KNOW WHAT THE ACTUAL CHANGES HAVE BEEN.)

<u>IT WOULD APPEAR THAT THE COMMITMENT</u>, SO CLEARLY STATED IN ADMINISTRATIVE ORDER NUMBER 59 AS EXPRESSING THE EQUAL EMPLOYMENT POLICY OF THE EXECUTIVE BRANCH OF STATE GOVERNMENT, <u>NEEDS TO BE MORE FORCEFULLY AND IMAGINATIVELY TRANSLATED INTO ACTION</u>. THE ACTIONS OF THE PAST THREE AND ONE-HALF YEARS HAVE PROVIDED NECESSARY AND USEFUL MECHANISMS TO HELP STATE GOVERNMENT RECRUIT, SELECT, HIRE, PROMOTE AND RETAIN MINORITIES IN STATE GOVERNMENT.

THE EXPANDED CERTIFICATION POLICY IS A PARTICULARLY USEFUL STEP IN BRINGING QUALIFIED NATIVE PEOPLE TO THE ATTENTION OF HIRING DEPARTMENTS. BUT WE BELEIVE THAT WHAT HAS BEEN ACCOMPLISHED TO DATE REPRESENTS ONLY THE FIRST FEW STEPS IN AN OVERALL PLAN THAT MUST PRODUCE RESULTS IN NUMBERS RATHER THAN RHETORIC.

ACCORDINGLY, WE WOULD LIKE TO RECOMMEND THREE MAJOR EFFORTS THAT WE BELIEVE ARE JUSTIFIED AND NECESSARY:

1. EMPLOYMENT OPPORTUNITIES. A FOUR YEAR EFFORT TO ANALYZE EXISTING JOB DESCRIPTIONS AND ACTUAL DUTIES AND TO REVISE THE JOB STRUCTURE WITHIN ALL DEPARTMENTS TO INSURE:

   A. ENTRY LEVEL POSITIONS ARE AVAILABLE TO THE MAXIMUM EXTENT POSSIBLE.

   B. CAREER LADDERS (INCLUDING ALTERNATIVES) ARE AVAILABLE WHICH PROVIDE AMPLE OPPORTUNITY FOR UPWARD MOBILITY.

   C. SUPPORT SERVICES ARE AVAILABLE INCLUDING BUT NOT LIMITED TO, DAY CARE, CAREER AND EDUCATIONAL COUNSELING, TUITION REIMBURSEMENT AND TIME-OFF-WITH-PAY FOR EDUCATIONAL PURPOSES TO PROVIDE ASSISTANCE TO MINORITIES EMPLOYED BY STATE GOVERNMENT AND SEEKING TO IMPROVE THEIR EDUCATION AND TRAINING. THIS PROGRAM SHOULD BE FUNDED AS A SEPARATE AND HIGHLY VISIBLE EFFORT WITHIN STATE GOVERNMENT, PREFERABLY BY THE OFFICE OF THE GOVERNOR. IT SHOULD BE CONTINUED UNTIL PROPORTIONATE REPRESENTATION IS ACHIEVED.

2. NATIVE RECRUITMENT. WE BELIEVE THE STATE SHOULD CONTRACT WITH EACH OF THE NATIVE REGIONAL NON-PROFIT CORPORATIONS TO PROVIDE ASSISTANCE TO THE STATE IN THE IDENTIFICATION AND RECRUITMENT OF MINORITY APPLICANTS. THE SIZE OF EACH CONTRACT SHOULD BE RELATED TO THE NUMBER OF POTENTIAL CONTACTS (THE SIZE OF THE REGION'S ENROLLMENT). SPECIFICALLY, THE CONTRACT SHOULD BE LARGE ENOUGH TO ENABLE EACH REGIONAL CORPORATION TO HIRE ONE OR MORE RECRUITERS TO SEEK OUT AND WORK WITH POTENTIAL NATIVE APPLICANTS.

3. MINORITY INTERNSHIP AND WORK-STUDY. WE BELIEVE A SPECIAL PROGRAM WHICH WOULD PROVIDE SUMMER WORK EXPERIENCE OPPORTUNITIES (WITH GOOD PAY AND REASONABLE BENEFITS) WOULD BE HELPFUL IN ATTRACTING NATIVE YOUTH INTO PUBLIC SERVICE. WE BELIEVE A SPECIAL PROGRAM NEEDS TO BE DESIGNED AND FUNDED WHICH WILL OPEN UP SUMMER JOBS IN VARIOUS AGENCIES AND DEPARTMENTS OF GOVERNMENT. THESE ARE TO BE JOBS LEADING TO PROFESSIONAL EMPLOYMENT UPON GRADUATION. IF THE JOBS TAKE STUDENTS AWAY FROM THEIR HOMES WE BELIEVE ADDITIONAL HELP IN THE WAY OF HOUSING ALLOWANCES AND TRANSPORTATION STIPENDS SHOULD BE INCLUDED. WHILE THIS PROGRAM NEEDS TO BE COORDINATED WITH THE UNIVERSITY OF ALASKA AND THE NATIVE CORPORATIONS, WE BELIEVE IT NEEDS TO BE DEVELOPED AS A HIGHLY VISIBLE PROGRAM WITHIN STATE GOVERNMENT. IF SUCCESSFUL, THE PROGRAM MIGHT GROW BY ADDING AN ADDITIONAL NUMBER OF INTERNSHIPS IN FOLLOWING YEARS.

THESE IDEAS REPRESENT JUST A FEW INITIAL SUGGESTIONS AND PROGRAM CONCEPTS FOR ADDITIONAL ACTION WHICH WE BELIEVE THE STATE MUST UNDERTAKE IF IT HAS A REAL COMMITMENT TO CORRECT THE UNDER REPRESENTATION AND UNDER UTILIZATION OF ONE OF ITS GREATEST RESOURCES - ITS NATIVE PEOPLE. EVEN IF THE COMMITMENT EXISTS, A QUESTION REMAINS AS TO WHETHER THE STATE IS WILLING TO VOLUNTARILY TRANSLATE ITS COMMITMENT INTO ACTION.

BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT
Legislative Information Office, Anchorage, Alaska
November 19, 1981

MINUTES

Senator Ray, chairman, called the meeting to order at 10:00 a.m. The roll call showed the following members present: Senator Bill Ray, Myrt Charney, Lynn Wegener (alternate for John Chenoweth), Senator Richard Eliason, Representative Jack Fuller, Kenneth Kareen, Lynda McCurry, Sandra Withers (alternate for Commissioner Hudson), Greg O'Claray, and Cherie Shelley. The following members were absent: Bill Huston, Lois Jund and John Pugh. The following were also present: Roger Thayer, James E. Fisher and Darlene Livermore.

Senator Ray announced receipt of an application for membership on the Blue Ribbon Commission from Mr. James Chase, who is a member of the Human Rights Commission. He asked the Blue Ribbon Commission members to consider extending an invitation to Mr. Chase to join the commission. Mr. Chase was not present and the question was held for later consideration.

Senator Ray opened nominations for the position of Vice Chairman of the commission. Myrt Charney nominated Representative Fuller. Senator Ray asked for other nominations. No others were received. He closed the nominations and announced that since Representative Fuller was the only candidate, he was appointed Vice Chairman of the commission.

Senator Ray called for public testimony. No one came forward at this time. He asked Cherie Shelley, executive director of Alaska Public Employees Union, to relate how APEA handles any discrimination complaints they receive. She replied that typically they receive few complaints. They refer those they do receive to the Human Rights Commission. She suggested that Darlene Livermore, who handles employment complaints from APEA members, would be better able to answer the question. Ms. Livermore explained that APEA does receive a number of contacts on issues of discrimination, both on the basis of sex (which are the more frequent) and on the basis of minority group membership. In addition, APEA receives a number of sexual harassment complaints. The staff investigates to determine whether there is a legitimate charge to take before the Human Rights Commission. If the complaint is not specious, then APEA makes a referral to the Human Rights Commission and continues to give support to the complainant through the complaint processing procedures. She added that the logic pattern of complaints from men and women is roughly the same. Where men are seeking employment in a job class typically occupied by women they use the same kinds of arguments that women use in seeking employment in job classes predominately occupied by men.

In answer to a question from Senator Ray, Myrt Charney, executive director of the Legislative Affairs Agency, indicated that he is not aware of any complaints within the agency. There was one sexual harassment

charge filed against a legislator one or two years ago which was investigated and found to be without merit.

Ken Kareen, Director of the Division of Personnel, indicated that he does receive inquiries from individuals about whether they may have been discriminated against. They typically are seeking background information to show whether they have come to the wrong conclusion. In one specific instance which happened three years ago, a woman applied for a position and was interviewed. She later received a call at home from the man who had interviewed her asking for a date. She turned him down. She later learned that someone else was appointed to the position. She filed a complaint with the Human Rights Commission and did receive a damage award. Ms. Shelley added that the case was settled without an admission of guilt on the part of the state.

Mr. Kareen added that in the three months that he has been back working for the state, he has been approached by three women who have wondered whether positions which have been offered to them have been offered because of their capabilities or because the person hiring was seeking to fill a quota.

Senator Ray pointed out that it is popular to assume there is a great deal of discrimination in state hiring. However, the commission has found few instances were formalized in the face of complaint. He suggested that one area that should be scrutinized in-depth is the policy of advancement of people who work for the state to the exclusion of first-time hires. A spin-off of this policy is to exclude many members of minority groups, since they are typically not already state employees. This doesn't mean that promotion in itself is bad, since it is also important to bring people up through the ranks, so to speak. Mr. Kareen pointed out that the State Personnel Act and the Personnel Rules provide that current state employees shall receive additional consideration for promotion. The state does benefit by promoting people who know the program already. However, it can also be an advantage to have a new perspective on policies which everyone may have taken for granted, and a new employee can bring some fresh insights into the operation. It is important to balance between the two policies.

Al Baffone, Sr., Business Manager of Local 71, addressed the commission. He explained that the union is presently pursuing a case on behalf of a black member, Mr. Berkley, who was trained as an equipment operator and is now in Wage Group IV, which is one step below journeyman status. There was an opening for a higher position in the duty station in which the member worked. Under Local 71's labor agreement with the state, the employer is supposed to post vacancies before filling them. However, the state transferred another employee from a different duty station instead of posting the vacancy and filling by promotion. Local 71 took the case to arbitration, but the arbitrator ruled that the labor agreement permitted the transfer. The member will file charges with other agencies to contest the matter. He was brought into Local 71 under an affirmative action program four or five years ago and has been waiting for some time for this promotion.

Mr. Baffone added that if there is a subsequent layoff, Mr. Berkley, who has four years of duty station seniority, could be laid off because he is at a lower level than the person transferred. Senator Ray indicated that if Mr. Baffone would provide the commission with the background information on the matter, the staff would investigate it.

Senator Ray asked Senator Eliason whether he received many complaints. Senator Eliason replied that he had not received many about discrimination, probably because there are so few state employees among his constituents.

Senator Ray asked Representative Fuller whether he had received many. Representative Fuller indicated that he had not received too many, but that there are problems in the rural areas of his district. For example, where a new state employee moves to the area, usually his wife will be well qualified and therefore will end up working for the state, rather than that job being filled by someone from the area. He suggested that the only solution is to get the people trained for some of those jobs. He also addressed the question of educational requirements for state jobs. Within the Department of Fish & Game, there are positions for counting sea mammals during the spring hunting season. There are people in the villages who are well qualified to do that work, but most of the people who get the jobs are college students who have applied early and been placed on the state registers. Since they are new to the area, it takes a month or so for them to get adjusted and oriented. Representative Fuller added that times are changing and there are a number of young people in the villages who are interested in getting jobs and are willing to leave the subsistence life style. He pointed out that it does not take an educational background to do a good job. He has a friend in St. Lawrence Island who neither reads nor writes English well, but the department has been depending on him to take the walrus count. He is able to keep the job because he began about 14 years ago before there were tight educational requirements.

Mr. Kareen pointed out that the state does accept experience as a substitute for educational requirements for Fish & Game technician positions, and includes volunteer experience. Representative Fuller agreed bu. said that the system isn't working. You still have to get your name on a register.

Nancy Groshek suggested that the state institute a pilot project to go out to the Bush and solicit applications and explain the hiring process to the people there, particularly for jobs like the Fish & Game technicians.

Cherie Shelley pointed out that one of the complaints she hears frequently is that there is no provision permitting hiring from the immediate area in special situations. For example, when she was in Kodiak, Fish & Game needed someone to work on a boat. They hired a person from Anchorage, but as soon as he arrived in Kodiak, he took a different job on a fishing boat. Then the department hired someone from Kodiak on an emergency hire basis. The Fish & Game boat was out longer than 30 days and Fish & Game was required to get him off the boat. They

spent more on helicopters than they paid the person hired. She suggested that the commission consider recommending that the Division of Personnel set up local registers for some situations. Senator Ray questioned how this would fit into the merit system.

Representative Fuller agreed that the authority to hire locally would help. In most cases, the Fish & Game supervisors would know the qualifications of the people they would be hiring. Ms. Groshek added that the state would be saving money in transportation costs for new employees and that regulations could probably be instituted by next summer.

Mr. O'Claray asked if he could return to Mr. Baffone's earlier testimony. He asked whether the grievance which Local 71 had filed with the state alleged that their member had been denied a promotional opportunity on the basis of his race. Mr. Baffone replied that the grievance filed had addressed the legality of the transfer rather than the denial of the promotional opportunity. Therefore they had not addressed the question of discrimination in the complaint. The union believes that Mr. Berkley's case is still alive. However, they have been informed that when his case is submitted for arbitration, the state will submit the decision of the transfer arbitration and say that the case has already been heard since Mr. Berkley figured in the initial case. Mr. Baffone stated that he is taking the position that they have exhausted their internal avenues under the labor agreement.

Sandy Withers, Director of the Division of Labor Relations, offered a comment on the case. The underlying question in the grievance was whether there was promotional opportunity in the first place. She explained that two employees had transferred, and had they not transferred there would not have been a vacancy in the first place. Mr. Baffone replied that because the labor agreement provides for duty station seniority, Mr. Berkley will be laid off if a layoff comes, even though the transferree has less seniority. Under the new classification system, the lower guy in the equipment operator group gets laid off before the higher guy. Senator Ray asked how the situation centered into racial discrimination. Mr. Baffone replied that it did because Mr. Berkley is black and is qualified to do the job. He added that if Mr. Berkley were white, he would not be addressing the Blue Ribbon Commission.

Ms. Shelley asked Mr. Baffone what Local 71's position would have been if one of the transferrees had been black and the man seeking promotion had been caucasian. Would the union have objected to the transfer under those circumstances? Mr. Baffone replied that since there is specific language in the agreement that transfers will only take place after promotional opportunities have been exhausted, the union would have objected.

Mr. O'Claray asked again whether Mr. Baffone alleged at this time that the state acted in a discriminatory manner against the black worker. Mr. Baffone replied that he did. In answer to a question from Representative Fuller, Mr. Baffone replied that had the member not promoted been a white person, the union would have arbitrated that

failure to promote, too.

Senator Ray asked James Chase to tell the commission a little about his background and why he was interested in membership on the commission. Mr. Chase replied that he came to Alaska as a result of a military assignment to a remote radar station in 1969. He later transferred to Elmendorf Air Force Base and then decided in 1972 to remain in Alaska. He retired from the Air Force in 1974 and went job hunting. His first job was with the Human Relations Commission of the Municipality of Anchorage. While he was there, the city changed to a municipality and he helped to create the Equal Rights Commission. Then he went to the Alaska Native Foundation where he traveled throughout the state working with school districts, helping them to desegregate. When it was defunded he had to seek other employment. He is now the affirmative action officer for the University of Alaska, Anchorage, and for the community college. In addition to his work, Mr. Chase said that he has been involved in community activities and is currently a commissioner on the Alaska State Commission for Human Rights. He added that that is the position he would like to represent on the Blue Ribbon Commission, since there had been a seat for the Human Rights Commission when the Blue Ribbon Commission was originally established.

Senator Ray explained that the Blue Ribbon Commission has not set aside seats for any particular representation, and that he hoped members represented their own personal convictions rather than their employment. Greg O'Claray asked Mr. Chase whether his employment with the University would offer him opportunity to attend meetings of the Blue Ribbon Commission in other cities. Mr. Chase replied that he would be able to. The University believes that activities like membership on the Blue Ribbon Commission would be ancillary to his job and that he would be permitted to attend, provided only that he met his prime responsibility of getting his job done.

Senator Ray asked whether Mr. Chase saw a pattern in state employment of discrimination on the basis of race. Mr. Chase replied that what appears to him to have happened is that there is a sort of inertia in the system. People become set in their ways and entrenched in their positions. Nothing motivates them to change. Procedures and policies meet with resistance, and unless the total management goes along with a new policy, it's very hard to implement a change. There are people who have been given an "extraordinary opportunity" because of their gender and their race and when they are asked to implement an affirmative action program, thet react to it right away because it means they have to move something. Mr. Chase added that he is stubborn enough to believe that change can come about and there can be improvement in the system.

Senator Ray pointed out that frequently what is perceived as discrimination is not understood by the person doing it as discriminatory. Mr. Chase replied that he believes that it is a requirement of all managers not only to show that there is no discrimination, but also that

there is nothing perceived as discrimination.

Mr. O'Claray asked Mr. Chase how he perceived the effectiveness of the current EEO program in the state or the University system. Mr. Chase replied that the University system has changed considerably in the 2-1/2 years that he has been there. When he began, the University did not even know how many employees it had, not to mention the racial mixture. They now have a lot of information about their employees and are working with supervisors to convince them to hire minority applicants and that affirmative action is a necessary thing. The affirmative action job is multi-facted, and at the same time that he has to get the managers involved in the program, he also has to insure that people are applying for positions and that they understand how to write a resume for the University. There has been progress. He added that he knows a little about the state's EEO program and that they have also made progress.

In answer to a question from Mr. Kareen, Mr. Chase said that the University has developed a base on the availability of the workforce in his hiring area for different occupations. It is broken into the seven EEO categories and is further defined by disciplines. He explained that the University recruits locally for positions in the clerical and crafts fields and therefore they use a local base for those job categories. For executives and professional positions, they use a national base.

In answer to questions from Senator Ray, Mr. Chase indicated that he believed that the goal of anti-discrimination laws is to control a person's behavior, not his thoughts. Once behavior is modified, particularly in a hiring situation, then people who may have latent bigotries discover that "it isn't so bad after all" and their attitudes may also begin to change.

Ms. Shelley suggested that, while Mr. Chase was obviously well-qualified for membership on the commission, notice of the vacancy should be given so that others who might be interested could submit applications. She pointed out that the principal membership of the commission is composed of 10 males, one of whom is a minority person, and three females, none of whom are minority group members. Senator Ray responded that the commission has three applications for membership and that it will always accept applications, but that we are not recruiting for them. He urged members not to become sectionalized.

Senator Ray recessed the meeting at 11:30 a.m. for lunch.

The meeting was called back to order at 1:35 p.m. Senator Ray asked for public testimony.

Donna Brooks, a concerned citizen and a previous state employee, addressed the commission.

In 1974 she terminated from state employment and six months later attempted to return. The position was still available, but later the state discontinued her job classification. Since 1975 she has not been notified of the discontinuation of the job class nor has she been offered a rehire position, although she was contacted once about a 30-

day emergency position. She is between first and fourth on the registers. Ms. Brooks asked whether hiring authorities automatically receive the names of rehires when they request a register and whether they have to contact the individuals on the top of the list.

Mr. Kareen replied that rehires and transfers are listed on the registers as additional candidates which a manager may consider. Managers are not required to contact those individuals, however. In fact, in working the eligible list, a manager can contact one applicant and as long as that individual is one of the highest five on the list, the manager can give that person the position without considering anyone else. The Division of Personnel recommends that managers contact all of the top five because they won't know which person is best until they make that check.

Ms. Brooks asked what is happening with the affirmative action policy of the state. Mr. James E. Fisher, the Director of the Equal Employment Opportunity Division of the state, responded. The state Division of EEO has three general functions. One is planning, another is training, and the third is handling complaints. Affirmative action is part of the planning area. The plans are goals set which the state can use to measure its accomplishments. The state has only gone through one cycle of departmental affirmative action plans. It is now in the process of revising those plans for the first time.

Mr. Fisher continued. One of things that the state service has been criticized for is not having accurate records to be able to measure precisely what is happening in affirmative action. The state is improving the records available so that it will be able to point out the actual specific problems in affirmative action.

With respect to affirmative action itself, there are ongoing activities within the state which vary from agency to agency, with turnover, and with location. The Division of EEO has an office in Anchorage where Mr. Fisher suggested that Ms. Brooks might wish to inquire for the most accurate answer to her specific concern. Senator Ray added that while all departments may have affirmative action programs, some of them don't work.

Mr. O'Claray asked about the circumstances surrounding Ms. Brooks' termination in 1975. She explained that she had been hospitalized. All her performance evaluations while she was working were above average. She was not aware of any personality conflicts which might have followed her in seeking reemployment. In answer to a question from Lynn Wegener, Ms. Brooks indicated that she is on the registers for Nurse III, II, and I. She had been working for the Department of Health & Social Services at API, the Alaska Psychiatric Institution. Since leaving there she has worked part-time for other employers and is now so employed.

Barbara Schuhmann, Chair of the Alaska Commission on the Status of Women, addressed the Blue Ribbon Commission. She stated that the Commission on the Status of Women had wanted to undertake an overall review of the state's personnel system because of testimony they received criticizing the system itself as discriminating against women. However,

they lacked the money and time to undertake such a study and also believed that the study should not be limited to questions of sex discrimination, but should include questions as to other bases of unconstitutional discrimination as well. She asked that the Blue Ribbon Commission undertake the review that the Status of Women Commission would have done if it had the time and resources.

Ms. Schuhmann continued. The most recent comprehensive study of the distribution of women and minorities in state government was done by the Alaska Advisory Committee to the United States Commission on Civil Rights in July, 1980. Among the findings of that study were that: state employment "tends to be mostly white male"; the state offers no child care facilities to encourage women to work for the state; when women are hired they are "for the most part relegated to the lowest paying jobs in clerical, secretarial and technical fields"; the hiring procedures in some departments are "both consciously and unconsciously discriminatory"; and the state has not adequately communicated hiring and promotional opportunities. Ms. Schuhmann added that while there has been some progress since the release of that report, the statistics which it included have not changed significantly.

Ms. Schuhmann pointed out that persons claiming discrimination on the basis of race or sex against private employers often prove their cases by use of statistics. If a statistical case were built against the State of Alaska, the state would have a hard time showing that it has not discriminated in hiring and promotion on the basis of race and sex. A report published by the Civil Rights Commission in 1977 showed that only 8% of the people in the top salary ranges (22-28) were women, while at the same time women occupied over 85% of the positions in the lowest end of the scale (05-09). In five departments, not a single woman occupied a position in those top salary ranges. Minority women fared even worse. In all of the departments of the state government, only one solitary minority woman could be found who occupied a position in the top salary ranges.

Ms. Schuhmann added that a more recent survey of the state's affirmative action effort was released by the Division of Equal Employment Opportunity this year, and it does not show much change from this situation. These figures support what the Commission on the Status of Women believes to be the case -- that despite the fact that Alaska has a preponderance of highly educated, capable, and experienced women in the population, many of them have a tremendous difficulty in breaking into the state personnel system or rising in it once they have entered.

In testimony before the Commission on the Status of Women, women have cited repeated instances where the inflexibility of the personnel system prevented them from obtaining suitable employment or achieving upward mobility. Women in professional positions have had difficulty advancing to supervisory positions and receiving equal compensation for equal work. From the testimony, it appears that women in the lower paid clerical positions are afforded practically no incentive to learn new skills or take on additional responsibility, little on-the-job training for career advancement, and no career ladders. Ms. Schuhmann

suggested that a bonus system based on performance to encourage workers to grow and develop is an essential management tool. The existing merit increase system does not fulfill this function and discriminates against those employees in lower salary ranges, since employees in ranges 05 to 09 receive between a 2.6% and a 3% increase when moving from Step A to Step B, while for positions in range 15 or above, the first increase is never less than 3.5%.

Ms. Schuhmann reported that in hiring staff for their own Commission, they found that the classifications of the state personnel system were too rigid to allow for their needs for people with very diverse skills. Too often, this inflexibility causes managers to create more exempt positions, which are outside the EEO directives which the Commission strongly supports.

On a more positive note, Ms. Schuhmann indicated that there are several efforts underway which have great potential for correcting some of the systemic problems in personnel procedures. First, the practice of expanded certification, or the "5 + 5" system, is a valuable management tool for providing managers an opportunity to interview the five most qualified women and minorities to achieve better representation in all levels of the workforce. It enables managers to go beyond paper credentials of applicants and beyond tests which may be culturally biased, neither of which may be predictive of job performance. Female state employees have testified before the Commission on the Status of Women that the main problem with the "5 + 5" system is that it is optional and many managers never request the additional names. The Commission also supports job sharing, since it provides women in particular with the opportunity to combine homemaking and careers. That program as well as flextime and part-time work options and internships or tuition reimbursement plans should be well publicized. It should not require long distance telephone calls to Juneau to find out about these programs, as is often the case today.

The Commission on the Status of Women supports two bills introduced last session. House Bill 906, sponsored by the Blue Ribbon Commission 1/ amends the veterans' preference point system. Passage of a bill limiting the duration of any veterans' preference will have a significant impact on what has been a major source of systemic discrimination against women in the state personnel system.

The Committee Substitute for Senate Bill 248 deserves attention next session. The Division of Equal Employment Opportunity now has the responsibility for carrying out the state's policy on equal opportunity, for monitoring the activities of all departments and ensuring that compliance occurs. The bill would define those responsibilities in state law. Ms. Schuhmann said that the Commission on the Status of Women believes that it is essential to have a fully functioning, adequately staffed Division of Equal Employment Opportunity. She urged the Blue

1/ Note: HB 906 was actually introduced in 1980

Ribbon Commission's support of the bill as well as support for a fiscal note sufficient to appoint an Equal Employment Officer for each department within the executive branch.

Senator Ray asked Ms. Schuhmann about the problem of having to make long distance telephone calls to Juneau instead of being able to get the information in the branch offices. She indicated that testimony they had received reported that often the local offices don't have the information readily at hand, so callers are referred to Juneau. In addition, in their own offices, they have had to call Juneau for questions they thought should be able to be answered in the branch offices. Mr. Kareen replied that on specific information concerning an application, there is only one file kept and that is in Juneau. However, for general recruitment schedules and for the process and procedures of the state, the branch offices are equipped for most questions. In addition, Anchorage does hold the records for some applications, which on occasion have to be referred down to Juneau, should an applicant move there.

Ms. Schuhmann introduced Chris Callahan to answer the questions more specifically, and explained that the reason for addressing this topic is to alert the Blue Ribbon Commission to the fact that not all of the Division of Personnel offices in every part of the state always have all the information which they might have.

Ms. Callahan stated that the majority of the primary points raised in the statement of Ms. Schuhmann are well-documented, and added that indications of difficulty in dealing with decentralized offices is not unique to this state. Senator Ray replied that in order for the commission to be constructive, we need specific information. He asked Niel Thomas, Executive Director of the Human Rights Commission how many cases of discrimination in the state personnel system their commission had on file. Mr. Thomas replied that at the last Blue Ribbon Commission meeting he had provided statistics about individual people who have complaints on file, but that does not include cases filed by the executive director on class-wide discrimination, for example.

Ms. Schuhmann added that the purpose of her coming before the Blue Ribbon Commission is to urge that someone take a look at the big picture of state employment. It is a large undertaking, but there are indications of problems. One example is the public health nurse lawsuit. That group of nurses was doing very similar, if not identical, work as were another group of state employees who all happen to be male. And the male counterparts were doing very similar, if not identical, work to the nurses, but are paid more. Another indication that there may be problems is that all women are bunched, at least according to statistics, at the low end of the pay scale.

Senator Ray pointed out that in a pure merit system, the person who had the highest score would be the person hired. On the other hand, some people have suggested that the system should allow anyone with minimal skills to be considered for jobs and then let the

hiring authority select whomever he wanted. Under this system, you would have the highest instances of discrimination, both against males and females. To remedy past discrimination, people suggest reverse discrimination. Ms. Schuhmann suggested that perhaps the other side of the coin to affirmative action is the veterans' preference. In a pure merit system, you just depend on an individual's credentials. She reported that she has talked with people in Fairbanks who lost out for a state job by a tenth of a point, and usually a veteran is hired because of the 5-point preference. Senator Ray responded that the veterans' preference provides equal discrimination against males and females who are not veterans.

Mr. O'Claray asked Ms. Schuhmann whether the Commission on the Status of Women had figured the cost of a study of the personnel system. She replied that they had decided it would probably have to be done by a contract with an outside source. She doubted it would cost less than $100,000. Senator Ray pointed out that the Blue Ribbon Commission operates on less than that amount.

Senator Eliason asked whether the Commission on the Status of Women had figures on the effect of the veterans' preference on women. Ms. Schuhmann replied that they do not, and that is one of the reasons they are urging that a comprehensive study of the personnel system be done. She added that federal law is quite clear on the number of women who can be employed in the military and who can be employed in combat. Congress may have a valid state reason for limiting the numbers, but the fact remains that veterans are far more likely to be male than female.

Mr. Charney commented that there are success stories -- the women who do succeed in rising into the top salary ranges in state employment. He suggested that it might be useful to find out what contributed to their success. Ms. Schuhmann agreed and added that her own suspicion is that many of those women are professionals, such as lawyers in the Attorney General's Office.

Ms. Withers suggested that it can be misleading to look at only one part of the statistics. If all of the women who applied to work in the Attorney General's office were hired, then the 8% represents 100% of the applicants.

Ms. Schuhmann agreed. Availability studies are difficult to obtain, as the Commission on the State of Women has discovered in attempting to get studies for the pipeline workers. In addition, one thing the commission heard at least on the pipeline workers experience is that you can't have systematic discrimination against women, sexual harassment and the like, and expect women to call themselves available for those jobs.

Representative Fuller asked how the Commission on the Status of Women had collected its material. Ms. Schuhmann explained that they looked at reports from the U.S. Commission on Civil Rights, the Annual Affirmative Action Report of the State of Alaska and held public hearings.

In answer to a question from Senator Eliason, she explained that her commission did not try to resolve complaints against an individual who was discriminating against someone. Those cases were referred to the Human Rights Commission. Where there appeared to be a policy in a department which had a discriminatory effect, they would contact the department head to resolve the issue, with fairly good response. Senator Ray thanked Ms. Schuhmann for addressing the Blue Ribbon Commission.

Nancy Groshek spoke for herself. She said that she is a legislative staff employee, working for Senator Fisher, and the committee aide for the Senate State Affairs Committee. She asked that the Blue Ribbon Commission endorse SB 248 which is currently in the Senate Finance Committee. It is important and addresses some of what Mr. Chase spoke of earlier in the meeting. It has teeth in it and makes merit raises depend on how well a supervisor complies with the affirmative action program. It also addresses other forms of discrimination.

Ms. Groshek suggested that the commission look at some of the forms used by the state. When she became a legislative employee, the form she was given asked for her marital status and sex. Those questions are prohibited by the equal rights amendment to the state constitution. When the forms were sent to the Division of Retirement, someone had added that information over Ms. Groshek's signature. She filed a complaint and believes that the form will be corrected. The University of Alaska also has application forms for programs such as learning to repair airplanes which ask for marital status.

Ms. Groshek also asked the commission to look at the word "qualified". It has become synonymous with "white male". For example, on the Superior Court or the Supreme Court, the Judicial Council says they cannot find any women who are experienced or qualified. But the reason is that women have not been allowed in the legal profession for that long. Ms. Groshek added that while she supports a veterans' preference for the transition period between military service and civilian life, she thought it should be limited to three or five years. People who have had careers in the military will receive credit for their work experience and the bonus of five points on top of that can make a significant difference.

Representative Fuller asked Ms. Groshek whether she believed that it makes much difference to an employer whether a person is single or married. She replied that she did, absolutely. In her own career she knew that some of the people she had interviews with had problems because of her marital status.

Senator Ray thanked Ms. Groshek for her testimony.

Senator Ray asked Mr. Baffone whether he wished to testify. Mr. Baffone replied that he did not.

Dee Lane addressed the commission on the issue of discrimination against women and minorities in state employment. She said that everyone knows that discrimination is rampant in Alaska state employment. She urged the commission to concentrate on solutions to the problems rather than going over and over the statistics. Women don't have the support

of the administration. If they speak out, they get the reputation of being a complainer. If there were support in the state government to see that people were treated fairly, there would be more people coming forward to talk about the problems.

Ms. Lane said that she would relate some of her early problems, but not the current ones because she was afraid. She pointed out that retired military persons are replacing women in the upper echelons of the Division of Energy and Power Development. Outsiders are often better educated than Alaskans and are flooding the state. The Molly Hooch case insured educational opportunities for Native Alaskans, but still education in Alaska does not compete with education outside. We only have one university and a community college system that is just recently developed. Parents have to send their children Outside, which means that they must be in the upper salary ranges.

Ms. Lane reported that in 1960 she was hired to merge the records of the Bureau of Public Roads with the newly formed state records. A couple of men, earning three levels higher than she was, had been asked to do it before she was and they had not succeeded, so she was assigned the task. When she was nearly done, she asked her supervisor, a preconstruction engineer, for a raise. She pointed out that the people who preceded her had failed in the job, and that she was doing it on her own schedule and that it would be finished shortly. He replied that (1) women don't belong in the Department of Highways, and then asked (2) do you think that someone on a lower level can maintain this system when you have it completed? She replied that she had set it up so that it could be maintained simply. He then said that he would not give her a raise.

Ms. Lane pointed out that people are afraid of retaliation if they speak out. For example, she was one of the people involved in the Kevin Waring case. He was the Director for the State Division of Planning and he always chose to hire from outside the state. She indicated that she was not one of the people he hired; he overlooked her. Mr. Waring is no longer with the state, but Ms. Lane said that she knows that she has been retaliated against. Senator Ray suggested that perhaps the retaliation is because of her vocal advocacy rather than because of discrimination.

Ms. Lane continued. She suggested that the state should work with Native leaders to improve educational opportunities. It would benefit everyone in the state. In answer to a comment from Senator Ray she pointed out that in state employment, all of the upper echelons are male and the lower echelons are female. How can you possibly say that there isn't discrimination? The women want to be at the top. Senator Ray suggested that there are more men who apply for the upper echelon jobs, and that is why there are more men who get them.

Ms. Lane suggested that there should be a career ladder and definite policy statements that the administration and the Blue Ribbon Commission care about women and minorities in state employment. Many women don't even apply for state employment because they believe they

won't be hired. She added that supervisors should get training on their obligation to be nondiscriminatory in hiring. There is much that can be done to establish a climate where people are made to feel that women and minorities have opportunities to be in the upper echelons, too.

A woman from the Tundra Times pointed out that the advertisement for the meeting said that it was on Tuesday rather than Thursday and perhaps that was part of the problem for the low attendance. Another woman said that if state employees knew of the meeting, they would have come to testify. She learned of the meeting through a women's club. Terry Cramer, administrative assistant for the commission, explained that the personnel officers for each department had been asked to circulate notice of the meeting to all of their employees in Anchorage.

Ed Wesley, president of the Anchorage branch of the National Association for the Advancement of Colored People addressed the commission. He suggested that the commission should look back to the civil rights legislation and more specifically the voters' rights legislation. The burden then was not put on the state to prove discrimination. They looked at the amount of utilization and representation. Similarly, once you look at state employment numbers and the population make-up of the state, that should be a signal that more aggressive affirmative action should take place to alleviate the situation. He asked how many blacks who work for the state make more than $50,000. Senator Ray asked how many positions which pay over $50,000 are blacks qualified for, and added that he did not know how many blacks make more than $50,000. Mr. Kareen pointed out that it is difficult to answer the question of qualifications generally. The qualifications will vary greatly between, for example, a judge and a regional biologist or an engineer.

Mr. Wesley suggested that the commission should look at those figures. He agreed with Ms. Lane that until there is visible support of equal employment policy, people will not be willing to testify on the issue. Once the commission looks at the numbers and sees that there is no representation in that top range of positions, then it should use the same concept that the voters' rights legislation used, and decide that the state must take some action to do something with the heads of those departments.

Representative Fuller asked Mr. Wesley how many blacks there are in Alaska. He replied that something like 3.2% of the state's population is black and that there are approximately 9,700 blacks in Anchorage. Representative Fuller suggested that with the rapid inflow of people to Alaska, there might be few blacks in the higher paying positions because they have not been in the state long enough to work their way upwards.

Mr. Wesley reported that there was one gentleman who was a pathologist for the Department of Fish & Game. The department had something like 900 employees and one black. He had problems there from the beginning of his employment in 1976. For example, the department placed a statement that he was hired to meet affirmative action goals in his personnel file. He requested that the statement be removed from his file and from then on he had problems. Eventually the department fired him.

In the Department of Transportation, Mr. Wesley reported that there was a gentleman making over $50,000 as a facility engineer. The department reorganized and abolished his job. There were other people in the same status as he was, all of whom found jobs within the system. He was left out. Mr. Wesley said that he believes the number of blacks making over $50,000 is cut to about five or six in the state.

Senator Eliason asked how the commission can find out what causes these problems. If people are reluctant to talk about the problems, how can change be focused on the regulations which discriminate? Mr. Wesley replied that there needs to be an aggressive approach. He suggested that if the administration has adopted the "5 + 5" policy, that managers should be required to select from the list, even if they have to go Outside in order to meet their goals. Senator Eliason responded that he would not be willing to solicit applications outside the State of Alaska when only 5.3% of the state employees are Alaskan Natives.

Mr. Wesley asked whether there were any blacks on the commission. Senator Ray replied that there has been one application from Mr. Chase, who testified before the commission earlier in the meeting. Mr. Wesley suggested that in addressing a problem that affects individuals or a segment of the community, the commission should utilize members of the group to solve that problem.

He pointed out that historically there has been an overt problem of discrimination, especially with black people, in the State of Alaska back to the 60's. He explained that by discrimination, he meant actions rather than attitudes. Those problems still exist, and when people went to the streets and protested, then there was some change. He added that we know there was not a revolutionary change. The problem still exists. Senator Ray added that when he came to Alaska in 1930 there were signs in the movies "Natives here, and Whites here". There was no mixing. There was rabid bigotry against Native people.

Mr. Wesley suggested that one way to address the problem of discrimination in state employment is to refuse to fund any department that doesn't meet its affirmative action goals. It is not reverse discrimination, it is saying that the person is charged with the task, that the description of his duty to perform includes meeting the affirmative action goal. When that person doesn't carry out his duty, then you don't pay him or else you fire him.

Senator Eliason asked for suggestions which could be implemented into law or regulations to overcome some of the obstacles that have existed. What is the tool to overcome discrimination? He pointed out that APEA would probably resist any firing of a supervisor as Mr. Wesley had suggested and that the Legislature could not cut off funding a department for failure to meet its affirmative action goals.

Ms. Shelley added that it would be difficult to hold one supervisor responsible for meeting a specific affirmative action goal, since registers may or may not include minority individuals and since there might not be any turnover in an office at all.

In answer to a question from Representative Fuller, Mr. Wesley suggested that if the commission were interested in information about what was happening elsewhere in the Lower 48, the NAACP national office has all the historical data and information about problems in every state in the country. They could provide answers if the commission were to pay someone to spend time there working on the question. He added that there is a particular problem in Alaska because there aren't as many blacks here compared with the population as a whole.

Senator Ray thanked Mr. Wesley for testifying before the commission.

Niel Thomas, executive director of the Alaska State Commission for Human Rights, addressed the commission. He indicated that he had not planned to testify, but that a woman had approached him during a break. He offered to speak for her since, for reasons of shyness, she had decided not to testify herself.

She works in a state office which has a very large clerical workforce. There are three people classified at Range 12, probably as administrative assistants, more people at Range 10, probably secretaries, and a group of people who are Range 8 clerk typists. The person who he spoke with is one of the three top people, and the only one who is an Alaska Native. Every time one of the secretaries or somebody further down in the organization is out of the office, somebody has to run that machine or answer that phone. The person who always has to do that, who is in effect demoted for the day, is the Alaska Native. She has been told, "Well, I know that you were a secretary once, and frankly, I can't think of you as anything but a secretary." Mr. Thomas added that he can't help wondering whether the organization isn't losing an opportunity to take someone else and train them on something that is higher level work to cover these situations.

Mr. Thomas said that the woman he spoke with reported that one of the lower level people there is prejudiced and frequently makes disparaging remarks about a black woman who also works there. She also has told the administrative assistant things like "you people have so much cathing up to do". He said that his impression of the person he spoke with is that she is a very intelligent, forward-looking person who would like to advance hereself in state government but runs into barriers of this type from time to time. He suggested that conduct in the office probably discourages people like her from continuing in state employment. She may be the next $33,000 administrative assistant to a president of some corporation because the state has permitted people to treat other people like that.

Senator Ray asked Mr. Thomas to encourage the lady to contact him either directly or through the Human Rights Commission. Mr. Thomas replied that he had suggested that before she makes a formal complaint, she should talk with an individual who is at the top of her organization who he knows will not tolerate that kind of behavior. Senator Eliason added that you may not be able to control what people think but you certainly can control their actions when they are employed by the state government. He asked Mr. Thomas whether he had suggestions of what the

commission could do through regulations or legislation to change some of the obvious vehicles used for discrimination.

Mr. Thomas suggested that the commission consider the Committee Substitute to SB 248. Its approach is in the right direction. For instance it insures that an evaluation really does address an employee's EEO performance. The commission might look at both the bill and the fiscal note to see whether they could be improved. Senator Ray pointed out that the Administration is not supporting the bill, even though they are responsible for the affirmative action program. Mr. Thomas suggested that since the commission includes so many people from the Administration, if it could come up with a substitute bill, then the bill should have the support of the Administration.

Mr. Kareen asked Mr. Thomas for suggestions for finding available workforce data which could be used by all employers in Alaska. Mr. Thomas suggested that the Department of Labor has put together a widely-used book called Data for Affirmative Action Planners. They will probably be working on another book based on the 1980 census as it becomes available. If the commission were to meet with the people in the department who are putting the new edition together, they could share any difficulties they are having in developing the material. Everybody in both the private and public sectors needs workforce availability data, so that would be one of the most helpful services the state could perform in the equal employment opportunity area.

Senator Ray advised the commission that he anticipated holding one more meeting before the legislature convenes. He thanked the participants and adjourned the meeting at 4:15 p.m.

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STATEMENT ON DISCRIMINATION IN STATE EMPLOYMENT

Presented to Blue Ribbon Commission on the
State Personnel Act by
Barbara Schuhmann, Chair
Alaska Commission on the Status of Women
November 19, 1981

Chairman Ray and members of the Blue Ribbon Commission, my name is Barbara Schuhmann and as Chair of the Alaska Commission on the Status of Women I am pleased to be able to address you today on a topic which is of great importance to the well-being of Alaska's women and minorities. The Commission on the Status of Women wanted to undertake an overall review of the state's personnel system, following testimony we received that criticized the system itself as discriminating against women. Our lack of money and time prevented us from undertaking such a study. In addition, the Commission felt that if such a review were undertaken, it should not be limited to questions of sex discrimination, but should include questions as to other bases of unconstitutional discrimination as well.

So, my purpose in coming here today is to thank you for holding these hearings, and to ask that you undertake the review that the Commission would have done if it had the time and resources.

The most recent comprehensive study of the distribution of women and minorities in state government was that done by the Alaska Advisory Committee to the United States Commission on Civil Rights in July, 1980. Among the

findings of that study are that:

- state employment "tends to be mostly white and male;"
- the state offers no child care facilities to encourage women to work for the state;
- when women are hired they are "for the most part relegated to the lowest paying jobs in clerical, secretarial and technical fields;"
- the hiring procedures in some departments are "both consciously and unconsciously discriminatory;"
- the state has not adequately communicated hiring and promotional opportunities.

While there has been some progress made since the release of that report the statistics which it included have not changed significantly.

Persons claiming discrimination on the basis of race or sex against private employers often prove their cases by the use of statistics. If a statistical case were built against the state of Alaska, the state would have a very hard time showing it has not discriminated in hiring and promotion on the basis of race and sex.

According to the report published by the Civil Rights Commission, in 1977 only 8% of those people in the top state salary ranges (22-28) were women, while at the same time women occupied over 85% of those at the lowest end of the salary scale (ranges 05-09). In five state departments not a single woman occupied a position in these top salary ranges.

While women in general were faring so poorly the situation for

minority women was even worse. In all of the administrative departments of the state government, only one, solitary minority woman could be found who occupied a position in the top salary ranges (22-28).

A more recent survey of the state's affirmative action effort was released by the Division of Equal Employment Opportunity this year, and it does not offer much encouragement. Minority women represent less than 6% of the state's workforce and only 1% of the state's officials and administrators. Women in general fare somewhat better than minority women. Women comprise 42% of the state's workforce but that figure alone may not represent any real growth. Over 90% of the clerical positions in state government are filled by women, according to the Division of Equal Employment Opportunity, while at the same time only 17% of the official and administrators are female.

I think these figures support what we in Coman believe to be the case -- that despite the fact that we have a preponderance of highly educated, capable, and experienced females in the Alaskan population, many of these same women experience a tremendous amount of difficulty in breaking into the state personnel system or rising in it once they have entered. You are here today to receive testimony from women and minorities as to the difficulties that they have experienced, and any solutions which they can offer. The Commission which I represent has held public hearings throughout the state at which women have cited many instances where the state personnel system was obstructive to them in their attempts to find suitable employment. I want to share some of their observations with you because the state, as one of the largest single employers in Alaska, can

have a very significant impact on the lives of many by correcting the weaknesses in its personnel system.

In testimony to us women have cited repeated instances where the inflexibility of the personnel system prevented qualified women from obtaining suitable employment or achieving upward mobility. Women in professional positions have had difficulty advancing to supervisory positions and receiving equal compensation for equal work. In some instances they have performed comparable work as male counterparts but have not received equal compensation or have had to take extreme measures to obtain it. It would appear from the testimony we have heard that most women in the lower paid clerical positions (where nearly half of the women employed by the state are located) are afforded practically no incentive to learn new skills or take on additional responsibility; little, if any, on-the-job training for career advancement; and no career ladders or clearly defined steps which, if followed, would help them move toward promotion and advancement. The personnel system needs the flexibility to reward employees for shouldering additional responsibilities. Bonuses based on performance and career ladders that enable staff to advance systematically are essential management tools. Without these incentives the employees will no doubt restrict themselves to performing only those duties which are part of the job description. We need a personnel system which encourages all workers to grow and develop and rewards them for doing so. This is not only fair and equitable - it is good business sense. The somewhat perfunctory merit increase which discriminates quite significantly against those employees found in the

lower ranges of the state salary system, does not qualify as a monetary incentive for excellence such as what I am referring to here.

We experienced frustration with the inflexibility of the personnel system when we attempted to hire staff for our own Commission. We wanted to hire people with very diverse skills so that in a small office they could each do a wide variety of tasks. The classifications of the state personnel system were too rigid to allow for our needs and I'm sure our experience was not unique. This inflexibility costs the state in more ways than one because too often the solution to the problems caused by the inflexibility of the personnel system is to create more exempt positions than already exist. Exempt positions are outside of the very EEO (Equal Employment Opportunity) directives which the Commission strongly supports, and they are frequently overpriced.

I mentioned that merit increases also discriminate against those in the lower salary ranges and I would like to clarify that point. In positions from range 05 to 09, and employee would receive between a 2.6% and a 3% merit increase when moving from step A to B. On the other hand, in positions that are range 15 or above the first step increase is never below 3.5%. Not only are many women trapped in dead end jobs at the lower ranges of the salary scale but they suffer the double hardship of receiving a smaller percentage merit increase as well.

On a more positive note, we believe that there are several efforts presently underway which bear great potential for correcting some of the systemic problems in the personnel procedures which have had adverse impact on women and minorities. First, the practice of expanded certification or the "5 + 5" system is a valuable management tool for obtaining

the opportunity to interview the five most qualified women and minorities to achieve better representation in all levels of the workforce. When the House Committee on Education and Labor reported on the (successful) efforts to extend Title VII to cover government as an employer in 1972, they observed the following:

> "Civil Service requirements (are) replete with artificial selection and promotion requirements which place a premium on paper credentials which frequently prove of questionable value as a means of predicting actual job performance."

What the expanded certification process enables a manager to do is to go beyond those paper credentials which may or may not be predictive of job performance; and to go beyond those tests which may be culturally biased; to go to the actual candidates who meet the basic requirements for the job to determine if their interest, motivation and commitment suggest them as the most qualified for the needs of that office -- including the need for better representation of women/minorities protected classes.

Female state employees have testified to us that the main problem with this tool is that it is optional and many managers simply never request the additional names. We would hope to see a system developed which better encouraged managers to use this tool on a regular basis until their utilization goals were reached.

We also support the law passed several years ago which enables state employees to share jobs. Women frequently interrupt their careers to assume the duties of homemaking and child rearing and are placed at a disadvantage when it comes to full time employment. They often experience greater need for such options as job sharing, flextime and part time work. Our

concern in these areas is that too many employees are unaware of the existence of these options, or have great difficulty pursuing them. All such programs, including any internships or tuition reimbursement plans should be well publicized in all state offices and information should be readily available. It should not require long distance telephone calls to distant voices in the central offices in Juneau to find out about these programs, as is often the case today.

In addition to expanded certification, the concepts reflected in two bills which were introduced last session have our Commission's support. HB 906 was introduced for your Commission by the Rules Committee and it addresses an issue which we have also addressed in a slightly different context. It is sometimes reasonable to extend preference for non-merit reasons under certain conditions and one of the conditions which has received such preference is that of veterans' scoring. Because of the original purpose of veterans' preference, which included reward for sacrifice and ease of transition into civilian life it is certainly more reasonable to grant this preference only upon return from active duty and for a period of time not to exceed three years, rather than for a lifetime, as is presently the case. Passage of such a bill limiting the duration of any veterans' preference will have a significant impact on what has been a major source of systemic discrimination against women in the state personnel system.

Finally, the Committee Substitute for Senate Bill 248 deserves attention during the next session. The Division of Equal Employment Opportunity now has the responsibility for carrying out the State's

policy equal employment opportunity, for monitoring the activities of all departments and ensuring that compliance occurs. As I understand it this bill (CSSB 248) would define those responsibilities in state law. We believe it is essential to have a fully functioning, adequately staffed Division of Equal Employment Opportunity and would urge your favorable consideration of this bill as well as a fiscal note sufficient to appoint an Equal Employment Officer for each department within the Executive branch.

In summary I would like to say that the testimony we have heard and the reports we have studies make it clear that:

- state employment, particularly at the higher levels of responsibility and salary, is primarily white and male;
- women are for the most part relegated to the lowest paying jobs in clerical and technical fields;
- no systematic process of recruitment and promotion exists which would enable women to recognize and use opportunities for promotion;
- hiring procedures such as the expanded certification process are helpful, but must be used on a regular rather than a hit-or-miss basis if they are to prove effective.

In addition we believe that the subjects of sexual harassment, comparable worth and discriminatory hiring practices should be thoroughly studied to determine the impact they have on women's employment opportunities and conditions.

Finally, we would urge that as much information as is necessary for comparison and analysis be included in all reports. For example, the

recent affirmative action report published by the Division of Equal Employment Opportunity does not contain any salary figures and these are essential data for conducting a thorough and comprehensive review.

We appreciate this opportunity to address you and look forward to your work on resolving some of the aspects of discrimination in state employment.

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, RO1-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 amoung 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-judical 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

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.

	Female	Minority
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 clases in which minorities or women have been shown to be underutilizied.

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 resultsdepend 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 persepective and get away from the game of crafty techniques.

Senator Ray added that he hoped more people would come to tesity 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 significatnt 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 [illegible]gh 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 point 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, hey 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 underutilization 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 oppportunity 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 classificiations, 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 compatability 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 divison 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 Cummmings 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 Mourant
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 evalution 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 Mourant
Doryce Eggleston
Sandra Withers
Bill Huston

OTHERS IN ATTENDANCE

Paddy Moriarty
Paul Arnoldt
John Logan
Ann Wolden

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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 flexability 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.

Maybe an example will illustrate the problem. If we intended to place observers in Gambell, Savoonga Diomede, 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 that 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 Swick
Signature of Camera Operator

12/15/89
Date

02-519 (REV 8/78)

SCOMM
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BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT
State Capitol, Juneau, Alaska
November 3, 1981

MINUTES

Senator Ray, Chairman, called the meeting to order at 10:05 a.m. The roll call showed Ken Kareen, John Chenoweth, Representative Jack Fuller, Lois Jund, John Pugh, Cherie Shelley, Bill Huston, James Fisher, (alternate for Commissioner William Hudson) and Senator Bill Ray present. Myrt Charney, Senator Dick Eliason, and Greg O'Claray were absent. Also present were Roger Thayer, Robert Mourant, Darlene Livermore, and Dorothy Whitney.

Senator Ray opened the meeting by asking for public testimony. The first to testify was Niel Thomas, Director of the Alaska State Commission on Human Rights. Mr. Thomas addressed the question of how the number of employment discrimination complaints against the state compares with the number of complaints filed against private employers. He indicated that the information requested by the Blue Ribbon Commission was similar to the material that the Human Rights Commission developed recently at the request of the U. S. Civil Rights Commission. He distributed copies of a computer printout entitled "Total Statistics by Region", dated 10/17/81, R01-GGU-0001. Based on the information on the printout and handwritten information he had added to the sheet, he reported that of the 410 cases presently pending before the Human Rights Commission, 75 are cases involving the State of Alaska, which is 18.3% of the total. He added that the 18% could be misleading, since of the 75 cases involving the state, 24 of them raise one issue, which is now pending at the public hearing state. That issue is the state's classification of public health nurses when compared with physician's assistants. Treating those 24 cases as a single case, which he indicated gives a fairer representation of the situation, the proportion of cases filed with the Human Rights Commission against the state is 13.4%.

Mr. Thomas continued explaining the handwritten numbers on the printout. Of the 3172 employment cases filed with the Human Rights Commission since the beginning of 1975 or open on January 1, 1975, 321 have been cases against the state. Two years ago the Alaska Advisory Committee to the U. S. Civil Rights Commission requested similar information. As of August, 1978, the total number of cases filed was 2162, of which 200 involved the state as the employer. The percentage of the total then was 9.3% and now is 10.1%. He added that the statistics would seem to indicate that the Human Rights Commission is getting something of an upturn in business from the State of Alaska, but that he did not know whether a statistician would consider the increase significant.

When the Human Rights Commission was preparing information for the U. S. Civil Rights Commission, they asked the Department of Labor what proportion of the total nonfarm workers in the state were employed

by state government. The answer was 8 or 9%. Therefore, in 1978, the state employed 8 or 9% of the workforce and was being complained of in 9% of the employment discrimination cases filed with the Human Rights Commission. Mr. Thomas indicated that he did not know whether the proportion of the workforce employed in state government had increased since 1978. If it hasn't, then it would appear that the Human Rights Commission is getting more business from the state than before. Mr. Thomas added that he was providing additional computer printouts to the Blue Ribbon Commission which together represent all of the cases (employment, housing and everything else) filed against the state since 1975.

In answer to a question from Senator Ray, Mr. Thomas stated that of all the discrimination cases filed, about 50% allege race discrimination. He added that he did not nave 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 amoung 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-judical 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.

	Female	Minority
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 clases in which minorities or women have been shown to be underutilizied.

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 resultsdepend 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 persepective and get away from the game of crafty techniques.

Senator Ray added that he hoped more people would come to tesity 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 significatnt 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 point 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

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

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

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

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.

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 oppourtunity 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

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 responsibliity 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

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 comission 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.

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
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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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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

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

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

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 oppourtunity 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

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 responsibliity 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

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 comission 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.

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
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

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.

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 Tranportation?

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

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.

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 underutilizied.

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 reigster 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

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 resistent, 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, any

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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ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILE 8672
1358 SCOMM 51: BLUE RIBBON COMN. ON STATE PERSONNEL ACT 1978-1983

Testimony of
BRENDA KNAPP
at the
Blue Ribbon Commission of the State Personnel Act
Meeting
November 3, 1981

My name is Brenda Knapp. I am the planner with the Central Council of Tlingit-Haida Indian Tribes of Alaska. The Central Council is preparing testimony which will be submitted to the commission in written form this week. But what I would like to do now is just share basically the introduction to our testimony with you because it contains some of the figures regarding Native hire in state government that really are the focus of our concern.

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.

(Testimony of Brenda Knapp)

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.

Ray: We have a question that has arisen in the time period you are stating there, I do know the state with the advent or the increase of the duties or functions of the Native corporations, they have assumed certain duties that were previously performed by the state. Those duties have been contracted to the Native organizations, NANA, MANA, and the whole scheme of them up in the slope. And as such they have hired private people who have taken over duties that would be performed by state employees. Now we don't know whether this is -- you've stated in some areas that the Native population and Native hires has increased and others it has just remained static, but we don't know how many jobs that were previously performed by state employees are now being performed by the Native corporations with Native people. In other words, if, -- do you understand what I am saying?

Knapp: Yes. I guess if those positions are no longer being included as part of the total figure, so far as state government employment, then it would seem they would no longer be relevant, possibly. If there were 12,000 state jobs and now there's 11,000 because 1,000 were contracted out, I guess we would still be looking at the remainder, what percent of the remainder are Native people. Presumably most of them have contracted out.

Ray: No, that would be a very simple thing, but that isn't the way it works in state government. Three years ago the increase in the state employment has been what, 10 to 12% in the last, that's each year, the increase in state employees. The increase in Native hire is not, as you state static, or so to speak 5% or whatever it was you gave us. But what I am trying to say is, we certainly have not eliminated those, the duties, but they are just being performed by a Native corporation rather than the state.

Knapp: That's laudable. I think that the extent the corporations can do that, that's...

Ray: But they might not have, but what I am getting at, they might be hiring the Natives that the state would otherwise be hiring in those areas to perform the services. But they are now being performed by a private organization rather than the state.

Knapp: Perhaps so. There are a lot of people, Native people, who have

been working under CETA positions and other types of positions that are being over eliminated as a current economic trend. And these people have been trained and are available for employment and even if Natives have been able to perhaps assume more responsibilities for former state positions in the various regions, there is a still significant state job pool that Natives should be well represented in.

Ray: Yes, you still have to take into consideration that those jobs that were otherwise state jobs are no longer state jobs and they are being perhaps performed by a Native that was employed by the state but is no longer employed by the state. He has been employed by a private corporation. And as such he doesn't appear in the statistics, in the stats, as a result you have to overbalance in order to increase it 5% and then you would really have 15% of the Native population who were working in positions which you could call state positions although those positions are being, some of them are being, filled by employees of Native corporations. Very confusing. But you understand, I think you are getting the drift, as poorly as I am explaining it to you.

Knapp: I can see what you are saying. I guess maybe, it makes me look a little dense too. I still think that of the remaining positions that there should be more representation of Native people. There should have been, to maintain the 5.4% over three years does not show that the intentions are transferring into good action. And as far as the contracted-out positions, now, I worked as a planner to the Central Council, I have been there for three years now. I know that in other regions there has been some contracting especially in the area of social services. I'm not that familiar with what other kinds of duties may have been contracted out or how many total jobs this would mean the state has ultimately contracted to Native corporations. I think there still are some difficult areas that need to be worked out to make it more possible for corporations, for Native corporations to take greater responsibility for an even greater share of what formerly has been state ...

Ray: Have you taken into consideration, or have you looked, this is for our information and hopefully you have these figures, of the amount of people of Native origin who are on the state registers as of 1978 and how many are on the state registers as of 1981. That's a very, --

Knapp: I don't have that.

Ray: Well, see then you have no comparison. If the number on the registers has fallen, or has not kept in at the same constancy or the same increase as white people, then really there are less people available for hire.

Knapp: Perhaps so.

Ray: Percentage-wise, is what I am getting at.

Knapp: If that is true, knowing as I do that there are, at least in this region, are a significant number of Native people who are now unemployed that would like to be employed, I think that if indeed their number has substantially decreased on the state registers, the question as to "why" should be asked.

Ray: See, that's where, you've got it. That's what we are trying to find out: if there is a discriminatory attitude or if there's some way that these people are being discriminated against or not hired, that's what I am getting at. And if we could work with you or if you have the figures, if we could call upon you perhaps you have figures in your computers or something that could tell us or help us with that. That would go a long ways toward easing our duties.

Knapp: We would be very happy to work with you. We're local, we are available. We aren't necessarily representative of all the regions.

Ray: No, no. We could get a general look at it anyway, you know kind of a consensus. Yes Madam.

Question from the audience: I just wanted to ask her for clarification, how many whites are there in the region? In the regional (?) corporation. Quite a few that have been taken off the market?

Knapp: Actually not a lot. And I was told when I came here that I was being allowed to come and say a few words to show the Tlingit & Haida ... (FROM NOTES: is an equal employment opportunity employer.)

Ray: Well, you see there, here again as we have how many Native corporations do we have, and how many of those Native corporations, what are their relationships as far as the job market is concerned as how many qualified people, Natives, do they have?

Knapp: When I sit in a senior staff meeting and look around, and usually there's at least 12 people there, I often note that I am the only white person there. The Native corporations are able to find, recruit and employ qualified Native people. I think that the state government could also do that.

Ray: But they do. You see and the Native corporation, they don't have a competitive test and whose on first and whose uncle is the -- after you get by the testing is, if you have an uncle or an aunt or a cousin that is working over there in the supervisor position that could get you off the register, if you are down underneath the top five to put you in there.

Knapp. Sounds like ...

Ray: That's my job to eliminate.

(Testimony of Brenda Knapp)

Chenoweth: Will your testimony, or will the testimony that's being done this week in writing, give us the benefit of some suggestions based on specific items?

Knapp: Yes, it will specifically volunteer some recommendations that we think would help ...

Chenoweth: And, training and internal advancement?

Knapp: Yes, also.

Ray: And how many of your members have limited entry fishing permits? Thank you very much Brenda. Are there any other people from the public who would like to say anything?

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Testimony of
NIEL THOMAS
at the
Blue Ribbon Commission of the State Personnel Act
Meeting
November 3, 1981

I am Niel Thomas. I am Director of the State Human Rights Commission in Anchorage. As many of you know, I used to be a member of this group and its very much pleasure to be back. I have some show and tell which I will share with the staff and they may want to make further copies for the members of the group. One thing I did bring quite a number of copies of relates to what I understand the specific request of the group was from the Human Rights Commission. The minutes indicate that Mr. Thayer, I'm sorry, it was Mr. O'Claray, suggested that we come and share with you some information about the number of complaints involving the state which had been filed with the Human Rights Commission and some comparison with the private sector. That's what this sheet is and, if I may I will send it down, quite a few copies here, I'll send it down both sides of the table. If you will pardon some of my handwriting on here I will try to show you what it seems to be saying. I just quickly developed this data before I got on the plane over the weekend.

What you asked for from us is similar to the material that we developed a couple of weeks ago at the request of the U.S. Civil Rights Commission which will further report on the state's equal employment performance. It also ties into some reports that we have made on the subject too.

If I had each of you leaning over my shoulder I could point to some numbers here but let me try to call your attention where some of these key numbers are. If you look at the numbers that are in computer type there in a column that says "Cases Open at the End of the Period", that's how many total cases are pending before us right now. The handwritten number 75 beside that is how many cases are pending before the commission right now involving the State of Alaska, and then it says equals 18.3%. In other words, something like 18% of the total number of cases now open before us, are cases in which the State of Alaska is part of it. The other handwritten numbers going left across the page there then show you how many cases we have closed and of the total; and of the state, how many new cases were filed, and how many cases we started with. In other words, we have fewer cases involving the state on file now than we did at the beginning of the year although our total number of complaints has remained about constant. Now if you look below that, you will find the word "Note" and some more handwriting there. If you went with that number 18.3, you could be somewhat misled because of those 75 cases involving the state, 24 of them are basically people all involved in one issue, which is now pending at the public hearing stage.

So, to really fairly state a proportion, what I did was another calculation down below there. I took that one case involving 24 different complaints and treated it, as it fairly should be I think, as one case. So, if you do that, the real -- the more fair statement is that other percentage down toward the lower right hand corner of the page which says that 13.4% of the cases pending before us are cases involving the state. I think that is a more fair statement of the proportion of our workload involving the state.

Senator Ray: What case is that Niel?

Thomas: That case is the case involving the classification of public health nurses compared with physician's assistants. They appeared before you back when I was a member of this group, I believe, a couple of years ago. Since that time the complaint was -- a group of complaints were filed, that totals 24 complaints on our books, and the case is now pending in the public hearing stage.

Now on the left, then, it begins to get to more specifics of your request. Our case data system takes into account everything that has been filed with us since the beginning of 1975, plus everything that was open on that date. That number 3172 is that proportion of that data filed which are cases involving employment discrimination, as distinguished from housing, credit and finance or other things that we are authorized to deal with. 321 of those 3000 plus cases are cases involving the state, or something like 10%. That's what that first number is there on the left. Now as I said when we started, two years ago when the Civil Rights Commission was in town they asked us for basically the same kind of data. So as of August in 1978, something like 9%, or 9.3%, we told the Civil Rights Commission, of our employment discrimination cases, which the file had in it had been cases involving the State of Alaska. Now, the question is what does this tell you and is it significant. It's tempting to say that if 13%, 13-1/2% of our cases right now involve the state, and two years ago 9% of our cases involved the state, and the whole total case file is 10%, then maybe we are getting something of an upturn in business from the State of Alaska. Now whether that, whether a statistican would tell you that is specifically significant I don't know. We haven't run those kinds of statistical tests, but it does raise a possibility that perhaps we are getting more business from the state than we used to. I think that is as much as we can say on that.

At the very bottom of the page, and this is a figure your staff might want to update for us, but at the time we were talking to the Civil Rights Commission we were wondering, well, does the State give us more business say than the private sector? And that is what I understand that Mr. O'Claray was specifically asking earlier. We asked the Labor Department "if you take all of the nonfarm workers in the State of Alaska, what proportion of those people work for the state as opposed to the private sector?" And we were told that it is something on the order

of 8 or 9%, so I guess that it wasn't a figure that they keep very specifically. Well, we told the Civil Rights Commission then that if 8 or 9% of the nonfarm workers in the State of Alaska work for the state itself and if something like 9%, 9.3% (and we are talking 1978 now) of the complaints involved the state, it was probably fair to say that the state probably gives us about its fair share of the business, so to speak. It wouldn't be fair to say that we get far more business involving the State of Alaska say than we do from the private sector. Now whether that is still true, I think you would want to get the current figure. It's probably safe to say that there hasn't been a radical shift between the proportion of people working for the state as opposed to the private sector. And if that is true the ratio is probably similar but there is the question of "are we really getting slightly more business from the state than before?" The raw numbers would seem to indicate that. Maybe it's not basically significant. I think that is your judgment, but at least there is the numbers. That's the first part of the show and tell.

I have brought one copy of the things which I think are basically file documents for your own research purposes and Jim Fisher is going to want this also. In fact since he is closer to me, if I could leave some of these show and tell things and you could make copies for each other of the things I think you're both going to want. The first thing is a printout from our data files of all cases, all of these 300 and some cases involving the State of Alaska, which were closed between when this file opened in 1979 and 1980. That's the ... And this second printout is a printout of all the cases in which, except where that one leaves off, and it is everything that happened during this year. So it is everything that is now open on the books, plus everything that closed this year. So this is the whole file. And it is employment cases, plus everything else, housing cases which ASHA can generate, government services that we deal with, which involve correctional people and things like that. So this is the whole nine yards so to speak that is, and for whatever research purposes may be appropriate. Let me issue one note of caution --

Ray: How many cases of discrimination against minorities -- that is what we are interested in.

Thomas: The minority percentage statewide, and I haven't broken it out, Senator, separately for the State, but I have no reason to believe it is any different, but the minority percentage of people filing charges total is about half of our complaints. In other words, about half of our complaints are filed by whites (most of those are sex discrimination cases) and the other half are race discrimination cases.

Ray: This 9%, is what I am talking about. The 9% that is employed by the State of Alaska in 1978 -- what percentage of that, of the 9% that we are talking about, were complaints by minorities of discrimination. Can you tell us that?

(Testimony of Niel Thomas)

Thomas: Our complete filing rate is about 50%, in other words about half of our complaints are complaints filed by minorities as opposed to complaints filed by whites.

Ray: This is discrimination, is what I am talking about, not housing or anything else.

Thomas: Yes sir, employment discrimination.

Ray: I just wanted to get that clear, Niel, so we know what we are talking about.

Thomas: A couple of other items and things which I sort of gleaned from reading the minutes of the last meeting, and I guess the tape recorder wasn't working right, so I have basically got what the minutes read like, I recognize that they may not be totally accurate. There was a discussion there of what is discrimination, and for what it's worth, let me share with you the basic definition that we use, which might help you in your discussions over the next year's time. I know people customarily know that it's discrimination when someone who is consciously out to get somebody says, "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 kind of work". That is what you call the overt kind of discrimination, somebody who is really conscientiously out there to do somebody in. Let me say that that is definitely discrimination, but that that is only a small proportion, I think of the kind of thing that really comes in.

Most of what the courts wind up and the agencies wind up seeing as discrimination cases don't involve what you might call nasty people who are out to do somebody in. More often than not in this business today (and I would say it has been true over the last 10 years) what you see is a system of rules or a customary way of doing things, which works out to the detriment of a certain group of people. Let me give you an example. Suppose you believe that to be an effective police officer, you need to be an imposing figure who commands respect and you therefore say that to be a police officer you need to be over six feet tall, 6'6". You might have very good reason for believing that to be true. Now when they did the studies they found that wasn't even true but you could have legitimate reasons for believing that a person to be an effective police officer should be tall and imposing commanding respect. The last thing that might enter your mind, is the effect of having a rule like that, would be to completely exclude women, and to completely exclude most Asian people and to completely exclude most Alaska Natives, except possibly the Indian population, but certainly Eskimo and Aleuts. That is what I mean between, the difference between a rule or a set of ways of doing things which is created for even seemingly legitimate purpose person which might be questionable but created for

any legitimate purposes. Nobody had in mind it's being used for discriminatory purpose, but it works out that way. And what you have to do, and what gets done in these discrimination cases, is to go back over that and to say, "well, we may have had legitimate reasons for having this set up this way but let's take a look at how it is working. Maybe we have to change our mind and come up with an alternative which still serves our own legitimate interest in getting a job done by say hiring quality people." That's what happens in these cases, so I offer that for a working definition of discrimination. To be aware not only of the situations where you've got an evil-minded person at bay, so to speak, but also the well-meaning rules of the game which need to be reexamined because they work out or have the effect of excluding an identifable group of people.

Ray: To capsulize that you are saying that you have premeditated and other --

Thomas: Precisely, Senator. There was some discussion at the last meeting on the question of how to get data. Let me say this to underscore the point that some of you seem to be making, and that is the importance of having data. Let me go back to that example of the tall trooper. Suppose you had statistics for Public Safety as a whole department and suppose you only had the number of women, or a proportion of the total employees in Public Safety who were females. If that is all you had, you might conclude that Public Safety doesn't have a risk of getting sued in sex discrimination cases because 40% of the women who work there, or 40% of the people who work there are women. You would need to have the proportion of troopers who were females, you have to have that particular piece of data, before you could say to yourself, "Wait, now maybe in hiring troopers, Public Safety has a problem, because there are no women." So, one piece of data that is very important to have is statistics by division. You need to be able to say "well Public Safety overall may have 40% women but the troopers may have a problem because in that division there is no women." So it is very important to have divisional data.

It is also important to have that data by geography. Suppose the trooper dispatchments everywhere but in Anchorage have a substantial number of women working as troopers and Anchorage none. Well, now maybe somebody wants to ask some questions about who makes the decisions about who gets hired in Anchorage because everybody else seems to find women for these jobs and it's just this one hiring authority who seems to have this problem. Maybe we need to go talk to this individual and see what the problem is. They may have a perfectly legitimate problem but without the data you can't really know where the problems are. And so, that is crucial. So one kind of data that it is really important to have, I suggest, is statistics by individual division which can also be looked at by geographic territory. Take the Labor Department for instance,

it's highly regionalized. Their individual divisional managers with a great degree of authority. They would need to know how things break out in Fairbanks in the different positions by the people who make hiring decisions in order to find out whether one person is having a problem and somebody else isn't.

Another kind of data that is extremely important to have is what we call applicant flow data. You need to know what the proportion of people is who are applying for certain kinds of jobs, and let's keep this example going by saying the trooper, and what happens along the steps of the process. Take for instance, now let's say we have data by division by geography, and it shows us that there are no women working as troopers anywhere in the state. So it's clear that this doesn't seem to be the problem of any one particular person who does the hiring. And, now you might say, without this other type of data that I am calling applicant flow data, well, troopers had better go out and recruit females. Well you could then decide to spend a lot of state money recruiting women like crazy. But if you had the applicant flow data you might take a look and say "wait a minute, half of the people who applied to be troopers already are women. We are wasting our money recruiting more women. We had better find out what happened to those women." That's what applicant flow data does. You see what proportion of the people apply and then what happens to them in steps along the process.

Now what you might find is, go back to the example that I used earlier, this requirement, you have to be 6'6" tall to be a trooper, there is where the problem is. The applicant flow data reveals that because it shows that 40% of the people who apply are females and at the stage of personnel's reviewing for minimum qualifications, zero females qualify. Well, now we have zeroed in on the problem and saved a lot of money going out and recruiting for no purpose. We have demonstrated that the problem is not some evil-minded supervisor refusing to hire females because he doesn't think females make good troopers. It was some rule that was innocently created years ago that nobody has thought about. And that's, as I say, not a farfetched, but in fact a very common true example of what we consider to be the common effect discrimination case. And, as many of you know, it was a very common practice, up to about 6-8 years ago, for most law enforcement agencies around the country to have height requirements. And it's through this kind of data that those things have become passe'. I don't know of any law enforcement agency in the State of Alaska now that has a height requirement and it is because of the impact and the understandings that we have reached about what employment discrimination is. And that is why I caution you people not to leap to conclusions about there being evil-minded people out to discriminate against folks that might explain why some of this data that says we could do better in the equal employment area. I don't think it's evil-minded people, I think it's rules of the game that have been around a long time which need to be reexamined. That pretty much is what I wanted to share with you -- oh, one further word on data.

One of the common problems that exists in this business is to say where do we think we should be. For that we need another type of data and it's called availability data in the trade. We could say off the top of our heads, I suppose, that there are probably a fair number

of females who could make good troopers, but how many females who could make good troopers? What is a fair goal to strike at. Should the state hope to have 10% of its troopers be females, or 30% or 40%? To get the answer to that kind of question you need to know how many females are available and interested in being troopers. Now, when you go at that on a job-type by job-type, it gets to be extremely difficult and a certain amount of guesswork. I would say one of the hardest things that people in Jim Fishers' EEO Division and their counterparts throughout the departments have to do is to make that decision. You can't set a goal by picking numbers out of the air. You have to have some rational basis for doing it. The rational basis is the question of "well, what proportion of people who want to be Human Rights Commission investigators and are available for doing that are minority people as opposed to white; or labor department employment security interviewers or secretaries in the Department of Military Affairs." You need to know what the availability is and that data is hard to come by.

The Municipality of Anchorage has asked the State Labor Department, which generates a very nice booklet about that type of data, at least on a population basis, to break it out even further by different racial groups. And I've noticed that some of your staff work attempts to take a look at the state's workforce in particularly with respect to Alaska Natives, not looking at other minority groups, you need to be able to compare that population data. And Chuck LaViege, who is Jim Fishers' counterpart for Municipality of Anchorage, wrote the Labor Department recently asking for that data to be developed more fully. And I would suggest that maybe the Blue Ribbon Commission could do this, help make better population, better availability data, available to people that have to do this kind of planning. It would be extremely helpful, and anything the Blue Ribbon Commission could do to help the state complete projects they it's already got underway to pull data together about the applicants, the people who are applying for the state, the people who now work for the state. I am sure that the state people here, Mr. Kareen and Mr. Fisher, would appreciate your help in those areas because they need it. It does cost money to do this kind of thing but you are shooting in the dark without that kind of data.

Ray: Mr. Thomas, Niel, in the sheet that you put out here, let me see if I can get this straightened out in my mind -- you had 75 cases open at the period of October 17th and out of that 75, does this 24 stand in there or --

Thomas: They are included in the 75.

Ray: Then if we were to eliminate the -- well I don't know if we can -- what I am trying to do is to get the percentage of these cases where -- of the 75 that are considered discrimination against minorities.

Thomas: Oh, I could do a quick count while someone else is testifying, because it would come off of this list that I just handed in, and give you a specific number on that.

Ray: I know that it is soft data but it would give us kind of a indication of what you caseload is or what your reoccurring problems are as

far as minorities -- that is our --

Thomas: What I would like to do is to count that for you twice because of the 75 is that 24 all involving females. We will count those one way and then count them the other way and give them to you both ways.

Ray: But the cases involving the females, is that discrimination because they are females, or because of the certain class of work that they are doing?

Thomas: Just sex discrimination and it is all one case. That's why I was trying to make a fair statement by saying let's taken them as one case.

Ray: All right, if you would do that for us, I would sure we would be interested in it. Are there any questions from the commission?

Thomas: I also have a couple of other file documents which I will share with the staff: the Goveror's announcement about pulling together this kind of data which is dated February, 1978, and correspondence between us and the Administration, and my former testimony before the Civil Rights Commission.

Thayer: Sir, do you have a great many cases against the state, of what type they are the hiring practices, promotional practices, -- do you have an idea of where those complaints are fitting in -- what type --

Thomas: That computer file that I handed in has different flags on it which answers all those kinds of questions. The reason I brought it was that I thought you might have research of that type, that you want the staff to do. And we can be sure that they have the code that unlocks what these numbers mean on the sheets.

Ray: Thank you Niel.

* * * * * * * * * *

RO1-GHU-0001
10/17/81
PAGE 51

TOTAL STATISTICS BY REGION — BEGIN-DATE 010181 — END-DATE 093081

	CASES OPEN AT END OF PRIOR PERIOD	NEW FILINGS THIS PERIOD	CASES CLOSED THIS PERIOD	CASES OPEN AT END OF THIS PERIOD
CENTRAL	162	098	080	180
SYSTEMIC	003	000	000	003
NORTHERN	104	043	071	076
SOUTHEASTERN	086	033	024	095
OTHER	057	003	004	056
STATE TOTALS	412 86	177 26	179 15	410 75 = 18.3% *

TOTAL EMPLOYMENT CASES IN SYSTEM SINCE 1975: 3172
SOA: 321
} = 10.1%

SOA Cases

* Note: 24 SOA Cases have been consolidated at hearing (1 issue)

AS OF 8/16/78 (CIVIL RTS COMM TESTIMONY)

TOTAL: 2162
SOA: 200
} = 9.3%

SOA Proportion if 24 Cases Counted as one: $\frac{324}{52} = 13.4\%$

NOTE: NON FARM WORKFORCE EMPLOYED BY SOA = 8.0% / 9.0% (1978)

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.

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Signature of Camera Operator

12/15/89
Date

02-519 (REV 8/78)

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TABLE OF CONTENTS
CATEGORIES OF EMPLOYEES ISSUE SUMMARY

RESTRUCTURING THE STATE'S CATEGORIES OF EMPLOYEES.....1

STATUTES AND REGULATIONS.....1

TEMPORARY EMPLOYEES.....2

1. Lack of benefits.....2

2. Vacant permanent positions.....3

3. Time limits on employment of temporaries.....4

4. Category for federal program enrollees.....4
   a) SCSEP Program 5
   b) CETA Program 5

5. Hiring temporary employees from registers....6

6. Due process rights for temporary employees...6

7. Union membership for temporary employees.....7

8. Project category employees.....8

9. Pool of on-call permanent employees.....8

10. Contractual employees.....8

TABLE OF CONTENTS
MERIT SYSTEM/COLLECTIVE BARGAINING ISSUE SUMMARY

1. Structure of the Division of Personnel and Labor Relations.....1

2. Relationship of collective bargaining contract terms to statutes, Personnel Rules and departmental standard operating procedures.. 1

3. Method of adopting the Personnel Rules and departmental standard operating procedures.....2

4. Membership of the Alaska State Labor Relations Agency, the Personnel Board and the Retirement Board.....2

5. Scope of authority of the Labor Relations Agency and the Personnel Board.....3

6. Inclusion of non-certificated school district employees under the Public Employment Relations Act..... 3

7. Inequity of wages between union members and non-union state employees.....4

8. Due process rights for temporary employees.....4

SOURCES..... 5

BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT
Pouch AG
Juneau, Alaska 99811
465-4442

TO: Blue Ribbon Commission Members

FROM: Teresa B. Cramer, Administrative Assistant

DATE: January 23, 1979

RE: Issues Summary, Categories of Employees Subcommittee

RESTRUCTURING THE STATE'S CATEGORIES OF EMPLOYEES

The Committee may wish to consider a major overhaul of the categories of employees in order both to eliminate abuses in the use of temporary employees and to better respond to the state's staffing needs. Niel Thomas' memo of January 8, 1979, provides an analysis of the needs which temporaries are filling and of one alternative. Copies of that memo have been distributed to members. More copies are available from the staff, if needed.

STATUTES AND REGULATIONS

STATUTE: The personnel rules shall provide for: (9) temporary appointments to positions in the state service which are determined to be of a seasonal or temporary nature AS39.25.150.

PERSONNEL RULES

PERSONNEL RULE 1: Definitions. "Temporary Position" means a position established with an anticipated duration of less than six months.

PR5 06.0: Temporary appointments shall, when practicable, be made from eligible lists. If the Director has found it impracticable to make certification because of non-availability of eligibles, he may authorize the temporary appointment of a qualified individual designated by the appointing authority. No appointment shall exceed six months except where the Director grants an extension of a temporary appointment because of extenuating circumstances...The period of temporary service shall not be counted as part of the probationary period in case of subsequent appointment to a permanent position.

PR6 02.6: Probationary Periods. Duration: Time served on emergency or temporary employment shall not be counted as part of the probationary period.

PR10.05.6: Leaves of Absence. Temporary Leave: The provisions of this rule do not apply to: Temporary employees hired for periods of less than 12 consecutive months.

PR11 04.2: Separation and Demotion. No permanent employee or probationary employee in the classified service shall be laid off while there are emergency, provisional or temporary employees serving in the same position classification in the same agency or organizational unit or in other position classifications performing work to which the permanent or probationary employee could reasonably be assigned.

PR11 04.7: In the case of emergency, temporary, provisional, part-time or other limited employment of employees from layoff or eligible lists, the appointing authority shall indicate to the employee and the Director...the approximate date of termination of employment.

PR11 05.1: Dismissal. Employees who do not hold permanent status may be dismissed at any time at the discretion of the appointing authority. The employee shall be advised in writing of the reason for the dismissal...If the dismissal was due to discrimination based on race, color, sex, religion or political beliefs, the right of appeal exists.

PR11 07.0: Termination. Termination means the release from employment of a temporary or emergency employee upon completion of his term of service or the need for his services.

TEMPORARY EMPLOYEES

1. Lack of benefits. Of the benefits provided to permanent employees by the state, temporary employees are entitled to receive only holiday pay and unemployment insurance. Temporaries are not eligible for court leave, administrative leave, personal leave, hazard pay or retirement benefits. Even if a temporary employee is subsequently placed in a permanent position, he or she does not receive retroactive credit towards either retirement or seniority.

Temporary employment does not entitle employees to be placed on promotional registers. Since the state has a policy favoring filling positions by promotions, this penalizes temporary employees who may have worked for a substantial period of time for the state. (The question of whether the state should continue its policy on promotions is raised in the Classification, Certification and Recruitment Memorandum.)

If temporary employees did, in fact, work only for a short time in one position, then it might be inappropriate for the state to provide leave benefits. Temporaries would then be hired only where there were deadlines that could not otherwise

be met, and if they were out on leave, the department would have to pay, not only their salary, but also the salary of a second replacement temporary.

Because the state does not have to pay for as many fringe benefits to temporaries as it does for permanent employees, it is cheaper for departments to hire temporaries. Program managers may therefore leave permanent positions vacant and hire temporaries instead so as to be able to increase the staff available to work on a project. For the same reason, departments may use temporary employees instead of permanent seasonal employees for recurrent seasonal needs. Some departments have a substantial number of such employees and would probably need a supplemental appropriation to fund benefits if they made use of the permanent seasonal category.

The Local No. 71 collective bargaining agreement addresses the lack of benefits provided to temporary employees. Members who are working as temporaries receive a wage supplement of $1.32 per hour for the first 120 days of work in a temporary position. After the 120 days, they shift from the entry level wage group into a higher level wage group.

REMEDY: Does the Commission wish to recommend that any of the following benefits be provided to temporary employees:

a) Court, administative, or personal leave;

b) Hazard pay;

c) Credit towards retirement benefits;

d) Right to placement or promotional registers based on temporary employment;

e) A wage supplement; or

f) Retroactive credit towards leave or retirement benefits or for seniority if placed in a permanent position?

If so, when should an employee be entitled to receive them?

2. Vacant permanent positions. The legislature reviews the number of vacant PCN's when it considers a department's budget requests. As a rule, those PCN's which have been vacant for more than six months are removed from the budget, unless the department can justify the delay in hiring. There is evidence that despite this policy, a number of PCN's are remaining vacant for several years.

REMEDY: Does the Commission wish to recommend more stringent review of vacant PCN's. If so, who should make this review, and what should be the result of the findings?

3. Time limits on employment of temporaries. The Personnel Rules provide that temporary employees can be employed in one position for a maximum of six months, with extensions possible in extenuating circumstances. PR5 06.0, implementing AS39.23.150(9). (The statute does not set any limit on the period of temporary employment.) Union contracts modify the rule. Local No. 71 members may serve as temporaries a maximum of 120 days before they are entitled to receive a bonus in addition to the $1.32 mentioned in Issue 1 , page 3). The APEA collective bargaining agreement limits employment of its members as temporaries to six months.

The six-month term is seen as excessively long by some. It invites departments to use temporary employees instead of hiring permanent full-time, part-time or seasonal employees, and permits them to evade the merit system established for hiring permanent employees.

On the other hand, some temporary employees and some program managers see the term as inadequate. The time required to establish a new position can cut into the time available for completion of a project, so managers may have no choice but to hire temporaries. If the project lasts longer than six months, then the manager is forced to train a new employee in the middle of the work. One witness suggested that some of the time required for implementation of a new program could be avoided if the legislature requested that departments present P402's for all positions created by a new program at the same time that the budget for the program was being considered.

REMEDY: Does the commission wish to recommend legislation to shorten or lengthen the time a temporary may be employed in one department?

Does the Commission wish to recommend the creation of a new category of Project Employee? (See discussion in the January 8, 1978 memorandum from Niel Thomas, and Issue 8, page 8, herein.)

Does the Commission wish to suggest to the legislature that they request P402's from departments to consider during their consideration of the budget for new programs?

NOTE: The Classification, Certification and Recruitment Subcommittee has before it the issue of time required to classify positions.

4. Category for federal program enrollees. Employees under both the CETA (Comprehensive Service Employment Program) and the SCSEP (Senior Community Service Employment Program) are

presently classified as temporaries, although this classification creates some problems. Both programs are aimed at providing employment opportunities for underemployed groups of people.

a) SCSEP program. The state's practice of categorizing SCSEP enrollees as temporary employees appears to violate some of the federal regulations governing the program. (The regulations require that no limit be placed on the length of employment, that the employer provide a procedure for dispute resolution for enrollees, and that fringe benefits be administered uniformly to all enrollees working for that employer.)

To remedy this situation, APEA suggests that enrollees be placed in the permanent part-time category with designated PCN's set aside for that purpose. The terms of employment would be negotiated by APEA, the Division of Personnel, and the Office on Aging, particularly to provide for exemptions from the state's certification and examination competition requirements.

Another possibility is to place enrollees in the partially exempt service, which would allow for the provision of fringe benefits, but would exempt them from the selection requirements of the classified service. It would not provide for access to the grievance procedures set out in Rule 12, since they apply only to members of the classified service, nor would enrollees be APEA members and entitled to participate in the bargaining contract's grievance procedures.

b) CETA program. The federal regulations implementing the CETA program set the maximum salary which the federal government will provide for an enrolleee at $1,039 per month. The state may supplement that amount, should it wish to do so. Testimony was presented on the experiences of one CETA enrollee working at a correctional center. She indicated that she was doing the same work as the Correctional Officer I's employed at the institution, but that they were not part of the CETA program and therefore received significantly higher wages than she did. She knew of an instance where a CETA enrollee was supervising a non-CETA state employee who was much higher paid than the supervisor.

REMEDY: Does the Commission wish to recommend that a separate category for enrollees of these kinds of programs be established? If not, does the Commission wish to recommend whether the temporary category of employees should be used for them?

CETA program: Does the Commission wish to recommend that some measures be taken to address the salary differences:

1. Provide by stature that a program must supplement CETA funds with state funds to insure equity of salaries between its employees?

2. Ask the Alaskan congressional delegation to seek a cost-of-living adjustment from the federal government to reflect the higher cost of living in Alaska?

5. Hiring temporary employees from the registers. Although the Personnel Rules require that temporary appointments shall, when practicable, be made from the eligible lists, (PR5 06.0), most of the temporary employees who testified before the Commission were not hired from the registers. Requiring departments to abide by the rule and to hire temporaries from the registers could eliminate some of the abuses associated with temporary hiring practice. Abuses include hiring people who would not meet the minimum qualifications of a vacant permanent position so that they develop minimum qualifications and be placed in the position; hiring people from out-of-state as temporaries so that they can establish residency and be placed in permanent positons; and using the temporary period to add to the probationary period of permanent employment. Hiring from the register takes some time. Steps include request for and receipt of the register from the Division of Personnel; notification to eligibles on the register of the vacancy; interviews of those interested in the position; and selection from among the applicants. In some instances, program managers may not be able to leave a position vacant for the length of time required.

REMEDY: Does the Commission wish to recommend that legislation be adopted requiring that temporary employees be hired from the register except when there are no eligible lists available for that position?

QUESTION: Does the Commission wish to recommend that the existing Personnel Rules be more stringently enforced by the Division of Personnel? (Note that the Subcommittee on Classification, Certification and Recruitment is considering whether to require that the top five interested eligibles on the register be offered an apportunity for a meaningful interview before a position is filled. Classification, Certification and Recruitment Summary, Issue 9, page 10. It is also considering recommendations on enhancing the Division of Personnel's auditing role, Issue 10, page 12.)

6. Due process rights for temporary employees. Under the Personnel Rules, temporary employees have only a limited right to pursue grievances. The grievance procedures set out in Rule 12 are available to "any employee occupying a position in the classified service who has a grievance relating to his position, working conditions or employment over which the Executive Head of his department may lawfully exercise discretion". However, Rule 6 04.0 limits the rights of probationary employees to appeal or have a hearing for a dismissal, except where the dismissal was due to discrimination based on race, color, sex, religion, national origin, or political beliefs. The Division of Person-

nel has reasoned that temporary employees have less status than probationary employees, and that therefore if probationary employees' right to appeal adverse decisions are limited, then the right of temporary employees must also be limited.

The Personnel Board appeals procedure set out in AS39.25.170 has been administratively construed to apply to employees having a permanent status, rather than a probationary status, except in cases where dismissal of a probationary employee is due to racial, religious or political discrimination. Whaley v. State, 438, P.2d 718 (1968). Therefore, it is probably also unavailable to temporary employees.

Under collective bargaining agreements, the right of temporary employees to use the grievance procedures is limited as well. In the past, APEA did pursue grievances for temporary employees within their bargaining unit. However, the Division of Personnel began, about a year ago, to hold the association to the letter of the agreement. Under language that had been in the contract since at least 1973, the definition of employee did not include temporary employees.

Art. 1, Sec. 2(c) "Employee" in this Agreement means a person in the state service who is paid a salary or wage and holds probationary, permanent, or provisional status.

Grievances were defined as "any controversy or dispute arising between APEA or an employee of the bargaining unit and the Employer". Article X, Section 1. Given the language, an arbitrator upheld the Division's position, that grievance rights were not available to temporary employees, even though that language had not been challenged by the department in previous grievances on the behalf of temporaries within the unit.

The Local 71 contract provides that temporary employees have the right to grieve on contract terms and penalty pay, but that only permanent or probationary employees have a right to arbitration procedures.

NOTE: The Subcommittee on Merit System/Collective Bargaining is also considering this topic, which is repeated here. It is Issue number 8 of their summary.

QUESTION: Does the Commission wish to recommend that temporary employees be afforded due process rights beyond those presently provided for in cases of discrimination based on race, color, sex, religion, national origin or political beliefs?

7. Union membership for temporary employees. Several of the temporary employees who testified before the Commission objected

to having to belong to unions. Temporary employees indicated that they felt that the union was not representing their interests. APEA representatives pointed out that a considerable amount of their lobbying effort last session had been directed at securing fringe benefits for temporaries. Temporary employees benefit from the salaries negotiated for all employees. In addition, members of Local 71 received a wage supplement, as noted above, for employment as temporaries.

The Public Employees Relations Act does not require that all employees within a unit belong to the association which has organized that unit. In fact, it requires that non-association employees having bona fide religious objections to membership in an association be permitted to contribute an amount equal to the dues to the union, which then must contribute that amount to charity. The contracts in force with the state have agency shop clauses, reached through negotiation, which require that non-exempted employees join the union within 30 days of employment.

QUESTION: Does the Commission wish to consider this issue?

8. Project category employees. It is difficult to plan for permanent positions in programs funded through federal grants whose receipt is not guaranteed from year to year. Program managers are not authorized to fill those positions until after funding is definite. This leads to the employment of temporaries in those positions. An alternative would be to create a new category for project employees. The employees would understand that their continued employment would be dependent upon the receipt of funds for the project.

REMEDY: Does the Commission wish to recommend the creation of a category of employee for special projects?

9. Pool of on-call permanent employees. The state could develop a pool of skilled, permanent employees who would be on call to the various departments to fill in during vacations and to be available during unexpected vacancies or periods of peak work. The departments would have to work with the Division of Personnel to identify which classifications are used enough to benefit from a pool. Certainly clerical needs could be filled from a pool, and perhaps accounting. Some positions could be set aside for people interested in working part-time.

QUESTION: Does the Commission wish to recommend the creation of a pool of permanent employees in frequently used classifications to be available to departments as needed? If so, who should be responsible for hiring and pay?

10. Contractual employees. The Subcommittee decided at its organizational meeting to reserve the question of the state's contracting practices for later consideration.

CATEGORIES OF EMPLOYEES
Capitol Building, Juneau
November 15, 1979

MINUTES

Frank Flavin, Vice Chairman, called the subcommittee meeting to order. Following roll call, Mr. Flavin introduced Bill Mullin, Director of the Division of Finance in the Department of Administration. Mr. Mullin presented the following summary of his division's role in professional service contracting.

Professional service contracts have always been reviewed by the Department of Administration. Shortly after statehood, the review function was placed in the hands of the Division of Budget and Management. It was then given to the Division of Internal Audit, and then finally to the Division of Finance. The review is typically to determine that contracting services and funding are included in agencies' budgets. If the dollars are not specifically enumerated in an agency's budget, the agency is asked to justify the expenditure to either the division or the Department of Administration. Frequently, agencies submit justification along with requests for authorization to enter into contract negotiations. If the request is reasonable, then it is approved. If not, the matter is brought to the attention of the division director and possibly before the Commissioner for consultation. The Division of Finance also reviews travel requests, equipment expenditures, etc., to verify that these items are identified and provided for in agency budgets, or if the need is justified.

In the mid 1960's, considerable efforts by the Division of Budget and Management led to the adoption of a standard contract form. In the early 1970's, the Department of Administration became concerned about contracting practices, and the Commissioner decided that the department should receive advance notice of an agency's intentions to contract for services. This led to the development of a new form known as the ATEN, which is a request for authorization to enter negotiations. This form was designed to put the Department of Administration on notice when an agency wished to negotiate with a vendor for services. In 1971, ATEN's were sent to the Governor's Office for review, and this practice continued through 1976. The Governor's Office then decided that its review was no longer required, and contracting review became the responsibility of the Department of Administration.

At one point, the Internal Revenue Service challenged the state on an allegation that contractual employees were not performing independent business and should actually be on the state's payroll. This allegation led to a reevaluation of the state's contracting practices. In some instances, there were people on contracts who should have been state employees, and they were placed on the state's payroll. In the majority of cases, the state asserted that the contracts were appropriate. The IRS investigation ended last year, and the state's position was successful--it has not had to pay additional IRS or social security taxes.

The function of reviewing contracts was turned over to the Division of Internal Audit in 1975 or 1976, when the Division of Budget and Management was moved to the Governor's Office. In 1977, the function was placed with the Division of Finance.

When the Division of Internal Audit received the review function, it expanded the contracting authorization form, adopted state purchasing regulations and printed information and instructions concerning procedures on the new contract form. When the contract review was transferred to the Division of Finance, it set a tentative work plan for adopting additional guidelines for agencies on how to determine contracting needs, how to execute negotiations, and how to control actual contracting services. These guidelines were issued in July, 1978, and have not been revised since that date.

The Division of Finance determined that contracts should be reviewed by a committee rather than by a single staff member, and this led to the establishment of a contract review committee consisting of the contract review officer of the Division of Finance, the Deputy Director of Supply and Preaudit, and the Director of the Division of General Services and Supply. All professional service contracts and all requests for authorization to enter negotiations are handled by the Contract Review Committee. In unclear cases, the committee may question the agency and receive oral presentations providing justification for entering into negotiations for services not identified in an agency's budget. The contract review officer is responsible for logging in documents, correspondence, bookkeeping and transmittal of finalized contracts to the committee.

Mr. Mullin stated that the division needs a standardized contract form. The original form created in the 1960's was never printed. It was recorded on Mag Cards, and the cards have been changed over the years by each agency. In 1978, the Attorney General's Office, in conjunction with the Division of Finance, drafted a contract form which was only agreed upon two months ago. The form will be printed before the end of the fiscal year.

Mr. Mullin asked if there were any questions, and Frank Flavin asked whether contracting regulations would be placed under the Administrative Procedures Act. Mr. Mullin responded that it has been considered, and as the regulations now exist, they would not meet A.P.A. standards. There is also a separate question as to whether they should be placed under the A.P.A. because they are agency guidelines and have no external impact. Mr. Flavin noted that they do impact vendors throughout the state, and the vendors' ability to compete in the bidding process. Mr. Mullin elaborated that the regulations do provide for various procedures depending on the value of the contract. If a contract is for less than $300, an agency may contract without going through the process. Contracts for services costing from $300-2,000 must be requested on a standard form and be signed by both parties. If a request is for over $2,000, an agency must submit an ATEN form. A request for proposal (RFP) must be submitted for all contracts exceeding $20,000.

Pat Murphy asked whether there are any standards for determining whether an individual is an employee or a contractor and who makes that decision. Mr. Mullin responded that the IRS was prohibited by the U.S. Congress from making that determination. Congresss has been working on establishing a law spelling out guidelines for the last few years, and by 1981 expects to have made some determinations. There are no provisions in the statutes covering the topic, and the only guidelines are common-law determinations. Initially, agencies make the decision of whether there is justifiable need for contracting services. The Division of Finance does occasionally, however, reject proposals following its investigations. The questionnaire on the back of the ATEN form is designed to alert agencies to that question.

Mr. Murphy asked whether Mr. Mullin was aware that 42 out of 45 contracted individuals in the Department of Education had been found, at one time, to be performing duties of classified state employees. He asked how these employees ended up on contracts and why they slipped through the division's review process. Mr. Mullin responded that these individuals were on the state's payroll and were thus paying state and federal taxes in accordance with the law while they were on contract. Some of the employees were certificated teachers, who are exempt by statute. Others were administrators prescribing courses for teachers, and there is not much distinction between these two functions. There was nothing illegal or unusual about contracting for these services.

Mr. Murphy stated that anything other than a strict review procedure creates conflicts between special-interest groups, their memberships, the agencies and the Governor's Office. He added that there are many reasons for contracting out work, such as good management policy. Mr. Murphy again asked if there is really a review procedure or standards for these actions. Mr. Mullin explained that there is no written policy either in the law or in the regulations that mandates when the state shall enter into contracts or when an employee shall be placed on the state's payroll.

Mr. Flavin pointed out that the Attorney General has issued an opinion that the Department of Transportation and Public Facilities is an independent contracting agency. He asked if contracts from that department are still subject to Division of Finance regulations. Mr. Mullin explained that he is not familiar with the department's procedures, but they are exempted by law from review of architectural and engineering studies contracts, which are probably the bulk of their contracting services. The Division of Finance does review at least some of their contracts and ATEN's. Since the department receives federal monies, their contracting review procedures must meet federal standards.

Lois Jund asked Mr. Mullin to shed some light on the problems observed in contracting in the Division of Data Processing. Mr. Mullin responded that he knows of only one individual contracted by the Division of Data Processing in Juneau who is a former state employee. This individual opened his own business, and the division currently holds contracts with the firm for the services of three employees.

There were no further questions, and Mr. Flavin thanked Mr. Mullin on behalf of the commission for his assistance.

On the topic of exempt positions which were enumerated in Terry Cramer's memo, Mr. Flavin asked what the philosophy is for placing positions in the exempt and partially exempt services. Ken Kareen explained that initially, judges were placed in the exempt service, and their administrative staff was placed in the partially exempt service. Because of disagreements concerning salary ranges (partially exempt and classified positions are set in the state's classification and pay plans) all judicial branch employees were moved to the exempt service. He added that in the judges opinion, the separation of powers doctrine forbad the executive branch through its classification actions from dictating to the judicial branch concerning its employees. The judicial branch has adopted its own merit system.

Ms. Jund commented that psychiatrists in the Department of Health and Social Services were placed in the exempt service because of difficulties in recruiting professionals in that particular field and because they command compensation above normal salary ranges. This is also the case for other classifications, such as those of petroleum geologists and engineers. Mr. Kareen stated that some licensed professionals, such as medical doctors, will not accept jobs that require paying union dues because they already pay professional association dues.

Mr. Flavin reviewed the list of positions in the exempt service, and noted that several commissions were exempt. Sue Greene explained that this is in all probability because these agencies wish to maintain the appearance of not being run or influenced by the administration, and being exempt gives them a sort of "symbolic autonomy". This is the case with both the Commercial Fisheries and Post Secondary Education Commissions. Mr. Flavin commented that this autonomy may be valid at the commissioner level, but possibly not for employees. Mr. Murphy asserted that the reason both commissions were placed in the exempt service was simply a matter of someone failing to properly proofread a 50-page bill.

Mr. Flavin asked if the subcommittee wished to recommend that lower-level positions be subject to the merit system of the classified service. He suggested that the subcommittee might present the legislature with examples of positions that might be placed in the classified service so that legislators could make their own determinations. Ms. Jund stated that she would like to hear why certain positions are in the exempt service. She added that she could understand the placement of the D-2 Commission in the exempt service, but could not understand why clerk typists and document processing clerks would be exempt.

Mr. Kareen stated that although there is an Attorney General's analysis of reasons for placement of the Post Secondary Education Commission in the exempt service, there probably isn't anyone to justify the placement of other positions in the services. Mr. Murphy agreed

that even incumbents are not aware of the reasons they are in particular services. Mr. Flavin responded that the subcommittee might wish to note its concern in the report to the legislature. Terry Cramer commented that the only partially exempt position that seemed questionable was that of the regional loan manager. Nobody could see any reason for the position being partially exempt, other than its traditional tracking of the PCN. Mr. Kareen said that at the time of statehood, the Governor designated positions to the partially exempt service, and justification was not required. A great many of the positions in the Department of Commerce loan program were designated to the partially exempt service.

Ms. Jund asked whether it would be appropriate to recommend that positions in the partially exempt service be placed under the merit system of the classified service, but excluded from bargaining.

Mr. Flavin pointed out that guidelines do not have the force of law unless promulgated under A.P.A. regulations. Mr. Murphy elaborated that the Personnel Rules are considered guidelines and can be disregarded. Mr. Murphy asked whether a lawsuit brought by an employee or applicant on violations of procedures in the Personnel Rules would be valid. Could the court force compliance? Mr. Flavin responded that the Personnel Rules are a separate case because they are statutorily promulgated by the Personnel Board. Mr. Kareen asserted that there needs to be some latitude for delivering services to the taxpayer in the most efficient and cost-effective manner, and this includes making use of private enterprise or contractors if necessary. Mr. Flavin responded that latitude is often mistaken for license.

Mr. Murphy asked for Mr. Flavin's point of view on promulgating contracting regulations through the A.P.A. Mr. Flavin explained that the Ombudsman's Office does receive complaints from vendors who believe that they can offer a similar service for less and who ask why they were not given an opportunity to bid on a project. The office also receives complaints from state employees who believe they could do the job. Mr. Flavin added that there is a significant amount of abuse of contracting privileges, but not a great amount. Currently, committments vary from agency to agency, and there is very little auditing done in some agencies. Mr. Kareen noted that there are only a few people who will flagrantly violate the regulations, and creating more specific regulations will place a greater burden upon people who are conscientious. There will always be errors and mistakes, as well as a few who will try to get away with what they can.

Mr. Flavin commented that the question only concerned the status of the regulations, not the content. Enforcing regulations already in existence might be a better alternative than making new guidelines and would be more effective if the regulations had the force of law. Mr. Murphy moved that the subcommittee recommend that the full commission be informed of the possibility of making the internal regulations on contracting procedures subject to the Administrative Procedures Act of the State of Alaska. There were no objections.

Mr. Kareen suggested that since the subcommittee had completed its business, that it set a date in the near future for termination. Mr. Flavin agreed that if nothing is assigned to the subcommittee for consideration before the next commission meeting, it should advise the full commission that its tasks are completed.

The meeting was adjourned.

MEMBERS IN ATTENDANCE

Frank Flavin, Vice Chairman
Lois Jund
Doryce Eggleston (for Lynda McCurry)
Pat Murphy
Ken Kareen (for Sandra Withers)

OTHERS IN ATTENDANCE

Sue Greene
Bill Mullin (guest speaker)

CATEGORIES OF EMPLOYEES
Capitol Building, Juneau
October 17, 1979

MINUTES

In the absence of Representative Buchholdt and Frank Flavin, Lynda McCurry chaired the meeting. Ms. McCurry referred to the issue of contractual services and employees discussed at the last meeting. Terry Cramer pointed out that the legislative resolution creating the commission specifically directs members to address the feasibility of establishing "a method for regularizing the hiring of specialists who, because of higher comparable salaries in the private sector for the skills involved, must be paid at levels in excess of the salary schedule".

Ken Kareen explained that the state is supposed to use Internal Revenue Service guidelines to distinguish between employees and contractors. Exceptions are made for attorneys and for part-time medical doctors. Teacher contracts are covered by special provisions, and they are technically the only contract employees in the state. All others are considered contractors.

Pat Murphy described his experiences with state contracts used by the Department of Education. In 1971, the Department of Education was delegated the authority to contract out for teacher services, and this privilege was abused when employee services were contracted even though they did not fulfill teaching requirements. Mr. Murphy commented that it took four or five months to straighten out the problem after bringing it to the Commissioner's attention. He added that there are also problems arising in the Division of Data Processing. There are 35 PCN's in the Division, and 16 are vacant because they are being filled with contract employees. There appears to be a question of contracting for services that can be performed by classified employees.

Mr. Kareen explained the procedure for justifying the need for contractual services: When an agency intends to contract for services, it must fill out a form requesting authorization. The request is submitted to the Division of Finance for presentation before a committee of three individuals for consideration. No contract is binding until approved by the Division of Finance. Construction contracts let on bids are exempted from this process. Mr. Kareen added that Mr. Murphy's concerns are universal between any management and union, whether private or public. Mr. Murphy asserted that the issue should be reviewed, citing the Department of Education as an example of 40-45 positions being placed back in the classified service following the 1971 review of contracts. The issue is not necessarily a union/management question, and it should be considered by the commission.

Ms. McCurry pointed out that data-entry services were contracted out for some time by the Division of Data Processing. She asked if there is a cost analysis done prior to contracting. Lois Jund stated that the Department of Administration makes a determination on whether they will approved contracting from what agencies submit. The problem in the Division of Data Processing became evident when that division could not finish a project in time to meet federal deadlines. There was insufficient staff to get the job done, and the division recommended contracting for services. Pat Murphy responded that at least some of the Data Processing contractors were state employees who were terminated and immediately place under contract with the Division.

Ken Kareen explained that development and modification of soft-ware is also considered a contractual job in the Division of Data Processing. John Pugh commented that contracting has also increased recently in the Department of Health and Social Service's Medicaid Program. Mr. Pugh added that he believes there should be some procedure for determining whether contracting is in the best interests of the state. Mr. Kareen commented that contractual services are identified in agency budgets, and inquiries on such expenditures vary from one legislative session to the next. However, the issue is never really ignored because the costs must be justified in the budget process. The subcommittee decided to ask the Director of the Division of Finance to address members on his division's practices in approving contracts. There was no further discussion on the topic.

Referring to the memos on partially exempt positions, Terry Cramer stated that the last memo distributed showed positions placed in that service. There was general agreement that a list of exempt positions would contain the positions on which the subcommittee has questions. Lois Jund commented that the partially exempt list did not appear to be complete. She knew of additional Division Directors in the Department of Health and Social Services who did not appear on the list. Mr. Kareen pointed out that Directors, Deputy Directors and their secretaries are in the partially exempt service by statutory definition. There are criteria set out in the statutes giving the Personnel Board authority to extend the partially exempt service. Positions responsible for the formulation or implementation of policy and those whose duties are not susceptible to normal methods of recruitment and examination may be placed in the partially exempt service.

Pat Murphy mentioned that changes to the classified and partially exempt services handled by the Personnel Board are performed without any advance notice to either the bargaining units or to incumbents. He objected to the methods in which positions are being moved from the classified to partially exempt service. When the Older American Program General Government Unit positions in the Department of Health and Social Services were placed in the partially exempt service, APEA wasn't notified of the action until two weeks after it was taken. Mr. Kareen

explained that the Division of Personnel received verbal directions from the Personnel Board following the incident to notify unions and incumbents of such actions in the future. Mr. Murphy pointed out that the Personnel Board consists of volunteers who have no formal staff to perform such functions. Mr. Kareen stated that the statutes were written from a model over 20 years old which did not anticipate collective bargaining in the state. The allocation of positions to the classified or partially exempt service is treated by the Act as a management prerogative. The Commissioner of Administration is petitioned for changes in services, and he/she submits the proposal to the Personnel Board, which has discretion as to whether a notice of the change is posted. The Division of Personnel has always understood that hearings are held at the Personnel Board's discretion. In a few instances, Mr. Kareen mentioned that the Personnel Board has called an incumbent in a position being changed, but that has not been an established procedure. Mr. Murphy commented that in one situation, a Director was moved from the classified to partially exempt service and was then terminated the following day. The procedure can be used to the detriment of state employees.

Lynda McCurry suggested recommending that a procedure manual be written for the Personnel Board. Mr. Murphy stated that it would be helpful to have guidelines for everyone to follow. Terry Cramer pointed out that the Personnel Board has the authority to adopt its own rules of procedure, which are exempt from the Administration Procedures Act. John Pugh stated that the Personnel Board has the authority to adopt its own procedures.

Mr. Kareen asserted that there is another area in the service which is recognized by the federal government as partially exempt: employees who don't promulgate or interpret policy but who must advocate existing policy. There is no provision in the statutes for placing these employees in the partially exempt service. Mr. Pugh responded that the subparagraph permitting positions with responsibility for policy implementation would include those required to advocate the policy.

Mr. Pugh stated that it is critical to reconcile the clash between rights granted to management under the Personnel Act with rights granted to unions under the P.E.R.A. Unions have a right to those positions which fall within their units as established by the Labor Relations Agency. Therefore, they have an interest in changes of positions within each unit from classified to partially exempt. Mr. Kareen commented that in comparison to other states, Alaska has a very low percentage of partially exempt employees. He added that there is concern about excluding career employees with major responsibilities in administering contracts from collective bargaining practices. Mr. Pugh commented that he doesn't believe that this mid-level management group should be removed from the classified service, although it should be prohibited

from collective bargaining. Those employees are career service employees. There are dangers to politicizing those positions--they need protection from removal every time a new boss comes in. They should therefore remain in the classified service. In addition, incumbents in positions whose service is changed by the legislature should have appeal rights to the Personnel Board. Ms. Jund asserted that there is a need for another service providing the benefits of the classified service but not collective bargaining. Terry Cramer commented that Mike McMullen in the Classification and Pay Section had informed her of five state employees who are in this situation. However, their right to bargain has not been affected: The Labor Relations Agency held that they were not within any existing units, but they were not forbidden from organizing a separate bargaining unit.

The subcommittee decided to examine the list of exempt positions before making a recommendation on the partially exempt service. There were no objections. Ms. McCurry adjourned the meeting.

MEMBERS IN ATTENDANCE

Lynda McCurry
Pat Murphy
Lois Jund
Ken Kareen (for Sandra Withers)

OTHERS IN ATTENDANCE

Doryce Eggleston
Bob Mourant
John Pugh

CATEGORIES OF EMPLOYEES
Capitol Building, Juneau
October 5, 1979

MINUTES

Frank Flavin, Vice Chairman, called the meeting to order and asked members if there were issues other than those outlined in the September 26 summary they wished to address. There were no additions.

On the nonpermanent hire law, Mr. Flavin asked if part-time temporaries are limited to 120 days of employment or the equivalent in hours. He also asked if the law applies to exempt employees. The law limits part-time temporaries to 120 calendar days as it does full-time temporaries (nonpermanents). Ken Kareen responded that it does not apply to partially-exempt or exempt employees.

On the issue of state practices in obtaining services or goods by contract, Mr. Flavin pointed out that there are two components to the issue: contractual employees and contractual services. Darlene Livermore stated that the state is drastically expanding areas of contracting and cited the Division of Data Processing as an example of where this is taking place. Mr. Flavin commented that he has found instances where contracted employees should actually be employed by the state, under Internal Revenue Service regulations. Ken Kareen explained that the the Division of Finance in the Department of Administration monitors contracting practices. The procedure calls for their authorization before a contract is negotiated and again before a contract is entered. The standards for distinguishing between someone whose services are contracted for and a state employee are the same as those followed by the IRS. Mr. Kareen believes that the number of contracts entered into by the state has diminished. The Division of Personnel doesn't usually get involved in the procedure. However, in some instances, the Division of Finance does request input from the division. The Department of Education did request assistance from the Division of Personnel on teachers' contracts when there was some question as to the legitimacy of the practices.

Mr. Flavin asserted that the subcommittee could recommend that there be more enforcement of contracting regulations. Mr. Kareen explained that the Division of Personnel does not monitor contracts and not all agencies are subject to review by the Division of Finance.

Darlene Livermore stated that the Division of Finance is responsible for reviewing only monetary terms of contracts to verify that they are consistant with IRS standards. Mr. Flavin asked if the forms used by the Division of Finance question whether services could be performed by a state employee. Mr. Kareen explained that there are different forms, and one is used only by the Department of Education for teachers. At one point, the Department of Education form was used improperly for administrative employees.

Ms. Livermore pointed out that there are former employees of the Division of Data Processing who are now performing the same functions for the division under contracts. Mr. Kareen stated that these employees are now working for contractors used by the state. John Pugh asserted that the Division of Data Processing is a good example of an agency that is contracting for personnel services ineffectively. Mr. Flavin suggested that monitoring contracting practices could be another function of a Department of Employee Relations. Abusing contracting privileges is already illegal, but there is an apparent lack of monitoring and enforcement.

Ms. Livermore commented that some collective bargaining contracts contain provisions regarding contracting and subcontracting. In response to Mr. Flavin's question on the extent of state policy, Mr. Kareen stated that policies differ from agency to agency. Mr. Pugh cited a need for planning of future personnel and program requirements. This should be done on a long-term basis as a cost saving mechanism. Mr. Kareen pointed out that there is another committee studying the practices of the Division of Data Processing.

Mr. Flavin asked whether there are personnel planners to perform such functions. Ms. Livermore replied that there are people who specialize in staffing. Mr. Kareen stated that each manager in the state has responsibility for program planning. The state does not employ any manpower specialists because in addition to the knowledge of personnel planning, they must have expertise in various fields. The state is too small to support such a function. Mr. Flavin commented that there is a need in the budget process for review of new projects to justify their objectives. He asked whether the Division of Budget and Management could question personnel projections and examine the cost efficiency factors. Mr. Pugh observed that presently, only monetary terms are considered in determining what is most economical for a single fiscal year. There is no consideration given to long-term planning of staff and funding requirements. Ms. Livermore pointed out that the federal system has a personnel management office that provides specialists who consult with agencies on program objectives.

Mr. Pugh asked what type of studies are required prior to the authorization of contracts. Mr. Kareen responded that one collective bargaining contract provides that a study be performed to verify the ability of the contractor to provide services at less cost to the state than could state employees. Otherwise, there must be justification through the budget process that contracts are more economical. Mr. Kareen commented that the theory of obtaining the best and most economical services is good. However, it is difficult to identify how services can be accomplished and the costs of alternatives. The ideal would be providing the highest quality and quantity of service to the public at the least expense. He added that there will always be disagreement on whether the proper choice was made. John Pugh suggested that there needs to be more than a study of the financial aspects of contracts. The best alternative for one year isn't necessarily the best alternative in the long run. Mr. Kareen commented that many agencies operate with federal monies and therefore cannot plan for a long-term program.

The subcommittee took no position on the issue.

On the issue of excluding policy-making supervisors from collective bargaining, Ms. Livermore stated that there are many employees in the partially exempt service who have little policy-making authority, but are excluded from bargaining. A number of these positions were assigned to the partially exempt service by legislative action that was not based on policy-making criteria. In the Limited Entry Program, for example, there are 40 or 50 employees who are classified as such without those responsibilities. Mr. Flavin stated that there are some supervisors in the classified service who should be in the partially exempt service. He suggested that the subcommittee review both services. Mr. Pugh commented that any changes made in those services would require statutory revisions.

Mr. Kareen explained that there are three ways in which positions are placed in the various services. The State Personnel Act initially placed legislative and court system employees in the exempt service. Employees in the Office of the Governor, unless their positions are federally funded, are in the partially exempt service, as are attorney members of the Attorney General's Office. Commissioners are exempt, and their secretaries are partially exempt.

The second method by which positions are placed in the exempt or partially exempt service is as a result of case-by-case legislative action. The legislature enacts laws which state that a certain position (s) will be exempt or partially exempt. For example, the Director of the Division of Personnel and Labor Relations was recently placed in the partially exempt service. The legislature does not appear to follow clear standards in making its decisions about which service positions should be in.

The third method is created by the State Personnel Act. By action of the Personnel Board, following petitioning of the Commissioner of the Department of Administration, a position may be moved from the partially exempt to the classified service or the other way around. The petition must demonstrate that certain criteria are met before the Personnel Board may act. The Personnel Board has no jurisdiction to change the status of those positions which have been placed in one service by legislative action. Ms. Livermore added that the employees of the Limited Entry Commission has all been placed in the exempt service by legislative action. Mr. Flavin recommended that the subcommittee initiate a study on the numbers of positions in the partially exempt and exempt service to determine placement patterns. The staff was directed to present an overview on the subject.

On another issue, Mr. Kareen stated that someone from the Legislative Affairs Agency had searched through the statutes to isolate references to the personnel system. The results were lengthy, and he feels that the Personnel Act is not codified well. He added that the Personnel Act makes no mention of those scattered positions which are to be in the

partially exempt and exempt services. Mr. Flavin moved that the subcommittee recommend that all personnel sections in the statutes be codified into a cohesive form located in one chapter. There were no objections, and the motion passed.

The subcommittee addressed the issue of initiating a study of PCN's remaining vacant for excessive lengths of time. Mr. Pugh stated that because of underfunding in many agencies, there would be difficulty in studying vacant PCN's at this time. Lynda McCurry pointed out that vacant PCN's are going to be used when reclassifying temporaries under the nonpermanent hiring law. Mr. Flavin suggested that the subcommittee table the issue until it has seen the reaction to the new law.

Mr. Flavin adjourned the meeting at 9:30.

MEMBERS IN ATTENDANCE

Frank Flavin, Vice Chairman
Lyrda McCurry
Darlene Livermore (for Pat Murphy)
Ken Kareen (for Sandra Withers)

OTHERS IN ATTENDANCE

Doryce Eggleston
Bob Mourant
John Pugh

WORK SESSION SUMMARY
CATEGORIES OF EMPLOYEES SUBCOMMITTEE
Anchorage, January 26 & 27, 1979

The following are points raised in response to an APEA proposal passed out at the meeting (copy attached):

POINTS RAISED

1. Restricting temporary employment time to 60 days would be too restrictive on departments. A more appropriate solution would be to audit departmental use of temporaries.

2. Legislative finance committees should be informed of the problems inherent in using temporaries, so that they will be willing to create additional permanent positions.

3. The Department of Health and Social Services' policy on hiring temporaries was discussed. A subcommittee will review the policy and make a presentation. Appointed to the subcommittee were John Pugh, Lynda McCurry and Ken Humphreys. In the review, the subcommittee should research the possibility of requiring that temporaries be assigned salary ranges comparable to those assigned to similar permanent classifications.

4. There was discussion of the effects of Kelly vs. Hammond: What effect will the case have on legislative authority? Can the legislature require that departments create and fill permanent rather than temporary positions? Ken Humphreys will research the question and report to the subcommittee.

5. There was discussion on problems within the CETA program. CETA employees are being used by the state as an inexpensive work force. However, under federal regulations, CETA's cannot replace permanent employees. A letter was received from Jean S. Conway dated January 8, 1978 (copy attached). Also attached is a copy of CETA regulations.

The subcommittee adjourned and reconvened on Saturday afternoon. The following are motions adopted:

MOTIONS ADOPTED

1. Pat Murphy moved that the subcommittee recommend legislation on temporaries be introduced this session. The motion was adopted: One member opposed.

2. Don Fisher moved that the subcommittee shall recommend that a maximum time limit be required on temporary employment. The motion was adopted: Two members opposed.

There was discussion on the question of whether the Commission should recommend modification of the Collective Bargaining Act. It was decided that subcommittee proposals should be presented as joint legislative resolutions to have the effect of a policy statement, except where statute amendment is clearly

necessary.

3. Don Fisher moved that all temporaries shall be hired from eligibility lists (registers). The motion was adopted: One member opposed.

4. Pat Murphy moved that the number of temporaries shall be limited to 10% of the previous fiscal year's man-months worked, based on permanent classified positions within each department. The motion was adopted. Three members opposed.

Paddy Moriarty amended the motion that the number of temporaries shall be limited according to future figures, after futher research. The amendment was adopted. Three members opposed.

5. Representative McKinnon moved that the subcommittee shall adopt a resolution to support the bill sponsored by Senator Ray on retroactive retirement benefits for permanent employees for prior temporary employment. The motion was adopted. Two members opposed.

6. Pat Murphy moved that the subcommittee shall adopt a resolution to support legislation introduced in the Senate recommending health insurance benefits for all employees after 30 days in service with the State of Alaska. The motion was adopted. Two members opposed.

DISCUSSION

The subcommittee discussed requiring Division of Personnel authorization before any department could hire a temporary. Justification for hiring a temporary rather than a permanent employee would be required, as is currently required by the Department of Health and Social Services. Pat Hunt and Ken Kareen will present their evaluation of the proposal at a later subcommittee meeting.

The subcommittee work session was chaired by Representative McKinnon.

CATEGORIES OF EMPLOYEES
Work Session Summary
February 23, 1979

Representative McKinnon chaired the work session. A summarization follows:

SUBCOMMITTEE DISCUSSION

Ken Humphreys presented a revised copy of the Temporary Hire Bill, pointing out changes that had been made to the draft in accordance with amendments discussed at the last work session.

Pat Hunt asked what would happen if a department tried to have a permanent position authorized but the legislature refused to fund the position: Would the director be able to authorize the department to hire a temporary for this position, assuming the department had other funds availabe? Mr. Humphreys explained that the bill, as drafted, might prohibit the hiring of temporaries in such cases. Authorization could be granted if either the legislature authorized the work to be done by temporaries or if an urgent program need unexpectedly developed and permanent staff could not handle the workload. (Page 2, line 3, subsection (1) and line 10, subsection (3).) However, the Director could find under subsection (3) that the department could not reasonably meet the program need through a permanent position since the authorization was denied and therefore could permit hiring a temporary. These cases would have to be addressed as they arise, considering the individual facts. In addition, if the department had requested that new positions be created, but the Governor refused to include them in the budget, the director might then be able to provide for them. If funding is made available for personal service, but the legislature refuses to authorize permanent positions, then the director will have to authorize the department to hire temporaries.

If the legislature provides a personal services appropriation to a department, then this act sets a priority on permanent positions, and the department should hire permanent employees instead of temporaries.

Pat Murphy questioned whether only the legislature can create a permanent position. He referred to Kelly vs. Hammond, where a position was authorized by the executive branch. Representative McKinnon clarified Mr. Murphy's reference, stating that the Office of Management and Budget may authorize a permanent position during the legislative interim, which automatically becomes a request for a new permanent position for the next legislative session.

Discussion followed on a proposed effective date for the draft bill. There was a general concensus that the subcommittee recommend to the Commission that the effective date be September 30, 1979. This would not coincide with the peak temporary

employment period and would allow sufficient time for notification of departments.

Niel Thomas brought up the topic of violations of the 120-day limit on temporary employment. He asked what provision is made for federally funded programs and projects which exceed that time frame. Ken Humphreys expressed doubt that the limit would be violated because the director would have the authority to decide whether a temporary position could be extended, as would be the case in projects of limited duration exceeding 120 days. In this instance, an employee would have to be informed of the duration of the project in advance. The civil liability section (page 3, line 19) applies only to appointments of temporaries and not to violations of the time limit set.

The topic of benefits provided to temporaries was introduced by Niel Thomas: What is the subcommittee's intent? Pat Murphy explained that a bill is in the House State Affairs Committee which, if passed, would provide medical (health) insurance to temporaries after a 90-day employment period. The bill originally read after a 30-day employment period, but has been changed by the Committee. There was general agreement that the topic should be addressed at the Commission work session.

The Legislative Affairs Agency has researched the question of what effect changes in the Personnel Act (AS39.25) have on the scope of collective bargaining. Their informal opinion is that if the Personnel Act amendment is clearly intended to apply, then it would control contract negotiations in the future, though it would not amend existing contracts. If the draft temporary hire bill were introduced and passed by the legislature, then it would establish the limits within which collective bargaining could occur. A contract could further limit the times permitted. Personnel Rules are changes which are made without legislative action and therefore do not affect the scope of collective bargaining, except to the extent that the rules are implementation of statutory direction. Representative McKinnon requested a memo from Legislative Affairs on that subject.

Frank Flavin moved that the subcommittee recommend to the Commission that the Personnel Rules be made subject to the Administrative Procedures Act (A.P.A.). This would open the process and would provide the legislature with an opportunity to consider changes made in the rules. A member of the public (or an employee of the state or a union representing employees) could petition for a rule change, but the department cannot be required to propose rules. There is no recourse if the department refuses to act on a suggested change.

The A.P.A. requires that a notice of intent to adopt rules be given and that an opportunity for testimony be provided, al-

though that opportunity can be in the form of accepting written comments only. The comment time is a minimum of 30 days. Then, before the rules can become effective, they must be filed with the Lieutenant Governor's office for 30 days. In emergency situations, the department can adopt emergency rules which have effect for 60 days, and also begin the process of adopting permanent rules. If the rules govern only the internal management policy, then they are exempted from the process. To the extent the rules affect the general public, they would not be exempt. The Department of Law provides advice to the other departments on what is and is not exempt, but the departments are free (as is any attorney's client) to ignore that advice. The question arises only when the department has labeled a rule as an internal matter and someone has challenged that ruling.

VOTE: Four (4) were in favor. One (1) opposed.

IN ATTENDANCE

Representative McKinnon, Chairman
Frank Flavin
Pat Hunt
Pat Murphy
Niel Thomas

OTHERS IN ATTENDANCE

Ken Kareen
Darlene Howard
Janet Bradley
Bob Mourant
Ken Humphreys
John Pugh

WORK SESSION SUMMARY
CATEGORIES OF EMPLOYEES SUBCOMMITTEE
Anchorage, January 26 & 27, 1979

The following are points raised in response to an APEA proposal passed out at the meeting (copy attached):

POINTS RAISED

1. Restricting temporary employment time to 60 days would be too restrictive on departments. A more appropriate solution would be to audit departmental use of temporaries.

2. Legislative finance committees should be informed of the problems inherent in using temporaries, so that they will be willing to create additional permanent positions.

3. The Department of Health and Social Services' policy on hiring temporaries was discussed. A subcommittee will review the policy and make a presentation. Appointed to the subcommittee were John Pugh, Lynda McCurry and Ken Humphreys. In the review, the subcommittee should research the possibility of requiring that temporaries be assigned salary ranges comparable to those assigned to similar permanent classifications.

4. There was discussion of the effects of Kelly vs. Hammond: What effect will the case have on legislative authority? Can the legislature require that departments create and fill permanent rather than temporary positions? Ken Humphreys will research the question and report to the subcommittee.

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CATEGORIES OF EMPLOYEES SUBCOMMITTEE
Anchorage, January 26 & 27, 1979

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2. Legislative finance committees should be informed of the problems inherent in using temporaries, so that they will be willing to create additional permanent positions.

3. The Department of Health and Social Services' policy on hiring temporaries was discussed. A subcommittee will review the policy and make a presentation. Appointed to the subcommittee were John Pugh, Lynda McCurry and Ken Humphreys. In the review, the subcommittee should research the possibility of requiring that temporaries be assigned salary ranges comparable to those assigned to similar permanent classifications.

4. There was discussion of the effects of Kelly vs. Hammond: What effect will the case have on legislative authority? Can the legislature require that departments create and fill permanent rather than temporary positions? Ken Humphreys will research the question and report to the subcommittee.

5. There was discussion on problems within the CETA program. CETA employees are being used by the state as an inexpensive work force. However, under federal regulations, CETA's cannot replace permanent employees. A letter was received from Jean S. Conway dated January 8, 1978 (copy attached). Also attached is a copy of CETA regulations.

The subcommittee adjourned and reconvened on Saturday afternoon. The following are motions adopted:

MOTIONS ADOPTED

1. Pat Murphy moved that the subcommittee recommend legislation on temporaries be introduced this session. The motion was adopted: One member opposed.

2. Don Fisher moved that the subcommittee shall recommend that a maximum time limit be required on temporary employment. The motion was adopted: Two members opposed.

There was discussion on the question of whether the Commission should recommend modification of the Collective Bargaining Act. It was decided that subcommittee proposals should be presented as joint legislative resolutions to have the effect of a policy statement, except where statute amendment is clearly

necessary.

3. Don Fisher moved that all temporaries shall be hired from eligibility lists (registers). The motion was adopted: One member opposed.

4. Pat Murphy moved that the number of temporaries shall be limited to 10% of the previous fiscal year's man-months worked, based on permanent classified positions within each department. The motion was adopted. Three members opposed.

Paddy Moriarty amended the motion that the number of temporaries shall be limited according to future figures, after futher research. The amendment was adopted. Three members opposed.

5. Representative McKinnon moved that the subcommittee shall adopt a resolution to support the bill sponsored by Senator Ray on retroactive retirement benefits for permanent employees for prior temporary employment. The motion was adopted. Two members opposed.

6. Pat Murphy moved that the subcommittee shall adopt a resolution to support legislation introduced in the Senate recommending health insurance benefits for all employees after 30 days in service with the State of Alaska. The motion was adopted. Two members opposed.

DISCUSSION

The subcommittee discussed requiring Division of Personnel authorization before any department could hire a temporary. Justification for hiring a temporary rather than a permanent employee would be required, as is currently required by the Department of Health and Social Services. Pa Hunt and Ken Kareen will present their evaluation of the proposal at a later subcommittee meeting.

The subcommittee work session was chaired by Representative McKinnon.

CATEGORIES OF EMPLOYEES
Work Session Summary, February 6, 1979

Representative Joe McKinnon chaired the work session. A brief summary of the subcommittee discussion follows:

A. Review and discussion of the draft bill on hiring of temporary employees.

1. Add language to subsection 2 (c) (2), page 2, line 6, concerning the hiring of temporaries where new positions have been created but have not yet been authorized by the Division of Budget and Management and the Division of Personnel to read:

(2) there is an urgent need to fill an authorized permanent position and it is impractical to complete the establishment of that position, or there is an urgent need to fill a vacant, permanent position and it is impractical to make certification within a reasonable time because of a lack of eligibles for that position; or

2. The penalty section (page 3, line 6) was discussed briefly. The approach is to establish a rebuttable presumption that an illegally hired temporary can recover from the supervisor who authorized the hire personally for the amount of past wages.

3. Goals of the bill: (1) to provide maximum controls on the hiring of temporaries without (2) stepping over the bounds of the separation of powers, and (3) without ham-stringing the executive branch from operating its programs effectively.

4. Technical amendments were suggested:

Page 1, line 17, add "permanent seasonal" to "permanent full-time and permanent part-time".

Page 3, line 5, substitute the word "terminate" for the word "dismiss".

Page 3, line 18, substitute the word "employee" for the word "person".

5. There was discussion of the effect of the bill. It may serve to aid collective bargaining negotiation, since there will be one readily identifiable person authorizing all temporary positions.

The bill would give considerable discretion to the Director

of the Division of Personnel and Labor Relations in making a determination that a temporary position should be authorized. The Director is required to consider the standards provided, but there is no review of his decision.

There was concern expressed that the review of requests for temporary employees by the Director must be immediate, so that delays do not occur.

Ken Humphreys will redraft the bill and bring it to the next subcommittee meeting for further consideration.

B. Imposing a maximum on the number of temporaries a department may hire.

It was suggested that the subcommittee propose that a limit of 10% of the departmental PCN's be established.

Opposition to the proposal pointed out that this should be left in the collective bargaining arena.

If the Director of the Division of Personnel and Labor Relations is required to report each year on the number of temporary employees he has authorized, then there will be review and consideration of the issue each year.

It is more important to evaluate the effectiveness of departmental hiring practices than to focus on the numbers of temporaries hired.

C. Imposing a maximum time limit on the length of temporary service.

Mr. Murphy moved that a section be added to the work draft of the bill on temporary hiring to set a maximum of 120 days on the service of a temporary, with a provision that under extenuating circumstances, justified to the Director in writing, he may approve the extension of that time limit.

Mr. Spray proposed an amendment: That the issue of time limits of temporary employment be left in the arena of collective bargaining.

Mr. Murphy objected to the proposed amendment on the grounds that it was a new motion, not an amendment.

VOTE: A vote was taken on Mr. Murphy's motion. It was adopted four (4) to two (2).

D. Scope of Commission activity: Concern was expressed that

the Commission avoid intrusion into collective bargaining issues. The Commission risks jeopardizing its effectiveness and credibility if it enters into this area, and may create increasing divisiveness both internally and within the legislature. Commission time would be better spent on other matters.

E. Issue of Contract Employees: When the subcommittee considers this issue, it should request information from the Department of Transportation and Public Facilities on Deputy Commissioner Scoogil's memo stating that the department should limit the size of the state work force by contracting out jobs where possible.

F. Issue of Vacant Permanent Positions: Staff was requested to check with Jay Hogan, Director of the Division of Legislative Finance, on the computer programming which his division is implementing to track vacant PCN's.

G. Scope of Exempt and Partilly Exempt Categories: There was some discussion of this topic. The subcommittee should consider this subject at a later time.

STAFF NOTE:

Terry Cramer checked with Jay Hogan, Director of the Division of Legislative Finance, on the computer program to track vacant PCN's. He indicated that the program should be completed in about six months. It has been held in abeyance because of a change in computers. When completed, the program will track the source of the money used to fund a position and whether the position is vacant.

BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT
Categories of Employees Subcommittee
Anchorage Legislative Information Office
January 4, 1979

MINUTES

The Categories of Employees Subcommittee hearing was called to order by Representative McKinnon. Public testimony was invited.

PUBLIC TESTIMONY

Jim Thiele, a temporary employee with the Department of Fish and Game, presented his views on the six-month limitation of temporary employment as specified in the new APEA union contract. Mr. Thiele explained that it is not economically feasible to live the whole year on six-month's salary. He feels that his position could be classified as a permenent seasonal category since it is recurrent. The new limitation on temporaries in the APEA contract denies individuals the right to return to employment within a department for a period of six months after termination from that department. The explanation provided Mr. Thiele on why the Department of Fish and Game did not reclassify his position to permanent seasonal was that each PCN number must be approved by the legislature. He does not believe temporary employees consider receiving fringe benefits as necessary as having opportunities for employment available.

Mr. Thiele is on a number of registers, but has never been hired from one. After being tested for a Fisheries Biologist I position, he worked as temporary in that classification for two years. When he took a reexamination, he received a lower score despite his additional two years of experience. Another inequity in the testing process was highlighted when Mr. Thiele took two tests, Game Biologist I and II, and scored much higher on the more difficult test for Game Biologist II. Mr. Thiele, in answer to Frank Flavin's question on whether he would prefer to become a full-time employee, stated that he preferred to have the flexibility available to temporaries.

Pam Rogers, a permanent employee with the Planning and Research Division of the Department of Natural Resources, expressed her concerns regarding the lack of opportunities available to temporaries to fill permanent positions. Temporaries working within the department are not considered for employment in newly classified permanent positions because many are not within the top five on registers, even though they have experience in working in the department. Ms. Rogers believes that time spent in temporary positions should be counted towards the probationary period for permanent postions.

On the topic of registers within the state, Ms. Rogers stated that supervisors are circumventing the eligible lists to hire temporaries. Upon initial hire in temporary positions, individuals are being promised permanent positions as soon as funding is approved and PCN's are created. These temporaries are hired at salary ranges that are inconsistent with their level

of skill. People already employed by a department are given preference over others on registers in hiring.

Pat Kirschner, an employee with the Planning and Classification Section of the Department of Natural Resources, asked committee members if, after the six-month temporary has ended, whether an employee can work for another state department as a temporary. She had heard many conflicting rumors. Niel Thomas answered that you can be employed by the state again within another department. Representative McKinnon believed that was part of the new contract provisions. He stated that in the past, a temporary could go from one position to another within the department after the period had expired. Ms. Kirschner expressed her desire to continue working in a section where she is familiar with the work for more than six months.

Ms. Kirschner sees the move to severely limit the temporary employment period, or to do away with it altogether, as being undesirable. Even if additional permanent positions were created, her department would still have to use temporaries on various projects that are not recurrent but do last longer than six months. Representative McKinnon agreed that there is a valid need within the Department of Natural Resources for temporaries because of the fluctuating time periods of projects. The duration of these projects is dependent upon the time needed for completion and the funding available. As an alternative to temporary employment without benefits, Ms. Kirschner suggests that promotions and merit increases be available to temporary employees based on performance and longevity of the individual's employment on the project. Niel Thomas commented that a "project" category would also be valuable to employees within the Department of Fish and Game.

Ms. Kirschner concluded by stating that she prefers a nine-month period for temporaries, because the individuals could at least survive economically on that basis. The six-month period presents economic problems for specialists who are limited by their expertise in a particular position in only one department.

Jim Curatolo, a temporary employee with the Department of Fish and Game, presented his belief that temporaries are being taken advantage of more than ever because of restrictions imposed by the new union contract. He stated that many temporaries work in that capacity because they find it preferable to work only nine months a year, gaining experience and skills that would otherwise be unavailable to them.

Mr. Curatolo believes that salary ranges for temporaries are much lower than those of permanent employees, regardless

of skills and qualifications. Temporaries can provide for their own benefits and retirement if they are compensated with higher salaries.

As previous witnesses testified, Mr. Curatolo would like to continue working on his present project for an extended amount of time. He is aware of another project that will be available after his six months has ended, but because it is within the same department, he will not be eligible. The project he is working on is federally subsidized with OCS funding. Niel Thomas asked how Mr. Curatolo's position would be classified if he were working as a permanent employee. Mr. Curatolo explained that his is a Biologist II position, but that he is being paid at a Biologist I level. Representative McKinnon asked whether the proposal for the project could have included provision for a permanent position which would terminate at the end of the project.

Mr. Curatolo said that he would rather have the option of choosing the project he wants to work on each year, and that if a permanent seasonal position classification was authorized, this choice would be eliminated. Representative McKinnon asked whether he would be required to return to the project he had last worked on. Niel Thomas asked whether there would be a number of positions within the same classification which he might apply for. Mr. Curatolo responded that his experience in a particular project would lead to being employed in the same position.

Frank Flavin inquired whether the six-month temporary period was a product of APEA bargaining or if it was a decision between the state and the Legislature. Representative McKinnon noted that judging by testimony heard, temporaries are being misused and are not given the benefits of permanent employees. Using temporaries is a way of avoiding application of merit principles. Instead of improving the abusive treatment of temporaries, the APEA contract has created many additional difficulties. Niel Thomas added that it seems there is a need for a "project" category which would not apply to seasonal recurrent positions and would allow the position to last for the duration of the project.

Claude Hoffman, a Cadastral Engineer with the Department of Natural Resources, presented his opinions as a Program Manager. Mr. Hoffman supervises 31 employees. He is involved in a departmental survey that has been funded with $7 million by the Legislature for 12 months. Permanent positions were authorized by the Legislature at the end of the last session. Mr. Hoffman has been hiring temporaries for the program who are capable of doing the job. Many of his professional staff were in the top five on the registers and were temporaries within

the department. Mr. Hoffman believes that he has been hiring temporaries fairly and placing them in permanent status whenever possible. He has reduced the number of temporaries in his department by 80% over the past six months. Despite the reduction, he must retain some temporary positions, and would like to be able to offer temporary employees the same benefits as permanent employees. Mr. Hoffman does not believe that program managers should hire temporaries and promise permanent position when they are unsure whether that is a possibility. He prefers to have permanent employees in the department, but because of the process involved in writing out P402's, having them put into the budget and approved by the Division of Personnel, creating PCN's and getting registers, this is very difficut when there are immediate deadlines set. These "crash" programs leave very little time to plan for the department's employment needs. Mr. Hoffman suggests that a possible solution would be in having the Division of Personnel work jointly with the department in preparing a budget package to include positions in permanent, seasonal and temporary employment categories.

Niel Thomas asked if there would be any problem in hiring temporaries from the registers. Mr. Hoffman replied that a major problem is the time involved in the processing of paperwork to and from Juneau. Mr. Thomas suggested that temporary positions could be reduced to very short terms, with exceptions for employment on specific projects to permit time to have permanent positions classified. Mr. Hoffman also pointed out that in order to get qualified people, Department of Natural Resources had to advertise state-wide. Mr. Thomas stated that some type of incentive for Personnel to move as fast as possible in classifying permanent positions would be helpful. Mr. Hoffman agreed that the Division has problems in the extensive workload involved in filling new positions. His department has the budget for positions, but is unable to expedite the creation of permanent positions, and has had to use temporaries in the mean time.

Niel Thomas inquired whether Mr. Hoffman believes there are too many classifications. Mr. Hoffman replied that was not a problem in his department's series of positions. Frank Flavin asked what Mr. Hoffman's opinions were regarding the registers. Mr. Hoffman answered that he is please with registers and the way applicants are placed on them. He also believes they provide an adequate selection.

Mr. Hoffman also expressed his ideas on the ranking of individuals on the registers. He believes that there are inequities in scoring which result from different personnal analysts within the Division of Personnel using a variety of scoring standards. He suggested that evaluation of applications be based on qualifications and skills gained during work rather

than on number of years in service. Mr. Hoffman stated that he had spent quite a bit of time with the Division of Personnel earlier in the year, and the staff members there had probably been rated on longevity and been hired from the top five on the register.

Frank Flavin asked whether working with the top five or with the top one-third on the registers would be preferable. Mr. Hoffman responded that working with the top five is not difficult. Normally, one or two eligibles will decline to take a position because of special duties they cannot handle. Sometimes, Mr. Hoffman does have to go below the top five to fill a vacancy because some applicants refuse the positions and others are still on the register although they have found employment.

Niel Thomas asked where Mr. Hoffman reports in the department. Mr. Hoffman answered that he reports to the Assistant Commissioner, who oversees three divisions. Niel Thomas asked if he had been instructed in Equal Employment Opportunity and Affirmative Action matters. Mr. Hoffman replied that the basics had been covered. Representative McKinnon inquired concerning whether restrictions are placed on hiring temporaries for new positions. Mr. Hoffman answered that no restrictions were put upon hiring of temporaries, and he initially hired temporaries and had positions classifications changed to permanent. Many temporaries have left because they were unable to get on the top of registers to be hired as permanent. He does not believe in using unethical methods to come in below budget and is not tempted in hiring temporaries to cut down on spending.

Ed Levy, an Engineering Technician with the Department of Transporation and Public Facilities, offered a different perspective. He is the only permanent seasonal employee working in his division. The majority of the employees within the division are college students who cannot complete the six-month period of seasonal employment because they have to return to school in the fall. These temporaries are being trained by the division, but cannot achieve permanent seasonal status even though they return each year. Local 71 will send them back out to the department annually because they are familiar with particulars of the work, but does not allow their classification as permanent seasonal because they are not able to finish the season. This problem is causing financial difficulties for temporaries because they are not credited with their time in service and cannot go beyond initial temporary wages. Representative McKinnon asked what happens when the students return to school. Mr. Levy explained that the division fills in as best it can until the end of the season. College students feel that they are being used by Local 71 and that they are paying dues for nothing. Mr. Thomas asked if Mr. Levy would lose his job as a permanent

seasonal if he left in September. Mr. Levy answered affirmatively, and added that the Local 71 contract does not permit an employee to be considered as permanent seasonal unless the individual can work the entire duration of the season.

Patricia Fowler, a permanent employee with the Department of Natural Resources, is an Associate Planner. She presented her complaints regarding the time it takes to get on a register and the difficulties in trying to be promoted to a higher classification. Ms. Fowler was promoted from her position as a temporary Research Analyst II to her present classification. If she had wanted to try for a permanent position as a Research Analyst II, she would have been unable to get on the top of the register because her specialty is planning. Four to six weeks after Ms. Fowler applied for the position of Associate Planner, she tried to find out what her status was concerning the application. She was unable to get an answer.

Ms. Fowler pointed out that in the past, temporaries had been employed by the department for up to 18 months. This practice is only now beginning to change. Ms. Fowler began as a temporary employee and worked towards getting a permanent position. Methods suggested by her colleagues included making herself invaluable to the department. Experience as a temporary, according to Ms. Fowler, is not considered in the placement of temporaries in permanent classifications. Because of the turnover in temporaries, the department has to train employees over and over again. She has observed that in order to place temporary employees into permanent positions, her department notifies the top five applicants on the register, but discourages interest in the positions to be able to get to the people they want. Ms. Fowler has personally responded to notifications, only to be told that the position is extremely undesirable. Temporaries are one way of getting around the register.

Ms. Fowler continued, commenting on the fact that offices with a large number of temporaries are subject to recurrent turnover and have organizational problems. Most temporaries have no future with a department, and because they are aware of this, they have no incentive to perform well.

Niel Thomas asked what Ms. Fowler's position is within the department. Ms. Fowler replied that she is a Coordinator for A95, which is a permanent position where she works on casual management. Mr. Thomas also asked how the duties of the position were presented to her when she began as a temporary. She replied that the person occupying the position prior to her arrival had taken a leave of absence. Ms. Fowler took over her functions within the office and was never asked if she wanted permanent employment. She was never informed by the department

that there was a vacant permanent position available. Ms. Fowler, like many temporary employees does not like short-term positions. She enjoys being able to get involved in her work and not having to spend her time constantly seeking permanent employment. She was informed at the time of her hire as a temporary that the duration of her employment would not exceed four to six weeks. At that time, she thought that it would be highly unlikely that the position would be for such a short period of time. Other employees in the department explained to her that everyone there had started out as a temporary, and that supervisors liked hiring temporaries because it gave them additional opportunity to observe an employee's performance. Ms. Fowler added that it is very difficult to terminate permanent employees because supervisors don't want to go through grievance proceedings. Another discrepancy that Ms. Fowler had noted was that permanent postions at higher ranges are not being filled. Temporaries are being hired to fill these positions at lower ranges to make up for budget limitations.

Brent Petrie, Chief of the Water Department Section of the Department of Natural Resources, testified regarding problems he has witnessed as a program manager. The problems he addressed were in hiring, administrative budgets, and putting in proposal for changes. Mr. Petrie has worked as a temporary, permanent, supervisory and general government unit employee during his tenure with the state. He currently is working under a program supplemented by a federal grant, where temporary employees are needed for more than 30 days. Some temporary positions can last for up to nine months. To put temporaries into permanent classifications, he must identify funds available. Federal programs run for specific projects that may only last for a year. By the time Budget and Management and Legislative Finance have approved the permanent classifications, only six months may be left in the fiscal year. The program would need temporaries, in that instance, for the six months spent in getting approval for permanent positions. It is difficult to plan for positions in recurrent federal grant programs subsidized by discretionary state funds since the formula application must be approved annually by Budget and Management.

Niel Thomas inquired concerning Mr. Petrie's definition of discretionary funding. Mr. Petrie explained that this funding is generally used in contracted projects. Temporary employees often do a variety of jobs on short-term projects of up to nine months. It is very difficult to get permanent classifications based on discretionary funding. Some funds are coming in annually, in which case estimates can be made of tasks to be accomplished. Mr. Petrie added that he would prefer to create permanent classifications for this need. Budget and Management can authorize the classification of positions through confirmation that funds

are available. Program managers are reluctant to spend the time involved.

Mr. Petrie offered an example of the time it takes to have a permanent classification created. He wrote a P402 in May of 1978, and it took until December before he could actually request a register. Something had to be done in the interim to provide the staffing necessary to handle the project. Pressure is applied by the Legislature to complete projects on schedule, but the task is made very difficult by the lengthy procedures involved in processing paperwork through the state. Mr. Petrie suggested that the Legislature should examine a package including P402's and the departmental budget to expedite the implementation of new programs.

Mr. Petrie suggested that when a large grant or appropriation comes through, the Division of Personnel might consider adding to its staff with funds appropriated from the agency's project budget to process P402's for that program. Representative McKinnon commented that this is a fairly common practice in other states. Projects created by the Legislature are forcing departments to submit large amounts of paperwork to the Division of Personnel.

Another suggestion presented by Mr. Petrie was to create a means of compensating temporary employees for their lack of benefits through a pro-rated hourly salary adjustment that would increase depending upon the duration of employment. Mr. Petrie thought that by staggering the paperwok submitted to the Division, some of the delays might be avoided. Frank Flavin pointed out that there may be too many categories of employees and that a solution would be to combine categories. He also suggested that benefits of permanent employees be available to temporaries after 90 days.

Mr. Petrie listed a number of problems the commission should consider:

1) lower salary ranges and lower classifications put on temporary employees

2) discouraging employees from accepting positions so as to reach applicants below the top five on the register

3) Unqualified applicants being placed on registers because personnel analysts lack knowledge of skills needed for positions and their dependency on the descriptions supplied in P402's

4) inconsistent evaluations and ratings of applicant skills and experience

Representative McKinnon questioned whether the department could more accurately describe job classifications. Mr. Petrie replied that they could if personnel officers in both the Department and the Division of Personnel conferred with program managers to create lists of qualifications and backgrounds essential to the work involved. Niel Thomas asked if he was referring to the decentralization of personnel functions into individual departments. Mr. Petrie believes that the personnel offices of the departments could handle this function with additional staff.

Mr. Petrie asked how someone would go about applying to departments and how applicants could be consistently rated by each department. Niel Thomas answered that applicants would probably not know where to go and that an information pamphlet would have to be written with instructions on how to go about applying for a job. Frank Flavin pointed out that this would leave audit functions the responsibility of the Division of Personnel.

Mr. Petrie concluded his testimony by stating that he will encourage others to testify at the January 27 meeting in Anchorage.

Peggy Merritt, a temporary Game Biologist I with the Department of Fish and Game, agreed with previous testimony offered by her colleagues within the Department. In regard to recruitment, Ms. Merritt has found that the Division of Personnel often evalautes applicants incorrectly. In one case, an applicant who knew very little about the special skills involved in working in a certain position was on the top of the register. The department was forced to hire someone very low on the register to find an applicant with the skills necessary. She suggested applicants be judged by a peer group and not by the Division of Personnel. Her supervisor would like her to stay on longer than six months, but she cannot regardless of the inefficiency resulting from her termination.

There is one PCN for Game Biologist I for that division, and the position was moved to Nome. Her supervisor, who has been in the same division for many years, has been unable to get a permanent classification for anyone else in the division. The funding is unavailable, yet there is a great need for someone who is familiar with new scientific methods to renovate the archaic practices still used by the division.

Niel Thomas asked what percentage of temporaries in the department are women. She replied that there is one woman work-

ing as a permanent Game Biologist and approximately six women temporaries elsewhere in the department. Mr. Thomas also asked if the department has a hard time reaching applicants with skills necessary for the job. Ms. Merritt explained that some of the most qualified applicants are very low on registers, although their peers would rate them very highly.

Ms. Merritt continued, explaining that she resents the cut off of temporary employment to six months when the job still needs to be completed. Because of budget cuts, permanent positions are no longer available and termination of temporaries is now mandatory because of the APEA contract. The union has taken action that temporary employees do not approve of and never voted on.

One other problem not mentioned previously is the non-existence of hazard pay for temporaries. Ms. Merritt travels by air continuously in hazardous conditions, yet receives no additional compensation as do permanent employees. Niel Thomas asked if she is paid for actual hourly work. Ms. Merritt responded that once above a certain pay range, extra hours put in on the job are not compensated. Ms. Merritt would like to be compensated for this lack of benefits.

Ruth Moulton, an employee with the Department of Natural Resources, presented her questions to the committee members: Why are temporaries being penalized to eliminate abuses within the personnel system? Aren't the unions, Division of Personnel and the Legislature aware of the fact that employees become more and more valuable with time spent in positions? Representative McKinnon explained that the APEA contract with the Division of Personnel and Labor Relations sets out the rules which departments must follow. Frank Flavin stated that none of these parties has the unilateral ability to change the policies. Representative McKinnon continued by explaining that there are laws in the books stating that temporaries cannot receive benefits, retirement and annual leave. Temporaries benefit from salary increases negotiated by unions and from lobbying efforts to increase fringe benefits available to them. Therefore, they do receive some return for their dues. Ms. Moulton replied that her best interests have not been represented by the union. Frank Flavin noted that the union is concerned with the supervisory abuse of temporary employees and has tried to eliminate this problem by limiting the duration of temporary employment. Temporary employees are not receiving benefits and are working unlimited amounts of time. Ms. Moulton pointed out that one advantage of being a temporary is in being able to go from one position to another, thereby gaining valuable experience.

IN ATTENDANCE

Representative Joe McKinnon, Chairman
Frank Flavin, Vice Chairman
Niel Thomas

BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT
CATEGORIES OF EMPLOYEES SUBCOMMITTEE
Fairbanks North Star Public Library
December 12, 1978

MINUTES

The meeting was called to order by Frank Flavin, Vice Chairperson. Public testimony was invited.

PUBLIC TESTIMONY

Mr. Daniel Brewster spoke regarding his wife's problems in paying union dues. She had worked as a temporary for four summers, and each time she was hired for a temporary position, she was required to fill out documents indicating how she wished her union dues paid. She chose to have them deducted by the state. However, each time the state deduction was a month behind. She received letters from the union threatening termination of membership if the difference was not made up, which would result in the loss of her position. Eventually, she became disgusted with the system and refused to pay, which resulted in her termination, despite the good evaluations she had received for her job performance. Mr. Brewster stated that he believes that it is unfair to force an employee to pay dues when they are not being represented by the union.

Bob Mourant explained that the union has been working to secure better benefits for temporary employees and that it is required by law to represent all members of the bargaining unit. Darlene Howard indicated that each time service of a temporary is terminated, they are considered a new employee when hired by another section. APEA must then rely upon documentation from the state to continue membership. The reason for the delay in sending out new membership contracts is because of the time involved in the state's processing these reports. Ms. Howard continued to say that thus far, APEA has successfully negotiated holidy pay and higher pay rates for temporaries at the bargaining table.

Bob Sanderlin, a temporary Fish Biologist I with the Department of Fish and Game, suggested that temporaries being hired by the department could be put in permanent seasonal status because the positions are recurrent, but require less than a full year's work. In some instances, the jobs do require more than the time limit placed on temporary employment, resulting in having to train two people for one job and the loss of experienced workers.

Changing these temporary positions to permanent seasonal jobs would create an additional cost of 15% to the state for benefits such as retirement, medical insurance, time-off and sick leave. The department and the Division of Budget and Management have refused to request reclassification of these positions because they find it less expensive to use temporaries. However, APEA has taken action on this question.

Charles Fields, a former employee with the Division of Aviation, approached the committee with one of his recent experiences. He had been laid off from his position as a Civil Engineering Assistant because his time as a temporary employee was not credited for the purpose of seniority, which would have averted his being laid off. He stated that the experience he gained as a temporary was considered in evaluating his qualifications for the position. He applied for a permanent position with the state but his subordinate was hired because the subordinate's Veteran's preference was considered and was of sufficient value to place him slightly above Mr. Fields. Mr. Fields had accumulated a total of 17 months of temporary service with the state during the years he worked as a temporary. He was told that the reason that temporary time could not be considered for seniority was that the hiring process was not competitive for temporaries. He disagreed with that because he was required to pass an examination and his performance was evalauted before he was given raises during his temporary assignments.

Bob Sanderlin spoke again concerning the Kodiak Temporary Employees Advisory Committee. He had asked for a list of all the temporaries employed by the Department of Fish and Game in the state. Pat Hunt stated that because that would in effect be providing them with a list of union members, he would have to talk with the Executive Secretary of APEA before releasing the list. Mr. Sanderlin has had difficulty in finding this information, which would be used to send out questionnaires to all temporaries.

David Valesko testified that he had lost retirement credit for his time as a temporary employee, even though he went directly from a temporary position into a permanent position. Therefore, he lost a longevity bonus. Ken Spray explained that Local No. 71 now has a contract with the state which credits the 120 days of temporary employment to permanent status if there is a direct shift from one to another.

COMMITTEE DISCUSSION

There being no more testimony from witnesses, the committee discussed its functions and future tasks. Ken Spray suggested the committee create recommendations for a report to the legislature in February. Terry Cramer presented the tentative schedule for the Project Train seminar on February 6 and 7.

Frank Flavin questioned what type of submission should be put together for this year's project. Niel Thomas suggested that something should be put together immediately on the inequities of temporary employment. The staff will prepare a summary of the issues heard to date for the next meeting, focusing on the problem of temporary employment. Ken Humphreys' research paper on other states' statutes will be used for back-up data.

Frank Flavin also suggested that the various categories of temporary employment be looked at individually, rather than as one group. In response, Pat Hunt stated that one of the major concerns of the committee is temporary employment. He questioned what the committee intends to recommend on temporary employment. There are currently nine bargaining units in operation covering temporaries. He believes the committee must address the conflict between union contract provisions, personnel rules and state statutes.

Ken Spray pointed out the benefit of the 120-day temporary employment period negotiated by the union. He doesn't want to see the union's power taken away by legislative action.

Frank Flavin concluded that the Commission should work out the best personnel management system for temporary employment and then make adjustments in response to political and regulatory input.

Representative Buchholdt brought up the question of retroactive reimbursement for temporary employment toward retirement benefits. Should the Committee create a cut-off date?

Since the personnel rules do not apply to the partially exempt, and since classified employees are covered by union contract, the committee should consider increasing application of the rules to the partially exempt. Also, not to be overlooked, are the benefits of flexibility which the temporary employee position provides for EEO hiring.

It was requested that all committee members provide a list of questions and issues they wish to see addressed for a work session to be scheduled at a later date.

IN ATTENDANCE

Frank Flavin, Chairperson
Representative Thelma Buchholdt
Pat Hunt
Lynda McCurry
Darlene Howard (for Pat Murphy)
Ken Humphreys (for Myrt Charney)
Ken Spray
Niel Thomas
Robert Mourant (for John Pugh)

See Steven Reed's testimony, Categories of Employees Subcomm. Anchorage - November 30

LAWS OF ALASKA

1978

Source	Chapter No.
FCCS SCS CSHB 720	181

AN ACT

Relating to the disposal of state land; and providing for an effective date.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. DESIGNATION OF LAND FOR DISPOSAL. (a) The director of the division of lands in the Department of Natural Resources shall, no later than November 1, 1978, designate 30,000 acres of state land for disposal under the homesite entry program established in AS 38.08 and the open-to-entry program established in AS 38.05.077.

(b) Not less than 25 per cent of the former mental health land described in sec. 3(a) of this Act which is located within a municipality entitled to select land under AS 29.18 shall be designated for disposal in fiscal year 1979 under AS 38.04.020 enacted in sec. 5 of this Act. A municipality may select that former mental health land to satisfy its entitlement under AS 29.18 but title to the land may not be transferred to the municipality by the director until the governing body of the municipality certifies that disposal programs will be undertaken by the municipality which will meet the needs of persons residing in the municipality.

* Sec. 2. ASSESSMENT OF SUPPLY AND DEMAND OF LAND. (a) The director of the division of lands in the Department of Natural Resources shall assess the supply and demand for land under the homesite entry program established in AS 38.08 and the open-to-entry program established in AS 38.05.077. The assessment shall be based on applications submitted by persons in the state who are eligible to participate in those disposal programs. The applications shall be made on forms supplied by the division of lands which shall be available to the public at each district office of the division of lands in the state. The applications shall contain provisions so that each person may indicate a preference for the type of disposal program that best suits his

needs. To the extent possible, the director of the division of lands shall determine by region of the state which disposal program or combination of programs specified in this subsection is suited to the differing needs of eligible persons residing in that region.

(b) The closing date for the initial determinations of eligibility is October 1, 1978. The director of the division of lands in the Department of Natural Resources shall determine the eligibility of persons submitting applications and before November 1, 1978, advise them whether they are eligible to participate in disposals under AS 38.08 or AS 38.05.077. Persons determined to be ineligible shall be advised of the reason for their disqualification and the actions they may take to establish eligibility. The director shall compile a master list of all persons found to be eligible to participate in the disposals specified in (a) of this section. The master list shall be revised at regular intervals after the initial determination period so that it accurately reflects the eligibility of applicants.

(c) The director of the division of lands shall present to the legislature the plan for the disposal of land under the programs specified in (a) of this section. The plan shall be submitted not later than the 15th day of the First Session of the Eleventh Legislature. The plan shall set out the location of the land for disposal and the amount of acreage to be included in each program.

* Sec. 3. REDESIGNATION AND DISPOSAL OF MENTAL HEALTH LAND. (a) Land granted to the state under the Mental Health Enabling Act of 1956, 70 Stat. 709, and patented to or approved for patent to the state on July 1, 1978 and land designated as mental health land which was received by the state in exchange for land granted under that federal land grant is redesignated as general grant land and shall be managed and disposed of by the Department of Natural Resources under applicable provisions of law.

(b) The redesignation of mental health land in (a) of this section does not affect the validity of a deed, contract for sale, lease, easement, right-of-way, permit, mineral lease disposal, or a reservation for public use of that land by statute, in effect before July 1, 1978 or land management actions including use classifications under AS 38.05.300, and interagency land management assignments of that land made by the Department of Natural Resources before July 1, 1978.

* Sec. 4. AS 37 is amended by adding a new chapter to read:

CHAPTER 14. MENTAL HEALTH FUND.

Sec. 37.14.010. MENTAL HEALTH FUND ADVISORY BOARD CREATED. (a) There is created in the Department of Revenue the Mental Health Fund Advisory Board composed of the director of the division of mental health, the chairman of the Mental Health Advisory Council, and the commissioner of the Department of Revenue.

(b) The board shall elect a chairman from the membership of the board. Members serve without compensation but are entitled to per diem and travel expenses authorized by law for other boards.

Sec. 37.14.020. POWERS AND DUTIES OF BOARD. The board has the following powers and duties:

(1) to hold regular meetings and special meetings considered necessary;

(2) to have prepared an annual accounting of the total principal and income of the mental health fund established in sec. 30 of this chapter;

(3) to prepare long-range investment plans for the fund established in sec. 30 of this chapter.

Sec. 37.14.030. MENTAL HEALTH FUND ESTABLISHED. (a) There is established as a separate fund the mental health fund.

(b) The principal of the fund consists of sums transferred under sec. 70 of this chapter.

(c) The income of the fund consists of the interest and dividends earned from investments of the fund under sec. 60 of this chapter.

Sec. 37.14.040. DUTIES OF COMMISSIONER OF REVENUE. The commissioner of revenue is the treasurer of the fund and shall

(1) act as official custodian of the cash and securities belonging to the fund and provide adequate safe deposit facilities for them;

(2) receive cash belonging to the fund;

(3) collect the principal on securities acquired for the fund and deposit it in the fund;

(4) collect interest and dividends earned on investments of the fund and credit the income account of the fund;

(5) invest and reinvest the principal of the fund in accordance with sec. 60 of this chapter.

Sec. 37.14.050. FUND UTILIZATION. The principal of the fund shall be retained in the fund for investment as specified in sec. 60 of this chapter. The income of the fund may not be appropriated for a purpose other than the support of the state mental health program.

Sec. 37.14.060. INVESTMENTS. (a) The commissioner of revenue, with the approval of the board, may invest the principal of the fund in the same manner specified in AS 39.35.110 for the investment of surplus pension funds.

(b) The commissioner of revenue may

(1) invest and reinvest the principal of the fund;

(2) sell, exchange, convey, transfer, or otherwise dispose of an investment of the fund by private

contract or at public auction;

(3) vote upon a stock, bond, or other security; give a general or special proxy or power of attorney with or without power of substitution; exercise a conversion privilege, subscription right, or other option and make payments incidental to it; consent to or participate in a corporate reorganization or other change affecting corporate securities, delegate discretionary power, pay an assessment or charge in connection with the delegation; and generally exercise any of the powers of an owner with respect to stocks, bonds, securities, or other investments held in the fund;

(4) make, execute, acknowledge, and deliver documents of transfer and conveyance and instruments necessary or appropriate to carry out the powers granted;

(5) register investments held in the fund in the name of the board;

(6) do all acts whether or not expressly authorized which are considered proper for the protection of the investments held in the fund.

Sec. 37.14.070. CONTRIBUTIONS. During each fiscal year the commissioner of the Department of Revenue shall transfer to the fund a sum equal to one and one-half per cent of the total receipts derived from the management of state land, including amounts paid to the state as proceeds of sale or annual rent of surface rights, mineral lease rentals, royalties, royalty sale proceeds, and federal mineral revenue sharing payments or bonuses.

Sec. 37.14.080. DEFINITIONS. In this chapter,

(1) "board" means the Mental Health Fund Advisory Board;

(2) "fund" means the mental health fund established in sec. 30 of this chapter.

* Sec. 5. AS 38 is amended by adding a new chapter to read:

CHAPTER 4. POLICY FOR USE AND CLASSIFICATION OF STATE LAND SURFACE.

ARTICLE 1. PUBLIC AND PRIVATE LAND USE.

Sec. 38.04.005. POLICY. (a) In order to provide for maximum use of state land consistent with the public interest, it is the policy of the State of Alaska to plan and manage state-owned land to establish a balanced combination of land available for both public and private purposes. The choice of land best suited for public and private use shall be determined through the inventory, planning, and classification processes set out in secs. 60 - 70 of this chapter.

(b) In classifying state land for private use and settlement purposes, the director shall make adequate provision for public open space which is accessible to communities so that natural areas are easily reached from all communities and settled areas. The amount of that land

shall be sufficient to meet existing and projected needs for accessible public recreation land. Special care shall be taken to preserve public access to public water and to retain state ownership of sufficient land which combine high value for recreation and other public purposes with accessibility to settled areas. This classification for public purposes does not constitute dedication to open space, but the division's management of land so classified shall be in a manner to preserve the identified values.

(c) In allocating land for private use and public retention, the requirements of future generations shall be considered. To this end, a supply of state land of a variety of types and locations shall be reserved to provide an opportunity for future decisions.

(d) Private land use rights are integral to the material well-being of the people of Alaska and our society.

(e) Involvement of municipalities and local residents is essential in the decision-making process which leads to making state land available for private use.

Sec. 38.04.010. PUBLIC INTEREST IN MAKING LAND AVAILABLE FOR PRIVATE USE. (a) The primary public interest in conveying rights to state land surface to private parties is to make them available to individuals and other persons for direct use in areas classified as suitable for these purposes. In making state land available for private use, the director shall seek to guide year-round settlement to areas where public services already exist, or can be extended with reasonable economy, or where development of a viable economic base is probable.

(b) State land which is located beyond the range of existing schools and other necessary public services, or which is located where development of sources of employment is improbable, may be made available for seasonal recreational purposes or for low density settlement, with sufficient separation between residences so that public services will not be necessary or expected.

Sec. 38.04.015. PUBLIC INTEREST IN RETAINING STATE LAND IN PUBLIC OWNERSHIP. The primary public interests in retaining areas of state land surface in public ownership are

(1) to make them available on a sustained-yield basis for a variety of beneficial uses including subsistence, energy development, aquaculture, forestry, grazing, sport hunting and fishing, hiking, snowmobiling, skiing, and other activities of a type which can generally be made available to more people and conducted more successfully if the land is in public rather than private ownership;

(2) to facilitate mining and mineral leasing by managing appropriate public land for surface uses which are compatible with subsurface uses;

(3) to protect critical wildlife habitat and areas of special scenic, recreational, scientific, or other environmental concern;

(4) to restrict development in hazardous locations such as floodplains and avalanche zones; and

(5) to guide the location of settlement and development to minimize public costs and maximize social and economic benefits.

ARTICLE 2. LAND AVAILABILITY FOR PRIVATE USE.

Sec. 38.04.020. TIMING AND AMOUNT. On a continuing or annual basis, the director shall make available for private use an array of state land suitable for a variety of uses. During fiscal year 1979, the director shall make available a minimum of 50,000 acres, not more than 10 per cent of which may be made available for leasing and 30,000 acres of which shall be for disposal under the homesite entry program established under AS 38.08 and the open-to-entry program established under AS 38.05.077 based upon a statewide assessment of supply and demand for land conducted under sec. 2 of this Act. Annually thereafter, the following three options for the state land availability program shall be submitted to the legislature along with the administration's budget: an increased-level program, a current-level program, and a reduced-level program. At least one option shall include at least 50,000 acres.

Sec. 38.04.025. VARIETY OF USES. In making state land available for private use, the director shall endeavor to accommodate persons with a current need and anticipated use for the land. To this end, the director shall assess the nature of the supply and demand for state land in different regions and locations of the state, taking into account the supply of available land under other ownership, and shall make land available in locations and under programs suited to the differing needs of prospective users throughout the state.

Sec. 38.04.030. LAND AVAILABILITY PROGRAMS. Programs which may be used by the director to make the state's land surface available for private use under this section include sale of whole or partial rights to the fee simple estate, including conveyance of agricultural use rights; leasing; open-to-entry; homesiting; homesteading; permitting for construction and occupation of cabins in isolated locations on land retained in state ownership; and other methods as provided by law.

Sec. 38.04.035. CRITERIA FOR PROGRAM SELECTION. In determining which land availability program is appropriate for state lands in different locations, the director shall be guided by the following criteria:

(1) To cover public costs associated with private land use and to provide the public with a fair return for publicly owned property, conveyance of state land to private parties should be at fair market value except where otherwise authorized by statute, or by an administrative regulation the adoption of which is specifically permitted by statute.

(2) Sale or lease programs should be used where land is readily accessible to a major community center or

where, because of a prime location on waterfront or a transportation route or some other location characteristic, land has relatively high real estate value.

(3) Sale programs are preferred but lease programs should be used

(A) where special land use controls are required and there is a high public interest in having certain types of land used for particular purposes;

(B) when the intended use is a temporary one;

(C) in commercial or industrial situations when a leasehold can provide cash flow advantages to the lessee;

(D) when a unique location with special public values is involved, as in a deep water port, hydroelectric site, or aquaculture facility;

(E) where current demand for private use is high, but projections suggest that, in the future, the land may be more valuable for public use, as in accessible waterfront recreation areas.

(4) For enabling isolated cabin development in remote locations where survey and conveyance is impractical, a system for cabin permits on public land may be used.

(5) Limited or conditional title may be granted when the state's best interest so dictates. Among other things, title limitations may include grants of agricultural interest only, retention of development rights, and retention of scenic or other easements. A conditional title may be tied to a development schedule or other standards of performance.

Sec. 38.04.040. AVAILABILITY OF SCHOOL LAND AND UNIVERSITY LAND. School land and university land may be made available at fair market value for private use under the purposes of this chapter; however, any action to do so shall be in accordance with statutes pertaining to these lands and the authority of the Board of Education and the Board of Regents of the University of Alaska.

Sec. 38.04.045. SURVEY AND SUBDIVISION. (a) State land to be conveyed in fee simple or less than fee simple estate shall be subdivided so that lots and tracts are of a size which fits the requirements of individual users and reflects the physical characteristics of the land, except that in locations where there is an inadequate margin between the demand for and the supply of vacant land, the state may make land available for private acquisition in parcels that are larger than required for individual use.

(b) Before the conveyance of surface rights to state land, an official cadastral survey shall be accomplished, unless a comparable, acceptable survey exists that has been conducted by the federal Bureau of Land Management. The rectangular survey section corner positions shall be

monumented and shown on a cadastral survey plat approved by the state. However, for those areas where the state may wish to convey surface estate outside of an official cadastral survey grid, the director may waive monumentation of all individual section corner positions and substitute an official control survey with control points being monumented at approximately two-mile intervals and shown on control survey plats approved by the state. No portion of land to be conveyed may be located more than two miles from such a survey control monument. The lots and tracts in state subdivisions shall be monumented and the cadastral survey and plats for the subdivision shall be approved by the state. Where land is located within a municipality with planning, platting, and zoning powers, plats for state subdivisions shall comply with local ordinances and regulations in the same manner and to the same extent as plats for subdivisions by other landowners. State subdivisions shall be filed in the district recorder's office. The requirements of this section do not apply to land made available through a cabin permit system, material sales, or short-term leases; however, for short-term leases the lessee must comply with local subdivision ordinances unless waived by the municipality under procedures specified by ordinance.

Sec. 38.04.050. ACCESS TO PRIVATE USE AREAS. Wherever state land is surveyed for purposes of private use, adequate rights-of-way and easements shall be reserved as necessary for access and, where appropriate, for power and telephone service to each parcel of land. Where necessary and appropriate for the use intended, the director shall arrange for the development of surface access as part of the land availability program. The direct cost of local access development shall be borne by the recipient of the land unless otherwise provided by state statutes or regulations.

Sec. 38.04.055. ACCESS THROUGH PRIVATE USE AREAS. The director shall reserve easements and rights-of-way on and across land which is made available for private use as necessary to reach or use public water and public and private land.

ARTICLE 3. INVENTORY, PLANNING, AND CLASSIFICATION.

Sec. 38.04.060. INVENTORY. (a) The commissioner shall prepare and maintain on a continuing basis an inventory of all state land and water and their resource and other values, giving priority to areas of potential settlement, economic development, and critical environmental concern. This inventory shall be kept current so as to reflect changes in conditions and to identify new and emerging resource and other values.

(b) The commissioner's inventory shall include land and water under interagency assignment of land management authority and land and water proposed for such an assignment. That land and water must be reviewed at regular intervals to analyze current and proposed uses as these uses relate to alternative uses for all or part of the land and to determine the uses which best provide for the public interest.

(c) As funds and manpower are made available, the

commissioner shall provide local and federal governments and major private landowners with data from the inventory for the purpose of planning and managing the uses of land in proximity to state land.

Sec. 38.04.065. LAND USE PLANNING AND CLASSIFICATION. (a) The commissioner shall, with local governmental and public involvement in accordance with AS 38.05.305, develop, maintain and, when appropriate, revise land use plans which provide, by regions or areas, for the use of the state-owned land.

(b) In the development and revision of land use plans, the commissioner shall

(1) use and observe the principles of multiple use and sustained yield;

(2) consider physical, economic, and social factors affecting the region or area and involve other agencies and the public in achieving a systematic interdisciplinary approach;

(3) give priority to planning and classification in areas of potential settlement and critical environmental concern;

(4) rely, to the extent that it is available, on the inventory of the state land, its resources, and other values;

(5) consider present and potential uses of state land;

(6) consider the supply, resources, and present and potential use of land under other ownership within the area or region of concern;

(7) plan for compatible surface and mineral land use classifications; and

(8) provide for meaningful participation in the planning process by affected local governments, state and federal agencies, adjacent landowners, and the general public.

(c) As a basis for more detailed land use planning and classification, the commissioner shall develop regional land use plans for the use of all state land. These regional plans shall identify and delineate

(1) areas of settlement and settlement impact, where land must be classified for various private uses and for public recreation, open space, and other public uses desirable in and around settlement; and

(2) areas which must be retained in state ownership and planned and classified for various uses and purposes in accordance with sec. 15 of this chapter.

(d) Official regional or area plans and subsequent amendments adopted by the commissioner after public and

local governmental participation shall be signed and dated by the commissioner. Land classifications shall be made in accordance with these official plans.

(e) Land shall be classified as provided in AS 38.05.-300.

(f) Decisions about the location of easements and rights-of-way, other than for minor access, shall be integrated with land use planning and classification for the appropriate area or region.

(g) Land use plans adopted by the commissioner under this section shall be consistent with local governmental land use plans to the maximum extent he determines to be consistent with the state interests and the purposes of this chapter.

Sec. 38.04.070. MANAGEMENT CATEGORIES. State land classified for uses and purposes involving retention in public ownership may be included in the following management categories:

(1) state public reserve lands: areas of public land to be managed for a wide variety of compatible uses and purposes in accordance with the principles of multiple use and sustained yield; land designated to this category may include, but need not be limited to, state forest reserves and state wildlife reserves as well as land classified for public purposes within settlement impact areas;

(2) state parks: areas with special recreational, scenic, cultural, historical, wilderness, or similar values, to be managed primarily for the public use and enjoyment of these values;

(3) state trails: a system of public historic or recreational trails;

(4) wild and scenic rivers: a system of rivers and adjacent state land with special natural, scenic, and recreational values located within or adjacent to a wild and scenic river area managed as part of the national system of wild and scenic rivers in accordance with the federal Wild and Scenic Rivers Act (82 Stat. 906; 16 U.S.C. 1271 et seq.);

(5) state public domain: land within areas designated on regional plans as settlement and settlement impact which are not part of the management categories listed in (1) - (4) of this section; through classification, this land may be made available for private use, settlement, and development as well as for public uses associated with settlement and development.

ARTICLE 4. GENERAL PROVISIONS.

Sec. 38.04.900. REGULATIONS. (a) The commissioner shall adopt under the Administrative Procedure Act (AS 44.62) regulations he believes are necessary to carry out the purposes of this chapter. Within 120 days after the effective date of this Act, the director shall submit to the

commissioner draft regulations implementing this chapter and revising regulations in effect on the effective date of this Act pertaining to planning, classification, management, and disposal of the state's surface estate in land. New and revised regulations shall be integrated in a single comprehensive draft compatible with the structure of the Alaska Administrative Code. In preparing this draft, the director shall seek to simplify and clarify regulations governing land planning, classification, management, and disposal.

(b) A municipality has standing to petition the commissioner for the adoption of a regulation, or for the amendment or repeal of an existing regulation, or to appeal a decision of the commissioner with respect to classification, management, or disposal of land made under authority of a regulation adopted under (a) of this section with respect to state land outside the corporate boundaries of the municipality to protect any interest which the municipality is authorized to regulate outside its boundaries under AS 29.48.037.

(c) If the regulations adopted by the commissioner under (a) of this section fail to provide for a process by which decisions of the commissioner may be appealed, an interested person may petition for reconsideration of a decision. The petition shall contain the information required to be submitted by AS 44.62.220 and shall be acted upon by the commissioner in the manner provided in AS 44.-62.230. For purposes of this section, a municipality is an interested person with respect to its interests in land defined in (b) of this section.

Sec. 38.04.910. DEFINITIONS. In this chapter, unless the context otherwise requires,

(1) "commissioner" means the commissioner of the Department of Natural Resources;

(2) "director" means the director of the division of lands of the Department of Natural Resources;

(3) "fair market value" means the price at which a willing seller and a willing buyer will trade;

(4) "multiple use" means the management of state land and its various resource values so that it is used in the combination that will best meet the present and future needs of the people of Alaska, making the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions; it includes

(A) the use of some land for less than all of the resources, and

(B) a combination of balanced and diverse resource uses that takes into account the short-term and long-term needs of present and future generations for renewable and nonrenewable resources, including, but not limited to, recreation, range, timber, minerals, watershed, wildlife and fish, and natural scenic, scientific, and historic values;

(5) "official cadastral survey" means a United States public land survey or a survey executed under survey instructions issued by the division for the purpose of preparing a cadastral survey plat, and approved and accepted by the division for the state's official records;

(6) "official control survey" means a position marked on the ground by triangulation or traverse stations established in conformity with standards adopted by United States Coastal and Geodetic Survey for first, second and third order work, whose geodetic positions have been rigidly adjusted on the North American datum of 1927 and approved by the division;

(7) "short-term lease" means a lease for a term of five years or less;

(8) "state park" means an area of state land designated by law to be managed for public use and enjoyment of recreational, scenic, cultural, historical, wilderness, and similar values, including but not limited to areas designated under

(A) AS 41.20.050 - 41.20.060, roadside rests and recreational beaches;

(B) AS 41.20.130 - 41.20.160, 41.20.330 - 41.20.345, ch. 61 SLA 1966, and ch. 26 SLA 1967, state recreation areas;

(C) AS 41.20.170 - 41.20.320, state parks; and

(D) AS 41.35.030, state monuments and historic sites;

(9) "state trail" means an area designated by law to be managed as a public historic or recreational trail including but not limited to

(A) trails designated under AS 41.20.070 - 41.20.120, wilderness trails and campsites; and

(B) trails and footpaths designated under AS 41.20.355 - 41.20.375;

(10) "sustained yield" means the achievement and maintenance in perpetuity of a high level annual or regular periodic output of the various renewable resources of the state lands consistent with multiple use;

(11) "wild and scenic river" means a free-flowing river or stream designated as provided in the federal Wild and Scenic Rivers Act (82 Stat. 906; 16 U.S.C. 1271-1287).

* Sec. 6. AS 38.05 is amended by adding a new section to read:

Sec. 38.05.057. LAND DISCOUNT PROGRAM. (a) The director shall grant to eligible persons a discount on the purchase price of land sold for residential use under this chapter at the rate of five per cent of the purchase price of the land purchased for each full year that the purchaser

is a resident of the state. A discount granted under this section may not exceed 50 per cent of the total purchase price of the land or a value of $25,000, whichever amount is less. A discount may be used by an eligible veteran to purchase land offered at a restricted sale under sec. 67 of this chapter.

(b) To be eligible for a discounted purchase price under (a) of this section, a person shall

(1) have been physically present in the state for the 12-month period before the sale, except for brief intervals, military service, attendance at an educational or training institution or for absence for good cause;

(2) maintain a place of residence in the state;

(3) be registered to vote in the state;

(4) not have claimed residence in any other state for any purpose during the 12-month period immediately before the sale;

(5) show by all attending circumstance that his intent is to make Alaska his continuous residence; and

(6) have attained the age of 18 at the date of sale.

(c) A person seeking to establish eligibility for a discount under this section shall present proof meeting the criteria set out in (b) of this section to the director. A person who submits information to the director under this section knowing it to be false is guilty of a felony and, upon conviction, is punishable by imprisonment for not more than five years, or by a fine of not more than $50,000, or by both.

(d) A person is entitled to not more than one discount on the purchase price of land under this section in his lifetime. A discount granted under this section may be applied only to the acquisition of surface rights to state land. A discount may not be applied to costs such as survey costs, road development costs, utility assessments, or other costs as determined by the director which are reimbursable to the state. In all cases, a cash down payment of at least five per cent of the price of the land shall be made at the time of acquisition.

(e) The commissioner may adopt regulation to implement the provisions of this section.

* Sec. 7. AS 38.08.010(a) is repealed and re-enacted to read:

(a) The director shall designate, classify and make available for homesite entry state land in amounts and at times as required in AS 38.04.020 or as may otherwise be required by law.

* Sec. 8. AS 38.08.010 is amended by adding a new subsection to read:

(d) The director shall, to as great an extent as possible, classify land for homesite entry based upon the distribution of population in the state.

* Sec. 9. AS 38.08.020 is amended to read:

Sec. 38.08.020. OFFERING OF LAND FOR HOMESITE ENTRY. The director shall publish notice of the availability of the land for at least three consecutive weeks through the electronic media and in at least three newspapers of general circulation in the state, at least one of which, if possible, shall be a newspaper of general circulation in the vicinity of the available land.

* Sec. 10. AS 38.08.030(a)(2) is amended to read:

(2) submit proof acceptable to the commissioner that he is a resident of the state at the time of application, and that he has been a resident of the state for not less than three years immediately preceding the date his application was submitted, or that he has been a resident for 20 years cumulatively;

* Sec. 11. AS 38.08.060(a)(2) is amended to read:

(2) erects a habitable, permanent, single-family dwelling on the homesite, which meets all applicable state and local regulations, within five years of the date of issuance of the homesite entry permit; for the purposes of this paragraph, mobile homes are not considered to be permanent dwellings unless they are placed on a permanent foundation;

* Sec. 12. AS 38.08.110 is amended to read:

Sec. 38.08.110. REGULATIONS. The commissioner shall adopt regulations in accordance with AS 44.62.180 - 44.62.290 to carry out the purposes of this chapter, including, but not limited to, regulations relating to easements and access routes.

* Sec. 13. AS 38.50.040 is amended to read:

Sec. 38.50.040. LAND SUBJECT TO EXCHANGE. Except as otherwise provided in this chapter, the director is authorized to convey for purposes of exchange any state land or interest in land regardless of the authority under which the land or interest was obtained by the state. The conveyance of university land and school land shall be approved in the manner prescribed in AS 38.05.030.

* Sec. 14. AS 38.50.110(a)(6) is amended to read:

(6) mail the notice to the appropriate board or other entity or person with approval authority as indicated in sec. 40 of this chapter and AS 38.05.030, when university land or school land is involved in the proposed exchange;

* Sec. 15. AS 38.05.035(a)(13), 38.05.365(8), and AS 38.08.110(b)(1), (2), (3) and (5) are repealed.

* Sec. 16. Sections 3, 4, 13 and 14 of this Act and the

repeal of AS 38.05.035(a)(13) and 38.05.365(8) contained in sec. 15 of this Act take effect July 1, 1978.

* Sec. 17. Sections 1, 2, 5, and 6 - 12 of this Act and the repeal of AS 38.08.010(b)(1) - (3) and (5) contained in sec. 15 of this Act take effect immediately in accordance with AS 01.10.-070(c).

Approved by the Governor: July 18, 1978
Actual Effective Date: Secs. 3, 4, 13 and 14, July 1, 1978; Secs. 1, 2, 5 - 12, and 15, July 19, 1978

STATE OF ALASKA
DEPARTMENT OF HEALTH & SOCIAL SERVICES

POLICY AND PROCEDURE MANUAL

P&P No. 210-2 Page No. 1 of 7
EFFECTIVE DATE: January 1, 1979
APPROVED BY: Helen D. Bettne
Commissioner

DIVISION Administrative Services
SECTION Personnel
Chapter No. ____ Title Recruitment, Appointment & Separation
Subject Selection & Appointment of Temporaries

SUPERCEDES P & P No. 210-2 (& *memos below)
DATED February 2, 1978
(Please Destroy)

I. PURPOSE: To establish uniform policy and procedure to govern the selection and appointment of temporaries (including Rule 5 07.0 emergency appointments) within this department.

II. DELEGATION OF AUTHORITY TO APPOINT:

Subject to the provisions of governing bargaining unit agreements, Personnel Rules 5 06.0 and 5 07.0 and the guidance in Sections III and IV, below, division directors and separate office heads, or their written designees, are authorized to make temporary (including Rule 5 07.0 emergency) appointments within the Budget Request Units (BRU) for which responsible.

III. POLICY: A. A temporary appointment shall be considered only when a permanent/probationary appointment, or promotion to fill the requirement is made infeasible by one of the following:

1. Clearly defined tasks have evolved that must be accomplished in order to achieve the goals/objectives set forth in the approved program of the BRU; such tasks cannot be done by authorized employees of the BRU; the BRU has the necessary funds to cover the cost of the temporary employee; and the classification required is not one that has been requested in the BRU and denied by the Legislature for the current fiscal year.

2. An emergency situation exists whereby a new program for which funds are available to the BRU must be undertaken immediately; hiring and employment must occur before a permanent position (or register) can be made available; emergency appointment procedure under Personnel Rule 5 07.0 will not suffice; and a permanent position has been (or is being) requested which will be filled from a register within 30 days of the availability of the position/register.

3. A critical situation exists in a BRU caused by unusually heavy workload, prolonged absence of authorized permanent staff, imposition of revised program requirements

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*Memo Subject	Date
Temporary Hire (P&P 210-2)	5/17/78
Temporary Hire (P&P 210-2)	7/26/78

beyond the capability of existing staff or a similar exigency beyond the control of the BRU, and the BRU has the funds to cover the cost of a temporary employee to alleviate the problem.

B. The Labor, Trades and Craft (LTC) bargaining unit agreement and this P&P shall govern the hire of temporaries for classifications covered by the LTC agreement.

C. Personnel Rule 5 06.0, the applicable bargaining unit agreement and this P&P shall govern the hire of temporaries for classifications covered by the Confidential, General Government and Supervisory bargaining unit agreements.

D. Personnel Rule 5 06.0 provides that "Temporary appointments shall, when practicable, be made from eligible lists. If the Director [of Personnel and Labor Relations] has found it impracticable to make certification because of non-availability of eligibles, he [the Director of Personnel and Labor Relations] may authorize the temporary appointment of a qualified individual designated by the appointing authority..."

E. Personnel Rule 5 06.0 also provides that extension of a 6 months temporary appointment requires approval of the Director of Personnel and Labor Relations. Extension of temporary appointment for classifications in the Confidential, General Government or Supervisory units shall be authorized only upon approval of a written request through program channels to the Commissioner's Office setting forth full justification for the extension and its duration. The combined period of such extension and the period for which originally appointed shall not exceed 9 months.

F. Article XIII, Section 8 of the LTC unit agreement provides that there shall be no extension of the 120 day maximum temporary appointment for classifications governed by the agreement except by mutual agreement of the State and the Union. The Department of Health and Social Services shall not seek exception to the 120 day LTC temporary hire maximum.

G. Division of Personnel and Labor Relations SOP 05-75-002, Section VII provides that "An employee who separated in good standing while holding a permanent or probationary position may be reemployed in the same class without examination or certification. Reemployment must take place within three years of the date of ...separation. Reemployment may be in a lower class in the same class series or in a parallel class series if approved in advance by the Director of Personnel...".

IV. PROCEDURE:

A. Hire of Temporaries Other Then LTC - With the exceptions set forth in paragraphs D, F and G below, which provide for temporary hire under specified circumstances without the use of a register, an authorized individual of the division or separate office will request a register for temporary employment from the servicing personnel office, work the register when received and make a selection in the same manner as for a permanent/probationary appointment. The "Rule of 5" shall apply to temporary appointment. When the selection has been made, the annotated and certified register will be attached to the completed Form 06-5418 (attachment #1) and forwarded to the servicing personnel office for issuance of an appointing Personnel Action Form.

B. Hire of LTC Temporaries - Upon receipt of authorization to hire a temporary whose classification is within the LTC unit, the servicing personnel officer will contact the appropriate Union hiring hall to request dispatch of candidates to the employing office unit/institution. If the Union is unable to furnish names of prospective temporaries within time limits prescribed in the agreement, the employing official will be so informed and furnished guidance by the servicing personnel office for further action to fill the requirement.

C. Duration of Temporary Appointments - It is the responsibility of the division or separate office concerned to assure that a temporary is hired for the absolute minimum period necessary to accomplish the functions for which hired and is terminated when the work assignment has been completed, or when the period of temporary hire approved under this P&P expires, whichever occurs first. The servicing personnel office will closely monitor the period of hire for all temporaries and take timely and appropriate action to effect termination upon completion of the number of days shown in item No. 4 of Form 06-5418, or of any extension of period of temporary hire approved under Section III, Paragraph E, above.

D. Rehire of a Former Employee as a Temporary

1. Rehire in a temporary status of a former permanent or probationary employee who meets the prerequisites of Paragraph G of Section III above may be accomplished without a register when such former employee is not on the applicable register but:

(a) Is qualified as an Alaskan under the definition of Personnel Rule 1 (i.e. "Alaskan means a person

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILE 8672
1359 SCOMM 51: BLUE RIBBON COMN. ON STATE PERSONNEL ACT 1978-1983

whose domicile is within...Alaska... Domicile means the true and permanent home of a person, from which he has no present intention of removing and to which he intends to return whenever he is away...");

(b) Has submitted a signed application to the hiring official which stipulates a desire for appointment to a classification held in permanent/probationary status within the preceding three years;

(c) The DHSS servicing personnel officer has confirmed in advance of such job offer and hire that the applicant for temporary appointment was a permanent/probationary employee of the State in the applied for classification and was separated from such employment in good standing within the preceding three years. CAUTION: The hiring official shall request that the DHSS servicing personnel officer make this determination prior to any job offer.

2. The DHSS Personnel Officer will determine, in coordination with DPLR, for DHSS servicing personnel officers at their request, whether (c) above is applicable.

3. The DHSS Form 06-5418 will be accompanied by the signed application of the appointee and will be annotated in the "Certificate" block as follows:

"In lieu of hire from a register this appointment is of a former permanent/probationary employee who meets the prerequisites of Section III, Paragraph G and Section IV, Paragraph D, P&P 210-2"

E. Temporary Appointment of Former State Employee Above Step A -

When a former State employee was separated in good standing from a given classification within the three years preceding the date that the former employee is to be hired on a temporary basis in the same class, an appointing authority has the option of hiring the former employee at A step, the highest step held, or any step in between A step and the highest step held in such classification.

F. Temporary Appointment When Register is Incomplete -

When a permanent position (PCN) cannot be filled because the register for the PCN has been found incomplete under Rule 5 03.5 and the prerequisites below have been met, the appointing authority may approve the hire of a temporary

for not to exceed ninety days, without the use of a register. The prerequisites to be met are as follows:

1. A request to subfill the PCN with a probationary appointment has been considered under Rule 5 03.7 and the appointing authority has determined that:

a. Such action would generate a genuine emergency by excessively delaying provision of essential program services (as contrasted with generation of a worrisome but non-critical work backlog); or

b. A subfill classification could not do enough of the duties of the PCN to adequately carry out the mission of the work unit for the time required by a subfill incumbent to achieve eligibility for the higher classification of the position. If an incomplete register is declined and a subfill register requested by the appointing authority, the Division of Personnel and Labor Relations (DPLR) will take action in the following order of priority:

i. If deemed feasible by DPLR, forward to the appointing authority a register with names of persons on registers for classifications related to the classification of the PCN but of the same range as the PCN to be filled; or

ii. Request the appointing authority for a written description of the job content of the lower classification and range to be used in subfilling the PCN to be filled. (DPLR needs such information to be assured that the subfill appointee will neither be expected nor required to perform duties other than those included within the class specification for the classification of the subfill. Time may be saved when requesting a subfill register if the description of the duties of the position when subfilled is forwarded with the request for such register.)

2. When it has been determined under Subparagraph 1a or 1b above by the appointing authority that subfilling a PCN for which there is an incomplete register would present a genuine emergency, the appointing authority may authorize a temporary appointment for not to exceed ninety days under Section III, Subparagraph A 3 above to alleviate "A critical situation [that] exists in the [the] BRU caused by...emergencies beyond the control of the BRU..."

3. Simultaneously with issuance of the authorization for appointment without use of a register, the appointing authority shall take the following action:

a. Request, through the servicing personnel officer, that DPLR implement emergency recruitment procedures in the applicable classification and geographical area to obtain candidates to fill the PCN on a probationary/permanent basis. Attach to the Form 06-5418 the request for recruitment prepared as a memorandum to the Director of Division of Personnel and Labor Relations, through the servicing personnel office, and identify therein the requesting agency BRU and eight digit code against which the costs of advertisements are to be allocated. DPLR officials will expedite such a request to make a register available within sixty days listing the eligible respondents to DPLR recruiting action.

b. Request the local Employment Center for referral of qualified applicants and make a selection from this source if possible.

c. If a selection could not be made from among referrals from the local Employment Center, consider any other available sources for temporary hires;

d. In addition to the narrative justification for the temporary hire required in Form 06-5418, include the date, PCN and classification of the applicable incomplete register and state "This temporary hire is authorized without a register for not to exceed ninety days or until PCN ___ is filled by a probationary/permanent appointee, whichever occurs first, and the individual hired as a temporary has been, or will be, informed of that fact".

G. Emergency Appointment for Thirty Days or Less -

1. Personnel Rule 5 07.0 governs emergency hire for not to exceed 30 days. Rule 5 07.0 is extremely limited in its application and must be carefully reviewed to determine whether it is applicable in a given case. When the division director or separate office head determines that Rule 5 07.0 is applicable, Form 06-5418 will be used to request the servicing personnel office to appoint an individual who meets the minimum qualifications of the classification without use of a register. Full justification to DPLR for the emergency hire as prescribed by Rule 5

07.0 must be attached to the properly completed Form 06-5418 when the servicing personnel office is requested to make the appointment. Also, the Form 06-5418 will be annotated under the subject to add "EMERGENCY under Rule 5 07.0".

2. Occassionally, the hire of a temporary for a period of 30 days or less is dicated by emergency circumstances which fail to meet the criteria of Rule 5 07.0 for emergency appointment but are of a degree of urgency which precludes selection from a register because the processing time required would impose an unacceptable delay in the appointment. In such a case, the division director or separate office head may request the appointment of an individual who meets the minimum qualification for the classification, without the use of a register. Such (quasi-emergency) temporary appointment will be for a period not to exceed 30 calendar days and will be authorized with the understanding that there will be no extension or repetition of such appointment of that individual in that work unit. To request an appointment under this provision, the appointing authority will submit, to the servicing personnel office, the properly completed Form 06-5418, citing "P&P 210-2, Section IV, Paragraph G" following the narrative justification, accompanied by a signed copy of the appointee's signed application for temporary appointment in the applicable classification. If the tasks to be performed that necessitate the appointment will require more than the authorized maximum of 30 calendar days to accomplish, the division director or separate office head shall, simutaneously with the submission of a request for such temporary appointment, also submit a request for a register from which to select an individual for temporary appointment under Paragraph A, above, or for permanent/ probationary appointment.

H. DHSS Servicing personnel officers will critically review each request for temporary appointment to insure that the provisions of Personnel Rule 6 06.0 and this Policy and Procedure are strictly followed. Personnel officers are authorized and required to return requests for appointment which are contrary to this P&P.

attachment
06-5418

TO: DHSS Personnel Officer

Date: _____

☐ SERO, Juneau

☐ SCRO, Anchorage

☐ NRO, Fairbanks

Subject: Authorization to Appoint Temporary Employee

FROM: _____
Division Director/Separate Office Head

Under authority contained in Section III, Policy and Procedure 210-2, dated February 9, 1978, you are authorized and requested to issue an appointing Personnel Action for the following named individual:

1. Name _____ 2. Soc. Sec. No. _____
3. Address _____ 4. Days not to exceed _____
5. Classification _____ 6. Range/Step _____
7. Duty Station Location _____ 8. Effective Date _____
9. Collocation/Distribution Code _____ 10. Project Ledger _____
11. BRU _____ 12. Section/Office _____
13. Add to: BPR Page No. ____ dated _____

NARRATIVE JUSTIFICATION

(Describe tasks to be performed, why it is necessary to appoint a temporary employee in lieu of a permanent/probationary employee, and provide an estimate of work days required to complete tasks.)

CERTIFICATION

I certify the temporary appointee named above was selected from an eligible register as required by Personnel Rule 5.06.0. The register from which the named temporary appointee was selected is attached. Further, that sufficient Personal Services (Code 100) funds are available within the BRU/Component appropriation level to pay the salary of this temporary employee for the period authorized (not to exceed 6 months for Confidential, General Government and Supervisory or 120 days for Labor, Trades and Crafts) and that the Legislature did not disapprove or deny funding of a like type position in the current year budget.

_____
Division Director/Separate Office Head

Attachment: Register dated _____

06-5418 (2-78)

Ombudsman

MEMO

Date: January 26, 1979

To: Members, Blue Ribbon Commission on the Personnel Act

From: Paddy Moriarty
Deputy Ombudsman

Subject: Ombudsman position on APEA's 1/22/79 proposal

At the meeting of the Subcommittee on Categories of Employees this morning, it was requested that Subcommittee members express their agreement or disagreement with an APEA recommendation of January 22, 1979, proposing specific statutory changes.

For the record, the Ombudsman is in support of this proposal (See Mr. Flavin's January 11 memo attached). Mr. Flavin would prefer that the APEA proposal #2 read: (6) the procedure for certifying eligibles to any position in state service other than interim or emergency positions.

The specific language in APEA's proposal #3 and #4 may need some further review, but in substance and intent it has Ombudsman support. Perhaps an administrative appeal mechanism could be devised to address those few exceptions mentioned at this morning's meeting which do not fall within language in #3 or #4. It will not be possible to draft these sections to encompass each set of meritorious special circumstances.

Attachment

Ombudsman

MEMO

Date: Jan. 11, 1979

To: Interested Folks

From: Frank Flavin

Subject: Eliminating the concept of temporary employees

1) add to AS 39.25.150 (6) so it reads:

(6) the procedure for certifying eligibles ~~for~~ to any positions in the state service other then interim or emergency positions.

OR

(6) the procedure for certifying eligibles for full-time, part time, project or seasonal positions in state service.

2) Expand AS 39.25.150 (8) to read:

(8) emergency appointments to positions in the state service for a period not to exceed thirty days, made under conditions necessitating immediate action to provide for carrying on work that must be continued in the public interest. Successive emergency appointments or more than three emergency appointments for one person within one calendar year are prohibited.

3) Eliminate reference to temporary and seasonal appointments in AS 39.25.150 (9) and replace it with an interim appointment concept:

(9) interim appointments to positions in the state service for a period not to exceed sixty days, made where appropriate eligible lists are unavailable. Successive interim appointments to the same position are prohibited. No position in the state service shall be filled through ~~an~~ interim appointments for a period in excess of sixty days. Interim appointments may be made without competitive examination.

4) Repeal AS 39.25.150 (10) dealing with provisional appointments.

Anch 1/26/79

TEC

MEMO

TO: Blue Ribbon Commission - Subcommittee, Categories of Employees

FROM: Patrick E. Murphy, Executive Director, Alaska Public Employees Association
Patrick E. Murphy
Ombudsmans Office, TOO

DATE: 1/22/79

SUBJECT: Recommendations for Subcommittee Adoption

In a memo dated November 24, 1978, titled Position on Temporary Employees, APEA set forth some of the problems felt to be of major concern as it related to temporary employees. APEA still feels the problems set forth in that memo are valid and that immediate measures should be taken to correct the inequities.

Therefore APEA makes the following proposal relating to the issue of temporary abuses:

Exempt Local 71 EE's; Marine Transit EE's

1. That two categories of employees exist within the classified state service system.

   A. Permanent employee: to encompass the current categories of permanent full-time, permanent part time and permanent seasonal.

   B. Interim employees: to encompass the current categories of temporary, short-term.

2. Amend AS 39.25.150(6) to read: (6) the procedure for certifying eligibles for permanent full-time, part-time, project or seasonal positions in state service.

3. Amend AS 39.25.150(8) to read: (8) emergency appointments to positions in the state service for a period not to exceed thirty days, made exclusively under conditions necessitating immediate action to provide for the publics' safety and health. Successive emergency appointments or more than three emergency appointments for one person within one calendar year are prohibited.

4. Delete AS 39.25.150(9) as presently written and replace with: (9) interim appointments to positions in the state service, for a period not to exceed sixty (60) days, which are determined to be of a non-reoccuring, nature. Successive interim appointment to the same position are prohibited. No position in the state service shall be filled through an interim appointment for a period in excess of sixty days. Interim appointments must meet minimum qualifications and may be made without competitive examination.

5. Repeal AS 39.25.150(10) dealing with provisional appointments.

The following sections of Title 39 would also require modification to conform to the proposed changes in Chapter 25.

AS 39.20.270 Court Leave - change to read: shall be granted to an employee who is classified as delete, [full-time whether permanent or temporary] add a permanent employee

AS 39.20.310 Exceptions (7) delete [temporary employees hired for periods of less than 12 consecutive months] add: interim employees hired for periods of less than 60 days

AS 39.30.100 Definitions in § 90 of this chapter

(1) "eligible employee means"
(A) An employee who has served in permanent full-time or part-time employment with the same governmental unit for 30 days or more except an emergency or delete [temporary] add interim employee

It is the position of APEA that limiting the span of temporary employment to a maximum of 60 days provides adequate management flexibility in times of high work load, on set of new programs and provides lead time for personnel classifications. Most important the shorter time period emphasizes the need of the program planning, development of sound personnel administration and management. It will also serve to promote the identification of truly reoccuring seasonal position needs and encourage utilization of seasonal and part-time employment.

If action is taken to limit temporary employment to 60 days, the need to secure additional fringe benefits becomes moot.

Thank you for your consideration.

PEM/DSH/lb

BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT
CATEGORIES OF EMPLOYEES SUBCOMMITTEE
Legislative Information Office, Anchorage
November 30, 1978

MINUTES

The meeting was called to order by Representative McKinnon, Chairperson. Public testimony was invited. A summary of the points raised follows.

QUESTIONS AND ISSUES PRESENTED

1. Temporary employees working within a bargaining unit are required to belong to the appropriate union.

A. Temporaries have to pay the same union dues as permanent employees but do not receive the same benefits.

B. Employees who have philosophical disagreements with belonging to unions are required to join the appropriate union to hold a state job.

Discussion

Unions are required by law to represent all employees within the bargaining units which they represent. Union negotiating and lobbying efforts benefit both permanent employees and temporary employees, at least on the issues of salary levels. Recent APEA efforts resulted in securing holiday pay for temporary employees. Over half of the lobbying effort of APEA last legislative session was spent trying to persuade the legislature to extend to temporary employees the health and annual leave benefits provided to permanent employees of the state. The legislation passed the House but not the Senate.

C. Have temporary employees been polled on the union's negotiating priorities?

D. Have temporary employees ever been represented on the governing board of APEA?

E. Can members of the union have a prioritized list of the union's bargaining positions?

F. Has a temporary employee ever served as a member of the union negotiating team?

G. There should be a board position for a temporary employee to represent directly the concerns of other temporaries.

Discussion

Before new contract proposals are drafted, APEA polls all of its members, including temporary employees, on negotiating priorities. The questionnaire indicates the employment status of the

person answering, so that issues can be identified according to class of employment. The union uses results of the questionnaire in preparing its proposals.

There is nothing to prevent a temporary employee from holding office in the APEA, although Ms. Howard is not aware of any temporary employee who has ever been elected to the board. Under the present by-laws, a temporary could be an active union member only during the time of employment for the state.

2. Benefits for temporaries.

   A. No medical leave or retirement benefits.

   B. No job security.

   C. Temporary employment does not apply to the probationary period, even if the temporary employee is hired as a permanent for the same job.

   D. Union contracts can address the inequities of benefits for temporary employees.

Discussion

Lack of medical, leave and retirement benefits can only be addressed through the legislature, and, as indicated above, APEA spent considerable effort last session attempting to have legislation passed to do so. By union contract, APEA members can have one-third of their time as a temporary applied towards the probationary period required of a permanent position provided that there is no break in service and that the jobs are the same.

Local No. 71, Public Employees union, has negotiated to increase the wages of temporary employees to compensate for the lack of benefits. Temporaries receive an additional $1.32 per hour during the first 120 days they work as temporaries. If that period is extended by agreement, then the base salary of the temporary shifts from Level A of the wage scale to Level B. This system discourages the state from hiring temporaries for positions which should be classified as permanent. The union has found cases in which the state has ignored the union contract provisions about increased pay and has had to force compliance through arbitration.

3. Time limitations on length of temporary jobs.

   A. A limit of six months as a temporary was recently instituted for positions within the APEA bargaining unit. The limit used to be nine months.

   B. Local No. 71 has negotiated a 120-day limit to temporary employment, with extensions possible by mutual agreement between the union and the state.

Discussion

The new time limit for APEA members has caused a problem where supervisors were misinformed and therefore misinformed temporaries. The problem came about partly because there were a number of new supervisors in that particular job in a short period of time.

For discussion of the Local No. 71 system, see discussion under (2) above, Benefits for temporaries.

4. Promises to temporary employees about being hired for future permanent positions.

A. Division of Personnel does not always classify a new position as the program manager may have expected.

B. The better practice is to make no promises about permanent hire to temporary employees.

Discussion

If a program manager promises a permanent position to a temporary employee and then learns that the Division of Personnel has classified that position at a lower range than expected, then the temporary must wait while the position is reclassified. The time required for that process may extend beyond the time the temporary is permitted to work. That will cause the temporary to lose the cross-over of time served toward probationary period.

No promises should be made to temporary employees about permanent employment beyond a committment to consider them as any candidate with similar experience and skills will be considered. This is to ensure that the program manager is not locked into a committment and therefore unable to hire someone more qualified, should such an applicant appear on the register at the time of permanent hire.

5. Compensation for temporary employees who take time from work to testify before this commission.

Some supervisors are refusing to consider the time that their temporary employees spend testifying to the committee as time spent working for the state. Therefore, some temporaries were unable to attend the meetings. The APEA representative in Anchorage will work with the employees who did attend and with their supervisors to ensure that they are compensated for their time. If she is unable to do so, she will advise the commission.

6. None of the temporary employees who addressed the committee had been required to be on the register before being hired for their present positions.

7. The use of temporary employees in positions for which there are permanent funds available.

A. Local No. 71 has identified some 500 unfilled permanent positions within the scope of its bargaining units which it believes should be filled or deleted from the budget.

Discussion

Local No. 71 believes that the state is hiring temporary employees rather than filling presently vacant permanent positions in significant numbers. The union secured from the Division of Personnel and Labor Relations a list showing vacant PCN's within its bargaining unit. It has identified some 500 such vacancies, some of which have been vacant since the early 1970's. (A copy of the list is available from the commission staff.)

Some of the 500 positions may be funded through the Capital Improvement Funds, and therefore, the statistics may be skewed to that extent. Sue Greene of the Governor's office indicated that perhaps 100 of the positions might be CIF positions.

Local No. 71 has received requests for temporary employees within the job classes covered by the permanent-position vacancies on the list.

The Legislative Budget and Audit Committee is programming a computer to provide information on all PCN's vacant for more than a reasonable length of time. The legislature can then delete the position from the agency's budget, should it wish to do so. There is presently a monthly list prepared by the Division of Personnel which shows all of the vacant PCN's in the state and indicates the date of vacancy. Mr. Kareen estimated that approximately 20% of the PCN's are vacant at any one time.

B. Departments contract with private firms for work which could be performed by state employees. Contracting costs more to the state and increases the risk that public services will be jeopardized through a strike.

Discussion

Departments can contract with private firms for work which state employees could perform as well without any oversight by the Division of Personnel. In some cases, contractors with the state fail to fulfill all of the contract committments, leaving the state to hire its own employees to pick up the slack. For example, one contract called for the private contractor to provide janitorial services. When the contractor failed to do so, the state had to hire a member of Local 71 to fill the gap. One private contractor submitted two bids for a construction job, one based upon using his own equipment, and the other, at about $40,000 less, based on using the state's equipment. The higher cost bid was accepted, but then the contractor used the state's equipment to perform the work.

In some cases, the higher cost of subcontracting with private firms results from the higher wages charged by members of private industry unions.

Since state statutes place limitations on public service unions' right to strike, which are not placed on unions operating in the private industry field, there is greater danger that projects will be impeded by strikes when the state contracts with employers using private industry members than when the state hires its own employees.

Albert Baffone charged that the state of Alaska was following a policy of reducing the size of the Local 71 membership with the aim of drying up that union.

8. Problems with the use of CETA program employees within the Department of Corrections.

A. As temporary employees, CETA's within the Department of Corrections are limited to a nine-month period of service and receive no benefits, as permanent employees do.

B. CETA employees are taking the place of permanent employees within the Department, in violation of federal regulations.

C. Some CETA's are placed in supervisory positions over permanent employees who are paid at a higher salary rate than the CETA's.

D. CETA's are paid much less than permanent employees doing the same job.

E. Because of the Department of Correction's reorganization of staff, the state has frozen the Correctional Officer I register, and CETA's cannot apply for permanent positions.

The Comprehensive Employment Training Act is a federal legislative program aimed at providing people who are members of groups which traditionally have difficulty finding jobs with experience to enable them to find permarent employment. Federal regulations prohibit replacing permanent employees with those paid through the CETA program. The federal government provides $1,039 maximum per month in salary for those employed under the program. States using the program are free to supplement that salary if they desire.

The Division of Corrections has a number of CETA employees, classified as temporary employees by the state, who are paid at a salary range 9. The positions were meant to be Media Appreciation and Recreation Aides. However, because the Ridgeview

Correctional Center (where approximately 27 CETA's work) is severely understaffed, the CETA employees have been doing the work of Correctional Officer I's, who are classified at SR 13. These positions have just been reclassified from SR 11. CETA's are paid $2.00 less per hour than Correctional Officer I's. Since CETA's are classified as temporary employees, they have no benefits or job security. There is nothing in the federal legislation requiring that CETA's be classified as temporaries. There are non-CETA temporary employees who are paid at the Correctional Officer I salary range. There are CETA employees working in supervisory roles over Correctional Officer I's who make substantially more than they do, which is bad management practice.

Niel Thomas suggested that the commission should consider recommending that the legislature provide a supplement to CETA funds so that departments are required to pay appropriate salaries for the CETA's they employ. The federal government could also be asked to provide a wage supplement to the salary money it provides to Alaska, since the Alaskan cost of living is so much higher than the cost of living in the lower 48 states.

Aggravating the other problems faced by the CETA's employed in the Division of Corrections is the fact that the Division is undergoing reclassification of Correctional Officer positions. No job applications are being accepted for the positions of Correctional Officer I, so CETA's whose period of temporary employment must end because the six or nine-month period has elapsed cannot get on the register for a permanent position in the field in which they have been working.

The Division of Corrections has answered these problems by deciding to employ no more CETA's rather than by trying to keep the program and provide an opportunity for the underemployed to gain skills and experience to make them employable by adjusting the inequities in the present system.

At one time, there were a number of CETA positions within the bargaining unit of Local No. 71. However, by contract, the state was required to pay each CETA employee the existing wage rate for any union member. The state no longer has any CETA positions within the bargaining unit.

The CETA regulations require that people employed under that program receive equal treatment with other employees similarly situated. That language has been interpreted by the state to mean treatment comparable to any other temporary employee. The Municipality of Anchorage, which has a substantial number of CETA's, treats them as permanent employees entitled to all the benefits provided other permanent employees.

9. Problems of Program Managers in staffing programs.

    1. Time to get permanent positions filled from register and yet to meet legislative directives.

2. Treatment of temporary employees.

Discussion

Because creating new positions and hiring form the register takes a considerable amount of time, departments cannot use that system when given legislative directive to remedy a problem quickly. Last session, the legislature passed HB720, directing that by November 1, 1978, the Department of Natural Resources designate 30,000 acres of state land for disposal under the homesite entry program and the open-to-entry program. The act included other directions, and the legislature appropriated funds for 100 new positions for the department. By the time that the legislation had passed (it was approved by the Governor on July 18, 1978), enough time did not remain to both meet the legislative deadline and also to hire permanent employees from the register to fill the new positions. Temporary employees were hired and the department at the same time began the process of creating new permanent positions. (P402's had to be prepared for each new position describing the particular duties of the employee in this job, even though most fell within existing job classes.)

In order to allow the department to staff the program quickly, the Division of Personnel set aside all other tasks for four to six days to speed the paperwork. There was some delay in the Division of Budget and Management, which had to sort through four different appropriation bills affecting this program to ensure that proper authorization existed to establish these positions.

Departments may have short term projects to handle which require particular expertise. If the department lacks the time to be able to hire a permanent employee, it will hire a temporary while beginning the paperwork to establish a permanent position. The project may last beyond the six-month limit on the employment of a temporary, but it is quite possible that the permanent position may not yet be authorized. This hinders the department in the operation of its programs.

When hiring temporaries for professional positions, there is a problem using the register. Most professional people who are good candidates for a particular position are likely to already be employed and will be unwilling to leave a permanent job, with the benefits and protections it affords, for a temporary position, even if there will be a permanent position to replace the temporary one. Furthermore, it is bad management practice to advise any temporary employee that she or he will be hired for a future permanent position, since not only is there the possibility that the permanent positions will be established at a lower salary range than the department expects, but also, by the time that the department is authorized to fill the permanent position, there may be someone more qualified on the register whom the department will prefer to hire.

When filling a temporary position, the registers may be of some assistance in locating possible employees. Mr. Reed stated

that it was his practice to call for a register, to review the applications of those on the register and to contact those whom he did not know personally to inquire whether they were interested in the temporary position available. Those whose situation he knew, he would not contact unless he expected them to want a change.

WITNESSES

1. Barbara Eakin, temporary Administrative Assistant II with the Division of Lands of the Department of Natural Resources since July 31, 1978. The Division of Lands is in the process of seeking classification of a permanent position of Accounting Clerk III for which she expects to be "strongly considered."

2. Karen Holser, a temporary Water Technician with the South Central Division of Water Section of the Department of Natural Resources. She is working under a program created by HB720 to reduce the backlog in water rights applications. The legislature authorized 52 permanent positions, all of which have been filled. In addition, the department created temporary positions funded from money made available problable through the vacancy of permanent positions.

3. Ruth Moulton, a temporary employee of the Division of Planning and Classification of the Department of Natural Resources. She has held temporary positions with the state three times and prefers to work as a temporary employee.

4. Al Baffone, Business Manager of Local No. 71 of the Public Employees Union.

5. Helen Collier, a temporary employee under the Comprehensive Employment Training Act (CETA), working as a Media Appreciation and Recreational Aide with the Department of Corrections.

6. Barbara Kelly, a temporary Accounting Clerk I with the Division of Lands of the Department of Natural Resources.

7. Steven Reed, Chief of the Planning and Classification Division of the Department of Natural Resources. He has held the position for one year.

8. Bob Dawkins, Journeyman Plumber with the state.

9. Eleanor Andrews, Field Representative with the Anchorage APEA.

INVITED WITNESS

Frank Flavin advised the Committee that he had invited Mike Smith, Assistant Commissioner/Director of Lands with the Department of Natural Resources. Mr. Smith was unable to attend.

Materials Distributed:

APEA Interoffice Memo on Categories of Employees

IN ATTENDANCE

Representative Joseph McKinnon
Representative Richard Eliason
Ombudsman Frank Flavin
Darlene Howard (for Pat Murphy)
Ken Humphreys (for Myrt Charney)
Ken Kareen (for Pat Hunt)
Lynda McCurry
Greg O'Claray
John Pugh
Ken Spray
Niel Thomas

MINUTES

CATEGORIES OF EMPLOYEES SUBCOMMITTEE HEARING
November 16, 1978

The Subcommittee on Categories of Employees met at 9:00 a.m., Thursday, November 16, 1978, in Room 123 A of the State Capitol Building, Representative Joseph McKinnon, Chairperson, presiding.

Representative McKinnon suggested that the subcommittee identify short and long-term goals.

TOPICS IDENTIFIED

1. Use of Temporary Employees: The use of temporaries circumvents the merit system because departments are not required to hire from the register. Temporaries do not receive most state employee benefits and are therefore cheaper to employ. Departments can hire individuals as temporaries in order to allow them to fulfill experience or residency requirements and then hire them as permanent employees.

2. Contractual Employees: The same kinds of abuses (by-passing of tests, eligibility lists and mininum job qualifications) that occur in the use of temporaries can occur when departments contract out work that could be done by permanent employees.

3. Categories of State Employees: Is it appropriate for the state to have all of the categories presently in use--permanent full-time, permanent part-time, permanent seasonal, probationary, emergency, temporary and contractual?

4. Proliferation of Unique Job Classifications: Alaska has an excessive number of classifications when compared with other states having a similar number of state employees.

5. Equal Pay for Equal Work: Job categories which were created many years ago tend to be set at lower salary ranges than those created more recently, even though they may require the same kinds of training, experience and responsibilities. The salary ranges of some positions, such as secretarial, are tied to the salary range of the employee's supervisor rather than the requirements of the job.

6. Delays in processing applications to get on eligibility registers.

7. University of Alaska employees and court system employees are outside the state's merit system because of constitutional provisions.

8. Effect of the Rule of Five on Affirmative Action: Where EEO problems exist, affirmative action hiring can be accomplished by establishing EEO compliance as a justification for looking below the top five candidates.

9. The state's system of reclassifying positions.

SUGGESTIONS ON OPERATION OF THE COMMISSION

1. The Committee Structure: Care should be taken that problems are not overlooked because they fail to fall within existing committee structure. After more public input, the committee structure should be examined to consider modifications. Is the Merit System/Collective Bargaining Subcommittee necessary?

2. Adequate input from program managers who have particular knowledge of problems in the state's personnel system needs to be gathered. The Commission should consider preparing a questionnaire for distribution to state employees.

3. A crash course or dictionary on the terminology and paper flow in the personnel system for commission members. Staff will work on this.

JOB CATEGORIES IN THE STATE PERSONNEL SYSTEM

1. Trainees are generally employed in short term, probationary positions in which the employee involved is trained for a particular permanent job classification. Individuals employed under a federal program in which there is no assurance of continued funding (for example, the CETA program) are also classified as trainees.

2. Permanent seasonal positions are used where the job is needed for less than the full year, and departments concerned expect the individual to return to fill that job from year to year. For example, Fish & Game has salmon counters who are permanent seasonal employees. If the department does not expect to have the same individual returning to the job from year to year, then the department lists the job as a temporary position. The Personnel Division encourages departments to use the permanent seasonal category, but since there are adequate applicants for temporary jobs, departments with budget limitations will use the temporary category.

3. Emergency employees are appointed by some departments only where there is danger to life or property. Others will use an emergency appointment where it saves them money. An emergency appointment is authorized for 30 days with three one-month extensions possible. The employee does not have to meet the minimum qualifications, and the department can appoint to any job classification it wishes. Division of Personnel is notified of the appointment after it has been made. There are two categories of recurring emergency appointments: escorts for mental patients and for prisoners.

4. The temporary employee category was designed to meet the short-term needs of an agency. It can be used where a permanent position becomes vacant, and the agency needs to have someone to do the work during the selection process. Temporaries usually do only part of the work assigned to the permanent position.

A temporary position lasts for a period of six months with a possible three-month extension. Unlike emergency appointments, temporary employees must meet the minimum qualifications of the job class to which they are appointed, and the duties they are to perform must be consistent with the duties of that job classification.

The Division of Personnel does a post-audit of the departments temporary positions. Presently, the division examines about 10% of the positions. The division has the authority to remove a person improperly filling a temporary position. It gives notice to the department involved, and the department has two weeks to correct the error (for example, by reclassifying the positon to one for which the holder has the necessary minimum qualifications), or to let the employee go.

In making temporary appointments, the department is not required to consult the register for the job classification. The Department of Health & Social Services is the only department that has a policy of hiring temporary employees from the register. A system could be established to accomodate a requirement that departments hire temporaries from the register, though it would require some time to ensure that applicants on the temporary register were willing to be considered for temporary positions and to speed up the process of providing registers to departments.

Sometimes departments are put in a position of having to use temporaries because of a delay in receiving federal funds. The department makes timely application for a program to the federal government indicating, for example July 1 as the starting date of the state program. The department gets no formal response from the federal government until August 15--45 days into the program's life. In order to get the program going quickly, the department hires temporaries immediately, rather than take additional time to advertise and screen applicants for permanent positions. The department may have received verbal assurances that the funding would be approved prior to receipt of the formal approval. It could therefore have gambled on formal approval being granted, and could have begun hiring for permanent positions to permit program operation as soon as federal funds were received. However, if the federal money did not appear, the state would have to pay for salaries it had not intended to finance. Emergency appointments are not used in the same way, as an alternative to permanent appointments.

Mr. Thomas suggested that the use of emergency appointments could be expanded, but the requirements for temporary appointments should be tightened. If an agency had a vacant secretarial position, it could hire someone instantly for the five days it would take to hire a secretary from the register.

APEA has gathered information on the use of temporaries by the state, which show that many of the needs temporaries are

filling are permanent needs, either seasonal or full-time. Pat Murphy presented the following data:

	TOTAL # OF TEMPS	DEPT. OF FISH & GAME	DEPT. OF LABOR
July, 1978	1,701	522	93
July, 1977	1,863	508	158
July 1976	1,887	500	112

In answer to a question about whether those needs are year-long or seasonal, Mr. Murphy provided the following figures:

	TOTAL # OF TEMPS	DEPT. OF FISH & GAME
November, 1977	1,146	163
November, 1976	1,196	177
November, 1975	1,148	109

Mr. Murphy asserted that the Department of Fish & Game appears to have a recurring need for some 500 to 525 permanent employees each summer, and the Department of Labor some 100 to 150 permanent employees.

Mr. Kareen pointed out that a temporary position stays on the payroll, whether or not it is filled by an employee, until the department fills out papers indicating that position is no longer needed. Wages are drawn only according to the time sheets turned in to the Division of Finance. Mr. Murphy indicated that his figures were not checked for whether the position was actually filled.

Mr. Murphy stated that he had no problems with managers having discretion to hire temporaries for 45 to 60 days, but did have problems with 6 to 9 month terms.

Mr. Kareen asked whether there was anything that precluded APEA from negotiations on the length of time of a temporary position. Mr. Murphy explained that Mr. Hunt held the position that the length of temporary employment was statutory, and therefore non-negotiable.

PUBLIC TESTIMONY

Eileen Maki, a Public Health Nurse I (PHN I) working at the Juneau Health Center, spoke. She identified problems of concern to PHN's.

1.) Classification: At present, Public Health Nurse I's are classified at Range 14, Public Health Nurse II's at Range 15, and Public Health Nurse III's at Range 17. Public Health Nurse Trainees are at Range 12. In February, 1978, the Chief of the Section of Nursing requested that all PHN's prepare P402's describing their duties and justifying reclassification of those positions to higher salary ranges. The deadline for delivering the P402's to each nurse's supervisor was March 17. The forms were reviewed, and in early April, they were sent to the Section of Nursing for further review and for the development of a uniform job description for each job class. They apparently remained in the Section of Nursing for about six months, until the end of October or the beginning of November.

On November 3, Ms. Maki and another PHN I from the Juneau Health Center, Constance Trollan, met with Mike McMillan, a Personnel Analyst with the Division of Personnel. Mr. McMillan told then that he had just received the requests for reclassification and that he would not be able to perform his evaluation until after the Division of Budget & Management had identified funding for the potential increase of the Health & Social Services budget.

At the November 3 meeting, Ms. Maki and Ms. Trollan discussed with Mr. McMillan the discrepancy between the salary ranges assigned PHN's and those assigned other positions in state employment, such as institutional nurses. In particular, they questioned Mr. McMillan about the classification of Physician's Assistants to Range 17, while PHN I's are at Range 14.

The justification for classifying Physician's Assistants reads, in its entirety:

> This new class aligns internally with the class of Associate Attorney I at SR-17. It also aligns with SR-17 pay-wise for similar jobs in private industry. (Memo from Daniel H. Morrissey, Chief, Classification and Employee Development, Division of Personnel & Labor Relations, and Lee Antrim, Personnel Analyst, April 15, 1976)

Mr. McMillan checked the PHN files kept by the Division of Personnel for a classification analysis for PHN I's to compare with that of the Physician's Assistant. Apparently, none exists, since Mr. McMillan was unable to find one.

Ms. Maki explained the educational and training requirements for PHN I's and Physician's Assistants. A PHN must have a B.A. in Nursing from a school accredited by the National League of Nursing, with course work in the public health field. She or he must be licensed as a Registered Nurse by the State of Alaska. A PHN is authorized to practice within her area of expertise without the supervision of an M.D., including diagnosis and treatment of some conditions. In addition, she or he is responsible for nursing kinds of care for some of the patients, beyond the responsibilities of Physician's Assistants. Physician's Assis-

tant is required by the state to have a Certificate of Competency from an Physician's Assistants Program. The state does not examine the source of the certificate to evaluate its program nor is a college degree required. Some have been military medical programs, others have more extensive training. The state does not have an examination and licensing program for Physician's Assistants, as it does for Registered Nurses. Physician's Assistants are allowed to diagnose and treat conditions within the level of their training and are required to be supervised by an M.D.

Some discrepancy in range assignments may result from the fact that the PHN classification has existed since statehood, while the Physician's Assistant classification was only recently created. Of more concern is the fact that apparently all of the Physician's Assistants employed by the state are men, and all of the PHN's are women.

2. Career Ladder: At present, there is no career ladder in the PHN's field, since there are only a limited number of supervisory positions and the itinerant PHN is located only in rural areas. To advance beyond the PHN I level, an employee is forced to relocate.

The Trainee position cannot be considered an entry-level position for PHN I, since advancement to that level requires a B.A. with public health course work. Experience cannot be considered a substitute.

There is a PHN Trainee in Ketchikan who has just completed a training program in Women's Health Care, but despite the added skill she brings to her job, she remains a PHN Trainee because she lacks a four-year degree.

COMMITTEE DISCUSSION

1. Reclassification procedures: Mr. Kareen explained that the Division of Personnel policy requiring identification of funding sources before proceeding with a review of the reclassification requests was established when Joe Henry was Commissioner of the Department of Administration. Because of the magnitude of the reclassification of PHN's, the Division of Personnel can only proceed after it receives approval from the Governor's Division of Budget & Management, which will first get approval from the department in question. This ensures that the Governor is informed of the fiscal impact of proposed changes. Given its present level of staffing, the Division of Personnel can only afford to do a limited number of reclassification studies, and this system provides some insurance that those on which further action will be taken receive priority. The Division of Personnel does not have the authority to change this system unilaterally.

A member of the audience pointed out that a budget document justifying the requested reclassifications should be prepared by the department and sent with the P402's to the Division of Per-

sonnel for transmittal to the Division of Budget & Management and that if this were not done, that Budget & Management might refuse to act. Mr. Thomas pointed out that in private industry, this kind of insistance on paper flow would not hold up a valid personnel action.

Representative McKinnon asked whether a department could reclassify a position to become effective at the beginning of the next fiscal year if funding were approved by the legislature. Mr. Murphy answered that that was proposed for the position of Pioneer Home Aides, but the Commissioner of Administration refused to allow it.

It was proposed that the system be changed to provide that the Division of Personnel have the responsibility for initiating reclassifications where inequities exist. Personnel should make its recommendations to the Division of Budget & Management, which would have the responsibility for identifying funding needs. If Budget & Management determined that sufficient funds were not available in the department, then it would prepare a supplemental appropriation for submission to the legislature. Once the Division of Personnel decides that a reclassification is valid, the those positions should have to be appropriately reclassified.

At a minimum, the Division of Personnel should make recommendations on all reclassification requests submitted to it so that the Division of Budget & Management has sufficient information on which to make its decision. APEA has found a number of instances in which Budget & Management refused to ask for additional funding for what were valid reclassifications, and therefore, the legislature was never presented with the question on funding for its consideration.

2. Potential State liability for failure to reclassify: If the PHN's of the state choose to bring suit under the Federal Equal Pay Act, the state would face a potential liability in the neighborhood of $2.5 million. Assuming 50 PHN's at Range 14 earn an average of $20,000 annually, the total present salary of PHN's is $1 million. If PHN's were reclassified to Range 17 (the Physician's Assistant range) averaging $26,000 annually, the total salaries would be $1.3 million. The Federal Equal Pay Act allows consideration of the salary levels of the past two years, and if the plaintiff/employee proves willful misconduct, damages may be awarded for the pst three years. In addition, the court may award attorney's fees and interest to successful litigants. In some cases, attorneys will work on a contingent-fee basis. Instead of charging clients by the hour for time spent on the case and requiring payment as the case progresses, an attorney will charge clients a predetermined percentage of the judgement in the event the case is successful. This enables clients who cannot afford to pay attorney's fees in advance to bring suit.

The state should recognize that there is a chance that if suit were brought, the state could lose. In private industry, that kind of potential liability is enough to cause the employer to ensure that appropriate changes are made so that the employees affected do not choose to sue.

One of the reasons that the state does not respond in the same manner is the budgetary system of paying for judgements. Payment for judgements against the state is proposed by an Attorney General's bill, which the legislature rarely scrutinizes. On the other hand, increased funds for reclassifications of positions within a department become part of the department's operating budget, which the legislature may examine and question in some detail. The system therefore makes it easier to pay a more expensive judgement than for the department to act on its own initiative at a lower overall cost.

Pat Murphy pointed out that the legislature appropriates money for permanent positions (PCN's) as part of the general appropriation. Therefore, permanent positions do not decrease the funds available for departmental programs. However, temporary positions are not part of that general appropriation, and funding for temporary employees may have to come from program funds.

3. Legislative budgetary process: Representative McKinnon noted that the House automatically, in most instances, adds the necessary funds for reclassifications to the maintenance budget. Legislative oversight should not hinder valid reclassifications.

Senator Ray cautioned that a decision by a department to reclassify positions does not bind the legislature to fund all of those positions. The legislature cannot reclassify the positions, but it can refuse to fund some of them, causing the department to have to decrease the number of its employees in order to pay the increased amount.

4. Letter to the Governor: Representative McKinnon, as Chairperson of the subcommittee, will write Governor Hammond requesting his position on the reclassification difficulties experienced by the PHN's. The staff will assist in drafting the letter.

5. Future subcommittee meetings: The next subcommittee meetings will focus on temporary employees. Later meetings will consider the reclassification question.

IN ATTENDENCE

Senator Bill Ray
Representative Joe McKinnon
Ombudsman Frank Flavin
Niel Thomas
Linda McCurry
Ken Kareen (for Patrick Hunt)
Patrick Murphy
Darlene Howard (Alternate for Patrick Murphy)
Ken Humphreys (for Myrt Charney)

11/30/78
Categories of Employees

LOCATION	CLASSIFICATION	PCN	VACANT SINCE
Anchorage	Compliance Officer, WG IA	072004P	5/30/78
Anchorage	Compliance Officer, WG IA	072006P	7/27/78
Anchorage	Compliance Officer, WG IA	072033P	1/10/78
Anchorage	Compliance Officer, WG IA	072051P	6/9/78
Anchorage	Bldg Maint Foreman, WG I	252556P	9/27/77
Anchorage	Electrician, WG II	252790S	8/11/78
Anchorage	Electrician, WG II	253733P	8/11/78
Anchorage	Electrician, WG II	252517P	7/27/77
Anchorage	Electrician, WG II	252518P	7/27/77
Anchorage	Electrician, WG II	252519P	5/10/76
Anchorage	Electrician, WG II	252522P	5/10/76
Anchorage	Maint Mechanic WG II	105050P	10/28/77
Anchorage	Equip Operator, WG III	252760S	5/10/77
Anchorage	Equip Operator, WG III	252866P	6/9/78
Anchorage	Equip Operator, WG III	253740S	8/11/78
Anchorage	Equip Operator, WG III	253744S	8/11/78
Anchorage	Equip Operator, WG III	252524S	5/10/78
Anchorage	Equip Operator, WG III	252525S	5/10/78
Anchorage	Equip Operator, WG III	252526S	4/27/78
Anchorage	Equip Operator, WG III	252527P	8/10/77
Anchorage	Equip Operator, WG III	252529S	5/10/78
Anchorage	Equip Operator, WG III	252531S	4/12/77
Anchorage	Equip Operator, WG III	252533S	7/11/78
Anchorage	Equip Operator, WG III	252535S	4/12/77
Anchorage	Equip Operator, WG III	252536S	5/10/78
Anchorage	Equip Operator, WG III	252537P	1/10/78
Anchorage	Equip Operator, WG III	252538S	4/12/77
Anchorage	Equip Operator, WG III	252539P	5/10/78
Anchorage	Equip Operator, WG III	252542P	7/27/77
Anchorage	Equip Operator, WG III	252543S	5/10/78
Anchorage	Equip Operator, WG III	252547S	4/12/77
Anchorage	Heavy Duty Mech, WG III	252826P	8/9/76
Anchorage	Heavy Duty Mech, WG III	253747P	11/28/77
Anchorage	Heavy Duty Mech, WG III	252921P	6/9/78
Anchorage	Heavy Duty Mech, WG III	252922P	8/11/78
Anchorage	Heavy Duty Mech, WG III	253557P	7/1/76
Anchorage	Heavy Duty Mech, WG III	253558P	7/1/76
Anchorage	Trades Leadman, WG III	253741P	8/11/78
Anchorage	Engineering Tech, WG III	242999P	10/10/77
Anchorage	Engineering Tech, WG III	243900P	10/10/75
Anchorage	Engineering Tech, WG III	243902P	7/27/78
Anchorage	Engineering Tech, WG III	243907P	4/10/76
Anchorage	Party Chief, WG III	243905P	10/28/77
Anchorage	Party Chief, WG III	243906P	8/1/74
Anchorage	Party Chief, WG III	243908P	7/26/76
Anchorage	Mechanic, WG IV	252925P	12/12/77
Anchorage(Kulis)	Maint Man, WG IV	090016P	9/10/77
Anchorage	Maint Man, WG IV	105015S	6/9/78
Anchorage	Maint Man, WG IV	252570P	6/11/76
Anchorage	Equip Operator, WG IV	105034S	10/28/77
Anchorage	Instrumentman, WG IV	242752S	7/10/76
Anchorage	Instrumentman, WG IV	063910P	10/28/77
Anchorage	Hwy Engr Tech, WG IV	242745P	4/10/76
Anchorage	Hwy Engr Tech, WG IV	242746P	7/9/77
Anchorage	Hwy Engr Tech, WG IV	242747P	1/10/77
Anchorage	Hwy Engr Tech, WG IV	242753P	12/10/75
Anchorage	Hwy Engr Tech, WG IV	242759P	10/10/77
Anchorage	Hwy Engr Tech, WG IV	242764S	6/9/78
Anchorage	Hwy Engr Tech, WG IV	242769P	11/11/77
Anchorage	Hwy Engr Tech, WG IV	243706J	6/9/78
Anchorage	Matls Lab Tech, WG IV	243911P	5/28/75
Anchorage	Matls Lab Tech, WG IV	243912P	4/10/76
Anchorage	Matls Lab Tech, WG IV	243914P	11/11/76
Anchorage	Matls Lab Tech, WG IV	243916P	8/10/77
Anchorage	Painter, WG IV	252890S	1/12/73

LOCATION	CLASSIFICATION	PCN	VACANT SINCE
Anchorage	Storekeeper, WG IV	025092P	2/25/75
Anchorage	Driller, WG V	243730P	9/27/72
Anchorage	Engineering Tech, WG V	253917P	9/26/75
Anchorage	Engineering Tech, WG V	253919P	10/10/75
Anchorage	Engineering Tech, WG V	253922P	10/10/75
Anchorage	Hwy Engr Tech, WG V	242750S	5/30/78
Anchorage	Hwy Engr Tech, WG V	242772S	12/10/76
Anchorage	Hwy Engr Tech, WG V	242775P	4/10/76
Anchorage	Hwy Engr Tech, WG V	242777P	4/26/76
Anchorage	Hwy Engr Tech, WG V	242779S	6/19/78
Anchorage	Hwy Engr Tech, WG V	242780P	1/10/79(?)
Anchorage	Hwy Engr Tech, WG V	242781S	10/28/77
Anchorage	Hwy Engr Tech, WG V	242783S	11/11/77
Anchorage	Hwy Engr Tech, WG V	242785S	9/27/77
Anchorage	Hwy Engr Tech, WG V	243708P	9/10/76
Anchorage	Hwy Engr Tech, WG V	243729S	5/27/77
Anchorage	Housekeeping Spvsr, WG V	027463P	3/10/77
Anchorage	Labor Foreman, WG VI	103561P	7/27/77
Anchorage	Cook WG VI	064573P	8/11/78
Anchorage	Matls Lab Tech, WG VI	243732P	10/10/77
Anchorage	Head Chainman, WG VI	242826S	6/9/78
Anchorage	Head Chainman, WG VI	243924P	4/26/76
Anchorage	Equip Operator, WG VII	105056S	10/10/76
Anchorage	Equip Operator, WG VII	242808P	4/26/76
Anchorage	Trades Helper, WG VII	105035S	9/10/76
Anchorage	Trades Helper, WG VII	242811P	4/16/76
Anchorage	Cook, WG VII	027482P	5/10/77
Anchorage	Cook, WG VII	027483P	5/10/77
Anchorage	Cook, WG VII	027484P	5/10/77
Anchorage	Cook, WG VII	027517P	8/1/78
Anchorage	Cook, WG VII	027518P	8/1/78
Anchorage	Cook, WG VII	027519P	8/1/78
Anchorage	Cook, WG VII	027520P	8/1/78
Anchorage	Cook, WG VII	065099P	12/29/77
Anchorage	Engineering Tech, WG VII	248928P	11/11/77
Anchorage	Engineering Tech, WG VII	248929P	4/12/75
Anchorage	Engineering Tech, WG VII	248931P	10/28/77
Anchorage	Hwy Engr Tech, WG VII	242794S	11/11/77
Anchorage	Hwy Engr Tech, WG VII	242787S	10/10/77
Anchorage	Hwy Engr Tech, WG VII	242799S	7/11/78
Anchorage	Hwy Engr Tech, WG VII	242800P	10/28/77
Anchorage	Hwy Engr Tech, WG VII	242801S	10/10/77
Anchorage	Hwy Engr Tech, WG VII	242806S	9/1/77
Anchorage	Hwy Engr Tech, WG VII	243733S	5/27/77
Anchorage	Matls Lab Tech, WG VII	240798S	4/26/76
Anchorage	Matls Lab Tech, WG VII	243926P	10/10/77
Anchorage	Matls Lab Tech, WG VII	243927P	4/26/76
Anchorage	Stockhandler, WG VII	025094P	6/5/76
Anchorage	Rear Chainman, WG VII	242786S	10/10/77
Anchorage	Rear Chainman, WG VII	243925P	4/10/76
Anchorage	Laborer, WG VIII	105017S	8/27/76
Anchorage	Laborer, WG VIII	105018S	9/10/76
Anchorage	Laborer, WG VIII	105037S	9/9/74
Anchorage	Laborer, WG VIII	105054S	11/26/74
Anchorage	Laborer, WG VIII	252734P	8/11/78
Anchorage	Laborer, WG VIII	252893S	3/31/73
Anchorage	Laborer, WG VIII	252894S	1/10/75
Anchorage	Laborer, WG VIII	252895S	11/15/74
Anchorage	Laborer, WG VIII	252896S	1/26/75
Anchorage	Custodial Worker, WG VIII	090140P	5/30/78
Anchorage	Custodial Worker, WG VIII	252735P	2/11/78
Anchorage	Housekeeping Aide, WG VIII	027464P	3/10/78
Anchorage	Housekeeping Aide, WG VIII	027503P	8/1/78
Anchorage	Cook, WG IX	027485P	5/10/77
Anchorage	Clothing Clerk, WG IX	064295P	6/9/78
Anchorage	Hwy Engr Tech, WG IX	242790S	6/9/78

LOCATION	CLASSIFICATION	PCN	VACANT SINCE
Anchorage	Hwy Engr Tech, WG IX	242815S	6/27/78
Anchorage	Hwy Engr Tech, WG IX	242816S	9/27/77
Anchorage	Hwy Engr Tech, WG IX	242818S	7/10/76
Anchorage	Hwy Engr Tech, WG IX	242819S	7/27/78
Anchorage	Hwy Engr Tech, WG IX	242821S	9/1/77
Anchorage	Hwy Engr Tech, WG IX	242822S	7/27/77
Anchorage	Hwy Engr Tech, WG IX	242823S	9/10/77
Anchorage	Hwy Engr Tech, WG IX	242827S	6/9/78
Anchorage	Hwy Engr Tech, WG IX	242828S	12/10/76
Anchorage	Hwy Engr Tech, WG IX	242829S	12/10/76
Anchorage	Hwy Engr Tech, WG IX	243740S	10/28/77
Anchorage	Sr. Food Service Wkr, WG IX	027521P	8/1/78
Anchorage	Sr. Food Service Wkr, WG IX	027522P	8/1/78
Anchorage	Sr. Food Service Wkr, WG IX	065228P	7/27/77
Anchorage	Matls Lab Tech, WG IX	242817P	4/26/76
Anchorage	Matls Lab Tech, WG IX	243731S	10/10/77
Anchorage	Matls Lab Tech, WG IX	243736S	10/28/77
Anchorage	Matls Lab Tech, WG IX	243737P	5/24/76
Anchorage	Matls Lab Tech, WG IX	243742S	5/27/77
Anchorage	Janitor, WG IX	027451P	6/27/78
Anchorage	Janitor, WG IX	027454P	5/27/77
Anchorage	Janitor, WG IX	027500P	8/1/78
Anchorage	Janitor, WG IX	027501P	8/1/78
Anchorage	Janitor, WG IX	027502P	8/1/78
Anchorage	Janitor, WG IX	253562P	8/27/77
Anchorage	Janitor, WG IX	253563P	7/27/78
Anchorage	Janitor, WG IX	253569P	1/10/78
Anchorage	Janitor, WG IX	253571P	8/9/76
Anchorage	Janitor, WG IX	253576P	11/28/77
Anchorage	Janitor, WG IX	253578P	11/11/77
Anchorage	Janitor, WG IX	253579P	8/27/77
Anchorage	Janitor, WG IX	253587P	8/9/76
Anchorage	Housekeeping Aide, WG X	027465P	3/10/77
Anchorage	Housekeeping Aide, WG X	027466P	3/10/77
Anchorage	Housekeeping Aide, WGX	027467P	3/10/77
Anchorage	Housekeeping Aide, WG X	027504P	8/1/78
Anchorage	Housekeeping Aide, WG X	027505P	8/1/78
Anchorage	Housekeeping Aide, WG X	027506P	8/1/78
Anchorage	Housekeeping Aide, WG X	027507P	8/1/78
Anchorage	Housekeeping Aide, WG X	027508P	8/1/78
Anchorage	Housekeeping Aide, WG X	027509P	8/1/78
Anchorage	Housekeeping Aide, WG X	027510P	8/1/78
Anchorage	Housekeeping Aide, WG X	027512P	8/1/78
Anchorage	Housekeeping Aide, WG X	027513P	8/1/78
Anchorage	Housekeeping Aide, WG X	027514P	8/1/78
Anchorage	Housekeeping Aide, WG X	027515P	8/1/78
Anchorage	Housekeeping Aide, WG X	027516P	8/1/78
Anchorage	Food Service Worker, WG X	027489P	5/10/77
Anchorage	Food Service Worker, WG X	027490P	5/10/77
Anchorage	Food Service Worker, WG X	027491P	5/10/77
Anchorage	Food Service Worker, WG X	027492P	5/10/77
Anchorage	Food Service Worker, WG X	027493P	5/10/77
Anchorage	Food Service Worker, WG X	027494P	5/10/77
Anchorage	Food Service Worker, WG X	027523P	8/1/78
Anchorage	Food Service Worker, WG X	027524P	8/1/78
Anchorage	Food Service Worker, WG X	027525P	8/1/78
Anchorage	Food Service Worker, WG X	027526P	8/1/78
Anchorage	Food Service Worker, WG X	027527P	8/1/78
Anchorage	Food Service Worker, WG X	027528P	8/1/78
Anchorage	Food Service Worker, WG X	027529P	8/1/78
Anchorage	Housekeeping Aide, WG X	027511P	8/1/78
Anchorage	Food Service Worker, WG XI	027530P	8/1/78
Anchorage	Food Service Worker, WG XI	027531P	8/1/78
Anchorage	Food Service Worker, WG XI	027532P	8/1/78
Anchorage	Food Service Worker, WG XI	027533P	8/1/78
Anchorage	Food Service Worker, WG XI	027534P	8/1/78
Anchorage	Food Service Worker, WG XI	027535P	8/1/78
Anchorage	Food Service Worker, WG XI	027536P	8/1/78

LOCATION	CLASSIFICATION	PCN	VACANT SINCE
Barrow	Equip Operator, WG III	255871P	8/16/78
Bethel	Equip Operator, WG III	253746P	8/11/78
Cantwell	Equip Operator, WG IV	255832S	1/26/75
Cape Rodney	Electrician, WG II	252757P	8/25/75
Cold Bay	Maint Man, WG IV	115131P	7/16/78
Cordova	Hwy Engr Tech, WG IV	249794S	10/10/77
Craig	Equip Operator, WG III	257805S	1/10/75
Craig	Rear Chainman, WG VII	247809S	8/27/77
Dillingham	Equip Operator, WG III	252828S	7/16/78
Dillingham	Maint Man, WG IV	115130P	6/27/78
Ernestine	Equip Oprator, WG III	259739P	8/11/78
Fairbanks	Hwy Maint Foreman, WG I	255779P	4/28/77
Fairbanks	Maint Mechanic, WG II	255788P	1/28/78
Fairbanks	Equip Operator, WG III	255853P	11/10/76
Fairbanks	Equip Operator, WG III	255854P	11/10/76
Fairbanks	Equip Operator, WG III	255855S	11/10/76
Fairbanks	Equip Operator, WG III	255856S	11/10/76
Fairbanks	Equip Operator, WG III	255857P	11/10/76
Fairbanks	Equip Operator, WG III	255558S	6/25/75
Fairbanks	Equip Operator, WG III	255559P	7/11/78
Fairbanks	Equip Operator, WG III	255564S	4/10/76
Fairbanks	Equip Operator, WG III	255565S	5/10/78
Fairbanks	Heavy Duty Mech, WG III	255782P	9/24/76
Fairbanks	Heavy Duty Mech, WG III	255944P	6/16/78
Fairbanks(College)	Matls Lab Tech, WG III	240778P	4/10/78
Fairbanks(College)	Matls Lab Tech, WG III	240779P	5/10/78
Fairbanks	Matls Lab Tech, WG III	245915P	11/28/77
Fairbanks	Matls Lab Tech, WG III	246709P	10/27/76
Fairbanks	Matls Lab Tech, WG III	246712P	5/12/75
Fairbanks	Mechanic, WG IV	255917P	6/9/78
Fairbanks	Mechanic, WG IV	255924P	5/30/78
Fairbanks	Mechanic, WG IV	255945P	6/16/78
Fairbanks	Mechanic, WG IV	255946P	6/16/78
Fairbanks	Maintenance Man, WG IV	064528P	10/28/77
Fairbanks	Maintenance Man, WG IV	255790P	7/11/78
Fairbanks	Maintenance Man, WG IV	255791P	2/11/78
Fairbanks	Maintenance Man, WG IV	255569P	10/28/77
Fairbanks(College)	Equip Operator, WG IV	240737P	7/26/76
Fairbanks	Equip Operator, WG IV	255715S	11/15/74
Fairbanks	Equip Operator, WG IV	255742S	7/11/78
Fairbanks	Equip Operator, WG IV	255759S	7/11/78
Fairbanks	Equip Operator, WG IV	255783P	2/11/77
Fairbanks	Equip Operator, WG IV	255859S	5/10/77
Fairbanks	Equip Operator, WG IV	255860S	1/10/75
Fairbanks(College)	Driller, WG IV	240736P	10/10/76
Fairbanks	Carpenter, WG IV	255731P	11/11/77
Fairbanks	Stationery Fireman, WG IV	255925P	4/13/78
Fairbanks	Hwy Engr Tech, WG IV	245749S	2/26/77
Fairbanks	Hwy Engr Tech, WG IV	245754S	6/11/76
Fairbanks	Hwy Engr Tech, WG IV	245760S	6/10/77
Fairbanks	Hwy Engr Tech, WG IV	245761S	10/27/76
Fairbanks	Hwy Engr Tech, WG IV	245763S	10/10/77
Fairbanks	Hwy Engr Tech, WG IV	245765S	10/10/76
Fairbanks	Hwy Engr Tech, WG IV	245767S	9/11/78
Fairbanks	Hwy Engr Tech, WG IV	245771S	8/10/77
Fairbanks	Hwy Engr Tech, WG IV	245772S	10/10/76
Fairbanks	Hwy Engr Tech, WG IV	245755S	6/11/76
Fairbanks	Hwy Engr Tech, WG IV	245879P	6/25/76
Fairbanks	Hwy Engr Tech, WG IV	245881P	8/27/76
Fairbanks	Hwy Engr Tech, WG IV	245882S	5/30/78
Fairbanks(College)	Matls Lab Tech, WG IV	240780P	1/10/75
Fairbanks(College)	Matls Lab Tech, WG IV	240781P	7/12/75
Fairbanks(College)	Matls Lab Tech, WG IV	240785S	5/30/78
Fairbanks	Matls Lab Tech, WG IV	245919P	8/11/78
Fairbanks	Matls Lab Tech, WG IV	246715S	9/27/77

LOCATION	CLASSIFICATION	PCN	VACANT SINCE
Fairbanks(College)	Hwy Engr Tech, WG V	240739P	3/26/77
Fairbanks	Hwy Engr Tech, WG V	245883S	9/26/75
Fairbanks	Hwy Engr Tech, WG V	245770S	6/9/78
Fairbanks	Hwy Engr Tech, WG V	245773S	4/10/76
Fairbanks	Hwy Engr Tech, WG V	245774S	9/10/77
Fairbanks	Hwy Engr Tech, WG V	245776P	3/10/77
Fairbanks	Hwy Engr Tech, WG V	245778S	9/10/75
Fairbanks	Hwy Engr Tech, WG V	245780P	2/26/77
Fairbanks	Hwy Engr Tech, WG V	245783S	10/28/77
Fairbanks	Hwy Engr Tech, WG V	245785S	6/11/76
Fairbanks	Hwy Engr Tech, WG V	245787P	6/11/76
Fairbanks	Hwy Engr Tech, WG V	245884S	5/30/78
Fairbanks	Hwy Engr Tech, WG V	245885P	9/11/71
Fairbanks	Hwy Engr Tech, WG V	245887S	4/28/77
Fairbanks	Cook, WG VI	065889P	11/1/72
Fairbanks	Cook, WG VI	255784S	11/28/72
Fairbanks	Matls Lab Tech, WG VI	245992P	10/28/77
Fairbanks	Matls Lab Tech, WG VI	246716P	11/28/77
Fairbanks(College)	Matls Lab Tech, WG VI	240840P	8/16/78
Fairbanks	Storekeeper, WG VI	255608P	7/11/78
Fairbanks	Equip Operator, WG VII	255785P	1/26/75
Fairbanks	Trades Helper, WG VII	245931P	8/11/78
Fairbanks	Engineering Tech, WG VII	245923P	7/27/78
Fairbanks	Rear Chainman, WG VII	245925P	10/28/77
Fairbanks	Hwy Engr Tech, WG VII	245789S	9/27/77
Fairbanks	Hwy Engr Tech, WG VII	245794S	9/10/76
Fairbanks	Hwy Engr Tech, WG VII	245799S	5/30/78
Fairbanks	Hwy Engr Tech, WG VII	245811S	11/26/76
Fairbanks	Hwy Engr Tech, WG VII	245892P	2/26/77
Fairbanks	Hwy Engr Tech, WG VII	245895S	2/26/77
Fairbanks	Hwy Engr Tech, WG VII	246714S	12/12/77
Fairbanks	Hwy Engr Tech, WG VII	246717S	10/10/77
Fairbanks(College)	Matls Lab Tech, WG VII	240784S	9/10/77
Fairbanks(College)	Matls Lab Tech, WG VII	240786S	3/10/77
Fairbanks	Laborer, WG VIII	255867P	7/27/77
Fairbanks	Engineering Tech, WG IX	245928P	4/16/74
Fairbanks	Hwy Engr Tech, WG IX	245766S	6/27/78
Fairbanks	Hwy Engr Tech, WG IX	245800S	10/10/77
Fairbanks	Hwy Engr Tech, WG IX	245810S	9/10/77
Fairbanks	Hwy Engr Tech, WG IX	245815S	10/10/76
Fairbanks	Hwy Engr Tech, WG IX	245820S	8/11/78
Fairbanks	Hwy Engr Tech, WG IX	245821S	4/28/77
Fairbanks	Hwy Engr Tech, WG IX	245826S	6/11/76
Fairbanks	Hwy Engr Tech, WG IX	245828S	9/27/77
Fairbanks	Food Service Worker, WG X	027292P	8/11/78
Gardiner Creek	Equip Operator, WG IV	255858S	12/11/74
Girdwood	Equip Operator, WG VII	253701P	8/10/77
Glennallen	Maint Man, WG V	259789P	5/10/78
Glennallen	Equip Operator, WG VII	259708S	6/28/73
Glennallen	Custodial Worker, WG VIII	090143P	7/9/77
Haines	Rear Chainman, WG VII	247782P	11/28/77
Haines	Hwy Engr Tech, WG VII	247804P	11/11/77
Homer	Mechanic, WG IV	252954P	11/26/76
Homer	Maint Man, WG IV	115132P	7/16/78
Hyder	Hwy Maint Foreman, WG I	257784P	10/10/77
Juneau	Bldg Maint Foreman, WG I	257736P	1/10/78
Juneau	Equip Operator, WG III	257755P	5/30/78
Juneau	Equip Operator, WG III	257758S	7/27/78
Juneau	Maint Man, WG IV	090149P	8/1/78
Juneau	Matls Lab Tech, WG IV	247779P	8/10/77
Juneau	Hwy Engr Tech, WG IV	247772P	11/10/76
Juneau	Hwy Engr Tech, WG IV	247783P	1/28/78
Juneau	Hwy Engr Tech, WG IV	247787P	4/10/76
Juneau	Hwy Engr Tech, WG IV	247828P	10/27/76
Juneau	Storekeeper, WG IV	121197P	5/10/78
Juneau	Equip Operator, WG IV	257761S	7/27/77
Juneau	Instrumentman, WG IV	067813S	10/10/77
Juneau	Instrumentman, WG IV	067786P	7/27/77
Juneau	Instrumentman, WG IV	067784P	10/28/77
Juneau	Hwy Engr Tech, WG V	247805P	11/11/77

LOCATION	CLASSIFICATION	PCN	VACANT SINCE
Juneau	Storekeeper, WG VI	071505P	10/28/77
Juneau	Head Chainman, WG VI	247799P	11/28/77
Juneau	Head Chainman, WG VI	247797P	11/11/77
Juneau	Head Chainman, WG VI	247803P	12/10/76
Juneau	Head Chainman, WG VI	247807S	10/28/77
Juneau	Matls Lab Tech, WG VII	247829P	11/10/76
Juneau	Hwy Engr Tech, WG VII	247789S	9/10/77
Juneau	Hwy Engr Tech, WG VII	247808P	12/12/77
Juneau	Hwy Engr Tech, WG VII	247811P	9/27/77
Juneau	Laborer, WG VIII	257772P	8/11/78 —
Juneau	Laborer, WG VIII	257734P	7/11/78 —
Juneau	Bldg Custodian, WG VIII	257736P	12/12/77 —
Juneau	Hwy Engr Tech, WG IX	247815P	7/11/78
Juneau	Hwy Engr Tech, WG IX	247816S	10/10/77
Juneau	Hwy Engr Tech, WG IX	247820S	10/28/77
Juneau	Hwy Engr Tech, WG IX	247830P	10/10/77
Juneau	Engineering Tech, WG IX	247742P	3/11/74
Juneau	Janitor, WG IX	071504P	10/10/77
Kenai	Compliance Officer, WG IA	072021P	5/10/78
Kenai	Complaince Officer, WG IA	242766S	6/9/78
Ketchikan	Hwy Engr Tech, WG IV	247773P	10/27/76
Ketchikan	Hwy Engr Tech, WG IV	247774P	4/26/76
Ketchikan	Hwy Engr Tech, WG IV	247792P	11/11/77
Ketchikan	Equip Operator, WG IV	257783P	8/11/78
Ketchikan	Hwy Engr Tech, WG VII	247806S	10/10/77
King Salmon	Equip Operator, WG III	252758S	8/25/78
King Salmon	Equip Operator, WG III	252772P	5/10/78
King Salmon	Equip Operator, WG III	252775P	7/27/78
Kodiak	Equip Operator, WG III	252813S	4/28/77
Kodiak	Equip Operator, WG III	252817S	8/11/78
Kodiak	Equip Operator, WG VII	252819P	2/11/78
Kotzebue	Heavy Duty Mech, WG III	258710P	5/10/78
Manley Hot Springs	Hwy Maint Foreman, WG I	255806S	8/11/78
Minto	Equip Operator, WG III	255780S	8/27/77
Moose Pass	Equip Operator, WG III	253725P	7/27/78
Naknek	Mech Leadman, WG III	252759P	8/1/76
Nelchina	Equip Operator, WG VII	259755S	12/10/71
Nenana	Equip Operator, WG IV	255771P	2/27/78
Ninilchik	Equip Operator, WG VII	252830S	9/10/73
Nome	Mech Leadman, WG III	258903P	8/9/76
Nome	Equip Operator, WG IV	258729S	11/11/77
Nome	Hwy Engr Tech, WG VII	248716S	9/27/77
Nome	Hwy Engr Tech, WG IX	248720S	9/10/76
Palmer	Storekeeper, WG VIII	027381P	12/23/76
Palmer	Food Service Worker, WG X	027383P	4/13/78
Palmer	Custodial Worker, WG X	027355P	4/12/77
Paxson	Equip Operator, WG III	259765P	8/11/78
Petersburg	Hwy Engr Tech, WG V	247800P	6/9/78
Petersburg	Hwy Engr Tech, WG IX	247817S	9/27/72
Ruby	Hwy Maint Foreman, WG I	255844S	3/13/75
Seward	Equip Operator, WG III	253759P	7/27/78
Seward	Cook, WG VII	051099P	5/10/78
Sitka	Matls Lab Tech, WG III	247983P	10/28/77
Sitka	Mechanic, WG IV	257924P	1/10/78
Sitka	Hwy Engr Tech, WG IV	247778S	11/26/76
Sitka	Hwy Engr Tech, WG V	247814S	10/28/77
Sitka	Engineering Tech, WG VII	247905P	8/27/74
Sitka	Custodial Worker, WG VIII	027155P	8/11/78 —
Sitka	Hwy Engr Tech, WG IX	247818S	9/10/77
Sitka	Housekeeping Aide, WG X	027168P	8/9/76 —
Slana	Equip Operator, WG IV	259777S	7/9/77
Soldotna	Hwy Engr Tech, WG IV	242763P	3/26/77
Tazlina	Equip Operator, WG IV	259754S	9/28/73
Tazlina	Mechanic, WG IV	259917P	6/9/78
Tazlina	Equip Operator, WG VII	259756S	12/27/74
Tazlina	Trades Helper, WG VII	249928S	4/28/77
Tazlina	Hwy Engr Tech, WG IX	249741P	12/20/71
Teller	Equip Operator, WG IV	258733S	10/10/77

LOCATION	CLASSIFICATION	PCN	VACANT SINCE
Thompson Pass	Equip Operator, WG III	259728P	5/10/78
Thompson Pass	Equip Operator, WG III	259729S	5/10/78
Thompson Pass	Equip Operator, WG IV	259734S	7/27/77
Thompson Pass	Equip Operator, WG IV	259732S	5/10/78
Thompson Pass	Equip Operator, WG IV	259731S	5/10/78
Thompson Pass	Equip Operator, WG IV	259730P	5/10/78
Thompson Pass	Cook, WG VI	259735S	5/10/78
Thompson Pass	Cook, WG VII	259737S	5/10/78
Thompson Pass	Equip Operator, WG VII	259736S	5/27/77
Thompson Pass	Equip Serviceman, WG VII	259923S	4/27/78
Tok	Mech Leadman, WG III	255940P	7/11/78
Tok	Mechanic, WG IV	255942P	8/11/78
Valdez	Equip Operator, WG III	249831P	10/10/76
Valdez	Equip Operator, WG III	259780P	3/16/78
Valdez	Maint Man, WG IV	259784S	8/27/72
Valdez	Equip Operator, WG IV	249821P	7/27/72
Valdez	Equip Operator, WG IV	249834S	4/10/76
Valdez	Hwy Engr Tech, WG IV	249725P	11/28/72
Valdez	Hwy Engr Tech, WG IV	249779S	6/27/78
Valdez	Hwy Engr Tech, WG IV	249791S	7/27/78
Valdez	Hwy Engr Tech, WG IV	249799S	7/11/78
Valdez	Hwy Engr Tech, WG IV	259618P	6/27/78
Valdez	Hwy Engr Tech, WG V	249727S	4/10/76
Valdez	Hwy Engr Tech, WG V	249728S	3/27/76
Valdez	Hwy Engr Tech, WG V	249776P	7/6/70
Valdez	Hwy Engr Tech, WG V	249777P	5/30/72
Valdez	Hwy Engr Tech, WG V	249784S	7/27/78
Valdez	Hwy Engr Tech, WG V	249796S	5/30/78
Valdez	Hwy Engr Tech, WG V	249801S	7/11/78
Valdez	Matls Lab Tech, WG VI	249820P	5/8/71
Valdez	Equip Operator, WG VII	259781P	3/16/78
Valdez	Hwy Engr Tech, WG VII	249730S	11/10/76
Valdez	Hwy Engr Tech, WG VII	249781S	9/10/77
Valdez	Hwy Engr Tech, WG VII	249797S	7/11/78
Valdez	Hwy Engr Tech, WG VII	249812S	7/9/77
Valdez	Hwy Engr Tech, WG VII	249822S	10/28/77
Valdez	Laborer, WG VIII	249731S	9/9/74
Valdez	Laborer, WG VIII	249808P	11/14/71
Valdez	Laborer, WG VIII	249809P	12/10/71
Valdez	Laborer, WG VIII	249810P	12/10/71
Valdez	Laborer, WG VIII	249835S	11/28/72
Valdez	Laborer, WG VIII	259782P	3/16/78
Valdez	Laborer, WG VIII	259785P	3/16/78
Valdez	Laborer, WG VIII	259786P	3/16/78
Valdez	Hwy Engr Tech, WG IX	249732P	9/14/72
Valdez	Hwy Engr Tech, WG IX	249733S	9/10/75
Valdez	Hwy Engr Tech, WG IX	249734S	12/10/71
Valdez	Hwy Engr Tech, WG IX	249740S	10/16/71
Valdez	Hwy Engr Tech, WG IX	249742S	11/14/71
Valdez	Hwy Engr Tech, WG IX	249774S	7/27/78
Valdez	Hwy Engr Tech, WG IX	249792S	8/11/78
Valdez	Hwy Engr Tech, WG IX	249825S	5/27/77
Yakutat	Equip Operator, WG III	257744S	4/13/78
Yakutat	Equip Operator, WG VII	257794S	3/10/77
Yakutat	Equip Operator, WG VII	257793S	4/13/78

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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

02-519 (REV 8/78)

SCOMM
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TABLE OF CONTENTS
CLASSIFICATION, CERTIFICATION & RECRUITMENT ISSUE SUMMARY

1. Centralization or Decentralization of Personnel Administration.....1

CLASSIFICATION.....3

2. Classification Process.....3

3. Division of Personnel Recommendations to Division of Budget and Management on Reclassification.....4

4. Sturcture of Classes of Positions.....4
   a) Consolidation of job classifications.....4
   b) Minimum qualifications for positions.....4
   c) Career ladders.....5

CERTIFICATION.....6

5. Certification Process.....6
   a) Open recruitment.....6
   b) Unreasonable departmental requirements.....6
   c) Evaluation of applicant's experience.....6
   d) Location.....7
   e) Data processing.....7

6. Multiple Applications Within Job Series.....8

7. Veteran's Preference.....8

8. Promotional Lists.....9

9. Hiring From The Lists of Eligibles.....9
   a) Program managers.....9
   b) Qualifications of top five applicants on registers compared with qualifications of those following.....10
   c) Interviews for top five applicants.....10

10. Auditing Role of the Division of Personnel.....12

11. Audits of the Division of Personnel.....12

PERSONNEL ADMINISTRATION - OTHER.....12

12. Violation of the Personnel Rules.....12

TABLE OF CONTENTS
Page 2

13. Training Programs.....13

14. Personnel Rules.....13

15. Use of Employees in Tasks Above Job Specifications....14

16. Flex Time.....14

17. Job Performance Evaluations.....14

18. Personnel Act.....15

19. Criminal History Check.....15

BLUE RIBBON COMM SSION ON THE STATE PERSONNEL ACT
Pouch AG
Juneau, Alaska 99811
465-4442

TO: Blue Ribbon Commission Members

FROM: Teresa B. Cramer, Administrative Assistant

DATE: January 21, 1979

RE: Issues Summary, Certification, Classification & Recruitment Subcommittee

CENTRALIZATION OR DECENTRALIZATION OF PERSONNEL ADMINISTRATION

1. A thread throughout many of the issues presented below is whether the personnel functions of the state should be centralized in the Division of Personnel or decentralized to the separate departments. Decentralization of the certifying of eligibles for unique job classes could result in more accurate classification of positions and evaluation of applicants and take less time than Division of Personnel now requires, leaving the Division with more time to handle the general job classess and fulfill its audit and service roles. The audit role would be more important under a decentralized system because there would be need of insuring consistency among departmental decisions.

Decentralization could result in confusion for applicants if there were no central locations for applying for jobs. It would be possible to have the Division of Personnel serve the public by establishing offices for information about jobs. These offices could be coordinated with Department of Labor's Job Service Centers and could accept applications and forward them to the appropriate departments.

On the other hand, it would be possible to have all personnel officers be employees of the Division of Personnel. This might insure better communication between the Division and the departments, and better control by the Division over personnel decisions within the departments. Testimony was presented to the commission indicating that a centralized system could result in considerable friction between the Division and the department in question and that this friction could hinder the effectiveness of the personnel officer.

Some departments have statutory authority for hiring their own personnel officers who are also empowered to adopt regulations for those classes of employees which are unique to that department. The departments include the departments of highways, fish and game, education, labor and health and social services. AS39.25.160.

QUESTIONS:

a) Is communication and control of personnel functions increased if personnel officers are employed by the Division of Personnel?

b) Does centralization create more problems than it solves by creating friction between departments and the Division?

c) Will the state be able to find and hire better people faster if the departments are responsible for all phases of the filling of positions in unique job classifications? Components of filling jobs include recruitment, application evaluation, writing exams, evaluating exams and establishing registers.

d) Will having personnel decisions decentralized lead to greater abuses of the merit principles? Can the Division audits prevent such abuses?

e) Will there be added expense in a decentralized system resulting from having to increase departmental personnel staffs? Could the money involved (if any) be better spent increasing the staff of the Division of Personnel or its operational budget?

f) If unique job classifications are decentralized, how should the system of applying for a state job be structured to insure that applicants receive knowledge of vacancies for which they might wish to apply?

g) Would job classifications be combined so as to be unique to each department, or would a single list be maintained by all of the departments using that general classification? For example, would engineering classes be made unique to the departments and separate lists maintained according to the type of engineering skills involved: Department of Environmental Conservation (Environmental Engineer), Department of Transportation and Public Facilities (Civil and Architectural Engineers), Health and Social Services (Sanitary Engineers); or would there be a single list for all engineers through which departments would search for those with specialties in the areas required for a particular vacancy?

CLASSIFICATION

2. Classification process. The process used for classifying new positions differs little from the process used for reclassifying existing positions. Testimony has indicated that both can be slow and cumbersome. The process includes:

a) Preparation of job descriptions (P402's) describing the duties of the position and justifying the requested title and salary range. For new positions, the P402 is prepared by the immediate supervisory of the postion. For reclassifications, the present job holder prepares the form.

b) Departmental review varies widely among the departments.

c) Review and approval by the Division of Budget and Management, if the classification or reclassification requires an increase to departmental budget.

d) Classification study by the Division of Personnel and Labor Relations, including a comparison to similar positions in other departments, other states, and in private industry.

While most time is spent in the classification study, the process of classifying positions can develop delays at any of the steps. The time required leads program managers, who must meet legislative deadlines for programs and handle the normal work of the department, to hire temporary employees, which often leads to circumvention of the controls of the merit system.

REMEDY: Does the Commission wish to recommend that responsibility for handling classification of positions in unique job classifications be delegated to the user departments? If so, do the departments have adequate staff in their personnel offices to accept the responsibilities delegated? What would be the net cost difference?

Discussion: New job classification or existing positions' reclassification could be done by the user department's personnel section. The department would prepare Budget and Management forms and submit them directly to the Division of Budget and Management for budget authorization. The Division of Personnel would be given a copy of the entire submittal and would have a limited time to approve or veto the proposed classification action. If no response were received from Personnel within the time set, then the action would stand, subject to post-audit review, which would be limited to changing actions found to be contrary to established rule or law.

This concept makes the classification time responsive to

management at the departmental level, which can set priorities for action by its personnel section. Division of Personnel would retain an oversight role to insure consistency in classification standards throughout the state. This process could also be more responsive to applicants.

3. Division of Personnel recommendations to Division of Budget and Management on reclassifications. Testimony received indidates that the Division of Personnel evaluates and makes recommendations on proposed reclassifications only after the Division of Budget and Management has authorized funding for the change.

Federal law requires that employees be paid on the principle of equal pay for equal work, as does state law. Under federal law, employees who have been underpaid may be entitled to back pay with interest and attorney's fees in case of litigation. The present system of approving reclassifications gives Budget and Management a veto over reclassifications before Personnel has established the merit of the proposed change.

REMEDY: 1. Does the Commission wish to propose that the Division of Personnel place more emphasis on initiating reclassification studies? 2. Does the Commission wish to propose that where the Division has found that a reclassification should be made, that those positions must be reclassified, regardless of funding available? If funding is not available, and if the legislature decides against a supplemental appropriation to the departmental budget, then this policy would require a decrease in the number of positions to pay for the higher salaries of those remaining. 3. Should the Division of Personnel perform evaluations on all reclassification requests before Budget and Management makes recommendations and authorizes funding?

4. Structure of classes of positions. The Commission heard testimony on several components of the structure of the state's job classes.

a) Consolidation of job classifications. At present, there are 1,600 job classifications in the state, which is a larger number than other states with similarly-sized work forces. Reducing the number could speed the classification process and could help to prevent some of the inequities in salaries assigned to different classifications. At the same time, the consolidation could help to develop rational career ladders within classes.

b) Minimum qualifications for positions. Testimony was presented that minimum qualifications for some positions over emphasize educational requirements, which then eliminate candi-

dates who could perform the work satisfactorily but who lack the educational background specified. This is a particular problem for filling positions in the bush. On the other hand, one witness thought that more stringent educational standards should be required for social workers employed by the state.

STATUTE: AS39.25.155 requires establishment of vocational standards as alternatives for education or experience levels now required for non-professional occupational areas. Applicants will be placed on eligible lists for the vocational classification indicated on their applications, ranked by assessment of their technical ability and place of residence, without written examination. The purpose of the vocational substitution program is to establish a liberal system under which Alaskan residents not employed by the state may demonstrate their abilities and be hired. It is intended for use primarily in remote or underemployed areas where there is a local need for employees with certain vocational skills.

c) Career ladders. Two problems with career ladders were brought to the Commission's attention:

1) In the Public Health Nurse class, there is no viable career ladder system. There are a number of PHN-I's in the state, only a handful of PHN-II positions and a few PHN-III positions. PHN-III's are itinerant health nurses, located in rural areas and traveling throughout a wide area. Nurses working as PHN-I's have no realistic opportunity of remaining with the state in their field and receiving a promotion to another job classification.

2) In the Chemist class, there is no position available to chemists just out of college. The Chemist I position requires the applicant to have a master's degree or one year's experience as a chemist. There is no typical entry-level chemist classification which requires a college degree in chemistry and no additional experience.

REMEDY: Does the Commission wish to recommend that a comprehensive review of the present job classifications be undertaken by the Division of Personnel and the departments to reduce the number and provide consistency between positions; to provide career ladders within all classes; and to provide for entry level positions with minimal educational requirements in each field? Should the policy set out in AS39.25.155 be extended? Should experience substitute for education except where educational requirements are necessary for licensing in that occupation? What are the equal employment opportunity implications?

CERTIFICATION

5. Certification process. The process for certifying applicants and placing them on registers takes in the majority of cases between three to eight weeks which is too long. There are several components to this problem:

a) Open Recruitment. The state's policy of open recruitment of applicants has led to a substantial increase in the number of applications submitted to the Division of Personnel. This increased workload has added to the time taken for evaluation, testing (where required) and placement on the register. The Legislative Auditor suggests in Recommendation No.2 of his report of January 27, 1977, that the Division should accept applications based on forecasted turnover of positions rather than continue accepting all applications submitted. The Division replied that the state would have to have a greater pool of employees before it could accurately forecast future staffing needs.

Applicants may be encouraged by the fact that the state has accepted an application to believe that there is expected to be a vacancy in that position. If no vacancies occur for a considerable time, the applicant may become frustrated and feel that he is being unfairly treated by the Division of Personnel. On the other hand, if recruitment is closed for a period of time, then the state could not accept applications for any position within that classification. This could present a severe handicap particularly for classes with a number of specialized positions.

b) Unreasonable departmental requirements. One applicant found the application process for the position of Correctional Officer I to be unduly cumbersome and overly technical. The Division required that he be fingerprinted at a particular state office within a limited time, although fingerprints do not change and there were other more convenient state locations for being fingerprinted.

c) Evaluation of applicant's experience. It can take longer for the Division of Personnel to evaluate an applicant's experience than to administer an examination, even though the testing process is lengthy. For unique job classes and for professional level positions, the personnel analyst in the Division may lack the knowledge of the field necessary to perform an accurate evaluation. If the responsibility for filling positions in unique job classifications were delegated to the user department, this problem would be avoided.

d) Location. All application evaluation is done in the Juneau office. Applications from people in other areas of the state must be delivered to Juneau. Mail delivery time and frequent mail delays add to the time before action can be taken on the application. Applicants in other locations do not have ready access to the person making the evaluation and therefore are less able to challenge the results, should they feel that the evaluation is incorrect. The Division's field offices in Anchorage and Fairbanks are not authorized to process applications submitted to them.

e) Data Processing. The Legislative Auditor, in his report, recommended that the Division adopt an automated application processing system. The Division indicated in its response that progress was being made on the implementation of that system. The Auditor also recommended that files be kept by social security number and that employee records should be automatically interfaced with the Payroll Section for immediate and constant updating. The Division replied that because of considerable public and legislative concern about the expanding use of social security numbers as identity numbers, a social security based filing system did not appear advisable.

REMEDY:

a) Open recruitment. Should the state's policy of open recruitment be limited?

b) Experience evaluation. Should the department's be responsible for the evaluation of applications for positions in job classes unique to that department?

Could the application be structured differently to assist the applicant in directly presenting his or her skills, training and experience to assist the rater in making an accurate evalaution?

c) Location. Does the Commission wish to recommend that regional offices of the Division of Personnel in Anchorage and Fairbanks be authorized to evaluate applications and grade examinations and maintain regional master personnel records?

Should eligible lists for positions assigned to salary range 10 or below be kept on a regional basis according to the location in which the applicant will accept work? If so, how should the regional boundaries be drawn? (See also discussion on Lists of Eligibles, issue number 9, page 9).

d) Data processing. Does the Division of Personnel have sufficient funds to fully implement the data processing of appli-

cations? Should the Commission recommend additional funding for that purpose?

If the Commission chooses not to recommend decentralization of the classification process for unique job classifications, does it wish to recommend that the user departments evaluate the training and experience of applicants for unique job classifications?

6. Multiple applications within a job series. The Division of Personnel now requires an application for each job classification within a series. Applicants are therefore required to file several applications and to take several tests if they wish to apply for different levels within the series.

For example, accountants must take different examinations for the different levels within the accounting field. The Division of Personnel has found that giving multiple examinations within a job series is necessary since different levels of a series may require different kinds of skills. Furthermore, performance on an examination for one level does not accurately predict the applicant's performance on an exam for a different level.

REMEDY: Does the Commission wish to recommend that the Division of Personnel require a single application for several classifications within a series - e.g. a Clerk Typist application would cover the positions of Clerk Typist I, II and III - or that the Division require only one application for all positions for which an applicant wishes to be considered?

7. Veteran's preference. One witness testified that he and his subordinate each applied for a vacancy outside the classification series of their present positions, but closely similar to them. His subordinate received the job because he was slightly higher on the register as a result of the five points added to his score because he was a veteran.

STATUTES: AS39.25.150(23) provides for the granting of preference to veterans each time they apply for non-promotional employment. In determining the qualification of applicants for entrance into the classified service under the merit system examination, five points are added to the passing grade of a veteran and ten points are added to the passing grade of a disabled veteran.

REGULATIONS: PR3 07.3 implements that statute.

REMEDY: Does the Commission wish to recommend that the employment preference given to veterans be limited by requiring

that it be available only within a limited time after separation from the service (e.g. 10 or 15 years) or that each veteran may receive a bonus a specific number of times?

8. Promotional lists. Because the state's policy is to fill vacancies from promotional lists whenever possible, applicants who are on the competitive (rather than the promotional) register may never be considered for vacancies. This may lead to the applicant on the competitive register becoming frustrated with the state's hiring system.

In being considered for promotion, one correctional officer learned after the fact that his experience outside of the state's employment was not considered in his evaluation. He was advised that he should have specifically requested that it be considered, but such advice was given only after he questioned the rating he received.

STATUTES: AS39.25.150(4) provides that vacancies be filled by promotion whenever practicable and in the best interest of the state service.

REGULATIONS: PR3 01.3 provides for promotional examinations.

PR5 02.3 When hiring from a promotional list, selection shall be from among the top five available eligibles.

REMEDY: Does the Commission wish to recommend that the policy of the state be changed to eliminate the preference for hiring from promotional lists?

Does the Commission wish to recommend that the Division of Personnel audit the use of promotional lists to insure that no abuses occur?

9. Hiring from the list of eligibles. Both program managers and applicants have concerns about the lists of eligibles.

a) Program managers. Program managers have found that some eligibility lists are not current. This occurs sometimes because of regional preferences of applicants and sometimes because the applicant has become unavailable for work or has accepted another position with the state and is no longer seeking the same level of placement.

An applicant may remain on an eligibility list for a period of two years. There are procedures for supervisors to indicate that an eligible should be removed from the register, but apparently, there is some confusion about how to do so. The Divison of

Personnel puts a lower priority on updating the eligible list for this kind of information.

b) Qualifications of top five applicants on registers compared with qualifications of those following. For regions with a large number of applicants, the top five eligibles may not be significantly more qualified than those who follow. Federal regulations used to require that the state hire from the top five interested eligibles for programs funded by federal money, but that may have been changed by federal civil service reforms.

c) Interviews for top five applicants. Departments are required to hire within the top five on the register (except where they justify not doing so) but they are not required to interview each applicant within the group.

Supervisors may be prejudiced against an applicant because he or she has been on the register for a considerable length of time, and be less willing to hire him or her for that reason. The failure to interview all of the members of the group rewards those who are aggressive in seeking interviews with program managers and those who are in the location in which there is a vacancy. A prospective employer will have much better knowledge of an applicant after an interview than he or she could glean from reading the written application.

The Department of Administration is in the process of preparing regulations for a pilot project which would require that all of the top five interested applicants have an opportunity for a meaningful interview before a position was filled. The interviews should be scheduled long enough in advance to insure that the applicant will receive notice and be able to attend. Supervisors may wish to ask departmental staff in the applicant's area to conduct the interview, if the applicant prefers not to travel to the office with a vacancy. Interviews might also be conducted by telephone. Either of these methods is less desirable than an interview between the applicant and the person hiring.

The applicant would be responsible for any transportation costs to the interview.

REGULATIONS: PR4 02.0 Eligibility lists are statewide in scope except where Rules or action of the Director call for establishment of lists by geographical area, agency, or organizational unit.

PR4 03.0 Duration of eligibility lists (not to exceed 2 years)

PR4 04.0 Removal of names for specified reasons

PR4 05.0 Eligibles' right to restrict the conditions under which he will be availabe for employment

PR5 03.14 If an eligible is passed over three times by a department for the same classification, that department can request that the eligible's name not be certified to them again.

PR5 03.3 Concurrent certification of eligibles. The Rules do not require the simultaneous certification of the same name on different certifications made concurrently. This means that even though two certification lists (registers) are issued at the same time for the same classification, they will not necessarily contain the same names.

RECOMMENDATIONS: 1. Does the Commission wish to recommend that eligible lists for positions assigned to salary range 10 or below be kept on a regional basis according to the area in which the applicant will accept work? (See also discussion on Location of Certification, issue number 5, page 7). 2. Does the Commission wish to recommend that the state adopt a different merit system selection process? In his memorandum on "Merit Systems in Other Jurisdictions", Ken Humphreys provides a list of some of the options:

a) Rule of the List. Under this method, eligibles are certified aon a pass/fail basis. All who pass are certified as eligible for appointment. This is the most open alternative.

b) Zone or Category Scoring. Individuals are ranked within specified ranges. Such categories might be called outstanding, well qualified, qualified or not qualified. Selections would be from the highest category unless the number of eligibles in it fell below a certain level, in which case the next category would become eligible. This is the method under the new federal law. It is worth noting that zones or categories may be tailored to suit different job classes.

c) Block Scoring. All candidates within a specified block of scores are certified.

d) Rule of____. Any arbitray number such as one, seven or ten may be inserted.

3) Does the Commission wish to recommend that in filling a vancancy, departmental staff be required to provide the top five applicants on the register with the opportunity for a meaningful interview? If so, should the Commission recommend that this requirement be accomplished by statutes or by regulations

only?

AUDITING ROLE OF DIVISION OF PERSONNEL

10. If the Division of Personnel increased its review of personnel actions taken by departments, abuses of the personnel system would decrease. Testimony has indicated that one of the major areas of abuse is in departmental hiring practices. In order to avoid unfair treatment of individuals who are hired because of improper departmental actions, the division should be able to respond quickly upon notification of a problem. To insure that the division learns of improper actions, applicants for state employment should be provided with the name of the person responsible for investigating and resolving abuses.

REMEDY: Does the Commission wish to recommend the creation of a position of trouble-shooter within the Division of Personnel who would be responsible for investigation and resolution of problems? If so, what authority should the trouble-shooter have for requiring departmental compliance with his or her findings in each case? What authority should the trouble-shooter have for initiating investigations prior to receipt of a complaint?

AUDITS OF THE DIVISION OF PERSONNEL

11. At the October 3 meeting of the Commission, the Commission voted to "recommend legislation which would provide for periodic external audits of the personnel system like the one carried out (by) the (sic) Division of Legislative Audit in 1977." Minutes, Full Commission, October 3, 1978, page 2.

The Commission should consider who it wishes to recommend to perform this audit - Legislative Audit, Internal Audit or an outside firm? In addition, who would the auditor report to and who would establish the scope of each audit?

PERSONNEL ADMINISTRATION - OTHER

12. Violation of the personnel rules. There is no workable system to penalize supervisors who circumvent the personnel rules or who disobey equal employment opportunity laws in the decisions they make. In the Prohibitions and Penalties section of the rules, there is a provision making any person who violates the personnel rules guilty of a misdemeanor and providing that any state employee who is convicted of that misdemeanor shall immediately forfeit his office or position. PR13 18.0. This is a harsh remedy, and therefore likely to be used only in extreme circumstances.

REMEDY: Does the Commission wish to recommend that an

Ethics Committee be established to hear obvious abuses by supervisors and other state employees of the Personnel Rules and state and federal statutes?

Composition of committee - criteria for selection, who selects
Scope of authority
Powers to compel testimony, authority to obtain records, etc.
Effect of decision - recommendation to department or mandatory upon department
Remedies available

13. Training programs. The Divison of Personnel has limited staff to provide training programs to state employees. Training needs might include introduction to new state employees on the state's unique ways of doing things, EEO and Affirmative Action information, better management practices, introductory budget and financial management information to non-fiscal program managers, explanation of state's personnel system - classification and reclassification processes and standards, the hiring system, labor relations information and the like.

One problem identified was the reluctance of supervisors to fire unsatisfactory employees. This reluctance may result from lack of training in the state's standards, processes and some skill developments. But there may be other obstacles or reasons why supervisors fail to fire employees, such as concern with union procedures, which training will not address. (Local 71 representatives testified that they always file a grievance when an employee is fired, but that they dismiss those grievances where their investigation indicates that the action was justified).

14. Personnel Rules. There are a number of problems with the Personnel Rules. For example, there is no specific rule on whether temporary employees may use the appeal procedures set out in the rules. The Division has analogized from the rule for probationary employees that temporary employees may not use the appeal procedures except in limited circumstances, but it would be clearer if there were a specific provision in the rules concerning the rights of temporaries.

Little or no attempt has been made to reconcile the Personnel Rules with the several bargaining unit agreements; the rules and the standard operating procedures and memoranda implementing or changing them are not cross-indexed, and there is no one source for all the standards which need be applied to resolve a question: Personnel Rules are in some instances vague, leading to different applications by departments and inconsis-

tent treatment of state employees, depending only on which department they work in;

STATUTE: AS39.25.140 sets out the procedures for amendment of the rules and AS39.25.150 sets out the scope of the rules.

REMEDY: Does the Commission wish to recommend that the Department of Administration prepare a comprehensive revision of the rules for submission to the personnel board?

Does the Commission wish to recommend that the Division of Personnel study the rules and establish personnel rules which would apply to all employees, regardless of whether or not they were members of a union? Should the state have personnel rules beyond the scope of those general rules which would complement each union contract?

Since the Personnel Rules are out-of-date, does the Commission wish to recommend that there be a periodic review of the rules? Should the Personnel Board retain jurisdiction over the rules or should this function be given to an Ethics Committee?

15. Use of employees in tasks above job specifications. Supervisors are unwilling to document the performance by their staff of duties above the job classification to which the employee is assigned. This denies to the employee credit for work done - either when being considered for promotion or for employment elsewhere - as well as for extra pay for the task in question. There are procedures available for documenting work above grade.

QUESTION: Does the Commission wish further review of this problem?

16. Flex time. The use of flex time should be encouraged as a way of responding to individual employee needs while also better meeting the public's needs for services during lunch hours and after regular state hours. PROBLEM: Experience has shown that having people work at odd times will result in unions demanding extra pay for those odd hours, increasing the cost to the state.

QUESTION: Does the Commission wish further review of this problem?

17. Job performance evaluations. At the October 3 meeting, this topic was raised. The Commission decided to leave development of it to the individual members.

1. Excellence or substandard performance
2. EEO
3. Dress codes
4. Training and job performance assessment

18. Personnel Act. As indicated in issue number 2 of the Merit System/Collective Bargaining Committee Summary, there has not been a comprehensive review of the Personnel Act since the adoption of the Public Employees Relations Act in 1972. This has led to considerable confusion about how the two systems should be integrated. Furthermore, the Personnel Act is considered by some to be poorly constructed.

REMEDY: Does the Commission wish to recommend that the Code Revision Commission be directed to recodify the Personnel Act so that it is well structured and written in plain language?

19. Criminal history check. The application form for state employment asks applicants to indicate whether they have been convicted of a felony within the past ten years. Federal law may now prohibit requiring that an applicant respond to that question. The only way to check the truth of an applicant's answer, should one be provided, is to make a personal complaint with the Department of Public Safety. They will then search their computers to learn whether there has been a conviction.

Some supervisors believe that it is important to know about an employee's criminal background when hiring for positions in which the employee would have access to funds or to supplies which might prove to be too tempting to resist.

QUESTION: Does the Commission wish to pursue this topic further?

CERTIFICATION, CLASSIFICATION & RECRUITMENT
Capitol Building, Juneau
October 17, 1979

MINUTES

Senator Bill Ray, Chairman, called the meeting to order and referred to the memo on partially exempt employees prepared by Terry Cramer. She explained that partially exempt employees do not belong to collective bargaining unions because they have never petitioned for representation. Under current statutes, all employees in the Governor's Office are in the partially exempt service, unless their positions are federally funded.

The subcommittee reviewed the list of partially exempt positions in the memo and raised questions on the following:

DEPARTMENT OF REVENUE
- Revenue Hearing Examiners
- Investment Officers I-III

DEPARTMENT OF HEALTH & SOCIAL SERVICES
- Staff Psychiatrist

DEPARTMENT OF COMMERCE
- Executive Officer of the Nursing Board
- Executive Secretary of the Real Estate Commission
- Regional Loan Manager

DEPARTMENT OF FISH & GAME
- Special Assistant

DEPARTMENT OF ENVIRONMENTAL CONSERVATION
- Administrative Officer I

DEPARTMENT OF TRANSPORTATION & PUBLIC FACILITIES
- Special Assistant

Senator Ray stated that he would discuss with Governor Hammond the possible removal of some partially exempt positions from his office and the addition of policy-making supervisors to the partially exempt service. Pat Murphy pointed out that it is possible for employees to have the protection of the classified service while being excluded from collective bargaining. Employees in this special class are not subject to termination each time a new Governor is elected. Mr. Murphy added that he is sure there will be a bill introduced next session to remove Deputy and Assistant Directors from bargaining units. Senator Ray pointed out that Deputy and Assistant Directors should be in the par-

tially exempt service because they make policy decisions. If they were placed in the classified service as career employees, they would be less sensitive to implementing the Governor's policy.

Lois Jund cited her experiences in being offered a partially exempt position and her reluctance to accept it because of the possibility of making unpopular policy decisions and the unsure tenure of the partially exempt service. She believes that Deputy and Assitant Directors should be part of the career ladders in the classified service, but should not be part of the collective bargaining process. Ms. Jund recommended that these employees be moved into the special class Mr. Kareen referred to. Ken Kareen explained that the Governor has already proposed that these positions be removed from the collective bargaining process.

Senator Ray mentioned that he had received a complaint regarding APEA representatives being employed in policy-making positions with the state. Pat Murphy commented that this has not been a problem, but John Pugh, for example, resigned as President of APEA because the Commissioner of the Department of Health and Social Services felt that the office might conflict with his job responsibilities.

Ken Kareen stated that because of unique requirements, he feels that the Governor's staff should remain in the partially exempt service. However, there is a question about why some agencies are placed in the Governor's Office. Lois Jund pointed out that the public sector often applies pressure to have certain functions placed under the Governor's Office for visibility purposes. Ken Kareen added that there are instances when there is no logical place to put agencies other than in the Office of the Governor.

Senator Ray addressed the issue of auditing the personnel system. Lois Jund commented that audits of state agencies should be a role of the Division of Personnel. Senator Ray asked whether there is an internal audit function in the Department of Administration, and Ken Kareen responded that the internal audit function was deleted from the department's budget and reestablished under the Office of the Governor. The Department of Administration does have some audit responsibilities. Senator Ray suggested that a departmental ombudsman position might be created to handle such studies. Lois Jund mentioned that the Civil Service Commission's Personnel Branch performs personnel audits in agencies, examines specific positions, training and EEO functions, and writes reports containing recommendations for improvement. Ken Kareen elaborated that the Personnel Branch is then audited by the General Services Administration, which has a similar function.

Senator Ray moved that the subcommittee recommend that audits be performed in agencies by the Division of Personnel and that the Legislative Budget and Audit Committee determine the scope of the audits and be the recipient of reports. There were no objections.

Lois Jund asked who would be responsible for auditing the Division of Personnel, and Ken Kareen suggested that the study be performed jointly by the Division of Legislative Audit and the Department of Administration. Senator Ray pointed out that current legislative audit methods are time consuming, and reviews are not performed annually. Presently, the Legislative Audit Division reviews the system and reports findings to the Legislative Budget and Audit Committee, which submits the report to the department involved. The department then considers the report and submits a reply to the Legislative Audit Division. Mr. Kareen stated that legislative audits performed on the Division of Personnel are extremely time consuming. Mr. Murphy asserted that the Division of Personnel would be capable of handling performance audits on agencies if other functions were decentralized and the Division was responsible for administering the personnel system. Senator Ray moved that the subcommittee recommend that there be annual audits of the personnel system performed either by the Division of Personnel, the Legislative Audit Division or a combination of both. Lois Jund amended the motion by deleting reference to "annual". There were no objections.

On the issue of creating more effective disciplinary measures for violation of Personnel Rules, Senator Ray observed that supervisors are apparently lacking selfdiscipline. Ms. Jund stated that the U.S. Civil Service Commission has rules on offenses and publishes a table of penalties covering each offense. Mr. Kareen commented that under the present system, violations of Alaska's Personnel Rules are considered misdemeanors. He remembered only one prosecution in the history of the state.

Senator Ray cited an example of problems arising when the desire to prosecute is lacking. Ms. Jund commented that employees found violating the Personnel Rules should have an opportunity for hearing or appeal. Pat Murphy explained that collective bargaining unit representatives are responsible for representing employees in all disciplinary actions. All employees are responsible for abiding by the Personnel Rules, and if it is proved that they are willfully violating them, management has the right to take disciplinary action. Senator Ray asked whether the subcommittee agreed that the present disciplinary system is ineffective. Pat Murphy did not concur. Ms. Jund asserted that disciplinary measures are not applied consistently, because they are left to the supervisor's discretion and because there are no established guidelines. Ken Kareen stated that there are many parties involved when violations occur who are concerned with assisting the employee. He advocates uniform application of disciplinary measures and penalties less severe than misdemeanors. Senator Ray suggested that the subcommittee recommend an amendment to the Personnel Act to provide disciplinary action commensurate with the seriousness of violations. There were no objections.

Senator Ray brought up the issue of recommending comprehensive revision of both the Personnel Act and the Personnel Rules. The subcommittee had already voted affirmatively on recodifying the State Personnel Act. Senator Ray suggested that the decision on who should conduct the recodification process be left to the legislature's discretion. Members concurred, and suggested that the Personnel Rules be redrafted following revision of the statutes.

Senator Ray adjourned the meeting at 11:45.

MEMBERS IN ATTENDANCE

Senator Bill Ray, Chairman
Lynda McCurry
Lois Jund
John Pugh
Sandra Withers

OTHERS IN ATTENDANCE

Doryce Eggleston
Ken Kareen
Bob Mourant
Pat Murphy

CERTIFICATION, CLASSIFICATION & RECRUITMENT
Capitol Building, Juneau
October 11, 1979

MINUTES

Senator Ray, Chairman, called the subcommittee meeting to order and invited Ron Lehr, Director of the Division of Budget and Management, to address questions on the role of his division in the classification and reclassification proccesses. Karen Corey was also present, representing the Governor's Office.

In the classification of new positions, the Division of Budget and Management is responsible for preparing position authorization forms, known as SA 21's. The agency requests that the division authorize the creation of a new position. This form is returned to the agency, which submits it with a position description (P402) to the Division of Personnel for their action on the proposed classification. The role of Budget and Management is to verify that funds are available for the position and to insure that the position is in accordance with the operations plan of the agency.

Senator Ray commented that the subcommittee has heard testimony regarding frequent delays in the classification process that was attri--buted to Budget and Management. Mr. Lehr responded that in most instances, SA21's are prepared by the division in May or June, well before the beginning of the fiscal year. Senator Ray mentioned the subcommittee's concern over Budget and Management's veto powers. Mr. Lehr explained that the Division of Budget and Management staff acts as the staff of the Governor's Budget Review Committee during the preparation of the Governor's budget, just as the Legislative Finance Division serves as staff of the Legislative Finance Committees during their review. In neither case do the staff members have decision-making powers. He added that there were some delays this year, since the legislative cut-back on the proposed budget required agencies to revise their operational plans. To insure that this was done, the division held up processing other documents for each agency, including authorizing expenditures for new positions, until the operations plan of the agency had been cleared.

Lynda McCurry commented that in the Department of Labor, the establishment of new positions doesn't present a problem. However, there have been problems in reclassifying positions, from seasonal to part-time for example. Ms. McCurry cited delays in the delete/reestablish process of up to several weeks. She was informed by Budget and Management analysts that reclassification actions were low on the division's list of priorities. She does not feel that agencies should be respon-

sible for calling the division to expedite the process. Mr. Lehr stated that reclassification actions should not take more than a few days. The division only has to verify that funding is available and that the reclassification is in accordance with the operation plan intended in the budget.

Ms. McCurry stated that from the program manager's point of view, it is difficult to obtain answers to questions over which Budget and Management and the Division of Personnel have authority. Mr. Lehr responded that the division revised its procedures manual, in August or September, and it may help in identifying the source for answers.

Senator Ray pointed out that there are some who feel that the Division of Budget and Management consists of a group of elitists who give everyone a bad time. Apparently, some staff members act as though they have more authority than is actually the case. Mr. Lehr replied that he would have to hear specific complaints to respond to the accusation.

Senator Ray asked whether each analyst in the division is assigned to one department. Mr. Lehr explained that each analyst works on a budget category, and there is one category for each department, with the exception of Natural Resources. He added that the division's task is quite simple, and it is easy to complete authorization forms, which are not very complex.

Senator Ray noted that personnel officers and agencies do not care to call the division whenever they have difficulties, because this often leads to being labeled as a trouble-maker. Mr. Lehr stated that the division has a control function responsible for excercising the Governor's authority. Some friction is inherent, given that role. Lynda McCurry observed that one on the problems appears to be a lack of communication between the division and the user agencies.

There are only certain instances when the division has to get involved in the classification process, such as in the delete/reestablish actions and when reclassifications require additional money. Doryce Eggleston stated that there are no clear operating procedures outlined for personnel officers, thus there is confusion as to the role of the division. Senator Ray suggested that the first step in the process, submitting the forms to the Division of Personnel, could be eliminated. Thus, P402's and SA21's could be sent directly to the Division of Budget and Management for authorization. Mr. Lehr stated that the Division of Personnel serves as a screening function, and his division would be overrun with requests if that step were eliminated.

Senator Ray recommended that the division write a handbook outlining procedures for all entities coming in contact with the division.

Mr. Lehr stated that the division has been writing a procedures manual for internal use, but it is a time consuming task and not a high priority. Senator Ray suggested that a short-form manual be prepared in the meantime in collaboration with the Division of Personnel and some of the agencies experiencing difficulties. There were no more questions for Mr. Lehr. Senator Ray expressed the commission's thanks for his participation in the meeting and offered congratulations on his recent promotion to the position of Director. Mr. Lehr and Ms. Corey left.

Lois Jund suggested that agencies could expedite the process by preparing position descriptions prior to receipt of SA21's. Ms. McCurry noted that APEA representatives have referred to problems in the process of upgrading classifications. Ken Kareen explained that their problems are results of grievances over position reclassifications. When the Division of Budget and Management receives requests for upgrading, they have to verify that funds are available and in accordance with legislative intent. Often, funds have not been appropriated for the elevated classifications, and the Division must delay authorization until funds have been approved.

Senator Ray addressed subcommittee members, stating his hopes that the commission can remain objective on issues that members are personally involved with. He informed the subcommittee that he had made a report to the Legislative Council on the commission's activities and their lack of action on the merit system/collective bargaining issues. The council indicated that the collective bargaining issue is a priority for commission consideration. Senator Ray assured the council that all information researched and all public testimony heard on the topic will be placed in the final report to the legislature. He invited members to prepare their own reports on any of the issues discussed during meetings. Senator Ray asserted that the commission is a legislative entity that is responsible for disseminating whatever information it acquires to the legislature.

On the issue of multiple applications, Ms. Jund commented that in the civil service system, an application may be submitted for all levels in a job series. Sandra Withers stated that the Division of Personnel operates with a limited number of employees and is designed to utilize their time and effort in the most productive manner. Senator Ray asked whether it would be possible to save time by accepting one application for a series, and then if an individual passed a test for the highest level, he or she could be scored for the lower levels accordingly. Ken Kareen explained that the Division of Personnel is working on computer backup that would allow for this in some instances. However, different values are assigned to experience and skills at different levels. Final scores are based on a combination of experience and knowledge of applicants, and individuals with both should be the best candidates for the job.

Senator Ray commented that individuals from academic backgrounds fare better on tests than those who have had more actual on-the-job experience. Mr. Kareen pointed out that the Division of Personnel is trying to develop a detailed questionnaire to evaluate experience in a more efficient manner. Evaluating experience described on applications and resumes can be difficult. Some applicants write autobiographies, and some scribble only a few lines. The recruitment responsibilities of the Division of Personnel are becoming more complicated because of state and federal regulations. The division cannot, at this time, interview an applicant for a position unless there is statistical documentation that the interview is nondiscriminatory.

Senator Ray moved that the subcommittee recommend that the Division of Personnel be encouraged to get away from the necessity of multiple applications, provided that the process doesn't become more labor intensive than it is presently. There were no objections.

The issue of test validation was addressed, and Ken Kareen asserted that the commission should not address the issue because of the complexity of state and federal regulations. Presently, a competent professional is required to study jobs and then construct validated tests. There are many alternatives, such as multiple choice, essay and combination tests. The Division must show statistically that people performing well on tests will perform best on the job. Lois Jund asked if there is an agency that validates tests nation wide. Mr. Kareen explained that there are a number of consulting firms that do, but there is no one agency involved. The leader in this area is the U.S. Civil Service Commission. Ms. Jund asked whether it would be possible to obtain validated tests to be used in Alaska. Mr. Kareen replied that the test couldn't be used unless it was validated for use in Alaska. The test on which the Civil Service Commission (Office of Personnel Management) spent the most money is currently being challenged in the courts because there is some question of its validity. The state is required by federal regulation to validate tests, but only some have been at this time. Ms. Jund asked if additional funding is necessary to complete the task. Mr. Kareen stated that he has mixed feelings on requesting additional funds because he doesn't believe that the state will ever be able to validate all tests. The subcommittee took no action on the issue.

On the issue of the veteran's preference system, Senator Ray suggested that it be abolished. Mr. Kareen stated that the Division of Personnel receives applications from career military people who are drawing retirement benefits from the federal government, and they expect to receive preference in state employment as well. Senator Ray suggested that the subcommittee recommend that veterans be given preference when applying for positions within a three-year period following discharge from the service. He believes that the present ten-point preference system for disabled veterans should not be changed. There was general agreement on the issue.

Referring to the topic of regional registers, it was pointed out that limiting registers to applicants from one region would restrict competition. Applicants presently have the option of choosing the area in which they are willing to accept employment on application forms. Ken Kareen pointed out that certification of some registers are handled in Anchorage. However, individuals indicate on applications that they are willing to work anywhere in the state but frequently turn down interviews for openings in rural areas. The state is required to hire from among the best available applicants, and limiting applicants to just one area would conflict with equal employment opportunity policies. Mr. Kareen stated that the U.S. Civil Service Commission (Office of Personnel Management) has regional registers requiring one application for each region. This type of system would increase the influx of paperwork in the Division of Personnel drastically. Lois Jund suggested that the state might be able to give hiring preference to residents in some rural areas. Senator Ray moved that the issue be noted in the commission's report and identified as a problem. There were no objections.

Members addressed the issue of interviewing the top five interested applicants on a register. Senator Ray suggested that requiring a cursory interview could alleviate some grievances from individuals who believe that they should have such opportunities. Lois Jund stated that appointing authorities work under time constraints, and a requirement would present difficulties. The procedure for requiring interviews for those on block scored registers was discussed. On some registers using block scoring, there are as many as 70 applicants in the top group. Terry Cramer commented that an individual had presented his views to her on an interview at the University of Alaska. He had been told that the position might be filled by promotion, and he felt that the interview was a waste of time. Senator Ray moved that the subcommittee recommend that the top five interested applicants be notified of position openings and given an opportunity to request a meaningful interview. The recommendation does not address registers using block scoring. There were no objections.

Senator Ray mentioned that the commission's recommendations on filling authorized permanent positions with only permanent employees had been taken care of in the new nonpermanent hiring law. He made a presentation on the new law to the Council of State Government's meeting, and it has been printed in their publication as a model for other legislatures. The staff is preparing a memo on the changes being implemented by the state.

On the issue of training, Senator Ray stated that the staff is preparing a report designed to inform the legislature of the commission's views.

There was general agreement that the issues of promotion and equal employment opportunities are matters for Division of Equal Employment

Opportunity consideration. Ken Kareen elaborated that the subcommittee is sympathetic to EEO philosophies and believes that the Division of Equal Employment Opportunity provides adequate representation of the issues.

Sentor Ray commented that on the topic of documenting tasks performed above class specifications, there are sufficient means for promotional advancement and compensation. Documentation procedures are available, which are the responsibilities of supervisors and managers. The issue is also a bargainable item. Senator Ray moved that the subcommittee recommend that this continue to be a bargainable item. Mr. Kareen added that it is management's responsibility to insure that the position description of their employees are current. There were no objections.

Senator Ray adjourned the meeting at 11:50.

MEMBERS IN ATTENDANCE

Senator Bill Ray, Chairman
Lois Jund
Lynda McCurry
Sandra Withers

OTHERS IN ATTENDANCE

Doryce Eggleston
Ken Kareen

CERTIFICATION, CLASSIFICATION & RECRUITMENT SUBCOMMITTEE
Capitol Building--Juneau
October 5, 1979

MINUTES

Senator Ray, Chairman, called the meeting to order and referred to the September 26 issues summary as an agenda for discussion. Items IIA1 (creation of a Department of Employee Relations) and IIA2 (adopting the Personnel Rules in compliance with the Administrative Procedures Act) were reviewed by members. Under language drafted into SB256, Personnel Rules would no longer be exempted from Administrative Procedure Act requirements. Under the present law, the Personnel Board has discretion as to whether a public hearing is held on proposed changes.

On the issue of a block scoring system (IIA3), Ken Kareen explained that the subcommittee's previous recommendation was viewed by the Division of Personnel as an encouragement to continue moving in that direction. He stated that currently, almost all clerical examinations are block scored. There are numerous federal requirements for compliance with examination regulations, and it is possible that further subcommittee refinements would not be in compliance. The federal government permits the use of block scoring in its own system where there is sufficient statistical information available.

Sue Greene stated that the "rule of five" is restrictive for some classes and not so for others. There are certain types of positions that require employee qualities that do not show up through testing. Ken Kareen commented that to meet this need, there are provisions in the Personnel Rules where an appointing authority has discretion to hire below the top five. When an exception is made, the burden is placed on the appointing authority to supply a reasonable explanation for such action.

Senator Ray stated that people's expectations of getting hired when within the top five are being thwarted, written examinations are ambiguous, experience is erroneously evaluated and "buzz words" are the most significant factors in evaluations. Darlene Livermore responded that final ratings are usually based 60% on experience and 40% on test scores. There are inherent difficulties in classifying people, and there is always a question of subjectivity. On another topic, it was noted that after an individual is tested and hired, the emphasis on training is dependent upon the position. If a classification is for training purposes, the examination is created to predict which individual has the greatest learning potential.

John Pugh pointed out that the Division of Personnel has improved certain classifications by consolidating them into larger classes. When his department needs a program coordinator, it requests the specific qualifications necessary. The Division of Personnel provides an eligible list of those persons on the general program coordinator list who meet the specific qualifications requested. However, this can be very time consuming for the Division of Personnel, and generalizations cannot always be made in classifications.

Senator Ray elaborated on existing classification problems, such as requests for accountants, when a position only requires an accounting clerk. Sue Greene responded that the Division of Personnel relies on information from supervisors, who are required to review each of their employees' position descriptions during the annual performance evaluations. There is a need to improve the system. Ken Kareen pointed out that a recommendation to create a stronger audit function in the Division of Personnel would make the division even less popular than it is now. Members discussed some possibilities for reviewing the classification system. Washington contracts with a consulting firm on an ongoing basis. Alaska has previously contracted with a firm to examine and make recommendations on the system. Although the firm was well respected, their recommendations were unpopular and not acted upon. Ken Kareen agreed with Sue Greene that a study performed by an outside firm would be more objective, but credibility would be better from the Division of Personnel. If a study were to be done, it would be important for the current division staff to work with the firm conducting the study because they would be responsible for maintaining the revised system.

Lynda McCurry stated that several agencies have highly developed classification review plans. However, there is a lack of resources for all departments to do so. Departments and personnel sections should be more responsible for position classifications. John Pugh suggested that register ranking could be better handled by departmental personnel, especially unique classes which some departments are responsible for now. Some classification problems can be attributed to the departmental employees who write evaluations and minimum qualifications. How much authority for independent action should personnel officers have? Personnel officers in some departments are classifying positions. In various agencies, employees are responsible for writing their own job descriptions and evaluations, which are reviewed by supervisors and then sent to personnel sections. Lynda McCurry stated that if an incumbent is familiar with the work, he or she will usually be able to write a very honest job description. In the Word Processing Center, for example, it was found that almost universally, the staff rated its work with fewer points than actually earned. John Pugh mentioned his belief that "padding" is more prevalent for positions in Juneau offices than those located in other parts of the state. Positions with a higher level of decision-making authority are better paid in the state than are those with less authority but more daily responsibilities.

Senator Ray asked the subcommittee whether personnel officers should be centralized or decentralized. Darlene Livermore replied that it would appear to be easier to have them congregated in one central location. However, good logic dictates a decentralized system to the maximum degree possible, where the personnel officers have a great amount of authority and some type of uniformity in regulation application. John Pugh commented that there are some functions that need to remain in the Division of Personnel. He recommends a centralized system to establish and maintain policies and procedures, with a strong audit function. Lynda McCurry added that the Confidential Employees Association recommends that personnel officers with classification authority be located in each department and that there be a strong audit function in the Division of Personnel.

Sue Greene said that there are two points of concern in maintaining a cohesive system of equitable application. In the long term, fragmentation can occur in a decentralized system. She recommends that personnel officers be hired and managed by departments and be delegated different levels of authority, depending upon their capabilities. Presently, each department has a personnel section, and the Division of Personnel employs individuals to service all the departments. Employees in the division distribute some activities to departments and ask for assistance in various tasks. Ms. Greene advocates moving in the direction of greater delegation of tasks to the departments at the discretion of the Division of Personnel.

Senator Ray observed that the decentralization of personnel officers appeared to be favored by members and that the biggest argument against such an action would be the veto power of the Divsion of Personnel. Classification procedures could be performed by personnel officers in agencies, but the Division of Personnel would have the final word. Ken Kareen explained that there are many variables that must be taken into consideration when delegating tasks to departments such as different management skills, personalities, general abilities and knowledge of procedures of personnel officers and their staffs. The Division of Personnel responds in proportion to the input and performance qualifications of departments.

Senator Ray commented on complaints the commission has received regarding reclassifications that originate in departments, are approved by personnel officers and then denied by the Division of Personnel. Ken Kareen responded that this problem relates to control at the commissioner's level. How much authority should they have in the process? Even if personnel officers were employed by the Division, they would still be subjected to pressure from commissioners and would have to consider priorities. Darlene Livermore recommended the delegation of functions from a centralized division, responsible for overseeing rules

and regulations on how to distribute tasks. That is how the Department of Labor is working now. Ms. Livermore stated that delegation of responsibilities could work on a performance basis to the benefit of all. Those personnel offices incapable of performing could be dealt with by providing training to the staff or by whatever action became necessary.

John Pugh cited the prompt classification of new positions as being a major problem. New positions are assigned to a class in the budget enacted by the legislature and should be handled by departments so that programs can start on time. Ms. Livermore stated that the problem in classification of new positions is created by the Division of Budget and Management. In a study initiated by Senator Croft two years ago, it was found that delays are most often due to delays in receiving position descriptions or in Budget and Management's authorization process. Once a department has written a job description (P402), after the budget has been authorized by the legislature and signed by the Governor, the entire mass of paperwork must be submitted to Budget and Management so that the source of funding can be identified and documents can be coded into the budget process.

Senator Ray asked why Budget and Management is involved in the process. It was explained that they must verify the existence of funds appropriated to agencies for their classifications and that the use of funds is consistent with the legislature's intent. The staff was directed to request that a representative of the Office of Budget and Management attend the next subcommittee meeting.

On the question of reviewing all existing classifications, Senator Ray stated that he would prefer to have someone other than the Division of Personnel perform the study. It was noted that there is presently insufficient staff in the division to perform a comprehensive review. Darlene Livermore commented that she had been in contact with other states that had hired personnel consulting firms to investigate the feasibility of utilizing their services. The responses she received on some of the most respected firms were not favorable. The state or municipalities involved experienced extreme difficulties with the recommendations of the firms that were implemented.

Senator Ray suggested to the subcommittee that it recommend that the legislature fund a comprehensive review of existing classifications to identify troubled areas. Ms. McCurry stated that dealing with outside consultants had been disastrous in the past and that funds could be better spent by giving the Division of Personnel additional resources. Other options such as utilizing the Civil Service Commission (Office of Personnel Management), the Legislative Audit Division or the Division of Personnel were mentioned. Senator Ray modified his recommendation: A study should be performed by either the Division of Personnel, Legislative Audit, the Civil Service Commission, an outside consulting firm or a combination of the above. A vote was taken. Two were in favor and two opposed. The motion failed.

John Pugh moved that the subcommittee recommend that the Division of Personnel head towards broader classifications. There were no objections, and the motion passed.

On the topic of closing eligibility registers, Ken Kareen stated that the issue has gone to arbitration, and a decision has not been made. The grievance is based on the fact that once registers are closed, unionized employees are precluded from promotional openings because they cannot get on registers. John Pugh stated that open recruitment on all positions is ridiculous. The grievance arose when permanent employees were denied access to promotional lists. Mr. Pugh added that it makes sense to limit recruitment because of the insufficient amount of employees in the Division of Personnel.

Ken Kareen pointed out that the Division of Personnel is trying to schedule recruitment and staff workloads so that every job classification will be open for a minimum of 30 days per year. Senator Ray observed that applicants might be allowed to test for closed positions at any time. From the public standpoint, testing should be available at all times. Lynda McCurry pointed out that there are instances where only four positions exist in one classification, yet the Division of Personnel receives 185 applications annually. Ken Kareen stated that the state is spending funds on recruitment that is unnecessary. Last year, the Division of Personnel processed 60,000 applications from approximately 28,000 individuals. Mr. Kareen stated that the present Division of Personnel policy is to close recruitment for a maximum of 11 months when there are sufficient numbers of eligibles on registers to meet the state's needs for one year. Mr. Pugh asserted that registers should not be closed to permanent employees. Senator Ray asked why a present employee should be treated better than a citizen.

Senator Ray moved that the subcommittee recommend the continuation of open registers in a modified form. There were no objections, and the motion passed.

Members agreed to hold a meeting next week to receive testimony from Ron Lehr of Budget and Management and possibly from a representative of the Governor's Office.

Senator Ray adjourned the meeting at 12:10.

MEMBERS IN ATTENDANCE	OTHERS IN ATTENDANCE
Senator Bill Ray, Chairman	Doryce Eggleston
Lynda McCurry	Sue Greene
John Pugh	Darlene Livermore
Ken Kareen (for Sandra Withers)	Bob Mourant

CLASSIFICATION, CERTIFICATION & RECRUITMENT SUBCOMMITTEE
Governor's Conference Room, Juneau
April 17, 1979

MINUTES

Senator Ray, Chairman, called the meeting to order and invited testimony from individuals present. He stated that the Commission requires information from people regarding all sides of the issues it is considering. The commission feels strongly that people should be able to speak freely without fear of repercussions from their supervisors or others. Members will weigh all information and opinions expressed in making their decisions.

TESTIMONY

Lynda McCurry presented testimony on the question of centralization/decentralization. In her estimation, it would be possible to decentralize personnel functions to some departments without additional cost to the state. Many unique job classes are presently examined and classified by personnel officers who are experienced in working with departmental job classifications.

Ms. McCurry believes that personnel officers should be employed by departments rather than by the Division of Personnel to assure access to departmental commissioners. Regarding the placement of personnel officers in departments, Ms. McCurry recommended as her personal opinion either placement in the commissioners' offices or at least as supervisors in offices of directors of administrative services one level below. It is essential for personnel officers to have a direct line of communication with the commissioners' offices in order to keep the chief executives up-to-date.

Senator Ray asked if there are instances when there is not ready access to the commissioners. Ms. McCurry responded that this is the case in some instances, and she does not believe that commissioners are fully aware of the problem.

Senator Ray questioned whether changing the statutes to require that personnel officers be administrative assistants for labor relations in order to have direct access to commissioners would eliminate this problem. Ken Kareen asked if a law stating that personnel officers shall have access to the commissioners would improve the situation. He added that there are a wide variety of commissioners and that the Personnel Rules are subject to different interpretations by them. Ms. McCurry stated that it is not uncommon for division directors to take action without the knowledge of personnel officers.

Senator Ray inquired if a change in the law would lessen the number of problems and complaints received by the Ombudsman's Office. Frank Flavin responded that if it were the specific intent of the law, commissioners would be more likely to give the personnel officer's position the responsibility needed. Pat Hunt said that the responsibilities of the positions are diminished in some instances. If positions were put into the law, they would become partially exempt because of policy role. Ms. McCurry stated that this could upset the personnel officers' departmental status if positions were placed in law as part of the commissioner's office. The change in the law might not have the desired effect.

Senator Ray commented that he could not comprehend a personnel officer not having access to the department's commissioner. Ms. McCurry recommended that centralization/decentralization should be based on the cooperation of the Division of Personnel and agencies, depending on the abilities of the individual department. Personnel officers who abuse the authority given them should be held accountable for their actions, and the delegation of authority should be removed to correct the situation if necessary. This would require a strict audit system to be developed by the Division of Personnel and Labor Relations.

Ken Kareen elaborated that in the State Personnel Act, delegation of this authority is discretionary rather than mandatory. Testimony from Wisconsin indicated that when their Department of Employment Relations withdrew delegation of authority, they also withdrew funding for departmental personnel office staff. Should the same thing be possible in Alaska?

Senator Ray pointed out that the non-permanent employee bill is moving through the legislature and that the section on punitive damages is an innovative approach to discouraging abuses of rules and regulations. He has recently been appointed to the Council of State Governments. If the Commission so wishes, he will present this approach to the Council so that other states may consider it.

Doryce Eggleston, Personnel Officer for the Department of Public Safety, presented testimony regarding her department's Personnel Office, which is in the Division of Administrative Service. The office does have access to the commissioner, deputy commissioner and division director.

The question of centralization vs. decentralization can be broken dwon into two separate issues: personnel officers and personnel functions. These two aspects may have direct

impact on the general public, applicants and on the departments.

On the centralization or decentralization of personnel officers, Ms. Eggleston stated that there would be great impact on departments if personnel officers were made employees of the Division of Personnel. As indicated in the Commission's report, the goals of this move include better communication between the Division of Personnel and departments, uniformity of application of the Personnel Rules and control by the Division of Personnel. These can be achieved within the present structure. The Personnel Rules need to be clarified and redrafted in accordance with changes in the statutes to limit the many different interpretations within departments. There is no reason why regular meetings cannot be held between the Division of Personnel and the departmental personnel officers to discuss various aspects of labor relations and personnel administration such as arbitration proceedings, union contracts, negotiation results and ambiguous Personnel Rules. These meetings would insure better communication and more uniform interpretation of the Personnel Rules by the departments.

Possible problems for personnel officers moved into the Division of Personnel would include loss of credibility and trust of employees within departments and difficulties in remaining part of departmental management teams. Personnel officers would be considered outsiders, and this might lead to departmental staff circumventing them on some matters. For example, she would not have been included in the Director's staff meeting where strategy and planning were discussed with the new Commissioner if she had been an employee of the Division of Personnel. No one can successfully serve two masters. It would be possible to be caught in the middle of problems between the two. Problems could also arise in funding for the position, performance evaluations, training, approval of leave, etc. Impact upon applicants would be minimal, but user agencies would be affected by the change.

On the centralization or decentralization of personnel functions, Ms. Eggleston agrees with Ms. McCurry that functions cannot be decentralized across the board. She believes that this type of program should be optional for each department, depending on the feasibility of operating the system with present staff. There would be a significant impact on applicants and the general public as well as on the departments if functions were decentralized.

Recruitment and advertising could be performed by departments with information, assistance and review provided by the Division of Personnel. These could be made more selective, especially for regional positions. This would also be an advan-

tage for rural areas.

Ms. Eggleston advocates the review of unique job applications by user departments. The Division of Personnel reviewed over 55,000 applications in 1978. If this responsibility was shared with departments, more time could be spent on those applications, and better judgements could be made. The departmental staff have more technical knowledge on the positions unique to their departments. The register process, placment on eligible lists and hiring would also be expedited. The Division of Personnel could provide guidance and oversight when necessary.

Classifications could be performed by departments with guidance and oversight from the Division on general job classes. The departments could work directly with the Office of Management and Budget on funding. The processes could be speeded up through departmental participation.

There should be no adverse impact on the number of staff in the Division of Personnel. Staff functions could be changed to guidance and oversight roles by the Division, and studies could be done on employee turnover, career ladders, classification, counseling, minority recruitment, etc. One of the reasons for the lengthy delays in the Division of Personnel is the time needed for examination and recruitment. The result of decentralization would be less frustration on the part of applicants, the general public and the departments. All must work together to resolve time problems.

Senator Ray suggested a hypothetical situation. What if a department decided to reclassify its Personnel Officer positions to some other classification and to ask the Division of Personnel to handle all its personnel functions for it. That would provide the department with two positions for other work and yet insure that the necessary personnel functions were performed without using departmental funds. This possibility is one reason why he favors providing for personnel officers in departments by statute.

Pat Murphy pointed out that each department should have a personnel officer. The Commission has already put together a bill on the Department of Employee Relations. Problems can develop when trying to be too specific in legislation. Each department in the bill will have a personnel officer. Not all departments are ready for decentralization. He leans towards an audit function within the Department of Employee Relations.

Pat Hunt added that he wouldn't mind seeing jobs in the statutes and that it would be important to specify the level of responsibility as well as the titles. Frank Flavin asked

if the intent was for the departmental personnel officers to have the responsibility of recruiting, advertising and examining for unique positions. Would the departments be in a position to do this better than the Division of Personnel? Ms. Eggleston replied that an employee in her office could handle the paperwork faster in regard to unique job classes. Mr. Flavin rephrased his question to general terms: Is a personnel officer in a department more capable of making decisions? Ms. Eggleston responded affirmatively.

Pat Murphy stated that the Commission has received a number of complaints in the area of rating education and training where people believe they have been judged erroneously. The Division of Personnel has no time to check these areas. If unique job classes were handled through the departments, more time would be spent on these evaluations. Technical job classes cannot be handled by generalists. Mr. Murphy asked how applicants would be routed to the correct departments in a decentralized system. Ms. Eggleston replied that the Division could act as a receiving agency for applicants and direct forms to the proper agencies. Ken Kareen pointed out that this is being done now in the Department of Education.

Senator Ray pointed out that the Commission has received testimony regarding the difficulties of "fighting city hall" and the adverse results this may bring about. One concern is the "black marks" individuals receive for speaking out about problems encoutered within the state system. Frank Flavin elaborated that he does receive cases of this type, but that they are difficult to verify. Senator Ray referred to previous testimony before the Commission where one individual's score had been changed noticably by the Division of Personnel after she complained to them.

Ken Kareen countered that in the central office of the Division of Personnel, everything is documented. Those individuals responsible for rating applicants have practically no influence over selection of applicants. There is little chance that the hiring authority will know about problems in the Division. Therefore, problems in ratings will not influence final hiring decisions. Senator Ray asked if this meant that there is no communication between the Division and departments. Mr. Kareen stated that this type of communication would not be tolerated in his office.

Mr. Flavin quesitoned what role personnel officers play in the evaluation of merit violations. Ms. Eggleston responded that personnel actions, such as selection from eligible lists, are reviewed before they are returned to the Division of Personnel for placement of the person selected on the state payroll.

All material is checked before it is sent out by personnel officers. Advice may be sought from the Division of Personnel and commissioners, deputy commissioners or directors where questionable circumstances appear.

Senator Ray asked what happens if a commissioner or deputy commissioner asks a personnel officer to break the rules. Ms. Eggleston replied that there are legal implications, and steps may be taken. She gave an example of one individual who was fired because he refused to do what the director requested. Through a grievance procedure, he was reinstated. Personnel officers can and do refuse to certify anything illegally. The commissioner and deputy commissioner are each certifying officers and can sign positions authorizations (PA's) thereby taking responsibility for any impropriety if they insist on pursuing the matter over the objections of the personnel officer. Frank Flavin asked if Ms. Eggleston's personnel files have ever been audited. She replied that there is a post-audit procedure. Lynda McCurry commented that the Department of Labor has been subject to numerous federal audits. Ken Kareen stated that there are certain review procedures handled by the Division of Personnel, but there are no audits in that sense.

Wells Gabier, a state employee for over seven years and current employee of the Alaska Occupational Information Coordination Committee (AOICC) testified regarding his experiences with the committee, the Department of Health and Social Services, the Department of Labor and the state Manpower Service. He addressed the topic of his PCN and gave a brief description of his background.

In 1970, Mr. Gabier was hired out of Colorado for a position in Alaska, and his relocation expenses were paid by the state. Upon arrival, he was classified as an Employment Counselor III. One year later, he was reclassified as State Counseling Supervisor for the Department of Labor, and spent five years in that capacity. During this time, he communicated with the Division of Personnel frequently on the subject of upgrading the Counselor-level positions by one range. He worked with Lee Antrim (the Departments of Labor's representative in reviewing tests for employment interviewers) on the reclassification.

Mr. Gabier then took a voluntary demotion of one range step to go to work for the Department of Health and Social Services. One year later, he retired from state employment and moved to Mississippi for a short period of time. Upon his return to Alaska, he experienced the trials and tribulations of applying for state employment and of having his experience rated. He was subsequently placed on 18 registers, and was asked to interview with the AOICC for his present position. The following

is description of events that took place after his initial interview:

March 10, 1978--The position description was first written by committee member Phyllis Woodman, Personnel Officer for the Department of Education which controls the funding of the state AOICC.

March 14, 1978--The position description was transmitted to Mike McMullen in the Classification Section of the Division of Personnel as that of a Social Research Coordinator at range 20. Both Ms. Woodman and committee members supported this classification level.

April 6, 1978--A decision was returned to the department that the classification should be at the Research Analyst III level. It appears that the Social Research Coordinator class was being eliminated, and this was considered an equitable substitute. Wishing to get started on the program, the committee decided to accept the classification given by the Division of Personnel and requested the Analyst III register. Unable to find a qualified applicant for the position on this register, the committee requested parallel registers which required approximately the same range and job functions. Mr. Gabier was within the top five on two of these and was hired for the position.

Mr. Gabier pointed out he had qualified for these registers without receiving employee credit or veteran's preference points. Prior to his appointment, he had applied for the Research Analyst II and III registers. His examination results came back as below passing. The committee had hired him for a position that the Division of Personel had deemed him to be ineligible for. Entering the position, Mr. Gabier realized that the responsibilities were not consistent with the Research Analyst III level. The committee had indicated during a meeting that they would push for a reclassification of the position at a later date.

November 20, 1978--The committee submitted a reclassification request to the Division of Personnel.

December 28, 1978--The delete/establish form was sent to Budget and Managment by the Division of Personnel.

February 9, 1979--Mr. Gabier checked with the Division of Personnel on the status of his reclassification, after having waited for a response for a number of months. The Division advised him that the request would be signed within a week by the Office of Budget and Management.

The position description and authorization came back listed as a Project Coordinator. Again, the advice of Phyllis Woodman

had been ignored, although she had supplied first-hand information on the job functions. It had been stated on the request that if the position came back as anything other than a Program Coordinator, a desk audit would be requested. Ms. Woodman was advised that more detailed paperwork would have to be supplied to justify a desk audit performed by the Division of Personnel.

April 12, 1979--A request was submitted for a desk audit.

Due to the fact that the position remains classified improperly after a period of over one year, Mr. Gabier felt that the matter should be brought to the attention of the commission.

Ken Kareen spoke from the vantage point of the classifier. The personnel officer came to him seeking advice and assistance on the best way to get the job filled. In this instance, the classification of Research Analyst III was not appropriate, and alternate lists were suggested by Mr. Kareen, such as Project Coordinator.

Mr. Flavin asked for the definition of a desk audit. Mr. Gabier explained that a classification specialist actually goes to the place of employment and gets a verbal description of the job. In his experience, Mr. Gabier feels that the Division of Personnel has difficulty in interpreting anything that is not in writing. Ken Kareen responded that the demand for desk audits cannot be satisfied by the Division of Personnel, given the limited amount of staff available. There is a reluctance on the Division's part to conduct an audit unless the need is perceived. Quite often, the Division receives inadequate position descriptions.

Pat Murphy stated that the commission has heard a lot of testimony along similar lines, where employees and technical authorities have different opinions. It is very difficult to ascertain who is right and who is wrong.

Mr. Kareen pointed out that there is also a third party involved in this type of dispute: the collective bargaining union. Mr. Gabier commented that he has never felt that this is a problem for grievance procedures. It should have been handled when it was initially brought to the Division's attention. If the system were decentralized, this responsibility would be given to the personnel officers who are more qualified to make judgements.

Fred Cook, Personnel Officer with the Department of Fish and Game, testified on the question of centralization/decentralization. He believes that personnel officers should be a part of the management teams of departments. Fisheries Biologists

are convinced that the Department of Administration is a regulatory agency rather than a service-oriented agency. This is consistent with the feeling of the troops in the field.

Mr. Cook feels that personnel functions should be delegated to the departments if they are willing to accept the responsibility. Personnel officers would not be able to supervise their staff members if they were centralized in the Division of Personnel. If there were instances where opinions differed, it would be difficult to argue with supervisors in the Division of Personnel.

Mr. Cook does not see any way that centralization would make the personnel system more efficient. If a person is not employed by a department, they are left out of policy-making decisions and information is then relayed down to them. The Division of Personnel should have more positions assigned to them, and he urged the Blue Ribbon Commission to make that recommendation.

One suggestion Mr. Cook presented was to have personnel officers exchange positions with staff in the Division of Personnel intermittently. This is something that has been discussed in the past and seen by many as workable. This might relieve the schism between Personnel and the departments by increasing the awareness of each others' problems.

Frank Flavin asked which functions personnel officers in departments could perform better than the Division of Personnel, assuming adequate resources exist. Mr. Cook suggested that the Department of Fish and Gaeme could rate applicants for positions in technical areas generally above range 16. In the case of biometricians, for example, a committee consisting of other specialists in that field would be better qualified to make evaluations than generalists in the Division of Personnel.

Mr. Flavin pointed out that past testimony has revealed problems on the rating of biologists: Is an adequate job being done? Mr. Cook responded that in higher-level classes, the departmental personnel officers could do a better job, assuming the department has the staff to do so.

Mildred Zenger, Personnel Officer with the Department of Natural Resources, concurred with testimony presented. She expressed the following, representing her personal opinions:

Ms. Zenger stated that the Division of Personnel could better handle rating and examinations if they were given additional funding. Her department lacks staff to handle decentralization, but is in a better position to handle certain unique

job classes. Ms. Zenger does not believe that qualified judgements are made by the Division of Personnel examiners in those cases. The Department of Natural Resources specialists used to help the Division of Personnel rate applications in the more technical fields.

Over the years, personnel officers' access to the commissioner has varied. At present, access is more limited than in the past. Access and support are essential for providing back-up to personnel officers when program managers disagree with their decisions. Ms. Zenger also made it clear that though the Department of Natural Resources is under fire for many reasons, some accidental and some intentional, she is not defending those who hire illegally. She has never certified a document illegally in her 30 years of state service.

Ms. Zenger believes that some functions handled by the Division of Personnel could be delegated to the individual departments. A better means of communication between personnel officers and the Division is one solution. Removing personnel officers from departments would cause problems. It would then be difficult to convince employees in the department that personnel officers are actually working for them and trying to help the department. This might also lead to the belief that personnel officers were regulatory oriented.

Frank Flavin asked if the problems within the department were geographical in nature, due to the large number of staff in field offices. Ms. Zenger answered they are due to the influx of new employees who don't understand the system and lack education in the standards of the system rather than poor intent. Ms. McCurry concurred that cycles do run good and bad depending on who's who in the zoo. Ms. Zenger reiterated that there are many new people who do not understand what they are supposed to do. Senator Ray pointed out that this might call for some type of statutory identification.

Mr. Flavin asked Ms. Zenger if she has access to personnel files in departmental field offices as a personnel officer. Ms. Zenger answered that her travel is limited. She did not have a large staff until the past year. The central office does perform a monthly audit on departmental personnel actions.

Senator Ray commented that this is ample reason to have a trouble shooter to take care of these matters. As an example, he mentioned two Public Safety officers who are responsible for presenting informational programs in schools to juveniles.

Frank Flavin stated that in his experience, problems were more prevalent in agencies where personnel officers do not have

high status. There are significantly fewer personnel problems in those departments with strong personnel officers. Pat Murphy agreed that certain departments have more problems than others. The departments of Health and Social Services, Transportation and the Division of Corrections have strong commissioners or directors who typically insist on independence, which can lead to union grievances. APEA has been able to resolve problems before they develop into major crises by negotiating with personnel officers with stronger positions in their departments. Another aspect of the problem is that in departments with high turnover rates, the management staff is less well informed about the requirements of union contracts and the Personnel Rules.

Senator Ray pointed out that the reorganization of the secretarial staff of the Department of Administration into a typing pool is a topic which the commission has overlooked. Pat Murphy commented that there is general agreement that the program has created a mess.

Ken Kareen responded that a previous commissioner of Administration thought that if the equipment were upgraded and typists were combined in one location, there would be more work performed at less cost to the state. Many of the people in the pool have fallen behind on the typing requirments set by the program. Mr. Kareen also asked about Don Fisher's report to the commission on the subject. Pat Murphy replied that APEA is doing investigative work on the matter and that information will be available at a later date.

Senator Ray requested a resume of the information available to date and said that he was interested in pursuing the matter personally. Experimenting with state employees is not an acceptable procedure. Pat Murphy commented that the coordinator of the typing pool program has been on contract with the state for two or three years. He believes that this should be a permanent position.

Frank Flavin requested that the staff prepare a breakdown of where personnel officers are located in each department and to whom they report. Lynda McCurry offered to supply this information to him. Senator Ray directed the staff to write to each department advising them that attempts to keep individuals from testifying at commission meetings or to punish them for speaking will not be tolerated.

Lois Wingo, Personnel Officer for the Department of Military Affairs, concurred with testimony heard. She stated that employee/personnel officer relationships are stronger when the personnel officer is in the department. Ms. Wingo acts as Training Coordinator, EEO Officer and Payroll Supervisor in addition

to her functions as the department's personnel officer. She does have access to the commissioner's office and receives support from high-level management. She is not expected to circumvent the Division of Personnel in fulfilling her duties. The department was audited once, about a year ago, by the Legislative Audit Division. Leave records were checked against the files, and employee records were spot-checked.

Senator Ray asked whether Ms. Wingo had ever been in a catch-22 sitaution where her superior asked her to do something contrary to her beliefs. Ms. Wingo replied that this happens very rarely.

Frank Flavin asked if there was any conflict of interest in being an EEO Officer and a Personnel Officer. Ms. Wingo answered that some perceive a conflict between the two functions, and some don't. It depends on who is the Director of EEO. Lynda McCurry pointed out that there is a problem with adding EEO funcitons to the duties of personnel officers in departments. However, this function must be placed in a position where the person will do the job. When EEO functions were taken out of the Personnel Office of the Department of Labor and given to someone else, no progress was made on the reports required to be filed. Eventually, the EEO responsibilites returned to the personnel officer. Ms. Wingo stated that she doesn't have hiring authority, so there is not a direct conflict. She does encourage the hiring of women and minorities. Frank Flavin asked if she has "double clout" with the additional EEO responsibilities. Ms. Wingo said that this did give her additional authority.

Senator Ray asked for input from commission members on the continuation of additional meetings. He stated that they will have to be after the legislative session is over.

Ken Kareen offered his thoughts on the decentralization issue. An employee starts his employment by pledging his loyalty and credibility to a department. The supervisor giving direction may severely test the loyalty of the employee to do the job and advance his career vs. state rules and compliance with the laws. Elements of regulation and compliance should be built into Personnel. This would serve to limit the flexibility, but would avert capricious and arbitraty proceedings. At what cost should the state encourage dedication to the department? What is the cost to the state for decentralization? In some cases, 18 departments could be working on 18 different systems. There has to be some uniform application of rules to give employees constants. Employees do not know where these lines are. Mr. Kareen offered an observation: There are tremendous variations based on the personality of the personnel officers and person-

ality of their supervisors. Senator Ray elaborated that it is a question of either having a cut and dried or a flexible system. Ken Kareen stated that an employee starts with an investment in state employment. If a new boss gives a questionable direction, that will severely test the loyalty of the employee to his or her career vs. the state rules. Some stand up to the tests, and some don't. The problem does exist.

Mr. Kareen expressed his feelings that examination and review boards do not work well, judging by his past experiences. One of the most frequent problems encountered is in rating applications. For example, his staff is instructed not to make assumptions in rating applicants. What is judged is the information provided in writing. A review board may be tempted to consider information not on the record, thereby favoring applicants they know over those they do not. This could cause problems if the decision were ever audited. There will always be errors and mistakes.

Responding to Mr. Gabier's testimony, Mr. Kareen stated that Mr. Gabier has two options open to him: to go through the union or through supervisory channels. Bob Mourant commented that as a former union negotiator, he has had problems with the Division of Personnel. There are no checks made on the ethics of the Division of Personnel staff. There is no assurance that a check will be made if there is no violation of union contract. An individual has no assurance of ethics in force.

Mr. Gabier addressed the philosophical difference between himself and Mr. Kareen. He observed that the attitude seems to be "If you don't like it, fight it". What happened to settling these matters fairly? If he followed the proper channels, he would be told in two months that his complaint is not a grievable matter. He believes that this is an example of violation of merit principles. In his opinion, the Division of Personnel thinks only in terms of dollars rather than in terms of people.

Senator Ray asked commission members if they would agree to his making a personal investigation into the word processing center problems. There was no dissent.

Senator Ray suggested another meeting in Anchorage following the end of the session. Pat Murphy commented that issues might best be dealt with in subcommittee meetings on particular problems, followed by a full commission meeting to review subcommittee suggestions. Meetings to receive public testimony are also necessary. No decision was made on a future schedule.

IN ATTENDANCE

Senator Bill Ray, Chairman
Frank Flavin
Patrick Hunt
Lynda McCurry
Bob Mourant (for John Pugh)
Ken Spray

OTHERS IN ATTENDANCE

Darlene Howard
Ken Kareen
Pat Murphy

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILE 8672
1360 SCOMM 51: BLUE RIBBON COMN. ON STATE PERSONNEL ACT 1978-1983

CLASSIFICATION, CERTIFICATION & RECRUITMENT SUBCOMMITTEE
February 23, 1979

MINUTES

Don Fisher chaired the meeting in the absence of Senator Ray.

Ken Spray provided information to the subcommittee on SB194, an act relating to public employment. The bill would disallow payment of differentials based on geographic location in the state or cost-of-living differences in an attempt to increase the appointment of residents in rural locations where there is relatively severe unemployment in jobs which are located in their home locations. The bill proposes amendments to the Vocational Substitution Program.

Mr. Thomas suggested that a better way to accomplish the goals of Senator Sumner's bill would be to invigorate recruitment taking place in rural areas for positions in rural areas. The state's selection processes are questionable in evaluating the skills of applicants, but they do appear to be effective in screening out native Alaskans.

Mr. Spray suggested that the Blue Ribbon Commission might wish to consider the problem and propose a committee substitute to the present bill.

CERTIFICATION OF ELIGIBLES

MOTION: Frank Flavin moved that the subcommittee recommend to the commission that a pass/fail certification system be adopted until a reliability based broad band certification system could be developed.

Subcommittee discussion followed. The fundamental idea of the merit system is to select the best qualified applicant for the position, not simply to select someone meeting minimum qualifications. Ms. McCurry said that a pass/fail system would present problems in meeting constitutional requirements for a merit system and could jeopardize federal funding. Mr. Thomas responded that the broad band certification system is acceptable to the federal government.

John Pugh asked how this system would affect the system which the commission had recommended of requiring interviews for the top five applicants.

Ken Humphreys pointed out that while the tests given by the Division of Personnel may not be wholely accurate, they do have a considerable degree of accuracy in ranking the skills of those who achieve first place on the list versus those who place last. He suggested that the subcommittee might wish to consider a system of five grades, in which all those who scored within a range on the test would receive an equal score; for example, A-B-C-D-E.

Mr. Pugh added that he has worked for five years as a supervisor, and during that time has hired approximately 150 to 200 employees. Initially, he had thought that the top five was not meaningful, but experience has demonstrated that the system does test with accuracy for the kinds of skills needed to fill the position. (Verbal skills are a necessity for the positions he recruits for.) However, some tests are irrelevant and need to be updated.

Mr. Thomas replied that this belief in the system may be misplaced. The troopers were required, two years ago, to use a rule of the whole list in order to remedy past discriminatory practices. Hiring has been done from all parts of the list, and no one has yet argued that the standards or efficiency of the services of the employees hired under this system have been lower. The commission should not be closed to the idea of change.

Mr. Murphy suggested that if the object of Mr. Flavin's motion was to increase the openinings for women and minority applicants, the the commission could consider adopting the kinds of systems of Wisconsin or Minnesota without doing away with the state's rating system.

Mr. Spray pointed out that this dilemma is one reason why his members favor a seniority system.

Ken Kareen defended the concept of the top five. It is an integral part of the merit system. There is a misapprehension among some that the top five is limited to five individuals. In fact, all of those whose score equals that of the fifth person on the list are included in the group. The majority of appointments made in state service are, in fact, made from the top five eligibles, so there is less tampering with the system than testimony may have indicated.

Mr. Kareen added that the majority of job classes do not require written testing. There are 147 state tests of which only seven or eight have been validated. Validating tests has been slow because the process is time consuming and there are only two staff members available to do the work.

The question of whether a pass/fail system would increase possible political abuses in hiring decisions was raised. Ms. McCurry warned that the system might lead to no control and utter chaos. There will always be some instances in which who you know will be instrumental in obtaining employment. Just because there are laws against such preferential hiring does not mean that violations are not going to occur.

Mr. Humphreys pointed out that while it would be much more difficult to justify not hiring within the certified group if

a pass/fail system were implemented, there would be fewer controls and less opportunity to review and regulate who was selected from that group.

VOTE: A vote was taken. Four were in favor, and four opposed. The motion failed.

MOTION: Niel Thomas moved that the subcommittee recommend to the commission that some alternative be adopted which would broaden the rule of the top five. There was brief discussion.

VOTE: A vote was taken. The motion passed unanimously.

Discussion followed on alternative systems. Mr. Flavin suggested that the sumbcommittee consider the structure used by the court system. Applicants are evaluated and placed in one of three categories: outstanding, acceptable or unacceptable.

In answer to Mr. Spray's question of what's wrong with hiring the first person on the list, and if that person is found unacceptable, then requiring that the second person be hired, and so on, Mr. Kareen explained that the broad classifications used for many classes prohibit that sort of system. For example, if the state wants to hire a medical examiner, it is probably looking not just for someone qualified to be a medical examiner, but someone with a specialty in a particular field and background in the same. That person best qualified might well appear below the top five on the list of those qualified to be medical examiners.

Mr. Thomas added that becaused the selection devices are inaccurate, the best person on the list might actually appear at number 16 instead of number one.

Mr. Flavin reviewed the types of evaluation systems which Ken Humphreys enumerated in his memorandum. The rule of the whole list was rejected by previous action of the subcommittee. The rule of __ number is the present system, and has been found wanting. The other two alternatives presented are zone or category scoring, and block scoring. Mr. Humphreys explained that zone scoring occurs when a list is created from the ranked applications and then divided into zones. All those within a zone are then treated as having performed equally on the evaluation device. Block scoring, on the other hand, is a system in which blocks of scores are pre-established without regard to the new list, but based on prior experience with the performance of previous applicants. The new applicants are evaluated and placed in one of the groups or blocks based on the raw score they receive.

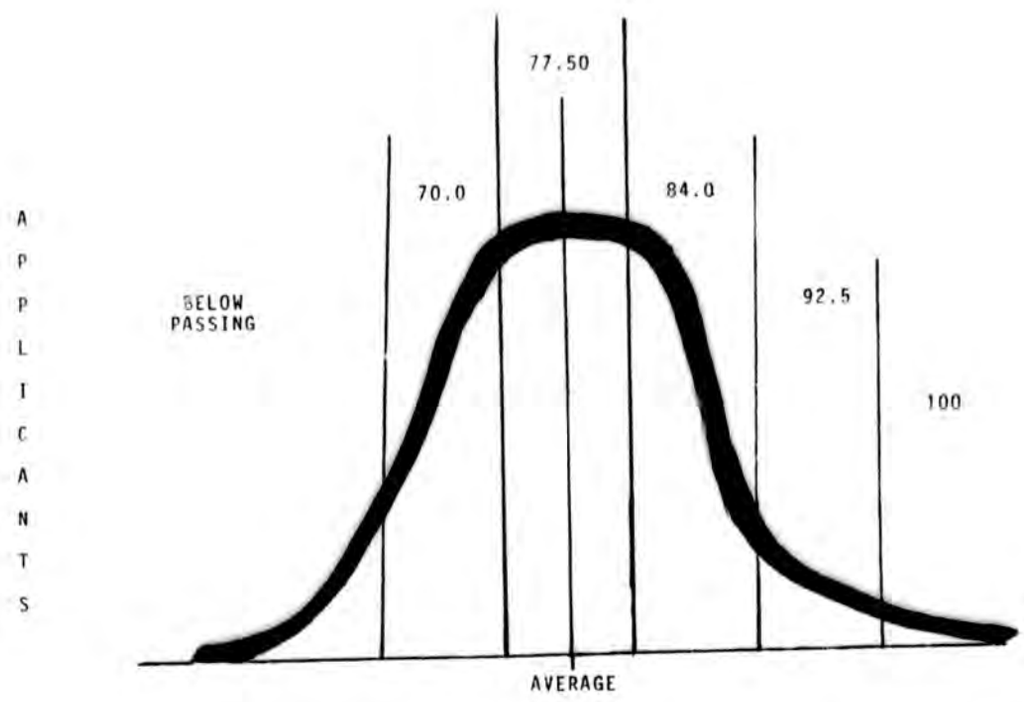
All those within a particular block are treated thereafter as having secured identical scores.

Mr. Murphy reminded the committee that the lists which the state uses are not solely ranked in order of performance, but include preference points for prior state service, for previous service in the military, and for being a resident of the state.

Mr. Kareen explained the system which the state now uses in evaluating applicants for those classes in which it has sufficient experience in testing to be able to establish averages. Once the average is established, general score ranges are determined. All applicants who fall within that range receive the same score on the register. If there are six who fall within the top range, they are all consider number one, and their names all appear as such on the register. The next name on the register would be number 7, and all of those who appeared within the second range of scores would appear as number 7. This system can be represented here graphically.

DIVISION OF PERSONNEL

Method of Assigning Scores for Certification



The bell-shaped curve represents the number of applicants who achieve a particular score on their evaluation of experience, training and any written test given. The numbers above the line represent, in the example, the converted scores given to all applicants whose score falls within the range indicated. Those who recieve an average score, for example, receive 77.50 points. The average for that particular class may have been 80 or it may have been 60, but all who tested as average will be credited with 77.50 points.

MOTION: Frank Flavin moved that the commission recommend to the Department of Administration that they move away from a rule of five system towards a system of block scoring. He indicated that his motion intended to leave the question of the number of blocks to the discretion of the department.

VOTE: A vote was taken. The motion pass unanimously.

Mr. Fisher adjourned the meeting.

IN ATTENDANCE

Don Fisher
Ken Humphreys (for Myrt Charney)
Frank Flavin
Pat Hunt
Lynda McCurry
John Pugh
Niel Thomas
Ken Spray

OTHERS IN ATTENDANCE

Darlene Howard
Ken Kareen
Bob Mourant
Pat Murphy

CLASSIFICATION, CERTIFICATION & RECRUITMENT SUBCOMMITTEE
Work Session Summary, February 5, 1979

Don Fisher chaired the work session in the absence of Senator Ray.

ISSUES DISCUSSED (See Issue Summary, dated January 21, 1979)

1. Centralization or decentralization of Personnel Administration.

There was general discussion on this topic and of the questions raised in the issue summary. Some of the points mentioned follow:

Collective bargaining has acted as a centralizing force in personnel matters. Where disputes arise, the grievance procedure which, in step IV, results in a decision by the Commissioner on the question, creates uniformity of application for all members of that bargaining unit.

Decentralization would further diversify the state's personnel practices. The state must be concerned with providing fair and consistent treatment for all of its employees. Decentralization increases the likelihood of abuse by departmental staff. Increased auditing would be required of the Division of Personnel. Decentralization may also require an increase in departmental personnel staff and therefore be more expensive. A decentralized system could result in a more cumbersome application process if each department maintained its own application files.

In a centralized system, there will be fewer checks on the authority of the head of that system. The Division of Personnel and Labor Relations has unclear authority to set uniform policies in some areas of personnel procedure which has been delegated to departments, leading to a diversity of practices among the departments.

Some of the problems which have been identified in the personnel system (for example, the time required to evaluate applications) result from inadequate staffing and budget within the Division of Personnel. Providing increased funding to the Division would resolve a number of these.

It is possible to decentralize the authority to perform certain tasks while leaving the policy setting and interpretation role in a centralized agency.

The question of whether to centralize or to decentralize

should be resolved after the Commission makes its decisions on what kind of system it wishes to recommend. For example, if the Commission recommends that the state adopt a broad-band classification system and a Department of Employee Relations, then those decisions would lean towards a centralized system. The Commission needs to recognize in its debate that parts of the personnel system are people oriented (examination and application processes) and that parts are management oriented (classification and pay).

The Commission should analyze personnel functions and ask for each whether the present vehicle works well or whether changes are needed. If changes are indicated, is the problem a result of understaffing or do the methods need to be stream-lined or the priorities re-defined?

Departmental Personnel Officers. Whether the system is centralized or decentralized, there will still have to be departmental personnel officers, either employed by the department or by the central agency. The kinds of tasks they do and the skills they need will depend upon the decisions the Commission reaches on the question of centralization or decentralization.

At present, personnel officers can be caught in a battle between the departmental commissioners, who may want to do something in conflict with the rules, and the Director of the Division of Personnel and Labor Relations. A centralized system, with personnel officers as employees of the Division, would require the commissioners to argue directly with the Director instead of placing the personnel officer in the middle.

Wherever the personnel officers are employed, they will still be subject to two sources of authority, and between those two will still be an undefined area, the limits of which will have to be resolved in a case-by-case manner.

The question of who should employ departmental personnel officers deserves a full subcommittee hearing to which each of the personnel officers of the departments should be invited.

Department of Employee Relations. There was general agreement that the subcommittee should recommend the creation of a new Department of Employee Relations for Commission consideration. Some of the points raised in discussion follow:

The Commissioner of the new department should be required by statute to have labor relations experience, either in the public or private sector. The Commissioners of Administration of the state have not understood the intricacies of labor relation prior to assuming their posts, which required that there

be a time spent in gaining the necessary background.

Functions of the new department:

1. Labor Relations
2. Personnel
3. Benefits - The negotiation of benefits would be part of the labor relations functions of the new department. The running of the Public Employees Retirement System would remain the responsibility of the Department of Administration, as would the details of the Blue Cross-Blue Shield contract and the record keeping for credit under the retirement programs of the state.
4. Safety and training programs - See discussion in the Merit System/Collective Bargaining issue summary.
5. Equal Employment Opportunity. The subcommittee suggested that the new department would be a logical place to house the state's EEO office.

The Human Rights Commission has adopted a position that wherever the state EEO office is located, it should receive the prestige, support, budget and technical advisors it needs to be effective. It has been recommended that the office be located in the Office of the Governor. Given the increased status that a Department of Employee Relations would have when compared to a division within the Department of Administration, the Human Rights Commission might be receptive to the placement of the EEO office within the new department, provided that its importance and effectiveness were recognized and maintained.

The Department of Administration would be left with the following divisions: Data Processing, Finance, General Services and Supply, Pioneer's Benefits, Retirement and Benefits, and Internal Audit.

Ken Kareen doubted that there is any other state where government employment has as great an impact on the state's economy as is the case in Alaska, and where the state is as deeply involved in collective bargaining. What rank should the person in charge of these functions hold in state government?

Cost of the new department. The existing staff of the Division of Personnel and Labor Relations would be transferred, as would the staff of the EEO office, should that office be placed within the new department. A commissioner's salary would have to be added to the budget.

When the Department of Transportation and Public Facilities was created, there was a zero increase fiscal note acompanying the legislation.

It is possible that ultimately, the state would save money by creating the new department, since the increased authority and access to the Governor by the Commissioner of the department would result in a more consistent application of the terms of the collective bargaining agreements and lead to fewer arbitrations.

Some federal programs in which the state participates identify a portion of the funding to be used for administrative services. The state's practice is to charge the department for support services provided by the Department of Administration but to place those portions of the federal funds into the general fund rather than to transfer them directly to the Department of Administration.

Ken Humphreys was requested to review statutes of other states (such as Hawaii and Pennsylvania, as well as Wisconsin) when drafting the statutes for the Department of Employee Relations.

2. Audits of the personnel system. There was general agreement that annual audits of the system would be useful. Discussion revolved around who should perform the audit, what the scope should be, and to whom the auditor should report.

Scope

1. Audit against the goals adopted by the Division of Personnel and Labor Relations.

2. The Blue Ribbon Commission should set goals of the audit, identifying different functions for different audits.

3. The Blue Ribbon Commission should set the scope for review of its recommendations so that there would be identification of problems or non-compliance with its proposals.

4. Audit according to the standards established in the Personnel Rules and the labor contracts.

By Whom

1. Legislative Audit - There would need to be guidelines for the audit clearly stated so that Legislative Audit would know the intent of the audit.

2. Internal audit office within the department.

3. An outside CPA firm.

Report to Whom

1. The legislature.

2. A special committee of the legislature, for example, composed of the commissioner from another department and the chairperson of the State Affairs Committee. This committee should have the authority to define the annual audit as they felt necessary and to delegate audit responsibilities accordingly. They should have an adequate budget for this purpose.

There was general concern that the audit be non-political and be performed against standards that were valid for the conditions in Alaska. The scope should be defined to make the topic manageable and useful. As the Commission adopts recommendations, it should consider defining the results it expects so that these would be the basis for future audits.

The subcommittee decided to hold the questions of the audit until the Commission has decided what it wishes to recommend on other topics. It was generally agreed that some provision should be made for audits to evaluate the effectiveness of the Commission's recommendations and the effectiveness of the personnel system as a whole.

Committee consideration of EEO matters. The subcommittee will invite Karen Cory, the Director of the state's EEO office, to join in discussions when it is ready to consider the state hiring practices in detail. Her comments will be most useful and important in that context.

Word processing centers. The subcommittee will also arrange for a later meeting with John Mitchell, Coordinator of Word Processing, on the question of the word processing centers and the selection of supervisors for those centers.

WORK SESSION SUMMARY
CERTIFICATION, CLASSIFICATION & RECRUITMENT SUBCOMMITTEE
Anchorage, January 26, 1979

1. There was discussion on the decentralization of responsibilities for unique job classifications to departments.

a) Staff was instructed to arrange a "walk through" showing the process for classifying a position in a chosen department, Division of Personnel and Budget and Management.

2. Three subcommittee members, Ken Humphreys, Lynda McCurry and John Pugh, will examine the Department of Labor's Standard Operating Procedures Manual and advise the subcommittee on how that department has interpreted Personnel Rules.

3. Staff was instructed to find out how difficult it would be to identify unique job classes within departments.

4. The subcommittee proposed (not by formal motion) that the Commission should recommend that topics covered by Personnel Rules be negotiable through the collective bargaining process.

The subcommittee work session was chaired by Don Fisher.

BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT
Certification, Classification & Recruitment
Subcommittee Meeting
North Star Public Library
December 13, 1978

MINUTES

The Certification, Classification and Recruitment Subcommittee was called to order by Representative Buchholdt, in the absence of Senator Ray, Chairman.

PUBLIC TESTIMONY

Will Conwell, a Mining Engineer with the Department of Natural Resources, spoke of several state practices which he finds objectionable. The first items he brought to the committee's attention were the inequities in the hiring system and the mismanagement within individual departments rather than in the Division of Personnel. Specifically, he mentioned the lack of equal pay for equal work for similar job classifications and misuse of temporary hires. The guidelines set by the Governor are not being followed by departmental management.

Mr. Conwell gave examples of similar positions with quite broad salary range differences. Studies of these positions had been done by departmental employees, comparing them to similar positions in private industry. The findings confirmed that the jobs were similar and salary ranges should have been equal. After submitting the study to the commissioner of the department, Mr. Conwell was told that it would have to be disregarded because it should have been conducted by the Division of Personnel. The matter was taken to Ed Styer, and employee of the Division, for a desk audit. The results were never made available, nor were the recommendations on classifications. The P402's for the department had not been done since 1971.

Mr. Conwell also described an experience he had in applying for a promotion to a new position. After receiving a very high rating when tested by the Division of Personnel, he received no further indication of an opening being available. Mr. Conwell felt that he was overlooked, probably because of misues of the register, and someone else filled the position.

Other examples Mr. Conwell presented in regard to temporary employment were of up-grading or down-grading positions to appoint favored applicants, misuse of evaluation forms and the hiring of temporaries who lack minimum qualifications. He believes that there are sufficient names on the registers to hire permanent employees. The temporaries being hired stay in the positions long enough to enable them to gain minimum qualifications, and thus be hired in permanent status.

Niel Thomas stated that there is a tendency within the state to place newly created classes of positions at higher salary ranges than similar long-standing positions. This has resulted in the large number of similar classifications at different pay ranges.

Kathy Carr-Lundfelt, Assistant Director of the Human Rights Commission for the Northern Region, testified that the northern region and rural communities are neglected by the state personnel system. Employee concerns about terms of employment are constantly delayed because they have to be answered by Juneau or Anchorage. The staffing of the Personnel Department in Fairbanks is inadequate, being limited to two employees. For this reason, recruitment is insufficient, especially in the case of minorities and Alaskan natives. Program managers are not trained in recruitment, and registers do not contain people interested in working in rural areas. When the top five or ten names on the register are not available, program managers become frustrated and hire temporaries as an alternative.

One particular problem Ms. Carr-Lundfelt encountered was in organizing a Better Writing Workshop, a program given by the Division of Personnel. For a period of 18 months, she constantly arranged for classes which were then cancelled by the instructor. The delay was due to the instructor's having to be flown out of Juneau. Ms. Carr-Lundfelt suggested that the Division of Personnel should station instructional staff in Fairbanks or should contract with firms there to provide resources to state employees.

Also not to be overlooked are the range classification problems, Ms. Carr-Lundfelt asserted. "Secretaries" are made available only to supervisors at the Director level or above. Others below that level are allowed to hire only clerk typists even though the responsibilities may be equal to those of a secretary. The Division of Personnel has three secretarial classifications: Secretary I, II and III. Directors are allowed to have Secretary I's, Deputy Commissioners can hire Secretary II's and Commissioners are assigned Secretary III's. Ms. Carr-Lundfelt has had to hire temporaries in the clerical class to maintain office functions. Clerical employees are reluctant to fill permanent positions in clerk classifications when their actual duties are secretarial in nature. Ms. Carr-Lundfelt's classification and salary range were established a long while ago, and Division of Personnel is reluctant to reclassify. There appears to be more control over classifying new positions than reclassifying old.

Ms. Carr-Lundfelt pointed out the discrepancies between requirements for entry level clerical positions, where a high

school degree is required, and entry level draftsman positions, where only a year of experience is required. Despite the greater educational requirement for clerical positions, draftsman positions are classified at higher salary ranges. Minimum qualifications don't accurately reflect skills necessary for the job. Artificial minimum qualifications discourage both women and minorities.

Ms. Carr-Lundfelt expressed the belief that the unions are as responsible as the Division of Personnel in taking action on these matters. Career ladders are not available to many individuals and across-the-board percentage increases in salary provide less compensation for clerical employees than for employees in different classifications at higher salary ranges. Ms. Carr-Lundfelt suggests cost-of-living increases be concentrated at lower salary ranges to compensate for this effect.

Ron Galbraith, a former Assistant Professor of English with the University of Alaska, commented on the register system. He has been seeking state employment since last summer and is on 15 registers. After being placed on the registers, he followed instructions by keeping in touch with the Personnel Department. When a program manager is filling a position, only one call is made to an applicant. If the individual is not reached at that time, no further effort is made to contact him or her.

Lynda McCurry asked whether Mr. Galbraith had ever been contacted as a result of being on a register. Mr. Galbraith answered that only once within the last few months had he been contacted, and that was a call to ask whether he wished to remain on the register.

David Giles, a Field Representative of APEA, brought to the committee's attention four distinct problems that he feels should be addressed. He sees these problems as typical within the state's recruitment, examination and hiring processes.

1) Temporary Hire. Program managers have a tendency to hire temporary employees over permanent employees and use the temporary period as an addition to the probationary period required. During their temporary employment, these individuals are encouraged to get on registers so that they may be hired and placed in the permanent position.

2) Notification of Job Openings. Individuals listed on registers are supposed to be notified of openings. Mr. Giles gave an example of one individual who was removed from a register because he had not replied to a notification of a position open in his classification. In actuality, the notification was never sent. The department claimed to have sent an RCA night

but RCA indicated that no letters had been sent on the date specified.

3) Bush Positions. Within the Department of Community and Regional Affairs, individuals applying for "bush" positions are submitting applications and being interviewed, but no action is being taken in hiring. The registers are being requested repeatedly. The people interviewed from the first register were not notified that a second register had been requested. The department indicated that the position requires someone with experience in the bush, and that therefore, they were unable to hire from the first register. However, not only did one of the applicants on the first register have bush experience, but Mr. Giles also does not believe there could be any need for bush experience in these positions.

4) Applying for New Positions. One person tried to apply for a particular position for a period of two years, submitting applications to Juneau every three months. He was continually informed that they were lost. The application was finally sent by registered mail, and the individual was informed that there would be a delay in processing the application because of an overload in paperwork. Mr. Giles believes this is a typical problem experienced in the Fairbanks region.

Niel Thomas asked Mr. Giles whether he was familiar with the personnel rule of justifying hire of an applicant below the top five on the register in unique and unusual circumstances. He replied that he was not familiar with any department having used that practice in Fairbanks.

George Morrisson, a Personnel Assistant with the Department of Health and Social Services, asked that the commission not recommend tightening of rules so much that he and other supervisors cannot accomplish their duties. He has experienced many difficulties in finding qualified individuals for positions both in Fairbanks and the bush areas. Many applicants desire to relocate out of Fairbanks to Anchorage or Juneau. Many times after working an entire register, Mr. Morrisson has been unable to find an applicant qualified for a permanent position and willing to work in the bush. The only alternative left to him is to hire temporaries who may not meet minimum qualifications but who can do the job. These temporaries often cannot pass the examinations to be placed on registers, because the examinations do not test for the skills needed.

Niel Thomas inquired about the recruiting practices in the Health and Social Services Personnel Office. Mr. Morrisson indicated that he is the only personnel employee in Fairbanks. In an aside, he indicated that has salary range problems also. Because his position is classified by the number of employees

dealt with, he stated that he is at a lower salary range than he should be. Mr. Thomas also asked if Mr. Morrisson was instructed to actively recruit because of the lack of applicants. Recuritment is handled by the personnel office in Juneau. Only after discovering people are not available on registers is he instructed to recruit applicants.

Representative Buchholdt questioned whether testing administered orally would be a possible solution to written tests that must be processed through Juneau. Mr. Morrisson replied that it would be difficult to administer the tests in certain areas, because there would be a problem in finding qualified people to give the tests.

Ms. Lucille Owen, a Supervisor in the Unemployment Insurance Section of the Department of Labor, testified regarding the problems in using the register in hiring permanent employees. She has a total of 21 employees in her office. Ms. Owen once sent out 49 telegrams to applicants on a register, receiving replies from only a very few. Many were already working and did not want the position, but wished to remain on the register in case a better opportunity became available. The entire process took ten days. Ms. Owen would like to see applicants removed from the register if they are holding equivalent classifactions or above. She stated that names are not being removed from the register when applicants are hired.

Niel Thomas asked when she would be permitted by Personnel to request removal of a name from a register. Ms. Owen circles "failure to respond" on the register after unsuccessful attempts to reach applicants. Lynda McCurry stated that that should be sufficient reason for a name to be removed from the register, but it is not unusual for a name to be sent out a number of times when a department requests registers for the same classification for several vacancies.

Pat Hunt explained that updating the data base within the Division of Personnel is secondary to other functions such as recruitment, certification and payroll. Eligible lists are certified for 60 days, and before one is returned, others may be sent out.

Another complaint Ms. Owen presented to the committee was that Division of Personnel no longer tests applicants for proficiency in typing and shorthand. She has had to give her own tests to applicants, and they have not met the requirements for the job classifications despite their claims on applications. Ms. Owen suggested that applicants be investigated more thoroughly by Personnel, both by experience and testing.

In hiring temporaries, Ms. Owen would like to have some means of changing the classifications to permanent once the temporary has been trained. Lynda McCurry asked how many permanent seasonal classifications were authorized within the department. Ms. Owen replied there are 18, and an additional five or six would be needed for peak workload periods if the department were to avoid hiring temporaries.

Ms. Owen also expounded on the incomplete information supplied on bulletins describing positions. They do not accurately reflect the type of work experience needed, nor the duties to be performed. She must rely on the registers when hiring, and only recruits when seeking temporaries.

Niel Thomas asked what the percentage for minority hire was within the department. Ms. Owen replied approximately 20% of her employees are minorities who have been hired from a register.

Darlene Howard asked if there is sufficient interest in the Fairbanks region to fill seasonal positions. Ms. Owen replied that because of the availability of temporaries, she assumes that seasonal positions would also be filled. The lay-off time would be in summer, which is considered a desirable time to be out of work. Ms. Howard asked if seasonal position programs were generally understood by the public. Ms. Owen answered affirmatively. Ms. Howard also asked if a cost model report on productivity based on volume versus staffing had been done. Ms. Owen replied that she can anticipate yearly lay-offs, and in the past, the attrition of temporaries handled the necessary decrease in staff.

Ms. Owen also pointed out that security checks are not made by the Division of Personnel, although she thought it a necessity when the employee would be handling cash flow. Shiela Gottehrer asked whether she meant more than verification of references. Ms. Owen answered that a total security check of an applicant's background would not be difficult. Representative Buchholdt asked for statistics on how many people were found to create problems which could have been avoided by security checks. Ms. Owen responded that there have been only a very few; only three cases where an employee was dishonest. In one instance this resulted in termination of an employee. She felt very uncomfortable with the situation and had to be very careful in handling it. Ms. Owen also stated that nonperformance had never been a problem in her office.

Bob Mourant questioned her procedures in checking backgrounds: Is the employee given a chance for rebuttal? Ms. Owen answered that she had been successful in contacting former employers either by phone or correspondence to determine and employee's past performance. Pat Hunt stated that the

the Division of Personnel does not require a security check, except when the position requires that the employee be bondable.

Mr. Leo Winegar, a resident of Fairbanks for three years, presented testimony on his dissatisfaction with the state's hiring procedures. Since his arrival in the state, Mr. Winegar has put in many applications for positions he qualifies for. He is on nine or ten registers and holds a B.A. and a Master degree in Business Administration and Economics. He also has one year of study towards a Ph.D. On many of the registers, he is listed number one. Mr. Winegar has been notified only once of an opening. A number of the positions he had been registered for have been abolished over the past three years, leaving him discouraged by the system.

IN ATTENDENCE

Representative Thelma Buchholdt
Pat Hunt
Lynda McCurry
Ken Spray
Niel Thomas
Shiela Gottehrer (for Frank Flavin)
Ken Humphreys (for Myrt Charney)
Bob Mourant (for John Pugh)
Darlene Howard (for Pat Murphy)

BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT
CERTIFICATION, CLASSIFICATION & RECRUITMENT SUBCOMMITTEE
December 1, 1978

The meeting was called to order by Don Fisher. Public testimony was invited. A summary of the testimony follows.

PUBLIC TESTIMONY

1. Personnel Systems in Private Industry

Upon the invitation of Niel Thomas, three personnel officers employed in private Alaskan industry presented their views on personnel functions and offered suggestions to resolve state problems.

Lee Valwalt, an Employee Relations Supervisor with the Alaska Gas & Service Company, attested to her belief in a centralized personnel department. However, she emphasized the absolute necessity of an operable communication system between individual department heads and personnel officers within the personnel department. Ms. Valwalt's company is relatively small, with 100 unionized employees (technically skilled) and 45 exempt employees (management and supervisory). The union contract applies to promotions, evaluations and merit increases. The company has three categories of employment: regular (full-time), part-time (20-30 hours weekly) and casual (limited duration of six months employment). After the six month period has ended, casual help has the option of being hired on a regular employee basis (depending on vacancies)or of being laid off.

All non-exempt employees are required to become members of the union within one month of their initial hire, in accordance with contract provisions. All benefits are available to regular employees; part-time employee benefits are pro-rated. Casual help is not eligible for benefits.

Employees do receive annual increases and are subject to annual reviews. A committee of department heads evaluates the company employees in conjuction with personnel officers and decides on promotions and merit increases. Contract interpretations support a centralized control for promotions and merit reviews.

The union can request that a group of jobs/positions be reclassified. It is not clear whether a failure of the company to reclassify as requested is a grievable issue. In practice, the company consults with the union shop steward before initiating a reclassification on its own. To date, the union has been satisfied with the grade system, so the issue has not been raised.

Notice of vacant positions is posted on a bulletin board for 72 hours to give employees the opportunity to apply for promotions or transfers. If no employees are interested in the vacancy, then the personnel officer looks through the applicant files. Applications are retained for a period of two years grouped

by skill level without numerical rank designations, which is similar to the register concept. If the files do not produce a qualified applicant, the company recruits from outside sources such as referrals and employment agencies.

The personnel office interviews all applicants for a position and eliminates those who fail to meet the minimum requirements. All qualifying applications are submitted to the department head, who conducts his or her own interview. The personnel officer and the department head discuss the candidates prior to the department head's decision to hire an applicant. There are no written tests for applicants--they are evaluated through a personalized interviewing system which has apparently been effective for Alaska Gas & Electric Company.

The authority to hire, fire, evaluate and promote employees is coordinated between the personnel officers and the department heads. A department cannot create, reclassify or abolish a position without personnel's consent. The decision-making process is a combined effort, where both must be aware of all activities.

Dave Eubanks, a Personnel Director with an oil and gas production and exploration company which has corporate offices in Ohio, expressed his belief that a non-structured personnel system is a major contributing factor to employee motivation. In private industry, employee productivity directly relates to the company's profit. Thus, incentives such as merit increases and promotion have an effect upon the overall budget. It is important to have ample ways and means of evaluating and providing incentives. Ms. Valwalt also mentioned that a certain percentage of her company's budget would be allocated for merit increases after discussion with department heads.

Jerry Thorn, the third witness, concurred with the other's opinions. He also added that as a Personnel Director with the Cargosteen Company (approximately 300 employees throughout Alaska), he interfaces with many established unions from time to time. His bargaining thrust is to maintain management prerogatives to retain control over operation of the business.

Mr. Thorn does not have job descriptions for every job, but does have them for management positions. The issue on classification of positions is grievable, and he checks with unions prior to classification of new positions. Standards used for determining qualifications for positions are accomplished through job analysis and qualitative evaluation. Promotions are based on proven performance and merit increases are considered upon request. The company gives a cost-of-living increase every six months and fringe benefits are taken into consideration.

2. State Employees

Mr. Albert Carson, Deputy Director of the Division of Lands, Department of Natural Resources, had four major areas of concern:

1) Class specification categories are too broad in definitions of minimum qualifications. Because of this, applicants on registers do not possess the skills necessary for positions open to them. Departments use preferential recruitment methods to avoid the process of eliminating these unsatisfactory applicants. 2) Pay levels are inconsistent for comparable positions. 3) Division of Personnel's evaluations and point systems are inaccurate in measuring experience, skills and qualifications. Professional skills are often not recognized and may be misjudged. 4) The forms used for analysis do not identify areas of expertise.

Carmen Price an employee with the Department of Transportation, testified that the performance of duties above an assigned job classification is not credited to the employee. Supervisors have the ability to document the functions being performed by an employee in order for the employee to be given credit for this experience when applying for promotions or increases. Apparently, it is not common for supervisors to verify an increase of duties and responsibilities being handled by an employee. In many cases, this is because of personality clashes and extensive amounts of time and paperwork involved.

Jo Fenety, a Leasing Officer with the Department of Transportation, had a few additional comments: Applications phrased in personnel language receive higher evaluations than applications not using those terms. She believes that the Division of Personnel presently appears to employees as a regulatory body and that it should increase its emphasis on the provision of services.

Irene Price, Right-of-Way Assistant with the Department of Transportation, agreed with prior testimony regarding the lack of interaction between departments and Division of Personnel. One problem not previously brought to the Committee's attention is the unwillingness of supervisors to fire unsatisfactory employees. There is a tendency to pass these employees from department to department, causing frustration for both the employee and the departments in addition to hindering departmental performance.

Cecilia Kleinhoff, a Social Worker with the state, offered additional testimony to the problems within Division of Personnel. She opposed the substitution of experience for accredited degrees, especially in regard to Social Workers. She feels that generalizing qualifications in that instance is objectionable and that testing is not adequate to determine professional skills.

3. Flex Time

Ms. Kleinhoff also suggested that flex time and job sharing were two methods of providing better service to the state. Darlene Howard stated that some departments are using a flex-time system and that each program manager can decide whether to allow the employees to shift their work hours. Ms. Howard also suggested that the Commission research the response to flex time and study the pros and cons of operations in other states. Senator Ray

pointed out that the convenience of having offices open during lunch time and after hours would be of benefit to the public.

IN ATTENDENCE

Senator Bill Ray
Donald Fisher
Representative Richard Eliason
Darlene Howard (for Pat Murphy)
Ken Humphreys (for Myrt Charney)
Ken Kareen (for Pat Hunt)
Lynda McCurry
Greg O'Claray
John Pugh
Ken Spray
Niel Thomas
Representative Thelma Buchholdt

MINUTES

CLASSIFICATION, CERTIFICATION & RECRUITMENT SUBCOMMITTEE HEARING

November 15, 1978

The Subcommittee on Classification, Certification & Recruitment met at 1:30 p.m. on Wednesday, November 15, 1978. Chairman Bill Ray opened the meeting to public testimony.

CENTRALIZED PERSONNEL OFFICERS

Fred Cook, a member of the Confidential Employees Association, spoke on behalf of the Association. A poll of its membership showed that the personnel officers of the state believe that the personnel functions of the state should not all be placed in the Division of Personnel. Reasons given were that the Division of Personnel regulates rather than provides services and that personnel officers employed directly by the Division of Personnel would be seen by the departments in which they worked as outsiders, owing no loyalty to the department. They would therefore be less effective in working with the departmental planning process and meeting departmental staffing needs.

Lynda McCurry spoke of her experience as a personnel officer employed by the Division of Personnel and placed in a department from 1973 to 1975. She found that there was considerable friction between the commissioner of her department and the Director of Personnel about her role. Others in her department looked upon her as an outsider, and the expectations about her duties were unclear. The stormy relationship between her department and personnel, partly caused by personality problems, led to an extensive contract being written about her position.

Under the existing system, personnel officers should be placed directly under the head of the agency in which they are working, so that they have the base of authority to operate effectively. The relationship between Personnel and personnel officers needs to be changed.

Senator Ray asked Mr. Kareen for the Division's problems with the decentralization of personnel officers. The problem is in having a personnel officer provide adequate information to the Division for the action which needs to be taken. Although the Division tries to rely on personnel officers, sometimes they have to meet with program managers to get accurate information. If the information is inadequate or incorrect, then the personnel analyst may have to return the forms to the department in question to be redone, causing considerable delay. In response to a question of whether the Division of Personnel entered into the departmental grievance collective bargaining process, Ms. McCurry's answer was negative. They had overturned an agreement which she had negotiated, however.

TEMPORARY HIRING

Mr. Kareen explained that each department has the authority to establish job qualifications and to hire whomever they wish, provided

that the employee meets the minimum qualifications for that job class, and that Alaska hire laws are complied with. Division of Personnel audits a certain number of the temporary positions after the department has acted to ensure compliance.

CLASSIFICATION

Ms. McCurry told the committee that at present the final decision on the classification of a particular position is made by the Division of Personnel. Normally, the Division can process the papers to create a new position within two days after receiving them from the department. The classification is made by a personnel analyst after reviewing the department's recommendations. She suggested that decisions about classification of unique job classes and recruitment for open positions within them become the responsibilities of the department concerned. All decisions should be made in full compliance with the merit principles of the state. General job classes should remain the responsibility of Personnel.

The commissioner of a department has the authority to abolish a particular job within the department and contract out the work, without review by the Division of Personnel. Should the commissioner decide to increase the salary range of an employee of the department, then the Division of Personnel has and should retain a reviewing and controlling role.

The Division of Personnel puts first priority on the classification of new positions, and second on reclassifications of existing jobs. Last upon their list is the updating of duties on existing jobs. All departments should review the requirements of each job every two or three years to determine whether the position should be reclassified because the duties have changed.

Frank Flavin told the committee that the Ombudsman's office has found two major problem areas: isolated instances of individual abuse which need attention, and frustration with the time consumed in going through the Division of Personnel which leads program managers to cut corners. In addition, the Division is so occupied with day to day functions, it is incapable of devoting time to its audit functions.

DELEGATION OF PERSONNEL FUNCTIONS TO DEPARTMENTS

Phyllis Woodman, Personnel Officer for the Department of Education, told the committee of the system her department uses. Staff from the department worked with the Division of Personnel to learn how to evaluate applications for the unique job classes within their department. Division of Personnel collects applications for those job classes and then sends them to the department. It takes a day or two for the department to evaluate, score and rank them. They are then returned to the Division of Personnel for inclusion on the eligibility register. New listings appear on the division's computer within five to seven days. Division of Personnel audits the department's work to ensure compliance with the merit system. Mr. Kareen pointed out that this system is available to other departments, should they choose to learn how to do it, but that Division of Personnel is responsible for insurance that the merit system principles are adhered to, and therefore that training is necessary.

Ken O'Donnell, Personnel Officer from the Department of Health & Social Services, told the committee that when Health & Social Services tried handling classification and certification for the 150 unique job classes, they found that they did not have the staff to properly handle the volume of paper and therefore they no longer use that system, except for a few laboratory and nursing assistant positions. Health & Social Services has a large number of employees and a high rate of turnover in some classes. The system used in the Department of Education would only work if the staffing in Health & Social Services was increased. The department has not had problems in making changes in its 150 unique job classes through the Division of Personnel.

Mr. O'Donnell stated that he believes that the job of personnel officer belongs within the departmental structure and that it is important for the personnel officer to have ready access to the commissioner of the department. Otherwise, too much pressure can be generated by program managers.

Roger Thayer, Personnel Officer with the Department of Transportation and Public Facilities, spoke. He indicated that Commissioner Harris of the Department of Transportation and Public Facilities favors the complete decentralization of personnel functions, with all decisions left to the individual department. Mr. Thayer, himself, favors decentralization of some personnel functions. The Department of Transportation and Public Facilities presently handles recruitment, examination and certification in more than 50 job classes which are unique to that department. Division of Personnel establishes minimum qualifications for those positions. If experience shows that the minimum qualifications either screen out all applicants by being too stringent, or fail to screen out applicants who lack the necessary skills, then the department asks the Division of Personnel to change the minimum qualifications, and the department regrades those applications in the job class. Some controls need to be kept on a department's use of redefinition of minimum qualifications to avoid abuse.

ELIGIBILITY LISTS

Ms. McCurry indicated that the major problem with the hiring process is the time it takes an applicant to get on the eligibility list. Mr. Kareen said that being put on a register can take from 10 days to 8 or 9 weeks. Evaluation of work experience and education takes longer than grading the tests given by the department, although time for notification of examinations adds to the time required for those positions tested.

The Ombudsman's office receives complaints that the eligibility lists sent to departments are irrelevant--either the list is too long to be useful or it lacks people with the qualifications to do the job.

Ms. McCurry said that the time that it takes a department to receive a list of eligibles is short, although in the case of clerical registers, the lists are usually out of date, due to failure of the people on the list to advise the Division of a change in address or status.

Mr. Thayer said that because the Division of Personnel lacks ade-

quate staff, there is little coordination between program managers and the Division on establishing criteria to analyze the app'ications for a particular position. That problem would be resolved by delegating responsibility for hiring in unique job classifications to the individual departments. Ms. McCurry added that even if the department did not become solely responsible for rating applicants, that when there is a difference between the department and the division about the rating for a particular candidate in a unique job class, the department should make the final decision.

Mr. Spray stated that if an applicant uses the "magic words" in detailing his past experience, the Division of Personnel will rate that applicant much higher than someone with the same experience who hasn't used those key words.

The Ombudsman's office receives complaints from people who have been in the top 5 on the register for some time and have never been considered for a position.

The Human Rights Commission has found that minority applicants for state jobs have been having difficulty in actually being hired. Minority applicants are frequently found in the middle of the register and therefore, departments who are required to hire from the top five do not have an opportunity to consider them for open positions.

Mr. Flavin asked whether there was a meaningful distinction between the top five and the top ninety-five on the common job class registers. Mr. Thayer indicated that for the most part, the distinction is artificial. Mr. Flavin suggested that the Division of Personnel should select those applicants who are generally qualified, without ranking, so that more time could be spent on other division functions. Mr. Kareen pointed out that where a particular job takes unique skills, the supervisor can select someone from below the top five, provided that a written justification is filed. For example, in data processing there are a number of different machines, languages and systems. If the top five on the register do not have a background in the particular system in use, the the supervisor can look lower on the list for someone who does. Mr. Thomas pointed out that this system can also be used to address affirmative action, where a department has been found to have a problem in that area.

Mr. Thayer related that the Department of Transportation and Public Facilities does not use this selective certification system, although it had been used in the past. There had been problems, and the practice was dropped. Most of the department's positions are filled through promotions rather than through hiring new people, so the limitation on considering the top five has not been a problem. People on the promotional list are not counted when the top five are indicated.

Mr. Flavin suggested that the Division of Personnel should audit the use of promotional lists for hiring to ensure compliance with the merit principles of the state.

There was discussion about the requirement that applicants take

the examinations for each level in a job class such as secretary or accountant. Mr. Kareen explained that one reason the state requires tests at each level is to provide a fair system for ranking candidates at lower level positions. Studies have shown that when switching to different levels, there is no consistent grouping of higher-level applicants. Further, lower levels in a job class may require more extensive technical knowledge, while the higher, supervisory level will require more managerial and supervisory skills. This is true, for example, with the positions of Accountant III and Accountant IV.

Many job applicants with the state expect to eventually be hired, once they have been placed on a register. They become upset when others, lower on the list, receive jobs before they do. Confusion may result from thinking of the register as a union-hall hiring list, although the Division of Personnel provides information explaining what being on the register means. In addition, a number of the higher level jobs within a class are filled by promotion, limiting those people who are considered and hired from the register.

RURAL RECRUITMENT AND HIRING

Representative Sally Smith addressed the committee from Fairbanks through the teleconferencing system. She pointed out that, at the regional level, the state personnel system functions even less quickly than in Juneau. Some personnel actions are routed through Anchorage offices before reaching Juneau for a decision. Job specifications may not reflect the skills needed to do the work in the regional office and therefore, the list of eligibles provided will be inappropriate.

For filling positions in the bush areas, the minimum qualifications become a more severe problem. Frequently, the educational requirements in the minimum qualifications preclude hiring someone who could do the work lacking the formal education specified. More emphasis should be placed on knowledge of the immediate community and its needs, with less emphasis on education in writing specifications for rural jobs. Recruitment of candidates for particular jobs could be handled on a decentralized basis, provided the Division of Personnel maintained an active auditing role to guard against favoritism.

Rep. Smith also said that being removed from central departmental decision-making causes other problems. While she was working for the Department of Community and Regional Affairs, she tried to fire an unsatisfactory employee. She was required by the department to schedule an interview between the employee and the department's personnel officer. The personnel officer did not come to Fairbanks until after the employee's probationary period had ended.

ALASKA PUBLIC SERVICE EMPLOYEES HIRING

The APSE contract with the state affects the procedures for hiring their members. When there is a vacancy, the union is notified of the position and the skills required. They search their membership list and then send over the next person on their list who is qualified for

that particular job. If the department does not hire that person, then they send over a second and so on. The union is required to abide by the Department of Labor's policy of Alaska hire and of local hire.

EFFECT OF FEDERAL REQUIREMENTS

Federal regulations governing how states must hire for programs which are funded in part by federal money limit the options which Alaska can consider without losing that source of money. Originally, Alaska used a Rule of Three when hiring for a position. That proved too restrictive, and the state tried a system in which applicants were tested and ranked without limit to the numbers provided to the department. Then the U.S. Civil Service Commission stated that such a system was not consistent with the merit system required for hiring with federal monies and therefore, the state adopted a Rule of Five, with modifications permited through selective certification for unique requirements of a particular position. The state must conform to federal regulations on hiring in any program which receives federal money for its operation. The federal regulations have recently been changed.

Don Fisher moved that the committee request an Attorney General's opinion on the definition of "merit system" and the conflicts that arise from various federal regulations. The motion was adopted without objection. An opinion will also be obtained from the Legislative Affairs Agency.

IN ATTENDANCE

Senator Bill Ray, Chairperson
Don Fisher, Vice Chairperson
Myrt Charney
Lynda McCurry
Ken Kareen (for Pat Hunt)
Ken Spray
Representative Dick Eliason
John Pugh
Bob Mourant (Alternate for John Pugh)
Frank Flavin
Niel Thomas

ABSENT

Representative Thelma Buchholdt

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

02-519 (REV 8/78)

SCOMM

#51:6

Sen Ray

wo#6643
Humphreys

IN THE LEGISLATURE OF THE STATE OF ALASKA

LEVENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the state merit system and collective bargaining; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. INTENT. The legislature intends that all collective bargaining agreements negotiated under AS 23.40 for positions in the classified and partially exempt service are to establish a merit system for the employees covered by the agreement. The merit system must be based on merit principles so that the persons best qualified to perform for the state will be employed and so that an effective career service will be encouraged, developed and maintained.

* Sec. 2. AS 39.25.090 is amended to read:

Sec. 39.25.090. COVERAGE OF CHAPTER. This chapter and the rules adopted under it apply to all positions <u>which are not covered under collective bargaining agreements and are</u> in (1) the classified service, and (2) the partially exempt service as specifically provided.

* Sec. 3. AS 39.25 is amended by adding a new section to read:

Sec. 39.25.095. MERIT SYSTEM UNDER COLLECTIVE BARGAINING CONTRACTS. (a) Collective bargaining agreements negotiated under AS 23.40 for positions in the classified and partially exempt service shall contain provisions establishing a merit system.

(b) If any provision of a collective bargaining agreement under (a) of this section does not comply with federal requirements and compliance is a condition on the receipt and expenditure of federal funds, the agreement shall immediately be renegotiated to meet the require-

Sen Ray

wo#6643
Humphreys

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - FIRST SESSION

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ments.

* Sec. 3. This Act takes effect July 1, 1979.

BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT
Pouch AG
Juneau, Alaska 99811
465-4442

TO: Blue Ribbon Commission Members

FROM: Teresa B. Cramer, Administrative Assistant

DATE: January 21, 1979

RE: Issues Summary, Merit System/Collective Bargaining Subcommittee

MERIT SYSTEM/COLLECTIVE BARGAINING

1. Structure of the Division of Personnel and Labor Relations. It has been suggested that the Division should be divided into two separate entities, a Division of Personnel and a Division of Labor Relations. A position of Director of Labor Relations was placed in the budget by the Free Conference Committee for fiscal year 1978 at the Governor's request. The new position was never filled, and it was deleted from the budget for fiscal year 1979.

The Division of Personnel is specifically created by statute as a division of the Department of Administration. AS39.25.030. There does not appear to be direct statutory authority for the creation of the labor relations division, but the principal executive officer of each department does have the authority, with the Governor's approval, to create divisions or other organizational units within the department. AS44.16.020 and PR2 04.4. The new Division of Labor Relations could be placed within the Department of Administration or within the Governor's office.

QUESTION: Does the Commission wish to recommend the creation of a separate Division of Labor Relations? If so, where should the division be placed?

2. Relationship of collective bargaining contract terms to statutes, Personnel Rules and departmental standard operating procedures. There is confusion about how contract terms conflicting with provisions in statutes and the personnel rules are to be interpreted. The State Personnel Act was written and adopted in 1960 and has not been comprehensively revised since the enactment of the Public Employees Relations Act in 1972.

It has been suggested that the Personnel Rules should apply only to non-union employees, and that the unions and the Division of Labor Relations be required by statute to bargain on all those topics covered by the personnel rules. The proposed statute should require that a contract, to be valid, be in conformance with the constitutional requirement that merit principles govern employment of persons by the state (Article

XII, Section 6) and should set out specific topics to be covered by the agreement.

QUESTIONS: 1. Does the Commission wish to recommend legislation to establish the priority of contract terms and conflicting statutes and Personnel Rules and to indicate whether unions can bargain on matters otherwise prohibited by statute? 2) Should the Personnel Rules apply to members of unions or associations covered by a collective bargaining agreement with the state or should all those matters addressed in the rules be required to be part of any collective bargaining agreement entered into by the state? 3) Does the Commission wish to recommend that the Personnel Rules be revised so that those matters which shoudl apply to all state employees, regardless of membership in a union or association, are clearly separated from those matters which apply only to non-unionized state employees?

3. Method of adopting the Personnel Rules and departmental standard operating procedures. By statute, AS39.25.140(c), the Personnel Rules are not required to be adopted in accordance with the Administrative Procedures Act because they are considered to relate to the internal management of state agencies. The statute requires that the Commissioner of Administration give notice of proposed rule changes by posting notices in public buildings throughout the state. The Personnel Board may, within 30 days, disapprove the suggested changes. If requested, the Personnel Board may hold public hearings on the amendments.

Dress codes and appearance standards adopted by departments for state employees are required to be in the form of a regulation subject to legislative review under the Administrative Procedure Act. AS39.26.015.

QUESTION. Does the Commission wish to recommend amendment of the statute to provide greater opportunity for public comment before Personnel Rules and Standard Operating Procedures are adopted?

4. Membership on the Alaska State Labor Relations Agency, the Personnel Board and the Retirement Board. Membership on these boards is presently nearly identical.

STATUTES:

The Personnel Board is composed of three members appointed by the Governor with confirmation by the legislature in joint session. The appointees must be qualified electors of the state, and there is a maximum of two members from the same political party. They serve at the Governor's pleasure and for a maximum of six years. AS39.25.060.

The Labor Relations Agency, for state employees, is the Personnel Board. For other public employees, the Department of Labor is the Labor Relations Agency. AS23.40.260(3).

The Retirement Board is composed of five members, three of whom are the members of the Personnel Board of the Department of Administration. AS39.25.030.

QUESTION: Is this over-lapping membership appropriate?

5. Scope of authority of the Labor Relations Agency and the Personnel Board. The Labor Relations Agency generally is concerned with the organization of bargaining units and the recognition of labor organizations of public employees. It hears and decides complaints alleging that an employer or a labor organization has engaged in unfair labor practices. (Unfair labor practices are generally attempts to interfere with employees rights to organize or failure by either party to bargain in good faith.) It may appoint a mediator where negotiations between a public employer and an organization have deadlocked, either on its own initiative or at the request of any party to the dispute. It may adopt regulations in accordance with the Administrative Procedures Act. It may seek to enjoin strikes of employees whose right to strike is prohibited or limited by statute. See AS23.40.

The Personnel Board approves or disapproves the original Personnel Rules and amendments to them, acts upon recommendations for the extension of the partially exempt and classified service, determines appeals by employees in the classified service, and establishes its own rules of procedure. AS39.25.070. An employee may appeal to the Personnel Board if the employee has been dismissed, demoted or suspended for more than 30 working days in a 12-month period. The board may reinstate the employee if it finds that the action was taken for a political, racial or religious reason or in violation of Chapter 25 of the statutes or of the Personnel Rules. In all other cases, the board reports its findings and recommendations to both parties. AS39.25.170.

QUESTION: Is the division of authority between these bodies appropriate? Should the Commission recommend the creation of an Ethics Committee to consider the adoption of Personnel Rules? (See discussion, Classification, Certification & Recruitment Subcommittee Memo, Issue number 12, page 12 and 13, and Issue number 13, page 14).

6. Inclusion of non-certificated school district employees under the Public Employment Relations Act. As the law is written now, the definition of "public employee" in the Public Employment Relations Act specifically excludes noncertificated school district employees. AS23.40.060(5). The difinition of "public employer" does not exclude school districts. AS23.40.260(6).

QUESTION: Does the Commission wish to recommend that legislation be adopted including non-certificated school district employees within the scope of the Public Employment Relations Act?

7. Inequity of wages between union members and non-union state employees. In some positions there is a sizeable diffenence between wages paid for union members and those paid for positions requiring similar skills but not unionized. In committee discussion, it was pointed out that it is not the legislature's responsibility to insure absolute equity of salaries between groups of employees. The state pay plan should reflect the principle of like pay for like work. AS39.25.150(2).

QUESTION: Should the Commission consider a recommendation to the administration to strive to reflect the principle of "like pay for like work"?

8. Due process rights for temporary employees. Under the Personnel Rules, temporary employees have only a limited right to pursue grievances. The grievance procedures set out in Rule 12 are available to "any employee occupying a position in the classified service who has a grievance relating to his position, working conditions or employment over which the Executive Head of his department may lawfully exercise discretion". However, Rule 6 04.0 limits the rights of probationary employees to appeal or have a hearing for a dismissal, except where the dismissal was due to discrimination based on race, color, sex, religion, national origin, or political beliefs. The Division of Personnel has reasoned that temporary employees have less status than probationary employees, and that therefore if probationary employees' right to appeal adverse decisions are limited, then the right of temporary employees must also be limited.

The Personnel Board appeals procedure set out in AS39.25.170 has been administratively construed to apply to employees having a permanent status, rather than a probationary status, except in cases where dismissal of a probationary employee is due to racial, religious or political discrimination. Whaley v. State, 438, P.2d 718 (1968). Therefore, it is probably also unavailable to temporary employees.

Under collective bargaining agreements, the right of temporary employees to use the grievance procedures is limited as well. In the past, APEA did pursue grievances for temporary employees within their bargaining unit. However, the Division of Personnel began, about a year ago, to hold the association to the letter of the agreement. Under language that had been in the contract since at least 1973, the definition of employee did not include temporary employees.

Art. 1, Sec. 2(c) "Employee" in this Agreement means a person in the state service who is paid a salary or wage and holds probationary, permanent, or provisional status.

Grievances were defined as "any controversy or dispute arising between APEA or an employee of the bargaining unit and the Employer". Article X, Section 1. Given the language, an arbitrator upheld the Division's position, that grievance rights were not available to temporary employees, even though that language had not been challenged by the department in previous grievances on the behalf of temporaries within the unit.

The Local 71 contract provides that temporary employees have the right to grieve on contract terms and penalty pay, but that only permanent or probationary employees have a right to arbitration procedures.

NOTE: This topic may also be considered by the Subcommittee of Categories of Employees, since they have concentrated their discussion on the temporary employee category.

QUESTION: Does the Commission wish to recommend that temporary employees be afforded due process rights beyond those presently provided for in cases of discrimination based on race, color, sex, religion, national origin or political beliefs?

SOURCES

1. Confidential Employees Association memorandum to the Commission
   APEA Letter to the Commission on priorities dated September 25, 1978
   Local 71 Letter to the Commission dated January 5th

2. APEA Inter-office memorandum on the Blue Ribbon Commission: Merit System vs. Collective Bargaining dated November 28, 1978

   Committee discussion, Fairbanks meeting, December 18, 1978

3. Committee discussion, Fairbanks meeting, December 13, 1978

4. APEA Letter to the Commission on priorities dated September 25, 1978

5. Same

6. Same

7. Written testimony from the Classified Personnel Organization of Fairbanks North Star Borough School District, December 12, 1978

8. Position paper beginning with the words "Merit Increase", submitted to Representative Eliason and by him to the Commission

9. APEA Inter-office memorandum on Position of Temporary Employees, dated November 24, 1978

MERIT SYSTEM/COLLECTIVE BARGAINING &
BLUE RIBBON COMMISSION MEETING
Capitol Building, Juneau
November 15, 1979

MINUTES

Senator Bill Ray, Chairman, called the meeting to order and introduced Steve Halfling, Chairman of the Alaska State Personnel Board and Labor Relations Agency, and member of the Retirement Board.

Mr. Halfling briefly described his background as a 40-year Alaska resident and presented a summary of his views on the functions of the three boards. He believes that the Labor Relations Agency (LRA) is one of the most misunderstood operations in the state. It is effective and very frugal. A summary of the LRA's activities in 1979 was handed out to members.

Mr. Halfling was first appointed to the Personnel Board in 1960, when the agency met only three or four times annually to handle final steps in employee grievances. Following the adoption of the Public Employment Relations Act (P.E.R.A.) in 1972, the members of the Personnel Board were given additional duties as members of the LRA. The LRA has been meeting 30 to 35 times annually ever since. The first major task of the LRA was action on petitions to place positions in bargaining units. Since then, it has been responsible for refereeing disputes between the administration and collective bargaining units, hearing unfair labor practice allegations, monitoring strike votes, and generally performing functions similar to those of the National Labor Relations Board. In 1976, the agency heard over 250 disputes and held 60 hearings to make determinations. The LRA now spends an average of two days each month on hearings, investigations and research. Six or seven LRA decisions have been challenged in court, and all of them have been upheld.

Pat Murphy commented that the three members of the boards are volunteers who are not reimbursed for their assistance and that the subcommittee had questioned whether the agency should be given the support of a full-time staff or have full-time members. Mr. Murphy added that the present members have always impressed him with their performance. Mr. Halfling explained that the boards are funded by the state, but members don't work for any department. Therefore, members and staff can remain absolutely objective. The other two members of the boards, Morgan Reed of Skagway and Ron Henry of Fairbanks, and Mr. Halfling are longtime Alaskan residents and volunteers. The agency has a part-time secretary who handles office functions and who works on a contract basis for $2,000 monthly. A consulting attorney in Anchorage, who is a former Assistant Attorney General, Mark Ertichek, is also contracted on an hourly basis. He receives approximately $24,000-30,000 annually, which is half the cost of the former agency attorney, who lived out of state.

Mr. Halfling asserted that there is insufficient work on a continuing basis to justify having full-time agency members or staff. He doesn't believe that offices should be encouraged to justify their existence by creating work. As an example of this problem, Mr. Hafling cited the Labor Relations Office in the Municipality of Anchorage as a full-time office that appears to have created a lot of labor turmoil. The only unsolved business before the LRA for this year is the dispute between the University of Alaska and community college teachers. The LRA does not look for problems, and the law is written in such a way as to allow the agency to refuse cases that are frivolous.

Lois Jund commented that the members wear three hats. Mr. Halfling elaborated that as Personnel Board members, they have practically no workload since the advent of collective bargaining. The board holds semi-annual meetings to review changes to the Personnel Rules. The Retirement Board meets only occasionally to hear appeals. Their only real workload is as members of the LRA, and it is difficult to predict what the future volume might be. If all contracts are administered properly, the volume will decrease. Mr. Murphy stated that all states with numerous public employee unions have full-time labor relations agencies. He added that these positions are extremely vulnerable to political appointments and preconceived ideas and asked what will happen when present members choose to resign. Mr. Halfling responded that the boards must remain neutral--neither pro-union nor pro-administration.

Senator Ray asked whether the LRA's attorney's fees were excessive. Mr. Halfling replied that the Commissioner of Administration has questioned the expense of the legal consultant. Mr. Halfling believes that the finished product must be able to stand up in court, and the cost of a professional with experience in labor relations is therefore justifiable. Any inexperienced employee would be incapable of handling the demands of the position, and anyone on the state's payroll would have to be loyal to her or his employer. The LRA's secretary is also on contract for this reason. The total cost of services provided by the agency last year totalled under $40,000.

Ms. Jund asked how members of the boards are presently appointed. Mr. Halfling replied that the Governor appoints members for six-year terms, although he wasn't sure what criteria are used in the selection process. The appointments are confirmed by the legislature. Ms. Jund asked what the duties of the Personnel Board include, and Mr. Halfling explained that the board did promulgate the initial Personnel Rules and acted as an appeals board in employee disputes. Senator Ray questioned whether the Personnel Board functions are obsolete. Mr. Halfling replied that the board hears only two or three appeals per year but must still act on changes to the Personnel Rules and changes in employee status from the partially exempt service to the classified service or vice versa.

Ms. Jund asked whether the Personnel Board or the Department of Administration would be responsible for a comprehensive revision of the Personnel Rules. Mr. Halfling replied that the Personnel Board only has authority to accept or reject Personnel Rule changes proposed by the Commissioner. The Board cannot write them nor modify them.

Senator Ray questioned whether the LRA has received inquiries or complaints regarding the hire of applicants from outside of Alaska. Mr. Halfling explained that in the early part of statehood, the Personnel Rules gave a five-point preference to anyone who had been an Alaskan resident for at least one year. Senator Ray commented that he has heard complaints about agencies and commissions hiring outside of the state without considering Alaskan applicants. Mr. Halfling stated that there is a Superior Court ruling that preferential treatment of state residents is in violation of the interstate commerce clause of the constitution. Senator Ray cited a written complaint he received from a long-time Alaskan who was not considered for a position with the Renewable Resources Corporation, even though he was extremely qualified. Mr. Kareen stated that the Renewable Resources Corporation is exempted by statute from the merit system hiring practices set out in the Personnel Rules. Mr. Halfling asserted that if the legislature could reenact the residential preference hiring system in Alaska, the Personnel Board would adopt it immediately if it were legal.

Mr. Halfling added that the Personnel Board must approve positions being placed in the partially exempt service, and the agency has turned down requests in the past which were unjustified. The board has also witnessed cases where partially exempt employees were dismissed without any appeal rights. He hopes that the commission can review these appointments to the exempt and partially exempt services.

Mr. Murphy asserted that preference for Alaskans might be provided for in collective bargaining contracts. Senator Ray stated that for strictly state-funded positions, the legislature might require a hiring preference towards individuals who had paid a state income tax during the previous year. Mr. Kareen commented that the argument for a preferential hiring system was turned down by the state's own Supreme Court, and federal funding did not enter into the question or the final decision. He added that he would be in favor of such a system, but there are exceptions when it is necessary to hire out-of-state applicants. He also pointed out that federal law requires that any minimum qualifications for positions be job-related. Ms. Jund stated that she would also favor the system when state applicants are better qualified. She proposed that agencies be required to justify the hire of out-of-state applicants in writing. Mr. Halfling asserted that employee turnover rates are increased when applicants are recruited from outside of the state. Mr. Kareen commented that this argument was raised in the state's unsuccessful court case.

Mr. Halfling concluded his discussion by reiterating his opinion that the LRA can maintain its neutrality by keeping its present structure. Mr. Kareen asked whether the agency would want additional staff if their workload increased. Mr. Halfling responded affirmatively, but said that he would not want the employees placed in the classified or partially exempt service. He also commented that an ideal candidate for board member would be someone who is retired, financially independent (to resist temptations) and objective.

Since the LRA formed, it has reached 55 formal decisions which were almost all unanimous. The most controversial of its decisions have gone to court and have been upheld.

Senator Ray summarized the situation of the LRA: The agency can work satisfactorily with its present contract attorney and part-time office staff as long as members are and continue to be completely neutral. He thanked Mr. Halfling for being candid in testifying before the commission and extended the commission's appreciation for his service on the boards.

The commission proceeded to review the Merit System/Collective Bargaining section of its draft report to the legislature, discussed changes, and added a section on positions in the partially exempt and exempt services which might be more appropriately placed in the classified service.

Senator Ray scheduled the next meeting for November 26 at 1:30 and adjourned the meeting.

MEMBERS IN ATTENDANCE

Senator Bill Ray, Chairman
Lois Jund
Lynda McCurry
Pat Murphy
Ken Kareen (for Sandra Withers)

OTHERS IN ATTENDANCE

Doryce Eggleston
Steve Halfling (guest speaker)

MERIT SYSTEM/COLLECTIVE BARGAINING
Capitol Building, Juneau
October 17, 1979

MINUTES

Senator Bill Ray, Chairman, called the subcommittee meeting to order and raised questions on the topic of merit increases. Lynda McCurry explained that merit increases are provided to employees in accordance with step-increase plans. For most state employees, merit increases (steps B-F in the pay plan) constitute the only raises provided by the state. Once the top step has been reached, there are no raises except for the longevity increments provided by statute. Pat Murphy commented that raises are provided in a number of ways by collective bargaining contracts. APEA has incorporated merit increase steps into its contracts. Mr. Murphy distributed copies of another union's pay plan which has two steps (APEA has six) and a service bonus plan as an alternative to the statutory longevity increments. The two steps provided for in the other union's contract represent salary increases equivalent to APEA's six steps (A-F). However, the other union contract provides it's members with a lump-sum increase after six months of employment, and APEA's are available on an annual basis at management's discretion.

Lois Jund asserted that concerns over merit increases arise when the system is abused. She added that merit increase awards should be based on specific performance criteria. Ken Kareen elaborated that agencies have no performance-based standards established. Even if there were, each supervisor would interpret them differently. Senator Ray stated that present practices are unfair, and merit increases are being applied indiscriminately. Mr. Kareen stated that he is in favor of developing performance standards and maintaining the merit increase system, although he is skeptical of the results.

Ms. Jund commented that it is easier to evaluate employees who have lower-level functions than those in the higher echelons. There is nothing precluding supervisors from setting up performance standards, and the Division of Personnel encourages agencies to do so. Mr. Kareen observed that there will always be a certain amount of subjectivity involved in the evaluation of employees.

Senator Ray stated that the legislature is dissatisfied with the lack of uniformity in the granting of merit increases and is convinced that it is not the best way to reward employee performance. Unions can bargain about providing their members with raises. He added that the merit system is not compatable with collective bargaining on the

issue of merit increases. Senator Ray asserted that if an employee's performance is exemplary, that employee should receive an annual bonus at the discretion of the employer. Bob Mourant pointed out that a state supervisor cannot grant a bonus. Ms. Jund asked whether the legislature would be in favor of merit increases if some method could be devised for granting increases for meritorious service only. Senator Ray responded that the legislature apparently does not care for the terminology and would be more receptive to a system of rewarding longevity or seniority.

Senator Ray commented that few legislators are actually familiar with collective bargaining contracts, and they don't understand why the state provides raises to employees based on both the cost of living clause in contracts and merit increse provisions of the merit system. Mr. Kareen stated that there are not very many employees who advance through the final merit increase step. There is a 60% turnover rate of employees in the first three steps. Senator Ray responded that the turnover rate is decreasing as state employment becomes more popular because of benefits provided by both the merit system and collective bargaining unions.

Ken Kareen explained that merit increase steps A through F were originally provided for in Title 39, and steps J through M were added to provide for longevity in state service. Not all employees are hired at the initial step because there are instances when it is difficult to recruit for positions. Positions beginning at advanced steps are used as inducements to recruit valuable skills from the private sector. Ms. Jund commented that merit increases are necessary for recruiting and retaining valuable employee services, as well as for rewarding exceptional performance. She recommended that performance-based standards be mandatory for granting merit increases. Mr. Kareen asserted that a multi-step pay plan is better than granting a flat rate. Senator Ray stated that he doesn't believe employees should be hired at anything other than the beginning step. Ms. Jund added that if an employee in the private sector is earning more than step A, the state must compete with private industry for professional skills.

Senator Ray pointed out that although the economy in Juneau is dependent upon state and federal job income, government employees are minorities in other parts of Alaska. Mr. Murphy responded that government employees make up about 40% of Alaska's workforce, and 60-65% of the state's economy is impacted by government expenditures.

Senator Ray repeated that the legislature believes merit increases to be incompatable with collective bargaining. Ken Kareen stated that merit increase plans are presently negotiated, and changing the Personnel Act will not affect most classified state employees. Pat Murphy added that the only employees who would be affected by legislative

changes to the Personnel Act, unless collective bargaining is restricted, would be partially exempt and exempt employees. Mr. Murphy pointed out that although some believe that merit increases are automatically granted on an annual basis, they have not been funded by the legislature for the past year. Therefore, departments have been applying them inconsistently depending upon how much is left in the budget because of vacancy factors, etc. Some departments are better able to supply merit increases than others. Senator Ray suggested that the subcommittee list the alternatives in the commission's report to the legislature and that current practices be explained. The report will address: a bonus for meritorious service, collective bargaining impact, step increase plans, performance standards, etc. There was no further discusssion of the issue.

On the topic of amplifying the merit principles in the Public Employment Relations Act (P.E.R.A.), Senator Ray commented that one essential principle is the concept of basing merit on ability and performance. Mr. Kareen elaborated that the evaluation of employees and retention in state service are also essential merit principles. He pointed out that although merit increases are not specifically defined under the merit principles, almost every state provides employees with increases for meritorious service. Alaska's problems with the system are not unique to state government. Terry Cramer commented that a memo from Commissioner Hudson states that merit increases are almost universally granted to public employees and include graduated pay plans.

Senator Ray asked what principles are essential to Alaska's personnel system. Mr. Kareen replied that the five principles outlined in Terry Cramer's memo (selection and retention of employees based on ability, including examination for positions; equal treatment of those seeking employment; regular integrated salary programs based on the nature of the work to be performed; selection or retention of one's position to be secure from political influences; and tenure during the time that employees perform well) should be applied to all public employees. Senator Ray observed that equal treatment of applicants seeking state employment is especially important according to recent testimony.

Senator Ray stated that the five merit principles should be defined in the Personnel Act. Mr. Kareen explained that collective bargaining impacts merit principles by implementing alternative provisions for each unit. The state does not comply with the principle of equal pay for equal work, for example, given that each unit bargains for a different pay plan. Unless the Collective Bargaining Act is revised, statutory changes to the Personne Act will cover only partially exempt and exempt employees. Senator Ray and Mr. Murphy agreed that merit principles should be statutority defined.

Senator Ray was advised that the Categories of Employees subcommittee had discussed the issue of statutory changes to the membership of the Labor Relations Agency, Retirement and Personnel Boards. Mr. Murphy pointed out that the Personnel Board meets only occasionally, and members do not have enough time to get the job done. An executive assistant has been holding hearings for members. Senator Ray asked whether there is a need for the boards. He was informed that the Personnel Board is the only agency authorized to adopt changes to the Personnel Rules, and it consists of three voluntary members. Terry Cramer explained that the statutes provide for the same three volunteers to be members of both the Personnel Board and the Labor Relations Agency. The Retirement Board consists of five members, three of whom must be the members of the Personnel Board and the Labor Relations Agency. Mr. Kareen commented that it is difficult for the Division of Personnel and Labor Relations to provide staff support for the boards, because of their involvement in labor relation disputes.

Senator Ray suggested that statutory requirements on the membership of the Labor Relations Agency, the Personnel Board and the Retirement Board be reevaluated, and recommended that the Legislative Budget and Audit Committee review the overall functions of the Boards to consider whether they should continue. There was a consensus that the Labor Relations Agency should be provided with a staff of classified employees.

Senator Ray directed the staff to prepare additional information on the topic of adopting Personnel Rules in accordance with the Administrative Procedures Act.

Senator Ray adjourned the meeting at 2:40.

MEMBERS IN ATTENDANCE

Senator Bill Ray, Chairman
Lynda McCurry
Pat Murphy
Bob Mourant (for John Pugh)
Lois Jund
Ken Kareen (for Sandra Withers)

MERIT SYSTEM/COLLECTIVE BARGAINING
AND BLUE RIBBON COMMISSION
Capitol Building, Juneau
October 11, 1979

MINUTES

Senator Ray, Chairman, called the meeting to order and referred to Senate Bill # 256, creating a Department of Employee Relations. He suggested that the commission consider recommending the separation of labor relations and personnel functions from others in the Department of Administration as an alternative to the creation of a new department. A Deputy Commissioner would be appointed to head each division. If the structure showed an improvement, the argument for a separate department would be substantiated. The commission could recommend to the legislature that it provide funding for the separation of functions to alleviate problems evidenced in the operation of the personnel system. Senator Ray moved that the commission include the recommendation in its report to the legislature. There were no objections.

On the issue of the legislature's involvement in collective bargaining, Senator Ray stated that the legislature doesn't appear to want to be directly involved in the bargaining process at this time. However, it must meet constitutional requirements of appropriating money to fund the contracts, and legislators want some form of veto power over unreasonable contracts in the name of the public. Senator Ray asserted that there should be some provision for legislative action on negotiated contracts within a specific time frame. A deadline for legislative action has been proposed, and if contracts are not acted upon within the time allotted, unions would be able to take any steps they believe are necessary.

Greg O'Claray stated that a legislative veto would be preferable to no legislative action. He added that he does not believe the legislature should be given two chances at approving or rejecting contracts. Sandra Withers pointed out that it is not uncommon for a government body to review contracts and order renegotiations. Mr. O'Claray responded that he doesn't believe contracts should be looked at piecemeal because the legislature would then be able to procrastinate in making a decision.

Sandra Withers commented that unions would have two opportunities to strike if the legislature had the authority to order renegotiations. Presently, all state contracts contain "no strike" clauses which provide that there will be no work stoppages during the life of the contracts. Therefore, when negotiations reach an impasse, unions are precluded from petitioning the Labor Relations Agency for striking authority until the existing contracts expire. If all contracts were to expire on December 31, and negotiations reached an impasse, unions would be able to strike

if mediation was unsuccessful. If negotiations resumed and an agreement was reached, it would then be submitted to the legislature. Unions would again be able to petition for a strike vote if the contract was not funded, unless the agreement had some legal force during the interim and also contained a "no strike" clause.

Senator Ray stated that agreements should be negotiated and transmitted to the legislature by a date convenient to the parties. The legislature would then have 30 days to either accept or reject the negotiated contract. If all contract expiration dates were changed to June 30, the unions would not be able to petition for a strike vote until after adequate time for renegotiations. The Department of Administration would thus only be responsible for handling negotiations, and strikes would have to be handled by the legislature. Mr. O'Claray questioned how a strike would be resolved. Senator Ray replied that either the Governor or the legislature would call a special session. Ms. Withers suggested that the commission research other state statutes that address legislative procedures for funding negotiated contracts. Senator Ray responded that public employee strikes are not uncommon, and they should be accepted as a possibility when the legislature does not approve the monetary terms.

Senator Ray asserted that the legislature is only interested in the monetary terms of the contracts. Mr. O'Claray reiterated his belief that the legislature should not be able to exercise a line-item veto over contracts. Ken Kareen commented that there are two large cost items: wages and benefits. Senator Ray stated that the legislature is only interested in the total price tag. Mr. O'Claray suggested that the commission recommend that the legislature be required to vote on negotiated contracts between the 90th and 120th day of the session. Senator Ray suggested that the legislature be required to take action by March 15 or within 30 days after receipt of contracts or before adjournment.

Ms. Withers pointed out that the expiration dates of contracts are currently considered bargainable items. Senator Ray stated that the commission should recommend that contracts coincide with the fiscal year. He added that language could be drafted to provide for multi-year contracts.

Senator Ray moved that the commission recommend that a time limit be set for legislative action on negotiated contracts. There were no objections. He added that the discussion should include alternatives to the procedure such as: negotiations being handled by the legislature, by a private negotiator hired by the legislature, or by the Department of Administration.

Mr. O'Claray stated that there should be a mechanism in the law for resolution of disputes if the legislature rejects a negotiated agreement. The method presently provided in the statutes is a strike. However, Mr. Kareen pointed out that some bargaining units are precluded from striking by statute. Lois Jund commented that if the timetable for legislative action was early enough, it could allow for renegotiation of contracts prior to the end of the session. Ms. Withers asserted that the legislature's role in collective bargaining is not unique to Alaska, and she suggested that other statutes be examined to get ideas on timetables. Mr. O'Claray stated that if the Finance Committee can give consideration to contracts in 30 days, then a negotiated agreement should be submitted by February 15. Mr. Kareen voiced concerns about the transition period on contracts, and Senator Ray responded that special provisions have to be made for implementing any new law.

On the issue of excluding policy-making supervisors from collective bargaining, Senator Ray commented that the partially exempt service appears to be another classification problem. Ken Kareen responded that some supervisors are responsible for policy making and others are required to enforce policy and collective bargaining contract terms. Mr. O'Claray mentioned that APEA representatives had testified at a House Committee meeting that they were willing to remove 90 supervisors from collective bargaining units. Senator Ray directed the staff to call the Governors Office to find out which classifications were proposed for removal from collective bargaining.

Senator Ray addressed the topic of a non-negotiable management rights clause and asked what would be included in such a clause. Terry Cramer explained that statutes in other states include hiring, promotion, tranfer, and the establishment of personnel rules as management rights. Mr. Kareen elaborated that the issue relates to problems that arose when the Department of Administration negotiated with a collective bargaining union on hiring hall practices, which do infringe upon management's ability to recruit and examine applicants. He added that merit principles must be adhered to by both parties. The fundamental question is what should and what should not be bargainable. Ms. Withers stated that the Commissioner of Administration is attempting to define what is bargainable. Currently, the classification, recruitment and examination processes are bargainanble, and a management rights clause would be a vehicle for setting out things that should remain consistent for all state employees. Ms. Withers added that the state negotiated an alternative to the statutory longevity system with one union. The only thing presently exempted from collective bargaining is retirement benefits. Changes to the Personnel Act are bargainable items.

Senator Ray recommended that the commission advise the legislature that certain items which are currently negotiable such as health benefits, classification, recruitment and examination might be exempted

from collective bargaining. He instructed the staff to make clear in the draft of the commission's report that collective bargaining has created inconsistencies in employee's health insurance and medical benefits. Mr. O'Claray pointed out that each union placed emphasis on different contract components. He added that IBU is tied into Taft-Hartley Act retirement trusts, and the state would have to amortize should it decide to require ferry workers to belong to the state's retirement system. Senator Ray directed the staff to point out in the commission's draft report that unions trade in different ways and place varying degrees of importance on increasing wages or benefits. This has prompted some discussion within the commission on the possibility of adopting a management rights clause to exclude certain topics from the collective bargaining process. Further investigation and study is needed before the commission will be prepared to make any definitive recommendations.

On the issue of cost of living adjustments, Senator Ray observed that there are two ways to go about it: lump sum or percentage increases. Mr. O'Claray suggested that there is no single answer to the question. The legislature is against percentage increases, but across-the-board increases create problems with compression of salaries. Senator Ray concurred that both systems have inherent problems. He suggested that this might be a topic for review each year. Ms. Withers commented that the country's economic situation will determine the continuation of such increases. Senator Ray stated that in the public's viewpoint, a hamburger costs the same amount for the guy who runs the elevator as it does for a commissioner. He does not believe that life styles should determine the allocations of increases. Lois Jund suggested that a third alternative is possible: varying percentage increases so that lower salary levels receive larger increases. Senator Ray reminded members that cost of living adjustments are not actual salary increases. They are not tied to geographical differences or anything else.

On the issue of merit increases, Senator Ray stated his belief that they should be done away with. Ken Kareen pointed out that they are currently negotiable items. Lois Jund commented that without merit increases, employee productivity is not encouraged. Senator Ray responded that a meritorious service award could be granted by a committee to deserving employees. The panel/committee could consider recommendations from supervisors and could have discretion on the amount of awards. Ms. Jund stated that it is not fair to pay a long term employee who is extremely productive the same amount that a new employee with no experience would receive. In addition, there are some positions in specialized fields where there is no career ladder and therefore no opportunity for advancement. She recommended that performance standards be created for evaluation of meritorious service, so that merit increases would not be considered "living and breathing" awards. Senator Ray asserted that

collective bargaining is not compatable with the merit system, and it is perceived as a double dip for state employees. Ken Kareen stated that he believes there should be performance evaluations, but that it would be impossible to have a uniform system of application because of the subjectivity inherent in any evaluation system. Mr. O'Claray pointed out that most labor organizations don't believe in merit increases, because it provides supervisors with a method for "playing favorites". He stated that a seniority system does not allow for favoritism. Senator Ray repeated that the legislature is seriously considering the incompatability of the merit system and collective bargaining.

Senator Ray adjourned the meeting at 4:25.

MEMBERS IN ATTENDANCE

Senator Bill Ray, Chairman
Greg O'Claray, Vice Chairman
Lynda McCurry
Lois Jund
Sandra Withers

OTHERS IN ATTENDANCE

Doryce Eggleston
Ken Kareen

MERIT SYSTEM/COLLECTIVE BARGAINING SUBCOMMITTEE
Capitol Building, Juneau
October 5, 1979

MINUTES

Greg O'Claray, Vice Chairman, called the meeting to order and referred to the September 26 issues summary as the topic of subcommittee discussion. The meeting was recessed briefly to prioritize the issues to be addressed (issue numbers in parenthesis reflect those in the summary). Mr. O'Claray reconvened the meeting.

1. The legislative role in collective bargaining. (IIIB1)

The only place where the legislature's involvement in collective bargaining is addressed in the statutes is in AS23.40.215 of the Personnel Employment Relations Act. Presently, the legislature takes no active role in the bargaining process. The Constitution requires that the legislature enact all appropriations, including those for collective bargaining contracts. The result is that unions must deal initially with the Administration at the negotiation tables and then with the legislature to encourage appropriation of funds. John Pugh commented that the legislature appears to want more information about contracts and a better method of communication from the administration.

In discussing alternatives, Terry Cramer stated that Wisconsin has a joint committee consisting of the leadership of both houses and parties that is consulted by state negotiating teams. Sandra Withers commented that the legislature is considering taking a more active role in negotiations through a legislative employee at the bargaining table. The legislative representative could have either a moderating or approval role, but in either case it would be impossible. If the legislature sits at the table, it should take the entire responsibility for bargaining. Otherwise, the unions would be asked to bargain with people (Department of Administration staff) who do not have authority to make any committments. Ms. Withers added that in some states, an elected body passes on both monetary and contract terms.

Greg O'Claray stated that he doesn't believe that the legislature should be involved in the process at all. Right now, it is not clear what role they play, and he does not feel that they want to bargain at the negotiating table. Sandra Withers suggested that the topic is beyond the subcommittee's purview. Mr. O'Claray disagreed, stating that the legislature is seeking information and direction on the topic from the commission. Darlene Livermore recommended that legislative involvement not be changed because 95% of collective bargaining contracts do

not deal with monetary terms and could be divorced from the legislative process. John Pugh commented that this is a constitutional issue that may be resolved in the courts.

Sandra Withers stated that if it is a legislative concern, there should be a vehicle for communicating concerns. Has the commission received any directives? Ken Kareen concurred and added that this is a relationship between the legislature and the Governor. Frank Flavin suggested that the subcommittee ask some legislators how they perceive the problem if the commission is going to address this issue. Greg O'Claray tabled the issue for discussion at a future subcommittee meeting.

2. Amplification of merit principles in the Personnel Employment Relations Act. (IIIB7)

John Pugh commented that Pat Hunt, former Director of the Division of Personnel and Labor Relations, had suggested placing merit principles in the statutes. Frank Flavin suggested that the subcommittee consider what part of the merit system or what merit principles are bargainable. It had been Mr. Hunt's belief that all principles are bargainable. There is a constitutional requirement for a merit system, but it may be provided for by collective bargaining contracts.

Ken Kareen stated that neither the state Constitution nor the statutes defines the principles. In practice, Alaska generally follows those of the federal government. Sandra Withers pointed out that the Personnel Act sets out the operation of merit principles. Mr. Flavin commented that this also relates to whether Alaska should adopt a management rights clause. Greg O'Claray asked whether merit principles should be spelled out in the P.E.R.A. John Pugh stated that they have been written out in the Model Personnel Administration Law.

Greg O'Claray tabled discussion of the topic for future subcommittee deliberation.

3. Membership of the Labor Relations Agency, the Personnel Board and the Retirement Board. (IIIB8 and IIIB9)

The subcommittee is on record as recommending the establishment of a full-time Labor Relations Agency. The issue was brought about due to concerns based on accessibility to the agency. The Labor Relations Agency is established by statute as a three member board and members serve on a voluntary basis, operating on limited resources. Both John Pugh and Greg O'Claray stated that they had never experienced problems with accessibility to the agency, but Darlene Livermore stated that bargaining unit changes end up being delayed for months due to the infrequency of agency meetings. The agency has never spoken before the subcommittee on problems.

Frank Flavin questioned the interrelationship of the three boards, and it was explained that membership overlaps. The three members of the Labor Relations Agency are required by statute to be the three members of the Personnel Board. Three of the five members of the Retirement Board are required to be the Personnel Board members. Ken Kareen explained that the function of the Retirement Board is to oversee the retirement system, to make decisions on investment of retirement funds and to act as an appellate board on claims, such as early retirement. The staff was asked to invite a member of the Labor Relations Agency to attend its next meeting and to research the function of the three boards. Ken Kareen mentioned that Title 39 does outline the agencies' duties.

4. Methods of adopting Personnel Rules and standard operating procedures. (IIIB10)

Sandra Withers pointed out that the Personnel Rules are exempted from the Administrative Procedures Act review. However, SB 256 as currently drafted deletes the exemption. Ken Kareen elaborated that the issue relates to concerns that the Personnel Rules do not detail procedures for implementation, and departments have been writing their own standard operating procedures. In many instances, the procedures differ and have impacted employees differently.

Mr. Kareen added that standard operating procedures are also subjects of collective bargaining. Frank Flavin commented that there is nothing in the Administrative Procedures Act that prohibits collective bargaining on the issue. The A.P.A. requires that before rules are adopted, they must be subject to public comment. Contracts are not considered rules and are therefore not subject to the A.P.A. Mr. Flavin added that those standard operating procedures which affect the public would be required to conform to the A.P.A. Those procedures which are solely concerned with internal management are excluded. Lynda McCurry asked if there is a problem in how standard operating procedures implement the Personnel Rules. Does the subcommittee want to recommend a review of the departmental standard operating procedures to determine whether there is consistency of treatment of state employees in various departments?

Greg O'Claray tabled the issue for future subcommittee consideration.

5. Exclusion of policy-making supervisors from collective bargaining. (IIIB2)

John Pugh stated that all supervisors are involved in some form of policy making, whether it be in disciplinary actions for subordinates or actual regulation formulation. However, it is possible for supervisors

to be in the classified service and exempt from collective bargaining. They would not have to be removed from the classified service and placed in the partially exempt service. However, this exclusion from bargaining would have to be provided for in the P.E.R.A. John Pugh stated that APEA has already agreed to the removal of some supervisors from collective bargaining.

Greg O'Claray tabled the topic for future subcommittee discussion and adjourned the meeting at 2:45.

MEMBERS IN ATTENDANCE

Greg O'Claray, Vice Chairman
Sandra Withers (for Commissioner Hudson)
Lynda McCurry
Darlene Livermore (for Pat Murphy)
John Pugh
Ken Kareen (for Sandra Withers)

OTHERS IN ATTENDANCE

Doryce Eggleston
Frank Flavin
Bob Mourant

MERIT SYSTEM/COLLECTIVE BARGAINING
Work Session Summary
February 23, 1979

The session was chaired by Ken Humphreys in the absence of Representative Buchholdt and Greg O'Claray.

DEPARTMENT OF EMPLOYEE RELATIONS DRAFT BILL

The subcommittee received copies of the Department of Employee Relations draft bill and discussed adding provisions concerning the structure and functions of the Labor Relations Agency, the Personnel Board, and the Retirement Board. These agencies should be structured and staffed to insure insularity from pressure and independence of action. Pat Murphy pointed out that the subcommittee should focus on establishing the new department and avoid opposition where possible. Changes to those agencies can be proposed in another measure.

Pat Hunt suggested amendment to Section 10, page 4, line 21, to reflect that the P.E.R.A. limits the ability of the division to remove people from collective bargaining units. The subcommittee agreed to amend the section by adding "Except as provided in AS23.40.090" to the beginning of the sentence.

The subcommittee discussed the qualifications for the commissioner of Employee Relations (Section 1, page 1, lines 13 and 14). John Pugh moved that the qualifications for the commissioner read: "shall have experience in both personnel administration and labor relations either in the public or private sector. The commissioner shall have a total of at least five years of full-time experience in those fields." The motion was adopted unanimously.

Changes were also made to the bill to require that the director of the Division of Labor Relations have at least three years of practical working experience in the field of labor relations. Pat Hunt moved that the subcommittee recommend to the Commission that this bill be submitted to the legislature. The motion passed unanimously.

Ken Humphreys presented a draft bill providing for a bargainable merit system. Pat Murphy pointed out that what is bargainable will remain discretionary between the parties involved. He also expressed his reluctance to be responsible for personnel functions such as training, recruitment, etc. Ken Kareen moved that the subcommittee recommend to the Commission that the bill be introduced in the legislature. The motion passed unanimously.

Ken Humphreys explained that this bill, if enacted, would

exempt all employees covered by collective bargaining from AS39.25. If the temporary hire draft bill was passed along with this, temporary hire rules would not apply to bargaining unit members. Bargaining agreements would therefore have to contain language addressing AS39.25 or offer alternatives. The statute would not apply to people covered by collective bargaining.

NON-CERTIFIED SCHOOL DISTRICT EMPLOYEES

Ken Spray requested the subcommittee recommend that the Commission support SB213, introduced by Senator Bennett, allowing non-certified school district employees the opportunity to bargain collectively under the P.E.R.A. Pat Hunt pointed out that the legislation addresses those employees not in the state system. It is not within the Division's nor the Commission's purview. Ken Spray moved that the subcommittee recommend that the Commission support SB213. Three (3) were in favor. Four (4) opposed. The motion failed.

IN ATTENDANCE

Ken Humphreys
Pat Hunt
Ken Kareen
Lynda McCurry
Pat Murphy
John Pugh
Ken Spray
Niel Thomas

OTHERS IN ATTENDANCE

Darlene Howard
Bob Mourant
Frank Flavin

MERIT SYSTEM/COLLECTIVE BARGAINING
Work Session Summary, February 5, 1979

The session was chaired by Representative Thelma Buchholdt. The Issue numbers, as follows, refer to the Summary of Issues dated January 21, 1979.

Issue 1. Structure of the Division of Personnel and Labor Relations.

SUBCOMMITTEE MOTION: Pat Murphy moved that the subcommittee request the Legislative Affairs Agency to draft a bill for further subcommittee review to create a Department of Employee Relations encompassing the functions of personnel, labor relations, training, and for the purposes of this bill, equal employment opportunity and affirmative action. Ken Spray requested that the functions include safety and training. Mr. Murphy agreed.

DISCUSSION

Retirement functions. Responsibility for maintaining the retirement system should remain in the Department of Administration.

Budget. The budget for the new department should result from the transfer of the budget of the existing divisions plus appropriation of additional funds for the creation of the position of the new Commissioner.

Safety. Safety should be included in the new department because there needs to be central coordination of safety programs. The system now is that user departments are supposed to coordinate with the Department of Labor, which supplies trainers on request. The requirements of OSHA, which directs that the state provide safety training for its employees, are not being met.

Pat Hunt suggested that money for safety and training programs could be provided by the user departments, who would compensate the Division or the new department for the cost of materials used. The training which the Division of Personnel has been able to provide to date (given limited staffing and funding) has been very well received. Money allocated for training is one of the first items to be cut in a lean budget year.

CLARIFICATION OF MOTION: The question of which state agency has the authority and responsibility to negotiate with the Marine Transit unions is not resolved. The state Supreme Court has ruled that those unions are now covered by the Public Employees Relations Act, and that therefore, they negotiate with the Division of Personnel and Labor Relations. Prior to that decision, the Commissioner of Public Works held that authority.

It was generally agreed that the motion applied to those unions representing employees of the University of Alaska.

Affirmative Action/EEO. At present, the state EEO office is in the Department of Administration, having moved from the Office of the Governor. In addition to this central EEO office, each department has its own EEO officer, who is responsible for providing information to and counseling employees within that department as well as for preparing and monitoring the departmental affirmative action plan. There is a need to have trained, sensitive people who are aware of legal requirements in the departments. The departmental EEO officers hold other jobs within the departments and usually place priority on those other duties.

The central EEO office has placed a priority on providing training to supervisors and managers in state agencies, as well as reviewing the personnel practices and procedures of the state and monitoring Division of Personnel compliance, revising the affirmative actions plans, and gathering statistics on the state's work force.

Placing the central EEO office as a division of the new Department of Employee Relations would ensure that there was communication between that division and the divisions of personnel and labor relations. Much of the functions of those divisions (recruitment, examination, certification and training) is of great concern to the EEO office, and therefore having an opportunity to affect decisions in those areas as they are made is important. Making the EEO office a division would ensure that it had the status necessary to act effectively and would help emphasize the state's committment to equal opportunity.

Departmental Personnel and Training Officers. The creation of this new department does not address, at this stage, the placement of the departmental personnel officers. They could either remain departmental employees or become employees of the new department. Training officers in the departments could also

Training. The state's training programs, like the safety and EEO functions, need central coordination, which could be achieved by making the new department responsible for that role. Individual departments would continue to provide their own, specialized programs, but the central office in the new department would provide information on what programs were being offered and would provide technical assistance in programs as its own staffing and expertise permitted. Having one central person in charge of that oversight would help to ensure that training programs which the state was required (by union contract, for example) to provide would take place. If the programs did not occur, then there

would be one person to whom the union could turn to question why they had not.

Training is often misunderstood in Alaska. There is a feeling that employees should know all the intricacies of their jobs at the time that they are hired. But government procedures are different from those in private industry - for example, in accounting - and the unique orientation to governmental work means that there will have to be an orientation for the new employee, whether that person is just out of school or has worked for a number of years in that field in private industry.

The efficiency and productivity of state employees depends in a large part upon the intial training they receive.

Orientation of the New Department. There is a hope that the Department of Employee Relations would be people oriented, rather than fiscally oriented, as the Department of Administration is. Most of the programs within the Department of Administration are financial in nature, while those programs proposed for transfer to the new department concern people directly: What happens to a new employee on entering and while serving in state government?

Model. The Department of Employee Relations should be modeled along the lines of the Anchorage Municipal ordinance, but without creating separate divisions for the separate functions in the Division of Personnel. There should be provision for the Commissioner of the department to delegate some personnel functions to the individual departments.

VOTE ON THE SUBCOMMITTEE MOTION: A vote was taken on the motion. It carried unanimously, nine (9) members voting.

Issue 2. Relationship of collective bargaining contract terms to statutes, Personnel Rules and departmental standard operating procedures.

SUBCOMMITTEE MOTION: Pat Hunt moved that staff be directed to design language to add to Title 39 which limits application of Title 39 to those not covered by collective bargaining units and to define merit principles which must be negotiatied in all collective bargaining agreements. The draft should be brought to the subcommittee for further review.

DISCUSSION

There is confusion about what standards govern employees covered by both collective bargaining contracts and the Personnel Rules. The language suggested by the motion would clearly

make each union contract the operating system for determining all conditions of work for covered employees, while ensuring that merit principles would be recognized in each agreement and complied with. The Rules would then apply only to those solely affected by them. (At the work session on February 7, Mr. Hunt indicated that there are five classified employees in the state who are not members of a union. Ken Kareen represents 20% of that group.) The Rules are therefore needed to set out the conditions of employment for those five employees, as well as for any employees added to the group in the future.

At present, to chage a Personnel Rule, the Personnel Board must consider not only the merits of the proposed change but also how that rule affects each contract. If the scope of the rule has been partially affected by any contract, then a change would have to be agreed to by the union in question.

Unions have established different systems to implement the merit principles (which are made applicable to union contracts by AS23.40.070:

> The legislature further finds that the enactment of positive legislation establishing guidelines for public employment relations is the best way to.. strengthen the merit principle where civil service is in effect...)

For example, employees hired for positions in APEA bargaining units are hired from the eligibility lists maintained by the state. Employees hired for positions within Local 71's bargaining unit are hired from eligibility list maintained by the union, except that OSHA inspectors are hired from the state's registers. The Marine Transit unions maintain their own retirement program, whereas APEA and Local 71 members participate in the program administered by the state.

There are also differing views on the policy of hiring by seniority. Local 71 members strongly support seniority hiring while members of APEA support hiring of the most qualified without direct consideration of seniority. If supervisors are responsible about disciplining and firing unsatisfactory employees, then a policy favoring seniority should ensure that fully-qualified individuals are at the top of the eligibility lists.

Wages negotiated by unions are ususally passed on to non-unionized employees by management. This policy is followed by almost all states.

CLARIFICATION OF AMENDMENT OF MOTION:

Ken Humphreys suggested two amendments: that a section

be added requiring that any contract negotiated must meet federal merit principle standards, and that a savings clause be added, saying that if the contract does not comply with those standards, then the parties will renegotiate to provide for compliance.

General Policy Statement. There should be a policy statement identifying those topics which are essential to a merit system and which must be covered by all contracts. The list would include promotion, selection of the most qualified, career ladders, employee development potential, an agreed guiding principle on classification, and like pay for like work. Section 1 of the Model Public Personnel Administration Law is an example:

> The general purpose of this act is to establish a system of personnel administration that meets the social, economic and program needs of the people of the state. This system shall provide means to recruit, select, develop and maintain an effective and responsive work force, and shall include policies and procedures for employee hiring and advancement, training and career development, job classification, salary administration, retirement, fringe benefits, discipline, discharge and other related activities. All appointments and promotions in the state service shall be made without regard to sex, race, religion or political affiliation, and shall be based on merit and fitness.

Legislative Concern. The legislature is concerned about how the merit system and collective bargaining intertwine. The Commission should explain the two systems in its report as well as why it is important to retain each of them.

Exempt and Partially Exempt Employees. Janet Bradley expressed her personal concern that partially exempt employees have none of the benefits or protections of permanent employees, even though many of those placed in that category are not holding jobs appropriately considered political. The Categories of Employees Subcommittee should consider this issue.

VOTE ON SUBCOMMITTEE MOTION: The motion was adopted, eight (8) members of the subcommittee voting in favor, and one (1) opposed.

Issue 3. Method of adopting Personnel Rules and departmental standard operating procedures. (Discussion of this topic was postponed until the report of the group examining departmental standard operating procedures is prepared.)

Issue 4. Membership of the Alaska State Labor Relations Agency, the Personnel Board and the Retirement Board.

Issue 5. Scope of authority of the Labor Relations Agency and the Personnel Board.

These issues were combined for purposes of discussion. The subcommittee requested that Ken Humphreys research two bills introduced in previous sessions concerning the Labor Relations Agency. The subcommittee will discuss these issues in a later meeting.

Issue 6. Inclusion of non-certified school district employees under the Public Employment Relations Act.

A bill was introduced last session to include non-certified school district employees within the Public Employment Relations Act. It passed the House, but not the Senate.

Dwayne Carlson, the lobbyist for the AFL-CIO has indicated that passage of legislation in this area is priority number 2 of the AFL-CIO this session. Ken Humphreys will research the past bills in this area, and the subcommittee will then consider this issue.

Issue 7. Inequity of wages between union members and non-union state employees. This issue is incorrectly stated in the Issue Summary. It should read inequity of wages between members of two different unions.

The subcommittee decided to table this issue.

Issue 8. Due process rights for temporary employees.

This issue is within the scope of the Categories of Employees Subcommittee. The Merit System/Collective Bargaining Subcommittee decided to leave the topic for their consideration.

WORK SESSION SUMMARY
MERIT SYSTEM/COLLECTIVE BARGAINING SUBCOMMITTEE
Anchorage, January 26, 1979

The subcommittee discussed recommending the following to the Commission:

RECOMMENDATIONS

1. Creation of a new department composed of the Division of Personnel and Labor Relations. This would ensure that the Governor would receive prompt notification on Labor Relation's activities, since there would be a Commissioner in his cabinet. The state of Wisconsin has adopted such a system. The subcommittee will consider whether to make a formal recommendation after hearing from a representative from Wisconsin at the conference on February 6.

2. Composition and duties of Labor Relations, the Personnel Board and the Retirement Board. The Labor Relations Agency has no permanent staff and relies on the Labor Relations Section to provide support. Its workload is increasing, and a need for permanent staffing has been indicated. The Personnel Board meets only two or three times a year and is not very busy.

Ken Humphreys will research bills from the last two legislative sessions on the creation of a full-time Labor Relations Agency. He will also compile examples of Labor Relations Agencies in other states and in federal government.

The subcommittee work session was chaired by Don Fisher, upon the request of Representative Buchholdt, Chairperson.

BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT
Merit System/Collective Bargaining Subcommittee
Fairbanks North Star Public Library
December 13, 1978

MINUTES

Representative Buchholdt, Chairperson, called the meeting to order. There being no response to an invitation for public testimony, the hearing was opened to committee discussion.

COMMITTEE DISCUSSION

Pat Hunt began the discussion by stating that all issues covered by the committee indicate that the question of the merit system versus collective bargaining must be addressed. He asked if it is the intention of the committee to limit the scope of bargaining available to employees. What effect would the amendment of statutes have on future union contracts? Mr. Hunt also questioned the role of the legislature in the area of union contracts: Would it be politically feasible to limit bargaining rights?

Ken Spray responded by stating that he believes the committee does not want to limit collective bargaining rights. He suggested the separation of personnel and labor relations functions. At present, personnel is more regulatory than service oriented, and labor relations is influenced by this emphasis.

Niel Thomas questioned what is negotiable under collective bargaining. Pat Hunt replied that all conditions of employment are negotiable. The only exception, in accordance with an Attorney General's opinion, is retirement plans. The leave system, salary, wages, hours, insurance and classification are all negotiable.

Niel Thomas asked if anyone could conceive of a system in which the Legislature basically funds the personnel structure that emerges from the collective bargaining process without any other particular role over what is bargained. Ken Spray responded by stating that the Public Employment Relations Act is structured so that the responsibility is left to the Executive Branch. The Legislature maintains control over funding the agreement reached.

Representative Buchholdt suggested the major question appears to be the continuation of collective bargaining in conjunction with the merit system, modification of one or both, or elimination of one.

Ken Humphreys explained that as it stands, the Alaska Collective Bargaining Act is very broad in scope. The trend in other states has been towards very broad definitions of collective bargaining acts. It is within the Legislature's authority to limit and define conditions. However, he believes this would put additional constraints upon the unions and the

state government, causing additional conflicts.

Pat Hunt stated that the Constitutional mandate for a merit system for state employees could be fulfilled by a statutory requirement that those principles be incorporated in each collective bargaining agreement. The Personnel Rules would then set out a merit system to govern the terms of employment of non-unionized state employees not otherwise exempt from its coverage.

Niel Thomas questioned the testimony of individuals seeing the merit system as being against their rights for freedom of expression. Ken Spray added that labor relations was created for stability of labor, and that collective bargaining draws power from the labor movement, supplying employees with individual representation.

Niel Thomas brought up the question of the cost impact of collective bargaining. Ken Humphreys stated that his research indicates employee's salaries increased more before collective bargaining was enacted. In his study, he compared the increased percentages in employee salary seven years prior to the collective bargaining act implementation and seven years after. The salaries increased a total of 35% over the 73% cost-of-living increase within the past 14 years. This averaged out to a 2.5% annual increase. The cost of fringe benefits was not taken into consideration in his analysis. Mr. Humphreys is in the process of completing additional studies which he will make available to the committee.

PUBLIC TESTIMONY

Mary Langan, a freelance writer with Alaska Industrial Magazine, presented her views on the state personnel system. She had experienced working in both clerical and supervisory levels as a temporary with the state. Ms. Langan pointed out five major problems she had faced while employed by the state:

1) In 80 to 90% of government jobs, employee enthusiasm, creativity and initiative are stifled. The ideal employee is one whose attendace is prompt, who does not express new ideas which are contrary to "the system".

2) The recruitment of minorities and women is very limited. In some instances, temporaries are hired for permanent positions to avoid minority hiring.

3) There are inequities in the implementation of rules and federal regulations within both management levels and within the Division of Personnel. One example Ms. Langan mentioned was a delay in receiving her paycheck after termination. Federal law requires payment within three days of employee termination. The state took two weeks in sending out her check, and when

she protested, she was advised that the state was exempt from that provision of the law. Ken Spray explained that the state is not exempt from this federal statute.

4) At the job service office of the state, books on vacancies in state government are not readily available to the public.

5) The promotional ladder and the merit system are subject to misinterpretation and office politics, resulting in discrimination against women and minorities. Ms. Langan suggested that promotions be decided by a committee consisting of objective members not employed by the state.

COMMITTEE REVIEW

Representative Buchholdt directed the committee to consider the possibilities to recommend and refine during the next meeting in Anchorage. Each committee member will prepare a list of ideas for consideration. The staff will provide a summary of information presented to date.

In conclusion, Representative Buchholdt pointed out the advantages of having both the merit system--employee motivation and reward for performance--and the collective bargaining process--mandated by the Legislature to provide a voice to employees.

Niel Thomas presented his opinion that there is a general misunderstanding of the two by the public. He suggests the distinctions and definitions be clarified for the benefit of state employees.

Darlene Howard addressed the problems she sees within the systems--procedural and operational methods at the administrative level.

IN ATTENDANCE

Representative Thelma Buchholdt, Chairperson
Pat Hunt
Lynda McCurry
Ken Spray
Niel Thomas
Ken Humphreys
Darlene Howard (for Pat Murphy)
Bob Mourant (for John Pugh)

BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT
MERIT SYSTEM/COLLECTIVE BARGAINING SUBCOMMITTEE
Municipality of Anchorage Assembly Chambers
November 30, 1978

MINUTES

The meeting was called to order by Representative Buchholdt, Chairperson. Public testimony was invited.

PUBLIC TESTIMONY

Tom Phillips, an employee with the Department of Transportation, Division of Maintenance and Operation, presented his views on the implementation of Governor Hammond's policy on merit increases by the Department of Transportation and Public Facilities. Deputy Commissioner James O'Sullivan has changed previous departmental policy by requiring that the evaluation of employee performance be "outstanding" or "exceptional" to qualify the employee for a merit increase. The new policy requires that the director of each region review all evaluations. When the employee's performance justifies awarding a merit increase, the evaluation is reviewed by the Deputy Commissioner. As part of the new system, all supervisors were required to attend a training course on "Measuring Job Performance".

Apparently, the Governor's policy is not being applied consistently within state government. Mr. Phillips indicated that in the department across the hall from him, merit increases were being awarded on the basis of "acceptable" evaluations, as well as "outstanding".

Darlene Howard advised the committee that in the APEA supervisory unit contract, the contract language spells out when merit increases may be awarded. These contract provisions are consistent with Personnel Rules.

Mr. Phillips has filed a grievance after being denied a merit increase. (His supervisor, Clyde Dolly, confirmed his position and testified later in the meeting.) Deputy Commissioner Patrick Ryan has received the grievance form submitted by Mr. Phillips, and as of the meeting date had not acknowledged the situation. Mr. Phillips is awaiting further action.

In response to Representative Buchholdt's inquiry as to how many employees within his department could be considered "outstanding", Mr. Phillips replied that a very small per entage of state employees are evaluated as outstanding. He believes that employees deserving merit increases are not receiving them as a direct result of interpretation of the Governor's policy.

Albert Baffone, Business Manager of Public Employees Local No. 71, was next to testify in regard to the merit system. He regards the merit system as counter-productive and inadequate in covering all employees. Mr. Baffone suggests that the merit system be governed by a collective bargaining process. He pointed out that the legislature is burdened with many problems in labor relations and could expedite proceedings by considering solution adopted by unions.

Public Employees Local No. 71 works on a preferential hiring system. When the state calls the local seeking an applicant, the name of a qualified individual is given within 48 hours. The state provides a description of the position, classification, and any particular qualifications necessary. These specifications are taken into consideration by the union in referring an applicant, in accordance with contract guidelines. The employer may reject the applicant referred from the union, in which case another applicant will be recommended. There are no tests given by the union. Applicant are evaluated on the basis of their experience. Mr. Baffone stated that the system has approximately a 95% accuracy rate in placing these applicants. Under current laws, this system could be adopted by the state.

In addition, Mr. Baffone testified that despite the inference made that state employees cannot be fired, Local No. 71 has many cases of employees who were in fact fired. It is their policy to file a grievance on every case which a member brings to them, so that they have standing to investigate the matter. If their research shows that the management action was justified, then they withdraw the grievance, documenting for their own protection their reasons for doing so. Unions are liable to their members for failure to represent.

Clyde Dolly, Manager of the Department of Transportation and Public Facilities, proceeded to testify that he is in favor of employees' associations and merit increases. Merit increases are one of the tools applicable to employees for inspiring and rewarding performance.

Mr. Dolly further indicated that employee morale has declined because of the change in the merit increase policy and the inconsistent application by different departments. Because there is a lack of funding, there is also little opportunity for supervisors to recognize the abilities of their employees by promoting them.

In answer to a question, Mr. Dolly stated that if a supervisor recommends a merit increase, the evaluation form is returned to the supervisor with directions to rewrite it. In Mr. Dolly's opinion, the instructions given on how to evaluate employee performance discourage a supervisor from evalauting an employee

as outstanding or exceptional. This was the basis for Tom Phillip's grievance.

Mr. Dolly continued, adding that he is in favor of the register system. Ken Spray asked how long it took him to get employees off the register. Mr. Dolly explained that it takes at least three weeks to hire through the register, but he is given the top five names to consider. As a program manager in a previous position, he had experience working with the preferential hiring system. In hiring from the union, he received a response within three days. However, he was sent one individual at a time, and had to justify not selecting the first person sent. There was no way for the supervisor to know whether the second person would be more qualified for a particular job.

Greg O'Claray asked why it took Mr. Dolly three weeks to be able to hire someone from the register. Mr. Kareen responded that it was probably a result of internal departmental procedures. Lynda McCurry indicated that it takes her department an average of two days to receive a register from the Division of Personnel once requested.

Mr. Dolly concluded that although the register system takes a minimum of three weeks to hire an employee, as opposed to 48 hours when using the preferential hiring system, he would rather be given a choice of five applicants who have been tested for qualifications and experience. With the preferential system, the first candidate to meet minimum qualifications must be hired, and the opportunity to have a choice is not supplied.

Ron Felty, an employee with the Municipality of Anchorage, stated briefly that he was present to observe proceedings because of an interest in the concept of the merit system and the application to the labor environment. Representative Buchholdt explained that the commission is designed to take an overall view of personnel practice within the state and to cover as many topics as possible, including all government entities.

Beverly McCartney, an employee with Community and Regional Affairs Department, was present to observe proceedings and offered a few comments on another problem within the state. She indicated that her department is not filling permanent positions in order to create vacancy funds to use to provide merit increases to remaining employees. For example, the Property Control office has lost staff members who have not been replaced. As a result, none of the new property received has been tagged during the last four months. This vacancy factor has not been articulated in writing, yet it is currently practiced by numerous departments.

Darlene Howard amplified this point. A November memo from

the Governor indicated changes in procedures and funding for merit increases. APEA challenged the provisions of the memo and their contract now specifies how merit increases are to be awarded. In response, Niel Thomas commented that concern over expenditures controls the work force. Budgetary procedures are left to the discretion of divisional management. Misinterpretations of guidelines, insufficient funds and lack of controls lead to manipulation of budgetary allowances.

Ken Kareen pointed out that the process in itself controls the state work force and the amount of money spent. First, there are a set number of positions, designated as "man-months", authorized in the budget. Second, each department is authorized a set amount of money. The department cannot hire more than the combination of what the two permit.

Niel Thomas suggested that better management oversight would be performed by the legislature if the concentration were on the executive performance of tasks and goals set, rather than the structural aspects of the executive branch--how many people are employed and where they are placed. The legislature needs to hold the executive branch accountable for achieving the goals the legislature sets.

Representative Buchholdt questioned Ms. McCartney on whether she felt that her department was providing adequate service. Ms. McCartney indicated that because of vacancies, employees in the department are doing considerably more work and not receiving sufficient compensation for additional responsibilities and a heavier workload. State employees are becoming frustrated with their work, lack of recognition and insufficient funding for increases and promotions. There is a serious decline in employee morale.

John Pugh asked Representative Buchholdt whether, as a legislator, she had been aware that the merit increases for present employees had not been funded for the past two years. She did not recall. He asked because APEA has been castigated for seeking both merit increases and cost-of-living adjustments for its membership, while the administration uses the existence of merit increase possibilities to hold down wage increases.

Representative Eliason suggested that there are two solutions to the inequities in the present system: 1) have a single bargaining unit for all state employees, or 2) repeal the collective bargaining act.

Ken Spray pointed out that there are inequities in the private sector, where different unions representing different trades had negotiated different wages.

Representative Eliason pointed out that it is not the responsibility of the legislature to bring about equal pay scales between unions. Mr. O'Claray explained that unions that grew out of the private industry unions have philosophical problems with the concept of a merit increase system. This comes about because of the control which The Boss exercised over his work force and the resentment felt by workers towards his potentially arbitrary and unchecked discretion. Therefore, unions rely on salary increases for time in service and the promotional ladder as the way to reward competence.

Ken Foot, a State Trooper from the Fairbanks office of the Public Safety Employees Association, indicated that because of personal experiences, he believes there are not sufficient promotional opportunities available to reward service to the state. Therefore, in his opinion, merit increases should be retained to compensate for this lack of upward mobility.

After a brief discussion on possibilities for rewarding deserving employees, John Pugh suggested that President Carter's Productivity Bonus may be worth consideration.

IN ATTENDENCE

Representative Buchholdt, Chairperson
Representative Eliason
Ken Kareen (for Pat Hunt)
Lynda McCurry
Darlene Howard (for Pat Murphy)
Greg O'Claray
John Pugh
Ken Spray
Niel Thomas
Ken Humphreys (for Myrt Charney)

BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT
Merit System/Collective Bargaining Subcommittee Minutes
November 30, 1978

ADDENDA

The following is an addenda to the Merit System/Collective Bargaining Subcommittee Minutes of November 30, 1978. The addenda was proposed by Darlene Howard to be included on Page 4, after Paragraph 6. The addenda was adopted at the Full Commission hearing on January 10, 1979:

Darlene Howard spoke on the experience of collective bargaining by state employees who are also subject to the principles of a merit system. The public sector has had a merit system primarily in response to the problems created by political patronage. It is meant to be a way to insure equal treatment of employees. The merit system addresses individual ideas: selection, promotion, increases and career ladders. Any merit system seeks to promote equity and efficiency in the organization. Collective bargaining presents the collective voice of employees in terms of conditions of employment in the decision making process and insures due process.

Merit increases are management's way of rewarding an employee for a job well-done. Public union bargaining sets general salary ranges. Although some perceive a "double dip" for state employees, there is a distinction between the two and the existence of merit increases is taken into account in contract negotiations.

The two systems are not inherently contradictory. Ms. Howard has worked for the state for ten years under both a merit system only and under a merit system supplemented by a collective bargaining union. The combination has, in her experience, led to due process, equity and representation.

One area that needs to be addressed is the situation that arises when contract terms differ from statutes or from Personnel Rules. If a statute prohibits something, can the union and the Division of Personnel bargain on that point?

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILE 8672
1361 SCOMM 51: BLUE RIBBON COMN. ON STATE PERSONNEL ACT 1978-1983

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OVERVIEW OF THE EFFECT OF COLLECTIVE BARGAINING ON THE STATE PERSONNEL ACT AND THE PERSONNEL RULES

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Senator Bill Ray, Chairman

Blue Ribbon Commission on the

State Personnel Act

August 1979

TABLE OF CONTENTS

I. INTRODUCTION....1

II. CLASSIFICATION....2
A. Statute....2
B. Personnel Rules....2
C. Collective Bargaining Contracts....2
D. Summary....3

III. RECRUITMENT, EXAMINATION AND ELIGIBLE LISTS....4
A. Statutes....4
B. Personnel Rules....4
C. Collective Bargaining Contracts....5
D. Summary....6

IV. TEMPORARY, EMERGENCY, PROVISIONAL AND PART-TIME APPOINTMENTS....7
A. Statutes....7
B. Personnel Rules....7
C. New Legislation....8
D. Collective Bargaining Contracts....8
E. Summary....9

V. PROBATIONARY PERIODS....10
A. Statutes....10
B. Personnel Rules....10
C. Collective Bargaining Contracts....11
D. Summary....12

VI. TRAINING....13
A. Personnel Rules and Statutes....13
B. Collective Bargaining Contracts....13
C. Summary....14

VII. TRANSFERS....14
A. Statutes....14
B. Personnel Rules....15
C. Collective Bargaining Contracts....15
D. Summary....16

VIII. PROMOTIONS....16
A. Statutes....16
B. Personnel Rules....16
C. Collective Bargaining Contracts....17
D. Summary....18

IX. MERIT INCREASES....18
A. Personnel Rules and Statutes....18
B. Collective Bargaining Contracts....18
C. Summary....19

TABLE OF CONTENTS (cont.)

X. LAYOFFS.....19
A. Statutes.....19
B. Personnel Rules.....20
C. Collective Bargaining Contracts.....20
D. Summary.....21

XI. SUSPENSION, DEMOTION AND DISMISSAL.....21
A. Statutes.....21
B. Personnel Rules.....21
C. Collective Bargaining Contracts.....22
D. Summary.....24

XII. HEARINGS AND APPEALS.....24
A. Statutes.....24
B. Personnel Rules.....25
C. Collective Bargaining Contracts.....26
D. Summary.....27

XIII. HOURS OF WORK.....27
A. Statutes.....27
B. Personnel Rules.....28
C. Collective Bargaining Contracts.....28
D. Summary.....30

XIV. PAY.....30
A. Personnel Rules and Statutes.....30
B. Collective Bargaining Contracts.....31
C. Summary.....32

XV. CONCLUSION.....32
A. Miscellaneous Contract Provisions.....33

I. INTRODUCTION

The purpose of this overview is to summarize the effect of collective bargaining on the Personnel Act (AS 39.25) and the Personnel Rules and, as space permits, to identify the different systems for handling personnel procedures established by the contracts considered. This is a topical presentation of the Personnel Act, the Rules and five of the eight collective bargaining contracts covering Alaska's public employees during 1979. No attempt is made to investigate the application of the contracts: The study is limited to summarization of actual contract terminology.

The five contracts studied represent a variety of union memberships and interests: APEA's General Government Unit (GGU) represents non-supervisory members; APEA's Supervisory Unit represents supervisory and managerial members; Confidential Employees Association (CEA) represents members employed in personnel departments; Local 71 represents members belonging to the labor, trades and crafts professions; and Public Safety Employees Association (PSEA) represents regularly commissioned public safety officers.

Because marine employees are classified as exempt and are therefore excluded from the provisions set forth in the Personnel Act (AS 39.25.110(12)) and the Personnel Rules, they have not been considered here. The Inlandboatmen's Union of the Pacific (IBU), the International Order of Masters, Mates and Pilots (MMP) and the Marine Engineers Beneficial Association (MEBA) negotiate with the state on wages, hours, working conditions and other employee benefits covering marine transportation employees engaged in the operation of the state ferry system. AS 23.40.040.

Each of the collective bargaining contracts reviewed here contains a clause committing the union and the state to strengthening merit principles in the bargaining unit and to use all due diligence in maintaining merit principles among public employees. Each contract also contains a statement that the terms of the contract take precedence over personnel rules and departmental operating procedures. One of the contracts provides that if the terms of the contract conflict with the law, the contract supersedes the provision of the law. Additionally, the contracts provide that the parties will renegotiate if any portion of the contract is declared invalid and that the remaining parts of the contract should be considered valid.

There are two Local 71 contract versions, one printed by the state and one by the union. There are no substantive differences between the two, although articles and sections are numbered differently. All citations noted herein are from the union version.

II. CLASSIFICATION

A. Statute:

> Sec. 39.25.150. Scope of rules. The personnel rules shall provide for (1) the preparation, maintenance, and revision by the director of personnel...of a position classification plan for all positions in the classified and partially exempt services;

B. Personnel Rules

Actual allocations of positions to job classifications are handled by the Director of the Division of Personnel with assistance from the appointing authorities. This necessitates budgeting prior to the completion of classification actions and certification of the availability of funds by the Director of the Division of Budget and Management. PR 2 04.5. Periodically, classification allocations in both the classified and partially exempt service are to be systematically reviewed by the Director, and appropriate adjustments are to be made in accordance with findings. PR 2.

C. Collective Bargaining Contracts

All collective bargaining contracts representing employees in the state service recognize the classification, development, modification and assignment of positions to various classifications as a management prerogative. The contract terms on this topic are limited, in most instances, to requirements that job descriptions be updated periodically, and to the enumeration of the classifications within each union.

General Government Unit

The GGU contract provides that the union may require the employing department to prepare an updated position description when it believes the duties and responsibilities of an employee's position description are inconsistent with the employee's assigned duties. The union may then request the department to order a job audit by the Chief of the Classification and Pay Section of the Division of Personnel. If the union believes inequities exist in a class series, between classes or in salary ranges assigned classes, it may notify the Chief of Classification and Pay, who must then respond. In either case, the union may appeal any findings of the Chief of Classification and Pay to the Director of Personnel and then to the Commissioner of Administration. Art. 19.

Supervisory Unit

In the SU contract, disputes or grievances relating to classification are apparently subject to grievance procedures outlined in Article 10, which state that any dispute arising between the unit or an employee and the state is to be settled by the methods outlined in that article. The contract does not otherwise address the topic of classification.

Local 71

Local 71's contract states that the state and the union agree to review all existing classification specifications and descriptions within the union's purview and to take any classification or reclassification action necessary to correct errors. A procedure is set forth for handling disputes on such matters. The Commissioner of Administration is responsible for initiating investigations on classification actions disputed by the union. If the Commissioner of Administration and the union cannot resolve an issue regarding classification, then an arbitrator may be called in for a final binding decision. The arbitrator has authority to establish a new wage rate or classification only for positions in which new types of equipment or operations for which rates of pay have not been previously established are the subject of the dispute.

Confidential Unit

The CEA contract has no provisions addressing the classification process. Any disagreement or dispute regarding classification could conceivably be filed in accordance with grievance procedures set out in the contract. Art. 13.

Public Safety Unit

The PSEA contract enumerates classifications within the union by title and salary range (Art. 15), and grievances regarding classification resulting from violations of the personnel rules or the operating procedures manual can be brought before the Commissioner of Administration. Grievances involving contract terms may be brought to binding arbitration. Art. 10(1).

D. Summary

Of all the contracts studied, Local 71's appears to establish the most involvement in the state's classification system. Only Local 71's contract requires a classification study of positions within the union and provides a separate procedure for resolving classification disputes.

The membership of CEA and SU have the most knowledge of, and in the normal scope of their responsibilities, the most control over classification procedures. Confidential employees in the normal course of their functions handle all classification actions for their departments and are therefore less likely to encounter problems on their own behalf. Similarly, supervisors work closely with the classification plan and are more familiar with its implementation. Conversely, GGU, Local 71 and PSEA members are isolated from the actual classification processes and consequently have less ability to influence classification decisions.

III. RECRUITMENT, EXAMINATION AND ELIGIBLE LISTS

A. Statutes

The Personnel Act states that, in accordance with the merit principle of employing the best qualified persons for state service, the personnel rules shall provide for "the use of sound selection methods, including open competitive examinations...for positions in state service". AS 39.25.150(3). The rules shall also provide for:

> the establishment and maintenance of eligible lists for appointment and promotion; the names of eligible candidates shall be placed on eligible lists in order of their relative performance in the examinations. AS 39.25.150(5).

The statutes provide for a veteran's preference system (AS 39.25.150(23)), employment preference for the severely handicapped (AS 39.25.150(25)), and a vocational substitution program for Alaskan residents who live in underemployed or remote areas of the state where opportunities to gain hiring qualifications do not exist (AS 39.25.155).

B. Personnel Rules

The Director of the Division of Personnel is responsible for recruitment of qualified applicants for the classified and partially exempt service. PR 3 01.0.

There are three types of examinations used by the state: continuous examinations, with no closing date for receipt of applications; specific examinations, which do have a time limit on receipt of applications; and promotional examinations, which are only open to permanent employees. PR 3 01.0. The final examination grade may be based on all factors of the examination, including test results, educational requirments, experience and other data from the applicant or other verified information. PR 3 05.1. The performance record and seniority of a permanent employee in the classified service applying for promotion is also evaluated. PR 3 05.2.

Applicants may review tests, except those used for a continuous recruitment class and other information used in the applicant's final rating except information gained as a result of confidential inquiries. PR 3 06.0.

All eligible lists must be by class title, with eligibles ranked following competitive tests and performance ratings. All lists are applicable statewide, unless otherwise designated by the Director, and all vacancies are filled by certification from competitive eligible lists except as otherwise provided in the rules. PR 4 01.0.

The Director is responsible for the certification of such lists for filling vacancies within the classified and partially exempt services. Emergency appointments are an exception to this rule. Eligibles for permanent positions are first to be certified from layoff lists, and if none exist, the Director certifies from competitive eligible lists. Appointments are made on the basis of merit from the selection of the highest on the list in accordance with the duties of the position. Selection is made from the top five available eligibles on competitive lists, and can include eligibles on rehire lists. In unique and unusual circumstances, the appointing authority can choose an applicant below the top five. PR 5.

C. Collective Bargaining Contracts

The contracts examined in this study, with the exception of Local 71's, recognize recruitment, examination, selection, promotions, transfers and the determination of methods for such action as a management prerogative.

General Government Unit

When a member applies for a position within the GGU contract's jurisdiction, the applicant is required to receive notification of her or his eligibility for a competitive examination. If the Division of Personnel finds that an applicant fails to meet the test and examination standards for the position, the unit can receive an explanation of the criteria used in the computation of the final rating on training and experience. Art. 18(9). If a written examination is found to have discriminatory impact on members, the unit and the Deputy Director of the Division of Personnel agree to appoint an advisor to review the examination(s) in question and to made recommendations for corrective action. If the GGU and the Deputy Director cannot reach an agreement on the advisor's recommendations, the matter is referred to the Director for final disposition. Art. 18(10).

The GGU contract also requires that explanation be provided to the union from the Division of Personnel when a member is refused certification on an eligible list. Employees are not required to seek the approval of their supervisors when requesting placement on tranfer lists. Art. 18(1).

Supervisory Unit

The SU contract also requires explanation from the Division of Personnel when a member is refused certification on an eligible list. Supervisors cannot remove names of employees from eligible or transfer lists, and placement on transfer lists does not necessitate the approval of a supervisor. Art. 16(1).

The contract does not contain any direct reference to the recruitment and examination processes, but does agree to uphold the merit principle of encouraging the hire of the most qualified. Art. 4.

Public Safety Unit

PSEA's contract stipulates that the merit principle of selecting the most qualified will be upheld. Art. 5. There is no specific mention of the topic of eligible lists in PSEA's contract.

Confidential Unit

CEA's contract requires that employees receive written explanation in instances where they are refused certification on eligible lists or are removed from lists. Placement of an employee's name on a transfer list does not necessitate a supervisor's approval. Art. 12(1). CEA's contract requires that vacancies be filled first from layoff lists, and if none exist, from promotional lists. This serves to give applicants who are current members of the union or previous members preference over applicants from outside the union's jurisdiction. Art. 12(4).

Local 71

Preferential hiring facilities are provided for within the Local 71 contract for the purpose of operating a job referral system, which the state uses in acquiring employees for classifications within the union's purview. A joint hiring committee of two state representatives and two union representatives is established contractually to oversee and control the job referral system, to establish rules and regulations for maintaining the system and to hear grievances, or in the case of a deadlock, to employ an impartial umpire to make a final binding decision. Local 71's contract stipulates that selection of applicants for certification to the state is not discriminatory and that preference is given to residents of Alaska and residents within the immediate vicinity of available positions. The state maintains the right to reject applicants referred by Local 71, but must supply reason(s) for rejection of applicants. In the event that Local 71 cannot supply a qualified applicant upon the state's request within 48 hours, the state may hire from any other source, provided Local 71 is notified of the action. Art. 5.

Because of federal regulations and merit system standards, Occupational Safety Compliance Officers have been exempted from the job referral system and are subject to the testing and examination process used by the state. Art. 43(1).

D. Summary

Collective bargaining appears to have no significant impact on the state's recruitment and examination processes. However, Local 71's job referral system does replace the state's system with an alternative

practice. Federal and statutory mandates of hiring the best qualified are upheld by all of the unions considered in this study.

IV. TEMPORARY, EMERGENCY, PROVISIONAL & PART TIME APPOINTMENTS

A. Statutes

The Personnel Act provides for the existence of emergency, temporary, provisional and permanent part-time appointments in the personnel rules. Temporary appointments are defined by statute as those of a seasonal or temporary nature, and provisional appointments as those occuring without competitive examination when appropriate eligible lists are not available. AS 39.25.150(8),(9) and (10). Permanent part time appointments are defined as employment on the basis of 15 hours or more a week, including employment of two persons to fill one permanent full-time position. AS 39.25.150(24).

B. Personnel Rules

The personnel rules define more clearly the extent of the appointments and their limitations. Temporary appointments are not to exceed six months in duration and are to be made from eligible lists when practicable. The Director of the Division of Personnel may grant extensions to this time limit, and temporary employees may seek employment in other departments immediately following the expiration of this term, but not with the same employing department. PR 5 06.0. The rules also create short term appointments, which are not to exceed 90 days in any one calendar year and may be made for positions in remote areas only. PR 5 06.1.

Emergency appointments are limited to 30 days in duration with no more than three appointments per person in any one calendar year. An emergency is defined as a condition necessitating immediate action to provide work in the public interest, and as filling a need that could not be anticipated. Exception to the limit of three appointments per person in one year is made for guards or attendants for prisoners. PR 5 07.0.

Provisional appointments may be authorized by the Director in the absence of appropriate eligible lists. A provisional employee must be terminated upon the expiration of the probationary period of a regular permanent appointment or the subsequent appointment from an appropriate eligible list. A provisional employee may be converted to probationary status, provided the employee meets the qualifications specified by the Director and is placed on an eligible list in a position that is reachable for appointment. PR 5 08.0.

C. New Legislation

Effective as of January 1, 1980, reference to temporary appointments will be eliminated from the statutes in accordance with new legislation on nonpermanent hire. The following is a summary of Chapter 67, SLA 1979:

State Employees

Categorizes all classified state employees as permanent, nonpermanent or emergency employees and provides that a nonpermanent employee may not be appointed and placed on the payroll without the prior written approval of the director of the division of personnel and labor relations. Sets out conditions under which nonpermanent employees may be appointed and limits their service to 120 days in a 12-month period unless they are "program or project employees." Makes a person who falsely certifies a need for a nonpermanent employee personally liable in a civil action to the nonpermanent employee if the employee was terminated as a result. (HCS CSSB 198).

D. Collective Bargaining Contracts

General Government Unit

GGU is recognized as the exclusive representative of temporaries in the unit, and conditions on temporary employment are set out. Temporaries do not come under the definition of "member". The contract limits the temporary employment period to nine months, with no extensions possible. However, by amending the contract, that term has been shortened to six months. Temporaries must meet minimum qualifications of the classifications they are hired for. Following the six month term, a person may be employed as a temporary within a different employing department. Temporaries receive holiday pay, credit for time in service should they become probationary employees and compensation that is at least equivalent to the entry level of the assigned class. Art. 2(2).

Emergency appointments to positions within GGU are limited to a total of no more than 60 days in any calendar year. The contract states that emergency employees are not members of the unit and are therefore not covered by the terms of the contract. They are subject to the personnel rules on emergency appointments. Art. 22.

Supervisory Unit

The SU contract contains a clause similar to that of GGU regarding the representation of temporaries, but does not include provision for retroactive credit for time in service towards the probationary period. Art. 2(2). Emergency appointments are not addressed in the SU contract. By definition, the term "employee" as used in the contract includes permanent, probationary and provisional employees. Art. 1(2)(c).

Public Safety Unit

Temporaries are also recognized as bargaining unit members of PSEA. Temporaries must meet minimum qualificaitons, be paid at wage levels equivalent to those paid to permanent employees within the same classification and receive evaluations on performance after 30 days in service to be included in their personnel records. Temporaries are also eligible for holiday pay. Art. 2. The duration of temporary employment is not limited by PSEA's contract, and emergency employees are not specifically addressed. Provisional employees are included in the definition of "member" and are therefore subject to the same terms and conditions of the contract as are permanent employees. Art 1(2)(g).

Confidential Unit

Temporary employment is limited to nine months within any calendar year by CEA's contract, and temporaries are eligible to receive holiday pay. Provisional employees are recognized as "members" and are therefore subject to the terms and conditions of the contract as are permanent employees. Art. 2. Emergency appointments are not addressed.

Local 71

Local 71's contract limits the temporary term to not more than 120 calendar days, althought the time may be extended by mutual agreement between the union and the state. Temporaries, in lieu of benefits, receive $1.32 per hour over regular class wages. Seniority is retroactive if a temporary is appointed to permanent status. CETA and PEP temporary appointments are not restricted to the 120 day limit, but are placed at step B of the salary scale following the 120 day period. Art. 25(2) and (3).

Local 71 does not recognize emergency employees within their contract. As an alternative to emergency appointments, Local 71's contract provides for "casual" employees who can be appointed by the Director of Personnel for not more than 15 calendar days. These appointments are not subject to other terms and conditions of the contract, with the exception of overtime compensation. Art. 25(5). Provisional employees are not recognized in Local 71's contract.

E. Summary

Of the contracts examined, Local 71's alters the effect of appointments to the greatest extent. Besides restricting the time in which its members may be employed as temporaries (120 days), Local 71 has created an alternative category for emergency appointments, which the union labels "casual" employment (15 days).

In regard to time limitations on emergency appointments, GGU's contract is the only one that restricts the initial employment period to one shorter than established in the personnel rules. On temporary appointments, both GGU and SU contract amendments restrict extensions beyond the six month period specified by the personnel rules, thus denying the possibility of extensions with the Director's approval.

CEA's contract, rather than limiting the employment period for temporaries, extends the time to nine months and makes no reference to possible extensions. PSEA's contract is the only one that does not address time limitations on temporary appointments.

Temporaries are entitled to holiday and compensation that is equivalent to that of permanent employees within the same classifications. Local 71 is the only union that provides additional compensation ($1.32 per hour) in lieu of medical and insurance benefits. Three unions address credit for a temporary's time in service: GGU, SU and Local 71.

Provisional employees are generally recognized as being subject to the same provisions as permanent employees, with the exception of Local 71.

V. PROBATIONARY PERIODS

A. Statutes

The objective of the probationary term is to give an appointing authority opportunity to examine and evaluate the performance of the hired employee. The Personnel Act states that the personnel rules shall provide for:

> a period of probation not to exceed one year...except that a permanent employee receiving a promotional appointment retains permanent status in the service and job class from which appointed for the duration of the probationary period, and may be demoted to his former class without right of appeal, §170 of this chapter notwithstanding, but if dismissed from the service he has appeal rights under §170 of this chapter. AS 39.25.150(7).

B. Personnel Rules

The probationary period set out in the personnel rules is one year for employees above range 13 and six months for those range 13 and below, which can be extended at the Director's discretion. Employees rehired, promoted or transferred must complete a probationary period for the position they are appointed to, which counts towards the completion of any probationary period uncompleted in a lower classification.

Temporary and emergency employees do not receive credit towards the probationary period for time in service. PR 6 01.0 and PR 6 02.0. During this probationary period, the Director can request employee evaluations at any time. PR 6 03.0.

A probationary employee, unless holding permanent status at the time of probationary appointment, may be dismissed without the right of appeal or hearing, unless dismissal is a result of discrimination. The employee dismissed for reasons other than discrimination may petition the Director for review of such action. The Director may restore an individual's name to an appropriate eligible list, but may not certify the individual to the same appointing authority. PR 6 05.0.

The Director is notified 15 days prior to the expiration of the probationary period, and if performance evaluations are satisfactory, the employee is placed in permanent status. PR 6 05.0. If dismissed from service, a probationary employee has the right to appeal through the Director to the Personnel Board under Rule 12 01.2, but does not have the right to appeal a demotion to a former classification. PR 6 06.0.

C. Collective Bargaining Contracts

General Government Unit

The GGU contract provides for a probationary term of six months for ranges 13 and below. The Director of Personnel may limit, by written agreement with the employee, the probationary period for ranges 5 through 13 to three months. The probationary terms for positions in range 14 and above are one year, but may be shortened to six months at the Director's discretion. Art. 18(7). All probationary employees are required to receive a written performance evaluation mid-way through the probationary term. Art. 18(8). A probationary holding permanent status in another classification is entitled to process disputes up to step four of the grievance procedures. Art. 10(1). In all other aspects, probationary employees are recognized as members and are subject to the terms and conditions of the GGU contract. Art. 2(1).

Supervisory Unit

The SU contract contains no mention of time limitations on probationary periods, so it is assumed that there is no alteration of the personnel rules in this regard. The contract does state, however, that probationary employees receive semi-annual evaluations (Art. 16(4)) and that appeals in response to dismissal of a probationary in permanent status may be submitted to arbitration (step five) for settlement. Because the definition of "employee" includes probationaries (Art.1 (2)(h)), they have access to the grievance procedures up to step four on all other matters. Art. 10.

Public Safety Unit

The PSEA contract provides for a probationary period of one year in duration, which may be extended an additional 90 days for completion of a Public Safety Academy course. The probationary period for promoted employees is limited to six months. Art. 18(1).

Probationary employees are precluded from filing grievances during their initial appointment. However, during the final six months of a probationary term, a grievance pertaining to disciplinary action (except dismissal) may be brought before the Commissioner of Administration. Art. 10(1). Probationaries within PSEA must receive semi-annual performance evaluations. Art. 18(2)(B).

Confidential Unit

Probationary employees within CEA are recognized under the definition of "employee" and are subject to the terms and conditions of CEA's contract. Art. 2. Because the probationary employee is not differentiated from the permanent employee, probationaries presumably have access to grievance procedures to the same extent as do permanent employees. Art. 13.

Local 71

Local 71's contract reduces the probationary period as set out in the personnel rules. Upon completion of a 60-day probationary period, an employee is considered to be in permanent status, and seniority is then retroactive to the date of hire. Art. 25(1). Probationary employees who are discharged or terminated have appeal rights through step three of the grievance procedures. Art. 12. Probationary employees holding permanent status have access to arbitration proceedings (step four) in cases of dismissal. All other grievances received from probationaries can be brought to step three. Art. 13.

D. Summary

Probationary time frames set out in the personnel rules are altered either by limiting or extending the periods by the GGU, PSEA and Local 71 contracts.

The Personnel Act states that an employee in the classified service may appeal a dismissal, a demotion or a suspension of more than 30 days in a hearing before the Personnel Board. AS 39.25.170(a). The phrase "employee in the classified service" has been interpreted by the Supreme Court of Alaska to include permanent employees and to exclude probationary or provisional employees. Whaley vs. State, 438 P.2d 718 (1968). (By extension of this reasoning, temporary employees would also be excluded.)

The statute setting out probationary periods does make clear, however, that promoted employees retain their permanent status in the classes from which they were promoted and therefore do have the right to appeal dismissals from state service under AS 39.25.170, although they may not appeal demotions to their former classes. AS 39.25.150(7).

Under the personnel rules, however, all probationary employees may appeal dismissals which are alleged to result from discrimination based on race, color, sex, religion, national origin or political beliefs to the Director of the Division of Personnel and Labor Relations. PR 6 04.0.

Grievance rights on demotions and dismissal issues for probationary members not holding permanent status vary within each collective bargaining contract. With the exception of CEA, probationary members are precluded from arbitration proceedings.

VI. TRAINING

A. Personnel Rules and Statutes

The Director of Personnel is responsible for the development, in cooperation with appointing authorities, of programs for the improvement of employee effectiveness and morale. AS 39.25.050(3). The personnel rules implementing the statute provide for pre-service and in-service training to raise the quality of employee performance. Appointing authorities, with the Director's approval, can establish intern and apprenticeship training programs. Regulations on reimbursement of educational fees are issued by the Commissioner of Administration and are contingent upon the employee's agreement to remain in state service. PR 8 02.0.

B. Collective Bargaining Contracts

General Government Unit

In the GGU contract, the Division of Personnel agrees to recognize its responsibility to reimburse employees for expenses incurred in job-related training courses. Employees who attend training courses do not lose leave or pay unless the course is for an extended time. The Division of Personnel is also responsible for developing, when practicable, employee training procedures. On-the-job and cross-training are encouraged. The GGU contract requires that the Division of Personnel designate a person within each department to explain training and educational opportunities available to employees. Art. 20.

Supervisory Unit

As stated in the SU contract, the Division of Personnel agrees to recognize the need for educational advancement and shall reimburse, if funds are available, employees' tuition and text fees for job-related training. The unit's contract also provides for compensation during the training sessions. Art. 23(9).

Local 71

Both the state and Local 71 are to consider individual programs for employee training and reach agreement on provisions regarding wages and conditions in accordance with the union's contract. The state agrees to establish a policy committee of four members from each party to the contract to create training policies and procedures in each department. Art. 25(6).

Public Safety Unit

The PSEA contract has more specific provisions regarding emp oyee training than do other union contracts. The Director of Personnel is to select and assign members to particular fields for safety training. Employees submit memos annually requesting training with comments from supervisors regarding the requests, and if a request is denied, a reason must be supplied to the employee. Whenever possible, the state is to attempt to obtain college accreditation for training courses. PSEA members must qualify on pistol and shotgun courses semiannually and must receive periodic retraining as required to maintain certification for job performance in their unique professions. The Division is also obligated to continue its policy of encouraging members to seek further advanced education. A standing advisory committee is established to make recommendations to the Commissioner of Public Safety on academy training, minimum training needs for Police Standards certification and in-service training needs. Art. 9.

Confidential Unit

The CEA contract states that the Division of Personnel will provide 15 hours of training each year to all members and will develop the contents of such training. Art. 14.

C. Summary

With the exception of Local 71 and PSEA, the scope of collective bargaining in relation to training is limited to requiring the Division of Personnel to create training policies and procedures. The topic of reimbursement for such expenses is addressed by GGU and SU. Local 71 and PSEA provide for the establishment of committees to oversee the implementation of training practices. The CEA contract requires that the state provide 15 hours of training annually to all members.

VII. TRANSFERS

A. Statutes

The Personnel Act states that the Personnel Rules shall provide for:

transfers from one department to another and from another merit system jurisdiction to the state service (and) transfers from one area of the state to another. AS 39.25.150(11) and (12).

B. Personnel Rules

The personnel rules define transfers as lateral moves to the same or parallel job classifications. There are two types of transfers: intra-agency and inter-agency. The status of employees is not affected by transfer. PR 5 10.3. The Director retains the right to examine an employee to establish that minimum qualifications are met before approving parallel transfer. PR 5 10.4. Fringe benefits awarded employees are also not affected by transfer. PR 5 10.6. Transfers without employee consent must be approved by the Director. PR 5 10.7.

C. Collective Bargaining Contracts

All of the collective bargaining contracts recognize the transfer of employees and the methods for determing such action as a management right. The contracts contain some provisions regarding transfers.

General Government Unit

GGU's contract states that an employee can request a transfer from the Division of Personnel and prohibits an immediate supervisor from refusing such a request or from removing an employee's name from a register. Art. 18(1).

Supervisory Unit

Provisions in the SU contract state that employees may request placement on transfer lists through the Division of Personnel and that such requests do not require a supervisor's approval. Art. 16(1).

Local 71

According to Local 71's contract, employees may not be compelled to accept transfers to new duty stations. Art. 25(16)(e).

Public Safety Unit

The provisions set forth in PSEA's contract differ significantly from those in other union contracts. Transfers are to be in the best interest of the Department, and length of service is considered in the determination of preference for transfer where other factors are relatively equal. The state is responsible for posting notices of duty posts available on a monthly basis and for maintaining files of transfer requests. When the most senior member's transfer is not honored in filling a vacancy, that member is advised of the reason in writing.

Members who have served in the unit in excess of five years are not subject to involuntary transfer except under extenuating circumstances. Members normally receive 60 days notice prior to transfer, and are granted five days of adminsitrative leave with an additional five days available at the discretion of the Department Commander to effectuate such a move. The state agrees to continue to effect transfers arising out of special need and extenuating circumstance of a personal nature consistent with transfer policy. Transfer is not considered a method for disciplinary action. Grievances concerning involuntary transfers are to be filed with the Commissioner of Public Safety and may only be appealed to the Commissioner of Administration. Art. 12.

Confidential Unit

CEA's contract states that an employee may have her or his name placed on a transfer list by submitting the proper forms to the Division of Personnel and that this does not necessitate the approval of the employee's supervisor. Art. 12(1).

D. Summary

Collective bargianing contracts, with the exception of Local 71's, limit the ability of supervisors to prohibit employees from applying for transfers and being placed on transfer lists. Transfers may be involuntary for GGU, SU, CEA and PSEA members. Local 71's contract prohibits the state from transferring an employee involuntarily to a new duty station. The PSEA contract is the only one which includes procedures for grievance submissions relating to involuntary transfer.

VIII. PROMOTIONS

A. Statutes

The Personnel Act specifies that the personnel rules shall provide for:

> promotions from within the state service when there are qualified candidates in the state service; vacancies shall be filled by promotion whenever practicable and in the best interest of the state service, and promotion shall be by competitive examination whenever possible; in considering promotions, applicants' qualifications, performance record, seniority and conduct shall be evaluated. AS 39.25.150(4).

B. Personnel Rules

The personnel rules implement the statute and provide that appointments be made from the top five eligibles on inter-departmental and

departmental promotional lists. Promoted employees retain permanent status within their former classifications and may be demoted to former former classifications at any time during the probationary period without the right to appeal.

C. Collective Bargaining Contracts

The promotion of employees and the determination of methods for such action is recognized as a managment prerogative by GGU, SU, PSEA and CEA contracts.

General Government Unit

Vacant positions within the GGU are to be open to employees in the unit who are certified as promotionally eligible prior to consideration of outside applicants. The GGU contract also states that employees may refuse promotions and not have their names removed from promotional lists should they decide not to accept a promotional opportunity. Art. 18(6). Promotional evaluations and ratings must be placed in personnel files and be made available to GGU members. Art. 18(8).

Supervisory Unit

SU's contract also stipulates that unit members are to be given consideration over outside applicants and that employees may refuse promotions without being removed from such lists. Art. 16(3). The contract states that an employee who is not satisfied with a score received in the rating of training and experience for a promotional opportunity may apply for reexamination. Art. 16(4). Should an employee be unsatisfied with results after a final review by the Director of Personnel of examination results, she or he may appeal the finding to a final review panel.

The review panel consists of three members: one from SU, one from the Division of Personnel and a third party recognized for expertise in the job functions being examined, who is chosen by the other panel members from a list provided by the U.S. Civil Service Commission. The decisions of the panel are final and binding. Art. 16(5).

Local 71

Local 71's contract provides for promotion of its members by seniority as long as the employee is equally qualified with other employees in the classification and the action is mutually agreed upon by both the state and the union. The contract does not state that employees have the right to appeal final ratings of promotability. Promoted employees remain in permanent status in their new positions and therefore have access to grievance procedures. Promotional listings must be posted for four days before being filled. Art. 25 (9) and (13). Promoted employees retain seniority in their former classifications for a period of three years. Art. 25(12).

Confidential Unit

CEA's contract addresses the salary increase received when promoted, which is to be a two-step minimum. Art. 12(2). Promotional lists are to be used when no appropriate layoff lists exist for appointment to positions. Art. 12(4).

Public Safety Unit

PSEA's contract does not address the topic of promotion.

D. Summary

The collective bargaining contracts now in force leave promotions within management's discretion, with the exception of Local 71's. Contained in Local 71's contract is specific language on the methods by which management may promote members, with greater emphasis on seniority than established in the personnel rules.

IX. MERIT INCREASES

A. Personnel Rules and Statutes

The personnel rules state that merit increases are based on an appointing authority's evaluations of employee performance. A one-step increase is awarded for "acceptable" performance of progressively greater value to the state. At the appointing authority's discretion, an increase of two steps may be granted for "outstanding" performance. Merit increases are limited in that they cannot exceed the top step of an assigned salary range. PR 9 02.0.

Performance that is less than acceptable may result in a one-step withdrawal, following employee notification and a 30 day period in which the employee is given an opportunity to improve performance and thus alter an appointing authority's evaluation. Grievance procedures outlined in PR 12 01.1 are available to employees who have received a merit "decrease". PR 9 02.24 and 9 02.25.

B. Collective Bargaining Contracts

General Government Unit

GGU's contract terms on merit increases are consistent with the personnel rules, with an additional clause stating that the state agrees to modify the evaluation and merit system to make it more meaningful. The contract also states that the administration will not establish a quota or percentage system to determine the number of increases to be

granted, but will discuss the establishment of objective performance evaluation criteria with union representatives. Various provisions regarding merit "decreases" are addressed in GGU's contract, such as: A decrease may not be withdrawn below the entry step of a job classification, and no more than one step may be withdrawn in one year. Art. 4.

Local 71

Local 71's contract does not provide merit increases for members. As an alternative, a service bonus program was negotiated with the state. Members of the union are hired at wage step A and remain in that step for 120 days, at which time they are placed at wage step B. An employee is eligible for another increase after seven years in service. At that time, an employee with seven years of continuous service receives an additional twenty cents per hour. After nine years, the employee is entitled to an increase of forty cents per hour, and after eleven years an increase of fifty cents. These rates are cumulative and an alternative to the longevity bonus program (AS 39.27.022) and merit increases. Art. 20.

Supervisory, Confidential and Public Safety Units

SU and PSEA contracts do not address the topic of merit increases. CEA's contract states that when an employee is promoted, the increase in salary will be at least an advance of two steps if one-half of the merit increase evaluation period has been served, or step A, whichever is greater. Art. 12(2).

C. Summary

With the exception of Local 71, negotiations on merit increases have been limited to agreements to "modify the evaluation and merit system to be more meaningful" and to "establish objective performance evaluation criteria" (GGU) and provisions regarding promotional compensation in conjunction with merit increases (CEA).

Local 71 is the only collective bargaining union that has opted out of receiving merit increases for its membership by substituting the increases with its own service bonus plan.

X. LAYOFFS

A. Statutes

The Personnel Act states that the personnel rules shall provide for:

> layoffs for reason of lack of funds or work, abolition of positions, or material changes in duties or organization; both performance

and seniority records shall be considered in the development of layoff orders. AS 39.25.150(15).

B. Personnel Rules

The personnel rules provide that employee layoffs may occur in the classified service when a position is seasonal, a substitute appointment or when positons are abolished due to shortage of work or funds or other reasons that are beyond employee control. An employee may remain on a layoff list for a period of two years and does not lose earned leave or other benefits during that time. PR 11 04.1.

During an emergency, no permanent or probationary employee may be laid off while provisional or temporary employees in the same classification are assigned to positions that could reasonably be assumed by a permanent or probationary employee. PR 11 04.2.

The order of layoff due to reduction of work force is based on performance reports and seniority. PR 11 04.4. Permanent or probationary employees must receive written notice of the reasons for their being laid off. PR 11 04.5 and 11 04.6. The names of permanent or probationary employees who are demoted in lieu of layoff may be placed on layoff lists for the positons from which they were demoted. PR 11 04.8.

C. Collective Bargaining Contracts

The reduction of the state work force due to lack of work, funding or other cause consistent with efficient management is recognized as a management prerogative in CEA, GGU, PSEA and SU contracts.

General Government Unit

Layoff, as defined in GGU's contract, means involuntary separation from service due to abolition of a position, insufficient funds, or lack of work. Art. 1(2)(1). Layoffs of employees are to be performed in accordance with the personnel rules. Art. 3(3). All employees must receive written notification of the reasons for layoff. Art. 31(1).

Supervisory Unit

The only reference to layoff in the SU contract pertains to wages becoming due immediately following separation from service. Art. 12(4).

Local 71

Local 71's contract states that all permanent employees are to be given two weeks notice or two weeks pay prior to discharge, and that a termination or layoff slip must be supplied indicating the actual reason for the action. Art. 12.

Local 71's contract also states that layoffs are to be made in reverse order of duty station seniority. If a member is laid off and holds seniority in a lower classification, the individual may be returned to the lower class and wage level. Art. 25(12).

Public Safety Unit

PSEA's contract states that all employees are to receive two weeks notice or two weeks pay prior to discharge. Art. 18(3).

Confidential Unit

CEA's contract addresses the topic of layoffs only by providing that layoff lists are used in selection for vacancies in the bargaining unit. Art. 12(4).

D. Summary

Provisions set out in the GGU, SU and CEA contracts are in accordance with those in the personnel rules. PSEA and Local 71 contracts affect the rules by providing that employees receive either two weeks notice or pay when layoffs occur. Local 71 also provides that layoffs be made in reverse order on the basis of seniority.

XI. SUSPENSION, DEMOTION AND DISMISSAL

A. Statutes

The Personnel Act states that the personnel rules shall provide for:

> the imposition of disciplinary suspension without pay for not longer than 30 days in any 12 month period. AS 39.25.150(17).

B. Personnel Rules

Suspension

The personnel rules state that the appointing authority may suspend an employee for delinquency or misconduct and must inform the employee in writing of the reason for the suspension. An employee in the classified or partially exempt service may be suspended without pay and cannot receive seniority credit for the duration of a suspension. PR 11 03.0.

Dismissal

Employees not holding permanent status may be dismissed at any time at the appointing authority's discretion upon written notification. Dismissal based on improper discrimination is forbidden. A permanent employee may be dismissed by an appointing authority for just cause only, normally preceded by suspension of not less than three nor more

than thirty days. During the suspension, the employing department may make a thorough investigation of the cause and notify the employee and the Director of the reason for dismissal. All violations of the prohibitions set out in Rule 13 are considered "just cause" for dismissal (e.g. political activity; bribery; acceptance of gifts; existence of financial conflict of interest; fraud; nepotism; deception or obstruction of rights; etc.). PR 11 05.0.

Demotion

Appointing authorities may demote employees for just cause and must supply a written statement of the reason for such action to both the Director and the employee. Employees have the right to request voluntary demotions to lower classes within their job series and maintain permanent status in the class to which demoted. PR 11 06.0.

C. Collective Bargaining Contracts

General Government Unit

GGU's contract provides that the union be notified in cases of demotion, dismissal, discharge and suspension of members. Art. 31(2). Provision is also made for employees receiving demotions, either voluntary or for just cause, to remain at the same wage step as held in the higher classification. Art. 18(3) and (4). "Just cause" is defined as incompetence, unsatisfactory performance of duties, unexcused absenteeism, drunkenness, dishonesty or gross disobedience. Art. 1(2)(k). All employees, with the exception of those discharged for "just cause", are required to receive written notification of the reason for discharge prior to termination. Suspended employees must also receive written notification of the reasons for such action. Employees who wish to have such action reviewed must follow the grievance procedures outlined in the contract. Art. 31(1). A grievance on demotion or dismissal may be brought to binding arbitration by an employee holding permanent status. Probationary employees may pursue a grievance on suspension, demotion or dismissal only to step four, and are denied access to binding arbitration. Art. 10(1). All grievances resulting from dismissal, demotion or a single suspension in excess of thirty days shall be entered at step three of the grievance procedures. Art. 10(2).

Supervisory Unit

SU's contract contains the same provisions as those in GGU regarding notification of the employee and the union in cases of discharge, suspension and demotion. It also states that a union representative may be present during all stages of hearings determining such matters. Copies of written reprimands must be made available to representatives by employee request. Art. 25(2).

Members of SU who are demoted either voluntarily or for just cause retain the same wage step, a higher step or a step that best reflects creditable service to the state. Art. 16(6) and (8). Dismissed, demoted or suspended employees in permanent status have access to grievance procedures including binding arbitration. Art. 10(1).

Local 71

Local 71's contract recognizes management's right to discharge permanent employees for just cause (e.g. incompetence, unsatisfactory performance, unexcused absenteeism, etc.). The union is to be notified of the reason for the discharge of a permanent employee prior to the employee's notification. All permanent employees are given two weeks notice or pay prior to discharge, with the exception of those discharged for just cause.

All employees are to be supplied with a termination slip showing the specific reason for termination. Local 71 representatives must be notified in writing concurrent with notice to the employee of reasons for disciplinary actions, and union representatives have the right to be present at all hearings if requested by the employee. Employees holding permanent status have access to binding arbitration on matters concerning demotion, dismissal or suspension. Other employees have appeal rights through step three of the grievance procedures. Art. 12.

Public Safety Unit

PSEA's contract states that conduct unbecoming an officer is grounds for immediate dismissal. Otherwise, all employees must receive two weeks notice or pay prior to discharge. Permanent and temporary members of the union are required to give 30 days written notice before leaving employment, which may be modified by mutual agreement between the employee and the state. Art. 18(3) and (4).

The contract sets out detailed procedures governing the conduct of administrative investigations into a member's alleged misconduct, including the member's right to be informed of a complaint and its origin, union representation, time to prepare a response to allegations, a copy of the record of investigation proceedings and reassignment to "administrative" functions without loss of pay or benefits until the conclusion of the investigation. In addition, members may request an investigation into adverse rumors affecting the member's credibility, integrity or reputation. Probationary employees who have completed six months of the initial probationary period are protected by these rights except in the case of dismissals. Art. 7.

Grievances relating to violations of PSEA's contract terms or involving demotion, discharge or suspensions may be brought to binding

arbitration. During the final six months of the probationary period, an employee may bring a grievance involving any disciplinary action other than dismissal to the Commissioner of Administration. Art. 10(1).

Confidential Unit

CEA's contract states that in cases of discipline, suspension or demotion, CEA will be notified in writing concurrent with the commencement of such action. Employees who directly or indirectly exploit their connection with the employer through outside business activities or who disclose any confidential information pertaining to the employer's business are subject to immediate disciplinary action. Art. 11. Demoted employees must enter classifications at the same step as occupied in the higher range or a step approved by the Director of Personnel. Art. 12(3). The grievance procedure outlined in Article 13 is the sole method for settling disputes on suspension, demotion or dismissal, which are subject to binding arbitration.

D. Summary

It is generally recognized by the five union contracts that discipline, suspension, demotion and dismissal of employees for just cause is a management prerogative. However, the definition of just cause varies slightly in each contract. In most instances, members holding permanent status are provided access to grievance procedures up to and including binding arbitration.

XII. HEARINGS AND APPEALS

A. Statutes

The State Personnel Act provides that:

(a) An employee in the classified service who is dismissed, demoted, or suspended for more than 30 working days in a 12-month period shall be notified in writing by his employer of the action and the reason for it and may be heard publicly by the personnel board and may be represented by counsel at the hearing. In order to be heard, the complainant shall request a hearing within 15 days of dismissal, demotion or suspension.

(b) If the board finds that the action complained of was taken for a political, racial or religious reason, or in violation of this chapter or the rules adopted under this chapter, the officer or employee shall be reinstated to his position without loss of pay or leave benefits for the period of his dismissal, demotion, or suspension. In all other cases, the board shall report its findings and recommendations to both parties. AS 39.25.170.

The personnel rules shall provide for:

the procedures for review of disputed personnel actions and for resolving employee and interagency grievances. AS 39.25.150(18).

B. Personnel Rules

The dispute procedures for hearings and appeals outlined in PR 12 are available to employees in the classified service only. They are as follows:

Step 1: The employee discusses the action grieved with immediate supervisor.

Step 2: The employee submits a written statement to the supervisor.

Step 3: The supervisor replies and submits a copy of the response to the departmental personnel officer.

Step 4: The employee submits a written grievance to the personnel officer who transmits the information to the Division of Personnel.

Step 5: There are two alternative methods for procedures at this point:

a. If the grievance is not a violation of an interpretation of the personnel rules and is within the discretion of the appointing authority, the departmental personnel officer and the employing division head investigate and make recommendations to the executive head of an agency.

b. If the grievance stems from violation of the personnel rules, the Director of the Division of Personnel responds with a written statement of findings to both the grievant and the department.

Step 6: The agency head or a designated representative makes a decision.

Step 7: The employee addresses the Commissioner of Administration requesting a hearing.

a. A grievance committee is formed to conduct a hearing, which submits a report to the employee's department and the employee's representative following the close of the hearing. (If the grievance is a result of a supervisor's mistake, the committee may order a copy of the decision rendered be placed in the supervisor's personnel file.)

Step 8: An appeal may to submitted to the Personnel Board following receipt of the grievance committee's report.

a. The Personnel Board reviews and affirms, modifies or vacates findings. The Board may conduct a hearing and then submits a report in the same manner as the grievance committee.

Inter-agency disputes are settled by the appointing authorities representing agencies involved in the disputed personnel action. Final decision on such matters may be made by the Commissioner of Administration.

C. Collective Bargaining Contracts

General Government Unit

GGU's contract sets out grievance procedures which supersede those in the personnel rules. The contract specifies the time limitations on filing grievances and subsequent responses. An employee must first bring a grievance to her or his supervisor, with or without GGU representation, for settlement (step 1). This step may be either verbal (informal) or written (formal) at the employee's discretion. If the dispute is not settled at the supervisor's level, the employee must present the dispute in writing to the division head, again with or without GGU representation (step 2).

If a settlement is not reached at step 2, an employee must seek GGU representation to pursue the grievance. The GGU representative presents an appeal to the Commissioner or head of the agency in question (step 3). Should a satisfactory decision still not be forthcoming, an appeal may be submitted to the Commissioner of Administration (step 4).

The final step is binding arbitration. Any grievance pertaining to the application or interpretation of GGU contract terms or an appeal of demotion or dismissal of an employee holding permanent status may be submitted to arbitration for settlement (step 5). The contract outlines arbitration procedures calling for an arbitrator from the U.S. Federal Mediation and Conciliation Service. Art. 10.

Supervisory Unit

The SU contract contains the same grievance procedures set out in the GGU contract. Art. 10.

Local 71

Local 71's contract provides grievance procedures similar to those outlined above. An employee initially files an appeal with the Steward, then with the executive head of the agency, and then with the Commissioner of Administration. Any grievance regarding the terms of the contract or the demotion or dismissal of a member may be brought to binding arbitration before an arbitrator from the U.S. Federal Mediation and Conciliation Service. Art. 13 and 14.

Confidential Unit

CEA's contract also provides similar grievance procedures. The last alternative for settling a grievance is through the Board of Arbitration before an arbitrator of the U.S. Federal Mediation and Conciliation Service. Unlike the contracts discussed above, the CEA contract does not provide limits to the application of grievance provisions. Art. 13.

Public Safety Unit

PSEA's contract sets forth varying levels to which an employee may carry grievance proceedings. Violations of the personnel rules or the operating procedures manual, involuntary transfers, written reprimands, and disciplinary grievances (except dismissal) of a probationary employee following the initial six month's of the term may be brought to the Commissioner of Administration for final decision. Grievances pertaining to discharge, suspension, demotion and disciplinary actions can be brought to binding arbitration when they are violations of the personnel rules, the operating procedures manual or contract terms. Art. 10(1).

Class grievances are initially submitted to the Commissioner of Public Safety. Art. 10(2). Time limitations are specified in PSEA's contract, as well as enumerated steps for settling grievances up to binding arbitration before a Federal Mediation and Conciliation Service arbitrator. Association grievances are filed with the Commissioner of Public Safety and may be brought to binding arbitration. Art. 10(5) and (6).

D. Summary

All of the collective bargaining contracts examined have grievance procedures superseding those set out in the personnel rules. The contracts generally outline five "steps" in which a grievance may be processed. The final step in all contracts is binding arbitration before an arbitrator from the U.S. Federal Mediation and Conciliation Service. Four contracts limit the scope of arbitration or to whom it is available (PSEA, GGU, SU, and Local 71), and one doesn't (CEA).

In comparing grievance procedures specified by contracts and the personnel rules, time frames do not appear to differ significantly. The personnel rules do not address binding arbitration, but union members must use the procedures outlined in their respective contracts for settlement of disputes.

XIII. HOURS OF WORK

A. Statutes

The Personnel Act states that the personnel rules shall provide for the hours of work for employees and the methods and procedures covering

overtime work and pay, as well as for employees who work part-time at 15 hours or more a week, including two employees filling one permanent full-time position. AS 39.25.150(19), (20) and (24).

B. Personnel Rules

The appointing authority, with the Director's approval, is responsible for the establishment of reasonable working hours, which are not to be less than the minimum work week of 37½ hours. The normal work day consists of 7½ hours from 8:00 to 4:30, Monday through Friday. Overtime availability and compensation are subject to the policies established by the Commissioner of Administration. Holidays are enumerated in this section as well as the rules for following holidays and other rules and regulations that may be adopted by departments required to remain in operation on holidays. PR 7 07.0.

The equations for hourly, part-time and monthly rates are set out in the personnel rules. Part-time compensation is to be proportionate to the rates for full-time service, and actual time on the job is to be the basis for total remuneration. PR 9 03.0. Compensation for overtime may be in cash or in compensatory time off. A maximum of 300 hours of compensatory time may be accrued annually. Anything over that amount must be paid in cash, liquidated annually (unless the Commissioner of Administration approves an extension) and may be taken off when desired by the employee, with the appointing authority's approval.

C. Collective Bargaining Contracts

General Government Unit

GGU's contract states that the determination of employee eligibility for overtime must be in accordance with the Fair Labor Standards Act. A neutral hearing officer is appointed to determine such eligibility and has authority to make binding decisions. Normal working hours as specified by the contract are 37½ hours per week, and anything in excess of the normal week constitutes overtime, which is equalized among those employees who desire additional hours of work. However, it is recognized that the state does have the right to assign and require overtime when an individual's qualifications are necessary to accomplish a particular task. Art. 25(1) and (2).

Employees called back to work within four hours after completion of a shift are subject to recall provisions and the appropriate overtime rate, and employees remaining on call or those who must periodically report their whereabouts are entitled to standby provisions as designated in GGU's contract. Art. 25(3). Shift differentials and holiday provisions are set forth in the contract, which also limits the time an employee may be required to work to a maximum of 15 hours per day. Art. 25(4).

Supervisory Unit

The SU contract contains terms requiring the state's compliance with the Fair Labor Standards Act in determining eligibility for overtime and sets out holiday, standby, recall and shift differential provisions. Art. 18.

Local 71

Local 71's contract provides for overtime on both a daily and weekly basis. Regular working hours consist of 7½ hours per day and 37½ hours per week. Time and a half is paid for the first day worked in excess of 37½ hours, and double time is paid for overtime exceeding two or more days. An employee may not be required to work overtime, which is distributed evenly on the basis of seniority among those who desire it. Art. 22.

Shift differentials for swing and graveyard shifts, hazardous working conditions, recall and standby are provided for in 71's contract. Art. 23, Art. 24 and Art. 26(7) and (8). Working hours for members may be subject to certain variables such as tidal operations, a membership vote in favor of rotating multiple shifts or ferry travel time. Art. 26(2), (10) and (11). Holidays are also provided for in the contract. Art. 32.

Public Safety Unit

PSEA's contract addresses the special interests and functions of its members in regard to overtime and related topics. Provisions are made for shift differentials, holidays, Field Officer Training differentials, standby, recall, early call-in, interruption of vacation, flexible posts, hazardous conditions and sea duty. Art. 15. Members cannot be required to work in excess of 15 hours within a 24 hour period and are entitled to a minimum of 8 hours between shifts. Art. 16(4) and (6). The normal work week is set forth as 37½, and PSEA's contract provides that overtime will constitute hours exceeding 7½ per day. Art. 15(16).

Confidential Unit

CEA's contract states that the normal work week for members consists of 37½ hours, 7½ hours per day, Monday through Friday. Employee overtime eligibility is determined in accordance with the Fair Labor Standards Act guidelines for employees covered by the Act and by policy established by the Commissioner of Administration for those not covered. Holidays are specifically enumerated and the methods for following them. Clauses regarding recall, standby and the maximum hours that an employee may be required to work (16 hours within any 24 hour period) are contained in the contract. Art. 8.

D. Summary

All of the collective bargaining contracts studied contain provisions regarding the "normal" working hours for members (37½ hours per week and 7½ hours per day). Three contracts (PSEA, Local 71 and CEA) state that overtime consists of hours exceeding 7½ in any one day or 37½ in any week. Three contracts (GGU, SU and CEA) provide that overtime eligibility be determined in accordance with the Fair Labor Standards Act.

Guidelines are established by the contracts regarding shift differentials, standby, recall and other variables relating to employee working hours. Holidays are enumerated within each contract, which are identical to those set out in the personnel rules.

XIV. PAY

A. Personnel Rules and Statutes

The Director of the Division of Personnel and Labor Relations has responsibility for the state's pay plan in accordance with AS 39.25.150(2), which states that the personnel rules shall provide for:

> the preparation, maintenance, revision, and administration by the director of personnel of a pay plan for all positions in the classified and partially exempt services; the pay plan shall be prepared after consultation with the appointing authorities or their designee, and with representatives of interested employee groups; the plan shall be based upon the position classification plan, shall provide for fair and reasonable compensation for services rendered, and shall be based on the principle of like pay for like work; commissioners' salaries are not the maximum limit for the pay plan and in exceptional circumstances higher salaries may be specified; the pay plan may provide for uniform starting pay, increments and area and time differentials; the pay plan prepared under this section may be amended, approved or disapproved by the legislature in regular or special session; after the pay plan is put into effect, no salary or wage payment may be made to a state employee covered by the pay plan unless the payment is in accordance with this chapter and the rules adopted under this chapter;

The application of the rules on pay depends upon funds being available. Various provisions within the rules address salaries for beginning, former, promoted, transferred and demoted employees; merit increases; hourly parttime and monthly rates as well as overtime compensation; compensatory time; and moving expenses (these topics are addressed in other portions of this study).

B. Collective Bargaining Contracts

All of the contracts negotiated with the state set wage schedules for their respective memberships and provide for cost-of-living adjustments based on the Anchorage Consumer Price Index for multi-year contracts.

Also incorporated in the contracts are clauses pertaining to compensation and variables such as geographic differentials, shift differentials, hazardous working conditions, subsistence, recall and standby. Each collective bargaining contract has provisions that are unique to the functions of its membership.

General Government Unit

GGU's contract states that members of the unit are to receive one and one-half their base salaries for hours exceeding 37½ per week. Employees called back to work within four hours after completion of a shift are entitled to overtime (recall), and those ordered to remain at home or to periodically report their whereabouts are entitled to receive 10% of their base salaries while assigned to a standby roster. Geographic and shift differentials are also included in computation of compensation of standby and recall. Art. 25(3). GGU members receive overtime pay for work on holidays and regular pay for holidays enumerated in the contract.

Supervisory Unit

SU's contract also addresses standby, recall, shift differentials for both swing and graveyard shifts, and hazard pay. Art. 18 and 19.

Local 71

Local 71's contract states that union members are entitled to time and one-half for the first day worked in excess of regular hours and two times their base salary for hours exceeding that limit. Any member working over 7½ hours per day is entitled to receive overtime. Art. 22. Shift differentials are provided to members for both swing and graveyard shifts at 3.75% and 7.5% of base salaries respectively. Art. 23. Members are entitled to hazard pay when working at excessive heights, handling explosives or traveling by helicopter. Art. 24. Provision is also made for standby and recall assignments. Art. 26(7).

Public Safety Unit

PSEA's contract provides members with additional compensation for shift differentials, field officer training differentials, geographic differential, standay, recall, early call-in and hazardous working conditions. Other miscellaneous provisions encompass the unique responsibilities of the union's membership.

Confidential Unit

CEA's contract provides that when members work swing or graveyard shifts, they are entitled to one or two step increases above normal pay ranges, respectively. Recall and standby service is defined, and payment for employee time is provided for by the contract. Art. 8.

C. Summary

Each collective bargaining contract contains a salary schedule for its membership and various provisions regarding compensation variables and overtime. Traditionally, salary negotiations are an integral part of the collective bargaining process and are emphasized by the provisions set forth in the contracts studied. There are many diverse factors that are taken into account regarding salaries, which have only been briefly noted above.

XV. CONCLUSION

There are, of course, many other provisions set forth in the five contracts studied relating to the interests of public employees. These topics (with the exception of leaves of absence, insurance, retirement, examination of records and moving expenses) are not addressed by either the Personnel Act or the personnel rules. They do, however, come under the category of "terms and conditions of employment", which are bargainable in accordance with the Collective Bargaining Act. AS 23.40.

The chart on the following page is designed to enumerate some of the additional topics addressed by the five collective bargaining contracts studied. It is by no means a comprehensive list of all provisions set out in the contracts.

MISCELLANEOUS CONTRACT PROVISIONS

Negotiated Contracts Address:	GGU	SU	Local 71	PSEA	CEA
Insurance Benefits--Life, Health, Travel, Accident	*	*	*	*	*
Reimbursement for Job-Related Property Damage	*	*	*	*	
Employee Leave--Sick Leave, Leaves of Absence	*	*	*	*	*
Parking Privileges	*	*			*
Uniforms--Wearing Apparel	*	*	*	*	
Safety Equipment--Tools, First Aid Kits, etc.	*	*	*	*	*
Accessibility to Personnel Records	*	*	*	*	*
Length of Contracts	*	*	*	*	*
Right to "Exclusive Representation"	*	*	*	*	*
Union Leave Accounts	*		*	*	
Subsistence-- Long Term Per Diem By District	*	*	*		*
Subcontracting/Contracting Outside of Membership	*		*		
Time Off to Vote	*	*	*	*	*
Reimbursement of Moving and Travel Expenditures	*	*	*	*	*
Legal Assistance--Providing Defence for Legal Action Against Member as a Result of Performance of Duties	*	*		*	*
Travel and Per Diem Allowances	*	*	*	*	*
Meal Allowances	*	*	*	*	*
Housing--Remote or Bush Areas			*	*	

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REPORT OF THE
BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT
TO THE
ELEVENTH ALASKA STATE LEGISLATURE
FIRST SESSION

SENATOR BILL RAY
Chairman

JUNEAU, ALASKA
March 27, 1979

BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT MEMBERSHIP

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B.B. Allen, Commissioner, Department of Administration***
Alternate: Robert Gates***

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Alternate: Representative Mike Miller

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TABLE OF CONTENTS

I. OVERVIEW

A. Commission Creation..... 1

B. Commission Structure and Activities..... 1

C. Conclusion..... 4

II. MERIT SYSTEM/COLLECTIVE BARGAINING SUBCOMMITTEE..... 5

A. Overview of the Development of Collective Bargaining in Alaska..... 5

B. Summary of Issues before the Merit System/ Collective Bargaining Subcommittee..... 6

1. Structure of the Division of Personnel and Labor Relations..... 6

2. Procedures for the Adoption of the Personnel Rules.....11

3. Relationship of Collective Bargaining Contract Terms to Statutes and Personnel Rules.....12

4. Membership and Duties of the Alaska State Labor Relations Agency, the Personnel Board and the Retirement Board.....13

5. Inclusion of Non-certificated School District Employees Under the Public Employment Relations Act.....16

6. Merit Increases.....16

III. CLASSIFICATION, CERTIFICATION & RECRUITMENT SUBCOMMITTEE.....19

A. Scope of the Subcommittee's Assignment.....19

B. Summary of Issues Presented to the Classification, Certification & Recruitment Subcommittee.....19

TABLE OF CONTENTS (continued)

CENTRALIZATION OR DECENTRALIZATION OF PERSONNEL ADMINISTRATION

1. Centralization or Decentralization.....20

CLASSIFICATION OF POSITIONS

2. Classification Process.....21

3. Division of Personnel Recommendations to Division of Budget and Management on Reclassifications.....23

4. Structure of Classes of Positions.....24

CERTIFICATION

5. Certification Process.....25

6. Multiple Applications within a Job Series.....28

7. Veteran's Preference Points.....28

8. Promotional Lists.....29

9. Hiring from the List of Eligibles.....29

10. Criminal Records of Applicants.....32

AUDITS OF THE PERSONNEL SYSTEM AND PRACTICES

11. Auditing Role of the Division of Personnel.....32

12. Audits of the Personnel System.....33

13. Disciplinary Measures for Violations of the Personnel Rules.....34

JOB PERFORMANCE

14. Training Programs.....34

15. Flex Time.....35

16. Use of Employees in Tasks above Job Specifications.....35

TABLE OF CONTENTS (continued)

THE STATE PERSONNEL ACT AND PERSONNEL RULES

17. The State Personnel Act.....35

18. The Personnel Rules.....36

IV. CATEGORIES OF EMPLOYEES SUBCOMMITTEE.....38

A. Overview of the Categories of Employees in the State System.....38

B. Temporary Employees.....38

C. Summary of Issues Before the Categories of Employees Subcommittee.....39

1. Hiring Temporaries from Registers.....39

2. Time Limits of Employment of Temporaries.....40

3. Project Employees.....41

4. Benefits for Temporary Employment.....41

5. Vacant Permanent Positions.....42

6. State Employees Who are Enrollees of the CETA Program.....43

7. Due Process Rights for Temporary Employees.....46

8. Pool of On-call Permanent Employees as an Alternative to the Hiring of Temporaries.....48

APPENDICES

Appendix A. Commission Meetings

Appendix B. Public Employee Unions

Appendix C. An Act creating a Department of Employee Relations

Appendix D. An Act relating to the hiring of non-permanent employees in the state personnel system

I. OVERVIEW

A. Commission Creation

The Blue Ribbon Commission on the State Personnel Act was created by the Second Session of the 10th legislature to study and refine the State Personnel Act and to address a number of issues about the personnel system, collective bargaining, and contract employees which were of concern to the legislature. Some of these issues had been identified by the Office of the Ombudsman in a letter to the Legislative Council, suggesting a comprehensive review of the personnel system, and by the Division of Legislative Audit in its report of January 27, 1977, on the Division of Personnel in the Department of Administration.

B. Commission Structure and Activities

Commission members were drawn from the legislature, the Department of Administration and the Division of Personnel and Labor Relations, public employees unions, the Ombudsman's office, the Human Rights Commission, the Legislative Affairs Agency and departmental program managers. An organizational meeting was held in Juneau on September 15, 1978, at which Senator Bill Ray was elected Chairman. At the October 3, 1978 meeting, Senator Ray appointed subcommittees to carry on the investigation of the commission. Ken Humphreys, Senior Policy Analyst from the Legislative Affairs Agency, was designated to provide research assistance to the commission. In November, the commission hired an administrative assistant and a secretary.

The commission divided its tasks among three subcommittees:

Classification, Certification & Recruitment, chaired by Senator Ray; Merit System/Collective Bargaining, chaired by Representative Thelma Buchholdt; and Categories of Employees, chaired by Representative Joseph McKinnon.

The Classification, Certification & Recruitment subcommittee was designated to consider whether Alaska should have a central personnel system or whether the system should be partially or fully decentralized. The topic included consideration of the problems of certification, recruitment, classification and pay, examinations, and equal employment opportunity. The subcommittee considered the personnel statutes, rules and the practices of the Division of Personnel and the other state departments and agencies.

The Merit System/Collective Bargaining subcommittee studied the relationship between the merit system and collective bargaining as well as problems in the structure of the agencies working in those areas.

The task of the Subcommittee on Categories of Employees was to examine the groups into which state employees are placed, particularly the category of temporary employees. Each of the subcommittees was directed to draft recommendations for consideration by the full commission.

Membership of the three subcommittees overlapped so that each of the subcommittees would be advised of the approach of the others and to insure that problems would not be ignored by one subcommittee on the assumption that another was addressing them.

The subcommittees and the commission held public hearings in Juneau, Anchorage and Fairbanks and solicited written testimony from those who were unable to attend the meetings. (A list of these meetings appears as Appendix A.) A total of 78 people testified about their experiences and concerns. The commission received 23 letters about problems in the personnel system, and was provided copies of the Department of Administration's "Tell Us Off Questionnaire". In addition, commission members submitted memoranda and position papers for consideration by the others.

A conference on Civil Service Reform was co-sponsored by the commission and the National Conference of State Legislatures' Project TRAIN. Representatives of the federal Office of Personnel Management (formerly the U.S. Civil Service Commission), and from the states of Minnesota and Wisconsin addressed commission members on civil service reform efforts in their respective jurisdictions, and Jean J. Couturier, a nationally recognized authority on public management programs, provided a wider view. The speakers participated with the commission members in work sessions as well as making formal presentations of their respective topics.

Some of the commission members participated in a walk-through of the classification process for new positions and the reclassification process for exising positions, to better understand the paper flow. The walk-through was arranged by Lynda McCurry, Personnel Officer of the Department of Labor and commission member. Ken Kareen, Deputy Director of the Division of Personnel and an alternate commission member, assisted in the walk-through with the help of his staff.

The commission learned of problems in the personnel system through the written and oral testimony presented and through the experiences and knowledge of its members, most of whom had dealt closely with various aspects of the system for a number of years. The public testimony presented was not always directed to the appropriate subcommittee, and care was taken to refer specific information and problems to the appropriate body.

In late January, the commission staff compiled the information received into issue summaries for each subcommittee, which then formed the basis for subcommittee work sessions. Recommendations from each of the subcommittees came before the commission for further review and discussion. Only those recommendations adopted by the full commission are presented in this report.

C. Conclusion

The commission has found the subject matter complex. Facets of the system interlock, making it more difficult to change one aspect without also addressing changes to the other aspects. We have only begun to meet the task set out in the resolution which created the commission. Accordingly, in addition to the recommendations included in this report, the commission requests that the legislature extend the life of the commission through June 30, 1980. The commission will then be in a position to present a comprehensive analysis of the state's personnel system and changes to make it more responsive, equitable and efficient.

II. MERIT SYSTEM/COLLECTIVE BARGAINING SUBCOMMITTEE

A. Overview of the Development of Collective Bargaining in Alaska

The State Personnel Act (AS39.25) was enacted in 1961, shortly after Alaska achieved statehood. No comprehensive revision of that act has taken place since that time, although the advent of public employee collective bargaining in 1972 profoundly and fundamentally affected the nature of the rules and regulations governing the conditions of employment of most of the state's employees.

The state's work force has grown substantially since 1961. Almost all of the classified employees belong to one of the unions representing state employees. (See Appendix B for a list of those unions.) Of the remaining employees, some are classified as partially exempt, subject to only some of the Personnel Act and Rules, and the rest are members of the exempt service, and not affected at all by the Act. Membership in the partially exempt and the exempt service is established by statute. AS39.25.110 and AS39.25.120. As of February 16, 1979, there were 9,723 state employees in the classified service and 748 state employees in the partially exempt service. Figures were not available on the number of employees in the exempt service.*

Initially, at statehood, none of the state's employees were unionized. In 1964, legislation was passed to permit state employees of the Division of Marine Transportation engaged in operating the state ferry system to negotiate with the Commissioner of Public

*These figures are taken from Computer Printout ROI-02A-4430, dated February 28, 1979.

Works concerning wages, hours, working conditions and other employment benefits. AS23.40.040.

In 1972, the Public Employment Relations Act (P.E.R.A., AS 23.40.070 - .260) was passed, extending collective bargaining rights to all state employees, as well as to employees of political subdivisions of the state, except to elected or appointed officials, teachers and non-certificated employees of school districts. AS23.40.080 and AS23.40.250 (5) and (6). The P.E.R.A. grants employee organizations the right to bargain on matters of wages, hours and other terms and conditions of employment. AS23.40.070(2). Terms and conditions of employment are defined as "the hours of employment, the compensation and fringe benefits, and the employer's personnel policies affecting the working conditions of the employees, but does not mean the general policies describing the function and purposes of a public employer". AS23.40.250(7).

In a recent case before the Alaska Supreme Court, marine transportation unions were held to be covered by P.E.R.A. as well as the marine transportation collective bargaining statutes, and therefore, one system now covers the state's collective bargaining. Hafling vs. Inlandboatmen's Union of the Pacific, No. 3438, 585 P.2d 870, October 6, 1978.

B. Summary of Issues Before the Merit System/Collective Bargaining Subcommittee

1. Structure of the Division of Personnel and Labor Relations

The Division of Personnel and Labor Relations is responsi-

ble for the operation of the state's personnel system and for representing the state as an employer in collective bargaining matters. It is one of eight divisions within the Department of Administration. The others consist of the following: Division of Administrative Services, Division of Data Processing, Division of Finance, Division of General Services and Supply, Division of Pioneer's Benefits, Division of Retirement and Benefits, and the Division of Equal Employment Opportunity. In addition, the department contains the Office of the Internal Auditor.

The tasks of the Division of Personnel and Labor Relations and the Division of Equal Employment Opportunity differ significantly from the kinds of tasks of the other six divisions within the department. The orientation of the other divisions is towards fiscal matters, and the commissioner of the department must be skilled in those areas. It is less likely that the commissioner will be selected because of his familiarity with labor relations, personnel administration and equal employment laws. The Director of the Division of Personnel and Labor Relations must educate new commissioners on issues concerning the division's activities, and during this time, the governor is probably less well informed about these topics. Given the significant impact labor relations negotiations have on the state's budget, the commission felt this to be undesirable.

Two approaches were suggested to the subcommittee. The first was to divide the Division of Personnel and Labor Relations into two separate divisions within the Department of Administration,

which would require additional funding for a director of labor relations. The second was to recommend the creation of a new Department of Employee Relations, to be headed by a commissioner with experience in labor relations and personnel administration. The subcommittee considered this second recommendation to be a better approach and requested that a draft bill be prepared for its consideration.

The functions of the new department would include administering the state personnel system, representing the state in its labor relations activities, coordinating safety and training programs for state employees and coordinating all executive branch activities involving equal employment opportunity in state government. The budget for the department would be provided by transferring the budgets of the existing divisions involved (Division of Personnel and Labor Relations and the Division of Equal Employment Opportunity) with the addition of funds for the positions of the new commissioner and perhaps a deputy commissioner.

The administration of the state personnel system and the representation of the state in its labor relations activities are the present responsibilities of the Division of Personnel and Labor Relations. Those responsibilities would not change by the creation of the new department, though there would be two separate divisions instead of one division with two subdivisions.

Specific reference to coordinating safety programs for state employees is included in the duties of the new department because the commission was concerned that there is a need for oversight of training programs. Under the federal Occupational Safety and

Health Act, the state is required to provide training for its employees in safety matters, but this requirement is not always met by the programs. Therefore, the commission plans that staff within the new department would monitor whether OSHA requirements were being met by the departments and would provide information on programs which might be of benefit to their employees.

The state's training programs also would benefit from general coordination which could be provided by the new department. Each department would continue to provide specialized programs, but the central office would make information available on programs of general interest and would provide technical assistance as requested. Having one central person in charge of coordination would help to insure that training programs which the state was required to provide (by union contract, for example) would take place.

The commission recognized that the efficiency and productivity of the state's employees depends in large part on the training they receive. For example, governmental accounting procedures differ significantly from procedures used in private industry or taught in college programs. Therefore, an introduction to the differences would make new state accountants more effective in carrying out their responsibilities. This same approach holds true for other areas as well. Training in supervisory and managerial skills would help insure the efficient management of the state's programs and improve employees' performance.

The Equal Employment Opportunity Division coordinates the state's equal employment opportunity programs, including gathering statistics on the work force, providing training to program

managers and supervisors on equal employment opportunity issues, investigating and counseling on complaints of discrimination in state government, and monitoring contract compliance and the state Equal Employment Opportunity and Affirmative Action plans. In addition to this central EEO office, each department has its own EEO officer, who is responsible for providing information and counseling to employees within that department as well as for preparing and monitoring the departmental affirmative action plan. The departmental EEO officer typically has other duties which are of greater priority.

Placing the central Equal Employment Opportunity office as a division of the new Department of Employee Relations would insure effective communication between that division and the divisions of personnel and labor relations in the areas which affect equal employment opportunities for all Alaskans. It should hold the status of a division to reflect the importance of its recommendations and emphasize the state's committment to equal opportunity.

The commission also recommends that the adoption of Personnel Rules be made subject to the Administrative Procedures Act. A discussion of this recommendation follows.

In the proposal for a Department of Employee Relations, the commission does not address the issue of whether personnel functions should be centralized or decentralized. Considerable discussion has occurred on this topic, and the commission believes that more investigation is needed before it can decide the course it wishes to recommend to the legislature. Accordingly, the bill makes only peremptory amendments in the existing statute which addresses the decentralization of personnel functions to some

departments. AS39.25.153. The commission will advise the legislature of its findings and recommendations on the centralization/decentralization issue at a later time.

2. Procedures for the Adoption of the Personnel Rules

By statute, the Personnel Rules are considered to relate to the internal management of state agencies and are therefore exempted from the Administrative Procedures Act. The Commissioner of Administration is required to post notices of proposed rule changes in public buildings throughout the state, and if requested, the Personnel Board may hold public hearings on the amendments. Unless the Board disapproves the proposals within 30 days, they become effective. AS39.25.140. Rules pertaining to dress codes and appearance standards adopted by departments are made subject to the provisions of the A.P.A. AS39.26.015.

Would the adoption of Personnel Rules under the A.P.A. add greater opportunity for public comment on proposed changes? This is a question for legislative scrutiny. The A.P.A. sets out procedures to provide for hearings and for legislative review on proposed rule changes. AS44.62.210 and 44.62.320. In an emergency situation, the Rules could be amended under the emergency rule provision which permits rules stated to be necessary for the immediate preservation of the public peace, health, safety or general welfare to take effect immediately. AS44.62.250.

There does not appear to be a need to differentiate the methods for adopting the Personnel Rules from the methods required of other state departments in the adoption of their regulations. Therefore, the majority of the commission recommends that legislation

be adopted to provide that the Personnel Rules no longer be exempted from the Administrative Procedures Act.

3. Relationship of Collective Bargaining Contract Terms to Statutes and Personnel Rules

When adopted in 1961, the State Personnel Act, and the Personnel Rules promulgated under its authority, established the terms and conditions of employment for the entire classified service of the state. Since that time, collective bargaining has changed that situation dramatically.

As noted above, almost all of the state's classified employees are represented by public employee unions which negotiate with the state to establish the wages, hours and terms and conditions of employment which apply to their members. The standards of employment for most employees are contained in a multitude of uncoordinated documents--the collective bargaining contract, arbitration decisions interpreting the contract, the Personnel Act and Personnel Rules to the extent not superseded by the contract and departmental operating procedures.

The commission was advised by the Legislative Affairs Agency that amendments to the State Personnel Act which are adopted after the Public Employment Relations Act was passed would serve, to the extent that their intent so indicated, to limit the terms of future contract negotiations. (Opinion/Memorandum of March 9, 1979, by Ken Rosenstein, Legislative Counsel.)

The subcommittee discussed limiting the application of the State Personnel Act to employees not covered by collective bargaining. This would allow the Act and the Rules to be amended

to establish a comprehensive and consistent system for those employees but would require that all union contracts include terms for all aspects of the employment practices of the state affecting union members. This needs more study.

Under the P.E.R.A., collective bargaining agreements, to be valid, must conform to the constitutional provision that merit principles govern employment of persons by the state. Article XII, Sec. 6 of the Constitution of the State of Alaska, and AS 23.40.070(3). If the Personnel Act is to apply only to non-union employees, then a policy statement must be adopted emphasizing that merit principles be complied with, and also providing that the parties would immediately renegotiate any terms failing to meet those standards. This also needs more study.

Such a provision would also be important because federal standards have the same requirements. In most cases, when the state receives federal money for the operation of a program, it makes a commitment that employees hired to operate the program, whether salary money is provided by state or federal funds, will be selected in accordance with merit principles. The federal government retains the right to demand the return of moneys awarded if the hiring system is not found to be in compliance. In the past, the state was forced to modify its certification of eligibles on the hiring registers in order to comply with federal requirements.

4. Membership and Duties of the Alaska State Labor Relations Agency, the Personnel Board and the Retirement Board

The Personnel Board is composed of three members appointed

by the governor with confirmation by the legislature in joint session. The appointees must be qualified electors of the state, and there is a balance of two members from the same political party. They serve at the governor's pleasure and for a term of six years. AS39.25.060.

The Labor Relations Agency, for state employees, is the Personnel Board. For other public employees who are members of bargaining units, the Act sets the Department of Labor as the Labor Relations Agency unless the public employer has chosen to adopt its own labor relations system and established a different body for its labor relations agency. AS23.40.060(3).

The Public Employee Retirement Board is composed of five members, three of whom are the members of the Personnel Board of the Department of Administration. AS39.35.030.

The Labor Relations Agency generally is concerned with the organization of bargaining units and the recognition of labor organizations of public employees. It hears and decides complaints alleging that an employer or a labor organization has engaged in unfair labor practices. (Unfair labor practices are generally attempts to interfere with employee rights to organize or failure by either party to bargain in good faith.) It may appoint a mediator where negotiations between a public employer and an organization have deadlocked, either on its own initiative or at the request of any party to the dispute. It may adopt regulations in accordance with the Administrative Procedures Act. It may seek to enjoin strikes of employees whose right to strike is prohibited or limited by statute. AS23.40.

The Personnel Board approves or disapproves the original Personnel Rules and amendments to them, acts upon recommendations for the extension of the partially exempt and classified service, determines appeals by employees in the classified service and establishes its own rules of procedure. AS39.25.070. An employee may appeal to the Personnel Board if the employee has been dismissed, demoted or suspended for more than 30 working days in a 12-month period. The board may reinstate the employee if it finds that the action was taken for a political, racial or religious reason or in violation of Chapter 25 of the statutes or of the Personnel Rules. In all other cases, the board reports its findings and recommendations to both parties. AS39.25.170.

The Retirement Board oversees the operation of the Public Employee Retirement System of Alaska, sets policy, adopts regulations, acts as an appeal board, prescribes the interest rate credited to employee accounts each year and recommends contribution rates for public employees. AS39.35.040.

Testimony before the commission indicated that the Labor Relations Agency workload has increased substantially over the past few years. The Labor Relations Agency has no permanent staff, and relies on the employees of the Labor Relations Division for much of its supporting work. This places the Labor Relations Division in conflicting roles: first, as advocate for the state, and second, as impartial supporter of the Labor Relations Agency. This needs legislative action.

The Personnel Board (which consists of the same three members who form the Labor Relations Agency), in contrast, has a much lighter workload. The subcommittee is continuing to consider

the issue, and the commission is not prepared, at this time, to offer recommendations for the legislature's consideration.

5. Inclusion of Non-certificated School District Employees Under the Public Employees Relations Act

The commission received testimony in support of permitting non-certificated school district employees the right to organize under the P.E.R.A. They are presently specifically excluded from the Act. AS23.40.240(5). The subcommittee has asked the Legislative Affairs Agency to provide it with copies of bills which were introduced in previous sessions. The commission is not prepared at this time to offer any recommendations on this matter to the legislature.

6. Merit Increases

The commission received testimony on the state's merit increase policy. The Personnel Rules provide that a merit increase of one step in the same salary range may be given to an employee who has received an overall performance evaluation of "acceptable" or better and who has demonstrated satisfactory service of a progressively greater value to the State. P.R.9 02.21 and 9 02.22. The commission has not investigated the extent to which two-step merit increases are granted.

The availability of merit increases to state employees is limited by collective bargaining agreements. Members of the general government unit of the APEA are not permitted under their contract to be considered for or to receive two-step merit increases. Members of Local No. 71 do not participate in the merit increase program at all.

In a memorandum dated November 14, 1977, Governor Hammond initiated changes in the procedures and funding of merit increases. All supervisors were required to attend a specialized training course in "Measuring Job Performance". Each performance evaluation was to be reviewed with the division director or the head of the office before it was discussed with the employee. Each position was to be reviewed and the position description updated, and specified standards of achievement were to be provided in writing to each employee on the basis of the updated descriptions.

For the past two years, funding for merit increases has been provided only out of departmental vacancy moneys. Departments no longer receive a separate allocation for that purpose. In the past, the legislature did provide an allocation amounting to 1.75% of the departmental budget to be used, together with any vacancy money, for merit increases to deserving employees.

Merit increases appear to be management's way of rewarding an employee for a job well done. They are proposed to serve a different function from cost-of-living increases or salary increases based on length of service. Public union bargaining sets general salary ranges. Some perceive the existence of both bargaining and the availabil ty of merit increases as a double dip for state employees. The existence of a merit increase program should be taken into account when salaries are negotiated and management holds down wage increases based on the possibility of this individual performance reward.

The foremost question is how to permit a system to reward those employees who are most productive, to encourage outstand-

ing performance and to persuade the best state employees to remain in service with the state, while avoiding unjustified awards to employees who are good friends with their supervisors or to employees whose supervisors are uncomfortable with the obligation of evaluating their staff.

The dilemma presented is how to divide the limited funds available for state employees salaries. If cost-of-living adjustments required by contracts are funded, can the state afford to provide additional merit increase money as it did two years ago?

The commission discussed this issue at length. Because of the obvious complexity, it can make no recommendations to the legislature without further study.

III. Classification, Certification & Recruitment Subcommittee

A. Scope of the Subcommittee's Assignment

This subcommittee was assigned to review those topics within the classification process (by which the state assigns positions to salary ranges, titles and position control numbers), the certification process (through which applicants for positions are evaluated and placed on the state's lists of eligibles) and the recruitment process, as well as to consider whether the system should be decentralized to permit the user departments to take a greater role in those processes, and to review the auditing role of the Division of Personnel on the sum of these activities. In addition, the subcommittee heard testimony on problems concerning a variety of other issues. These issues are interlocking, and the commission was reluctant to change one piece of the puzzle without full consideration of the effect of that change on the other pieces. Therefore, the commission is continuing to consider these issues to develop recommendations to present to the legislature at a later date.

The processes which are described in the discussions below apply generally to state employees. However, they do not apply in all cases to all employees, since by collective bargaining agreements, other procedures have been adopted for members of some unions.

B. Summary of Issues Presented to the Classification, Certification & Recruitment Subcommittee

CENTRALIZATION OR DECENTRALIZATION OF PERSONNEL ADMINISTRATION

1. Centralization or Decentralization

A thread throughout many of the issues presented to the subcommittee is whether the personnel functions of the state should be centralized in the Division of Personnel or decentralized to the separate departments. Decentralization of the certifying of eligibles for unique job classes could result in more accurate classification of positions and evaluation of applicants and take less time than Division of Personnel now requires, leaving the Division with more time to handle the general job classes and fulfill its audit and service roles. The audit role would be more important under a decentralized system because there would be need of insuring consistency among departmental decisions.

Decentralization could result in confusion for applicants if there were no central locations for applying for jobs. However, the Division of Personnel could provide central information offices for applicants. These offices could be coordinated with Department of Labor's Job Service Centers to accept applications and forward them to appropriate departments.

On the other hand, it would be possible to centralize all departmental personnel officers by making them employees of the Division of Personnel. This might insure better communication between the Division and the departments, and better control by the Division over personnel decisions within the departments. Testimony was presented to the commission indicating that a centralized system could result in considerable friction between the Division and the department in question and that this friction could hinder the effectiveness of the personnel officer.

Some departments have statutory authority for hiring their own personnel officers who are also empowered to adopt regulations for those classes of employees which are unique to that department. The departments are: Highways, Fish and Game, Education, Labor and Health and Social Services. AS39.25.153. This statutory authorization is not extensively used, for a variety of reasons, and if the state were to adopt a more decentralized system, then some departmental personnel offices might require additional staff to handle the increased workload.

Further subcommittee meetings are planned for review of this issue and the departmental personnel officers will be invited to present their opinions on the matter before the commission prepares its recommendations.

CLASSIFICATION OF POSITIONS

2. Classification Process

The process used for classifying new positions differs little from the process used for reclassifying existing positions. Testimony has indicated and the commission finds that in some cases both are slow and cumbersome. The process includes:

a) Preparation of job descriptions (P402's) describing the duties of the position and justifying the requested title and salary range. For new positions, the P402 is prepared by the immediate supervisor of the position. For reclassifications, the present job holder typically prepares the form. This needs study.

b) Departmental review, which varies widely among departments.

c) Review and approval by the Division of Budget and Manage-

ment, if the classification or reclassification requires an increase to departmental budget.

d) Classification study by the Division of Personnel and Labor Relations, including a comparison to similar positions in other departments, other states and in private industry if the position does not clearly fall into a particular classification. The Division then assigns a salary range, title and position control number. Attempted analogy of Alaska's problems with other states has been, at times, a controlling factor in reclassification with disparity of results.

While most time is spent in the classification study, the process of classifying positions can develop delays at any of these steps. The time required for reclassifications prompts some program managers to blanket apply for full-time positions and then hire temporaries with their full-time appropriation. This often leads to circumvention of the controls of the merit system.

The subcommittee discussed decentralizing this process. Classification of new positions and of existing positions could be done by the user department's personnel section. The department would prepare Budget and Management forms and submit them directly to the Division of Budget and Management for budget authorization. The Division of Personnel would be given a copy of the entire submittal and would have a limited time to approve or veto the proposed classification action. If no response were received from the Division within the time set, then the action would stand, subject to post-audit review, which would be limited to changing actions found to be contrary to established rule or

law. Another suggested alternative is to allow an agency to only fill requested permanent positions with permanent employees.

This concept makes the classification time responsive to management at the departmental level, which can set priorities for action by its personnel section. Division of Personnel would retain an oversight role to insure consistency in classification standards throughout the state. This process could also be more responsive to applicants.

3. Division of Personnel Recommendations to Division of Budget and Management on Reclassifications

Testimony received by the commission indicates that the Division of Personnel evaluates and makes recommendations on proposed reclassifications only after the Division of Budget and Management has authorized funding for the changes.

Federal law requires that employees be paid on the principle of equal pay for equal work, as does state law. Under federal law, employees who have been underpaid may be entitled to back pay with interest and attorney's fees in case of litigation, if there is evidence of discrimination against a protected class.

The present system of approving reclassifications gives Budget and Management effective veto, in some instances, over reclassifications based upon the unavailability of funds to pay increased salaries. By written policy, the Division of Personnel and Labor Relations cannot begin work on any requests that will result in substantial budgetary impact without prior approval from the Division of Budget and Management. It is presumed that Budget and Management's decision is based on monetary considerations.

Therefore, reclassification requests which are not approved in advance by Budget and Management are not analyzed by the Division of Personnel and Labor Relations. The merit, or lack of merit, of the requests is never determined.

Consequently, Budget and Management is not fully informed of the need for the reclassification when it makes its decision. The priorities established for allocating available departmental funds will not reflect advice from the Division on the potential state liability under the equal wage and equal employment laws if the reclassification is not approved.

4. Structure of Classes of Positions

The commission heard testimony on several components of the structure of the state's job classes.

a) Consolidation of job clas ifications. At present, there are 1,600 job classifications in the state. Reducing the number could speed the classification process and could help to prevent some of the inequities in salaries assigned to different classifications. At the same time, the consolidation could help to develop rational career ladders within classes.

b) Minimum qualifications for positions. Testimony was presented that minimum qualifications for some positions over emphasize educational requirements, which then eliminate candidates who could perform the work satisfactorily but who lack the educational background specified. This is a particular problem for filling positions in the bush. On the other hand, one witness thought that more stringent educational standards should be required for social workers employed by the state.

The Vocational Substitution program requires establishment of vocational standards as alternatives for education or experience levels now required for non-professional occupational areas. Applicants will be placed on eligible lists for the vocational classification indicated on their applications, ranked by assessment of their technical ability and place of residence, without written examination. The purpose of the program is to establish a liberal system under which Alaskan residents not employed by the state may demonstrate their abilities and be hired.

c) Career ladders. Two alleged problems with career ladders were brought to the commission's attention:

1) In the Public Health Nurse class, there is no viable career ladder system. There are a number of PHN-I's in the state, only a handful of PHN-II positions and a few PHN-III positions. PHN-III's are itinerant health nurses, located in rural areas and traveling throughout a wide area. Nurses working as PHN-I's have no realistic opportunity of remaining in the state in their field and receiving a promotion to another job classification.

2) As reported to the commission, in the Chemist class, there was no position available to chemists just out of college. The Chemist I position requires the applicant to have a master's degree or one year of experience as a chemist. There was no typical entry-level chemist classification which required a college degree in chemistry and no additional experience.

CERTIFICATION

5. Certification Process

The process for certifying applicants and placing them on registers takes, in the majority of cases, from three to eight weeks. There are several components to this problem:

a) Open recruitment. The state's policy of open recruitment of applicants has led to a substantial increase in the number of applications submitted to the Division of Personnel. This increased workload has added to the time taken for evaluation, testing (where required) and placement on the register. The Legislative Auditor suggests in Recommendation No.2 of his report of January 27, 1977, that the Division should accept applications based on forecasted turnover of positions rather than continue accepting all applications submitted. The Division replied that the state would have to have a greater pool of employees before it could accurately forecast future staffing needs. The Division is now closing some classes.

Applicants are encouraged by the fact that the state has accepted an application and believe that there is a vacancy in that position. If no job interview occurs for a considerable time, the applicants become frustrated and feel that they are being unfairly treated by the Division of Personnel. On the other hand, if recruitment is closed for a period of time, then the state could not accept applications for any position within that classification. This could present a severe handicap, particularly for classes with a number of specialized positions.

b) Unreasonable departmental requirements. One applicant found the application process for the position of Correctional Officer I to be unduly cumbersome and overly technical. The Division of Corrections required that he be fingerprinted at

a particular state office within a limited time, although there were other more convenient state locations for being fingerprinted. He was forced to take personal leave in order to meet the division's schedule.

c) Evaluation of applicant's experience. It can take longer for the Division of Personnel to evaluate an applicant's experience than to administer an examination, even though the testing process is lengthy. Testimony presented alleged that for unique job classes and for professional level positions, the personnel analyst in the Division may lack the knowledge of the field necesary to perform an accurate evaluation. If the responsibility for filling positions in unique job classifications were delegated to the user department, this problem would be avoided.

d) Location. The Division of Personnel has offices in Anchorage, Fairbanks and a central office in Juneau. The Juneau office is responsible for evaluation of all applications except those from Anchorage for certain job classifications. Mail delivery and frequent mail delays add to the time required for action on an application. Applicants in other locations do not have ready access to the person making the evaluation and therefore are less able to challenge the results, should they feel that the evaluation is incorrect. Decentralization should be considered.

e) Data Processing. The Legislative Auditor, in his report, recommended that the Division adopt an automated application processing system. The Division indicated in its response that progress was being made on the implementation of that system. The Auditor also recommended that files be kept by social security number and that employee records should be automatically inter-

faced with the Payroll Section for immediate and constant updating. The Division replied that because of considerable public and legislative concern about the expanding use of social security numbers as identity numbers, a social security based filing system did not appear advisable.

As the discussion indicates, these issues will be affected by whether the state moves to a more decentralized or more centralized personnel system.

6. Multiple Applications within a Job Series

The Division of Personnel now requires an application for each job classification within a series. Applicants are therefore required to file several applications and to take several tests if they wish to apply for different levels within the series. In most cases if an applicant can pass the higher level test, he or she should automatically qualify for the lower level positions within that series.

For example, accountants must take different examinations for the different levels within the accounting field. The Division of Personnel has found that giving multiple examinations within a job series is necessary since different levels of a series may require different kinds of skills. Furthermore, performance on an examination for one level does not accurately predict the applicant's performance on an exam for a different level.

7. Veteran's Preference Points

One witness testified that he and his subordinate each applied for a vacancy outside the classification series of their present positions, but closely similar to them. His subordinate received

the job because he was slightly higher on the register as a result of the five points added to his score because he was a veteran.

Upon entry into state service, the Personnel Act provides for the granting of preference to veterans. In determining the qualification of applicants for entrance into the classified service under the merit system examination, five points are added to the passing grade of a veteran and ten points are added to the passing grade of a disabled veteran. AS39.25.150(23). The commission is considering alternatives.

8. Promotional Lists

Because the state's policy is to fill vacancies from promotional lists whenever possible, applicants who are on the competitive (rather than the promotional) registers may never be considered for vacancies. This may lead to the applicant on the competitive register becoming frustrated with the state's hiring system.

9. Hiring from the List of Eligibles (Registers)

a) Currentness of lists. Both program managers and applicants have concerns about the lists of eligibles. Program managers have found that some eligibility lists are not current. This occurs sometimes because of regional preferences of applicants and sometimes because the applicant has become unavailable for work or has accepted another position with the state and is no longer seeking the same level of placement.

An applicant may remain on an eligibility list for a period of two years. There are procedures for supervisors to indicate that an eligible should be removed from the register, but apparently, there is some confusion about how to do so. The Division of

Personnel puts a lower priority on updating the eligible list for this kind of information.

b) Qualifications of top five applicants on registers compared with qualifications of those following. For registers with a large number of applicants, the top five eligibles may not be significantly more qualified than those who follow. Federal regulations used to require that the state hire from the top five interested eligibles for programs funded by federal money, but federal civil service reforms have expanded the alternatives.

Some of those alternatives were listed in a memorandum on Merit Systems in Other Jurisdictions prepared for the commission by Ken Humphreys, Senior Policy Analyst with the Legislative Affairs Agency:

1) Rule of the list. Under this method, eligibles are certified on a pass/fail basis. All who pass are certified as eligible for appointment. This is the most open alternative.

2) Zone or category scoring. Individuals are ranked within specified ranges. Such categories might be called outstanding, well qualified, qualified and not qualified. Selections would be from the highest category unless the number of eligibles in it fell below a certain level, in which case the next category would become eligible. This is the method under the new federal law. It is worth noting that zones or categories may be tailored to suit different job classes.

3) Block scoring. All candidates within a specified block of scores are certified.

4) Rule of ___. Any arbitrary number such as one, seven

or ten may be inserted. The Classification, Certification and Recruitment Subcommittee has recommended that the state move toward a block scoring system. The full commission will study this recommendation.

c) Interviews for top five applicants. Departments are required to hire within the top five on the register (except where they can justify not doing so) but they are not required to interview each applicant within the group.

Supervisors may be prejudiced against an applicant because he or she has been on the register for a considerable length of time, and be less willing to hire him or her for that reason. The failure to interview all of the members of the group rewards those who are aggressive in seeking interviews with program managers and those who are in the location in which there is a vacancy. A prospective employer should have more knowledge of an applicant after an interview than he or she could glean from reading the written application.

The Department of Administration has indicated that they will prepare regulations for a pilot project to require that all of the top five interested applicants have an opportunity for a meaningful interview before a position is filled. The interviews should be scheduled long enough in advance to insure that the applicant will receive notice and be able to attend. The commission believes that this is an item specifically for legislative intent. Supervisors may wish to ask departmental staff in the applicant's area to conduct the interview, if the applicant prefers not to travel to the office with a vacancy. Inter-

views might also be conducted by telephone. Either of these methods is less desirable than an interview between the applicant and the person hiring.

The applicant would be responsible for any transportation costs to the interview.

10. Criminal Records of Applicants

The application form for state employment asks applicants to indicate whether they have been convicted of a felony within the past ten years. Federal law may now prohibit requiring that an applicant respond to that question. The only way to check the truth of an applicant's response, should one be provided, is to make a personal complaint with the Department of Public Safety.

Some commission members believe it is important for the state to know whether an applicant has a criminal record when filling a position where prior criminal activity may be relevant to the duties involved. For example, knowledge of a prior conviction of embezzlement would be relevant when considering an applicant's qualifications for a position which provides access to funds or supplies.

AUDITS OF THE PERSONNEL SYSTEM AND PRACTICES

11. Auditing Role of the Division of Personnel

The Division of Personnel should increase its review of personnel actions taken by departments, so that abuses of the personnel system would decrease. Testimony has indicated that one of the major areas of abuse is in departmental hiring practices. In order to avoid unfair treatment of those individuals hired through

improper departmental actions, the Division should be able to insure that it learns of improper actions promptly. Applicants for state employment should be provided with the name of the person whose duty it is to investigate and resolve abuses.

12. Audits of the Personnel System

The subcommittee considered whether to propose annual audits of the personnel system similar to the audit performed by the Division of Legislative Audit in 1977. An annual audit would reveal problems within the system, and would provide the Division of Personnel and Labor Relations with information about its performance. It could also serve to focus attention on misconceptions of the personnel system and serve to identify need for education about the personnel processes. The subcommittee was advised that the staff of the Division whole-heartedly supports a regular audit program.

The subcommittee was convinced that any audit should be non-political and should be performed considering standards which are valid for the conditions in Alaska. The scope should be defined to make the task manageable and useful. It was agreed that some provision should be made for audits to evaluate the effectiveness of the commission's recommendations, as well as the effectiveness of the personnel system as a whole.

While supporting the concept of annual audits, the commission has not yet defined who should perform the audit, what the scope should be, nor to whom the auditor should report. Therefore, the commission makes no recommendation on that issue at this time.

13. Disciplinary Measures for Violations of the Personnel Rules

There is no workable system to penalize supervisors who circumvent the Personnel Rules or who disobey equal employment opportunity laws in the decisions they make. In the Prohibitions and Penalties section of the Personnel Rules, there is a provision making any person who violates the Rules guilty of a misdemeanor and providing that any state employee who is convicted of that misdemeanor shall immediately forfeit his office or position. P.R.13 18.0. This is an unenforceable remedy, and therefore likely never to be used. An acceptable alternative needs to be formulated.

JOB PERFORMANCE

14. Training Programs

The Division of Personnel has limited staff to provide training programs to state employees. Training needs should include introduction to new state employees of the state's required procedures, EEO and Affirmative Action information, better management practices, introductory budget and financial management information to non-fiscal program managers, explanation of the state's personnel system, classification and reclassification processes and standards, the hiring system, labor relations information and the like.

One problem identified was the reluctance of supervisors to fire unsatisfactory employees. This reluctance may result from the lack of training in the state's standards, processes and some skill developments. But there may be other obstacles which training will not address.

15. Flex Time

Flex time is a system in which employees' hours are staggered so that not all arrive or depart at the same time, though each employee must work a full shift. The use of flex time is a way of responding to individual employee needs while also better meeting the public's need for services during lunch hours and after state offices are normally closed. Experience has shown that having people work at odd times can result in unions demanding extra pay for those hours, increasing the personal service costs to the state. The state permits departments to implement flex time programs, but this option is not widely practiced. The commission recommends that the legislature urge the executive branch to increase the availability of the use of flex time to state employees.

16. Use of Employees in Tasks Above Job Specifications

Supervisors are unwilling to document the performance by their staff of duties above the job classification to which an employee is assigned. This denies the employee credit for work done--either when being considered for promotion or for employment elsewhere--as well as for extra pay for the task in question. The procedures available for documenting work above grade should be fully implemented.

THE STATE PERSONNEL ACT AND PERSONNEL RULES

17. The State Personnel Act

As discussed in the section on the summary of issues before the Merit System/Collective Bargaining Subcommittee, the Person-

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILE 8672
1362 SCOMM 51: BLUE RIBBON COMN. ON STATE PERSONNEL ACT 1978-1983

nel Act has not been comprehensively revised since its adoption, although circumstances have changed substantially since then.

In addition, the Act itself is poorly structured, and modifications and exceptions to the Act are spread throughout the rest of the statutes. There is need for a comprehensive recodification. Because of the complexity of the question, the Blue Ribbon Commission has not, within the time constraint, been able to consider this issue fully, and therefore can make no recommendation on this matter. We request more time so that we may complete the formulation of additional concepts.

18. The Personnel Rules

In addition to the method by which the Rules are adopted (see discussion above in the Merit System/Collective Bargaining Subcommittee Summary, page 11), there are a number of other problems with the Personnel Rules. Little attempt has been made to cross index the Rules with the several bargaining unit agreements nor are the Rules comprehensive in setting out the topics which they do address. For example, there is no specific rule on whether temporary employees may use the appeal procedures established in Rule 12. The Division has, by analogy, reasoned that temporaries may not use those procedures since probationary employees are forbidden access under the Rule on dismissal during the probationary period, P.R.6 04.0, and since temporary employees have fewer rights generally than do probationary employees.

Personnel Rules are in some instances vaguely drafted, leading to conflicting applications by different departments, and to inconsistent treatment of state employees, depending only on which

department they work in. In some cases, it would be reasonable to set out those limits statutorily.

The commission has not considered this issue extensively. Given the changes to the Rules which may result from future commission recommendations, a decision on this issue will be made at a later time.

IV. Categories of Employees Subcommittee

A. Overview of the Categories of Employees in the State System

In addition to three classes of service (classified, exempt and partially exempt), the state has six categories of employees. Provisions for those categories are set out in the Personnel Rules, and some of the union contracts modify those provisions. The six are: permanent (either full-time, part-time or seasonal), probationary, provisional, temporary, emergency, and short-term. The subcommittee focused its attention on the temporary category, although recognizing a need to later consider contract employees and to consider whether positions in the partially exempt service should be removed to the classified service.

The discussion of the issues following is limited to temporaries in the classified service, although much of what is said would pertain to tnose in the partially exempt service as well.

B. Temporary Employees

A temporary position is one which is established with an anticipated duration of less than six months. P.R. 1. That period may be extended by the director in extenuating circumstances. Appointments are not required to be made from the registers, but are directed, when practicable, to be done in that manner. P.R.5 06.0. Some departments have adopted internal procedures to require that this policy be followed (Health and Social Services, and recently Natural Resources). Time served as a temporary does not

count as part of an employee's probationary period (P.R.6 02.6), nor are temporaries eligible to receive most of the benefits provided to permanent employees.

The terms governing the employment of temporaries by the state have been modified in some of the contracts negotiated with public employee unions. Specific reference is made to some of those modifications in the discussion of the issues before this subcommittee.

C. Summary of Issues Before the Categories of Employees Subcommittee

1. Hiring Temporary Employees from the Register

Although the Personnel Rules require that temporary appointments shall, when practicable, be made from the eligible lists, (P.R.5 06.0), most of the temporary employees who testified before the commission were not hired from the registers. Requiring departments to abide by the rule and to hire temporaries from the registers could eliminate some of the abuses associated with temporary hiring practices. Abuses include hiring people who would not meet the minimum qualifications of vacant permanent positions so that they can develop minimum qualifications and be placed in the position; hiring people from out of state as temporaries so that they can establish residency and be placed in permanent positions; and using the temporary period to add to the probationary period of permanent employment.

Hiring from the register takes some time. Steps include request for and receipt of the register from the Division of Personnel; notification to eligibles on the register of the vacancy; inter-

department they work in. In some cases, it would be reasonable to set out those limits statutorily.

The commission has not considered this issue extensively. Given the changes to the Rules which may result from future commission recommendations, a decision on this issue will be made at a later time.

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Hiring from the register takes some time. Steps include request for and receipt of the register from the Division of Personnel; notification to eligibles on the register of the vacancy; inter-

views of those interested in the position; and selection from among the applicants. In some instances, program managers may not be able to leave a position vacant for the length of time required.

2. Time Limits on Employment of Temporaries

The Personnel Rules provide that temporary employees can be employed in one position for a maximum of six months, with extensions possible in extenuating circumstances. P.R.5 06.0. Union contracts modify that rule. Local No. 71 members receive a wage supplement of $1.32 per hour for the first 120 days of temporary service. If the period is extended beyond that time, then they are entitled additionally to shift from the entry-level wage step into the higher level step. The union must agree to the extension beyond the first 120 days. The APEA collective bargaining contract limits employment of its members as temporaries to six months and restricts extensions.

The six-month term is seen as excessively long by some. It invites departments to use temporary employees instead of hiring permanent full-time, part-time or seasonal employees, and permits them to evade the merit system established for hiring permanent employees.

On the other hand, some temporary employees and some program managers see the term as inadequate. The time required to establish a new position can cut into the time available for completion of a project, so managers may have no choice but to hire temporaries. If the project lasts longer than six months, then the manager is forced to train a new employee in the middle of the work. One witness suggested that some of the time required for implementa-

count as part of an employee's probationary period (P.R.6 02.6), nor are temporaries eligible to receive most of the benefits provided to permanent employees.

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Hiring from the register takes some time. Steps include request for and receipt of the register from the Division of Personnel; notification to eligibles on the register of the vacancy; inter-

tion of a new program could be avoided if the legislature requested that departments present P402's for all positions created by a new program at the same time that the budget for the program was being considered.

3. Project Employees

It is difficult to plan for permanent positions in programs funded through federal grants whose receipt is not guaranteed from year to year. Program managers are not authorized to fill those positions until after funding is definite. This leads to the employment of temporaries in those positions. An alternative would be to create a new category for project employees. The employees would understand that their employment would be dependent upon continued receipt of funds for the project.

4. Benefits for Temporary Employment

Of the benefits provided to permanent employees by the state, temporary employees in the classified service are entitled to receive only holiday pay and unemployment insurance. Temporaries are not eligible for court leave, administrative leave, personal leave, or retirement benefits. Even if a temporary employee is subsequently placed in a permanent position, he or she does not receive retroactive credit towards either retirement or, in most cases, seniority.

Temporary employment does not entitle employees to be placed on promotional registers. The state's merit system provides a policy favoring filling positions by promotions. This would appear in some cases to penalize temporary employees who may have

worked for a substantial period of time for the state.

If temporary employees did, in fact, work only for a short time in one position, then it might be inappropriate for the state to provide leave benefits. Temporaries would then be hired only where there were deadlines that could not otherwise be met, and if they were out on leave, the department would have to pay not only their salary, but also the salary of a second replacement temporary.

Because the state does not have to pay for as many fringe benefits to temporaries as it does for permanent employees, it is cheaper for departments to hire temporaries. Program managers may therefore leave permanent positions vacant and hire temporaries instead so as to be able to increase the staff available to work on a project. For the same reason, departments may use temporary employees instead of permanent seasonal employees for recurrent seasonal needs. Some departments have a substantial number of such employees and would probably need a supplemental appropriation to fund benefits if they made use of the permanent seasonal category.

The Local No. 71 collective bargaining agreement addresses the lack of benefits provided to temporary employees. Members who are working as temporaries receive a wage supplement of $1.32 per hour for the first 120 days of work in a temporary position. After the 120 days, they shift from the entry level wage step into a higher level wage step, and they continue to receive the supplement.

5. Vacant Permanent Positions

The legislature reviews the number of vacant PCN's when it

considers a department's budget request. In some instances, those PCN's which have been vacant for more than six months are removed from the budget, unless the department can justify the delay in hiring. There is evidence that despite this policy, a number of PCN s are remaining vacant for several years, although funds are made available to departments to fill them. Departments use this money to hire temporaries instead of permanent employees.

6. State Employees who are Enrollees of the CETA Program

The state placed employees who are enrolled in the CETA (Comprehensive Employment and Training Act) program in the temporary employee category. This placement creates some problems, both for CETA's working under Titles II and VI and for CETA's working in SCSEP (Senior Community Service Employment Program). The objective of CETA is to provide employment opportunities for underemployed and disadvantaged groups of people in the state.

a) SCSEP. The federal regulations for the SCSEP program provide that an enrollee may work for a maximum of 1,300 hours in a year. No enrollee may be required to work more than 30 hours per week, although he or she may choose to work the full hours of a normal work week. The state may not set a time limit in conflict with these provisions. Therefore, the six-month limit placed on temporary employment appears to be in violation of the program rules. However, extensions are available.

As temporary employees, SCSEP enrollees do not receive the leave, retirement, or health insurance benefits provided to permanent employees. Federal regulations require that all enrollees

of an employer receive the same benefits and that those benefits be comparable to the benefits provided to other employees within the same category. The state meets that requirement, since all temporary employees are treated equally. If the state placed SCSEP employees in the permanent category, whether in the classified or the partially exempt service, then the state would be obligated to provide them with all the benefits which it provides to permanent employees.

As a result of being placed in the classified service, SCSEP employees are members of the bargaining units in which they are placed. Therefore, the union contract provisions apply to them. The APEA contract establishes a minimum wage which the state must meet, and this provision applies equally to SCSEP members as to all other members of the bargaining unit. The union contract and federal regulations of the program forbid the state to work members in tasks above their classification. Placement within the partially exempt service would remove the SCSEP employees from collective bargaining units. In addition to removing them from union oversight, the employees would lose access to the grievance procedures provided in the union contract. As temporary employees, or as partially exempt employees, they would not have access to the dispute resolution procedures set out in the Personnel Rules (P.R. 12) and in order to meet the requirements of the federal regulations governing the program, the state would have to develop some new mechanism of dispute resolution for this group.

Because the goal of the SCSEP program is to promote the use-

ful part-time employment of economically disadvantaged persons who are 55 years or older, the normal state selection procedures for employees have to be modified for the program enrollees. However, those employed by the state must, in addition to meeting the eligibility standards, meet the state's minimum requirements for the job class in which they are hired. If they were placed in the classified service as permanent employees, special registers would have to be developed for SCSEP positions, containing only applicants who both meet the program's and the state's selection criteria. Placement in the partially exempt service would mean that enrollees would not have to be hired from the state's registers nor meet minimum qualification standards and would avoid this difficulty.

b) Other CETA programs. The federal regulations implementing the CETA program set the maximum salary which the federal government will provide for an enrollee. Prior to October 1, 1978, that limit was set at $10,000 per year, or approximately $833 per month. The maximum has been changed to reflect the higher cost of living in Alaska and is now $19,880 per year or about $1,656 per month. The state may supplement that amount, should it wish to do so. The state is expected to maintain an average salary for all CETA's in Titles II and VI of no more that $14,314 per year. Testimony was presented on the experience of one CETA enrollee working at a correctional center. She indicated that she was doing the same work as the Correctional Officer I's employed at the institution, but that they were not part of the CETA program and therefore received significantly higher wages than she did. She knew of an instance

where a CETA enrollee was supervising a non-CETA state employee who was much higher paid than the supervisor.

Other testimony presented to the commission has indicated that the state is relying on CETA enrollees to provide essential state services in a number of programs. This reliance, while economical in that CETA salaries are paid from federal monies, may cause serious disruption to those programs in the event that CETA funds become unavailable. There is some question of whether state practices are in full compliance with federal CETA regulations.

7. Due Process Rights for Temporary Employees

Under the Personnel Rules, temporary employees have only a limited right to pursue grievances. The grievance procedures set out in Rule 12 are available to "any employee occupying a position in the classified service who has a grievance relating to his position, working conditions or employment over which the Executive Head of his department may lawfully exercise discretion". However, Rule 6 04.0 limits the rights of probationary employees to appeal or have a hearing for dismissal, except where the dismissal was due to discrimination based on race, color, sex, religion, national origin, or political beliefs. The Division of Personnel has reasoned that temporary employees have less status than probationary employees, and that therefore if probationary employees' right to appeal adverse decisions is limited, then the right of temporary employees must also be limited.

The Personnel Board appeals procedure set out in AS39.25.170

has been administratively construed to apply to employees having a permanent status, rather than a probationary status, except in cases where dismissal of a probationary employee is due to racial, religious or political discrimination. Whaley vs. State, 438 P.2d 718 (1968). Therefore, it is probably also unavailable to temporary employees.

Under collective bargaining agreements, the right of temporary employees to use the grievance procedures is limited as well. In the past, APEA did pursue grievances for temporary employees within their bargaining unit. However, the Division of Personnel began, about a year ago, to hold the association to the letter of the agreement. Under language that had been in the contract since at least 1973, the definition of employee did not include temporary employees.

Art. 1, Sec. 2(c) "Employee" in this Agreement means a person in the state service who is paid a salary or wage and holds probationary, permanent, or provisional status.

Grievances were defined as "any controversy or dispute arising between APEA or an employee of the bargaining unit and the Employer." Article X, Section 1. Given the language, an arbitrator upheld the Division's position that grievance rights were not available to temporary employees, even though that language had not been challenged by the department in previous grievances on the behalf of temporaries within the unit.

The Local 71 contract provides that temporary employees have the right to grieve on violations of contract terms and penalty pay, but that only permanent or probationary employees have a right to arbitration procedures.

8. Pool of On-call Permanent Employees as an Alternative to the Hiring of Temporaries

The state could develop a pool of skilled, permanent employees who would be on call to the various departments to fill in during vacations and to be available during unexpected vacancies or periods of peak work. The departments would have to work with the Division of Personnel to identify which classifications are used enough to benefit from a pool. Certainly, clerical needs could be filled from a pool, and perhaps accounting. Some of the positions in the pool could be set aside for people interested in working part-time.

APPENDICES

COMMISSION MEETINGS

PUBLIC HEARINGS

Anchorage

November 30 & December 1, 1978	Categories of Employees Subcommittee Classification, Certification & Recruitment Subcommittee Merit System/Collective Bargaining Subcommittee Blue Ribbon Commission
January 4, 1979	Categories of Employees Subcommittee
January 27, 1979	Blue Ribbon Commission

Fairbanks

December 12 & 13, 1978	Categories of Employees Subcommittee Merit System/Collective Bargaining Subcommittee Classification, Certification & Recruitment Subcommittee Blue Ribbon Commission

Juneau

October 3, 1978	Blue Ribbon Commission
November 15 & 16, 1978	Classification, Certification & Recruitment Subcommittee (then called the Centralization/Decentralization Subcommittee) Categories of Employees Subcommittee Blue Ribbon Commission
January 10, 1979	Blue Ribbon Commission
February 15, 1979	Blue Ribbon Commission

WORK SESSIONS AND OTHER MEETINGS

September 15, 1978 Juneau	Blue Ribbon Commission
January 26, 1979 Anchorage	Categories of Employees Subcommittee Classification, Certification & Recruitment Subcommittee Merit System/Collective Bargaining Subcommittee

February 5, 6 & 7, 1979 Juneau	Classification, Certification & Recruitment Subcommittee Merit System/Collective Bargaining Subcommittee Categories of Employees Subcommittee Blue Ribbon Commission & National Conference of State Legislatures
February 15, 1979	Classification Process Walk-Through
February 23, 1979 Juneau	Classification, Certification & Recruitment Subcommittee Merit System/Collective Bargaining Subcommittee Categories of Employees Subcommittee Blue Ribbon Commission
February 24, 1979 Juneau	Blue Ribbon Commission
March 13 & 14, 1979 Juneau	Blue Ribbon Commission

PUBLIC EMPLOYEE UNIONS

Alaska Public Employees Association (APEA)
General Government Unit
Supervisory Unit

Confidential Employees Association (CEA)

Inlandboatmen's Union of the Pacific (IBU)

International Order of Masters, Mates & Pilots (MMP)

Marine Engineers Beneficial Association (MEBA)

Public Employees Local No. 71 (AFL-CIO), covering Labor Trades & Crafts unit employees (Local 71)

Public Safety Employees Association (PSEA)

service without prior written approval of the director except as provided in this section.

(b) Every appointment to state service except an emergency appointment shall be made from the appropriate eligible list or dispatching register unless in exceptional circumstances the director has waived this requirement.

(c) The director may authorize the appointment of a non-permanent employee if the request for authorization is accompanied by evidence of available funds for the anticipated duration of that hire and the director determines that

(1) there is specific legislative authorization that the work in question be performed by non-permanent employees and funds have been made available on that condition;

(2) there is an urgent need to fill an authorized, permanent position and it is impractical to establish the position or to make certification within a reasonable time because of a lack of individuals on the eligible lists for that position;

(3) an urgent program need exists which the appointing authority could not reasonably have been expected to anticipate and meet through the creation of a permanent position; or

(4) a program or project exists and the needs for employees can most appropriately be met through the use of program or project employees.

(d) The director may not authorize the appointment of a non-permanent employee if after consideration he determines that

(1) the need for the non-permanent employee can reasonably be met through the creation and filling of a permanent position;

(2) the need for the non-permanent employee would be more appropriately met through an emergency appointment; or

Introduced: 3/15/79
Referred: Labor & Management

BY THE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE COUNCIL (for the Commission on the State Personnel Act)

IN THE SENATE

SENATE BILL NO. 253

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the hiring of non-permanent employees in the state personnel system; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. LEGISLATIVE FINDINGS AND INTENT. The legislature finds and declares that certain inconsistencies and abuses in the hiring of employees in the state personnel system have jeopardized the integrity and efficiency of the merit system as well as the morale of employees. The legislature intends to curb the widespread administrative practice of using non-permanent state employment to evade departmental accountability and mask poor planning. The legislature further intends that non-permanent employees be used only to the extent that it is impractical to meet the need with permanent employees and that the burden of proof shall fall upon the department or agency which proposes non-permanent hire.

* Sec. 2. AS 39.25.150(9) is amended to read:

(9) non-permanent [TEMPORARY] appointments to positions in the state service in accordance with AS 39.25.195 - 39.25.200 [WHICH ARE DETERMINED TO BE OF A SEASONAL OR TEMPORARY NATURE];

* Sec. 3. AS 39.35.680(21)(C)(iii) is amended to read:

(iii) casual or [,] emergency [OR TEMPORARY] workers or non-permanent employees as defined in AS 39.25.200;

* Sec. 4. AS 39.25 is amended by adding new sections to Article 6 to read:

Sec. 39.25.195. APPOINTMENT OF NON-PERMANENT EMPLOYEES. (a) An individual may not be appointed as a non-permanent employee in the state

(3) the need for the non-permanent employee is not urgent and could reasonably have been anticipated and met by the appointing authority through the creation and filling of a permanent position.

(e) To insure compliance with the intent of this section the director may require a department or agency to obtain prior approval for emergency appointments.

(f) The director shall adopt regulations implementing this section. The regulations shall include consideration of the need for timely substitution for permanent employees on medical or personal leave and other situations in which the appointment of an emergency or permanent employee would be inappropriate and when delay in hiring would cause serious disruption.

(g) A work assignment may not be performed by a non-permanent employee for more than 120 calendar days in a 12-month period. A non-permanent employee may not be employed by any one department for more than 120 calendar days in a 12-month period. In extraordinary circumstances the director may authorize an extension of the limit imposed by this subsection if he finds that there is an urgent need for the extension. The limit imposed by this subsection does not apply to program or project employees.

(h) The director shall present a report on non-permanent and emergency hire practices in state government to the legislature within the first 10 days of each regular legislative session. The report shall include information on the number of non-permanent employees authorized under this section and the number of emergency employees hired in each department, a description of the procedures used in authorizing the hiring of non-permanent employees, and any recommendations for legislation required to implement the intent of this section.

Sec. 39.25.197. TERMINATION OF NON-PERMANENT EMPLOYEES. When the

director determines that a non-permanent employee has been appointed in violation of AS 39.25.195, he shall immediately notify the appointing authority in writing and the appointing authority shall immediately terminate the non-permanent employee from state service.

Sec. 39.25.198. CIVIL LIABILITY. An appointing authority who violates AS 37.25.195 is liable in a civil action to an individual terminated under AS 37.25.197 as a result of that violation. The damages recoverable under this section are presumed to be three times the gross monthly salary at which the non-permanent employee was hired by the appointing authority.

Sec. 39.25.200. DEFINITIONS. In AS 39.25.195 - 39.25.200,

(1) "director" means the director of the division of personnel and labor relations;

(2) "emergency employee" means an employee appointed for a period not to exceed 30 calendar days, whose appointment was made under conditions requiring immediate action to carry on work that is required in the public interest;

(3) "non-permanent employee" means a person who is employed in state service in a position which is not in the exempt or partially exempt service and who is not a permanent or an emergency employee;

(4) "permanent employee" means an employee who has been appointed to an authorized, permanent part-time or permanent seasonal position in the classified service and who is in the process of completing or has successfully completed the required probationary service in that position;

(5) "program or project employee" means a non-permanent employee who is employed in state service with prior written understanding that employment in that position will continue for at most the duration of a specified program or project which is not a regular and continuing

function of a department or agency and which has an established probable date of termination.

* Sec. 5. This Act takes effect September 30, 1979.

Introduced: 3/22/79
Referred: State Affairs,
Finance and Labor & Management

BY THE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE COUNCIL (for the Commission on the State Personnel Act)

IN THE SENATE

SENATE BILL NO. 256

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act creating a Department of Employee Relations; amending the state personnel laws; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 44 is amended by adding a new chapter to read:

CHAPTER 22. DEPARTMENT OF EMPLOYEE RELATIONS.

Sec. 44.22.010. COMMISSIONER OF EMPLOYEE RELATIONS. The principal executive officer of the Department of Employee Relations is the commissioner of employee relations. The commissioner of employee relations shall have experience in both personnel administration and labor relations, either in the public or private sector. His combined experience in these fields must total at least five years of full-time experience.

Sec. 44.22.020. DIVISIONS OF THE DEPARTMENT. (a) The Department of Employee Relations shall include the following divisions:

(1) labor relations;

(2) personnel;

(3) equal employment opportunity.

(b) The head of the division of labor relations is the director of labor relations, appointed by the commissioner of employee relations. The director of labor relations shall have at least three years of full-time experience in labor relations, either in the public or private sector.

(c) The head of the division of personnel is the director of personnel, appointed by the commissioner of employee relations. The

director of personnel shall have at least three years of full-time experience in personnel administration, either in the public or private sector.

(d) The head of the division of equal employment opportunity is the director of equal employment opportunity, appointed by the commissioner of employee relations.

Sec. 44.22.030. POWERS AND DUTIES OF DEPARTMENT. The Department of Employee Relations shall

(1) administer a statewide personnel program, including central personnel services such as recruitment, examination, position classification, training, employee development, and pay administration;

(2) represent the state as an employer in collective bargaining and grievance resolution under the Public Employment Relations Act (AS 23.40.070 - 23.40.260), except to the extent those functions are performed by the Board of Regents of the University of Alaska;

(3) coordinate safety programs for state employees;

(4) coordinate all executive branch activities involving equal employment opportunity in state government;

(5) perform other functions as provided by law.

* Sec. 2. AS 23.40.212 is amended to read:

Sec. 23.40.212. AGREEMENT WITH THE BOARD OF REGENTS. (a) The Board of Regents of the University of Alaska may delegate to the Department of Employee Relations [ADMINISTRATION] its authority under AS 23.40.070 - 23.40.260 to negotiate with an organization for an agreement.

(b) The Department of Employee Relations [ADMINISTRATION] shall participate in the negotiations between the Board of Regents and an organization. An agreement between the board and an organization requires the approval of the department.

* Sec. 3. AS 39.20.295 is amended to read:

Sec. 39.20.295. SPECIAL REGULATIONS ON LEAVE PERIOD. In accord with the procedures established in AS 39.20.320, the Department of Employee Relations [ADMINISTRATION] shall adopt regulations [PROMULGATE RULES] defining and establishing a uniform beginning and a uniform concluding date for the 12 month periods applicable to leave use and accumulation by officers and employees of state government.

* Sec. 4. AS 39.20.320 is amended to read:

Sec. 39.20.320. ADOPTION OF REGULATIONS. The director of the division of personnel [AND LABOR RELATIONS] in the Department of Employee Relations [ADMINISTRATION] shall prepare and submit regulations necessary to carry out the intent of AS 39.20.200 - 39.20.330. These regulations shall include provisions for crediting and, if necessary, converting accrued leave when an officer or employee transfers, without break in service, between a department or agency of the state government where he is subject to AS 39.20.200 - 39.20.330 and a department or agency of the state government where he is not subject to AS 39.20.200 - 39.20.330. These regulations shall be submitted to the commissioner of employee relations [ADMINISTRATION WITHIN 60 DAYS OF JULY 9, 1978]. The commissioner of employee relations [ADMINISTRATION] shall review the regulations and submit them to the personnel board. The regulations, or any part of the regulations, have the force and effect of law 30 days after they are submitted to the personnel board if not disapproved by the personnel board. Amendments to the regulations shall be prepared and submitted in the same manner, and have the force and effect of law 30 days after they are submitted to the personnel board, if not disapproved by the personnel board. [THE REGULATIONS ADOPTED UNDER AS 39.-20.200 - 39.20.330 RELATE TO THE INTERNAL MANAGEMENT OF STATE AGENCIES AND THEIR ADOPTION IS NOT SUBJECT TO THE PROVISIONS OF THE ADMINISTRATIVE PROCEDURE ACT (AS 44.62).]

* Sec. 5. AS 39.20.330 is amended to read:

Sec. 39.20.330. DEPARTMENTS TO KEEP LEAVE RECORDS. Each department, office, institution, or agency of the state government shall keep for its files a complete leave record, covering each of its officers and employees, on forms prepared and supplied by the Department of Administration. These records are subject to annual audit and approval by the director of personnel of the Department of Employee Relations [ADMINISTRATION].

* Sec. 6. AS 39.23.010 is amended to read:

Sec. 39.23.010. CREATION OF COMMISSION; COMPOSITION. There is established in the Department of Employee Relations [ADMINISTRATION] the Alaska Salary Commission consisting of five members appointed by the governor. No member of the commission may be a public officer or employee.

* Sec. 7. AS 39.23.030 is amended to read:

Sec. 39.23.030. OFFICERS; STAFF. The commission shall select a chairman from among its members annually. The director [OF THE DIVISION] of personnel [AND LABOR RELATIONS] serves as ex officio secretary to the commission and provides research, technical and administrative services.

* Sec. 8. AS 39.25.030 is amended to read:

Sec. 39.25.030. [DIVISION OF] PERSONNEL [AND] BOARD. [THERE IS ESTABLISHED WITHIN THE DEPARTMENT OF ADMINISTRATION A DIVISION OF PERSONNEL.] There is established within the division of personnel in the Department of Employee Relations a personnel board.

* Sec. 9. AS 39.25.130(a) is amended to read:

(a) After June 30, 1979 [JUNE 30, 1961], the personnel board, upon written recommendation of the commissioner of employee relations [ADMINISTRATION], may extend the partially exempt service to include any

position which was in the classified service on June 30, 1979 [APRIL 19, 1960], which in the judgment of the board:

(1) involves principal responsibility for the determination of policy;

(2) involves principal responsibility for the way in which policies are carried out; or

(3) involves responsibilities and duties of a type not susceptible to the ordinary recruiting and examining procedures.

* Sec. 10. AS 39.25.130(c) is amended to read:

(c) After June 30, 1979 [JUNE 30, 1961], the personnel board, upon written recommendation of the commissioner of employee relations [ADMINISTRATION], may extend the classified service to include any position which was in the partially exempt service on June 30, 1979 [APRIL 19, 1960].

* Sec. 11. AS 39.25.130 is amended by adding a new subsection to read:

(d) An action taken under this section may not alter a collective bargaining unit determined under AS 23.40.090. An action taken under this section may be superseded by a determination of a collective bargaining unit under AS 23.40.090.

* Sec. 12. AS 39.25.140(a) is amended to read:

(a) The director of personnel shall prepare and submit to the commissioner of employee relations [ADMINISTRATION] any proposed amendments to the personnel rules for all positions and employees subject to this chapter.

* Sec. 13. AS 39.25.140(b) is amended to read:

(b) The commissioner of employee relations [ADMINISTRATION] shall review the amendments and submit them to the personnel board.

* Sec. 14. AS 39.25.140(c) is amended to read:

(c) At the time he submits the amendments to the personnel board,

the commissioner of employee relations [ADMINISTRATION] shall, by posting in public buildings throughout the state, give notice that the personnel board has the amendments under consideration. The amendments have the effect of law 30 days after they are submitted to the personnel board if not disapproved by the personnel board. The personnel board, if requested, may hold public hearings on the amendments.

* Sec. 15. AS 39.25.150(1) is amended to read:

(1) the preparation, maintenance, and revision by the director of personnel, subject to approval by the commissioner of employee relations [ADMINISTRATION] and the personnel board, of a position classification plan for all positions in the classified and partially exempt services; in the position classification plan all positions shall be grouped together into classes on the basis of duties and responsibilities; the position classification plan shall include for each class of position an appropriate title, a description of the duties and responsibilities, training and experience qualifications, and other necessary position specifications;

* Sec. 16. AS 39.25.153(b) is amended to read:

(b) The personnel officers specified in (a) of this section are authorized to adopt regulations providing for the activities specified in AS 39.25.150(1) - (10), (13) - (18), (20) and (22) for those classes of employees which are unique to the respective departments specified in (a) of this section. The initial determination as to which classes of employees are unique within the respective departments shall be made by the personnel officer in consultation with the commissioner of his department and subject to the approval of the director of personnel within the Department of Employee Relations [ADMINISTRATION. REGULATIONS ADOPTED UNDER THIS SUBSECTION RELATE TO THE INTERNAL MANAGEMENT OF STATE AGENCIES AND THEIR ADOPTION IS NOT SUBJECT TO THE ADMINISTRATIVE

)CEDURE ACT (AS 44.62)].

* Sec. 17. AS 39.35.050(a) is amended to read:

(a) The commissioner shall appoint an administrator in charge of the detailed affairs of the system. [THE COMMISSIONER MAY APPOINT THE PERSONNEL DIRECTOR OF THE PERSONNEL DIVISION OF THE DEPARTMENT OF ADMINISTRATION AS THE ADMINISTRATOR.]

* Sec. 18. AS 44.15.010 is amended by adding a new paragraph to read:

(18) Department of Employee Relations.

* Sec. 19. AS 44.17.070 is amended to read:

Sec. 44.17.070. REORGANIZATION BY DEPARTMENT HEADS. Subject to state personnel laws and the approval of the commissioner of <u>employee relations</u> [ADMINISTRATION], the principal executive officer of each department may, in the interest of improved management, abolish unnecessary offices and positions, transfer officers and employees between positions, and change the duties, titles, and compensation of existing offices and positions.

* Sec. 20. Regulations formerly adopted under AS 39.20.200 - 39.20.330 and AS 39.25, including the personnel rules, shall be published in the Alaska Administrative Register and Code as they exist on June 30, 1979 and are considered to have been adopted in accordance with the Administrative Procedure Act (AS 44.62) and this Act. After June 30, 1979, the adoption of regulations and amendments to regulations under AS 39.20.200 - 39.20.330 and AS 39.25 is subject to the Administrative Procedure Act.

* Sec. 21. TRANSFER OF FUNCTIONS. (a) The Department of Employee Relations is vested with the powers and duties formerly held by the division of personnel and labor relations and the division of equal employment opportunity in the Department of Administration.

(b) Appropriations, records, equipment, and other property of the division of personnel and labor relations and the division of equal employ-

ment opportunity in the Department of Administration are transferred to the Department of Employee Relations.

(c) All litigation, hearings, investigations, and other proceedings pending under a law amended or repealed by this Act, or in connection with powers and duties transferred by this Act, continue in effect and may be continued and completed notwithstanding an amendment, repeal, or transfer made by this Act. Regulations, rules, and orders adopted under a law amended or repealed by this Act remain in effect until they expire by their own terms or until revoked, vacated, or otherwise modified as provided by law. Contracts existing on July 1, 1979 which were made by a state agency whose powers and duties have been transferred to the Department of Employee Relations remain in effect according to their terms.

* Sec. 22. AS 39.25.040, 39.25.140(e), and AS 44.21.020(9) are repealed.

* Sec. 23. This Act takes effect July 1, 1979.

DATE: 3/27/79 LOCATION: Telephone

MOTION: Release of commission's overview report to the legislature.

MEMBER	YES	NO	ABSTAIN	ABSENT	SUB-COMMITTEES
Representative Buchholdt Representative Miller	✓				MS/CB
Myrt Charney Ken Humphreys(x)	✓				CCR
Representative Eliason				✓	CCR
Don Fisher				✓	CCR
Frank Flavin Paddy Moriarity					CCR CE
Commissioner Hudson (Pat Hunt)	✓				MS/CB
Pat Hunt Ken Kareen			✓		MS/CB CCR CE
Lynda McCurry	✓				MS/CB CCR & CE
Representative McKinnon Representative Smith					CE
Pat Murphy Darlene Howard	✓				MS/CB CE
Greg O'Claray Homer Sarber	✓				MS/CB
John Pugh Bob Mourant	✓				CCR MS/CB
Senator Ray	✓				M,C&C
Ken Spray	✓				M,C&C
~~Niel Thomas~~ ~~Janet Bradley~~					M,C&C

AMENDMENTS:

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.

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Signature of Camera Operator

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Date

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REPORT OF THE

BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT

TO THE

ELEVENTH ALASKA STATE LEGISLATURE SECOND SESSION

Senator Bill Ray

Chairman

January 9, 1980

MEMBERSHIP OF THE BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT

Senator Bill Ray, Chairman
Chairman, Classification, Certification and Recruitment Subcommittee

Donald P. Fisher, Staff Assistant to the Deputy Commissioner, DOT/PF, Vice Chairman
Vice Chairman, Classification, Certification and Recruitment Subcommittee

B.B. Allen, Commissioner, Department of Administration*
Alternate: Robert Gates, Deputy Commissioner*

Representative Thelma Buchholdt
Chairwoman, Merit System/Collective Bargaining Subcommittee
Alternate: Representative Mike Miller

Myrton Charney, Executive Director, Legislative Affairs Agency
Alternate: Ken Humphries, Senior Policy Analyst*

Representative Richard Eliason

Frank Flavin, Ombudsman
Vice Chairman, Categories of Employees Subcommittee
Alternate: Paddy Moriarity

William R. Hudson, Commissioner, Department of Administration*
Alternate: Sue S. Greene, Deputy Commissioner*

Patrick Hunt, Director, Division of Personnel and Labor Relations*
Alternate: Kenneth L. Kareen, Deputy Director, Personnel

Lois Jund, citizen*

Lynda McCurry, Personnel Officer, Department of Labor, Confidential Employees Association
Alternate: Doryce Eggleston, Personnel Officer, Department of Public Safety*

Representative Joseph McKinnon*
Chairman, Categories of Employees Subcommittee
Alternate: Representative Sarah Smith

Patrick Murphy, Executive Director, Alaska Public Employees Association
Alternate: Darlene Livermore

G.S. O'Claray, Vice President, Alaska Region
Inlandboatmen's Union of the Pacific
Vice Chairman, Merit System/Collective Bargaining Subcommittee
Alternate: Homer Sarber

John Pugh, President, Alaska Public Employees Association
Alternate: Robert Mourant

Kenneth Spray, Vice President and Business Representative
Public Employees Union Local No. 71 (AFL-CIO)*

Niel Thomas, Executive Director, Alaska State Commission for Human Rights*
Alternate: Janet Bradley, Assistant Director*

Sandra Withers, Director, Division of Personnel and Labor Relations*
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SUMMARY OF RECOMMENDATIONS

The Blue Ribbon Commission on the State Personnel Act recommends that:

1. The merit principles identified during the state constitutional debates should be specifically set forth in the State Personnel Act. These principles are fundamental to fair employment and should be recognized and adopted. (Page 11)

2. If any positions are removed from collective bargaining units, that they remain in the classified service but be prohibited from collective bargaining activity. (Page 15)

3. The legislature should re-examine the placement of positions in the exempt and partially exempt services. Where necessary, statutes should be amended to correct any errors identified. (Page 17)

4. If the legislature wishes to increase its role in the collective bargaining process, it do so by formally considering and approving or rejecting the agreements entered into between the bargaining units and the employer before they take effect. The agreements would be presented to the legislature by a specified date. The legislature would then be required to consider and act on the agreements within 30 days. The law should state that the legislature could not adjourn before having acted. If the agreements were ratified by the legislature, they would become binding contracts. (Page 18)

   The legislature consider only the monetary terms of the collective bargaining agreements. (Page 19)

5. An alternative system be developed to reward outstanding employees if the legislature decides to limit eligibility for the merit increase program. (Page 23)

6. Cost of living adjustments be considered on an annual basis to determine whether across-the-board increases or percentage increases are more appropriate based on the current economic situation. (Page 24)

7. Legislative Audit Division review the membership and the functions of the Personnel Board, the Labor Relations Agency and the Public Employee Retirement System Board and report to the legislature on the results of its audit. (Page 26)

   The commission finds that the Labor Relations Agency can work satisfactorily within its present staff and structure as long as its members are, and continue to be, completely neutral and the workload of the agency does not substantially increase. (Page 26)

8. The commission continues to support the elevation of personnel and labor relations to departmental rank. In addition, as an interim measure, the commission recommended to the Department of Administration that the department be restructured into two major divisions, one for personnel related matters, and the other for administrative matters, each division to be headed by a Deputy Commissioner. The department has recently initiated steps to accomplish this reorganization. (Page 28)

9. The legislature direct the Division of Budget and Management to immediately prepare and distribute a procedures manual to assist personnel officers and other managers in understanding the process of authorizing new or reclassified positions and to identify whether to consult the Division of Budget and Management or the Division of Personnel when questions arise. (Page 30)

   The Division of Personnel continue to extend responsibility to departments for classifying positions and the commission encourages the division to consider granting departmental personnel offices full authority as well as responsibility in that area. (Page 31)

10. All of the state's registers remain open continuously and that the four positions necessary to do the added work be funded by the legislature. (Page 35)

11. The Division of Personnel develop a system in which only one application is necessary from each applicant for each class series for which the applicant wishes to be considered. (Page 35)

12. The majority of the commission recommends that the veterans' preference system be changed to award a five-point bonus to veterans for a three-year period following their discharge from the armed services of the United States. (Page 36)

    The preference system for disabled veterans should not be changed. (Page 37)

13. The state continue its efforts to establish a block scoring system for the ranking of applicants. (Page 39)

14. The Division of Personnel review the justifications furnished by departments when hiring below the top five on the register, and that the division be authorized to forbid hiring under the "unique or unusual circumstances" exception when the department cannot substantiate the reasons. (Page 40)

15. Each of the top five interested applicants be advised that they may request a meaningful interview with the person responsible for making the hiring decision prior to the final selection for the position. (Page 40)

16. Each performance evaluation which includes a recommendation that the employee not be rehired be reviewed by the staff of the Division of Personnel prior to its becoming part of the employee's personnel file to establish that the circumstances warrant the recommendation given. (Page 45)

17. Either the Division of Personnel or the Legislative Budget and Audit Committee periodically audit the operation of the personnel system of the state. The results of that audit should be presented to the legislature. (Page 47)

18. A graduated system of penalities be devised to include penalities appropriate to the seriousness of the offense. This should be accompanied by policies indicating when it is appropriate to admonish an employee, when suspension should be considered, when a fine should be assessed, and in what cases the more severe dismissal or involuntary demotion should be imposed. (Page 49)

19. A comprehensive revision of all of the laws affecting personnel should be undertaken by the Blue Ribbon Commission so that the State Personnel Act is the authority for all personnel-related matters. (Page 50)

20. The Personnel Rules should be revised to reflect existing employment practices and to indicate to what extent the Rules have been affected by collective bargaining. This review should be undertaken by the Blue Ribbon Commission after it completes its revision of the State Personnel Act, so that the Personnel Rules will be in accordance with the revised act. (Page 50)

TABLE OF CONTENTS

MEMBERSHIP OF THE BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT i

SUMMARY OF RECOMMENDATIONS iii

INTRODUCTION 1

CHAPTER I. CATEGORIES OF EMPLOYEES 4

Exempt Service 4
Partially Exempt Service 5
Contracting for Services 7

CHAPTER II. MERIT SYSTEM/COLLECTIVE BARGAINING 8

Merit Principles of Employment 8
Management Rights in Bargaining 12
Collective Bargaining for Managers 13
Transferring Positions to the Classified Service 16
Role of the Legislature in Collective Bargaining 17
Merit Increases 20
Cost of Living Adjustments 24
Labor Relations Agency 24

CHAPTER III. STRUCTURE OF THE PERSONNEL & LABOR RELATIONS DIVISION 27

CHAPTER IV. PERSONNEL MANAGEMENT 29

CLASSIFICATION

Delegation of Classification Authority 29
Classification System Review 32

SELECTION

Register Closures 34
Multiple Applications 35
Veterans' Preference System 36
Relevant Written Examinations 37
Block Scoring of Applications 37
Review of "Unique or Unusual Circumstances" 39
Job Interviews 40
Regionalizing Registers 41

OTHER PERSONNEL PRACTICES

Recommendations Against Rehire 42
Training 45
Equal Employment Opportunity and Promotion 46
Filling Permanent Positions 46
Credit for Level of Work Performed 46
Audits of the Personnel System 47
Disciplinary Measures 48

CHAPTER V. PERSONNEL LAWS AND REGULATIONS 50

Revision of the Laws Affecting Personnel 50
Revision of the Personnel Rules 50

APPENDICES

Appendix A. Statute on Exempt Positions.

Appendix B. List of Exempt Positions in State Government.

Appendix C. Statute on Partially Exempt Positions.

Appendix D. List of Partially Exempt Positions in State Government.

Appendix E. Positions Proposed for Removal from Bargaining Rights.

Appendix F. Training for State Employees.

INTRODUCTION

The Alaska State Legislature authorized the formation of the Blue Ribbon Commission on the State Personnel Act in 1978 to study and refine the State Personnel Act and to investigate the decentralization of the selection process and problems in contracting for services. The Resolution noted that the State Personnel Act had not undergone substantive revision since its enactment and was consequently vastly out of step with personnel developments of the last decade, and that the advent of collective bargaining and the tremendous growth in the number of state government employees required refinement of the personnel system, all of which was impossible for the legislature to do during the session because of the time required. Legislative Resolve No. 27, 1978.

The commission held extensive public hearings in the fall and winter of 1978-1979 to identify problems in the personnel system. It made its report to the 11th Alaska State Legislature First Session in March, 1979. In response to the commission's request for additional time to study the complex, inter-related problems which it had identified, the legislature funded the commission for a second year.

The commission's membership is representative of all persons and groups vitally concerned with the personnel system. In addition to the legislators who serve on the

commission, the membership includes representatives from the public employee unions and associations, from the Department of Administration and the Division of Personnel and Labor Relations, and from the Ombudsman's office as well as managerial state employees and a public member.

The commission formed three subcommittees for the purpose of reviewing and resolving the problems identified. The subcommittees--Classification, Certification and Recruitment; Merit System/Collective Bargaining; and Categories of Employees--propose their recommendations to the full commission for formal action. Membership overlaps, so that each is advised of the approach the other subcommittees are taking on issues. The subcommittees and the full commission have held public hearings and have solicited written testimony to insure the widest possible participation from the citizens of Alaska.

The task has been challenging. Frequently, conflicting goals preclude reaching an ideal solution, and compromise becomes necessary. There are several areas where the commission is not prepared to make recommendations at this time. The commission therefore requests that it be extended for another year. The commission believes it is vital that the State Personnel Act be redrafted so that all laws concerning personnel management are coordinated. The present act has been in existence for almost 20 years. The commission hopes that its recommendations for changes will be equally well-considered and solid.

The commission urges the legislature to consider carefully the information in this report and to take the necessary action to implement its recommendations so that Alaska's personnel system will more nearly reach the goal of being responsive, equitable and efficient.

CHAPTER I
CATEGORIES OF EMPLOYEES

The State Personnel Act creates a number of different categories of employees. Three services are established: the exempt, partially exempt and classified services. Within each service there are different kinds of appointments, including permanent (full-time, part-time, or seasonal), temporary (nonpermanent after January 1, 1980), and, for the classified service, provisional and probationary. In addition to obtaining services through its own employees, the state also contracts with private firms for services. Issues arise concerning the standards used for the placement of positions in the different services and concerning the standards used for deciding whether to contract for services or hire state employees. The question of moving some exempt and partially exempt positions into the classified service is considered in Chapter II, "Transferring Positions to the Classified Service," page 16.

EXEMPT SERVICE

The exempt service is designed for those positions which require the greatest degree of responsiveness to the policies and philosophies of the state's chief executive as well as for those positions which are properly outside the control of the executive branch. Exempt positions are not subject to any of the requirements of the State Personnel Act or the Personnel Rules. Commissioners of the departments,

elected officials and legislative and judicial branch employees are placed in the exempt service by statute. For a copy of the statute see Appendix A. For a list of exempt positions in state government see Appendix B.

The State Personnel Act lists positions in the exempt service, but does not set out criteria for adding future positions to that service. Furthermore, positions in some special commissions and boards are placed in the exempt service by the substantive statutes which create the commission or board. No cross-reference is made to the State Personnel Act, so these positions are hard to identify when considering the composition of the exempt service.

PARTIALLY EXEMPT SERVICE

Positions in the partially exempt service are subject to the State Personnel Act and the Personnel Rules only as specifically stated in the Act. Partially exempt employees are not subject to the selection methods required for classified positions, nor are they eligible for a hearing by the Personnel Board in cases of dismissal, demotion or suspension. Their permissible political activities are not as restricted as those of classified employees. The limitations on emergency, nonpermanent and provisional appointments do not apply to partially exempt positions. They are part of the state's classification plan, and their salaries are set according to the pay plan. Incumbents are subject to the rules concerning performance evaluations and merit increases and they may be suspended for disciplinary reasons.

The State Personnel Act places assistant commissioners, some division directors, attorney members of the staff of the Department of Law, one private secretary for each commissioner, and employees of the offices of the governor and the lieutenant governor in the partially exempt service. For a copy of the statute see Appendix C. For a list of partially exempt positions in state government see Appendix D.

The Personnel Board may add positions to the partially exempt service, provided they meet the criteria set out in the State Personnel Act. It has no authority to add positions to the exempt service. The board may place positions which involve principle responsibility for the determination of policy or the way in which policies are carried out, or those whose responsibilities and duties are of a type not susceptible to the ordinary recruiting and examining procedures of the state's classified service, in the partially exempt service. AS 39.25.130.

The commission reviewed the positions placed in the partially exempt service and considered the question of adding other positions to the service. Employees responsible for collective bargaining contract administration may find a conflict between those duties and their own union membership. Alternatives discussed included placing these positions in the partially exempt service or leaving them in the classified service but prohibiting them from bargaining. See Chapter II, "Collective Bargaining for Managers," page 13.

CONTRACTING FOR SERVICES

The Division of Personnel is not involved in the state's contracting for services practices. The system is monitored by the Division of Finance of the Department of Administration. Their review is limited to a fiscal analysis which focuses on whether it is economical this year to contract for these services. The state does not attempt to identify whether, in the long run, the state would be better served by adding employees to its staff to perform those services.

The commission expects that the civil liability section in the nonpermanent hiring law, which the legislature passed last session, will cause some state program managers to contract for services which were previously provided by temporary employees. Therefore, it becomes more important for the state to fully consider its decision to contract rather than to create permanent, part-time or seasonal positions. In the past, the legislature has felt that temporary positions were used to evade fiscal responsibility. It is important that budgets prepared for the legislature accurately forecast the departments' staffing needs so that the legislature will be less inclined to randomly reduce requests, with possible illogical results to essential or deserving programs.

CHAPTER II
MERIT SYSTEM/COLLECTIVE BARGAINING

In 1961, the legislature enacted the State Personnel Act to govern the employment system of the state. Three years later, ferry system employees were granted the right to organize and form collective bargaining units to negotiate with the state concerning their wages, hours and working conditions. AS 23.40.010 - 060. Then, in 1972, collective bargaining rights were extended to almost all employees of the state with the adoption of the Public Employment Relations Act (AS 23.40.070 - 260). No comprehensive revision of the State Personnel Act has been undertaken to reflect the changes brought about by collective bargaining, despite the fact that collective bargaining has fundamentally changed the relationship between the state and most of its employees.

MERIT PRINCIPLES OF EMPLOYMENT

The Alaska Constitution directs that: "The legislature shall establish a system under which the merit principle will govern the employment of persons by the state." Article XII, Section 6. During the constitutional debates concerning that section, delegates identified several principles which they considered important components of a merit system, including:

-- Selection and retention of employees based on ability, including examination for positions

-- Equal treatment of those seeking employment

-- Regular integrated salary programs based on the nature of the work performed

-- Selection and retention of one's position to be secure from political influences

-- Tenure for employees during the time that they perform well

The delegates left to the legislature the task of structuring the system for the state.

The debates also establish that the delegates recognized a need for different kinds of employees. The majority of regular employees would be covered by the protections and restrictions of a merit system. Those holding positions of a sensitive nature close to the chief executive should reflect the political philisophy of the Governor. These positions should be exempt from the protections and restrictions of the classified service.

The State Personnel Act incorporates the concepts of the constitutional convention debates. It provides for exempt, partially exempt and classified service employees. The merit system implemented by the Personnel Rules includes provisions on each of the topics which had been identified. The Act provides that the Rules include, among other items:

(1) a classification plan in which positions are grouped on the basis of duties and responsibilities;

(2) a pay plan, based on the classification plan, which provides fair and reasonable compensation on the basis of like pay for like work;

(3) Employee selection methods including open competitive examinations to test the fitness of applicants;

(4) promotion of qualified candidates whenever practicable and in the best interest of the state;

(5) eligible lists with applicants ranked according to their relative performance on examinations;

(6) hearings on dismissal, demotion and suspension; and

(7) prohibitions against certain political activities.

However, these are not specifically identified as the "merit principle" of the constitution.

With the advent of bargaining, the union contract is the primary source of information for unit members' rights. The State Personnel Act applies only when the contract is silent on a topic or when the contract is unclear and the past practices of the employer need to be considered to interpret a vague term. Therefore, changes to the State Personnel Act actually affect a very limited number of state employees directly.

By the Act itself, exempt employees are not subject to the rights and restrictions imposed on other employees. Partially exempt employees are covered only to the extent specifically stated in the Personnel Rules. Classified employees are almost entirely organized. In fact, there are only five employees in the state who are members of the classified service who are not included in bargaining units. These five are: the Deputy Director for Personnel, the Deputy Director for Labor Relations, the Chief for Recruitment and Examining, the Chief for Classification and Pay, and the Research Manager, all within the Department of Administration.

The Public Employment Relations Act requires that contracts negotiated with employee organizations must

maintain merit system principles among employees. AS 23. 40.070(3). Since these principles are not defined in the statutes, they are open to interpretation during each bargaining session.

Federal law requires that state programs receiving federal grants-in-aid must abide by the federal merit system standards for employment. The standards are set out in 5 CFR Part 900, Subpart F, 1979. They state that programs must meet the following six principles:

> I. Recruiting, selecting, and advancing employees will be on the basis of their relative ability, knowledge, and skills, including open consideration of qualified applicants for initial appointment.
>
> II. Equitable and adequate compensation will be provided.
>
> III. Employees will be trained as needed to assure high-quality performance.
>
> IV. Employees will be retained on the basis of adequacy of their performance and provision will be made for correcting inadequate performance and separating employees whose inadequate performance cannot be corrected.
>
> V. Fair treatment of applicants and employees in all aspects of personnel administration without regard to race, color, religion, sex, national origin, political affiliation, age, handicap or other nonmerit factors and with proper regard for their privacy and constitutional rights as citizens will be assured.
>
> VI. State and local governments will inform their employees of their political rights and prohibited practices under the Hatch Act.

The commission believes that the merit principles identified during the constitutional debates should be specifically set forth in the State Personnel Act. These principles are fundamental to fair employment and should be recognized and adopted.

MANAGEMENT RIGHTS IN BARGAINING

Management rights clauses identify those topics which are considered to be inherently managerial and on which a bargaining unit cannot require an employer to negotiate.

The P.E.R.A. permits bargaining units to negotiate for wages, hours, and terms and conditions of employment. AS 23.40.070. The act defines terms and conditions of employment as including hours, compensation and fringe benefits, and an employer's personnel policies affecting the working conditions of employees, but as excluding "the general policies describing the function and purposes of a public employer." AS 23.40.260(7). The requirement that contracts adhere to the merit principles of employment also limits the scope of what may be bargained. AS 23.40.070(3). Although there has been no court decision on the question, the present administration believes that the Public Employees Retirement System prohibits bargaining on the benefits provided, although the marine unions participate in their own Taft-Hartley trusts.

Collective bargaining has created inconsistencies in the working conditions and compensation of state employees, depending on the unit to which they belong. Different units have chosen to make different trade-offs during negotiations, and therefore, there are a variety of health plans, pay plans, rights to overtime compensation, eligibility for merit increases, and promotional systems which apply to

state employees. Some state employees are selected through hiring halls provided for in collective bargaining contracts.

If the legislature believes that it is important that there be one system which applies equally to all state employees on a particular topic, then it may wish to either exclude the topic from bargaining by amending the definition of the "terms and conditions of employment" to exclude that topic, or it may wish to enact a management rights clause which would include the subject within its scope.

Topics which might be addressed in a management rights clause include the functions and programs of the employer, its overall budget, the selection, promotion, transfer, assignment and retention of its employees, appropriate disciplinary actions against employees for just cause, and the use of technology.

Consideration should be given to the fact that the P.E.R.A. applies to local government employees as well as to state employees when the legislature decides whether to amend the act.

The commission believes that further investigation and study is needed before it is prepared to make any definitive recommendations concerning management rights.

COLLECTIVE BARGAINING FOR MANAGERS

The P.E.R.A. permits public employees to organize and to negotiate with their employer. "Public employee" is defined as "any employee of a public employer, whether or not in the classified service of the public employer, except elected or

appointed officials or teachers or noncertificated employees of school districts." AS 23.40.260(5). Although the definition does not limit the right to bargain to employees in the classified service, only classified service employees of the state and marine transportation employees, teachers and University of Alaska employees (who are placed by statute in the exempt service) have chosen to form unions or associations. Since the act excludes appointed officials from the definition, a number of the employees in the exempt service are prohibited from collective bargaining.

However, the definition is generous in its scope, and many mid-level management employees are in positions included in the Supervisory Unit of the Alaska Public Employees Association. The extent of employees permitted to bargain in Alaska is greater than in most states, and may hamper management in its collective bargaining negotiations and in the administration of contracts. There are only five employees in the classified service who are not in one of the five bargaining units representing classified employees. All are staff of the Division of Personnel and Labor Relations.

The State Personnel Act places commissioners in the exempt service and deputy commissioners and division directors in the partially exempt service in recognition of the need that the policy-setting state employees be politically responsive to the chief executive. The question of continuing the collective bargaining rights for assistant and deputy directors and the chiefs of certain sections has been

recently posed. See Appendix E for a list of the positions in question. The commission has identified two alternatives, should the legislature wish to remove these positions from bargaining.

We recommend that if any positions are removed from collective bargaining units, that they remain in the classified service but be prohibited from collective bargaining activity. The second, less desirable alternative is to place the positions in the partially exempt service. In addition to removing them from bargaining, this action would end the protections of the Personnel Rules.

The mid-level management positions under consideration should be considered part of the career service of the state. The incumbents must be knowledgeable and skilled in their fields. The selection procedures of the classified service assure selection from among the most qualified applicants. The restraints imposed by the Personnel Rules on political activities and the requirement that discipline and removal from the position be for demonstrated just cause insure that competent employees will be retained and that the continuity necessary for good management is protected.

The commission recognizes that top level management should reflect the political philosophies of the governor, and that it is therefore appropriate for those positions to be either exempt or partially exempt. However, mid-level management positions can be considered as a buffer group between this politically responsive, policy-setting group

and the larger number of state employees responsible for the day-to-day functions, who are granted collective bargaining rights.

Retaining the protections of the classified service for these positions will insure competence and will encourage career state employees with valuable accumulated skills and knowledge of state programs to accept promotion into them. If, on the other hand, the positions are moved to the partially exempt service or exempt service, fewer career employees will risk losing the job security and protection from a change in political administration which is now provided by the classified service to accept a deputy or assistant division director position, at loss to the state of their experience.

TRANSFERRING POSITIONS TO THE CLASSIFIED SERVICE

There are state employees in the partially exempt and exempt services whose duties do not appear to meet the standards for placement in these less-protected and more politically responsive services. It may be appropriate for the heads of the agencies in question to be placed in the exempt or partially exempt service, but the support staff positions appear to belong more logically in the classified service. For a general discussion of the exempt and partially exempt services, see Chapter I.

The entire staff of the Alaska Commercial Fisheries Entry Commission is placed in the exempt service by statute.

AS 39.25.110(15). The entire staff of the Alaska Post-secondary Education Commission is in the exempt service, although the statute only specifically placed the executive director there. AS 14.40.913. A list of exempt state positions may be found as Appendix B. The commission questions the need for all of these employees to be in the exempt service.

There are a number of commissions and agencies whose staff appear to be inappropriately placed in the partially exempt service. These include the Alaska Power Authority, the Alaska Oil & Gas Conservation Commission, the Council on the Arts, the Historical Commission, the Alaska Public Offices Commission and the Human Rights Commission. A list of partially exempt state positions may be found as Appendix D.

The commission recommends that the legislature re-examine the placement of these and other positions in the services. Where necessary, statutes should be amended to correct any errors identified.

ROLE OF THE LEGISLATURE IN COLLECTIVE BARGAINING

Initially, the legislature was responsible for setting the salaries of state employees. With collective bargaining, salaries are negotiated by the administration's bargaining team and the unions or associations representing state employees. The legislature retains its constitutionally-based authority for appropriating money necessary for negotiated wages. The P.E.R.A. states in AS 23.40.215:

> The monetary terms of any agreement entered into under the Public Employment Relations Act are subject to funding through legislative appropriation.

Recently, interest in collective bargaining has increased within the legislature, and a more active legislative role in the process has been considered. The cost of negotiated salaries and benefits can substantially affect the fiscal policies of the state.

There are a number of alternatives which the legislature should consider, some with substantial problems. The legislature could take responsibility for negotiating with state employees, either through a committee or through professional staff. This would give the legislature the greatest role in the proceedings, but at the expense of spending considerable time in negotiations. Under this system, administration of contracts would remain the responsibility of the Division of Personnel and Labor Relations.

The legislature could place an observer at the negotiating table. However, negotiating roles are essentially active, and the presence of an observer could disrupt the effectiveness of the negotiating process. If the observer had no authority to make commitments for the legislature, then there would be frustration for all of the participants, since they would feel that whatever agreements were reached would be subject to renegotiation with the legislature at a later time.

The commission recommends that if the legislature wishes to increase its role in the collective bargaining process, it do so by formally considering and approving or rejecting the agreements entered into

between the bargaining units and the employer before they take effect. The agreements would be presented to the legislature by a specified date. The legislature would then be required to consider and act on the agreements within 30 days. The law should state that the legislature could not adjourn before having acted. If the agreements were ratified by the legislature, they would become binding contracts.

If the legislature disapproved an agreement, it would be up to the parties to decide what further action they wished to take. If they chose to renegotiate, they could do so; and if time permitted, the second agreement could be presented to the legislature prior to the end of the session. If the parties were unable to reach a new agreement, the bargaining units could take whatever "job action"--including striking, if permitted under the P.E.R.A.--their membership deemed appropriate. No contract could be entered into without the legislature's approval, so there might be need for a special session to resolve disputes.

The legislature's review could include the entire terms of the contract or it could be limited to the monetary terms. Contracts typically include many provisions on working conditions and other personnel matters--uniforms, parking, access to overtime, safety and health standards, working rules, hours and shifts and the like--which may not interest the legislature. Therefore, the commission recommends that the legislature consider only the monetary terms of the agreement.

Tied into this plan for legislative review could be a requirement that all contracts end on the last day of the

fiscal year--June 30. This would insure, after the system was in place, that there would be a contract in force during negotiations and legislative review. Since all of the contracts negotiated presently contain a clause providing that there will be no strikes during the life of the agreement, there would be additional time if the contracts were not approved before the bargaining units would be able to petition the Labor Relations Agency for strike vote authorization. However, when contracts begin and end has in the past been one of the items negotiated on, and removing this from the scope of bargaining might affect settlements reached on other items.

If the legislature adopts the commission's recommendation for legislative review and action on the contracts, the commission urges that an early date be set for submission of the agreements. Efforts should be made to avoid hampering legislative review with end-of-the-session pressures.

MERIT INCREASES

The Personnel Rules establish a system for merit increases. An employee who has received an overall performance evaluation of "acceptable" or better and who has demonstrated satisfactory service of a progressively greater value to the state is eligible for the award. PR 9 02.21 and 22. The increases are provided for in the state pay plan and are the means by which employees advance from Step A of a

salary range through Steps B to F. The steps beyond F are reserved for time-in-service raises (the longevity increment program).

Merit increases have been the subject of employee negotiations. Most state employees are covered by contracts which adopt the Personnel Rule system. Some of the bargaining units have chosen not to include a merit increase program but rather to provide periodic salary increases for their members based on seniority.

Merit increases are the major alternative open to supervisors for rewarding an employee's outstanding performance. As employees gain experience in positions, they can be expected to provide more valuable services to the state. In theory, the merit increase system rewards an employee only when increased value has been established by the performance evaluations prepared by the supervisor. A seniority system rewards the employee's additional time in service without consideration of the quality of the employee's record. However, if an employee were performing below acceptable standards, a competent supervisor should take appropriate disciplinary action to correct the problem.

The merit increase program does not always operate as intended. Its fairness depends on supervisors' using consistent standards of performance when evaluating employees. In addition, for the past two years, the administration has not requested funds specifically for merit increases in the proposed budget. Any payments of merit increases have been provided from money available from other departmental funds.

Some people believe that having both negotiated salaries provided for in collective bargaining contracts and also in a merit increase system as outlined in the Personnel Rules is a "double dip" for those state employees involved in both systems. As noted above, however, those unions and associations which have chosen not to participate in the merit increase program have had an opportunity to bargain for other kinds of salary increases for their members. In fact, one union contract provides that its members receive a seniority increase after six months of service. The amount of the increase is roughly comparable to the difference between Step A and Step F in the salary plan. It takes five years for an employee to move from Step A to Step F under the merit increase program, provided that increases are granted each year, which is not always the case.

The commission discussed alternatives to the merit increase program. The state might choose to leave salary increases entirely to collective bargaining and repeal the merit increase program. However, this approach would not provide for employees in the partially exempt service who are presently eligible under the Personnel Rules to participate in the program. There are no partially exempt employees in bargaining units. A second alternative would be to provide that no bargaining unit member could receive merit increases. The program could thus be left intact to provide for deserving partially exempt employees.

An alternative to doing away with the merit increase program is to attempt to improve its operation. Departments could be required to develop performance-based standards, using position descriptions as basic criteria for establishing necessary achievements that incumbents should meet. Supervisors would be trained in developing and implementing these standards. This would help to insure that annual personal evaluations were meaningful. Then, merit increases granted on the basis of standard performance criteria would also be valid recognition of performance and not simply rewards for being present at one's place of work.

If the legislature decides to limit the eligibility for the merit increase program, the commission strongly recommends that an alternative system be developed to reward outstanding employees. The state needs to maintain some system which recognizes and rewards exceptional service. Establishment of a system linking performance and compensation can help pinpoint accountability, increase productivity and improve service to the public, thus increasing returns to taxpayers from the salaries they provide to state employees.

A "meritorious service award program" is one alternative. The program could provide a one-time bonus to those employees chosen by an established selection procedure. The sum could be varied, depending on the achievement of the individual in question. The program should recognize examples of outstanding service or special acts or accomplishments. The commission believes that this area needs additional investigation and study.

COST OF LIVING ADJUSTMENTS

Cost of living adjustments are granted in two forms--either percentage increases in the salaries of all employees or in lump-sum increases for all. In addition, variations of these two basic forms are possible. Those in lower salary ranges can receive greater percentage increases or larger lump-sum increases than those in higher ranges to reflect the fact that in times of inflation, it may be harder for them to remain solvent.

Either system has inherent problems. Across-the-board increases have a tendency to compress salary schedules, thus blurring distinctions between supervisors and their subordinates. Percentage increases have a tendency to expand differentials between the top and bottom of pay scales. The commission recommends that cost of living adjustments be considered on an annual basis to determine which type is most appropriate. In some years, the economic situation may dictate across-the-board increases; and in other years, percentage increases may be more appropriate.

LABOR RELATIONS AGENCY

The duties of the state's Labor Relations Agency are comparable to the National Labor Relations Board. The agency determines the unit in which positions are placed, holds and certifies elections in bargaining units, considers when to permit employee strikes, and determines whether bargaining units or employers have engaged in unfair labor practices. It also has the authority to adopt regulations

necessary to carry out its missions. The agency may appoint mediators to assist in negotiations where impasses have occurred. It is a volunteer agency, which maintains a neutral role in labor relations.

By statute, members of the Labor Relations Agency are the members of the Personnel Board. AS 23.40.260(3). These same three citizens are also, by statute, members of the Public Employee Retirement System Board. AS 39.35.030.

The Personnel Board is responsible for adopting Personnel Rules and for holding hearings initiated by employees in cases of Personnel Rule violations. The number of these hearings has decreased substantially since the advent of collective bargaining. The P.E.R.A. requires that all contracts include procedures for resolving grievances between employees and their employer. These grievance procedures (which do not involve either the Personnel Board or the Labor Relations Agency) cover almost all employee disputes.

The Retirement Board is responsible for reviewing investment of the state's retirement funds and for adopting regulations governing the program recommended by the administrator. The board acts as an appeals board at the request of an employee, a surviving spouse or a beneficiary on decisions made by the administrator, and it prescribes the rate of interest which shall be credited to employee accounts each year. AS 39.35.040.

The commission questioned whether it is necessary to require that all of these boards be composed of the same individuals, as the statutes presently provide. The commission recommends that the Legislative Audit Division review the membership and the functions of the three boards and report to the legislature on the results of its audit.

The commission also considered the staffing situation of the Labor Relations Agency, which is more active than the other two boards. At present, there is a part-time staff assistant whose functions have included conducting hearings for the board, as well as being responsible for the office and paperwork, and an attorney on contract to provide legal advice as needed.

The commission finds that the Labor Relations Agency can work satisfactorily within its present staff and structure as long as its members are, and continue to be, completely neutral and the workload of the agency does not substantially increase.

CHAPTER III
STRUCTURE OF THE PERSONNEL & LABOR RELATIONS DIVISION

The Division of Personnel and Labor Relations is one of seven divisions within the Department of Administration. It is responsible for the operation of the state's personnel system and for representing the state as an employer in collective bargaining matters. The other six divisions are: Administrative Services, Data Processing, Finance, General Services & Supply, Pioneers' Benefits, Retirement & Benefits, and Equal Employment Opportunity.

As the commission reported to the legislature last year, the tasks of the Division of Personnel and Labor Relations and the Division of Equal Employment Opportunity differ significantly from the kinds of tasks of the other divisions within the department. The orientation of the other divisions is towards fiscal matters, and the commissioner of the department must be skilled in those areas. It is less likely that the commissioner will be selected because of his familiarity with labor relations, personnel administration or equal employment laws. The Director of the Division of Personnel and Labor Relations must educate new commissioners on issues concerning the division's activities, and during this time, the Governor is probably less well informed about these topics. Given the significant impact labor relations negotiations have on the state's budget, the commission considered this to be undesirable.

The events surrounding the pay bills during the last regular session and the special session further emphasize the importance of labor relations issues.

The commission recommended that a Department of Employee Relations be created. The functions of the new department would include administering the state personnel system, representing the state in its labor relations activities, coordinating safety and training programs for state employees and coordinating all executive branch activities involving equal employment opportunity in state government.

The commission continues to support the elevation of personnel and labor relations to departmental rank. In addition, as an interim measure, the commission recommended to the Department of Administration that the department be restructured into two major divisions, one for personnel related matters, and the other for administrative matters, each division to be headed by a Deputy Commissioner. The department has recently initiated steps to accomplish this reorganization.

The commission anticipates that the state's experience with this structure for the Department of Administration will justify future creation of a Department of Employee Relations.

CHAPTER IV
PERSONNEL MANAGEMENT

Personnel management is the responsibility of the Division of Personnel and Labor Relations together with the personnel offices in the separate departments. The state constitution requires that t merit principles govern the employment of persons by the state. Article XII, Section 6. The question of what the "merit principle" includes is discussed in Chapter II, "Merit Principles of Employment," page 8.

CLASSIFICATION

DELEGATION OF CLASSIFICATION AUTHORITY

Classification is the process by which a position is assigned to a job class, given a position control number, and assigned the appropriate salary range. The process can be cumbersome, leading to delays in filling positions and in implementing new programs.

Classification of new positions involves some duplication of efforts. Under the present system, the governor's proposed budget sets classifications and salary ranges for all new positions. This information is considered by the legislature in its review. However, the authorized new positions are not necessarily assigned to the classifications approved in the budget.

After the budget has been adopted, the department submits a request for position authorization to the governor's

Division of Budget and Management. The division gives its authorization after ascertaining that the legislature provided funds for the position and that its establishment is consistent with the missions and objectives of the department. The staff time required is minimal, but in the past, departments have encountered delays because Budget and Management placed greater emphasis on other tasks and therefore did not begin work on position authorizations immediately after receiving them.

There are some questions over which both the Division of Personnel and the Division of Budget and Management appear to have jurisdiction. This can lead to confusion for the personnel officer and other managers responsible for the position classification. The commission notes that this confusion and delay has led to the frustration of legislatively enacted programs in the past. Therefore, the commission recommends that the legislature direct the Division of Budget and Management to immediately prepare and distribute a procedures manual to assist personnel officers and other managers in understanding the process and to identify which agency to consult when questions arise.

After the Division of Budget and Management authorizes the establishment of the position, then the Division of Personnel examines the proposed classification to decide whether the department has placed the position in the most appropriate job class. If so, it approves the placement, and the department can then proceed to fill the position. If the division does not agree with the department, then

considerable time can be spent while they discuss the matter and come to an agreement.

The Division of Personnel has begun to share authority for assigning classifications with some personnel offices in the departments. The department staff is responsible for determining the proper classification for a new or changed position. The division routinely approves the department's decisions without reviewing each step taken by the department. This sharing of responsibility serves to speed up the implementation of new programs and to aid necessary restructuring of existing programs.

The commission recommends that the division continue to extend responsibility for classifying positions to departments and encourages the division to consider granting departmental personnel offices full authority as well as responsibility in that area. This is an area that needs further investigation. Care should be taken that the departmental personnel office staff are trained in the standards to be applied. With an increase in delegation of authority, the post-auditing activities of the Division of Personnel must be expanded so that mistakes will be identified and corrected quickly. The division will continue to be responsible for insuring that comparable positions are placed in the same classification, regardless of the department in which they occur.

CLASSIFICATION SYSTEM REVIEW

The state currently has 1,281 job classifications in the classified service. During the past year, the Division of Personnel has eliminated 186 classifications either by merging existing classes or by eliminating obsolete ones. The commission has heard testimony both that the state has too many classifications with unnecessary distinctions between different classes and that present classifications are too broad, making it difficult to find applicants who are qualified for a vacancy on the register.

In addition, the commission has heard that although supervisors are directed to review position classifications each year, existing positions are not properly classified. The duties of positions change over time, but the positions may not be reclassified, particularly when the appropriate new classification is set at a lower salary range than the present one. The commission discussed recommending that a comprehensive review of the classification system be undertaken to consider both of these questions. While most commission members believed that a study could be beneficial, some felt that who performed the study was crucial to its usefulness.

These members felt that contracting with a private firm for this information would be expensive and would not provide results which could be implemented by the state. They explained that other government entities which have used reputable firms have discovered that implementing the

recommendations led to chaos. Personnel management for governments is different from private industry systems, and this difference was apparently not appreciated when the private firms' recommendations were prepared. Those commission members who opposed recommending the study did so on this ground.

The Division of Personnel and Labor Relations has the authority, but not the staff, to perform this kind of audit. In addition, since they are part of the existing system, some commission members considered that while they should be closely involved in the preparation of the materials, they should not have the overall responsibility for the report and recommendations.

The commission members who recommended that the study be performed thought that the state could receive the results of the study and then evaluate whether any attempt should be made to implement the proposals as presented. They considered that it was important for the state to know whether the classification system is viable and reasonably accurate. The commission presents these differing views to the legislature for its consideration.

If the legislature decides to authorize a thorough review of the classification system, the information gathered by the audit could be used to develop comprehensive classification guides. These guides would help establish and maintain uniformity in the classification of positions, particularly if departments are granted greater independence in this area.

A comprehensive classification guide identifies the level of responsibility expected to be exercised by employees of a particular job classification. It would identify the differences between the different steps in a job series (Accountant I, II and III for example). The commission is concerned about the disparity of responsibility for positions within the same job class, particularly in the Administrative Assistant and Administrative Officer series.

SELECTION

REGISTER CLOSURES

During 1978, the Division of Personnel received some 60,000 applications from an estimated 28,000 applicants. The staff of the Recruitment and Examining Section spent an average of only 12½ minutes on each application, rating the applicant's training and experience and recording the resulting score. This is not enough time for a thorough review. However, if they spent more time on each application, they would not be able to process all the applications in a timely fashion. In order to limit the number of applications received, the division closed some of the registers. The division selected registers on which sufficient applicants were listed to meet the state's expected needs. The division planned to open each register for a period of 30 days at least once every year.

Commission members were concerned that closing the registers denied Alaskans the opportunity to compete for

jobs in the state and that the best qualified candidate interested in an opening might be unable to apply for the position. While recognizing that the division's workload is excessive, the commission believed that another solution should be found. **The Director of the Division of Personnel and Labor Relations advised the commission that four additional positions would be necessary to handle the expected workload if all registers remain open continuously. Accordingly, the commission recommends that the legislature fund these positions and that all registers remain open to new applicants.**

MULTIPLE APPLICATIONS

An applicant who wishes to be considered for a number of positions with the state must submit a separate application for each. The Division of Personnel explained that separate applications are necessary because the raters evaluate applications on a production-line basis for each job classification rather than rating one individual for numerous classes. This method conserves staff time because it alleviates the problem of organizing evaluation materials repeatedly for each application. It takes more time to rate all of the applications from one individual and then rate all from another person than it takes to rate all those applying for one job classification and then changing the rating guides to evaluate all those applying for the next job class.

The commission considered that it was burdensome to ask applicants to provide numerous applications, and urges the Division of Personnel

and Labor Relations to develop a system in which only one application is necessary for each class series (e.g. Accountant, Supply Clerk, or Administrative Officer series). The division has indicated that it is investigating a computer system to handle applications for positions in the clerical classes. In this proposed system, only one application would be filed by each applicant. The commission endorses the division's approach.

VETERANS' PREFERENCE SYSTEM

After applications are rated for training and experience, the division may add additional points to the applicant's score in two situations. Current state employees receive employee credits based on their length of service and on the quality of their performance as established by their yearly performance evaluations. Veterans receive additional points based on their previous service to the nation.

The veterans' preference system is created by statute. AS 39.25.150(23). A veteran is entitled to five additional points each time he or she applies for employment not within the area of promotion, provided that the individual meets the minimum qualifications of the position. Disabled veterans are entitled to a ten-point bonus.

The majority of commission members believe that while the state should recognize the service which veterans provided to the nation by granting some advantage to them when applying for state employment, the present preference system is too extensive. The majority recommend that the system be changed to award a five-point bonus to veterans for a three-year period following

their discharge from the armed services of the United States. This proposed three-year limitation on the exercise of these rights is equitable since it provides a reasonable period to assist those discharged from military service to readjust to civilian life and establish themselves in the civilian work force. The commission recommends that the preference system for disabled veterans remain as it is.

The commission also notes that the legislature has not acted to establish a date for the ending of the hostilities in Vietnam for the purposes of the veterans' preference system.

RELEVANT WRITTEN EXAMINATIONS

The commission received a number of complaints that the written examinations given to applicants were not job-related. Federal and state laws require that tests be constructed to fairly rate applicants. The state must be able to demonstrate that those who perform best on the tests are most likely to perform best on the job. While supporting the concept of fair, relevant tests, the commission believes that there is more than adequate legislation in existence regulating employment examinations. Therefore, the commission makes no recommendations to the legislature on this issue.

BLOCK SCORING OF APPLICATIONS

After applications are scored, the names of successful applicants are placed on registers in order of the score they received. The state has traditionally used a Rule of Five.

The top five interested applicants on a register and all who tie with the fifth score must be considered for a position before an agency may consider anyone below that group. The agency must also justify any selection below the top five by establishing that there were unique or unusual circumstances which made the person selected more qualified for that particular position than the others who ranked above him or her.

Commission members found that in some instances, the qualifications of the first five applicants were not significantly different from the next group. For registers with a large number of applicants, five is an unreasonably small number. In other cases, the first three applicants may be significantly more qualified than the remaining applicants in the top group.

The Division of Personnel has begun to move towards a system of block scoring some registers. In block scoring, the division reviews the performance of previous applicants to determine how their raw scores group together. Dividing lines and standard scores are established for the different groups. Then raw scores are converted to standard scores. All eligibles are ranked according to their final scores. Eligibles with the same final scores have the same rank. Therefore the highest rank certified most often exceeds five eligibles qualified for appointment. This approach gives more flexibility to the Rule of Five, since all those whose raw scores are closely similar will fall within the

same rank and be entitled to equal consideration. **The commission recommends that the state continue its efforts to establish a block scoring system for the ranking of applicants.**

REVIEW OF "UNIQUE OR UNUSUAL CIRCUMSTANCES"

The Personnel Rules permit selection of an applicant who scores below the top five interested and available candidates for a position in "unique or unusual circumstances." In most cases when a department wishes to select an eligible person ranked lower than fifth on the list, it must record the circumstances justifying the appointment and file a copy with the Division of Personnel. The full responsibility for the appointment lies with the department. The division is not directed by the Personnel Rules to review or evaluate the explanation given. PR 5 02.4.

For positions subject to the Federal Standards for a Merit System of Personnel Administration, the procedures are more stringent. The Director of the Division of Personnel must grant approval of the criteria for possible selection of an applicant ranking below the top five prior to the department's receiving the register showing qualified applicants. The department must then record an evaluation of the applicant selected and of each applicant standing above him or her based on the unique or unusual circumstances which justified selecting below the top five. The person selected must rank among the top five available applicants based on the duties of the position. PR 5 02.5. For a discussion of the Federal Standards, see Chapter II, "Merit Principles of Employment," page 8.

Because there is no review of the department's justification for hiring below the top five applicants for most positions, the system permits abuse. **The commission recommends that the Division of Personnel review the justifications furnished by departments, and that the Division be authorized to forbid hiring under the "unique or unusual circumstances" exception to the Rule of Five when the department cannot substantiate the reasons.**

JOB INTERVIEWS

The agency which has a vacancy is responsible for the final selection from applicants on the register. The agency requests the appropriate register from the Division of Personnel, notifies the eligibles of the open position, and asks whether they wish to be considered. Those interested respond, and the agency then usually selects from the top five interested in the position. Frequently, agencies fill positions without any further communication with the unsuccessful applicants. When this happens, those who have expressed an interest may question the agency's fairness and the criteria used for selection.

The commission recommends that each of the top five interested applicants be advised that they may request a meaningful interview with the person responsible for making the hiring decision prior to the final selection for the position. The interview may be in person or by telephone. Except in unique cases any travel expenses should be the responsibility of the applicant. This recommendation does not address the question of interviews for the top applicants on registers which use a block

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILE 8672
1363 SCOMM 51: BLUE RIBBON COMN. ON STATE PERSONNEL ACT 1978-1983

scoring system, since there may be substantially more than five applicants who would have to be considered. However, the commission does suggest that, where feasible, interviews be offered to those applicants as well.

REGIONALIZING REGISTERS

Filling positions in rural areas can be time consuming. Applicants for state employment indicate the locations in which they will accept employment. Many specify that they are interested in positions anywhere in the state. However, it frequently turns out that the "anywhere" shown on the application does not include the places in which vacancies occur. The Personnel Rules require that when an eligible list (register) exists for a position (most positions have registers) those on the register must be considered before the agency may specially recruit for the position. Therefore, the agency must work the register, even when it expects on the basis of past experience that it will not find anyone interested, before it can take special steps to fill the position through local recruitment.

The commission discussed a variety of solutions, but none were without substantial disadvantages. Special registers for rural areas would not necessarily reduce the number of applications from people looking for work, and would require extra staff time for the Division of Personnel. Limiting applicants to regional registers, on which only residents of the area could appear, would violate equal employment opportunity laws, and would be unfair to applicants who

wanted to move from one part of the state to another. Therefore, while noting that this can be a severe problem for an agency trying to fill a position in a timely fashion, the commission makes no recommendations without further study.

OTHER PERSONNEL PRACTICES

RECOMMENDATIONS AGAINST REHIRE

A final Performance Evaluation Report is prepared when an employee in the classified or partially exempt service ends his or her state employment. The evaluation is prepared by the employee's immediate supervisor, called the rater. The supervisor rates the employee's performance in the indicated areas and states, on the line for Recommended Action, whether or not the employee should be considered for rehire by the state. The evaluation is reviewed by the Division Reviewer (the division director or his or her designee) and by the department reviewer.

Before either of these reviewers considers the form, the rater is supposed to explain the evaluation to the employee, who is to receive a copy. The employee also has an opportunity to indicate whether or not he or she agrees with the Report and to add comments. The "Performance Rater's Guide to Performance Evaluations" indicates that if any disagreements between Reporting Officers lead to changes in the evaluation, then a new report should be prepared and the changes made known to the employee.

None of the Personnel Rules or Division of Personnel Director's Memoranda speak to the issue of when it is appropriate to recommend against rehire, except in the case of an employee who leaves without giving 14 calendar days notice. The Personnel Rules require that for an employee to separate in good standing the notice must have been given unless the department chooses to waive that requirement. PR 11 02.0. In other situations, it is left to the management of each department to set the policy for when to recommend against rehire. If an employee's conduct has been so unsatisfactory that he or she has been dismissed, the rater will usually recommend against rehire.

An employee who separates in good standing from a permanent or probationary position may be re-employed without re-examination and without having to be hired through the register. The department may consider only that applicant when a vacancy becomes available. In addition, the former employee's name may be added to the eligible list for the job class from which he or she separated without re-examination.

A Memorandum from the Director of the Division of Personnel dated September 11, 1969 indicates the effects of separation not in good standing. It states in full:

> A former employee of the State who resigned in good standing may be re-employed without certification or re-examination under the provisions of Personnel Rule 5 12. However, if an employee did not leave State service in good standing he cannot benefit from the above Rule and is not eligible for re-employment with the State.

"Good standing" means separation under circumstances <u>other than</u>:

1. Dismissal.
2. Resigned in lieu of dismissal due to unsatisfactory job performance.
3. When supervisor has stated on the separating Personnel Evaluation "Not Recommended for Re-Hire."

An employee who did not resign in good standing is not categorically barred forever from State employment. He may be considered for re-employment by way of open competition provided he has demonstrated satisfactory full time paid employment elsewhere for a period of time equalling the probationary period for the job class.

The Division of Personnel reviews the Performance Evaluation Reports which recommend against rehire to establish whether the report is internally consistent: is the recommendation supported by the comments in the narrative section and do the employee's comments raise questions about the appropriateness of the recommendation? If the report is internally consistent, then no further review is undertaken, and the staff remove the employee's name from the registers on which it previously appeared.

If there are questions about the recommendation, the division reviews the employee's personnel file to determine whether past evaluations tend to support the present recommendation and they talk with the reviewers about the circumstances of the case. If the unsatisfactory performance related to only one facet of the position, then the employee may be removed only from those job classes in which those skills are important. For example, a poor

supervisor might be removed from registers requiring supervisory skills but be left on registers not requiring those skills. In cases in which a recommendation against rehiring suggests that a personality conflict influenced the poor work performance, the employee's name might remain on open competitive registers, permitting him or her to compete with other applicants for positions, but he or she might be denied the preferences given through rehire rights.

The consequences of separation not in good standing, as would occur with a recommendation against rehire, are severe. The commission has heard testimony from individuals placed in this situation and believes that recommendations against rehire should be made only after careful review of the facts of each case. The commission recommends that each performance evaluation which includes a recommendation that the employee not be rehired be reviewed by the staff of the Division of Personnel prior to its becoming part of the employee's personnel file to establish that the circumstances warrant the recommendation given.

TRAINING

The need for training is a frequently misunderstood area of personnel management. It does not mean that the state is hiring unqualified employees. Training adds to the basic knowledge of an employee. Through training employees increase their value to the state.

For a more extensive discussion of the reasons for providing training and the system which should be used see Appendix F.

EQUAL EMPLOYMENT OPPORTUNITY AND PROMOTION

The commission has heard testimony that the merit principle which favors filling positions through promotion limits the opportunity for minority persons to fill higher-level positions.

While the commission is sympathetic to equal employment opportunity goals and is concerned that the state have an effective program, the Equal Employment Opportunity Division has the expertise and authority to address these issues, and therefore the commission makes no recommendations.

FILLING PERMANENT POSITIONS

Testimony was presented that many permanent positions were left vacant, while the work was performed by temporary employees at a savings to the state but at a cost to the employees. This is a potential abuse of merit principles of fair employment practices. Therefore, the commission sponsored its nonpermanent bill during the last regular session. With the passage of the bill, which effectively restricts employment of nonpermanents, the commission expects that agencies will fill their permanent positions.

CREDIT FOR LEVEL OF WORK PERFORMED

Some state employees find that they are doing tasks which are not reflected in their job description and that they do not receive credit for the level of their performance when they apply for promotion. The commission believes that adequate methods exist now to solve this problem.

Each job description is reviewed during the yearly personnel evaluation. If the duties of the position have changed, then the supervisor is supposed to initiate a reclassification action so that the job description accurately reflects the duties of the position. If this is done, then employees will receive credit for their performance. Procedures also exist for documenting short-term work on projects which are outside an employee's normal duties. The commission recognizes that keeping position descriptions current is an important management responsibility.

AUDITS OF THE PERSONNEL SYSTEM

The operation of the state's personnel system should be reviewed periodically to identify areas in which changes are needed. The commission discussed whether the audits should be performed by the Division of Personnel or whether the Budget and Audit Committee of the legislature should be given this responsibility. The Budget and Audit Committee lacks expertise in personnel matters and its procedures are also more cumbersome. If the Division of Personnel is able to delegate more of its primary tasks to user departments, then its staff should be able to review and audit the departmental actions more thoroughly.

The commission recommends that either the Division of Personnel or the Legislative Budget and Audit Committee should periodically audit the operation of the personnel system of the state. The results of that audit should be presented to the legislature.

DISCIPLINARY MEASURES

The Personnel Rules permit an appointing authority to suspend (PR 11 03.0), demote (PR 11 05.2) or dismiss (PR 11 06.1) an employee for delinquency or misconduct. Just cause must be established in cases of dismissal or involuntary demotion, but not for suspension. In addition, the Rules state that any person who willfully violates any provision of the Personnel Rules is guilty of a misdemeanor and that anyone convicted immediately forfeits his or her office or position. PR 13 18.0. The Director of the Division of Personnel has authority to act when the head of the affected department has failed to take action within a reasonable time. PR 13 18.1. Any employee found in violation of the prohibitions in Rule 13 shall be dismissed, whether or not criminal charges have been filed. PR 11 05.2. Rule 13 forbids various kinds of political activity, bribery for state employment, engaging in illegal discrimination, and certain kinds of financial conflict of interest situations.

The collective bargaining contracts with classified employee unions have not modified these Rules, although some address cause for discipline. Therefore, the provisions of these Rules apply to all classified employees. They also apply in part to employees in the partially exempt service.

The requirement that violation of the Rules be considered a misdemeanor is not applied because in many

instances, the penalty is too harsh. The commission recommends that a graduated system of penalties be devised to include penalties appropriate to the seriousness of the offense. This should be accompanied by policies indicating when it is appropriate to admonish an employee, when suspension should be considered, when a fine should be assessed, and in what cases the more severe dismissal or involuntary demotion should be imposed.

CHAPTER V
PERSONNEL LAWS & REGULATIONS

REVISION OF THE LAWS AFFECTING PERSONNEL

Many of the statutes which provide for employees of boards, commissions and authorities are found only in the statutes which create those entities. There is no cross-reference in the State Personnel Act. A comprehensive revision of all these laws should be undertaken by the Blue Ribbon Commission so that the State Personnel Act is the authority for all personnel-related matters.

REVISION OF THE PERSONNEL RULES

The Personnel Rules should be revised to reflect existing employment practices and to indicate to what extent the Rules have been affected by collective bargaining. This review should be undertaken by the Blue Ribbon Commission after it completes its revision of the State Personnel Act so that the Personnel Rules will be in accordance with the revised act.

APPENDICES

APPENDIX A

STATUTE ON EXEMPT POSITIONS

Section 39.25.110. Exempt service. The following positions in the state service constitute the exempt service and are exempt from the provisions of this chapter and the rules adopted under it:

(1) persons elected to public office by popular vote or appointed to fill vacancies in elected offices;

(2) justices of the supreme court, judges of the superior court, judges and magistrates of other state courts established by law;

(3) the administrative director and all other employees of the state court system, and employees and members of the Judicial Council;

(4) the chief administrative officer of each house of the legislature;

(5) all employees of the state legislature and its agencies;

(6) the head of each principal department in the executive branch;

(7) officers, members of the teaching staff, and employees of the University of Alaska;

(8) certificated teachers employed by the state to teach in schools operated by the state;

(9) patients and inmates employed in state institutions;

(10) persons employed in a professional capacity to make a temporary and special inquiry, study, or examination as authorized by the governor, the legislature, or a legislative committee;

(11) members of boards, commissions, or authorities, except as otherwise provided by law;

(12) personnel employed by the division of marine transportation as masters and members of the crews of vessels who operate the state ferry system and who are covered by collective bargaining agreements provided in AS 23.40.040;

(13) commissioners of the Alaska Public Utilities Commission;

(14) the executive officer of the Alaska Commission on Postsecondary Education;

(15) commissioners and employees of the Alaska Commercial Fisheries Entry Commission;

(16) the ombudsman and his staff;

(17) the members, executive secretary and legal counsel of the Alaska Municipal Bond Bank Authority;

(18) certified teachers and noncertified employees employed by a regional educational attendance area established and organized under AS 14.08.031-14.08.041 to teach in, adminster or operate schools under the operation, control and management of a regional educational attendance area school board;

(19) licensed physicians, as defined in AS 47.30.340(9), employed by the division of mental health and developmental disabilities, Department of Health and Social Services;

APPENDIX B

EXEMPT POSITIONS IN STATE GOVERNMENT

According to a computer printout provided by the Division of Finance of the Department of Administration, there are 364 exempt employees of the state who are not legislative or judicial branch employees, employees of the University of Alaska, teachers on contract with the state, or ferry system employees. The computer run was made on October 23, 1979, and contains the names of those who received a paycheck in the month of September and who were still shown as on the payroll on the date of the run. Vacant positions do not appear. Where it seemed helpful, the authority by which the position was placed in the exempt service is indicated.

OFFICE OF THE GOVERNOR

Total exempt employees: 51

Governor	1
Lieutenant Governor	1

Alaska Commercial Fisheries Entry Commission (28 exempt employees)

Commissioners	3
<u>Administrative Section</u>	
Executive Director	1
Administrative Assistant	1
Secretary I-III	3
Clerk Typist	1
<u>Research Division</u>	
Director of Research & Planning	1
Systems Analyst/EDP Coordinator	1
EDP Programmer IV	1
Research Analysts	2
EDP Programmers	2
Fisheries Coordinator/Research Analyst	1
Research Technicians	3
Research Economist	1
Data Processing Apprentice	1
<u>Permit Section</u>	
Coordinator of Vessel Licensing/ Permit Renewals	1
Administrative Assistant	1
Document Processing Clerks	3
<u>Application Section</u>	
Hearing Officers	3
Applications Analysts	2

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(2) justices of the supreme court, judges of the superior court, judges and magistrates of other state courts established by law;

(3) the administrative director and all other employees of the state court system, and employees and members of the Judicial Council;

(4) the chief administrative officer of each house of the legislature;

(5) all employees of the state legislature and its agencies;

(6) the head of each principal department in the executive branch;

(7) officers, members of the teaching staff, and employees of the University of Alaska;

(8) certificated teachers employed by the state to teach in schools operated by the state;

(9) patients and inmates employed in state institutions;

(10) persons employed in a professional capacity to make a temporary and special inquiry, study, or examination as authorized by the governor, the legislature, or a legislative committee;

(11) members of boards, commissions, or authorities, except as otherwise provided by law;

(12) personnel employed by the division of marine transportation as masters and members of the crews of vessels who operate the state ferry system and who are covered by collective bargaining agreements provided in AS 23.40.040;

(13) commissioners of the Alaska Public Utilities Commission;

(14) the executive officer of the Alaska Commission on Postsecondary Education;

(15) commissioners and employees of the Alaska Commercial Fisheries Entry Commission;

(16) the ombudsman and his staff;

(17) the members, executive secretary and legal counsel of the Alaska Municipal Bond Bank Authority;

(18) certified teachers and noncertified employees employed by a regional educational attendance area established and organized under AS 14.08.031-14.08.041 to teach in, adminster or operate schools under the operation, control and management of a regional educational attendance area school board;

(19) licensed physicians, as defined in AS 47.30.340(9), employed by the division of mental health and developmental disabilities, Department of Health and Social Services;

(20) petroleum engineers and petroleum geologists employed in a professional capacity by the Department of Natural Resources except for those employed in the division of geological and geophysical surveys;

(21) employees of the Alaska Gas Pipeline Financing Authority.

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<u>Administrative Section</u>	
Executive Director	1
Administrative Assistant	1
Secretary I-III	3
Clerk Typist	1
<u>Research Division</u>	
Director of Research & Planning	1
Systems Analyst/EDP Coordinator	1
EDP Programmer IV	1
Research Analysts	2
EDP Programmers	2
Fisheries Coordinator/Research Analyst	1
Research Technicians	3
Research Economist	1
Data Processing Apprentice	1
<u>Permit Section</u>	
Coordinator of Vessel Licensing/ Permit Renewals	1
Administrative Assistant	1
Document Processing Clerks	3
<u>Application Section</u>	
Hearing Officers	3
Applications Analysts	2

The computer printout shows 28 filled positions in the commission. A list of employees and positions from the commission dated October 23, 1979 shows 32 positions, with two vacancies (one commissioner and one director of research and planning). The positions are listed as they appear on the commission's list, but the total number of positions as given on the computer printout are reflected to keep the totals consistent. The commission and its employees were placed in the exempt service by AS 39.25.110(15).

D-2 Lobbying	15
Delta Barley Project	2
Special Projects Office Head	1
Special Projects Regulations Reform	1
Legislative Assistant	1
Bottom Fish Coordinator	1

DEPARTMENT OF ADMINISTRATION

Total exempt employees: 2

Commissioner of Administration	1
Coordinator, Word Processing*	1

* The department is in the process of deciding whether to transfer this position to the classified service or to reclassify it as Special Assistant to the Commissioner which would place it in the partially exempt service.

DEPARTMENT OF LAW

Total exempt employees: 1

Attorney General	1

DEPARTMENT OF REVENUE

Total exempt employees: 8

Commissioner of Revenue	1
Executive Director, Municipal Bond Bank Authority AS 39.25.110(17)	1
Alaska Renewable Resources Corporation	
Trustees	3
Secretaries I-III	3

AS 37.12.060: The executive director and all employees of the board (Trustees of the Alaska Renewable Corporation) are in the exempt service under AS 39.25.

DEPARTMENT OF EDUCATION

Total exempt employees: 44

Commissioner of Education	1
Correspondence Study Substitute Teachers	4
Skill Center Substitute Teachers	3
Alaska Post Secondary Education Commission (28 exempt employees)	
Executive Director	1
Assistant Director	1
Assistant Director, Academic Planning & Research	1
Program Coordinator	1
Program Review Officer	1
Project Review Officer	1
Administrative Assistant II	1
Research Analyst I	1
Accounting Clerk III	1
Clerk Typists II-IV	3
Data Clerk	1
Secretary	1
Repayment Officer	1
Loan Repayment Clerk	6
Repayment Clerk	1
Collections Specialist	2
Collections Assistant	1
Loan Awards Officer	1
Awards Clerk	1
Loan Awards Specialist	1
School Food Services	
School Food Service Consultants	7
School Food Service Instructor	1

Substitute teachers are paid on an hourly rate, and food service consultants and instructors are paid on a daily rate.

By statute, the executive officer of the Alaska Commission on Post Secondary Education is a member of the exempt service. The staff of the commission receives compensation as fixed by the commission and are, apparently, placed in the exempt service because of that provision. AS 14.40.913.

The State Personnel Act places all certified teachers in the exempt service. AS 39.25.110(8) and (18). As noted above, the computer printout did not include teachers on contract with the state. However, apparently that general exclusion does not apply to substitute teachers, since some of the positions on the printout are for substitutes.

DEPARTMENT OF HEALTH & SOCIAL SERVICES

Total exempt employees: 6

Commissioner of Health & Social Services	1
Regional Psychiatrist, S.E. Region	1
Staff Psychiatrist API	1
Medical Officer II, API	1
Director, Division of Mental Health and Developmental Disabilities	1
Medical Superintendent, API	1

Licensed physicians employed by the Division of Mental Health and Developmental Disabilities are placed in the exempt service by AS 39.25.110(19).

DEPARTMENT OF LABOR

Total exempt employees: 1

Commissioner of Labor	1

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

Total exempt employees: 18

Commissioner of Commerce & Economic Development	1
Commissioners, P.U.C. (AS 39.25.110(13))	5
Commissioners, Alaska Pipeline Commission	3
Commissioners, Alaska Transportation Commission	3
Counsel on Trade and Commerce, Tokyo	1
Alaska Power Authority	
Executive Director	1
Engineer Planner	1
Clerk Typist III	1
Executive Secretary (clerical)	1
Principal Economist	1

The Board of Directors of the Alaska Power Authority may hire an executive director whose compensation they shall establish. The executive director is subject to the provisions of AS 39.25. (See AS 44.56.145(c)). This statute does not require that the executive director be placed in the exempt service, nor does it make any statements concerning the service in which the other staff members of the Authority shall be placed.

DEPARTMENT OF MILITARY AFFAIRS

Total exempt employees: 124

Commissioner of Military Affairs	1
National Guards	123

The national guards on the payroll are there for purposes of establishing the amount of reenlistment bonus for which they qualify should they reenlist. They are not employees in the accepted sense of the word.

DEPARTMENT OF NATURAL RESOURCES

Total exempt employees: 102

Commissioner of Natural Resources	1
Special Assistant to Commissioner	1
Emergency Firefighters	60
Youth Conservation Corps Enrollees	21
Alaska Oil & Gas Conservation Commission	
Commissioner	1
Director, Oil & Gas Conservation Commission	1
Chief Petroleum Geologist	1
Petroleum Geologists	2
Chief Petroleum Engineer	1
Petroleum Engineer	3
Petroleum Reservoir Engineers	2
Petroleum Geophysicist	1
Petroleum Geologist & Geophysicist	1
Petroleum Inspectors	3
Systems Analyst II	1
Drafting Technician III	1
Secretary I	1

Petroleum Engineers & Geologists:

Petroleum engineers and geologists employed in a professional capacity by the Department of Natural Resources, except for those employed in the Division of Geological & Geophysical Surveys, are placed in the exempt service by AS 39.25.110(20). The commission employs three typists and two statistics technicians who are in the classified service in addition to the positions listed above.

Emergency Firefighters:

The Commissioner of Natural Resources is empowered to hire emergency firefighting personnel and to establish classifications and rates of pay for the emergency firefighting personnel consistent with the compensation paid by other firefighting agencies to meet emergency needs. AS 41.15.030(b).

DEPARTMENT OF FISH & GAME

Total exempt employees: 1

Commissioner of Fish & Game	1

DEPARTMENT OF PUBLIC SAFETY

Total exempt employees: 1

Commissioner of Public Safety	1

DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Total exempt employees: 2

Commissioner of Environmental Conservation	1
Deputy Commissioner	1

The computer run contains an error. Deputy Commissioners are in the partially exempt service.

DEPARTMENT OF COMMUNITY & REGIONAL AFFAIRS

Total exempt employees: 1

Commissioner of Community & Regional Affairs	1

DEPARTMENT OF TRANSPORTATION & PUBLIC FACILITIES

Total exempt employees: 2

Commissioner of Transporation & Public Facilities	1
Another employee	1

The computer printout contains another error. It shows an employee who is in the classified service as being in the exempt service.

TOTAL EXEMPT EMPLOYEES ON THE COMPUTER PRINTOUT: 364

APPENDIX C

STATUTE ON PARTIALLY EXEMPT POSITIONS

Section 39.25.120. Partially exempt service. The following positions in the state service constitute the partially exempt service and are subject to this chapter and the rules adopted under it only as specifically provided in this chapter. Positions in the partially exempt service shall be included in the position classification plan established under this chapter, and these positions shall be compensated according to the pay plan. Persons holding positions in the partially exempt service are not required to take examinations, qualify or earn a place on a register, nor are they eligible for a hearing by the personnel board in case of dismissal, demotion, or suspension. Positions in the partially exempt service are specifically exempt from the rule established under section 150(3)-(11), (14), (15), (18) of this chapter. They are also specifically exempt from sections 170 and 180 of this chapter and as stated in section 160(a) of this chapter:

(1) assistant commissioners of the principal of departments of the executive branch;

(2) the directors, division of personnel, division of public health, division of medical assistance, and those other directors of the major divisions of the principal departments of the executive branch as are specifically designated by the governor;

(3) attorney members of the staff of the Department of Law;

(4) one private secretary for each head of a principal department in the executive branch;

(5) all employees of the Office of the Governor and the lieutenant governor, including the staff of the governor's mansion and the attorney members of the staff of the public defender agency, but not including the nonattorney members of the staff of that agency;

(6) Repealed by section 4 chapter 78 SLA 1971.

(7) Repealed by section 9 chapter 47 SLA 1974.

(8) the director and deputy director of the division of tourism in the Department of Commerce and Economic Development;

(9) regional directors of the Department of Transportation and Public Facilities;

(10) the executive director and deputy director of the Alaska Public Utilities Commission;

(11) the state forester, in the Department of Natural Resources.

APPENDIX D

PARTIALLY EXEMPT POSITIONS IN STATE GOVERNMENT

This information is taken from computer printout RO1-02N-0160, dated September 27, 1979. The printout provides information on classified and partially exempt positions in the state and indicates whether or not they are presently filled. It does not provide any information on the exempt positions in the state.

OFFICE OF THE GOVERNOR

Positions in office: 308 (231 filled)
Partially exempt positions in office: 266 (205 filled)

Note that the seven positions in the Office of Telecommunications are included in the total number of positions in the Office of the Governor. However, Telecommunications has recently been transferred out of the Governor's Office and therefore, those positions are not included in the number of partially exempt positions.

EXECUTIVE OFFICE OF THE GOVERNOR

Executive Assistant to the Governor	2
Administrative Assistant to the Governor	1
Press Secretary	1
Legislative Assistant	1
Special Assistant to the Governor III	6
Special Assistant to the Governor II	1
Special Assistant to the Governor I	3
Research Analyst III	1
Research Analyst II	1
Policy and Program Manager IV	1
Policy and Program Specialist II	1
Accountant II	1
Accounting Technician II	1
Accounting Clerk II	1
Administrative Officer III	1
Administrative Assistant II	1
Administrative Assistant I	1
Executive Secretary III	1
Executive Secretary I	6
Secretary I	3
Clerk Typist III	3
Clerk IV	1
Clerk III	1
Receptionist in Governor's Office	1
Personnel Officer I	1
Information Officer III	1
Information Officer I	1

MANSION STAFF

Executive Resident Cook	1
Executive Resident Housekeeper	2
Administrative Assistant I	1

HISTORICAL COMMISSION

Executive Director	1
Historian II	1
Secretary I	1

INTERNATIONAL FISHERIES AND EXTERNAL AFFAIRS

Director	1
Research Analyst II	1
Executive Secretary I	2
Information Officer II	1
Policy and Program Manager IV	2
Policy and Program Manager III	1

ALASKA STATE COUNCIL ON THE ARTS

Policy and Program Specialist II	1
Fine Arts Administrator	3
Administrative Assistant I	1
Accounting Technician I	1
Clerk Stenographer III	1
Clerk Typist III	1

CRIMINAL JUSTICE PLANNING

This agency was recently transferred to the Office of the Governor. The positions retained their classified and partially exempt status.

Executive Director of Governor's Commission	1

PUBLIC DEFENDER

Only the attorney members of the staff of the Public Defender are in the partially exempt service. The support staff are in the classified service.

Public Defender	1
Attorney V	6
Attorney IV	13
Attorney III	4

ALASKA POLICE STANDARDS COUNCIL

Council Administrator	1
Training Coordinator	1
Clerk IV	1

ELECTIONS

Division Director	1
Elections Supervisor II	2
Elections Supervisor I	2
Administrative Assistant III	1
Administrative Assistant I	2
Clerk V	1
Clerk III	5
Clerk Typist III	1
Clerk Typist II	2

LIEUTENANT GOVERNOR'S OFFICE

Policy and Program Manager III	1
Policy and Program Manager II	1
Research Analyst III	2
Executive Secretary II	1
Secretary I	1
Clerk V	1
Publications Technician	1

ALASKA PUBLIC OFFICES COMMISSION

Executive Director	1
Assistant Director	1
Research Analyst II	1
Regulations Specialist II	1
Secretary I	1
Clerk IV	2
Clerk III	1

PIPELINE COORDINATOR'S OFFICE

Deputy Coordinator	1
Administrative Officer III	1
Accountant III	1
Accounting Technician I	1
Secretary III	1
Clerk IV	1
Clerk Typist III	1
Field Surveillance Officer	1
Field Surveillance Supervisor	1
Permafrost Engineer	1
Arctic Hydrologist	1
Ecologist IV	1
Land Management Officer IV	1
Pipeline Engineer	1
Information Officer III	1

INTERNAL AUDIT

This office was recently transferred to the Office of the Governor. All positions were transferred from the classified to the partially exempt service.

State Internal Auditor	1
Deputy State Internal Auditor	1
Internal Auditor IV	3
Internal Auditor III	6
Internal Auditor I	2

DIVISION OF POLICY DEVELOPMENT AND PLANNING

Division Director	1
State/Federal Assistant Coordinator	1
Deputy Director	1
Policy and Planning Manager III	1
Policy and Planning Manager II	1
Policy and Planning Manager I	1
Policy and Program Specialist III	2
Policy and Program Specialist II	5
Policy and Program Specialist I	3
Planner IV	2
Planner III	1
Project Assistant	1
Research Analyst III	1
Research Analyst II	2
Research Analyst I	1
Executive Director of Growth Policy	1
Natural and Physical Science Planner	2
Management Analyst III	1
Management Analyst II	2
Management Analyst I	1
Publications Specialist II	1
Administrative Assistant II	2
Administrative Assistant I	2
Secretary I	1
Accounting Technician II	1
Data Control Clerk II	1
Clerk IV	1
Clerk Typist III	7

BUDGET AND MANAGEMENT

Division Director	1
Deputy Director	1
Program Budget Analyst V	4
Program Budget Analyst IV	9
Program Budget Analyst III	6
Program Budget Analyst I	1
Program Budget Technician	2

Economist III	1
Economist II	1
Secretary I	1
Clerk IV	1
Clerk Typist III	1
Clerk Typist II	1

HUMAN RIGHTS COMMISSION

Division Director	1
Field Representative III	4
Field Representative II	8
Field Representative Trainee	4
Associate Attorney	1
Secretary I	1
Administrative Assistant III	1
Clerk IV	4
Clerk Typist III	1

DEPARTMENT OF ADMINISTRATION

Positions in department: 665 (592 filled)
Partially exempt positions in department: 15 (all filled)

Deputy Commissioner	1
Secretary III	1
Special Assistant	1
Division Director	8
Pioneer Home Manager	4

DEPARTMENT OF LAW

Positions in department: 203 (187 filled)
Partially exempt positions in department: 111 (107 filled)

Deputy Attorney General	1
Secretary III	1
Chief Prosecutor	1
Attorneys III-VI	104
Associate Attorneys I-II	4

DEPARTMENT OF REVENUE

Positions in department: 300 (250 filled)
Partially exempt positions in department: 16 (14 filled)

Deputy Commissioner	2
Secretary III	1
Revenue Hearing Examiner	2
Division Director	5
Treasury Comptroller	1
Investment Officer I-III	5

DEPARTMENT OF EDUCATION

Positions in department: 347 (303 filled)
Partially exempt positions in department: 9 (all filled)

Secretary III	1
Division Director	4
Special Assistant	1
Deputy Commissioner	1
Executive Director, AEBC	1
Executive Secretary, PTPC	1

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

Positions in department: 1,871 (1,619 filled)
Partially exempt positions in department: 20 (14 filled)

Secretary III	1
Deputy Commissioner	3
Division Director	4
Special Assistant II	1
Executive Director of Parole Board	1
Staff Psychiatrist	1
OLDER AMERICANS/SCSEP PROGRAM	
Employment Security Specialist IB	5
Clerical Aide	1
Clerk II	1
Community Health Aide	1
Clerk I	1

DEPARTMENT OF LABOR

Positions in department: 736 (553 filled)
Partially exempt positions in department: 8 (7 filled)

Deputy Commissioner	1
Special Assistant	1
Secretary III	1
Division Director	5

DEPARTMENT OF COMMERCE

Positions in department: 293 (260 filled)
Partially exempt positions in department: 19 (18 filled)

Executive Director of Pipeline Commission	1
Deputy Commissioner	1
Secretary III	1
Division Director	9
Executive Officer of Nursing Board	1
Executive Secretary of Real Estate Commission	1

Deputy Tourism Director	1
Deputy Insurance Director	1
Executive Director of Public Utilities Commission	1
Deputy Director of Public Utilities Commission	1
Regional Loan Manager	1

DEPARTMENT OF MILITARY AFFAIRS

Positions in department: 100 (88 filled)
Partially exempt positions in department: 3 (all filled)

Secretary III	1
Division Director	1
Assistant Adjutant General	1

DEPARTMENT OF NATURAL RESOURCES

Positions in department: 779 (539 filled)
Partially exempt positions in department: 12 (all filled)

Secretary III	1
Deputy Commissioner	1
Executive Director, AROGDAB	1
Special Assistant	2
Division Directors	6
Resources Planner/Analyst*	1

*This position is expected to be placed in the classified service by the Personnel Board within the next few months. The present incumbent was hired from the classified register and was not advised that the position was in the partially exempt service. The department considers him to be on probationary status (which is applicable only to the classified service).

DEPARTMENT OF FISH AND GAME

Positions in department: 666 (566 filled)
Partially exempt positions in department: 11 (10 filled)

Deputy Commissioner	2
Secretary III	1
Special Assistant	1
Division Director	6
Chief of Subsistence	1

DEPARTMENT OF PUBLIC SAFETY

Positions in department: 806 (710 filled)
Partially exempt positions in department: 8 (all filled)

Secretary III	1
Deputy Commissioner	1
Division Director	6

DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Positions in department: 133 (109 filled)
Partially exempt positions in department: 6 (4 filled)

Division Director	3
Secretary III	1
Deputy Commissioner	1
Administrative Officer III	1

DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS

Positions in department: 154 (128 filled)
Partially exempt positions in department: 7 (6 filled)

Secretary III	1
Deputy Commissioner	1
Division Director	5

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

There are three codes for this department, and the following information is organized by those sections:

CODE 24 - Highways
Positions in section: 1,259 (807 filled)
Partially exempt positions in section: 5 (4 filled)

Division Director	5

CODE 25
Positions in section: 1,202 (984 filled)
Partially exempt positions in section: 25 (21 filled)

Deputy Commissioner	4
Assistant Commissioner	2
Division Director	16
Special Assistant	2
Secretary III	1

CODE 26
Positions in section: 425 (362 filled)
Partially exempt positions in section: 2 (both filled)

Airport Manager, Anchorage	1
Airport Manager, Fairbanks	1

APPENDIX E

POSITIONS PROPOSED FOR REMOVAL FROM BARGAINING RIGHTS

This information was taken from a computer printout dated February, 1979, which Bruce Carr of the Division of Personnel and Labor Relations made available to the commission. Positions which are presently permitted to organize under the Public Employment Relations Act and which are proposed to be excluded from bargaining are listed below. Most of those indicated are either Deputy Directors or Assistant Directors.

Unless otherwise indicated, the following positions are in the Supervisory Unit of the Alaska Public Employees Association. Those presently in the General Government Unit of APEA are marked (G). Positions which are not presently in a bargaining unit but are in the classified service are marked (E). There are five in the state.

OFFICE OF THE GOVERNOR

There are no changes proposed. Most positions in the Office of the Governor are already placed in the partially exempt service by statute.

DEPARTMENT OF ADMINISTRATION

Deputy State Internal Auditor*
Deputy Director of Labor Relations (E)
Deputy Director of Personnel (E)
Deputy Director of Finance
Deputy Director of General Services and Supply
Assistant Director of General Services and Supply
Deputy Director of Data Processing
Assistant Director of Data Processing, AJIS
Deputy Director of Retirement and Benefits

*This position has been transferred from the Department of Administration to the Office of the Governor as of August 16, 1979. The position is now in the partially exempt service and is not involved in collective bargaining.

DEPARTMENT OF LAW

There are no changes proposed. All of the attorneys in the Department of Law are already members of the partially exempt service by statute.

DEPARTMENT OF REVENUE

Deputy Director of Revenue Administrative Services
Chief of Enforcement Operations
Administrative Chief of Support Enforcement
Chief of Audit Services (2 positions)
Chief of Revenue Intelligence Services

DEPARTMENT OF EDUCATION

Deputy Director of Education Program Support
Deputy Director of Education Field Services
Deputy Director of Administrative Support
Deputy Director of Vocational Rehabilitation
Deputy Director of State Libraries and Museums

DEPARTMENT OF HEALTH & SOCIAL SERVICES

Assistant Director of Public Health
Assistant Director of Mental Health
Deputy Director of Corrections
Assistant Director of Corrections

DEPARTMENT OF LABOR

Assistant Director of Support Services
Deputy Director of Workmen's Compensation
Assistant Director of Employment Security (2 positions)

DEPARTMENT OF COMMERCE

Deputy Director of Economic Enterprise
Deputy Director of Public Utilities Commission
Executive Director of Alaska Transportation Commission
Assistant Director of Veterans Affairs
Deputy Director of Business Loans

DEPARTMENT OF MILITARY AFFAIRS

Chief of Staff
Deputy Director of Alaska Disaster Office

DEPARTMENT OF NATURAL RESOURCES

Deputy Director of Lands (2 positions)
Deputy Director of Parks

DEPARTMENT OF FISH & GAME

Executive Director of Fish & Game Boards (G)
Deputy Director of Fish & Game Administration
Assistant Director of Fish & Game Boards
Deputy Director of Commercial Fisheries
Deputy Director of Game
Deputy Director of Sport Fish

DEPARTMENT OF PUBLIC SAFETY

Lt. Colonel of Public Safety (2 positions)
Assistant State Fire Marshall
Deputy Director of Motor Vehicles

DEPARTMENT OF ENVIRONMENTAL CONSERVATION

No changes are proposed for the employees of this department.

DEPARTMENT OF COMMUNITY & REGIONAL AFFAIRS

Deputy Director of Manpower Division

DEPARTMENT OF TRANSPORTATION & PUBLIC FACILITIES

Assistant Director of Financial Management
Deputy Director of Advance Planning/Special Projects
Deputy Director of Highways Administration
Deputy Director of Communications
Transportation Maintenance Manager III

TOTAL: 54 positions

APPENDIX F
TRAINING FOR STATE EMPLOYEES

The commission has considered the question of the training provided by the state to its employees and recommends that the approach of the state towards training be reevaluated and that the following recommendations be implemented. The commission finds that the state has neglected this important area of personnel management for a considerable time in the mistaken belief that training is a luxury which can be cut from budgets without affecting the quality or the cost of the services provided to Alaskans. Training should not be indiscriminately provided however. The state should develop a system of evaluating the training needs of its employees and of monitoring the effectiveness of the programs in which it participates, so that training is vocationally oriented, effective and cost efficient.

REASONS FOR PROVIDING TRAINING

The hiring process establishes which candidates meet the minimum qualifications for a position and from those, which one is the best qualified to do the job. The standard is based on minimum qualifications for the position. Most new employees will need to improve some skills which the particular position emphasizes or become familiar with additional areas in which they lack knowledge. Furthermore, almost all jobs grow and change as new developments in the industry or field of study changes the appropriate methods

and skills and also as programs shift emphasis from one area to another. In order to meet the challenge of new technology or of changed focus, appropriate training must be provided.

A distinction should be made between training and orientation. All employers must orient new employees to their expectations about conduct, performance, and benefits (leave, insurance, retirement, etc.). Employers must also explain the structure, missions and objectives of the program in which employees will work.

Training, on the other hand, provides or enhances knowledge and skills which, for a variety of reasons, an employee does not have when selected for the position. Employees need training to keep pace with change, to improve existing skills, to develop new skills, to relate their tasks to the entire program, and to better supervise or manage other employees. Supervisors must be informed of equal employment opportunity laws and requirements.

1. Keeping pace with change. Employees in fields experiencing rapid technological advances need training to remain current in their areas of expertise. Otherwise, they are not able to do the job that is required by the state. For example, if the state wishes to use more advanced computer technology, it must either train its employees or hire new employees who are well versed in the science. Since data processing continues to change, the state can expect to continuously replace data processing

employees if it does not provide an adequate training program. New employees may have the necessary technical skills, but they will have no background experience with specialized state programs. Therefore, the state will have to train the new employees in those aspects of the job instead of training incumbents in new technology.

The Department of Transportation and Public Facilities has developed a training program for mechanics of both light and heavy duty equipment. Employees take a competency-based test which consists of both written and performance components. The test was developed by a national testing organization to use nation-wide. There are four skill levels, and employees receive a certificate for each test they successfully complete. The agency's goal is to have all of its mechanics fully certified through this program. They are a long way from reaching that level of knowledge and performance. Test performance also helps the department to identify areas in which employees need training.

The department provides training for the mechanics through a variety of methods. For job-related courses offered by community colleges, the department provides a portion of the costs of books and tuition. Sometimes vendor programs, generally offered out-of-state, are the most economical alternative. In other cases, the department may have an employee who is competent to train others in a particular skill. Occasionally, the department contracts with an outside firm to provide inhouse training in a specialized area.

Given the changes in automotive technology, no mechanic, however competent, can keep abreast of all developments without on-going training. With training, the agency hopes to perform their duties in a reasonable and cost-efficient fashion with an acceptable quality of performance, and to make their services competitive with or better than those of private industry.

Employees also need training in any program where legal standards frequently change. For example, unemployment insurance appeal employees attend a nation-wide program sponsored by the U.S. Department of Labor every two years to learn the developments in the laws, regulations and procedures governing the unemployment insurance program. Similarly, the state must plan to provide funds to train its employees whenever it significantly changes the standards and procedures of a program.

2. Improving existing skills. The Division of Personnel used to hold a training session in Better Writing Skills which was directed to state employees at a variety of levels who were responsible for writing documents as part of their job duties. This program has stopped because the division's training budget was not funded.

Courses for improving skills are provided at minimal cost to the state by equipment retailers. For example, IBM sponsors training sessions for state employees who use the complex word processing equipment to enable them to take advantage of special features available on the machines.

3. Developing new skills. The state has created trainee positions in order to hire people who need training to qualify for the beginning level of a job class. These trainee positions enable the state to provide an affirmative action program, as required by state and federal laws, and to open career fields to citizens of the state for whom the educational or experience requirements of the first level in the job class would be an insurmountable barrier. The trainee positions are structured with the expectation that the state will provide substantial on-the-job training to the people hired.

4. Interdisciplinary training. Interdisciplinary training serves to advise employees of developments outside their primary field and to inform them of the entire picture in which they have a part. It is important in areas where many agencies have overlapping responsibility, as is the case in the natural resources area or in insurance, banking and economic development. In the data processing field, programs to cross-train managers and data processing programmers about each others' needs would improve the state's use of data processing.

Interdisciplinary training can serve to meet administrative needs of the state. Program managers need to know how to prepare proposed budgets for review by the executive branch and for action by the legislature. They also need to develop skills in budgeting their resources in order to avoid cost overruns.

Employees who deal directly with the public in potentially tense situations can better diffuse hostility if they have some knowledge of transactional analysis. During the winter of 1977-78, the unemployment insurance office in Anchorage had to have uniformed guards in the building during working hours because of the intensity of feelings. The Department of Labor contracted with a Seattle firm to provide on-site training in transactional analysis to the staff to help them cope with the stressful situation.

5. Supervisory training. In its investigation of the state personnel system, the commission has found that many problems would be avoided or solved by better management practices. Effective managers and supervisors who accept, understand and persist in their decision-making roles are the key to avoiding or reducing turnover, absenteeism, and non-productivity of their employees. Training for supervisors, especially those without previous supervisory experience, should be one of the highest priorities on the state's training agenda. Supervisors must know and apply the Personnel Rules and the terms of collective bargaining agreements which govern the working conditions of their employees. They must know how to properly evaluate and, when necessary, discipline employees by applying contract terms accurately and by building a clear record of what steps they have taken to correct problems. In addition to this technical side, supervisors must know how to motivate their work force. They need to develop leadership skills, communication skills and ability to measure job performance.

Supervisors are required to write annual performance evaluations of their employees. To make the experience benefit both the employees and the program, the evaluations should point out the strengths and weaknesses of the employee's past performance, identify areas in which the employee's skills or knowledge need to be improved and the resources to accomplish that, and examine the duties of the position to determine whether the position is classified properly. Evaluations can be emotionally difficult for both employees and supervisors. To improve the evaluations done, supervisors should be required to participate in a program designed to improve their skills.

Managerial employees are selected for their skills in their program area and are expected to assimilate the knowledge needed to supervise their employees when they accept their appointment. To the extent that this does not happen, the state creates problems for itself which can lead to union grievances and monetary awards, poor morale, rapid turnover and poorly run programs. All of these increase the costs of government to the citizens of Alaska. Better supervisors would reduce this cost, and training would help to improve the performance of supervisors.

6. Complying with Equal Employment Opportunity programs. To avoid violation of the laws of the land and large monetary awards from litigation, supervisors must comply with the federal and state statutes on hiring and promoting their employees. These complex requirements can be difficult to adhere to. Records need to be maintained to demonstrate

compliance. The Division of Equal Employment Opportunity in the Department of Administration offers a course to supervisors on the legal requirements which apply, and on the unconscious ways in which people may discriminate. It is designed to insure that the state meets the minimum standards. This training should be made mandatory for any supervisor responsible for hiring employees.

7. Employee development. Some agencies will partially reimburse employees for the cost of relevant college courses they successfully complete. This varies depending on the policy of the department and the funds available. Course-work may make the employee eligible for promotion or provide insight into related areas.

CONCLUSION AND RECOMMENDATIONS

Because Alaska has not recognized the worth of training programs, the state has not developed a comprehensive policy for training for state employees, nor has it attempted to coordinate and evaluate what training is presently received by employees. The state needs a central training office. Responsibilities of the office should include arranging training sessions and programs on those subjects common among the departments and agencies, including supervisory skills, interdisciplinary training, clerical skills, and labor relations and Personnel Rule courses. This central office should identify general training needs, evaluate courses and develop a system to record each employee's training history in his or her personnel file. The annual

evaluation session could be used to consider what training each employee needs. The supervisor would be responsible for suggesting training programs to be developed either by the agency or by the central training office.

Because there is no coordinated program, the departments duplicate some courses, while ignoring other needs which could be economically provided to the larger pool of all state employees. Coordination should not usurp the prerogatives of the departments or their responsibility to provide programmatic training. The departments are best able to evaluate the need for training in their particular areas of expertise and to decide which kind of training best fills those needs. The coordinating center should advise and assist the departments when requested. It should also determine when departments were unnecessarily offering duplicate courses and should make information available to all departments on the training courses being offered so that interested staff of other departments can attend any department's courses as space permits.

Providing training effectively will insure that the state gets the most for its personal-services dollar, and will encourage employees who have become skilled in their areas to remain with the state, thus building on the investment which the state makes in any long term employee, even now, when training is neglected.

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Report of the

Blue Ribbon Commission on the State Personnel Act

to the

Twelfth Alaska State Legislature
First Session

Senator Bill Ray
Chairman

February, 1981

REPORT OF THE

BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT

TO THE

TWELFTH ALASKA STATE LEGISLATURE FIRST SESSION

Senator Bill Ray
Chairman

Prepared by:
Staff of the
Blue Ribbon Commission on
the State Personnel Act
Pouch AG
Juneau, Alaska 99811

February, 1981

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INTRODUCTION

In 1978 the Alaska State Legislature created the Blue Ribbon Commission on the State Personnel Act and charged it with making a comprehensive review of the state personnel system. The commission was directed to consider refinements in light of collective bargaining and the growth of the number of state employees, to examine the question of the decentralization of the hiring of state employees, and to consider the deficiencies which had been revealed in reports from the Division of Legislative Audit and from the Ombudsman. See Appendix A, Legislative Resolve No. 27, 1978.

Since its inception, the commission has worked on the issues it was directed to consider, sponsoring legislation and making its recommendations known in annual reports to the legislature. In 1980, at the request of the commission, the legislature extended its life for another year, noting that because of the complex, inter-related nature of the issues facing the commission, more time was needed to resolve them. See Appendix B, Legislative Resolve No. 38, 1980.

Membership on the commission includes representatives from the groups and persons most concerned about the state personnel system. In addition to legislators, there are representatives from the public employee unions and associations representing state employees, from the Department of Administration and the Division of Personnel, from the Ombudsman, from state agencies, and from the public. This diversity and expertise enables the commission to fully consider the questions before it.

During the past year, the commission has focused on two main areas. It has concluded a comprehensive review of the State Personnel Act and also is recommending changes in the nepotism law of the state. In addition, testimony from retired Alaskans raised issues about the state retirement systems which the commission considered. As a result of this work, the commission is sponsoring three bills amending the retirement systems.

There are issues which the commission was unable to address this year which are discussed briefly in this report. Further study is needed before recommendations can be made on these topics. Because its work is not ended, the commission is requesting that the legislature extend its life for another year.

CHAPTER I

Bills Amending the State Personnel System and the Retirement Systems

The commission is proposing two bills amending the personnel system. The first is a comprehensive revision of the State Personnel Act, to make changes in personnel practices, to expand the protections granted employees in the exempt and partially exempt services, and to make the Act consistent with the Public Employment Relations Act. The second bill amends the nepotism statute to give statutory authorization to support the present language of the Personnel Rules.

The commission is sponsoring three bills amending the state's retirement systems. The first limits the state's power to adjust retirement benefits where, through no fault of the retired state employee, the state has been making overpayments for more than two years. This measure is proposed because the resulting total overpayment can be substantial and the mandatory reduction of the retired person's monthly check can cause serious financial difficulties. The second bill sponsored by the commission makes changes in the membership of the Public Employee Retirement Board. The third bill requires that regulations adopted for both the Public Employee Retirement System and the Teachers Retirement System be subject to the Administrative Procedure Act.

SENATE BILL 193: AMENDING THE STATE PERSONNEL ACT (AS 39.25)

PURPOSE

The amendments proposed to the State Personnel Act are the result of work done by the commission over the past two years. The bill makes several major changes in the Act as well as making it more comprehensive, more consistent with the Public Employee Relations Act, and more clearly written.

The bill provides that those Personnel Rules which are matters of public policy are subject to the rule-making requirements of the Administrative Procedure Act. This will offer an increased opportunity for public comment before adoption of rules affecting the public.

The commission resolved the question of whether the state should move towards a centralized or a decentralized system of personnel administration by placing the present decentralized system in the Act. However, the bill limits the authority personnel officers presently have to operate independently from the Division of Personnel. Decentralization provides the best working relationship between the departments and the division.

Partially exempt and exempt employees of the state are granted increased protection from discrimination, including the right to appeal to the Personnel Board should they believe that they have been disciplined on the basis of unlawful discrimination.

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In addition to these major changes, the bill makes a number of other amendments which are discussed in the analysis below.

SECTION BY SECTION ANALYSIS

Section 1. AS 39.040 is amended to read:

Sec. 39.25.040. DIRECTOR OF PERSONNEL. The head of the division of personnel is the director of personnel appointed by the commissioner of administration and responsible to the commissioner of administration for the execution of the duties and responsibilities imposed by this chapter and the rules adopted under this chapter. The director of personnel shall (MUST) have at least three years of practical working experience in the field of personnel administration.

(SB 193, page 1, line 9)

Comment

This section makes a stylistic amendment to conform to the Manual of Legislative Drafting. The substance is not changed.

Sec. 2. AS 39.25.060(b) is amended to read:

(b) Members of the board may not be (SHALL BE QUALIFIED ELECTORS OF THE STATE WHO ARE NOT) employees (OR OFFICERS) of the state. Not more than two members of the board may be members of the same political party.

(SB 193, page 1, line 17)

Comment

This section deletes the obsolete requirement that members of the Personnel Board be qualified electors of the state. It also eliminates the reference to officers. The definition of state employees in section 18 includes

state officers. (See section 18, page 34 infra)

Sec. 3. AS 39.25.070(1) is amended to read:

(1) approve or disapprove amendments to the personnel rules in accordance with AS 39.25.140 (THE ORIGINAL RULES OR A PART OF THEM WITHIN 60 DAYS OF THEIR SUBMISSION TO THE BOARD AND APPROVE OR DISAPPROVE AMENDMENT TO THE RULES WITHIN 30 DAYS OF SUBMISSION TO THE BOARD, AND IN CARRYING OUT THIS DUTY, THE BOARD, IF REQUESTED, MAY HOLD THE PUBLIC HEARINGS IT CONSIDERS NECESSARY);

(SB 193, page 1, line 22)

Comment

The bill transfers all of the substantive requirements for amending the Personnel Rules to AS 39.25.140 and proposes changes in those procedures. (See section 12, page 16, infra)

Sec. 4. AS 39.25.070(3) is amended to read:

(3) hear and determine appeals by employees (IN THE CLASSIFIED SERVICE) as provided in AS 39.25.170;

(SB 193, page 1, line 29)

Comment

Members of the partially exempt service may appeal to the Personnel Board in certain situations by case law. In addition, appeal rights are granted to partially exempt and exempt employees in cases of prohibited discrimination in the proposed amendments to AS 39.25.170. Therefore, the reference to the classified service in this paragraph is deleted.

Sec. 5. AS 39.25.070 is amended by adding a new paragraph to read:

(7) employ staff members, who shall be in the classified service.

(SB 193, page 2, line 3)

Comment

The Personnel Board does not have statutory authority for employing staff members at present. The proposed language places any employees of the board in the classified service. The members of the commission considered that Personnel Board employees should be protected from the possibility of arbitrary action or undue influence to which they might be exposed if they were placed in the partially exempt or exempt service.

Sec. 6. AS 39.25.080 is repealed and reenacted to read:

Sec. 39.25.080. PUBLIC RECORDS. (a) State personnel records, including employment applications and examination materials, are confidential and are not open to public inspection except as provided in this section.

(b) The following information is available for public inspection, subject to reasonable regulations on the time and manner of inspection:

(1) the names and position titles of all state employees;

(2) the position held by a state employee;

(3) prior positions held by a state employee;

(4) whether a state employee is in the classified, partially exempt or exempt service;

(5) the dates of appointment and separation of a state employee; and

(6) the compensation authorized for a state employee.

(c) A state employee has the right to examine his own personnel files and may authorize others to examine his files.

(d) An applicant for state employment who appeals an examination score may review written examination questions relating to the examination unless the questions are to be used in future examinations.

(SB 193, page 2, line 6)

Comment

Current law provides that the state personnel records are public except for those which the rules require to be kept confidential. The Personnel Rules provide that except for examination materials, performance evaluations, personal history or other confidential materials so designated by the Director of Personnel, employee records are public records. (PR 14 07.0) The commission decided that it was more appropriate to indicate what materials actually are open to the public, and to make the remaining records confidential. The public materials are listed in subsection (b).

Subsections (c) and (d) set out new material to confirm a person's right to examine his own files and to establish when an applicant may review written examination materials.

Sec. 7. AS 39.25.090 is amended to read:

Sec. 39.25.090. COVERAGE OF CHAPTER. This chapter and the rules adopted under it apply to all positions in (1) the classified service, and (2) the partially exempt <u>and exempt services</u> (SERVICE) as specifically provided.

(SB 193, page 2, line 26)

Comment

Since amendments proposed to AS 39.25.170 extend limited appeal rights to members of the exempt service, the coverage of the chapter has changed.

Sec. 8. AS 39.25.110 is repealed and reenacted to read:

Sec. 39.25.110. EXEMPT SERVICE. Unless otherwise provided by law, the following positions in the state service constitute the exempt service and are exempt from the provisions of this chapter and the rules adopted under it:

(1) persons elected to public office by popular vote or appointed to fill vacancies in elected offices;

(2) justices of the supreme court, judges of the court of appeals, judges of the superior court, and judges and magistrates of other state courts established by law;

(3) employees of the state court system, and employees and members of the Judicial Council;

(4) employees of the state legislature and its agencies;

(5) the head of each principal department in the executive branch;

(6) officers and employees of the University of Alaska;

(7) certificated teachers and noncertificated employees employed by a regional educational attendance area established and organized under AS 14.08.031 - 14.08.041 to teach in, administer, or operate schools under the control of a regional educational attendance area school board;

(8) patients and inmates employed in state institutions;

(9) persons employed in a professional capacity to make a temporary or special inquiry, study or examination as authorized by the governor, the legislature, or a legislative committee;

(10) members of boards, commissions, or authorities;

(11) the officers and employees of the following boards, commissions and authorities:

(A) Alaska Commercial Fisheries Entry Commission;

(B) Alaska Gas Pipeline Financing Authority;

(C) Alaska Permanent Fund Corporation;

(D) Alaska Energy Center;

(E) Alaska Industrial Development Authority;

(12) the executive officer of the Alaska Commission on Post-secondary Education;

(13) the ombudsman and his staff;

(14) the executive secretary and legal counsel of the Alaska Municipal Bond Bank Authority;

(15) licensed physicians, as defined in AS 47.30.340(9), employed by the division of mental health and developmental disabilities, Department of Health and Social Services;

(16) petroleum engineers and petroleum geologists employed in a professional capacity by the Department of Natural Resources except for those employed in the division of geological and geophysical surveys;

(17) officers, agents, and employees of the Alcoholic Beverage Control Board granted limited peace officer powers by the Alcoholic Beverage Control Board under AS 04.06.110;

(18) persons employed by the division of marine transportation as masters and members of the crews of vessels who operate the state ferry system and who are covered by a collective bargaining agreement provided in AS 23.40.040.

(SB 193, page 3, line 2)

Comment

The phrase "unless otherwise provided by law" is added to the introductory section. Obsolete or redundant paragraphs have been deleted and the list has been

reorganized for clarity.

Judges of the Court of Appeals have been added to paragraph (2). In paragraph (9), the wording has been changed from "temporary and special inquiry" to "temporary or special inquiry". For a table comparing the order and content of the new sections with the existing statute, see Appendix C.

Sec. 9. AS 39.25.120 is repealed and reenacted to read:

Sec. 39.25.120. PARTIALLY EXEMPT SERVICE. (a) Positions in the partially exempt service are included in the position classification plan established under this chapter and are compensated according to the pay plan (AS 39.27.011).

(b) A person holding a position in the partially exempt service is not required to take an examination or qualify or earn a place on a register, and is not eligible for a hearing by the personnel board in case of dismissal, demotion, or suspension, except as provided in AS 39.25.170. Positions in the partially exempt service are specifically exempt from the rules established under AS 39.25.150(3) - (10), (13), (14), and (17).

(SB 193, page 4, line 25)

Comment

The bill restructures AS 39.25.120 and changes the references to other sections of the State Personnel Act to conform to amendments made since this section was adopted and amendments proposed in the bill. The substance of the beginning section is not changed.

(c) The following positions in the state service constitute the partially exempt service:

(1) deputy and assistant commissioners of the principal departments of the executive branch, including the assistant adjutant general of the Department of Military Affairs;

(2) the directors of the major divisions of the principal departments of the executive branch and the regional directors of the Department of Transportation and Public Facilities;

(3) attorney members of the staff of the Department of Law and of the public defender agency;

(4) one private secretary for each head of a principal department in the executive branch;

(5) employees of the Office of the Governor and the office of the lieutenant governor, including the staff of the governor's mansion;

(6) the executive director and deputy director of the Alaska Public Utilities Commission;

(7) the state forester in the Department of Natural Resources;

(8) the director, deputy director, staff legal counsel, and hearing officers of the Alaska Transportation Commission;

(9) not more than two special assistants to the commissioner of each of the principal departments of the executive branch;

(10) the principal executive officer of the following boards, councils or commissions:

(A) Alaska Public Broadcasting Commission;

(B) Professional Teaching Practices Commission;

(C) Parole Board;

(D) Board of Nursing;

(E) Real Estate Commission;

(F) Alaska Royalty Oil and Gas Development Advisory Board;

(G) Alaska Historical Commission;

(H) Alaska State Council on the Arts;

(I) Alaska Police Standards Council;

(J) Council on Science and Technology;

(11) Alaska Pioneers' Home managers;

(12) hearing examiners in the Department of Revenue;

(13) the comptroller in the division of treasury, Department of Revenue;

(14) investment officers in the Department of Revenue;

(15) the chief of subsistence in the Department of Fish and Game;

(16) airport managers in the Department of Transportation and Public Facilities employed at the Anchorage and Fairbanks International Airports;

(17) the deputy director of the division of tourism and the deputy director of the division of insurance in the Department of Commerce and Economic Development;

(18) the executive director and staff of the Alaska Public Offices Commission.

(19) the director, deputy director, personnel analysts II, labor relations analysts I, labor relations analysts II, senior negotiators, research directors of the division of labor relations in the Department of Administration.

(SB 193, page 5, line 8)

Comment

The bill adds deputy commissioners to paragraph (1) and makes specific reference to the assistant adjutant general of the Department of Military Affairs and to regional directors in the Department of Transportation and Public Facilities.

Paragraph (2) places all division directors in the partially exempt service. The State Personnel Act currently provides that division directors who are listed in the paragraph and any others designated by the Governor are members of the partially exempt service. Since the

Governor designates all division directors to be partially exempt, the commission considered the change to be appropriate.

Paragraph (9) is a new provision placing special assistants to commissioners in the partially exempt service. This reflects current practice. The commission considered that the number should be limited to two special assistants. If a commissioner needs more than two, the Personnel Board has the authority under AS 39.25.130 to add additional positions. (See section 10, page 16, infra)

Paragraphs (10)(A) - (E) and paragraphs (11) - (16) add several positions to the section. These positions are now in the partially exempt service but are not listed in the State Personnel Act. Similarly, paragraph (17) places the deputy director of insurance in the partially exempt service.

Paragraph (19) places those employees responsible for representing the state in collective bargaining negotiations in the partially exempt service. They are now in the classified service but are not members of any collective bargaining unit. The majority of the commission considered that it was important for these employees to be directly responsive to the policies of the administration.

For a table comparing the statute with the provisions of the bill, see Appendix D.

Sec. 10. AS 39.25.130(a) is amended to read:

(a) The (AFTER JUNE 30, 1961, THE) personnel board, upon written recommendation of the commissioner of administration, may extend the partially exempt service to include any position (WHICH WAS) in the classified service (ON APRIL 19, 1960,) which, in the judgment of the board:

(1) involves principal responsibility for the determination of policy;

(2) involves principal responsibility for the way in which policies are carried out; or

(3) involves responsibilities and duties of a type not susceptible to the ordinary recruiting and examining procedures.

(SB 193, page 7, line 7)

Comment

The Personnel Board exercises the power to move positions from the classified service to the partially exempt service over positions created after April 19, 1960, as well as over positions created before that date. The commission considered this exercise of power to be appropriate and therefore the bill amends the statute by deleting reference to the dates.

Sec. 11. AS 39.25.130(c) is amended to read:

(c) The (AFTER JUNE 30, 1961, THE) personnel board, upon written recommendation of the commissioner of administration, may extend the classified service to include any position (WHICH WAS) in the partially exempt service (ON APRIL 19, 1960).

(SB 193, page 7, line 19)

Comment

As in section 10 above, the reference to dates in

AS 39.25.130(3) has been deleted since the Personnel Board has traditionally acted to change positions created after April 19, 1960, as well as those created before that date.

Sec. 12. AS 39.25.140 is repealed and reenacted to read:

Sec. 39.25.140. AMENDMENT OF PERSONNEL RULES. (a) The director of personnel shall prepare and submit proposed amendments of the personnel rules to the commissioner of administration for review and approval.

(b) The commissioner of administration shall review the proposed amendments and if he approves them, he shall submit them to the personnel board.

(c) When the proposed amendments are submitted to the personnel board, the commissioner of administration shall post notice in public buildings throughout the state that the personnel board has the proposed amendments under consideration.

(d) If the proposed amendments concern matters of public policy, the personnel board shall adopt them in accordance with the Administrative Procedure Act (AS 44.62).

(SB 193, page 7, line 24)

Comment

The bill makes several changes in AS 39.25.140. In subsections (a) and (b), the Commissioner of Administration is given the power to approve or disapprove amendments proposed by the Director of Personnel. In paragraph (d) those amendments which concern matters of public policy are made subject to the rule-making provisions of the Administrative Procedure Act. The State Personnel Act presently exempts adoption of the Personnel Rules from the APA. The commission found that additional opportunity for public notice and comment should

be provided over those subjects which affect the public and therefore recommends the change in the rule-making procedures. (Note that subsection (f) sets out topics which are included within "matters of public policy".)

(e) If the proposed amendments relate only to the internal management of the state agencies

(1) notice of the proposed amendments shall be posted for at least 30 days;

(2) if requested by the commissioner of administration or by a person receiving notice of the proposed amendments, the personnel board may hold public hearings on the proposed amendments and may appoint a hearing officer to conduct the hearings;

(3) the personnel board may amend the proposed amendments;

(4) the proposed amendments become effective 45 days after they are submitted to the personnel board unless the board has disapproved them;

(5) the amended rules shall be published in the Alaska Administrative Register and Code for informational purposes.

(SB 193, page 8, line 9)

Comment

Those amendments to the Personnel Rules which relate only to the internal management of state agencies are adopted under the procedures of this subsection. These procedures are substantially identical to those now set out in the State Personnel Act.

In paragraph (2) the bill permits the Personnel Board to appoint a hearing officer to conduct hearings on amendments. The Personnel Board is granted the power to amend the proposed rules in paragraph (3), a power which it does not now have.

The bill provides in paragraph (4), that the amendments take effect 45 days after submission to the Board, rather than the present 30 days. The additional time gives the board an opportunity to consider any written or oral testimony received from the public. Paragraph (5) requires that the amended rules be published in the Alaska Administrative Register and Code. Publication of the rules in the Code is discretionary now.

(f) In this section "matters of public policy" include, but are not limited to, matters concerning

(1) recruitment;

(2) examinations;

(3) selection methods;

(4) prohibitions and penalties;

(5) public records;

(6) eligible lists;

(7) hours of work;

(8) merit increases; and

(9) hearings and appeals relating to matters listed in (1) - (8) of this subsection.

(SB 193, page 8, line 23)

Comment

The topics listed are those which the commission believed were of most concern to the public. Personnel Rules on recruitment, examinations, selection methods, and eligible

lists all affect members of the public if they apply for state employment. The prohibitions and penalties applying to state employees define their conduct and are important to all citizens of the state. The hours which state employees work are similarly of widespread concern as are merit increases.

Sec. 13. AS 39.25.150 is repealed and reenacted to read:

Sec. 39.25.150. SCOPE OF THE RULES. The personnel rules shall provide for

(1) the preparation, maintenance, and revision by the director of personnel, subject to approval of the commissioner of administration and the personnel board, of a position classification plan for all positions in the classified and partially exempt services; the position classification plan shall include

(A) a grouping together of all positions into classes on the basis of duties and responsibilities;

(B) an appropriate title, a description of the duties and responsibilities, training and experience qualifications, and other necessary position specifications for each class of positions;

(2) the preparation, maintenance, revision and administration by the director of personnel of a pay plan for all positions in the classified and partially exempt services; the pay plan (A) shall be based upon the position classification plan; (B) shall provide for fair and reasonable compensation for services rendered, and reflect the principle of like pay for like work; (C) may be amended, approved, or disapproved by the legislature in regular or special session; after the pay plan is in effect, a salary or wage payment may not be made to a state employee covered by the plan unless the payment is in accordance with this chapter and the rules adopted under this chapter or unless the payment is in accordance with a valid agreement entered into in accordance with AS 23.40;

(SB 193, page 9, line 6)

Comment

The bill restructures paragraphs (1) and (2) to make

their content clearer. In addition, paragraph (2) is amended to refer to the Public Employment Relations Act and to set out that it is legal for the state to pay employees in accordance with a collective bargaining agreement even if the agreement does not conform to the state pay plan.

Provisions in the State Personnel Act which specify that the pay plan be prepared after consultation with appointing authorities and employee representatives and that commissioners' salaries are not the maximum limit for the pay plan are deleted. There is nothing in the law to prevent the pay plan from providing for salaries exceeding those of commissioners. Since collective bargaining agreements between the state and employee representatives now set pay levels for almost all the classified employees, there is considerable consultation with employee representatives before salary levels are established.

(3) the use of employee selection methods which will fairly test the capacity and fitness of the person examined to efficiently discharge the duties of the class in which employment is sought;

(SB 193, page 10, line 3)

Comment

This paragraph is rewritten to more clearly state the standards for employee selection methods which the Personnel Rules will implement.

(4) the establishment and maintenance of eligible lists for appointment and promotion providing the names of eligible candidates in order of their relative performance in the examinations;

(5) the procedure for certifying eligible candidates;

(6) promotions from within the state service when there are qualified candidates in the state service; vacancies shall be filled by promotion whenever practicable and in the best interest of the state service and promotion shall be by competitive examination whenever possible; in considering promotions, applicants' qualifications, performance record, seniority, and conduct shall be evaluated;

(7) a period of probation not to exceed one year before an appointment to a position becomes permanent, except that a permanent employee receiving a promotional appointment retains permanent status in the service and job class from which appointed for the duration of the probationary period and may be demoted to a former class without right of appeal, notwithstanding AS 39.25.170, but if the employee is dismissed from the service the appeal rights under AS 39.25.170 apply;

(8) nonpermanent and emergency appointments to positions in the state service in accordance with AS 39.25.195 - 39.25.200;

(9) provisional appointment without competitive examination when appropriate eligible lists are not available;

(10) transfers from one department to another and from another merit system jurisdiction to the state service;

(11) transfers from one area of the state to another;

(12) the payment of transportation costs when an employee transfers from one area to another at the request of the employer;

(13) the reinstatement of a person who resigns in good standing;

(14) layoffs for reason of lack of money or work, abolition of positions, or material changes in duties or organization; both performance and seniority records shall be considered in the development of layoff orders;

(15) the development, maintenance, and use of employee performance records;

(SB 193, page 10, line 6)

Comment

The bill reorders and rephrases paragraphs (4) - (15). The substance is unchanged. For a table comparing the bill with the Act, see Appendix E.

(16) the establishment of disciplinary measures which may include disciplinary suspension without pay;

(SB 193, page 11, line 11)

Comment

The State Personnel Act currently limits the imposition of disciplinary suspension without pay to 30 days in any 12-month period. The bill deletes that limit. The commission is continuing to work to develop a comprehensive framework of graduated disciplinary measures which will be more effective than the present system.

(17) the procedures for review of disputed personnel actions, and for resolving employee and interagency grievances, and for resolving grievances of the general public concerning the operation of the state personnel system;

(SB 193, page 11, line 13)

Comment

This paragraph is amended to require that the Personnel Rules include procedures for resolving grievances of the public concerning the state personnel system. These would include problems arising out of applying for state employment, state employment examinations, and the selection process.

(18) hours of work for all employees in the state service;

(19) methods and procedures covering overtime work and pay;

(20) the granting of employment preference rights to a veteran at each time application is made for employment not within the area of promotion, when the veteran possesses the necessary qualifications in the job classification applied for under this chapter; in the examination to determine the qualification of applicants for entrance into the classified service under merit system examination, five additional points shall be added to the passing grade of a veteran and ten additional points shall be added to the passing grade of a disabled veteran; if a position in the classified service is eliminated, employees shall be released in accordance with rules which give due effect to all factors; if all job qualifications are equal, the veteran shall be given preference over the nonveteran and the veteran shall be kept on the job; in this paragraph

(A) "veteran" means a person with 90 days or more active service in the armed forces of the United States who has been honorably discharged after having served during any period between April 6, 1917, and December 1, 1919, between September 16, 1940, and December 31, 1947, or between June 27, 1950, and November 7, 1975;

(B) "disabled veteran" means a veteran who is rated by the United States Veterans' Administration as having at least a 10 percent service-connected disability;

(21) the employment of persons in permanent positions on a part-time basis of 15 hours or more a week, including the employment of two persons to fill one permanent full-time position; these employees shall be designated as permanent part-time employees;

(22) the granting of employment preference to severely handicapped persons; this includes the right to provisional appointment without competitive examination for periods up to four months and the granting of eligibility to a severely handicapped person provisionally appointed under the rules who demonstrates ability to perform the job for permanent appointment without competitive examination; provisional employment under this paragraph may not exceed four months during a 12-month period; "severely handicapped" as used in this paragraph means persons certified by the director of the division of vocational rehabilitation to be severely handicapped;

(SB 193, page 11, line 17)

Comment

The bill reorders and rephrases paragraphs (18) - (22). The substantive content is unchanged. For a table comparing the bill with the Act, See Appendix E.

(23) the establishment of programs facilitating the employment of disadvantaged persons, including limitation of competition for appointment and promotion to individuals who meet the program requirements;

(SB 193, page 12, line 26)

Comment

This paragraph is added to the State Personnel Act to provide statutory authority for the adoption of Rules to implement programs such as the Comprehensive Employment and Training Act (CETA) or the Senior Community Service Employment Program (SCSEP). The language is taken from the Model Public Personnel Administration Law.

(24) the delegation, when feasible, of personnel responsibilities and duties to the principal departments of the executive branch;

(25) other rules and administrative regulations, not inconsistent with this chapter, which are necessary for its enforcement.

(SB 193, page 13, line 1)

Comment

The bill renumbers these paragraphs. They are identical with provisions in the State Personnel Act.

Sec. 14. AS 39.25.153 is repealed and reenacted to read:

Sec. 39.25.153. PERSONNEL OFFICERS. (a) If a principal depart-

ment of the executive branch has a personnel officer, the personnel officer shall be employed by and located within that department.

(SB 193, page 13, line 5)

Comment

Subsection (a) of the bill provides that personnel officers shall be departmental employees. This resolves the question of whether they should be centralized as employees of the Division of Personnel stationed in the individual departments, or whether they should be decentralized as employees of the departments they serve,in favor of decentralization. The commission considered that the working relationship of the personnel officer with the commissioner and staff of the department was crucial to his or her effectiveness and that this relationship could be impaired if he or she were not an employee of the department. Since not all departments have a personnel officer (the Department of Law does not), the bill does not require each department to have one.

(b) Subject to the provisions of (d) of this section, the personnel officers for the Departments of Transportation and Public Facilities, Fish and Game, Education, Labor, and Health and Social Services, have the following powers with respect to the classes of positions unique to their departments:

(1) to assign positions to an existing class in the state classification plan and to the salary range for that class as established by the state pay plan or by a valid agreement entered into in accordance with AS 23.40;

(2) to administer and score examinations and to place successful applicants on the eligible lists;

(3) to certify those eligible to the appointing authorities.

(SB 193, page 13, line 9)

Comment

This section of the State Personnel Act grants to the personnel officers for certain departments the power to amend the Personnel Rules for classes of employees unique to their departments. This power has never been used. The commission recommends that the actions which a departmental personnel officer may take independently from the Division of Personnel be more clearly and more narrowly defined and that they no longer have the power to amend the Personnel Rules.

This section does not change which personnel officers are granted authority to act under AS 39.25.153 except to delete reference to the Department of Highways and to substitute the Department of Transportation and Public Facilities. However, instead of giving the named personnel officers the power to amend the Personnel Rules, subsection (b) sets out the actions they may take. The commission considered that these are the areas where the ability to act quickly is most likely to be crucial to the success of a departmental program.

During the past year the Director of Personnel has delegated the classification authority for some classes to certain personnel officers. This has been done under AS 39.25.150(21), which permits delegation of personnel

functions, rather than under this section. The agreement extends beyond the scope of AS 39.25.153 which is limited to positions unique to the department.

(c) The initial determination of classes of positions unique to the departments listed in (b) of this section shall be made by the personnel officer of the department in consultation with the commissioner of his department subject to the approval of the director of personnel in the Department of Administration.

(d) The assumption of a power set out in (b) of this section must be approved by the commissioner of administration and must be in harmony with the merit principle of personnel administration (AS 39.25.-010).

(SB 193, page 13, line 21)

Comment

Subsection (c) is taken from existing language in AS 39.-25.153. Subsection (d) is new language giving the Department of Administration some control over the actions of the personnel officers and emphasizing the importance of the merit principle of employment.

Sec. 15. AS 39.25.160 is repealed and reenacted to read:

Sec. 39.25.160. GENERALLY. (a) A classified employee or an exempt employee in a position named in AS 39.25.110(3) may not take an active part in the management of a political party above the precinct level.

(b) A person may not give, render, pay, offer, solicit, or accept money, services, or other valuable thing in connection with securing or making an appointment, promotion, or advantage in a position in the classified service.

(c) A person may not require an assessment, subscription, contribution, or service for a political party from a state employee.

(d) A person may not seek or attempt to use a political party endorsement in connection with an appointment or promotion in the classified service.

(e) An employee in the classified or partially exempt service who seeks nomination or becomes a candidate for state or national elective political office shall immediately resign any position held in the state service.

(SB 193, page 13, line 29)

Comment

That part of the existing AS 39.25.160(a) which grants political rights to state employees is placed in section 19 of the bill. (See page 35, infra)

All of these subsections have been rephrased for style, but their content is unchanged except as noted in the following comments.

The bill adds the phrase securing or making to subsection (b). The scope of subsection (c) is expanded to cover all state employees, not just those in the classified service. Subsection (e) extends the requirement for resignation when seeking nomination to political office to members of the partially exempt service.

(f) Action affecting the employment status of a state employee or an applicant for a position in state service, including appointment, promotion, demotion, suspension, or removal, may not be taken or withheld on the basis of unlawful discrimination due to race, sex, color, religion, national origin, age, or handicap.

(g) Action affecting the employment status of an employee in the classified service or an applicant for a position in the classified service, including appointment, promotion, demotion, suspension, or removal, may not be taken or withheld on the basis of unlawful discrim-

ination due to political beliefs.

(SB 193, page 14, line 18)

Comment

Protection against discrimination in employment is extended by subsection (f) not only to classified service employees but to members of the partially exempt and exempt service. The categories of unlawful discrimination are increased from race and religion to include sex, color, national origin, age and handicap. The provision which protects members of the classified service from discrimination based on political beliefs is placed in subsection (g). The bill prohibits only unlawful discrimination.

(h) A person may not knowingly make a false statement, certificate, mark, rating, or report with regard to a test, certification, or appointment made under this chapter or in any manner commit a fraud preventing the impartial execution of this chapter and the personnel rules adopted under this chapter.

(i) A person may not obstruct the right of another person to examination, eligibility, certification, appointment, or promotion under this chapter.

(SB 193, page 14, line 28)

Comment

A requirement that a person act knowingly is added to subsection (h). Otherwise, these two subsections are not substantively changed.

Sec. 16. AS 39.25.170 is repealed and reenacted to read:

Sec. 39.25.170. HEARINGS AND APPEALS UPON DISMISSAL, DEMOTION, OR SUSPENSION. (a) An employee may be dismissed, demoted, or suspended by delivery of written notice of the proposed action and the reason for it from the appointing authority to the employee.

(SB 193, page 15, line 7)

Comment

This subsection adds to the statute a requirement that the notice of disciplinary action given to the employee be in writing. It also requires that the notice set out the reasons for the action.

(b) A permanent employee in the classified service who has been dismissed, demoted, or suspended may appeal the action to the personnel board.

(c) An employee who has been dismissed, demoted, or suspended due to unlawful discrimination based on race, sex, color, religion, national origin, age, or handicap may appeal the action to the personnel board.

(d) An employee in the classified service who has been dismissed, demoted, or suspended due to unlawful discrimination based on political beliefs may appeal the action to the personnel board.

(e) A permanent employee in the classified service who holds probationary status in his present position may appeal a dismissal from the classified service to the personnel board.

(f) An employee who is on leave without pay from a position in the classified service and who is employed by the state in another capacity, either in the exempt or partially exempt service, may appeal a dismissal from the classified service to the personnel board.

(SB 193, page 15, line 12)

Comment

These subsections set out the employees who are granted appeal rights.

Subsection (b) repeats the existing statutory provision.

Subsection (c) is based on the expanded scope of AS 39.25.160(f) which extends protection from unlawful discrimination to partially exempt and exempt state employees and expands the classes of people protected from discrimination.

Subsection (d) extends protection against disciplinary action based on political beliefs to classified employees who are not in permanent status as well as to permanent classified employees.

Appeal rights granted by AS 39.25.150(7) are repeated in subsection (e). Subsection (f) is based on current practice and is consistent with the rationale of subsection (e).

(g) An employee begins an appeal by filing a written request for review of the action with the personnel board within 15 days of receiving written notice of the action from the appointing authority.

(h) If requested by the employee at the time of filing an appeal, the personnel board shall hold a hearing to determine the reasonableness of the the action taken by the appointing authority. If the employee requests it, the hearing shall be open to the public. The employee may be represented by another person and has the right to present evidence. Technical rules of evidence do not apply to the hearing.

(SB 193, page 15, line 28)

Comment

These subsections set out existing provisions of AS 39.25.-170(a). The new language makes clear that an employee must request his appeal in writing, that the employee has the right to determine whether the hearing is open to the public, that the employee's representative need not be an attorney, and

that the technical rules of evidence do not apply to the proceedings.

(i) If the personnel board finds that the actic complained of was due to unlawful discrimination based on race, sex, color, religion, national origin, political beliefs, age, handicap, or in violation of the provisions of this chapter or the personnel rules, the employee shall be reinstated to the position without loss of pay or leave benefit for the period of dismissal, demotion, or suspension. In all other cases, the board shall report its findings and recommendations to both parties.

(SB 193, page 16, line 9)

Comment

The substance of subsection (i) is found in AS 39.25.170(b). The new subsection repeats the expanded classes protected from discrimination to all of those listed in the new AS 39.25.160.

Sec. 17. AS 39.25 is amended by adding a new section to read:

Sec. 39.25.175. PROCEDURE. (a) A subpoena shall be issued at the request of a party to a proceeding begun under AS 39.25.170.

(b) If a person refuses to respond to a subpoena issued under this section, or refuses to testify at a hearing authorized by AS 39.25.170, the personnel board may apply to the superior court for an order requiring the person to respond to the subpoena or to testify.

(c) Failure to obey the order of the superior court requiring response to a subpoena or testimony at a hearing may be punished as contempt of court.

(SB 193, page 16, line 17)

Comment

The power to subpoena witnesses is already granted to the Personnel Board in AS 39.25.070(6). This new section sets out the procedures which the board may follow should

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILE 8672
1364 SCOMM 51: BLUE RIBBON COMN. ON STATE PERSONNEL ACT 1978-1983

a person refuse to comply with the subpoena.

Sec. 18. AS 39.25 is amended by adding new sections to read:

Sec. 39.25.181. DEFINITIONS. In this chapter,

(1) "fraud" means for a person to knowingly

(A) create or confirm another's false impression which the person does not believe to be true, including false impressions as to law or value and false impressions as to intention or other state of mind;

(B) fail to correct another's false impression which the person previously has created or confirmed;

(C) prevent another from acquiring pertinent information;

(2) "knowingly" means for a person to be aware with respect to conduct or to a circumstance described by a provision of law that his conduct is of that nature or that the circumstance exists; when knowledge of the existence of a particular fact is required, that knowledge is established if a person is aware of a substantial probability of its existence, unless he actually believes it does not exist;

(3) "precinct" means the territory within which resident voters may cast votes at one polling place;

(4) "state employee" means a person employed by the state who is paid a wage or salary, but does not include a person hired by the state to work as an independent contractor.

(SB 193, page 16, line 27)

Comment

The definition for "fraud" is taken from the Criminal Code definition of "deception", AS 11.81.900(b)(14), and is rewritten for use within the State Personnel Act. The definition for "knowingly" is also taken from the Criminal Code, AS 11.81.-900(a)(2), with amendments for use within the State Personnel

Act.

The definition for "precinct" is taken verbatim from the State Election Code, AS 15.60.010(17). The bill includes a new definition for "state employee".

Sec. 19. AS 39.25 is amended by adding a new section to article 6 to read:

Sec. 39.25.192. EMPLOYEE POLITICAL RIGHTS. A state employee may

(1) be a member of a national, state, or local political party;

(2) take part in a political campaign;

(3) express political opinions;

(4) register party preference;

(5) serve as a voting or nonvoting delegate to a party convention;

(6) be appointed, nominated, or elected to nonpartisan public office in a local government unit; and

(7) make contributions to a political party or a candidate for public office.

(SB 193, page 17, line 20)

Comment

This section sets out the political rights listed in the present AS 39.25.160(a) with amendments for style. Paragraph (7) is added to clarify that state employees may make contributions to a political party or candidate.

Sec. 20. AS 39.25.180 is repealed.

(SB 193, page 18, line 5)

Comment

The Revisor of Statutes has determined that this section, which provides for the transfer of territorial employees to state employees, is obsolete. The commission agrees with her. Therefore, the bill repeals the section.

Sec. 21. This Act takes effect July 1, 1981.

(SB 193, page 18, line 6)

Comment

The commission recommends an effective date to insure a smooth transition from the existing practices to those set out in the bill.

SENATE BILL 194: RELATING TO NEPOTISM IN STATE EMPLOYMENT.

PURPOSE

The present statute prohibiting nepotism in state employment is directed at relatives of the executive head of a department or agency. It prohibits the employment of anyone related within the second degree of kindred to the executive head. However, the Personnel Rules also prohibit the employment of persons related within the second degree of kindred to the head of the division or subdivision within which the person is working. (PR 13 09.2). In addition, the Rule requires that before a person may be employed in the same agency with a close relative, that the Director of Personnel and the appointing authority for the department or agency must give express approval to the appointment. (PR 13 09.3)

The scope of the Personnel Rules is broader than the scope of the statute. The Attorney General has advised the Division of Personnel that the Rules are therefore not completely enforceable. The commission considered the issue and the majority recommends that the scope of the statute be enlarged to include the provisions of the Personnel Rules. While provisions against nepotism limit the opportunities of some Alaskans to find employment with particular offices in the state, the disadvantage to those people should be weighed against the appearance of impropriety and favoritism which is created if relatives of the head of a division or department

are working within that division or department.

The Director of Personnel advised the commission that in the past he has routinely approved waivers for relatives to work in a non-supervisory status in the same office. The majority of the commission recommends that requirement for review of these situations be placed in the statute to provide a mechanism for review should an instance of abuse arise.

SECTION BY SECTION ANALYSIS

Section 1. AS 39.10.010 is repealed and reenacted to read:

Sec. 39.10.010. NEPOTISM PROHIBITED. (a) A person may not be appointed to a position in a state department or agency, whether in the legislative, judicial, or executive branch, if that person is the spouse of or is related by blood or marriage within and including the second degree of kindred to the commissioner or a deputy or assistant commissioner of the principal department, or to the executive head of the agency.

Comment

This subsection prohibits the employment of a person related to the top-level managers of a department or agency. It encompasses the present substance of AS 39.10.010 and extends it to include deputy and assistant commissioners.

(b) A person may not be appointed to a position in a division of a state department or agency, whether in the legislative, judicial, or executive branch, if that person is the spouse of, or is related by blood or marriage within and including the second degree of kindred to, the executive head of the division.

(c) A person may not be appointed to a position in a state department or agency in the executive branch, if that person is the spouse of, or is related by blood or marriage within and including the second degree of kindred to, an employee in the department or agency unless

the director of personnel and the person who makes the appointment approve the appointment in writing. An appointment prohibited by (a) or (b) of this section may not be approved under this subsection.

Comment

These subsections extend the scope of the statute to include the provisions of the Personnel Rule. Subsection (b) prohibits the employment within a particular division of persons related to the division director. It applies to all three branches of government.

Subsection (c) provides that before two close relatives may work in the same office in the executive branch of government, the Director of Personnel and the person who is making the hiring decision must both approve the appointment in writing.

Section 2. This Act takes effect immediately in accordance with AS 01.10.070(c).

Comment

Because the state is operating without an effective nepotism law, the commission recommends that the bill take effect immediately.

SENATE BILL 195: LIMITING THE ADJUSTMENT OF RETIREMENT BENEFITS.

PURPOSE

This bill remedies a problem which the commission was advised of in testimony from a retired state employee. When the employee retired in 1976, she had been advised on four separate occasions by the staff of the Division of Retirement and Benefits that she was eligible for more than nine years of credited service with the state. Shortly after she retired the legislature amended the retirement laws and she was told that she would receive credit for an additional three years because of her military service. She began receiving retirement benefits on that basis.

In 1979 the division wrote to advise her that their original computations had been in error and that her years of employment with the University of Alaska could not be included in her credited service. Therefore, she had received over $5000 in benefits which she would have to repay. They reduced the amount of her check by $100 to be credited towards that overpayment, in addition to reducing the check to the amount she was actually entitled to receive. The basis for denying credit for the employee's period of service with the University of Alaska was a regulation adopted by the Division of Retirement and Benefits in 1978 -- two years after she had retired.

The employee appealed to the Public Employee Retirement Board, which can waive collection of overpayments in cases of hardship. In

determining whether there would be hardship to the employee, the board considered her family's financial situation and found that she was not entitled to the waiver.

Commission members discovered that this was not an isolated instance. A number of retired state employees have undergone similar experiences. They relied on assurances from the division of retirement and benefits only to discover a considerable time later that errors had been made and that their benefits would be reduced.

The commission recommends that a two-year statute of limitations be placed on the collection of overpayments. Two years gives the Division of Retirement and Benefits ample time to audit its records and find and correct any errors made. After that period of time, a retired person should be freed from the burden of having to pay back the state for mistakes of the state's employees. This protection should be available only in cases where the retired person did not contribute to causing the error. It should not apply to persons working for employers other than the state, since those employers may not be in a financial position to absorb the cost of errors made by state employees.

SECTION BY SECTION ANALYSIS

Section 1. AS 14.25.173 is amended by adding a new subsection to read:

(b) An adjustment which requires repayment of benefits may not be made under this section if

(1) the incorrect benefit was first paid two years or more before the member or teacher or beneficiary was notified of the change

or error; and

(2) the change or error was not caused by the member or teacher or beneficiary.

Comment

This section amends the Teachers Retirement System by prohibiting the Division of Retirement and Benefits from decreasing benefits in order to collect for a previous overpayment if two conditions are met. The first condition is that the overpayment began two years or more before the division told the retired teacher of the error. The second condition is that the teacher did not cause the error.

Sec. 2. AS 39.35.520 is amended by adding a new subsection to read:

(b) An adjustment which requires repayment of benefits may not be made under this section if

(1) the incorrect benefit was first paid two years or more before the employee or beneficiary was notified of the change or error;

(2) the change or error was not caused by the employee or beneficiary; and

(3) the change or error relates to the employee's credited service with the state and not with another participating employer.

Comment

This section amends the Public Employee Retirement System in the same way that section 1 amends the TRS. However, in this section there is an additional condition. The error in computation must relate to the employee's credited

service with the state, and not with another participating employer.

Sec. 3. This Act is retroactive to July 1, 1979.

Sec. 4. This Act takes effect immediately in accordance with AS 01.10.-070(c).

Comment

Section 3 makes the Act retroactive in order to include the retired person who testified before the commission. Section 4 provides that the Act takes effect immediately in order to address the hardship to retired state employees.

SENATE BILL 196 : RELATING TO THE MEMBERSHIP OF THE PUBLIC EMPLOYEES RETIREMENT BOARD.

PURPOSE

This bill amends the Public Employees Retirement Act to change the membership of the Public Employees Retirement Board. The law presently requires that the three members who are appointed to the Personnel Board shall also serve on the PERB. AS 39.35.030. Those three individuals are also, by statute, appointed to the Labor Relations Agency, which is involved in collective bargaining issues. AS 23.40.250(3). The activities of both the LRA and the PERB have grown considerably recently. In the last legislative session, the PERB was made responsible for overseeing the supplemental employee benefit program and the deferred compensation program for state employees. AS 39.35.040(9) and (10). The increase in the number of state employees who are members of collective bargaining organizations has led to additional work for the LRA. The three members of the Personnel Board are citizen volunteers appointed by the Governor who are not employed by the state.

While the issues which are addressed by the Personnel Board are related to some of the issues addressed by the Labor Relations Agency, this is not the case with the subjects of concern to the Public Employees Retirement Board. Therefore, the commission recommends that the members of the Personnel Board continue to serve as the members of the LRA and that they be removed from the PERB.

The PERB should be composed of four elected members and one member appointed by the Governor. In addition, the commission recommends that one of the elected members should be a retired person to insure that those most directly affected by the system have a voice in the decision-making body.

SECTION BY SECTION ANALYSIS

Section 1. AS 39.35.030(b) is amended to read:

(b) One (THREE) board member (MEMBERS) shall be appointed by the governor and shall serve at his pleasure (MEMBERS OF THE PERSONNEL BOARD OF THE DEPARTMENT OF ADMINISTRATION). The remaining four (TWO) board members shall be members of the system (AND) elected by the members of the system, and at least one of the elected board members shall be retired.

Comment

Section 1 of the bill sets out the changes in membership of the PERS board which are discussed above.

Sec. 2. Notwithstanding AS 39.35.030(b), as amended by sec. 1 of this Act, a person serving on the Public Employees Retirement Board on the effective date of this Act who was from the personnel board of the Department of Administration shall continue to serve until his successor is elected or appointed by the governor.

Comment

Section 2 is a temporary measure to enable the board to continue to act until new members have been selected according to the new method.

SENATE BILL 197: APPLYING THE ADMINISTRATIVE PROCEDURE ACT (AS 44.62) TO ADOPTION OF REGULATIONS BY STATE RETIREMENT SYSTEMS.

PURPOSE

This bill amends the law to require that both the Public Employees Retirement Board and the Teachers Retirement System administrators comply with the Administrative Procedure Act when adopting regulations. Both retirement systems are presently exempted from the APA. The commission recommends the change because of concern that regulations have been adopted in the past without adequate opportunity for public comment. Although rule-making under the APA may be more time-consuming than rule-making under the present methods of the retirement systems, the improved public notice requirements outweigh that disadvantage. In instances in which either retirement system is faced with a need for immediate change in regulations, the APA provides for emergency rule-making. AS 44.62.250.

SECTION BY SECTION ANALYSIS

Section 1. AS 39.35.042 is repealed and reenacted to read:

Sec. 39.35.042. REGULATIONS. Adoption of regulations under this chapter is subject to the Administrative Procedure Act (AS 44.62).

Comment

Section 1 of the bill amends the Public Employees Retirement System statute to make the PERS subject to the APA rule-making requirements.

Sec. 2. AS 14.25.022 is repealed and reenacted to read:

Sec. 14.25.022. REGULATIONS. Adoption of regulation by the administrator under this chapter is subject to the Administrative Procedure Act (AS 44.62).

Comment

Section 2 amends the Teachers Retirement System statute to make the TRS subject to the APA rule-making requirements.

CHAPTER II

UNRESOLVED PERSONNEL ISSUES

A number of the issues in the state personnel system continue to be of concern to the commission. There has not been time to address them fully during the past year.

NONPERMANENT CATEGORY OF EMPLOYEES

The passage of the nonpermanent law ended many of the difficulties which had existed with the temporary category of employees. However, the nonpermanent law brought about a significant change in the system for employing short-term workers for the state. Problems remain to be resolved in the fine-tuning of that system. Recently, the commission was advised of one aspect of these problems.

The Department of Fish and Game employs a number of people during the summer months to inventory the wildlife resources of the state. The length of employment can be as short as three weeks. Before the nonpermanent law was passed, these positions were classified as temporary positions. Last year, the department changed them to permanent seasonal positions. With the change from temporary to permanent seasonal, the department was, for the first time, required to fill the positions from the state's registers (the list of eligible applicants for positions). In the past, many of these positions had been filled by local residents. However, the local residents are not as likely to apply for the positions and to be placed within the top five candidates on the register as are college students looking for summer work. This had led to a decrease in local hire.

The issues which this situation raises include whether positions of this kind should be classified as permanent seasonal, and, if not, how they should be incorporated into the nonpermanent category of employees. The commission expects to discuss these issues during its ensuing meetings and to fully review the state's experience with the nonpermanent law.

APPLICATION PROCESSING BY THE DIVISION OF PERSONNEL

It takes an average of about six weeks for an application for state employment to be evaluated and the applicant advised whether he meets the minimum qualifications and to be scheduled for any examination required for the job class applied for. This is an average time and the actual time varies considerably based on the job class applied for and the place where the application is submitted. While the six weeks delay

is lower than previous averages, it is longer than it should be. In addition, the division expects to receive an increased number of applications during the summer months, and this increase will probably lead to a longer processing time.

The division has advised the commission of steps it is taking to automate part of the application system, so that record keeping will be done automatically and it will be easier to track the progress of an application. The commission encourages the division to do all that it can to improve the situation. The commission will continue to consider the issue.

MEMBERSHIP IN THE EXEMPT AND PARTIALLY EXEMPT SERVICES

Membership in the exempt and partially exempt services is established by the State Personnel Act. In its revision of the Act, the commission does not make substantial changes in that membership. However, it continues to be concerned about agencies whose employees might more appropriately be placed in the classified service and subject to the merit principle of employment. The commission has urged the Governor to continue to examine this question, and where appropriate, to move employees into the classified service.

DISCIPLINARY SYSTEM FOR STATE EMPLOYEES

Neither the State Personnel Act nor the Personnel Rules provide a comprehensive system of disciplinary measures for state employees. The Act does include a statement that the Rules shall provide for the imposition of disciplinary suspension without pay for not longer than 30 days in a 12-month period. AS 39.25.150(17). The Act also makes willful violation of the State Personnel Act or the Personnel Rules grounds for conviction of a misdemeanor. Following conviction, a state employee immediately forfeits his office or position. AS 39.25.210.

The commission is working towards the development of a disciplinary system which would guide supervisors so that all state employees receive fair and consistent treatment which corrects problems where possible and encourages an effective, motivated work force.

REVISION OF THE PERSONNEL RULES

The commission continues to recommend that the Personnel Rules be comprehensively revised to bring them into accord with modern personnel practices. Issues which should be addressed in the revision include the use of block scoring and the application and selection procedures for state employment, especially for rural positions. The Rules should also indicate the extent to which they are affected by collective bargaining.

SENATE CONCURRENT RESOLUTION 10: EXTENDING THE LIFE OF THE BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT.

PURPOSE

As noted in the previous sections, there are a number of issues which the commission has not been able to resolve in the time available to it. The commission requests that its operation be extended for another year so that it can continue with the projects it has begun. Therefore, it is introducing Senate Concurrent Resolution No. 10. A fiscal note for the resolution is included as Appendix F.

TEXT

WHEREAS in 1978 the legislature through Legislative Resolve No. 27 authorized the Legislative Council, in cooperation with the director of personnel, to form a "blue ribbon" commission to study the State Personnel Act; and

WHEREAS the commission was formed as authorized by the resolution, made its report to the First Session of the Eleventh Legislature, and, in response to the commission's request for additional time to study problems it had identified, was funded by the legislature for a second year; and

WHEREAS in 1980 the commission made its second report to the legislature, and the legislature through Legislative Resolve No. 38 authorized the commission to continue to perform the assignments made to it by 1978 Legislative Resolve No. 27; and

WHEREAS the commission is continuing to develop answers to the issues

it has identified and more time is needed to complete the task which it was assigned;

BE IT RESOLVED by the Alaska State Legislature that the Blue Ribbon Commission on the State Personnel Act is authorized to continue to perform the assignments made to it by 1978 Legislative Resolve No. 27, through June 30, 1982.

APPENDICES

STATE OF ALASKA

THE LEGISLATURE

1978

Source	Legislative Resolve No.
SCR 88 am H	27

Directing the Legislative Council to carry out certain studies.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

The legislature has determined that the laws of the state found in Title 4, Alaska Statutes, and relating to the sale and dispensing of alcoholic beverages, are in serious disarray. This disarray is the result of patchwork amending over several decades and as a result the laws are very difficult to administer effectively and defy constructive amendment on a piecemeal basis. This small but important body of law is overdue for a substantive revision. A revision project would involve a thorough review of the policies involved and a comprehensive rearrangement and rewording of the laws to make effective administration possible and to facilitate legislative amendment in the future.

The Senate Special Committee on the Revision of Title 4 of the Alaska Statutes (Alcoholic Beverages) will expire with other special committees at the end of the regular session, but the legislature finds that the subject matter before it will require interim attention between adjournment and the convening of the next legislature.

BE IT RESOLVED by the Alaska State Legislature that under provisions of AS 24.20.090 and Uniform Rule 48(c) the Legislative Council is directed to establish a joint interim committee of the council to continue the special committee's work and accomplish a substantive revision of Title 4, Alaska Statutes (Alcoholic Beverages) during the 1978 interim; and

WHEREAS the State Personnel Act (AS 39.25) of the State of Alaska represents a considerable and vital body of law which has not undergone substantive revision and is consequently vastly

out of step with personnel developments of the last decade; and

WHEREAS the advent of collective bargaining and the tremendous growth in the number of state government employees require refinement of the personnel system; and

WHEREAS investigations by the legislative audit division and the office of the ombudsman have revealed major deficiencies in the present personnel system; and

WHEREAS it is impossible during the course of a legislative session to devote the necessary time required to study and refine the Personnel Act;

BE IT RESOLVED by the Alaska State Legislature that the Legislative Council, in cooperation with the director of personnel, is authorized to form a "blue ribbon" commission to study and refine the State Personnel Act and to investigate the feasibility of decentralizing the hiring of employees and a method for regularizing the hiring of specialists who, because of higher comparable salaries in the private sector for the skills involved, must be paid at levels in excess of the salary schedule, and to submit to the First Session of the Eleventh Legislature a proposed revision of the State Personnel Act based on the commission's recommendations; and be it

FURTHER RESOLVED that the membership of the commission should be representative of all persons and groups vitally concerned with the personnel system; and be it

FURTHER RESOLVED that the Legislative Council is authorized to contract with a competent person or firm knowledgeable in the varying aspects of personnel administration to oversee and direct the work of the commission.

STATE OF ALASKA

THE LEGISLATURE

1980

Source	Legislative Resolve No.
SCR 50	38

Extending the life of the Blue Ribbon Commission on the State Personnel Act.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

WHEREAS in 1978 the legislature through Legislative Resolve No. 27 authorized the Legislative Council, in cooperation with the director of personnel, to form a "blue ribbon" commission to study the State Personnel Act; and

WHEREAS the commission was formed as authorized by the resolution, made its report to the First Session of the Eleventh Legislature, and, in response to the commission's request for additional time to study problems it had identified, was funded by the legislature for a second year; and

WHEREAS additional time is needed to study the complex, interrelated problems which the commission has identified;

BE IT RESOLVED by the Alaska State Legislature that the Blue Ribbon Commission on the State Personnel Act is authorized to continue to perform the assignments made to it by 1978 Legislative Resolve No. 27 through June 30, 1981.

APPENDIX C

TABLE OF COMPARISON - AS 39.25.110

EXISTING	PROPOSED	COMMENT
(1)	(1)	
(2)	(2)	Adds judges of the court of appeals
(3)	(3)	Rephrased - content the same
(4)		Deleted - encompassed within (4) of proposed
(5)	(4)	Rephrased - content the same
(6)	(5)	
(7)	(6)	Rephrased - content the same
(8)	-	Deleted - There are no longer schools operated by the state
(9)	(8)	
(10)	(9)	Change in line 16 to read "temporary or special inquiry"
(11)	(10)	"Unless otherwise provided by law" moved to subsection (a) (page 2 lines 23-24) and therefore deleted here.
(12)	(18)	
(13)	-	Deleted - included within proposed (10)
(14)	(12)	
(15)	(10) & (11)(A)	
(16)	(13)	
(17)	(10) & (14)	

AS 39.25.110 (continued)

EXISTING	PROPOSED	COMMENT
(18)	(7)	
(19)	(15)	
(20)	(16)	
(21)	(11)(B)	
(22)	(10) & (11)(C)	
(23)	(11)(E)	
(24)	(17)	
(25)	(11)(D)	

TABLE OF COMPARISON - AS 39.25.120

EXISTING	PROPOSED	COMMENT
1st para.	(a) and (b)	Rephrased. Reference to paragraphs in AS 39.25.150 changed because of changes proposed in that section. Since AS 39.25.170 is changed, reference to hearings is changed. Since the bill repeals AS 39.25.-180, (Status of Present Employees) reference to it is deleted.
	Subsec. (c)	
(1)	(1)	The proposed version adds deputy commissioners and makes specific reference to the assistant adjutant general of the Department of Military Affairs and to regional directors of Department of Transportation & Public Facilities.
(2)	(2)	The Governor has directed that all division directors be partially exempt and therefore the paragraph is rewritten to provide that all division directors are in the partially exempt service.
(3)	(3)	
(4)	(4)	
(5)	(5)	The Public Defender Agency is no longer in the Office of the Governor. Reference to attorneys in that agency is moved to (3) of the proposal.
(6)		Previously repealed
(7)		Previously repealed

AS 39.25.120 (continued)

EXISTING	PROPOSED	COMMENT
(8)	(17)	The proposed paragraph includes the deputy director of insurance, who is in the partially exempt service but not listed in the present statute.
(9)	(2)	
(10)	(6)	
(11)	(7)	
(12)	(18)	
(13)	(3)	
(14)	(10)(G)	
(15)	(10)(H)	
(16)	(10)(I)	
(17)	(10)(J)	
(18)	(8)	
--	(9)	All special assistants to commissioners are in the partially exempt service. The commission set a limit of two special assistants for each commissioner. Where appropriate, the Personnel Board has the authority to approve additional special assistants.
--	(10)(A)-(E) and (11)-(16)	All of these positions are in the partially exempt service but are not listed in the present statute.

TABLE OF COMPARISON - AS 39.25.150

EXISTING	PROPOSED	COMMENT
(1)	(1)	Restructured - content unchanged
(2)	(2)	Some deletions of unnecessary material. The proposed version adds the phrase "or unless the payment is in accordance with a valid agreement entered into in accordance with AS 23.40;"
(3)	(3)	New language to more clearly express what "sound employee selection methods" means. The existing paragraph states: The use of sound employee selection methods, including open competitive examinations to test the fitness of applicants for positions in the state service;
(4)	(6)	
(5)	(4)	Rephrased - content unchanged
(6)	(5)	
(7)	(7)	Rephrased - content unchanged
(8)	(8)	The proposed paragraph combines existing paragraphs (8) and (9)
(9)	(8)	
(10)	(9)	
(11)	(10)	
(12)	(11)	
(13)	(12)	
(14)	(13)	

AS 39.25.150 (continued)

EXISTING	PROPOSED	COMMENT
(15)	(14)	Rephrased - content unchanged
(16)	(15)	Rephrased - content unchanged
(17)	(16)	The proposed version deletes the 30-day limit to disciplinary suspension without pay.
(18)	(17)	The proposed version adds a requirement that the Personnel Rules provide procedures for resolving citizen grievances.
(19)	(18)	
(20)	(19)	
(21)	(24)	
(22)	(25)	
(23)	(20)	Restructured for clarity - the content is unchanged
(24)	(21)	
(25)	(22)	
--	(23)	This paragraph is added to make clear that the Personnel Rules can provide for programs such as CETA and the Senior Community Service Employment Program. The language is taken from the Model Public Personnel Administration Law.

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

APPENDIX F

FISCAL NOTE

I. REQUEST
Bill/Resolution No. SENATE CONCURRENT RESOLUTION NO. 10
Title Extending the life of the Blue Ribbon Commission on the State Personnel Act
Requested by Senator Bill Ray Date 02/18/81

II. FISCAL DETAIL
Agency Affected Legislative Affairs
Program Category Affected General Government
BRU, Program, or Subprogram(s) Affected Legislative Council
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES		77.9				
200 TRAVEL		25.0				
300 CONTRACTUAL		5.0				
400 COMMODITIES		1.2				
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		109.1				

FUNDING (Thousands of Dollars)

GENERAL FUND		109.1				
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME		2				
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

Continuation of present staff and activity:

One Admin. Asst. full-time	$ 50,730
One Secretary full-time w/benefits	27,210
	$ 77,940
Travel - Staff and Commission Estimate 10 members per meeting at $500 travel & per diem per trip for five trips	$ 25,000
Contractual - phone, public notices, etc.	5,000
Commodities	1,200
TOTAL	$ 109,100

IV. DATE 2/19/81 PREPARED BY Richard C. Berg
AGENCY Legislative Affairs Agency
PHONE 465-3850

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/80

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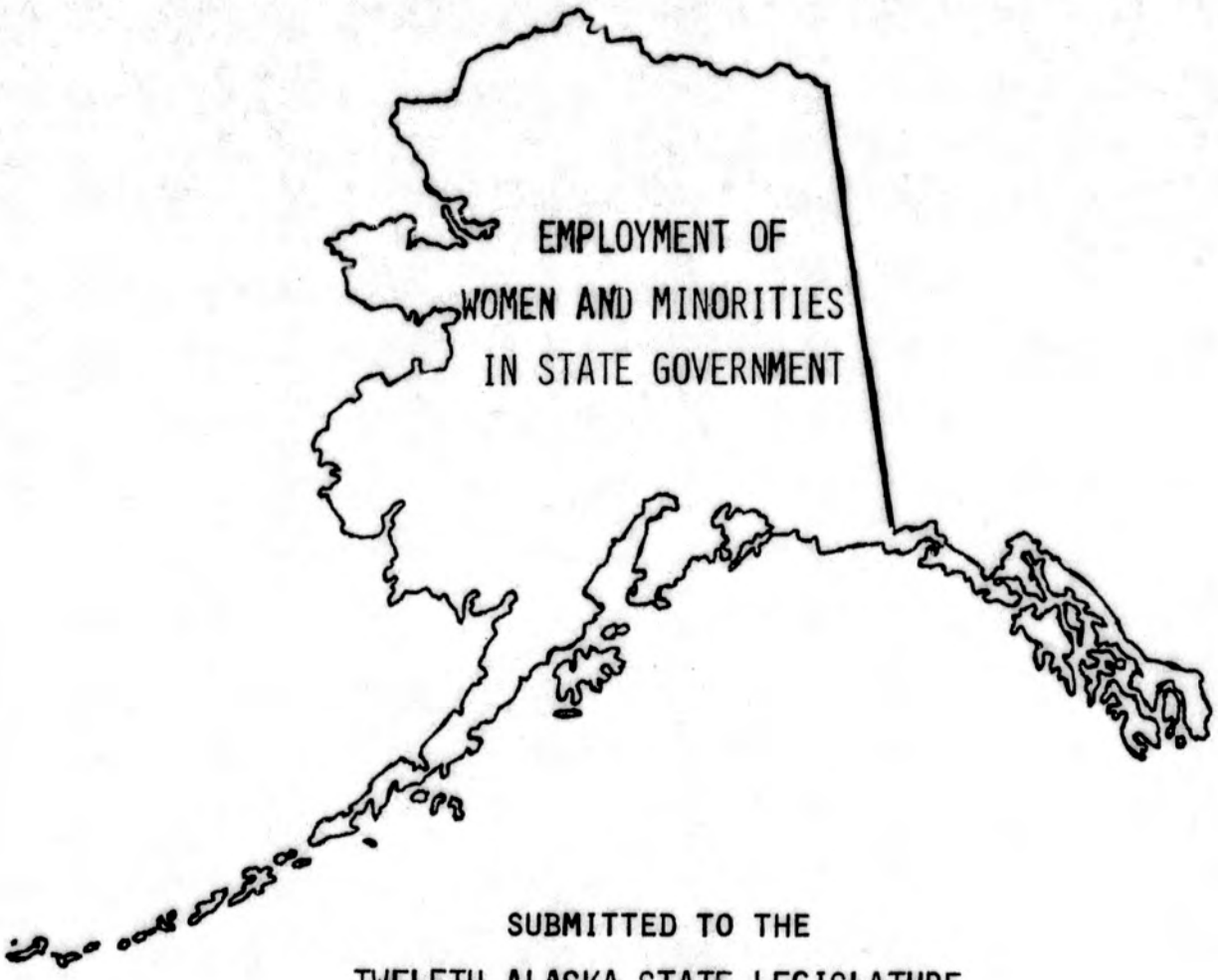
REPORT OF THE
BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT



SUBMITTED TO THE
TWELFTH ALASKA STATE LEGISLATURE
SECOND SESSION

SENATOR BILL RAY
CHAIRMAN

MARCH, 1982

REPORT OF THE

BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT

TO THE

TWELFTH ALASKA STATE LEGISLATURE

SECOND SESSION

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Chairman

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Summary of Recommendations

1. The state's entire job classification system should be reviewed to insure consistency and fairness for all employees. (Page 11)

2. Knowledge of the predominant language of by the people served should be included in the minimum qualifications for positions which require communication and familiarity with the predominant culture. (Page 19)

3. In appropriate cases there should be a preference given to local residents for positions in rural Alaska. (Page 20)

4. The executive branch should use affirmative action certifications in all appropriate cases to improve employment opportunities for members of underutilized groups. (Page 23)

5. The Division of Personnel should prepare and distribute a simple, short, inexpensive information sheet explaining the state hiring process. (Page 24)

6. Agencies should be responsive to career needs of employees in lower salary ranges when allocating training funds. (Page 25)

   The state should establish priorities for the use of training funds. (Page 26)

7. The Administration should continue to develop the use of flextime to promote the ability of people throughout Alaska to do business with state government. (Page 26)

8. Subject to available staffing and budget limitations, the Division of EEO should provide additional training on practical aspects of EEO performance and should offer a refresher course to those who have received the initial training course. (Pages 27 and 28)

9. Supervisors and managers should be sensitive to the workplace environment and should respond to any negative situations promptly to make clear that discriminatory conduct will not be tolerated in state employment. (Pages 29 and 30)

10. The life of the commission should be extended an additional year so that it may complete the work it has begun. (Page 31)

TABLE OF CONTENTS

	PAGE
INTRODUCTION	1
Chapter I. BACKGROUND	3
Chapter II. CLASSIFICATION AND PAY	10
Review of the Classification System	10
Entry Level Classifications	11
Comparable Worth	12
Chapter III. SELECTION PROCESS	15
Minimum Qualifications for Positions	15
Recruitment	17
Bilingual Criteria & Geographical Preference	19
Expanded Certifications	20
Handbook for Applicants	23
Chapter IV. PERSONNEL MANAGEMENT	25
Training Opportunities	25
Flextime	26
EEO Training for Supervisors	27
Evaluation of Supervisors' EEO Performance	28
Workplace Environment	28
Conclusion	31

APPENDICES

A. LEGISLATIVE RESOLVE NO. 37, 1981. Extending the Life of the Blue Ribbon Commission on the State Personnel Act	A-1
Letter of Intent to L.R. No. 37, 1981	A-2
B. STATE WORKFORCE BY DEPARTMENT	
Definitions of EEO-4 Job Categories	B-1
State Workforce Statistics by Departments	B-5
Changes in Employment of Minorities	B-24
Changes in Employment of Women	B-25
C. STATE WORKFORCE BY CENSUS SUBAREA	
D. ALASKA POPULATION BY CENSUS SUBAREA	
Population Statistics	D-1
Map of 1980 Census Subareas	D-2
Definition of Terms	D-3
E. 1980 POPULATION DATA BY AGE, RACE, AND SEX	

INTRODUCTION

The Blue Ribbon Commission on the State Personnel Act was established by the Legislature in 1978. It has considered a number of issues concerning the state's employment practices and experience since then. In 1981, the First Session of the 12th Legislature passed Legislative Resolve No. 37, directing that the Commission consider the employment of women and minorities in the executive branch of state government, particuarly the classified service employees.

The Commission has held public hearings in Anchorage and Juneau on this question and has received written testimony as well. In addition, members of the Commission have been approached privately concerning experiences of some who were unwilling to come forward publicly.

The Commission is composed of individuals representative of persons and groups closely concerned with the state's personnel system. In addition to legislators, membership on the Commission includes representatives from public employee unions and associations, from the Department of Administration and the Division of Personnel, from the Ombudsman's office, as well as managerial state employees and public members.

The Commission believes that the subject of possible discrimination against individuals is a very sensitive one, and that the individual testimony received may not be entirely representative of the feelings of many people who were unwilling to come forward for

fear of reprisal in their work situation.

To questions of employment practices which may have a discriminatory effect on members of racial, ethnic and sexual groups should be added consideration of more general problems in the personnel system. These general problems exacerbate the experience of minorities and women while also hampering other individuals. Accordingly, this report addresses both policies designed to improve the employment situation for members of protected classes and also problems which, while not directly related to that question, could serve to improve the experience of those people if they were remedied. The Commission urges the Legislature to consider the information presented here and to support the steps necessary to insure that the State of Alaska continues in its commitment as an employer accessible to all citizens of the state.

CHAPTER I

BACKGROUND

Under the state constitution, Alaska is committed to providing equal employment rights to all. The Alaska Human Rights Law states that it is unlawful for an employer to discriminate against a person because of race, religion, color or national origin; or because of the person's age, physical handicap, sex, marital status, changes in marital status, pregnancy or parenthood when the reasonable demands of the position do not require a distinction on that basis. The definition of employer specifically includes the state.

The state's equal employment opportunity policy is set out in Administrative Order No. 59, which provides in part:

> The policy of the executive branch of the State of Alaska is equal opportunity and nondiscrimination in all of its employment decisions, programs, and activities. The state shall take affirmative steps to implement this policy in the internal affairs of state government, as well as its relations with the public.

The Division of Equal Employment Opportunity in the Department of Administration has the major responsibility for carrying out this policy. It assists each department in the executive branch to evaluate its employment situation and to prepare the annual departmental affirmative action plan. The division then monitors the progress made by the departments throughout the year. In addition, the division provides training in EEO matters to managers, supervisors and employees to strengthen their knowledge and understanding of

state and federal anti-discrimination laws and subjects, and works with the Division of Personnel to insure that the state personnel system operates in a nondiscriminatory manner and provides tools to help agencies meet their affirmative action goals. The division also works with the Division of Labor Relations to address EEO concerns raised within the collective bargaining process.

Policies to promote equal employment opportunity must mesh with the personnel system to be effective. Questions of classification of positions, pay, selection, promotion, training opportunities, and discipline concern both the personnel system and equal employment opportunity. Because most of the state's employees are members of a bargaining unit and subject to the provisions of a collective bargaining agreement, the state's equal employment policies must also be considered in the labor relations area, which addresses the same topics in contract negotiations. These three approaches to personnel management must work together to insure that the state's employment needs are fairly and efficiently met.

General problems in the personnel system will have an impact on members of minorities and women which may be greater than their impact on the general workforce. Therefore, the commission considered it important to continue its general review of the personnel system, as well as focusing its attention to the particular situation of women and minorities employed by the state.

According to the 1980 preliminary census figures, the State of Alaska has 400,481 people, 23.7% (or 95,198 *) of whom are members of a minority group. Alaska Natives are the largest ethnic minority group, making up 16% of the population. There are 188,160 women which represents 47% of the total population.

In considering employment questions, working age population is a better comparison than total population. According to the 1980 census, women compose 46.4% of the population over 20 years of age. Women are 43.6% of the executive branch workforce. The following table provides information on minority representation in the state workforce.

TABLE I. COMPARISON OF STATE POPULATION WITH STATE WORKFORCE

	PERSONS 18 AND OVER		EXECUTIVE BRANCH WORKFORCE	
TOTAL	271,106	100.0%	11,410	100.0%
White	215,550	79.5%	10,331	90.6%
Alaska Native °	37,161	13.7%	539	4.7%
Black	9,107	3.4%	252	2.2%
Asian/Pacific Islander	5,604	2.1%	185	1.7%
Hispanic *	5,642	2.1%	103	0.9%

Taken from the "1980 Census of Population and Housing in Alaska, Advance Reports" and from Computer Run AEO-3600-R02 dated December 31, 1981. For more detailed information on population and on the state workforce, see Appendices B, C, D, and E.

° Alaska Native includes American Indian

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* Since the 1980 census may count persons of Spanish origin in a race category as well as in the Hispanic category, some persons have been counted twice in computing the total minority population.

Table I shows a marked difference in Alaska Native employment as compared with their representation in the working age population. There is some difference in the employment figures for Blacks, Asians and Hispanics as well.

In considering employment questions, however, comparisons of population figures with the overall percentages of minorities and women in the employer's workforce is of very limited value. The figures show nothing about the cause of the discrepancies, nor whether there is actual underutilization of those groups by the state. To determine that, it is necessary to establish availability figures for minorities and women in the relevant recruitment area based on more specific occupational groupings such as Professional Accountants, Biologists, Civil Engineers, etc. In otherwords, it is necessary to estimate how many qualified minorities and female Accountants, Biologists, Civil Engineers, etc., can personally be expected to be available in the employer's surrounding labor market.

Availability information is prepared by the Division of Equal Employment Opportunity for use by each department when it prepares its Affirmative Action Plan. The standards used in the 1981 Affirmative Action Plans have been based on the state working age population derived from 1970 census information. The division recognized that those figures presented a somewhat simplistic view of workers available, but it was the best information at the time. For the 1982 Affirmative Action Plans, the division is preparing availability information derived from state unemployment figures as

well as data on the state and local workforce, school employment, and private industry employment and the 1980 census statistics. Where appropriate, availability standards will also take into account union membership and participation in apprenticeship programs. The new computations should give a more accurate standard against which to compare the state workforce.

The standards are prepared for eight EEO-4 job categories. Job categories are groups of job classes which have similar duties, responsibilities, skill-levels or educational requirements, or work in a particular field of endeavor. Each category includes entry level, mid-level and senior level job classes and spans many salary ranges. The categories therefore do not reflect divisions of the work force by salary ranges. The standards count all minority groups together. For 1980-81, the Utilization Standards were:

TABLE II. MINORITY AND FEMALE EMPLOYMENT UTILIZATION STANDARDS 1980-81

EEO-4 Job Category	Minority Standards	Female Standards
Officials/Administrators	19.3%	44.0%
Professionals	19.4%	49.0%
Technicians	20.1%	43.7%
Protective Service	23.6%	44.0%
Para-Professionals	21.3%	54.7%
Office Clerical	21.1%	79.6%
Skilled Craft	29.5%	43.7%
Service Maintenance	35.1%	43.9%

Definitions for EEO-4 job categories are included in Appendix B.

As a whole, statistics indicate that state workforce does not now meet the 1981 standards for minority employment. To the extent that

the availability standards overstate or understate the people available, however, the comparison will be inaccurate.

Testimony before the Blue Ribbon Commission revealed that some people are concerned not only about whether the state workforce reflects the composition of the population, but also whether minority group members and women are comparably represented in positions in the higher salary ranges. Wage information is of limited significance because it does not address the career areas for employees in each salary range. Conclusions that can be drawn from wage information are further limited by the lack of wage information for minorities and women in Alaska with which to draw meaningful comparisons. In the following table the count for women includes women of all races. The count for minority persons includes both males and females.

TABLE III. WOMEN AND MINORITY EMPLOYEE BY SALARY RANGES

Ranges	Total All Employees	Minority		Women	
		Total	Percent	Total	Percent
20-30	1,385	54	3.9%	227	16.4%
17-19	1,363	64	4.7%	383	28.0%
1516	1,182	100	8.4%	499	42.2%
12-14	2,041	217	10.6%	1198	58.7%
5-11	3,265	461	14.1%	2547	78.0%
TOTALS	9,236	896	8.2%	4854	52.5%

Taken from Computer Run R01-02W-3700 dated September 30, 1981

Comparing employment by salary range with the utilization standards set for 1980-81 is not directly possible, since the EEO-4 job categories overlap salary ranges. Generally speaking it can

be said that women and minorities employed by the state are grouped more predominantly in the lower salary ranges and are not proportionately in upper salary ranges.

CHAPTER II

CLASSIFICATION AND PAY

The classification system is the basis for the state personnel system. All positions in the classified and partially exempt services of the executive branch are placed into job classes. Each class is composed of positions with similar duties and responsibilities. Classification of a position is therefore a comparison of one job with other jobs in the state. Each job class is assigned to a pay range, either in the regular salary structure (Ranges 5-30) or in the shipboard, public safety or labor trades and crafts salary structures. The actual salary paid within the range is dependent on union contracts, area differentials, and other considerations. All salary plans, regardless of how dollar amounts are assigned, are based on a classification plan; therefore the basic salary for a position is determined by the job classification. Currently there are 1204 job classes within the state personnel system.

REVIEW OF THE CLASSIFICATION SYSTEM

The Blue Ribbon Commission heard testimony that the state classification plan contains many instances of inaccurate job classifications. Information presented to the commission indicated that an individual classified as an Administrative Assistant I (salary range 12) actually had greater responsibilities for the program she was working on than a person working on another program whose position was classified as an Administrative Officer II with a salary range of 19. The department was not successful in having the Administrative

Assistant position upgraded to an Administrative Officer.

Problems in classification may arise if a position is initially inappropriately classified or if the responsibilities and duties of a position change over a period of time. The personnel system requires that the duties of a position be reviewed annually during each employee's performance evaluation, but this does not always result in a reclassification to reflect changes which have occurred. Reviews of individual positions do not have the scope to address more general misclassifications.

The state personnel system will not work fairly for all employees until all classifications are appropriate and consistent. The Blue Ribbon Commission recommends that a review of the state's entire classification system be done.

ENTRY LEVEL CLASSIFICATIONS

Job classes are typically grouped into series, with an entry level position followed by one or more advanced positions in the career ladder. The commission received information about the Department of Health and Social Services' effective use of this structure to staff positions in rural Alaska.

In 1978 the department reviewed its social worker positions. In cooperation with the Division of Personnel, tasks which required less training and experience were identified and separated from those which required the full social worker skills. These less complex duties were grouped into a new job series, called the Social Services Associates. The training and experience requirements for Social

Services Associates were less demanding than those for the social worker series, and the job classes within the associate series were set at lower salary ranges than the social worker series. The department provided that associates would be closely supervised by social workers and their work reviewed. In addition, the changes were made so that three years of satisfactory performance as a social services associate would meet the training requirements for the Social Worker I position, thereby providing an advanced career ladder for the Social Services Associate series. In November of 1981, the department reported that Native persons from the region were staffing all of the Social Services Associate positions in the Bethel region.

The structuring of duties in the social work field into two related job series provided a vehicle for individuals in the rural areas of Alaska to gain experience and training which would then enable them to advance into better paying, more challenging positions. It also enabled the state to take advantage of those employees' familiarity with the language and customs of the majority of the population the department was providing services to, and therefore to better serve its clients.

COMPARABLE WORTH

The State Personnel Act provides that the state pay plan "shall be based on the state classification plan, shall provide for fair and reasonable compensation for services rendered, and shall

be based on the principle of like pay for like work." AS 39.25.150(2).

The commission received information about the principle of comparable worth. The principle states that work of comparable value to an employer should be compensated at a comparable rate. It differs from the principle of equal pay for equal work (or like pay for like work) in that it compares different kinds of work in setting pay levels. The equal pay principle can be applied where the duties of two employees are similar and can be directly compared to each other.

Comparable worth attempts to provide a framework by which jobs with dissimilar duties can be compared and salaries set for them equitably. The framework is created by the employer, based on a rating system which assigns points to such factors as the knowledge and training required to perform a job, the specific demands and responsibilities of the job, accountability for decisions, and working conditions. Each employer can decide which factors are most important within the context of its goals, so the value of the same job for two different employers may be different.

After the rating scale has been prepared, the employer reviews the duties of each job and calculates the point value for the job. This point value is then used in setting salaries for all of the employer's workforce. Since the rating scale assigns values for all of the factors which the employer considers important in deciding on compensation for a position, the system permits very dissimilar jobs to be compared. Many women's groups see existing

classification and pay systems as perpetuating societal undervaluation of women's work. They believe that the comparable worth system breaks the reliance on historically discriminatory pay structures and is therefore a better system.

Changing to a comparable worth system can present a substantial disruption to an employer's pay system. The relative values of positions may change considerably. To the extent that it is difficult to reduce salaries for positions which are found, under the new system, to be overpaid, the employer may be faced with raising salaries for many employees, should it choose to implement its findings. If the employer completes a comparable worth study but decides not to implement its findings, workers whose jobs have been determined to be underpaid may well press to have their salaries increased to the new level. The Blue Ribbon Commission has not had time to fully consider this complex issue and therefore makes no recommendation on it.

CHAPTER III

SELECTION PROCESS

The selection process for classified positions is a cooperative effort between the agency in which a vacancy occurs and the Division of Personnel. The Division accepts applications from individuals interested in working for the state, evaluates them to insure that they meet the minimum qualifications for the job class for which they are applying, ranks them relative to all others who are eligible for that job class and places them on the appropriate eligible lists. When an agency has a vacancy, it requests the division to issue the eligible list for that job class. The agency then contacts the applicants on the list and makes its selection decision. The Personnel Rules require that, absent a special circumstance, selection be made from the highest five individuals who are interested and available.

MINIMUM QUALIFICATIONS FOR POSITIONS

The minimum requirements which applicants must meet to be considered for a job class are set by the Division of Personnel after consultation with the departments which have positions in that job class. These requirements can be reviewed and changed, should that prove desirable. Generally, the minimum requirements for job classes are not reviewed unless a department requests it.

The commission heard testimony indicating that in some cases, changes in educational programs have not led to changes in the minimum requirements established for job classes within that

educational field. The individual had discovered that the minimum requirements for the Regional Health Officer job class require that applicants hold a degree either as a medical doctor, a dentist or a veterinarian. She intended to pursue a Ph.D. in the field of health policy and management, but despite the appropriateness of that training for the responsibilities of a health officer, she would be ineligible for the job class unless the minimum qualifications were brought up-to-date, as has been done in other states.

A second problem in the area of minimum qualifications occurs when the standards are set without awareness of an adverse impact on one group of people. For example, in the past, height requirements for Public Safety officers were found to unfairly preclude individuals of some races from consideration for positions without proving to be essential to the effective performance of the job. Possible future issues in this area include studying whether it is appropriate to include the ability to read and write as a minimum qualification in some job classes.

To the extent minimum qualifications for a job class do not accurately reflect the skills actually needed to perform the work, the state may be unfairly eliminating individuals from being considered. It is also denying itself the opportunity to select from the most appropriately constructed pool of applicants. If the minimum qualifications set for a position unfairly remove from consideration a disproportionate number of a protected class, the state may also find those standards challenged in court as a denial of equal employment opportunity.

RECRUITMENT

The state does not actively recruit applicants for most positions in the classified service. Those individuals who wish to apply may do so, and vacancies will be filled from the pool of those found qualified. The state accepts applications for most positions year-round, whether or not there are expected to be vacancies in that job class and regardless of the number of applicants who have already been found qualified. Recruitment for some job classes has been closed except for a 30-day period each year because of the large numbers of qualified applicants and also to reduce the numbers of applications which the Division of Personnel must handle. However, closing job classes limits the opportunity afforded to Alaskans to apply for state employment.

There is a conflict between the cost effective use of limited resources and the limiting of opportunities to Alaskans to apply for state jobs. Closing registers has an especially hard impact on local hire in the rural areas of the state. Unfortunately, in the past adequate resources have not been provided to the Division of Personnel. They have not been able to handle all of the applications received when all job classes were open year-round.

To the extent that there is little effort to encourage individuals from race/ethnic or sexual groups who are under-represented in the state workforce to apply for work with the state, these groups are less likely to be well-represented in the applicant pool. Hiring authorities will have fewer members from those groups to consider when filling vacancies and it will

be more difficult for the state to meet affirmative action goals. Limiting recruitment periods can also work a greater hardship on rural Alaskans than on people closer to centers of state employment.

Recruitment efforts can help to increase the numbers of members from groups who do not usually consider seeking employment with the state on the registers. The Department of Health & Social Services and the Division of Personnel have been cooperating in an active recruiting effort for Youth Counselors for the new Nome Youth Center. Teams have traveled to the Nome area to accept and evaluate applications and conduct and score examinations. The department hopes to encourage people in the area to work in the facility. Instead of the usual practice of scoring tests first and then holding oral exams, the department and the division held open the scoring of written exams until the oral exams had been completed. This kind of recruitment effort may also be appropriate for the new prison facility in Nome which is scheduled to open in two years. According to information presented in the draft of the "Prisoner Profile Study" prepared by the Department of Health & Social Services, Division of Adult Corrections, Alaska Natives are disproportionately represented in the state's prison population, making up 32% of the total while they compose 16% of the total state population. The Division of Personnel has worked with other departments on similar cooperative recruitment efforts.

There are other sources available to the state to expand its recruitment efforts. Job Service Centers around the state can

provide assistance. Most villages now have cable television and job openings can be announced through these scanners. Native Corporations may provide help in reaching their shareholders with information.

BILINGUAL CRITERIA AND GEOGRAPHICAL PREFERENCE FOR POSITIONS

Alaska is a state in which several languages are spoken. Work performed by some state employees requires close communication with people who are not fluent in English. The commission heard testimony concerning a position in the Dillingham area in which the employee's duties included gathering information from clients and advising them of their eligibility for a program. The testimony indicated that there was strong community feeling that the state employee should be someone from the area who understood the local culture and language. The individual testifying recommended that a regional preference be given when filling rural positions to address this concern.

The commission recommends that knowledge of the predominant language be a job requirement for rural positions requiring communications and knowledge of the cultural background. The commission also notes that in jobs with no emphasis on communication, the regular requirements for that job class should be the basis for evaluating qualifications of applicants.

By putting bilingual ability into the position description, the hiring authority will be able to most effectively and efficiently use the register when seeking to fill the position. The hiring authority will be able to select from the highest five eligibles

interested in the position who have ability in the language specified. He or she will not have to consider applicants who do not meet this necessary qualification. It would be inappropriate to add a bilingual requirement to the minimum requirements of the job class, since many positions within the class will not require ability in a second language. The commission also noted that it is important to recognize that a bilingual requirement can only be added to those positions in which the duties genuinely include a need to communicate with people who are not fluent in English.

The commission further recommends that for appropriate job classes, the Division of Personnel should establish a preference for hiring local residents for positions in rural areas of the state. The division should consider whether there is a benefit to be received if competition for the position is on a statewide basis or whether the requirements for the position can be readily met within the local applicant pool. The division should consult with the departments affected in developing the local preference system.

EXPANDED CERTIFICATIONS

On March 26, 1981, the Director of Personnel ruled that hiring authorities could use a variation of an existing procedure to correct underutilization of employees of racial or sexual groups. The procedures are called expanded certifications, affirmative action certifications or five-plus-five registers. To use the system the department must have shown in its Affirmative Action Plan that the group in question is underutilized for that job class. Underutilization is shown when the agency determines that it employs

fewer members of a racial or sexual class, or both, in a job classification within a specific job group (for example, entry professional, mid-level professional, senior professional, etc.) than the proportionate number of qualified persons of that racial or sexual class in the relevant job market. The standards in use for determining the availability of qualified persons in the job market are the availability standards set by the Division of Equal Employment Opportunity.

When the agency decides to use the expanded certification procedures to fill a vacancy, it first requests authority from the Division of EEO to appoint from below the highest five available candidates in order to correct the demonstrated underutilization. If the Division of EEO finds that the agency determination of underutilization is documented, it concurs in the request and sends it to the Division of Personnel which then issues a register. With the register, the agency can either hire from the highest five eligible applicants or from the highest five eligibles from the underutilized minority, racial or sexual group. In either case, the department is not permitted under these procedures to select applicants lower on the register. (There may be other circumstances which would justify a lower selection, but those require different procedures.)

As of February 16, 1982, the Division of EEO reported that seven departments had used authorization to hire from an expanded affirmative action certification and the other seven had not yet used those procedures. All departments have shown underutilization

in some job classes for both minorities and women. Out of some 1500 register requests for the quarter from October 1, 1981 through December 31, 1981, departments requested 551 affirmative action certifications. Many departments are not yet returning completed hiring reports to the Division of EEO so it is not possible to accurately follow the results of these procedures yet. The division will be working with the departments to improve the reporting of hiring results. It will also meet with departmental officials from the departments not yet using the procedures to explain the system and encourage its use when justified by the department's workforce composition.

It should be noted that the affirmative action certifications are not a hiring quota system. They permit consideration of additional applicants from a group which is shown to be underrepresented in the workforce. There is no requirement that the vacancy be filled by selecting a member of that group. The Attorney General's memorandum of January 21, 1981, on the Procedure for Affirmative Action Plan states:

> Under these procedures, no applicant is to be denied employment solely on the basis of race or sex, and none is to be hired solely on that basis. Rather, these procedures are designed to correct, so long as it may exist, any underutilization of racial or sexual groups which may have resulted from pre-existing selection procedures or from their misapplication. These procedures may be utilized only where underutilization is documented by an agency's Affirmative Action Plan and not otherwise. When documented underutilization of a class has been corrected, these procedures no longer apply.

By not requiring that selection occur from an underutilized group, the procedures stay within the framework of the merit system. Appointments to positions are still made on the basis of ability, and the selection is not to occur solely on the basis of race or sex. However, the procedures provide hiring authorities with a tool for correcting past recruiting, selection and promotion devices which resulted in fewer members of racial or sexual groups finding employment with the state than were available in the labor market.

The Blue Ribbon Commission recommends and encourages the executive branch to make use of affirmative action certifications to improve employment opportunities for members of underutilized groups.

HANDBOOK FOR APPLICANTS

The commission has frequently heard questions from individuals wanting to work for the state which indicate that they do not fully understand the state hiring process. They do not understand that the role of the Division of Personnel is to provide a pool of interested candidates for positions in the departments of the executive branch. The division does not make hiring decisions except for its own staff. Each hiring authority is responsible for selecting an individual to fill a vacancy within its agency.

Some applicants appear to be overly optimistic about the possibilities of being offered a position when they file an application with the Division of Personnel. Some job classes have very few positions and many applicants, so the likelihood of an applicant

finding a job in that class is very limited. Other job classes have very little turnover, which also reduces the likelihood that an applicant will be offered a job.

The commission recommends that the Division of Personnel prepare a simple, short, inexpensive information sheet which provides an overview of the state hiring process to applicants. This sheet should be widely distributed throughout the state both at locations where people seek information about state hiring and through organizations which represent or involve members of groups from whom the state is seeking applications such as Native Corporations, women's groups and racial or ethnic organizations.

CHAPTER IV

PERSONNEL MANAGEMENT

There were several issues brought to the attention of the commission concerning facets of the employment situation for employees.

TRAINING OPPORTUNITIES

Agencies have limited funding to provide training for their employees. Testimony indicated that these funds are generally made available to employees whose positions are in higher salary ranges. Training programs may take the form of in-house presentations, conferences or seminars on a state, regional or national level, or training contracts between the employee and the agency. The contracts may provide that the employee will be reimbursed for educational expenses for satisfactory completion of coursework which the agency considers to be directly beneficial to the agency and directly related to the employee's job performance.

The Blue Ribbon Commission discussed recommending that part of the training funds be reserved for employees in lower salary ranges proportionate to their representation in the agency's workforce. The commission urges that agencies be responsive to career needs of employees in lower ranges by providing appropriate career advancement and improvement opportunities within their budget limitations. The commission recognizes that it may be more economical for midmanagement individuals to participate in training outside the agency and then conduct in-house training sessions based on the information they have received.

The commission recommends that the state give priority to training displaced employees to enable them to find other employment opportunities. The state should assist employees disabled on the job in gaining any needed skills to qualify for other work. In addition, the state should assist in training employees whom it has laid off from one agency to qualify for other positions. The second priority in allocating training funds should be to improve the performance of current employees. The third priority should be to assist employees in gaining skills needed for career advancement. The commission notes that the less Alaska spends in training its own employees, the more frequently it will have to search outside the state to fill its employee needs.

FLEXTIME

The geography of Alaska covers four time zones. In order to promote the ability of people everywhere in the state to do business with state agencies, the commission strongly recommends that the Administration continue to develop the use of flextime. Offices should be open both during lunch hours and Juneau offices should remain open for at least most of the working day of more western parts of the state. In setting up the system it is important to insure that individuals who can make decisions about issues which may be raised are available in the later hours.

EEO TRAINING FOR SUPERVISORS

The Division of Equal Employment Opportunity has the responsibility for providing training to state employees on EEO matters. The division provides training courses to supervisors and managers to increase their knowledge of the laws prohibiting employment discrimination and to familiarize them with their responsibilities under these laws. All supervisors are required by executive order to attend EEO classes given by the division and in the past two or three years, approximately 1500 people have participated in the courses which are offered statewide. The programs are focused primarily on attitude and behavior.

The commission heard that some supervisors are unfamiliar with procedures such as the affirmative action certifications to be used to correct underutilization of protected classes. Supervisors and managers make the individual decisions which determine whether the state's equal employment opportunity policy is successful or not. They are the individuals who select employees, authorize training opportunities, promote and discipline the state employees. They are also responsible for setting the workplace environment. To the extent these individuals are unfamiliar with the developments in the state personnel system, they will be unable to respond to the opportunities the system provides.

The commission recommends that, subject to available staffing, the Division of EEO provide information to supervisors on how to resolve the practical questions of providing equal employment opportunity within

the state workforce in addition to the training programs which are presently offered. The division should also consider whether offering a refresher training course to supervisors and managers who have received the initial course would be beneficial within present budget and staffing constraints. Division programs should include information on the affirmative action certification hiring procedures so that the system may be fully utilized by the state.

EVALUATION OF SUPERVISORS' EEO PERFORMANCE

The Personnel Rules require that each employee receive an annual performance evaluation. Supervisors are required to be rated on their EEO performance as well as on other aspects of their job performance. The EEO rating requirement is satisfied if the rater checks one of the boxes indicating the supervisor's level of performance. It has been suggested that a narrative review should be required, in addition to the simple ranking provided by the present system. The commission discussed this suggestion. The narrative section is reserved for comments which reflect outstanding performance or achievements or for presentation of areas in which the subject needs to make improvements. If a supervisor's EEO performance is average or if, within the framework of the supervisor's duties, there has been little opportunity to address EEO concerns, then a narrative would be inappropriate.

WORKPLACE ENVIRONMENT

The commission heard testimony concerning an innovative approach to creating a positive workplace environment. A supervisor

hired a new state employee, the first Black person to work in that office. Concerned that the new employee have access to someone to talk with about his concerns, the supervisor asked another Black employee of the department to take an interest in the new employee. The relationship was informal and required little time but did provide the new employee with a sounding board. Having someone to talk with can allay fears of discrimination and show that a new policy is affecting all employees, or that one individual has the same manner with everyone, not just the minority employee.

On the other hand, the commission heard testimony of one state employee who was seriously adversely affected by a destructive workplace environment. She was the only minority employee at her level in the agency and another employee of the agency was in the habit of making derogatory comments concerning her racial group. In addition, when work assignments were given, she frequently received the less demanding tasks although she was rated as being an above average worker. These experiences had a negative affect on her productivity.

The commission strongly recommends that supervisors and managers be sensitive to the informal exchanges which occur among the employees in their agencies and that steps be taken to insure that action is taken whenever negative situations such as the one described occur. Supervisors and managers should encourage employees to relate their concerns about discrimination. However, since many

employees may fear retaliation should they speak out, supervisors and managers need to be particularly sensitive to what is going on around them. They should make clear that discriminatory conduct towards any racial, ethnic or sexual group or other legally protected class will not be tolerated in state employment.

Conclusion

The Blue Ribbon Commission has begun the task of reviewing the state's employment of women and minorities. With the limited information presently available it is not possible to truly evaluate the extent of any discrimination in the state system, either by racial or ethnic group or by gender. However, the commission has begun in a manner in which we believe we can identify problems and make recommendations to correct certain practices which have discriminatory affects if given the time to complete the task. The commission therefore requests that the Legislature extend its life for an additional year.

APPENDICES

STATE OF ALASKA

THE LEGISLATURE

1981

Source	Legislative Resolve No.
SCR 10	37

Extending the life of the Blue Ribbon Commission on the State Personnel Act.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

WHEREAS in 1978 the legislature through Legislative Resolve No. 27 authorized the Legislative Council, in cooperation with the director of personnel to form a "blue ribbon" commission to study the State Personnel Act; and

WHEREAS the commission was formed as authorized by the resolution, made its report to the First Session of the Eleventh Legislature, and, in response to the commission's request for additional time to study problems it had identified, was funded by the legislature for a second year; and

WHEREAS in 1980 the commission made its second report to the legislature, and the legislature through Legislative Resolve No. 38 authorized the commission to continue to perform the assignments made to it by 1978 Legislative Resolve No. 27; and

WHEREAS the commission is continuing to develop answers to the issues it has identified and more time is needed to complete the task which it was assigned;

BE IT RESOLVED by the Alaska State Legislature that the Blue Ribbon Commission on the State Personnel Act is authorized to continue to perform the assignments made to it by 1978 Legislative Resolve No. 27, through June 30, 1982.

LETTER OF INTENT

to

LEGISLATIVE RESOLVE NO. 37

It is the intent of the Senate Rules Committee that the Blue Ribbon Commission address the question of hire of women and minorities within the Alaska State Division of Personnel. Included in the final report presented to the Second Session of the Twelfth Legislature will be an analysis of the current hiring practices of minorities and women, a statistical breakdown of the number of minorities and women within state government, and recommendations to the Legislature.

STATE WORKFORCE BY DEPARTMENT

The following tables show the change in the racial and sexual composition of the state workforce from December 31, 1980 to December 31, 1981 grouped into EEO-4 job categories. The information is taken from Computer Runs AEO-3600-R02 for those two dates. Figures for Alaska Natives include Eskimo and Aleut individuals.

The Division of Equal Employment Opportunity has modified definitions for each of the EEO-4 job categories into which job classes and positions are placed to make them more consistent with the State Classification System. The Division of Personnel assigns job classes to EEO-4 categories by determining the major tasks and duties performed by the positions within the job class and then assigns the class to the appropriate job category. These assignments are reviewed and approved by the Division of Equal Employment Opportunity.

Abridged definitions for each of the EEO-4 job categories used in the tables follow:

A. OFFICIALS AND ADMINISTRATORS

Definition: occupations in which employees:

1. set broad policies for a major governmental unit; i.e., a department, division, commission or board, and/or exercise overall responsibility for executing broad policies and establishing regulations for enacting these policies;

2. direct individual departments or administer special phases of the department's operations, specifically commissions, boards, and divisions; and/or

3. provide specialized consultation on broad policies and/or overall management on a regional, district, or area basis.

B. PROFESSIONALS

Definition: occupations which require a theoretical and specialized knowledge of a specific subject area or field of activity. Such knowledge usually is acquired through:

1. college education; or

2. work experience or training providing comparable knowledge.

Occupations in the professionals category are concerned with the theoretical aspects and practical application of principles in such fields of human endeavor as: architecture; engineering; mathematics; physical sciences; social sciences; medicine and health; education; museum, library, and archival sciences; law; theology; the arts; recreation, administrative specialities; and management.

C. TECHNICIANS

Definition: occupations which require a specialized combination of a basic knowledge of a scientific or mechanical field and a manual skill. The applied knowledge and manual skill may be acquired through either specialized post-secondary school education or equivalent on-the-job training or a combination of the two.

D. PROTECTIVE SERVICE WORKERS

Definition: occupations in which workers are entrusted with public safety, security and protection from destructive forces.

E. PARAPROFESSIONALS

Definition: occupations in which workers perform some of the duties of a professional or technician in a supportive role. Paraprofessional positions generally fall into one of two groups:

1. upwardly mobile: paraprofessional positions which occur within an identified pattern of staff development

and promotion (i.e., line of progression). Upon successful completion of the trainee program, the employee is promoted to a professional, technician, or higher level paraprofessional position; or

2. nontransitory: paraprofessional positions which, while they may offer promotional opportunities inherently are not mobile in design, employees are not expected to promote to a new position after the completion of a set period of on-the-job training. Incumbents in these positions generally perform duties and responsibilities which demand very little increased knowledge or ability.

F. OFFICE AND CLERICAL

Definition: occupations in which employees perform routine tasks and duties related to internal and external communication; recording and retrieval of data and/or information; and other transactions in an essentially supportive role, most generally in an office environment.

G. SKILLED CRAFT WORKERS

Definition: occupations in which employees are engaged in machine, benchwork, or structural work trades where such trades are defined as:

1. machine trades: occupations concerned with the operation of machines that cut, bore, mill, abrade, print and similarly work such materials as metal, paper, wood, plastics and stone;

2. benchwork trades: occupations concerned with using body members, handtools, and bench machines to fabricate, inspect, or repair relatively small products, the work is usually performed at a set station, such as a bench, worktable or conveyor;

3. structural work trades: occupations concerned with fabricating, erecting, installing, paving, painting, and repairing structures and structural parts, such as buildings, bridges, roads and combustion engines.

Positions in the skilled craft workers category may fall into one of three subcategories:

1. journeyman position; i.e., a position which requires a combination of special manual skill and a thorough and comprehensive knowledge of the processes involved in the work;

2. apprentice position; i.e., a position held by a trainee who is learning a trade by practical experience under the direction of a journeyman skilled craft worker; or

3. general laborer; i.e., a position held by a worker who performs manual labor in support of construction activities or in support of the operation and maintenance of equipment.

H. SERVICE/MAINTENANCE

Definition: occupations in which workers perform duties which result in or contribute to the comfort, convenience, hygiene or safety of the general public or which contribute to the upkeep and care of buildings, facilities, grounds, or other public property.

OFFICE OF THE GOVERNOR

		YEAR	SEX	EMPLOYEES Total	EMPLOYEES Percent	MINORITY Total	MINORITY Percent	WHITE Total	WHITE Percent	BLACK Total	BLACK Percent	HISPANIC Total	HISPANIC Percent	AMER. IND. Total	AMER. IND. Percent	ASIAN/PAC. IS. Total	ASIAN/PAC. IS. Percent	AK NATIVE Total	AK NATIVE Percent
*	EXEMPT	1981	Total	22		2	9.0	20	90.9	1	4.5	1	4.5	0		0		0	
			Male	13	59.1	0		13	59.1	0		0		0		0		0	
			Female	9	40.9	2	9.0	7	31.8	1	4.5	1	4.5	0		0		0	
		1980	Total	21		1	4.8	20	95.3	0		1	4.8	0		0		0	
			Male	14	66.7	0		14	66.7	0		0		0		0		0	
			Female	7	33.3	1	4.8	6	28.6	0		1	4.8	0		0		0	
A	OFFICIAL/ADMIN	1981	Total	31		3	9.6	28	90.3	1	3.2	0		0		1	3.2	1	3.2
			Male	**16**	**51.6**	**1**	**3.2**	**15**	**48.4**	**0**		**0**		**0**		1	3.2	0	
			Female	15	48.4	2	6.4	13	41.9	1	3.2	0		0		0		1	3.2
		1980	**Total**	**26**		1	3.8	25	96.2	0		0		1	3.8	0		0	
			Male	15	57.7	0		15	57.7	0		0		0		0		0	
			Female	11	42.3	1	3.8	10	38.5	0		0		1	3.8	0		0	
B	PROFESSIONALS	1981	Total	98		13	13.1	85	86.8	2	2.0	0		2	2.0	7	7.1	2	2.0
			Male	50	51.	8	8.1	42	42.9	0		0		2	2.0	5	5.1	1	1.0
			Female	48	48.9	5	5.0	43	43.9	2	2.0	0		0		2	2.0	1	1.0
		1980	Total	91		10	10.0	81	89.1	3	3.3	0		2	2.2	3	3.3	2	2.2
			Male	46	50.6	5	5.5	41	45.1	0		0		2	2.2	2	2.2	1	1.1
			Female	45	49.5	5	5.5	40	44.0	3	3.3	0		0		1	1.1	1	1.1
C	TECHNICIANS	1981	Total	3		1	33.3	2	66.7	0		1	33.3	0		0		0	
			Male	0		0		0		0		0		0		0		0	
			Female	3	100.0	1	33.3	2	66.7	0		1	33.3	0		0		0	
		1980	Total	3		0		3	100.0	0		0		0		0		0	
			Male	0		0		0		0		0		0		0		0	
			Female	3	100.0	0		3	100.0	0		0		0		0		0	
D	PROTECTIVE SERV.	1981	Total	NO EMPLOYEES IN THIS CATEGORY															
			Male																
			Female																
		1980	Total																
			Male																
			Female																
E	PARA-PROFESSIONAL	1981	Total	1		0		1	100.0	0		0		0		0		0	
			Male	1	100.0	0		1	100.0	0		0		0		0		0	
			Female	0		0		0		0		0		0		0		0	
		1980	Total	2		0		2	100.0	0		0		0		0		0	
			Male	1	50.0	0		1	50.0	0		0		0		0		0	
			Female	1	50.0	0		1	50.0	0		0		0		0		0	
F	OFFICE/CLERICAL	1981	Total	94		15	16.1	79	84.1	5	5.4	1	1.1	3	3.2	1	1.1	5	5.3
			Male	4	4.3	1	1.1	3	3.2	1	1.1	0		0		0		0	
			Female	90	95.7	14	15.0	76	80.9	4	4.3	1	1.1	3	3.2	1	1.1	5.	5.3
		1980	Total	87		21	23.9	64	73.5	4	4.6	1	1.1	5	5.7	2	2.2	9	10.3
			Male	6	5.5	2	2.2	2	2.2	0		0		0		1	1.1	1	1.1
			Female	81	93.1	19	21.7	62	71.3	4	4.6	1	1.1	5	5.7	1	1.1	8	9.2
G	SKILLED CRAFT	1981	Total	NO EMPLOYEES IN THIS CATEGORY															
			Male																
			Female																
		1980	Total																
			Male																
			Female																
H	SERVICE/MAINT	1981	Total	4		2	50.0	2	50.0	0		0		2	50.0	0		0	
			Male	1	25.0	0		0		0		0		1	25.0	0		0	
			Female	3	75.0	2	50.0	2	50.0	0		0		1	25.0	0		0	
		1980	Total	3		2	66.6	1	33.3	0		0		2	66.6	0		0	
			Male	1	33.3	1	33.3	0		0		0		1	33.3	0		0	
			Female	2	66.7	1	33.3	1	33.3	0		0		1	33.3	0		0	
	TOTALS	1981	Total	253		36	14.2	217	85.7	9	3.6		1.2	7	2.8	9	3.6	8	3.2
			Male	85	33.6	11	4.4	74	29.2		.4	0		3	1.2	6	2.4	1	.4
			Female	168	66.4	22	10.0	143	56.5	8	3.2	3	1.2	4	1.6	3	1.2	7	2.8
		1980	Total	233		35	15.0	198	85.0	7	3.0	2	.9	10	4.3	5	2.2	11	4.8
			Male	83	35.7	8	3.5	75	32.2	0		0		3	1.3	3	1.3	2	.9
			Female	150	64.4	27	11.7	123	52.8	7	3.0	2	.9	7	3.0	2	.9	9	3.9

ADMINISTRATION

	YEAR	SEX	EMPLOYEES Total/Percent		MINORITY Total/Percent		WHITE Total/Percent		BLACK Total/Percent		HISPANIC Total/Percent		AMER.IND. Total/Percent		ASIAN/PAC.IS. Total/Percent		AK NATIVE Total/Percent	
EXEMPT	1981	Total	3		0		3	100.0	0		0		0		0		0	
		Male	3	100.0	0		3	100.0	0		0		0		0		0	
		Female	0		0		0		0		0		0		0		0	
	1980	Total	2		0		2	100.0	0		0		0		0		0	
		Male	1	50.0	0		1	50.0	0		0		0		0		0	
		Female	1	50.0	0		1	50.0	0		0		0		0		0	
A OFFICIAL/ADMIN	1981	Total	35		0		35	100.0	0		0		0		0		0	
		Male	28	80.0	0		28	80.0	0		0		0		0		0	
		Female	7	20.0	0		7	20.0	0		0		0		0		0	
	1980	Total	25		1	4.0	24	96.0	0		0		1	4.0	0		0	
		Male	21	84.0	1	4.0	20	80.0	0		0		1	4.0	0		0	
		Female	4	16.0	0		4	16.0	0		0		0		0		0	
B PROFESSIONALS	1981	Total	252		9	3.6	243	96.5	1	.4	2	.8	3	1.2	3	1.2	0	
		Male	141	56.0	4	1.6	137	54.4	1	.4	1	.4	2	.8	0		0	
		Female	111	44.0	5	2.0	106	42.1	0		1	.4	1	.4	3	1.2	0	
	1980	Total	197		5	2.5	192	97.5	0		0		2	1.0	2	1.0	1	.5
		Male	106	53.8	2	1.0	104	52.8	0		0		1	.5	1	.5	0	
		Female	91	46.2	3	1.5	88	44.7	0		0		1	.5	1	.5	1	.5
C TECHNICIANS	1981	Total	51		9	17.6	42	82.4	2	3.9	0		3	5.9	3	5.9	1	2.0
		Male	14	27.5	3	5.9	11	21.6	0		0		2	3.9	0		1	2.0
		Female	37	72.5	6	11.8	31	60.8	2	3.9	0		1	2.0	3	5.9	0	
	1980	Total	45		8	17.8	37	82.2	2	4.4	0		2	4.4	3	6.7	1	2.2
		Male	11	24.4	2	4.4	9	20.0	0		0		1	2.2	0		1	2.2
		Female	34	75.6	6	13.3	28	62.2	2	4.4	0		1	2.2	3	6.7	0	
D PROTECTIVE SERV	1981	Total	4		0		4	100.0	0		0		0		0		0	
		Male	3	75.0	0		3	75.0	0		0		0		0		0	
		Female	1	25.0	0		1	25.0	0		0		0		0		0	
	1980	Total	5		1	20.0	4	80.0	0		1	20.0	0		0		0	
		Male	4	80.0	1	20.0	3	60.0	0		1	20.0	0		0		0	
		Female	1	20.0	0		1	20.0	0		0		0		0		0	
E PARA-PROFESSIONAL	1981	Total	130		15	11.7	115	88.5	6	4.6	1	.8	1	.8	2	1.6	5	3.9
		Male	23	17.8	2	1.6	21	16.2	0		0		0		1	.8	1	.8
		Female	107	82.3	13	10.1	94	72.3	6	4.6	1	.8	1	.8	1	.8	4	3.1
	1980	Total	115		9	7.8	106	92.2	3	2.6	1	.9	2	1.8	2	1.8	1	.9
		Male	20	17.5	3	2.7	17	14.8	0		0		1	.9	1	.9	1	.9
		Female	95	82.6	6	5.3	89	77.4	3	2.6	1	.9	1	.9	1	.9	0	
F OFFICE/CLERICAL	1981	Total	226		18	8.0	208	92.0	0		2	.9	3	1.3	7	3.1	6	2.6
		Male	56	25.1	3	1.6	53	23.5	0		0		1	.4	1	.4	1	.4
		Female	170	75.2	15	6.7	155	68.5	0		2	.9	2	.9	6	2.7	5	2.2
	1980	Total	187		19	10.2	168	89.8	1	.5	3	1.6	5	2.6	4	2.1	6	3.2
		Male	49	26.1	5	2.6	44	23.5	0		0		4	2.1	0		1	.5
		Female	138	73.8	14	7.4	124	66.3	1	.5	3	1.6	1	.5	4	2.1	5	2.7
G SKILLED CRAFT	1981	Total	44		5	11.4	39	88.7	1	2.3	0		1	2.3	0		3	6.8
		Male	35	79.6	5	11.4	30	68.2	1	2.3	0		1	2.3	0		3	6.8
		Female	9	20.5	0		9	20.5	0		0		0		0		0	
	1980	Total	27		5	18.5	22	81.5	1	3.7	0		1	3.7	0		3	11.1
		Male	21	77.8	5	18.5	16	59.3	1	3.7	0		1	3.7	0		3	11.1
		Female	6	22.2	0		6	22.2	0		0		0		0		0	
H SERVICE/MAINT	1981	Total	165		29	17.6	136	82.4	2	1.2	0		4	2.4	11	6.6	12	7.3
		Male	58	35.1	8	4.8	50	30.3	1	.6	0		1	.6	3	1.8	3	1.8
		Female	107	64.8	21	12.7	86	52.1	1	.6	0		3	1.8	8	4.8	9	5.5
	1980	Total	137		29	21.2	108	78.9	5	3.7	1	.7	4	2.9	9	6.6	10	7.3
		Male	37	27.1	8	5.9	29	21.2	3	2.2	1	.7	0		2	1.5	2	1.5
		Female	100	73.0	21	15.3	79	57.7	2	1.5	0		4	2.9	7	5.1	8	5.8
TOTALS	1981	Total	910		85	9.3	825	90.6	12	1.3	5	.5	15	1.7	26	2.8	27	2.9
		Male	361	39.5	25	2.6	336	36.9	3	.3	1	.1	7	.8	5	.5	9	.9
		Female	549	60.3	60	6.6	489	53.7	9	1.0	4	.4	8	.9	21	2.3	18	2.0
	1980	Total	740		77	10.4	663	89.6	12	1.6	6	.8	17	2.3	20	2.7	22	3.0
		Male	270	36.4	27	3.6	243	32.8	4	.5	2	.3	9	1.2	4	.5	8	1.1
		Female	470	63.6	50	6.8	420	56.8	8	1.1	4	.5	8	1.1	16	2.2	14	1.9

COMMERCE AND ECONOMIC DEVELOPMENT

	YEAR	SEX	EMPLOYEES Total/Percent		MINORITY Total/Percent		WHITE Total/Percent		BLACK Total/Percent		HISPANIC Total/Percent		AMER.IND. Total/Percent		ASIAN/PAC.IS. Total/Percent		AK NATIVE Total/Percent	
* EXEMPT	1981	Total	78		6	7.7	72	92.4	2	2.6	1	1.3	1	1.3	0		2	2.6
		Male	48	61.6	1	1.3	47	60.3	0		0		1	1.3	0		0	
		Female	30	38.5	5	6.5	25	32.1	2	2.6	1	1.3	0		0		2	2.6
	1980	Total	53		4	7.5	49	92.5	1	1.9	0		1	1.9	0		2	3.8
		Male	34	64.2	1	1.9	33	62.3	0		0		1	1.9	0		0	
		Female	19	35.8	3	5.7	16	30.2	1	1.9	0		0		0		2	3.8
A OFFICIAL/ADMIN	1981	Total	21		0		21	100.0	0		0		0		0		0	
		Male	17	81.0	0		17	81.0	0		0		0		0		0	
		Female	4	19.0	0		4	19.0	0		0		0		0		0	
	1980	Total	21		0		21	100.0	0		0		0		0		0	
		Male	16	76.2	0		16	76.2	0		0		0		0		0	
		Female	5	23.8	0		5	23.8	0		0		0		0		0	
B PROFESSIONALS	1981	Total	118		5	4.2	113	95.8	1	.8	2	1.7	1	.8	1	.8	0	
		Male	87	73.7	5	4.2	82	69.5	1	.8	2	1.7	1	.8	1	.8	0	
		Female	31	26.3	0		31	26.3	0		0		0		0		0	
	1980	Total	106		3	2.8	103	97.1	1	.9	1	.9	1	.9	0		0	
		Male	75	70.7	3	2.8	72	67.9	1	.9	1	.9	1	.9	0		0	
		Female	31	26.3	0		31	29.2	0		0		0		0		0	
C TECHNICIANS	1981	Total	21		5	23.8	16	76.2	3	14.3	0		1	4.8	1	4.8	0	
		Male	2	10.6	1	4.8	1	4.8	1	4.8	0		0		0		0	
		Female	19	90.5	4	19.1	15	71.4	2	9.5	0		1	4.8	1	4.8	0	
	1980	Total	17		3	17.6	14	82.4	2	11.8	0		1	5.9	0		0	
		Male	3	17.6	1	5.9	2	11.8	1	5.9	0		0		0		0	
		Female	14	82.4	2	11.8	12	70.6	1	5.9	0		1	5.9	0		0	
D PROTECTIVE SERV	1981	Total	3		0		3	100.0	0		0		0		0		0	
		Male	3	100.0	0		3	100.0	0		0		0		0		0	
		Female	0		0		0		0		0		0		0		0	
	1980	Total	4		0		4	100.0	0		0		0		0		0	
		Male	4	100.0	0		4	100.0	0		0		0		0		0	
		Female	0		0		0		0		0		0		0		0	
E PARA-PROFESSIONAL	1981	Total	3		0		3	100.0	0		0		0		0		0	
		Male	0		0		0		0		0		0		0		0	
		Female	3	100.0	0		3	100.0	0		0		0		0		0	
	1980	Total	3		0		3	100.0	0		0		0		0		0	
		Male	0		0		0		0		0		0		0		0	
		Female	3	100.0	0		3	100.0	0		0		0		0		0	
F OFFICE/CLERICAL	1981	Total	142		14	9.9	128	90.2	1	.7	1	.7	3	2.1	4	2.8	5	3.5
		Male	18	12.7	3	2.1	15	10.6	0		0		0		2	1.4	1	.7
		Female	124	87.3	11	7.7	113	79.6	1	.7	1	.7	3	2.1	2	1.4	4	2.8
	1980	Total	118		10	8.5	108	91.6	1	.8	1	.8	3	2.5	2	1.7	3	2.5
		Male	11	9.3	1	.8	10	8.5	0		1	.8	0		0		0	
		Female	107	90.7	9	7.5	98	83.1	1	.8	0		3	2.5	2	1.7	3	2.5
G SKILLED CRAFT	1981	Total																
		Male																
		Female																
			NO EMPLOYEES IN THIS CATEGORY															
	1980	Total																
		Male																
		Female																
H SERVICE/MAINT	1981	Total																
		Male																
		Female																
			NO EMPLOYEES IN THIS CATEGORY															
	1980	Total																
		Male																
		Female																
TOTAL	1981	Total	386		30	7.8	356	92.2	7	1.8	4	1.0	6	1.5	6	1.6	7	1.9
		Male	175	45.3	10	2.6	165	42.7	2	.5	2	.5	2	.5	3	.8	1	.3
		Female	211	54.7	20	5.2	191	49.5	5	1.3	2	.5	4	1.0	3	.8	6	1.6
	1980	Total	322		20	6.2	302	93.7	5	1.5	2	.6	6	1.8	2	.6	5	1.5
		Male	143	44.3	6	1.8	137	42.5	2	.6	2	.6	2	.6	0		0	
		Female	179	55.6	14	4.3	165	51.2	3	.9	0		4	1.2	2	.6	5	1.6

COMMUNITY AND REGIONAL AFFAIRS

	YEAR	SEX	EMPLOYEES Total/Percent		MINORITY Total/Percent		WHITE Total/Percent		BLACK Total/Percent		HISPANIC Total/Percent		AMER. IND. Total/Percent		ASIAN/PAC. IS. Total/Percent		AK NATIVE Total/Percent	
* EXEMPT	1981	Total	45		24	53.3	21	46.6	4	8.8	1	2.2	0		0		19	42.2
		Male	17	37.7	7	15.5	10	22.2	2	4.4	0		0		0		5	11.1
		Female	28	62.2	17	37.7	11	24.4	2	4.4	1	2.2	0		0		14	31.1
	1980	Total	2		0		2	100.0	0		0		0		0		0	
		Male	0		0		0		0		0		0		0		0	
		Female	2	100.0	0		2	100.0	0		0		0		0		0	
A OFFICIAL/ADMIN	1981	Total	8		0		8	100.0	0		0		0		0		0	
		Male	7	87.5	0		7	87.5	0		0		0		0		0	
		Female	1	12.5	0		1	12.5	0		0		0		0		0	
	1980	Total	11		1	9.1	10	90.9	0		0		0		0		1	9.1
		Male	7	63.6	0		7	63.6	0		0		0		0		0	
		Female	4	36.4	1	9.1	3	27.3	0		0		0		0		1	9.1
B PROFESSIONAL	1981	Total	79		11	13.9	68	86.0	2	2.5	0		0		0		9	11.4
		Male	51	64.5	5	6.3	46	58.2	0		0		0		0		5	6.3
		Female	28	35.4	6	7.6	22	27.8	2	2.5	0		0		0		4	5.1
	1980	Total	65		7	10.8	58	89.3	0		0		0		0		7	10.8
		Male	33	50.8	3	4.6	30	46.2	0		0		0		0		3	4.6
		Female	32	49.2	4	6.2	28	43.1	0		0		0		0		4	6.2
C TECHNICIANS	1981	Total	9		3	33.3	6	66.6	0		0		1	11.1	1	11.1	1	11.1
		Male	3	33.3	1	11.1	2	22.2	0		0		0		0		1	11.1
		Female	6	66.7	2	22.2	4	44.4	0		0		1	11.1	1	11.1	0	
	1980	Total	13		5	38.5	8	61.6	1	7.7	1	7.7	1	7.7	2	15.4	0	
		Male	3	23.1	1	7.7	2	15.4	1	7.7	0		0		0		0	
		Female	10	76.9	4	30.8	6	46.2	0		1	7.7	1	7.7	2	15.4	0	
D PROTECTIVE SERV	1981	Total	NO EMPLOYEES IN THIS CATEGORY															
		Male																
		Female																
	1980	Total																
		Male																
		Female																
E PARA-PROFESSIONAL	1981	Total	7		1	14.3	6	85.7	1	14.3	0		0		0		0	
		Male	2	28.6	0		2	28.6	0		0		0		0		0	
		Female	5	71.4	1	14.3	4	57.1	1	14.3	0		0		0		0	
	1980	Total	11		1	9.1	10	90.9	1	9.1	0		0		0		0	
		Male	4	36.4	0		4	36.4	0		0		0		0		0	
		Female	7	63.6	1	9.1	6	54.5	1	9.1	0		0		0		0	
F OFFICE/CLERICAL	1981	Total	53		10	18.9	43	81.2	4	7.6	1	1.9	2	3.8	0		3	5.7
		Male	5	9.5	2	3.8	3	5.7	1	1.9	0		1	1.9	0		0	
		Female	48	90.6	8	15.2	40	75.5	3	5.7	1	1.9	1	1.9	0		3	5.7
	1980	Total	46		11	23.9	35	76.0	1	2.2	1	2.2	4	8.7	1	2.2	4	8.7
		Male	2	4.3	0		2	4.3	0		0		0		0		0	
		Female	44	95.7	11	23.9	33	71.7	1	2.2	1	2.2	4	8.7	1	2.2	4	8.7
G SKILLED CRAFT	1981	Total	NO EMPLOYEES IN THIS CATEGORY															
		Male																
		Female																
	1980	Total																
		Male																
		Female																
H SERVICE/MAINT	1981	Total	NO EMPLOYEES IN THIS CATEGORY															
		Male																
		Female																
	1980	Total																
		Male																
		Female																
TOTAL	1981	Total	201		49	24.4	152	75.6	11	5.5	2	1.0	3	1.5	1	.5	32	15.9
		Male	85	42.3	15	7.5	70	34.8	3	1.5	0		1	.5	0		11	5.5
		Female	116	57.7	34	16.9	82	40.8	8	4.0	2	1.0	2	1.0	1	.5	21	10.4
	1980	Total	148		25	16.9	123	83.1	3	2.1	2	1.4	5	3.4	3	2.0	12	8.1
		Male	50	33.1	4	2.7	45	30.4	1	.7	0		0		0		3	2.0
		Female	99	66.9	21	14.3	78	52.7	2	1.4	2	1.4	5	3.4	3	2.0	9	6.1

EDUCATION

	YEAR	SEX	EMPLOYEES Total/Percent		MINORITY Total/Percent		WHITE Total/Percent		BLACK Total/Percent		HISPANIC Total/Percent		AMER.IND. Total/Percent		ASIAN/PAC.IS. Total/Percent		AK NATIVE Total/Percent	
EXEMPT	1981	Total	43		4	9.3	39	90.7	1	2.3	0		0		3	7.0	0	
		Male	9	20.9	0		9	20.9	0		0		0		0		0	
		Female	34	79.1	4	9.3	30	69.8	1	2.3	0		0		3	7.0	0	
	1980	Total	38		3	7.9	35	92.2	0		0		0		3	7.9	0	
		Male	8	21.1	0		8	21.1	0		0		0		0		0	
		Female	30	78.9	3	7.9	27	71.1	0		0		0		3	3.9	0	
A OFFICIAL/ADMIN	1981	Total	15		0		15	100.0	0		0		0		0		0	
		Male	12	80.0	0		12	80.0	0		0		0		0		0	
		Female	3	20.0	0		3	20.0	0		0		0		0		0	
	1980	Total	15		0		15	100.0	0		0		0		0		0	
		Male	12	80.0	0		12	80.0	0		0		0		0		0	
		Female	3	20.0	0		3	20.0	0		0		0		0		0	
B PROFESSIONALS	1981	Total	146		10	6.8	136	93.1	4	2.8	3	2.1	1	.7	2	1.4	0	
		Male	78	53.5	6	4.2	72	49.3	2	1.4	3	2.1	0		1	.7	0	
		Female	68	46.6	4	2.8	64	43.8	2	1.4	0		1	.7	1	.7	0	
	1980	Total	138		7	5.1	131	94.9	3	2.1	2	1.4	1	.7	1	.7	0	
		Male	76	54.9	5	3.5	71	51.4	2	1.4	2	1.4	0		1	.7	0	
		Female	62	44.9	2	1.4	60	43.5	1	.7	0		1	.7	0		0	
C TECHNICIANS	1981	Total	13		2	15.4	11	84.6	1	7.7	0		0		1	7.7	0	
		Male	3	23.1	1	7.7	2	15.4	1	7.7	0		0		0		0	
		Female	10	76.9	1	7.7	9	69.2	0		0		0		1	7.7	0	
	1980	Total	12		1	8.3	11	91.7	0		0		0		1	8.3	0	
		Male	2	16.7	0		2	16.7	0		0		0		0		0	
		Female	10	83.3	1	8.3	9	75.0	0		0		0		1	8.3	0	
D PROTECTIVE SERV	1981	Total	6		2	33.3	4	66.7	0		2	33.3	0		0		0	
		Male	3	50.0	2	33.3	1	16.7	0		2	33.3	0		0		0	
		Female	3	50.0	0		3	50.0	0		0		0		0		0	
	1980	Total	7		1	14.3	6	85.8	0		1	14.3	0		0		0	
		Male	4	57.2	1	14.3	3	42.9	0		1	14.3	0		0		0	
		Female	3	42.9	0		3	42.9	0		0		0		0		0	
E PARA-PROFESSIONAL	1981	Total	33		4	12.1	29	87.9	0		0		2	6.1	1	3.0	1	3.0
		Male	8	24.2	1	3.0	7	21.2	0		0		0		1	3.0	0	
		Female	25	75.8	3	9.1	22	66.7	0		0		2	6.1	0		1	3.0
	1980	Total	33		4	12.1	29	87.9	0		0		3	9.1	0		1	3.0
		Male	6	18.2	0		6	18.2	0		0		0		0		0	
		Female	27	81.8	4	12.1	23	69.7	0		0		3	9.1	0		1	3.0
F OFFICE/CLERICAL	1981	Total	159		19	11.9	140	88.1	2	1.3	0		4	2.5	8	5.0	5	3.1
		Male	21	13.2	4	2.5	17	10.7	0		0		0		3	1.9	1	.6
		Female	138	86.8	15	9.4	123	77.4	2	1.3	0		4	2.5	5	3.1	4	2.5
	1980	Total	141		16	11.3	125	88.6	3	2.1	1	.7	2	1.4	5	3.5	5	3.5
		Male	17	12.0	2	1.4	15	10.6	0		0		1	.7	1	.7	0	
		Female	124	87.9	14	9.8	110	78.0	3	2.1	1	.7	1	.7	4	2.8	5	3.5
G SKILLED CRAFT	1981	Total	4		0		4	100.0	0		0		0		0		0	
		Male	4	100.0	0		4	100.0	0		0		0		0		0	
		Female	0		0		0		0		0		0		0		0	
	1980	Total	6		0		6	100.0	0		0		0		0		0	
		Male	6	100.0	0		6	100.0	0		0		0		0		0	
		Female	0		0		0		0		0		0		0		0	
H SERVICE/MAINT	1981	Total	7		0		7	100.0	0		0		0		0		0	
		Male	6	85.7	0		6	85.7	0		0		0		0		0	
		Female	1	14.3	0		1	14.3	0		0		0		0		0	
	1980	Total	7		0		7	100.0	0		0		0		0		0	
		Male	7	100.0	0		7	100.0	0		0		0		0		0	
		Female	0		0		0		0		0		0		0		0	
TOTAL	1981	Total	426		41	9.6	385	90.4	8	1.9	5	1.2	7	1.6	15	3.5	6	1.4
		Male	144	33.8	14	3.3	130	30.5	3	.7	5	1.2	0		5	1.2	1	.2
		Female	282	66.2	27	6.3	255	59.9	5	1.2	0		7	1.6	10	2.3	5	1.2
	1980	Total	397		32	8.1	365	91.9	6	1.5	4	1.1	6	1.6	10	2.5	6	1.5
		Male	138	34.8	8	2.1	130	32.7	2	.5	3	.8	1	.3	2	.5	0	
		Female	259	65.2	24	6.1	235	59.2	4	1.0	1	.3	5	1.3	8	2.0	6	1.5

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILE 8672
1365 SCOMM 51: BLUE RIBBON COMN. ON STATE PERSONNEL ACT 1978-1983

ENVIRONMENTAL CONSERVATION

	YEAR	SEX	EMPLOYEES Total/Percent		MINORITY Total/Percent		WHITE Total/Percent		BLACK Total/Percent		HISPANIC Total/Percent		AMER.IND. Total/Percent		ASIAN/PAC.IS. Total/Percent		AK NATIVE Total/Percent	
* EXEMPT	1981	Total	3		0		3	100.0	0		0		0		0		0	
		Male	2	66.7	0		2	66.7	0		0		0		0		0	
		Female	1	33.3	0		1	33.3	0		0		0		0		0	
	1980	Total	2		0		2	100.0	0		0		0		0		0	
		Male	2	100.0	0		2	100.0	0		0		0		0		0	
		Female	0		0		0		0		0		0		0		0	
A OFFICIAL/ADMIN	1981	Total	4		0		4	100.0	0		0		0		0		0	
		Male	3	75.0	0		3	75.0	0		0		0		0		0	
		Female	1	25.0	0		1	25.0	0		0		0		0		0	
	1980	Total	3		0		3	100.0	0		0		0		0		0	
		Male	2	66.7	0		2	66.7	0		0		0		0		0	
		Female	1	33.3	0		1	33.3	0		0		0		0		0	
B PROFESSIONAL	1981	Total	134		3	2.2	131	97.8	0		1	.7	1	.7	1	.7	0	
		Male	110	82.0	3	2.1	107	79.9	0		1	.7	1	.7	1	.7	0	
		Female	24	17.9	0		24	17.9	0		0		0		0		0	
	1980	Total	115		3	2.6	112	97.4	0		1	.9	1	.9	1	.9	0	
		Male	97	84.4	3	2.7	94	81.7	0		1	.9	1	.9	1	.9	0	
		Female	18	15.7	0		18	15.7	0		0		0		0		0	
C TECHNICIANS	1981	Total	10		2	20.0	8	80.0	0		0		0		2	20.0	0	
		Male	3	30.0	1	10.0	2	20.0	0		0		0		1	10.0	0	
		Female	7	70.0	1	10.0	6	60.0	0		0		0		1	10.0	0	
	1980	Total	6		1	16.7	5	83.4	0		0		1	16.7	0		0	
		Male	1	16.7	1	16.7	1	16.7	0		0		0		0		0	
		Female	5	83.3	0		4	66.7	0		0		1	16.7	0		0	
D PROTECTIVE SERV	1981	Total																
		Male																
		Female																
			NO EMPLOYEES IN THIS CATEGORY															
	1980	Total																
		Male																
		Female																
E PARA-PROFESSIONAL	1981	Total	2		0		2	100.0	0		0		0		0		0	
		Male	0		0		0		0		0		0		0		0	
		Female	2	100.0	0		2	100.0	0		0		0		0		0	
	1980	Total	1		0		1	100.0	0		0		0		0		0	
		Male	0		0		0		0		0		0		0		0	
		Female	1	100.0	0		1	100.0	0		0		0		0		0	
F OFFICE/CLERICAL	1981	Total	52		4	7.7	48	92.3	0		0		1	1.9	0		3	5.7
		Male	5	9.6	1	1.9	4	7.7	0		0		0		0		1	1.9
		Female	47	90.4	3	5.7	44	84.6	0		0		1	1.9	0		2	3.8
	1980	Total	43		3	7.0	40	93.1	0		0		1	2.3	0		2	4.6
		Male	3	7.0	1	2.3	2	4.7	0		0		0		0		1	2.3
		Female	40	93.0	2	4.6	38	88.4	0		0		1	2.3	0		1	2.3
G SKILLED CRAFT	1981	Total	1		0		1	100.0	0		0		0		0		0	
		Male	1	100.0	0		1	100.0	0		0		0		0		0	
		Female	0		0		0		0		0		0		0		0	
	1980	Total																
		Male																
		Female																
			NO EMPLOYEES IN THIS CATEGORY															
H SERVICE/MAINT	1981	Total																
		Male																
		Female																
			NO EMPLOYEES IN THIS CATEGORY															
	1980	Total																
		Male																
		Female																
TOTAL	1981	Total	206		9	4.4	197	95.7	0		1	.5	2	1.0	3	1.5	3	1.5
		Male	124	60.3	5	2.5	119	57.8	0		1	.5	1	.5	2	1.0	1	.5
		Female	82	39.8	4	2.0	78	37.9	0		0		1	.5	1	.5	2	1.0
	1980	Total	170		7	4.1	163	95.9	0		1	.6	3	1.8	1	.6	2	1.2
		Male	105	61.8	4	2.4	101	59.4	0		1	.6	1	.6	1	.6	1	.6
		Female	65	38.2	3	1.8	62	36.5	0		0		2	1.2	0		1	.6

FISH AND GAME

	YEAR	SEX	EMPLOYEES Total/Percent		MINORITY Total/Percent		WHITE Total/Percent		BLACK Total/Percent		HISPANIC Total/Percent		AMER.IND. Total/Percent		ASIAN/PAC.IS. Total/Percent		AK NATIVE Total/Percent	
* EXEMPT	1981	Total	45		1	2.2	44	97.8	1	2.2	0		0		0		0	
		Male	17	37.8	0		17	37.8	0		0		0		0		0	
		Female	28	62.2	1	2.2	27	60.0	1	2.2	0		0		0		0	
	1980	Total	39		1	2.6	38	97.5	1	2.6	0		0		0		0	
		Male	15	38.5	0		15	38.5	0		0		0		0		0	
		Female	24	61.5	1	2.6	23	59.0	1	2.6	0		0		0		0	
A OFFICIAL/ADMIN	1981	Total	17		1	5.9	16	94.1	0		0		0		0		1	5.9
		Male	14	82.4	1	5.9	13	76.5	0		0		0		0		1	5.9
		Female	3	17.6	0		3	17.6	0		0		0		0		0	
	1980	Total	15		1	6.7	14	93.3	0		0		0		0		1	6.7
		Male	15	100.0	1	6.7	14	93.3	0		0		0		0		1	6.7
		Female	0		0		0		0		0		0		0		0	
B PROFESSIONALS	1981	Total	539		10	1.9	529	98.1	1	.2	0		1	.2	6	1.1	2	.4
		Male	473	87.8	10	1.9	463	85.9	1	.2	0		1	.2	6	1.1	2	.4
		Female	66	12.2	0		66	12.2	0		0		0		0		0	
	1980	Total	478		7	1.5	471	98.6	1	.2	1	.2	1	.2	4	.8	0	
		Male	425	88.9	6	1.2	419	87.7	1	.2	0		1	.2	4	.8	0	
		Female	53	11.1	1	.2	52	10.9	0		1	.2	0		0		0	
C TECHNICIANS	1981	Total	197		7	3.6	190	96.4	0		0		3	1.5	2	1.0	2	1.0
		Male	126	63.9	4	2.0	122	61.9	0		0		2	1.0	0		2	1.0
		Female	71	36.0	3	1.5	68	34.5	0		0		1	.5	2	1.0	0	
	1980	Total	175		8	4.6	167	95.4	0		0		3	1.7	2	1.2	3	1.7
		Male	115	65.7	4	2.3	111	63.4	0		0		1	.6	1	.6	2	1.1
		Female	60	34.3	4	2.3	56	32.0	0		0		2	1.1	1	.6	1	.6
D PROTECTIVE SERV	1981	Total																
		Male																
		Female																
	1980	Total	NO EMPLOYEES IN THIS CATEGORY															
		Male																
		Female																
E PARA-PROFESSIONAL	1981	Total	4		0		4	100.0	0		0		0		0		0	
		Male	2	50.0	0		2	50.0	0		0		0		0		0	
		Female	2	50.0	0		2	50.0	0		0		0		0		0	
	1980	Total	3		0		3	100.0	0		0		0		0		0	
		Male	1	33.3	0		1	33.3	0		0		0		0		0	
		Female	2	66.7	0		2	66.7	0		0		0		0		0	
F OFFICE/CLERICAL	1981	Total	180		16	8.9	164	91.1	1	.6	4	2.2	6	3.4	2	1.1	3	1.7
		Male	16	8.9	1	.6	15	8.3	0		0		1	.6	0		0	
		Female	164	91.1	15	8.4	149	82.8	1	.6	4	2.2	5	2.8	2	1.1	3	1.7
	1980	Total	166		16	9.6	150	90.3	1	.6	2	1.2	5	3.0	4	2.4	4	2.4
		Male	11	6.6	1	.6	10	6.0	0		0		1	.6	0		0	
		Female	155	93.4	15	9.0	140	84.3	1	.6	2	1.2	4	2.4	4	2.4	4	2.4
G SKILLED CRAFT	1981	Total	28		1	3.6	27	96.4	0		1	3.6	0		0		0	
		Male	28	100.0	1	3.6	27	96.4	0		1	3.6	0		0		0	
		Female	0		0		0		0		0		0		0		0	
	1980	Total	25		1	4.0	24	96.0	0		1	4.0	0		0		0	
		Male	25	100.0	1	4.0	24	96.0	0		1	4.0	0		0		0	
		Female	0		0		0		0		0		0		0		0	
H SERVICE/MAINT	1981	Total																
		Male																
		Female																
	1980	Total	NO EMPLOYEES IN THIS CATEGORY															
		Male																
		Female																
TOTAL	1981	Total	1010		36	3.6	974	96.4	3	.3	5	.5	10	1.0	10	1.0	8	.8
		Male	676	66.9	17	1.7	659	65.2	1	.1	1	.1	4	.4	6	.6	5	.5
		Female	334	33.1	19	1.9	315	31.2	2	.2	4	.4	6	.4	4	.4	3	.3
	1980	Total	901		34	3.8	867	96.2	3	.3	4	.4	9	1.0	10	1.2	8	.9
		Male	607	67.3	13	1.4	594	65.9	1	.1	1	.1	3	.3	5	.6	3	.3
		Female	294	32.6	21	2.4	273	30.3	2	.2	3	.3	6	.7	5	.6	5	.6

HEALTH AND SOCIAL SERVICES

		YEAR	SEX	EMPLOYEES Total/Percent		MINORITY Total/Percent		WHITE Total/Percent		BLACK Total/Percent		HISPANIC Total/Percent		AMER.IND. Total/Percent		ASIAN/PAC.IS. Total/Percent		AK NATIVE Total/Percent	
*	EXEMPT	1981	Total	13		0		13	100.0	0		0		0		0		0	
			Male	11	84.6	0		11	84.6	0		0		0		0		0	
			Female	2	15.4	0		2	15.4	0		0		0		0		0	
		1980	Total	11		0		11	100.0	0		0		0		0		0	
			Male	9	81.8	0		9	81.8	0		0		0		0		0	
			Female	2	18.2	0		2	18.2	0		0		0		0		0	
A	OFFICIAL/ADMIN	1981	Total	30		3	10.0	27	90.0	1	3.3	0		1	3.3	1	3.3	0	
			Male	23	76.6	2	6.6	21	70.0	0		0		1	3.3	1	3.3	0	
			Female	7	23.3	1	3.3	6	20.0	1	3.3	0		0		0		0	
		1980	Total	26		2	7.7	24	92.3	1	3.8	0		0		1	3.8	0	
			Male	19	73.0	1	3.8	18	69.2	0		0		0		1	3.8	0	
			Female	7	26.9	1	3.8	6	23.1	1	3.8	0		0		0		0	
B	PROFESSIONALS	1981	Total	531		50	9.4	481	90.6	18	3.4	10	1.9	4	.8	13	2.5	5	1.0
			Male	168	31.7	10	1.9	158	29.8	6	1.1	1	.2	1	.2	1	.2	1	.2
			Female	363	68.4	40	7.7	323	60.8	12	2.3	9	1.7	3	.6	12	2.3	4	.8
		1980	Total	497		51	10.3	446	89.7	19	3.8	10	2.0	5	1.2	14	2.8	3	.6
			Male	174	35.6	14	3.4	160	32.2	7	1.4	2	.4	3	.6	2	.4	0	
			Female	323	65.0	37	7.6	286	57.5	12	2.4	8	1.6	2	.6	12	2.4	3	.6
C	TECHNICIANS	1981	Total	95		19	20.0	76	80.0	5	5.3	2	2.1	3	3.2	4	4.2	5	5.3
			Male	14	14.8	3	3.2	11	11.6	0		0		1	1.1	2	2.1	0	
			Female	81	85.3	16	16.9	65	68.4	5	5.3	2	2.1	2	2.1	2	2.1	5	5.3
		1980	Total	100		24	24.0	76	76.0	5	5.0	2	2.0	3	3.0	6	6.0	8	8.0
			Male	23	23.0	5	5.0	18	18.0	0		0		1	1.0	4	4.0	0	
			Female	77	77.0	19	19.0	58	58.0	5	5.0	2	2.0	2	2.0	2	2.0	8	8.0
D	PROTECTIVE SERV	1981	Total	443		57	12.9	386	87.1	31	7.0	7	1.6	6	1.4	3	.7	10	2.2
			Male	346	78.1	42	9.5	304	68.6	26	5.9	5	1.1	3	.7	3	.7	5	1.1
			Female	97	21.9	15	3.4	82	18.5	5	1.1	2	.5	3	.7	0		5	1.1
		1980	Total	377		46	12.2	331	87.8	25	6.6	6	1.6	4	1.1	3	.8	8	2.2
			Male	302	80.2	37	9.9	265	70.3	23	6.1	4	1.1	3	.8	3	.8	4	1.1
			Female	75	19.9	9	2.4	66	17.5	2	.5	2	.5	1	.3	0		4	1.1
E	PARA-PROFESSIONAL	1981	Total	267		67	25.1	200	74.9	26	9.8	8	3.0	6	2.2	4	1.4	23	8.6
			Male	103	38.5	20	7.4	83	31.1	9	3.4	3	1.1	0		2	.7	6	2.2
			Female	164	61.4	47	17.5	117	43.8	17	6.4	5	1.9	6	2.2	2	.7	17	6.4
		1980	Total	228		61	26.8	167	73.2	20	8.8	5	2.2	8	3.5	2	.9	26	11.4
			Male	90	43.0	19	11.9	71	31.1	5	2.2	2	.9	0		2	.9	10	4.4
			Female	138	60.5	42	18.4	96	42.1	15	6.6	3	1.3	8	3.5	0		16	7.0
F	OFFICE/CLERICAL	1981	Total	418		66	15.8	352	84.2	10	2.4	6	1.4	4	1.0	8	1.9	38	9.1
			Male	33	7.8	4	.9	29	6.9	1	.2	0		0		1	.2	2	.5
			Female	385	92.1	62	14.9	323	77.3	9	2.2	6	1.4	4	1.0	7	1.7	36	8.6
		1980	Total	392		64	16.3	327	83.7	9	2.3	4	1.0	6	1.5	11	2.8	34	8.7
			Male	31	7.9	4	1.0	27	6.9	0		0		0		2	.5	2	.5
			Female	361	92.1	60	15.3	301	76.8	9	2.3	4	1.0	6	1.5	9	2.3	32	8.2
G	SKILLED CRAFT	1981	Total	36		4	11.1	32	88.9	1	2.8	1	2.8	1	2.8	1	2.8	0	
			Male	33	91.7	4	11.1	29	80.6	1	2.8	1	2.8	1	2.8	1	2.8	0	
			Female	3	8.3	0		3	8.3	0		0		0		0		0	
		1980	Total	33		4	12.1	29	87.9	1	3.0	1	3.0	1	3.0	1	3.0	0	
			Male	30	90.9	4	12.1	26	78.8	1	3.0	1	3.0	1	3.0	1	3.0	0	
			Female	3	9.1	0		3	9.1	0		0		0		0		0	
H	SERVICE/MAINT	1981	Total	91		24	26.4	67	73.6	18	19.8	0		1	1.1	4	4.4	1	1.1
			Male	33	36.3	14	15.4	19	20.9	11	12.1	0		1	1.1	2	2.2	0	
			Female	58	63.7	10	10.0	48	52.7	7	7.7	0		0		2	2.2	1	1.1
		1980	Total	85		20	23.5	65	76.4	11	13.0	0		1	1.2	5	5.9	3	3.6
			Male	31	33.5	11	13.0	20	23.5	6	7.1	0		1	1.2	3	3.5	1	1.2
			Female	54	63.5	9	10.7	45	52.9	5	5.9	0		0		2	2.4	2	2.4
	TOTAL	1981	Total	1924		290	15.1	1634	85.0	110	5.7	34	1.7	26	1.3	38	2.0	82	4.2
			Male	764	39.7	99	5.1	665	34.6	54	2.8	10	.5	8	.4	13	.7	14	.7
			Female	1160	60.3	191	9.8	969	50.4	56	2.9	24	1.2	18	.9	25	1.3	68	3.5
		1980	Total	1749		272	15.6	1477	84.4	91	5.2	28	1.6	28	1.6	43	2.4	81	4.7
			Male	709	40.5	95	5.4	614	35.1	42	2.4	9	.5	9	.5	18	1.0	17	1.0
			Female	1040	59.5	177	10.1	863	49.3	49	2.8	19	1.1	19	1.1	25	1.4	65	3.7

LABOR

	YEAR	SEX	EMPLOYEES Total/Percent		MINORITY Total/Percent		WHITE Total/Percent		BLACK Total/Percent		HISPANIC Total/Percent		AMER.IND. Total/Percent		ASIAN/PAC.IS. Total/Percent		AK NATIVE Total/Percent	
* EXEMPT	1981	Total	1		0		1	100.0	0		0		0		0		0	
		Male	1	100.0	0		1	100.0	0		0		0		0		0	
		Female	0		0		0		0		0		0		0		0	
	1980	Total	1		0		1	100.0	0		0		0		0		0	
		Male	1	100.0	0		1	100.0	0		0		0		0		0	
		Female	0		0		0		0		0		0		0		0	
A OFFICIAL/ADMIN	1981	Total	17		3	17.6	14	82.3	1	5.9	0		1	5.9	1	5.9	0	
		Male	12	70.6	2	11.8	10	58.8	0		0		1	5.9	1	5.9	0	
		Female	5	29.4	1	5.9	4	23.5	1	5.9	0		0		0		0	
	1980	Total	17		2	11.8	15	88.2	1	5.9	0		1	5.9	0		0	
		Male	13	76.5	1	5.9	12	70.6	0		0		1	5.9	0		0	
		Female	4	23.5	1	5.9	3	17.6	1	5.9	0		0		0		0	
B PROFESSIONAL	1981	Total	329		30	9.1	299	90.9	8	2.4	4	1.2	9	2.7	2	.6	7	2.1
		Male	159	48.3	8	2.4	151	45.9	3	.9	0		2	.6	0		3	.9
		Female	170	51.7	22	6.6	148	45.0	5	1.5	4	1.2	7	2.1	2	.6	4	1.2
	1980	Total	352		33	9.4	319	90.7	9	2.5	5	1.4	10	2.9	2	.6	7	2.0
		Male	175	49.8	10	2.9	165	46.9	4	1.1	0		2	.6	1	.3	3	.9
		Female	177	50.3	23	6.5	154	43.8	5	1.4	5	1.4	8	2.3	1	.3	4	1.1
C TECHNICIANS	1981	Total	23		1	4.3	22	95.6	0		0		1	4.3	0		0	
		Male	8	34.7	1	4.3	7	30.4	0		0		1	4.3	0		0	
		Female	15	65.2	0		15	65.2	0		0		0		0		0	
	1980	Total	24		1	4.2	23	95.8	0		0		1	4.2	0		0	
		Male	7	29.2	1	4.2	6	25.0	0		0		1	4.2	0		0	
		Female	17	70.8	0		17	70.8	0		0		0		0		0	
D PROTECTIVE SERV	1981	Total	7		0		7	100.0	0		0		0		0		0	
		Male	6	85.7	0		6	85.7	0		0		0		0		0	
		Female	1	14.3	0		1	14.3	0		0		0		0		0	
	1980	Total	7		0		7	100.0	0		0		0		0		0	
		Male	6	85.7	0		6	85.7	0		0		0		0		0	
		Female	1	14.3	0		1	14.3	0		0		0		0		0	
E PARA-PROFESSIONAL	1981	Total	10		0		10	100.0	0		0		0		0		0	
		Male	3	30.0	0		3	30.0	0		0		0		0		0	
		Female	7	70.0	0		7	70.0	0		0		0		0		0	
	1980	Total	7		0		7	100.0	0		0		0		0		0	
		Male	1	14.3	0		1	14.3	0		0		0		0		0	
		Female	6	85.7	0		6	85.7	0		0		0		0		0	
F OFFICE/CLERICAL	1981	Total	187		30	16.0	157	84.0	2	1.1	3	1.6	11	5.9	6	3.2	8	7.2
		Male	46	24.6	7	3.7	39	20.9	0		1	.5	3	1.6	2	1.1	1	.5
		Female	141	75.4	23	12.3	118	63.1	2	1.1	2	1.1	8	4.3	4	2.1	7	3.7
	1980	Total	195		36	18.5	159	81.6	2	1.0	9	4.6	13	6.6	4	2.1	8	4.1
		Male	34	17.4	5	2.5	29	14.9	0		2	1.0	3	1.5	0		0	
		Female	161	82.6	31	15.9	130	66.7	2	1.0	7	3.6	10	5.1	4	2.1	8	4.1
G SKILLED CRAFT	1981	Total	8		2	25.0	6	75.0	1	12.5	0		0		0		1	12.5
		Male	6	75.0	0		6	75.0	0		0		0		0		0	
		Female	2	25.0	2	25.0	0		1	12.5	0		0		0		1	12.5
	1980	Total	7		1	14.3	6	85.7	0		0		0		0		1	14.3
		Male	6	85.7	0		6	85.7	0		0		0		0		0	
		Female	1	14.3	1	14.3	0		0		0		0		0		1	14.3
H SERVICE/MAINT	1981	Total	1		1	100.0	0		0		0		0		1	100.0	0	
		Male	0		0		0		0		0		0		0		0	
		Female	1	100.0	1	100.0	0		0		0		0		1	100.0	0	
	1980	Total	3		1	33.3	2	66.7	0		0		0		1	33.3	0	
		Male	2	66.7	0		2	66.7	0		0		0		0		0	
		Female	1	33.3	1	33.3	0		0		0		0		1	33.3	0	
TOTAL	1981	Total	583		67	11.5	516	88.6	12	2.0	7	1.2	22	3.8	10	1.7	16	2.8
		Male	241	41.4	18	3.1	223	38.3	3	.5	1	.2	7	1.2	3	.5	4	.7
		Female	342	58.7	49	8.4	293	50.3	9	1.5	6	1.0	15	2.6	7	1.2	12	2.1
	1980	Total	613		74	12.1	539	87.9	12	2.0	14	2.3	25	4.0	7	1.2	16	2.6
		Male	245	40.0	17	2.8	228	37.2	4	.7	2	.3	7	1.1	1	.2	3	.5
		Female	368	60.0	57	9.3	311	50.7	8	1.3	12	2.0	18	2.9	6	1.0	13	2.1

LAW

	YEAR	SEX	EMPLOYEES Total/Percent		MINORITY Total/Percent		WHITE Total/Percent		BLACK Total/Percent		HISPANIC Total/Percent		AMER. IND. Total/Percent		ASIAN/PAC. IS. Total/Percent		AK NATIVE Total/Percent	
EXEMPT	1981	Total	1		0		1	100.0	0		0		0		0		0	
		Male	1	100.0	0		1	100.0	0		0		0		0		0	
		Female	0		0		0		0		0		0		0		0	
	1980	Total	1		0		1	100.0	0		0		0		0		0	
		Male	1	100.0	0		1	100.0	0		0		0		0		0	
		Female	0		0		0		0		0		0		0		0	
A OFFICIAL/ADMIN	1981	Total	3		0		3	100.0	0		0		0		0		0	
		Male	3	100.0	0		3	100.0	0		0		0		0		0	
		Female	0		0		0		0		0		0		0		0	
	1980	Total	2		0		2	100.0	0		0		0		0		0	
		Male	2	100.0	0		2	100.0	0		0		0		0		0	
		Female	0		0		0		0		0		0		0		0	
B PROFESSIONALS	1981	Total	163		8	4.9	155	95.1	4	2.4	0		1	.6	2	1.2	1	.6
		Male	92	56.4	3	1.8	89	54.6	2	1.2	0		0		1	.6	0	
		Female	71	43.6	5	3.0	66	40.5	2	1.2	0		1	.6	1	.6	1	.6
	1980	Total	140		7	5.0	133	95.0	3	2.1	1	.7	1	.7	1	.7	1	.7
		Male	91	64.9	4	2.8	87	62.1	3	2.1	1	.7	0		0		0	
		Female	49	35.0	3	2.1	46	32.9	0		0		1	.7	1	.7	1	.7
C TECHNICIANS	1981	Total	3		0		3	100.0	0		0		0		0		0	
		Male	1	33.3	0		1	33.3	0		0		0		0		0	
		Female	2	66.7	0		2	66.7	0		0		0		0		0	
	1980	Total	5		0		5	100.0	0		0		0		0		0	
		Male	2	40.0	0		2	40.0	0		0		0		0		0	
		Female	3	60.0	0		3	60.0	0		0		0		0		0	
D PROTECTIVE SERV.	1981	Total	2		0		2	100.0	0		0		0		0		0	
		Male	1	50.0	0		1	50.0	0		0		0		0		0	
		Female	1	50.0	0		1	50.0	0		0		0		0		0	
	1980	Total	4		1	25.0	3	75.0	0		0		1	25.0	0		0	
		Male	1	25.0	0		1	25.0	0		0		0		0		0	
		Female	3	75.0	1	25.0	2	50.0	0		0		1	25.0	0		0	
E PARA-PROFESSIONAL	1981	Total	3		0		3	100.0	0		0		0		0		0	
		Male	1	33.3	0		1	33.3	0		0		0		0		0	
		Female	2	66.7	0		2	66.7	0		0		0		0		0	
	1980	Total	7		0		7	100.0	0		0		0		0		0	
		Male	0		0		0		0		0		0		0		0	
		Female	7	100.0	0		7	100.0	0		0		0		0		0	
F OFFICE/CLERICAL	1981	Total	101		7	6.9	94	93.1	0		0		0		2	2.0	5	5.0
		Male	0		0		0		0		0		0		0		0	
		Female	101	100.0	7	6.9	94	93.1	0		0		0		2	2.0	5	5.0
	1980	Total	89		2	2.2	87	97.8	1	1.1	0		0		1	1.1	0	
		Male	3	3.4	0		3	3.4	0		0		0		0		0	
		Female	86	96.6	2	2.2	84	94.4	1	1.1	0		0		1	1.1	0	
G SKILLED CRAFT	1981	Total																
		Male																
		Female																
			NO EMPLOYEES IN THIS CATEGORY															
	1980	Total																
		Male																
		Female																
H SERVICE/MAINT	1981	Total																
		Male																
		Female																
			NO EMPLOYEES IN THIS CATEGORY															
	1980	Total																
		Male																
		Female																
TOTALS	1981	Total	276		15	5.4	261	94.6	4	1.4	0		1	.4	4	1.5	6	2.2
		Male	99	35.9	3	1.1	96	34.8	2	.7	0		0		1	.4	0	
		Female	177	64.2	12	4.4	165	59.8	2	.7	0		1	.4	3	1.1	6	2.2
	1980	Total	248		10	4.0	238	96.0	4	1.6	1	.4	2	.8	2	.8	1	.4
		Male	100	40.3	4	1.6	96	38.7	3	1.2	1	.4	0		0		0	
		Female	148	59.7	6	2.4	142	57.3	1	.4	0		2	.8	2	.8	1	.4

NATURAL RESOURCES

	YEAR	SEX	EMPLOYEES Total/Percent		MINORITY Total/Percent		WHITE Total/Percent		BLACK Total/Percent		HISPANIC Total/Percent		AMER.IND. Total/Percent		ASIAN/PAC.IS. Total/Percent		AK NATIVE Total/Percent	
* EXEMPT	1981	Total	18		1	5.6	17	94.5	0		0		1	5.6	0		0	
		Male	17	94.5	1	5.6	16	88.9	0		0		1	5.6	0		0	
		Female	1	5.6	0		1	5.6	0		0		0		0		0	
	1980	Total	14		0		14	100.0	0		0		0		0		0	
		Male	13	92.9	0		13	92.9	0		0		0		0		0	
		Female	1	7.1	0		1	7.1	0		0		0		0		0	
A OFFICIAL/ADMIN	1981	Total	35		1	2.9	34	97.1	1	2.9	0		0		0		0	
		Male	28	80.0	1	2.9	27	77.1	1	2.9	0		0		0		0	
		Female	7	20.0	0		7	20.0	0		0		0		0		0	
	1980	Total	21		0		21	100.0	0		0		0		0		0	
		Male	17	81.0	0		17	81.0	0		0		0		0		0	
		Female	4	19.0	0		4	19.0	0		0		0		0		0	
B PROFESSIONALS	1981	Total	451		12	2.7	439	97.3	3	.6	1	.2	2	.4	5	1.1	1	.2
		Male	343	76.0	6	1.3	337	74.7	2	.4	0		1	.2	3	.7	0	
		Female	108	23.9	6	1.3	102	22.6	1	.2	1	.2	1	.2	2	.4	1	.2
	1980	Total	344		9	2.6	335	97.4	2	.6	0		2	.6	4	1.2	1	.3
		Male	271	78.8	4	1.2	267	77.6	1	.3	0		1	.3	2	.6	0	
		Female	73	21.2	5	1.5	68	19.8	1	.3	0		1	.3	2	.6	1	.3
C TECHNICIANS	1981	Total	125		9	7.2	116	92.8	0		4	3.2	1	.8	3	2.4	1	.8
		Male	84	67.2	8	6.4	76	60.8	0		3	2.4	1	.8	3	2.4	1	.8
		Female	41	32.8	1	.8	40	32.0	0		1	.8	0		0		0	
	1980	Total	98		4	4.1	94	95.9	0		2	2.0	1	1.0	1	1.0	0	
		Male	63	64.3	3	3.1	60	61.2	0		1	1.0	1	1.0	1	1.0	0	
		Female	35	35.7	1	1.0	34	34.7	0		1	1.0	0		0		0	
D PROTECTIVE SERV	1981	Total	4		0		4	100.0	0		0		0		0		0	
		Male	0		0		0		0		0		0		0		0	
		Female	4	100.0	0		4	100.0	0		0		0		0		0	
	1980	Total	3		0		3	100.0	0		0		0		0		0	
		Male	0		0		0		0		0		0		0		0	
		Female	3	100.0	0		3	100.0	0		0		0		0		0	
E PARA-PROFESSIONAL	1981	Total	34		1	2.9	33	97.1	0		0		1	2.9	0		0	
		Male	14	41.2	0		14	41.2	0		0		0		0		0	
		Female	20	58.8	1	2.9	19	55.9	0		0		1	2.9	0		0	
	1980	Total	28		1	3.6	27	96.4	0		0		1	3.6	0		0	
		Male	10	35.7	0		10	35.7	0		0		0		0		0	
		Female	18	64.3	1	3.6	17	60.7	0		0		1	3.6	0		0	
F OFFICE/CLERICAL	1981	Total	199		20	10.1	179	90.0	5	2.5	1	.5	7	3.5	5	2.5	2	1.0
		Male	21	10.6	0		21	10.6	0		0		0		0		0	
		Female	178	89.4	20	10.1	158	79.4	5	2.5	1	.5	7	3.5	5	2.5	2	1.0
	1980	Total	198		17	8.6	181	91.4	3	1.5	1	.5	6	3.0	3	1.5	4	2.0
		Male	21	10.6	4	2.0	17	8.6	1	.5	1	.5	0		1	.5	1	.5
		Female	177	89.4	13	6.5	164	82.8	2	1.0	0		6	3.0	2	1.0	3	1.5
G SKILLED CRAFT	1981	Total	31		1	3.2	30	96.8	1	3.2	0		0		0		0	
		Male	28	90.3	1	3.2	27	87.1	1	3.2	0		0		0		0	
		Female	3	9.7	0		3	9.7	0		0		0		0		0	
	1980	Total	30		0		30	100.0	0		0		0		0		0	
		Male	28	93.3	0		28	93.3	0		0		0		0		0	
		Female	2	6.7	0		2	6.7	0		0		0		0		0	
H SERVICE/MAINT	1981	Total	NO EMPLOYEES IN THIS CATEGORY															
		Male																
		Female																
	1980	Total																
		Male																
		Female																
TOTALS	1981	Total	897		45	5.0	852	94.9	10	1.1	6	.6	12	1.3	13	1.5	4	.4
		Male	535	59.5	17	1.8	518	57.7	4	.4	3	.3	3	.3	6	.7	1	.1
		Female	362	40.4	28	3.1	334	37.2	6	.7	3	.3	9	1.0	7	.8	3	.3
	1980	Total	736		31	4.2	705	95.8	5	.7	3	.4	10	1.4	8	1.0	5	.6
		Male	423	57.5	11	1.5	412	56.0	2	.3	2	.3	2	.3	4	.5	1	.1
		Female	313	42.5	20	2.6	293	39.8	3	.4	1	.1	8	1.1	4	.5	4	.5

MILITARY AFFAIRS

	YEAR	SEX	EMPLOYEES Total/Percent		MINORITY Total/Percent		WHITE Total/Percent		BLACK Total/Percent		HISPANIC Total/Percent		AMER. IND. Total/Percent		ASIAN/PAC. IS. Total/Percent		AK NATIVE Total/Percent	
* EXEMPT	1981	Total	1		0		1	100.0	0		0		0		0		0	
		Male	1	100.0	0		1	100.0	0		0		0		0		0	
		Female	0		0		0		0		0		0		0		0	
	1980	Total	1		0		1	100.0	0		0		0		0		0	
		Male	1	100.0	0		1	100.0	0		0		0		0		0	
		Female	0		0		0		0		0		0		0		0	
A OFFICIAL/ADMIN	1981	Total	5		0		5	100.0	0		0		0		0		0	
		Male	5	100.0	0		5	100.0	0		0		0		0		0	
		Female	0		0		0		0		0		0		0		0	
	1980	Total	5		0		5	100.0	0		0		0		0		0	
		Male	5	100.0	0		5	100.0	0		0		0		0		0	
		Female	0		0		0		0		0		0		0		0	
B PROFESSIONALS	1981	Total	11		1	9.1	10	90.9	0		0		0		0		0	
		Male	8	72.7	1	9.1	7	63.6	0		0		0		0		0	
		Female	3	27.3	0		3	27.3	0		0		0		0		0	
	1980	Total	9		0		9	100.0	0		0		0		0		0	
		Male	6	66.7	0		6	66.7	0		0		0		0		0	
		Female	3	33.3	0		3	33.3	0		0		0		0		0	
C TECHNICIANS	1981	Total	1		0		1	100.0	0		0		0		0		0	
		Male	0		0		0		0		0		0		0		0	
		Female	1	100.0	0		1	100.0	0		0		0		0		0	
	1980	Total	NO EMPLOYEES IN THIS CATEGORY															
		Male																
		Female																
D PROTECTIVE SERV	1981	Total	8		1	12.5	7	87.5	0		1	12.5	0		0		0	
		Male	8	100.0	1	12.5	7	87.5	0		1	12.5	0		0		0	
		Female	0		0		0		0		0		0		0		0	
	1980	Total	9		1	11.1	8	88.9	0		1	11.1	0		0		0	
		Male	9	100.0	1	11.1	8	88.9	0		1	11.1	0		0		0	
		Female	0		0		0		0		0		0		0		0	
E PARA-PROFESSIONAL	1981	Total	1		0		1	100.0	0		0		0		0		0	
		Male	1	100.0	0		1	100.0	0		0		0		0		0	
		Female	0		0		0		0		0		0		0		0	
	1980	Total	1		0		1	100.0	0		0		0		0		0	
		Male	1	100.0	0		1	100.0	0		0		0		0		0	
		Female	0		0		0		0		0		0		0		0	
F OFFICE/CLERICAL	1981	Total	26		4	15.4	22	84.6	2	7.7	2	7.7	0		0		0	
		Male	3	11.5	0		3	11.5	0		0		0		0		0	
		Female	23	88.5	4	15.4	19	73.1	2	7.7	2	7.7	0		0		0	
	1980	Total	27		2	7.4	25	92.6	1	3.7	1	3.7	0		0		0	
		Male	4	14.8	0		4	14.8	0		0		0		0		0	
		Female	23	85.2	2	7.4	21	77.8	1	3.7	1	3.7	0		0		0	
G SKILLED CRAFT	1981	Total	22		4	18.2	18	81.8	0		0		0		0		4	18.2
		Male	22	100.0	4	18.2	18	81.8	0		0		0		0		4	18.2
		Female	0		0		0		0		0		0		0		0	
	1980	Total	24		3	12.5	21	87.5	0		0		0		0		3	12.5
		Male	24	100.0	3	12.5	21	87.5	0		0		0		0		3	12.5
		Female	0		0		0		0		0		0		0		0	
H SERVICE/MAINT	1981	Total	14		4	28.6	10	71.4	3	21.4	0		0		1	7.1	0	
		Male	12	85.7	3	21.4	9	64.3	2	14.3	0		0		1	7.1	0	
		Female	2	14.3	1	7.1	1	7.1	1	7.1	0		0		0		0	
	1980	Total	24		3	12.5	21	87.5	0		0		0		0		3	12.5
		Male	24	100.0	3	12.5	21	87.5	0		0		0		0		3	12.5
		Female	0		0		0		0		0		0		0		0	
TOTAL	1981	Total	89		14	15.7	75	84.3	5	5.6	3	3.3	1	1.1	1	1.1	4	4.5
		Male	60	67.3	9	10.0	51	57.3	2	2.2	1	1.1	1	1.1	1	1.1	4	4.5
		Female	29	32.6	5	5.6	24	27.0	3	3.4	2	2.2	0		0		0	
	1980	Total	95		11	11.6	84	88.4	3	3.2	2	2.2	1	1.1	1	1.1	4	4.2
		Male	65	68.6	8	8.6	57	60.0	1	1.1	1	1.1	1	1.1	1	1.1	4	4.2
		Female	30	31.6	3	3.2	27	28.4	2	2.1	1	1.1	0		0		0	

PUBLIC SAFETY

	YEAR	SEX	EMPLOYEES Total/Percent		MINORITY Total/Percent		WHITE Total/Percent		BLACK Total/Percent		HISPANIC Total/Percent		AMER.IND. Total/Percent		ASIAN/PAC.IS. Total/Percent		AK NATIVE Total/Percent	
* EXEMPT	1981	Total	1		0		1	100.0	0		0		0		0		0	
		Male	1	100.0	0		1	100.0	0		0		0		0		0	
		Female	0		0		0		0		0		0		0		0	
	1980	Total	1		0		1	100.0	0		0		0		0		0	
		Male	1	100.0	0		1	100.0	0		0		0		0		0	
		Female	0		0		0		0		0		0		0		0	
A OFFICIAL/ADMIN	1981	Total	20		1	5.0	19	95.0	1	5.0	0		0		0		0	
		Male	18	90.0	1	5.0	17	85.0	1	5.0	0		0		0		0	
		Female	2	10.0	0		2	10.0	0		0		0		0		0	
	1980	Total	19		1	5.3	18	94.8	1	5.3	0		0		0		0	
		Male	18	94.8	1	5.3	17	89.5	1	5.3	0		0		0		0	
		Female	1	5.3	0		1	5.3	0		0		0		0		0	
B PROFESSIONALS	1981	Total	73		3	4.1	70	95.9	1	1.4	0		1	1.4	0		1	1.4
		Male	63	86.3	3	4.1	60	82.2	1	1.4	0		1	1.4	0		1	1.4
		Female	10	13.7	0		10	13.7	0		0		0		0		0	
	1980	Total	59		2	3.4	57	96.6	1	1.7	0		1	1.7	0		0	
		Male	49	83.1	2	3.4	47	79.7	1	1.7	0		1	1.7	0		0	
		Female	10	16.9	0		10	16.9	0		0		0		0		0	
C TECHNICIANS	1981	Total	36		10	27.8	26	72.2	2	5.6	1	2.8	2	5.6	2	5.6	3	8.4
		Male	21	58.4	4	11.2	17	47.2	0		0		1	2.8	1	2.8	2	5.6
		Female	15	41.7	6	16.8	9	25.0	2	5.6	1	2.8	1	2.8	1	2.8	1	2.8
	1980	Total	13		3	23.1	10	77.0	2	15.4	1	7.7	0		0		0	
		Male	5	38.5	0		5	38.5	0		0		0		0		0	
		Female	8	61.5	3	23.1	5	38.5	2	15.4	1	7.7	0		0		0	
D PROTECTIVE SERV	1981	Total	458		37	8.1	421	92.0	7	1.5	2	.4	15	3.2	1	.2	12	2.6
		Male	383	83.6	31	6.7	352	76.9	5	1.1	2	.4	13	2.8	1	.2	10	2.2
		Female	75	16.4	6	1.2	69	15.1	2	.4	0		2	.4	0		2	.4
	1980	Total	432		31	7.2	401	92.8	6	1.4	0		12	2.7	3	.7	10	2.4
		Male	356	82.4	26	6.0	330	76.4	4	.9	0		11	2.5	3	.7	8	1.9
		Female	76	17.6	5	1.2	71	16.4	2	.5	0		1	.2	0		2	.5
E PARA-PROFESSIONAL	1981	Total	11		0		11	100.0	0		0		0		0		0	
		Male	9	81.8	0		9	81.8	0		0		0		0		0	
		Female	2	18.2	0		2	18.2	0		0		0		0		0	
	1980	Total	5		1	20.0	4	80.0	0		0		1	20.0	0		0	
		Male	2	40.0	1	20.0	1	20.0	0		0		1	20.0	0		0	
		Female	3	60.0	0		3	60.0	0		0		0		0		0	
F OFFICE/CLERICAL	1981	Total	258		23	8.9	235	91.1	6	2.3	2	.8	8	3.1	2	.8	5	1.9
		Male	44	17.1	1	.4	43	16.7	1	.4	0		0		0		0	
		Female	214	82.9	22	8.5	192	74.4	5	1.9	2	.8	8	3.1	2	.8	5	1.9
	1980	Total	232		23	9.9	209	90.1	7	3.0	1	.4	6	2.6	4	1.7	5	2.1
		Male	41	17.6	2	.8	39	16.8	1	.4	0		0		0		1	.4
		Female	191	82.3	21	9.0	170	73.3	6	2.6	1	.4	6	2.6	4	1.7	4	1.7
G SKILLED CRAFT	1981	Total	12		0		12	100.0	0		0		0		0		0	
		Male	12	100.0	0		12	100.0	0		0		0		0		0	
		Female	0		0		0		0		0		0		0		0	
	1980	Total	12		0		12	100.0	0		0		0		0		0	
		Male	12	100.0	0		12	100.0	0		0		0		0		0	
		Female	0		0		0		0		0		0		0		0	
H SERVICE/MAINT	1981	Total	5		2	40.0	3	60.0	0		0		1	20.0	0		1	20.0
		Male	3	60.0	1	20.0	2	40.0	0		0		0		0		1	20.0
		Female	2	40.0	1	20.0	1	20.0	0		0		1	20.0	0		0	
	1980	Total	5		3	60.0	2	40.0	1	20.0	0		1	20.0	0		1	20.0
		Male	2	40.0	1	20.0	1	20.0	0		0		0		0		1	20.0
		Female	3	60.0	2	40.0	1	20.0	1	20.0	0		1	20.0	0		0	
TOTAL	1981	Total	874		76	8.7	798	91.3	17	1.9	5	.5	27	3.1	5	.5	22	2.5
		Male	554	63.3	41	4.6	513	58.7	8	.9	2	.2	15	1.7	2	.2	14	1.6
		Female	320	36.6	35	3.9	285	32.6	9	1.0	3	.3	12	1.4	3	.3	8	.9
	1980	Total	778		64	8.2	714	91.7	18	2.3	2	.3	21	2.7	7	.9	16	2.1
		Male	486	62.5	33	4.3	453	58.2	7	.9	0		13	1.7	3	.4	10	1.3
		Female	292	37.5	31	4.0	261	33.5	11	1.4	2	.3	8	1.0	4	.5	6	.8

REVENUE

	YEAR	SEX	EMPLOYEES Total/Percent		MINORITY Total/Percent		WHITE Total/Percent		BLACK Total/Percent		HISPANIC Total/Percent		AMER.IND. Total/Percent		ASIAN/PAC.IS. Total/Percent		AK NATIVE Total/Percent	
* EXEMPT	1981	Total	18		0		18	100.0	0		0		0		0		0	
		Male	11	61.1	0		11	61.1	0		0		0		0		0	
		Female	7	38.9	0		7	38.9	0		0		0		0		0	
	1980	Total	15		0		15	100.0	0		0		0		0		0	
		Male	10	67.3	0		10	67.3	0		0		0		0		0	
		Female	5	33.3	0		5	33.3	0		0		0		0		0	
A OFFICIAL/ADMIN	1981	Total	16		0		16	100.1	0		0		0		0		0	
		Male	13	81.3	0		13	81.3	0		0		0		0		0	
		Female	3	18.8	0		3	18.8	0		0		0		0		0	
	1980	Total	16		0		16	100.1	0		0		0		0		0	
		Male	13	81.3	0		13	81.3	0		0		0		0		0	
		Female	3	18.8	0		3	18.8	0		0		0		0		0	
B PROFESSIONALS	1981	Total	97		2	2.1	95	97.9	1	1.0	0		1	1.0	0		0	
		Male	65	67.0	2	2.1	63	64.9	1	1.0	0		1	1.0	0		0	
		Female	32	33.0	0		32	33.0	0		0		0		0		0	
	1980	Total	93		2	2.2	91	97.9	1	1.1	0		1	1.1	0		0	
		Male	60	64.6	2	2.2	58	62.4	1	1.1	0		1	1.1	0		0	
		Female	33	35.5	0		33	35.5	0		0		0		0		0	
C TECHNICIANS	1981	Total	15		1	6.7	14	93.0	0		0		0		1	6.7	0	
		Male	3	20.0	1	6.7	2	13.3	0		0		0		1	6.7	0	
		Female	12	80.0	0		12	80.0	0		0		0		0		0	
	1980	Total	14		1	7.1	13	92.9	0		0		0		1	7.1	0	
		Male	3	21.4	1	7.1	2	14.3	0		0		0		1	7.1	0	
		Female	11	78.6	0		11	78.6	0		0		0		0		0	
D PROTECTIVE SERV	1981	Total	7		0		7	100.0	0		0		0		0		0	
		Male	5	71.4	0		5	71.4	0		0		0		0		0	
		Female	2	28.6	0		2	28.6	0		0		0		0		0	
	1980	Total	7		0		7	100.0	0		0		0		0		0	
		Male	5	71.4	0		5	71.4	0		0		0		0		0	
		Female	2	28.6	0		2	28.6	0		0		0		0		0	
E PARA-PROFESSIONAL	1981	Total	8		2	25.0	6	75.0	1	12.5	0		0		0		1	12.5
		Male	1	12.5	0		1	12.5	0		0		0		0		0	
		Female	7	87.5	2	25.0	5	62.5	1	12.5	0		0		0		1	12.5
	1980	Total	8		1	12.5	7	87.5	0		0		0		0		1	12.5
		Male	1	12.5	0		1	12.5	0		0		0		0		0	
		Female	7	87.5	1	12.5	6	75.0	0		0		0		0		1	12.5
F OFFICE/CLERICAL	1981	Total	153		20	13.1	133	86.9	3	2.0	3	2.0	4	2.6	6	3.9		2.6
		Male	22	14.4	3	2.0	19	12.4	1	.7	0		0		2	1.3	0	
		Female	131	85.6	17	11.1	114	74.5	2	1.3	3	2.0	4	2.6	4	2.6	4	2.6
	1980	Total	169		18	10.7	151	89.4	4	2.4	1	.6	6	3.6	4	2.4	3	1.8
		Male	31	18.4	5	3.0	26	15.4	1	.6	0		1	.6	2	1.2	1	.6
		Female	138	81.8	13	7.8	125	74.0	3	1.8	1	.6	5	3.0	2	1.2	2	1.2
G SKILLED CRAFT	1981	Total																
		Male																
		Female																
			NO EMPLOYEES IN THIS CATEGORY															
	1980	Total																
		Male																
		Female																
H SERVICE/MAINT	1981	Total																
		Male																
		Female																
			NO EMPLOYEES IN THIS CATEGORY															
	1980	Total																
		Male																
		Female																
TOTALS	981	Total	314		25	8.0	289	92.0	5	1.6	3	1.0	5	1.6	7	2.3	5	1.6
		Male	120	38.2	6	1.9	114	36.3	2	.6	0		1	.3	3	1.0	0	
		Female	194	61.8	19	6.2	175	55.7	3	1.0	3	1.0	4	1.3	4	1.3	5	1.6
	980	Total	322		22	6.8	300	93.2	5	1.5	1	.3	7	2.2	5	1.5	4	1.2
		Male	123	38.4	8	2.7	115	35.7	2	.6	0		2	.6	3	.9	1	.3
		Female	199	61.8	14	4.3	185	57.5	3	.9	1	.3	5	1.6	2	.6	3	.9

TRANSPORTATION AND PUBLIC FACILITIES

	YEAR	SEX	EMPLOYEES Total/Percent		MINORITY Total/Percent		WHITE Total/Percent		BLACK Total/Percent		HISPANIC Total/Percent		AMER.IND. Total/Percent		ASIAN/PAC.IS. Total/Percent		AK NATIVE Total/Percent	
* EXEMPT	1981	Total	1		0		1	100.0	0		0		0		0		0	
		Male	1	100.0	0		1	100.0	0		0		0		0		0	
		Female	0		0		0		0		0		0		0		0	
	1980	Total	1		0		1	100.0	0		0		0		0		0	
		Male	1	100.0	0		1	100.0	0		0		0		0		0	
		Female	0		0		0		0		0		0		0		0	
A OFFICIAL/ADMIN	1981	Total	39		0		39	100.0	0		0		0		0		0	
		Male	37	94.9	0		37	94.9	0		0		0		0		0	
		Female	2	5.1	0		2	5.1	0		0		0		0		0	
	1980	Total	38		0		38	100.0	0		0		0		0		0	
		Male	36	94.7	0		36	94.7	0		0		0		0		0	
		Female	2	5.3	0		2	5.3	0		0		0		0		0	
B PROFESSIONALS	1981	Total	913		35	3.8	878	96.1	4	.4	5	.5	8	.9	10	1.1	8	.9
		Male	827	90.5	26	2.8	801	87.7	2	.2	4	.4	6	.7	7	.8	7	.8
		Female	86	9.4	9	.9	77	8.4	2	.2	1	.1	2	.2	3	.3	1	.1
	1980	Total	864		34	3.9	830	96.1	4	.5	5	.6	9	1.0	8	.9	8	.9
		Male	789	91.4	27	3.2	762	88.2	4	.5	4	.5	7	.8	5	.6	7	.8
		Female	75	8.7	7	.7	68	7.9	0		1	.1	2	.2	3	.3	1	.1
C TECHNICIANS	1981	Total	250		20	8.0	230	92.0	2	.8	1	.4	7	2.8	4	1.6	6	2.4
		Male	167	66.8	14	5.6	153	61.2	1	.4	1	.4	4	1.6	3	1.2	5	2.0
		Female	83	33.2	6	2.4	77	30.8	1	.4	0		3	1.2	1	.4	1	.4
	1980	Total	252		15	6.0	237	94.1	2	.8	0		5	2.0	6	2.4	2	.8
		Male	168	66.7	7	2.8	161	63.9	0		0		1	.4	4	1.6	2	.8
		Female	84	33.3	8	3.2	76	30.2	2	.8	0		4	1.6	2	.8	0	
D PROTECTIVE SERV	1981	Total	131		5	3.8	126	96.1	3	2.3	1	.8	1	.8	0		0	
		Male	120	91.6	4	3.1	116	88.5	3	2.3	1	.8	0		0		0	
		Female	11	8.4	1	.8	10	7.6	0		0		1	.8	0		0	
	1980	Total	116		6	5.2	110	94.8	2	1.7	1	.9	3	2.6	0		0	
		Male	108	93.1	5	4.3	103	88.8	2	1.7	1	.9	2	1.7	0		0	
		Female	8	6.9	1	.9	7	6.0	0		0		1	.9	0		0	
E PARA-PROFESSIONAL	1981	Total	30		1	3.3	29	96.7	0		1	3.3	0		0		0	
		Male	6	20.0	0		6	20.0	0		0		0		0		0	
		Female	24	80.0	1	3.3	23	76.7	0		1	3.3	0		0		0	
	1980	Total	27		1	3.7	26	96.3	0		1	3.7	0		0		0	
		Male	5	18.5	0		5	18.5	0		0		0		0		0	
		Female	22	81.5	1	3.7	21	77.8	0		1	3.7	0		0		0	
F OFFICE/CLERICAL	1981	Total	382		40	10.5	342	89.5	12	3.2	3	.8	8	2.0	9	2.4	8	2.1
		Male	64	16.8	12	3.2	52	13.6	3	.8	1	.3	4	1.0	1	.3	3	.8
		Female	318	83.2	28	7.3	290	75.9	9	2.4	2	.5	4	1.0	8	2.1	5	1.3
	1980	Total	385		33	8.6	352	91.6	10	2.6	5	1.3	7	1.8	6	1.5	5	1.3
		Male	69	17.9	11	2.8	58	15.1	3	.8	2	.5	2	.5	2	.5	2	.5
		Female	316	83.1	22	5.7	294	76.4	7	1.8	3	.8	5	1.3	4	1.0	3	.8
G SKILLED CRAFT	1981	Total	1022		115	11.3	907	88.8	5	.5	7	.7	43	4.2	3	.3	57	5.6
		Male	1008	98.7	114	11.2	894	87.5	5	.5	7	.7	43	4.2	2	.2	57	5.6
		Female	14	1.4	1	.1	13	1.3	0		0		0		1	.1	0	
	1980	Total	986		118	12.0	868	88.0	5	.5	8	.8	44	4.5	3	.3	58	5.9
		Male	971	87.7	117	11.0	854	86.6	5	.5	8	.8	44	4.5	2	.2	58	5.9
		Female	15	1.5	1	.1	14	1.4	0		0		0		1	.1	0	
H SERVICE/MAINT	1981	Total	293		45	15.4	248	84.6	13	4.5	2	.7	17	5.8	11	3.8	2	.7
		Male	187	63.9	26	9.0	161	54.9	4	1.4	2	.7	11	3.8	7	2.4	2	.7
		Female	106	36.2	19	6.5	87	29.7	9	3.1	0		6	2.0	4	1.4	0	
	1980	Total	313		41	13.1	272	86.9	13	4.2	0		17	5.4	8	2.5	3	1.0
		Male	223	71.2	26	8.3	197	62.9	4	1.3	0		12	3.8	7	2.2	3	1.0
		Female	90	28.8	15	4.8	75	24.0	9	2.9	0		5	1.6	1	.3	0	
TOTALS	1981	Total	3061		261	8.5	2800	91.5	39	1.3	20	.6	84	2.7	37	1.3	81	2.6
		Male	2417	79.0	196	6.4	2221	72.6	18	.6	16	.5	68	2.2	20	.7	74	2.4
		Female	644	21.0	65	2.1	579	18.9	21	.7	4	.1	16	.5	17	.6	7	.2
	1980	Total	2982		248	8.3	2734	91.7	36	1.2	20	.7	85	2.9	31	1.1	76	2.5
		Male	2370	79.5	193	6.5	2177	73.0	18	.6	15	.5	68	2.3	20	.7	72	2.4
		Female	612	20.5	55	1.9	557	18.7	18	.6	5	.2	17	.6	11	.4	4	.1

EXECUTIVE BRANCH

	YEAR	SEX	EMPLOYEES Total	/Percent	MINORITY Total	/Percent	WHITE Total	/Percent	BLACK Total	/Percent	HISPANIC Total	/Percent	AMER.IND. Total	/Percent	ASIAN/PAC.IS. Total	/Percent	AK NATIVE Total	/Percent
EXEMPT	1981	Total	293		38	13.0	255	87.0	9	3.1	3	1.0	2	.7	3	1.0	21	7.2
		Male	153	52.2	9	3.1	144	49.1	2	.7	0		2	.7	0		5	1.7
		Female	140	47.8	29	9.9	111	37.9	7	2.4	3	1.0	0		3	1.0	16	5.5
	1980	Total	202		9	4.5	193	95.6	2	1.0	1	.5	1	.5	3	1.5	2	1.0
		Male	111	55.0	1	.5	110	54.5	0		0		1	.5	0		0	
		Female	91	45.0	8	4.0	83	41.1	2	1.0	1	.5	0		3	1.5	2	1.0
A OFFICIAL/ADMIN	1981	Total	296		12	4.1	284	95.9	5	1.7	0		2	.7	3	1.0	2	.6
		Male	236	79.7	8	2.7	228	77.0	2	.7	0		2	.7	3	1.0	1	.3
		Female	60	20.3	4	1.3	56	18.9	3	1.0	0		0		0		1	.3
	1980	Total	260		9	3.5	251	96.5	3	1.2	0		3	1.2	1	.4	2	.8
		Male	211	81.2	5	2.0	206	79.2	1	.4	0		2	.8	1	.4	1	.4
		Female	49	18.8	4	1.6	45	17.3	2	.8	0		1	.4	0		1	.4
B PROFESSIONAL	1981	Total	3934		202	5.1	3732	94.9	50	1.3	28	.7	36	.9	52	1.4	36	.9
		Male	2715	69.1	100	2.6	2615	66.5	22	.6	12	.3	20	.5	26	.7	20	.5
		Female	1219	31.0	102	2.6	1117	28.4	28	.7	16	.4	16	.4	26	.7	16	.4
	1980	Total	3548		180	5.1	3368	95.0	47	1.3	26	.7	37	1.1	40	1.1	30	.9
		Male	2473	69.7	90	2.5	2383	67.2	25	.7	11	.3	21	.6	19	.5	14	.4
		Female	1075	30.3	90	2.6	985	27.8	22	.6	15	.4	16	.5	21	.6	16	.5
C TECHNICIANS	1981	Total	852		89	10.4	763	89.6	15	1.8	9	1.1	22	2.6	24	2.8	19	2.2
		Male	449	52.8	42	5.0	407	47.8	3	.4	4	.5	12	1.4	11	1.3	12	1.4
		Female	403	47.3	47	5.5	356	41.8	12	1.4	5	.6	10	1.2	13	1.5	7	.8
	1980	Total	777		74	9.5	703	90.4	14	1.8	6	.7	18	2.3	22	2.8	14	1.8
		Male	406	52.2	25	3.2	381	49.0	2	.3	1	.1	6	.8	11	1.4	5	.8
		Female	371	47.7	49	6.2	322	41.4	12	1.5	5	.6	12	1.5	11	1.4	9	1.2
D PROTECTIVE SERV	1981	Total	1073		102	9.5	971	90.5	41	3.9	13	1.2	22	2.1	4	.4	22	2.1
		Male	878	81.9	80	7.5	798	74.4	34	3.2	11	1.0	16	1.5	4	.4	15	1.4
		Female	195	18.2	22	2.0	173	16.1	7	.7	2	.2	6	.6	0		7	.7
	1980	Total	971		87	9.0	884	91.1	33	3.4	10	1.0	20	2.0	6	.6	18	1.8
		Male	799	82.2	71	7.2	728	75.0	29	3.0	8	.8	16	1.6	6	.6	12	1.2
		Female	172	17.7	16	1.6	156	16.1	4	.4	2	.2	4	.4	0		6	.6
E PARA-PROFESSIONAL	1981	Total	544		91	16.7	453	83.3	34	6.3	10	1.9	10	1.8	7	1.3	30	5.5
		Male	174	32.1	23	4.3	151	27.8	9	1.7	3	.6	0		4	.7	7	1.3
		Female	370	68.0	68	12.5	302	55.5	25	4.6	7	1.3	10	1.8	3	.6	23	4.2
	1980	Total	479		79	16.5	400	83.5	24	5.0	7	1.4	15	3.1	4	.8	29	6.1
		Male	142	29.5	23	4.7	119	24.8	5	1.0	2	.4	2	.4	3	.6	11	2.3
		Female	337	70.4	56	11.7	281	58.7	19	4.0	5	1.0	13	2.7	1	.2	18	3.8
F OFFICE/CLERICAL	1981	Total	2630		306	11.6	2324	88.3	53	2.0	29	1.1	64	2.5	60	2.3	100	3.8
		Male	358	14.9	42	2.9	316	12.0	8	.3	2	.1	10	.4	12	.5	10	.4
		Female	2272	86.4	264	10.0	2008	76.3	45	1.7	27	1.0	54	2.1	48	1.8	90	3.4
	1980	Total	2475		291	11.8	2184	89.2	48	1.9	31	1.2	69	2.8	51	2.1	92	3.7
		Male	333	13.4	43	1.7	290	11.7	6	.2	5	.2	12	.5	9	.4	10	.4
		Female	2142	86.5	248	10.0	1894	76.5	42	1.7	25	1.0	57	2.3	42	1.7	82	3.3
G SKILLED CRAFT	1981	Total	1208		132	10.9	1076	89.1	9	.8	9	.7	45	3.7	4	.3	65	5.4
		Male	1177	97.4	129	10.6	1048	86.8	8	.7	9	.7	45	3.7	3	.2	64	5.3
		Female	31	2.6	3	.3	28	2.3	1	.1	0		0		1	.1	1	.1
	1980	Total	1150		132	11.5	1018	88.5	7	.6	10	.9	46	4.0	4	.4	65	5.7
		Male	1123	97.7	130	11.4	993	86.3	7	.6	10	.9	46	4.0	3	.3	64	5.6
		Female	27	2.3	2	.2	25	2.2	0		0		0		1	.1	1	.1
H SERVICE/MAINT	1981	Total	580		107	18.4	473	81.6	36	6.2	2	.3	25	4.3	28	4.8	16	2.7
		Male	300	51.6	53	9.0	247	42.6	18	3.1	2	.3	14	2.4	13	2.2	6	1.0
		Female	280	48.3	54	9.3	226	39.0	18	3.1	0		11	1.9	15	2.6	10	1.7
	1980	Total	592		101	17.7	471	82.4	32	5.5	1	.2	26	4.5	24	4.2	18	3.1
		Male	318	55.6	51	8.9	267	46.7	14	2.4	1	.2	15	2.6	13	2.3	8	1.4
		Female	254	44.4	50	8.6	204	35.7	18	3.1	0		11	1.9	11	1.9	10	1.7
TOTAL	1981	Total	11,410		1079	9.5	10,331	90.6	252	2.2	103	.9	228	2.0	185	1.7	311	2.7
		Male	6,440	56.5	486	4.3	5,954	52.2	106	.9	43	.4	121	1.1	76	.7	140	1.2
		Female	4,970	43.6	593	5.2	4,377	38.4	146	1.3	60	.5	107	.9	109	1.0	171	1.5
	1980	Total	10,434		962	9.2	9,472	90.8	210	2.1	92	.9	235	2.3	155	1.5	270	2.6
		Male	5,916	56.8	439	4.3	5,477	52.5	89	.9	39	.4	121	1.2	65	.6	125	1.2
		Female	4,518	43.3	523	5.1	3,995	38.3	121	1.2	53	.5	114	1.1	90	.9	145	1.4

LEGISLATIVE BRANCh

	YEAR	SEX	EMPLOYEES Total/Percent		MINORITY Total/Percent		WHITE Total/Percent		BLACK Total/Percent		HISPANIC Total/Percent		AMER.IND. Total/Percent		ASIAN/PAC.IS. Total Percent		AK NATIVE Total/Percent	
* EXEMPT	1981	Total	398		29	7.3	369	92.7	3	.8	2	.5	9	2.3	7	1.8	8	2.1
		Male	188	47.4	13	3.4	175	44.0	1	.3	2	.5	2	.5	5	1.3	3	.8
		Female	210	52.8	16	2.7	194	48.7	2	.5	0		7	1.8	2	.5	5	1.3
	1980	Total	316		23	7.3	293	92.8	3	.9	3	.9	8	2.6	4	1.2	5	1.5
		Male	148	46.8	10	3.1	138	43.7	0		1	.3	4	1.3	2	.6	3	.9
		Female	168	53.2	13	4.0	155	49.1	3	.9	2	.6	4	1.3	2	.6	2	.6
A OFFICIAL/ADMIN	1981	Total Male Female	NO EMPLOYEES IN THIS CATEGORY															
	1980	Total Male Female																
B PROFESSIONAL	1981	Total Male Female	NO EMPLOYEES IN THIS CATEGORY															
	1980	Total Male Female																
C TECHNICIANS	1981	Total Male Female	NO EMPLOYEES IN THIS CATEGORY															
	1980	Total Male Female																
D PROTECTIVE SERV	1981	Total Male Female	NO EMPLOYEES IN THIS CATEGORY															
	1980	Total Male Female																
E PARA-PROFESSIONAL	1981	Total Male Female	NO EMPLOYEES IN THIS CATEGORY															
	1980	Total Male Female																
F OFFICE/CLERICAL	1981	Total Male Female	NO EMPLOYEES IN THIS CATEGORY															
	1980	Total Male Female																
G SKILLED CRAFT	1981	Total	3		0		3	100.0	0		0		0		0		0	
		Male	2	66.7	0		2	66.7	0		0		0		0		0	
		Female	1	33.3	0		1	33.3	0		0		0		0		0	
	1980	Total	3		0		3	100.0	0		0		0		0		0	
		Male	3	100.0	0		3	100.0	0		0		0		0		0	
		Female	0		0		0		0		0		0		0		0	
H SERVICE/MAINT	1981	Total Male Female	NO EMPLOYEES IN THIS CATEGORY															
	1980	Total Male Female																
TOTAL	1981	Total	401		29	7.2	372	92.7	3	.7	2	.5	9	2.2	7	1.7	8	1.9
		Male	190	47.2	13	3.1	177	44.1	1	.2	2	.5	2	.5	5	1.2	3	.7
		Female	211	52.6	16	3.9	195	48.6	2	.5	0		7	1.7	2	.5	5	1.2
	1980	Total	319		23	7.2	296	92.8	3	.9	3	.9	8	2.6	4	1.2	5	1.5
		Male	151	47.3	10	3.1	141	44.2	0		1	.3	4	1.3	2	.6	3	.9
		Female	168	52.7	23	7.2	155	48.6	3	.9	2	.6	4	1.3	2	.6	2	.6

JUDICIAL BRANCH

		YEAR	SEX	EMPLOYEES Total/Percent		MINORITY Total/Percent		WHITE Total/Percent		BLACK Total/Percent		HISPANIC Total/Percent		AMER.IND. Total/Percent		ASIAN/PAC.IS. Total/Percent		AK NATIVE Total/Percent	
*	EXEMPT	1981	Total	118		20	16.9	98	83.1	0		0		0		0		20	16.9
			Male	76	64.4	9	7.6	67	56.8	0		0		0		0		9	7.6
			Female	42	35.6	11	9.3	31	26.3	0		0		0		0		11	9.3
		1980	Total	114		19	16.7	95	83.3	0		0		0		0		19	16.6
			Male	74	65.7	11	9.6	64	56.1	0		0		0		0		11	9.6
			Female	39	34.2	8	7.0	31	27.2	0		0		0		0		8	7.0
A	OFFICIAL/ADMIN	1981	Total	18		0		18	100.0	0		0		0		0		0	
			Male	11	61.1	0		11	61.1	0		0		0		0		0	
			Female	7	38.9	0		7	38.9	0		0		0		0		0	
		1980	Total	16		0		16	100.0	0		0		0		0		0	
			Male	10	62.5	0		10	62.5	0		0		0		0		0	
			Female	6	37.5	0		6	37.5	0		0		0		0		0	
B	PROFESSIONALS	1981	Total	40		2	5.0	38	95.0	2	5.0	0		0		0		0	
			Male	14	35.0	0		14	35.0	0		0		0		0		0	
			Female	26	65.0	2	5.0	24	60.0	2	5.0	0		0		0		0	
		1980	Total	38		1	2.6	37	97.4	1	2.6	0		0		0		0	
			Male	16	42.1	1	2.6	15	39.5	0		0		0		0		0	
			Female	23	60.5	0		22	57.9	1	2.6	0		0		0		0	
C	TECHNICIANS	1981	Total	5		1	20.0	4	80.0	0		0		0		0		1	20.0
			Male	3	60.0	1	20.0	2	40.0	0		0		0		0		1	20.0
			Female	2	40.0	0		2	40.0	0		0		0		0		0	
		1980	Total	2		0		2	100.0	0		0		0		0		0	
			Male	2	100.0	0		2	100.0	0		0		0		0		0	
			Female	0		0		0		0		0		0		0		0	
D	PROTECTIVE SERV	1981	Total	20		0		20	100.0	0		0		0		0		0	
			Male	8	40.0	0		8	40.0	0		0		0		0		0	
			Female	12	60.0	0		12	60.0	0		0		0		0		0	
		1980	Total	19		1	5.3	18	94.8	1	5.3	0		0		0		0	
			Male	4	26.4	1	5.3	4	21.1	1	5.3	0		0		0		0	
			Female	14	73.7	0		14	73.7	0		0		0		0		0	
E	PARA-PROFESSIONAL	1981	Total	24		4	16.7	20	83.4	2	8.4	0		0		0		2	8.3
			Male	2	8.4	1	4.2	1	4.2	1	4.2	0		0		0		0	
			Female	22	91.7	3	12.5	19	79.2	1	4.2	0		0		0		2	8.3
		1980	Total	21		3	14.3	18	83.7	2	9.5	0		0		0		1	4.8
			Male	2	9.5	0		2	9.5	0		0		0		0		0	
			Female	19	90.5	3	14.3	16	76.2	2	9.5	0		0		0		1	4.8
F	OFFICE/CLERICAL	1981	Total	296		52	17.6	244	82.4	18	6.0	0		1	.3	0		33	11.1
			Male	10	3.3	2	.6	8	2.7	1	.3	0		0		0		1	.3
			Female	286	96.6	50	16.8	236	79.7	17	5.7	0		1	.3	0		32	10.8
		1980	Total	283		47	16.6	236	83.4	19	6.8	0		0		0		28	9.9
			Male	11	4.0	2	.8	9	3.2	1	.4	0		0		0		1	.4
			Female	272	96.1	45	15.9	227	80.2	18	6.4	0		0		0		27	9.5
G	SKILLED CRAFT	1981	Total	1		0		1	100.0	0		0		0		0		0	
			Male	1	100.0	0		1	100.0	0		0		0		0		0	
			Female	0		0		0		0		0		0		0		0	
		1980	Total	1		0		1	100.0	0		0		0		0		0	
			Male	1	100.0	0		1	100.0	0		0		0		0		0	
			Female	0		0		0		0		0		0		0		0	
H	SERVICE/MAINT	1981	Total	3		1	33.3	2	66.7	0		1	33.3	0		0		0	
			Male	3	100.0	1	33.3	2	66.7	0		1	33.3	0		0		0	
			Female	0		0		0		0		0		0		0		0	
		1980	Total	2		0		2	100.0	0		0		0		0		0	
			Male	2	100.0	0		2	100.0	0		0		0		0		0	
			Female	0		0		0		0		0		0		0		0	
	TOTAL	1981	Total	525		80	15.2	445	84.7	22	4.2	1	.2	1	.2	0		56	10.7
			Male	128	24.4	14	2.7	114	21.7	2	.4	1	.2	0		0		11	2.1
			Female	397	75.6	66	12.6	331	63.0	20	3.8	0		1	.2	0		45	8.6
		1980	Total	496		71	14.3	425	85.7	23	4.6	0		0		0		48	9.7
			Male	123	24.8	14	2.8	109	22.0	2	.4	0		0		0		12	2.4
			Female	373	75.2	57	11.5	316	63.7	21	4.2	0		0		0		36	7.3

EXECUTIVE, LEGISLATIVE AND JUDICIAL BRANCHES

	YEAR	SEX	EMPLOYEES Total/Percent		MINORITY Total/Percent		WHITE Total/Percent		BLACK Total/Percent		HISPANIC Total/Percent		AMER.IND. Total/Percent		ASIAN/PAC.IS. Total/Percent		AK NATIVE Total/Percent	
* EXEMPT	1981	Total	809		87	10.8	722	89.2	12	1.5	5	.6	11	1.4	10	1.2	49	6.1
		Male	417	51.5	31	3.8	386	47.7	3	.4	2	.2	4	.5	5	.6	17	2.1
		Female	392	48.5	56	7.0	336	41.5	9	1.1	3	.4	7	.9	5	.6	32	4.0
	1980	Total	632		51	8.1	581	92.0	5	.8	4	.7	9	1.4	7	1.1	26	4.1
		Male	334	52.9	22	3.5	312	49.4	0		1	.2	5	.8	2	.3	14	2.2
		Female	298	47.2	29	4.6	269	42.6	5	.8	3	.5	4	.6	5	.8	12	1.9
A OFFICIAL/ADMIN	1981	Total	314		12	3.8	302	96.2	5	1.6	0		2	.6	3	1.0	2	.6
		Male	247	78.6	8	2.5	239	76.1	2	.6	0		2	.6	3	1.0	1	.3
		Female	67	21.3	4	1.3	63	20.1	3	1.0	0		0		0		1	.3
	1980	Total	276		9	3.3	267	96.8	3	1.1	0		3	1.1	1	.4	2	.8
		Male	221	80.2	5	1.9	216	78.3	1	.4	0		2	.7	1	.4	1	.4
		Female	55	19.9	4	1.5	51	18.5	2	.7	0		1	.4	0		1	.4
B PROFESSIONAL	1981	Total	3974		204	5.1	3770	94.9	52	1.4	28	.7	36	.9	52	1.4	36	.9
		Male	2729	57.8	100	2.6	2629	66.2	22	.6	12	.3	20	.5	26	.7	20	.5
		Female	1245	31.3	104	2.7	1141	28.7	30	.8	16	.4	16	.4	26	.7	16	.4
	1980	Total	3586		181	5.0	3405	95.0	48	1.3	26	.7	37	1.0	40	1.1	30	.8
		Male	2488	69.4	90	2.5	2398	66.9	25	.7	11	.3	21	.6	19	.5	14	.4
		Female	1098	30.6	91	2.4	1007	28.1	23	.6	15	.4	16	.4	21	.6	16	.4
C TECHNICIANS	1981	Total	857		90	10.5	767	89.5	15	.8	9	1.1	22	2.6	24	2.8	20	2.3
		Male	452	52.8	43	5.1	409	47.7	3	.4	4	.5	12	1.4	11	1.3	13	1.5
		Female	405	47.3	47	5.5	358	41.8	12	1.4	5	.6	10	1.2	13	1.5	7	.8
	1980	Total	779		74	9.5	705	90.5	14	1.8	6	.7	18	2.3	22	2.8	14	1.8
		Male	408	52.4	25	3.2	383	49.2	2	.3	1	.1	6	.8	11	1.4	5	.6
		Female	371	47.6	49	6.2	322	41.3	12	1.5	5	.6	12	1.5	11	1.4	9	1.2
D PROTECTIVE SERV	1981	Total	1093		102	9.3	991	90.6	41	3.7	13	1.2	22	2.0	4	.4	22	2.0
		Male	886	81.1	80	7.4	806	73.7	34	3.1	11	1.0	16	1.5	4	.4	15	1.4
		Female	207	18.9	22	1.9	185	16.9	7	.6	2	.2	6	.5	0		7	.6
	1980	Total	990		88	8.9	802	91.1	34	3.4	10	1.0	20	1.0	6	.6	18	1.8
		Male	804	80.1	72	6.2	732	73.9	30	3.0	8	.8	16	.6	6	.6	12	1.2
		Female	186	18.8	16	1.6	170	17.2	4	.4	2	.2	4	.4	0		6	.6
E PARA-PROFESSIONAL	1981	Total	568		95	16.7	473	83.3	36	6.4	10	1.7	10	1.8	7	1.2	32	5.6
		Male	176	31.0	24	4.2	152	26.8	10	1.8	3	.5	0		4	.7	7	1.2
		Female	392	69.0	71	12.5	321	56.5	26	4.6	7	1.2	10	1.8	3	.5	25	4.4
	1980	Total	500		82	16.4	418	83.6	26	5.2	7	1.4	15	3.0	4	.8	30	6.0
		Male	144	28.8	23	4.6	121	24.2	5	1.0	2	.4	2	.4	3	.6	11	2.2
		Female	356	71.2	59	11.8	297	59.4	21	4.2	5	1.0	13	2.6	1	.2	19	3.8
F OFFICE/CLERICAL	1981	Total	2926		358	12.2	2568	87.8	71	2.4	29	1.0	65	2.2	60	2.0	133	4.6
		Male	368	12.6	44	1.5	324	11.1	9	.3	2	.1	10	.3	12	.4	11	.4
		Female	2558	87.4	314	10.7	2244	76.7	62	2.1	27	.9	55	1.9	48	1.6	122	4.2
	1980	Total	2758		338	12.3	2420	87.7	67	2.5	31	1.1	69	.6	51	1.8	120	4.4
		Male	344	12.4	45	1.6	299	10.8	7	.3	6	.2	12	.4	9	.3	11	.4
		Female	2414	87.5	293	9.8	2121	76.9	60	2.2	25	.9	57	1.2	48	1.5	109	4.0
G SKILLED CRAFT	1981	Total	1212		132	10.9	1080	89.1	9	.8	9	.7	45	3.7	4	.3	65	5.4
		Male	1180	97.3	129	10.6	1051	86.7	8	.7	9	.7	45	3.7	3	.2	64	5.3
		Female	32	2.6	3	.3	29	2.4	1	.1	0		0		1	.1	1	.1
	1980	Total	1154		132	11.4	1022	88.6	7	.6	10	.9	46	.4	4	.4	65	5.6
		Male	1127	94.1	130	7.7	997	86.4	7	.6	10	.9	46	.4	3	.3	64	5.5
		Female	27	2.3	2	.2	25	2.2	0		0		0		1	.1	1	.1
H SERVICE/MAINT	1981	Total	583		108	18.5	475	81.5	36	6.2	3	.5	25	4.3	28	4.8	16	2.7
		Male	303	51.9	54	9.2	249	42.7	18	3.1	3	.5	14	2.4	13	2.2	6	1.0
		Female	280	48.0	54	9.3	226	38.8	18	3.1	0		11	1.9	15	2.6	10	1.7
	1980	Total	574		101	17.6	473	82.4	32	5.5	1	.2	26	4.5	24	4.2	18	3.1
		Male	320	55.8	51	8.9	269	46.9	14	2.4	1	.2	15	2.6	13	2.3	8	1.4
		Female	254	44.3	50	8.6	204	35.5	18	3.1	0		11	1.9	11	1.9	10	1.7
TOTAL	1981	Total	12,336		1188	9.6	11,148	90.3	277	2.3	106	.9	238	1.9	192	1.6	375	3.0
		Male	6,758	54.8	513	4.2	6,245	50.6	109	.9	46	.4	123	1.0	81	.7	154	1.2
		Female	5,578	45.2	675	5.5	4,903	39.7	168	1.4	60	.5	115	.9	111	.9	221	1.8
	1980	Total	11,249		1056	9.4	10,193	90.6	236	2.1	95	.9	243	1.1	159	1.4	323	2.8
		Male	6,190	55.0	463	4.1	5,727	50.9	91	.8	40	.4	125	1.1	67	.6	140	1.2
		Female	5,059	45.0	593	5.2	4,466	39.7	145	1.3	55	.5	118	1.0	92	.8	183	1.6

Departmental Employment of Minorities

Changes From December 31, 1980 to December 31, 1981

DEPARTMENT	CHANGE	MINORITIES IN WORKFORCE ON 12/31/81
Community & Regional Affairs	+ 7.5%	24.4%
Military Affairs	+ 4.1%	15.7%
Commerce	+ 1.6%	7.8%
Education	+ 1.5%	9.6%
Law	+ 1.4%	5.4%
Revenue	+ 1.2%	8.0%
Natural Resources	+ .8%	5.0%
Public Safety	+ .5%	8.7%
Environmental Conservation	+ .3%	4.4%
Transportation	+ .2%	8.5%
Fish & Game	- .2%	3.6%
Health & Social Services	- .5%	15.1%
Labor	- .6%	11.5%
Governor's Office	- .8%	14.2%
Administration	- .9%	9.3%
Total Executive Branch	+ .2%	9.5%
Legislative Branch	.0%	7.2%
Judicial Branch	+ .4%	15.2%
ALL BRANCHES	+ .2%	9.6%

Information taken from Computer Runs R01-AE0-3605
dated December 31, 1980 and December 31, 1981

Departmental Employment of Women

Changes From December 31, 1980 to December 31, 1981

DEPARTMENT	CHANGE	WOMEN IN WORKFORCE ON 12/31/81
Law	+ 4.4%	64.1%
Governor's Office	+ 2.0%	66.4%
Environmental Conservation	+ 1.6%	39.8%
Health & Social Services	+ 1.2%	60.3%
Education	+ 1.0%	66.2%
Fish & Game	+ .5%	33.1%
Transportation	+ .5%	21.0%
Revenue	.0%	61.8%
Commerce	- .9%	54.7%
Public Safety	- .9%	36.6%
Military Affairs	- 1.0%	32.6%
Labor	- 1.3%	58.7%
Natural Resources	- 2.1%	40.4%
Administration	- 3.2%	60.3%
Community & Regional Affairs	- 9.2%	57.5%
Total Executive Branch	+ .3%	43.6%
Legislative Branch	- .1%	52.6%
Judicial Branch	+ .4%	75.6%
ALL BRANCHES	+ .2%	45.2%

Information taken from Computer Runs R01-AE0-3605
dated December 31, 1980 and December 31, 1981

APPENDIX C

STATE WORKFORCE BY CENSUS SUBAREA

	CENSUS SUBAREAS	TOTALS	FEMALES		TOTAL MINORITY		MINORITY GROUP* Blk	Hisp	AmInd	AsPac	AN	Female Minority
--	Unknown	6	4	66.7%	-	-	-	-	-	-	-	-
0131	Barrow-Pt. Hope	7	2	28.6%	2	28.6%	-	-	-	-	2	-
0132	Prudhoe Bay-Kaktovik	8	0	-	0	-	-	-	-	-	-	-
0233	Kobuk	32	12	37.5%	17	53.1%	-	-	-	-	17	10
0334	Nome	142	48	33.8%	45	31.7%	2	-	1	3	39	16
0441	McGrath-Holy Cross	26	6	23.1%	4	15.4%	-	1	2	-	1	2
0442	Koyukuk-Middle Yukon	75	9	12.0%	17	22.7%	1	-	10	-	6	5
0443	Yukon Flats	13	2	15.4%	3	23.1%	-	-	1	-	2	2
0545	Balance of Fairbanks	1323	559	42.3%	106	8.0%	45	12	20	12	17	70
0646	Southeast Fairbanks	96	18	18.8%	15	15.6%	-	-	10	-	5	2
0751	Wade Hampton	10	2	20.0%	7	70.0%		-	-	1	6	2
0852	Lower Kuskokwim	101	56	55.4%	40	39.6%	-	2	3	1	34	23
0853	Aniak	6	1	16.7%	3	50.0%	-	-	-	-	3	1
0954	Dillingham	42	15	35.7%	12	28.6%	-	-	2	1	9	-
1055	Bristol Bay Borough	20	4	20.0%	2	10.0%	-	-	-	-	2	-
1156	Aleutian Islands	29	9	31.0%	1	3.4%	-	1	-	-	-	1
1261	Mat-Su Borough	350	157	44.9%	20	5.7%	1	5	8	1	5	10
1362	Munic. of Anchorage	3963	1813	45.7%	365	9.2%	164	43	41	53	64	208
1471	Kenai-Cook Inlet	259	81	31.3%	9	3.5%	-	2	4	1	2	4
1472	Seward	133	36	27.1%	7	5.3%	1	1	-	-	5	3
1574	Balance of Kodiak	155	45	29.0%	16	10.3%	-	2	4	2	8	7
1675	Prince William Sound	243	130	53.5%	23	9.5%	8	2	3	8	2	16
1676	Cordova	74	10	13.5%	2	2.7%	-	-	2	-	-	-
1677	Copper River	111	22	19.8%	4	3.6%	-	-	-	-	4	-
1781	Hoonah-Yakutat	14	0	-	1	7.1%	-	-	1	-	-	-
1783	Skagway	5	1	20.0%	0	-	-	-	-	-	-	-
1885	Haines Borough	37	9	24.3%	5	13.5%	-	1	4	-	-	1
1980	City/Borough-Juneau	3454	1650	47.8%	291	8.4%	26	25	96	87	57	170
2087	City/Borough-Sitka	156	97	62.2%	28	17.9%	-	3	3	10	12	18
2191	Petersburg	55	17	30.9%	2	3.6%	-	-	-	-	2	2
2192	Wrangell	12	5	41.7%	0	-	-	-	-	-	-	-
2293	Outer Ketchikan	1	0	-	0	-	-	-	-	-	-	-
2294	Prince of Wales	19	3	15.8%	3	15.8%	-	-	3	-	-	-
2395	Ketchikan Gwy Boro	397	127	32.0%	28	7.1%	4	3	10	5	6	13
4801	Lower Forty-Eight	38	22	57.9%	1	2.6%	-	-	-	-	1	1
	TOTAL EXECUTIVE BRANCH	11,410	4970	43.6%	1079	9.5%	252	103	228	185	311	593

Taken from Computer Run AE0-3620-R01 dated December 31, 1981

* "Blk" denotes Blacks
"Hisp" denotes Hispanics
"AmInd" denotes American Indians
"AsPac" denotes Asians and Pacific Islanders
"AN" denotes Alaska Natives and includes Aleuts and Eskimos

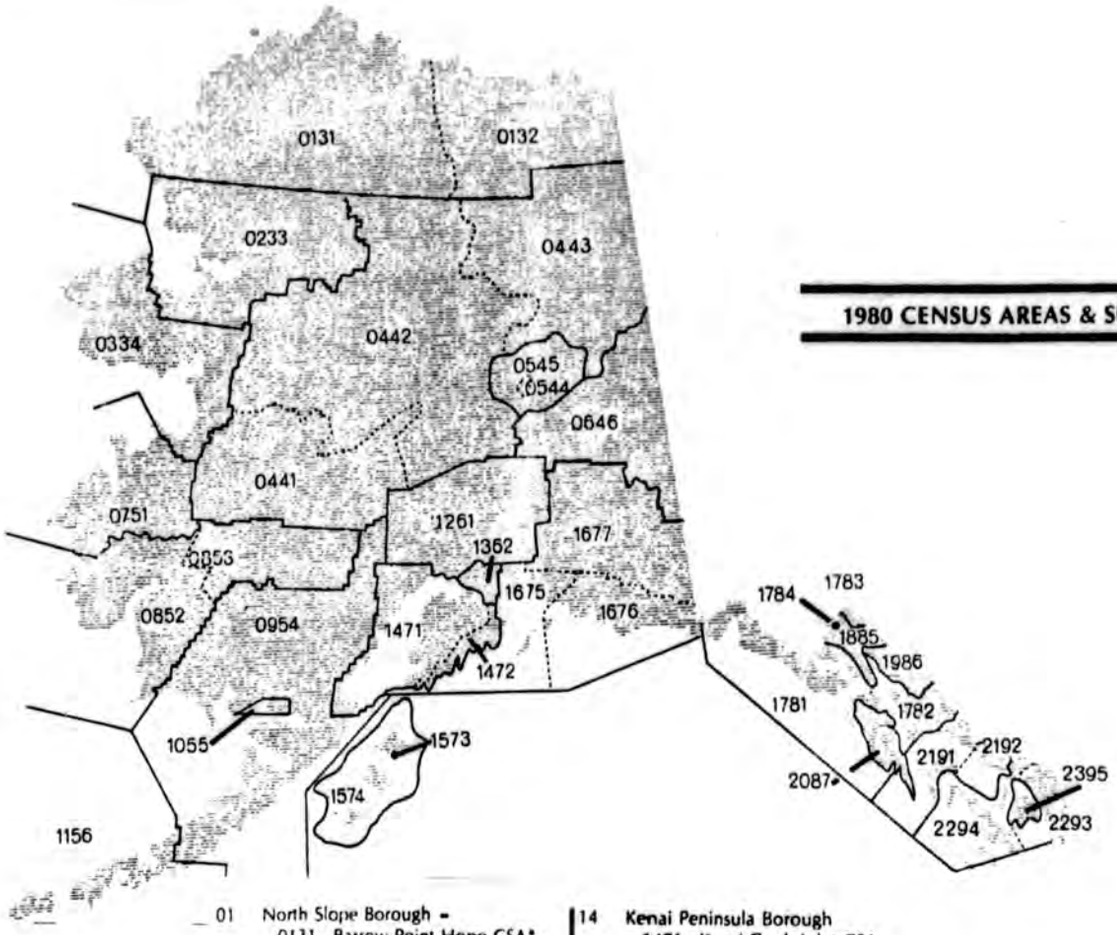
Note that there are no executive branch employees in four census subareas: Eielson Reservation, Kodiak Station, Angoon, and Klukwan

ALASKA POPULATION BY CENSUS SUBAREA

CENSUS SUBAREAS	TOTALS	WHITE	BLACK	AM IND ALEUT/ESKIMO	AS/PAC ISLANDER	OTHER	SPANISH ORIGIN	MINORITY TOTAL	
Barrow-Pt. Hope	3784	672	19	3062	18	13	19	3112	82.2%
Prudhoe Bay-Kaktovik	415	242	3	163	6	1	13	173	41.7%
Kobuk	4831	683	7	4113	6	22	15	4148	85.9%
Nome	6537	1278	22	5174	32	31	27	5259	80.4%
McGrath-Holy Cross	1343	430	13	891	4	5	8	913	68.0%
Koyukuk-Middle Yukon	5323	2595	102	2551	13	62	60	2728	51.2%
Yukon Flats	1207	268	2	924	4	9	22	939	77.8%
Eielson Reservation	5320	4490	545	40	60	185	239	830	15.6%
Fairbanks No.Star Boro.	48663	41616	2461	2947	756	883	1307	7047	14.5%
Southeast Fairbanks	5770	4564	284	725	97	100	201	1206	21.0%
Wade Hampton	4665	296	3	4347	8	11	10	4369	93.7%
Lower Kuskokwim	9698	1382	16	8238	30	32	58	8316	85.7%
Aniak	1301	279	10	1009	-	3	3	1022	78.6%
Dillingham	4616	1066	1	3520	7	22	23	3550	76.9%
Bristol Bay Borough	1094	660	47	360	5	22	30	434	39.7%
Aleutian Islands	7768	4775	329	1934	580	150	297	2993	38.5%
Mat-Su Borough	17766	16796	82	684	63	141	225	970	5.5%
Munic. of Anchorage	173017	147334	9242	8901	4019	3521	5209	25683	14.8%
Kenai-Cook Inlet	22473	20874	32	1210	178	179	311	1599	7.1%
Seward	2809	2225	9	528	22	25	47	584	20.8%
Kodiak Station	1370	1263	33	8	26	40	44	107	7.8%
Balance of Kodiak	8569	5783	39	1876	769	102	260	2786	32.5%
Prince William Sound	3386	2974	41	245	65	61	97	412	12.2%
Cordova	2241	1781	12	299	101	48	61	460	20.5%
Copper River	2721	2160	5	516	11	29	40	561	20.6%
Hoonah-Yakutat	1817	881	4	890	7	35	28	936	51.5%
Angoon	712	273	1	424	6	8	11	439	61.7%
Skagway	814	768	-	35	8	3	2	46	5.7%
Klukwan	135	19	-	113	-	3	-	116	85.9%
Haines Borough	1680	1430	3	214	5	28	13	250	14.9%
City/Borough-Juneau	19528	16459	142	2190	504	233	383	3069	15.7%
City/Borough-Sitka	7803	5768	44	1669	235	87	108	2035	26.1%
Petersburg	3804	2903	5	795	57	44	63	901	23.7%
Wrangell	2363	1909	4	395	29	26	26	454	19.2%
Outer Ketchikan	1333	347	9	960	1	16	14	986	74.0%
Prince of Wales	2489	1733	2	691	18	45	17	756	30.4%
Ketchikan Gwy Borough	11316	9479	46	1406	285	100	206	1837	16.2%
TOTAL POPULATION	400,481	308,455	13,619	64,047	8,035	6,325	9,497	92,026	23.0%

Taken from "Advance Reports, 1980 Census of Population and Housing," U.S. Department of Commerce, Bureau of the Census, PHC80-V-3. The materials including the following note: The 1980 figures in this publication are subject to change pending the outcome of various lawsuits dealing with the census counts.

Persons of Spanish origin may be of any race.



1980 CENSUS AREAS & SUBAREAS

01 North Slope Borough –
- 0131 Barrow-Point Hope CSA*
- 0132 Prudhoe Bay-Kaktovik CSA

02 Kobuk Census Area
- 0233 Kobuk

03 Nome Census Area
- 0334 Nome

04 Yukon-Koyukuk Census Area
- 0441 McGrath-Holy Cross CSA
- 0442 Koyukuk-Middle Yukon CSA
- 0443 Yukon Flats CSA

05 Fairbanks North Star Borough
- 0544 Eielson Reservation CSA
- 0545 Balance of Fairbanks CSA**

06 Southeast Fairbanks Census Area
- 0646 Southeast Fairbanks

07 Wade Hampton Census Area
- 0751 Wade Hampton

08 Bethel Census Area
- 0852 Lower Kuskokwim CSA
- 0853 Aniak CSA

09 Dillingham Census Area
- 0954 Dillingham

10 Bristol Bay Borough
- 1055 Bristol Bay Borough

11 Aleutian Islands Census Area
- 1156 Aleutian Islands

12 Matanuska-Susitna Borough
- 1261 Matanuska-Susitna Borough

13 Municipality of Anchorage
- 1362 Municipality of Anchorage

14 Kenai Peninsula Borough
- 1471 Kenai-Cook Inlet CSA
- 1472 Seward CSA

15 Kodiak Island Borough
- 1573 Kodiak Station CSA
- 1574 Balance of Kodiak CSA**

16 Valdez-Cordova Census Area
- 1675 Prince William Sound CSA
- 1676 Cordova CSA
- 1677 Copper River CSA

17 Skagway-Yakutat-Angoon Census Area
- 1781 Hoonah-Yakutat CSA
- 1782 Angoon CSA
- 1783 Skagway CSA
- 1784 Klukwan CSA

18 Haines Borough
- 1885 Haines Borough

19 City and Borough of Juneau
- 1986 City and Borough of Juneau

20 City and Borough of Sitka
- 2087 City and Borough of Sitka

21 Wrangell-Petersburg Census Area
- 2191 Petersburg CSA
- 2192 Wrangell CSA

22 Prince of Wales - Outer Ketchikan Census Area
- 2293 Outer Ketchikan CSA
- 2294 Prince of Wales CSA

23 Ketchikan Gateway Borough
- 2395 Ketchikan Gateway Borough

– Each organized borough equals a census area.
*CSA – Census Subarea
**Not an official census subarea

Racial Groups Used in the 1980 Census

The following information is taken from page 3 of the 1980 Census Advance Reports.

RACE. Counts of the population by race as well as Spanish origin in this report are provisional. Information on race was obtained through self-identification; therefore, the data represent self-classification by people according to the race with which they identify themselves. Population counts in this report are shown for five racial groups: White; Black; American Indian, Eskimo, and Aleut; Asian and Pacific Islander; and other.

The category "White" includes persons who indicated their race as White, as well as persons who did not classify themselves in one of the specific race categories listed on the questionnaire but entered a response suggesting European origin such as German, Italian, or Polish.

The category "Black" includes persons who indicated their race as Black or Negro, as well as persons who did not classify themselves in one of the specific race categories listed on the questionnaire but reported entries such as Jamaican, Black Puerto Rican, West Indian, Haitian, or Nigerian.

The category "American Indian, Eskimo, and Aleut" includes persons who classified themselves as such in one of the specific race categories. In addition, persons who did not report themselves in one of the specific race categories but reported the name of an Indian tribe were classified as American Indian.

The category "Asian and Pacific Islander" includes persons who indicated their race as Japanese, Chinese, Filipino, Korean, Asian Indian, Vietnamese, Hawaiian, Guamanian, or Samoan.

The category "Other" includes Asian and Pacific Islander groups not identified separately (e.g., Cambodian, Indochinese, Pakistani, Indonesian, Fiji Islander) and other races not included in the specific categories listed on the questionnaire.

SPANISH ORIGIN. Counts of the population by Spanish origin in this report are provisional.

Persons of Spanish origin or descent are those who classified themselves in one of the specific Spanish origin categories listed on the questionnaire -- Mexican, Puerto Rican, or Cuban -- as well as those who indicated that they were of other Spanish/Hispanic origin. Persons of Spanish origin may be of any race.

1980 POPULATION DATA FOR ALASKA BY AGE, RACE AND SEX

		Total	Male	Female	White	Black	Hispanic	Asian/ Pac Is.	AK Nat. Am.Ind.	Total Minority
1.	All By Race & Spanish Or.	400,481 100.0%	--	--	308,455 77.0%	13,619 3.4%	9,497 2.4%	8,035 2.0%	64,047 16.0%	95,198 23.7%
2.	All By Race and Sex	400,481 100.0%	212,321 53.0%	188,160 47.0%	308,455 77.0%	13,619 3.4%	--	--	--	92,026 23.0%
3.	15 yrs and Older	292,621 100.0%	156,856 53.6%	135,765 46.4%	230,588 78.8%	9,702 3.3%	--	--	--	62,033 21.2%
4.	18 yrs & Over By Age & Race	271,106 100.0%	--	--	215,550 79.5%	9,107 3.4%	--	5,604 2.1%	37,161 13.7%	--
5.	Spanish Or. 18 yrs & Over	271,106 100.0%	--	--	215,550 79.5%	--	5,642 2.1%	--	--	--
6.	20 yrs and Over	255,641 100.0%	137,113 53.6%	118,528 46.4%	204,267 79.9%	8,512 3.3%	--	--	--	51,374 20.1%

Taken from materials provided by the Division of EEO. Figures are extracted from the "1980 Census of Population and Housing in Alaska, Advance Report." NOTE: Persons of Spanish Origin may also be counted in either a Minority or in the White column.

1. Table 3: "Persons by Race and Spanish Origin."
2. Race Detail File: "Population Counts by Age, Race and Sex."
3. Race Detail File (ages 15 and older): "Population Counts by Age, Race and Sex."
4. Table 9 (ages 18 and over): "Persons by Age and Race."
5. Table 10 (ages 18 and over): "Persons of Spanish Origin by Age by Race." Note that the 149 Hispanics who were also identified as Blacks are excluded from this count.
6. Race Detail File (ages 20 and over): "Population Counts by Age, Race and Sex."

APPENDIX E

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 Dick
Signature of Camera Operator

12/15/89
Date

02-519 (REV 8/78)

SCOMM

#51:12

Introduced: 3/22/79
Referred: State Affairs,
Finance and Labor & Management

BY THE RULES COMMITTEE BY
REQUEST OF THE LEGISLATIVE
COUNCIL (for the Commission
on the State Personnel Act)

IN THE SENATE

SENATE BILL NO. 256

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act creating a Department of Employee Relations; amending the state personnel laws; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 44 is amended by adding a new chapter to read:

CHAPTER 22. DEPARTMENT OF EMPLOYEE RELATIONS.

Sec. 44.22.010. COMMISSIONER OF EMPLOYEE RELATIONS. The principal executive officer of the Department of Employee Relations is the commissioner of employee relations. The commissioner of employee relations shall have experience in both personnel administration and labor relations, either in the public or private sector. His combined experience in these fields must total at least five years of full-time experience.

Sec. 44.22.020. DIVISIONS OF THE DEPARTMENT. (a) The Department of Employee Relations shall include the following divisions:

(1) labor relations;

(2) personnel;

(3) equal employment opportunity.

(b) The head of the division of labor relations is the director of labor relations, appointed by the commissioner of employee relations. The director of labor relations shall have at least three years of full-time experience in labor relations, either in the public or private sector.

(c) The head of the division of personnel is the director of personnel, appointed by the commissioner of employee relations. The

director of personnel shall have at least three years of full-time experience in personnel administration, either in the public or private sector.

(d) The head of the division of equal employment opportunity is the director of equal employment opportunity, appointed by the commissioner of employee relations.

Sec. 44.22.030. POWERS AND DUTIES OF DEPARTMENT. The Department of Employee Relations shall

(1) administer a statewide personnel program, including central personnel services such as recruitment, examination, position classification, training, employee development, and pay administration;

(2) represent the state as an employer in collective bargaining and grievance resolution under the Public Employment Relations Act (AS 23.40.070 - 23.40.260), except to the extent those functions are performed by the Board of Regents of the University of Alaska;

(3) coordinate safety programs for state employees;

(4) coordinate all executive branch activities involving equal employment opportunity in state government;

(5) perform other functions as provided by law.

* Sec. 2. AS 23.40.212 is amended to read:

Sec. 23.40.212. AGREEMENT WITH THE BOARD OF REGENTS. (a) The Board of Regents of the University of Alaska may delegate to the Department of Employee Relations [ADMINISTRATION] its authority under AS 23.40.070 - 23.40.260 to negotiate with an organization for an agreement.

(b) The Department of Employee Relations [ADMINISTRATION] shall participate in the negotiations between the Board of Regents and an organization. An agreement between the board and an organization requires the approval of the department.

* Sec. 3. AS 39.20.295 is amended to read:

Sec. 39.20.295. SPECIAL REGULATIONS ON LEAVE PERIOD. In accord with the procedures established in AS 39.20.320, the Department of Employee Relations [ADMINISTRATION] shall adopt regulations [PROMULGATE RULES] defining and establishing a uniform beginning and a uniform concluding date for the 12 month periods applicable to leave use and accumulation by officers and employees of state government.

* Sec. 4. AS 39.20.320 is amended to read:

Sec. 39.20.320. ADOPTION OF REGULATIONS. The director of the division of personnel [AND LABOR RELATIONS] in the Department of Employee Relations [ADMINISTRATION] shall prepare and submit regulations necessary to carry out the intent of AS 39.20.200 - 39.20.330. These regulations shall include provisions for crediting and, if necessary, converting accrued leave when an officer or employee transfers, without break in service, between a department or agency of the state government where he is subject to AS 39.20.200 - 39.20.330 and a department or agency of the state government where he is not subject to AS 39.20.200 - 39.20.330. These regulations shall be submitted to the commissioner of employee relations [ADMINISTRATION WITHIN 60 DAYS OF JULY 9, 1978]. The commissioner of employee relations [ADMINISTRATION] shall review the regulations and submit them to the personnel board. The regulations, or any part of the regulations, have the force and effect of law 30 days after they are submitted to the personnel board if not disapproved by the personnel board. Amendments to the regulations shall be prepared and submitted in the same manner, and have the force and effect of law 30 days after they are submitted to the personnel board, if not disapproved by the personnel board. [THE REGULATIONS ADOPTED UNDER AS 39.-20.200 - 39.20.330 RELATE TO THE INTERNAL MANAGEMENT OF STATE AGENCIES AND THEIR ADOPTION IS NOT SUBJECT TO THE PROVISIONS OF THE ADMINISTRATIVE PROCEDURE ACT (AS 44.62).]

* Sec. 5. AS 39.20.330 is amended to read:

Sec. 39.20.330. DEPARTMENTS TO KEEP LEAVE RECORDS. Each department, office, institution, or agency of the state government shall keep for its files a complete leave record, covering each of its officers and employees, on forms prepared and supplied by the Department of Administration. These records are subject to annual audit and approval by the director of personnel of the Department of Employee Relations [ADMINISTRATION].

* Sec. 6. AS 39.23.010 is amended to read:

Sec. 39.23.010. CREATION OF COMMISSION; COMPOSITION. There is established in the Department of Employee Relations [ADMINISTRATION] the Alaska Salary Commission consisting of five members appointed by the governor. No member of the commission may be a public officer or employee.

* Sec. 7. AS 39.23.030 is amended to read:

Sec. 39.23.030. OFFICERS; STAFF. The commission shall select a chairman from among its members annually. The director [OF THE DIVISION] of personnel [AND LABOR RELATIONS] serves as ex officio secretary to the commission and provides research, technical and administrative services.

* Sec. 8. AS 39.25.030 is amended to read:

Sec. 39.25.030. [DIVISION OF] PERSONNEL [AND] BOARD. [THERE IS ESTABLISHED WITHIN THE DEPARTMENT OF ADMINISTRATION A DIVISION OF PERSONNEL.] There is established within the division of personnel in the Department of Employee Relations a personnel board.

* Sec. 9. AS 39.25.130(a) is amended to read:

(a) After June 30, 1979 [JUNE 30, 1961], the personnel board, upon written recommendation of the commissioner of employee relations [ADMINISTRATION], may extend the partially exempt service to include any

position which was in the classified service on June 30, 1979 [APRIL 19, 1960], which in the judgment of the board:

(1) involves principal responsibility for the determination of policy;

(2) involves principal responsibility for the way in which policies are carried out; or

(3) involves responsibilities and duties of a type not susceptible to the ordinary recruiting and examining procedures.

* Sec. 10. AS 39.25.130(c) is amended to read:

(c) After June 30, 1979 [JUNE 30, 1961], the personnel board, upon written recommendation of the commissioner of employee relations [ADMINISTRATION], may extend the classified service to include any position which was in the partially exempt service on June 30, 1979 [APRIL 19, 1960].

* Sec. 11. AS 39.25.130 is amended by adding a new subsection to read:

(d) An action taken under this section may not alter a collective bargaining unit determined under AS 23.40.090. An action taken under this section may be superseded by a determination of a collective bargaining unit under AS 23.40.090.

* Sec. 12. AS 39.25.140(a) is amended to read:

(a) The director of personnel shall prepare and submit to the commissioner of employee relations [ADMINISTRATION] any proposed amendments to the personnel rules for all positions and employees subject to this chapter.

* Sec. 13. AS 39.25.140(b) is amended to read:

(b) The commissioner of employee relations [ADMINISTRATION] shall review the amendments and submit them to the personnel board.

* Sec. 14. AS 39.25.140(c) is amended to read:

(c) At the time he submits the amendments to the personnel board,

the commissioner of employee relations [ADMINISTRATION] shall, by posting in public buildings throughout the state, give notice that the personnel board has the amendments under consideration. The amendments have the effect of law 30 days after they are submitted to the personnel board if not disapproved by the personnel board. The personnel board, if requested, may hold public hearings on the amendments.

* Sec. 15. AS 39.25.150(1) is amended to read:

(1) the preparation, maintenance, and revision by the director of personnel, subject to approval by the commissioner of employee relations [ADMINISTRATION] and the personnel board, of a position classification plan for all positions in the classified and partially exempt services; in the position classification plan all positions shall be grouped together into classes on the basis of duties and responsibilities; the position classification plan shall include for each class of position an appropriate title, a description of the duties and responsibilities, training and experience qualifications, and other necessary position specifications;

* Sec. 16. AS 39.25.153(b) is amended to read:

(b) The personnel officers specified in (a) of this section are authorized to adopt regulations providing for the activities specified in AS 39.25.150(1) - (10), (13) - (18), (20) and (22) for those classes of employees which are unique to the respective departments specified in (a) of this section. The initial determination as to which classes of employees are unique within the respective departments shall be made by the personnel officer in consultation with the commissioner of his department and subject to the approval of the director of personnel within the Department of Employee Relations [ADMINISTRATION. REGULATIONS ADOPTED UNDER THIS SUBSECTION RELATE TO THE INTERNAL MANAGEMENT OF STATE AGENCIES AND THEIR ADOPTION IS NOT SUBJECT TO THE ADMINISTRATIVE

PROCEDURE ACT (AS 44.62)].

* Sec. 17. AS 39.35.050(a) is amended to read:

(a) The commissioner shall appoint an administrator in charge of the detailed affairs of the system. [THE COMMISSIONER MAY APPOINT THE PERSONNEL DIRECTOR OF THE PERSONNEL DIVISION OF THE DEPARTMENT OF ADMINISTRATION AS THE ADMINISTRATOR.]

* Sec. 18. AS 44.15.010 is amended by adding a new paragraph to read:

(18) Department of Employee Relations.

* Sec. 19. AS 44.17.070 is amended to read:

Sec. 44.17.070. REORGANIZATION BY DEPARTMENT HEADS. Subject to state personnel laws and the approval of the commissioner of <u>employee relations</u> [ADMINISTRATION], the principal executive officer of each department may, in the interest of improved management, abolish unnecessary offices and positions, transfer officers and employees between positions, and change the duties, titles, and compensation of existing offices and positions.

* Sec. 20. Regulations formerly adopted under AS 39.20.200 - 39.20.330 and AS 39.25, including the personnel rules, shall be published in the Alaska Administrative Register and Code as they exist on June 30, 1979 and are considered to have been adopted in accordance with the Administrative Procedure Act (AS 44.62) and this Act. After June 30, 1979, the adoption of regulations and amendments to regulations under AS 39.20.200 - 39.20.330 and AS 39.25 is subject to the Administrative Procedure Act.

* Sec. 21. TRANSFER OF FUNCTIONS. (a) The Department of Employee Relations is vested with the powers and duties formerly held by the division of personnel and labor relations and the division of equal employment opportunity in the Department of Administration.

(b) Appropriations, records, equipment, and other property of the division of personnel and labor relations and the division of equal employ-

ment opportunity in the Department of Administration are transferred to the Department of Employee Relations.

(c) All litigation, hearings, investigations, and other proceedings pending under a law amended or repealed by this Act, or in connection with powe and duties transferred by this Act, continue in effect and may be continued and completed notwithstanding an amendment, repeal, or transfer made by this Act. Regulations, rules, and orders adopted under a law amended or repealed by this Act remain in effect until they expire by their own terms or until revoked, vacated, or otherwise modified as provided by law. Contracts existing on July 1, 1979 which were made by a state agency whose powers and duties have been transferred to the Department of Employee Relations remain in effect according to their terms.

* Sec. 22. AS 39.25.040, 39.25.140(e), and AS 44.21.020(9) are repealed.

* Sec. 23. This Act takes effect July 1, 1979.

Original sponsors: Ferguson and Rodey

Offered: 4/12/79
Referred: Rules

IN THE SENATE BY THE STATE AFFAIRS COMMITTEE

HOUSE CS FOR CS FOR SENATE BILL NO. 198

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the hiring of nonpermanent employees in the state personnel system; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. LEGISLATIVE FINDINGS AND INTENT. The legislature finds and declares that certain inconsistencies and abuses in the hiring of nonpermanent employees have jeopardized the integrity and efficiency of the merit system as well as the morale of employees. The legislature intends to curb the widespread administrative practice of using nonpermanent state employment to evade departmental accountability and mask poor planning. The legislature further intends that nonpermanent employees be used only to the extent that it is impractical to meet the need with permanent employees and that the burden of proof shall fall upon the department or agency which proposes nonpermanent hire.

* Sec. 2. AS 39.25.150(9) is amended to read:

(9) nonpermanent [TEMPORARY] appointments to positions in the state service in accordance with AS 39.25.195 - 39.25.200 [WHICH ARE DETERMINED TO BE OF A SEASONAL OR TEMPORARY NATURE];

* Sec. 3. AS 39.35.680(21)(C)(iii) is amended to read:

(iii) casual or [,] emergency [OR TEMPORARY] workers or nonpermanent employees as defined in AS 39.25.200;

* Sec. 4. AS 39.25 is amended by adding new sections to article 6 to read:

Sec. 39.25.195. APPOINTMENT OF NONPERMANENT EMPLOYEES. (a) An individual may not be appointed as a nonpermanent employee in the state

service without prior written approval of the director except as an emergency employee.

(b) Every appointment to state service except an emergency appointment, shall be made from an applicable eligible list or dispatching register unless in appropriate circumstances the director has waived this requirement.

(c) No appointment of a nonpermanent employee may be made unless the request for authorization is approved by the director, adequate money is available for the anticipated duration of the appointment, and the director determines that

(1) the hiring department or agency has certified that the legislature has appropriated money for the work in question knowing that it is to be performed by a nonpermanent employee;

(2) the hiring department or agency has certified that there is an immediate need to fill an authorized, permanent position and it is impractical either to establish the position or to make certification within a reasonable time;

(3) the hiring department or agency has certified that an immediate need exists and the director determines that the hiring department or agency could not reasonably have been expected to anticipate and meet through the creation of a permanent position; or

(4) the hiring department or agency has certified that a program or project exists and the director determines that the needs for employees can most appropriately be met through the use of program or project employees.

(d) The director may not authorize the appointment of a nonpermanent employee if he determines that

(1) the need for the nonpermanent employee can practicably be met through establishing and filling an authorized permanent position;

(2) the need for the nonpermanent employee would be more appropriately met through an emergency appointment; or

(3) the need for the nonpermanent employee is not immediate and could reasonably have been anticipated and met by the appointing authority through the creation and filling of a permanent position.

(e) A nonpermanent employee may not be placed on the state payroll unless the director has first approved the personnel action for the employee's appointment.

(f) Nothing in this section prevents the director from adopting regulations to provide for timely substitution for permanent employees on medical or personal leave or other situations in which the appointment of an emergency or permanent employee would be inappropriate or when delay in making a temporary replacement would cause serious disruption.

(g) A department or agency may not use nonpermanent employees to perform a given work assignment for more than 120 calendar days in a 12-month period. A department or agency may not employ any individual as a nonpermanent employee for more than 120 calendar days in a 12-month period. In appropriate circumstances the director may authorize an extension of the limit imposed by this subsection if he finds that there is an immediate need for the extension. The limit imposed by this subsection does not apply to program or project employees or to substitutes appointed under (f) of this section.

(h) The director shall present a report on nonpermanent and emergency hire practices in state government to the legislature within the first 10 days of each regular legislative session. A hiring department or agency shall certify to the director within 15 working days following the appointment its reasons for appointing an emergency employee. The report shall include information on the number of nonpermanent employees

authorized under this section and the number of emergency employees hired in each department, a description of the procedures used in authorizing the hiring of nonpermanent employees, and any recommendations for legislation required to implement the intent of this section.

Sec. 39.25.197. TERMINATION OF NONPERMANENT EMPLOYEES. When the director determines that an employee has been appointed as a result of a false certification under AS 39.25.195, he shall immediately notify the head of the affected department or agency in writing and the department or agency shall terminate the employee from state service within one working day after receipt of notice.

Sec. 39.25.198. CIVIL LIABILITY. A person who makes a false certificate under AS 37.25.195 is personally liable in a civil action to an individual terminated under AS 37.25.197 for any resultant damages and for punitive damages of an amount not to exceed three times the gross monthly salary at which the nonpermanent employee was appointed.

Sec. 39.25.200. DEFINITIONS. In AS 39.25.195 - 39.25.200,

(1) "certified" means signed by the head of a department or agency or by a responsible person designated by him;

(2) "director" means the director of the division of personnel and labor relations;

(3) "emergency employee" means an employee appointed for period not to exceed 30 calendar days, whose appointment was made under conditions requiring immediate action to carry on work that is required in the public interest;

(4) "nonpermanent employee" means a person who is employed in state service in a position which is not in the exempt or partially exempt service and who is not a permanent or an emergency employee;

(5) "permanent employee" means an employee who has been appointed to an authorized, permanent full-time or part-time or perma-

nent seasonal position in the classified service and who is in the process of completing or has successfully completed the required probationary service in that position;

(6) "program or project employee" means a nonpermanent employee, including a student intern, who is employed in state service with prior written understanding that employment in that position will continue for at most the duration of a specified program or project which is not a regular and continuing function of a department or agency and which has an established probable date of termination.

* Sec. 5. This Act takes effect January 1, 1980.

Original sponsors: Ferguson and Rodey

Offered: 3/15/79
Referred: Rules

IN THE SENATE

BY THE LABOR AND MANAGEMENT COMMITTEE

CS FOR SENATE BILL NO. 198 am

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the hiring of non-permanent employees in the state personnel system; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. LEGISLATIVE FINDINGS AND INTENT. The legislature finds and declares that certain inconsistencies and abuses in the hiring of employees in the state personnel system have jeopardized the integrity and efficiency of the merit system as well as the morale of employees. The legislature intends to curb the widespread administrative practice of using non-permanent state employment to evade departmental accountability and mask poor planning. The legislature further intends that non-permanent employees be used only to the extent that it is impractical to meet the need with permanent employees and that the burden of proof shall fall upon the department or agency which proposes non-permanent hire.

* Sec. 2. AS 39.25.150(9) is amended to read:

(9) non-permanent [TEMPORARY] appointments to positions in the state service in accordance with AS 39.25.195 - 39.25.200 [WHICH ARE DETERMINED TO BE OF A SEASONAL OR TEMPORARY NATURE];

* Sec. 3. AS 39.35.680(21)(C)(iii) is amended to read:

(iii) casual or [,] emergency [OR TEMPORARY] workers or non-permanent employees as defined in AS 39.25.200;

* Sec. 4. AS 39.25 is amended by adding new sections to Article 6 to read:

Sec. 39.25.195. APPOINTMENT OF NON-PERMANENT EMPLOYEES. (a) An individual may not be appointed as a non-permanent employee in the state

service without prior written approval of the director except as provided in this section.

(b) Every appointment to state service except an emergency appointment shall be made from the appropriate eligible list or dispatching register unless in exceptional circumstances the director has waived this requirement.

(c) The director may authorize the appointment of a non-permanent employee if the request for authorization is accompanied by evidence of available funds for the anticipated duration of that hire and the director determines that

(1) there is specific legislative authorization that the work in question be performed by non-permanent employees and funds have been made available on that condition;

(2) there is an urgent need to fill an authorized, permanent position and it is impractical to establish the position or to make certification within a reasonable time because of a lack of individuals on the eligible lists for that position;

(3) an urgent program need exists which the appointing authority could not reasonably have been expected to anticipate and meet through the creation of a permanent position; or

(4) a program or project exists and the needs for employees can most appropriately be met through the use of program or project employees.

(d) The director may not authorize the appointment of a non-permanent employee if after consideration he determines that

(1) the need for the non-permanent employee can reasonably be met through the creation and filling of a permanent position;

(2) the need for the non-permanent employee would be more appropriately met through an emergency appointment; or

(3) the need for the non-permanent employee is not urgent and could reasonably have been anticipated and met by the appointing authority through the creation and filling of a permanent position.

(e) To insure compliance with the intent of this section the director may require a department or agency to obtain prior approval for emergency appointments.

(f) The director shall adopt regulations implementing this section. The regulations shall include consideration of the need for timely substitution for permanent employees on medical or personal leave and other situations in which the appointment of an emergency or permanent employee would be inappropriate and when delay in hiring would cause serious disruption.

(g) A work assignment may not be performed by a non-permanent employee for more than 180 calendar days in a 12-month period. A non-permanent employee may not be employed by any one department for more than 120 calendar days in a 12-month period. In extraordinary circumstances the director may authorize an extension of the limit imposed by this subsection if he finds that there is an urgent need for the extension. The limit imposed by this subsection does not apply to program or project employees.

(h) The director shall present a report on non-permanent and emergency hire practices in state government to the legislature within the first 10 days of each regular legislative session. The report shall include information on the number of non-permanent employees authorized under this section and the number of emergency employees hired in each department, a description of the procedures used in authorizing the hiring of non-permanent employees, and any recommendations for legislation required to implement the intent of this section.

Sec. 39.25.197. TERMINATION OF NON-PERMANENT EMPLOYEES. When the

director determines that a non-permanent employee has been appointed in violation of AS 39.25.195, he shall immediately notify the appointing authority in writing and the appointing authority shall immediately terminate the non-permanent employee from state service.

Sec. 39.25.198. CIVIL LIABILITY. An appointing authority who knowingly violates AS 37.25.195 is liable in a civil action to an individual terminated under AS 37.25.197 as a result of that violation. The damages recoverable under this section are presumed to be three times the gross monthly salary at which the non-permanent employee was hired by the appointing authority.

Sec. 39.25.200. DEFINITIONS. In AS 39.25.195 - 39.25.200,

(1) "director" means the director of the division of personnel and labor relations;

(2) "emergency employee" means an employee appointed for a period not to exceed 30 calendar days, whose appointment was made under conditions requiring immediate action to carry on work that is required in the public interest;

(3) "non-permanent employee" means a person who is employed in state service in a position which is not in the exempt or partially exempt service and who is not a permanent or an emergency employee;

(4) "permanent employee" means an employee who has been appointed to an authorized, permanent part-time or permanent seasonal position in the classified service and who is in the process of completing or has successfully completed the required probationary service in that position;

(5) "program or project employee" means a non-permanent employee who is employed in state service with prior written understanding that employment in that position will continue for at most the duration of a specified program or project which is not a regular and continuing

function of a department or agency and which has an established probable date of termination.

* Sec. 5. This Act takes effect September 30, 1979.

Original sponsors: Ferguson and Rodey

Offered: 3/15/79
Referred: Rules

IN THE SENATE

BY THE LABOR AND MANAGEMENT COMMITTEE

CS FOR SENATE BILL NO. 198

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the hiring of non-permanent employees in the state personnel system; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. LEGISLATIVE FINDINGS AND INTENT. The legislature finds and declares that certain inconsistencies and abuses in the hiring of employees in the state personnel system have jeopardized the integrity and efficiency of the merit system as well as the morale of employees. The legislature intends to curb the widespread administrative practice of using non-permanent state employment to evade departmental accountability and mask poor planning. The legislature further intends that non-permanent employees be used only to the extent that it is impractical to meet the need with permanent employees and that the burden of proof shall fall upon the department or agency which proposes non-permanent hire.

* Sec. 2. AS 39.25.150(9) is amended to read:

(9) non-permanent [TEMPORARY] appointments to positions in the state service in accordance with AS 39.25.195 - 39.25.200 [WHICH ARE DETERMINED TO BE OF A SEASONAL OR TEMPORARY NATURE];

* Sec. 3. AS 39.35.680(21)(C)(iii) is amended to read:

(iii) casual or [,] emergency [OR TEMPORARY] workers or non-permanent employees as defined in AS 39.25.200;

* Sec. 4. AS 39.25 is amended by adding new sections to Article 6 to read:

Sec. 39.25.195. APPOINTMENT OF NON-PERMANENT EMPLOYEES. (a) An individual may not be appointed as a non-permanent employee in the state

service without prior written approval of the director except as provided in this section.

(b) Every appointment to state service except an emergency appointment shall be made from the appropriate eligible list or dispatching register unless in exceptional circumstances the director has waived this requirement.

(c) The director may authorize the appointment of a non-permanent employee if the request for authorization is accompanied by evidence of available funds for the anticipated duration of that hire and the director determines that

(1) there is specific legislative authorization that the work in question be performed by non-permanent employees and funds have been made available on that condition;

(2) there is an urgent need to fill an authorized, permanent position and it is impractical to establish the position or to make certification within a reasonable time because of a lack of individuals on the eligible lists for that position;

(3) an urgent program need exists which the appointing authority could not reasonably have been expected to anticipate and meet through the creation of a permanent position; or

(4) a program or project exists and the needs for employees can most appropriately be met through the use of program or project employees.

(d) The director may not authorize the appointment of a non-permanent employee if after consideration he determines that

(1) the need for the non-permanent employee can reasonably be met through the creation and filling of a permanent position;

(2) the need for the non-permanent employee would be more appropriately met through an emergency appointment; or

(3) the need for the non-permanent employee is not urgent and could reasonably have been anticipated and met by the appointing authority through the creation and filling of a permanent position.

(e) To insure compliance with the intent of this section the director may require a department or agency to obtain prior approval for emergency appointments.

(f) The director shall adopt regulations implementing this section. The regulations shall include consideration of the need for timely substitution for permanent employees on medical or personal leave and other situations in which the appointment of an emergency or permanent employee would be inappropriate and when delay in hiring would cause serious disruption.

(g) A work assignment may not be performed by a non-permanent employee for more than 120 calendar days in a 12-month period. A non-permanent employee may not be employed by any one department for more than 120 calendar days in a 12-month period. In extraordinary circumstances the director may authorize an extension of the limit imposed by this subsection if he finds that there is an urgent need for the extension. The limit imposed by this subsection does not apply to program or project employees.

(h) The director shall present a report on non-permanent and emergency hire practices in state government to the legislature within the first 10 days of each regular legislative session. The report shall include information on the number of non-permanent employees authorized under this section and the number of emergency employees hired in each department, a description of the procedures used in authorizing the hiring of non-permanent employees, and any recommendations for legislation required to implement the intent of this section.

Sec. 39.25.197. TERMINATION OF NON-PERMANENT EMPLOYEES. When the

director determines that a non-permanent employee has been appointed in violation of AS 39.25.195, he shall immediately notify the appointing authority in writing and the appointing authority shall immediately terminate the non-permanent employee from state service.

Sec. 39.25.198. CIVIL LIABILITY. An appointing authority who violates AS 37.25.195 is liable in a civil action to an individual terminated under AS 37.25.197 as a result of that violation. The damages recoverable under this section are presumed to be three times the gross monthly salary at which the non-permanent employee was hired by the appointing authority.

Sec. 39.25.200. DEFINITIONS. In AS 39.25.195 - 39.25.200,

(1) "director" means the director of the division of personnel and labor relations;

(2) "emergency employee" means an employee appointed for a period not to exceed 30 calendar days, whose appointment was made under conditions requiring immediate action to carry on work that is required in the public interest;

(3) "non-permanent employee" means a person who is employed in state service in a position which is not in the exempt or partially exempt service and who is not a permanent or an emergency employee;

(4) "permanent employee" means an employee who has been appointed to an authorized, permanent part-time or permanent seasonal position in the classified service and who is in the process of completing or has successfully completed the required probationary service in that position;

(5) "program or project employee" means a non-permanent employee who is employed in state service with prior written understanding that employment in that position will continue for at most the duration of a specified program or project which is not a regular and continuing

function of a department or agency and which has an established probable date of termination.

* Sec. 5. This Act takes effect September 30, 1979.

Introduced: 2/13/79
Referred: Labor and Management and Finance

BY FERGUSON AND RODEY

IN THE SENATE

SENATE BILL NO. 198

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to unemployment insurance."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 23.20.370 is amended to read:

Sec. 23.20.370. BENEFITS OF DECEDENT OR INCOMPETENT. Benefits due and payable to a deceased or judicially declared incompetent person shall be paid, in accordance with regulations <u>adopted</u> [PRESCRIBED] by the department, to persons in the following order: spouse, child, [OR] parent, <u>sister or brother, aunt or uncle,</u> payment to whom the department finds will <u>best</u> carry out the purposes of this chapter. The regulations need not conform to the statutes applicable to the descent and distribution of decedents' estates. A receipt from the person to whom the department makes payment fully discharges the fund and the department from liability for the benefits.

Introduced: 3/15/79
Referred: Labor & Management

BY THE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE COUNCIL (for the Commission on the State Personnel Act)

IN THE SENATE

SENATE BILL NO. 253

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the hiring of non-permanent employees in the state personnel system; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. LEGISLATIVE FINDINGS AND INTENT. The legislature finds and declares that certain inconsistencies and abuses in the hiring of employees in the state personnel system have jeopardized the integrity and efficiency of the merit system as well as the morale of employees. The legislature intends to curb the widespread administrative practice of using non-permanent state employment to evade departmental accountability and mask poor planning. The legislature further intends that non-permanent employees be used only to the extent that it is impractical to meet the need with permanent employees and that the burden of proof shall fall upon the department or agency which proposes non-permanent hire.

* Sec. 2. AS 39.25.150(9) is amended to read:

(9) non-permanent [TEMPORARY] appointments to positions in the state service in accordance with AS 39.25.195 - 39.25.200 [WHICH ARE DETERMINED TO BE OF A SEASONAL OR TEMPORARY NATURE];

* Sec. 3. AS 39.35.680(21)(C)(iii) is amended to read:

(iii) casual or [,] emergency [OR TEMPORARY] workers or non-permanent employees as defined in AS 39.25.200;

* Sec. 4. AS 39.25 is amended by adding new sections to Article 6 to read:

Sec. 39.25.195. APPOINTMENT OF NON-PERMANENT EMPLOYEES. (a) An individual may not be appointed as a non-permanent employee in the state

service without prior written approval of the director except as provided in this section.

(b) Every appointment to state service except an emergency appointment shall be made from the appropriate eligible list or dispatching register unless in exceptional circumstances the director has waived this requirement.

(c) The director may authorize the appointment of a non-permanent employee if the request for authorization is accompanied by evidence of available funds for the anticipated duration of that hire and the director determines that

(1) there is specific legislative authorization that the work in question be performed by non-permanent employees and funds have been made available on that condition;

(2) there is an urgent need to fill an authorized, permanent position and it is impractical to establish the position or to make certification within a reasonable time because of a lack of individuals on the eligible lists for that position;

(3) an urgent program need exists which the appointing authority could not reasonably have been expected to anticipate and meet through the creation of a permanent position; or

(4) a program or project exists and the needs for employees can most appropriately be met through the use of program or project employees.

(d) The director may not authorize the appointment of a non-permanent employee if after consideration he determines that

(1) the need for the non-permanent employee can reasonably be met through the creation and filling of a permanent position;

(2) the need for the non-permanent employee would be more appropriately met through an emergency appointment; or

(3) the need for the non-permanent employee is not urgent and could reasonably have been anticipated and met by the appointing authority through the creation and filling of a permanent position.

(e) To insure compliance with the intent of this section the director may require a department or agency to obtain prior approval for emergency appointments.

(f) The director shall adopt regulations implementing this section. The regulations shall include consideration of the need for timely substitution for permanent employees on medical or personal leave and other situations in which the appointment of an emergency or permanent employee would be inappropriate and when delay in hiring would cause serious disruption.

(g) A work assignment may not be performed by a non-permanent employee for more than 120 calendar days in a 12-month period. A non-permanent employee may not be employed by any one department for more than 120 calendar days in a 12-month period. In extraordinary circumstances the director may authorize an extension of the limit imposed by this subsection if he finds that there is an urgent need for the extension. The limit imposed by this subsection does not apply to program or project employees.

(h) The director shall present a report on non-permanent and emergency hire practices in state government to the legislature within the first 10 days of each regular legislative session. The report shall include information on the number of non-permanent employees authorized under this section and the number of emergency employees hired in each department, a description of the procedures used in authorizing the hiring of non-permanent employees, and any recommendations for legislation required to implement the intent of this section.

Sec. 39.25.197. TERMINATION OF NON-PERMANENT EMPLOYEES. When the

director determines that a non-permanent employee has been appointed in violation of AS 39.25.195, he shall immediately notify the appointing authority in writing and the appointing authority shall immediately terminate the non-permanent employee from state service.

Sec. 39.25.198. CIVIL LIABILITY. An appointing authority who violates AS 37.25.195 is liable in a civil action to an individual terminated under AS 37.25.197 as a result of that violation. The damages recoverable under this section are presumed to be three times the gross monthly salary at which the non-permanent employee was hired by the appointing authority.

Sec. 39.25.200. DEFINITIONS. In AS 39.25.195 - 39.25.200,

(1) "director" means the director of the division of personnel and labor relations;

(2) "emergency employee" means an employee appointed for a period not to exceed 30 calendar days, whose appointment was made under conditions requiring immediate action to carry on work that is required in the public interest;

(3) "non-permanent employee" means a person who is employed in state service in a position which is not in the exempt or partially exempt service and who is not a permanent or an emergency employee;

(4) "permanent employee" means an employee who has been appointed to an authorized, permanent part-time or permanent seasonal position in the classified service and who is in the process of completing or has successfully completed the required probationary service in that position;

(5) "program or project employee" means a non-permanent employee who is employed in state service with prior written understanding that employment in that position will continue for at most the duration of a specified program or project which is not a regular and continuing

function of a department or agency and which has an established probable date of termination.

* Sec. 5. This Act takes effect September 30, 1979.

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILE 8672

1366 SCOMM 51: BLUE RIBBON COMN. ON STATE PERSONNEL ACT 1978-1983

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 Swick
Signature of Camera Operator

12/15/89
Date

02-519 (REV 8/78)

SCOMM

#51:13

Alaska State Legislature

JUNEAU, ALASKA

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT
Pouch AG/Mail Stop 0123
Juneau, Alaska 99811
(907) 465-4442

Senator Bill Ray
Chairman

TO: All Commission Members

FROM: Teresa B. Cramer, Administrative Assistant Jerry

DATE: June 17, 1980

RE: Fate of Legislation Sponsored by the Blue Ribbon Commission

SB 499 and HB 909 - Four new positions for the Division of Personnel

Neither bill passed, but the four positions were added to the FCCS HB 556, the operating and capital budget, which was then incorporated into HB 1002 and adopted by both houses at the end of the session.

SB 500 and HB 907 - Legislative Review of Collective Bargaining Agreements

Neither of these bills left the house of origin. House State Affairs proposed a Committee Substitute, but it did not reach the House floor.

SB 501 and HB 906 - Veteran's Preference

The House adopted a Committee Substitute, deleting the language in the bill which required that the preference be used within three years of discharge from the service. The Senate State Affairs Committee did not act on either the House or the Senate Versions. However, the legislature did adopt the Revisor's Bill, SB 277, which includes language amending AS 39.25.150(23) to specify the date which ends the period in which eligibility for an employment preference may be earned for military service during the Viet Nam hostilities. The bill passed the legislature on May 29th.

SB 502 and SCS HB 908 - Merit Principle of Employment. Chapter 46, Session Laws of Alaska, 1980

The Senate amended the House bill by changing the language relating to retention of employees and to discipline. The amended version states that permanent employees have a right to retention based on the adequacy of their performance and that reasonable efforts of a temporary duration must be made before separating an employee from state service because of poor performance. The House concurred in the Senate amendments.

SCR 49 and HCR 57 - Procedures Manual by the Division of Budget and Management

Both houses passed HCR 57 without amendment. The Governor read the Resolution on May 13, 1980.

SCR 50 and HCR 56 - Extention of the Life of the Blue Ribbon Commission

Both houses passed SCR 50 together with the second Senate Fiscal Note and it was transmitted to the Governor on May 31, 1980.

1979-80

BILLS SPONSORED BY BLUE RIBBON COMMISSION

Senate Bill No. 499
House Bill No. 909

Making a special appropriation to the Department of Administration for new positions in the Division of Personnel to process applications for state employment; and providing for an effective date.

Senate Bill No. 500
House Bill No. 907

Relating to collective bargaining; and providing for an effective date.

Senate Bill No. 501
House Bill No. 906

Relating to the veterans' service preference under the state personnel system.

Senate Bill No. 502
House Bill No. 908

Relating to the merit principle in state employment.

Senate Concurrent Resolution No. 49
House Concurrent Resolution No. 57

Relating to the preparation and distribution by the Division of Budget and Management, Office of the Governor, of a personnel procedures manual.

Senate Concurrent Resolution No. 50
House Concurrent Resolution No. 56

Extending the life of the Blue Ribbon Commission on the State Personnel Act.

Alaska State Legislature

JUNEAU, ALASKA

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT
Pouch AG/Mail Stop 0123
Juneau, Alaska 99811
(907) 465-4442

Senator Bill Ray
Chairman

TO: Senator Bill Ray, Chairman

FROM: Teresa B. Cramer, Administrative Assistant Jerry

DATE: March 10, 1980

RE: Meeting with Bruce Cummings and Mike Mitchell.

Mike Mitchell, a research assistant to Senator Mulcahy, is gathering information on the Blue Ribbon Commission bills which are before the Senate State Affairs Committee. He asked Bruce Cummings to meet with him to talk about the commission's recommendations. Mr. Cummings asked that I sit in on the meeting. The following is a summary of the comments and suggestions which he made:

SB 499: Appropriating funds for 4 positions in the Division of Personnel.

It presently takes an average of 6 weeks for the Division of Personnel to process an application. They received approximately 3000 applications in December, 1979. In January, 1980, they opened 6 of the 170 or 180 registers which had been closed and received a total of 4500 applications during the month - an increase of 50%. Based on that experience, Mr. Cummings felt that even with 4 additional positions he could not promise to open all the state's registers without adding significantly to the time which it takes to process each application.

He also indicated that he disagrees philosophically with open recruitment for all of the state's job classes.

Some job classes have so many names already on the eligible list and so few vacancies during the year, that for a large number of those on the list, there is little likelihood of even being offered an opportunity for an interview, much less being offered a position. For example, there are about 300 names on the Fish Biologist I register and last year the Department of Fish and Game had only 10 vacancies in that job class.

Mr. Cummings indicated that he felt that, in those kinds of situations, it was unfair to the applicants to appear to be indicating that there was a vacancy for which they might apply. Getting on a register does not mean that there is a vacancy but applicants frequently fail to understand that and become disillusioned with the state employment system when they sit on registers for a year or two without hearing anything. In addition, the state spends time and money processing those applications which in reality are not likely to significantly improve the candidate pool for a particular job class. Also, open recruitment makes it possible for a program manager hiring for a position to "preselect" the person whom he

or she wishes to hire. In a closed recruitment situation, the manager would have to select from those who had previously shown an interest in that job class. When open recruitment is possible, the manager can request a list, determine that the person in whom he or she is interested is not on the list, advise that person to apply for the job class, wait a bit, ask for a second list because there were no satisfactory applicants on the first one, and work the register to reach the "preselected" person. This is much more difficult in a closed recruitment situation, since the Division of Personnel has to be convinced to open a job class to accept new applications, and they can then examine the department's experience with the register more closely.

Mr. Cummings indicated that he would welcome the addition of 4 new positions, but that unless he were advised otherwise by the legislature he did not plan to open all of the registers should they be funded. Instead, he indicated that he would use them to improve the time it takes to process those applications which the division presently receives, and to help set up registers for people interested in nonpermanent positions. There is an unanticipated need for additional staff to do this. The Department of Fish and Game was looking for a nonpermanent clerk typist in Juneau and was unable to find anyone on the clerk typist register who was willing to accept the nonpermanent position. Therefore, a special register needs to be created for nonpermanent clerk typists and a recruitment effort launched to fill it.

Mr. Cummings did indicate that should he be directed by the legislature to open all of the job classes, he would, of course, follow that public policy decision. However, for the reasons indicated above, he does recommend against that policy.

SB 500: Collective Bargaining and legislative review.

Mr. Cummings had little comment on this bill, recommending that Mike Mitchell talk with Sandy Withers, instead. He did say, however, that based on his experience in trying to negotiate a Local 71 contract this year, he believes that there are serious problems in setting up a hard and fast schedule for presentation of agreements to the legislature. He said that he supported the provisions concerning the funding of multi-year contracts which are set out in the second section of the bill.

SB 501: Veterans' Preference System.

Mr. Cummings indicated that he believed it was good public policy to set a cut-off date for the ending of eligibility for service in the Vietnam conflict, and that he does not care particularly what date is selected.

On the question of limiting eligibility for a veteran's preference for three years after discharge, he indicated that that was a public policy question on which he would be happy to follow whatever policy the legislature chose to adopt. He did note that since the ranking on some registers is quite tight, the five points granted to veterans can make a significant difference in where an applicant ranks.

Mike asked whether I had researched the veterans' preference system in other states. I told him I had not, although, when reading materials from Michigan I had noticed that a 3 year cut-off had been recommended there as well.

Would a review of other states laws be helpful?

SB 502: Merit principle of employment.

Mr. Cummings supported spelling out the concepts included within the merit principle of employment, particularly since this will then apply to union contracts negotiated by the state. Because of that use, however, he was concerned that some of the terms used in the bill might be subject to ambiguity, so that unions might disagree as to the meaning of the term. He gave as examples the phrase "open consideration of qualified applicants for initial appointment" in lines 12-13. "Open consideration" might be subject to different interpretation, and therefore, might permit a hiring hall system to continue. Another example concerns the third paragraph, lines 18-19, relating to separation of those employees whose work cannot be corrected. The bill does not include a statement that reasonable efforts only need to be made to correct inadequate performers. Therefore, it is quite possible that a union would insist that a nonperforming employee could not be terminated, since the employer could have done more to improve that employee's performance.

Rather than try to change the language of the bill, Mr. Cummings suggested that a Letter of Intent be attached which would address these issues. The language first and third paragraphs of the bill are taken from the federal standards. Mr. Cummings suggested that the Letter of Intent make clear that they reflect the intent of the federal standards and should be interpreted and implemented with that in mind.

TBC:sp

Introduced: 2/26/80
Referred: State Affairs and Finance

Funding Information
General Fund $92,600
Other Funds -0-
$92,600

BY THE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE COUNCIL (for the Blue Ribbon Commission on the State Personnel Act)

IN THE SENATE

SENATE BILL NO. 499

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act making a special appropriation to the Department of Administration for new positions in the division of personnel to process applications for state employment; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. The sum of $92,600 is appropriated from the general fund to the Department of Administration for creation of four new positions in the division of personnel to process applications for state employment.

* Sec. 2. The unexpended and unobligated portion of the appropriation made by this Act lapses into the general fund June 30, 1981.

* Sec. 3. This Act takes effect July 1, 1980.

Alaska State Legislature

JUNEAU, ALASKA

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT
Pouch AG/Mail Stop 0123
Juneau, Alaska 99811
(907) 465-4442

Senator Bill Ray
Chairman

TO: Senator Bill Ray, Chairman

FROM: Teresa B. Cramer, Administrative Assistant

DATE: February 27, 1980

RE: Senate Bill 499

Making a special appropriation to the Department of Administration for new positions in the Division of Personnel to process applications for state employment; and providing for an effective date.

Senate Bill 499 implements Recommendation 10 of the Blue Ribbon Commission's Report to the Alaska Legislature concerning keeping the state job registers open for recruitment.

This bill appropriates $92,600 for the Division of Personnel in the Department of Administration to increase their staff to enable them to process additional applications from persons seeking employment with the state. The breakdown of the funding request is as follows:

Personal Services

1. Personnel Technician I (2 positions) @ $2,102/mo. x 12 months = $25.2K per annum x 2 = $50.4K

2. Clerk II (2 positions) @ $1676/month x 12 months = 20.1K per annum x 2 = $40.2K

Equipment & Commodities

Desk, chair, miscellaneous supplies @ $500 each x 4 = $2K

For the five year period ending June 30, 1979, the number of applications received by the Division of Personnel increased 106.9%, from 28,993 to 59,991. During that same period, staff increased to process the applications at a rate of only 12.8%, from 282 man-months to 318 man-months. (In addition 2 CETA positions were assigned, which increases the man-months to 342 and the rate of growth to 21.3%.) This disparity of growth placed the division in a crunch, and, in order to keep the division's head above water, it was decided that some of the job classifications should be closed and no new applications accepted for those classes. The division intended that each of the 173 classes would be opened for at least 30 days each year.

Alaska State Legislature

JUNEAU, ALASKA

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT
Pouch AG/Mail Stop 0123
Juneau, Alaska 99811
(907) 465-0442

Senator Bill Ray
Chairman

TO: Senator Bill Ray, Chairman

FROM: Teresa B. Cramer, Administrative Assistant TBC

DATE: February 27, 1980

RE: House Bill 909

Making a special appropriation to the Department of Administration for new positions in the Division of Personnel to process applications for state employment; and providing for an effective date.

House Bill 909 implements Recommendation 10 of the Blue Ribbon Commission's Report to the Alaska Legislature concerning keeping the state job registers open for recruitment.

This bill appropriates $92,600 for the Division of Personnel in the Department of Administration to increase their staff to enable them to process additional applications from persons seeking employment with the state. The breakdown of the funding request is as follows:

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Equipment & Commodities

Desk, chair, miscellaneous supplies @ $500 each x 4 = $2K

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Commission members were concerned that closing the registers denied Alaskans the opportunity to compete for jobs in the state and that the best qualifed candidate interested in an opening might be unable to apply for the position. While recognizing that the division's workload is excessive, the commission believes that an alternative solution should be found. Therefore, the commission recommends that the legislature fund these four positions so that recruitment for the classes which have been closed can be reopened without overwhelming the staff.

TBC:sp

Commission members were concerned that closing the registers denied Alaskans the opportunity to compete for jobs in the state and that the best qualifed candidate interested in an opening might be unable to apply for the position. While recognizing that the division's workload is excessive, the commission believes that an alternative solution should be found. Therefore, the commission recommends that the legislature fund these four positions so that recruitment for the classes which have been closed can be reopened without overwhelming the staff.

TBC:sp

Introduced: 2/26/80
Referred: Finance

Funding Information
General Fund $92,600
Other Funds -0-
$92,600

BY THE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE COUNCIL (for the Blue Ribbon Commission on the State Personnel Act)

IN THE HOUSE

HOUSE BILL NO. 909

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act making a special appropriation to the Department of Administration for new positions in the division of personnel to process applications for state employment; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

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* Sec. 2. The unexpended and unobligated portion of the appropriation made by this Act lapses into the general fund June 30, 1981.

* Sec. 3. This Act takes effect July 1, 1980.

MEMORANDUM

To: Teresa B. Cramer
Administrative Assistant
Blue Ribbon Commission on
the State Personnel Act

Date: February 14, 1980

From: Bruce A. Cummings
Director
Division of Personnel
Department of Administration

Subject: BRC Recommendation 10

You have asked that I provide you with the fiscal data needed to fund the four positions advocated for addition to this division by Recommendation 10 of the "Report of the Blue Ribbon Commission on the State Personnel Act" (dated January 9, 1980). On the presumption that a budget amendment to implement this recommendation may not exceed four positions, I am identifying direct costs as noted below for FY 81. However, I am also attaching a memorandum from Carole Burger, Chief, Recruitment and Examining, which I believe presents a more accurate projection of the manpower required to implement Recommendation 10 without a corresponding deterioration in the level of application processing service currently provided.

My funding request is:

Personal Services

1. Personnel Technician I (2) @ $2,102 mo.
   x 12 = $25.2K per annum x 2 = $50.4K

2. Clerk III (2) @ $1,676 mo x 12 = $20.1K
   per annum x 2 = $40.2K

Equipment & Commodities

Desk, Chair, Miscellaneous Supplies @ $500 ea. x 4 = $2K

Personal services costs are based on FY 81 rates, for 12 man months. Should the appropriation be effective prior to 7/1/80, please compute personal services costs at $4,204 per month for two Technician positions, and $3,352 per month for the two Clerk positions.

I appreciate that at this late date it is unlikely that Recommendation 10, or any other Commission recommendation, can be altered. However, I must note my strong professional opinion that it is not in the best business interests of the State to keep all job classifications open for continuous recruitment, without regard for the adequacy of existing registers. If possible, I ask that the attached comments from Ms. Burger be included in any further information on this subject which may be presented to Senator Ray.

Notwithstanding our reservations regarding Recommendation 10, I wish to assure you that this agency will make every effort to comply with legislative policy in this area.

Attachment

cc: Sue Greene
Deputy Commissioner
Department of Administration
(with attachment)

02-0018 (Rev. 10/79)

STATE
of ALASKA

MEMORANDUM

TO: Bruce Cummings
Director
Division of Personnel
Department of Administration

DATE: February 14, 1980

FILE NO:

TELEPHONE NO:

SUBJECT: Continuous Recruitment

FROM: Carole J. Burger
Chief
Recruitment & Examining Section
Division of Personnel
Department of Administration

In view of the recommendations of the Blue Ribbon Commission I feel it is only a matter of time before this division is compelled to open recruitment for all job classes on a continuous basis. Therefore, it is imperative that you and all others concerned are aware of the impact this decision will have on our ability to process the anticipated volume of applications resulting from this decision.

I cannot recommend open continuous recruitment as the best course of action. Without increased resources to meet the increased demand for service, we will, at best, be able to only partially meet the needs. At worst, we could face a total system breakdown. My recommendation that recruitment should be scheduled based on employee needs, available workforce, projected turnover and the like still stands. I believe it to be counter-productive and poor management practice to expend the resources to recruit applicants far in excess of State needs. It is not necessary to reiterate here the reasons for this division's decision to close recruitment for certain job classes. They are fully explained in the attached report.

Should it be the decision that continued recruitment is the policy this division will pursue, I will of course do everything possible to carry out that policy. To this end, I propose the following staff increases, based on application flow and performance data over the last five years, be requested:

Anticipated volume of applications based on average 20% increase per year for the five year period ending June 30, 1979.

	Juneau	Anchorage	Fairbanks*
FY 80 (Providing cont. recruitment)	60,800	10,800	1,500
FY 81	72,000	13,000	1,800

* Estimated - no full year data available for Fairbanks.

Past experience has shown that a fully trained, full-time examiner can process approximately 7,000 applications per year (this figure allows for vacations and illness, but does not include turnover requiring training time for new examiners). The addition of 4.5 examining positions will enable this division to examine the anticipated volume of applications with minimal "lag time." Lag time is defined as the average time in work days from receipt of application until an examiner completes review of that application. Current experience shows that without EDP support, minimal lag time with a manual processing system (including clerical time for receiving, logging, pulling necessary information and distributing) is four to seven work days. More realistically, turnover and lower productivity during training will result in an estimated average lag time of nine to ten working days.

Examining Positions (Personnel Technicians):

	Juneau	Anchorage	Fairbanks	
Current	6.5	1	.5	
New positions required *	3.5	1	--	Total Increase
TOTAL	10	2	.5	4.5

* Anticipates a total volume of 86,800 applications in FY 1981.

It must be kept in mind that an increase in application volume also increases the clerical support necessary to receive, record, distribute, file, place candidates on eligible lists, schedule and administer examinations and other myriads of duties associated with our current manual system.

Again, historical staffing and productivity data indicates the following clerical support/application volume ratio necessary to handle the massive paper flow.

Clerical Support/Applications		Current Positions All Offices	New Positions Required*
Examining	1/ 6,000	9	5
Files	1/10,000	5.5	3
Certifications	1/15,000	5	1
TOTAL		19.5	9

* Anticipates a total volume of 86,800 applications in FY 1981.

While this is an estimate and it is probable that we could "make do" with fewer clerical positions, it is totally unrealistic to plan on an increased examining staff without a substantial increase in clerical support, particularly in view of the lack, at this time, of electronic processing capability.

It is obvious from this data that proper staffing is critical if we are to be able to receive and process applications with any degree of timeliness. The result of inadequate staffing would be an increase in lag time. This increase would be greater than a strict numerical progression. As lag time increases, so do the volume of inquiries seeking information about the progress of individual applications. Staff time required to locate the application and respond to the individual is taken away from the needed examining function, causing even greater dalays and more inquiries. A vicious cycle ensues whereby examining time is drastically reduced. With an anticipated volume of 86,800 applications and with current staff, we could expect an average lag time of approximately 30 to 40 working days.

One additional factor that must be kept in mind is the equipment and space necessary to store and file the incoming applications as well as desks and other equipment for new staff. Presently, we neither have the funds for new equipment nor available space to add desks, files, etc.

Finally, I would recommend that continuous recruitment be phased in over a period of several months. This is to avoid the chaotic situation inherent in opening all job classes at the same time without adequate staff trained to process the applications.

CJB/ch

RECRUITMENT PRACTICES

ALASKA DIVISION OF PERSONNEL & LABOR RELATIONS

I thank you for the opportunity to comment on our program budget situation in regard to examining applicants for State employment.

The volume of applications in recent years has increased at an annual rate of 20%. As this volume increase has been going on, additional demands to document all actions to show compliance with union contracts and equal employment regulations have also increased. Requested increases in staff and resources to meet these demands have received limited sympathy and less support.

For the five-year period ending June 30, 1979, the annual rate of applications increased from 28,993 to 59,991. An increase of 106.9%. During the same period staff increases to cope with the volume went from 282 man months to 318. An increase of 12.8%.* Certainly some internal efficiencies and adjustments have been made to cope with the increased applications. However, without increased staff the needs could only be partially met.

During this period the number of vacant permanent positions and appointments have been decreasing. In several occupational areas we were, and are continuing to spend resources to examine applicants which far exceed the State's needs. Such action defies justification consistent with any sound business principles.

Serious problems on timely response to applicants began to develop.

During 1978 the measured time from receipt of an application until an Examiner reviewed it was averaging up to a month. This delay caused applicants to increase their inquiries seeking acknowledgement that their application had, indeed, been received. Staff time required to locate the application and respond to the individual was taken away from the needed examining function, which caused even greater delays and more inquiries. Thus a vicious cycle began, which, if allowed to continue, would have lead to an ultimate total system breakdown. Considerable thought was given to alternatives. These considered included:

1. GREATER DELEGATION TO OPERATING DEPARTMENTS. Although the personnel staffs of several departments expressed a desire for the authority, none of them believed they could adequately take on the increased work without

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* Two CETA positions have also been assigned to the application filing work unit which increases the man months to 342; and a growth rate of 21.3%.

an increased staff. There was also concern that applicants would become more confused as the variety of places and the necessary procedures to apply for State employment increased.**

2. GREATER USE OF DATA PROCESSING SUPPORT. The Division of Data Processing did not have the staff or the resources to give assistance without reimbursement. The Division of Personnel and Labor Relations' requests for funds for this purpose have been turned down.

3. REVISE RECRUITMENT PRACTICES. This option appeared to be mostly within the control of the Division and was selected.

Reasons considered in selecting this option included:

1. The most common public and private recruitment practices are based on the employer's need for employees. The State's previous practice of examining applicants for everything at all times was highly unusual.

2. Examining applicants for jobs where no identified need existed or eligibles far in excess of the State's identified needs already existed, appeared wasteful of resources and denied an opportunity to concentrate on jobs that were difficult to fill.

3. During summer and fall months high numbers of applications are received from individuals seeking immediate employment. Many of the applicants have recently arrived in the State and their commitment to remain is highly questionable. A majority of these applications were for jobs that eligibles already exceeded needs. It was desirable to decrease the number of impulse and transient applicants.

4. Some efficiency of batch processing could be gained.

The recruitment closures were not what is typically considered a recruitment closure by public employers. The most typical cycle is to open recruitment for a specific time, close recruitment "until further notice," establish an eligible list and not reopen recruitment until that list is exhausted. The Division of Personnel and Labor Relations' closures announced when recruitment would be reopened and followed a self-imposed constraint that no job class would be closed for longer than eleven months.

** Since the establishment of the Department of Highways, the authority to recruit, examine and certify for several engineering job classes has been delegated to that Department and its successor; the Department of Transportation and Public Facilities. A 1977 Legislative Audit of the Division of Personnel recommended that all examining and certification functions should be centralized in the Division of Personnel for reasons of greater efficiency and less duplication. The delegation has not been rescinded.

The closures applied only to those jobs where an excessive supply of eligibles existed. Of over 900 job titles for which an individual could apply, only 173 were rescheduled for recruitment during the winter months. At the time of closure the 173 job classes covered 1,055 positions, of which 197 were vacant. During the previous year 527 appointments had been made. The eligible lists contained 12,883 applicants.

Allegations of union contract violations were resolved when an arbitrator ruled that the State's action did not violate the General Government or the Supervisory agreements between the State and the Alaska Public Employees Association.

Closure notices were issued in March, May, and September.

Through the first ten months of 1979, the number of applications received for examination were 1,300 less than the same period of 1978. A decline of 2.8%. However, without exercising some control over recruitment, an additional 10,830 applications were expected.

The average time from receipt until review by an Examiner for the period of June through October was nine working days less in 1979, than for the same period of 1978. This was a 54.0% reduction in time.

The scheduling of recruitment for certain job classes for specific months of the year makes it possible to take advantage of efficiencies of batch processing. An Examiner can review and rate 500 applications for Fisheries Biologist I received at one time much more rapidly than the same number of applications spread out over a twelve month period.

There is no basis to believe that this change in recruitment practices will of itself, have any impact on Equal Employment Opportunity practices. The Division of Equal Employment Opportunity has cited data which indicates that women and minorities are underrepresented in many job classes. Because the recruitment closures are so recent the E.E.O. data can only reflect the results of the previous unrestricted recruitment practices. The change in recruitment practices can be viewed as an opportunity to concentrate on affirmative action recruitment where needed without having to contend with numerous unsolicited applications which have resulted in a workforce that is not representative of the percentage of women and minorities in the labor market. The success of the recently completed recruitment program which concentrated on soliciting applications from minorities and women for "State Trooper Recruit" illustrates this point.

COMPARISON OF APPLICATIONS RECEIVED AND LAG TIME

	1978		1979			
MONTH	APPLICATIONS	LAG TIME	APPLICATION	DIFFERENCE FROM 1978	LAG TIME	DIFFERENCE FROM 1978
March	4,756	N/A	6,089	+1,333	22.0	N/A
April	3,051	N/A	4,401	+1,350	21.1	N/A
May	4,722	N/A	4,714	- 8	20.0	N/A
June	5,792	19.0	3,965	-1,827	14.5	- 4.5
July	5,124	18.1	3,748	-1,376	8.7	- 9.4
August	4,931	16.4	4,180	- 751	4.5	-11.9
September	5,045	15.8	4,591	- 454	6.4	- 9.4
October	6,206	15.0	4,073	-2,133	4.6	-10.4
TOTALS	39,627		35,761	(3,866)		
AVERAGE		16.89			7.74	-9.12

LAG TIME is defined as the average time in work days from receipt of application until an Examiner completes review of that application.

FIVE YEAR EXPERIENCE
POSITIONS, APPLICATIONS
AND STAFF

FY YEAR	POSITIONS	APPLICATIONS	WORK MONTHS EXAMINING STAFF
1975	9,358	28,993	282
1976	9,025	38,685	282
1977	9,322	45,775	282
1978	9,486	50,904	306
1979	10,125	59,991	318

"POSITIONS" includes all classified and partially exempt positions within the executive branch as of June 15, of year indicated.

"WORK MONTHS EXAMINING STAFF" Those man months authorized for the budget year for recruitment, examination and certification of applicants for State employment.

MEMORANDUM

RECEIVED
NOV 1 - 1979

The Honorable William Hudson
Commissioner
Department of Administration

DATE October 29, 1979

FILE NO

TELEPHONE NO

FROM: Jerry Reinwand, Chairman
Governor's Budget Review Committee

SUBJECT Policy Budget Comments

My memo of October 15 forwarded several comments concerning your policy budget submission. The following comment was erroneously ommitted and should be considered as part of the original memo:

The BRC is concerned that the practice of closing selected employment registers is violative of sound EEO and public management practices. We recognize the desire of the Division of Personnel to resolve what fairly may be described as a paper management crisis, however, we strongly recommend that in the interest of preserving our EEO standing and insuring our ability to retain the most competent individuals in public employment, that other alternatives be throughly considered.

DIRECTOR'S OFFICE

NOV 5 1979

DIV. OF PERSONNEL
& LABOR RELATIONS

Alaska State Legislature

JUNEAU, ALASKA

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT
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Senator Bill Ray
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TO: Senator Bill Ray, Chairman

FROM: Teresa B. Cramer, Administrative Assistant

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RE: Senate Bill 499

Making a special appropriation to the Department of Administration for new positions in the Division of Personnel to process applications for state employment; and providing for an effective date.

Senate Bill 499 implements Recommendation 10 of the Blue Ribbon Commission's Report to the Alaska Legislature concerning keeping the state job registers open for recruitment.

This bill appropriates $92,600 for the Division of Personnel in the Department of Administration to increase their staff to enable them to process additional applications from persons seeking employment with the state. The breakdown of the funding request is as follows:

Personal Services

1. Personnel Technician I (2 positions) @ $2,102/mo. x 12 months = $25.2K per annum x 2 = $50.4K

2. Clerk II (2 positions) @ $1676/month x 12 months = 20.1K per annum x 2 = $40.2K

Equipment & Commodities

Desk, chair, miscellaneous supplies @ $500 each x 4 = $2K

For the five year period ending June 30, 1979, the number of applications received by the Division of Personnel increased 106.9%, from 28,993 to 59,991. During that same period, staff increased to process the applications at a rate of only 12.8%, from 282 man-months to 318 man-months. (In addition 2 CETA positions were assigned, which increases the man-months to 342 and the rate of growth to 21.3%.) This disparity of growth placed the division in a crunch, and, in order to keep the division's head above water, it was decided that some of the job classifications should be closed and no new applications accepted for those classes. The division intended that each of the 173 classes would be opened for at least 30 days each year.

Commission members were concerned that closing the registers denied Alaskans the opportunity to compete for jobs in the state and that the best qualifed candidate interested in an opening might be unable to apply for the position. While recognizing that the division's workload is excessive, the commission believes that an alternative solution should be found. Therefore, the commission recommends that the legislature fund these four positions so that recruitment for the classes which have been closed can be reopened without overwhelming the staff.

TBC:sp

Introduced: 2/26/80
Referred: State Affairs and Finance

Funding Information
General Fund $92,600
Other Funds -0-
$92,600

BY THE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE COUNCIL (for the Blue Ribbon Commission on the State Personnel Act)

IN THE SENATE

SENATE BILL NO. 499

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act making a special appropriation to the Department of Administration for new positions in the division of personnel to process applications for state employment; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. The sum of $92,600 is appropriated from the general fund to the Department of Administration for creation of four new positions in the division of personnel to process applications for state employment.

* Sec. 2. The unexpended and unobligated portion of the appropriation made by this Act lapses into the general fund June 30, 1981.

* Sec. 3. This Act takes effect July 1, 1980.

Introduced: 2/26/80
Referred: State Affairs and
Labor and Management

BY THE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE COUNCIL (for the Blue Ribbon Commission on the State Personnel Act)

IN THE SENATE

SENATE BILL NO. 500

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to collective bargaining; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 23.40.210 is amended by adding a new subsection to read:

(b) When an agreement is entered into between an organization and the state, the agreement shall be submitted to the legislature within 30 days after convening of a regular session for approval of the monetary terms by appropriation or for rejection by concurrent resolution. The legislature may not adjourn a regular session until it has accepted or rejected the monetary terms of an agreement submitted under this subsection. The monetary terms of an agreement may not take effect unless approved by appropriation by the legislature as provided in this subsection.

* Sec. 2. AS 23.40.215 is amended by adding a new subsection to read:

(b) When the monetary terms of an agreement for more than one year are approved by an appropriation and the agreement makes no provision for reopening and negotiating adjustments in those monetary terms during the life of the agreement, the appropriation shall be for the entire cost of the monetary terms to be expended in successive fiscal years in accordance with those terms over the life of the agreement, and its enactment shall constitute a contract by the state not to repeal or diminish the appropriation during the life of the agreement.

* Sec. 3. This Act takes effect immediately in accordance with AS 01.10.-070(c).

#

Alaska State Legislature

JUNEAU, ALASKA

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT
Pouch AG/Mail Stop 0123
Juneau, Alaska 99811
(907) 465-4442

Senator Bill Ray
Chairman

TO: Senator Bill Ray, Chairman

FROM: Teresa B. Cramer, Administrative Assistant TBC

DATE: February 27, 1980

RE: Senate Bill 500

Relating to collective bargaining; and providing for an effective date.

Senate Bill 500 addresses the issue of legislative involvement in the collective bargaining process and implements Recommendation 4 of the Blue Ribbon Commission's Report to the Alaska Legislature.

ANALYSIS OF BILL

The purpose of this bill is to provide a system for legislative consideration of the monetary terms of the collective bargaining contracts negotiated by the state and its employees's organizations.

Section one of the bill amends the Public Employment Relations Act to implement the system of review. It provides that

-- the monetary terms of collective bargaining agreements must be approved by the legislature in order for those terms to take effect;

-- agreements between the employee organizations and the state shall be submitted to the legislature within the first 30 days of a regular session;

-- legislative review is limited to the monetary terms of the agreements;

-- the legislature approves those terms by passing the appropriation bills to fund the agreements;

-- the legislature may reject the monetary terms by adopting a Concurrent Resolution; and

-- the legislature may not adjourn a regular session until it has either accepted or rejected the monetary terms of any collective bargaining agreements which have been brought before it.

Alaska State Legislature

JUNEAU, ALASKA

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT
Pouch AG/Mail Stop 0123
Juneau, Alaska 99811
(907) 465-4442

Senator Bill Ray
Chairman

TO: Senator Bill Ray, Chairman

FROM: Teresa B. Cramer, Administrative Assistant TBC

DATE: February 27, 1980

RE: Senate Bill 500

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-- the monetary terms of collective bargaining agreements must be approved by the legislature in order for those terms to take effect;

-- agreements between the employee organizations and the state shall be submitted to the legislature within the first 30 days of a regular session;

-- legislative review is limited to the monetary terms of the agreements;

-- the legislature approves those terms by passing the appropriation bills to fund the agreements;

-- the legislature may reject the monetary terms by adopting a Concurrent Resolution; and

-- the legislature may not adjourn a regular session until it has either accepted or rejected the monetary terms of any collective bargaining agreements which have been brought before it.

Section two of the bill addresses funding for multi-year collective bargaining agreements. It provides that the legislative appropriation which will establish legislative approval for the monetary terms is to be an appropriation for the entire life of the agreement. The legislative enactment constitutes a contract by the state not to repeal or reduce the appropriation during that time. This provision for multi-year funding applies only to agreements which make no provision for reopening and negotiating adjustments to the monetary terms during the life of the agreement.

Section three of the bill provides that the bill takes effect immediately.

DISCUSSION

The commission considered the question of how to provide a more active role for the legislature in considering the fiscal impact of collective bargaining agreements while retaining a viable negotiating system within the executive branch. The commission considered that for the legislature to negotiate directly with the public employee organizations would be excessively time-consuming, and that therefore this task was more appropriately left to the Division of Labor Relations of the Department of Administration. The commission believes that the system proposed in this bill is the most appropriate vehicle for legislative review.

The commission recommends that action on the agreements submitted to the legislature be taken expeditiously. This would insure that if the legislature rejected an agreement, there would remain time within the session for the parties to renegotiate, should they choose to do so. If they agreed to an alternative agreement, the second agreement could be submitted for legislative review of the monetary terms. Nothing in this bill precludes the parties from taking any other action they might deem appropriate, including seeking approval of a strike by an organization's membership.

Should this bill be enacted, an interim system would have to be agreed to by the parties for contracts presently in force.

TBC:sp

Alaska State Legislature

JUNEAU, ALASKA

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT
Pouch AG/Mail Stop 0123
Juneau, Alaska 99811
(907) 465-4442

Senator Bill Ray
Chairman

TO: Senator Bill Ray, Chairman

FROM: Teresa B. Cramer, Administrative Assistant TBC

DATE: February 27, 1980

RE: House Bill 907

Relating to collective bargaining; and providing for an effective date.

House Bill 907 addresses the issue of legislative involvement in the collective bargaining process and implements Recommendation 4 of the Blue Ribbon Commission's Report to the Alaska Legislature.

ANALYSIS OF BILL

The purpose of this bill is to provide a system for legislative consideration of the monetary terms of the collective bargaining contracts negotiated by the state and its employees's organizations.

Section one of the bill amends the Public Employment Relations Act to implement the system of review. It provides that

-- the monetary terms of collective bargaining agreements must be approved by the legislature in order for those terms to take effect;

-- agreements between the employee organizations and the state shall be submitted to the legislature within the first 30 days of a regular session;

-- legislative review is limited to the monetary terms of the agreements;

-- the legislature approves those terms by passing the appropriation bills to fund the agreements;

-- the legislature may reject the monetary terms by adopting a Concurrent Resolution; and

-- the legislature may not adjourn a regular session until it has either accepted or rejected the monetary terms of any collective bargaining agreements which have been brought before it.

Section two of the bill addresses funding for multi-year collective bargaining agreements. It provides that the legislative appropriation which will establish legislative approval for the monetary terms is to be an appropriation for the entire life of the agreement. The legislative enactment constitutes a contract by the state not to repeal or reduce the appropriation during that time. This provision for multi-year funding applies only to agreements which make no provision for reopening and negotiating adjustments to the monetary terms during the life of the agreement.

Section three of the bill provides that the bill takes effect immediately.

DISCUSSION

The commission considered the question of how to provide a more active role for the legislature in considering the fiscal impact of collective bargaining agreements while retaining a viable negotiating system within the executive branch. The commission considered that for the legislature to negotiate directly with the public employee organizations would be excessively time-consuming, and that therefore this task was more appropriately left to the Division of Labor Relations of the Department of Administration. The commission believes that the system proposed in this bill is the most appropriate vehicle for legislative review.

The commission recommends that action on the agreements submitted to the legislature be taken expeditiously. This would insure that if the legislature rejected an agreement, there would remain time within the session for the parties to renegotiate, should they choose to do so. If they agreed to an alternative agreement, the second agreement could be submitted for legislative review of the monetary terms. Nothing in this bill precludes the parties from taking any other action they might deem appropriate, including seeking approval of a strike by an organization's membership.

Should this bill be enacted, an interim system would have to be agreed to by the parties for contracts presently in force.

TBC:sp

Original sponsor: Rules/Legislative Council

Offered: 4/14/80
Referred: Rules

IN THE HOUSE BY THE STATE AFFAIRS COMMITTEE

CS FOR HOUSE BILL NO. 907

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to collective bargaining; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 23.40.210 is amended by adding a new subsection to read:

(b) When an agreement is entered into between an organization and the state, the agreement shall be submitted to the legislature for approval of the monetary terms by appropriation or for rejection of the monetary terms. The monetary terms of an agreement may not take effect unless approved by appropriation by the legislature.

* Sec. 2. AS 23.40.215 is amended by adding a new subsection to read:

(b) When the monetary terms of an agreement for more than one year are approved by an appropriation and the agreement makes no provision for reopening and negotiating adjustments in those monetary terms during the life of the agreement, the appropriation shall be for the entire cost of the monetary terms to be expended in successive fiscal years in accordance with those terms over the life of the agreement, and its enactment shall constitute a contract by the state not to repeal or diminish the appropriation during the life of the agreement.

* Sec. 3. This Act takes effect immediately in accordance with AS 01.10.-070(c).

Introduced: 2/26/80
Referred: State Affairs

BY THE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE COUNCIL (for the Blue Ribbon Commission on the State Personnel Act)

IN THE HOUSE

HOUSE BILL NO. 907

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to collective bargaining; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 23.40.210 is amended by adding a new subsection to read:

(b) When an agreement is entered into between an organization and the state, the agreement shall be submitted to the legislature within 30 days after convening of a regular session for approval of the monetary terms by appropriation or for rejection by concurrent resolution. The legislature may not adjourn a regular session until it has accepted or rejected the monetary terms of an agreement submitted under this subsection. The monetary terms of an agreement may not take effect unless approved by appropriation by the legislature as provided in this subsection.

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(b) When the monetary terms of an agreement for more than one year are approved by an appropriation and the agreement makes no provision for reopening and negotiating adjustments in those monetary terms during the life of the agreement, the appropriation shall be for the entire cost of the monetary terms to be expended in successive fiscal years in accordance with those terms over the life of the agreement, and its enactment shall constitute a contract by the state not to repeal or diminish the appropriation during the life of the agreement.

* Sec. 3. This Act takes effect immediately in accordance with AS 01.10.-070(c).

Introduced: 2/26/80
Referred: State Affairs

BY THE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE COUNCIL (for the Blue Ribbon Commission on the State Personnel Act)

IN THE SENATE

SENATE BILL NO. 501

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to the veterans' service preference under the state personnel system."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 39.25.150(23) is amended to read:

(23) the granting of employment preference rights to a veteran at each time he applies for employment, not within the area of promotion, when he possesses the necessary qualifications in the job classification for which he applies under this chapter; the term "veteran" means a person with 90 days or more active service in the armed forces of the United States who has been honorably discharged after having served during any period between April 6, 1917, and December 1, 1919, between September 16, 1940, and December 31, 1947, or between June 27, 1950, and November 7, 1975 [A DATE TO BE DETERMINED BY THE LEGISLATURE WHICH SHALL BE ON OR ABOUT SIX MONTHS AFTER THE TERMINATION OF HOSTILITIES INVOLVING FORCES OF THE UNITED STATES IN VIET NAM]; the term "disabled veteran" means a veteran who is rated by the United States Veterans' Administration as having at least a 10 percent service-connected disability; in the examination to determine the qualification of applicants for entrance into the classified service under merit system examination, five additional points shall be added to the passing grade of a veteran who was discharged from the armed forces of the United States for three years or less before the date of application for employment and 10 additional points shall be added to the passing grade of a disabled veteran; if a position in the classified service is

eliminated, employees shall be released in accordance with rules which give due effect to all factors; if all job qualifications are equal, the veteran shall be given preference over the nonveteran and the veteran shall be kept on the job.

Alaska State Legislature

JUNEAU, ALASKA

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT
Pouch AG/Mail Stop 0123
Juneau, Alaska 99811
(907) 465-4442

Senator Bill Ray
Chairman

TO: Senator Bill Ray, Chairman

FROM: Teresa B. Cramer, Administrative Assistant TBC

DATE: February 27, 1980

RE: Senate Bill 501

Relating to the veterans' service preference under the state personnel system.

Senate Bill 501 addresses Recommendation 12 of the Blue Ribbon Commission's Report to the Alaska Legislature, concerning the veterans' preference system in the State Personnel Act.

This bill proposes two changes in the veterans' preference system statute. The first, a housekeeping measure, designates November 7, 1975, as the final date for eligibility for preference as a veteran of the Vietnam era. This date was selected on the basis of President Ford's proclamation that the Vietnam era ended on May 7, 1975. See attached copy.

The second change limits eligibililty for veterans' preference points to a period of three years following discharge from the armed forces of the United States. The majority of the commission considered three years to be a reasonable period to assist veterans in their readjustments to civilian life and in their reentry into the civilian work force.

TBC:sp

No. 4373

May 9, 1975, 40 F.R. 20257

FIXING TERMINAL DATE RESPECTING SERVICE IN THE ARMED FORCES ENTITLING PERSONS TO CERTAIN VETERANS BENEFITS

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA
A PROCLAMATION

The Congress has provided that entitlement to certain veterans benefits be limited to persons serving in the Armed Forces during the period, beginning August 5, 1964, referred to as the Vietnam era. The President is authorized to determine the last day on which a person must have entered the active military, naval or air service of the United States in order for such service to qualify as service during that period.

The signing of the cease-fire agreements and implementing protocols on January 27, 1973, between the United States of America and the Republic of Vietnam, on the one hand, and the Democratic Republic of Vietnam and the Provisional Revolutionary Government of the Republic of South Vietnam on the other hand, has terminated active participation by the Armed Forces of the United States in the Vietnam conflict.

NOW, THEREFORE, I, GERALD R. FORD, President of the United States of America, by virtue of the authority vested in me by Section 101(29) of Title 38 of the United States Code, do hereby proclaim, for the purposes of said Section 101(29), that May 7, 1975, is designated as the last day of the "Vietnam era."

IN WITNESS WHEREOF, I have hereunto set my hand this seventh day of May in the year of our Lord nineteen hundred seventy-five, and of the Independence of the United States of America the one hundred ninety-ninth.

GERALD R. FORD

Original sponsor: Rules/Legislative Council

Offered: 3/27/80
Referred: Rules

IN THE HOUSE BY THE STATE AFFAIRS COMMITTEE

CS FOR HOUSE BILL NO. 906

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to the veterans' service preference under the state personnel system."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 39.25.150(23) is amended to read:

(23) the granting of employment preference rights to a veteran at each time he applies for employment, not within the area of promotion, when he possesses the necessary qualifications in the job classification for which he applies under this chapter; the term "veteran" means a person with 90 days or more active service in the armed forces of the United States who has been honorably discharged after having served during any period between April 6, 1917, and December 1, 1919, between September 16, 1940, and December 31, 1947, or between June 27, 1950, and <u>November 7, 1975</u> [A DATE TO BE DETERMINED BY THE LEGISLATURE WHICH SHALL BE ON OR ABOUT SIX MONTHS AFTER THE TERMINATION OF HOSTILITIES INVOLVING FORCES OF THE UNITED STATES IN VIET NAM]; the term "disabled veteran" means a veteran who is rated by the United States Veterans' Administration as having at least a 10 percent service-connected disability; in the examination to determine the qualification of applicants for entrance into the classified service under merit system examination, five additional points shall be added to the passing grade of a veteran and 10 additional points shall be added to the passing grade of a disabled veteran; if a position in the classified service is eliminated, employees shall be released in accordance with rules which give due effect to all factors; if all job qualifications

are equal, the veteran shall be given preference over the nonveteran and the veteran shall be kept on the job.

Introduced: 2/26/80
Referred: State Affairs

BY THE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE COUNCIL (for the Blue Ribbon Commission on the State Personnel Act)

IN THE HOUSE

HOUSE BILL NO. 906

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to the veterans' service preference under the state personnel system."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 39.25.150(23) is amended to read:

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eliminated, employees shall be released in accordance with rules which give due effect to all factors; if all job qualifications are equal, the veteran shall be given preference over the nonveteran and the veteran shall be kept on the job.

Alaska State Legislature

JUNEAU, ALASKA

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT
Pouch AG/Mail Stop 0123
Juneau, Alaska 99811
(907) 465-4442

Senator Bill Ray
Chairman

TO: Senator Bill Ray, Chairman

FROM: Teresa B. Cramer, Administrative Assistant TBC

DATE: February 27, 1980

RE: House Bill 906

Relating to the veterans' service preference under the state personnel system.

House Bill 906 addresses Recommendation 12 of the Blue Ribbon Commission's Report to the Alaska Legislature, concerning the veterans' preference system in the State Personnel Act.

This bill proposes two changes in the veterans' preference system statute. The first, a housekeeping measure, designates November 7, 1975, as the final date for eligibility for preference as a veteran of the Vietnam era. This date was selected on the basis of President Ford's proclamation that the Vietnam era ended on May 7, 1975. See attached copy.

The second change limits eligibililty for veterans' preference points to a period of three years following discharge from the armed forces of the United States. The majority of the commission considered three years to be a reasonable period to assist veterans in their readjustments to civilian life and in their reentry into the civilian work force.

TBC:sp

No. 4373

May 9, 1975, 40 F.R. 20257

FIXING TERMINAL DATE RESPECTING SERVICE IN THE ARMED FORCES ENTITLING PERSONS TO CERTAIN VETERANS BENEFITS

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA
A PROCLAMATION

The Congress has provided that entitlement to certain veterans benefits be limited to persons serving in the Armed Forces during the period, beginning August 5, 1964, referred to as the Vietnam era. The President is authorized to determine the last day on which a person must have entered the active military, naval, or air service of the United States in order for such service to qualify as service during that period.

The signing of the cease-fire agreements and implementing protocols on January 27, 1973, between the United States of America and the Republic of Vietnam, on the one hand, and the Democratic Republic of Vietnam and the Provisional Revolutionary Government of the Republic of South Vietnam on the other hand, has terminated active participation by the Armed Forces of the United States in the Vietnam conflict.

NOW, THEREFORE, I, GERALD R. FORD, President of the United States of America, by virtue of the authority vested in me by Section 101(29) of Title 38 of the United States Code, do hereby proclaim, for the purposes of said Section 101(29), that May 7, 1975, is designated as the last day of the "Vietnam era."

IN WITNESS WHEREOF, I have hereunto set my hand this seventh day of May in the year of our Lord nineteen hundred seventy-five, and of the Independence of the United States of America the one hundred ninety-ninth.

GERALD R. FORD

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

MEMORANDUM December 7, 1978

SUBJECT: Work Order #5791: Constitutional and Federal Requirements on a Merit System.

TO: Senator Bill Ray, Chairman
Legislative Council Commission
on the State Personnel Act

FROM: Richard A. Bradley
Legislative Counsel

The "blue ribbon" commission established under L.R. 27, 1978 has asked that I provide it with an exploration of the meaning of the term "merit system" in the context of the Alaska Constitution and of Federal law. For purposes of this analysis, I have divided my comments into three parts: First, an analysis of the constitutional debates; second, some brief comments on the usual understanding of the meaning of the term, and third, any Federal requirements that need to be considered.

I. The 1955 Constitutional Convention Debates.

The 1955 debates reflect that the drafters of the constitution had a good understanding of the characteristics of a merit system. The debate at the convention on what became Article XII, Section 6 focused on only two questions:

(1) Shall the language read that

> The legislature shall establish a system under which the merit principle will govern the employment of persons by the State

or shall it read

> The legislature may establish a system [etc.]

and

(2) If the section is phrased in the latter formulation, whether it is needed in the constitution at all.

The initial debate on the section appears at pages 2798 - 2800 of the Proceedings of the Alaska Constitutional Convention. In these pages, the earlier, original formula of "shall" was changed to "may."

The reasons for the change reflect a concern that "shall" would oblige the legislature at statehood to establish a merit system immediately. Use of "may" would reflect, under this hypothesis, a decision by the Convention that such a system would be useful, but also that it would not need to be implemented immediately.

Thus Delegate Johnson [at 2799] stated that the Territorial Legislature had been concerned about the situation for a number of years but had been unable to adopt a measure:

> If you put in the word "shall" it seems to me that then [the legislature is] confronted with the necessity of doing it right now and not getting a good system. [Id., at 2799.]

Delegate Taylor stated that there was a modified merit system in effect at that time as to ESC and Health and Welfare employees; as to the use of certain Federal funds, a merit system was required. [Id., at 2799.] Delegate Nordale noted that there was no Territorial merit system. Rather, the merit system then applicable to the listed agencies was derived from Federal law. [Id., at 2800.]

She continued:

> As far as the working of a civil service system, there are always exempted positions such as part-time employment and various types of employment that usually, I imagine, are always exempted; and it does not ordinarily apply to elected or appointed officials and there is a certain group at the top level of government that are completely exempt from the operation of a civil service system. Many others are classified, and there are the other exemptions at the lower level. [Id., at 2800.]

The more substantive debates occurred later on a motion to rescind the action substituting "may" for "shall." [Id., at

2887 - 2895.] Thus Delegate Sundborg described the merit principle at 2887 - 2888:

> I don't think anybody is, in principle, opposed to the merit system. * * * It is a system by which persons who are to be employed by the state are employed on the basis of their ability rather than who they might know or what pull they might have or how they voted in a recent election. * * * Persons who desire employment are treated alike. They are given written and oral examinations to determine whether they are qualified for the positions to which they aspire. There is a regular integrated program of salaries as between various positions so that not the legislature, not the head of an agency, can say that this person shall get so many dollars per year and that one so many, without any reference to what the person is doing or what he is producing. The converse of the merit principle is the spoils system, and anyone who doesn't want to have a merit principle incorporated in our state government system must, I think, be in favor of a spoils system.

Responding to debate, Delegate McCutcheon asked :

> How does Mr. Barr substantiate his assertion that this is keeping employees out of politics. * * * You are not inferring that this is a small Hatch Act?

Delegate Barr responded [at 2889 - 2890]:

> It is setting up a framework of government for the state and it is dealing with the employees and the officers of the state only; and it was felt that it would be better to have a merit system to keep the employees out of politics. It was recognized, of course, that the governor should have his appointees serve as department heads, so he could work with his own team.

Delegate Ralph Rivers discussed the application of a merit system to temporary employees [at 2890]:

> I would like to speak on the point of law: would this necessarily cover temporary employees. * * * This language speaks only of the establishment of employment by a merit principle. Now, I regard that as a general directive to establish a merit system, but all the details would be spelled out by the legislature, and I

want the record to show that if I vote for the word "shall" it is not on the theory that every temporary employee is going to be under the merit system. It is going to be on the theory that the legislature has the power to spell out the details.

Delegate McLaughlin spoke on the general question [at 2891 - 2892]:

I would concur in the statement made by Mr. Sundborg as to the merit principle. If we substitute here the word "shall" all we are doing, in substance, is providing that we won't be under a spoils system. I think, perhaps, there is a misapprehension in the Convention as to what the merit principle consists of. The merit principle, in substance, merely determines that political considerations will not be the determinant for the selection, and all we are doing is repudiating the idea of the spoils system. From somewhat limited knowledge, I know in most states of the Union, not only do they have, if they so desire, if you adopt this can you have a large exempt class, but you can have many varieties of what they call classifications and not necessarily even that. But you can have classifications classifying all applicants for service into various categories, some of them not requiring examinations, some possibly limited, but you can adopt the merit principle without examination, and it is certainly not my intent when I vote for "shall" to blanket in any large group of individuals permanently into the civil service. Another problem that has arisen is the question many people complain about embedding public employees into their jobs. You have poor civil service systems and you have good ones. That is something that should be left entirely to the legislature. When you vote for "shall" you merely vote for the principle that you are opposed to the spoils system, and if you are in favor of some method of selection whereby you won't have on your payrolls people whose only obligation to government is to vote for those in power on election day. They shall be secure in their jobs, and not subject to political dismissal.

Delegate Sundborg spoke last [at 2894]:

May I close, briefly? Mr. President, I think practically everything that can be said about this has been said. I can say definitely that it is in language

> which I think is identical with this or at least is very similar to that of the three agencies which now operate on the merit principle in our Territory which were ordered to do so by the federal government, and that system, the Alaska Merit System, does provide exemptions of all temporary employees, all part-time employees and the heads of agencies. * *
> * On this matter of perpetuating in their jobs, people who will not be sympathetic or will not be able to do the work as the heads of the agencies desire, any employee under a merit system can be discharged for cause. A man isn't frozen into his job permanently just because he is hired under a merit system. If he isn't working in the way that the head of the agency and the merit agency of the state requires, according to job specifications, he can be relieved of his responsibilities in very short order, and that is as it should be.

In summary, several points relative to the constitutional mandate that a merit system be established may be made:

> Though not all positions in state government need be covered under a merit system, the law establishing the system should be the source of the exceptions. Thus part-time employees or temporary employees may be excluded; elected or appointed officers are necessarily excluded.
>
> Appointments to positions are based on the tested ability of employees rather than on whom they may have known.
>
> Salaries are based on the nature of the work, as established by the classification of the position.
>
> Employees have tenure during the time they are efficient and perform their work well, without regard to political considerations.

II. General Understanding of the Meaning of Merit System.

When a merit system bill was introduced in the First Legislature, it was referred to the Legislative Council for interim review. Its analysis of the meaning is brief and to the point:

> A merit system is designed essentially to promote efficiency in government through the continuity of

> employment of qualified personnel. At the same time it can serve to protect the employee, guarding him against political raid and allowing him job tenure as long as he meets the qualifications for his position and performs in an efficient manner. [Staff Memorandum on House Bill 188, First Legislature; December 9, 1959.]

Note that House Bill 188 was described in the December 9, 1959 Memorandum of the Legislative Council Staff as comprehending both personnel practices and merit principles.

I understand that Ken Humphries has provided the Commission with an analysis of other merit systems; I agree that his analysis is accurate on the characteristics of merit systems.

Public Law 91-648, 84 Stat. 1909, the Inter-governmental Personnel Act of 1970, contains a generally agreed-on list of merit principles:

> (1) recruiting, selecting, and advancing employees on the basis of their relative ability, knowledge, and skills, including open consideration of qualified applicants for initial appointment;
>
> (2) providing equitable and adequate compensation;
>
> (3) training employees, as needed, to assure high-quality performance;
>
> (4) retaining employees on the basis of the adequacy of their performance, correcting inadequate performance, and separating employees whose inadequate performance cannot be corrected;
>
> (5) assuring fair treatment of applicants and employees in all aspects of personnel administration without regard to political affiliation, race, color, national origin, sex, or religious creed and with proper regard for their privacy and constitutional rights as citizens; and
>
> (6) assuring that employees are protected against coercion for partisan political purposes and are prohibited from using their official authority for the purpose of interfering with or affecting the result of an election or a nomination for office.

I believe that all of these principles are contained within the debate quoted earlier in this memorandum with the possible

exception of training which, at least in my view, is more a good personnel practice than a merit principle.

III. Federal Requirements.

The Federal government imposes no requirements on state government generally or on the state government in Alaska as to its views on the desired constituent parts of a merit system.

Rather the Federal government imposes its view that certain state or local agencies shall abide by the merit principle, regardless of their practices generally, when they employ individuals in "various grant-in-aid and other intergovernmental programs using Federal funding." See the notice of proposed rule-making at 43 Fed. Reg. 20996 [May 16, 1978], proposing regulations which will be located at 5 CFR §900.61 et seq.; the regulations will replace earlier regulations found at 45 CFR part 70.

The proposed rule making sets out various principles which will guide state action. Because the proposals seem fairly clear [and have some 38 years' history], it does not seem necessary to comment on them individually.

The appendix to the proposed rule-making, 43 Fed. Reg. at 21103, sets out the various Federal programs which are viewed as subject to the merit principles.

If I can assist further, please advise.

RAB:jdm

Introduced: 2/26/80
Referred: State Affairs and Labor & Management

BY THE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE COUNCIL (for the Blue Ribbon Commission on the State Personnel Act)

IN THE SENATE

SENATE BILL NO. 502

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to the merit principle in state employment."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 39.25.010 is amended by adding a new subsection to read:

(b) The merit principle of employment includes the following:

(1) recruiting, selecting, and advancing employees on the basis of their relative ability, knowledge, and skills, including open consideration of qualified applicants for initial appointment;

(2) regular integrated salary programs based on the nature of the work performed;

(3) retention of employees on the basis of the adequacy of their performance and provision for correction of inadequate performance and separation of those employees whose inadequate performance cannot be corrected;

(4) equal treatment of applicants and employees with regard only to consideration within the merit principles of employment; and

(5) selection and retention of an employee's position secure from political influences.

Alaska State Legislature

JUNEAU, ALASKA

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT
Pouch AG/Mail Stop 0123
Juneau, Alaska 99811
(907) 465-4442

Senator Bill Ray
Chairman

TO: Senator Bill Ray, Chairman

FROM: Teresa B. Cramer, Administrative Assistant

DATE: February 27, 1980

RE: Senate Bill 502

Relating to the merit principle in state employment.

Senate Bill 502 addresses Recommendation 1 of the Blue Ribbon Commission's Report to the Alaska Legislature concerning recognition of the components of the merit principle of employment.

The Alaska Constitution directs, in Article XII, Section 6, that "(t)he legislature shall establish a system under which the merit principle will govern the employment of persons by the state." The constitution does not identify the components of the "merit principle." During the constitutional debates, the delegates identified concepts which they believed were encompassed by that term. See Proceedings of the Alaska Constitution Convention, pages 2886-2895. The legislature incorporated those concepts into the State Personnel Act which was adopted in 1961, but did not identify specifically the essential elements. This bill places the five components of the merit principle identified during the Constitution Convention in the State Personnel Act.

Since the Public Employment Relations Act requires that all collective bargaining agreements conform to the merit principle of employment, the designation of these components of the merit principle would serve to insure that the parties to collective bargaining agreements were on notice as to the state's interpretation of that language.

These five principles are consistent with the federal Standards for a Merit System of Personnel Administration, 44 F.R. 10238. The federal standards must be met for employment of persons in any federal grant-in-aid program. In addition, to the five areas addressed in this bill, the federal standards include a merit principle which requires that employees be trained as needed to assure high quality performance.

TBC:sp

Alaska State Legislature

JUNEAU, ALASKA

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT
Pouch AG/Mail Stop 0123
Juneau, Alaska 99811
(907) 465-4442

Senator Bill Ray
Chairman

TO: Senator Bill Ray, Chairman

FROM: Teresa B. Cramer, Administrative Assistant TBC

DATE: February 27, 1980

RE: House Bill 908

Relating to the merit principle in state employment.

House Bill 908 addresses Recommendation 1 of the Blue Ribbon Commission's Report to the Alaska Legislature concerning recognition of the components of the merit principle of employment.

The Alaska Constitution directs, in Article XII, Section 6, that "(t)he legislature shall establish a system under which the merit principle will govern the employment of persons by the state." The constitution does not identify the components of the "merit principle." During the constitutional debates, the delegates identified concepts which they believed were encompassed by that term. See Proceedings of the Alaska Constitution Convention, pages 2886-2895. The legislature incorporated those concepts into the State Personnel Act which was adopted in 1961, but did not identify specifically the essential elements. This bill places the five components of the merit principle identified during the Constitution Convention in the State Personnel Act.

Since the Public Employment Relations Act requires that all collective bargaining agreements conform to the merit principle of employment, the designation of these components of the merit principle would serve to insure that the parties to collective bargaining agreements were on notice as to the state's interpretation of that language.

These five principles are consistent with the federal Standards for a Merit System of Personnel Administration, 44 F.R. 10238. The federal standards must be met for employment of persons in any federal grant-in-aid program. In addition, to the five areas addressed in this bill, the federal standards include a merit principle which requires that employees be trained as needed to assure high quality performance.

TBC:sp

Passed out of Senate State Affairs w/ individual recommendations 4/23/80

Original sponsor: Rules/Legislative Council

IN THE HOUSE BY THE STATE AFFAIRS COMMITTEE

SENATE CS FOR HOUSE BILL NO. 908

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to the merit principle in state employment."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 39.25.010 is amended by adding a new subsection to read:

(b) The merit principle of employment includes the following:

(1) recruiting, selecting, and advancing employees on the basis of their relative ability, knowledge, and skills, including open consideration of qualified applicants for initial appointment;

(2) regular integrated salary programs based on the nature of the work performed;

(3) retention of employees with permanent status on the basis of the adequacy of their performance, reasonable efforts of temporary duration for correction in inadequate performance, and separation for cause;

(4) equal treatment of applicants and employees with regard only to consideration within the merit principles of employment; and

(5) selection and retention of an employee's position secure from political influences.

Introduced: 2/26/80
Referred: State Affairs

BY THE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE COUNCIL (for the Blue Ribbon Commission on the State Personnel Act)

IN THE HOUSE

HOUSE BILL NO. 908

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to the merit principle in state employment."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 39.25.010 is amended by adding a new subsection to read:

(b) The merit principle of employment includes the following:

(1) recruiting, selecting, and advancing employees on the basis of their relative ability, knowledge, and skills, including open consideration of qualified applicants for initial appointment;

(2) regular integrated salary programs based on the nature of the work performed;

(3) retention of employees on the basis of the adequacy of their performance and provision for correction of inadequate performance and separation of those employees whose inadequate performance cannot be corrected;

(4) equal treatment of applicants and employees with regard only to consideration within the merit principles of employment; and

(5) selection and retention of an employee's position secure from political influences.

STATE OF ALASKA

THE LEGISLATURE

1980

Source: HCR 57

Legislative Resolve No.: 22

Relating to preparation and distribution by the division of budget and management, Office of the Governor, of a personnel procedures manual.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

WHEREAS classification of positions within the state personnel system can be cumbersome, which leads to delays in filling positions and in implementing new programs; and

WHEREAS the responsibility for performing functions involved in classification is in some instances not clearly assigned; and

WHEREAS duplication of effort and confusion as to the respective roles of various agencies work to the detriment of the state and present or prospective state employees; and

WHEREAS clarification of functions and procedures would be advantageous;

BE IT RESOLVED by the Alaska State Legislature that the Governor is respectfully requested to direct the division of budget and management to immediately prepare and distribute a procedures manual to assist personnel officers and other managers in understanding the process and to identify which agency to consult when questions arise.

Alaska State Legislature

JUNEAU, ALASKA

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT
Pouch AG/Mail Stop 0123
Juneau, Alaska 99811
(907) 465-4442

Senator Bill Ray
Chairman

TO: Senator Bill Ray, Chairman

FROM: Teresa B. Cramer, Administrative Assistant TBC

DATE: February 27, 1980

RE: House Concurrent Resolution 57

Relating to the preparation and distribution by the Division of Budget and Managment, Office of the Governor, of a personnel procedures manual.

House Concurrent Resolution 57 implements Recommendation 9 of the Blue Ribbon Commission's Report to the Alaska Legislature by requesting that the Division of Budget and Management prepare and distribute a procedures manual for use in the classification and re-classification process.

Before a new position can be filled, the Division of Budget and Mangement must authorize the expenditure of funds for the salary and the Division of Personnel in the Department of Administration must classify it. The department in which the position occurs is responsible for preparing the documents to support these activities. There are no written guides for the departmental personnel to use in that preparation. This Concurrent Resolution asks the Division of Budget and Management to prepare a procedures manual for the use of the departments in this process.

There are some areas in the establishment of a new position or the reclassification of an existing position over which both the Division of Personnel and the Division of Budget and Management appear to have jurisdiction. This overlap can lead to confusion for the departmental staff responsible for preparation of the documents. The confusion can lead to delays in establishing the position and therefore to delays in implementing new programs. Where time is of the essence, these delays can frustrate the purpose of legislatively enacted programs.

Therefore the commission recommends that the legislature request the Division of Budget and Management to prepare and distribute a procedures manual to assist the departmental personnel officers and program managers in the steps necessary to establish a new position or to reclassify an existing position. The manual should identify which agency to consult when questions arise.

TBC:sp

Introduced: 2/26/80
Referred: State Affairs

BY THE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE COUNCIL (for the Blue Ribbon Commission on the State Personnel Act)

IN THE HOUSE

HOUSE CONCURRENT RESOLUTION NO. 57

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - SECOND SESSION

Relating to preparation and distribution by the division of budget and management, Office of the Governor, of a personnel procedures manual.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

WHEREAS classification of positions within the state personnel system can be cumbersome, which leads to delays in filling positions and in implementing new programs; and

WHEREAS the responsibility for performing functions involved in classification is in some instances not clearly assigned; and

WHEREAS duplication of effort and confusion as to the respective roles of various agencies work to the detriment of the state and present or prospective state employees; and

WHEREAS clarification of functions and procedures would be advantageous;

BE IT RESOLVED by the Alaska State Legislature that the Governor is respectfully requested to direct the division of budget and management to immediately prepare and distribute a procedures manual to assist personnel officers and other managers in understanding the process and to identify which agency to consult when questions arise.

Alaska State Legislature

JUNEAU, ALASKA

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT
Pouch AG/Mail Stop 0123
Juneau, Alaska 99811
(907) 465-4442

Senator Bill Ray
Chairman

TO: Senator Bill Ray, Chairman

FROM: Teresa B. Cramer, Administrative Assistant TBC

DATE: February 27, 1980

RE: Senate Concurrent Resolution 49

Relating to the preparation and distribution by the Division of Budget and Managment, Office of the Governor, of a personnel procedures manual.

Senate Concurrent Resolution 49 implements Recommendation 9 of the Blue Ribbon Commission's Report to the Alaska Legislature by requesting that the Division of Budget and Management prepare and distribute a procedures manual for use in the classification and re-classification process.

Before a new position can be filled, the Division of Budget and Mangement must authorize the expenditure of funds for the salary and the Division of Personnel in the Department of Administration must classify it. The department in which the position occurs is responsible for preparing the documents to support these activities. There are no written guides for the departmental personnel to use in that preparation. This Concurrent Resolution asks the Division of Budget and Management to prepare a procedures manual for the use of the departments in this process.

There are some areas in the establishment of a new position or the reclassification of an existing position over which both the Division of Personnel and the Division of Budget and Management appear to have jurisdiction. This overlap can lead to confusion for the departmental staff responsible for preparation of the documents. The confusion can lead to delays in establishing the position and therefore to delays in implementing new programs. Where time is of the essence, these delays can frustrate the purpose of legislatively enacted programs.

Therefore the commission recommends that the legislature request the Division of Budget and Management to prepare and distribute a procedures manual to assist the departmental personnel officers and program managers in the steps necessary to establish a new position or to reclassify an existing position. The manual should identify which agency to consult when questions arise.

TBC:sp

Introduced: 2/26/80
Referred: State Affairs and Finance

BY THE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE COUNCIL (for the Blue Ribbon Commission on the State Personnel Act)

IN THE SENATE

SENATE CONCURRENT RESOLUTION NO. 49

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - SECOND SESSION

Relating to preparation and distribution by the division of budget and management, Office of the Governor, of a personnel procedures manual.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

WHEREAS classification of positions within the state personnel system can be cumbersome, which leads to delays in filling positions and in implementing new programs; and

WHEREAS the responsibility for performing functions involved in classification is in some instances not clearly assigned; and

WHEREAS duplication of effort and confusion as to the respective roles of various agencies work to the detriment of the state and present or prospective state employees; and

WHEREAS clarification of functions and procedures would be advantageous;

BE IT RESOLVED by the Alaska State Legislature that the Governor is respectfully requested to direct the division of budget and management to immediately prepare and distribute a procedures manual to assist personnel officers and other managers in understanding the process and to identify which agency to consult when questions arise.

FISCAL NOTE

I. REQUEST
Bill/Resolution No. SCR 49 HCR 57
Title Prepare & Distribute Personnel Procedure Manuals
Requested by Senator Mulcahy Date

II. FISCAL DETAIL
Agency Affected Administration
Program Category Affected General Government
BRU, Program, or Subprogram(s) Affected Personnel
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

		FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
100	PERSONAL SERVICES						
200	TRAVEL						
300	CONTRACTUAL						
400	COMMODITIES						
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
	TOTAL		-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)
Written procedures required of the Division of Personnel pursuant to the State Personnel Act currently exist and would only require minor modification to incorporate instructions issued by the Division of Budget and Management pursuant to the Executive Budget Act.

IV. DATE 3/18/80 PREPARED BY Judy Crondahl
AGENCY Administration
PHONE 465-2277

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named) Senator Ray
Office of the Governor
Keith Specking
Rod Mourant

33-001 (Rev. 12/78)

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

MAR 1 2 1980

I. REQUEST
Bill/Resolution No. SCR 49
Title Relating to preparation and distribution ...
Requested by Senator Mulcahy Date March 10, 1980

II. FISCAL DETAIL
Agency Affected Office of the Governor
Program Category Affected Executive Operations
BRU, Program, or Subprogram(s) Affected Budget and Management Services
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

		FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
100	PERSONAL SERVICES	0					
200	TRAVEL	0					
300	CONTRACTUAL	0					
400	COMMODITIES	0					
500	EQUIPMENT	0					
600	LAND & STRUCTURES	0					
700	GRANTS, CLAIMS, ETC.	0					
	TOTAL						

FUNDING (Thousands of Dollars)

GENERAL FUND	0					
FEDERAL FUNDS	0					
OTHER (Specify Fund Source)	0					

POSITIONS

FULL TIME	0					
PART TIME	0					
TEMPORARY	0					

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

In order to prepare and distribute a Procedures Manual on Budget and Management's role in personnel functions and establishment of positions, no additional funding is required.

IV. DATE 3/10/80 PREPARED BY Rod Mourant and Ron Lehr
AGENCY Office of the Governor
PHONE 465-3544

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/79)

FISCAL NOTE

SCR 50

I. REQUEST
Bill/Resolution No SCR 50
Title Extending life of Blue Ribbon Commission on State Personnel Act
Requested by Legislative Finance Date 2/28/80

II. FISCAL DETAIL
Agency Affected Legislative Affairs
Program Category Affected General Government
BRU, Program, or Subprogram(s) Affected Legislative Council
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

		FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
100	PERSONAL SERVICES		72.2				
200	TRAVEL		15.7				
300	CONTRACTUAL		4.7				
400	COMMODITIES		1.1				
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
	TOTAL		93.7				

FUNDING (Thousands of Dollars)

GENERAL FUND		93.7				
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME		2				
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)
Continuation of present staff and activity:

One Admin. Asst full-time	$46,984
One Secretary full-time w/benefits	25,215
	72,199
Travel - Staff and Commission	15,700
Contractual	4,700
Commodities	1,100
Total	$93,700 (105)

IV. DATE March 10, 1980 PREPARED BY John C. Sackett
AGENCY Senate Finance Committee
PHONE 465-3753

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

FISCAL NOTE

I. REQUEST SCR 50
Bill/Resolution No. SCR 50
Title Extending Life of Blue Ribbon Comission on State Personnel Act
Requested by Legislative Finance Date 2-28-80

II. FISCAL DETAIL
Agency Affected Legislative Affairs
Program Category Affected General Government
BRU, Program, or Subprogram(s) Affected Legislative Council
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84
100 PERSONAL SERVICES		72.2			
200 TRAVEL		25.7			
300 CONTRACTUAL		6.7			
400 COMMODITIES		1.1			
500 EQUIPMENT					
600 LAND & STRUCTURES					
700 GRANTS, CLAIMS, ETC.					
TOTAL		105.7			

FUNDING (Thousands of Dollars)

GENERAL FUND		105.7			
FEDERAL FUNDS					
OTHER (Specify Fund Source)					

POSITIONS

FULL TIME		2			
PART TIME					
TEMPORARY					

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

Continuation of present staff and activity: One Admin Asst full-time $46,984
One Secretary full-time 25,215
w/benefits 72,199
Travel -- Staff and Commission 25,740
Contractual 6,700
Commodities 1,100
TOTAL $105,639 (10

IV. DATE 3/4/80 PREPARED BY Richard C. Bass, Director
AGENCY Legislative Affairs Agency
PHONE 465-3850

Introduced: 2/26/80
Referred: State Affairs

BY THE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE COUNCIL (for the Blue Ribbon Commission on the State Personnel Act)

IN THE SENATE

SENATE CONCURRENT RESOLUTION NO. 50

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - SECOND SESSION

Extending the life of the Blue Ribbon Commission on the State Personnel Act.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

WHEREAS in 1978 the legislature through Legislative Resolve No. 27 authorized the Legislative Council, in cooperation with the director of personnel, to form a "blue ribbon" commission to study the State Personnel Act; and

WHEREAS the commission was formed as authorized by the resolution, made its report to the First Session of the Eleventh Legislature, and, in response to the commission's request for additional time to study problems it had identified, was funded by the legislature for a second year; and

WHEREAS additional time is needed to study the complex, interrelated problems which the commission has identified;

BE IT RESOLVED by the Alaska State Legislature that the Blue Ribbon Commission on the State Personnel Act is authorized to continue to perform the assignments made to it by 1978 Legislative Resolve No. 27 through June 30, 1981.

Alaska State Legislature

JUNEAU, ALASKA

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT
Pouch AG/Mail Stop 0123
Juneau, Alaska 99811
(907) 465-4442

Senator Bill Ray
Chairman

TO: Senator Bill Ray, Chairman

FROM: Teresa B. Cramer, Administrative Assistant TBC

DATE: February 27, 1980

RE: Senate Concurrent Resolution 50

Extending the life of the Blue Ribbon Commission on the State Personnel Act.

Senate Concurrent Resolution 50 addresses Recommendation 19 and 20 of the Blue Ribbon Commission's Report to the Alaska Legislature and asks the legislature to continue the commission's existence through June 30, 1981.

The Blue Ribbon Commission on the State Personnel Act has taken significant steps in its consideration of the complex problems in the personnel system of the state. However, the commission has not yet reached conclusions in a number of these areas, most significantly, in the questions of whether to centralize or to decentralize authority for personnel actions, in concluding a thorough review of statutes affecting personnel matters, and evaluation of the Personnel Rules. The commission believes that its work has been worthwhile and that a hasty tinkering with this area could do considerable harm. Therefore it hopes that the legislature will endorse its considered approach by extending its life through June 30, 1981.

For a more complete discussion of the commission's work, see the 1980 Report of the Blue Ribbon Commission on the State Personnel Act of the Eleventh Alaska State Legislature, Second Session.

TBC:sp

Alaska State Legislature

JUNEAU, ALASKA

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT
Pouch AG/Mail Stop 0123
Juneau, Alaska 99811
(907) 465-4442

Senator Bill Ray
Chairman

TO: Senator Bill Ray, Chairman

FROM: Teresa B. Cramer, Administrative Assistant TBC

DATE: February 27, 1980

RE: House Concurrent Resolution 56

Extending the life of the Blue Ribbon Commission on the State Personnel Act.

House Concurrent Resolution 56 addresses Recommendation 19 and 20 of the Blue Ribbon Commission's Report to the Alaska Legislature and asks the legislature to continue the commission's existence through June 30, 1981.

The Blue Ribbon Commission on the State Personnel Act has taken significant steps in its consideration of the complex problems in the personnel system of the state. However, the commission has not yet reached conclusions in a number of these areas, most significantly, in the questions of whether to centralize or to decentralize authority for personnel actions, in concluding a thorough review of statutes affecting personnel matters, and evaluation of the Personnel Rules. The commission believes that its work has been worthwhile and that a hasty tinkering with this area could do considerable harm. Therefore it hopes that the legislature will endorse its considered approach by extending its life through June 30, 1981.

For a more complete discussion of the commission's work, see the 1980 Report of the Blue Ribbon Commission on the State Personnel Act of the Eleventh Alaska State Legislature, Second Session.

TBC:sp

Introduced: 2/26/80
Referred: Finance

BY THE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE COUNCIL (for the Blue Ribbon Commission on the State Personnel Act)

IN THE HOUSE

HOUSE CONCURRENT RESOLUTION NO. 56

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - SECOND SESSION

Extending the life of the Blue Ribbon Commission on the State Personnel Act.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

WHEREAS in 1978 the legislature through Legislative Resolve No. 27 authorized the Legislative Council, in cooperation with the director of personnel, to form a "blue ribbon" commission to study the State Personnel Act; and

WHEREAS the commission was formed as authorized by the resolution, made its report to the First Session of the Eleventh Legislature, and, in response to the commission's request for additional time to study problems it had identified, was funded by the legislature for a second year; and

WHEREAS additional time is needed to study the complex, interrelated problems which the commission has identified;

BE IT RESOLVED by the Alaska State Legislature that the Blue Ribbon Commission on the State Personnel Act is authorized to continue to perform the assignments made to it by 1978 Legislative Resolve No. 27 through June 30, 1981.

Alaska State Legislature

JUNEAU, ALASKA

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT
Pouch AG/Mail Stop 0123
Juneau, Alaska 99811
(907) 465-4442

Senator Bill Ray
Chairman

TO: Senator Bill Ray, Chairman

FROM: Teresa B. Cramer, Administrative Assistant TBC

DATE: July 2, 1980

RE: Conversation with Bruce Cummings

I met with Bruce Cummings at his suggestion to review what progress the Division of Personnel is making towards the Blue Ribbon Commission's recommendations from our 1980 report. The following summarizes his comments.

Recommendation 1. Merit Principles. The legislature passed SCS HB 908 identifying the merit principles and adding them to the State Personnel Act. He views this as a very helpful change for the state. It clarifies the reasons why he cannot give some departments or individuals special treatment and may make his insistance on treating all alike easier to justify to those who approach him for special treatment.

Recommendation 2. Keeping positions in the classified service. He agrees with the commission position that any positions which are removed from collective bargaining should be kept in the classified service.

Recommendation 3. Exempt and Partially Exempt services. Bruce wholeheartedly supports the commission's recommendation that the placement of positions in the exempt and partially exempt services be reviewed.

Recommendation 4. Legislative role in Collective Bargaining. This is a matter for the Division of Labor Relations to comment on.

Recommendation 5. Merit Increase program. The collective bargaining contracts now all contain some provision for merit increases or seniority raises for their employees, so the question is no longer one which the Division of Personnel is involved with. The Division of Labor Relations handles any issues which arise under the contract terms. It has been his experience that no matter what kind of system is in place for merit increases or other pay raises, there are always problems with how it is administered. There are other more effective management tools for encouraging employees to perform well.

Recommendation 6. Cost of Living Adjustments. This is a collective bargaining issue.

Recommendation 7. Membership on the Personnel Board, the Labor Relations Agency, and the Public Employees Retirement Board. As a result of legislation passed last session, the Personnel Board members have been made members of the

Deferred Compensation Board and of the Supplemental Benefits Board. With these added responsibilities, those individuals may be over-extended, and therefore it is appropriate for their duties to be reviewed.

Recommendation 8. Departmental rank for Employee Relations. The Hammond administration continues to hold the opinion that employee relations should remain part of the Department of Administration.

Recommendation 9. Budget and Management Procedures Manual. I spoke with Jim Stey, Deputy Director of the Division of Budget and Management last week. He said that the division will begin working on the manual after they have finished processing the new budget and that it would not be done for several weeks. Bruce Cummings indicated that his division still hears complaints about problems with the processing of the papers for position classifications and reclassifications by Budget and Management.

Delegation of classification authority to departments. Bruce said that the division is continuing to expand their delegation to departments. He is in the process of developing a program in which the departments will be offered an opportunity to take on classification authority for positions within their departments paid at Range 18 or lower, provided that they have at least one other position in the same classification. It will be up to the departmental personnel officers to decide whether to accept the delegation or not. There will also be a classification workshop scheduled in the fall to assist personnel officers in making classification decisions. The Division of Personnel would retain an auditing role for the departmental decisions. The program would be reviewed after 6 months operation to consider whether it was working properly.

Recommendation 10. Four positions for the Division of Personnel. The legislature added four positions to the division, and they will be used initially to process the backlog of applications. Bruce has asked the Recruiting and Examining Section to review their experience with register closures to evaluate whether it saves time or increases the time taken to process applications.

Recommendation 11. One application for each job class. The division is developing an innovative computerized application process for the clerical classes in which one application can be used to apply for some 40 different positions. The computer would be able to score the applications, shortening the processing time required for getting the successful applicants on the registers. Since a substantial number of the applications the division receives are in the classes covered by this system, getting the system operational should mean that it will take less time for other applicants to have their applications processed and their names to appear on registers. If the computer program works, it can be expanded to include other classes as well.

One spin-off of the computer program is that a number of classifications have been identified which might be consolidated, thereby reducing the number of job classifications used by the state.

Recommendation 12. Veteran's Preference System. The legislature set a date for the end of the Viet Nam hostilities in the Revisor's bill.

Recommendation 13. Block Scoring. The division uses each review of its rating devices (either written examiniations or evaluations of training and experience) to establish the blocks for a block scoring system for the job class. Bruce wants to eventually be able to use a block scoring system for all job classes.

Recommendation 14. Review of Unique or Unusual Circumstances. To implement this recommendation would require a change in the Personnel Rules. Bruce has some concern that moving in this direction (requiring more Division of Personnel involvement in the personnel actions of the departments) is counter to the direction most of the other Blue Ribbon Commission recommendations are going in.

Recommendation 15. Interviews for the top five applicants. Bruce has no objections to this recommendation - it is something that has to be carried out at the departmental (or program manager) level.

Recommendation 16. Not Recommended for Rehire. Like recommendation 14, this recommendation would require more Division of Personnel involvement in the personnel actions of the departments rather than moving towards decentralizing. In addition, supervisors can write recommendations to effectively recommend that an employee not be rehired without directly saying so, and therefore having the division review those which state specifically that an employee should not be rehired would not protect those others. The unions through their grievance procedures can better protect an employee from unfair recommendations than can the Division of Personnel.

Recommendation 17. Audits of the Personnel System. Bruce supports this recommendation and would like to see the division move in this direction, especially as the delegation of personnel responsibilities to the departments increases.

Recommendation 18. Graduated System of Penalties. This is a complicated area, and one in which providing more stringet structures will not really help in the process. The unions can protect employees from unreasonable penalties, and the contracts limit what the state can do, anyway, so this area is one which he sees as a collective bargaining issue.

Recommendation 19. Comprehensive revision of the laws affecting personnel. Bruce supports this recommendation, and thinks it would be helpful for the commission to do this.

Recommendation 20. Revision of the Personnel Rules. Bruce supports this recommendation.

SUPERIOR COURT FOR THE STATE OF ALASKA

FIRST JUDICIAL DISTRICT AT JUNEAU

ALASKA PUBLIC EMPLOYEES ASSOCIATION,

Plaintiff,

vs.

STATE OF ALASKA; WILLIAM R. HUDSON, in his capacity as Commissioner of Administration; and JAY S. HAMMOND, Governor of the State of Alaska,

Defendants.

Civil Action No. 1 JU-79-538

ACCEPTANCE OF SERVICE

STATE OF ALASKA)
) ss.
FIRST JUDICIAL DISTRICT)

I, the undersigned, being first duly sworn, depose and say:

I am the attorney for the defendants named in this civil action. I hereby acknowledge receipt and accept service of a copy of the Complaint and of the Summons filed and issued in the above-entitled court and cause on the date set forth in the below notarization of my signature hereto.

AVRUM M. GROSS
ATTORNEY GENERAL

By _____
Attorney for Defendants

SUBSCRIBED AND SWORN to before me this 7th day of May, 1979.

_____
Notary Public for Alaska.
My Commission expires: 9/14/80

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PHONE (907) 586-2210

SUPERIOR COURT FOR THE STATE OF ALASKA
FIRST JUDICIAL DISTRICT AT JUNEAU

ALASKA PUBLIC EMPLOYEES ASSOCIATION,

Plaintiff,

vs.

STATE OF ALASKA; WILLIAM R. HUDSON, in his capacity as Commissioner of Administration; and JAY S. HAMMOND, Governor of the State of Alaska,

Defendants.

No. 1J11-79-538

COMPLAINT

The Alaska Public Employees Association complains and alleges as follows:

1. Plaintiff, Alaska Public Employees Association (hereinafter "APEA"), is a nonprofit Alaska corporation in good standing, having paid its annual corporate tax and having filed its annual report for the last fiscal year. APEA is an organization representing public employees in collective bargaining with the State of Alaska and pursuant to the Public Employment Relations Act (AS 23.40). APEA is the exclusive bargaining representative for State employees in the General Government and Supervisory Bargaining Units.

2. As bargaining representative for the General Government Unit, APEA negotiated a collective bargaining agreement on behalf of the aforesaid bargaining unit with the State of Alaska. The Agreement Between the State of Alaska and the Alaska Public Employees Association Covering General Government Unit Employees, 1977-1979, was signed on May 2, 1977, and provides that it shall be effective from January 1, 1977, through December 31, 1979. The contract was executed for the State of Alaska by the

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then Commissioner of Administration, B. B. Allen, and by the spokesman and negotiators for the State of Alaska. A copy of the agreement with the General Government Bargaining Unit is attached as Appendix "A".

3. As bargaining representative for the Supervisory Unit, APEA negotiated an Agreement Between the State of Alaska and Alaska Public Employees Association Covering Supervisory Unit Employees 1979. The agreement was signed on December 28, 1978, by B. B. Allen, Commissioner of Administration, and by the spokesperson and negotiators for the State of Alaska. It provided that the agreement became effective on January 1, 1979, and would remain in effect until December 31, 1979. A copy of this agreement is attached as Appendix "B".

4. This action is brought by APEA on behalf of the supervisory and general government employees covered by the aforesaid collective bargaining agreements.

5. Defendant State of Alaska is the employer of the employees whom the plaintiff represents, and, as such, has the responsibility to abide by the agreements negotiated with plaintiff.

6. Defendant William R. Hudson is Commissioner of the Department of Administration and has overall responsibility for the administration of the collective bargaining agreements negotiated by the State of Alaska.

7. Jay S. Hammond is the governor of the State of Alaska and the chief executive officer of the State.

COUNT I

8. Article 24, Section 1, of the General Government Agreement sets forth salary schedules for General Government employees, including provisions for cost of living increases based on the Consumer Price Index.

9. In 1977 the legislature had the General Government

Agreement before it and appropriated funds sufficient to pay all salaries, benefits and other obligations of the State under the contract, including a prepaid cost of living increase for 1978.

10. In reliance upon that legislative action, ratification and endorsement of the contract, the General Government employees continued to work, providing services to the State of Alaska, and did not seek to negotiate different contractual terms, exercise their right to strike or enforce the other rights granted to them by AS 23.40. The State of Alaska accepted the services of these employees and the benefits of these services and promised to pay for those services as provided in the General Government Agreement.

11. In 1978 the legislature again reviewed the General Government contract and appropriated all necessary funds to meet the State's obligations under the contract, including cost of living increases based on the Consumer Price Index. The General Government employees again relied on their contract with the State and the action of the legislature as alleged in paragraph 10.

12. In 1979 bills were introduced in the Alaska Legislature to appropriate funds to cover moneys due and owing for 1978 and 1979. The House of Representatives passed the necessary appropriations. The Senate took no action.

13. The State of Alaska entered the agreement with the General Government employees with full knowledge of its terms. It elected to base the salaries of the employees on a formula tied to changes in the cost of living index rather than providing for salaries at a fixed dollar level, or salaries calculated on a particular percentage change from salaries under an earlier contract, or salaries based on any other factor or

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formula. The legislature was aware of the terms of the General Government Agreement and twice endorsed and ratified those terms. The State accepted the services of its employees with full knowledge of the terms of this agreement. The employees relied on this State action as alleged in paragraph 10. If the cost of living had not increased or had increased by only a small amount, the State's employees would have been bound to accept salaries based on the contractual terms agreed to by the State. In 1978, however, through no fault of the employees, the cost of living increased substantially. As a result, the State now seeks to renege on its agreement and, despite having entered into an agreement and having received the services agreed to, it now refuses to pay the employees as agreed either for past services rendered or for future services. The State is bound by its contractual agreements and the specific provisions of the contracts must be enforced.

COUNT II

14. Article 18, Section 1, of the Supervisors' Agreement sets forth the salary schedule for Supervisory employees, including provision for 3.5% increases which are within approved Presidential wage guidelines. Other articles of the contract provide for other pay and benefits to Supervisory employees.

15. Based on this agreement, entered in late 1978, the Supervisory employees continued to work after January 1, 1979, and the State of Alaska accepted the services of those employees. These services were provided in reliance on the contract agreed to by the State of Alaska. The Supervisory employees, in reliance on that agreement, did not attempt to negotiate different contractual terms, exercise their right to strike, or to exercise other rights granted to them in AS 23.40.

16. In 1979 a bill was introduced in the Alaska Legislature to appropriate funds to provide salaries and benefits as called

for in the Supervisory contract. The House of Representatives passed the necessary appropriations. The Senate took no action.

17. The State of Alaska, having entered into an agreement with the Supervisory employees, and having accepted their services rendered in reliance on the agreement, is now bound to abide by the terms of its contract.

COUNT III

18. APEA repeats and realleges the allegations in paragraphs 1 through 17 of this complaint.

19. The Alaska Legislature has already appropriated sufficient funds to pay all or part of the agreed salaries and benefits of the General Government and Supervisory employees, specifically including the salaries and cost of living increases for services already rendered.

20. The Governor and the Department of Administration may not let these appropriations lapse or refuse to use those moneys to pay the amounts due under the contract. The State is required to abide by the terms of the contract and to use those appropriated moneys to carry out the terms of its collective bargaining agreements.

COUNT IV

21. APEA repeats and realleges the allegations in paragraphs 1 through 20 of this complaint.

22. If the moneys appropriated by the Alaska Legislature are not sufficient to pay all the employees of the State of Alaska at the present level of service as required by the contracts which the State has entered, the State is required to reduce its obligations by reducing the amount of services it receives rather than by refusing to honor its salary commitments to the employees.

COUNT V

23. APEA repeats and realleges the allegations in para-

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graphs 1 through 22 of this complaint.

24. The Governor of the State of Alaska and his administration have failed to use their best efforts to obtain legislative appropriations.

25. The Governor of the State of Alaska has publicly stated his disagreement with the collective bargaining process and with the provisions of AS 23.40. He has failed to act in good faith to support, explain and seek legislative appropriations to fund the provisions of the collective bargaining agreements entered into by his administration. His actions reflect a determination to subvert the collective bargaining process rather than to enforce the laws of the State of Alaska as required by the Alaska Constitution.

26. The Governor is bound to seek administrative alternatives and remedies to the fullest extent of his power to enable and ensure compliance by the State of Alaska with its collective bargaining agreements. The Governor may not simply default on his obligations because of legislative inaction. If, despite the Governor's best efforts at the executive level, the State is unable to fulfill its contractual commitments, then the Governor is obliged to call a special session of the legislature to seek legislative action to enable the State to comply with its collective bargaining agreements.

COUNT VI

27. APEA repeats and realleges the allegations in paragraphs 1 through 26 of this complaint.

28. The State of Alaska, having accepted the services of its employees rendered in good faith and in reliance upon the contracts agreed to by the State of Alaska, will be unjustly enriched if it is allowed to retain the benefits of those services without paying the employees as agreed for those services. The employees are entitled to be paid the reasonable

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value for their services as set forth in those contracts.

COUNT VII

29. APEA repeats and realleges the allegations in paragraphs 1 through 28 of this complaint.

30. The State of Alaska (including its employees and agents in both the executive and legislative branches) is estopped from taking any action or presenting any argument which would facilitate default on its collective bargaining agreements upon which its employees have relied and pursuant to which they have already provided services.

COUNT VIII

31. APEA repeats and realleges the allegations in paragraphs 1 through 30 of this complaint.

32. The State of Alaska may not refuse to honor its collective bargaining agreements or take any action to facilitate default on its collective bargaining agreements because to do so would violate the United States and Alaska Constitutions, including the Fourteenth Amendment to the United States Constitution; Article I, Section 7, of the Alaska Constitution prohibiting the taking of property without due process of law; Article I, Secton 1, of the Alaska Constitution guaranteeing equal protection of the laws and the right of every individual to the rewards of his own industry; and the prohibitions on impairment of contracts in Article I, Section 10, of the United States Constitution and Article I, Section 16, of the Alaska Constitution.

WHEREFORE, the Alaska Public Employees Association asks this court to enter an order requiring:

1. Specific performance by the State of Alaska of its obligations under the General Government and Supervisory contracts;

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2. In the alternative, the payment of monetary damages for breach of said contracts;

3. In the alternative, requiring the State of Alaska to pay non-monetary damages or compensation for breach of said contracts;

4. Such other legal and equitable relief, including the entry of appropriate mandatory equitable orders, as will ensure maximum compliance by the State of Alaska with said contracts; together with costs, attorney fees and such other relief as may be just and proper.

DATED this 7th day of May, 1979.

FAULKNER, BANFIELD, DOOGAN & HOLMES

William B. Rozell, of Attorneys for Alaska Public Employees Association.

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ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILE 8672
1367 SCOMM 51: BLUE RIBBON COMN. ON STATE PERSONNEL ACT 1978-1983

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

02-519 (REV 8/78)

SCOMM

#51:14

Introduced: 2/20/81
Referred: State Affairs and Finance

BY THE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE COUNCIL (for the Blue Ribbon Commission on the State Personnel Act)

IN THE SENATE

SENATE BILL NO. 195

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act limiting the adjustment of retirement benefits; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 14.25.173 is amended by adding a new subsection to read:

(b) An adjustment which requires repayment of benefits may not be made under this section if

(1) the incorrect benefit was first paid two years or more before the member or teacher or beneficiary was notified of the change or error; and

(2) the change or error was not caused by the member or teacher or beneficiary.

* Sec. 2. AS 39.35.520 is amended by adding a new subsection to read:

(b) An adjustment which requires repayment of benefits may not be made under this section if

(1) the incorrect benefit was first paid two years or more before the employee or beneficiary was notified of the change or error;

(2) the change or error was not caused by the employee or beneficiary; and

(3) the change or error relates to the employee's credited service with the state and ~~not~~ does relate to the EE's credited service with another participating employer.

* Sec. 3. This Act is retroactive to July 1, 1979.

* Sec. 4. This Act takes effect immediately in accordance with AS 01.10.-070(c).

Alaska State Legislature

JUNEAU, ALASKA

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT
Pouch AG/Mail Stop 0123
Juneau, Alaska 99811
(907) 465-4442

Senator Bill Ray
Chairman

MEMORANDUM

April 20, 1981

TO: Senate State Affairs Committee

FROM: Teresa B. Cramer TBC
Administrative Assistant

SUBJECT: SB 194: Relating to Nepotism in State Employment

The present statute prohibiting nepotism in state employment is directed at relatives of the executive head of a department or agency. It prohibits the employment of anyone related within the second degree of kindred to the executive head. However, the Personnel Rules also prohibit the employment of persons related within the second degree of kindred to the head of the division or subdivision within which the person is working. (PR 13 09.2). In addition, the Rule requires that before a person may be employed in the same agency with a close relative, that the Director of Personnel and the appointing authority for the department or agency must give express approval to the appointment. (PR 13 09.3)

The scope of the Personnel Rules is broader than the scope of the statute. The Attorney General has advised the Division of Personnel that the Rules are therefore not completely enforceable. The Blue Ribbon Commission considered the issue and the majority recommends that the scope of the statute be enlarged to include the provisions of the Personnel Rules. While provisions against nepotism limit the opportunities of some Alaskans to find employment with particular offices in the state, the disadvantage to those people should be weighed against the appearance of impropriety and favoritism which is created if relatives of the head of a division or department are working within that division or department.

The Director of Personnel advised the commission that in the past he has routinely approved waivers for relatives to work in a non-supervisory status in the same office. The majority of the commission recommends that requirement for review of these situations be placed in

the statute to provide a mechanism for review should an instance of abuse arise.

SECTION BY SECTION ANALYSIS

Section 1. Subsection (a) prohibits the employment of a person related to the top-level managers of a department or agency. It encompasses the present substance of AS 39.10.010 and extends it to include deputy and assistant commissioners.

Subsections (b) and (c) extend the scope of the statute to include the provisions of the Personnel Rule. Subsection (b) prohibits the employment within a particular division of persons related to the division director. It applies to all three branches of government.

Subsection (c) provides that before two close relatives may work in the same office in the executive branch of government, the Director of Personnel and the person who is making the hiring decision must both approve the appointment in writing.

Section 2. Because the state is operating without an effective nepotism law, the commission recommends that the bill take effect immediately.

TBC:lmk
Attachment

Sec. 39.10.010. Nepotism prohibited. It is unlawful for a person who is the spouse of or is related by blood within and including the second degree of kindred to the executive head of a principal state department or agency to be employed in that department or agency. (§ 1 ch 98 SLA 1959)

Am. Jur. 2d reference. — 63 Am. Jur. 2d, Public Officers and Employees, § 97.

Chapter 15. Official Bonds.

Section		Section	
10.	Form, amount, and conditions	60.	Number of sureties
20.	Obligation and effect	70.	Justification of sureties
30.	Action on bond	80.	Release of sureties
40.	Recovery on defective bond	90.	Proceedings for release of sureties
50.	Procedure when bond becomes insufficient	100.	Failure to file new bond

Sec. 39.15.010. Form, amount, and conditions. The official bond of an officer or employee of the state required by statute, or rule or regulation under authority of law shall be in a form joint and several, and made payable to the state in the penal sum and with the conditions required by law. (§ 11-2-1 ACLA 1949)

Cross reference. — As to surety bonds furnished by the principal executive officer of each department and subordinate officials, see AS 39.05.050.

Am. Jur. 2d references. — 12 Am. Jur. 2d, Bonds, § 1 et seq.; 63 Am. Jur. 2d, Public Officers and Employees, §§ 122, 414-482.

Sec. 39.15.020. Obligation and effect. Bonds of state officers and employees are in force and obligatory upon the principal and sureties for breach of the condition of the bond committed during the time the officer or employee discharges the duties of or holds the office or appointment. Each bond is considered in force and obligatory upon the principal and sureties for the faithful discharge of all duties required of the officer or employee by any law enacted after the execution of the bond and this condition shall be set out in the bond. (§ 11-2-2 ACLA 1949)

Sec. 39.15.030. Action on bond. An official bond executed by a state officer or employee is in force and obligatory upon the principal and sureties to and for the state, and for the use and benefit of all persons injured or aggrieved by the wrongful act or default of the officer or employee in his official capacity or employment. A person injured or aggrieved may bring suit on the bond in his name. (§ 11-2-3 ACLA 1949)

1981

BILL NUMBER SB 195

Title of Bill

BRC

Limiting the Adjustment of Retirement Benefits

	DATE	
1981 2/20	3/9	Introduced/Referred SA - Fin
		(Hearing 4/7 - 4/9)
1982	3/9 - 6/9	Committee Report Finley/Bradley/Dolan - Stanton d/p to Fin
		2nd Reading
		3rd Reading
		Reconsideration
		Vote: Ayes: Nays: Passed Failed
		(Opposed voters:)
		Sent to Other House:
		Introduced/Referred
		Committee Report
		2nd Reading

SB 195

II. FISCAL DETAIL

Agency Affected Administration - Division of Retirement and Benefits

Program Category Affected Labor Services

BRU, Program, or Subprogram(s) Affected 02-96-8-01-01-01 (PERS)

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

		FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100	PERSONAL SERVICES						
200	TRAVEL						
300	CONTRACTUAL						
400	COMMODITIES						
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	STATE TRS MATCHING						
100	BENEFITS						
	TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
VETERAN'S FUND						
FISH & GAME FUND						
HIGHWAY FUND						
AIRPORT FUND						
CAPITAL FUND						
PERS						
TRS						

POSITIONS NONE

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

Undoubtedly there will be some costs to the retirement system, but they cannot be measured. In most instances the individual adjustment would be small.

IV. DATE 4/02/81 PREPARED BY Paul B. Arnoldt, Director
AGENCY Division of Retirement & Benefits

Ken Humphreys, for

Bill Number_____

DATE

_____	3rd Reading
_____	Reconsideration
_____	VOTE: Ayes:_____ Nays:_____ Passed_____ Failed_____
	(Opposed voters:_____)
_____	Returned to Other House:
_____	Sent to Governor: Date Needed For Action:_____
_____	Action by Governor: Signed:_____
	Without Signature:_____
	Vetoed:_____
_____	Chapter:_____ Effective Date:_____
_____	Sustained:
_____	Overridden:

COMMENTS:

SB 195

II. FISCAL DETAIL

Agency Affected: Administration - Division of Retirement & Benefits

Program Category Affected: Labor Services and Elementary & Secondary Education

BRU, Program, or Subprogram(s) Affected: 02-96-8-01-01-02 (TRS) 02-11-8-02-01-00 (TRS MATCH)

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

		FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100	PERSONAL SERVICES						
200	TRAVEL						
300	CONTRACTUAL						
400	COMMODITIES						
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	STATE TRS MATCHING						
100	BENEFITS						
	TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
VETERAN'S FUND						
FISH & GAME FUND						
HIGHWAY FUND						
AIRPORT FUND						
CAPITAL FUND						
PERS						
TRS						

POSITIONS NONE

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

Undoubtedly there will be some costs to the retirement system, but they cannot be measured. In most instances the individual adjustment would be small.

IV. DATE 4/02/81

PREPARED BY Ken Humphreys, for Paul B. Arnoldt, Director

AGENCY Division of Retirement & Benefits

PHONE 465-4460

Original: Legislative Finance

Introduced: 2/20/81
Referred: State Affairs and Finance

BY THE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE COUNCIL (for the Blue Ribbon Commission on the State Personnel Act)

IN THE SENATE

SENATE BILL NO. 195

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act limiting the adjustment of retirement benefits; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 14.25.173 is amended by adding a new subsection to read:

(b) An adjustment which requires repayment of benefits may not be made under this section if

(1) the incorrect benefit was first paid two years or more before the member or teacher or beneficiary was notified of the change or error; and

(2) the change or error was not caused by the member or teacher or beneficiary.

* Sec. 2. AS 39.35.520 is amended by adding a new subsection to read:

(b) An adjustment which requires repayment of benefits may not be made under this section if

(1) the incorrect benefit was first paid two years or more before the employee or beneficiary was notified of the change or error;

(2) the change or error was not caused by the employee or beneficiary; and

(3) the change or error relates to the employee's credited service with the state and not with another participating employer.

* Sec. 3. This Act is retroactive to July 1, 1979.

* Sec. 4. This Act takes effect immediately in accordance with AS 01.10.-070(c).

JUNEAU, ALASKA

Alaska State Legislature

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT
Pouch AG/Mail Stop 0123
Juneau, Alaska 99811
(907) 465-4442

Senator Bill Ray
Chairman

MEMORANDUM

April 7, 1981

TO: Senate State Affairs Committee

FROM: Teresa B. Cramer
Administrative Assistant

SUBJECT: Senate Bill 195: Limiting the Adjustment of Retirement Benefits

BACKGROUND

This bill remedies a problem which the Blue Ribbon Commission was advised of in testimony from a retired state employee. When the employee retired in 1976, she had been advised on four separate occasions by the staff of the Division of Retirement and Benefits that she was eligible for more than nine years of credited service with the state. Shortly after she retired the legislature amended the retirement laws and she was told that she would receive credit for an additional three years because of her military service. She began receiving retirement benefits on that basis.

In 1979 the division wrote to advise her that their original computations had been in error and that her years of employment with the University of Alaska could not be included in her credited service. Therefore, she had received over $5000 in benefits which she would have to repay. They reduced the amount of her check by $100 to be credited towards that overpayment, in addition to reducing the check to the amount she was actually entitled to receive. The basis for denying credit for the employee's period of service with the University of Alaska was a regulation adopted by the Division of Retirement and Benefits in 1978 -- two years after she had retired.

The employee appealed to the Public Employee Retirement Board, which can waive collection of overpayments in cases of hardship. In determining whether there would be hardship to the employee, the board considered her family's financial situation and found that she was not entitled to the waiver.

Commission members discovered that this was not an isolated instance. A number of retired state employees have undergone similar

experiences. They relied on assurances from the Division of Retirement and Benefits only to discover a considerable time later that errors had been made and that their benefits would be reduced.

The commission recommends that a two-year statute of limitations be placed on the collection of overpayments. Two years gives the Division of Retirement and Benefits ample time to audit its records and find and correct any errors made. After that period of time, a retired person should be freed from the burden of having to pay back the state for mistakes of the state's employees. This protection should be available only in cases where the retired person did not contribute to causing the error. It should not apply to persons working for employers other than the state, since those employers may not be in a financial position to absorb the cost of errors made by state employees.

SECTION BY SECTION ANALYSIS

Section 1 amends the Teachers Retirement System by prohibiting the Division of Retirement and Benefits from decreasing benefits in order to collect for a previous overpayment if two conditions are met. The first condition is that the overpayment began two years or more before the division told the retired teacher of the error. The second condition is that the teacher did not cause the error.

Section 2 amends the Public Employee Retirement System in the same way that section 1 amends the TRS. However, in this section there is an additional condition. The error in computation must relate to the employee's credited service with the state, and not with another participating employer.

Section 3 makes the Act retroactive in order to include the retired person who testified before the commission.

Section 4 provides that the Act takes effect immediately in order to address the hardship to retired state employees.

TBC:lmk

Introduced: 2/20/81
Referred: State Affairs

BY THE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE COUNCIL (for the Blue Ribbon Commission on the State Personnel Act)

IN THE SENATE

SENATE BILL NO. 196

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the membership of the Public Employees Retirement Board."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 39.35.030(b) is amended to read:

(b) <u>One</u> [THREE] board <u>member</u> [MEMBERS] shall be <u>appointed by the governor and shall serve at his pleasure</u> [MEMBERS OF THE PERSONNEL BOARD OF THE DEPARTMENT OF ADMINISTRATION]. The remaining <u>four</u> [TWO] board members shall be members of the system [AND] elected by the members of the system<u>, and at least one of the elected board members shall be retired</u>.

* Sec. 2. Notwithstanding AS 39.35.030(b), as amended by sec. 1 of this Act, a person serving on the Public Employees Retirement Board on the effective date of this Act who was from the personnel board of the Department of Administration shall continue to serve until his successor is elected or appointed by the governor.

Alaska State Legislature

JUNEAU, ALASKA

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT
Pouch AG/Mail Stop 0123
Juneau, Alaska 99811
(907) 465-4442

Senator Bill Ray
Chairman

MEMORANDUM

April 3, 1981

TO: Senate State Affairs Committee

FROM: Teresa B. Cramer TBC
Administrative Assistant

SUBJECT: SB 196 Relating to the Membership of the Public Employees Retirement Board.

This bill amends the Public Employees Retirement Act to change the membership of the Public Employees Retirement Board. The law presently requires that the three members who are appointed to the Personnel Board shall also serve on the PERB. AS 39.35.030. Those three individuals are also, by statute, appointed to the Labor Relations Agency, which is involved in collective bargaining issues. AS 23.40.250(3). The activities of both the LRA and the PERB have grown considerably recently. In the last legislative session, the PERB was made responsible for overseeing the supplemental employee benefit program and the deferred compensation program for state employees. AS 39.35.040(9) and (10). The increase in the number of state employees who are members of collective bargaining organizations has led to additional work for the LRA. The three members of the Personnel Board are citizen volunteers appointed by the Governor who are not employed by the state.

While the issues which are addressed by the Personnel Board are related to some of the issues addressed by the Labor Relations Agency, this is not the case with the subjects of concern to the Public Employees Retirement Board. Therefore, the Blue Ribbon Commission recommends that the members of the Personnel Board continue to serve as the members of the LRA and that they be removed from the PERB. The PERB should be composed of four elected members and one member appointed by the Governor. In addition, the commission recommends that one of the elected members should be a retired person to insure that those most directly affected by the system have a voice in the decision-making body.

Section 1 of the bill sets out the changes in membership of the PERS board which are discussed above.

Section 2 is a temporary measure to enable the board to continue to act until new members have been selected according to the new method.

TBC:lmk

FILE WITH BILL

FISCAL NOTE

I. REQUEST

Bill/Resolution No. Senate Bill No. 196

Title An Act Relating to the Membership of the Public Employees Retirement Board

Requested by Senator Fischer Date 4/03/81

II. FISCAL DETAIL

Agency Affected Administration - Division of Retirement and Benefits

Program Category Affected Labor Services

BRU, Program, or Subprogram(s) Affected 02-96-8-01-01-01 (PERS)

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL		14.0				
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 STATE TRS MATCHING						
100 BENEFITS						
TOTAL	-0-	14.0	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
VETERAN'S FUND						
FISH & GAME FUND						
HIGHWAY FUND						
AIRPORT FUND						
CAPITAL FUND						
PERS		14.0				
TRS						

POSITIONS NONE

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

Costs in FY82 are to conduct a PERS wide election of two Board members.

Term of office is six years.

IV. DATE 4/06/81 PREPARED BY Ken Humphreys, for Paul B. Arnoldt, Director

AGENCY Division of Retirement & Benefits

PHONE 465-4460

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named) Senator Ray

Office of the Governor (Keith Specking)

SB196

Introduced: 2/20/81
Referred: State Affairs and Judiciary

BY THE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE COUNCIL (for the Blue Ribbon Commission on the State Personnel Act)

IN THE SENATE

SENATE BILL NO. 197

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act applying the Administrative Procedure Act (AS 44.62) to adoption of regulations by state retirement systems."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 39.35.042 is repealed and reenacted to read:

Sec. 39.35.042. REGULATIONS. Adoption of regulations under this chapter is subject to the Administrative Procedure Act (AS 44.62).

* Sec. 2. AS 14.25.022 is repealed and reenacted to read:

Sec. 14.25.022. REGULATIONS. Adoption of regulations by the administrator under this chapter is subject to the Administrative Procedure Act (AS 44.62).

Alaska State Legislature

JUNEAU, ALASKA

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT
Pouch AG/Mail Stop 0123
Juneau, Alaska 99811
(907) 465-4442

Senator Bill Ray
Chairman

MEMORANDUM

April 3, 1981

TO: Senate State Affairs Committee

FROM: Teresa B. Cramer
Administrative Assistant

SUBJECT: SB 197 Applying the Administrative Procedure Act (AS 44.62) to Adoption of Regulations by State Retirement Systems.

This bill amends the law to require that both the Public Employees Retirement Board and the Teachers Retirement System administrators comply with the Administrative Procedure Act when adopting regulations. Both retirement systems are presently exempted from the APA. The Blue Ribbon Commission recommends the change because of concern that regulations have been adopted in the past without adequate opportunity for public comment. Although rule-making under the APA may be more time-consuming than rule-making under the present methods of the retirement systems, the improved public notice requirements outweigh that disadvantage. In instances in which either retirement system is faced with a need for immediate change in regulations, the APA provides for emergency rule-making. AS 44.62.250.

Section 1 of the bill amends the Public Employees Retirement System statute to make the PERS subject to the APA rule-making requirements.

Section 2 amends the Teachers Retirement System statute to make the TRS subject to the APA rule-making requirements.

TBC:lmk

JEST

...l/Resolution No. Senate Bill No. 197

Title An Act Applying the Administrative Procedure Act (AS 44.62) to Adoption of Regulat

Requested by Senator Vic Fischer Date

II. FISCAL DETAIL

Agency Affected Administration - Division of Retirement and Benefits

Program Category Affected Labor Services

BRU, Program, or Subprogram(s) Affected 02-96-8-01-01-01 (PERS)

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

		FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100	PERSONAL SERVICES						
200	TRAVEL						
300	CONTRACTUAL						
400	COMMODITIES						
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	STATE TRS MATCHING						
100	BENEFITS						
	TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
VETERAN'S FUND						
FISH & GAME FUND						
HIGHWAY FUND						
AIRPORT FUND						
CAPITAL FUND						
PERS						
TRS						

POSITIONS NONE

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

Title [illegible] Requested by Senator Vic Fischer Date

SB 197

II. FISCAL DETAIL

Agency Affected Administration - Division of Retirement & Benefits

Program Category Affected Labor Services and Elementary & Secondary Education

BRU, Program, or Subprogram(s) Affected 02-96-8-01-01-02 (TRS) 02-11-8-02-01-00 (TRS MATCH

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 STATE TRS MATCHING						
100 BENEFITS						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
VETERAN'S FUND						
FISH & GAME FUND						
HIGHWAY FUND						
AIRPORT FUND						
CAPITAL FUND						
PERS						
TRS						

POSITIONS NONE

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

IV. DATE 4/07/81 PREPARED BY Paul B. Arnoldt, Director

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 Sisk
Signature of Camera Operator

12/15/89
Date

02-519 (REV 8/78)

SCOMM

#51:15

Original sponsor: Rules/Legislative Council

Offered: 5/17/82
Referred: Rules

IN THE SENATE BY THE JUDICIARY COMMITTEE

HOUSE CS FOR CS FOR SENATE BILL NO. 193 (Judiciary) am H

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act amending state personnel laws; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 39.25.040 is amended to read:

Sec. 39.25.040. DIRECTOR OF PERSONNEL. The head of the division of personnel is the director of personnel appointed by the commissioner of administration and responsible to the commissioner of administration for the execution of the duties and responsibilities imposed by this chapter and the rules adopted under this chapter. The director of personnel shall [MUST] have at least three years of practical working experience in the field of personnel administration.

* Sec. 2. AS 39.25.060(b) is amended to read:

(b) Members of the board may not be [SHALL BE QUALIFIED ELECTORS OF THE STATE WHO ARE NOT] employees [OR OFFICERS] of the state. Not more than two members of the board may be members of the same political party.

* Sec. 3. AS 39.25.070(1) is amended to read:

(1) approve or disapprove amendments to the personnel rules in accordance with AS 39.25.140 [THE ORIGINAL RULES OR A PART OF THEM WITHIN 60 DAYS OF THEIR SUBMISSION TO THE BOARD AND APPROVE OR DISAPPROVE AMENDMENT TO THE RULES WITHIN 30 DAYS OF SUBMISSION TO THE BOARD, AND IN CARRYING OUT THIS DUTY, THE BOARD, IF REQUESTED, MAY HOLD THE PUBLIC HEARINGS IT CONSIDERS NECESSARY];

* Sec. 4. AS 39.25.070 is amended by adding a new paragraph to read:

(7) employ staff members, who shall be in the classified service.

* Sec. 5. AS 39.25.080 is repealed and reenacted to read:

Sec. 39.25.080. PUBLIC RECORDS. (a) State personnel records, including employment applications and examination materials, are confidential and are not open to public inspection except as provided in this section.

(b) The following information is available for public inspection, subject to reasonable regulations on the time and manner of inspection:

(1) the names and position titles of all state employees;

(2) the position held by a state employee;

(3) prior positions held by a state employee;

(4) whether a state employee is in the classified, partially exempt, or exempt service;

(5) the dates of appointment and separation of a state employee; and

(6) the compensation authorized for a state employee.

(c) A state employee has the right to examine his own personnel files and may authorize others to examine his files.

(d) An applicant for state employment who appeals an examination score may review written examination questions relating to the examination unless the questions are to be used in future examinations.

* Sec. 6. AS 39.25.090 is amended to read:

Sec. 39.25.090. COVERAGE OF CHAPTER. This chapter and the rules adopted under it apply to all positions in (1) the classified service, and (2) the <u>exempt and</u> partially exempt service as specifically provided.

* Sec. 7. AS 39.25.110 is repealed and reenacted to read:

Sec. 39.25.110. EXEMPT SERVICE. Unless otherwise provided by

law, the following positions in the state service constitute the exempt service and are exempt from the provisions of this chapter and the rules adopted under it:

(1) persons elected to public office by popular vote or appointed to fill vacancies in elected offices;

(2) justices, judges, magistrates, and employees of the judicial branch including employees of the Judicial Council;

(3) employees of the state legislature and its agencies;

(4) the head of each principal department in the executive branch;

(5) officers and employees of the University of Alaska;

(6) certificated teachers and noncertificated employees employed by a regional educational attendance area established and organized under AS 14.08.031 - 14.08.041 to teach in, administer, or operate schools under the control of a regional educational attendance area school board;

(7) certificated teachers employed by the Department of Education as correspondence teachers or teachers in skill centers operated by the Department of Education;

(8) patients and inmates employed in state institutions;

(9) persons employed in a professional capacity to make a temporary or special inquiry, study or examination as authorized by the governor;

(10) members of boards, commissions, or authorities;

(11) the officers and employees of the following boards, commissions and authorities:

(A) Alaska Gas Pipeline Financing Authority;

(B) Alaska Permanent Fund Corporation;

(C) Alaska Energy Center;

(D) Alaska Industrial Development Authority;

(E) Alaska Commercial Fisheries Entry Commission;

(F) Alaska Commission on Postsecondary Education;

(G) Employees of the Citizens' Advisory Commission on Federal Areas in Alaska (AS 41.37.010);

(12) the executive secretary and legal counsel of the Alaska Municipal Bond Bank Authority;

(13) licensed physicians, as defined in AS 47.30.340(9) employed by the state;

(14) petroleum engineers and petroleum geologists employed in a professional capacity by the Department of Natural Resources and by the Oil and Gas Conservation Commission; except for those employed in the division of geological and geophysical surveys in the Department of Natural Resources;

(15) officers, agents, and employees of the Alcoholic Beverage Control Board granted limited peace officer powers by the Alcoholic Beverage Control Board under AS 04.06.110;

(16) persons employed by the division of marine transportation as masters and members of the crews of vessels who operate the state ferry system and who are covered by a collective bargaining agreement provided in AS 23.40.040;

(17) officers and employees of the state who reside in foreign countries;

(18) employees of the Alaska Seafood Marketing Institute;

(19) firefighters employed by the Department of Natural Resources for a fire emergency;

(20) employees of the Office of the Governor and the office of the lieutenant governor, including the staff of the governor's

mansion.

* Sec. 8. AS 39.25.120 is repealed and reenacted to read:

Sec. 39.25.120. PARTIALLY EXEMPT SERVICE. (a) Positions in the partially exempt service are included in the position classification plan established under this chapter and are compensated according to the pay plan (AS 39.27.011).

(b) A person holding a position in the partially exempt service is not required to take an examination or qualify or earn a place on a register, and is not eligible for a hearing by the personnel board in case of dismissal, demotion, or suspension. Positions in the partially exempt service are specifically exempt from the rules established under AS 39.25.150(3) - (10), (13), (14), and (17).

(c) The following positions in the state service constitute the partially exempt service:

(1) deputy and assistant commissioners of the principal departments of the executive branch, including the assistant adjutant general of the Department of Military Affairs;

(2) the directors of the major divisions of the principal departments of the executive branch and the regional directors of the Department of Transportation and Public Facilities;

(3) attorney members of the staff of the Department of Law and of the public defender agency;

(4) one private secretary for each head of a principal department in the executive branch;

(5) employees of councils, boards, or commissions established by statute in the Office of the Governor or the office of the lieutenant governor, unless a different classification is provided by statute;

(6) the executive director, deputy director, hearing officers, and administrative law judges of the Alaska Public Utilities Commission;

(7) the director, deputy director, staff legal counsel, and hearing officers of the Alaska Transportation Commission;

(8) not more than two special assistants to the commissioner of each of the principal departments of the executive branch, but the number may be increased if the partially exempt service is extended under AS 39.25.130 to include the additional special assistants;

(9) the principal executive officer of the following boards, councils, or commissions:

(A) Alaska Public Broadcasting Commission;

(B) Professional Teaching Practices Commission;

(C) Parole Board;

(D) Board of Nursing;

(E) Real Estate Commission;

(F) Alaska Royalty Oil and Gas Development Advisory Board;

(G) Alaska Historical Commission;

(H) Alaska State Council on the Arts;

(I) Alaska Police Standards Council;

(J) Council on Science and Technology;

(K) Older Alaskans Commission;

(10) Alaska Pioneers' Home managers;

(11) hearing examiners in the Department of Revenue;

(12) the comptroller in the division of treasury, Department of Revenue;

(13) investment officers in the Department of Revenue;

(14) airport managers in the Department of Transportation and Public Facilities employed at the Anchorage and Fairbanks International Airports;

(15) the deputy director of the division of tourism and the

deputy director of the division of insurance in the Department of Commerce and Economic Development;

(16) the executive director and staff of the Alaska Public Offices Commission.

* Sec. 9. AS 39.25.130(a) is amended to read:

(a) The [AFTER JUNE 30, 1961, THE] personnel board, upon written recommendation of the commissioner of administration, may extend the partially exempt service to include any position [WHICH WAS] in the classified service [ON APRIL 19, 1960,] which, in the judgment of the board:

(1) involves principal responsibility for the determination of policy;

(2) involves principal responsibility for the way in which policies are carried out; or

(3) involves responsibilities and duties of a type not susceptible to the ordinary recruiting and examining procedures.

* Sec. 10. AS 39.25.130(c) is amended to read:

(c) The [AFTER JUNE 30, 1961, THE] personnel board, upon written recommendation of the commissioner of administration, may extend the classified service to include any position [WHICH WAS] in the partially exempt service [ON APRIL 19, 1960].

* Sec. 11. AS 39.25.140(c) is repealed and reenacted to read:

(c) At least 30 days before the adoption, amendment, or repeal of a personnel rule, the secretary to the personnel board shall provide notice that the personnel board has the proposed action under consideration. The notice shall be

(1) posted in public buildings throughout the state;

(2) published in one or more newspapers of general circulation throughout the state;

(3) mailed to each person or group that filed a request for notice of proposed action with the secretary to the personnel board;

(4) furnished to each member of the legislature and to the Legislative Affairs Agency.

* Sec. 12. AS 39.25.140(e) is amended to read:

(e) The rules adopted under this chapter relate to the internal management of state agencies and their adoption is not subject to the Administrative Procedure Act. The rules shall [MAY] be published in the Alaska Administrative Register and Code for informational purposes.

* Sec. 13. AS 39.25.140 is amended by adding new subsections to read:

(f) Failure to mail notice to a person as required in this section does not invalidate an action taken by the personnel board.

(g) An amendment to the personnel rules takes effect 30 days after it is approved by the personnel board. The board, if requested to do so, may hold a public hearing on a proposed amendment.

* Sec. 14. AS 39.25.150 is repealed and reenacted to read:

Sec. 39.25.150. SCOPE OF THE RULES. The personnel rules shall provide for

(1) the preparation, maintenance, and revision by the director of personnel, subject to approval of the commissioner of administration and the personnel board, of a position classification plan for all positions in the classified and partially exempt services; the position classification plan shall include

(A) a grouping together of all positions into classes on the basis of duties and responsibilities;

(B) an appropriate title, a description of the duties and responsibilities, training and experience qualifications, and other necessary specifications for each class of positions;

(2) the preparation, maintenance, revision and administration

by the director of personnel of a pay plan for all positions in the classified and partially exempt services; the pay plan (A) shall be based upon the position classification plan; (B) shall provide for fair and reasonable compensation for services rendered, and reflect the principle of like pay for like work; (C) may be amended, approved, or disapproved by the legislature in regular or special session; after the pay plan is in effect, a salary or wage payment may not be made to a state employee covered by the plan unless the payment is in accordance with this chapter and the rules adopted under this chapter or unless the payment is in accordance with a valid agreement entered into in accordance with AS 23.40;

(3) the use of employee selection methods, including open competitive examinations, when appropriate, that will fairly test the capacity and fitness of the person examined to discharge the duties of the class in which employment is sought;

(4) the establishment and maintenance of eligible lists for appointment and promotion providing the names of eligible candidates in order of their relative performance in the examinations;

(5) the procedure for certifying eligible candidates; the rule adopted under this paragraph may include procedures providing a preference for certifying local residents when appropriate;

(6) promotions from within the state service when there are qualified candidates in the state service; vacancies shall be filled by promotion whenever practicable and in the best interest of the state service and promotion shall be by competitive examination whenever possible; in considering promotions, applicants' qualifications, performance record, seniority, and conduct shall be evaluated;

(7) a period of probation not to exceed one year before an appointment to a position becomes permanent, except that a permanent

employee receiving a promotional appointment retains permanent status in the service and job class from which appointed for the duration of the probationary period and may be demoted to a former class without right of appeal, notwithstanding AS 39.25.170, but if the employee is dismissed from the service the appeal rights under AS 39.25.170 apply;

(8) nonpermanent and emergency appointments to positions in the state service in accordance with AS 39.25.195 - 39.25.200;

(9) provisional appointment without competitive examination when appropriate eligible lists are not available;

(10) transfers from one department to another and from another merit system jurisdiction to the state service;

(11) transfers from one area of the state to another;

(12) the reinstatement of a person who resigns in good standing;

(13) layoffs for reason of lack of money or work, abolition of positions, or material changes in duties or organization; both performance and seniority records shall be considered in the development of layoff orders;

(14) the development, maintenance, and use of employee performance records;

(15) the establishment of disciplinary measures which may include disciplinary suspension without pay;

(16) the procedures for review of disputed personnel actions, for resolving employee and interagency grievances, and for resolving grievances of the general public concerning the operation of the state personnel system;

(17) hours of work for all employees in the state service;

(18) methods and procedures covering overtime work and pay;

(19) the granting of employment preference rights to a veteran not within the area of promotion, when the veteran possesses the necessary qualifications in the job classification applied for under this chapter; in an examination to determine the qualification of applicants for entrance into the classified service under merit system examination, five additional points shall be added to the passing grade of a veteran and ten additional points shall be added to the passing grade of a disabled veteran, but the additional points may be used only the first time the veteran obtains a position in the classified service; if a position in the classified service is eliminated, employees shall be released in accordance with rules which give due effect to all factors; if all job qualifications are equal, the veteran shall be given preference over the nonveteran and the veteran shall be kept on the job; this paragraph may not be interpreted to amend the terms of a collective bargaining agreement; in this paragraph

(A) "veteran" means a person with 181 days or more active service in the armed forces of the United States who has been honorably discharged after having served during any period between April 6, 1917, and December 1, 1919, between September 16, 1940, and December 31, 1947, or between June 27, 1950, and November 7, 1975;

(B) "disabled veteran" means a veteran who is entitled to compensation under laws administered by the United States Veterans' Administration, or a person who was honorably discharged or released from active duty because of a service-connected disability;

(20) the employment of persons in permanent positions on a part-time basis of 15 hours or more a week, including the employment of two persons to fill one permanent full-time position; these employees

shall be designated as permanent part-time employees;

(21) the granting of employment preference to severely handicapped persons; this includes the right to provisional appointment without competitive examination for periods up to four months and the granting of eligibility to a severely handicapped person provisionally appointed under the rules who demonstrates ability to perform the job for permanent appointment without competitive examination; provisional employment under this paragraph may not exceed four months during a 12-month period; "severely handicapped" as used in this paragraph means persons certified by the director of the division of vocational rehabilitation to be severely handicapped;

(22) the establishment of programs facilitating the employment of disadvantaged persons;

(23) the delegation, when feasible, of personnel responsibilities and duties to the principal departments of the executive branch;

(24) the establishment of a transition period of up to 12 months for an employee to be reappointed to a classified position if the employee's position is withdrawn from the partially exempt or exempt service and placed in the classified service;

(25) other rules and administrative regulations, not inconsistent with this chapter, which are necessary for its enforcement.

* Sec. 15. AS 39.25.153 is repealed and reenacted to read:

Sec. 39.25.153. PERSONNEL OFFICERS. (a) If a principal department of the executive branch has a personnel officer, the personnel officer shall be employed by and located within that department.

(b) Subject to the provisions of (d) of this section, the personnel officers for the Departments of Transportation and Public Facilities, Fish and Game, Education, Labor, and Health and Social Services, have the following powers with respect to the classes of positions

unique to their departments:

(1) to assign positions to an existing class in the state classification plan and to the salary range for that class as established by the state pay plan or by a valid agreement entered into in accordance with AS 23.40;

(2) to administer and score examinations and to place successful applicants on departmental eligible lists;

(3) to certify those eligible to the appointing authorities.

(c) The initial determination of classes of positions unique to the departments listed in (b) of this section shall be made by the personnel officer of the department in consultation with the commissioner of his department subject to the approval of the director of personnel in the Department of Administration.

(d) The assumption of a power set out in (b) of this section must be approved by the commissioner of administration and must be in harmony with the merit principle of personnel administration (AS 39.25.010).

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Sec. 39.25.160. GENERALLY. (a) A classified employee may not take an active part in the management of a political party above the precinct level.

(b) A person may not give, render, pay, offer, solicit, or accept money, services, or other valuable thing in connection with securing or making an appointment, promotion, or advantage in a position in the classified service.

(c) A person may not require an assessment, subscription, contribution, or service for a political party from a state employee.

(d) A person may not seek or attempt to use a political party endorsement in connection with an appointment or promotion in the classified service.

(e) An employee in the classified or partially exempt service who seeks nomination or becomes a candidate for state or national elective political office shall immediately resign any position held in the state service. The employee's position becomes vacant on the date the employee files a declaration of candidacy for state or national elective office.

(f) Action affecting the employment status of a state employee or an applicant for state service, including appointment, promotion, demotion, suspension, or removal, may not be taken or withheld on the basis of unlawful discrimination due to race, religion, color, or national origin, age, handicap, sex, marital status, change in marital status, pregnancy, or parenthood. In addition, action affecting the employment status of an employee in the classified service, including appointment, promotion, demotion, suspension, or removal, may not be taken or withheld for a reason not related to merit.

(g) Action affecting the employment status of an employee in the classified service or an applicant for a position in the classified service, including appointment, promotion, demotion, suspension, or removal, may not be taken or withheld on the basis of unlawful discrimination due to political beliefs.

(h) A person may not knowingly make a false statement, certificate, mark, rating, or report with regard to a test, certification, or appointment made under this chapter or in any manner commit a fraud preventing the impartial execution of this chapter and the personnel rules adopted under this chapter.

(i) A person may not obstruct the right of another person to examination, eligibility, certification, appointment, or promotion under this chapter.

* Sec. 17. AS 39.25 is amended by adding a new section to read:

Sec. 39.25.175. PROCEDURE. (a) A subpoena shall be issued at the request of a party to a proceeding begun under AS 39.25.170.

(b) If a person refuses to respond to a subpoena issued under this section, or refuses to testify at a hearing authorized by AS 39.25.170, the personnel board may apply to the superior court for an order requiring the person to respond to the subpoena or to testify.

(c) Failure to obey the order of the superior court requiring response to a subpoena or testimony at a hearing may be punished as contempt of court.

* Sec. 18. AS 39.25 is amended by adding a new section to read:

Sec. 39.25.181. DEFINITIONS. In this chapter,

(1) "fraud" means for a person to knowingly

(A) create or confirm another's false impression which the person does not believe to be true, including false impressions as to law or value and false impressions as to intention or other state of mind;

(B) fail to correct another's false impression which the person previously has created or confirmed;

(C) prevent another from acquiring pertinent information;

(2) "knowingly" means for a person to be aware with respect to conduct or to a circumstance described by a provision of law that his conduct is of that nature or that the circumstance exists; when knowledge of the existence of a particular fact is required, that knowledge is established if a person is aware of a substantial probability of its existence, unless he actually believes it does not exist;

(3) "precinct" means the territory within which resident voters may cast votes at one polling place;

(4) "state employee" means a person employed by the state who is paid a wage or salary, but does not include a person hired by

the state to work as an independent contractor or a person who is in the custody of the state.

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(1) be a member of a national, state, or local political party;

(2) take part in a political campaign;

(3) express political opinions; however, while engaged on official business, a state employee may not display or distribute partisan political material;

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(5) serve as a voting or nonvoting delegate to a party convention;

(6) be appointed, nominated, or elected to nonpartisan public office in a local government unit; and

(7) make contributions to a political party or a candidate for public office.

* Sec. 20. AS 39.25.180 is repealed.

* Sec. 21. This Act takes effect July 1, 1982.

Original sponsor: Rules/Legislative Council

Offered: 5/17 /82
Referred: Rules

IN THE SENATE BY THE JUDICIARY COMMITTEE

HOUSE CS FOR CS FOR SENATE BILL NO. 193 (Judiciary)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act amending state personnel laws; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 39.25.040 is amended to read:

Sec. 39.25.040. DIRECTOR OF PERSONNEL. The head of the division of personnel is the director of personnel appointed by the commissioner of administration and responsible to the commissioner of administration for the execution of the duties and responsibilities imposed by this chapter and the rules adopted under this chapter. The director of personnel shall [MUST] have at least three years of practical working experience in the field of personnel administration.

* Sec. 2. AS 39.25.060(b) is amended to read:

(b) Members of the board may not be [SHALL BE QUALIFIED ELECTORS OF THE STATE WHO ARE NOT] employees [OR OFFICERS] of the state. Not more than two members of the board may be members of the same political party.

* Sec. 3. AS 39.25.070(1) is amended to read:

(1) approve or disapprove amendments to the personnel rules in accordance with AS 39.25.140 [THE ORIGINAL RULES OR A PART OF THEM WITHIN 60 DAYS OF THEIR SUBMISSION TO THE BOARD AND APPROVE OR DISAPPROVE AMENDMENT TO THE RULES WITHIN 30 DAYS OF SUBMISSION TO THE BOARD, AND IN CARRYING OUT THIS DUTY, THE BOARD, IF REQUESTED, MAY HOLD THE PUBLIC HEARINGS IT CONSIDERS NECESSARY];

* Sec. 4. AS 39.25.070 is amended by adding a new paragraph to read:

(7) employ staff members, who shall be in the classified service.

* Sec. 5. AS 39.25.080 is repealed and reenacted to read:

Sec. 39.25.080. PUBLIC RECORDS. (a) State personnel records, including employment applications and examination materials, are confidential and are not open to public inspection except as provided in this section.

(b) The following information is available for public inspection, subject to reasonable regulations on the time and manner of inspection:

(1) the names and position titles of all state employees;

(2) the position held by a state employee;

(3) prior positions held by a state employee;

(4) whether a state employee is in the classified, partially exempt, or exempt service;

(5) the dates of appointment and separation of a state employee; and

(6) the compensation authorized for a state employee.

(c) A state employee has the right to examine his own personnel files and may authorize others to examine his files.

(d) An applicant for state employment who appeals an examination score may review written examination questions relating to the examination unless the questions are to be used in future examinations.

* Sec. 6. AS 39.25.090 is amended to read:

Sec. 39.25.090. COVERAGE OF CHAPTER. This chapter and the rules adopted under it apply to all positions in (1) the classified service, and (2) the <u>exempt and</u> partially exempt service as specifically provided.

* Sec. 7. AS 39.25.110 is repealed and reenacted to read:

Sec. 39.25.110. EXEMPT SERVICE. Unless otherwise provided by

law, the following positions in the state service constitute the exempt service and are exempt from the provisions of this chapter and the rules adopted under it:

(1) persons elected to public office by popular vote or appointed to fill vacancies in elected offices;

(2) justices, judges, magistrates, and employees of the judicial branch including employees of the Judicial Council;

(3) employees of the state legislature and its agencies;

(4) the head of each principal department in the executive branch;

(5) officers and employees of the University of Alaska;

(6) certificated teachers and noncertificated employees employed by a regional educational attendance area established and organized under AS 14.08.031 - 14.08.041 to teach in, administer, or operate schools under the control of a regional educational attendance area school board;

(7) certificated teachers employed by the Department of Education as correspondence teachers or teachers in skill centers operated by the Department of Education;

(8) patients and inmates employed in state institutions;

(9) persons employed in a professional capacity to make a temporary or special inquiry, study or examination as authorized by the governor;

(10) members of boards, commissions, or authorities;

(11) the officers and employees of the following boards, commissions and authorities:

(A) Alaska Gas Pipeline Financing Authority;

(B) Alaska Permanent Fund Corporation;

(C) Alaska Energy Center;

(D) Alaska Industrial Development Authority;

(E) Alaska Commercial Fisheries Entry Commission;

(F) Alaska Commission on Postsecondary Education;

(G) Employees of the Citizens' Advisory Commission on Federal Areas in Alaska (AS 41.37.010);

(12) the executive secretary and legal counsel of the Alaska Municipal Bond Bank Authority;

(13) licensed physicians, as defined in AS 47.30.340(9) employed by the state;

(14) petroleum engineers and petroleum geologists employed in a professional capacity by the Department of Natural Resources and by the Oil and Gas Conservation Commission; except for those employed in the division of geological and geophysical surveys in the Department of Natural Resources;

(15) officers, agents, and employees of the Alcoholic Beverage Control Board granted limited peace officer powers by the Alcoholic Beverage Control Board under AS 04.06.110;

(16) persons employed by the division of marine transportation as masters and members of the crews of vessels who operate the state ferry system and who are covered by a collective bargaining agreement provided in AS 23.40.040;

(17) officers and employees of the state who reside in foreign countries;

(18) employees of the Alaska Seafood Marketing Institute;

(19) firefighters employed by the Department of Natural Resources for a fire emergency;

(20) employees of the Office of the Governor and the office of the lieutenant governor, including the staff of the governor's

mansion.

* Sec. 8. AS 39.25.120 is repealed and reenacted to read:

Sec. 39.25.120. PARTIALLY EXEMPT SERVICE. (a) Positions in the partially exempt service are included in the position classification plan established under this chapter and are compensated according to the pay plan (AS 39.27.011).

(b) A person holding a position in the partially exempt service is not required to take an examination or qualify or earn a place on a register, and is not eligible for a hearing by the personnel board in case of dismissal, demotion, or suspension. Positions in the partially exempt service are specifically exempt from the rules established under AS 39.25.150(3) - (10), (13), (14), and (17).

(c) The following positions in the state service constitute the partially exempt service:

(1) deputy and assistant commissioners of the principal departments of the executive branch, including the assistant adjutant general of the Department of Military Affairs;

(2) the directors of the major divisions of the principal departments of the executive branch and the regional directors of the Department of Transportation and Public Facilities;

(3) attorney members of the staff of the Department of Law and of the public defender agency;

(4) one private secretary for each head of a principal department in the executive branch;

(5) employees of councils, boards, or commissions established by statute in the Office of the Governor or the office of the lieutenant governor, unless a different classification is provided by statute;

(6) the executive director and deputy director of the Alaska Public Utilities Commission;

(7) the director, deputy director, staff legal counsel, and hearing officers of the Alaska Transportation Commission;

(8) not more than two special assistants to the commissioner of each of the principal departments of the executive branch, but the number may be increased if the partially exempt service is extended under AS 39.25.130 to include the additional special assistants;

(9) the principal executive officer of the following boards, councils, or commissions:

(A) Alaska Public Broadcasting Commission;

(B) Professional Teaching Practices Commission;

(C) Parole Board;

(D) Board of Nursing;

(E) Real Estate Commission;

(F) Alaska Royalty Oil and Gas Development Advisory Board;

(G) Alaska Historical Commission;

(H) Alaska State Council on the Arts;

(I) Alaska Police Standards Council;

(J) Council on Science and Technology;

(K) Older Alaskans Commission;

(10) Alaska Pioneers' Home managers;

(11) hearing examiners in the Department of Revenue;

(12) the comptroller in the division of treasury, Department of Revenue;

(13) investment officers in the Department of Revenue;

(14) airport managers in the Department of Transportation and Public Facilities employed at the Anchorage and Fairbanks International Airports;

(15) the deputy director of the division of tourism and the

deputy director of the division of insurance in the Department of Commerce and Economic Development;

(16) the executive director and staff of the Alaska Public Offices Commission.

* Sec. 9. AS 39.25.130(a) is amended to read:

(a) The [AFTER JUNE 30, 1961, THE] personnel board, upon written recommendation of the commissioner of administration, may extend the partially exempt service to include any position [WHICH WAS] in the classified service [ON APRIL 19, 1960,] which, in the judgment of the board:

(1) involves principal responsibility for the determination of policy;

(2) involves principal responsibility for the way in which policies are carried out; or

(3) involves responsibilities and duties of a type not susceptible to the ordinary recruiting and examining procedures.

* Sec. 10. AS 39.25.130(c) is amended to read:

(c) The [AFTER JUNE 30, 1961, THE] personnel board, upon written recommendation of the commissioner of administration, may extend the classified service to include any position [WHICH WAS] in the partially exempt service [ON APRIL 19, 1960].

* Sec. 11. AS 39.25.140(c) is repealed and reenacted to read:

(c) At least 30 days before the adoption, amendment, or repeal of a personnel rule, the secretary to the personnel board shall provide notice that the personnel board has the proposed action under consideration. The notice shall be

(1) posted in public buildings throughout the state;

(2) published in one or more newspapers of general circulation throughout the state;

(3) mailed to each person or group that filed a request for notice of proposed action with the secretary to the personnel board;

(4) furnished to each member of the legislature and to the Legislative Affairs Agency.

* Sec. 12. AS 39.25.140(e) is amended to read:

(e) The rules adopted under this chapter relate to the internal management of state agencies and their adoption is not subject to the Administrative Procedure Act. The rules shall [MAY] be published in the Alaska Administrative Register and Code for informational purposes.

* Sec. 13. AS 39.25.140 is amended by adding new subsections to read:

(f) Failure to mail notice to a person as required in this section does not invalidate an action taken by the personnel board.

(g) An amendment to the personnel rules takes effect 30 days after it is approved by the personnel board. The board, if requested to do so, may hold a public hearing on a proposed amendment.

* Sec. 14. AS 39.25.150 is repealed and reenacted to read:

Sec. 39.25.150. SCOPE OF THE RULES. The personnel rules shall provide for

(1) the preparation, maintenance, and revision by the director of personnel, subject to approval of the commissioner of administration and the personnel board, of a position classification plan for all positions in the classified and partially exempt services; the position classification plan shall include

(A) a grouping together of all positions into classes on the basis of duties and responsibilities;

(B) an appropriate title, a description of the duties and responsibilities, training and experience qualifications, and other necessary specifications for each class of positions;

(2) the preparation, maintenance, revision and administration

by the director of personnel of a pay plan for all positions in the classified and partially exempt services; the pay plan (A) shall be based upon the position classification plan; (B) shall provide for fair and reasonable compensation for services rendered, and reflect the principle of like pay for like work; (C) may be amended, approved, or disapproved by the legislature in regular or special session; after the pay plan is in effect, a salary or wage payment may not be made to a state employee covered by the plan unless the payment is in accordance with this chapter and the rules adopted under this chapter or unless the payment is in accordance with a valid agreement entered into in accordance with AS 23.40;

(3) the use of employee selection methods, including open competitive examinations, when appropriate, that will fairly test the capacity and fitness of the person examined to discharge the duties of the class in which employment is sought;

(4) the establishment and maintenance of eligible lists for appointment and promotion providing the names of eligible candidates in order of their relative performance in the examinations;

(5) the procedure for certifying eligible candidates; the rule adopted under this paragraph may include procedures providing a preference for certifying local residents when appropriate;

(6) promotions from within the state service when there are qualified candidates in the state service; vacancies shall be filled by promotion whenever practicable and in the best interest of the state service and promotion shall be by competitive examination whenever possible; in considering promotions, applicants' qualifications, performance record, seniority, and conduct shall be evaluated;

(7) a period of probation not to exceed one year before an appointment to a position becomes permanent, except that a permanent

employee receiving a promotional appointment retains permanent status in the service and job class from which appointed for the duration of the probationary period and may be demoted to a former class without right of appeal, notwithstanding AS 39.25.170, but if the employee is dismissed from the service the appeal rights under AS 39.25.170 apply;

(8) nonpermanent and emergency appointments to positions in the state service in accordance with AS 39.25.195 - 39.25.200;

(9) provisional appointment without competitive examination when appropriate eligible lists are not available;

(10) transfers from one department to another and from another merit system jurisdiction to the state service;

(11) transfers from one area of the state to another;

(12) the reinstatement of a person who resigns in good standing;

(13) layoffs for reason of lack of money or work, abolition of positions, or material changes in duties or organization; both performance and seniority records shall be considered in the development of layoff orders;

(14) the development, maintenance, and use of employee performance records;

(15) the establishment of disciplinary measures which may include disciplinary suspension without pay;

(16) the procedures for review of disputed personnel actions, for resolving employee and interagency grievances, and for resolving grievances of the general public concerning the operation of the state personnel system;

(17) hours of work for all employees in the state service;

(18) methods and procedures covering overtime work and pay;

(19) the granting of employment preference rights to a veteran not within the area of promotion, when the veteran possesses the necessary qualifications in the job classification applied for under this chapter; in an examination to determine the qualification of applicants for entrance into the classified service under merit system examination, five additional points shall be added to the passing grade of a veteran and ten additional points shall be added to the passing grade of a disabled veteran, but the additional points may be used only the first time the veteran obtains a position in the classified service; if a position in the classified service is eliminated, employees shall be released in accordance with rules which give due effect to all factors; if all job qualifications are equal, the veteran shall be given preference over the nonveteran and the veteran shall be kept on the job; this paragraph may not be interpreted to amend the terms of a collective bargaining agreement; in this paragraph

(A) "veteran" means a person with 181 days or more active service in the armed forces of the United States who has been honorably discharged after having served during any period between April 6, 1917, and December 1, 1919, between September 16, 1940, and December 31, 1947, or between June 27, 1950, and November 7, 1975;

(B) "disabled veteran" means a veteran who is entitled to compensation under laws administered by the United States Veterans' Administration, or a person who was honorably discharged or released from active duty because of a service-connected disability;

(20) the employment of persons in permanent positions on a part-time basis of 15 hours or more a week, including the employment of two persons to fill one permanent full-time position; these employees

shall be designated as permanent part-time employees;

(21) the granting of employment preference to severely handicapped persons; this includes the right to provisional appointment without competitive examination for periods up to four months and the granting of eligibility to a severely handicapped person provisionally appointed under the rules who demonstrates ability to perform the job for permanent appointment without competitive examination; provisional employment under this paragraph may not exceed four months during a 12-month period; "severely handicapped" as used in this paragraph means persons certified by the director of the division of vocational rehabilitation to be severely handicapped;

(22) the establishment of programs facilitating the employment of disadvantaged persons;

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* Sec. 21. This Act takes effect July 1, 1982.

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. House CS for CS for Senate Bill No. 193 (Judiciary)
Title An Act amending state personnel laws; effective date
Requested by _____ Date 5/18/82

II. FISCAL DETAIL
Agency Affected Administration
Program Category Affected Personnel
BRU, Program, Or Subprogram(s) Affected Personnel, Personnel Board
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES		42.2	22.6	24.2	25.8	27.7
200 TRAVEL		2.8	1.6	1.8	1.9	2.1
300 CONTRACTUAL		26.2				
400 COMMODITIES		.6	.6	.7	.8	.8
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL		71.8	24.8	26.7	28.5	30.6

FUNDING (Thousands of Dollars)

GENERAL FUND		71.8	24.8	26.7	28.5	30.6
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME		1	0	0	0	0
PART TIME		0	1	1	1	1
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

Sections 11, 12 and 13 of HCS CSSB 913 (Jud) provides the procedures for adoption of amendments to the Personnel Rules. New publication requirements, mandatory publication in the Alaska Administrative Register and Code, and optional public hearings are provided. HCS CSSB 193 (Jud) makes several minor changes to the Personnel Act that will require amending the Personnel Rules. The major costs for FY 83 are:

1) contracting with the Department of Law for an attorney for four months to:

- rewrite the current Personnel Rules to AAC standards
- draft amendments incorporating changes in the Personnel Act

IV. DATE 5/18/82 PREPARED BY Michael P. McMullen
AGENCY Administration - Division of Personnel
PHONE 465-4430

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)
33-001 (Rev. 12/81)

FICAL NOTE continued

- modify amendments based on hearings
- file the amended rules with the Lt. Governor
- compile a Personnel Act - Personnel Rules cross-reference
- identify forms needing revision to reference the appropriate AAC provisions instead of the former rule
- Revise Administrative Manual and Operating Procedures to properly reference revised Personnel rules

($19.2 Thous.)

2) Personal Services to employ Regulations Specialist to revise existing procedures, manuals, forms and letters to properly cite revised Personnel rules. Position would be half-time after first year.

($42.2 Thous.)

3) travel and per diem for attorney and the Personnel Board for two hearings to adopt the rules and amendments under AAC standards.

($2.8 Thous.)

4) public notice of the hearings and proposed amendments. ($ .6 Thous.)

5) typing of drafts, revision and filing version. ($2.0 Thous.)

6) printing of forms incorporating AAC references. ($1.0 Thous.)

In subsequent years, one two-day hearing by the Personnel Board to adopt amendments is budgeted. Travel is inflated 10% annually and public notice costs at 8%. Personal Services inflated at 7% per year.

Section 14 of HCS CSSB 193 (Jud) contains a significant change in the definition and preference accorded to veterans. In addition to the need to amend the Personnel Rules accordingly, there is a need to incorporate the new provision in the automated Applicant Tracking System. This one time contractual service cost is estimated at $4 thousand.

5/CII/01

Original sponsor: Rules/Legislative Council

Offered: 4/23/82
Referred: Judiciary

IN THE SENATE BY THE STATE AFFAIRS COMMITTEE

HOUSE CS FOR CS FOR SENATE BILL NO. 193 (State Affairs)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act amending state personnel laws; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 39.25.040 is amended to read:

Sec. 39.25.040. DIRECTOR OF PERSONNEL. The head of the division of personnel is the director of personnel appointed by the commissioner of administration and responsible to the commissioner of administration for the execution of the duties and responsibilities imposed by this chapter and the rules adopted under this chapter. The director of personnel shall [MUST] have at least three years of practical working experience in the field of personnel administration.

* Sec. 2. AS 39.25.060(b) is amended to read:

(b) Members of the board may not be [SHALL BE QUALIFIED ELECTORS OF THE STATE WHO ARE NOT] employees [OR OFFICERS] of the state. Not more than two members of the board may be members of the same political party.

* Sec. 3. AS 39.25.070(1) is amended to read:

(1) approve or disapprove amendments to the personnel rules in accordance with AS 39.25.140 [THE ORIGINAL RULES OR A PART OF THEM WITHIN 60 DAYS OF THEIR SUBMISSION TO THE BOARD AND APPROVE OR DISAPPROVE AMENDMENT TO THE RULES WITHIN 30 DAYS OF SUBMISSION TO THE BOARD, AND IN CARRYING OUT THIS DUTY, THE BOARD, IF REQUESTED, MAY HOLD THE PUBLIC HEARINGS IT CONSIDERS NECESSARY];

* Sec. 4. AS 39.25.070(3) is amended to read:

(3) hear and determine appeals by employees [IN THE CLASSIFIED SERVICE] as provided in AS 39.25.170;

* Sec. 5. AS 39.25.070 is amended by adding a new paragraph to read:

(7) employ staff members, who shall be in the classified service.

* Sec. 6. AS 39.25.080 is repealed and reenacted to read:

Sec. 39.25.080. PUBLIC RECORDS. (a) State personnel records, including employment applications and examination materials, are confidential and are not open to public inspection except as provided in this section.

(b) The following information is available for public inspection, subject to reasonable regulations on the time and manner of inspection:

(1) the names and position titles of all state employees;

(2) the position held by a state employee;

(3) prior positions held by a state employee;

(4) whether a state employee is in the classified, partially exempt, or exempt service;

(5) the dates of appointment and separation of a state employee; and

(6) the compensation authorized for a state employee.

(c) A state employee has the right to examine his own personnel files and may authorize others to examine his files.

(d) An applicant for state employment who appeals an examination score may review written examination questions relating to the examination unless the questions are to be used in future examinations.

* Sec. 7. AS 39.25.090 is amended to read:

Sec. 39.25.090. COVERAGE OF CHAPTER. This chapter and the rules adopted under it apply to all positions in (1) the classified service, and (2) the <u>exempt and</u> partially exempt service as specifically pro-

vided.

* Sec. 8. AS 39.25.110 is repealed and reenacted to read:

Sec. 39.25.110. EXEMPT SERVICE. Unless otherwise provided by law, the following positions in the state service constitute the exempt service and are exempt from the provisions of this chapter and the rules adopted under it:

(1) persons elected to public office by popular vote or appointed to fill vacancies in elected offices;

(2) justices, judges, magistrates, and employees of the judicial branch including employees of the Judicial Council;

(3) employees of the state legislature and its agencies;

(4) the head of each principal department in the executive branch;

(5) officers and employees of the University of Alaska;

(6) certificated teachers and noncertificated employees employed by a regional educational attendance area established and organized under AS 14.08.031 - 14.08.041 to teach in, administer, or operate schools under the control of a regional educational attendance area school board;

(7) certificated teachers employed by the Department of Education as correspondence teachers or teachers in skill centers operated by the Department of Education;

(8) patients and inmates employed in state institutions;

(9) persons employed in a professional capacity to make a temporary or special inquiry, study or examination as authorized by the governor;

(10) members of boards, commissions, or authorities;

(11) the officers and employees of the following boards, commissions and authorities:

(A) Alaska Gas Pipeline Financing Authority;

(B) Alaska Permanent Fund Corporation;

(C) Alaska Energy Center;

(D) Alaska Industrial Development Authority;

(E) Alaska Commercial Fisheries Entry Commission;

(F) Alaska Commission on Postsecondary Education;

(G) Employees of the Citizens' Advisory Commission on Federal Areas in Alaska (AS 41.37.010);

(12) the executive secretary and legal counsel of the Alaska Municipal Land Bank Authority;

(13) licensed physicians, as defined in AS 47.30.340(9) employed by the state;

(14) petroleum engineers and petroleum geologists employed in a professional capacity by the Department of Natural Resources and by the Oil and Gas Conservation Commission; except for those employed in the division of geological and geophysical surveys in the Department of Natural Resources;

(15) officers, agents, and employees of the Alcoholic Beverage Control Board granted limited peace officer powers by the Alcoholic Beverage Control Board under AS 04.06.110;

(16) persons employed by the division of marine transportation as masters and members of the crews of vessels who operate the state ferry system and who are covered by a collective bargaining agreement provided in AS 23.40.040;

(17) officers and employees of the state who reside in foreign countries;

(18) employees of the Alaska Seafood Marketing Institute;

(19) firefighters employed by the Department of Natural

Resources for a fire emergency;

(20) employees of the Office of the Governor and the Office of the Lieutenant Governor, including the staff of the governor's mansion.

* Sec. 9. AS 39.25.120 is repealed and reenacted to read:

Sec. 39.25.120. PARTIALLY EXEMPT SERVICE. (a) Positions in the partially exempt service are included in the position classification plan established under this chapter and are compensated according to the pay plan (AS 39.27.011).

(b) A person holding a position in the partially exempt service is not required to take an examination or qualify or earn a place on a register, and is not eligible for a hearing by the personnel board in case of dismissal, demotion, or suspension, except as provided in AS 39.25.170. Positions in the partially exempt service are specifically exempt from the rules established under AS 39.25.150(3) - (10), (13), (14), and (17).

(c) The following positions in the state service constitute the partially exempt service:

(1) deputy and assistant commissioners of the principal departments of the executive branch, including the assistant adjutant general of the Department of Military Affairs;

(2) the directors of the major divisions of the principal departments of the executive branch and the regional directors of the Department of Transportation and Public Facilities;

(3) attorney members of the staff of the Department of Law and of the public defender agency;

(4) one private secretary for each head of a principal department in the executive branch;

(5) employees of councils, boards, or commissions established

by statute in the Office of the Governor or the office of the lieutenant governor, unless a different classification is provided by statute;

(6) the executive director and deputy director of the Alaska Public Utilities Commission;

(7) the director, deputy director, staff legal counsel, and hearing officers of the Alaska Transportation Commission;

(8) not more than two special assistants to the commissioner of each of the principal departments of the executive branch, but the number may be increased if the partially exempt service is extended under AS 39.25.130 to include the additional special assistants;

(9) the principal executive officer of the following boards, councils, or commissions:

(A) Alaska Public Broadcasting Commission;

(B) Professional Teaching Practices Commission;

(C) Parole Board;

(D) Board of Nursing;

(E) Real Estate Commission;

(F) Alaska Royalty Oil and Gas Development Advisory Board;

(G) Alaska Historical Commission;

(H) Alaska State Council on the Arts;

(I) Alaska Police Standards Council;

(J) Council on Science and Technology;

(K) Older Alaskans Commission;

(10) Alaska Pioneers' Home managers;

(11) hearing examiners in the Department of Revenue;

(12) the comptroller in the division of treasury, Department of Revenue;

(13) investment officers in the Department of Revenue;

(14) airport managers in the Department of Transportation and Public Facilities employed at the Anchorage and Fairbanks International Airports;

(15) the deputy director of the division of tourism and the deputy director of the division of insurance in the Department of Commerce and Economic Development;

(16) the executive director and staff of the Alaska Public Offices Commission;

(17) the director, deputy director, personnel analysts II, labor relations analysts I, labor relations analysts II, senior negotiators, and research directors of the division of labor relations in the Department of Administration.

* Sec. 10. AS 39.25.130(a) is amended to read:

(a) The [AFTER JUNE 30, 1961, THE] personnel board, upon written recommendation of the commissioner of administration, may extend the partially exempt service to include any position [WHICH WAS] in the classified service [ON APRIL 19, 1960,] which, in the judgment of the board:

(1) involves principal responsibility for the determination of policy;

(2) involves principal responsibility for the way in which policies are carried out; or

(3) involves responsibilities and duties of a type not susceptible to the ordinary recruiting and examining procedures.

* Sec. 11. AS 39.25.130(c) is amended to read:

(c) The [AFTER JUNE 30, 1961, THE] personnel board, upon written recommendation of the commissioner of administration, may extend the classified service to include any position [WHICH WAS] in the partially exempt service [ON APRIL 19, 1960].

* Sec. 12. AS 39.25.140 is repealed and reenacted to read:

Sec. 39.25.140. AMENDMENT OF PERSONNEL RULES. (a) The director of personnel shall prepare and submit proposed amendments of the personnel rules to the commissioner of administration for review and approval.

(b) The commissioner of administration shall review the proposed amendments and if he approves them, he shall submit them to the personnel board.

(c) If the proposed amendments concern matters of public policy, the personnel board shall adopt them in accordance with the Administrative Procedure Act (AS 44.62).

(d) If the proposed amendments relate only to internal management of a state agency, the commissioner of administration shall post notice in public buildings throughout the state that the personnel board has the proposed amendments under consideration. The notice required by this subsection shall be posted at least 30 days before any decision is made to amend the personnel rules and shall include an address for the receipt of written comments.

(e) If requested by the commissioner of administration or by a person receiving notice of the proposed amendments, the personnel board may hold public hearings on the proposed amendments and may appoint a hearing officer to conduct the hearings.

(f) The personnel board may amend the proposed amendments.

(g) The proposed amendments become effective 45 days after they are submitted to the personnel board unless the board has disapproved them.

(h) The amended rules shall be published in the Alaska Administrative Register and Code for informational purposes.

* Sec. 13. AS 39.25.150 is repealed and reenacted to read:

Sec. 39.25.150. SCOPE OF THE RULES. The personnel rules shall provide for

(1) the preparation, maintenance, and revision by the director of personnel, subject to approval of the commissioner of administration and the personnel board, of a position classification plan for all positions in the classified and partially exempt services; the position classification plan shall include

(A) a grouping together of all positions into classes on the basis of duties and responsibilities;

(B) an appropriate title, a description of the duties and responsibilities, training and experience qualifications, and other necessary specifications for each class of positions;

(2) the preparation, maintenance, revision and administration by the director of personnel of a pay plan for all positions in the classified and partially exempt services; the pay plan (A) shall be based upon the position classification plan; (B) shall provide for fair and reasonable compensation for services rendered, and reflect the principle of like pay for like work; (C) may be amended, approved, or disapproved by the legislature in regular or special session; after the pay plan is in effect, a salary or wage payment may not be made to a state employee covered by the plan unless the payment is in accordance with this chapter and the rules adopted under this chapter or unless the payment is in accordance with a valid agreement entered into in accordance with AS 23.40;

(3) the use of employee selection methods which will fairly test the capacity and fitness of the person examined to discharge the duties of the class in which employment is sought;

(4) the establishment and maintenance of eligible lists for appointment and promotion providing the names of eligible candidates in

order of their relative performance in the examinations;

(5) the procedure for certifying eligible candidates;

(6) promotions from within the state service when there are qualified candidates in the state service; vacancies shall be filled by promotion whenever practicable and in the best interest of the state service and promotion shall be by competitive examination whenever possible; in considering promotions, applicants' qualifications, performance record, seniority, and conduct shall be evaluated;

(7) a period of probation not to exceed one year before an appointment to a position becomes permanent, except that a permanent employee receiving a promotional appointment retains permanent status in the service and job class from which appointed for the duration of the probationary period and may be demoted to a former class without right of appeal, notwithstanding AS 39.25.170, but if the employee is dismissed from the service the appeal rights under AS 39.25.170 apply;

(8) nonpermanent and emergency appointments to positions in the state service in accordance with AS 39.25.195 - 39.25.200;

(9) provisional appointment without competitive examination when appropriate eligible lists are not available;

(10) transfers from one department to another and from another merit system jurisdiction to the state service;

(11) transfers from one area of the state to another;

(12) the reinstatement of a person who resigns in good standing;

(13) layoffs for reason of lack of money or work, abolition of positions, or material changes in duties or organization; both performance and seniority records shall be considered in the development of layoff orders;

(14) the development, maintenance, and use of employee perfor-

mance records;

(15) the establishment of disciplinary measures which may include disciplinary suspension without pay;

(16) the procedures for review of disputed personnel actions, for resolving employee and interagency grievances, and for resolving grievances of the general public concerning the operation of the state personnel system;

(17) hours of work for all employees in the state service;

(18) methods and procedures covering overtime work and pay;

(19) the granting of employment preference rights to a veteran not within the area of promotion, when the veteran possesses the necessary qualifications in the job classification applied for under this chapter; in an examination to determine the qualification of applicants for entrance into the classified service under merit system examination, five additional points shall be added to the passing grade of a veteran and ten additional points shall be added to the passing grade of a disabled veteran, but the additional points may be used only the first time the veteran obtains a position in the classified service; if a position in the classified service is eliminated, employees shall be released in accordance with rules which give due effect to all factors; if all job qualifications are equal, the veteran shall be given preference over the nonveteran and the veteran shall be kept on the job; this paragraph may not be interpreted to amend the terms of a collective bargaining agreement; in this paragraph

(A) "veteran" means a person with 181 days or more active service in the armed forces of the United States who has been honorably discharged after having served during any period between April 6, 1917, and December 1, 1919, between September 16, 1940, and December 31, 1947, or between June 27, 1950, and

November 7, 1975;

(B) "disabled veteran" means a veteran who is entitled to compensation under laws administered by the United States Veterans' Administration, or a person who was honorably discharged or released from active duty because of a service-connected disability;

(20) the employment of persons in permanent positions on a part-time basis of 15 hours or more a week, including the employment of two persons to fill one permanent full-time position; these employees shall be designated as permanent part-time employees;

(21) the granting of employment preference to severely handicapped persons; this includes the right to provisional appointment without competitive examination for periods up to four months and the granting of eligibility to a severely handicapped person provisionally appointed under the rules who demonstrates ability to perform the job for permanent appointment without competitive examination; provisional employment under this paragraph may not exceed four months during a 12-month period; "severely handicapped" as used in this paragraph means persons certified by the director of the division of vocational rehabilitation to be severely handicapped;

(22) the establishment of programs facilitating the employment of disadvantaged persons, including limitation of competition for appointment and promotion to individuals who meet the program requirements;

(23) the delegation, when feasible, of personnel responsibilities and duties to the principal departments of the executive branch;

(24) the establishment of a transition period of up to 12 months for an employee to be reappointed to a classified position if the employee's position is withdrawn from the partially exempt or

exempt service and placed in the classified service;

(25) other rules and administrative regulations, not inconsistent with this chapter, which are necessary for its enforcement.

* Sec. 14. AS 39.25.153 is repealed and reenacted to read:

Sec. 39.25.153. PERSONNEL OFFICERS. (a) If a principal department of the executive branch has a personnel officer, the personnel officer shall be employed by and located within that department.

(b) Subject to the provisions of (d) of this section, the personnel officers for the Departments of Transportation and Public Facilities, Fish and Game, Education, Labor, and Health and Social Services, have the following powers with respect to the classes of positions unique to their departments:

(1) to assign positions to an existing class in the state classification plan and to the salary range for that class as established by the state pay plan or by a valid agreement entered into in accordance with AS 23.40;

(2) to administer and score examinations and to place successful applicants on departmental eligible lists;

(3) to certify those eligible to the appointing authorities.

(c) The initial determination of classes of positions unique to the departments listed in (b) of this section shall be made by the personnel officer of the department in consultation with the commissioner of his department subject to the approval of the director of personnel in the Department of Administration.

(d) The assumption of a power set out in (b) of this section must be approved by the commissioner of administration and must be in harmony with the merit principle of personnel administration (AS 39.25.010).

* Sec. 15. AS 39.25.160 is repealed and reenacted to read:

Sec. 39.25.160. GENERALLY. (a) A classified employee may not

take an active part in the management of a political party above the precinct level.

(b) A person may not give, render, pay, offer, solicit, or accept money, services, or other valuable thing in connection with securing or making an appointment, promotion, or advantage in a position in the classified service.

(c) A person may not require an assessment, subscription, contribution, or service for a political party from a state employee.

(d) A person may not seek or attempt to use a political party endorsement in connection with an appointment or promotion in the classified service.

(e) An employee in the classified or partially exempt service who seeks nomination or becomes a candidate for state or national elective political office shall immediately resign any position held in the state service. The employee's position becomes vacant on the date the employee files a declaration of candidacy for state or national elective office.

(f) Action affecting the employment status of a state employee or an applicant for state service, including appointment, promotion, demotion, suspension, or removal, may not be taken or withheld on the basis of unlawful discrimination due to race, religion, color, or national origin, age, handicap, sex, marital status, change in marital status, pregnancy, or parenthood. In addition, action affecting the employment status of an employee in the classified service, including appointment, promotion, demotion, suspension, or removal, may not be taken or withheld for a reason not related to merit.

(g) Action affecting the employment status of an employee in the classified service or an applicant for a position in the classified service, including appointment, promotion, demotion, suspension, or

removal, may not be taken or withheld on the basis of unlawful discrimination due to political beliefs.

(h) A person may not knowingly make a false statement, certificate, mark, rating, or report with regard to a test, certification, or appointment made under this chapter or in any manner commit a fraud preventing the impartial execution of this chapter and the personnel rules adopted under this chapter.

(i) A person may not obstruct the right of another person to examination, eligibility, certification, appointment, or promotion under this chapter.

* Sec. 16. AS 39.25.170 is repealed and reenacted to read:

Sec. 39.25.170. HEARINGS AND APPEALS UPON DISMISSAL, DEMOTION, OR SUSPENSION. (a) An employee in the executive branch of state government may be dismissed, demoted, or suspended by delivery of written notice of the proposed action and the reason for it from the appointing authority to the employee.

(b) A permanent employee in the classified service who has been dismissed, demoted, or suspended may appeal the action to the personnel board.

(c) An employee in the executive branch of state government who has been dismissed, demoted, or suspended due to unlawful discrimination based on race, religion, color, or national origin, or because of age, handicap, sex, marital status, change in marital status, pregnancy, or parenthood may appeal the action to the personnel board.

(d) An employee in the classified service who has been dismissed, demoted, or suspended due to unlawful discrimination based on political beliefs may appeal the action to the personnel board.

(e) A permanent employee in the classified service who holds probationary status in his present position may appeal a dismissal

from the classified service to the personnel board.

(f) An employee who is on leave without pay from a position in the classified service and who is employed by the state in another capacity, either in the exempt or partially exempt service, may appeal a dismissal from the classified service to the personnel board.

(g) An employee begins an appeal by filing a written request for review of the action with the personnel board within 15 days of receiving written notice of the action from the appointing authority.

(h) If requested by the employee at the time of filing an appeal, the personnel board shall hold a hearing to determine the reasonableness of the the action taken by the appointing authority. If the employee requests it, the hearing shall be open to the public. The employee may be represented by another person and has the right to present evidence, and to confront and cross-examine witnesses. Technical rules of evidence do not apply to the hearing, but all testimony shall be taken under oath.

(i) If the personnel board finds that the action complained of was due to unlawful discrimination based on race, sex, color, religion, national origin, age, handicap, marital status, change in marital status, pregnancy, or parenthood, or in violation of the provisions of this chapter or the personnel rules, the employee shall be reinstated to the position without loss of pay or leave benefit for the period of dismissal, demotion, or suspension. In addition, if the personnel board finds that the action complained of by an employee in the classified service was due to unlawful discrimination based on a political belief or any other reason related to merit the employee shall be reinstated to the position without loss of pay or leave benefit for the period of dismissal, demotion, or suspension. In all other cases, the

board shall report its findings and recommendations in writing, to both parties within 30 days of a hearing conducted under (h) of this section, and the decision of the board may be appealed to the superior court.

* Sec. 17. AS 39.25 is amended by adding a new section to read:

Sec. 39.25.175. PROCEDURE. (a) A subpoena shall be issued at the request of a party to a proceeding begun under AS 39.25.170.

(b) If a person refuses to respond to a subpoena issued under this section, or refuses to testify at a hearing authorized by AS 39.25.170, the personnel board may apply to the superior court for an order requiring the person to respond to the subpoena or to testify.

(c) Failure to obey the order of the superior court requiring response to a subpoena or testimony at a hearing may be punished as contempt of court.

* Sec. 18. AS 39.25 is amended by adding a new section to read:

Sec. 39.25.181. DEFINITIONS. In this chapter,

(1) "fraud" means for a person to knowingly

(A) create or confirm another's false impression which the person does not believe to be true, including false impressions as to law or value and false impressions as to intention or other state of mind;

(B) fail to correct another's false impression which the person previously has created or confirmed;

(C) prevent another from acquiring pertinent information;

(2) "knowingly" means for a person to be aware with respect to conduct or to a circumstance described by a provision of law that his conduct is of that nature or that the circumstance exists; when knowledge of the existence of a particular fact is required, that knowledge is established if a person is aware of a substantial probability

of its existence, unless he actually believes it does not exist;

(3) "precinct" means the territory within which resident voters may cast votes at one polling place;

(4) "state employee" means a person employed by the state who is paid a wage or salary, but does not include a person hired by the state to work as an independent contractor or a person who is in the custody of the state.

* Sec. 19. AS 39.25 is amended by adding a new section to article 6 to read:

Sec. 39.25.192. EMPLOYEE POLITICAL RIGHTS. A state employee may

(1) be a member of a national, state, or local political party;

(2) take part in a political campaign;

(3) express political opinions except while performing official duties;

(4) register party preference;

(5) serve as a voting or nonvoting delegate to a party convention;

(6) be appointed, nominated, or elected to nonpartisan public office in a local government unit; and

(7) make contributions to a political party or a candidate for public office.

* Sec. 20. AS 39.25.180 is repealed.

* Sec. 21. This Act takes effect July 1, 1982.

Original sponsor: Rules/Legislative Council

Offered: 4/7/82
Referred: Rules

IN THE SENATE BY THE JUDICIARY COMMITTEE

CS FOR SENATE BILL NO. 193 (Judiciary) am

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act amending state personnel laws; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 39.25.040 is amended to read:

Sec. 39.25.040. DIRECTOR OF PERSONNEL. The head of the division of personnel is the director of personnel appointed by the commissioner of administration and responsible to the commissioner of administration for the execution of the duties and responsibilities imposed by this chapter and the rules adopted under this chapter. The director of personnel shall [MUST] have at least three years of practical working experience in the field of personnel administration.

* Sec. 2. AS 39.25.060(b) is amended to read:

(b) Members of the board may not be [SHALL BE QUALIFIED ELECTORS OF THE STATE WHO ARE NOT] employees [OR OFFICERS] of the state. Not more than two members of the board may be members of the same political party.

* Sec. 3. AS 39.25.070(1) is amended to read:

(1) approve or disapprove amendments to the personnel rules in accordance with AS 39.25.140 [THE ORIGINAL RULES OR A PART OF THEM WITHIN 60 DAYS OF THEIR SUBMISSION TO THE BOARD AND APPROVE OR DISAPPROVE AMENDMENT TO THE RULES WITHIN 30 DAYS OF SUBMISSION TO THE BOARD, AND IN CARRYING OUT THIS DUTY, THE BOARD, IF REQUESTED, MAY HOLD THE PUBLIC HEARINGS IT CONSIDERS NECESSARY];

* Sec. 4. AS 39.25.070(3) is amended to read:

(3) hear and determine appeals by employees [IN THE CLASSIFIED SERVICE] as provided in AS 39.25.170;

* Sec. 5. AS 39.25.070 is amended by adding a new paragraph to read:

(7) employ staff members, who shall be in the classified service.

* Sec. 6. AS 39.25.080 is repealed and reenacted to read:

Sec. 39.25.080. PUBLIC RECORDS. (a) State personnel records, including employment applications and examination materials, are confidential and are not open to public inspection except as provided in this section.

(b) The following information is available for public inspection, subject to reasonable regulations on the time and manner of inspection:

(1) the names and position titles of all state employees;

(2) the position held by a state employee;

(3) prior positions held by a state employee;

(4) whether a state employee is in the classified, partially exempt, or exempt service;

(5) the dates of appointment and separation of a state employee; and

(6) the compensation authorized for a state employee.

(c) A state employee has the right to examine his own personnel files and may authorize others to examine his files.

(d) An applicant for state employment who appeals an examination score may review written examination questions relating to the examination unless the questions are to be used in future examinations.

* Sec. 7. AS 39.25.090 is amended to read:

Sec. 39.25.090. COVERAGE OF CHAPTER. This chapter and the rules adopted under it apply to all positions in (1) the classified service, and (2) the <u>exempt and</u> partially exempt service as specifically pro-

vided.

* Sec. 8. AS 39.25.110 is repealed and reenacted to read:

Sec. 39.25.110. EXEMPT SERVICE. Unless otherwise provided by law, the following positions in the state service constitute the exempt service and are exempt from the provisions of this chapter and the rules adopted under it:

(1) persons elected to public office by popular vote or appointed to fill vacancies in elected offices;

(2) justices, judges, magistrates, and employees of the judicial branch including employees of the Judicial Council;

(3) employees of the state legislature and its agencies;

(4) the head of each principal department in the executive branch;

(5) officers and employees of the University of Alaska;

(6) certificated teachers and noncertificated employees employed by a regional educational attendance area established and organized under AS 14.08.031 - 14.08.041 to teach in, administer, or operate schools under the control of a regional educational attendance area school board;

(7) certificated teachers employed by the Department of Education as correspondence teachers or teachers in skill centers operated by the Department of Education;

(8) patients and inmates employed in state institutions;

(9) persons employed in a professional capacity to make a temporary or special inquiry, study or examination as authorized by the governor;

(10) members of boards, commissions, or authorities;

(11) the officers and employees of the following boards, commissions and authorities:

(A) Alaska Gas Pipeline Financing Authority;

(B) Alaska Permanent Fund Corporation;

(C) Alaska Energy Center;

(D) Alaska Industrial Development Authority;

(E) Alaska Commercial Fisheries Entry Commission;

(F) Alaska Commission on Postsecondary Education;

(G) Employees of the Citizens' Advisory Commission on Federal Areas in Alaska (AS 41.37.010);

(12) the executive secretary and legal counsel of the Alaska Municipal Bond Bank Authority;

(13) licensed physicians, as defined in AS 47.30.340(9) employed by the state;

(14) petroleum engineers and petroleum geologists employed in a professional capacity by the Department of Natural Resources and by the Oil and Gas Conservation Commission; except for those employed in the division of geological and geophysical surveys in the Department of Natural Resources;

(15) officers, agents, and employees of the Alcoholic Beverage Control Board granted limited peace officer powers by the Alcoholic Beverage Control Board under AS 04.06.110;

(16) persons employed by the division of marine transportation as masters and members of the crews of vessels who operate the state ferry system and who are covered by a collective bargaining agreement provided in AS 23.40.040;

(17) officers and employees of the state who reside in foreign countries;

(18) employees of the Alaska Seafood Marketing Institute;

(19) firefighters employed by the Department of Natural

Resources for a fire emergency.

* Sec. 9. AS 39.25.120 is repealed and reenacted to read:

Sec. 39.25.120. PARTIALLY EXEMPT SERVICE. (a) Positions in the partially exempt service are included in the position classification plan established under this chapter and are compensated according to the pay plan (AS 39.27.011).

(b) A person holding a position in the partially exempt service is not required to take an examination or qualify or earn a place on a register, and is not eligible for a hearing by the personnel board in case of dismissal, demotion, or suspension, except as provided in AS 39.25.170. Positions in the partially exempt service are specifically exempt from the rules established under AS 39.25.150(3) - (10), (13), (14), and (17).

(c) The following positions in the state service constitute the partially exempt service:

(1) deputy and assistant commissioners of the principal departments of the executive branch, including the assistant adjutant general of the Department of Military Affairs;

(2) the directors of the major divisions of the principal departments of the executive branch and the regional directors of the Department of Transportation and Public Facilities;

(3) attorney members of the staff of the Department of Law and of the public defender agency;

(4) one private secretary for each head of a principal department in the executive branch;

(5) employees of the Office of the Governor and the office of the lieutenant governor, including the staff of the governor's mansion;

(6) the executive director and deputy director of the Alaska Public Utilities Commission;

(7) the director, deputy director, staff legal counsel, and hearing officers of the Alaska Transportation Commission;

(8) not more than two special assistants to the commissioner of each of the principal departments of the executive branch, but the number may be increased if the partially exempt service is extended under AS 39.25.130 to include the additional special assistants;

(9) the principal executive officer of the following boards, councils, or commissions:

(A) Alaska Public Broadcasting Commission;

(B) Professional Teaching Practices Commission;

(C) Parole Board;

(D) Board of Nursing;

(E) Real Estate Commission;

(F) Alaska Royalty Oil and Gas Development Advisory Board;

(G) Alaska Historical Commission;

(H) Alaska State Council on the Arts;

(I) Alaska Police Standards Council;

(J) Council on Science and Technology;

(K) Older Alaskans Commission;

(10) Alaska Pioneers' Home managers;

(11) hearing examiners in the Department of Revenue;

(12) the comptroller in the division of treasury, Department of Revenue;

(13) investment officers in the Department of Revenue;

(14) airport managers in the Department of Transportation and Public Facilities employed at the Anchorage and Fairbanks International Airports;

(15) the deputy director of the division of tourism and the

deputy director of the division of insurance in the Department of Commerce and Economic Development;

(16) the executive director and staff of the Alaska Public Offices Commission;

(17) the director, deputy director, personnel analysts II, labor relations analysts I, labor relations analysts II, senior negotiators, and research directors of the division of labor relations in the Department of Administration.

* Sec. 10. AS 39.25.130(a) is amended to read:

(a) The [AFTER JUNE 30, 1961, THE] personnel board, upon written recommendation of the commissioner of administration, may extend the partially exempt service to include any position [WHICH WAS] in the classified service [ON APRIL 19, 1960,] which, in the judgment of the board:

(1) involves principal responsibility for the determination of policy;

(2) involves principal responsibility for the way in which policies are carried out; or

(3) involves responsibilities and duties of a type not susceptible to the ordinary recruiting and examining procedures.

* Sec. 11. AS 39.25.130(c) is amended to read:

(c) The [AFTER JUNE 30, 1961, THE] personnel board, upon written recommendation of the commissioner of administration, may extend the classified service to include any position [WHICH WAS] in the partially exempt service [ON APRIL 19, 1960].

* Sec. 12. AS 39.25.140 is repealed and reenacted to read:

Sec. 39.25.140. AMENDMENT OF PERSONNEL RULES. (a) The director of personnel shall prepare and submit proposed amendments of the personnel rules to the commissioner of administration for review and

approval.

(b) The commissioner of administration shall review the proposed amendments and if he approves them, he shall submit them to the personnel board.

(c) If the proposed amendments concern matters of public policy, the personnel board shall adopt them in accordance with the Administrative Procedure Act (AS 44.62).

(d) If the proposed amendments relate only to internal management of a state agency, the commissioner of administration shall post notice in public buildings throughout the state that the personnel board has the proposed amendments under consideration. The notice required by this subsection shall be posted at least 30 days before any decision is made to amend the personnel rules and shall include an address for the receipt of written comments.

(e) If requested by the commissioner of administration or by a person receiving notice of the proposed amendments, the personnel board may hold public hearings on the proposed amendments and may appoint a hearing officer to conduct the hearings.

(f) The personnel board may amend the proposed amendments.

(g) The proposed amendments become effective 45 days after they are submitted to the personnel board unless the board has disapproved them.

(h) The amended rules shall be published in the Alaska Administrative Register and Code for informational purposes.

* Sec. 13. AS 39.25.150 is repealed and reenacted to read:

Sec. 39.25.150. SCOPE OF THE RULES. The personnel rules shall provide for

(1) the preparation, maintenance, and revision by the director of personnel, subject to approval of the commissioner of adminis-

tration and the personnel board, of a position classification plan for all positions in the classified and partially exempt services; the position classification plan shall include

(A) a grouping together of all positions into classes on the basis of duties and responsibilities;

(B) an appropriate title, a description of the duties and responsibilities, training and experience qualifications, and other necessary specifications for each class of positions;

(2) the preparation, maintenance, revision and administration by the director of personnel of a pay plan for all positions in the classified and partially exempt services; the pay plan (A) shall be based upon the position classification plan; (B) shall provide for fair and reasonable compensation for services rendered, and reflect the principle of like pay for like work; (C) may be amended, approved, or disapproved by the legislature in regular or special session; after the pay plan is in effect, a salary or wage payment may not be made to a state employee covered by the plan unless the payment is in accordance with this chapter and the rules adopted under this chapter or unless the payment is in accordance with a valid agreement entered into in accordance with AS 23.40;

(3) the use of employee selection methods which will fairly test the capacity and fitness of the person examined to discharge the duties of the class in which employment is sought;

(4) the establishment and maintenance of eligible lists for appointment and promotion providing the names of eligible candidates in order of their relative performance in the examinations;

(5) the procedure for certifying eligible candidates;

(6) promotions from within the state service when there are qualified candidates in the state service; vacancies shall be filled by

promotion whenever practicable and in the best interest of the state service and promotion shall be by competitive examination whenever possible; in considering promotions, applicants' qualifications, performance record, seniority, and conduct shall be evaluated;

(7) a period of probation not to exceed one year before an appointment to a position becomes permanent, except that a permanent employee receiving a promotional appointment retains permanent status in the service and job class from which appointed for the duration of the probationary period and may be demoted to a former class without right of appeal, notwithstanding AS 39.25.170, but if the employee is dismissed from the service the appeal rights under AS 39.25.170 apply;

(8) nonpermanent and emergency appointments to positions in the state service in accordance with AS 39.25.195 - 39.25.200;

(9) provisional appointment without competitive examination when appropriate eligible lists are not available;

(10) transfers from one department to another and from another merit system jurisdiction to the state service;

(11) transfers from one area of the state to another;

(12) the reinstatement of a person who resigns in good standing;

(13) layoffs for reason of lack of money or work, abolition of positions, or material changes in duties or organization; both performance and seniority records shall be considered in the development of layoff orders;

(14) the development, maintenance, and use of employee performance records;

(15) the establishment of disciplinary measures which may include disciplinary suspension without pay;

(16) the procedures for review of disputed personnel actions,

for resolving employee and interagency grievances, and for resolving grievances of the general public concerning th operation of the state personnel system;

(17) hours of work for all employees in the state service;

(18) methods and procedures covering overtime work and pay;

(19) the granting of employment preference rights to a veteran not within the area of promotion, when the veteran possesses the necessary qualifications in the job classification applied for under this chapter; in an examination to determine the qualification of applicants for entrance into the classified service under merit system examination, five additional points shall be added to the passing grade of a veteran and ten additional points shall be added to the passing grade of a disabled veteran, but the additional points may be used only the first time the veteran obtains a position in the classified service; if a position in the classified service is eliminated, employees shall be released in accordance with rules which give due effect to all factors; if all job qualifications are equal, the veteran shall be given preference over the nonveteran and the veteran shall be kept on the job; this paragraph may not be interpreted to amend the terms of a collective bargaining agreement; in this paragraph

(A) "veteran" means a person with 181 days or more active service in the armed forces of the United States who has been honorably discharged after having served during any period between April 6, 1917, and December 1, 1919, between September 16, 1940, and December 31, 1947, or between June 27, 1950, and November 7, 1975;

(B) "disabled veteran" means a veteran who is entitled to compensation under laws administered by the United States Veterans' Administration, or a person who was honorably discharged

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILE 8672

1368 SCOMM 51: BLUE RIBBON COMN. ON STATE PERSONNEL ACT 1978-1983

or released from active duty because of a service-connected disability;

(20) the employment of persons in permanent positions on a part-time basis of 15 hours or more a week, including the employment of two persons to fill one permanent full-time position; these employees shall be designated as permanent part-time employees;

(21) the granting of employment preference to severely handicapped persons; this includes the right to provisional appointment without competitive examination for periods up to four months and the granting of eligibility to a severely handicapped person provisionally appointed under the rules who demonstrates ability to perform the job for permanent appointment without competitive examination; provisional employment under this paragraph may not exceed four months during a 12-month period; "severely handicapped" as used in this paragraph means persons certified by the director of the division of vocational rehabilitation to be severely handicapped;

(22) the establishment of programs facilitating the employment of disadvantaged persons, including limitation of competition for appointment and promotion to individuals who meet the program requirements;

(23) the delegation, when feasible, of personnel responsibilities and duties to the principal departments of the executive branch;

(24) the establishment of a transition period of up to 12 months for an employee to be reappointed to a classified position if the employee's position is withdrawn from the partially exempt or exempt service and placed in the classified service;

(25) other rules and administrative regulations, not inconsistent with this chapter, which are necessary for its enforcement.

* Sec. 14. AS 39.25.153 is repealed and reenacted to read:

Sec. 39.25.153. PERSONNEL OFFICERS. (a) If a principal department of the executive branch has a personnel officer, the personnel officer shall be employed by and located within that department.

(b) Subject to the provisions of (d) of this section, the personnel officers for the Departments of Transportation and Public Facilities, Fish and Game, Education, Labor, and Health and Social Services, have the following powers with respect to the classes of positions unique to their departments:

(1) to assign positions to an existing class in the state classification plan and to the salary range for that class as established by the state pay plan or by a valid agreement entered into in accordance with AS 23.40;

(2) to administer and score examinations and to place successful applicants on departmental eligible lists;

(3) to certify those eligible to the appointing authorities.

(c) The initial determination of classes of positions unique to the departments listed in (b) of this section shall be made by the personnel officer of the department in consultation with the commissioner of his department subject to the approval of the director of personnel in the Department of Administration.

(d) The assumption of a power set out in ( ) of this section must be approved by the commissioner of administration and must be in harmony with the merit principle of personnel administration (AS 39.25.010).

* Sec. 15. AS 39.25.160 is repealed and reenacted to read:

Sec. 39.25.160. GENERALLY. (a) A classified employee may not take an active part in the management of a political party above the precinct level.

(b) A person may not give, render, pay, offer, solicit, or accept money, services, or other valuable thing in connection with securing or

making an appointment, promotion, or advantage in a position in the classified service.

(c) A person may not require an assessment, subscription, contribution, or service for a political party from a state employee.

(d) A person may not seek or attempt to use a political party endorsement in connection with an appointment or promotion in the classified service.

(e) An employee in the classified or partially exempt service who seeks nomination or becomes a candidate for state or national elective political office shall immediately resign any position held in the state service. The employee's position becomes vacant on the date the employee files a declaration of candidacy for state or national elective office.

(f) Action affecting the employment status of a state employee or an applicant for state service, including appointment, promotion, demotion, suspension, or removal, may not be taken or withheld on the basis of unlawful discrimination due to race, religion, color, or national origin, age, handicap, sex, marital status, change in marital status, pregnancy, or parenthood. In addition, action affecting the employment status of an employee in the classified service, including appointment, promotion, demotion, suspension, or removal, may not be taken or withheld for a reason not related to merit.

(g) Action affecting the employment status of an employee in the classified service or an applicant for a position in the classified service, including appointment, promotion, demotion, suspension, or removal, may not be taken or withheld on the basis of unlawful discrimination due to political beliefs.

(h) A person may not knowingly make a false statement, certificate, mark, rating, or report with regard to a test, certification, or

appointment made under this chapter or in any manner commit a fraud preventing the impartial execution of this chapter and the personnel rules adopted under this chapter.

(i) A person may not obstruct the right of another person to examination, eligibility, certification, appointment, or promotion under this chapter.

* Sec. 16. AS 39.25.170 is repealed and reenacted to read:

Sec. 39.25.170. HEARINGS AND APPEALS UPON DISMISSAL, DEMOTION, OR SUSPENSION. (a) An employee in the executive branch of state government may be dismissed, demoted, or suspended by delivery of written notice of the proposed action and the reason for it from the appointing authority to the employee.

(b) A permanent employee in the classified service who has been dismissed, demoted, or suspended may appeal the action to the personnel board.

(c) An employee in the executive branch of state government who has been dismissed, demoted, or suspended due to unlawful discrimination based on race, religion, color, or national origin, or because of age, handicap, sex, marital status, change in marital status, pregnancy, or parenthood may appeal the action to the personnel board.

(d) An employee in the classified service who has been dismissed, demoted, or suspended due to unlawful discrimination based on political beliefs may appeal the action to the personnel board.

(e) A permanent employee in the classified service who holds probationary status in his present position may appeal a dismissal from the classified service to the personnel board.

(f) An employee who is on leave without pay from a position in the classified service and who is employed by the state in another capacity, either in the exempt or partially exempt service,

may appeal a dismissal from the classified service to the personnel board.

(g) An employee begins an appeal by filing a written request for review of the action with the personnel board within 15 days of receiving written notice of the action from the appointing authority.

(h) If requested by the employee at the time of filing an appeal, the personnel board shall hold a hearing to determine the reasonableness of the the action taken by the appointing authority. If the employee requests it, the hearing shall be open to the public. The employee may be represented by another person and has the right to present evidence, and to confront and cross-examine witnesses. Technical rules of evidence do not apply to the hearing, but all testimony shall be taken under oath.

(i) If the personnel board finds that the action complained of was due to unlawful discrimination based on race, sex, color, religion, national origin, age, handicap, marital status, change in marital status, pregnancy, or parenthood, or in violation of the provisions of this chapter or the personnel rules, the employee shall be reinstated to the position without loss of pay or leave benefit for the period of dismissal, demotion, or suspension. In addition, if the personnel board finds that the action complained of by an employee in the classified service was due to unlawful discrimination based on a political belief or any other reason related to merit the employee shall be reinstated to the position without loss of pay or leave benefit for the period of dismissal, demotion, or suspension. In all other cases, the board shall report its findings and recommendations in writing, to both parties within 30 days of a hearing conducted under (h) of this section, and the decision of the board may be appealed to the superior court.

* Sec. 17. AS 39.25 is amended by adding a new section to read:

Sec. 39.25.175. **PROCEDURE.** (a) A subpoena shall be issued at the request of a party to a proceeding begun under AS 39.25.170.

(b) If a person refuses to respond to a subpoena issued under this section, or refuses to testify at a hearing authorized by AS 39.-25.170, the personnel board may apply to the superior court for an order requiring the person to respond to the subpoena or to testify.

(c) Failure to obey the order of the superior court requiring response to a subpoena or testimony at a hearing may be punished as contempt of court.

* Sec. 18. AS 39.25 is amended by adding a new section to read:

Sec. 39.25.181. DEFINITIONS. In this chapter,

(1) "fraud" means for a person to knowingly

(A) create or confirm another's false impression which the person does not believe to be true, including false impressions as to law or value and false impressions as to intention or other state of mind;

(B) fail to correct another's false impression which the person previously has created or confirmed;

(C) prevent another from acquiring pertinent information;

(2) "knowingly" means for a person to be aware with respect to conduct or to a circumstance described by a provision of law that his conduct is of that nature or that the circumstance exists; when knowledge of the existence of a particular fact is required, that knowledge is established if a person is aware of a substantial probability of its existence, unless he actually believes it does not exist;

(3) "precinct" means the territory within which resident voters may cast votes at one polling place;

(4) "state employee" means a person employed by the state

who is paid a wage or salary, but does not include a person hired by the state to work as an independent contractor or a person who is in the custody of the state.

* Sec. 19. AS 39.25 is amended by adding a new section to article 6 to read:

Sec. 39.25.192. EMPLOYEE POLITICAL RIGHTS. A state employee may

(1) be a member of a national, state, or local political party;

(2) take part in a political campaign;

(3) express political opinions except while performing official duties;

(4) register party preference;

(5) serve as a voting or nonvoting delegate to a party convention;

(6) be appointed, nominated, or elected to nonpartisan public office in a local government unit; and

(7) make contributions to a political party or a candidate for public office.

* Sec. 20. AS 39.25.180 is repealed.

* Sec. 21. This Act takes effect July 1, 1982.

PROPOSED AMENDMENTS TO SB 193

Section 8

(11) the officers and employees of the following boards, commissions and authorities:

(A) Alaska Gas Pipeline Financing Authority;

(B) Alaska Permanent Fund Corporation;

(C) Alaska Energy Center;

(D) Alaska Industrial Development Authority;

(12) the executive officer of the Alaska Commission on Postsecondary Education and the Alaska Commercial Fisheries Entry Commission.

COMMENTS

In order to place the employees of the Alaska Commission on Postsecondary Education and Alaska Commercial Fisheries Entry Commission in classified service, the following changes are necessary:

TITLE would have amended

Sec. 16.43.080 is amended to read as follows:

Sec. 66.43.080. Employment of personnel. (a) The commission may employ those persons necessary to carry out the purposes of this chapter. [EMPLOYEES] The executive officer of the commission [ARE] is in the exempt service under AS 39.25.110. Other employees of the commission are in the classified service.

Sec. 14.40.913 is amended to read as follows:

Sec 14.40.913. Executive officer and staff; administration. (a) The commission may employ those persons necessary to carry out the purposes of this chapter. The commission may appoint an executive officer. The executive officer is a member of the exempt service under AS 39.25.110, serves at the pleasure of the commission, and he receives compensation fixed by the commission. Other employees of the commission are in the classified service [THE EXECUTIVE OFFICER APPOINTS PERSONS TO THE STAFF POSITIONS AUTHORIZED BY THE COMMISSION, AND STAFF COMPENSATION IS FIXED BY THE COMMISSION.] The executive officer is the executive secretary of the student financial aid committee. Each employee of the commission shall elect membership either in the state teachers' retirement system (AS 14.25), if qualified, or in the public employees' retirement system (AS 39.35).

APEA

PROPOSED AMENDMENTS TO SB 193

Section 12

Sec. 39.25.140. AMENDMENT OF PERSONNEL RULES. (a) The director of personnel shall prepare and submit proposed amendments of the personnel rules to the commissioner of administration for review and approval.

(b) The commissioner of administration shall review the proposed amendments and if he approves them, he shall submit them to the personnel board.

(c) When the proposed amendments are submitted to the personnel board, the commissioner of administration shall post notice in public buildings throughout the state that the personnel board has the proposed amendments under consideration.

(1) notice of the proposed amendments shall be posted for at least 30 days;

(2) if requested by the commissioner of administration or by a person receiving notice of the proposed amendments, the personnel board may hold public hearings on the proposed amendments and may appoint a hearing officer to conduct the hearings;

(3) the personnel board may amend the proposed amendments;

(4) the proposed amendments become effective 45 days after they are submitted to the personnel board unless the board has disapproved them;

(5) the amended rules shall be published in the Alaska Administrative Register and Code for informational purposes.

COMMENTS

Paragraphs d, e, and f were deleted. Paragraphs e-1 through e-5 become c-1 through c-5 subsections.

The subjects included as matters of public policy are all negotiable items under the collective bargaining process.

PROPOSED AMENDMENTS TO SB 193

Section 13 AS 39.25.150 (3)

(3) the use of employee selection methods which will fairly test the capacity and fitness of the person examined to [EFFICIENTLY] discharge the duties of the class in which employment is sought;

COMMENTS

While capacity and the fitness of an individual may be tested, it is impossible to test an individual's efficiency.

PROPOSED AMENDMENTS TO SB 193

Section 16 AS 39.25.170

(c) An employee who has been dismissed, demoted, or suspended due to unlawful discrimination based on race, religion, color or national origin, or because of his age, physical handicap, sex, marital status, changes in marital status, pregnancy or parenthood when the reasonable demands of the position do not require distinction on the basis of age, physical handicap, sex, marital status, changes in marital status, pregnancy, parenthood, or any other non merit reason may appeal the action to the personnel board.

(d) An employee in the classified service who has been dismissed, demoted, or suspended due to unlawful discrimination or based on race, religion, color or national origin, or because of his age, physical handicap, sex, marital status, changes in marital status, pregnancy or parenthood when the reasonable demands of the position do not require distinction on the basis of age, physical handicap, sex, marital status, changes in marital status, pregnancy, parenthood, political beliefs, or any other non merit reason may appeal the action of the personnel board.

PROPOSED AMENDMENTS TO SB 193

Section 15 AS 39.25.160

(f) Action affecting the employment status of a state employee or an applicant for a position in state service, including appointment, promotion, demotion, suspension, or removal, may not be withheld on the basis of unlawful discrimination due to race, religion, color or national origin, or because of his age, physical handicap, sex, marital status, changes in marital status, pregnancy or parenthood when the reasonable demands of the position do not require distinction on the basis of age, physical handicap, sex, marital status, changes in marital status, pregnancy, parenthood, or any other non merit reason.

(g) Action affecting the employment status of an employee in the classified service or an applicant for a position in the classified service, including appointment, promotion, demotion, suspension, or removal, may not be taken or withheld on the basis of unlawful discrimination due to race, religion, color or natonal origin, or because of his age, physical handicap, sex, marital status, changes in marital status, pregnancy or parenthood when the reasonable demands of the position do not require distinction on the basis of age physical handicap, sex, marital status, changes in marital status, pregnancy, parenthood, political beliefs, or any other non merit reason.

Offered: 4/7/82
Referred: Rules

Original sponsor: Rules/Legislative Council

IN THE SENATE BY THE JUDICIARY COMMITTEE

CS FOR SENATE BILL NO. 193 (Judiciary)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act amending state personnel laws; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 39.25.040 is amended to read:

Sec. 39.25.040. DIRECTOR OF PERSONNEL. The head of the division of personnel is the director of personnel appointed by the commissioner of administration and responsible to the commissioner of administration for the execution of the duties and responsibilities imposed by this chapter and the rules adopted under this chapter. The director of personnel <u>shall</u> [MUST] have at least three years of practical working experience in the field of personnel administration.

* Sec. 2. AS 39.25.060(b) is amended to read:

(b) Members of the board <u>may not be</u> [SHALL BE QUALIFIED ELECTORS OF THE STATE WHO ARE NOT] employees [OR OFFICERS] of the state. Not more than two members of the board may be members of the same political party.

* Sec. 3. AS 39.25.070(1) is amended to read:

(1) approve or disapprove <u>amendments to the personnel rules in accordance with AS 39.25.140</u> [THE ORIGINAL RULES OR A PART OF THEM WITHIN 60 DAYS OF THEIR SUBMISSION TO THE BOARD AND APPROVE OR DISAPPROVE AMENDMENT TO THE RULES WITHIN 30 DAYS OF SUBMISSION TO THE BOARD, AND IN CARRYING OUT THIS DUTY, THE BOARD, IF REQUESTED, MAY HOLD THE PUBLIC HEARINGS IT CONSIDERS NECESSARY];

* Sec. 4. AS 39.25.070(3) is amended to read:

(3) hear and determine appeals by employees [IN THE CLASSIFIED SERVICE] as provided in AS 39.25.170;

* Sec. 5. AS 39.25.070 is amended by adding a new paragraph to read:

(7) employ staff members, who shall be in the classified service.

* Sec. 6. AS 39.25.080 is repealed and reenacted to read:

Sec. 39.25.080. PUBLIC RECORDS. (a) State personnel records, including employment applications and examination materials, are confidential and are not open to public inspection except as provided in this section.

(b) The following information is available for public inspection, subject to reasonable regulations on the time and manner of inspection:

(1) the names and position titles of all state employees;

(2) the position held by a state employee;

(3) prior positions held by a state employee;

(4) whether a state employee is in the classified, partially exempt, or exempt service;

(5) the dates of appointment and separation of a state employee; and

(6) the compensation authorized for a state employee.

(c) A state employee has the right to examine his own personnel files and may authorize others to examine his files.

(d) An applicant for state employment who appeals an examination score may review written examination questions relating to the examination unless the questions are to be used in future examinations.

* Sec. 7. AS 39.25.090 is amended to read:

Sec. 39.25.090. COVERAGE OF CHAPTER. This chapter and the rules adopted under it apply to all positions in (1) the classified service, and (2) the <u>exempt and</u> partially exempt service as specifically pro-

vided.

* Sec. 8. AS 39.25.110 is repealed and reenacted to read:

Sec. 39.25.110. EXEMPT SERVICE. Unless otherwise provided by law, the following positions in the state service constitute the exempt service and are exempt from the provisions of this chapter and the rules adopted under it:

(1) persons elected to public office by popular vote or appointed to fill vacancies in elected offices;

(2) justices, judges, magistrates, and employees of the judicial branch including employees of the Judicial Council;

(3) employees of the state legislature and its agencies;

(4) the head of each principal department in the executive branch;

(5) officers and employees of the University of Alaska;

(6) certificated teachers and noncertificated employees employed by a regional educational attendance area established and organized under AS 14.08.031 - 14.08.041 to teach in, administer, or operate schools under the control of a regional educational attendance area school board;

(7) certificated teachers employed by the Department of Education as correspondence teachers or teachers in skill centers operated by the Department of Education;

(8) patients and inmates employed in state institutions;

(9) persons employed in a professional capacity to make a temporary or special inquiry, study or examination as authorized by the governor;

(10) members of boards, commissions, or authorities;

(11) the officers and employees of the following boards, commissions and authorities:

(A) Alaska Gas Pipeline Financing Authority;

(B) Alaska Permanent Fund Corporation;

(C) Alaska Energy Center;

(D) Alaska Industrial Development Authority;

(E) Alaska Commercial Fisheries Entry Commission;

(F) Alaska Commission on Postsecondary Education;

(12) the executive secretary and legal counsel of the Alaska Municipal Bond Bank Authority;

(13) licensed physicians, as defined in AS 47.30.340(9) employed by the state;

(14) petroleum engineers and petroleum geologists employed in a professional capacity by the Department of Natural Resources and by the Oil and Gas Conservation Commission; except for those employed in the division of geological and geophysical surveys in the Department of Natural Resources;

(15) officers, agents, and employees of the Alcoholic Beverage Control Board granted limited peace officer powers by the Alcoholic Beverage Control Board under AS 04.06.110;

(16) persons employed by the division of marine transportation as masters and members of the crews of vessels who operate the state ferry system and who are covered by a collective bargaining agreement provided in AS 23.40.040;

(17) officers and employees of the state who reside in foreign countries;

(18) employees of the Alaska Seafood Marketing Institute;

(19) firefighters employed by the Department of Natural Resources for a fire emergency.

* Sec. 9. AS 39.25.120 is repealed and reenacted to read:

Sec. 39.25.120. PARTIALLY EXEMPT SERVICE. (a) Positions in the partially exempt service are included in the position classification plan established under this chapter and are compensated according to the pay plan (AS 39.27.011).

(b) A person holding a position in the partially exempt service is not required to take an examination or qualify or earn a place on a register, and is not eligible for a hearing by the personnel board in case of dismissal, demotion, or suspension, except as provided in AS 39.25.170. Positions in the partially exempt service are specifically exempt from the rules established under AS 39.25.150(3) - (10), (13), (14), and (17).

(c) The following positions in the state service constitute the partially exempt service:

(1) deputy and assistant commissioners of the principal departments of the executive branch, including the assistant adjutant general of the Department of Military Affairs;

(2) the directors of the major divisions of the principal departments of the executive branch and the regional directors of the Department of Transportation and Public Facilities;

(3) attorney members of the staff of the Department of Law and of the public defender agency;

(4) one private secretary for each head of a principal department in the executive branch;

(5) employees of the Office of the Governor and the office of the lieutenant governor, including the staff of the governor's mansion;

(6) the executive director and deputy director of the Alaska Public Utilities Commission;

(7) the director, deputy director, staff legal counsel, and hearing officers of the Alaska Transportation Commission;

(8) not more than two special assistants to the commissioner of each of the principal departments of the executive branch, but the number may be increased if the partially exempt service is extended under AS 39.25.130 to include the additional special assistants;

(9) the principal executive officer of the following boards, councils, or commissions:

(A) Alaska Public Broadcasting Commission;

(B) Professional Teaching Practices Commission;

(C) Parole Board;

(D) Board of Nursing;

(E) Real Estate Commission;

(F) Alaska Royalty Oil and Gas Development Advisory Board;

(G) Alaska Historical Commission;

(H) Alaska State Council on the Arts;

(I) Alaska Police Standards Council;

(J) Council on Science and Technology;

(K) Older Alaskans Commission;

(10) Alaska Pioneers' Home managers;

(11) hearing examiners in the Department of Revenue;

(12) the comptroller in the division of treasury, Department of Revenue;

(13) investment officers in the Department of Revenue;

(14) airport managers in the Department of Transportation and Public Facilities employed at the Anchorage and Fairbanks International Airports;

(15) the deputy director of the division of tourism and the deputy director of the division of insurance in the Department of Commerce and Economic Development;

(16) the executive director and staff of the Alaska Public Offices Commission.

* Sec. 10. AS 39.25.130(a) is amended to read:

(a) The [AFTER JUNE 30, 1961, THE] personnel board, upon written recommendation of the commissioner of administration, may extend the partially exempt service to include any position [WHICH WAS] in the classified service [ON APRIL 19, 1960,] which, in the judgment of the board:

(1) involves principal responsibility for the determination of policy;

(2) involves principal responsibility for the way in which policies are carried out; or

(3) involves responsibilities and duties of a type not susceptible to the ordinary recruiting and examining procedures.

* Sec. 11. AS 39.25.130(c) is amended to read:

(c) The [AFTER JUNE 30, 1961, THE] personnel board, upon written recommendation of the commissioner of administration, may extend the classified service to include any position [WHICH WAS] in the partially exempt service [ON APRIL 19, 1960].

* Sec. 12. AS 39.25.140 is repealed and reenacted to read:

Sec. 39.25.140. AMENDMENT OF PERSONNEL RULES. (a) The director of personnel shall prepare and submit proposed amendments of the personnel rules to the commissioner of administration for review and approval.

(b) The commissioner of administration shall review the proposed amendments and if he approves them, he shall submit them to the personnel board.

(c) If the proposed amendments concern matters of public policy, the personnel board shall adopt them in accordance with the Administra-

tive Procedure Act (AS 44.62).

(d) If the proposed amendments relate only to internal management of a state agency, the commissioner of administration shall post notice in public buildings throughout the state that the personnel board has the proposed amendments under consideration. The notice required by this subsection shall be posted at least 30 days before any decision is made to amend the personnel rules and shall include an address for the receipt of written comments.

(e) If requested by the commissioner of administration or by a person receiving notice of the proposed amendments, the personnel board may hold public hearings on the proposed amendments and may appoint a hearing officer to conduct the hearings.

(f) The personnel board may amend the proposed amendments.

(g) The proposed amendments become effective 45 days after they are submitted to the personnel board unless the board has disapproved them.

(h) The amended rules shall be published in the Alaska Administrative Register and Code for informational purposes.

* Sec. 13. AS 39.25.150 is repealed and reenacted to read:

Sec. 39.25.150. SCOPE OF THE RULES. The personnel rules shall provide for

(1) the preparation, maintenance, and revision by the director of personnel, subject to approval of the commissioner of administration and the personnel board, of a position classification plan for all positions in the classified and partially exempt services; the position classification plan shall include

(A) a grouping together of all positions into classes on the basis of duties and responsibilities;

(B) an appropriate title, a description of the duties

and responsibilities, training and experience qualifications, and other necessary specifications for each class of positions;

(2) the preparation, maintenance, revision and administration by the director of personnel of a pay plan for all positions in the classified and partially exempt services; the pay plan (A) shall be based upon the position classification plan; (B) shall provide for fair and reasonable compensation for services rendered, and reflect the principle of like pay for like work; (C) may be amended, approved, or disapproved by the legislature in regular or special session; after the pay plan is in effect, a salary or wage payment may not be made to a state employee covered by the plan unless the payment is in accordance with this chapter and the rules adopted under this chapter or unless the payment is in accordance with a valid agreement entered into in accordance with AS 23.40;

(3) the use of employee selection methods which will fairly test the capacity and fitness of the person examined to discharge the duties of the class in which employment is sought;

(4) the establishment and maintenance of eligible lists for appointment and promotion providing the names of eligible candidates in order of their relative performance in the examinations;

(5) the procedure for certifying eligible candidates;

(6) promotions from within the state service when there are qualified candidates in the state service; vacancies shall be filled by promotion whenever practicable and in the best interest of the state service and promotion shall be by competitive examination whenever possible; in considering promotions, applicants' qualifications, performance record, seniority, and conduct shall be evaluated;

(7) a period of probation not to exceed one year before an appointment to a position becomes permanent, except that a permanent

employee receiving a promotional appointment retains permanent status in the service and job class from which appointed for the duration of the probationary period and may be demoted to a former class without right of appeal, notwithstanding AS 39.25.170, but if the employee is dismissed from the service the appeal rights under AS 39.25.170 apply;

(8) nonpermanent and emergency appointments to positions in the state service in accordance with AS 39.25.195 - 39.25.200;

(9) provisional appointment without competitive examination when appropriate eligible lists are not available;

(10) transfers from one department to another and from another merit system jurisdiction to the state service;

(11) transfers from one area of the state to another;

(12) the reinstatement of a person who resigns in good standing;

(13) layoffs for reason of lack of money or work, abolition of positions, or material changes in duties or organization; both performance and seniority records shall be considered in the development of layoff orders;

(14) the development, maintenance, and use of employee performance records;

(15) the establishment of disciplinary measures which may include disciplinary suspension without pay;

(16) the procedures for review of disputed personnel actions, for resolving employee and interagency grievances, and for resolving grievances of the general public concerning the operation of the state personnel system;

(17) hours of work for all employees in the state service;

(18) methods and procedures covering overtime work and pay;

(19) the granting of employment preference rights to a veteran

not within the area of promotion, when the veteran possesses the necessary qualifications in the job classification applied for under this chapter; in an examination to determine the qualification of applicants for entrance into the classified service under merit system examination, five additional points shall be added to the passing grade of a veteran and ten additional points shall be added to the passing grade of a disabled veteran, but the additional points may be used only the first time the veteran obtains a position in the classified service; if a position in the classified service is eliminated, employees shall be released in accordance with rules which give due effect to all factors; if all job qualifications are equal, the veteran shall be given preference over the nonveteran and the veteran shall be kept on the job; this paragraph may not be interpreted to amend the terms of a collective bargaining agreement; in this paragraph

(A) "veteran" means a person with 181 days or more active service in the armed forces of the United States who has been honorably discharged after having served during any period between April 6, 1917, and December 1, 1919, between September 16, 1940, and December 31, 1947, or between June 27, 1950, and November 7, 1975;

(B) "disabled veteran" means a veteran, as defined in (A) of this paragraph, who is entitled to compensation under laws administered by the United States Veterans' Administration, or a person who was discharged or released from active duty because of a service-connected disability;

(20) the employment of persons in permanent positions on a part-time basis of 15 hours or more a week, including the employment of two persons to fill one permanent full-time position; these employees shall be designated as permanent part-time employees;

(21) the granting of employment preference to severely handicapped persons; this includes the right to provisional appointment without competitive examination for periods up to four months and the granting of eligibility to a severely handicapped person provisionally appointed under the rules who demonstrates ability to perform the job for permanent appointment without competitive examination; provisional employment under this paragraph may not exceed four months during a 12-month period; "severely handicapped" as used in this paragraph means persons certified by the director of the division of vocational rehabilitation to be severely handicapped;

(22) the establishment of programs facilitating the employment of disadvantaged persons, including limitation of competition for appointment and promotion to individuals who meet the program requirements;

(23) the delegation, when feasible, of personnel responsibilities and duties to the principal departments of the executive branch;

(24) the establishment of a transition period of up to 12 months for an employee to be reappointed to a classified position if the employee's position is withdrawn from the partially exempt or exempt service and placed in the classified service;

(25) other rules and administrative regulations, not inconsistent with this chapter, which are necessary for its enforcement.

* Sec. 14. AS 39.25.153 is repealed and reenacted to read:

Sec. 39.25.153. PERSONNEL OFFICERS. (a) If a principal department of the executive branch has a personnel officer, the personnel officer shall be employed by and located within that department.

(b) Subject to the provisions of (d) of this section, the personnel officers for the Departments of Transportation and Public Facilities, Fish and Game, Education, Labor, and Health and Social Services,

have the following powers with respect to the classes of positions unique to their departments:

(1) to assign positions to an existing class in the state classification plan and to the salary range for that class as established by the state pay plan or by a valid agreement entered into in accordance with AS 23.40;

(2) to administer and score examinations and to place successful applicants on departmental eligible lists;

(3) to certify those eligible to the appointing authorities.

(c) The initial determination of classes of positions unique to the departments listed in (b) of this section shall be made by the personnel officer of the department in consultation with the commissioner of his department subject to the approval of the director of personnel in the Department of Administration.

(d) The assumption of a power set out in (b) of this section must be approved by the commissioner of administration and must be in harmony with the merit principle of personnel administration (AS 39.25.010).

* Sec. 15. AS 39.25.160 is repealed and reenacted to read:

Sec. 39.25.160. GENERALLY. (a) A classified employee may not take an active part in the management of a political party above the precinct level.

(b) A person may not give, render, pay, offer, solicit, or accept money, services, or other valuable thing in connection with securing or making an appointment, promotion, or advantage in a position in the classified service.

(c) A person may not require an assessment, subscription, contribution, or service for a political party from a state employee.

(d) A person may not seek or attempt to use a political party endorsement in connection with an appointment or promotion in the

classified service.

(e) An employee in the classified or partially exempt service who seeks nomination or becomes a candidate for state or national elective political office shall immediately resign any position held in the state service. The employee's position becomes vacant on the date the employee files a declaration of candidacy for state or national elective office.

(f) Action affecting the employment status of a state employee or an applicant for state service, including appointment, promotion, demotion, suspension, or removal, may not be taken or withheld on the basis of unlawful discrimination due to race, religion, color, or national origin, age, handicap, sex, marital status, change in marital status, pregnancy, or parenthood. In addition, action affecting the employment status of an employee in the classified service, including appointment, promotion, demotion, suspension, or removal, may not be taken or withheld for a reason not related to merit.

(g) Action affecting the employment status of an employee in the classified service or an applicant for a position in the classified service, including appointment, promotion, demotion, suspension, or removal, may not be taken or withheld on the basis of unlawful discrimination due to political beliefs.

(h) A person may not knowingly make a false statement, certificate, mark, rating, or report with regard to a test, certification, or appointment made under this chapter or in any manner commit a fraud preventing the impartial execution of this chapter and the personnel rules adopted under this chapter.

(i) A person may not obstruct the right of another person to examination, eligibility, certification, appointment, or promotion under this chapter.

* Sec. 16. AS 39.25.170 is repealed and reenacted to read:

Sec. 39.25.170. HEARINGS AND APPEALS UPON DISMISSAL, DEMOTION, OR SUSPENSION. (a) An employee in the executive branch of state government may be dismissed, demoted, or suspended by delivery of written notice of the proposed action and the reason for it from the appointing authority to the employee.

(b) A permanent employee in the classified service who has been dismissed, demoted, or suspended may appeal the action to the personnel board.

(c) An employee in the executive branch of state government who has been dismissed, demoted, or suspended due to unlawful discrimination based on race, religion, color, or national origin, or because of age, handicap, sex, marital status, change in marital status, pregnancy, or parenthood may appeal the action to the personnel board.

(d) An employee in the classified service who has been dismissed, demoted, or suspended due to unlawful discrimination based on political beliefs may appeal the action to the personnel board.

(e) A permanent employee in the classified service who holds probationary status in his present position may appeal a dismissal from the classified service to the personnel board.

(f) An employee who is on leave without pay from a position in the classified service and who is employed by the state in another capacity, either in the exempt or partially exempt service, may appeal a dismissal from the classified service to the personnel board.

(g) An employee begins an appeal by filing a written request for review of the action with the personnel board within 15 days of receiving written notice of the action from the appointing authority.

(h) If requested by the employee at the time of filing an appeal,

the personnel board shall hold a hearing to determine the reasonableness of the the action taken by the appointing authority. If the employee requests it, the hearing shall be open to the public. The employee may be represented by another person and has the right to present evidence, and to confront and cross-examine witnesses. Technical rules of evidence do not apply to the hearing, but all testimony shall be taken under oath.

(i) If the personnel board finds that the action complained of was due to unlawful discrimination based on race, sex, color, religion, national origin, age, handicap, marital status, change in marital status, pregnancy, or parenthood, or in violation of the provisions of this chapter or the personnel rules, the employee shall be reinstated to the position without loss of pay or leave benefit for the period of dismissal, demotion, or suspension. In addition, if the personnel board finds that the action complained of by an employee in the classified service was due to unlawful discrimination based on a political belief or any other reason related to merit the employee shall be reinstated to the position without loss of pay or leave benefit for the period of dismissal, demotion, or suspension. In all other cases, the board shall report its findings and recommendations in writing, to both parties within 30 days of a hearing conducted under (h) of this section, and the decision of the board may be appealed to the superior court.

* Sec. 17. AS 39.25 is amended by adding a new section to read:

Sec. 39.25.175. PROCEDURE. (a) A subpoena shall be issued at the request of a party to a proceeding begun under AS 39.25.170.

(b) If a person refuses to respond to a subpoena issued under this section, or refuses to testify at a hearing authorized by AS 39.-25.170, the personnel board may apply to the superior court for an order requiring the person to respond to the subpoena or to testify.

(c) Failure to obey the order of the superior court requiring response to a subpoena or testimony at a hearing may be punished as contempt of court.

* Sec. 18. AS 39.25 is amended by adding a new section to read:

Sec. 39.25.181. DEFINITIONS. In this chapter,

(1) "fraud" means for a person to knowingly

(A) create or confirm another's false impression which the person does not believe to be true, including false impressions as to law or value and false impressions as to intention or other state of mind;

(B) fail to correct another's false impression which the person previously has created or confirmed;

(C) prevent another from acquiring pertinent information;

(2) "knowingly" means for a person to be aware with respect to conduct or to a circumstance described by a provision of law that his conduct is of that nature or that the circumstance exists; when knowledge of the existence of a particular fact is required, that knowledge is established if a person is aware of a substantial probability of its existence, unless he actually believes it does not exist;

(3) "precinct" means the territory within which resident voters may cast votes at one polling place;

(4) "state employee" means a person employed by the state who is paid a wage or salary, but does not include a person hired by the state to work as an independent contractor or a person who is in the custody of the state.

* Sec. 19. AS 39.25 is amended by adding a new section to article 6 to read:

Sec. 39.25.192. EMPLOYEE POLITICAL RIGHTS. A state employee may

(1) be a member of a national, state, or local political party;

(2) take part in a political campaign;

(3) express political opinions except while performing official duties;

(4) register party preference;

(5) serve as a voting or nonvoting delegate to a party convention;

(6) be appointed, nominated, or elected to nonpartisan public office in a local government unit; and

(7) make contributions to a political party or a candidate for public office.

* Sec. 20. AS 39.25.180 is repealed.

* Sec. 21. This Act takes effect July 1, 1982.

SB
193

FISCAL NOTE

I. REQUEST
Bill/Resolution No. CS SB 193 (Jud) Page 1 of 2
Title An Act amending state personnel laws; and an effective date
Requested by Date 04-16-82

II. FISCAL DETAIL
Agency Affected Administration
Program Category Affected Personnel
BRU, Program, Or Subprogram(s) Affected Personnel, Personnel Board
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES		42.2	22.6	24.2	25.8	27.7
200 TRAVEL		7.6	6.9	7.5	8.3	9.1
300 CONTRACTUAL		26.2				
400 COMMODITIES		.6	.6	.7	.8	.8
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL		76.6	30.1	32.4	35.7	37.6

FUNDING (Thousands of Dollars)

GENERAL FUND		76.6	30.1	32.4	35.7	37.6
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME		1	0	0	0	0
PART TIME		0	1	1	1	1
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)
Section 12 of CS SB 913 (Jud) am provides for adoption of amendments to the Personnel Rules that concern public policy under the Administrative Procedures Act, and for amended Rules (including those not concerning public policy) to be published in the Alaska Administrative Register and Code. CS SB 193 (Jud) am makes several minor changes to the Personnel Act that will require amending the Personnel Rules. The major costs for FY 83 are:

1) contracting with the Department of Law for an attorney for four months to:

- rewrite the current Personnel Rules to AAC standards
- draft amendments incorporating changes in the Personnel Act

IV. DATE 04-16-82 PREPARED BY Michael P. McMullen
AGENCY Administration - Division of Personnel
PHONE 465-4430

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

FICAL NOTE continued

- modify amendments based on hearings
- file the amended rules with the Lt. Governor
- compile a Personnel Act – Personnel Rules cross-reference
- identify forms needing revision to reference the appropriate AAC provisions instead of the former rule
- Revise Administrative Manual and Operating Procedures to properly reference revised Personnel rules

($19.2 Thous.)

2) Personal Services to employ Regulations Specialist to revise existing procedures, manuals, forms and letters to properly cite revised Personnel rules. Position would be half-time after first year.

($42.2 Thous.)

3) travel and per diem for attorney and the Personnel Board for two hearings to adopt the rules and amendments as Code.

($2.8 Thous.)

4) public notice of the hearings and proposed amendments. ($ .6 Thous.)

5) typing of drafts, revision and filing version. ($2.0 Thous.)

6) printing of forms incorporating AAC references. ($1.0 Thous.)

In subsequent years, one two-day hearings by the Personnel Board to adopt amendments is budgeted. Travel is inflated 10% annually and public notice costs at 8%. Personal Services inflated at 7% per year.

Section 13 of CS SB 193 (Jud) am contains a significant change in the definition and preference accorded to veterans. In addition to the need to amend the Personnel Rules accordingly, there is a need to incorporate the new provision in the automated Applicant Tracking System. This one time contractual service cost is estimated at $4 thousand.

Section 16 of CS SB 193 (Jud) am duplicates AS 18.80 providing hearing and appeal rights to partially exempt and exempt employees of the Executive Branch for actions alledgedly in violation of the employees' Civil Rights. It is assumed that these employees will file appeals in the same proportion to their numbers as other executive branch employees file complaints under AS 18.80 for the same actions. Each will require a two day hearing before the Personnel Board. Travel and per diem costs for FY 83 are $4.8 thousand. They are inflated 10% annually. On this basis, four complaints per year are projected. Each complaint will require two days of Personnel Board business.

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- file the amended rules with the Lt. Governor
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NOTES APRIL 1st

Skills center

page 3 line 22 ADD: and certificated teachers employed in skills centers operated by the Department of Education;

Commercial Fisheries

page 4 line 1 DELETE entire line

apge 4 line 7 ADD AFTER "Education" and the Alaska Commercial Fisheries Entry Commission

Labor Relations Division staff

page 7 line 3-6 DELETE ENTIRE PARAGRAPH (19)

Adoption of Personnel Rules

pgs 7 lin24 ff Something will be done to the provision for adoption of rules according in the APA - it is not clear what

pg 11 line 19 ff veteran's preference language will be changed

Veterans Preference

page 12 line 3 (A) "veteran" means a person with 181 [90] days or more

page 12 line 9 (B) "disabled veteran" means a person [VETERAN] who is rated by

Disadvantaged Programs

page 12 lines 26-29 DELETE ALL OF THIS MATERIAL (paragraph (23)

+ Titles 14 & 16 of Alaska statutes
ADD Amendments to place Commercial Fisheries & Postsecondary Education staffs in the classified service & / or amend the title of the bill

JUNEAU LYRIC OPERA ASSOCIATION
P.O. Box 1456
Juneau, Alaska 99802

BOARD OF DIRECTORS
George Rogers
President
Richard Block
Vice President
Teresa B. Cramer
Treasurer
Carol Eastaugh
Gregg Erickson

Dear Friend of the Opera:

This is the year of Juneau's Centennial, which all of us hope to make a special time. The Juneau Lyric Opera Association has set for itself an ambitious program which needs your help. We are producing Offenbach's comic opera, Orpheus in the Underworld, next month. Opening night is Thursday, April 17th, and the show will run through the weekend. Jane Stewart is the musical director and Marvin Borgmier is the dramatic director. Preparations are well under way and the performers have been rehearsing with Mrs. Stewart for several months. The production should be delightful!

The board of directors is also planning for the 1980 - 1981 opera session. The opening production will be Engelbert Humperdinck's Hansel and Gretel. Amahl and the Night Visitors, by Giacomo Menotti will follow during the Christmas season, and for the Spring production we have selected the lovely Mozart opera, Cosi Fan Tutte. These are all operas in which the talents and abilities of local Juneau singers can be drawn on to the best advantage.

The Juneau Lyric Opera Association was formed in 1975 with the purpose of producing both grand and lyric opera. Since its beginnings, we have presented one full scale production each year: Die Fledermaus, Kismet, Carmen, and, in 1979, Mozart in May which featured Mozart's one-act comic opera, The Impressario. Each of these productions presented Juneau performers in the orchestra, chorus, and in the operatic roles. Only in Carmen did professional lead singers participate.

In planning for this year and for next season, we are relying on the support of Juneau's people, both to perform in and to work on the productions, as well as to help with financial contributions. The production of Orpheus in the Underworld is supported by a grant from the Greater Juneau Arts and Humanities Council, and includes financial support from a grant from the Alaska State Council on the Arts, the City and Borough of Juneau, and the National Endowment for the Arts, a federal agency. This grant has enabled us to begin the work on the production. However, it will pay for only a portion of the production expenses, and direct support from the community is still essential to the success of the show.

Enclosed with this letter is our Membership and Contribution Form. May we ask for your tax deductible contribution? Help us to make opera an enjoyable part of Juneau's theater season.

Thank you for your generous support.

Sincerely,

George Rogers
President

Recommended Changes

CSSB 193 (SA)

February 3, 1982

(1) Page 2

Line 29 Delete exempt and

39.25.090

(2) appeal rts

Reason: The rules pertain only to classified and partially exempt employees. By definition, exempt employees are excluded from personnel rules.

39.25.110 (2) Page 3

Pts (2) & (3)

(1) clarif & consistency

Lines 9-13 Substitute For clarification and renumber

(2) justices, magistrates, judges and employees of the judicial branch including the Judicial Council.

(3) Page 3

Pt (8)

(3) corres teachers

Lines 23-25 Substitute (8) certificated teachers employed by the Department of Education as classroom teachers;

Reason: Correspondence teachers do not teach in classroom setting. They function as any classified employee.

Page 3

Pt (10)

(4)

(1) clarif

Line 29 Delete. . . the legislature, or a legislative committee

Reason: Legislative employees by definition 39. ~~34.~~25.110(4) are exempt

Page 4

Pt (15)

(5)

(1) clarif

Line 12 Delete

Reason: Legislative employees by definition are exempt

(2)

AS 39.25.170 (17)

Page 4

(6)

Line 16-17 Delete. . .division of mental health and developmental disabilities, Department of Health and Social Services

(1) (4) consistency

Reason: All licensed physicians employed by the State should be exempt not just those working for mental health.

Page 4

(7)

Line 30 Add section

(1) consistency

(22?) emergency firefighters employed by the Department of Natural Resources whose employment is limited to a fire emergency.

Reason: Current and past use of firefighters warrants placing them into exempt status.

Page 5

(8)

Line 9 & 10 Delete. . . except as provided in AS 39.25.170

(2) appeal rights

Reason: Partially exempt employees should not have the same rights as classified employees. Sufficient protection is provided under current antidiscriminatory laws.

Page 6

(9)

Line 1 Delete

(1) clarif

Reason: This position is currently held by the Director, Division of Forestry who is partially exempt.

(A)

Page 10

(13) Lines 18 & 19

(1) clarif

Delete

Reason: By longstanding practice this is accomplished by the State Administrative Manual, Section 7672-7684. Additionally, it only covers approximately 14 positions.

Page 11

(14) Lines 7 - 29

Page 12

Lines 1 - 3

(5) Vet's pref

Delete: Replace with Blue Ribbon recommendation as contained in original SB 193

Reason: This will reduce confusion and provide a better vehicle for veteran hire

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Page 12

(15) Lines 24 - 27

(6) pt/ex→class transition

Delete existing -

substitute:

The establishment of transition periods of up to twelve months for an employee to be reappointed to a classified position when his position is withdrawn from the partially exempt or exempt service and placed in the classified service.

Reason: The bill language provides guarantees that far exceeed any current rules, statutes, or collective bargaining agreements and it is unlimited by time.

(5)

Page 13
(16)
Line 15

(1) clarif

Change "the" to "departments" so that

. . .applicants on (the) department eligible lists.

Reason: This section deals with departmental personnel officers who do not test and place applicants onto a statewide list

Page 13
(17)
Line 26 & 27

(2) (7) appeal rts/ sep of powers

Delete - (. . .or an exempt employee in a position named in AS 39.25.110(3)). . . .

Reason: Separation of powers

Page 14
(18)
Line 13

(1) clarif

Add - In the absence of a resignation, the appointing authority shall accept written evidence of candidacy as a resignation.

Reason: An employee may not immediately inform his supervisor regarding nomination or candidacy for a state or national elective office. In the absence of a formal resignation, the employer should be able to effect a resignation.

Page 14
(19)
Line 14

(2) (7) appeal rts/ sep of powers

Add ". . . of a classified state. . . ."

Reason: This section deals with classified employees only not employees of the legislative and judicial branches

(6) (20)

Line 15 ". . .applicant for classified state service. . . ."

(2)(7) appeal/sup

Reason: This section deals with classified employees only, not employees of the legislative and judicial branches.

Page 15

(21)

Line 6, 12 & 27 An employee in the classified service. . .

(2)(7)

Reason: This section deals with classified employees only not employees of the legislative and judicial branches

Page 16

(22)

Line 19 delete "by the employee" . . . superior court.

(8) ~~for~~ both sides → appellate review

Reason: The decision of the board should be appealable by both the employer and the employee.

Page 17

(23)

Line 29 Reword - express political opinions, provided that while engaged on official business, an employee may not display or distribute partisan political material in any form or manner.

(1) clarif

Page 18

(24)

Lines 8 - 27 Delete sections 20 and 21

(9) Ex service membership

Reason: Exempt and partially exempt employees do not compete for their positions. Their knowledge, skills, abilities, and salary range could differ considerably from their corresponding class and range in this classified service.

(25) Page 18

Oclauf Line 29 Effective date should be changed to July 1, 1982

WORK DRAFT PAPER WORK DRAFT PAPER WORK DRAFT PAPER

Terry - only chg is on pg. 14 - Hearing on Thurs. 5/12 1:30 p.m. Nan

Asper

Original sponsor: Rules/Legislative Council

IN THE SENATE BY THE STATE AFFAIRS COMMITTEE

CS FOR SENATE BILL NO. 193 (State Affairs)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act amending the State Personnel Act (AS 39.25); and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 39.25.040 is amended to read:

Sec. 39.25.040. DIRECTOR OF PERSONNEL. The head of the division of personnel is the director of personnel appointed by the commissioner of administration and responsible to the commissioner of administration for the execution of the duties and responsibilities imposed by this chapter and the rules adopted under this chapter. The director of personnel shall [MUST] have at least three years of practical working experience in the field of personnel administration.

* Sec. 2. AS 39.25.060(b) is amended to read:

(b) Members of the board may not be [SHALL BE QUALIFIED ELECTORS OF THE STATE WHO ARE NOT] employees [OR OFFICERS] of the state. Not more than two members of the board may be members of the same political party.

* Sec. 3. AS 39.25.070(1) is amended to read:

(1) approve or disapprove amendments to the personnel rules in accordance with AS 39.25.140 [THE ORIGINAL RULES OR A PART OF THEM WITHIN 60 DAYS OF THEIR SUBMISSION TO THE BOARD AND APPROVE OR DISAPPROVE AMENDMENT TO THE RULES WITHIN 30 DAYS OF SUBMISSION TO THE BOARD, AND IN CARRYING OUT THIS DUTY, THE BOARD, IF REQUESTED, MAY HOLD THE PUBLIC HEARINGS IT CONSIDERS NECESSARY];

* Sec. 4. AS 39.25.070(3) is amended to read:

(3) hear and determine appeals by employees [IN THE CLASSIFIED SERVICE] as provided in AS 39.25.170;

* Sec. 5. AS 39.25.070 is amended by adding a new paragraph to read:

(7) employ staff members, who shall be in the classified service.

* Sec. 6. AS 39.25.080 is repealed and reenacted to read:

Sec. 39.25.080. PUBLIC RECORDS. (a) State personnel records, including employment applications and examination materials, are confidential and are not open to public inspection except as provided in this section.

(b) The following information is available for public inspection, subject to reasonable regulations on the time and manner of inspection:

(1) the names and position titles of all state employees;

(2) the position held by a state employee;

(3) prior positions held by a state employee;

(4) whether a state employee is in the classified, partially exempt, or exempt service;

(5) the dates of appointment and separation of a state employee; and

(6) the compensation authorized for a state employee.

(c) A state employee has the right to examine his own personnel files and may authorize others to examine his files.

(d) An applicant for state employment who appeals an examination score may review written examination questions relating to the examination unless the questions are to be used in future examinations.

* Sec. 7. AS 39.25.090 is amended to read:

Sec. 39.25.090. COVERAGE OF CHAPTER. This chapter and the rules adopted under it apply to all positions in (1) the classified service, and (2) the <u>exempt and</u> partially exempt service as specifically pro-

vided.

* Sec. 8. AS 39.25.110 is repealed and reenacted to read:

Sec. 39.25.110. EXEMPT SERVICE. Unless otherwise provided by law, the following positions in the state service constitute the exempt service and are exempt from the provisions of this chapter and the rules adopted under it:

(1) persons elected to public office by popular vote or appointed to fill vacancies in elected offices;

(2) justices of the supreme court, judges of the court of appeals, judges of the superior court, and judges and magistrates of other state courts established by law;

(3) employees of the state court system, and employees and members of the Judicial Council;

(4) employees of the state legislature and its agencies;

(5) the head of each principal department in the executive branch;

(6) officers and employees of the University of Alaska;

(7) certificated teachers and noncertificated employees employed by a regional educational attendance area established and organized under AS 14.08.031 - 14.08.041 to teach in, administer, or operate schools under the control of a regional educational attendance area school board;

NEW

(8) certificated teachers employed by the Department of Education as correspondence teachers or teachers in skill centers operated by the Departmen of Education;

(9) patients and inmates employed in state institutions;

(10) persons employed in a professional capacity to make a temporary or special inquiry, study or examination as authorized by the governor, the legislature, or a legislative committee;

(11) members of boards, commissions, or authorities;

(12) the officers and employees of the following boards, commissions and authorities:

not changed (A) Alaska Commercial Fisheries Entry Commission;

(B) Alaska Gas Pipeline Financing Authority;

(C) Alaska Permanent Fund Corporation;

(D) Alaska Energy Center;

(E) Alaska Industrial Development Authority;

(13) the executive officer of the Alaska Commission on Post-secondary Education;

(14) the ombudsman and his staff;

(15) the executive secretary and legal counsel of the Alaska Municipal Bond Bank Authority;

(16) licensed physicians, as defined in AS 47.30.340(9), employed by the division of mental health and developmental disabilities, Department of Health and Social Services;

(17) petroleum engineers and petroleum geologists employed in a professional capacity by the Department of Natural Resources except for those employed in the division of geological and geophysical surveys;

(18) officers, agents, and employees of the Alcoholic Beverage Control Board granted limited peace officer powers by the Alcoholic Beverage Control Board under AS 04.06.110;

(19) persons employed by the division of marine transportation as masters and members of the crews of vessels who operate the state ferry system and who are covered by a collective bargaining agreement provided in AS 23.40.040;

NEW (20) officers and employees of the state who reside in foreign countries.

* Sec. 9. AS 39.25.120 is repealed and reenacted to read:

Sec. 39.25.120. PARTIALLY EXEMPT SERVICE. (a) Positions in the partially exempt service are included in the position classification plan established under this chapter and are compensated according to the pay plan (AS 39.27.011).

(b) A person holding a position in the partially exempt service is not required to take an examination or qualify or earn a place on a register, and is not eligible for a hearing by the personnel board in case of dismissal, demotion, or suspension, except as provided in AS 39.25.170. Positions in the partially exempt service are specifically exempt from the rules established under AS 39.25.150(3) - (10), (13), (14), and (17).

(c) The following positions in the state service constitute the partially exempt service:

(1) deputy and assistant commissioners of the principal departments of the executive branch, including the assistant adjutant general of the Department of Military Affairs;

(2) the directors of the major divisions of the principal departments of the executive branch and the regional directors of the Department of Transportation and Public Facilities;

(3) attorney members of the staff of the Department of Law and of the public defender agency;

(4) one private secretary for each head of a principal department in the executive branch;

(5) employees of the Office of the Governor and the office of the lieutenant governor, including the staff of the governor's mansion;

(6) the executive director and deputy director of the Alaska Public Utilities Commission;

(7) the state forester in the Department of Natural Resources;

(8) the director, deputy director, staff legal counsel, and hearing officers of the Alaska Transportation Commission;

(9) not more than two special assistants to the commissioner of each of the principal departments of the executive branch, but the number may be increased if the partially exempt service is extended under AS 39.25.130 to include the additional special assistants;

(10) the principal executive officer of the following boards, councils, or commissions:

(A) Alaska Public Broadcasting Commission;

(B) Professional Teaching Practices Commission;

(C) Parole Board;

(D) Board of Nursing;

(E) Real Estate Commission;

(F) Alaska Royalty Oil and Gas Development Advisory Board;

(G) Alaska Historical Commission;

(H) Alaska State Council on the Arts;

(I) Alaska Police Standards Council;

(J) Council on Science and Technology;

(11) Alaska Pioneers' Home managers;

(12) hearing examiners in the Department of Revenue;

(13) the comptroller in the division of treasury, Department of Revenue;

(14) investment officers in the Department of Revenue;

(15) the chief of subsistence in the Department of Fish and Game;

(16) airport managers in the Department of Transportation an

Public Facilities employed at the Anchorage and Fairbanks International Airports;

(17) the deputy director of the division of tourism and the deputy director of the division of insurance in the Department of Commerce and Economic Development;

(18) the executive director and staff of the Alaska Public Offices Commission.

ELIMINATED DIV OF LR

* Sec. 10. AS 39.25.130(a) is amended to read:

(a) The [AFTER JUNE 30, 1961, THE] personnel board, upon written recommendation of the commissioner of administration, may extend the partially exempt service to include any position [WHICH WAS] in the classified service [ON APRIL 19, 1960,] which, in the judgment of the board:

(1) involves principal responsibility for the determination of policy;

(2) involves principal responsibility for the way in which policies are carried out; or

(3) involves responsibilities and duties of a type not susceptible to the ordinary recruiting and examining procedures.

* Sec. 11. AS 39.25.130(c) is amended to read:

(c) The [AFTER JUNE 30, 1961, THE] personnel board, upon written recommendation of the commissioner of administration, may extend the classified service to include any position [WHICH WAS] in the partially exempt service [ON APRIL 19, 1960].

* Sec. 12. AS 39.25.140 is repealed and reenacted to read:

TOOIC OUT APA

Sec. 39.25.140. AMENDMENT OF PERSONNEL RULES. (a) The director of personnel shall prepare and submit proposed amendments of the personnel rules to the commissioner of administration for review and approval.

(b) The commissioner of administration shall review the proposed

amendments and if he approves them, he shall submit them to the personnel board.

(c) When the proposed amendments are submitted to the personnel board, the commissioner of administration shall post notice in public buildings throughout the state that the personnel board has the proposed amendments under consideration. (The notice required by this subsection shall be posted at least 30 days before any decision is made to amend the personnel rules and shall include an address for the receipt of written comments.)

NEW

(d) If requested by the commissioner of administration or by a person receiving notice of the proposed amendments, the personnel board may hold public hearings on the proposed amendments and may appoint a hearing officer to conduct the hearings.

(e) The personnel board may amend the proposed amendments.

(f) The proposed amendments become effective 45 days after they are submitted to the personnel board unless the board has disapproved them.

(g) The amended rules shall be published in the Alaska Administrative Register and Code for informational purposes.

* Sec. 13. AS 39.25.150 is repealed and reenacted to read:

Sec. 39.25.150. SCOPE OF THE RULES. The personnel rules shall provide for

(1) the preparation, maintenance, and revision by the director of personnel, subject to approval of the commissioner of administration and the personnel board, of a position classification plan for all positions in the classified and partially exempt services; the position classification plan shall include

(A) a grouping together of all positions into classes on the basis of duties and responsibilities;

(B) an appropriate title, a description of the duties and responsibilities, training and experience qualifications, and other necessary position specifications for each class of positions;

(2) the preparation, maintenance, revision and administration by the director of personnel of a pay plan for all positions in the classified and partially exempt services; the pay plan (A) shall be based upon the position classification plan; (B) shall provide for fair and reasonable compensation for services rendered, and reflect the principle of like pay for like work; (C) may be amended, approved, or disapproved by the legislature in regular or special session; after the pay plan is in effect, a salary or wage payment may not be made to a state employee covered by the plan unless the payment is in accordance with this chapter and the rules adopted under this chapter or unless the payment is in accordance with a valid agreement entered into in accordance with AS 23.40;

(3) the use of employee selection methods which will fairly test the capacity and fitness of the person examined to discharge the duties of the class in which employment is sought; [EFFICIENTLY]

(4) the establishment and maintenance of eligible lists for appointment and promotion providing the names of eligible candidates in order of their relative performance in the examinations;

(5) the procedure for certifying eligible candidates;

(6) promotions from within the state service when there are qualified candidates in the state service; vacancies shall be filled by promotion whenever practicable and in the best interest of the state service and promotion shall be by competitive examination whenever possible; in considering promotions, applicants' qualifications, performance record, seniority, and conduct shall be evaluated;

(7) a period of probation not to exceed one year before an appointment to a position becomes permanent, except that a permanent employee receiving a promotional appointment retains permanent status in the service and job class from which appointed for the duration of the probationary period and may be demoted to a former class without right of appeal, notwithstanding AS 39.25.170, but if the employee is dismissed from the service the appeal rights under AS 39.25.170 apply;

(8) nonpermanent and emergency appointments to positions in the state service in accordance with AS 39.25.195 - 39.25.200;

(9) provisional appointment without competitive examination when appropriate eligible lists are not available;

(10) transfers from one department to another and from another merit system jurisdiction to the state service;

(11) transfers from one area of the state to another;

(12) the payment of transportation costs when an employee transfers from one area to another at the request of the employer;

(13) the reinstatement of a person who resigns in good standing;

(14) layoffs for reason of lack of money or work, abolition of positions, or material changes in duties or organization; both performance and seniority records shall be considered in the development of layoff orders;

(15) the development, maintenance, and use of employee performance records;

(16) the establishment of disciplinary measures which may include disciplinary suspension without pay;

(17) the procedures for review of disputed personnel actions, for resolving employee and interagency grievances, and for resolving grievances of the general public concerning the operation of the state

personnel system;

(18) hours of work for all employees in the state service;

(19) methods and procedures covering overtime work and pay;

(20) the granting of employment preference rights to a veteran [AT EACH TIME APPLIC. IS MADE FOR EMPT] not within the area of promotion, when the veteran possesses the necessary qualifications in the job classification applied for under this chapter; in [THE] examination to determine the qualification of applicants for entrance into the classified service under merit system examination, five additional points shall be added to the passing grade of a veteran and ten additional points shall be added to the passing grade of a disabled veteran, [but the additional points may be used only once to assist the veteran to obtain a position in the classified service;] the one time the additional points are used shall be selected by the veteran; [if a position in the classified service is eliminated, employees shall be released in accordance with rules which give due effect to all factors; if all job qualifications are equal, the veteran shall be given preference over the nonveteran and the veteran shall be kept on the job; [this paragraph may not be interpreted to amend the terms of a collective bargaining agreement;] in this paragraph

NEW

NEW

(A) "veteran" means a person with [90] 181 days or more active service in the armed forces of the United States who has been honorably discharged after having served during any period between April 6, 1917, and December 1, 1919, between September 16, 1940, and December 31, 1947, or between June 27, 1950, and November 7, 1975;

(B) "disabled veteran" means a veteran who is (entitled to compensation under laws administered by the United States Veterans' Administration, or a person who was discharged or released from active duty because of a service-connected disability;)

NEW

(21) the employment of persons in permanent positions on a part-time basis of 15 hours or more a week, including the employment of two persons to fill one permanent full-time position; these employees shall be designated as permanent part-time employees;

(22) the granting of employment preference to severely handicapped persons; this includes the right to provisional appointment without competitive examination for periods up to four months and the granting of eligibility to a severely handicapped person provisionally appointed under the rules who demonstrates ability to perform the job for permanent appointment without competitive examination; provisional employment under this paragraph may not exceed four months during a 12-month period; "severely handicapped" as used in this paragraph means persons certified by the director of the division of vocational rehabilitation to be severely handicapped;

LEFT IN (23) the establishment of programs facilitating the employment of disadvantaged persons, including limitation of competition for appointment and promotion to individuals who meet the program requirements;

(24) the delegation, when feasible, of personnel responsibilities and duties to the principal departments of the executive branch;

NEW (25) guarantees to an employee of the same or similar job class assignment, salary grade, and step placement if his position is withdrawn from the partially exempt or exempt service and placed in the classified service;

(26) other rules and administrative regulations, not inconsistent with this chapter, which are necessary for its enforcement.

Sec. 14. AS 39.25.153 is repealed and reenacted to read:

Sec. 39.25.153. PERSONNEL OFFICERS. (a) If a principal department of the executive branch has a personnel officer, the personnel

officer shall be employed by and located within that department.

(b) Subject to the provisions of (d) of this section, the personnel officers for the Departments of Transportation and Public Facilities, Fish and Game, Education, Labor, and Health and Social Services, have the following powers with respect to the classes of positions unique to their departments:

(1) to assign positions to an existing class in the state classification plan and to the salary range for that class as established by the state pay plan or by a valid agreement entered into in accordance with AS 23.40;

(2) to administer and score examinations and to place successful applicants on the eligible lists;

(3) to certify those eligible to the appointing authorities.

(c) The initial determination of classes of positions unique to the departments listed in (b) of this section shall be made by the personnel officer of the department in consultation with the commissioner of his department subject to the approval of the director of personnel in the Department of Administration.

(d) The assumption of a power set out in (b) of this section must be approved by the commissioner of administration and must be in harmony with the merit principle of personnel administration (AS 39.25.010).

* Sec. 15. AS 39.25.160 is repealed and reenacted to read:

Sec. 39.25.160. GENERALLY. (a) A classified employee or an exempt employee in a position named in AS 39.25.110(3) may not take an active part in the management of a political party above the precinct level.

(b) A person may not give, render, pay, offer, solicit, or accept money, services, or other valuable thing in connection with securing or making an appointment, promotion, or advantage in a position in the

classified service.

(c) A person may not require an assessment, subscription, contribution, or service for a political party from a state employee.

(d) A person may not seek or attempt to use a political party endorsement in connection with an appointment or promotion in the classified service.

(e) An employee in the classified or partially exempt service who seeks nomination or becomes a candidate for state or national elective political office shall immediately resign any position held in the state service.

(f) Action affecting the employment status of a state employee or an applicant [FOR A POSITION IN] for state service, including appointment, promotion, demotion, suspension, or removal, may not be taken or withheld on the basis of unlawful discrimination due to race, religion, color, or national origin; or because of age, ~~physical~~ handicap, sex, (marital status, change in marital status, pregnancy, parenthood, or other reason not related to merit.) ~~unless the reasonable demands of the position require that a distinction be made on the basis of age, handicap, sex, marital status, change in marital status, pregnancy, or parenthood.~~

NEW

(g) Action affecting the employment status of an employee in the classified service or an applicant for a position in the classified service, including appointment, promotion, demotion, suspension, or removal, may not be taken or withheld on the basis of unlawful discrimination due to political beliefs.

(h) A person may not knowingly make a false statement, certificate, mark, rating, or report with regard to a test, certification, or appointment made under this chapter or in any manner commit a fraud preventing the impartial execution of this chapter and the personnel

rules adopted under this chapter.

(i) A person may not obstruct the right of another person to examination, eligibility, certification, appointment, or promotion under this chapter.

* Sec. 16. AS 39.25.170 is repealed and reenacted to read:

Sec. 39.25.170. HEARINGS AND APPEALS UPON DISMISSAL, DEMOTION, OR SUSPENSION. (a) An employee may be dismissed, demoted, or suspended by delivery of written notice of the proposed action and the reason for it from the appointing authority to the employee.

(b) A permanent employee in the classified service who has been dismissed, demoted, or suspended may appeal the action to the personnel board.

(c) An employee who has been dismissed, demoted, or suspended due to unlawful discrimination based on race, religion, color, or national origin, or because of age, handicap, sex, (marital status, change in marital status, pregnancy, or parenthood, or other reason not related to merit) may appeal the action to the personnel board.

(d) An employee in the classified service who has been dismissed, demoted, or suspended due to unlawful discrimination based on political beliefs may appeal the action to the personnel board.

(e) A permanent employee in the classified service who holds probationary status in his present position may appeal a dismissal from the classified service to the personnel board.

(f) An employee who is on leave without pay from a position in the classified service and who is employed by the state in another capacity, either in the exempt or partially exempt service, may appeal a dismissal from the classified service to the personnel board.

(g) An employee begins an appeal by filing a written request for review of the action with the personnel board within 15 days of receiv-

ing written notice of the action from the appointing authority.

(h) If requested by the employee at the time of filing an appeal, the personnel board shall hold a hearing to determine the reasonableness of the the action taken by the appointing authority. If the employee requests it, the hearing shall be open to the public. The employee may be represented by another person and has the right to present evidence, (and to confront and cross-examine witnesses.) Technical rules of evidence do not apply to the hearing, (but all testimony shall be taken under oath)

(i) If the personnel board finds that the action complained of was due to unlawful discrimination based on race, sex, color, religion, national origin, political beliefs, age, handicap, (marital status, change in marital status, pregnancy, parenthood, or any other reason not related to merit,) or in violation of the provisions of this chapter or the personnel rules, the employee shall be reinstated to the position without loss of pay or leave benefit for the period of dismissal, demotion, or suspension. In all other cases, the board shall report its findings and recommendations in writing, to both parties (within 30 days of a hearing conducted under (h) of this section, and the decision of the board may be appealed to the superior court by the employee.)

* Sec. 17. AS 39.25 is amended by adding a new section to read:

Sec. 39.25.175. PROCEDURE. (a) A subpoena shall be issued at the request of a party to a proceeding begun under AS 39.25.170.

(b) If a person refuses to respond to a subpoena issued under this section, or refuses to testify at a hearing authorized by AS 39.-25.170, the personnel board may apply to the superior court for an order requiring the person to respond to the subpoena or to testify.

(c) Failure to obey the order of the superior court requiring response to a subpoena or testimony at a hearing may be punished as

contempt of court.

* Sec. 18. AS 39.25 is amended by adding a new section to read:

Sec. 39.25.181. DEFINITIONS. In this chapter,

(1) "fraud" means for a person to knowingly

(A) create or confirm another's false impression which the person does not believe to be true, including false impressions as to law or value and false impressions as to intention or other state of mind;

(B) fail to correct another's false impression which the person previously has created or confirmed;

(C) prevent another from acquiring pertinent information;

(2) "knowingly" means for a person to be aware with respect to conduct or to a circumstance described by a provision of law that his conduct is of that nature or that the circumstance exists; when knowledge of the existence of a particular fact is required, that knowledge is established if a person is aware of a substantial probability of its existence, unless he actually believes it does not exist;

(3) "precinct" means the territory within which resident voters may cast votes at one polling place;

(4) "state employee" means a person employed by the state who is paid a wage or salary, but does not include a person hired by the state to work as an independent contractor.

* Sec. 19. AS 39.25 is amended by adding a new section to article 6 to read:

Sec. 39.25.192. EMPLOYEE POLITICAL RIGHTS. A state employee may

(1) be a member of a national, state, or local political party;

(2) take part in a political campaign;

(3) express political opinions;

(4) register party preference;

(5) serve as a voting or nonvoting delegate to a party convention;

(6) be appointed, nominated, or elected to nonpartisan public office in a local government unit; and

(7) make contributions to a political party or a candidate for public office.

* Sec. 20. AS 39.25.180 is repealed.

* Sec. 21. This Act takes effect July 1, 1981.

Original sponsor: Rules/Legislative Council

Offered: 5/15/81
Referred: Judiciary

IN THE SENATE BY THE STATE AFFAIRS COMMITTEE

CS FOR SENATE BILL NO. 193 (State Affairs)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act amending state personnel laws; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 39.25.040 is amended to read:

Sec. 39.25.040. DIRECTOR OF PERSONNEL. The head of the division of personnel is the director of personnel appointed by the commissioner of administration and responsible to the commissioner of administration for the execution of the duties and responsibilities imposed by this chapter and the rules adopted under this chapter. The director of personnel shall [MUST] have at least three years of practical working experience in the field of personnel administration.

* Sec. 2. AS 39.25.060(b) is amended to read:

(b) Members of the board may not be [SHALL BE QUALIFIED ELECTORS OF THE STATE WHO ARE NOT] employees [OR OFFICERS] of the state. Not more than two members of the board may be members of the same political party.

* Sec. 3. AS 39.25.070(1) is amended to read:

(1) approve or disapprove amendments to the personnel rules in accordance with AS 39.25.140 [THE ORIGINAL RULES OR A PART OF THEM WITHIN 60 DAYS OF THEIR SUBMISSION TO THE BOARD AND APPROVE OR DISAPPROVE AMENDMENT TO THE RULES WITHIN 30 DAYS OF SUBMISSION TO THE BOARD, AND IN CARRYING OUT THIS DUTY, THE BOARD, IF REQUESTED, MAY HOLD THE PUBLIC HEARINGS IT CONSIDERS NECESSARY];

* Sec. 4. AS 39.25.070(3) is amended to read:

(3) hear and determine appeals by employees [IN THE CLASSIFIED SERVICE] as provided in AS 39.25.170;

* Sec. 5. AS 39.25.070 is amended by adding a new paragraph to read:

(7) employ staff members, who shall be in the classified service.

* Sec. 6. AS 39.25.080 is repealed and reenacted to read:

Sec. 39.25.080. PUBLIC RECORDS. (a) State personnel records, including employment applications and examination materials, are confidential and are not open to public inspection except as provided in this section.

(b) The following information is available for public inspection, subject to reasonable regulations on the time and manner of inspection:

(1) the names and position titles of all state employees;

(2) the position held by a state employee;

(3) prior positions held by a state employee;

(4) whether a state employee is in the classified, partially exempt, or exempt service;

(5) the dates of appointment and separation of a state employee; and

(6) the compensation authorized for a state employee.

(c) A state employee has the right to examine his own personnel files and may authorize others to examine his files.

(d) An applicant for state employment who appeals an examination score may review written examination questions relating to the examination unless the questions are to be used in future examinations.

* Sec. 7. AS 39.25.090 is amended to read:

Sec. 39.25.090. COVERAGE OF CHAPTER. This chapter and the rules adopted under it apply to all positions in (1) the classified service, and (2) the <u>exempt and</u> partially exempt service as specifically pro-

vided.

* Sec. 8. AS 39.25.110 is repealed and reenacted to read:

Sec. 39.25.110. EXEMPT SERVICE. Unless otherwise provided by law, the following positions in the state service constitute the exempt service and are exempt from the provisions of this chapter and the rules adopted under it:

(1) persons elected to public office by popular vote or appointed to fill vacancies in elected offices;

(2) justices of the supreme court, judges of the court of appeals, judges of the superior court, and judges and magistrates of other state courts established by law;

(3) employees of the state court system, and employees and members of the Judicial Council;

(4) employees of the state legislature and its agencies;

(5) the head of each principal department in the executive branch;

(6) officers and employees of the University of Alaska;

(7) certificated teachers and noncertificated employees employed by a regional educational attendance area established and organized under AS 14.08.031 - 14.08.041 to teach in, administer, or operate schools under the control of a regional educational attendance area school board;

(8) certificated teachers employed by the Department of Education as correspondence teachers or teachers in skill centers operated by the Department of Education;

(9) patients and inmates employed in state institutions;

(10) persons employed in a professional capacity to make a temporary or special inquiry, study or examination as authorized by the governor, the legislature, or a legislative committee;

(11) members of boards, commissions, or authorities;

(12) the officers and employees of the following boards, commissions and authorities:

(A) Alaska Gas Pipeline Financing Authority;

(B) Alaska Permanent Fund Corporation;

(C) Alaska Energy Center;

(D) Alaska Industrial Development Authority;

(13) the executive officer of the Alaska Commission on Post-secondary Education;

(14) the executive officer of the Alaska Commercial Fisheries Entry Commission;

(15) the ombudsman and his staff;

(16) the executive secretary and legal counsel of the Alaska Municipal Bond Bank Authority;

(17) licensed physicians, as defined in AS 47.30.340(9), employed by the division of mental health and developmental disabilities, Department of Health and Social Services;

(18) petroleum engineers and petroleum geologists employed in a professional capacity by the Department of Natural Resources except for those employed in the division of geological and geophysical surveys;

(19) officers, agents, and employees of the Alcoholic Beverage Control Board granted limited peace officer powers by the Alcoholic Beverage Control Board under AS 04.06.110;

(20) persons employed by the division of marine transportation as masters and members of the crews of vessels who operate the state ferry system and who are covered by a collective bargaining agreement provided in AS 23.40.040;

(21) officers and employees of the state who reside in foreign countries.

* Sec. 9. AS 39.25.120 is repealed and reenacted to read:

Sec. 39.25.120. PARTIALLY EXEMPT SERVICE. (a) Positions in the partially exempt service are included in the position classification plan established under this chapter and are compensated according to the pay plan (AS 39.27.011).

(b) A person holding a position in the partially exempt service is not required to take an examination or qualify or earn a place on a register, and is not eligible for a hearing by the personnel board in case of dismissal, demotion, or suspension, except as provided in AS 39.25.170. Positions in the partially exempt service are specifically exempt from the rules established under AS 39.25.150(3) - (10), (13), (14), and (17).

(c) The following positions in the state service constitute the partially exempt service:

(1) deputy and assistant commissioners of the principal departments of the executive branch, including the assistant adjutant general of the Department of Military Affairs;

(2) the directors of the major divisions of the principal departments of the executive branch and the regional directors of the Department of Transportation and Public Facilities;

(3) attorney members of the staff of the Department of Law and of the public defender agency;

(4) one private secretary for each head of a principal department in the executive branch;

(5) employees of the Office of the Governor and the office of the lieutenant governor, including the staff of the governor's mansion;

(6) the executive director and deputy director of the Alaska Public Utilities Commission;

(7) the state forester in the Department of Natural Resources;

(8) the director, deputy director, staff legal counsel, and hearing officers of the Alaska Transportation Commission;

(9) not more than two special assistants to the commissioner of each of the principal departments of the executive branch, but the number may be increased if the partially exempt service is extended under AS 39.25.130 to include the additional special assistants;

(10) the principal executive officer of the following boards, councils, or commissions:

(A) Alaska Public Broadcasting Commission;

(B) Professional Teaching Practices Commission;

(C) Parole Board;

(D) Board of Nursing;

(E) Real Estate Commission;

(F) Alaska Royalty Oil and Gas Development Advisory Board;

(G) Alaska Historical Commission;

(H) Alaska State Council on the Arts;

(I) Alaska Police Standards Council;

(J) Council on Science and Technology;

(11) Alaska Pioneers' Home managers;

(12) hearing examiners in the Department of Revenue;

(13) the comptroller in the division of treasury, Department of Revenue;

(14) investment officers in the Department of Revenue;

(15) the chief of subsistence in the Department of Fish and Game;

(16) airport managers in the Department of Transportation and

Public Facilities employed at the Anchorage and Fairbanks International Airports;

(17) the deputy director of the division of tourism and the deputy director of the division of insurance in the Department of Commerce and Economic Development;

(18) the executive director and staff of the Alaska Public Offices Commission.

* Sec. 10. AS 39.25.130(a) is amended to read:

(a) <u>The</u> [AFTER JUNE 30, 1961, THE] personnel board, upon written recommendation of the commissioner of administration, may extend the partially exempt service to include any position [WHICH WAS] in the classified service [ON APRIL 19, 1960,] which, in the judgment of the board:

(1) involves principal responsibility for the determination of policy;

(2) involves principal responsibility for the way in which policies are carried out; or

(3) involves responsibilities and duties of a type not susceptible to the ordinary recruiting and examining procedures.

* Sec. 11. AS 39.25.130(c) is amended to read:

(c) <u>The</u> [AFTER JUNE 30, 1961, THE] personnel board, upon written recommendation of the commissioner of administration, may extend the classified service to include any position [WHICH WAS] in the partially exempt service [ON APRIL 19, 1960].

* Sec. 12. AS 39.25.140 is repealed and reenacted to read:

Sec. 39.25.140. AMENDMENT OF PERSONNEL RULES. (a) The director of personnel shall prepare and submit proposed amendments of the personnel rules to the commissioner of administration for review and approval.

(b) The commissioner of administration shall review the proposed

amendments and if he approves them, he shall submit them to the personnel board.

(c) If the proposed amendments concern matters of public policy, the personnel board shall adopt them in accordance with the Administrative Procedure Act (AS 44.62).

(d) If the proposed amendments relate only to internal management of a state agency, the commissioner of administration shall post notice in public buildings throughout the state that the personnel board has the proposed amendments under consideration. The notice required by this subsection shall be posted at least 30 days before any decision is made to amend the personnel rules and shall include an address for the receipt of written comments.

(e) If requested by the commissioner of administration or by a person receiving notice of the proposed amendments, the personnel board may hold public hearings on the proposed amendments and may appoint a hearing officer to conduct the hearings.

(f) The personnel board may amend the proposed amendments.

(g) The proposed amendments become effective 45 days after they are submitted to the personnel board unless the board has disapproved them.

(h) The amended rules shall be published in the Alaska Administrative Register and Code for informational purposes.

* Sec. 13. AS 39.25.150 is repealed and reenacted to read:

Sec. 39.25.150. SCOPE OF THE RULES. The personnel rules shall provide for

(1) the preparation, maintenance, and revision by the director of personnel, subject to approval of the commissioner of administration and the personnel board, of a position classification plan for all positions in the classified and partially exempt services; the

position classification plan shall include

(A) a grouping together of all positions into classes on the basis of duties and responsibilities;

(B) an appropriate title, a description of the duties and responsibilities, training and experience qualifications, and other necessary position specifications for each class of positions;

(2) the preparation, maintenance, revision and administration by the director of personnel of a pay plan for all positions in the classified and partially exempt services; the pay plan (A) shall be based upon the position classification plan; (B) shall provide for fair and reasonable compensation for services rendered, and reflect the principle of like pay for like work; (C) may be amended, approved, or disapproved by the legislature in regular or special session; after the pay plan is in effect, a salary or wage payment may not be made to a state employee covered by the plan unless the payment is in accordance with this chapter and the rules adopted under this chapter or unless the payment is in accordance with a valid agreement entered into in accordance with AS 23.40;

(3) the use of employee selection methods which will fairly test the capacity and fitness of the person examined to discharge the duties of the class in which employment is sought;

(4) the establishment and maintenance of eligible lists for appointment and promotion providing the names of eligible candidates in order of their relative performance in the examinations;

(5) the procedure for certifying eligible candidates;

(6) promotions from within the state service when there are qualified candidates in the state service; vacancies shall be filled by promotion whenever practicable and in the best interest of the state

service and promotion shall be by competitive examination whenever possible; in considering promotions, applicants' qualifications, performance record, seniority, and conduct shall be evaluated;

(7) a period of probation not to exceed one year before an appointment to a position becomes permanent, except that a permanent employee receiving a promotional appointment retains permanent status in the service and job class from which appointed for the duration of the probationary period and may be demoted to a former class without right of appeal, notwithstanding AS 39.25.170, but if the employee is dismissed from the service the appeal rights under AS 39.25.170 apply;

(8) nonpermanent and emergency appointments to positions in the state service in accordance with AS 39.25.195 - 39.25.200;

(9) provisional appointment without competitive examination when appropriate eligible lists are not available;

(10) transfers from one department to another and from another merit system jurisdiction to the state service;

(11) transfers from one area of the state to another;

(12) the payment of transportation costs when an employee transfers from one area to another at the request of the employer;

(13) the reinstatement of a person who resigns in good standing;

(14) layoffs for reason of lack of money or work, abolition of positions, or material changes in duties or organization; both performance and seniority records shall be considered in the development of layoff orders;

(15) the development, maintenance, and use of employee performance records;

(16) the establishment of disciplinary measures which may include disciplinary suspension without pay;

(17) the procedures for review of disputed personnel actions, for resolving employee and interagency grievances, and for resolving grievances of the general public concerning the operation of the state personnel system;

(18) hours of work for all employees in the state service;

(19) methods and procedures covering overtime work and pay;

(20) the granting of employment preference rights to a veteran not within the area of promotion, when the veteran possesses the necessary qualifications in the job classification applied for under this chapter; in an examination to determine the qualification of applicants for entrance into the classified service under merit system examination, five additional points shall be added to the passing grade of a veteran and ten additional points shall be added to the passing grade of a disabled veteran, but the additional points may be used only once to assist the veteran to obtain a position in the classified service; the one time the additional points are used shall be selected by the veteran; if a position in the classified service is eliminated, employees shall be released in accordance with rules which give due effect to all factors; if all job qualifications are equal, the veteran shall be given preference over the nonveteran and the veteran shall be kept on the job; this paragraph may not be interpreted to amend the terms of a collective bargaining agreement; in this paragraph

(A) "veteran" means a person with 181 days or more active service in the armed forces of the United States who has been honorably discharged after having served during any period between April 6, 1917, and December 1, 1919, between September 16, 1940, and December 31, 1947, or between June 27, 1950, and November 7, 1975;

(B) "disabled veteran" means a veteran who is entitled

to compensation under laws administered by the United States Veterans' Administration, or a person who was discharged or released from active duty because of a service-connected disability;

(21) the employment of persons in permanent positions on a part-time basis of 15 hours or more a week, including the employment of two persons to fill one permanent full-time position; these employees shall be designated as permanent part-time employees;

(22) the granting of employment preference to severely handicapped persons; this includes the right to provisional appointment without competitive examination for periods up to four months and the granting of eligibility to a severely handicapped person provisionally appointed under the rules who demonstrates ability to perform the job for permanent appointment without competitive examination; provisional employment under this paragraph may not exceed four months during a 12-month period; "severely handicapped" as used in this paragraph means persons certified by the director of the division of vocational rehabilitation to be severely handicapped;

(23) the establishment of programs facilitating the employment of disadvantaged persons, including limitation of competition for appointment and promotion to individuals who meet the program requirements;

(24) the delegation, when feasible, of personnel responsibilities and duties to the principal departments of the executive branch;

(25) guarantees to an employee of the same or similar job class assignment, salary grade, and step placement if his position is withdrawn from the partially exempt or exempt service and placed in the classified service;

(26) other rules and administrative regulations, not inconsistent with this chapter, which are necessary for its enforcement.

(b) A person may not give, render, pay, offer, solicit, or accept money, services, or other valuable thing in connection with securing or making an appointment, promotion, or advantage in a position in the classified service.

(c) A person may not require an assessment, subscription, contribution, or service for a political party from a state employee.

(d) A person may not seek or attempt to use a political party endorsement in connection with an appointment or promotion in the classified service.

(e) An employee in the classified or partially exempt service who seeks nomination or becomes a candidate for state or national elective political office shall immediately resign any position held in the state service.

(f) Action affecting the employment status of a state employee or an applicant for state service, including appointment, promotion, demotion, suspension, or removal, may not be taken or withheld on the basis of unlawful discrimination due to race, religion, color, or national origin, age, handicap, sex, marital status, change in marital status, pregnancy, parenthood, or other reason not related to merit.

(g) Action affecting the employment status of an employee in the classified service or an applicant for a position in the classified service, including appointment, promotion, demotion, suspension, or removal, may not be taken or withheld on the basis of unlawful discrimination due to political beliefs.

(h) A person may not knowingly make a false statement, certificate, mark, rating, or report with regard to a test, certification, or appointment made under this chapter or in any manner commit a fraud preventing the impartial execution of this chapter and the personnel rules adopted under this chapter.

* Sec. 14. AS 39.25.153 is repealed and reenacted to read:

Sec. 39.25.153. PERSONNEL OFFICERS. (a) If a principal department of the executive branch has a personnel officer, the personnel officer shall be employed by and located within that department.

(b) Subject to the provisions of (d) of this section, the personnel officers for the Departments of Transportation and Public Facilities, Fish and Game, Education, Labor, and Health and Social Services, have the following powers with respect to the classes of positions unique to their departments:

(1) to assign positions to an existing class in the state classification plan and to the salary range for that class as established by the state pay plan or by a valid agreement entered into in accordance with AS 23.40;

(2) to administer and score examinations and to place successful applicants on the eligible lists;

(3) to certify those eligible to the appointing authorities.

(c) The initial determination of classes of positions unique to the departments listed in (b) of this section shall be made by the personnel officer of the department in consultation with the commissioner of his department subject to the approval of the director of personnel in the Department of Administration.

(d) The assumption of a power set out in (b) of this section must be approved by the commissioner of administration and must be in harmony with the merit principle of personnel administration (AS 39.25.010).

* Sec. 15. AS 39.25.160 is repealed and reenacted to read:

Sec. 39.25.160. GENERALLY. (a) A classified employee or an exempt employee in a position named in AS 39.25.110(3) may not take an active part in the management of a political party above the precinct level.

(i) A person may not obstruct the right of another person to examination, eligibility, certification, appointment, or promotion under this chapter.

* Sec. 16. AS 39.25.170 is repealed and reenacted to read:

Sec. 39.25.170. HEARINGS AND APPEALS UPON DISMISSAL, DEMOTION, OR SUSPENSION. (a) An employee may be dismissed, demoted, or suspended by delivery of written notice of the proposed action and the reason for it from the appointing authority to the employee.

(b) A permanent employee in the classified service who has been dismissed, demoted, or suspended may appeal the action to the personnel board.

(c) An employee who has been dismissed, demoted, or suspended due to unlawful discrimination based on race, religion, color, or national origin, or because of age, handicap, sex, marital status, change in marital status, pregnancy, or parenthood, or other reason not related to merit may appeal the action to the personnel board.

(d) An employee in the classified service who has been dismissed, demoted, or suspended due to unlawful discrimination based on political beliefs may appeal the action to the personnel board.

(e) A permanent employee in the classified service who holds probationary status in his present position may appeal a dismissal from the classified service to the personnel board.

(f) An employee who is on leave without pay from a position in the classified service and who is employed by the state in another capacity, either in the exempt or partially exempt service, may appeal a dismissal from the classified service to the personnel board.

(g) An employee begins an appeal by filing a written request for review of the action with the personnel board within 15 days of receiving written notice of the action from the appointing authority.

(h) If requested by the employee at the time of filing an appeal, the personnel board shall hold a hearing to determine the reasonableness of the the action taken by the appointing authority. If the employee requests it, the hearing shall be open to the public. The employee may be represented by another person and has the right to present evidence, and to confront and cross-examine witnesses. Technical rules of evidence do not apply to the hearing, but all testimony shall be taken under oath.

(i) If the personnel board finds that the action complained of was due to unlawful discrimination based on race, sex, color, religion, national origin, political beliefs, age, handicap, marital status, change in marital status, pregnancy, parenthood, or any other reason not related to merit, or in violation of the provisions of this chapter or the personnel rules, the employee shall be reinstated to the position without loss of pay or leave benefit for the period of dismissal, demotion, or suspension. In all other cases, the board shall report its findings and recommendations in writing, to both parties within 30 days of a hearing conducted under (h) of this section, and the decision of the board may be appealed to the superior court by the employee.

* Sec. 17. AS 39.25 is amended by adding a new section to read:

Sec. 39.25.175. PROCEDURE. (a) A subpoena shall be issued at the request of a party to a proceeding begun under AS 39.25.170.

(b) If a person refuses to respond to a subpoena issued under this section, or refuses to testify at a hearing authorized by AS 39.-25.170, the personnel board may apply to the superior court for an order requiring the person to respond to the subpoena or to testify.

(c) Failure to obey the order of the superior court requiring response to a subpoena or testimony at a hearing may be punished as contempt of court.

* Sec. 18. AS 39.25 is amended by adding a new section to read:

Sec. 39.25.181. DEFINITIONS. In this chapter,

(1) "fraud" means for a person to knowingly

(A) create or confirm another's false impression which the person does not believe to be true, including false impressions as to law or value and false impressions as to intention or other state of mind;

(B) fail to correct another's false impression which the person previously has created or confirmed;

(C) prevent another from acquiring pertinent information;

(2) "knowingly" means for a person to be aware with respect to conduct or to a circumstance described by a provision of law that his conduct is of that nature or that the circumstance exists; when knowledge of the existence of a particular fact is required, that knowledge is established if a person is aware of a substantial probability of its existence, unless he actually believes it does not exist;

(3) "precinct" means the territory within which resident voters may cast votes at one polling place;

(4) "state employee" means a person employed by the state who is paid a wage or salary, but does not include a person hired by the state to work as an independent contractor.

* Sec. 19. AS 39.25 is amended by adding a new section to article 6 to read:

Sec. 39.25.192. EMPLOYEE POLITICAL RIGHTS. A state employee may

(1) be a member of a national, state, or local political party;

(2) take part in a political campaign;

(3) express political opinions;

(4) register party preference;

(5) serve as a voting or nonvoting delegate to a party convention;

(6) be appointed, nominated, or elected to nonpartisan public office in a local government unit; and

(7) make contributions to a political party or a candidate for public office.

* Sec. 20. AS 14.40.913(a) is amended to read:

(a) The commission may employ those persons necessary to enable it to perform its functions under AS 14.40.909. The commission may appoint an executive officer. The executive officer is a member of the exempt service under AS 39.25.110, serves at the pleasure of the commission, and [HE] receives compensation fixed by the commission. Other employees of the commission are in the classified service (AS 39.25.-100) [THE EXECUTIVE OFFICER APPOINTS PERSONS TO THE STAFF POSITIONS AUTHORIZED BY THE COMMISSION, AND STAFF COMPENSATION IS FIXED BY THE COMMISSION]. The executive officer is the executive secretary of the student financial aid committee. Each employee of the commission shall elect membership either in the state teachers' retirement system (AS 14.25), if qualified, or in the public employees' retirement system (AS 39.35).

* Sec. 21. AS 16.43.080(a) is amended to read:

(a) The commission may employ those persons necessary to carry out the purposes of this chapter. The executive officer [EMPLOYEES] of the commission is [ARE] in the exempt service under AS 39.25.110. Other employees of the commission are in the classified service (AS 39.25.-100).

* Sec. 22. AS 39.25.180 is repealed.

* Sec. 23. This Act takes effect July 1, 1981.

P.

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

REVISED

I. REQUEST
Bill/Resolution No. CS For SB 193
Title An act amending the State Personnel Act (AS 39.25)
Requested by State Affairs Date 5-15-81

II. FISCAL DETAIL
Agency Affected Administration
Program Category Affected General Government
BRU, Program, or Subprogram(s) Affected Personnel
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

		FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100	PERSONAL SERVICES		116.4	128.1	141.3	155.4	170.9
200	TRAVEL		11.7	13.1	14.9	17.0	19.1
300	CONTRACTUAL		21.6	20.2	22.7	25.5	28.4
400	COMMODITIES		26.0	22.9	25.2	27.8	30.6
500	EQUIPMENT		23.0	-	-	-	-
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
	TOTAL		199.0	184.3	204.1	225.7	249.0

FUNDING (Thousands of Dollars)

GENERAL FUND		199.0	184.3	204.1	225.7	249.0
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME		3	3	3	3	3
PART TIME		2	2	2	2	2
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

Personal Services: A Regulations Specialist II and a Clerk I will be needed to fulfill the requirements of the Administrative Procedures Act. Three Personnel Technicians I will be needed to implement and maintain the requirements of the Veteran's Preference Act.

Travel was inflated at a rate of 12%. All other factors were inflated at a rate of 10%. FY 82 contains one time furnishings costs in equipment. The cost of the Hearing Officer and Legal Notices will be sustained by the Personnel Board Budget.

Contractual: There is a one time only cost of $3,200 to develop a certification subsystem, within the automated application processing system, to accomodate the new veteran's preference points amendment.

IV. DATE May 1981 PREPARED BY Bruce Cummings, JC
AGENCY Division of Personnel
PHONE 465-4430

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Name) Senator Ray
Keith Specking (Office of the Governor)

33-001 (Rev. 12/80)

	POSITION TITLE			RANGE/STEP	BARG. UNIT	LOCATION		APPROV.	DISAPP.
1	Personnel Technician I			12B	K	Fairbanks	GOV.		
2	TYPE OF POSITION: PFT	STAFF MONTHS: 12	RP No.	PCN No.	PRIORITY	FORM 12 PAGE/LINE	LEG.		

	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
4	PERSONAL SERVICES: SALARY 2063 per mo.	24,756	
5	BENEFITS 15.79%	3,909	
6	FICA 6.13%	1,518	
7	HEALTH INS. 150 per mo.	1,800	
8	TOTAL PERSONAL SERVICES 01		31,983
9	TRAVEL 02		4,000
10	CONTRACTUAL 03		4,610
11	COMMODITIES 04		3,000
12	EQUIPMENT 05		877
13	OTHER		
14	TOTAL COST		44,470

	CODE	FUNDING SOURCE	
15		FED RCPTS. 1002	
16		GF MATCH. 1003	
17		GEN. FUND 1001	44,470
18		I-A RCPTS. 1007	
19		PGM RCPTS 1028	
20		OTHER	
21	CONTINUATION		
22	ADDITION		

FOR B&M USE ONLY

AA KEY NUMBER _____ COLUMN NO. _____

JUSTIFICATION:

To properly implement CS for SB 193, as it has been presented, will require the services of a Personnel Technician I to compute and explain eligible list revisions. The Personnel Technician I will provide in person counseling services in the Anchorage area both during the initial conversion effort and on an on-going basis thereafter. The in person counseling services are to be provided to the regional centers on a one trip per year basis.

AGENCY Administration PROGRAM Centralized Administrative Services

BRU Personnel

COMPONENT Personnel

13 REQUEST FOR NEW POSITION.

REVISED DATE _____

FY 82

	POSITION TITLE			RANGE/STEP	BARG. UNIT.	LOCATION	GOV.	APPROV.	DISAPP.
1	Personnel Technician I			12 A		Anchorage			
	TYPE OF POSITION	STAFF MONTHS	RP No. / PCN No.	PRIORITY		FORM 12 PAGE/LINE	LEG.		
2	PPT	6							

	TYPE OF EXPENDITURE			AMOUNT
	1		2	3
3	PERSONAL SERVICES:			
4	SALARY 1761 per mo.		10,566	
5	BENEFITS 15.79%		1,684	
6	FICA 6.13%		648	
7	HEALTH INS. 150.00 per mo.		900	
8	TOTAL PERSONAL SERVICES	01		13,799
9	TRAVEL	02		3,500
10	CONTRACTUAL	03		3,700
11	COMMODITIES	04		2,250
12	EQUIPMENT	05		748
13	OTHER			
14	TOTAL COST			23,997

	CODE	FUNDING SOURCE	
15		FED RCPTS. 1002	
16		GF MATCH. 1003	23,997
17		GEN. FUND 1004	
18		I-A RCPTS. 1007	
19		PGM RCPTS 1029	
20		OTHER	
21	CONTINUATION		
22	ADDITION		

FOR B&M USE ONLY

AA KEY NUMBER _____ COLUMN NO. _____

JUSTIFICATION:

To properly implement CS for SB 193, as it has been presented, will require the services of a Personnel Technician I to compute and explain eligible list revisions. The Personnel Technician I will provide in person counseling services in the Anchorage area both during the initial conversion effort and on an on-going basis thereafter. The in person counseling services are to be provided to the regional centers on a one trip per year basis.

AGENCY Administration PROGRAM Centralized Administrative Services

BRU Personnel

COMPONENT Personnel

13 REQUEST FOR NEW POSITION.

REVISED DATE _____

FY 82

	POSITION TITLE			RANGE/STEP	BARG. UNIT.	LOCATION		APPROV.	DISAPP.
1	Personnel Technician I			12A	K	Juneau	GOV.		
2	TYPE OF POSITION: PPT	STAFF MONTHS: 6	RP No.	PCN No.	PRIORITY		FORM 12 PAGE/LINE	LEG.		

	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
4	PERSONAL SERVICES: SALARY 1761 per mo.	10,566	
5	BENEFITS 15.79%	1,684	
6	FICA 6.13%	648	
7	HEALTH INS. 150 per mo.	900	
8	TOTAL PERSONAL SERVICES	01	13,799
9	TRAVEL	02	3,500
10	CONTRACTUAL	03	3,700
11	COMMODITIES	04	2,250
12	EQUIPMENT	05	1,400
13	OTHER		
14	TOTAL COST		24,649

	CODE	FUNDING SOURCE	
15		FED RCPTS. 1002	
16		GF MATCH. 1003	
17		GEN. FUND 1004	24,649
18		I-A RCPTS. 1007	
19		PGM RCPTS 1028	
20		OTHER	
21	CONTINUATION		
22	ADDITION		

FOR B&M USE ONLY

AA KEY NUMBER _____ COLUMN NO. _____

JUSTIFICATION:

To properly implement CS for SB 193, as it has been presented, will require the services of a Personnel Technician I. The Personnel Technician I will design forms, change public information materials and be in charge of the revisions to all eligible lists.

The Personnel Technician I will provide in person counseling services in the Juneau area both during the initial conversion effort and on an on-going basis thereafter. The in person counseling services are to be provided to the regional centers on a one trip per year basis.

AGENCY Administration PROGRAM Centralized Administrative Services

BRU Personnel

COMPONENT Personnel

13 REQUEST FOR NEW POSITION.

REVISED DATE _____

FY 82

Introduced: 2/20/81
Referred: State Affairs and Judiciary

BY THE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE COUNCIL (for the Blue Ribbon Commission on the State Personnel Act)

IN THE SENATE

SENATE BILL NO. 193

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act amending the State Personnel Act (AS 39.25); and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 39.25.040 is amended to read:

Sec. 39.25.040. DIRECTOR OF PERSONNEL. The head of the division of personnel is the director of personnel appointed by the commissioner of administration and responsible to the commissioner of administration for the execution of the duties and responsibilities imposed by this chapter and the rules adopted under this chapter. The director of personnel shall [MUST] have at least three years of practical working experience in the field of personnel administration.

* Sec. 2. AS 39.25.060(b) is amended to read:

(b) Members of the board may not be [SHALL BE QUALIFIED ELECTORS OF THE STATE WHO ARE NOT] employees [OR OFFICERS] of the state. Not more than two members of the board may be members of the same political party.

* Sec. 3. AS 39.25.070(1) is amended to read:

(1) approve or disapprove amendments to the personnel rules in accordance with AS 39.25.140 [THE ORIGINAL RULES OR A PART OF THEM WITHIN 60 DAYS OF THEIR SUBMISSION TO THE BOARD AND APPROVE OR DISAPPROVE AMENDMENT TO THE RULES WITHIN 30 DAYS OF SUBMISSION TO THE BOARD, AND IN CARRYING OUT THIS DUTY, THE BOARD, IF REQUESTED, MAY HOLD THE PUBLIC HEARINGS IT CONSIDERS NECESSARY];

* Sec. 4. AS 39.25.070(3) is amended to read:

(3) hear and determine appeals by employees [IN THE CLASSIFIED SERVICE] as provided in AS 39.25.170;

* Sec. 5. AS 39.25.070 is amended by adding a new paragraph to read:

(7) employ staff members, who shall be in the classified service.

* Sec. 6. AS 39.25.080 is repealed and reenacted to read:

Sec. 39.25.080. PUBLIC RECORDS. (a) State personnel records, including employment applications and examination materials, are confidential and are not open to public inspection except as provided in this section.

(b) The following information is available for public inspection, subject to reasonable regulations on the time and manner of inspection:

(1) the names and position titles of all state employees;

(2) the position held by a state employee;

(3) prior positions held by a state employee;

(4) whether a state employee is in the classified, partially exempt, or exempt service;

(5) the dates of appointment and separation of a state employee; and

(6) the compensation authorized for a state employee.

(c) A state employee has the right to examine his own personnel files and may authorize others to examine his files.

(d) An applicant for state employment who appeals an examination score may review written examination questions relating to the examination unless the questions are to be used in future examinations.

* Sec. 7. AS 39.25.090 is amended to read:

Sec. 39.25.090. COVERAGE OF CHAPTER. This chapter and the rules adopted under it apply to all positions in (1) the classified service, and (2) the <u>exempt and</u> partially exempt service as specifically pro-

vided.

* Sec. 8. AS 39.25.110 is repealed and re-enacted to read:

Sec. 39.25.110. EXEMPT SERVICE. Unless otherwise provided by law, the following positions in the state service constitute the exempt service and are exempt from the provisions of this chapter and the rules adopted under it:

(1) persons elected to public office by popular vote or appointed to fill vacancies in elected offices;

(2) justices of the supreme court, judges of the court of appeals, judges of the superior court, and judges and magistrates of other state courts established by law;

(3) employees of the state court system, and employees and members of the Judicial Council;

(4) employees of the state legislature and its agencies;

(5) the head of each principal department in the executive branch;

(6) officers and employees of the University of Alaska;

(7) certificated teachers and noncertificated employees employed by a regional educational attendance area established and organized under AS 14.08.031 - 14.08.041 to teach in, administer, or operate schools under the control of a regional educational attendance area school board;

(8) patients and inmates employed in state institutions;

(9) persons employed in a professional capacity to make a temporary or special inquiry, study or examination as authorized by the governor, the legislature, or a legislative committee;

(10) members of boards, commissions, or authorities;

(11) the officers and employees of the following boards, commissions and authorities:

(A) Alaska Commercial Fisheries Entry Commission;

(B) Alaska Gas Pipeline Financing Authority;

(C) Alaska Permanent Fund Corporation;

(D) Alaska Energy Center;

(E) Alaska Industrial Development Authority;

(12) the executive officer of the Alaska Commission on Post-secondary Education;

(13) the ombudsman and hi. staff;

(14) the executive secretary and legal counsel of the Alaska Municipal Bond Bank Authority;

(15) licensed physicians, as defined in AS 47.30.340(9), employed by the division of mental health and developmental disabilities, Department of Health and Social Services;

(16) petroleum engineers and petroleum geologists employed in a professional capacity by the Department of Natural Resources except for those employed in the division of geological and geophysical surveys;

(17) officers, agents, and employees of the Alcoholic Beverage Control Board granted limited peace officer powers by the Alcoholic Beverage Control Board under AS 04.06.110;

(18) persons employed by the division of marine transportation as masters and members of the crews of vessels who operate the state ferry system and who are covered by a collective bargaining agreement provided in AS 23.40.040.

* Sec. 9. AS 39.25.120 is repealed and reenacted to read:

Sec. 39.25.120. PARTIALLY EXEMPT SERVICE. (a) Positions in the partially exempt service are included in the position classification plan established under this chapter and are compensated according to the pay plan (AS 39.27.011).

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILE 8672
1369 SCOMM 51: BLUE RIBBON COMN. ON STATE PERSONNEL ACT 1978-1983

(b) A person holding a position in the partially exempt service is not required to take an examination or qualify or earn a place on a register, and is not eligible for a hearing by the personnel board in case of dismissal, demotion, or suspension, except as provided in AS 39.25.170. Positions in the partially exempt service are specifically exempt from the rules established under AS 39.25.150(3) - (10), (13), (14), and (17).

(c) The following positions in the state service constitute the partially exempt service:

(1) deputy and assistant commissioners of the principal departments of the executive branch, including the assistant adjutant general of the Department of Military Affairs;

(2) the directors of the major divisions of the principal departments of the executive branch and the regional directors of the Department of Transportation and Public Facilities;

(3) attorney members of the staff of the Department of Law and of the public defender agency;

(4) one private secretary for each head of a principal department in the executive branch;

(5) employees of the Office of the Governor and the office of the lieutenant governor, including the staff of the governor's mansion;

(6) the executive director and deputy director of the Alaska Public Utilities Commission;

(7) the state forester in the Department of Natural Resources;

(8) the director, deputy director, staff legal counsel, and hearing officers of the Alaska Transportation Commission;

(9) not more than two special assistants to the commissioner

of each of the principal departments of the executive branch, but the number may be increased if the partially exempt service is extended under AS 39.25.130 to include the additional special assistants;

(10) the principal executive officer of the following boards, councils, or commissions:

(A) Alaska Public Broadcasting Commission;

(B) Professional Teaching Practices Commission;

(C) Parole Board;

(D) Board of Nursing;

(E) Real Estate Commission;

(F) Alaska Royalty Oil and Gas Development Advisory Board;

(G) Alaska Historical Commission;

(H) Alaska State Council on the Arts;

(I) Alaska Police Standards Council;

(J) Council on Science and Technology;

(11) Alaska Pioneers' Home managers;

(12) hearing examiners in the Department of Revenue;

(13) the comptroller in the division of treasury, Department of Revenue;

(14) investment officers in the Department of Revenue;

(15) the chief of subsistence in the Department of Fish and Game;

(16) airport managers in the Department of Transportation and Public Facilities employed at the Anchorage and Fairbanks International Airports;

(17) the deputy director of the division of tourism and the deputy director of the division of insurance in the Department of Commerce and Economic Development;

(18) the executive director and staff of the Alaska Public Offices Commission;

(19) the director, deputy director, personnel analysts II, labor relations analysts I, labor relations analysts II, senior negotiators, and research directors of the division of labor relations in the Department of Administration.

* Sec. 10. AS 39.25.130(a) is amended to read:

(a) The [AFTER JUNE 30, 1961, THE] personnel board, upon written recommendation of the commissioner of administration, may extend the partially exempt service to include any position [WHICH WAS] in the classified service [ON APRIL 19, 1960,] which, in the judgment of the board:

(1) involves principal responsibility for the determination of policy;

(2) involves principal responsibility for the way in which policies are carried out; or

(3) involves responsibilities and duties of a type not susceptible to the ordinary recruiting and examining procedures.

* Sec. 11. AS 39.25.130(c) is amended to read:

(c) The [AFTER JUNE 30, 1961, THE] personnel board, upon written recommendation of the commissioner of administration, may extend the classified service to include any position [WHICH WAS] in the partially exempt service [ON APRIL 19, 1960].

* Sec. 12. AS 39.25.140 is repealed and reenacted to read:

Sec. 39.25.140. AMENDMENT OF PERSONNEL RULES. (a) The director of personnel shall prepare and submit proposed amendments of the personnel rules to the commissioner of administration for review and approval.

(b) The commissioner of administration shall review the proposed amendments and if he approves them, he shall submit them to the person-

nel board.

(c) When the proposed amendments are submitted to the personnel board, the commissioner of administration shall post notice in public buildings throughout the state that the personnel board has the proposed amendments under consideration.

(d) If the proposed amendments concern matters of public policy, the personnel board shall adopt them in accordance with the Administrative Procedure Act (AS 44.62).

(e) If the proposed amendments relate only to the internal management of the state agencies

(1) notice of the proposed amendments shall be posted for at least 30 days;

(2) if requested by the commissioner of administration or by a person receiving notice of the proposed amendments, the personnel board may hold public hearings on the proposed amendments and may appoint a hearing officer to conduct the hearings;

(3) the personnel board may amend the proposed amendments;

(4) the proposed amendments become effective 45 days after they are submitted to the personnel board unless the board has disapproved them;

(5) the amended rules shall be published in the Alaska Administrative Register and Code for informational purposes.

(f) In this section "matters of public policy" include, but are not limited to, matters concerning

(1) recruitment;

(2) examinations;

(3) selection methods;

(4) prohibitions and penalties;

(5) public records;

(6) eligible lists;

(7) hours of work;

(8) merit increases; and

(9) hearings and appeals relating to matters listed in (1) - (8) of this subsection.

* Sec. 13. AS 39.25.150 is repealed and reenacted to read:

Sec. 39.25.150. SCOPE OF THE RULES. The personnel rules shall provide for

(1) the preparation, maintenance, and revision by the director of personnel, subject to approval of the commissioner of administration and the personnel board, of a position classification plan for all positions in the classified and partially exempt services; the position classification plan shall include

(A) a grouping together of all positions into classes on the basis of duties and responsibilities;

(B) an appropriate title, a description of the duties and responsibilities, training and experience qualifications, and other necessary position specifications for each class of positions;

(2) the preparation, maintenance, revision and administration by the director of personnel of a pay plan for all positions in the classified and partially exempt services; the pay plan (A) shall be based upon the position classification plan; (B) shall provide for fair and reasonable compensation for services rendered, and reflect the principle of like pay for like work; (C) may be amended, approved, or disapproved by the legislature in regular or special session; after the pay plan is in effect, a salary or wage payment may not be made to a state employee covered by the plan unless the payment is in accordance with this chapter and the rules adopted under this chapter or unless

the payment is in accordance with a valid agreement entered into in accordance with AS 23.40;

(3) the use of employee selection methods which will fairly test the capacity and fitness of the person examined to efficiently discharge the duties of the class in which employment is sought;

(4) the establishment and maintenance of eligible lists for appointment and promotion providing the names of eligible candidates in order of their relative performance in the examinations;

(5) the procedure for certifying eligible candidates;

(6) promotions from within the state service when there are qualified candidates in the state service; vacancies shall be filled by promotion whenever practicable and in the best interest of the state service and promotion shall be by competitive examination whenever possible; in considering promotions, applicants' qualifications, performance record, seniority, and conduct shall be evaluated;

(7) a period of probation not to exceed one year before an appointment to a position becomes permanent, except that a permanent employee receiving a promotional appointment retains permanent status in the service and job class from which appointed for the duration of the probationary period and may be demoted to a former class without right of appeal, notwithstanding AS 39.25.170, but if the employee is dismissed from the service the appeal rights under AS 39.25.170 apply;

(8) nonpermanent and emergency appointments to positions in the state service in accordance with AS 39.25.195 - 39.25.200;

(9) provisional appointment without competitive examination when appropriate eligible lists are not available;

(10) transfers from one department to another and from another merit system jurisdiction to the state service;

(11) transfers from one area of the state to another;

(12) the payment of transportation costs when an employee transfers from one area to another at the request of the employer;

(13) the reinstatement of a person who resigns in good standing;

(14) layoffs for reason of lack of money or work, abolition of positions, or material changes in duties or organization; both performance and seniority records shall be considered in the development of layoff orders;

(15) the development, maintenance, and use of employee performance records;

(16) the establishment of disciplinary measures which may include disciplinary suspension without pay;

(17) the procedures for review of disputed personnel actions, for resolving employee and interagency grievances, and for resolving grievances of the general public concerning the operation of the state personnel system;

(18) hours of work for all employees in the state service;

(19) methods and procedures covering overtime work and pay;

(20) the granting of employment preference rights to a veteran at each time application is made for employment not within the area of promotion, when the veteran possesses the necessary qualifications in the job classification applied for under this chapter; in the examination to determine the qualification of applicants for entrance into the classified service under merit system examination, five additional points shall be added to the passing grade of a veteran and ten additional points shall be added to the passing grade of a disabled veteran; if a position in the classified service is eliminated, employees shall be released in accordance with rules which give due effect to all factors; if all job qualifications are equal, the veteran shall be

given preference over the nonveteran and the veteran shall be kept on the job; in this paragraph

(A) "veteran" means a person with 90 days or more active service in the armed forces of the United States who has been honorably discharged after having served during any period between April 6, 1917, and December 1, 1919, between September 16, 1940, and December 31, 1947, or between June 27, 1950, and November 7, 1975;

(B) "disabled veteran" means a veteran who is rated by the United States Veterans' Administration as having at least a 10 percent service-connected disability;

(21) the employment of persons in permanent positions on a part-time basis of 15 hours or more a week, including the employment of two persons to fill one permanent full-time position; these employees shall be designated as permanent part-time employees;

(22) the granting of employment preference to severely handicapped persons; this includes the right to provisional appointment without competitive examination for periods up to four months and the granting of eligibility to a severely handicapped person provisionally appointed under the rules who demonstrates ability to perform the job for permanent appointment without competitive examination; provisional employment under this paragraph may not exceed four months during a 12-month period; "severely handicapped" as used in this paragraph means persons certified by the director of the division of vocational rehabilitation to be severely handicapped;

(23) the establishment of programs facilitating the employment of disadvantaged persons, including limitation of competition for appointment and promotion to individuals who meet the program requirements;

(24) the delegation, when feasible, of personnel responsibilities and duties to the principal departments of the executive branch;

(25) other rules and administrative regulations, not inconsistent with this chapter, which are necessary for its enforcement.

* Sec. 14. AS 39.25.153 is repealed and reenacted to read:

Sec. 39.25.153. PERSONNEL OFFICERS. (a) If a principal department of the executive branch has a personnel officer, the personnel officer shall be employed by and located within that department.

(b) Subject to the provisions of (d) of this section, the personnel officers for the Departments of Transportation and Public Facilities, Fish and Game, Education, Labor, and Health and Social Services, have the following powers with respect to the classes of positions unique to their departments:

(1) to assign positions to an existing class in the state classification plan and to the salary range for that class as established by the state pay plan or by a valid agreement entered into in accordance with AS 23.40;

(2) to administer and score examinations and to place successful applicants on the eligible lists;

(3) to certify those eligible to the appointing authorities.

(c) The initial determination of classes of positions unique to the departments listed in (b) of this section shall be made by the personnel officer of the department in consultation with the commissioner of his department subject to the approval of the director of personnel in the Department of Administration.

(d) The assumption of a power set out in (b) of this section must be approved by the commissioner of administration and must be in harmony with the merit principle of personnel administration (AS 39.25.010).

* Sec. 15. AS 39.25.160 is repealed and reenacted to read:

Sec. 39.25.160. GENERALLY. (a) A classified employee or an exempt employee in a position named in AS 39.25.110(3) may not take an active part in the management of a political party above the precinct level.

(b) A person may not give, render, pay, offer, solicit, or accept money, services, or other valuable thing in connection with securing or making an appointment, promotion, or advantage in a position in the classified service.

(c) A person may not require an assessment, subscription, contribution, or service for a political party from a state employee.

(d) A person may not seek or attempt to use a political party endorsement in connection with an appointment or promotion in the classified service.

(e) An employee in the classified or partially exempt service who seeks nomination or becomes a candidate for state or national elective political office shall immediately resign any position held in the state service.

(f) Action affecting the employment status of a state employee or an applicant for a position in state service, including appointment, promotion, demotion, suspension, or removal, may not be taken or withheld on the basis of unlawful discrimination due to race, sex, color, religion, national origin, age, or handicap.

(g) Action affecting the employment status of an employee in the classified service or an applicant for a position in the classified service, including appointment, promotion, demotion, suspension, or removal, may not be taken or withheld on the basis of unlawful discrimination due to political beliefs.

(h) A person may not knowingly make a false statement, certificate, mark, rating, or report with regard to a test, certification, or

appointment made under this chapter or in any manner commit a fraud preventing the impartial execution of this chapter and the personnel rules adopted under this chapter.

(i) A person may not obstruct the right of another person to examination, eligibility, certification, appointment, or promotion under this chapter.

* Sec. 16. AS 39.25.170 is repealed and reenacted to read:

Sec. 39.25.170. HEARINGS AND APPEALS UPON DISMISSAL, DEMOTION, OR SUSPENSION. (a) An employee may be dismissed, demoted, or suspended by delivery of written notice of the proposed action and the reason for it from the appointing authority to the employee.

(b) A permanent employee in the classified service who has been dismissed, demoted, or suspended may appeal the action to the personnel board.

(c) An employee who has been dismissed, demoted, or suspended due to unlawful discrimination based on race, sex, color, religion, national origin, age, or handicap may appeal the action to the personnel board.

(d) An employee in the classified service who has been dismissed, demoted, or suspended due to unlawful discrimination based on political beliefs may appeal the action to the personnel board.

(e) A permanent employee in the classified service who holds probationary status in his present position may appeal a dismissal from the classified service to the personnel board.

(f) An employee who is on leave without pay from a position in the classified service and who is employed by the state in another capacity, either in the exempt or partially exempt service, may appeal a dismissal from the classified service to the personnel board.

(g) An employee begins an appeal by filing a written request for review of the action with the personnel board within 15 days of receiv-

ing written notice of the action from the appointing authority.

(h) If requested by the employee at the time of filing an appeal, the personnel board shall hold a hearing to determine the reasonableness of the the action taken by the appointing authority. If the employee requests it, the hearing shall be open to the public. The employee may be represented by another person and has the right to present evidence. Technical rules of evidence do not apply to the hearing.

(i) If the personnel board finds that the action complained of was due to unlawful discrimination based on race, sex, color, religion, national origin, political beliefs, age, handicap, or in violation of the provisions of this chapter or the personnel rules, the employee shall be reinstated to the position without loss of pay or leave benefit for the period of dismissal, demotion, or suspension. In all other cases, the board shall report its findings and recommendations to both parties.

* Sec. 17. AS 39.25 is amended by adding a new section to read:

Sec. 39.25.175. PROCEDURE. (a) A subpoena shall be issued at the request of a party to a proceeding begun under AS 39.25.170.

(b) If a person refuses to respond to a subpoena issued under this section, or refuses to testify at a hearing authorized by AS 39.-25.170, the personnel board may apply to the superior court for an order requiring the person to respond to the subpoena or to testify.

(c) Failure to obey the order of the superior court requiring response to a subpoena or testimony at a hearing may be punished as contempt of court.

* Sec. 18. AS 39.25 is amended by adding a new section to read:

Sec. 39.25.181. DEFINITIONS. In this chapter,

(1) "fraud" means for a person to knowingly

(A) create or confirm another's false impression which the person does not believe to be true, including false impressions as to law or value and false impressions as to intention or other state of mind;

(B) fail to correct another's false impression which the person previously has created or confirmed;

(C) prevent another from acquiring pertinent information;

(2) "knowingly" means for a person to be aware with respect to conduct or to a circumstance described by a provision of law that his conduct is of that nature or that the circumstance exists; when knowledge of the existence of a particular fact is required, that knowledge is established if a person is aware of a substantial probability of its existence, unless he actually believes it does not exist;

(3) "precinct" means the territory within which resident voters may cast votes at one polling place;

(4) "state employee" means a person employed by the state who is paid a wage or salary, but does not include a person hired by the state to work as an independent contractor.

* Sec. 19. AS 39.25 is amended by adding a new section to article 6 to read:

Sec. 39.25.192. EMPLOYEE POLITICAL RIGHTS. A state employee may

(1) be a member of a national, state, or local political party;

(2) take part in a political campaign;

(3) express political opinions;

(4) register party preference;

(5) serve as a voting or nonvoting delegate to a party convention;

(6) be appointed, nominated, or elected to nonpartisan public office in a local government unit; and

(7) make contributions to a political party or a candidate for public office.

* Sec. 20. AS 39.25.180 is repealed.

* Sec. 21. This Act takes effect July 1, 1981.

TWELFTH LEGISLATURE

Finance

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 193 Page 1 of 4

Title An Act amending the State Personnel Act (AS 39.25)

Requested by Rules Committee (for the Blue Ribbon Commission) Date 02-20-81

II. FISCAL DETAIL

Agency Affected Administration

Program Category Affected General Government

BRU, Program, or Subprogram(s) Affected Personnel

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES		56.4	62.1	68.3	75.1	82.6
200 TRAVEL		.7	.8	.9	1.0	1.1
300 CONTRACTUAL		6.4	7.0	7.7	8.5	9.4
400 COMMODITIES		6.0	.9	1.0	1.1	1.2
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		69.5	70.8	77.9	85.9	94.3

FUNDING (Thousands of Dollars)

GENERAL FUND		69.5	70.8	77.9	85.9	94.3
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME		2	2	2	2	2
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

Personal Services: A Regulations Specialist II and a Clerk II will be needed to fulfill the requirements of the Administrative Procedures Act.

Travel was inflated at a rate of 12 per cent. All other factors were inflated at a rate of 10 per cent. FY 82 contains one time furnishing costs in commodities.

The cost of the Hearing Officer and Legal Notices will be sustained by the Personnel Board Budget.

IV. DATE March 12, 1981 PREPARED BY for Bruce Cummings

AGENCY Division of Personnel

PHONE 465-4430

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named) Senator Ray

cc: Keith Specking (Office of the Governor)

33-001 (Rev. 12/80)

	POSITION TITLE			RANGE/STEP	BARG. UNIT	LOCATION		APPROV.	DISAPP.
1	Regulations Specialist II			16 A	K	Juneau	GOV.		
2	TYPE OF POSITION: PFT	STAFF MONTHS: 12	RP No.	PCN No.	PRIORITY	FORM 12 PAGE/LINE	LEG.		

	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
4	PERSONAL SERVICES: SALARY 2,291 per mo.	27,492	
5	BENEFITS 15.79 %	4,341	
6	FICA 6.13 %	1,685	
7	HEALTH INS. 150 per mo.	1,800	
8	TOTAL PERSONAL SERVICES		35,318
9	TRAVEL		700
10	CONTRACTUAL		3,200
11	COMMODITIES		3,000
12	EQUIPMENT		
13	OTHER		
14	TOTAL COST complete		42,218

	CODE	FUNDING SOURCE	
15		FED RCPTS.	
16		GF MATCH.	
17		GEN. FUND	42,218
18		I-A RCPTS.	
19		PGM RCPTS	
20		OTHER	
21	CONTINUATION		
22	ADDITION		

FOR B&M USE ONLY

4A KEY NUMBER _____ COLUMN NO. _____

JUSTIFICATION:

To properly implement Senate Bill 193, as it has been presented, will require the services of a Regulation Specialist II.

The Regulation Specialist II will assist the Director of Personnel in the proper preparation and drafting of new or revised regulations under the Admin. Proc. Act.

AGENCY Administration PROGRAM Centralized Administrative Services

BRU Personnel

COMPONENT Personnel

13 REQUEST FOR NEW POSITION

REVISED DATE _____

FY 82

	POSITION TITLE			RANGE/STEP	BARG. UNIT.	LOCATION	GOV	APPROV.	DISAPP.
1	Clerk II			7 A	K	Juneau			
	TYPE OF POSITION	STAFF MONTHS	RP No.	PCN No.	PRIORITY	FORM 12 PAGE/LINE	LEG.		
2	PFT	12							

	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
4	PERSONAL SERVICES: SALARY 1,319 per mo.	15,828	
5	BENEFITS 15.79 %	2,500	
6	FICA 6.13 %	970	
7	HEALTH INS. 150 per mo.	1,800	
8	TOTAL PERSONAL SERVICES 01		21,098
9	TRAVEL 02		
10	CONTRACTUAL 03		3,200
11	COMMODITIES 04		3,000
12	EQUIPMENT 05		
13	OTHER		
14	TOTAL COST		27,298

	CODE	FUNDING SOURCE	
15		FED RCPTS. 1002	
16		GF MATCH. 1003	
17		GEN. FUND 1004	27,298
18		I-A RCPTS. 1007	
19		PGM RCPTS 1037	
20		OTHER	
21	CONTINUATION		
22	ADDITION		

FOR BOM USE ONLY

4A KEY NUMBER _____ COLUMN NO. _____

JUSTIFICATION:

To properly implement Senate Bill 193, as it has been presented, will require the services of a Clerk I. The Clerk I will assist the Regulation Specialist II in the proper distribution of the proposals and in the technical requirements.

AGENCY Administration PROGRAM Centralized Administrative Services

BRU Personnel

COMPONENT Personnel

13 REQUEST FOR NEW POSITION

REVISED DATE _____

FY 82

TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 193 Page 4 of 4

Title An Act amending the State Personnel Act

Requested by _____ Date _____

II. FISCAL DETAIL

Agency Affected Administration

Program Category Affected General Government

BRU, Program, or Subprogram(s) Affected Labor Relations Agency (Personnel Board)

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL		17.0	18.7	20.6	22.6	24.9
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		17.0	18.7	20.6	22.6	24.9

FUNDING (Thousands of Dollars)

GENERAL FUND		17.0	18.7	20.6	22.6	24.9
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

Above costs assume costs of $75/hour for a hearing Officer and a total of 120 hours; $500/month for contracted secretarial services and 2.0 publications costs. Inflation beyond FY 82 is calculated at 10%.

IV. DATE 03-06-81 PREPARED BY Judy Crondahl

AGENCY Administration

PHONE 465-2277

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

Senator Ray

Keith Specking

33-001 (Rev. 12/80)

WORK ORDER REQUEST FORM

12-

KEYWORDS: _____ ASSIGNED TO _____

REQUEST FOR: BILL ☐ RESOLUTION ☐ RESEARCH ☐ OTHER ☐

SUBJECT _____

REQUESTED FOR _____ BY _____ EXT. _____

* DELIVER TO _____ TAKEN BY _____

INSTRUCTIONS, EXPLANATIONS _____

OBTAIN

SPECIAL DRAFTING INSTRUCTIONS ATTACHED ☐

AUTHORIZED TO CONFER WITH _____

RETURN _____

_____ TO REQUESTER

APPROVED: _____ Director, Legal Services

REVIEWED _____

IN _____ /80 DUE _____

TYPED - Draft _____ DATE _____

Final _____ DATE _____

PROOFED _____ DELIVERED _____

SPECIAL INSTRUCTIONS TO TYPIST/PROOFREADER

DRAFT ☐ FINAL ☐

LA-L 10

Sec. 39.25.130. Extension of partially exempt and classified services. (a) After June 30, 1961, the personnel board, upon written recommendation of the commissioner of administration, may extend the partially exempt service to include any position which was in the classified service on April 19, 1960, which, in the judgment of the board:

(1) involves principal responsibility for the determination of policy;

(2) involves principal responsibility for the way in which policies are carried out; or

(3) involves responsibilities and duties of a type not susceptible to the ordinary recruiting and examining procedures.

(b) No positions may be included in the partially exempt service under this section if the inclusion is inconsistent with federal requirements for state agencies supported in whole or in part by federal funds.

(c) After June 30, 1961, the personnel board, upon written recommendation of the commissioner of administration, may extend the classified service to include any position which was in the partially exempt service on April 19, 1960. (§ 7 ch 144 SLA 1960)

Cited in Hafling v. Inlandboatmen's Union, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

Article 3. Personnel Rules.

Section

140. Amendment of personnel rules
150. Scope of rules
153. Personnel rules for certain departments
155. Vocational substitution program

Sec. 39.25.140. Amendment of personnel rules. (a) The director of personnel shall prepare and submit to the commissioner of administration any proposed amendments to the personnel rules for all positions and employees subject to this chapter.

(b) The commissioner of administration shall review the amendments and submit them to the personnel board.

(c) At the time he submits the amendments to the personnel board, the commissioner of administration shall, by posting in public buildings throughout the state, give notice that the personnel board has the amendments under consideration. The amendments have the effect of law 30 days after they are submitted to the personnel board if not disapproved by the personnel board. The personnel board, if requested, may hold public hearings on the amendments.

(d) The rules may provide for exemptions and modifications which are necessary to assure the continuity of federal grants to agencies supported in whole or in part by federal contributions.

(e) The rules adopted under this chapter relate to the internal management of state agencies and their adoption is not subject to the Administrative Procedure Act. The rules may be published in the Alaska Administrative Register and Code for informational purposes. (§ 12 ch 144 SLA 1960; am § 5 ch 5 SLA 1966)

Legislative history report. — For report on ch. 5, SLA 1966, see 1966 House Journal, pp. 50 and 51.

A right clearly created by statute cannot be taken away by regulation. Mueller v. Alaska State Bd. of Personnel, Sup. Ct. Op. No. 396 (File No. 738), 425 P.2d 145 (1967).

Stated in Kelly v. Zamarello, Sup. Ct. Op. No. 705 (File Nos. 1255, 1256), 486 P.2d 906 (1971).

Cited in State in Bogenrife, Sup. Ct. Op. No. 918 (File No. 1665), 513 P.2d 13 (1973).

Sec. 39.25.150. Scope of rules. The personnel rules shall provide for

(1) the preparation, maintenance, and revision by the director of personnel, subject to approval by the commissioner of administration and the personnel board, of a position classification plan for all positions in the classified and partially exempt services; in the position classification plan all positions shall be grouped together into classes on the basis of duties and responsibilities; the position classification plan shall include for each class of position an appropriate title, a description of the duties and responsibilities, training and experience qualifications, and other necessary position specifications;

(2) the preparation, maintenance, revision, and administration by the director of personnel of a pay plan for all positions in the classified and partially exempt services; the pay plan shall be prepared after consultation with the appointing authorities or their designee, and with representatives of interested employee groups; the pay plan shall be based upon the position classification plan, shall provide for fair and reasonable compensation for services rendered, and shall be based on the principle of like pay for like work; commissioners' salaries are not the maximum limit for the pay plan and in exceptional circumstances higher salaries may be specified; the pay plan may provide for uniform starting pay, increments, and area and time differentials; the pay plan prepared under this section may be amended, approved or disapproved by the legislature in regular or special session; after the pay plan is put into effect, no salary or wage payment may be made to a state employee covered by the pay plan unless the payment is in accordance with this chapter and the rules adopted under this chapter;

(3) the use of sound employee selection methods, including open competitive examinations to test the fitness of applicants for positions in the state service;

(4) promotions from within the state service when there are qualified candidates in the state service; vacancies shall be filled by promotion whenever practicable and in the best interest of the state

HCS
CS Jud —
BILL NUMBER SB 193 am H

Title of Bill

BRC

Amending the State Personnel Act, eff date

Ch 112

	DATE/PG No.	
1981 2/20	288	Introduced/Referred SA - Jud (hearing 3/31) (hearing 5/14)
5/15	1092	Committee Report d/pw/CS (chg title) eff date added) Carletta No Rec = to Jud (hearing 1/27/82)
4/7/82	818	d/pw/CS (Parr No Rec) to Rls
4/14/82	902	2nd Reading CS adopted ams adopted
4/14	904	3rd Reading passed
		Reconsideration
	904	Vote: Ayes: 20 Nays: —— Passed ____ Failed ____
		(Opposed voters: ____)
4/14	916	Sent to Other House:
4/15	1290	Introduced/Referred SA Jud (SA mtg 4/19)
4/23	1522	Committee Report d/pw/CS F.N. 48 to Jud —
5/19	1952	Fin - Adams, Haugen, Bettisworth, Carney, Montgomery - No Rec Cotton + D/P - Cudd, d/m/p. F.N. HS 60 to Rls.
5/25	2032	2nd Reading Am - to 3rd

Bill Number CSSB 193 (Jud) amt

DATE	
5/25 2033	3rd Reading passed as amended
	Reconsideration
2033	VOTE: Ayes: 21 Nays: 17 Passed ✓ Failed
	(Opposed voters:)
5/30 2045	Returned to Other House:
	Sent to Governor: Date Needed For Action:
	Action by Governor: Signed: Without Signature: Vetoed:
	Chapter: 112 Effective Date:
	Sustained:
	Overridden:

COMMENTS:

Alaska State Legislature

HOUSE CALENDAR

OFFICIAL BUSINESS OF THE HOUSE

ONE HUNDRED THIRTY FIFTH DAY

Tuesday

Chaplain: Reverend Jon Paden
Church of Christ

May 25, 1982

Convenes: 10:00 a.m.

SECOND READING OF SENATE BILLS

CSSB 193 (Jud) am - "An Act amending state personnel laws; eff. date"
-State Affairs report, p. 1522 replace with HCS CSSB 193 (SA) (same title) Fiscal note Suppl #48
-Judiciary report, p. 1896, replace w/HCS CSSB 193 (Jud) (same title)
-Finance report, p. 1952, replace w/HCS CSSB 193 (Jud) (same title) Fiscal note Supplement #60
-Held from 5/24 calendar.

CSSB 252 (Fin) - "An Act relating to grants for water supply, sewerage and solid waste facilities; eff. date."
-C&RA report, p. 1864, replace w/HCS CSSB 252 (C&RA) (same title).
-Finance report, p. 1883, replace w/HCS CSSB 252 (Fin)(same title).
-Senate fiscal note attached to bill.
-Held over from 5/24/82 calendar.

CS 2ndSSSB 275 (Res) am - "An Act relating to the compensation of persons collecting hunting and fishing license and tag fees; eff. date."
-Resources report, p. 1311.
-Finance report, p. 1653.
-Held over from 5/24/82 calendar.

SB 611 - "An Act revising the criminal penalties for unlawful operation of an aircraft."
-Labor & Commerce report, p. 1228.
-Judiciary report, p. 1337.
-Two zero fiscal notes attached to bill.
-Finance report, p. 1488, replace w/HCS SB 611 (Fin) "An Act relating to operating a motor vehicle, aircraft, or watercraft while intoxicated."
-One zero fiscal note attached to bill.
-Two dollar fiscal notes in Supp. #47.
-Held over from 5/24/82 calendar.

SECOND READING OF SENATE BILLS, CONT'D

CSSB 693 (Fin) - "An Act changing the termination date of the law giving the supreme court authority over court facilities; eff. date."
-Judiciary report, p. 1685.
-Zero fiscal note attached to bill.
-Finance report, p. 1840, replace w/HCS CSSB 693 (Fin) "An Act relating to the number of superior court judges and judicial elections; eff. date."
-Two fiscal notes in Supp. #56.
-Returned to Finance 5/15/82, p. 1871.
-Finance report, p. 1896, replace w/HCS CSSB 693 (2nd Fin) "An Act relating to the number of superior court judges; eff. date."
-Two fiscal notes Supp. 59.
-Held over from 5/24/82 calendar.

SB 719 - "An Act providing that the Dept. of Education conduct a computer network study; eff. date."
-HESS report, p. 1825.
-Finance report, p. 1884.
-Fiscal note in Supp. #57.
-Held over from 5/24/82 calendar.

SB 735 - "An Act relating to organization grants and transitional assistance for municipalities; eff. date."
-C&RA report, p. 1494.
-Finance report, p. 1895, replace w/HCS SB 735 (Fin) "An Act relating to judicial elections; eff. date."
-Fiscal note Supp. # 59.
-Held over from 5/24 calendar.

CSSB 741 (Fin) - "An Act relating to child support enforcement; eff. date"
-Rules report, p.
- Judiciary waived 5/13/82
-Held over from 5/24 calendar.

CSSB 748 (Fin) - "An Act relating to interest on state bonds and notes; eff. date."
-Finance report, p. 1723, replace w/HCS CSSB 748 (Fin) (same title).
-Held over from 5/24/82 calendar.

SB 772 - "An Act making a special appropriation to the Dept. of Nat. Resources for construction of a plant quarantine station at the plant materials center (AS 03.22) operated in co-operation with the Institute of Agricultural Sciences; eff. date."
-Resources report, p. 1311.
-Finance report, p. 1654.
-From Rules, returned to Finance, p. 1790.
-Moved from Finance to Rules 5/14/82, p. 1853
-Held over from 5/24/82 calendar.

9 a.m.

3/31 Major changes

PR's for Nancy
CB memo's Nancy
Cherie
Vets pref bill to Nancy

Pg 2 lines 6-25 Section 6. 39.25.080. Public Records

Existing statute

PR

---

* Nancy - copy of Niel Thomas' atty's Report

Back to SB 193

Bruce Cummings

3 areas of concern

① adoption of PR's ≠ by APA

Pg 8 / line 6-8: (d) ≠ delete

def of public policy (f) - internal mgt matters - need for labor in exec branch

Sen Fisher: EEO overlap in selection (etc)

BC: issues addressed across barg. table. - Rules changed by CB & statutory chges rather than on own initiative

K's vary

If these are matters of public policy are they subject to barg

② Expansion of ex by adding LR staff. Career employees.

③ Certificated teachers employed in schools op'd by state

(2)

3/31

Cherie Shelley

120 §3(8) leave in classif service

Her amendments

38 places Commercial Fish & Post sec Educ → class.

§12 140 - Amendment of Rules
Don't make subject to APA

§13 39.25.150 (3) delete efficiently line 4

§15 & §16 Title XVIII amendments

Bob Manners - NEA
for Correspondence teachers
Want them left exempt

Jerry Hiley (?) Dept Educ
Ak Skills Center employees - Dept submit written comment - leave in exempt service

Barbara Dale - Status of Women
Discrepancies ♀ & minorities
Veteran's preference
Access into military limited

(23) def of disadvantaged
page 14 line 22 marital status

Susan Clark - AAUW
Exclusionary impact on ♀
Reward sacrifice / ease return civ status

(3)

3/31

Limit on time
system over weighted in favor of vet by 5 pts

① modify pt & place time limit
or ② amend def of vet to > those affected by war

eg Aleut relocation / merch marine, Red Cross, etc

& in war: 2 million WWII shipyards / munitions, factories – production
personal sacrifice, patriotism, danger
WWII: more deaths – industrial accid than combat

SB 104 - Vet's Pref addressed too

♀ ♂

Sen Bradley - < to 181 days of service) to be entitled
Handicapped ⇒ same pref as vet's
Most personnel are non-vets

Burt Finley - pro SB 104

Sen Bradley further appl 104

Bruce Cummings SB 104
~~24~~-hr
(3) can be done - computerized tracking system
Ranks on eligible list chg daily
* delete & renumber

(4) line 23 - progr mgr burden
presently 4-10 days
* suggestion delete from vet's pref & amend SB 193 (AS 39.25.150) to specify time for all.

④

3/31

Sen F asked Bruce to propose amdt's
Sen Bradley will get together w/ all of us
(BC, NG, Senkay, TBC) & CS

Summary of other chges
(disabled vets)
Line 6 pg 2 - job qualif — vet prom
before another: CB agr't

Cherie Shelley on SB 104
transition military to civilian life -
one time use of points / not avail. ad infinitem

#4 pg 1

Niel Thoma
Cautionary note: EEO bill conflict w/
vets pref.
Also At SCt interps anti-discrim law more
liberally than other cts / US SCt
Sen F: is any preference constitutional (?)
NT: limit amt of impact - CS AAUW amdts
to est that ≠ discriminatory
SF: apply only to vets but limit still cause prob?
Given "suffered hardship" as leg finding?

3/26 Kay Schilz

Leg Liason says tenure laws also cover to place in exempt service.
Dep't of S.O. Schools abolished

Def. in Corresp Study § statute makes corresp study area a school & (8) of 150 would cover.

Admin's of Corresp Study & some Seward people are classified. Alaska Skills Center in Seward. May be additional ones created.

Jerry Hiley?

2/5/82 Senate Judic CSSB 193

Com. chges

pg 4/8 (E) AK Cor Fish Entry Comn
(F) Post Sec Educ Comn

pg 18 Sec 20 St Af CS & §21 Delete

pg 11/~~17~~ 16 Vets pref

18/29 Effective Date 7/1/82

Fish & Game - 4 resource ~~positio~~ divisions
712 perm seas - 56 > 120 days
① Cost of ben's (
comparison 399 as nps & perm seas $471,000
np 8% ben rate
pseas 15¾% std / +10% pol.
+ cost of insurance

② Recruiting - lg reg F&G Tech II & III
Fish Cult II
400-500 positions
Com. Fish Anch Reg'l Office - 175 pos.
Surveyed 1979 cost $3900
✓ 1980 $14,600
✓ 1981 $14,000 40 pple
Short term positions - pple don't come back

③ Recruiter's time - Apr-June Rg 8 - Rg 20's
involved in recruiting effort
~~175~~ 217 mandays to fill 175 pos.
Conservest $28,000

2/5/82 Judiciary Committee
④ Local hire - not on reg

⑤ Try to get early start - recruiting in May for July position

⑥ College students

Sen. Parr: If 4 diff Dirs can't coordinate recruitment that's an internal matter
Perm seas → remedy abuse of temps
Sen Ray: Just don't want to follow

Hold one wk for specific language
Sen Parr: Why paperwork & expense for short term jobs
Sen Ray:
Sen Parr: Why register for short term jobs

full wk monday - CSSB 193 (Judiciary)

[Susan Clark] - Veteran's Preference
limit use of pref pts for 10 yrs
RIF rts lost in 10 yrs
Pts reduced slightly
⊃ ♀ who served w/o II but ≠ vets

Sen Ray: staff prepare lang to ⊃ ♀

2/2 KK

Ex .110 (2) / (3) just & judges
(4) / (10) / (15) leg
~~(11) / (12)~~
(17) all licensed physicians
forest fire fighters
(18) petr engineers - one div.

170 Hearings & appeals - discrim (i)
enforcement outside exec branch

delete 120(15) Ch of subs → div dir
(17) Dep Dir, D of Commerce

pg 10 l 18 .150 delete (12) - AP Manual addresses where non CB
travel for transfer
~~delete~~

(25) ex or px → classified

13/15 (2) applicants on the deptal elig. lists

13/27 (a) - judicial branch - sep. of powers issue

14/pg 10 ~~12/14~~ (e) Redraft to say by filing for office
person forfeits pos

(f) sep of powers issue / multiple routes of appeal
If appeal pursued through other agency
q-judic/judic
w/ sim powers of relief, PBd may defer
(adeq. remedy - H Rts Comn

16/19 (i) Appeal by both ER & EE to Ct

17/25 EE Political Rts Not on state premises & on own
time - Not on-the-job

1/27 Senate Judiciary
Bob Simon, Limited entry Comm

Should be ⊃ in 39.25.110 (12) - all ex.
Minor issue: ϕ exec officer - 3 11 Dir Dir's

Fred Muller - DofA
Concerns:

① p3 l 23 110(7) certif. teachers
teachers as ex - make them classified

② pg 8 §12 Am. Pers. Rules
Rules → APA Pers. system = internal
§ (c) - (h) deleted Replace w/ current stat.

③ Vets pref pg 11 ¶ (20
allow

④ pg 12 ¶ 25 delete - p4 & ex → classified

⑤ §320 ¶ 21 Post Sec & Lim Entry
delete placing in classified

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

02-519 (REV 8/78)

SCOMM

#51:16

Alaska State Legislature

JUNEAU, ALASKA

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

Senator Bill Ray, Chairman

Pouch YG
Mail Stop 3123
Juneau, Alaska 99811
(907) 465-4442

MEMORANDUM

June 9, 1982

TO: Members of the Blue Ribbon Commission

FROM: Teresa B. Cramer
Administrative Assistant

SUBJECT: Legislation Sponsored by the Commission

Enclosed are copies of HCS CSSB 193(Jud) am H, amending the State Personnel Act, and SCR 44, extending the life of the Blue Ribbon Commission. Both measures were sponsored by the Commission and passed the Legislature this session. In addition, a copy of CCS HB 697, authorizing preference for local hire, is included for your information.

HCS CSSB 193(Jud) am H. STATE PERSONNEL ACT

The Legislature made sever changes to SB 193 as it moved through the House and Senate. The major changes are noted below.

Section 7. AS 39.25.110. EXEMPT SERVICE.

The bill was amended to include changes made to this statute during the First Session of the Legislature. In addition, the staff of the Governor's and Lieutenant Governor's offices are moved from the partially exempt to the exempt service except for those who are employees of councils, boards and commission. (See AS 39.25.110(20) and 39.25.-120(5).) Paragraph (7) continues to place correspondence teachers and teachers in skill centers in the exempt service.

Sections 11, 12 and 13. AS 39.25.140. AMENDMENT OF PERSONNEL RULES.

The amended bill requires additional public notice when there are proposed amendments to the Personnel Rules. The original bill required that amendments affecting matters of public policy be adopted in accordance with the Administrative Procedure Act, but this requirement has been deleted. The amended Rules are required to be published in the Administrative Code for informational purposes.

Section 14. AS 39.25.150. SCOPE OF THE RULES.

Paragraph (19) changes the language concerning the veterans' preference system, but does not change the basic structure of the system. Paragraph (24) adds language to provide for a transition period for employees whose positions are moved from the exempt or partially exempt service into the classified service. The transition period is intended to assist them in finding employment in the classified service.

Section 16. AS 39.25.160. GENERALLY.

Subsection (e) has language added to make clear that when a classified or partially exempt employee becomes a candidate for state or national office, his or her resignation is automatically effective on the date of filing a declaration of candidacy.

In addition to these changes the Legislature also deleted some recommendations of the Commission. Exempt and partially exempt employees will not have rights of appeal to the Personnel Board in cases of unlawful discrimination. The staff of the Division of Labor Relations is not placed in the partially exempt service. Those employees remain in the classified service.

CCS HB 697. LOCAL PREFERENCE

This bill in its original form would have eliminated most of the hiring system controls for nonpermanent positions lasting 120 days or less. The Conference Committee Substitute provides instead for a streamlined hiring process for nonpermanent and permanent seasonal positions when there are no local residents on the register. The hiring authority may select an individual from referrals made by the job service office of the Department of Labor serving the area.

RETIREMENT AND NEPOTISM LEGISLATION

The bills sponsored by the Commission to make changes in the retirement laws did not pass the Legislature, nor did SB 194, amending the nepotism laws.

TBC:lmk
Enclosures

Alaska State Legislature

JUNEAU, ALASKA

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

Senator Bill Ray, Chairman

Pouch YG
Mail Stop 3123
Juneau, Alaska 99811
(907) 465-4442

MEMORANDUM

May 24, 1982

TO: Representative Jack Fuller, Vice Chairman

FROM: Teresa B. Cramer Jerry
Administrative Assistant

SUBJECT: Amendment to HCS CSSB 193(Jud)

Page 6, line 28: After "executive director", delete "and". Insert ",". After "deputy director" insert ", hearing officers, and administrative law judges"

The full text of paragraph (6) would then read:

(6) the executive director, deputy director, hearing officers, and administrative law judges of the Alaska Public Utilities Commission.

This amendment would incorporate changes made to the State Personnel Act after SB 193 was first introduced.

TBC:lmk

A M E N D M E N T

TO: HCS CSSB 193(Jud)

Page 6, Line 28:

After "executive director", delete "and", insert ","

After "deputy director" insert

", hearings officers, and administrative judges"

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

Senator Bill Ray, Chairman

M E M O R A N D U M

TO: Representative Jack Fuller
Vice-Chairman

FROM: Teresa B. Cramer
Administrative Assistant

DATE: May 24, 1982

RE: HCS CSSB 193 (Jud) - Amending State Personnel Laws

The Blue Ribbon Commission sponsored Senate Bill 193 as a comprehensive revision of the State Personnel Act. It makes changes in some personnel practices, clarifies some provisions of the Act and makes it consistent with the Public Employment Relations Act. The State Personnel Act was written in 1961 and has not been revised as a whole since that time.

Page 2
Lines 6-25

Section 6. Amending AS 39.25.080. PUBLIC RECORDS.

This section sets out those personnel records which will be open to public inspection. All other personnel records will be kept confidential.

The current law provides that all records are public except those which the Personnel Rules make confidential. In fact, the amendment would not change the existing practice since those items listed are the only personnel records now open to the public.

Page 4
Line 4

Section 7. Amending AS 39.25.110. EXEMPT SERVICE.

This section adds statutory reference to employees of the Citizen's Advisory Commission on Federal Areas in Alaska (11)(G), petroleum engineers and petroleum geologists employed by the Oil and Gas Conservation Commission (14), employees of the state who reside in foreign countries (17), employees of the Alaska Seafood Marketing Institute (18), and firefighters employed by DNR for a fire emergency (19).

Page 4
Line 28

The House Committee Substitute adds paragraph (20) which changes employees of the Office of the Governor and the Lt. Governor from the partially exempt to the exempt service. Employees of councils, boards, or commissions established by statute in those offices are left in the partially exempt service.

Page 5
Line 2

Section 8. Amending AS 39.25.120. PARTIALLY EXEMPT SERVICE.

There was considerable debate about whether to place the employees of the Division of Labor Relations who are responsible for negotiating labor relations contracts into the partially exempt service. The current House Committee Substitute does not place them in the partially exempt service.

The Department of Administration recommended that these employees remain in the classified service to encourage career employees who would develop expertise in the area and to shield them from undue political pressure.

They are currently classified employees who are not members of any bargaining unit. At one time they were members of the Confidential Employees Association.

Page 5
Line 25

Paragraph (5) provides that employees of councils, boards and commissions established in the Office of the Governor or the Lt. Governor are in the partially exempt service. This retains current law. Other employees of the Office of the Governor are moved into the exempt service by the amendment to AS 39.25.110(20) (page 4, line 28 above).

Page 7
Line 22

Section 11. Amending AS 39.25.140(c). AMENDMENT OF PERSONNEL RULES.

The House Committee Substitute retains the existing procedures for amendment of the Personnel Rules. It adds requirements in paragraphs (2), (3), and (4) for greater notification to the public and to those Alaskans who have expressed an interest in the subject.

The Blue Ribbon Commission heard testimony from individuals that existing procedures on notification of rule changes were inadequate. People who wished to raise issues about the effect of some proposals did not learn of the amendments before the Personnel Board until after they had been adopted.

Page 8
Line 5

Section 12. Amending AS 39.25.140(e). AMENDMENT OF PERSONNEL RULES.

This section changes existing law to provide that the Personnel Rules shall be published in the Alaska Administrative Code. Currently the law provides that they may be. Publication of the Rules will provide better notice to Alaskans concerned about state employment of the regulations governing that system.

Although collective bargaining has limited the application of the Rules to state employees they still remain effective in part for the state workforce. Any limits on their application could be indicated at the time of publication.

Page 8
Line 10

Section 13. Amending AS 39.25.140(e). AMENDMENT OF PERSONNEL RULES.

Two subsections are added. Subsection (f) is a safeguard in case someone who has requested notification of rule changes inadvertently is omitted from the mailing list.

Subsection (g) retains current law that amendments are effective 30 days after approved by the Personnel Board.

Page 8
Line 16

Section 14. Amending AS 39.25.150. SCOPE OF THE RULES.

This section remains basically the same as the current law with the following exceptions:

Page 10
Line 21

(15) no longer sets a limit of 30 days to a period of disciplinary suspension.

Page 10
Line 23

(16) adds a requirement that the Personnel Rules include procedures for resolving disputes from the general public.

Page 11
Line 1

(19) sets out the provisions for veterans' preference in state employment in different form. The substance of the preference is basically unchanged. The definition of veteran is amended to require that an individual have served 181 days in active service instead of the present 90 days. This is in conformance with federal veterans' preference system. The definition of disabled veteran is also changed slightly. It no longer requires that an individual have a 10% service connected disability but instead specifies that the individual be entitled to compensation from the Veterans' Administration.

Page 12
Line 12

(22) provides that the Personnel Rules shall include procedures for programs which may be set up to facilitate the employment of disadvantaged persons. These programs may require some changes in usual personnel procedures.

Page 12
Line 16

(24) adds a requirement that the Rules provide for assistance in finding work to partially exempt or exempt employees whose positions are moved into the classified service. Classified employees must pass examinations to be hired. Exempt and partially exempt employees do not have to meet these merit system standards and may be unable to qualify for the positions which they previously held.

Page 14
Line 29

Section 17. AS 39.25.175. PROCEDURE

This section clarifies existing powers of the Personnel Board.

Page 16
Line 3

Section 19. AS 39.25.192. EMPLOYEE POLITICAL RIGHTS.

The political rights listed here exist in current law, as part of AS 39.25.160.

Paragraph (3) adds that while engaged on official business a state employee may not display or distribute partisan political material.

Paragraph (7) is new language to put into statute existing law permitting state employees to make political contributions.

May 15, 1982

TO: Members of the House Judiciary Committee

FROM: Teresa B. Cramer TBC
Administrative Assistant, Blue Ribbon Commission

SUBJECT: Amendment to HCS CSSB 193(Jud)

House Judiciary has proposed deleting the portion of the bill amending the State Personnel Act which had provided that those Personnel Rules which addressed matters of public policy should be adopted in accordance with the Admininstrative Procedures Act. One of the major concerns of members of the Blue Ribbon Commission in proposing this procedure was to insure that people affected by those rule changes would be notified of the proposals and have an opportunity to make their comments known to the Personnel Board before any changes were made. Accordingly, I would suggest that if the Rules are not made subject to the Administrative Procedures Act, that additional notice requirements be added to the State Personnel Act. The provisions suggested below are taken from the notice requirements of the APA with some changes to reflect the particular situation of the Personnel Rules.

Insert a new section 11 before the present Section 11 (page 7, lines 22-26 in the May 10, 1982, work draft):

Section ___. AS 39.25.140(c) is repealed and reenacted to read:

(c) At least 30 days before the adoption, amendment, or repeal of a Personnel Rule, the secretary to the personnel board shall provide notice that the personnel board has the proposed action under consideration. The notice shall be

(1) posted in public buildings throughout the state;

(2) published in one or more newspapers of general circulation throughout the state;

(3) mailed to every person or group who has filed a request for notice of proposed action with the secretary to the personnel board;

(4) furnished to all incumbent State of Alaska legislators and the Legislative Affairs Agency.

Section ___. As 39.25.140 is amended by adding new subsections to read:

(d) The failure to mail notice to a person as provided in this section does not invalidate an action taken by the personnel board.

(e) The amendments have the effect of law 30 days after they are submitted to the personnel board. The board, if requested, may hold public hearings on the amendments.

Section ___. As 39.25.140(e) is renumbered and amended to read:

(f) The rules adopted under this chapter relate to the internal management of state agencies and their adoption is not subject to the Administrative Procedure Act. The rules shall [MAY] be published in the Alaska Administrative Register and Code for informational purposes.

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM May 14, 1982

SUBJECT: HCS CSSB 193 (Judiciary)

TO: Representative Ramona L. Barnes
Chairman, House Judiciary Committee

FROM: Linn H. Asper
Legislative Counsel

You have asked for an analysis of the changes made by the Judiciary Committee in the proposed Judiciary committee substitute for SB 193. The changes and the effect of the changes are as follows: (References are to the May 14, 1982 draft of the committee substitute)

1. In *Sec. 11, the proposed AS 39.25.140 has been deleted. This means that the comprehensive amendments to personnel rules adoption procedures that were passed by the Senate have been eliminated in favor of existing law on the subject. The Judiciary committee substitute changes AS 39.25.140(e) by making publication of personnel rules in the Alaska Administrative Register and Code mandatory instead of permissive.

2. In *Sec. 12, the proposed AS 39.25.150(3) has been changed to add language requiring open competitive examinations, when appropriate, in the employee selection process under the personnel rules. This change encourages the use of open competitive examinations in the state employee selection process without requiring them that they be used.

3. In *Sec. 12, the proposed AS 39.25.150(5) has been changed to add language to encourage the hiring of local residents. Since local hire provisions face constitutional difficulties the added language does not make local hire mandatory, instead providing for local hire "when appropriate".

4. In *Sec. 12, the proposed AS 39.25.150(22) deletes language that would allow personnel rules to provide for limitation of competition in state employment hiring decisions for disadvantaged persons. The deletion of this language does not mean that the personnel rules could not include a limited competition plan, but the legislative affirmation of such a plan has been removed.

5. In *Sec. 17, the proposed AS 39.25.192(3) has been changed by adding language to more clearly delineate what political conduct a state employee not engage in while engaged on official business of the state.

6. The proposed amendment to AS 39.25.170 has been deleted in the committee substitute, which means that the existing law regarding hearings and appeals upon dismissal, demotion or suspension of a state employee would continue to apply. The effect of this change would be to eliminate the expansion of employee hearing and appeal rights that is contemplated in the Senate passed version of the bill.

LHA:ljb

Alaska State Legislature

BLUE RIBBON COMMISSION ON THE STATE PERSONNEL ACT

Senator Bill Ray, Chairman

Pouch YG
Mail Stop 3123
Juneau, Alaska 99811
(907) 465-4442

JUNEAU, ALASKA

MEMORANDUM

May 13, 1982

TO: Senator Bill Ray, Chairman

FROM: Teresa B. Cramer TBC
Administrative Assistant

SUBJECT: Possible Amendment to HCS CSSB 193(Jud)

Since the House Judiciary Committee is considering deleting the section of SB 193 which provided that the Personnel Rules be adopted according to the APA, I thought it might be possible to propose language to them which would require that notice of any proposed Rule changes be widely published. I think that this was one of the major reasons why members of the Blue Ribbon Commission wanted the Rules to be adopted through the APA procedures. The language which I suggest below is taken from the notice requirements of the APA (AS 44.62.190), with changes to reflect the particular situation of the Personnel Rules. Section 11 (page 7, lines 22-26 in the May 10, 1982 work draft) would be replaced with the following:

AS 39.25.140(c) is repealed and reenacted to read:

(c) At least 30 days before the adoption, amendment, or repeal of a Personnel Rule, notice that the personnel board has the proposed action under consideration shall be

(1) posted in public buildings throughout the state;

(2) published in one or more newspapers of general circulation throughout the state, as the division of personnel prescribes;

(3) mailed to every person who has filed a request for notice of proposed action with the division of personnel or the personnel board;

(4) when appropriate in the judgment of the division of personnel (A) mailed to a person or a group of persons whom the division of personnel believes is interested in the proposed action, and (B) published in the additional form and manner the division prescribes;

(5) furnished to all incumbent State of Alaska legislators and the Legislative Affairs Agency.

AS 39.25.140 is amended by adding new subsections to read:

(d) The failure to mail notice to a person as provided in this section does not invalidate an action taken by the personnel board.

(e) The amendments have the effect of law 30 days after they are submitted to the personnel board. The board, if requested, may hold public hearings on the amendments.

AS 39.25.140(e) is relettered and amended to read:

(f) The rules adopted under this chapter relate to the internal management of state agencies and their adoption is not subject to the Administrative Procedure Act. The rules shall (MAY) be published in the Alaska Administrative Register and Code for informational purposes.

TBC:lmk

deputy director of the division of insurance in the Department of Commerce and Economic Development;

(16) the executive director and staff of the Alaska Public Offices Commission.

* Sec. 9. AS 39.25.130(a) is amended to read:

(a) The [AFTER JUNE 30, 1961, THE] personnel board, upon written recommendation of the commissioner of administration, may extend the partially exempt service to include any position [WHICH WAS] in the classified service [ON APRIL 19, 1960,] which, in the judgment of the board:

(1) involves principal responsibility for the determination of policy;

(2) involves principal responsibility for the way in which policies are carried out; or

(3) involves responsibilities and duties of a type not susceptible to the ordinary recruiting and examining procedures.

* Sec. 10. AS 39.25.130(c) is amended to read:

(c) The [AFTER JUNE 30, 1961, THE] personnel board, upon written recommendation of the commissioner of administration, may extend the classified service to include any position [WHICH WAS] in the partially exempt service [ON APRIL 19, 1960].

* Sec. 11. AS 39.25.140(e) is amended to read:

(e) The rules adopted under this chapter relate to the internal management of state agencies and their adoption is not subject to the Administrative Procedure Act. The rules shall [MAY] be published in the Alaska Administrative Register and Code for informational purposes.

* Sec. 12. AS 39.25.150 is repealed and reenacted to read:

Sec. 39.25.150. SCOPE OF THE RULES. The personnel rules shall provide for

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
907-465-3800

MEMORANDUM

May 11, 1982

SUBJECT: HCS CSSB 193 (Judiciary)

TO: Representative Ramona L. Barnes
Chairman, House Judiciary Committee

FROM: Linn H. Asper
Legislative Counsel

You have asked for an analysis of the changes made by the Judiciary Committee in the proposed Judiciary committee substitute for SB 193. The changes and the effect of the changes are as follows: (References are to the May 10, 1982 draft of the committee substitute)

1. In *Sec. 8, the proposed AS 39.25.120(c)(17) has been deleted. This change removes various state employees in the division of labor relations, Department of Administration, from the partially exempt service.

2. In *Sec. 11, the proposed AS 39.25.140 has been deleted. This means that the comprehensive amendments to personnel rules adoption procedures that were passed by the Senate have been eliminated in favor of existing law on the subject. The Judiciary committee substitute changes AS 39.25.140(e) by making publication of personnel rules in the Alaska Administrative Register and Code mandatory instead of permissive.

3. In *Sec. 12, the proposed AS 39.25.150(3) has been changed to add language requiring open competitive examinations, if possible, in the employee selection process under the personnel rules. This change encourages the use of open competitive examinations in the state employee selection process without requiring them that they be used.

4. In *Sec. 12, the proposed AS 39.25.150(5) has been changed to add language to encourage the hiring of local residents. Since local hire provisions face constitutional difficulties the added language does not make local hire mandatory, instead providing for local hire "when appropriate".

5. In *Sec. 12, the proposed AS 39.25.150(22) deletes language that would allow personnel rules to provide for limitation of competition in state employment hiring decisions for disadvantaged persons. The deletion of this language does not mean that the personnel rules could not include a limited competition plan, but the legislative affirmation of such a plan has been removed.

6. In *Sec. 17, the proposed AS 39.25.192(3) has been changed by adding language to more clearly delineate what political conduct a state employee not engage in while engaged on official business of the state.

7. The proposed amendment to AS 39.25.170 has been deleted in the committee substitute, which means that the existing law regarding hearings and appeals upon dismissal, demotion or suspension of a state employee would continue to apply. The effect of this change would be to eliminate the expansion of employee hearing and appeal rights that is contemplated in the Senate passed version of the bill.

LHA:jdn

May 10, 1982

Honorable Bill Ray
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Dear Senator Ray,

This letter is in response to your recent telephone call to Deputy Commissioner Fred Muller regarding the Administrative Procedure Act (APA) requirement in SB 193 (amendments to the State personnel laws).

Our difficulty with Section 12 of the bill, which requires that amendments to those personnel rules that involve matters of public policy be adopted in accordance with the APA, is a concern that while considerable resources would be consumed by this process other needed improvements to the personnel system could not be addressed.

With the increased desire of the legislature and ourselves to make the personnel system more responsive to the public, our direction has been to streamline the process making it faster and more accurate. We have been automating functions that historically have been very labor intensive. My direction has been to continue these efforts toward a more objective personnel system based on merit principles that is responsive to the needs of both state managers and the public.

Because less than 16 employees are wholly covered by the personnel rules, we are concerned about the efficient use of limited resources to follow a process that will have such limited impact. We do not dispute the idea that those people who want to know what the rules are should have greater access to them. To accomplish this we have proposed an interim compromise where the rules would be formatted and published in the Alaska Administrative Register and Code. This would address the need for public access, and allow us to continue making the system more timely and responsive.

You have asked Fred Muller to review those rules and procedures, that due to their nature, are internal and should be excluded in law from the APA. He did consult with the Attorney General's office on your request. Assistant Attorney General Art Peterson has prepared a memo on this subject

which I have enclosed with this letter. In summary, Mr. Peterson concludes that based on the language of the bill, the intent of the drafters (the Blue Ribbon Commission), and the intermingling of related concepts throughout the personnel rules, there are no rules that can stand alone.

SB 193, with the few changes that have been made, is a good bill and a tribute to you and the Commission. We have, and will continue to work positively and professionally with you in the best interests of the State. If the bill is to become a reality this session we need your help. All we ask is that you give us the opportunity to see if the public's need is satisfied by publishing the rules in the register and code. We invite the Commission to review and scrutinize our efforts during this period. If this doesn't work, we will join with the Blue Ribbon Commission in further addressing this critical issue.

Respectfully,

W. R. Hudson
Commissioner

WRH/bal
cc: Fred Muller
Keith Specking

Enclosure

MEMORANDUM State of Alaska

TO: William R. Hudson
Commissioner
Department of Administration

DATE: May 7, 1982

FILE NO: 366-652-82

TELEPHONE NO: 465-3600

FROM: WILSON L. CONDON
ATTORNEY GENERAL

By:
Arthur H. Peterson
Assistant Attorney General

SUBJECT: Handling of personnel rules under various versions of SB 193

Questions

On your behalf, Deputy Commissioner Fred Muller orally requested, today, this department's comments concerning:

1. the interpretation of proposed AS 39.25.140(c), in CSSB 193 (Jud) am, the Senate-passed version, and HCS CSSB 193 (SA), the latest House version; that statute would provide that personnel-rule amendments concerning matters of "public policy" would have to be adopted under the Administrative Procedure Act (APA);

2. interpretation of a variation on that idea, which would require personnel-rule amendments on certain statutorily specified subjects to be adopted under the APA;

3. interpretation of a proposal to require publication of the personnel rules in the Alaska Administrative Code (AAC), but not to require that their adoption or amendment be handled under the APA.

1.

Under the wording of the Senate-passed bill and the latest House version, identified above, two kinds of problems immediately arise: (1) Does the language really intend to distinguish between all of the current personnel rules plus adoption of new ones, on the one hand, and amendments to the rules, on the other hand? Would a new rule adopted in its entirety after the effective date of this Act be considered an amendment for the purposes of this provision? (2) What does the term "public policy" mean, and which of the personnel rules would fall within that term? Related to this first problem is subsection (h) of proposed AS 39.25.140, which requires "the amended rules" to be published in the Alaska Administrative Register and Code for informational purposes.

It makes little sense to have the current personnel rules published as they are now while having any amendments to them published in the AAC following the APA procedures. Such a split-publication approach would be confusing to the public as well as to the employees covered by those rules and the people charged with administering those rules. In addition, if a new rule is adopted, the confusion would be compounded by publishing it in only one or the other of the two possible places; yet duplication would be wasteful. This leads to the conclusion that all of the current personnel rules plus new rules plus amendments to both the current ones and the new ones should be published in the Alaska Administrative Code.

Having reached that conclusion, it would make little sense to adopt new rules without following the APA procedures, and to adopt "amendments" under the APA. The current rules could be placed in the AAC without going through the APA procedures, but even that would require a substantial effort to review them, put them in appropriate style and format, and weed out material that is not appropriate to the AAC. If all new personnel rules, and amendments to the current ones and the new ones, are to be adopted under the APA, one may question whether the delays necessitated by AS 44.62.060 (legal review and approval by attorney general), 44.62.180 (standard 30-day effective date), and 44.62.190 -- 44.62.210 (public notice and hearing) are worth the effort when so few people, considering the extent of coverage by collective bargaining agreements, are still covered by these general personnel rules.

The reference to "public policy" presents an interpretation question not too much different from that presented by the phrase "affects the public" in existing AS 44.62.640-(a)(2), the definition of "regulation". In applying both terms, our advice would be to err on the side of over-inclusion rather than under-inclusion. This is consistent with a long and growing line of supreme court decisions. Following the APA helps assure an opportunity for public involvement and eliminates an issue for potential litigation.

In the present context, it would be very difficult to distinguish between those personnel rules which "concern matters of public policy" and those which do not. In information furnished to this department by Director of Personnel Ken Kareen, the Blue Ribbon Commission on

personnel matters has suggested nine subjects that are matters of public policy, but they specifically state that the list is not all-inclusive. For example, the list includes recruitment and examinations. But where does that leave the personnel rule on classification. This department would have to answer that question by saying that classification is so integrally related to recruitment and examinations that the "amendment" of the personnel rule on classification would indeed be covered by the APA. The interrelationship of the subjects covered by the various personnel rules is such that there would be virtually nothing that could be dealt with in isolation and declared simply to be a matter of "internal management" that the proposed AS 39.25.140(d) would exempt from the APA procedures.

2.

The conclusion in the preceding paragraph pretty well suggests the answer to the second question posed by Deputy Commissioner Muller. If the statute were to attempt to enumerate certain personnel-rule subjects to be covered by the APA, your department would have to recognize that, although there might be a specific rule on examinations, for example, other rules containing provisions which affect examinations would have to be treated the same way as the rule which is primarily concerned with examinations. This interweaving of various related concepts throughout the personnel rules would make such a list difficult to write and difficult to administer. Again, erring on the side of including too much in the APA procedures would be the safest course. It is certainly the course least likely to inspire litigation.

3.

In Keith Specking's May 5, 1982 letter to Representative Ramona Barnes, Chairwoman of the House Judiciary Committee, where the bill now resides, he proposed an amendment to existing AS 39.25.140(e), which would require (instead of merely authorize) the personnel rules to be published in the Alaska Administrative Register and Code for informational purposes. If the idea behind some of these proposals is to increase public awareness and opportunity to read the various personnel rules, perhaps requiring that they be published in the AAC would do the job. I do not know the motivation behind these various proposals, so I cannot comment in depth on the likely success of this

proposal. Again, given the current limited applicability of these general personnel rules, one may ask whether the value of this publication of them would be worth the effort and expense.

Additional Comments

The proposed AS 39.25.140 presents some additional problems.

Subsection (d), with its reference to "internal management," appears to be distinguishing the provisions of that sort from those covered by subsection (c) regarding "public policy," somewhat similar to existing AS 44.62.640(a)(2). However, that distinction could be made clearer, and the exemption of these "internal management" provisions from the APA could be made clearer.

Subsection (e) refers to "the proposed amendments" without saying whether it is talking about the public policy ones or the internal management ones. Subsection (e), authorizing the personnel board to hold public hearings, would not make sense if applied to the public policy amendments, because, under subsection (c), they would already be covered by the mandatory hearing provisions of the APA.

Subsection (f) also uses the ambiguous "the proposed amendments," saying that the board may amend them. Does that mean that the board may amend them before they are adopted, which would seem to go without saying (especially under AS 44.62.210(a), with regard to the public policy ones), or after they are adopted, which would also seem to go without saying?

Subsection (g), also referring to "the proposed amendments," is similarly ambiguous. Is it the intent of its 45-day effective date provision to supersede AS 44.62.180, or does it only apply to the "internal management" regulations? This whole section (proposed AS 39.25.140) needs attention and should be rewritten.

WLC/AHP/11b

Alaska State Legislature

JUNEAU, ALASKA

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

Senator Bill Ray, Chairman

Pouch YG
Mail Stop 3123
Juneau, Alaska 99811
(907) 465-4442

MEMORANDUM

May 6, 1982

TO: Senator Bill Ray

FROM: Teresa B. Cramer TBC
Administrative Assistant

SUBJECT: House Judiciary Action on SB 193

The House Judiciary Committee heard HCS CSSB 193(SA) yesterday afternoon. They asked that a workdraft be prepared with four amendments proposed by the Governor, three of which are contrary to Blue Ribbon Commission recommendations.

Amendment 1. Labor Relations Division Employees.

Page 7
Line 8

House Judiciary voted to delete paragraph (17) of AS 39.25.120. The paragraph adds the employees of the Labor Relations Division who are responsible for negotiating on behalf of the state to the partially exempt service. The effect of the Judiciary Committee amendment is to leave those employees in the classified service. Fred Muller advised the committee that he had spoken with Senator Ferguson who was initially in favor of placing them in the partially exempt service. According to Fred, Senator Ferguson now regrets having made the amendment on the Senate floor which added this paragraph.

A majority of the Blue Ribbon Commission had recommended that these employees be placed in the partially exempt service. There was not unanimity on the question. Those who favored the recommendation believed that these employees should be made more responsive to the policies of the Governor.

Amendment 2. Adopting the Personnel Rules according to the APA.

Page 8
Line 1

House Judiciary voted to require only that the Personnel Rules be published in the Administrative Code. The amendment does not require that the Rules be adopted in

accordance with the APA. Fred Muller testified that there would be a tremendous slow-down if the Rules had to be amended through APA procedures. It could require six to eight months to change procedures in the Division of Personnel. He suggested that publishing the Rules would let people know what was in them. He did not address the question I had raised of letting people have an opportunity to comment on changes which they believed inadvisable before the Rules were adopted.

Amendment 3. Local Hire.

Page 10
Line 2

This amendment is the same as the one proposed for HB 697 (the nonpermanent bill) and the commission favors it. The House Judiciary Committee adopted it.

Amendment 4. Appeals to the Personnel Board in Cases of Unlawful Discrimination.

Page 15
Line 20

The Committee voted to delete the entire section concerning appeals (Section 16) and leave the law as it is now, which limits appeals to classified employees. Fred pointed out that the Human Rights Commission already has jurisidiction over these cases and would probably be better able to process the cases than the Personnel Board. The Committee felt that it was unnecessary to have two avenues of appeal for partially exempt and exempt employees who are discriminated against. They apparently did not agree that it was desirable to have an in-house review mechanism.

TBC:lmk

JAY S. HAMMOND
GOVERNOR

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

May 5, 1982

The Honorable Ramona Barnes
Chairwoman, House Judiciary Committee
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Chairwoman Barnes:

HCS CS SB 193 (SA) is now before your committee. It is my understanding that amendments previously requested by the Governor were included by the House State Affairs Committee. It has also come to my attention that Commissioner Hudson had requested amendments which were not included. These amendments are fully supported by this office.

Please amend HCS CS SB 193 (SA) as follows:

opposed by majority of BRC

Amendment 1:

Page 7, line 8

Change semi-colon to period so that line reads:

Offices Commission (;) .

Page 7, line 9

Delete paragraph 17. (places LR negotiators in partially exempt service)

Amendment 2:

opposed by majority of BRC

Page 8, line 1

Delete existing section 12 and insert new section 12 to read:

Sec. 12 AS 39.25.140(e) is amended to read:

(e) The rules adopted under this chapter relate to the internal management of state agencies and their adoption is not subject to the Administrative Procedure Act. The rules (may) shall be published in the Alaska Administrative Register and Code for informational purposes.

Amendment 3:

OK

Page 10, line 2

Add language to paragraph 5 so that it reads:

(5) the procedure for certifying eligible candidates (;) including preference for local residents under appropriate circumstances ;

Amendment 4:

BRC did not intend to limit appeals presently ~~law~~ ~~allows~~ stat does not preclude two

Page 15, line 20

Change existing Section 16(c) to:

(c) An employee in the executive branch of state governments who has been dismissed, demoted, or suspended due to unlawful discrimination based on race, religion, color, or national origin, or because of age, handicap, sex, marital status, change in marital status, pregnancy, or parenthood may appeal the action to the State Commission for Human Rights or the personnel board.

The first requested amendment would result in Labor Relations working-level staff remaining in the classified service. Retaining this status maintains the integrity of the ongoing relationship between the State and labor organizations representing State employees, and provides a buffer from union applied political pressure on the professional staff. Retention of knowledge of the intricate workings of the State provides a continuity at the bargaining table that takes years to develop. The director of this division is already in the partially exempt service and is therefore subject to replacement at the discretion of those in higher authority.

Amendment two represents a compromise between present law and the current proposal. This amendment would command the publication of Personnel Rules in the Administrative Code thus providing greater public opportunity for review. It would also provide a period of time for the State to assess the impact of placing the Personnel Rules in the Administrative Code.

Amendment three is offered with the intent of providing more employment opportunities for rural residents.

Amendment four is also a compromise between the proposed act and current practice. This amendment would have the effect of legally assuring an administrative hearing for employees who believe they have been discriminated against but avoiding the costs of redundant administrative processes. The employee could exercise the choice of appealing the action through AS 18.80 with the Human Rights Commission or pursuing relief from the personnel board.

Thank you for your consideration of these amendments.

Sincerely,

Keith W. Specking
Legislative Assistant
to the Governor

cc: The Honorable Bill Ray
Chairman
Blue Ribbon Commission
on the Personnel Act

The Honorable William R. Hudson
Commissioner, Department of Administration

Alaska State Legislature

JUNEAU, ALASKA

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

Senator Bill Ray, Chairman

Pouch YG
Mail Stop 3123
Juneau, Alaska 99811
(907) 465-4442

MEMORANDUM

April 30, 1982

TO: House Judiciary Committee

FROM: Teresa B. Cramer TBC
Administrative Assistant

SUBJECT: HCS CSSB 193 (SA) Amending State Personnel Laws

The Blue Ribbon Commission sponsored Senate Bill 193 as a comprehensive revision of the State Personnel Act. It makes changes in some personnel practices, expands the protections granted to employees in the exempt and partially exempt services and makes the Act consistent with the Public Employment Relations Act.

Those sections of the bill which present significant changes are analyzed briefly below.

Page 2
Lines 6-25

Section 6. Amending AS 39.25.080. PUBLIC RECORDS.

This section sets out those personnel records which will be open to public inspection. All other personnel records will be kept confidential.

The current law provides that all records are public except those which the Personnel Rules make confidential. In fact, the amendment would not change the existing practice since those items listed are the only personnel records now open to the public.

Page 2
Line 27 ff.

Section 7. Amending AS 39.25.090. COVERAGE OF CHAPTER.

This amendment provides that the State Personnel Act applies to exempt positions as specifically provided. The Committee Substitute gives added rights of appeal to exempt employees of the executive branch in cases of unlawful discrimination. (See Section 16)

Section 8. Amending AS 39.25.110. EXEMPT SERVICE.

Page 5
Line 2

The House Committee Substitute adds paragraph (20) which changes employees of the Office of the Governor and the Lt. Governor from the partially exempt to the exempt service. Employees of councils, boards, or commissions established by statute in those offices are left in the partially exempt service.

In addition, this section does add statutory reference to employees of the Citizen's Advisory Commission on Federal Areas in Alaska (11)(G), petroleum engineers and petroleum geologists employed by the Oil and Gas Conservation Commission (14), employees of the state who reside in foreign countries (17), employees of the Alaska Seafood Marketing Institute (18), and firefighters employed by DNR for a fire emergency (19).

Page 4
Line 7 ff

Page 7
Line 9

Section 9. Amending AS 39.25.120. PARTIALLY EXEMPT SERVICE.

In paragraph (17) the bill adds those employees of the Division of Labor Relations who are responsible for negotiating labor contracts with state employee organizations to the partially exempt service. These employees are currently members of the classified service but do not belong to any bargaining unit and are not members of any union or employee association. At one time they were members of the Confidential Employees Association.

Page 8
Line 1 ff

Section 12. Amending AS 39.25.140. AMENDMENT OF PERSONNEL RULES.

The Committee Substitute requires that those amendments to the Personnel Rules which are matters of public policy shall be adopted according to the Administrative Procedures Act. (Subsection (c), page 7, line 28) The current law entirely exempts the Personnel Rules from the APA.

For those rules which are not matters of public policy, the Committee Substitute maintains the current system of adoption, but adds that the Personnel Board

may amend rules proposed to it (Subsection (f)). The Committee Substitute also requires that amended rules shall be published in the Administrative Code, (Subsection (h)).

Page 8
Line 29 ff

Section 13. Amending AS 39.25.150. SCOPE OF THE RULES.

This section remains basically the same as the current law with the following exceptions.

Page 11
Line 2

(15) no longer sets a limit of 30 days to a period of disciplinary suspension.

Page 11
Line 4

(16) adds a requirement that the Personnel Rules include procedures for resolving disputes from the general public.

Page 11
Line 10

(19) sets out the provisions for veterans' preference in state employment in different form. The substance of the preference is basically unchanged. The definition of veteran is amended to require that an individual have served 181 days in active service instead of the present 90 days. This is in conformance with federal veterans' preference system. The definition of disabled veteran is also changed slightly. It no longer requires that an individual have a 10% service connected disability but instead specifies that the individual be entitled to compensation from the Veterans' Administration.

Page 12
Line 21

(22) provides that the Personnel Rules shall include procedures for programs which may be set up to facilitate the employment of disadvantaged persons and permits the procedures to limit competition for hiring for those programs.

Page 12
Line 27

(24) adds a requirement that the Rules provide for assistance in finding work to partially exempt or exempt employees whose positions are moved into the classified service. Classified employees must pass examinations to be hired. Exempt and partially exempt employees do not have to meet these merit system standards and may be unable to qualify for the positions which they previously held.

Page 13 Line 4 ff

Section 14. Amending AS 39.25.153. PERSONNEL OFFICERS.

Subsection (a) provides that all personnel officers shall be employees of the department in which they serve.

Subsection (b) amends the powers granted to the personnel officers listed in the statute. These powers have never been exercised. They are retained in limited form by the Committee Substitute.

Page 13 Line 28

Section 15. Amending AS 39.25.160. GENERALLY.

Most of this section remains unchanged. The following subsections have been amended.

Page 14 Line 7

Subsection (c) extends protection from being required to make a political contribution to all state employees. The current law protects only classified employees.

Page 14 Line 12

Subsection (e) adds a requirement that partially exempt employees resign from state employment when seeking political office. The subsection also clarifies when the employee's position becomes vacant.

Page 14 Line 18

Subsection (f) extends protection from unlawful discrimination to all state employees and applicants for state service. The current law is limited to members of the classified service.

Page 15 Line 11 ff

Section 16. Amending AS 39.25.170. HEARINGS AND APPEALS UPON DISMISSAL, DEMOTION OR SUSPENSION.

This section changes the statutes to reflect caselaw and adds that employees in the executive branch of state government who have been unlawfully discriminated against may appeal to the Personnel Board. The current law limits the protection of the State Personnel Act and the scope of appeals to the Personnel Board to members of the classified service. (Subsection (c)).

The Committee Substitute provides in Subsection (i) that executive branch employees who the Personnel Board finds have been unlawfully discriminated against will be reinstated without loss of pay. This remedy is currently available only to classified employees. The Committee Substitute adds that the decision of the Personnel Board may be appealed to the Superior Court.

TBC:lmk

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF ADMINISTRATION

OFFICE OF THE COMMISSIONER

POUCH C
JUNEAU, ALASKA 99811

465-2200

April 20, 1982

Honorable Ray Metcalfe
Chairman, House State Affairs Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Mr. Chairman:

CSSB 193 (Jud) am, amending the State's personnel laws, has been referred to your committee. We request that you make the following changes:

1. Delete Sec. 39.25.120(17)

2. Delete Section 12

3. Add to Sec. 39.25.150(5)
(;) including preference for local residents under appropriate circumstances;

4. Delete Section 16

Your consideration of these changes is greatly appreciated.

Respectfully,

W. R. Hudson
Commissioner

WRH/mjc
cc: Honorable Ramona Barnes
Chairwoman, House Judiciary Committee

Keith Specking
Legislative Assistant
Office of the Governor

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. CS SB 193 (Jud)
Title An Act amending state personnel laws; and an effective date
Requested by _____ Date 04-16-82

II. FISCAL DETAIL
Agency Affected Administration
Program Category Affected Personnel
BRU, Program, Or Subprogram(s) Affected Personnel, Personnel Board
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES		42.2	22.6	24.2	25.8	27.7
200 TRAVEL		7.6	6.9	7.5	8.3	9.1
300 CONTRACTUAL		26.2				
400 COMMODITIES		.6	.6	.7	.8	.8
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		76.6	30.1	32.4	35.7	37.6

FUNDING (Thousands of Dollars)

GENERAL FUND		76.6	30.1	32.4	35.7	37.6
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME		1	0	0	0	0
PART TIME		0	1	1	1	1
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)
Section 12 of CS SB 193 (Jud) am provides for adoption of amendments to the Personnel Rules that concern public policy under the Administrative Procedures Act, and for amended Rules (including those not concerning public policy) to be published in the Alaska Administrative Register and Code. CS SB 193 (Jud) am makes several minor changes to the Personnel Act that will require amending the Personnel Rules. The major costs for FY 83 are:

1) contracting with the Department of Law for an attorney for four months to:

- rewrite the current Personnel Rules to AAC standards
- draft amendments incorporating changes in the Personnel Act

IV. DATE 04-16-82 PREPARED BY Michael P. McMullen
AGENCY Administration - Division of Personnel
PHONE 465-4430

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/81)

- modify amendments based on hearings
- file the amended rules with the Lt. Governor
- compile a Personnel Act - Personnel Rules cross-reference
- identify forms needing revision to reference the appropriate AAC provisions instead of the former rule
- Revise Administrative Manual and Operating Procedures to properly reference revised Personnel rules

($19.2 Thous.)

2) Personal Services to employ Regulations Specialist to revise existing procedures, manuals, forms and letters to properly cite revised Personnel rules. Position would be half-time after first year.

($42.2 Thous.)

3) travel and per diem for attorney and the Personnel Board for two hearings to adopt the rules and amendments as Code. ($2.8 Thous.)

4) public notice of the hearings and proposed amendments. ($ .6 Thous.)

5) typing of drafts, revision and filing version. ($2.0 Thous.)

6) printing of forms incorporating AAC references. ($1.0 Thous.)

In subsequent years, one two-day hearings by the Personnel Board to adopt amendments is budgeted. Travel is inflated 10% annually and public notice costs at 8%. Personal Services inflated at 7% per year.

Section 13 of CS SB 193 (Jud) am contains a significant change in the definition and preference accorded to veterans. In addition to the need to amend the Personnel Rules accordingly, there is a need to incorporate the new provision in the automated Applicant Tracking System. This one time contractual service cost is estimated at $4 thousand.

Section 16 of CS SB 193 (Jud) am duplicates AS 18.80 providing hearing and appeal rights to partially exempt and exempt employees of the Executive Branch for actions allegedly in violation of the employees' Civil Rights. It is assumed that these employees will file appeals in the same proportion to their numbers as other executive branch employees file complaints under AS 18.80 for the same actions. Each will require a two day hearing before the Personnel Board. Travel and per diem costs for FY 83 are $4.8 thousand. They are inflated 10% annually. On this basis, four complaints per year are projected. Each complaint will require two days of Personnel Board business.

5/CII/01

Point 1

AMEND THE PERSONNEL ACT

Object: ENHANCE LOCAL HIRE

Action

Amend Alaska Statute 39.25.150 (6) to enable the adoption of personnel rules to provide for local preference. The specific language would be: "the procedure for certifying eligibles including preference for local residents under appropriate circumstances; . . ."

Costs

There is no executive branch cost associated with this change.

Fred Miller

JUNEAU, ALASKA

Alaska State Legislature

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

Senator Bill Ray, Chairman

Pouch YG
Mail Stop 3123
Juneau, Alaska 99811
(907) 465-4442

MEMORANDUM

April 19, 1982

TO: House State Affairs Committee

FROM: Teresa B. Cramer
Administrative Assistant

SUBJECT: CSSB 193 (Jud) am

The Blue Ribbon Commission sponsored Senate Bill 193 as a comprehensive revision of the State Personnel Act. It makes changes in some personnel practices, expands the protections granted to employees in the exempt and partially exempt services and makes the Act consistent with the Public Employment Relations Act.

Those sections of the bill which present significant changes are analyzed briefly below.

Page 2
Lines 6-25

Section 6. Amending AS 39.25.080. PUBLIC RECORDS.

This section sets out those personnel records which will be open to public inspection. All other personnel records will be kept confidential.

The current law provides that all records are public except those which the Personnel Rules make confidential. In fact, the amendment would not change the existing practice since those items listed are the only personnel records now open to the public.

Page 2
Line 27 ff.

Section 7. Amending AS 39.25.090. COVERAGE OF CHAPTER.

This amendment provides that the State Personnel Act applies to exempt positions as specifically provided. The Committee Substitute gives added rights of appeal to exempt employees of the executive branch in cases of unlawful discrimination. (See Section 16)

Page 3
Line 2 ff.

Section 8. Amending AS 39.25.110. EXEMPT SERVICE.

This section does not change the existing membership of the exempt service. It does add statutory reference to employees of the Citizen's Advisory Commission

on Federal Areas in Alaska (11)(G), petroleum engineers and petroleum geologists employed by the Oil and Gas Conservation Commission (14), employees of the state who reside in foreign countries (17), employees of the Alaska Seafood Marketing Institute (18), and firefighters employed by DNR for a fire emergency (19).

Page 7
Line 5

Section 9. Amending AS 39.25.120. PARTIALLY EXEMPT SERVICE.

In paragraph (17) the bill adds those employees of the Division of Labor Relations who are responsible for negotiating labor contracts with state employee organizations to the partially exempt service. These employees are currently members of the classified service but do not belong to any bargaining unit and are not members of any union or employee association. At one time they were members of the Confidential Employees Association.

Page 7
Line 20 ff

Section 12. Amending AS 39.25.140. AMENDMENT OF PERSONNEL RULES.

The Committee Substitute requires that those amendments to the Personnel Rules which are matters of public policy shall be adopted according to the Administrative Procedures Act. (Subsection (c), page 7, line 28) The current law entirely exempts the Personnel Rules from the APA.

For those rules which are not matters of public policy, the Committee Substitute maintains the current system of adoption, but adds that the Personnel Board may amend rules proposed to it (Subsection (f)). The Committee Substitute also requires that amended rules shall be published in the Administrative Code, (Subsection (h)).

Page 8
Line 19 ff

Section 13. Amending AS 39.25.150. SCOPE OF THE RULES.

This section remains basically the same as the current law with the following exceptions.

Page 10
Line 21

(15) no longer sets a limit of 30 days to a period of disciplinary suspension.

Page 10
Line 25

(16) adds a requirement that the Personnel Rules include procedures for resolving disputes from the general public.

Page 10
Line 29

(19) sets out the provisions for veterans' preference in state employment in different form. The substance of the preference is basically unchanged. The definition of veteran is amended to require that an individual have served 181 days in active service instead of the present 90 days. This is in conformance with federal veterans' preference system. The definition of disabled veteran is also changed slightly. It no longer requires that an individual have a 10% service connected disability but instead specifies that the individual be entitled to compensation from the Veterans' Administration.

Page 12
Line 11

(22) provides that the Personnel Rules shall include procedures for programs which may be set up to facilitate the employment of disadvantaged persons and permits the procedures to limit competition for hiring for those programs.

Page 12
Line 17

(24) adds a requirement that the Rules provide for assistance in finding work to partially exempt or exempt employees whose positions are moved into the classified service. Classified employees must pass examinations to be hired. Exempt and partially exempt employees do not have to meet these merit system standards and may be unable to qualify for the positions which they previously held.

Page 12
Line 23 ff

Section 14. Amending AS 39.25.153. PERSONNEL OFFICERS.

Subsection (a) provides that all personnel officers shall be employees of the department in which they serve.

Subsection (b) amends the powers granted to the personnel officers listed in the statute. These powers have never been exercised. They are retained in limited form by the Committee Substitute.

Page 13
Line 18

Section 15. Amending AS 39.25.160. GENERALLY.

Most of this section remains unchanged. The following subsections have been amended.

Page 13
Line 26

Subsection (c) extends protection from being required to make a political contribution to all state employees. The current law protects only classified employees.

Page 14
Line 2

Subsection (e) adds a requirement that partially exempt employees resign from state employment when seeking political office. The subsection also clarifies when the employee's position becomes vacant.

Page 14
Line 8

Subsection (f) extends protection from unlawful discrimination to all state employees and applicants for state service. The current law is limited to members of the classified service.

Page 15
Line 1 ff

Section 16. Amending AS 39.25.170. HEARINGS AND APPEALS UPON DISMISSAL, DEMOTION OR SUSPENSION.

This section changes the statutes to reflect caselaw and adds that employees in the executive branch of state government who have been unlawfully discriminated against may appeal to the Personnel Board. The current law limits the protection of the State Personnel Act and the scope of appeals to the Personnel Board to members of the classified service. (Subsection (c)).

The Committee Substitute provides in Subsection (i) that executive branch employees who the Personnel Board finds have been unlawfully discriminated against will be reinstated without loss of pay. This remedy is currently available only to classified employees. The Committee Substitute adds that the decision of the Personnel Board may be appealed to the Superior Court.

TBC:lmk

Senate votes to change state personnel rules

By The Associated Press

The state Senate voted Wednesday to revamp the State Personnel Act, which is the set of rules governing the state work force.

One change made by the bill (CSSB193 Judiciary amS) deals with preference rights granted to veterans who apply for state jobs. To be granted preference, a veteran must have completed 181 in active service, rather than 90 days as is required under current, law. The change was made to conform with federal law.

Another change made in the bill was to place several sensitive positions — including certain petroleum geologists, firefighters employed in emergencies and employees of the Alaska Seafood Marketing Institute — in the "exempt service" category. That basically means the employees cannot belong to collective bargaining units and can be hired and fired at will.

Sen. Frank Ferguson, D-Kotzebue, successfully proposed an amendment on the Senate floor to include negotiators and other members of the state Division of Labor Relations in the partially exempt category, which means they also could not belong to state unions.

Ferguson argued that all collective bargaining agreements for state employees are negotiated by division officials. "So they're negotiating for themselves" under the present system, Ferguson said. He said such action constitutes a "conflict of interest."

The bill also defines which personnel records are public, and states that all other personnel records are to be confidential.

Alaska State Legislature

JUNEAU ALASKA

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

Senator Bill Ray, Chairman

Pouch YG
Mail Stop 3123
Juneau, Alaska 99811
(907) 465-4442

MEMORANDUM

April 14, 1982

TO: Senator Bill Ray, Chairman

FROM: Teresa B. Cramer TBC
Administrative Assistant

SUBJECT: CSSB 193 (Jud)

I have set out those sections of CSSB 193(Jud) which make substantive changes to the State Personnel Act and discussed briefly the nature of the change. I have not addressed the sections of the bill which make changes to improve the clarity of the language or to bring the law into accord with current practice.

Page 2
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ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILE 8672
1370 SCOMM 51: BLUE RIBBON COMN. ON STATE PERSONNEL ACT 1978-1983

by the Oil and Gas Conservation Commission (14), employees of the state who reside in foreign countries (17), employeesof the Alaska Seafood Marketing Institute (18), and firefighters employed by DNR for a fire emergency (19).

Page 3
Line 29 ff.

Section 9. Amending AS 39.25.120. PARTIALLY EXEMPT SERVICE.

Although the structure of this section is changed, the substance of the current law is not changed by the Committee Substitute.

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The Committee Substitute provides in Subsection (i) that executive branch employees who the Personnel Board finds have been unlawfully discriminated against will be reinstated without loss of pay. This remedy is currently available only to classified employees. The Committee Substitute adds that the decision of the Personnel Board may be appealed to the Superior Court.

TBC:lmk

TERRY CRAMER FOR COMMENT

MEMORANDUM State of Alaska

TO: W. R. Hudson, Commissioner
Department of Administration

DATE: March 3, 1982

FILE NO:

TELEPHONE NO: 465-4100

FROM: Ronald O. Skoog, Commissioner
Department of Fish and Game

SUBJECT: Amendments to 39.25.199

Your memo dated February 11, 1982, expressed concern about representatives of my Department testifying on CSSB 193 in contradiction to the recommendations of your Department. You realize, of course, that this is an area where our Departments disagree and, since we have not been able to resolve our differences, I believe it necessary to represent the concerns of Fish and Game .

You point out also that our testimony "...was done without notifying or coordinating your effort with this Department." I regret we did not do so, and I apologize for that lack. However, I wish to point out myself that your Department did not notify us of your recommendations nor attempt to coordinate your position with ours. Frankly, I would have expected you to do so, considering your role and responsibility in providing administrative services to the line Departments. This issue and the existing law has had considerable adverse impact on my Department, and I presume it has on other Departments as well. In that light, it seems logical to presume you would have negotiated a State position among the Departments concerned.

Our recent testimony is not the first time that we have brought forward concerns about non-permanent/seasonal hires. Russell H. Clark, our former Director of Administration, testified before House Resources on February 12, 1981, at their request. He also sent a letter to Senator Ray of the Blue Ribbon Commission on March 6, 1981, and one to Sandra Withers on March 24, 1981. The memo to Ms. Withers specifically requested that Labor Relations negotiate a letter of understanding with APEA to allow more flexibility in hiring 120-day-or-less non-permanents. APEA was in agreement with this action. As far as I can determine, no action was taken. I also have been told informally that APEA is still willing to make the necessary changes. You and I and our respective Deputies discussed the problem several months ago. It was brought up by Representative Fuller at the last Blue Ribbon Commission meeting.

Beverly Reaume, our current Director of Administration, brought up the problem at a meeting of the Directors of Administration "subcommittee on personnel" and your staff in December 1981. During the past year we have offered many suggestions ranging from minor changes to exemption of some provisions for employees working less than 120 days ("short-term" hires). Unfortunately, each time we are told that we are guilty of poor planning and that we are not making a good faith effort to abide by the law.

I have to disagree strongly on both counts--we have made adequate plans and we have made a good faith effort to hire under the system. We now have spent two field seasons under the system and what we are telling you is that "Yes, we can hire according to the existing law but the product is not worth the cost." We are faced with ever increasing demands from the public and fewer dollars to meet those demands. It is intolerable to me to spend these scarce resources on recruiting short-term employees. Furthermore, the public has made it very clear that they are tired of bureaucratic red tape, of which the current system is a prime example.

Let me respond specifically to the five recommendations contained in your February 11, 1982, memorandum.

First: You suggest we use non-permanent employees instead of permanent seasonals for less-than-120-days positions.

Fish and Game decided to establish these short-term positions as permanent seasonals based on two premises:

1. AS 39.25.195(c)(3) states the criteria to be used for establishing non-permanent positions.

> "The hiring department or agency has certified that an immediate need exists and the director determines that the hiring department or agency could not reasonably have been expected to anticipate and met through the creation of a permanent position;...."

Fish and Game determined that its needs not only could be anticipated but also that these positions do occur each year and, therefore, we were obligated to establish "permanent seasonals" to comply with the law.

2. Furthermore, the red tape and possible civil penalties inherent in hiring non-permanents makes that option extremely unattractive.

Second: You suggest centralized recruiting as a means for achieving greater efficiency and for resolving the problem of competition between Divisions.

1. We have suggested to your Director of Personnel that the Department be given a master list of each classification used for short-term employment on a periodic basis. This list then could be worked for openings anticipated during that period and all hires made from that copy. Although Mr. Kareen has expressed support for centralized working of registers, he thus far has insisted on a separate register for each PCN. We can use responses from some previous register but we must contact all the additions to

each new register, as well as discard potential candidates among responses from previous registers because they have been removed from the register for one reason or the other. There still remains a gray area for people who failed to respond the first time, but are still on the register. Failure to respond runs about 80% when working most of the registers for short-time positions. Sometimes the candidates do not receive our letter until after the response date so they do not bother to respond. A good many of these not only may be available but desirable for the job. In other words, we need some modifications in procedural requirements on your part before greater centralization on our part is worthwhile.

2. Our short-term jobs are found predominantly in the following classifications: Fish and Game Technician II, III, IV; Fish Culturist I, II, III; and Fishery Biologist I. It is not at all unusual to find the same person on all seven registers. Just because someone is not interested in a Fish and Game Technician I job does not relieve us of having to contact him for a Fish and Game Technician III position, so we end up contacting the same person several times as various positions are to be filled.

3. Competition for the same people is due partly to the same person being on multiple registers. I do not believe we can say to a person that has just accepted a Fish Culturist I job that he is now not eligible for consideration as a Fish Culturist II. Likewise, we cannot tell a person that once he has accepted a one-month job that he is not eligible for consideration for a three-month job, nor that once he has accepted a job in Juneau he cannot consider an opening in Ketchikan, which might be his home. It is such factors as these that cause "competition" within the Department and defy resolution.

Third: You presented several suggestions for solving the "local hire" problem.

1. Local hire is indeed a problem under the current regulations. Many of our potential local hires are from the Fish Culturist I and Fish and Game Technician I, II, and III registers. Each of these registers contains 400-600 names of people who say they will work anywhere in the State. The ability to reach a given person in a local area by working the register in a legitimate manner--i.e., top five or five by five--is pure chance and good fortune. These classifications require little more than a warm body, a willing mind, and some paid work experience of any kind to get on the register. I have to believe you were misled by your personnel people to suggest seriously that we use "potential safety in the field" as a selection criterion. How do you measure that in an open recruitment effort? And where is it proven that a local resident will be safer in the field? The only realistic way to

obtain local hire while using a register is to allow appointment without regard to placement on the register--a suggestion that we have made numerous times.

2. There is still a continuing problem with getting local residents, particularly minorities, onto registers. On this point your Personnel Division recently agreed to open registers for continuing recruitment, provided turnaround on application examination is no more than three weeks. We agree that this time-frame is workable.

Fourth: You suggested that your Department would be willing to assume the selection responsibility for short-term hires.

I am sure that I need not tell you that I am no more willing to allow your Department to serve as a placement bureau for my personnel than you would be to allow Fish and Game to select your personnel.

Fifth: You suggested training to my managers in "recruitment and selection."

Believe me, my managers have had much long experience and are quite capable in recruitment and selection. The problem is getting people on registers, and would be resolved by open recruitment.

There are other questions raised during our recent testimony before the Senate Judiciary Committee, and on other occasions, that I believe appropriate to mention:

1. Both amendments proposed by Senator Rodey and Representative Bylsma would leave intact the requirement that persons hired meet the minimum qualifications of the classification. Fish and Game has never proposed otherwise.

2. It has been pointed out rather frequently that Fish and Game seems to be the only Department with a problem. Could be! You must keep in mind, however, that Fish and Game has 800 or more seasonal positions which are filled sometime during the April to October period each year. These are located throughout the State. It is not at all surprising that Fish and Game has problems with the present system and gets attention on the subject.

3. Then there is the "no-win situation" that we have been placed in. In a letter dated February 6, 1981, to the Governor, Senator Ray in referring to Fish and Game said that

> "In the past these positions (seasonals) were classified as temporary positions and filled primarily by local residents. With the implementation of the non-permanent law, the

Department reclassified these jobs as permanent seasonals and filled them through hiring from a list of eligibles.

Unfortunately, this meant that many experienced local residents were not hired for the past season, either because they had not applied in time to be considered for placement on the register or because, when their applications were evaluated, they failed to place within the top five interested eligible candidates."

During our recent testimony, Senator Ray responded that one of the reasons the non-permanent hire law was enacted was because Fish and Game hired college students and sent them to rural areas rather then hire local residents. You tell me, which one we are guilty of? I do know that now we are far more likely to have to hire the college student simply because he ranks high on the register. Our preference has been and remains to hire the local resident wherever possible.

This memorandum is already far longer than I intended but, as you might surmise, it is a subject of considerable importance to the Department. It becomes all the more significant as we face possible budget reductions. Bill, in all fairness I believe we have brought our problem to your Department on a number of occasions. We have not received the help we need, and our problem remains. Thus, we have little alternative but to seek help elsewhere. The interest in the Legislature has been brought about partly by us, partly by legislators' constituents complaining about the system.

I have enclosed for your information a copy of our testimony presented to the Senate Judiciary Committee and the House Labor and Commerce Committee on their request in response to amendments to the law, and to the House Finance Committee in response to their request. I support the pertinent changes proposed in Senate Bill 193 and House Bill 697, and I believe they will be beneficial to other agencies as well as to the public.

cc: Keith Specking
Senator Bill Ray

Alaska State Legislature

JUNEAU, ALASKA

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

Senator Bill Ray, Chairman

Pouch YG
Mail Stop 3123
Juneau, Alaska 99811
(907) 465-4442

MEMORANDUM

February 18, 1982

TO: Senator Bill Ray, Chairman

FROM: Teresa B. Cramer
Administrative Assistant

SUBJECT: Fish and Game Seasonal Positions

I met with Beverly Reaume, Director of Administration for Fish and Game, and with Mary Jablonski, Special Assistant to the Commissioner, to discuss problems they identified in testimony before the Senate Judiciary Committee. Fish and Game is seeking changes in the nonpermanent law for positions which last less than 120 days. As a result of making these short-term appointments permanent seasonal, the department believes that it pays excessive amounts in benefits and also believes that having to hire from the registers causes excessive expense and delay without providing any benefit.

A. Classification of Positions as Permanent Seasonal

The department believes that these positions must be classified as permanent seasonal under the nonpermanent law adopted in 1979. They believe that the definition of a program or project (as not a regular and continuing function of a department or agency and as having a probable date of termination) forbids the classification of these positions as nonpermanent positions. They point out that the work is regular and continuing in that they do it every year and expect to continue to do so into the forseeable future. So far as I could tell, they had not considered using AS 39.25.195(c)(1) which states that a nonpermanent position can be authorized when the legislature has appropriated money for the work in question knowing that it is to be performed by a nonpermanent employee. I would expect that the department could make sufficiently accurate forecasts of its staffing needs to permit presenting the legislature with the request for authorization of nonpermanent employees for these positions during the regular budget process.

The department could either request that the positions be established as regular nonpermanent appointments or that they be established as project nonpermanents, should the situation justify that classification. If the positions were regular nonpermanent positions,

then they would be limited to 120 days duration. If they were found to warrant classification as project or program positions, then the length of employment would be determined by the expected length of the project or program involved. The department has stated that its concerns are for positions which last less than 120 days, so the time limit should not raise a difficulty for them.

Apparently what the department believes would work for them is a system like the one developed in HB 697, which sets up a category on nonpermanent employees who would be exempt from all the requirements of the nonpermanent law except for the limit that employment last no longer than 120 days. The committee substitute proposed by the House Labor and Commerce Committee adds a prohibition against appointing the same employee to two consecutive special nonpermanent positions. The proposed amendment to the State Personnel Act places no restrictions on the commissioners of each department in the management of the system they set up except for the 120-day limit. They only have to make an initial determination that compliance with the nonpermanent law is too costly or is adverse to local hire. They are free to set minimum qualifications for the positions by departmental regulation, to evaluate applicants and to hire without regard to the relative qualifications of those applicants.

B. Cost of Benefits.

The department states that most of the positions which last less than 120 days are not career appointments. They do not usually find that individuals return year after year to the same job. Therefore, the department does not believe that it is appropriate to provide the kinds of career benefits which are part of the permanent seasonal package. The cost of providing for retirement, leave, and health insurance is excessive. The department would not have to provide them if the positions were reclassed as nonpermanent, whether or not the law were amended.

C. Problems With Working the Registers.

This is a major problem area identified by the department. As Ms. Reaume testified to the Senate Judiciary Committee, they have found working the registers extremely cumbersome, costly and fraught with delays. Recently she and Ms. Jablonski met with the Director of the Division of Personnel, and did arrange for two changes which they believe will address some of their concerns. The following is a list of their difficulties with the registers together with a discussion of each of the items raised.

(1) The registers have too many names of people who are not really interested in the particular vacant positions Fish and Game has.

Some of the registers frequently used for these positions have 400 or more names on them. The department says that in some cases it is necessary to contact each of those listed in order to end up with one person who will actually accept the position. In order to limit the number of new applications for these registers, the Division of Personnel has closed these job classes. The department believes that if the classes are kept open, many of the applicants who are not really interested in that kind of employment will not apply. They apply now because they have only one short period in which the state will accept applications.

At its own request the department has been delegated authority to evaluate applications in these job classes. According to Mr. Kareen, they are about 3-1/2 months behind. He has agreed that when the department catches up with the evaluations, the job classes will remain open. The department hopes that then the number of applications will be reduced.

I do not know whether keeping the registers open will reduce the number of marginally interested applicants. Presumably the department has the expertise to evaluate the likelihood of success of this arrangement.

If the department's preferred hiring system were in place, then it would not matter how many applicants were on the register since the hiring authorities would not have to use one.

(2) Multiple Contacts to One Individual

The department has said that they have to contact the same individual many times during their peak hiring season. They fill a large number of positions in the same job class and must contact the people on the top of the list about each vacancy. This has resulted in one college student complaining to them that he received and had to reply to over 100 communications about job openings.

In the meeting between the department and Mr. Kareen, they agreed that for these positions, the department would receive one register for each job class and could hire all the vacancies in that job class from that single list for the whole month. This means that the department can coordinate its hiring notices to applicants for that period of time. This should reduce the burden on the department and also the obligations on the applicants to respond to an excessive number of job notices.

(3) Cost of Recruiting.

The department indicates that it spent $14,000 in long distance telephone calls and telegrams when it recruited for the 175 nonpermanent positions in 1980. In 1981 the cost was $28,000. These costs should be substantially reduced if the department was able to plan enough time to

communicate with applicants by letter instead. The Personnel Rules require that an individual be given five working days to respond to a telegram, 10 calendar days to respond to a written inquiry when the applicant lives in Alaska, and 14 calendar days when the applicant lives outside Alaska. PR 4 04.3. It would appear that by planning three or four additional weeks in advance, the department should be able to conduct the bulk of its recruiting effort by mail rather than by the more expensive telegraph and telephone methods presently used.

(4) Unreliability of Advance Commitments to Work.

The department's experience has been that for many of these very short jobs, people are not reliable about showing up for work if they accept the job too far in advance. This means that the department cannot make job offers in April or early May and count on having employees coming to work in June or later. In some instances at least, the problem has been that two divisions within the department have received commitments from the same individual.

With the new system of having the register be valid for an entire month, it may be possible for the department to record those who have accepted positions already and then to delete their names from consideration of subsequent job offers in that classification. This could reduce the number of "no-shows" which the department has experienced and enable them to make their staffing decisions earlier while still using the register system.

(5) Local Hire.

The department has said that it is difficult to persuade local people to apply for positions with the state, especially when the registers are only open for a short period of time. As discussed in Number (1) above, the registers will remain open once the department has reduced the backlog of job applications which are not yet evaluated. In addition, the department and the Division of Personnel could work together to recruit individuals from the areas where Fish and Game has vacancies, so that local individuals do appear on the registers.

The department still believes that it would be difficult to reach the local person when the registers are so full. Even using the five-plus-five certification system, they say that there are likely to be minority group members who fall with the top five minority persons but who are not local to the area in which the vacancy occurs.

One solution would be for the department to offer to pay transportation only from the nearest community of any size to the actual job site. In many cases now, the department pays transportation from

Anchorage or Fairbanks out to the community and then out to the salmon stream of whatever. These short-term jobs would be much less appealing to individuals not from the area if they were responsible for paying the cost of transportation to, for example, Unalaska, and then work for a short time and have to pay for their own return air fare. The problem is to insure there are local individuals on the registers.

D. Possible changes to the Nonpermanent Law

If the kinds of suggestions made above are not sufficient to resolve the difficulties of the department, it would be possible to make some changes in the nonpermanent hiring system without losing all controls. The following is one suggestion of how that might be done.

(1) The department may waive hiring from the register for nonpermanent positions only if the following are established:

a. The department has presented proposed recruiting and selection procedures to the Division of Personnel and to the Division of EEO and each division has approved them.

b. The positions which the department proposes to fill without hiring from the register have been approved by the Division of Personnel. The Director of Personnel shall consider the practicability of filling the positions from the register, the need of the department for speed in the selection process, and the effect on the state's merit system and commitment to equal employment opportunity.

c. The hiring process shall be conducted from the community job site. (By this I don't mean the salmon stream or whatever, but the nearest community of reasonable size -- I don't know how to define it.)

d. Each individual must meet the minimum qualifications for the job class.

e. The department may not pay transportation costs for any individual hired under this system to the community job site. It may pay transportation from the community job site to the actual job location.

f. The department shall report to the Director of the Division of Personnel and the Director of EEO on all positions filled under this system. The report shall include:

(i) actual recruiting and selection procedures used,

(ii) duration of work of each employee,

(iii) EEO profile of workforce selected, and

(iv) statement of qualifications for each individual selected.

This system would leave the department subject to all of the nonpermanent regulations except hiring from the register. It should be noted that at the Constitutional Convention, the debate about setting up the merit system included a statement by Mr. Sundborg, one of the most vocal supporters of the constitutional provision in which he said on page 2888:

> Every merit system, including the United States Civil Service, is set up so as to have certain exceptions from it. . . . There are usually exceptions for those who work by the day, for those who have only temporary employment.

In the discussion, Mr. Ralph Rivers pointed out that the language proposed left to the legislature the directive to spell out the details, and that the legislature could decide to leave temporary employees outside the controls of the merit system if it wished to do so. Therefore, it would appear to be within the intent of the constitutional convention that temporary employees could be exempted from the merit system.

This leaves a policy question of whether it is advisable to do so. The nonpermanent law addressed the problems in the temporary hiring system and any system which changes that should make an effort to insure that those problems do not return. Before the nonpermanent law was passed, temporary employees were supposed to be hired from the registers when practicable. Many were not.

In this proposal, the department would still be required to plan for the positions it wished to exempt from the register requirement. There would be oversight from the Division of Personnel, and the limitations on payment of travel expenses might be sufficient to restrict the operation of hiring your buddy or your aunt's cousin. Individuals hired would be required to meet the minimum qualifications of the position, although this might be difficult to effectively review and enforce. However, since the Division of Personnel and the Division of EEO have oversight and approval powers, if there were any substantial abuse of the system, then presumably there would not be a second approval for the department in subsequent seasons.

This proposal does not address the effect of the collective bargaining agreement which presently applies to these employees.

TBC:lmk

Alaska State Legislature

JUNEAU, ALASKA

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

Senator Bill Ray, Chairman

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Mail Stop 3123
Juneau, Alaska 99811
(907) 465-4442

MEMORANDUM

February 9, 1982

TO: Senator Bill Ray, Chairman

FROM: Teresa B. Cramer
Administrative Assistant

SUBJECT: Department of Administration's Recommended Changes to CSSB 193(SA)

The Department of Administration has proposed a number of changes to CSSB 193(SA). Many fall within the area of clarification or insuring consistency and appear to me to be noncontroversial. Others would make a substantive change to the bill sponsored by the Commission. I have quoted each of the changes below, followed by the department's reasoning, and then discussed its effect on the bill.

Page 2
Line 29

Recommendation: Delete exempt and

Department reason: The rules pertain only to classified and partially exempt employees. By definition, exempt employees are excluded from personnel rules.

Discussion: The State Personnel Act and the Personnel Rules do currently pertain only to partially exempt and classified employees. However, changes proposed in SB 193 would extend certain provisions to include exempt service employees, notably by giving them appeal rights from acts of unlawful discrimination. The department proposes that these changes be deleted from the bill.

Page 3
Lines 9-13

Recommendation: Substitute for clarification and renumber

(2) justices, magistrates, judges and employees of the judicial branch including the Judicial Council.

Department reason: None given

Discussion: The change proposed would combine two paragraphs of AS 39.25.110 for clarification purposes. The existing paragraph (2) lists separately the judges and justices of those courts which are established by the State Constitution as well as those which are established by

statute. I don't suppose that this is a necessary distinction to make in this context.

Page 3
Lines 23-25

Recommendation: Substitute (8) certificated teachers employed by the Department of Education as classroom teachers;

Department reason: Correspondence teachers do not teach in classroom setting. They function as any classified employee.

Discussion: Correspondence teachers are presently members of the exempt service. The Commission, in its initial work on the State Personnel Act, inadvertently deleted them from the exempt service. The State Affairs Committee Substitute placed them back in, largely, I believe, at the request of the correspondence teachers themselves. They are currently negotiating as a separate bargaining unit with the State under the Public Employment Relations Act. While the correspondence teachers work in an office in the State Office Building and do not have classroom responsibilities, they do serve as teachers in another sense. The Commission has not directly considered the merits of removing them from the exempt service.

Page 3
Line 29

Recommendation: Delete ...the legislature, or a legislative committee

Department reason: Legislative employees by definition AS 39.25.110(4) are exempt.

Discussion: The department is correct and this language can be removed without changing the substance of the law.

Page 4
Line 12

Recommendation: Delete [paragraph (12)]

Department reason: Legislative employees by definition are exempt.

Discussion: The department is correct. Since the Ombudsman and his staff are legislative employees, they are placed in the exempt service by AS 39.25.110(4). If they need to be addressed separately, paragraph (4) could be amended to include specific reference to the Ombudsman's office.

Page 4
Lines 16-17

Recommendation: Delete: division of mental health and developmental disabilities, Department of Health and Social Services

Department reason: All licensed physicians employed by the State should be exempt not just those working for mental health.

Discussion: The Commission has not discussed this proposed change. It would extend the exempt service to include all licensed physicians employed by the state. It is my understanding that the state placed mental health physicians in the exempt service in order to offer salaries in excess of the regular pay plan. It was not possible to find satisfactory candidates to work as physicians in the mental health field within the limit of the pay plan.

Page 4
Line 30

Recommendation: Add section
(22?) emergency firefighters employed by the Department of Natural Resources whose employment is limited to a fire emergency.

Department reason: Current and past use of firefighters warrants placing them into exempt status.

Discussion: The Blue Ribbon Commission did not consider this issue but it appears to make sense. In case of a fire emergency, the department cannot take the time to prepare paperwork for nonpermanent positions and the emergency may last longer than the 30 days to which an emergency appointment is limited.

Page 5
Lines 9-10

Recommendation: Delete: except as provided in AS 39.-25.170.

Department reason: Partially exempt employees should not have the same rights as classified employees. Sufficient protection is provided under current anti-discrimination laws.

Discussion: The issue raised by this recommendation is whether state employees in the partially exempt service should have an in-house appeal to the Personnel Board or whether that entity should deal exclusively with classified state employees. This issue is addressed in the discussion following the department's recommended changes to AS 39.25.170, page 14, line 14 through page 15, line 27.

Page 6
Line 1

Recommendation: Delete [paragraph (7)]

Department reason: This position is currently held by the Director, Division of Forestry who is partially exempt.

Discussion: This change was not discussed by the Commission, but it appears to be a noncontroversial clean-up of the Act.

Page 6
Line 27

Recommendation: Delete [paragraph (15)]

Department reason: This position has been reclassified to a Director status and is partially exempt.

Discussion: At the time that the Commission was drafting SB 193, the reclassification of the Chief of Subsistence had not been completed. Therefore, the Commission did not consider this change. It appears to be noncontroversial.

Page 8
Lines 3-22

Recommendation: Delete and substitute existing language of AS 39.25.140(c)-(e).

Department reason: In addition to the fact that current law excludes personnel rules from being subject to the Administrative Procedures Act (APA) if the new language becomes law, it will remove the protection and flexibility so that almost every change instituted by the Division of Personnel, whether a new test, recruiting effort, the awarding of preference points for veterans et al, would fall under lengthy public scrutiny through APA. This will cause increasing and lengthy delays in placing applicants on registers and reduce flexibility to make the system better.

Discussion: The language of CSSB 193 provides that amendments to the Personnel Rules which concern matters of public policy would be adopted in accordance with the Administrative Procedure Act. The department indicates that the change would require new tests, recruiting efforts and the awarding of preference points for veterans to be subject to adoption through the APA. This appears to be a misunderstanding of the APA. Only in those instances in which the proposed change required amendment of a Personnel Rule concerning matters of public policy would hearings under the APA be required. But in those instances, the public would have an opportunity to comment to the Personnel Board before it acted on the question. This should not affect the time it would take to place applicants on registers, so far as I can see.

Page 9
Line 6

Recommendation: Delete the word "position" ...necessary position specifications....

Department reason: Specifications for classes are general. Each position in a class could have a different description.

Discussion: This appears to be a reasonable recommendation.

Page 10
Lines 18-19

Recommendation: Delete [paragraph (12)]

Department reason: By longstanding practice this is accomplished by the State Administrative Manual, Section 7642-7684. Additionally, it only covers approximately 14 positions.

Discussion: This appears to be a reasonable recommendation. The 14 positions covered are those which are in the classified service but not within an existing bargaining unit. Members of bargaining units who transfer at the request of the state are reimbursed in accordance with union contract provisions.

Page 11
Lines 7-29
and
Page 12
Lines 1-3

Recommendation: Delete [paragraph (20)]: Replace with Blue Ribbon recommendation as contained in original SB 193.

Department reason: This will reduce confusion and provide a better vehicle for veteran hire.

Discussion: The Senate Judiciary Committee discussed this paragraph at its last meeting and addressed the substance of the department's recommendation in the amendments it agreed upon. One change made by the State Affairs Committee Substitute which was not addressed occurs in the definition of "veteran". The original version of SB 193 and also the State Personnel Act define a veteran as a person who has served for 90 days. The Senate State Affairs Committee Substitute increased that to 181 days.

Page 12
Lines 24-27

Recommendation: Delete existing [paragraph (25)] substitute

The establishment of transition periods of up to 12 months for an employee to be reappointed to a classified position which his position is withdrawn from the partially exempt or exempt service and placed in the classified service.

Department reason: The bill language provides guarantees that far exceed any current rules, statutes, or collective bargaining agreements and it is unlimited by time.

Discussion: Paragraph (25) was added by the Senate State Affairs Committee. The Blue Ribbon Commission considered the issue but did not recommend any changes to the present law, which provides no direct protections to employees whose jobs are withdrawn from the partially exempt or exempt service and placed in the classified service. The problem is that positions in the partially exempt and exempt services do not have to be filled by using merit system standards. Individuals selected do not have to meet minimum qualifications for the positions nor does the hiring authority have to select from the five highest ranking available eligibles on registers. The language proposed by the Department of Administration appears to be a compromise between the proposal of the State Affairs Committee and the existing situation.

Page 13
Line 15

Recommendation: Change "the" to "departments" so that ... applicants on [THE] department eligible lists.

Department reason: This section deals with departmental personnel officers who do not test and place applicants onto a statewide list.

Discussion: The proposed change appears consistent with the Blue Ribbon Commission's recommendation concerning this section.

Page 13
Lines 26-27

Recommendation: Delete - (... or an exempt employee in a position named in AS 39.25.110(3)) ....

Department reason: Separation of powers.

Discussion: The people who would be removed from the scope of this section, which limits partisan political activity by state employees, are employees of the Judicial Council. Since they are part of the judicial branch, the separation of powers doctrine could be held to preclude the executive branch from interfering in personnel policies for them.

Page 14
Line 13

Recommendation: Add - In the absence of a resignation, the appointing authority shall accept written evidence of candidacy as a resignation.

Department reason: An employee may not immediately inform his supervisor regarding nomination or candidacy for a state or national elective office. In the absence of a formal resignation, the employer should be able to effect a resignation.

Discussion: This recommendation would make running for state or national elective political office a self-executing resignation from employment in the classified or partially exempt service. It does not appear to change the intent of the language in the bill.

Page 14 Line 14 — Recommendation: Add "... of a classified state...."

Department reason: This section deals with classified employees only not employees of the legislative and judicial branches.

Page 14 Line 15 — Recommendation: Add "...applicant for classified state service...."

Department reason: This section deals with classified employees only not employees of the legislative and judicial branches.

Page 15 Lines 6, 12 and 27 — Recommendation: An employee in the classified service...

Department reason: This section deals with classified employees only not employees of the legislative and judicial branches.

Discussion: The Blue Ribbon Commission proposed amendments to the State Personnel Act which would extend to partially exempt and exempt employees the right to appeal to the Personnel Board in cases of unlawful discrimination which affected their employment status. The changes which the department recommends would limit those appeal rights to classified state employees, as is the law now. The department gives as its reason that the section should deal only with classified employees and not those of the judicial or legislative branches. However, by limiting appeal rights to classified state employees, the department's recommendations would also preclude employees of the executive branch who are members of the exempt or partially exempt service from appealing. If the separation of powers doctrine makes it unwise to provide judicial, University of Alaska, and legislative branch employees an opportunity to bring cases before the Personnel Board, there still remains the issue of whether partially exempt and exempt executive branch employees should have that right. As the department noted earlier, all state employees are covered by the state's human rights' provisions which provide protection from employment discrimination.

Page 16
Line 19

Recommendation: Delete "by the employee" ... superior court.

Department reason: The decision of the board should be appealable by both the employer and the employee.

Discussion: The Senate State Affairs Committee added the language which the department proposes to change. The existing law does not provide for appeals by either party to the Superior Court. If the action complained of was due to discrimination or was in violation of the State Personnel Act or the Personnel Rules, then the Board has the power to order remedies on behalf of the employee. The Blue Ribbon Commission's bill retained the Board's powers as does the State Affairs Committee Substitute.

The existing law and the Blue Ribbon Commission's bill provide that in all other cases, the Board shall report its finding and recommendations to both parties. The State Affairs Committee added language to provide that in those instances, the employee can appeal the decision of the Personnel Board to the Superior Court. It is not clear to me what an employee would gain by such an appeal, since the Personnel Board has no power to provide for remedies in those cases.

Page 17
Line 29

Recommendation: Reword - express political opinions, provided that while engaged on official business, an employee may not display or distribute partisan political material in any form or manner.

Department reason: None given.

Discussion: The existing language permits a state employee to express political opinions. The department recommends language to make clear that an employee may not exercise that right while conducting state business. The section applies to all state employees, whether in the classified, partially exempt or exempt service. As worded, the recommendation would forbid any state employee even from wearing a campaign button while on the job. The Blue Ribbon Commission did not discuss whether the Act should address any limitation of political expression or how far such a limitation should go.

Page 18
Lines 8-27

Recommendation: Delete sections 20 and 21

Department reason: Exempt and partially exempt employees do not compete for their positions. Their knowledge, skills, abilities and salary range could differ considerably from their corresponding class and range in this classified service.

Discussion: The Senate State Affairs Committee added these two sections which provide that the employees of the Commercial Fisheries Limited Entry Commission and of the Postsecondary Education Commission be placed in the classified service. The Blue Ribbon Commission discussed this issue but did not recommend making any changes. The Senate Judiciary Committee has recommended deleting these two sections.

Page 18 Line 29 — Recommendation: Effective date should be changed to July 1, 1982.

Discussion: This makes sense.

TBC:lmk

JUNEAU, ALASKA

Alaska State Legislature

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

Senator Bill Ray, Chairman

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MEMORANDUM

January 27, 1982

TO: Members of the Senate Judiciary Committee

FROM: Teresa B. Cramer
Administrative Assistant

SUBJECT: CSSB 193(SA) Amending the State Personnel Act

The Blue Ribbon Commission sponsored SB 193 to make a comprehensive revision of the State Personnel Act, to change personnel practices, to expand protections granted employees in the exempt and partially exempt services, and to make the Act consistent with the Public Employment Relations Act. Last session, Senate State Affairs considered and amended the bill.

The State Personnel Act establishes the state personnel system and implements the constitutional requirement that the merit principle govern employment of persons by the state. Article XII, Section 6. Some of its provisions are superseded by provisions of collective bargaining agreements between the state and employee organizations. It provides the entire personnel system for the 19 or 20 classified service employees who are not members of a bargaining unit and for all partially exempt employees to the extent it applies to them.

The major changes proposed in CSSB 193(SA) are discussed briefly below. I have noted also some of the amendments made by the State Affairs Committee.

Section 6: AS 39.25.080. PUBLIC RECORDS.

Page 2
Line 6

The amendment lists those parts of the personnel records which are to be considered public records and is consistent with the current Personnel Rules. The law presently says that all records except those which the Rules require to be held confidential are open to public inspection.

Section 12: AS 39.25.140. AMENDMENT OF PERSONNEL RULES.

Page 7
Line 25

Subsection (c) of this section changes current law to require that those Personnel Rules which concern

matters of public policy be adopted in accordance with the Administration Procedure Act. (Page 8, line 3) Subsection (f) empowers the Personnel Board to amend the Rules presented to it. (Page 8, line 17)

Section 13: AS 39.25.150. SCOPE OF THE RULES.

Page 11 Line 1 — Paragraph (17) adds new language to provide that the Personnel Rules shall include procedures for resolving grievances of the general public concerning the operation of the state personnel system. Grievances might arise from the state application and testing process or the selection process. There is presently no system in place for addressing these grievances, although they are handled on an informal basis by the Division of Personnel.

Page 11 Line 7 — Paragraph (20) addresses veterans' preference. The original bill did not change the substance of the existing preference system. The State Affairs Committee adopted amendments which do change the existing system.

Page 12 Line 18 — Paragraph (23) adds new language to provide that rules be adopted permitting the state to establish programs facilitating the employment of disadvantaged persons. These might include CETA programs and the Senior Community Service Employment Program (SCSEP).

Page 12 Line 24 — The State Affairs Committee Substitute adds paragraph (25) which would guarantee that an employee's salary would not be reduced if his position were moved from the partially exempt or exempt service and placed into the classified service.

Section 14: AS 39.25.153. PERSONNEL OFFICERS.

Page 13 Line 1 — Subsection (a) provides that if a department has a personnel officer, he or she shall be an employee of the department rather than of the Division of Personnel. This keeps in force the current practice. As employees of the department, personnel officers are better able to maintain an effective working relationship with the staff of the department they serve.

Subsection (b) limits powers now given certain

personnel officers to amend the Personnel Rules when dealing with employees in job classes unique to that department.

Section 15 AS 39.25.160. GENERALLY.

Page 13
Line 25

Subsection (c) extends the protection from being required to make contributions to a political party to all state employees. (Page 14, line 5). Only members of the classified service now have that protection.

Subsection (e) adds a requirement that members of the partially exempt service resign from state employment when seeking political office. (Page 14, line 10)

Subsection (f) extends protection from unlawful discrimination to all state employees. It applies now only to members of the classified service. (Page 14, line 14)

Section 16: AS 39.25.170. HEARINGS AND APPEALS UPON DISMISSAL, DEMOTION, OR SUSPENSION.

Page 15
Line 4

Subsections (c) and (i) provide that employees who have been unlawfully discriminated against may appeal to the Personnel Board, whether or not they are members of the classified service. This implements the expanded protection granted in Section 15, which amends AS 39.25.160(f). Other paragraphs of Section 16 codify current case law.

Appeals by employees in the classified service who are members of bargaining units will be governed by the labor agreement in force rather than by the State Personnel Act, so this section applies to partially exempt employees and to those classified employees who are not members of a union.

Section 20: AS 14.40.913(a).

Page 18
Line 8

The Committee Substitute amends the Postsecondary Education Commission statutes to provide that all of its employees except the executive officer will be members of the classified service. They are presently members of the exempt service.

Section 21: AS 16.43.080(a).

Page 18
Line 22

The Committee Substitute amends the Alaska Commercial Fisheries Limited Entry Commission statutes to place all employees except the executive officer into the classified service. They are presently members of the exempt service.

Section 23: EFFECTIVE DATE.

Page 18
Line 29

The effective date proposed in the bill is now out-of-date and should be amended to July 1, 1982.

TBC:lmk

Alaska State Legislature

JUNEAU, ALASKA

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT
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Senator Bill Ray
Chairman

MEMORANDUM

May 19, 1981

TO: Members of the Blue Ribbon Commission

FROM: Teresa B. Cramer
Administrative Assistant

SUBJECT: Analysis of CSSB 193 (SA)

TITLE

SB: Pg. 1
Line 6

The Committee Substitute amends the title because it adds sections 20 and 21 which amend personnel laws not found in the State Personnel Act.

CSSB: Pg 1
Line 6

Section 8: AS 39.25.110. EXEMPT SERVICE

SB: Pg 3
Lines 22/23

CSSB: Pg 3
Lines 23/25

The Committee Substitute adds a paragraph placing correspondence teachers and teachers in skill centers operated by the Department of Education back in the exempt service. The remaining paragraphs are renumbered.

SB: Pg 4
Line 1

CSSB: Pg 4
Lines 3 & 10
and Pg 18
Line 22

The Committee Substitute removes the Alaska Commercial Fisheries Entry Commission from the list of boards whose staff are all members of the exempt service. It adds paragraph (14) which places the executive officer of the Limited Entry Commission in the exempt service. The Committee Substitute also adds Section 21 which amends the Limited Entry Commission statutes to specify that employees of the commission except the executive officer are in the classified service.

SB: Pg 4
Line 24

CSSB: Pg 4
Line 28

The Committee Substitute adds paragraph (21) which places the officers and employees of the state who reside in foreign countries in the exempt service.

Section 9: AS 39.25.120. PARTIALLY EXEMPT SERVICE

SB: Pg 7
Line 3

CSSB: Pg 7
Line 7

The Committee Substitute deletes paragraph (19) of the Senate Bill, which places the staff of the Division of Labor Relations responsible for representing the state in collective bargaining negotiations in the partially exempt service. These employees would therefore remain in the classified service.

Section 12: AS 39.25.140. AMENDMENT OF PERSONNEL RULES

SB: Pg 8
Line 2 to
Pg 9
Line 5

CSSB: Pg 8
Lines 3-22

The Committee Substitute amends the Senate Bill by deleting subsection (f) which defined "matters of public policy". It also reorganizes the remaining subsections, so that subsection (c) of the Committee Substitute requires that if the proposed amendments concern matters of public policy, they are subject to the APA. The Senate Bill placed this provision in subsection (d). The Committee Substitute does grant the Personnel Board the power to amend the rules and provides that the amended rules shall be published in the Administrative Code for informational purposes.

Section 13: AS 39.25.150. SCOPE OF THE RULES

SB: Pg 10
Line 4

CSSB: Pg 9
Line 21

The Committee Substitute deletes the word "efficiently" from paragraph (3) which requires that employee selection methods test the capacity and fitness of the person examined.

SB: Pg 11 Line 7 to Pg 12 Line 3

CSSB: Pg 11 Line 19 to Pg 12 Line 11

The Committee Substitute amends the veterans preference paragraph to require that the veteran may only use the points once, at a time to be selected by the veteran. This is a change from the existing system (which the Senate Bill retained) which permits the points to be added to all of the job classes a veteran applies for until he is hired by the state. At that time the points are removed from his scores. The Committee Substitute retains the requirement that the preference may not be used within the area of promotion.

The Committee Substitute also amends the definitions of "veteran" and "disabled veterans".

SB: Pg 13 Line 2

CSSB: Pg 12 Line 24

The Committee Substitute adds paragraph (25) to guarantee partially exempt or exempt employees a similar job class assignment if their positions are moved to the classifed service. The Committee Substitute renumbers the remaining paragraph.

Section 15. AS 39.25.160. GENERALLY

SB: Pg 14 Line 21

CSSB: Pg 14 Line 18

The Committee Substitute adds to subsection (f) prohibitions against discrimination based on the following reasons: marital status, change in marital status, pregnancy, parenthood, or other reason not related to merit.

Section 16. AS 39.25.160. HEARINGS AND APPEALS

SB: Pg 15 Line 16

CSSB: Pg 15 Line 13

The Committee Substitute makes the same changes to the protected classes in AS 39.25.170(c) as it did to AS 39.25.160(f) in section 15 above.

SB: Pg 16 Line 7
CSSB: Pg 16 Line 6

The Committee Substitute amends subsection (h) to make clear that in a hearing before the Personnel Board an employee has the right to confront and cross-examine witnesses. The Committee Substitute retains the provision that technical rules of evidence do not apply to the hearing, but adds language requiring that all testimony shall be taken under oath.

SB: Pg 16 Line 10
CSSB: Pg 16 Line 10

In subsection (i) the Committee Substitute repeats the additions to protected classes which are found in Section 15, AS 39.25.160(f), and Section 16, AS 39.25.170(c).

Section 20. AS 14.40.913(a)

SB: Pg 18 Line 4
CSSB: Pg 18 Line 8

The Committee Substitute adds this section to the Senate Bill. It amends the Postsecondary Education Commission statutes by providing that all of the commission's employees except the executive officer are members of the classified service. Those employees are presently placed in the exempt service.

Section 21. AS 16.43.080(a)

SB: Pg 18 Line 4
CSSB: Pg 18 Line 22

The Committee Substitute also adds this section to the Senate Bill. It amends the Alaska Commercial Fisheries Limited Entry Commission statutes to place only the executive officer of the commission in the exempt service. All of the other employees of the commission are moved from the exempt service to the classified service.

TBC:lmk

Ombudsman

Frank Flavin

State of Alaska

Reply to:

☐ 840 K Street, Room 203
Anchorage, Alaska 99501
(907) 276-4011

☒ Pouch WO
Juneau, Alaska 99811
(907) 465-4970

☐ P.O. Box 74358
Fairbanks, Alaska 99707
(907) 452-4001

MEMO

DATE: May 14, 1981

TO: Senate State Affairs Committee

FROM: Frank Flavin, Ombudsman

RE: Proposed CS for Senate Bill 193

Adopted 5/19/81 moved bill out w/ new recs

Proposed Amendment:

In section 39.25.140 at page 8, line 3 of the proposed CS insert subsection (d) of Sec. 39.25.140 of the original SB 193 found at page 8 lines 6 through 8. This subsection to become subsection (c) in the proposed CS to read:

> (c) If the proposed amendments concern matters of public policy, the personnel board shall adopt them in accordance with the Administrative Procedure Act (AS 44.62).

The present subsection (c) at page 8 line 3 of proposed CS should become subsection (d) and read:

> (d) If the proposed amendments relate only to internal management of the state agencies [when the proposed amendments are submitted to the personnel board,] the commissioner of administration shall post notice in public buildings throughout the state that the personnel board has the proposed amendments under consideration. The notice required by this subsection shall be posted at least 30 days before any decision is made to amend the personnel rules and shall include an address for the receipt of written comments.

Subsections (d), (e), (f) and (g) should be respectively relettered as subsections (e), (f), (g) and (h).

BASIS

As drafted, Sec. 34.25.140 of the proposed CS presumes that amendment of personnel rules is a matter of concern only to state employees and management. In fact, many procedures, such as recruitment, examination, selection methods and eligible lists directly impact members of the general public. It is safe to say there are as many people who would like to be state employees as those who are. We receive many complaints concerning state hiring practices. The Administrative Procedures Act is the established vehicle for insuring participation by members of the general public.

Alaska State Legislature

JUNEAU, ALASKA

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT
Pouch AG/Mail Stop 0123
Juneau, Alaska 99811
(907) 465-4442

Senator Bill Ray
Chairman

MEMORANDUM

May 11, 1981

TO: Members of the Blue Ribbon Commission

FROM: Teresa B. Cramer *Jerry*
Administrative Assistant

SUBJECT: Work Draft for CSSB 193 (SA) -- Amending the State Personnel Act

I have received a work draft for the Senate State Affairs Committee Substitute to SB 193. The changes from the bill are noted below, with references given to both the Senate Bill as introduced by the Blue Ribbon Commission (SB) and to the work draft (CSSB). There is a hearing scheduled on the bill on Tuesday, May 12th, at 1:30 p.m. in the Behrends Building.

AS 39.25.110. EXEMPT SERVICE.

SB: Pg 3
Line 23

CSSB: Pg 3
Line 23

The committee substitute returns correspondence teachers and teachers in skill centers in the Department of Education to the exempt service. They were inadvertently deleted from the exempt service when the commission removed language in the State Personnel Act which placed teachers in schools operated by the state in the exempt service. The personnel office in the Department of Education had advised me that there were no longer any such employees. They overlooked correspondence teachers and skill center teachers in making that statement.

Because the committee substitute adds this new paragraph, the remaining paragraphs are renumbered.

SB: Pg 4
Line 24

CSSB: Pg 4
Line 28

The committee substitute adds a new paragraph placing "officers and employees of the state who reside in foreign countries" in the exempt service.

AS 39.25.120. PARTIALLY EXEMPT SERVICE.

SB: Pg 7 Line 3
CSSB: Pg 7 Line 7

The committee substitute deletes language proposed in the bill which would have placed the employees in the Division of Labor Relations who are responsible for representing the state in negotiations with unions in the partially exempt service.

AS 39.25.140. AMENDMENT OF PERSONNEL RULES.

SB: Pgs. 8-9 Line 6
CSSB: Pg 9 Line 6

The committee substitute deletes the provisions of SB 193 which would have made Personnel Rules which concern matters of public policy as defined in the bill subject to the Administrative Procedures Act. It also retains the deletion of language in the statute which describes the rules as matters of internal management and exempts them entirely from the APA. It would therefore appear that the rules are made subject to the APA and that only those rules which fall within the APA definition of internal management of state agencies would be exempt from the hearing process of the APA rule-making.

There is language which might suggest a contrary interpretation to the committee substitute. It provides that the amended rules shall be published in the Administrative Code for informational purposes. This retains language from the statute but suggests a conflict with the APA, since regulations which are adopted under the APA are required to be filed with the Lt. Governor who publishes them in the Code. (AS 44.62.040 and 44.62.130)

The committee substitute retains language proposed in SB 193 which gives the Personnel Board the power to amend proposed rules and which provides that the Board may appoint a hearing officer to conduct hearings on rule changes.

AS 39.25.150. SCOPE OF THE RULES.

SB: Pg. 10 Line 4
CSSB: Pg 9 Line 18

The committee substitute deletes the word "efficiently" from the language of paragraph (3). Testimony at the hearing on the bill suggested that it would be hard to create a system to measure whether an employee could be expected to efficiently discharge the duties of a job.

SB: Pg 11
Line 19

CSSB: Pg 11
Line 4

The committee substitute redrafts language on veterans preference. It provides that the additional points awarded to a veteran may be used only once, at a time selected by the veteran. The present system permits the points to be added to all of the applications for job classes a veteran has applied for before he is employed by the state. The limitation against a veteran using his or her preference points to secure a promotion is retained. The committee substitute also adds that the paragraph may not be interpreted to amend terms of a collective bargaining agreement.

The committee substitute amends the definition of veteran and disabled veteran.

SB: Pg 13
Line 2

CSSB: Pg 12
Line 21

The committee substitute adds a new paragraph to provide for rules to guarantee a partially exempt or exempt employee whose job is placed in the classified service an opportunity for work in the same or similar job class.

AS 39.25.160. GENERALLY.

SB: Pg 14
Line 21

CSSB: Pg 14
Line 14

The committee substitute adds prohibitions against job action based on marital status, change in marital status, pregnancy, parenthood or other reasons not related to merit to the protected classes listed in the Senate Bill.

AS 39.25.170. HEARINGS AND APPEALS UPON DISMISSAL, DEMOTION, OR SUSPENSION.

SB: Pg 15
Line 16

CSSB: Pg 15
Line 14

The committee substitute adds the same protected classes listed in AS 39.25.160 into AS 39.25.170(c).

SB: Pg 16
Line 7

In paragraph (h) the committee substitute adds reference to an employee's right to confront and cross-examine

witnesses and specifies that all testimony shall be taken under oath.

CSSB: Pg 16
Line 7

In paragraph (i) the committee substitute repeats the same additions to protected classes. In addition, it specifies that the Personnel Board shall report its findings and recommendations in writing within 30 days of a hearing. It also adds language to provide that the employee may appeal the decision of the Personnel Board to the superior court.

TBC:lmk
Enclosure

SB 193
4/9/81
mp

465-2200

April 6, 1981

Ms. Nancy Groszek
Administrative Assistant
Senate State Affairs Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Ms. Groszek:

Re: SB 193

This is to reiterate the concerns expressed by Bruce Cummings, Director of Personnel, before the Senate State Affairs Committee on March 31, regarding SB 193.

The Department of Administration is particularly concerned with the amendments to AS 39.25.140 proposed in Section 12 of the bill, which would require that certain amendments to the Personnel Rules are subject to the Administrative Procedure Act (AS 44.62). It is our opinion that the enactment of this proposal would simply limit the flexibility we now have to modify the Rules - while at the same time increasing the cost of their administration - without providing any substantive benefits to the State, its citizens, or its employees.

As you may be aware, the Legislature determined at the time of Statehood that the Personnel Rules "relate to the internal management of State agencies and their adoption is not subject to the Administrative Procedure Act." [AS 39.25.190(c)] We believe that this was a proper acknowledgement that the Division of Personnel exists only to provide services to other State agencies -as opposed to being a direct public service agency - and that the procedural rules for the management of the State's work force are properly an internal matter.

To exempt the Personnel Rules from the requirements of AS 44.62 does not suggest that the substance of the Rules is of no interest to the public. Indeed, existing statutes require that notice of proposed amendments be posted in public buildings throughout the State, that a thirty day waiting period elapse, and that the Personnel Board may hold hearings upon request [AS 39.25.140(c)]. These provisions insure that there is at least an opportunity for public input.

However, as a result of the enactment of collective bargaining for State employees in 1972, even the existing provisions for public comment are largely meaningless. To now require a costly procedure which would ostensibly provide for greater public comment is only to deceive the public; comments received as the result of amendments via the Administrative Procedure Act would have little or no substantive effect on the rules governing State employment.

The matters defined as "public policy" in the proposed subsection (f) for AS 39.25.140 are now matters on which the State negotiates with public employee organizations under AS 23.40. The agreements we reach supercede the Personnel Rules, and their terms vary among bargaining units. For example:

1. We recruit for classifications in some bargaining units, but in others we do not;

2. Hours of work vary between bargaining units;

3. We examine for positions in some bargaining units, but in others we do not;

4. Some bargaining units provide for merit increases, but others do not;

5. "Prohibitions and penalties" vary among bargaining units; and,

6. Hearing and appeal procedures differ between bargaining units.

In recent years, amendments to the Personnel Rules have become an after-the-fact reflection of employment conditions pevailing for most classified employees. Where the Rules differ from the terms of a collective bargaining agreement, the agreement prevails.

At this time, there are only thirteen out of State employees whose terms and conditions of employment are wholly subject to the Personnel Rules and AS 39.25 (three are in the Division of Personnel, and ten are in the Division of Labor Relations). These are classified employees who are not presently covered by a collective bargaining agreement. While we must continue to maintain Personnel Rules for this handful of employees, we do not believe that public interest is sufficient to subject those Rules to the Administrative Procedures Act.

Further, the proposed amendment to AS 39.25.140 may work to impair the collective bargaining process. AS 23.40.250(7) currently provides:

> " 'terms and conditions of employment' means the hours of employment, the compensation and fringe benefits, and the employer's personnel policies affecting the working conditions of the employees; but does not mean the general policies describing the function and purposes of a public employer."

It would appear that the proposed changes in AS 39.25.140 would conflict with AS 23.40.250(7) and thereby make those matters of "public policy" not subject to collective bargaining.

It was suggested in Committee hearing that this apparent conflict may be resolved by amending SB 193 to expressly provide that the Rules which would be subject to the Administrative Procedure Act are not matters of "public policy" for purposes of AS 23.40. Should this occur, we remain with the paradox of soliciting public comment on issues which have already been determined across the bargaining table.

Attached is a copy of our bill analysis of SB 193. We respectfully request that the changes recommended in Section 5 of the analysis be made. Should the Senate State Affairs Committee decide not to adopt these recommendations, we ask that they do adopt the attached fiscal note.

On another subject within SB 193, we recommend that Section 8 of the bill be expanded by adding the following:

> (19) Officers and employees of the State employed in positions in foreign countries.

Presently, these positions are in the partially exempt service. The Director of Personnel is required by AS 39.27.020(c) to establish equitable pay differentials for these positions, to be derived from the basic salary schedule provided in AS 39.27.011. To do so in an equitable manner is virtually impossible. There are several factors affecting the actual cost-of-living in foreign countries which cannot be adequately addressed in formulating a standard salary schedule. This reality is acknowledged by federal and private employers in that they do not tie overseas salaries directly to standard pay schedules. Placing these positions (there are currently only two) in the exempt service would enable the State to set compensation on a formula analagous to that used by the federal government.

Thank you for the opportunity to comment on SB 193. Should you desire additional information, please do not hesitate to ask.

Respectfully,

W. R. Hudson
Commissioner

WRH/mjc
cc: Keith Specking
Judy Crondahl
Bruce A. Cummings
Attachments: Bill Analysis - SB 193
Fiscal Note - SB 193

AMERICAN ASSOCIATION OF UNIVERSITY WOMEN

ALASKA DIVISION

April 1981

To: Members of the Senate State Affairs
From: Susan R. Clark, Legislative Chair, Alaska Division of the American Association of University Women
1109 C Street, Juneau, Alaska 99801 (586-6952)

Re: Veterans' Preference for State Employment (SB 193, SB 104)

I would like to begin first with an acknowledgement to Sen. Bradley, because I know that his hard work in this area has been done in good faith and out of a sincere concern for the welfare of those men and women who made personal sacrifices for the sake of our country's safety.

I also want to point out that I personally grew up in the military. My father, godfather, and father-in-law were all career officers in the armed services, and my husband and brother were both active in the military during the Vietnam war. I had planned at one time to make the Navy a career. I also wnat to point out that the new Alaska division president of A.A.U.W. is herself a vetran.

A.A.U.W. feels that we must bring to the attention of the legislature that while the goals of preference are legitimate, and while the current state statute may not have been enacted for the purpose of discriminating against women, the exclusionary impact upon women is so severe as to require the state to further its goals through a more limited form of preference.

Looking at the current law as too broad, please consider who is covered: a person with a minimum of 90 (181 is a change currently being proposed) days active service serving during World War I, World War II, and Vietnam or Korea who has been honorably discharged. According to the Veterans' Preference Act of 1944, such preference was designed to reward veterans for the sacrifice of military service, to ease the transition from military to civilian life, to encourage patriotic service, and to attract loyal and well disciplined people to civil service occupations. In terms of the last reason, it should be pointed out that preference itself has little if any relevance to actual job performance. The first two reasons for preference seem the most pertinent to Alaska - reward for sacrifice and ease of transition into civilian life. Both reasons are valid, but as lifetime preferences, they are subject to the objection that they give the veteran more than a square deal. Certainly, upon returning to civilian status, a veteran should have access to his or her job, and perhaps for 5 years or so after returning, preference could be given as reward and help for veterans, but there should be some sort of limit on the length of time one can reap rewards for what can be a brief and unhazardous term of service.

Because the extent to which the status of veteran is one that few women have been permitted to achieve, every hiring preference for veterans, however modest or extreme, must admit inherent gender-bias, and therefore legislated preference must be considered with due caution and careful consideration. The 5 points for veterans and 10 points for disabled veterans comes directly from the 1944 Federal Veterans' Preference Act. These points are added to a veteran's score after other writen tests are administered. In Alaska where mere hundreths of a single point can separate job applicants, the system is overly weighted, especially when compared with other handicapped, disadvantaged or suspect classes of people.

Conceding that the goal here is to benefit the veteran, there is no reason to absolve the legislature from awareness that the means chosen to achieve this goal reserves a major sector of public employment to an already established class, which, as a matter of historical fact, is already 80% male in catagories other than the clerical and para-professional jobs. The current point system and lifetime preference, only compounds and contributes to sex bias in all levels of state employment.

Women have been overtly excluded from the military, and not just by tradition and culture. During WW I for example "a variety of proposals were made to enlist women for work in the Army as doctors, telephone operators, and clerks, but all were rejected by the War Dept." Navy women did achieve military rank and status during this time, and were the first women to do so. While the Army Nurse Corps was the first official military unit for women, they were not granted full military rank until 1944 - forty-three years later. During the Second World War several temporary women's units were formed including WAAC (Women's Army Auxiliary Corps), WAVES (Women Accepted for Voluntary Emergency Service), and WASP (Women Airforce Pilots). These women, however, were in fact civilians and had no regular military status, and thus no veteran status. In fact, although the WASP personnel were filling some of the most hazardous of flying jobs, that of towing targets for air gunnery practice, and testing planes fresh out of repair depots, they were denied commissions based on the fact that "the authority of the act of September 1941, to make temporary appointments as officers in the U.S. Army 'from among qualified persons' refers to and contemplates men exclusively, and may not be regarded as authority for commissioning women as officers...." These women finally won their hard earned veterans' status in September 1976, but other women who had been active in the war have not.

Women's services were finally established on a permanent basis in 1948, however quotas were placed on the numbers that could enlist. Women were not to exceed 2% of the total enlisted strength, their eligibility requirements were more stringent than were those for men, and career opportunities were also limited. In addition women were involuntarily removed from service for pregnancy, parenthood, and even marriage. These strictures have carried on into the '60's and '70's. Not until 1967 was the 2% quota lifted, and the many restrictive policies concerning women's participation in the military were not modified or eliminated until the 1970's. Amazingly, or perhaps not so, once the barriers were down women joined in large numbers.

In just three years from 1973-1975 the percentage of enlisted women in the military had doubled.

There are two ways to ameliorate the effects of the veterans' preference on women and minorities. One is to modify the point system and to place a time limit on prefential access to jobs. The other solution is to look to expanding what is considered by the word veteran, and thereby include in this law others who have served their country every bit as well and as patriotically as have those on "military active duty". Other states include language that recognizes nurses and other women who were discharged and so served in any "corps or unit of the United States established for the purpose of enabling women to serve with, or as auxiliary to, the armed forces of the United States..." Language should also recognize those who underwent severe hardship because of the war. In WW II both the Aleut Americans and the Japanese Americans were uprooted and forced into relocation camps. We have never rewarded their sacrifices with jobs or appeasements of any sort. In expanding the concept of who is a veteran, we need also to look at the men and women who served in civil defense jobs, with the American Red Cross, the Civil air patrol, as war correspondants, and in the merchant marine (who incidentally were in the same waters as navy destroyers and also under attack, but receive no reward in terms of their patriotism, personal sacrifice and danger).

Looking again at the contributions of women to the war effort, we are but slightly aware of the sacrifices and contributions of over 2 million World War II women who took the places of the absent men working in the American war industries: in shipyards, aircraft plants, ammunition plants. The call to "inlist" in the factories was every bit as organized and strong as for men in the armed forces. Concern about dangerous working conditions and long hours took a back seat to America's call to keep up the production to supply the war with weapons, and ammunition. For the short-handed women in the farm communities, the call was to get out the crops to feed the troops. If personal sacrifice, patriotism and danger is a standard for preference, then these women deserve veterans' status every bit as much as the service veterans. One amazing statistic of which you may be unaware is that during the war period "more deaths occurred from industrial accidents than from combat." Where was and is their reward? For their commitment and patriotism, they received not preferred lifetime access to civil service jobs, but firings. No one helped them with their transition back into "civilian" jobs. For many minority women who were even then the major financial support for their families, this transition meant leaving highly skilled, well paying jobs to go back to the dead end drudgery and poverty wages of domestic work.

It is interesting to note that the Federal Veterans' Preference Act of 1944 included in its preference the wives of disabled service personnel and the unmarried widows of deceased ex-service personnel. We tend to look at patriotic service and personal sacrifice as being a military male perogative, but I feel we need to look hard at the patriotism and sacrifice of the service personnel spouses who held the country and family together as essentially single parents, frequently having to hold down another job to

support their families because the salary range for enlisted personnel in the military is so low that those families qualify for government assistance. Vietnam vets, in addition, currently have the highest divorce rate of any class of Americans. a rate that is generally high among all military personnel. This means, for example, that those women who held families together during the father's service, and who now must have full time employment to support themselves and their children (of whom women still usually have custody), who traditionally are not educated for well paying jobs, and who have traditionally been denied many levels of employment advancement, now in addition find that the men to whom they gave support are receiving preferential treatment in the jobs the women need to support their families.

As you can see, equitable expansion of the term veteran would be a formitable legislative task, but should be attempted so that families of veterans and those who served alongside veterans can be recognized. As it now stands, the Alaska statute exacts a substantial price from a group of individuals who have long been subject to employment discrimination, and who, because of circumstances totally beyond their control, have had little if any chance of becoming members of the preferred class. Admitting that any hiring preference for veterans does at this time have a severe impact on the public employment opportunities of women, we nevertheless recognize the sacrifice and hardship of military veterans must not be ignored. Through workable modifications in the law, we can strive together to discover solutions that recognize the needs, sacrifices, and contributions of both the military veteran groups and the groups of minorities and women which are so impacted by historical discrimination.

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JUNEAU, ALASKA

Alaska State Legislature

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT
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Senator Bill Ray
Chairman

MEMORANDUM

March 31, 1981

TO: Members of the Senate State Affairs Committee

FROM: Teresa B. Cramer
Administrative Assistant

SUBJECT: SB 193 - Amending the State Personnel Act

Senate Bill 193 makes a comprehensive revision of the State Personnel Act, to change personnel practices, to expand the protections granted employees in the exempt and partially exempt services, and to make the Act consistent with the Public Employment Relations Act. The major changes made in the bill are noted below:

Section 6. Amending AS 39.25.080. PUBLIC RECORDS.

This section amends the current law to provide that only those personnel records listed are available for public inspection. In fact, the materials listed are those which are presently made available under existing law for public inspection. The law now states that except for those materials made confidential by the Personnel Rules, state personnel records are public.

Section 8. Amending AS 39.25.110. EXEMPT SERVICE.

The bill deletes the material in the existing paragraph (8) which states that "certificated teachers employed by the state to teach in schools operated by the state" are in the exempt service. After being advised by the Personnel Office of the Department of Education that there were no employees of schools operated by the state, the commission deleted the paragraph. In fact, there are employees considered to fall within this group. They are employed as correspondence study teachers in Juneau and in the Alaska Skills Center in Seward. The commission has not had an opportunity to consider whether it wishes to change its initial action of deleting paragraph (8).

Section 9. Amending AS 39.25.120. PARTIALLY EXEMPT SERVICE.

Paragraph (19) of this section of the bill adds a group of employees to the partially exempt service who are presently members of the classified service but do not participate in collective bargaining. These are the employees of the Division of Labor Relations within the Department of Administration who are responsible for representing the state in collective bargaining. The majority of the commission recommends that these employees be placed in the partially exempt service in order to insure that they are directly responsive to the policies of the administration.

Section 12. Amending AS 39.25.140. AMENDMENT OF PERSONNEL RULES.

The bill proposes that those Personnel Rules which fall within areas of concern to the public be required to be adopted in accordance with the Administrative Procedures Act to insure an opportunity for public comment. All of the Personnel Rules are presently exempt from the requirements of the APA.

Section 13. Amending AS 39.25.150. SCOPE OF THE RULES.

Paragraph (16) of the bill no longer sets a limit of 30 days for disciplinary suspension.

Paragraph (17) of the bill provides that the Personnel Rules shall include procedures for resolving disputes from the general public.

Paragraph (23) of the bill is added to permit the adoption of Rules relating to special employment programs for the disadvantaged.

Section 14. Amending AS 39.25.153. PERSONNEL OFFICERS.

Subsection (a) provides that all personnel officers shall be employees of the department in which they serve.

Subsection (b) amends the powers granted to the personnel officers listed in the statute.

Section 15. Amending AS 39.25.160. GENERALLY.

Subsection (c) extends protection from being required to make contributions to a political party to all employees. The existing

subsection applies only to those employed in the classified service.

Subsection (e) adds a requirement that members of the partially exempt service resign from state employment when seeking political office.

Subsection (f) extends protection from unlawful discrimination to all state employees, not merely to members of the classified service.

Section 17. Amending AS 39.25.170. HEARINGS AND APPEALS UPON DISMISSAL, DEMOTION, OR SUSPENSION.

Subsections (c) and (i) repeat the expanded coverage from unlawful discrimination which was granted in AS 39.25.160(f).

TBC:lmk

TERRY ! EXPLAIN THE FACTS

Alaska State Legislature

JUNEAU, ALASKA

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT
Pouch AG/Mail Stop 0123
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(907) 465-4442

Senator Bill Ray
Chairman

MEMORANDUM

March 27, 1981

TO: Senator Bill Ray, Chairman

FROM: Teresa B. Cramer Terry
Administrative Assistant

SUBJECT: SB 193 - Amending the State Personnel Act

I recently received a phone call concerning SB 193 which the commission is sponsoring. The inquiry concerned why the commission had deleted paragraph 8 of AS 39.25.110 (which is the section setting out the membership of the exempt service). The paragraph deleted places "certificated teachers employed by the state to teach in schools operated by the state" in the exempt service. At the time that the commission was considering this section I spoke with the Personnel Office of the Department of Education. They advised me that there were no longer any state operated schools and that therefore there were no employees who would fall within this paragraph. All of the teachers in rural schools are now covered by the paragraph pertaining to employees of regional educational attendance area school boards (AS 39.25.110(18).

There are, contrary to the initial information I was given, certificated teachers who are considered to be employed by the state to teach in schools operated by the state. These teachers fall into two groups - those employed in the Correspondence Study section of the Department of Education in Juneau and those employed in the Alaska Skills Center in Seward. These teachers are placed in the exempt service by the language of AS 39.25.110(8). The commission did not act with the intention of placing them in the classified service when it deleted this paragraph. However, some of the commission members may believe that it is better to place these employees in the classified service, and therefore would oppose changing the bill.

What should I do concerning this in the State Affairs Committee hearing next Tuesday? Unless you recommend something else, I will explain the facts given above and say that the commission has not met to authorize proposing an amendment to the bill.

TBC:lmk

MEMORANDUM February 11, 1981

TO: Linn Asper, Legal Services
Legislative Affairs Agency

FROM: Teresa B. Cramer
Administrative Assistant

SUBJECT: Amendments to the State Personnel Act (W.O. 120067)
Anendments to the Nepotism Bill (W.O. 0057)

The commission at its meeting today have suggested the following changes in the above two bills.

State Personnel Act

1. SSee my memorandum dates February 4, 1981. Do all the recommended changes with the exception of deleting the reference to the "chief of subsistence on page 6, lines 7-8.

2. Add a paragraph to AS 39.25.120 which states:

   (19) the director, deputy director, personnel analysts II, labor relations analysts I, labor relations analysts II, senior negotiators and the research directors of the Labor Relations Agency.

3. In AS 39.25.120(9), page 5, line 20 -- refer to the fact that the number of special assistants can be increased per AS 39.25.130.

4. In AS 39.25.150(17) change the word "citizen" to "members of the public" or some such phrase. "Citizen" excludes resident aliens.

5. Add Sec. 21 to include the effective date of July 1, 1981.

Nepotism Bill

In AS 39.10.010, page 1, line 14 delete "to, the person who makes the appointment or".

TBC:lmk

MEMORANDUM

January 23, 1981

TO: Linn Asper
Legal Services Division

FROM: Teresa B. Cramer
Administrative Assistant

SUBJECT: State Personnel Act Revisions

I want to start drafting the commission report to the Legislature and I thought I would do so anticipating that the amendments which we have talked about are adopted by the commission. Therefore, to insure that I know what I'm doing, I thought I'd check them with you.

If you have thought of any other amendments which I would need to set out in an analysis of what the commission is proposing, I'd appreciate knowing about them. Thanks.

Page 1 Lines 27 & 28 — Add an amendment to AS 39.25.070(3) to delete reference to classified employees, since partially exempt and exempt employees are also granted appeal rights in some instances by this draft.

Page 2 lines 21 & 22 — Add amendment to AS 39.25.090 (Coverage of Chapter) so that it reads something like:

> "This chapter and the rules (should this be regulations?) adopted under it apply to all positions in (1) the classified service, and (2) the partially exempt and exempt service as specifically provided."

Pages 4 & 6 — See my earlier communication on AS 39.25.120

Page 8 Line 14 — Change to read: (1) - (8) of this subsection.

Page 8 Line 28 — Change to read: tions;

Page 17 Line 15 — Perhaps add an effective date clause - you don't need to anything about this until the commission says to, but I'll ask them if they want one.

TBC:lmk

Alaska State Legislature

JUNEAU, ALASKA

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT
Pouch AG/Mail Stop 0123
Juneau, Alaska 99811
(907) 465-4442

Senator Bill Ray
Chairman

MEMORANDUM

January 22, 1981

TO: Linn Asper, Legal Services Division

FROM: Teresa B. Cramer
Administrative Assistant Jerry

SUBJECT: AS 39.25.120

Because of changes made to AS 39.25.120 by Executive Order, I think we need to redraft that section for our bill. If you agree with the version below, I'll do a memo for the commission to accompany the materials I'll send out before the next meeting.

* Sec. 7. AS 39.25.120 is repealed and reenacted to read:

Sec. 39.25.120. PARTIALLY EXEMPT SERVICE. (a) Positions in the partially exempt service are included in the position classification plan established under this chapter and are compensated according to the pay plan (AS 39.27.011).

(b) A person holding a position in the partially exempt service is not required to take an examination or qualify or earn a place on a register, and is not eligible for a hearing by the personnel board in case of dismissal, demotion, or suspension, except as provided in AS 39.25.170. Positions in the partially exempt service are specifically exempt from the rules established under AS 39.25.150(3) - (10), (13), (14), and (17).

(c) The following positions in the state service constitute the partially exempt service:

(1) deputy and assistant commissioners of the principal departments of the executive branch, including the assistant adjutant general of the Department of Military Affairs;

(2) the directors of the major divisions of the principal departments of the executive branch and the regional directors of the Department of Transportation and Public Facilities;

(3) attorney members of the staff of the Department of Law and of the public defender agency;

(4) one private secretary for each head of a principal department in the executive branch;

(5) employees of the Office of the Governor and the office of the lieutenant governor, including the staff of the governor's mansion;

(6) the executive director and deputy director of the Alaska Public Utilities Commission;

(7) the state forester in the Department of Natural Resources;

(8) the director, deputy director, staff legal counsel, and hearing officers of the Alaska Transportation Commission;

(9) not more than two special assistants to the commissioner of each of the principal departments of the executive branch;

(10) the principal executive officer of the following boards, councils, or commissions:

(A) Alaska Public Broadcasting Commission;

(B) Professional Teaching Practices Commission;

(C) Parole Board;

(D) Board of Nursing;

(E) Real Estate Commission;

(F) Alaska Royalty Oil and Gas Development Advisory

Board;

(G) Alaska Historical Commission;

(H) Alaska State Council on the Arts;

(I) Alaska Police Standards Council;

(J) Council on Science and Technology ~~in the Department of Environmental Conservation~~; (The gov. proposes to transfer it to the D. of Admin.)

(11) Alaska Pioneers' Home managers;

(12) hearing examiners in the Department of Revenue;

(13) the comptroller in the division of treasury, Department of Revenue;

(14) investment officers in the Department of Revenue;

~~(15) the chief of subsistence in the Department of Fish and Game;~~ (This is it in existing statute & the Personnel Board has placed it in the ex service. Since they propose to make the chief a division director — we don't need to clutter up the statute.)

(16) airport managers in the Department of Transportation and Public Facilities employed at the Anchorage and Fairbanks International Airports;

(17) the deputy director of the division of tourism and the deputy director of the division of insurance in the Department of Commerce and Economic Development;

(18) the executive director and staff of the Alaska Public Offices Commission.

TBC:lmk

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

POUCH D
JUNEAU, ALASKA 99811
Phone: 465-2500

December 4, 1980

Ms. Teresa B. Cramer
Administrative Assistant
Blue Ribbon Commission
On the State Personnel Act
Pouch AG/Mail Stop 0123
Juneau, Alaska 99811

Dear Ms. Cramer:

In response to your letter of November 24 regarding the deputy positions in the Divisions of Insurance and Tourism, I feel they should remain in the partially exempt service. A deputy of a division should serve at the pleasure of the director or commissioner since they are continually required to make decisions in the absence of the director and, in effect, are an extension of that position.

Sincerely,

for Lai-D. Cook

Charles R. Webber
Acting Commissioner

CRW/mh4/1

08-H2LH

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF FISH AND GAME

OFFICE OF THE COMMISSIONER

SUBPORT BUILDING
JUNEAU, ALASKA 99801

December 3, 1980

Ms. Teresa B. Cramer
Administrative Assistant
Blue Ribbon Commission on the
State Personnel Act
Pouch AG/Mail Stop 0123
Juneau, Alaska 99811

Dear Ms. Cramer:

In response to your recent letter regarding the partially exempt status of the Chief of Subsistence position, the Department has also been reviewing this position, but from a different perspective. The Subsistence Section which was established in 1978 as a new function within the Department of Fish and Game was a relatively small unit and therefore, we established the top position as a salary range 24 Section Chief. Due to the sensitive nature of the position and its impact on Departmental policy we requested and the Personnel Board approved, that the position be placed in the partially exempt service.

Recently the Department has been reviewing the role of the Subsistence Section in the Department and we have decided to change it from a Section to a Division with the top position being a range 26 Division Director. We feel this designation is more appropriate with the role this unit fills in the organization. The target date for this reorganization is January 1, 1981. At the same time we make this change in the Subsistence Section we will be doing the same in the Habitat Protection Section.

The Department's Personnel Officer, Mr. Fred Cook, will be available for questions on this matter at your December 4, 1980, meeting.

Sincerely,

Russell O. Clark

for Ronald O. Skoog
Commissioner
(907) 465-4100

cc: Tom Lonner
Fred Cook

11-K11LH

JUNEAU, ALASKA

Alaska State Legislature

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT
Pouch AG/Mail Stop 0123
Juneau, Alaska 99811
(907) 465-4442

Senator Bill Ray
Chairman

MEMORANDUM

December 3, 1980

TO: Members of the Blue Ribbon Commission

FROM: Teresa B. Cramer
Administrative Assistant

SUBJECT: Second Draft of Amendments to the State Personnel Act

Page 1 Line 18	The second draft removes the phrase "or employees".
Page 2 Line 7	The commission suggested adding the phrase "For purposes of this Act". Legislative Affairs did not include it.
Page 2 Lines 14-22	The phrase "state employee" is used instead of "state officer or employee".
Page 2 Line 28	A new phrase is added to the beginning of this section: "Unless otherwise provided by law".
Page 5 Line 7	Assistant commissioners are added to (1).
Page 5 Line 27	The phrase "administrative heads" is changed to "principal executive officer".
Page 6 Lines 15-16	Only the airport managers for Anchorage and Fairbanks are placed in the partially exempt service.
Page 8 Line 6	The subsection now requires that the amended rules be published in the Alaska Administrative Code.

Page 8
Line 13

This amendment adds the approval of the personnel board, as is the case now.

Page 9
Lines 4-6

This is a new phrasing taken from the Model Personnel Administration Law. The old phrasing stated:

> (3) the use of sound employee selection methods, including open competitive examinations to test the fitness of applicants for positions in the state service;

Page 12
Lines 5-8

Subsection (a) is rephrased.

Page 12
Line 9

The first phrase of the previous draft is omitted: "Notwithstanding the personnel rules adopted under AS 39.25.150 and...."

Page 12
Line 17

state pay plan

Page 12
Line 21

The second draft deletes paragraph (4)

Page 12
Line 22

The second draft changes "classes of employees" to classes of positions, which is the phrase used in subsection (b), line 12.

Page 12
Line 28

The second draft changes "commissioner of the department" to commissioner of administration.

Page 13
Lines 7-8

The second draft adds language to read "in connection with making or securing an appointment.

The second draft adds language to read:

Page 13	
Line 11	from a state employee
Line 19	status of a state employee
Line 20	position in state service
Line 22	the basis of unlawful discrimination
Line 23	national origin age or handicap
Lines 24-28	Subsection (g) is new
Line 29	may not knowingly make

The second draft adds new language:

Page 14	
Line 5	may not unlawfully obstruct
Line 16	A state employee
Line 17	due to unlawful discrimination
Line 18	national origin, age, or handicap

Page 14
Lines 20-22 The second draft adds a new subsection (d).

Lines 23-25 The second draft rephrases subsection (e).

The second draft adds new language:

Page 15	
Line 11	due to unlawful discrimination
Line 12	political beliefs, age, handicap, or in ....

Line 28 Section 17 is new. It provides definitions for:

Page 16	
Lines 1-9	fraud
Lines 10-18	knowingly
Lines 19-20	precinct
Lines 21-24	state employee

TBC:lmk

Alaska
Renewable
Resources
Corporation

Box 1647
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99802
(907) 465-4616

Suite One
313 "E" Street
Anchorage, Alaska
99501
(907) 272-2500

December 2, 1980

Alaska State Legislature
Blue Ribbon Commission on
the State Personnel Act
Pouch AG/Mail Stop 0123
Juneau, Alaska 99811

Re: Concerning whether employees of the Alaska Renewable Resources Corporation should be placed in the classified service

Dear Commission Members:

Thank you for the opportunity to address the Commission on the question of whether employees of the Alaska Renewable Resources Corporation should be placed in the classified service. We are submitting this letter at the invitation of your staff instead of presenting testimony, since unfortunately our board members and president are unable to attend the meeting scheduled for December 4, 1980.

We understand that your inquiry as it pertains to ARRC is limited to the question of whether the employees of the corporation, as opposed to the board members, should be placed in the classified service; we will, however, address the status of the board members as well, in case our understanding is not correct.

As you know, members of the corporation's board of trustees are placed in the exempt service by virtue of AS 37.12.060. There is no feasible alternative to exempt status for board members in view of statutory provisions concerning the appointment, term of office and removal of board members. AS 37.12.030, .035 and .040. That last provision allows the removal of board members only for cause and with the consent of the legislature. The exempt status of the board members is entirely consistent with the legislative intent upon which the exempt service is founded; AS 39.25.110 provides exempt status for, among other positions, elected officials, judges and all employees of the judicial branch, commissioners, and members of "boards, commissions, or authorities."

The corporation's enabling legislation also provides that all of its employees are in the exempt service. AS 37.12.060. This is also consistent with the rationale underlying AS 39.25.110, which designates the groups of state employees which are in the exempt service.

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The basic thrust of the State Personnel Act is to distinguish between those state employees within the executive branch with similar terms and conditions of employment, and those state employees within both the executive branch and the other two branches of government whose terms and conditions of employment differ in one or more of a variety of ways. The most significant distinction between classified and exempt employees is the merit system principle which applies to classified, but not to exempt, employees. AS 39.25.010 states that the primary purpose of the Act is the establishment of "a system of personnel administration based upon the merit principle," in order to encourage "an effective career service." It is not likely that a "career service" will be, or should be, developed at ARRC, since every two years one of the three board memers may be replaced. Due to this frequent change in the composition of the board, as well as to the small size of the board's staff, a career service is neither practical nor wise.

One other point based on the legal status of the corporation should be considered. The corporation, according to its enabling legislation, is "an instrumentality of the state," but it has "a legal existence independent of and separate from the state." AS 37.12.010. The Alaska Supreme Court has observed that one of the possible reasons the legislature provided for the legal separateness of this and similar corporations is to "insulate the state from potential liabilities." Alaska State Housing Authority v. Dixon, 496 P.2d 649, 651 (Alaska 1972). Placing the employees of the corporation under the State Personnel Act would be a first, and significant, step in eroding that legal insularity. There is no other public corporation in this or any other state with the responsibilities that have been placed upon ARRC by the legislature; in view of the legal uncertainties associated with the corporation's work, the arguments in favor of maintaining its separate legal identity are particularly compelling.

There are also strong practical arguments for preserving the exempt status of the corporation's employees. The sensitivity of material which comes under ARRC's control and the substantial sums of money requiring personal handling and

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superintendence creates a need to establish the most rigorous standards for employees, and the need to act immediately and without cavil when even the appearance of violation of those standards is in evidence. The corporation's very existence depends upon a high level of confidence on the part of potential applicants that confidential business information, trade secrets, inventions, processes, competitive material and the like are not disclosed or even referred to. The corporate executive must be able to act immediately and effectively even on the basis of suspicion, and without fear of the substance of the incident being debated in personnel actions.

We hope this letter is of assistance to you in your deliberations. If we can provide any more information, please do not hesitate to contact us.

Sincerely yours,

William E. Spear
Trustee

WES/bl

JAY S. HAMMOND
GOVERNOR

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

November 28, 1980

The Honorable Bill Ray
Chairman
Blue Ribbon Commission
on the State Personnel Act
Pouch AC
Juneau, Alaska 99811

Dear Senator Ray:

Thank you for your recent letter regarding the matter of partially exempt/classified employees who work for boards and commissions in the Governor's office. As Governor Hammond is out of town, I am taking the liberty of responding for him.

It appears that the focus of your Commission's concern is on employees who work for boards and commissions which are located in the Governor's Office. I share that concern and last year we conducted an analysis of the boards and commissions then located in this office. The objective of this analysis was to identify those commissions which should more appropriately be located in a line agency. It became apparent to me soon after I moved into the Governor's Office that there were several commissions which should be located elsewhere. One of the Governor's major management objectives has been to trim the functions of th Governor's staff to those which are truly staff-related in nature.

At the beginning of the last legislative session, Governor Hammond submitted executive orders to transfer from his office to line agencies the following commissions: Alaska Public Offices Commission, Public Defender Agency, Alaska Historical Commission, Alaska State Council on the Arts, Alaska Police Standards Council, and the Alaska Council on Science and Technology. In addition, by executive action the Governor transferred the State Pipeline Coordinator's Office and the Criminal Justice Planning Agency to line departments. With limited exception, the staff of those agencies was transferred from the partially exempt service

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

MEMORANDUM November 26, 1980

SUBJECT: Redraft of the State Personnel Act
(Work Order Number 12-0067)

TO: Teresa Crammer, A.A.
Blue Ribbon Commission on the State
Personnel Act

FROM: Thomas A. Sofo
Legislative Counsel

I have tried to incorporate the revisions which have been suggested by the Blue Ribbon Commission and those contained in your memo of November 10, 1980. The Revisor of Statutes has also suggested a few other minor wording changes for the purposes of clarity and consistency. Linn Asper is due back in the office in the next several weeks, but if you have any questions concerning the language which has been incorporated into this most recent draft, please do not hesitate to contact me. I will try to help you to the best of my ability until Linn returns.

TAS:ljb

Enclosure

STATE OF ALASK

Back-up
SB 193
file

ID, GOVERNOR

DEPARTMENT OF ADMINISTRAT

OFFICE OF THE COMMI

99811

November 24, 1980

Honorable Bill Ray, Chairman
Blue Ribbon Commission on the
State Personnel Act
Pouch AG
Juneau, Alaska 99811

Dear Senator Ray:

This is a follow-up to my September 19 letter concerning recommendations I wish to make for improving our application processing system. Since writing to you in September, I have had extensive conversations with Fred Muller and Bruce Cummings about the problems we face in the application process and the solutions (both long and short-term) to those problems in areas where we control the process.

My recommendations at this time are as follows:

1. Automate to the fullest extent possible. As you may know, the existing processing system is a manual labor intensive operation. Each application accepted by the Division of Personnel is generally handled by at least six people prior to its ultimate disposition in the files (later, of course, it must be purged from the files). This manual processing system is substantively the same process used in the 1960's when we were a relatively small employer.

   In analyzing the process, we find that a great deal of the application handling is for no purpose beyond recordkeeping and tracking while in process. It is extremely important (and legally required for the most part) to keep the records maintained by Personnel. However, we believe that there is considerable room to improve the tracking process by utilizing data processing systems.

   To this end, the Division of Personnel has issued a Request for Proposals to automate the application processing system to the fullest extent possible within the next nine to ten months. What we envision -- and what we have requested -- is essentially a highly interactive on-line

02-89LH

JAY S. HAMMOND
GOVERNOR

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

November 28, 1980

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Chairman
Blue Ribbon Commission
on the State Personnel Act
Pouch AC
Juneau, Alaska 99811

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STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

POUCH Y · STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

MEMORANDUM

November 26, 1980

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TAS:ljb

Enclosure

JAY S. HAMMOND
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STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

November 28, 1980

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Juneau, Alaska 99811

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to the classified service. Our policy in this regard was to place these employees in the classified service unless the respective commission members raised strong objections. It is interesting to note that the Legislature seems to have a great penchant for placing in the Governor's Office each board and commission it wishes to create. Last session we strongly resisted these efforts and will do so in the future.

We are currently reviewing the structure and staffing of the Governor's Office to determine if further changes should be made. Among the issues we will address is the question of whether any of the staff should be placed in the classified service.

If I can provide additional information to you, please do not hesitate to contact me. I know that your Commission has tackled some difficult problems over the last few years. From my observation of the Commission's work, you have done an outstanding job and performed a valuable public service.

Warmest regards.

Sincerely,

Jerry Reinwand
Executive Assistant
to the Governor

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
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99811

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Honorable Bill Ray, Chairman
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Juneau, Alaska 99811

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My recommendations at this time are as follows:

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   In analyzing the process, we find that a great deal of the application handling is for no purpose beyond recordkeeping and tracking while in process. It is extremely important (and legally required for the most part) to keep the records maintained by Personnel. However, we believe that there is considerable room to improve the tracking process by utilizing data processing systems.

   To this end, the Division of Personnel has issued a Request for Proposals to automate the application processing system to the fullest extent possible within the next nine to ten months. What we envision -- and what we have requested -- is essentially a highly interactive on-line

02-B9LH

recordkeeping system. Such a system would enable us to monitor the disposition of applications throughout the process, to produce reports identifying specific process problems (e.g., disparate impact on minority applicants) and to eliminate much of the manual recordkeeping. This system will not screen applications per se. However, it should provide for immediate entry, updating and retrieval of key information via CRT. In addition to simply storing data, the desired system should automate several features of the system; it should produce standardized letters, schedule testing, generate notices of examination results, and issue eligible lists upon request. We are hopeful that it will cut average processing time in half.

Our RFP calls for full implementation of an automated system by August 1, 1981. Frankly, our time frames may be unreaslistic. However, similar systems already exist in a few other jurisdictions and we anticipate that a quick modification of systems already developed will give us a usable and expedient -- if not perfect -- system here.

To some extent we view this design as an intermediate system which may be modified in three to five years. Ultimately, an application system should be only one element in a large personnel data base system. In addition to the functions we envision in the system to be implemented, a comprehensive system might be able to at least partially machine score applications, score tests, compute employer credits, add veterans' points, record address changes from the payroll file, etc. To design such a system from scratch might take five years. We appreciate the need for speedy action and believe that we can address the larger issue of a data base system in coming fiscal years.

We anticipate awarding a design contract by mid-December. If you wish, I would be happy to advise you of the outcome from the RFP.

2. Increase delegation of recruitment and examination authority. The Division of Personnel is actively encouraging departments to assume authority for recruitment and examination of applications (and certification of eligibles in some cases) for all job classes which are unique to a given agency. By delegating this authority among the departments, more employees are made available to examine applications and agencies are given greater control over recruitment scheduling.

At this time, the delegation of recruitment and examining authority has been accepted only on a limited basis. Unfortunately, most departmental personnel offices are not adequately staffed to assume significant increase in workload. Nevertheless, we anticipate increased delegations in coming months.

The Divisio.. of Personnel has also assigned many more job classes to its Anchorage and Fairbanks offices for application processing. Although this has extended the turnaround time in those offices (now about four weeks), it has reduced the number of applications which would otherwise be processed in Juneau. It also provides applicants from those areas an opportunity to speak directly to the staff who process their applications.

I must note that while decentralization may be expedient, it can also be costly. Other agencies will undoubtedly seek additional staff to handle the workload delegated by Personnel. Additionally, each of them must develop their own recordkeeping systems to support the application process. We may ultimately find it more efficient to allocate all or a portion of those resources to the Division of Personnel.

3. Continued recruitment closures. Whenever the number of qualified applicants for a job class greatly exceeds the number of anticipated vacancies for the class, continuous recruitment should be closed. Although this practice may be undesirable to the candidate who cannot submit an application during a closed period, recruit closures simply make good business sense. To continue to solicit applications when there is no reasonable need is a disservice to the public; it slows the process by increasing the application flow and gives the candidate an illusion of prospective employment when there is no realistic probability of an employment offer.

However, we will open recruitment for almost every job class for at least thirty days in every twelve month period. This will ensure that candidates will have an opportunity to apply for classes at least once a year and that eligible lists will be updated with new candidates annually.

4. Consolidation of job classes. Every job class in the classified service (excepting those in the Labor, Trades and Crafts bargaining unit) requires some sort of examination device to screen applicants. The more job classes we have, the more examination devices we must use; consequently, the more complicated and time-consuming the application process becomes.

   The Division of Personnel has a longstanding objective to eliminate unnecessary classifications whenever possible. As of November 1, 1980 we had 1,217 classes in the Executive Branch, for a ratio of one class for every 10.11 positions. Although this is the lowest ratio of classes to positions in State history (even a year ago the ratio was 1:8.22), we believe there is still considerable room for consolidation.

   Parenthetically, consolidation of job classes should also greatly enhance the timeliness of classification actions.

5. Increased utilization of valid written examinations. The use of valid written examinations can greatly improve application processing. When a written examination is shown to be a statistically valid predicator of performance abilities in a given job, an applicant's previous training and experience can be considered moot; the results of the written examination may be used to determine the levels for which an individual is qualified within a class series. Taken to extremes, valid written tests can eliminate the need to screen even for minimum qualifications; any individual who applies is simply scheduled for the appropriate test.

   Unfortunately, statistically valid written tests requires a large amount of time and money for their development. Further, with so many job classes, most of our classifications have so few employees working in them that we cannot get a sufficient sample size for acceptable validation. And, even when fully staffed, our Test Development and Validation unit consists of only three employees; at the most, they cannot reasonably do more than five validation studies per year. However, we will continue to develop valid written examinations as quickly as circumstances permit.

6. Develop multi-titled applications. In their last report, the Blue Ribbon Commission recommended that the Division of Personnel develop a system in which only one application is necessary from each applicant for each class series for which the applicant wishes to be considered. We are now attempting to do just that. In conjunction with the implementation of a new clerical testing battery which has just been developed, we plan to experiment with a multi-titled application for clerical classes (these account for 30-40% of our application flow).

It is our objective to have average application processing time reduced to ten working days or less by the end of FY 82 (current average processing time is twelve weeks). Undoubtedly, the foregoing recommendations are not the only actions which would improve the application process; the simplistic approach of throwing more staff at the work would "improve" the process, at least to the extent of reducing processing time. However, we prefer to emphasize these enhancements which will produce greater returns at lesser cost to the State.

To this end, I welcome any suggestions for improvement which may be made by the Commission.

Thank you again for the opportunity to comment.

Respectfully,

W. R. Hudson
Commissioner

WRH/mjc
cc: Frederick B. Muller
Deputy Commissioner for
Personnel Management

Bruce A. Cummings, Director
Division of Personnel

12/1

Bill Speer

Ren. Res Corp

None in town

Mickey, sec -

Do we have outline of differences

Running like private Co

Proprietary info

Act on suspision of priv

sensitive materials

Comp to Ct system

All deal w/ private sector

Hal [illegible] record as exempt

for disciplinary purposes may suspend without pay a permanent classified employee for a period not to exceed thirty *(30)* days but no permanent employee in the classified service shall be dismissed, *demoted or suspended* for political, religious ~~or~~, racial *or other nonmerit* reasons.

(2) In case of a proposed dismissal, demotion or suspension, the appointing authority shall furnish the employee *by registered mail, return receipt requested,* a statement in writing specifically setting forth the reasons therefor. A copy of such statement shall be furnished to the director. This statement shall contain notice of the proposed dismissal, demotion or suspension and shall specify the effective date thereof. ~~No dismissal, demotion or suspension shall become effective until after a reasonable opportunity has been given to the employee to respond in writing to or appear personally, or both, before the appointing authority or his or her designee on the issue of dismissal, demotion or suspension.~~ *Except as otherwise provided in this section, a proposed suspension, demotion, or dismissal shall become effective no less than three calendar days nor more than ten (10) calendar days following receipt by the employee of the notice of such proposed suspension, demotion, or dismissal. If in the opinion of the appointing authority conditions warrant, the appointing authority may relieve the employee of or change the duties of the employee during such period. If the employee is relieved from duty during such period, the employee may be continued in pay status, or placed on leave of absence without pay by the appointing authority. The appointing authority shall offer the employee who is proposed to be suspended, demoted or dismissed an opportunity to reply in writing, or appear in person, or both, before the appointing authority or a designated representative of the appointing authority, on the issue of the proposed suspension, demotion, or dismissal prior to the time of such suspension, demotion, or dismissal was specified by the notice to become effective. This offer shall be in writing and delivered in the same manner as the notice of the proposed suspension, demotion, or dismissal. It shall specify the date, time, and place, by, or at which, the employee may reply in writing or appear, or both. A copy of such offer shall be sent to the director of personnel services. Upon request by the employee, the appointing authority, with the approval of the director of personnel services, may extend the time for reply or appearance, or both, if the circumstances warrant. The proposed suspension, demotion or dismissal shall not become effective until after the extended period has expired or the effective date given in the notice, whichever is later. The final notice of decision by the appointing authority or the designee of the appointing authority to suspend, demote or dismiss shall inform the employee of the employee's right to appeal the decision to the civil service board. At any time prior to the effective date of the proposed suspension, demotion, or dismissal or, if an appeal is taken to the state civil service board, at any time prior to the final decision of the civil service board, the appointing authority, with the approval of the employee and the director of personnel services, may withdraw or modify the action proposed to be taken or taken against the employee.*

~~(2)~~ *(3)* Any employee finally dismissed, demoted or suspended may request in writing within thirty (30) days ~~from~~ *after* the effective date of the dismissal, demotion or suspension a hearing ~~before the state civil service commission~~ *from the state civil service board* to determine the reasonableness of such action and the ~~commission~~ *board* shall grant the employee a hearing within ~~forty-five (45)~~ *thirty (30)* days after receipt of such request. *At the hearing the burden of proof shall be upon the employee to establish that the appointing authority did not act reasonably in taking such action.*

~~(3) After the hearing and consideration of the evidence for and against a demotion, the commission shall approve or disapprove such action and in the event of a disapproval the commission shall order in writing the reinstatement of the employee and~~

Phone conversations, Wednesday, December 3

Steven Cowper

He is the Genreal Interim Counsel for the Alaska Energy Center. He advised that they will submit a written statement to the commission next week about how the expect to treat their employees

Walter Parker, of hte Energy Center

The center is in the process of developing options on staffing. Their options are:

1. Remain in the exempt service
2. Establish thier own PR's under the Energy Center charter as a corporation
3. Operate without rules entirely - this he did not recommend.

The energy center board is emphasizing the charter intent in the legisation that it be independent of hte state but part of it - whatever that may mean.. They desire as much flexibility as the enabling legislation allows.

Ed O'Hare

He is taking over from Walt Parker. He was in Juneau last week and talked with Tom Farnana and Elaine O'Day about personnel matters. It appears that the Energy Center will go their own way - and not be part of hte state personnel system for the present. It is possible for them to do this in their character as a private corporation. They can in future return to the exempt service of hte state, but once they do so, they cannot get out. They will try, as they gain experience , to determine the needs and desires of their Alaskan employees and follow through later.

They have learned that they can take the major percentatge of the employee's contributions on their benefits apchkage and apply it later to the state benefits program if they electe to go inot hte exempt service. They will genreally follow the state's salary schedule in order to ease a future transition in to the state service.

They don't have that many employees yet - about 20 by June and then add another 10 by the end of summer. They hope to plan the FY 1982 budget based on 30 employees. Much of hte work will be done by subcontractors initially. All of these plans will be presented to the Energy Center board at their meeting on the 18th and 19th of December, so that's when things will be clearer.

******

Russ Clark from F&G called regarding the Chief of Subsistence. The dept is reorganizing and anticipates making Subsistence as well as Habitat sections into divisions, at which point the heads of those groups become division directors who are placed in the px service as a general matter and the problem goes away.

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

POUCH D
JUNEAU, ALASKA 99811
Phone: 465-2500

December 4, 1980

Ms. Teresa B. Cramer
Administrative Assistant
Blue Ribbon Commission
On the State Personnel Act
Pouch AG/Mail Stop 0123
Juneau, Alaska 99811

Dear Ms. Cramer:

In response to your letter of November 24 regarding the deputy positions in the Divisions of Insurance and Tourism, I feel they should remain in the partially exempt service. A deputy of a division should serve at the pleasure of the director or commissioner since they are continually required to make decisions in the absence of the director and, in effect, are an extension of that position.

Sincerely,

for Lucia J. Cook

Charles R. Webber
Acting Commissioner

CRW/mh4/1

08-H2LH

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF FISH AND GAME

OFFICE OF THE COMMISSIONER

SUBPORT BUILDING
JUNEAU, ALASKA 99801

December 3, 1980

Ms. Teresa B. Cramer
Administrative Assistant
Blue Ribbon Commission on the
State Personnel Act
Pouch AG/Mail Stop 0123
Juneau, Alaska 99811

Dear Ms. Cramer:

In response to your recent letter regarding the partially exempt status of the Chief of Subsistence position, the Department has also been reviewing this position, but from a different perspective. The Subsistence Section which was established in 1978 as a new function within the Department of Fish and Game was a relatively small unit and therefore, we established the top position as a salary range 24 Section Chief. Due to the sensitive nature of the position and its impact on Departmental policy we requested and the Personnel Board approved, that the position be placed in the partially exempt service.

Recently the Department has been reviewing the role of the Subsistence Section in the Department and we have decided to change it from a Section to a Division with the top position being a range 26 Division Director. We feel this designation is more appropriate with the role this unit fills in the organization. The target date for this reorganization is January 1, 1981. At the same time we make this change in the Subsistence Section we will be doing the same in the Habitat Protection Section.

The Department's Personnel Officer, Mr. Fred Cook, will be available for questions on this matter at your December 4, 1980, meeting.

Sincerely,

Russell A. Clark

for Ronald O. Skoog
Commissioner
(907) 465-4100

cc: Tom Lonner
Fred Cook

11-K11LH

JAY S. HAMMOND
GOVERNOR

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

November 28, 1980

The Honorable Bill Ray
Chairman
Blue Ribbon Commission
on the State Personnel Act
Pouch AC
Juneau, Alaska 99811

Dear Senator Ray:

Thank you for your recent letter regarding the matter of partially exempt/classified employees who work for boards and commissions in the Governor's office. As Governor Hammond is out of town, I am taking the liberty of responding for him.

It appears that the focus of your Commission's concern is on employees who work for boards and commissions which are located in the Governor's Office. I share that concern and last year we conducted an analysis of the boards and commissions then located in this office. The objective of this analysis was to identify those commissions which should more appropriately be located in a line agency. It became apparent to me soon after I moved into the Governor's Office that there were several commissions which should be located elsewhere. One of the Governor's major management objectives has been to trim the functions of the Governor's staff to those which are truly staff-related in nature.

At the beginning of the last legislative session, Governor Hammond submitted executive orders to transfer from his office to line agencies the following commissions: Alaska Public Offices Commission, Public Defender Agency, Alaska Historical Commission, Alaska State Council on the Arts, Alaska Police Standards Council, and the Alaska Council on Science and Technology. In addition, by executive action the Governor transferred the State Pipeline Coordinator's Office and the Criminal Justice Planning Agency to line departments. With limited exception, the staff of those agencies was transferred from the partially exempt service

ALASKA INDUSTRIAL
DEVELOPMENT AUTHORITY
601 WEST FIFTH AVENUE, SUITE 430
ANCHORAGE, ALASKA 99501
TELEPHONE (907) 274-1651

October 28, 1980

Teresa B. Cramer
Blue Ribbon Commission on State Personnel Act
Pouch AG
Juneau, Alaska 99811

Dear Ms. Cramer:

This is in reply to your letter of October 22, 1980 inquiring as to whether or not it was necessary for employees of the Alaska Industrial Development Authority to remain in the exempt service.

The Alaska Industrial Development Authority is established as a public corporation of the state and a body corporate and politic constituting a political subdivision within the Department of Commerce and Economic Development, but with separate and independent legal existence (Sec. 44.61.020). As you may know, the Authority is charged with the responsibility of importing funds through sale of tax exempt bonds. In order to insure that the liabilities of this corporation do not pass through to the state, it is essential that a separate organization be created. Any action, which by construction, can infer that the State of Alaska rather than an independent agency thereof, is an issuer of bonds, can create a situation whereby the state is not insulated from the liability or liabilities of the Authority.

I believe it is essential that the employees of Alaska Industrial Development Authority remain in the exempt category. This will insure the separation of the Authority from the State of Alaska and thus continue to keep the state insulated from the debt characteristics of this Authority.

Sincerely,

David A. Rose
Executive Director

to the classified service. Our policy in this regard was to place these employees in the classified service unless the respective commission members raised strong objections. It is interesting to note that the Legislature seems to have a great penchant for placing in the Governor's Office each board and commission it wishes to create. Last session we strongly resisted these efforts and will do so in the future.

We are currently reviewing the structure and staffing of the Governor's Office to determine if further changes should be made. Among the issues we will address is the question of whether any of the staff should be placed in the classified service.

If I can provide additional information to you, please do not hesitate to contact me. I know that your Commission has tackled some difficult problems over the last few years. From my observation of the Commission's work, you have done an outstanding job and performed a valuable public service.

Warmest regards.

Sincerely,

Jerry Reinwand
Executive Assistant
to the Governor

Mike Morgan
11/3/80

~~Vo~~ disabled / Voc Rehab

use std classif from fed law - lists # of conditions/
disab: blind, deaf 4-2 plegia
severe cardiac
part b: combination of factors → severe in total

Its std they use

Other part: from VR perspective: disab nec. ≠ qualif
enough

eg st admin job, educ, w history. severe auto acc,
lost both leg's prob ≠ sev. handic -
cd go back to same job
perhaps w/ couns. for emot. trauma

e.g. fisherman in same sit = sev hand
bc diff bkgrd

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placing 30-35/yr. NOT ONE FAILURE - in state empt per SPA
3500 pple/yr - process fashion
in elig - map ref
have ± 2000 in process ref/ap/eval/train/placement
close ± 500/yr succes. rehab - op in empt for min
of 60 days. Have follow along serv
state progr last yr that new law made impact
st in many ways most reluc ER / H&SS coming rd
Educ
some depts don't talk

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILE 8672
1371 SCOMM 51: BLUE RIBBON COMN. ON STATE PERSONNEL ACT 1978-1983

SUMMARY OF RECOMMENDATIONS

The Blue Ribbon Commission on the State Personnel Act recommends that:

1. The merit principles identified during the state constitutional debates should be specifically set forth in the State Personnel Act. These principles are fundamental to fair employment and should be recognized and adopted. (Page 11)

2. If any positions are removed from collective bargaining units, that they remain in the classified service but be prohibited from collective bargaining activity. (Page 15)

3. The legislature should re-examine the placement of positions in the exempt and partially exempt services. Where necessary, statutes should be amended to correct any errors identified. (Page 17)

4. If the legislature wishes to increase its role in the collective bargaining process, it do so by formally considering and approving or rejecting the agreements entered into between the bargaining units and the employer before they take effect. The agreements would be presented to the legislature by a specified date. The legislature would then be required to consider and act on the agreements within 30 days. The law should state that the legislature could not adjourn before having acted. If the agreements were ratified by the legislature, they would become binding contracts. (Page 18)

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF ADMINISTRATION

OFFICE OF THE COMMISSIONER

POUCH C
JUNEAU, ALASKA 99811
465-2200

November 24, 1980

Honorable Bill Ray, Chairman
Blue Ribbon Commission on the
State Personnel Act
Pouch AG
Juneau, Alaska 99811

Dear Senator Ray:

This is a follow-up to my September 19 letter concerning recommendations I wish to make for improving our application processing system. Since writing to you in September, I have had extensive conversations with Fred Muller and Bruce Cummings about the problems we face in the application process and the solutions (both long and short-term) to those problems in areas where we control the process.

My recommendations at this time are as follows:

1. Automate to the fullest extent possible. As you may know, the existing processing system is a manual labor intensive operation. Each application accepted by the Division of Personnel is generally handled by at least six people prior to its ultimate disposition in the files (later, of course, it must be purged from the files). This manual processing system is substantively the same process used in the 1960's when we were a relatively small employer.

   In analyzing the process, we find that a great deal of the application handling is for no purpose beyond recordkeeping and tracking while in process. It is extremely important (and legally required for the most part) to keep the records maintained by Personnel. However, we believe that there is considerable room to improve the tracking process by utilizing data processing systems.

   To this end, the Division of Personnel has issued a Request for Proposals to automate the application processing system to the fullest extent possible within the next nine to ten months. What we envision -- and what we have requested -- is essentially a highly interactive on-line

recordkeeping system. Such a system would enable us to monitor the disposition of applications throughout the process, to produce reports identifying specific process problems (e.g., disparate impact on minority applicants) and to eliminate much of the manual recordkeeping. This system will not screen applications per se. However, it should provide for immediate entry, updating and retrieval of key information via CRT. In addition to simply storing data, the desired system should automate several features of the system; it should produce standardized letters, schedule testing, generate notices of examination results, and issue eligible lists upon request. We are hopeful that it will cut average processing time in half.

Our RFP calls for full implementation of an automated system by August 1, 1981. Frankly, our time frames may be unreaslistic. However, similar systems already exist in a few other jurisdictions and we anticipate that a quick modification of systems already developed will give us a usable and expedient -- if not perfect -- system here.

To some extent we view this design as an intermediate system which may be modified in three to five years. Ultimately, an application system should be only one element in a large personnel data base system. In addition to the functions we envision in the system to be implemented, a comprehensive system might be able to at least partially machine score applications, score tests, compute employer credits, add veterans' points, record address changes from the payroll file, etc. To design such a system from scratch might take five years. We appreciate the need for speedy action and believe that we can address the larger issue of a data base system in coming fiscal years.

We anticipate awarding a design contract by mid-December. If you wish, I would be happy to advise you of the outcome from the RFP.

2. Increase delegation of recruitment and examination authority. The Division of Personnel is actively encouraging departments to assume authority for recruitment and examination of applications (and certification of eligibles in some cases) for all job classes which are unique to a given agency. By delegating this authority among the departments, more employees are made available to examine applications and agencies are given greater control over recruitment scheduling.

At this time, the delegation of recruitment and examining authority has been accepted only on limited basis. Unfortunately, most departmental personnel offices are not adequately staffed to assume significant increase in workload. Nevertheless, we anticipate increased delegations in coming months.

The Division of Personnel has also assigned many more job classes to its Anchorage and Fairbanks offices for application processing. Although this has extended the turnaround time in those offices (now about four weeks), it has reduced the number of applications which would otherwise be processed in Juneau. It also provides applicants from those areas an opportunity to speak directly to the staff who process their applications.

I must note that while decentralization may be expedient, it can also be costly. Other agencies will undoubtedly seek additional staff to handle the workload delegated by Personnel. Additionally, each of them must develop their own recordkeeping systems to support the application process. We may ultimately find it more efficient to allocate all or a portion of those resources to the Division of Personnel.

3. Continued recruitment closures. Whenever the number of qualified applicants for a job class greatly exceeds the number of anticipated vacancies for the class, continuous recruitment should be closed. Although this practice may be undesirable to the candidate who cannot submit an application during a closed period, recruit closures simply make good business sense. To continue to solicit applications when there is no reasonable need is a disservice to the public; it slows the process by increasing the application flow and gives the candidate an illusion of prospective employment when there is no realistic probability of an employment offer.

However, we will open recruitment for almost every job class for at least thirty days in every twelve month period. This will ensure that candidates will have an opportunity to apply for classes at least once a year and that eligible lists will be updated with new candidates annually.

4. Consolidation of job classes. Every job class in the classified service (excepting those in the Labor, Trades and Crafts bargaining unit) requires some sort of examination device to screen applicants. The more job classes we have, the more examination devices we must use; consequently, the more complicated and time-consuming the application process becomes.

   The Division of Personnel has a longstanding objective to eliminate unnecessary classifications whenever possible. As of November 1, 1980 we had 1,217 classes in the Executive Branch, for a ratio of one class for every 10.11 positions. Although this is the lowest ratio of classes to positions in State history (even a year ago the ratio was 1:8.22), we believe there is still considerable room for consolidation.

   Parenthetically, consolidation of job classes should also greatly enhance the timeliness of classification actions.

5. Increased utilization of valid written examinations. The use of valid written examinations can greatly improve application processing. When a written examination is shown to be a statistically valid predicator of performance abilities in a given job, an applicant's previous training and experience can be considered moot; the results of the written examination may be used to determine the levels for which an individual is qualified within a class series. Taken to extremes, valid written tests can eliminate the need to screen even for minimum qualifications; any individual who applies is simply scheduled for the appropriate test.

   Unfortunately, statistically valid written tests requires a large amount of time and money for their development. Further, with so many job classes, most of our classifications have so few employees working in them that we cannot get a sufficient sample size for acceptable validation. And, even when fully staffed, our Test Development and Validation unit consists of only three employees: at the most, they cannot reasonably do more than five validation studies per year. However, we will continue to develop valid written examinations as quickly as circumstances permit.

6. Develop multi-titled applications. In their last report, the Blue Ribbon Commission recommended that the Division of Personnel develop a system in which only one application is necessary from each applicant for each class series for which the applicant wishes to be considered. We are now attempting to do just that. In conjunction with the implementation of a new clerical testing battery which has just been developed, we plan to experiment with a multi-titled application for clerical classes (these account for 30-40% of our application flow).

It is our objective to have average application processing time reduced to ten working days or less by the end of FY 82 (current average processing time is twelve weeks). Undoubtedly, the foregoing recommendations are not the only actions which would improve the application process; the simplistic approach of throwing more staff at the work would "improve" the process, at least to the extent of reducing processing time. However, we prefer to emphasize these enhancements which will produce greater returns at lesser cost to the State.

To this end, I welcome any suggestions for improvement which may be made by the Commission.

Thank you again for the opportunity to comment.

Respectfully,

W. R. Hudson
Commissioner

WRH/mjc
cc: Frederick B. Muller
Deputy Commissioner for
Personnel Management

Bruce A. Cummings, Director
Division of Personnel

MEMORANDUM November 10, 1980

TO: Legislative Affairs Agency, Legal Division

FROM: Teresa B. Cramer
Administrative Assistant

SUBJECT: Redraft of the State Personnel Act
WO 12-0067, Asper

At its last meeting, the Blue Ribbon Commission reviewed the redraft of the State Personnel Act and agreed on some changes. Please incorporate these changes into a second work draft to be reviewed by the Commission sometime at the end of November or the beginning of December.

I have noted the changes on the enclosed copy of the first draft. Some are explained in the enclosed copy of the Minutes and others are explained below. If there are problems with the language suggested, please make any corrections necessary.

If I can assist in any way, please let me know.

PROPOSED CHANGES TO THE STATE PERSONNEL ACT

Page 8 Lines 5-19 — I am working with Senator Ray on what distinction the commission wants to make between matters of public policy and matters relating to the internal management of state agencies. I will let the bill drafter know of how this is resolved as soon as possible.

Page 9 Line 18 — (3) the use of employee selection methods which will fairly test the capacit, and fitness of the persons examined to efficiently discharge the duties of the class in which employment is sought;

Page 10 Line 21 — Change the comma to a semi-colon

Page 14 Line 10 ADD NEW SUBSECTION:

(g) Action affecting the employment status of an employee in the classified service or an applicant for a position in the classified service, including appointment, promotion, demotion, suspension, or removal, may not be taken or withheld on the basis of unlawful discrimination due to political beliefs.

Page 15 Line 1 (d) An employee in the classified service who has been dismissed, demoted, or suspended due to unlawful discrimination based on political beliefs may appeal the action to the personnel board.

Page 15 Line 18 A question: Given the changes with respect to protection against various kinds of discrimination, do there need to be two subsections concerning what happens if the personnel board finds there was unlawful discrimination, or can it all be lumped together in one subsection?

Page 17 Line 6 The commission requested definitions of knowingly (take from the Criminal Code), fraud, local precinct level (take from the Election Code perhaps). I have added a request for a definition of state employee, but perhaps that is not necessary.

On the question of state employee, I had spoken with Linn Asper before he left concerning whether the phrase "state officer or employee" would include anyone not included in the phrase "state employee". It was his belief that it would not, but I have thought about that since the commission meeting, and it occurs to me that people appointed to boards and commissions who are not paid employees might be state officers, as might legislators and other elected officials. If this is so, then no change should be made in AS 39.25.060(b), page 1, line 18 nor should any change be made in AS 39.25.080, page 2, lines 14, 16 17, 20-21, 22, and 24.

Suggested definition of "state employee". "State employee" means any person in state service who is paid a salary or wage, whether in the classified, pattially exempt or exempt service.

TBC:lmk
Enclosures

JUNEAU, ALASKA

Alaska State Legislature

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT
Pouch AG/Mail Stop 0123
Juneau, Alaska 99811
(907) 465-4442

Senator Bill Ray
Chairman

MEMORANDUM

November 4, 1980

TO: Members of the Blue Ribbon Commission on the State Personnel Act

FROM: Teresa B. Cramer TBC
Administrative Assistant

SUBJECT: Standards for "severely handicapped"

At the last commission meeting, a question was raised concerning whether the definition of the term "severely handicapped" in the State Personnel Act should be changed. It is found in AS 39.25.150(22) which permits the granting of employment preference for the severely handicapped. The definition reads:

> "Severely handicapped means persons certified by the director of the division of vocational rehabilitation to be severely handicapped."

I spoke with Mike Morgan, the director of the division, about whether a more complete definition of the term should be included in the Act. He explained that certifying a person as severely handicapped is a two-step process. The first step considers whether the individual has a physical disability which seriously impairs him. The list of conditions includes blindness, deafness, quadraplegia and paraplegia as well as severe cardiac problems. In addition, the first step may be met if a person has a combination of physical disabilities which, when added together, severely limit the possibilities open to him.

The second step evaluation is more subjective. The division considers whether, given the individual's background and training, the physical impairments seriously constrict his ability to find employment. Mr. Morgan suggested the following example. Assume an individual holds a state administrative job and has an extensive educational background and a good work history in his present employment. He is involved in a serious automobile accident and loses both his legs. While he would meet the physical test for being severely handicapped, he would probably

not, in fact, have any difficulty retaining his present position. The division would offer him counseling services to help him come to terms with the emotional trauma, but he would probably not need any employment assistance. However, if you change the background of the individual in the example to a fisherman who does not have the education to take on a desk job immediately, then you do have someone who will need considerable assistance in finding employment. That person should be considered severely handicapped.

Because of the subjective part of the evaluation, Mr. Morgan recommends that the definition in the State Personnel Act remain as it is.

TBC:lmk

ALASKA INDUSTRIAL
DEVELOPMENT AUTHORITY
601 WEST FIFTH AVENUE, SUITE 430
ANCHORAGE, ALASKA 99501
TELEPHONE (907) 274-1651

October 28, 1980

Teresa B. Cramer
Blue Ribbon Commission on State Personnel Act
Pouch AG
Juneau, Alaska 99811

Dear Ms. Cramer:

This is in reply to your letter of October 22, 1980 inquiring as to whether or not it was necessary for employees of the Alaska Industrial Development Authority to remain in the exempt service.

The Alaska Industrial Development Authority is established as a public corporation of the state and a body corporate and politic constituting a political subdivision within the Department of Commerce and Economic Development, but with separate and independent legal existence (Sec. 44.61.020). As you may know, the Authority is charged with the responsibility of importing funds through sale of tax exempt bonds. In order to insure that the liabilities of this corporation do not pass through to the state, it is essential that a separate organization be created. Any action, which by construction, can infer that the State of Alaska rather than an independent agency thereof, is an issurer of bonds, can create a situation whereby the state is not insulated from the liability or liabilities of the Authority.

I believe it is essential that the employees of Alaska Industrial Development Authority remain in the exempt category. This will insure the separation of the Authority from the State of Alaska and thus continue to keep the state insulated from the debt characteristics of this Authority.

Sincerely,

David A. Rose
Executive Director

Alaska State Legislature

JUNEAU, ALASKA

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT
Pouch AG/Mail Stop 0123
Juneau, Alaska 99811
(907) 465-4442

Senator Bill Ray
Chairman

MEMORANDUM

October 14, 1980

TO: Members of the Blue Ribbon Commission on the State Personnel Act

FROM: Teresa B. Cramer TBC
Administrative Assistant

SUBJECT: Commentary on Work Draft of the State Personnel Act

Page 1 Line 8 — Section 1. AS 39.25.040. Director of Personnel.

There is one minor change proposed in line 14 to improve it stylistically. The content is not affected.

Page 1 Line 16 — Section 2. AS 39.25.060(b). Personnel Board.

As discussed at the last Commission meeting, the requirement that members of the Personnel Board be qualified electors of the state is deleted by the amendment proposed here.

Page 1 Line 21 — Section 3. AS 39.25.070(1). Powers and Duties of the Personnel Board.

This amendment makes stylistic changes. All of the substantive requirements for how the Rules are to be amended are relocated to AS 39.25.140.

Page 1 Line 28 — Section 4. AS 39.25.070(6). Powers and Duties of the Personnel Board.

The amendment to this section identifies AS 39.25.170 as the section of the State Personnel Act which provides for hearings.

Page 2 Line 3 — Section 5. AS 39.25.070. Powers and Duties of the Personnel Board.

This is a new subsection which the commission had discussed some months ago. It provides statutory authority for the Personnel Board to hire employees and, in this draft, requires that the employees be

members of the classified service. The Commission in its previous discussions had not decided whether the employees should be members of the exempt service or the classified. If this subsection remains in the draft, the Commission may wish to consider whether the statute should specify which service Personnel Board employees shall be in.

Page 2
Line 6

Section 6. AS 39.25.080. Public Records.

The existing statute makes personnel records open to the public unless specifically designated as confidential by the Personnel Rules. This amendmen changes the approach so that the state personnel records are confidential unless included in the list made public by this section of the statutes. In lines 8 and 9 the phrase "are confidential and are not open to public inspection" is used to insure that other state employees can consult personnel records when there is a valid reason.

In subsection (b), lines 14-23, reference to state employees should be a consistent phrase. Subsection (4) now says only "state employee" while the other subsections say "state officer or employee". Linn Asper, the drafter, recommends that all of the references be changed to "state employee". Whichever phrase is used in subsection (b) should also be used in subsection (c).

The materials which are made public records by this section are those which the Personnel Rules now identify as public records.

Page 2
Line 29

Section 7. AS 39.25.110. Exempt Service.

Subsection (a) of this draft sets out standards for positions which should be in exempt service. The Legal Division of the Legislative Affairs Agency has some concerns about this whole subsection which are stated in the memo from Linn Asper.

Subsection (b) sets out those positions which are placed in the exempt service by the State Personnel Act. The draft does not add any new positions to the exempt service. It seeks to eliminate redundant or obsolete paragraphs. Subsection (11), page 4, line 12, identifies the boards, commissions and authorities whose employees and officers are presently in the exempt service by statute. If the Commission recommends a change in the status of the employees of any of these entities, then this paragraph should be changed. Paragraph (12) states that the executive officer of the Postsecondary Education Commission is in the exempt service, which is consistent with the phrasing of the present statute. In fact, the executive officer and all of the employees are in the exempt service. If the Commission does not recommend a change in the present allocation, then paragraph (12) should be deleted and the Alaska Commission on Postsecondary Education should become subparagraph (F) of paragraph (11).

Subsection (18) places marine transportation employees in the exempt service. The Commission requested a letter from Greg O'Claray on the question of whether it would be more appropriate to place these state employees in the classified service.

Page 5
Line 19

Section 8. AS 39.25.120. Partially Exempt Service.

Subsections (a) and (b) of the draft are derived from the first part of the existing statute. Although the draft changes the reference to the subsections of AS 39.25.150 from which employees in the partially exempt service are exempt, the exemptions are not substantively changed. The reference in the existing statute to other sections of the Act is deleted, but partially exempt employees remain exempt from those sections.

Subsection (c) lists the positions placed in the partially exempt service. Paragraphs (1)-(8) and part of (17) encompass the existing language although in some instances the phrasing is changed. Paragraphs (9)-(16) and the rest of (17) are added to include in the statute those positions which are identified as in the partially exempt service by the Commission memo on the subject. I have set them out for purposes of discussion. The Commission may decide that placing some or all of these positions in the partially exempt service by statute is undesirable since it limits flexibility. The Personnel Board has the authority to add or delete positions in the partially exempt service.

Page 7
Lines 5
& 17

Sections 9 and 10. AS 39.25.130(a) and (c). Extension of Partially Exempt and Classified Services.

The draft removes the reference to dates which the existing language has. The substance of the Personnel Board's authority is not changed.

Page 7
Line 22

Section 11. AS 39.25.140. Amendment of Personnel Rules.

The draft sets out two methods for amendment of the Personnel Rules, depending on whether they are matters of internal management or of public policy. The Legal Division of the Legislative Affairs Agency raises questions concerning the distinction between these two areas in the memo from Linn Asper.

The draft requires that for Rules concerning matters of public policy the Administrative Procedures Act must be followed. For Rules concerning internal management, the existing system is set out with some modification. The time limits in subsection (e), page 8, line 8, were transferred from AS 39.25.070. The existing statute states that the Rules become effective 30 days after submission to the Personnel Board rather than 45 days.

The draft states in subsection (e)(2), page 8, line 14, that the Personnel Board may hold public hearings if requested. The wording should be changed to shall if the Commission wishes to limit the Board's discretion about whether to hold hearings.

In subsection (e), I inadvertently added paragraph (3), page 8, line 16, which gives the Personnel Board the power to amend the Rules proposed to it. This is a power which is granted to the comparable body in the Model Personnel Administration Law, but which Alaska has not granted to the Personnel Board. Unless the Commission wishes to extend the authority of the Personnel Board, this paragraph should be deleted.

Subsection (d) of the statute, which states that the Rules may provide for exemptions and modifications necessary to assure federal grants, is deleted. Thre is no need to spell out this power, since nothing prohibits it.

Page 8
Line 22 Section 12. AS 39.25.150. Scope of the Rules.

As presently set out, this section of the Act does more than list the items which the Rules shall contain. It includes some substantive provisions, such as the sections on veteran's preference, on the classification plan and on the pay plan, which might be more appropriately set out as separate sections. This draft follows the state's traditional structure and also the structure suggested in the Model Personnel Administration Law, so there are reasons not to change it as well as reasons to change it.

In general, this section has not been significantly changed in the draft. The order of some subsections was changed for the sake of clarity, and subsections (1) and (20) were restructured to make their content easier to discover.

In subsection (2), page 9, lines 16-17, reference to collective bargaining agreements was added.

The existing subsections (8) and (9), concerning nonpermanent and emergency appointments were combined in subsection (8) of the draft, page 10, line 9, since AS 39.25.195 - 200 sets out requirements for both kinds of appointments.

Subsection (16) of the draft, page 10, lines 26-27, is a rephrasing of the existing subsection (17).

As mentioned earlier, subsection (20) has been restructed. Its content is unchanged.

Subsection (23), page 12, line 10, is a proposed addition taken from language found in the Model Personnel Administration Act (Section 3, paragraph (9)). The Commission should consider whether to leave this language in the bill or remove it.

All of the other sections of the bill are to be found in the Act, although the order is changed.

Page 12
Line 18

Section 13. AS 39.25.153. Personnel Officers.

The draft changes both the structure and some of the content of the existing statute. Subsection (a) of the draft provides that each of the principal departments of the executive branch shall have a personnel officer, rather than limiting the reference to the named departments.

Subsection (b) of the draft provides that the personnel officers for those departments named in the existing statute shall have the powers set out in paragraphs (1)-(4). The existing statute gives the personnel officers the power to amend the Personnel Rules covering a number of topics. In the draft I have tried to identify more specifically the areas in which it may be desirable to give departmental personnel officers authority to act independently of the Personnel Division.

Subsection (c) of the draft takes language presently placed in subsection (b) and moves it to a separate subsection. Subsection (d) of the draft is new language.

The Commission may wish to consider granting the powers provided in Subsection (b) to all personnel officers. On the other hand, the Commission may decide that the authority which the Director of Personnel has to delegate his powers provides sufficient opportunity for the departmental personnel officers to work on unique job classes separate from the Division of Personnel. If this is the Commission's decision the subsections (b)-(d) should be deleted.

Page 13
Line 14

Section 14. AS 39.25.160. Generally.

The first subsection of the existing statute has been removed from this section and placed in a new section, AS 39.25.192. It grants rights to state employees rather than addressing prohibitions. The remaining subsections of the existing statute have been relettered and rewritten for clarity. The only substantive change in the draft is to add, in subsection (3), page 14, line 2, a requirement that partially exempt employees resign their positions when they seek nomination or become a candidate for state or national elective political office.

Subsection (f) includes prohibitions against acting on the basis of sex, color, and national origin as well as on the basis of race, religion or political beliefs to make the statue conform to the scope of the Personnel Rules and to constitutional requirements.

Page 14 Line 20 — Section 15. AS 39.25.170. Hearings and Appeals Upon Dismissal, Demotion, or Suspension.

This section has been restructed and its contents revised to conform to court rulings on the right to hearings. Subsection (a) follows the present statute and requires that the appointing authority who is dismissing, demoting or suspending an employee must give written notice of the proposed action and the reasons for it.

Subsections (b)-(e) set out those classes of employees who presently, by statute or by case law, have a right to appeal. There is a drafting error in subsection (c), page 14, line 27. The phrase "in the classified service" should be deleted, since partially exempt employees may now appeal if the action is based on those prohibited reasons.

Subsection (f), page 15, line 9, makes clear how an employee commences an appeal.

Subsection (g) follows existing language but clarifies the employee's right to decide whether the hearing shall be open or closed to the public. The draft also clarifies that the employee's representative need not be an attorney, that the employee has the right to present evidence and that the technical rules of evidence do not apply.

Subsection (h) follows the existing language of the Personnel Rules, which are based on the statute, but include provisions required by case law. Personnel Rule 12 01.22.

Page 15 Line 25 — Section 16. AS 39.25.175. Subpoenas.

The Personnel Board is granted the power to subpoena witnesses and documents in the existing AS 39.25.070(6). For clarity, this power is set out following the section on hearings in the draft. In addition, the authority of the Personnel Board is clarified, and the draft adds that if a witness refuses to comply, the Board may apply to the Superior Court for an order requiring the person to respond.

Page 16 Line 6 — Section 17. AS 39.25.185. Employment of Federal Employees.

The substance of this new section is taken from the Personnel Rules which are based on AS 39.25.180. It is a rarely used provision, and the

Commission may wish to consider whether it is necessary or desirable. As a technical matter, it is placed as a new section in the draft rather than an amendment of AS 39.25.180 because the primary purpose of sec. 180 was to settle matters at the transition from Territory to State. Since that was accomplished long ago, the Revisor of Statutes recommended repealing AS 39.25.180 and setting up this as a separate section.

Page 16
Line 21

Section 18. AS 39.25.192. Employee Political Rights.

As mentioned in the discussion of AS 39.25.160(14), this new section takes existing statutory language and sets it out separately to make clear its content. Some redrafting for style was done, but the substance was not changed.

Page 17
Line 4

Section 19. AS 39.25.180. Status of Present Employees.

As mentioned in the discussion of Sec. 17, AS 39.25.185, this section is repealed but its provision for hiring federal employees is placed in a separate section of the statutes.

TBC:lmk

STATE OF ALASKA
THE LEGISLATURE

POUCH Y, STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

September 19, 1980

SUBJECT: Comments on work draft for state Personnel Act revisions. (Work Order No. 12-0067)

TO: Blue Ribbon Commission on the State Personnel Act
Attn: Teresa B. Cramer, A.A.

FROM: Linn H. Asper
Legislative Counsel

I have prepared a work draft in bill form based on your work with the commission. We discussed the proposed Personnel Act revisions earlier, but I think two sections of the legislation should be reconsidered by the commission.

The proposed revision of AS 39.25.110 includes [subsection (a)] a policy statement about the kind of positions which should be placed in the exempt service. Since this subsection will have no legal effect, I suggest that it be placed in the committee report on the legislation rather than in the body of the bill itself.

The second section which poses problems is AS 39.24.140(d) and (e) dealing with separate procedures for amending the personnel rules depending on whether the proposed amendments are matters of public policy or matters of internal management of the state agencies. The difficulty is that the distinction between"matters of public policy" and "matters of internal management" is unclear. I am not able to tell from the present wording what purpose is to be served by the different amendment procedures or how the board is to distinguish between public policy amendments and internal management amendments. There appears to be no prior usage of these terms in the statutes or cases which would clarify their meaning in the legislation. I think this section needs a further definition of the terms used. Also, if I knew why the commission wants different amendment procedures

for different matters, I think I could draft language that will be less ambiguous.

Some changes have been made in your draft, but they are generally limited to style and not substance. Please call on me if you want to discuss anything about the legislation.

LHA:ljb

Enclosure

M E M O R A N D U M

September 15, 1980

TO: Billy Berrier, Director
Legal Services

FROM: Teresa B. Cramer, Administrative Assistant
Blue Ribbon Commission

SUBJECT: Work Order Request - Revision of the State Personnel Act

Enclosed are revisions of sections of the State Personnel Act which the Blue Ribbon Commission discussed at its last meeting. The Commission would like the bill drafter assigned to this project to review the Act and make suggestions or additional changes which appear advisable from a technical or legal approach. The work draft will be reviewed by the Commission before this needs to be put in final form.

In the revisions which I am enclosing, I have occasionally suggested alternative approaches which the Commission may wish to follow. Either the work draft should include each alternative or amendments should be drafted for the Commission's consideration.

If there are questions, I would be happy to respond.

TBC:lmk
Enclosures

JUNEAU, ALASKA

Alaska State Legislature

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT
Pouch AG/Mail Stop 0123
Juneau, Alaska 99811
(907) 465-4442

Senator Bill Ray
Chairman

TO: Blue Ribbon Commission Members

FROM: Teresa B. Cramer, Administrative Assistant

DATE: August 11, 1980

RE: Revision of the State Personnel Act

In the 1980 Report to the Legislature the commission recommended that the State Personnel Act be reviewed and, where necessary, revised. This memorandum sets out the sections of the Act followed by commentary where it seemed appropriate. Many of the topics which have concerned the commission in the past are implemented by the Personnel Rules rather than by the State Personnel Act itself, and therefore discussion of those issues might be more appropriate during a review of the Rules.

ARTICLE 1. ADMINISTRATION.

Sec. 39.25.010. Purpose of chapter. It is the purpose of this chapter to establish a system of personnel administration based upon the merit principle and adapted to the requirements of the state to the end that persons best qualified to perform the functions of the state will be employed, and that an effective career service will be encouraged, developed and maintained.

(b) The merit principle of employment includes the following:

(1) recruiting, selecting, and advancing employees on the basis of their relative ability, knowledge, and skills, including open consideration of qualified applicants for initial appointment;

(2) regular integrated salary programs based on the nature of the work performed;

(3) retention of employees with permanent status on the basis of the adequacy of their performance, reasonable efforts of temporary duration for correction in inadequate performance, and separation for cause;

(4) equal treatment of applicants and employees with regard only to consideration within the merit principles of employment; and

(5) selection and retention of an employee's position secure from political influences.

Comment: This section was amended by Chapter 46, SLA, 1980 (SCS HB 908) which the commission sponsored.

Sec. 39.25.020. Appointing authority. The authority to appoint to positions in the state service is as follows:

(1) The legislature is the appointing authority for all officers and employees of the legislature and the legislative agencies, but the authority to make appointments may be delegated.

(2) The governor is the appointing authority for all officers and employees of the executive branch, but the authority to make appointments may be delegated.

(3) The chief justice of the supreme court is the appointing authority for all administrative and clerical personnel of the state judicial system, but the authority to make appointments may be delegated.

(4) The board of regents is the appointing authority for all employees of the University of Alaska, but the authority to make appointments may be delegated.

Sec. 39.25.030. Division of personnel and board. There is established within the Department of Administration a division of personnel. There is established within the division of personnel a personnel board.

Sec. 39.25.040. Director of personnel. The head of the division of personnel is the director of personnel appointed by the commissioner of administration and responsible to the commissioner of administration for the execution of the duties and responsibilities imposed by this chapter and the rules adopted under this chapter. The director of personnel must have at least three years of practical working experience in the field of personnel administration.

Comment: There is no similar provision for the director of labor relations, either in the State Personnel Act or in the Public Employment Relations Act. In SB 256, the bill sponsored in 1979 by the Commission to create a Department of Employee Relations, the following language was proposed:

> The head of the division of labor relations is the director of labor relations appointed by the commissioner (of the Department of Employee Relations, in the bill). The director of labor relations shall have at least three years of full-time experience in labor relations, either in the public or private sector.
>
> The head of the division of personnel is the director of personnel, appointed by the commissioner. The director of personnel shall have at least three years of full-time experience in personnel administration either in the public or private sector. (See SB 256, page 1, line 23 to page 2, line 3.)

Sec. 39.25.050. Powers and duties. The director of personnel shall direct and supervise the administrative and technical activities of the division of personnel. In addition to the other duties imposed on him, he shall

(1) administer this chapter and the personnel rules;

(2) encourage and exercise leadership in the development of effective personnel administration in the state government;

(3) develop, in cooperation with appointing authorities and others, programs for the improvement of employee effectiveness and morale;

(4) attend meetings of the personnel board and serve as secretary for the board;

(5) establish and maintain a roster of employees subject to this chapter;

(6) prepare the rules, not inconsistent with this chapter, which are required to implement and administer this chapter;

(7) perform other lawful acts which he considers necessary or desirable to carry out the purposes of this chapter.

Sec. 39.25.060. Personnel board. (a) The personnel board is composed of three members appointed by the governor and confirmed by the legislature meeting in joint session. Initial appointments to the board are for terms of two, four, and six years. Subsequent appointments are for six-year terms. A vacancy in an unexpired term shall be filled by appointment by the governor for the remainder of the term. The appointment is subject to confirmation in the same manner as a full-term appointment.

(b) Members of the board shall be qualified electors of the state who are not employees or officers of the state. Not more than two members of the board may be members of the same political party.

(c) A board member holds office at the pleasure of the governor notwithstanding the member's term.

(d) A member of the board may receive a per diem allowance and transportation expenses incurred in carrying out his duties.

Sec. 39.25.070. Powers and duties of personnel board. In addition to the other duties imposed by this chapter, the personnel board shall

(1) approve or disapprove the original rules or a part of them within 60 days of their submission to the board and approve or disapprove amendment to the rules within 30 days of submission to the board, and in carrying out this duty, the board, if requested, may hold the public hearings it considers necessary;

(2) consider and act upon recommendations for the extension of the partially exempt service and the classified service as provided in § 130 of this chapter;

(3) hear and determine appeals by employees in the classified service as provided in § 170 of this chapter;

(4) establish its own rules of procedure (two members constitute a quorum for the transaction of business and two affirmative votes are required for final action on matters acted upon by the board);

(5) elect a chairman from its membership;

(6) have the power to administer oaths, subpoena witnesses, and compel the production of books and papers pertinent to a hearing authorized by this chapter.

Comment: The Personnel Board has become much less active since many of its functions have been taken over by collective bargaining agreements. However, the members of the board serve on the Labor Relations Agency and the Public Employee Retirement Board which, as a result of legislation passed last session, has been made responsible for setting policies and serving as an appeals board for both the supplemental employee benefit program and the deferred compensation program for state employees.

Sec. 39.25.080. Public records. The state personnel records, except those records which the rules require to be held confidential for reasons of public policy, are public records and are open to public inspection, subject to reasonable regulations as to the time and manner of inspection.

ARTICLE 2. COVERAGE OF PERSONNEL.

Sec. 39.25.090. Coverage of chapter. This chapter and the rules adopted under it apply to all positions in (1) the classified service, and (2) the partially exempt service as specifically provided.

Sec. 39.25.100. Classified service. The classified service consists of all positions in the state service not included in the exempt service or in the partially exempt service.

Sec. 39.25.110. Exempt service. The following positions in the state service constitute the exempt service and are exempt from the provisions of this chapter and the rules adopted under it:

(1) persons elected to public office by popular vote or appointed to fill vacancies in elected offices;

(2) justices of the supreme court, judges of the superior court, judges and magistrates of other state courts established by law;

(3) the administrative director and all other employees of the state court system, and employees and members of the Judicial Council;

(4) the chief administrative officer of each house of the legislature;

(5) all employees of the state legislature and its agencies;

(6) the head of each principal department in the executive branch;

(7) officers, members of the teaching staff, and employees of the University of Alaska;

(8) certificated teachers employed by the state to teach in schools operated by the state;

(9) patients and inmates employed in state institutions;

(10) persons employed in a professional capacity to make a temporary and special inquiry, study, or examination as authorized by the governor, the legislature, or a legislative committee;

(11) members of boards, commissions, or authorities, except as otherwise provided by law;

(12) personnel employed by the division of marine transportation as masters and members of the crews of vessels who operate the state ferry system and who are covered by collective bargaining agreements provided in AS 23.40.040;

(13) commissioners of the Alaska Public Utilities Commission;

(14) the executive officer of the Alaska Commission on Postsecondary Education;

(15) commissioners and employees of the Alaska Commercial Fisheries Entry Commission;

(16) the ombudsman and his staff;

(17) the members, executive secretary and legal counsel of the Alaska Municipal Bond Bank Authority;

(18) certified teachers and noncertified employees employed by a regional educational attendance area established and organized under AS 14.08.031—14.08.041 to teach in, administer or operate schools under the operation, control and management of a regional educational attendance area school board.

(19) licensed physicians, as defined in AS 47.30.340(9), employed by the division of mental health and developmental disabilities, Department of Health and Social Services;

(20) petroleum engineers and petroleum geologists employed in a professional capacity by the Department of Natural Resources except for those employed in the division of geological and geophysical surveys.

(21) employees of the Alaska Gas Pipeline Financing Authority.

(22) members of the board of trustees, the executive director, and staff of the alaska Permanent Fund Corporation.

(22) employees of the Alaska Energy Center.

(23) the executive director and other employees of the Alaska Industrial Development Authority.

(23) officers, agents, and employees of the Alcoholic Beverage Control Board granted limited peace officer powers by the Alcoholic Beverage Control Board under AS 04.06.110.

Comment: This section provides no standards for the legislature to consider when adding new positions to the exempt service. For a list of positions in the exempt service on October 23, 1979, see Appendix B to the 1980 commission Report to the Legislature.

Sec. 39.25.120. Partially exempt service. The following positions in the state service constitute the partially exempt service and are subject to this chapter and the rules adopted under it only as specifically provided in this chapter. Positions in the partially exempt service shall be included in the position classification plan established under this chapter, and these positions shall be compensated according to the pay plan. Persons holding positions in the partially exempt service are not required to take examinations, qualify or earn a place on a register, nor are they eligible for a hearing by the personnel board in case of dismissal, demotion, or suspension. Positions in the partially exempt service are specifically exempt from the rule established under § 150(3)—(11), (14), (15), (18) of this chapter. They are also specifically exempt from §§ 170 and 180 of this chapter and as stated in § 160(a) of this chapter:

(1) assistant commissioners of the principal departments of the executive branch;

(2) the directors, division of personnel, division of public health, division of medical assistance, and those other directors of the major divisions of the principal departments of the executive branch as are specifically designated by the governor;

(3) attorney members of the staff of the Department of Law;

(4) one private secretary for each head of a principal department in the executive branch;

(5) all employees of the Office of the Governor and the lieutenant governor, including the staff of the governor's mansion and the attorney members of the staff of the public defender agency, but not including the nonattorney members of the staff of that agency;

(6) Repealed by § 4 ch 78 SLA 1971.

(7) Repealed by § 9 ch 47 SLA 1974.

(8) the director and deputy director of the division of tourism in the Department of Commerce and Economic Development;

(9) regional directors of the Department of Transportation and Public Facilities.

(10) the executive director and deputy director of the Alaska Public Utilities Commission.

(11) the state forester, in the Department of Natural Resources.

(12) the director, deputy director, staff legal counsel, and hearing officers of the Alaska Transportation Commission.

Comment: Partially exempt positions are specifically excluded from the Personnel Rules governing the following topics as set out in the indicated subsection of AS 29.25.150:

(3) employee selection methods, including open competitive exams;
(4) filling positions through promotion whenever practicable;
(5) eligible lists for appointment and promotion;
(6) a procedure for certifying eligibles;
(7) probation before an appointment becomes permanent;
(8) emergency appointments;
(9) nonpermanent appointments;
(10) provisional appointments;
(11) transfers from one department to another;
(14) reinstatement of a person who resigns in good standing;
(15) layoffs for lack of funds based on performance and seniority; and
(18) grievance procedure.

In addition, partially exempt positions are exempt from AS 39.25.170 (Hearings and Appeals upon Dismissal, Demotion or Suspension) and from AS 39.25.180 (Status of Present Employees).

The topics for which AS 39.25.150 directs that Personnel Rules be adopted and which do apply to the partially exempt service include:

(1) the classification plan
(2) the pay plan
(12) transfers from one area of the state to another
(13) payment of transportation costs when an employee transfers at the request of the employer
(16) performance records
(17) disciplinary suspension
(19) hours of work
(20) methods and procedures for overtime work and pay
(21) delegation of personnel duties to the principal departments;
(22) other rules which are necessary;
(23) employment preference rights to veterans;
(24) permanent part-time employment; and
(25) employment preference for the severely handicapped.

For a list of positions in the partially exempt service on September 27, 1979 see Appendix D of the 1980 commission Report to the Legislature.

Sec. 39.25.130. Extension of partially exempt and classified services. (a) After June 30, 1961, the personnel board, upon written recommendation of the commissioner of administration, may extend the partially exempt service to include any position which was in the classified service on April 19, 1960, which, in the judgment of the board:

(1) involves principal responsibility for the determination of policy;

(2) involves principal responsibility for the way in which policies are carried out; or

(3) involves responsibilities and duties of a type not susceptible to the ordinary recruiting and examining procedures.

(b) No positions may be included in the partially exempt service under this section if the inclusion is inconsistent with federal requirements for state agencies supported in whole or in part by federal funds.

(c) After June 30, 1961, the personnel board, upon written recommendation of the commissioner of administration, may extend the classified service to include any position which was in the partially exempt service on April 19, 1960.

Comment: A strict reading of this section would limit the authority of the Personnel Board to act only on positions which existed on April 19, 1960. It is my understanding that the board acts on positions created after that date as well. The commission may wish to propose an amendment to this section to clarify their authority.

ARTICLE 3. PERSONNEL RULES.

Sec. 39.25.140. Amendment of personnel rules. (a) The director of personnel shall prepare and submit to the commissioner of administration any proposed amendments to the personnel rules for all positions and employees subject to this chapter.

(b) The commissioner of administration shall review the amendments and submit them to the personnel board.

(c) At the time he submits the amendments to the personnel board, the commissioner of administration shall, by posting in public buildings throughout the state, give notice that the personnel board has the amendments under consideration. The amendments have the effect of law 30 days after they are submitted to the personnel board if not disapproved by the personnel board. The personnel board, if requested, may hold public hearings on the amendments.

(d) The rules may provide for exemptions and modifications which are necessary to assure the continuity of federal grants to agencies supported in whole or in part by federal contributions.

(e) The rules adopted under this chapter relate to the internal management of state agencies and their adoption is not subject to the Administrative Procedure Act. The rules may be published in the Alaska Administrative Register and Code for informational purposes.

Comment: In SB 256, the bill sponsored by the commission to create a Department of Employee Relations, amendments were proposed to this section to eliminate the exemption from the Administrative Procedures Act. (See SB 256, Section 14, page 5, line 28 to page 6, line 6).

Sec. 39.25.150. Scope of rules. The personnel rules shall provide for

(1) the preparation, maintenance, and revision by the director of personnel, subject to approval by the commissioner of administration and the personnel board, of a position classification plan for all positions in the classified and partially exempt services; in the position classification plan all positions shall be grouped together into classes on the basis of duties and responsibilities; the position classification plan shall include for each class of position an appropriate title, a description of the duties and responsibilities, training and experience qualifications, and other necessary position specifications;

(2) the preparation, maintenance, revision, and administration by the director of personnel of a pay plan for all positions in the classified and partially exempt services; the pay plan shall be prepared after consultation with the appointing authorities or their designee, and with representatives of interested employee groups; the pay plan shall be based upon the position classification plan, shall provide for fair and reasonable compensation for services rendered, and shall be based on the principle of like pay for like work; commissioners' salaries are not the maximum limit for the pay plan and in exceptional circumstances higher salaries may be specified; the pay plan may provide for uniform starting pay, increments, and area and time differentials; the pay plan prepared under this section may be amended, approved or disapproved by the legislature in regular or special session; after the pay plan is put into effect, no salary or wage payment may be made to a state employee covered by the pay plan unless the payment is in accordance with this chapter and the rules adopted under this chapter;

(3) the use of sound employee selection methods, including open competitive examinations to test the fitness of applicants for positions in the state service;

(4) promotions from within the state service when there are qualified candidates in the state service; vacancies shall be filled by promotion whenever practicable and in the best interest of the state service, and promotion shall be by competitive examination whenever possible; in considering promotions, applicants' qualifications, performance record, seniority, and conduct shall be evaluated;

(5) the establishment and maintenance of eligible lists for appointment and promotion; the names of eligible candidates shall be placed on eligible lists in order of their relative performance in the examinations;

(6) the procedure for certifying eligibles;

(7) a period of probation not to exceed one year before an appointment to a position becomes permanent, except that a permanent employee receiving a promotional appointment retains permanent status in the service and the job class from which appointed for the duration of the probationary period, and may be demoted to his former class without right of appeal, § 170 of this chapter notwithstanding, but if dismissed from the service he has appeal rights under § 170 of this chapter;

(8) emergency appointments to positions in the state service;

(9) [Effective January 1, 1980] nonpermanent appointments to positions in the state service in accordance with AS 39.25.195 — 39.25.200;

(10) provisional appointment without competitive examination when appropriate eligible lists are not available;

(11) transfers from one department to another and from another merit system jurisdiction to the state service;

(12) transfers from one area of the state to another;

(13) the payment of transportation costs when an employee transfers from one area to another at the request of the employer;

(14) the reinstatement of a person who resigns in good standing;

(15) layoffs for reason of lack of funds or work, abolition of positions, or material changes in duties or organization; both performance and seniority records shall be considered in the development of layoff orders;

(16) the development, maintenance, and utilization of employee performance records;

(17) the imposition of disciplinary suspension without pay for not longer than 30 days in any 12-month period;

(18) the procedures for review of disputed personnel actions and for resolving employee and interagency grievances;

(19) hours of work for all employees in the state service;

(20) methods and procedures covering overtime work and pay;

(21) the delegation, where feasible, of personnel responsibilities and duties to the principal departments of the executive branch;

(22) other rules and administrative regulations, not inconsistent with this chapter, which are necessary for its enforcement;

(23) the granting of employment preference rights to a veteran at each time he applies for employment, not within the area of promotion, when he possesses the necessary qualifications in the job classification for which he applies under this chapter; the term "veteran" means a person with 90 days or more active service in the armed forces of the United States who has been honorably discharged after having served during any period between April 6, 1917, and December 1, 1919, between September 16, 1940, and December 31, 1947, or between June 27, 1950, and November 7, 1975 [A DATE TO BE DETERMINED BY THE LEGISLATURE WHICH SHALL BE ON OR ABOUT SIX MONTHS AFTER THE TERMINATION OF HOSTILITIES INVOLVING FORCES OF THE UNITED STATES IN VIETNAM]; the term "disabled veteran" means a veteran who is rated by the United States Veterans' Administration as having at least a 10 percent service-connected disability; in the examination to determine the qualification of applicants for entrance into the classified service under merit system examination, five additional points shall be added to the passing grade of a veteran and 10 additional points shall be added to the passing grade of a disabled veteran; if a position in the classified service is eliminated, employees shall be released in accordance with rules which give due effect to all factors; if all job qualifications are equal, the veteran shall be given preference over the nonveteran and the veteran shall be kept on the job; [.]

(24) the employment of persons in permanent positions on a part-ti basis of 15 hours or more a week, including the employment of tv persons to fill one permanent full-time position; these employees shall be designated as permanent part-time employees.

(25) the granting of employment preference to severely handicapped persons; this includes the right to provisional appointment without competitive examination for periods up to four months and the granting of eligibility to a severely handicapped person provisionally appointed under the rules who demonstrates his ability to perform the job for permanent appointment without competitive examination; provisional employment under this paragraph may not exceed four months during a 12-month period; "severely handicapped" as used in this paragraph means persons certified by the director of the division of vocational rehabilitation to be severely handicapped.

Comment: This section sets out the topics which must be included in the Personnel Rules. Its requirements are general and permit the Division of Personnel flexibility in implementing them. The commission may wish to consider whether the statute gives sufficient guidance on the topics covered, whether additional topics should be required for inclusion in the Personnel Rules or whether there are some topics now included which should not be part of the Rules.

Sec. 39.25.153. Personnel rules for certain departments. (a) Each personnel officer for the departments of highways, fish and game, education, labor, and health and social services shall be permanently employed by and located within that department.

(b) The personnel officers specified in (a) of this section are authorized to adopt regulations providing for the activities specified in §§ 39.25.150(1)—(10), (13)—(18), (20) and (22) of this chapter for those classes of employees which are unique to the respective departments specified in (a) of this section. The initial determination as to which classes of employees are unique within the respective departments shall be made by the personnel officer in consultation with the commissioner of his department and subject to the approval of the director of personnel within the Department of Administration. Regulations adopted under this subsection relate to the internal management of state agencies and their adoption is not subject to the Administrative Procedure Act (AS 44.62).

(c) The personnel officers within the departments specified in (a) of this section are subject to all provisions of this chapter not in conflict with this section.

Comment: This section raises questions about the location of the personnel officers for departments. The commission debated whether personnel officers should be employed by the individual departments or by the Division of Personnel in its first year of operation. This section states that the personnel officers for some departments "shall be permanently employed by and located within that department." (Note that the reference within subsection (a) to the department of highways is obsolete.)

None of the personnel officers of the stated departments have used their authority to classify positions unique to their department or to adopt regulations concerning those positions. The director of personnel has the authority under AS 39.35.150(21) to delegate personnel responsibilities and duties to the principal departments and that has been the basis of the recent effort to delegate classification authority.

The commission may wish to consider whether the authority granted in this section should be extended to all of the principal departments or whether, in light of the authority to delegate given the director of personnel, this statute should be restricted in some manner.

The regulations which the personnel officers are empowered to adopt are exempted from the Administrative Procedures Act by subsection (b). In SB 256, the bill creating the Department of Employee Relations, this exemption was deleted.

> **Sec. 39.25.155. Vocational substitution program.** (a) It is the purpose of this section to establish a liberal system under which Alaskan residents not employed by the state who do not meet the minimum educational or experience criteria for state employment may demonstrate their abilities and achieve temporary or permanent state employee status. This program is intended for use primarily in remote or underemployed areas where the opportunity to gain required hiring qualifications does not exist, but where there is a local need for employees with certain vocational skills. The provisions of this section apply notwithstanding the provisions of § 150(3) of this chapter.
>
> (b) The director of personnel shall establish vocational standards as alternatives for educational or experience levels now required for nonprofessional occupational areas under the state personnel system and incorporate these alternatives into the state classification plan.
>
> (c) Applicants shall be placed on eligible lists for the vocational classification indicated in their applications submitted to the division of personnel in the order of their relative ranking based on an assessment of their technical ability, place of residence and without written examination. Aptitude or occupational tests may be given if a position requires a specific ability.
>
> (d) The director of personnel shall establish rates of pay for the selected vocational substitution classifications in relation to the beginning entry classification pay rates. However, vocational substitution personnel may not be classified lower than one pay range below the range to which the classified position is allocated.
>
> (e) The director of personnel shall embody a concept combined of technical ability, place of residence, local hire and area unemployment in the personnel rules to accomplish the intent of this section.
>
> (f) Applicants selected under this section are subject to the provisions of § 160 of this chapter.
>
> (g) In this section "resident" means a person who has been domiciled in Alaska for at least one year immediately before filing his application.

Comment: The state has created job classes to meet the requirements of this section, but, with the advent of collective bargaining, the Labor, Trades and Crafts bargaining unit has taken over most of the positions which would fall within the intent of the statute and their hiring system is now used for employing people.

ARTICLE 4. PROHIBITIONS

Sec. 39.25.160. Generally. (a) A state employee may be a member of a national, state, or local political party, may take part in a political campaign, and may exercise his right as a citizen to express his opinion, register his party preference, if any, serve as a delegate to party conventions, and cast his vote. This section also permits appointment, nomination, or election to nonpartisan public office in a local government unit. However, this section may not be construed as permitting an employee in the classified service or in those exempt positions named in § 110(3) of this chapter to take an active part in the management of a political party above the precinct level.

(b) No person may give, render, pay, offer, solicit, or accept money, service, or other valuable thing in connection with an appointment, promotion, or advantage in a position in the classified service.

(c) No person may require an assessment, subscription, contribution, or service for a political party from an employee in the classified service.

(d) No person may seek or attempt to use a political party endorsement in connection with an appointment or promotion in the classified service.

(e) An employee in the classified service who seeks nomination or becomes a candidate for state or national elective political office shall immediately resign his position in the state service.

(f) No action affecting the employment status of an employee in the classified service or applicant for a position in the classified service, including appointment, promotion, demotion, suspension, or removal, may be taken or withheld for racial, political or religious reasons.

(g) No person may make a false statement, certificate, mark, rating, or report with regard to a test, certification, or appointment made under this chapter or in any manner commit a fraud preventing the impartial execution of this chapter and the personnel rules adopted under this chapter.

(h) No person may defeat, deceive, or obstruct another person in his right to examination, eligibility, certification, appointment, or promotion under this chapter.

Comment: The exempt employees referred to in subsection (a) who are not permitted to manage a political party above the precinct level are employees of the state court system and employees and members of the Judicial Council.

Note that the prohibitions contained in subsections (b) through (f) apply only to classified employees.

ARTICLE 5. HEARINGS.

Sec. 39.25.170. Hearings and appeals. (a) An employee in the classified service who is dismissed, demoted, or suspended for more than 30 working days in a 12-month period shall be notified in writing by his employer of the action and the reason for it and may be heard publicly by the personnel board and may be represented by counsel at the hearing. In order to be heard, the complainant shall request a hearing within 15 days of dismissal, demotion or suspension.

(b) If the board finds that the action complained of was taken for a political, racial or religious reason, or in violation of this chapter or the rules adopted under this chapter, the officer or employee shall be reinstated to his position without loss of pay or leave benefit for the period of his dismissal, demotion, or suspension. In all other cases, the board shall report its findings and recommendations to both parties.

Comment: This section has been interpreted to apply only to permanent classified employees. The courts have declared that neither provisional nor probationary employees have a right to appeal under this section and the Division of Personnel has extended that reasoning to apply also to temporary (and presumably non-permanent) employees as well. In any case, since employee disputes are now governed by collective bargaining contracts for all union members, appeals through this statute are unlikely to occur.

ARTICLE 6. MISCELLANEOUS PROVISIONS.

Sec. 39.25.180. Status of present employees. (a) A state employee with permanent status on April 19, 1960, under the merit system applying to the agencies receiving federal grants-in-aid is continued without examination and is not required to serve a new probationary period.

(b) A state employee with probationary status on April 19, 1960, under the merit system applying to the agencies receiving federal grants-in-aid, is continued without examination, but must satisfactorily complete his probationary period in order to achieve permanent status.

(c) An employee under the jurisdiction of this chapter and holding positions in the state service on April 19, 1960, may be continued in his position without examination if he meets the minimum qualifications for his position and if he has been in the state service for at least six months. An employee who does not meet the minimum qualifications for a position is subject to examination under this chapter and the personnel rules.

(d) A federal civil service employee may transfer to a position in the state service without examination if he meets the minimum qualifications for his position and has been on permanent status under federal civil service for not less than six months immediately preceding his transfer. The employee may be required to serve a probationary period of employment.

(e) This section does not preclude the reclassification or reallocation of a position held by an incumbent as provided in this chapter and the rules adopted under this chapter.

Sec. 39.25.190. Conflict with federal requirements. If any part of this chapter conflicts with federal requirements which are a condition precedent to the allocation of federal funds to the state, the conflicting part of this chapter is inoperative solely to the extent of the conflict and with respect to the agency directly affected, and does not affect the operation of the remainder of this chapter in its application.

ARTICLE 6A. NONPERMANENT EMPLOYEES.

Sec. 39.25.195. Appointment of nonpermanent employees [Effective January 1, 1980]. (a) An individual may not be appointed as a nonpermanent employee in the state service without prior written approval of the director except as an emergency employee.

(b) Every appointment to state service, except an emergency appointment, shall be made from an applicable eligible list or dispatching register unless in appropriate circumstances the director has waived this requirement.

(c) No appointment of a nonpermanent employee may be made unless the request for authorization is approved by the director, adequate money is available for the anticipated duration of the appointment, and the director determines that

(1) the hiring department or agency has certified that the legislature has appropriated money for the work in question knowing that it is to be performed by a nonpermanent employee;

(2) the hiring department or agency has certified that there is an immediate need to fill an authorized, permanent position and it is impractical either to establish the position or to make certification within a reasonable time;

(3) the hiring department or agency has certified that an immediate need exists and the director determines that the hiring department or agency could not reasonably have been expected to anticipate and meet through the creation of a permanent position; or

(4) the hiring department or agency has certified that a program or project exists and the director determines that the need for employees can most appropriately be met through the use of program or project employees.

(d) The director may not authorize the appointment of a nonpermanent employee if he determines that

(1) the need for the nonpermanent employee can practicably be met through establishing and filling an authorized permanent position;

(2) the need for the nonpermanent employee would be more appropriately met through an emergency appointment; or

(3) the need for the nonpermanent employee is not immediate and could reasonably have been anticipated and met by the appointing authority through the creation and filling of a permanent position.

(e) A nonpermanent employee may not be placed on the state payroll unless the director has first approved the personnel action for the employee's appointment.

(f) Nothing in this section prevents the director from adopting regulations to provide for timely substitution for permanent employees on medical or personal leave or other situations in which the appointment of an emergency or permanent employee would be inappropriate or when delay in making a temporary replacement would cause serious disruption.

(g) A department or agency may not use nonpermanent employees to perform a given work assignment for more than 120 calendar days in a 12-month period. A department or agency may not employ any individual as a nonpermanent employee for more than 120 calendar days in a 12-month period. In appropriate circumstances the director may authorize an extension of the limit imposed by this subsection if he finds that there is an immediate need for the extension. The limit imposed by this subsection does not apply to program or project employees or to substitutes appointed under (f) of this section.

(h) The director shall present a report on nonpermanent and emergency hire practices in state government to the legislature within the first 10 days of each regular legislative session. A hiring department or agency shall certify to the director within 15 working days following the appointment its reasons for appointing an emergency employee. The report shall include information on the number of nonpermanent employees authorized under this section and the number of emergency employees hired in each department, a description of the procedures used in authorizing the hiring of nonpermanent employees, and any recommendations for legislation required to implement the intent of this section.

Sec. 39.25.197. Termination of nonpermanent employees [Effective January 1, 1980]. When the director determines that an employee has been appointed as a result of a false certification under AS 39.25.195, he shall immediately notify the head of the affected department or agency in writing and the department or agency shall terminate the employee from state service within one working day after receipt of notice.

Sec. 39.25.198. Civil liability [Effective January 1, 1980]. A person who makes a false certificate under AS 39.25.195 is personally liable in a civil action to an individual terminated under AS 39.25.197 for any resultant damages and for punitive damages of an amount not to exceed three times the gross monthly salary at which the nonpermanent employee was appointed.

Sec. 39.25.200. Definitions [Effective January 1, 1980]. In AS 39.25.195 — 39.25.200,

(1) "certified" means signed by the head of a department or agency or by a responsible person designated by him;

(2) "director" means the director of the division of personnel and labor relations;

(3) "emergency employee" means an employee appointed for a period not to exceed 30 calendar days, whose appointment was made under conditions requiring immediate action to carry on work that is required in the public interest;

(4) "nonpermanent employee" means a person who is employed in state service in a position which is not in the exempt or partially exempt service and who is not a permanent or an emergency employee;

(5) "permanent employee" means an employee who has been appointed to an authorized, permanent full-time or part-time or permanent seasonal position in the classified service and who is in the process of completing or has successfully completed the required probationary service in that position;

(6) "program or project employee" means a nonpermanent employee, including a student intern, who is employed in state service with prior written understanding that employment in that position will continue for at most the duration of a specified program or project which is not a regular and continuing function of a department or agency and which has an established probable date of termination.

Comment: The commission may wish to review the state's experience with the nonpermanent law to consider whether changes should be proposed. The law has not yet been in effect for a full year and figures comparing its operation with the state's experience under the old laws and regulations for temporary employees are not yet readily available.

ARTICLE 7. GENERAL PROVISIONS.

Sec. 39.25.210. Penalties. (a) A person who wilfully violates a provision of this chapter or of the personnel rules adopted under this chapter is guilty of a misdemeanor.

(b) A state employee who is convicted of a misdemeanor under this chapter or the personnel rules adopted under this chapter immediately forfeits his office or position.

Sec. 39.25.220. Short title. This chapter may be cited as the State Personnel Act.

OTHER RELATED STATUTES

Comment: The statute prohibiting nepotism is narrower than the Personnel Rules on the same topic and has been determined by the Attorney General to restrict valid implementation of the Rule. Therefore, the commission may wish to propose legislation which would support the Rule in full.

STATUTE:

Sec. 39.10.010. Nepotism prohibited. It is unlawful for a person who is the spouse of or is related by blood within and including the second degree of kindred to the executive head of a principal state department or agency to be employed in that department or agency.

PERSONNEL RULE:

13 09.0 Nepotism

13 09.1 No person may be employed in a position in any agency who is the spouse of or is related by blood or marriage within and including the second degree of kindred to the appointing authority of the agency.

13 09.2 No person may be employed in a position in any division or subdivision of any agency who is the spouse of or is related by blood or marriage within and including the second degree of kindred to the head of the division or subdivision of the agency.

13 09.3 No person may be employed in a position in any agency who is the spouse of or is related by blood or marriage within and including the second degree of kindred to any other employee in the agency without the expressed approval of the appointing authority and the Director.

Inland Boatmen's Union
AFL-CIO

National Headquarters and Alaska Regional Office
124 Front Street / Juneau, Alaska 99801 / (907) 586-9711

October 28, 1980

Senator Bill Ray, Chairman
Blue Ribbon
Pouch AG
Mail Stop 0123
Juneau, Alaska 99811

RE: Exempt Status of Vessel Employees

Dear Senator Ray:

In response to your inquiry with respect to the classification of vessel employees of the Marine Highway System the following information is provided.

In the 1962 Legislative Session enabling legislation was passed permitting the Commissioner of Public Works to deal with labor unions for the manning of ferry vessels that would be operating in the State's expanded system. Prior to this time the State had operated two small shuttle ferrys between Haines, Alaska and Tee Harbor north of Juneau.

The manning of those two vessels, the M/V Chilkoot and the M/V Chilkat, was accomplished by contracting with the vessel operator Captain Gitkof, and he in turn contracted with the Inlandboatmen's Union to provide qualified Engineers, deck hands, cooks, and Mates.

In passing the enabling legislation that established the first collective bargaining relationship between the State and it's employees the Legislature recognized several unique circumstances under which the vessels would have to operate.

1. The vessels would be under the jurisdiction of the United States Coast Guard for safe operation, navigational laws, manning, and examination and certification of vessel personnel.

Hawaii Region
707 Alakea
Honolulu, HA 96813
(808) 537-1773

Southern California Region
P. O. Box 16160
Long Beach, CA 90806
(213) 549-4000

Ketchikan Office
P. O. Box 7923
Ketchikan, AK 99901
(907) 225-9460

District Union, Seafarers International Union of North America

All employees would be required to possess U.S. Merchant Mariners documents endorsed for the proficiency ratings required by the United States Coast Guard Certificate of Inspection.

2. All Merchant Mariners (American Seamen) are wards of the Federal Court and covered by several Acts of Congress covering their employment rights, health, safety, and other conditions of employment.

3. The ships of the Marine Highway System would operate around the clock with schedules subject to wind and tidal conditions leaving little room for delays or layovers of any length of time. This requirement would demand that qualified personnel be available for immediate dispatch to the vessels should the need arise for a relief for any of the crew members onboard since under Coast Guard regulations the vessel may not sail without the proper complement of personnel.

4. All employees recruited from the Maritime Unions would be covered by private Taft-Hartley health and welfare, and retirement trust, and would not automatically participate in the Public Employees Retirement System, or State Health and Welfare benefit coverage without a considerable loss of benefits.

5. Merchant Seamen, Engineers, and Mates recruited from the private sector would be difficult to obtain if the wage classification system of the State was adhered to.

6. Inclusion of vessel employees under the State Personnel rules was determined to be undesirable in the areas of recruitment, assignment, and promotion of personnel as the Union contracts provided the Employer more flexibilty in these areas. This flexibilty is an absolute necessity for the type of operation the Marine Transporation vessels are involved in.

None of the above circumstances has changed since the inception of the expanded system in 1963. In review of the above I can find no substantive compelling motivation for changing the status of Marine Highway System employees from the exempt service to classified service and therefore I recommend no change in status.

Sincerely,

INLAND BOATMEN'S UNION

G. S. O'Claray
President

GSO:met

Blue Ribbon Commission on the
State Personnel Act
Pouch AG
Juneau, Alaska 99811
(907) 465-4442

MEMO TO: Blue Ribbon Commission Members

FROM: Teresa B. Cramer, Administrative Assistant

DATE: October 16, 1979

RE: Positions proposed to be removed from the right to bargain

This information was taken from a computer printout from February, 1979, which Bruce Carr of the Division of Personnel and Labor Relations made available to me. I have listed those positions which are presently permitted to organize under the Public Employment Relations Act and which are proposed to be excluded from bargaining. Most of those indicated are either Deputy Directors or Assistant Directors.

Unless otherwise indicated, the position is presently in the Supervisory Unit of APEA. Those presently in the General Government Unit are marked with (G). Those which are not presently in any unit but which are in the classified service are marked with (E). There are five of these positions in the state.

OFFICE OF THE GOVERNOR

There are no changes proposed. Most positions in the Office of the Governor are already in the partially exempt service.

DEPARTMENT OF ADMINISTRATION

Deputy State Internal Auditor
Deputy Director Labor Relations (E)
Deputy Director Personnel (E)
Deputy Director Finance
Deputy Director General Services & Supply
Assistant Director Gen. Serv. & Supply
Deputy Director Data Processing
Ass't Dire. Data Processing AJIS
Deputy Dir. Retirement & Benefits

DEPARTMENT OF LAW

All of the attorneys in the Department of Law are already members of the partially exempt service.

DEPARTMENT OF REVENUE

Deputy Dir. Revenue Administrative Services
Chief Enforcement Operations
Administrative Chief Support Enforcement
Chief Audit Services
Chief Revenue Intelligence Services
Chief Audit Services

DEPARTMENT OF EDUCATION

Deputy Dir. Education Program Support
Deputy Dir. Education Field Services
Deputy Dir. Administrative Support
Deputy Dir. Vocational Rehabilitation
Deputy Dir. State Libraries and Museum

DEPARTMENT OF HEALTH & SOCIAL SERVICES

Ass't Dir. Public Health
Ass't Dir. Mental Health
Deputy Dir. Corrections
Ass't Dir. Corrections

DEPARTMENT OF LABOR

Ass't Dir. Support Services
Deputy Dir. Workmen's Compensation
Ass't Dir. Employment Security
Ass't Dir. Employment Security

DEPARTMENT OF COMMERCE

Deputy Dir. Economic Enterprise
Deputy Dir. Public Util. Com'n
Executive Dir. ATC
Ass't Dir. Veterans Affairs
Deputy Dir. Business Loans

DEPARTMENT OF MILITARY AFFAIRS

Chief of Staff, Dep't of Military Affairs
Deputy Dir., Alaska Disaster Office

DEPARTMENT OF NATURAL RESOURCES

Deputy Dir. Lands
Deputy Dir. Lands
Deputy Dir. Parks

DEPARTMENT OF FISH & GAME

Executive Dir. Boards of Fish & Game (G)
Deputy Dir. Fish & Game Administration
Ass't Dir. Boards of Fish & Game (G)
Deputy Dir. Commercial Fish
Deputy Director Game
Deputy Dir. Sport Fish

DEPARTMENT OF PUBLIC SAFETY

Lt. Colonel Public Safety
Ass't State Fire Marshal
Lt. Col. Public Safety
Deputy Dir. Motor Vehicles

DEPARTMENT OF ENVIRONMENTAL CONSERVATION

No changes were proposed for the employees of this department.

DEPARTMENT OF COMMUNITY & REGIONAL AFFAIRS

Deputy Dir. Manpower Division

DEPARTMENT OF TRANSPORTATION & PUBLIC FACILITIES

Ass't Dir. DOT/PF Financial Mgt.
Deputy Dir. Adv. Planning Special Project
Deputy Dir. Highways Administration
Deputy Dir. Communications
Transportation Maintenance Manager III

TOTAL: 54

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 Swick
Signature of Camera Operator

12/15/89
Date

02-519 (REV 8/78)

SCOMM
#51:17

Offered: 6/22/83
Referred: Finance

Original sponsor: Rules/Legislative Council

IN THE SENATE

BY THE LABOR AND COMMERCE COMMITTEE

HOUSE CS FOR CS FOR SENATE BILL NO. 55 (L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to collective bargaining; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 23.40.215 is amended by adding a new subsection to read:

(b) The Department of Administration shall submit the monetary terms of an agreement to the legislature within 10 days after the agreement of the parties, if the legislature is in session, or within 10 days after the convening of the next regular session. The legislature shall advise the parties by concurrent resolution if it approves or disapproves of the monetary terms within 60 days after the agreement is submitted to the legislature. The approval of the monetary terms of an agreement under this subsection is a nonbinding, advisory expression of legislative intent. If within 60 days after the agreement is submitted the legislature advises the parties by concurrent resolution that it disapproves the monetary terms of the agreement, the parties may resume negotiations. If within 60 days after the agreement is submitted, the legislature does not pass a concurrent resolution under this section the monetary terms of the agreement are considered approved.

* Sec. 2. AS 23.40.250 is amended by adding a new paragraph to read:

(8) "monetary terms of an agreement" means the changes in the terms and conditions of employment resulting from an agreement that will require an appropriation for their implementation or will

result in a change in state revenues or productive work hours for state employees.

* Sec. 3. This Act takes effect immediately in accordance with AS 01.-10.070(c).

Offered: 6/17/83

Original sponsor: Rules/Legislative Council

IN THE SENATE BY THE RULES COMMITTEE

CS FOR SENATE BILL NO. 55 (Rules)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to collective bargaining; and providing for an effective date."

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* Sec. 3. This Act takes effect immediately in accordance with

1 AS 01.10.070(c).

Offered: 6/6/83
Referred: Rules

Original sponsor: Rules/Legislative Council

IN THE SENATE BY THE FINANCE COMMITTEE

CS FOR SENATE BILL NO. 55 (Finance)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to collective bargaining; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

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AS 01.10.070(c).

LETTER OF INTENT TO CSSB 55 - page 304

SENATE JOURNAL

ALASKA STATE LEGISLATURE

THIRTEENTH LEGISLATURE - FIRST SESSION

JUNEAU, ALASKA THURSDAY March 3, 1983

Forty-sixth Day

Pursuant to adjournment, the Senate was called to order by President Kerttula at 10:13 a.m.

The roll call showed twenty members present.

The prayer was offered by the Chaplain, Reverend Jimmy Stringer of the First Baptist Church.

Senator Ray moved that the journal for the forty-fifth legislative day be approved as certified. Without objection, it was so ordered.

MESSAGES FROM THE HOUSE

Message of March 2 was read, stating the House has passed the following:

FIRST READING AND REFERENCE OF HOUSE RESOLUTIONS

HCR 2

HOUSE CONCURRENT RESOLUTION NO. 2 by Representatives Grussendorf and Fritz,

Relating to travel by senior citizens aboard vessels of the state marine highway system,

HCR 2 cont'd

was read the first time and referred to the State Affairs Committee and the Finance Committee.

FIRST READING AND REFERENCE OF HOUSE BILLS

HB 139

HOUSE BILL NO. 139 by Representatives Malone and Phillips, entitled:

"An Act providing a penalty for violation of a law or regulation relating to bees and beekeeping equipment."

was read the first time and referred to the Judiciary Committee.

HB 151

CS FOR HOUSE BILL NO. 151 (FIN) by the Finance Committee, entitled:

"An Act making a special appropriation to the Department of Natural Resources, division of parks, for acquisition and development of the House of Wickersham in Juneau; and providing for an effective date."

was read the first time and referred to the Resources Committee and the Finance Committee.

STANDING COMMITTEE REPORTS

SB 55

The Judiciary Committee considered SENATE BILL NO. 55 (relating to collective bargaining) and a majority of the committee recommended it be replaced with CS FOR SENATE BILL NO. 55 (JUD), do pass and attached the following letter of intent:

SB 55 cont'd

SENATE JUDICIARY COMMITTEE LETTER OF INTENT
SENATE BILL NO. 55

Before an organization and the state may enter into an agreement, the agreement proposed to be entered into shall be submitted to the legislature for consideration of the monetary terms of the agreement. Submittal of the proposed agreement to the legislature shall occur within ten (10) days after the proposed agreement of the parties has been reached, or ten (10) days after the convening of the next regular session. The monetary terms of the proposed agreement take effect if they are not rejected by the legislature by concurrent resolution within thirty (30) days after the agreement is submitted to the legislature.

/s/ Bill Ray
Senator Bill Ray, Chairman

The report was signed by Senator Ray, Chairman and concurred in by Senators Josephson, Pettyjohn and Eliason. Senator Ziegler signed "no recommendation".

SENATE BILL NO. 55 was referred to the Finance Committee.

SB 126

The Rules Committee considered SENATE BILL NO. 126 (amending ch. 82, SLA 1981) and recommended it be calendered March 3. The report was signed by Senator Faiks, Chairman and concurred in by Senators Kelly, Ray, Bennett and Ferguson.

SENATE BILL NO. 126 appears on today's calendar.

CONSIDERATION OF THE CALENDAR

SECOND READING OF SENATE BILLS

SB 126

SENATE BILL NO. 126 (amending ch. 82, SLA 1981) was read the second time.

SB 126 cont'd

Senator Sackett moved and asked unanimous consent for the adoption of the Finance Committee Substitute offered on page 250. Without objection, CS FOR SENATE BILL NO. 126 (FIN) (amending the purpose of an allocation made for Delta Junction School to also allow the purchase of administrative offices; efd) was adopted.

CS FOR SENATE BILL NO. 126 (FIN) was read the second time.

Senator Ray moved and asked unanimous consent that CS FOR SENATE BILL NO. 126 (FIN) be considered engrossed, advanced to third reading and placed on final passage. Without objection, it was so ordered.

CS FOR SENATE BILL NO. 126 (FIN) was read the third time.

Senator Ray moved and asked unanimous consent that the title change be adopted. Without objection, the title change was adopted.

The question being: "Shall CS FOR SENATE BILL NO. 126 (FIN) (amending the purpose of an allocation made for Delta Junction School to also allow the purchase of administrative offices) pass the Senate?" The roll was taken with the following result:

CS SB 126 (FIN) 3RD

Yeas: 20 Bennett, Eliason, Fahrenkamp, Faiks, Ferguson, Fischer Paul, Fischer Vic, Gilman, Halford, Josephson, Kelly, Kerttula, Moss, Mulcahy, Pettyjohn, Ray, Rodey, Sackett, Sturgulewski, Ziegler

Nays: 0

and so, CS FOR SENATE BILL NO. 126 (FIN) passed the Senate.

Senator Ray moved and asked unanimous consent that the roll call on the passage of the above bill be considered the roll call on the effective date clause. Without objection, it was so ordered.

CS FOR SENATE BILL NO. 126 (FIN) was referred to the Secretary for engrossment.

JUDICIARY - BUTROVICH ROOM - 1:30 p.m.

Mar 4 SB 88 Minors present where alcohol is served
Mar 7 SJR 1 Equal Rights Amendment
Mar 11 HCR 11 Petit jurors using earphones
Mar 25 SB 20 Magistrates-judicial retirement system--TELE.

LABOR & COMMERCE - BELTZ ROOM - 1:30 p.m.

Mar 3 SB 67 utility facility highway projects

RESOURCES - BELTZ ROOM - 3:00 p.m.

Mar 4 Briefing - Dept. Environmental Conservation
Mar 7 SB 43, SB 102 Homesteads

SENATE FINANCE - 2:00 p.m. - Joint with Oil & Gas
Mar 7 Briefing on gas pipeline

HOUSE RESOURCES RM 118 - Joint with Oil & Gas
Mar 8 Dept. Minerals & Energy Manage.-leasing procedures

BELTZ ROOM
Mar 9 SB 124 Alaska Agricultural Loan Act
Briefing Admiralty Island mining project

FAIRBANKS N. STAR BOROUGH ASSEMBLY CHAMBERS - 4:30 p.m.
Mar 11 SB 14 State Forests
SB 108 Fairbanks State Forest
SB 79 Toxic & hazardous substances

STATE AFFAIRS - SENATE FINANCE ROOM - 1:30 p.m.

Mar 3 SB 68 - SB 71 Susitna Hydro Project

TRANSPORTATION - BUTROVICH ROOM - 1:30 p.m.

Mar 3 Overview Dept. Transportation & Public Facilities

LEGISLATIVE BUDGET & AUDIT - HOUSE FINANCE - 4:00 p.m.

Mar 3 Finance Research Center contract

LEGISLATIVE REFORM COMMITTEE - BELTZ ROOM - 12:00 p.m.

Mar 3 NCSL Staff

ANCHORAGE DELEGATION - BUTROVICH ROOM - 5:00 p.m.

Mar 3

MINORITY CAUCUS - BUTROVICH ROOM - UPON ADJOURNMENT

Mar 3

ANNOUNCEMENTS

*Meetings will be in Capitol Building and at times listed unless otherwise noted

COMMUNITY AND REGIONAL AFFAIRS - BELTZ ROOM - 3:00 p.m.

Mar 3 SB 37 State aid for municipalities
SB 98 Unincorporated community assistance

FINANCE - SENATE FINANCE ROOM - 9:00 a.m.

Mar 4 UA operating budget

SUBCOMMITTEES ON FINANCE - SENATE FINANCE ROOM - 1:30 p.m.

Administration - 8:00 a.m.
Mar 9 Overview

Court System - 8:00 a.m.
Mar 10 Budget

Education - HOUSE FINANCE ROOM - 3:00 p.m.
Mar 3 Joint w/House; Art Council and Historic Preservation

Education - 8:00 a.m.
Mar 4

Health & Social Services - 4:00 p.m.
Mar 3 Division of Family & Youth Services

Labor
Mar 4 Commissioner's Office, ESD, Administrative Services
Mar 8 Public Protection functions
Mar 9 Public Protection cont.

Military Affairs
Mar 10 Overview
Mar 11 Overview cont.

Revenue - 8:00 a.m.
Mar 8 Overview

HEALTH, EDUCATION & SOCIAL SERVICES - ROOM 504 - 3:00 p.m.

Mar 4 SB 122 Protection of the elderly
Mar 7 SB 97 Bethel Social Services, Inc. grant
SB 78 Public Employment Relations
Mar 9 SB 109 Board of Psychologists - Psychological Associate Examiners
Mar 11 SB 93 Endowment - Physical Sciences UA
SB 94 Endowment - Physical Sciences UA - special approp.

CITATIONS

Senator Ray moved and asked unanimous consent that the Citation In Memoriam - Ed Barber by Representative Ward and All Other Members of the House and Senators Vic Fisher and Ziegler be sponsored by All Other Members of the Senate. Without objection, it was so ordered.

Senator Ray moved that the following citations be approved:

Honoring - Ivan Blunka
by Representatives Herrmann, Davis and Zharoff
Senators Mulcahy and Sturgulewski

In Memoriam - Ed Barber
by Representative Ward and All Other Members of the House
Senators Vic Fischer and Ziegler and All Other Members of the Senate

In Memoriam - Robert Mayokok
by Representative Fuller
Senators Ferguson, Sturgulewski and Vic Fischer

In Memoriam - Jan Beukers
by Representative Zharoff
Senator Mulcahy

In Memoriam - Benjamin Aure, Jr.
by Representative Zharoff
Senator Mulcahy

In Memoriam - Willie Kuchenoff
by Representatives Herrmann and Zharoff
Senator Mulcahy

Without objection, the citations were approved and referred to the Secretary for transmittal.

Senator Ray moved and asked unanimous consent that the Rules be suspended and the publication and notice requirement on the Citation Honoring - Sweet Honey in the Rock by Representative Furnace be waived and taken up as a Special Order of Business at this time. Without objection, it was so ordered.

SPECIAL ORDER OF BUSINESS

Senator Ray moved that the Citation Honoring - Sweet Honey in the Rock by Representative Furnace be approved. Without objection, the citation was approved and referred to the Secretary for transmittal.

UNFINISHED BUSINESS

SB 143

Senator Vic Fischer, Chairman, moved and asked unanimous consent that the State Affairs Committee referral on SENATE BILL NO. 143 (solicitation of a prostitute by a patron a crime of prostitution punishable as a Class B misdemeanor) be waived. Without objection, it was so ordered.

SENATE BILL NO. 143 was referred to the Judiciary Committee.

ANNOUNCEMENTS

Announcements appear at the end of the journal.

SPECIAL ORDERS

Senator Ziegler moved and asked unanimous consent that he be excused from a call of the Senate from 10:30 a.m., March 31 through convening time April 4. Without objection, Senator Ziegler was excused.

Senator Gilman moved and asked unanimous consent that he be excused from a call of the Senate March 11-13. Without objection, Senator Gilman was excused.

Senator Sackett moved and asked unanimous consent that he be excused from a call of the Senate March 10-11. Without objection, Senator Sackett was excused.

ENGROSSMENT

The following has been engrossed, signed by the President and Secretary and transmitted to the House:

CSSB 126 (FIN)

ADJOURNMENT

Senator Ray moved that the Senate adjourn until 10:00 a.m., March 4, 1983. Without objection, the Senate adjourned at 10:40 a.m.

Peggy Mulligan
Secretary of the Senate

March 1983

Offered: 3/3/83
Referred: Finance

Original sponsor: Rules/Legislative Council

IN THE SENATE BY THE JUDICIARY COMMITTEE

CS FOR SENATE BILL NO. 55 (Judiciary)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to collective bargaining; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 23.40.210 is amended by adding a new subsection to read:

(b) Before entering into an agreement between an organization and the state a proposed agreement approved by the organization and the state shall be submitted to the legislature for consideration of the monetary terms of the agreement. The proposed agreement shall be submitted to the legislature within 10 days after the agreement of the parties or 10 days after the convening of the next regular session. The agreement may take effect if the monetary terms of the agreement are not rejected by the legislature by concurrent resolution within 30 days after the agreement is submitted to the legislature.

* Sec. 2. This Act takes effect immediately in accordance with AS 01.-10.070(c).

Introduced: 1/18/83
Referred: State Affairs and Finance

BY THE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE COUNCIL (for the Blue Ribbon Commission on the State Personnel Act)

IN THE SENATE

SENATE BILL NO. 55

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to collective bargaining; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 23.40.210 is amended by adding a new subsection to read:

(b) When an agreement is entered into between an organization and the state, the agreement shall be submitted to the legislature within 10 days after the signing of the agreement by the parties or 10 days after the convening of the next regular session. The monetary terms of an agreement take effect if they are not rejected by the legislature by concurrent resolution within 30 days after the agreement is submitted to the legislature.

* Sec. 2. This Act takes effect immediately in accordance with AS 01.-10.070(c).

Alaska State Legislature

JUNEAU, ALASKA

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

Senator Bill Ray, Chairman

Pouch YG
Mail Stop 3123
Juneau, Alaska 99811
(907) 465-4442

MEMORANDUM

June 21, 1983

TO: House Labor & Commerce Committee

FROM: Teresa B. Cramer
Administrative Assistant

SUBJECT: CS for Senate Bill No. 55 (Rules)
Relating to Collective Bargaining

The Public Employment Relations Act provides that the monetary terms of any agreement entered into between the state and an employee representative are subject to funding through legislative appropriation. AS 23.40.215. The PERA does not set out a system of legislative review for the monetary terms. If the legislature is dissatisfied with the negotiated terms, there is no formal vehicle to explain to the parties to the agreement (the Administration and the employee union or association) the substance of the legislature's concerns. Therefore, the parties do not have a concrete set of limitations from which to work should they decide to renegotiate the original agreement. Furthermore, legislative delay and rejection of negotiated contracts has, in the past, led to the calling of a Special Session, which is an expensive way to resolve the issue.

The Blue Ribbon Commission recommends legislation to encourage legislative review of collective bargaining agreements early in the session. If the legislature is dissatisfied with the monetary terms, the parties may choose to renegotiate before the session adjourns with a clear understanding of the legislature's concerns.

Bill Analysis

Page 1
Line 9

The first section requires that the monetary terms of a collective bargaining agreement be submitted to the legislature within 10 days of agreement by the parties. If the parties reach an agreement while the legislature is not in session, then the monetary terms are to be submitted within 10 days of the convening of the next regular session. The legislature is given 60 days to consider the agreement and express its opinion by concurrent resolution.

Line 17 — Any approval given by the legislature is a "nonbinding, advisory expression of legislative intent." This language makes clear that the resolution does not take the place of an appropriation bill to fund the contract and permits the legislature to change its mind, should circumstances warrant.

Line 19 — If the legislature dissapproves the negotiated agreement, the parties may resume negotiations.

Line 23 — The second section adds a definition of "monetary terms of an agreement" to the Public Employment Relations Act to set out those items which are subject to legislative review.

Line 29 — The third section provides for an immediate effective date.

TBC:lmk

6/6/83 Senate Finance
Amendment adopted w/ onchange:

Mulcahy moves Version 1 w/ amendment
Josephson questions - recommends Version 2
Fauks recs (P) bc requires ~~Version 1~~ ppl to state objections
Adopted: Fisher, Fauks, Mulcahy
Passed w/ indiv recs

Version #1
Sofo
6/1/83

Original sponsor: Rules/Legislative Council

IN THE SENATE BY THE FINANCE COMMITTEE

CS FOR SENATE BILL NO. 55 (Finance)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to collective bargaining; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 23.40.215 is amended by adding a new subsection to read:

(b) The Department of Administration shall submit the monetary terms of an agreement to the legislature within 10 days after the agreement of the parties, if the legislature is in session, or within 10 days after the convening of the next regular session. If the legislature approves the monetary terms of the agreement, it shall advise the parties by concurrent resolution within 60 days after the agreement is submitted to the legislature. The approval of the monetary terms of an agreement under this subsection is a nonbinding, advisory expression of legislative intent. If within 60 days after the agreement is submitted the legislature does not advise the parties by concurrent resolution that it approves the monetary terms of the agreement, the parties may resume negotiations.

* Sec. 2. This Act takes effect immediately in accordance with AS 01.-10.070(c).

Adopted w/ amendment by Senate Finance June 6, 1983 -

In favor of this version: Fischer, Faiks, Mulcahy

Adopted as changed 6/6/83
by Senate Finance Committee

AMENDMENT

Offered in the Senate By V. Fischer

TO: CSSB 55 (Finance)

Page 1, following line 22, add a a new section 2:

* Sec. 2. AS 23.40.250 is amended by adding a new subsection to read:

(8) "Monetary terms of an agreement" means those changes in the terms ~~or~~ and conditions of employment resulting from an agreement that will require an appropriation for its implementation or will result in a change in state revenues or productive work hours for state employees.

Renumber subsequent section accordingly.

Version #2
Sofo
6/1/83

Mon 9 Senate Finance
def. of monetary terms

Original sponsor: Rules/Legislative Council

IN THE SENATE BY THE FINANCE COMMITTEE

CS FOR SENATE BILL NO. 55 (Finance)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to collective bargaining; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 23.40.215 is amended by adding a new subsection to read:

(b) The Department of Administration shall submit the monetary terms of an agreement to the legislature within 10 days after the agreement of the parties, if the legislature is in session, or within 10 days after the convening of the next regular session. Unless, within 60 days after the agreement is submitted, the legislature advises the parties by concurrent resolution that it will reject the monetary terms of the agreement, the monetary terms of the agreement are considered acceptable to the legislature. The approval or rejection of the monetary terms of an agreement under this subsection is a nonbinding, advisory expression of legislative intent. If the legislature advises the parties by concurrent resolution that it will reject the monetary terms of the agreement, the parties may resume negotiations.

* Sec. 2. This Act takes effect immediately in accordance with AS 01.-10.070(c).

Senator Vic Fischer
Alaska State Legislature
Pouch V • Juneau, Alaska 99811 • (907) 465-4954

MEMORANDUM

TO: Senate Finance Committee

FROM: Senator Vic Fischer

RE: CSSB 55 (Finance)

DATE: June 2, 1983

SB 55 was before the committee on May 19. The consensus of the committee, at that time, was to review committee substitutes to address constitutional and other problems.

Two CS versions of SB 55 are attached. Version 1 of CSSB 55 (Finance) follows the suggestion made by Senator Mulcahy that the legislature make a positive action to express agreement of the monetary terms. Version 2 of CSSB 55 (Finance) was drafted by the Department of Law at the request of Senator Ray, and follows more closely the original intent of the bill.

Both make some changes from the Judiciary CS. The substantive changes are:

a) In both proposed committee substitutes, the Department of Administration submits the monetary terms only after the agreement has been entered into; in the Judiciary version of SB 55, the monetary terms would be submitted to the legislature before the state and an organization entered into an agreement.

b) Both proposed committee substitutes add a sentence that legislative action taken by resolution on the monetary terms of an agreement is a non-binding advisory expression of legislative intent.

c) Both committee substitutes also change the period of time in which the legislature can act on the submitted terms from 30 to 60 days.

d) Both committee substitutes contain a provision enabling parties to resume negotiations if the monetary terms are not supported by the legislature.

The differences between the two proposed committee substitutes are:

a) Version 1 requires an approval by concurrent resolution to express that the monetary terms of an agreement are acceptable to the legislature (lines 14-17). In version 2, the monetary terms of the agreement shall be considered acceptable to the legislature, unless a concurrent resolution expressing rejection of the monetary terms of the agreement is passed (lines 14- 18).

b) Regarding negotiations, version 1 of the bill states that the parties may resume negotiations if the legislature does not pass a concurrent resolution approving the monetary terms of the agreement (lines 19-23). Version 2 of the bill states that the parties may resume negotiations if the legislature passes a concurrent resolution rejecting the monetary terms of the agreement (lines 20-23).

Sofo
5/19/83

From McCarty

Original sponsor: Rules/Legislative Council

IN THE SENATE BY THE FINANCE COMMITTEE

CS FOR SENATE BILL NO. 55 (Finance)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to collective bargaining; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

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(b) Before entering into an agreement between an organization and the state a proposed agreement approved by the organization and the state shall be submitted to the legislature for consideration of the monetary terms of the agreement. The proposed agreement shall be submitted to the legislature within 10 days after the agreement of the parties or 10 days after the convening of the next regular session. The agreement may take effect only if the monetary terms of the agreement are approved by the legislature by concurrent resolution within 60 days after the agreement is submitted to the legislature.

* Sec. 2. This Act takes effect immediately in accordance with AS 01.-10.070(c).

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

BILL SHEFFIELD, GOVERNOR

POUCH K – STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

MAY 23 1983

May 20, 1983

The Honorable Bill Ray
Senate
Alaska State Legislature
Pouch V
Juneau, AK 99811

Re: CSSB 55 -- collective bargaining
Our file no.: 377-103-83

Dear Senator Ray:

Attached please find a proposed substitute for CSSB 55 which does not raise the legal concerns identified in our letter of May 18, 1983. As you will note, the substitute provides for the prompt submission of the monetary terms of an agreement to the legislature. The legislature, acting in its advisory capacity, will be considered to approve the monetary terms, unless a contrary concurrent resolution is adopted within 30 days. Any action under this new review procedure does not disturb any legislatures prerogatives with respect to the funding of an agreement.

We apologize that the Department of Law did not provide you with a prepared substitute for SB 55 at an earlier date. If you have any questions, please feel free to call.

NORMAN C. GORSUCH
ATTORNEY GENERAL

By: Jonathan B. Rubini

Jonathan B. Rubini
Assistant Attorney General

JBR:jb

cc: Emil Notti
Legislative Assistant
Governor's Office

Eleanor Andrews
Deputy Commissioner -- Personnel Mgr.
Department of Administration

PROPOSED (Dept. of Law)

Offered: 3/3/83
Referred: Finance

Original sponsor: Rules/Legislative Council

IN THE SENATE BY THE JUDICIARY COMMITTEE

CS FOR SENATE BILL NO. 55 (Judiciary)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to collective bargaining; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

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(b) The Department of Administration shall submit the monetary terms of an agreement to the legislature within 10 days after the agreement of the parties, if the legislature is in session, or within 10 days after the convening of the next regular session. Unless, within 30 days after the agreement is submitted, the legislature advises the parties by concurrent resolution that it will reject the monetary terms of the agreement, the monetary terms of the agreement are considered acceptable to the legislature. The approval or rejection of the monetary terms of an agreement under this subsection is a non-binding, advisory expression of legislative intent. If the legislature advises the parties by concurrent resolution that it will reject the monetary terms of the agreement, the parties shall resume negotiations.

* Sec. 2. This Act takes effect immediately in accordance with AS 01.-10.070(c).

Thursday, May 26th

Senator Ray -

Two Committee Substitutes have been prepared for SB 55 - the collective bargaining bill. One comes from Jon Rubini of the Attorney General's office and has been sent to you already. The other was prepared at Senator Mulcahy's request. There are some problems with this second CS, the major one being that it provides that a collective bargaining agreement may take effect only if the monetary terms are approved by the legislature within 60 days of being submitted.

The problem with this approach is that, in fact, the legislature may fail to meet the 60-day deadline but still be willing to fund the agreements. This leaves employee representatives and the executive branch to second guess whether the legislature has serious disagreements with the terms proposed or whether there were timing problems which delayed legislative action. It ~~takes~~ reduces the pressure ~~to act off (the legislature)~~ on to make its views known promptly.

Should I talk with Senator Mulcahy's office about the CS he is proposing?

Jerry

Senate Finance Comm. Hearing
5/19/83 El. Andrews

Sep. of powers
If leg ≠ act → funding by default?
If litig regd, chaos till ct decis

If admin → "prop" agt, then leg appears to be in posture of neg. w/ unions

Sen Faiks: Admin neg. K & leg ≠ fund pay <? yes
legal ram? 1977/9 leg ≠ fund. Filed st
Ct ruled leg role fund or not fund.
Parties strike if wanted
CB good faith by all 3 – breakdn one seg → whole limbo
?- leg does not have to fund? (Correct)

EA: approp by default
Sen B: all parts of agt ...
EA: parties have can set eff. date for non-mon terms
(effective on passage of #)

Sen J: delay – all in limbo while Leg. dallies
EA: my limbo = litig. over legality of law
Sen J: What cd happen: Key comm. Chair wants K
effec, then Leg. bd even if disagrees
Sen F: poss w/ orig bill – CS says agit "may" take
Sen Faiks: mon terms ≠ take effect unless leg approps
Sen J: Letter of Intent

John Rubini

2Q C88355 - Not sure of answers, but prob. litig
Sen Fish - discuss for record

Accumulment by resolution
① ~~Failure to act approp~~

② Defacto approp: Failure to act but no approp leg might be compromising reviewd Kterms(?) during approp process

Sen Fischer rec - lay on table: return to bill file

Senator Vic Fischer
Alaska State Legislature
Pouch V • Juneau, Alaska 99811 • (907) 465-4954

MEMORANDUM

TO: Senate Finance Committee

FROM: Senator Vic Fischer

RE: CSSB 55 (Jud)

DATE: May 18, 1983

CSSB 55 (Jud) adds a new subsection to AS 23.40.210.

Section 1 Lines 9-16 states that when a proposed agreement is reached between an organization and the state, the agreement shall be submitted to the legislature within 10 days after agreement or 10 days after the convening of the legislative session for consideration of the monetary terms of the agreement.

Lines 17-19 state that the agreement may take effect if the monetary terms of the agreement are not rejected by concurrent resolution within 30 days after submission of the agreement to the legislature.

Section 2 provides for an immediate effective date.

SB 55 was waived to the Judiciary committee from the State Affairs committee because there seemed to be some problems with the bill that could best be taken care of in that committee. No senators in the Senate State Affairs Committee disagreed with the concept of the bill.

The Judiciary Committee adopted a Committee Substitute which called for a proposed agreement to be submitted to the legislature as opposed to a signed agreement as outlined in the original version of the bill.

I requested an opinion from the Attorney General for possible constitutional and other legal problems that might be associated with this bill. The opinion of May 18, 1983 is enclosed in your backup material. John Rubini from the Attorney General's office will be here to testify on these constitutional problems.

The Department of Administration position is also included in your backup. Also included in your backup is the original version of the bill.

Offered: 3/3/83
Referred: Finance

Original sponsor: Rules/Legislative Council

IN THE SENATE BY THE JUDICIARY COMMITTEE

CS FOR SENATE BILL NO. 55 (Judiciary)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

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* Sec. 2. This Act takes effect immediately in accordance with AS 01.-10.070(c).

FISCAL NOTE | Revision Date: March 29 , 1983

I. REQUEST
Bill/Resolution No.: CS SB 55 (Judiciary)
Title: See page 2
Sponsor: Judiciary committee
Requestor:

II. FISCAL DETAIL
Agency Affected: Adminstration
Program Category Affected: Cent ral Adm. Scvs
BRU, Program of Subprogram(s) Affected:
Labor Relations

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	0	0	0	0		
CAPITAL						
REVENUE	0	0	0	0		

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

N/A

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Guy Stringham
Division: Labor Relations
Phone: (907) 465-4044
Date: March 29, 1983

Approved by Commissioner: Lisa Rudd LSR
Department: ADMINISTRATION
Date: 4/7/83

istribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

3/8/83

/0324-01/BDGSF1

POSITION PAPER
CS SB 55 (Judiciary)

This bill would add a new subsection to the Public Employment Relations Act providing: 1) for submission of a "proposed" collective bargaining agreement which has been "approved by the organization and the State" to the Legislature within ten (10) days "after the agreement of the parties", or ten (10) days after the regular session convenes; 2) that the Legislature is to consider the agreement's monetary terms; 3) that if the Legislature does not reject the monetary terms of the agreement by concurrent resolution within thirty (30) days of the agreement's submission the agreement may take effect.

Amendments to this bill have so altered it as to cause us to withdraw our conditional support for the original version. That support was based upon a belief that the underlying objective of the bill was a worthy one, and was achievable with minor modifications to the bill's language. But the committee substitute places the original objective out of reach.

We have two major concerns with the present version of the bill. First, we believe that the legislature may by the provisions of the bill, be unduly restricting its own actions. Second, the bill now seems to involve the legislature in the actual collective bargaining process! We strongly oppose any requirement that the parties submit a "proposed" agreement to the legislature for approval before actually entering into the agreement. Since the legislature's role is to fund or not fund the monetary terms of the agreement, legislative involvement prior to actual agreement would be premature.

Prepared By:

Guy Stringham

Guy Stringham, Director
Division of Labor Relations

4/4/83
Date

Approved By:

Lisa Rudd

Lisa Rudd, Commissioner
Department of Administration

4/7/83
Date

7/0331-03-3/BDGSF1

COMMITTEE REPORT

SENATE

FURTHER: FINANCE

2/10/83

Date: 2/23/83

Mr. President:

The Committee on JUDICIARY has had SB 55

Relating to collective bargaining; eff. date

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[✓] replace with CS for SB 55 (Judiciary) [X] same title [ ] new title

and recommends

[✓] AND attaches a "Letter of Intent" [ ] New Fiscal Note

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING DO PASS

Bill Ray

Jack Josephson

[illegible]

[illegible]

MEMBERS HAVING OTHER RECOMMENDATIONS:

N/R - [illegible]

Bill Ray

CHAIRMAN

Senate Judiciary Committee

Letter of Intent on SB 55

Before an organization and the state may enter into an agreement, the agreement proposed to be entered into shall be submitted to the legislature for consideration of the monetary terms of the agreement. Submittal of the proposed agreement to the legislature shall occur within ten (10) days after the proposed agreement of the parties has been reached, or ten (10) days after the convening of the next regular session. The monetary terms of the proposed agreement take effect if they are not rejected by the legislature by concurrent resolution within thirty (3)0 days after the agreement is submitted to the legislature.

Bill Ray

Senator Bill Ray, Chairman

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K – STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

May 18, 1983

The Honorable Vic Fischer
Senator
Alaska State Legislature
Pouch V
Juneau, AK 99811

Re: CSSB 55 -- Collective bargaining agreements
Our file no.: 366-612-83

Dear Senator Fischer:

In your letter of May 18, 1983, you have asked whether the procedures proposed in CSSB 55 to effectuate approval of a collective bargaining agreement raise constitutional concerns. As we discussed below, the bill raises substantial constitutional questions and, as a consequence, will almost undoubtedly foster extensive litigation. In light of the limited time available for our response and the complexity of the matter, we limit our response to identifying the legal questions posed by CSSB 55.

As you know, present law provides that the monetary terms of an agreement do not take effect without legislative approval. AS 23.40.215. In practical application, monetary terms take effect only when an appropriation to fund the agreement is adopted. The effective dates of other provisions in an agreement are not, however, contingent on legislative review and approval. CSSB 55 proposes, in contrast, that monetary terms of an agreement would take effect unless the legislature adopts within 30 days a concurrent resolution which disapproves of the monetary terms. Further, the effective date for other items in the agreement would be contingent on the monetary terms taking effect through legislative inaction.

We first question whether CSSB 55 proposes a permissible exercise of legislative powers. The novel feature of the legislation is the significance of the legislature's failure to

act. In State v. A.L.I.V.E. Voluntary, 606 P.2d 769 (Alaska 1980), the Alaska Supreme Court considered the constitutionality of a statute, AS 44.62.320(a), which provided for the annullment of administrative regulations through adoption of a concurrent resolution. The Court observed that "[t]he Alaska Constitution defines with specificity the mechanics of legislation. Each provision has a purpose 'designed to engender a responsible legislative process worthy of the public trust.'" Id. at 772, quoting Plumley v. Hale, 594 P.2d 497, 500 (Alaska 1979). With respect to the regulation annullment procedure at issue, the court concluded that the adoption of a concurrent resolution was an impermissible method to exercise legislative power. Indeed, since CSSB 55 infers legislative action through an absence of action, the bill arguably exacerbates the procedural deficiencies identified at length in A.L.I.V.E. Voluntary. Further, the A.L.I.V.E. Voluntary court also noted that where the legislature acts through the adoption of a concurrent resolution, the governor is deprived of an opportunity to exercise a veto of the legislative action. That concern is equally applicable to the procedures established under CSSB 55.

The bill also raises substantial questions with respect to the appropriation process. Article 9, section 13 of the Alaska Constitution provides that "no money shall be withdrawn from the treasury except in accordance with appropriations made by law." Clearly, legislative inaction cannot suffice to permit the expenditure of public money without an appropriation. The bill, therefore, should not be construed to permit a "de facto appropriation" of public money to fund the agreement. And, if the monetary terms of an agreement became effective through legislative inaction, the terms of any outstanding appropriations would be determinative of whether the executive branch had authority to expend public money to fund the agreement. Of course, as a practical matter the use of a preexisting appropriation may require the dismissal of public employees to provide sufficient money to fund the agreement. A related, and more difficult problem is that once the monetary terms are effective, contractual obligations are established. We cannot opine with any certainty what ramifications would follow were the state in the difficult posture of being subject to contractural obligations, yet without the requisite appropriation to enable the expenditure of public money. We note that it is arguable that the legislature's continuing obligation to fund the monetary terms of an agreement pursuant to AS 23.40.215 may, ultimately, be compromised in this instance.

If you have any further questions on this matter, please feel free to call.

NORMAN C. GORSUCH
ATTORNEY GENERAL

By: Jonathan B. Rubini

Jonathan B. Rubini
Assistant Attorney General

JBR:jb

cc: Honorable Bill Ray
Alaska State Legislature

Eleanor Andrews, Deputy Commissioner
Department of Administration

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILE 8672
1372 SCOMM 51: BLUE RIBBON COMN. ON STATE PERSONNEL ACT 1978-1983

Introduced: 1/18/83
Referred: State Affairs and Finance

BY THE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE COUNCIL (for the Blue Ribbon Commission on the State Personnel Act)

IN THE SENATE

SENATE BILL NO. 55

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to collective bargaining; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 23.40.210 is amended by adding a new subsection to read:

(b) When an agreement is entered into between an organization and the state, the agreement shall be submitted to the legislature within 10 days after the signing of the agreement by the parties or 10 days after the convening of the next regular session. The monetary terms of an agreement take effect if they are not rejected by the legislature by concurrent resolution within 30 days after the agreement is submitted to the legislature.

* Sec. 2. This Act takes effect immediately in accordance with AS 01.-10.070(c).

MF

STATE OF ALASKA
FISCAL NOTE

Revision Date: March 29 , 1983

I. REQUEST
Bill/Resolution No.: CS SB 55 (Judiciary)
Title: See page 2
Sponsor: Judiciary committee
Requestor:

II. FISCAL DETAIL
Agency Affected: Adminstration
Program Category Affected: Cent ral Adm. Scvs
BRU, Program of Subprogram(s) Affected:
Labor Relations

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	0	0	0	0		
CAPITAL						
REVENUE	0	0	0	0		

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

N/A

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Lucy Monighan
Division: Labor Relations
Phone: (907) 465-4044
Date: March 29, 1983

Approved by Commissioner: Lisa Rudd
Department: ADMINISTRATION
Date: 4/7/83

Distribution:
Original to Legislative Finance
Copy to Office of Management and Budget (for Legislature introduced bills)
Copy to Department (for Governor introduced bills)
Copy to Sponsor
Copy to Requestor (if different from Sponsor)

3/8/83

/0324-01/BDGSF1

Alaska State Legislature

JUNEAU, ALASKA

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

Senator Bill Ray, Chairman

Pouch YG
Mail Stop 3123
Juneau, Alaska 99811
(907) 465-4442

MEMORANDUM

March 3, 1983

TO: Senate Finance Committee

FROM: Teresa B. Cramer Teresa B Cramer
Administrative Assistant

SUBJECT: CS SB 55 (Judiciary) - Collective Bargaining

The Public Employment Relations Act provides that the monetary terms of any agreement entered into between the state and an employee representative are subject to funding through legislative appropriation. AS 23.40.215. The Act does not set out how the legislative review should occur.

The Blue Ribbon Commission has discussed the problems which can arise if the Legislature fails to act expeditiously on collective bargaining agreements submitted to it. Delay followed by legislative rejection can preclude the parties from completing any renegotiations before the Legislature adjourns. There would then be no funding for the new agreement and the Legislature might have to convene in special session, an expensive alternative.

The commission recommends that legislation be adopted to encourage prompt legislative review of collective bargaining agreements.

Bill Analysis

Page 1 Line 9 — The first section of the bill requires that proposed agreements be submitted to the Legislature within 10 days after the parties have agreed for consideration of the monetary terms. The Legislature then has 30 days to review those terms.

Line 17 — If the Legislature finds the terms unacceptable, then it may reject the agreement by concurrent resolution. If the Legislature fails to act within 30 days, then the contracts will be considered to have legislative approval. The proposed legislation does not address the introduction or passage of an appropriation bill funding the agreements.

Line 20 — The second section of the bill contains an immediate effective date clause.

TBC:lmk

Alaska State Legislature

JUNEAU, ALASKA

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

Senator Bill Ray, Chairman

Pouch YG
Mail Stop 3123
Juneau, Alaska 99811
(907) 465-4442

MEMORANDUM

January 25, 1983

TO: Senate State Affairs Committee

FROM: Teresa B. Cramer
Administrative Assistant

SUBJECT: Senate Bill 55 - Collective Bargaining

The Public Employment Relations Act provides that the monetary terms of any agreement entered into between the state and an employee representative are subject to funding through legislative appropriation. AS 23.40.215. The Act does not set out how the legislative review should occur.

The Blue Ribbon Commission has discussed the problems which can arise if the Legislature fails to act expeditiously on collective bargaining agreements submitted to it. Delay followed by legislative rejection can preclude the parties from completing any renegotiations before the Legislature adjourns. There would then be no funding for the new agreement and the Legislature might have to convene in special session, an expensive alternative.

The commission recommends that legislation be adopted which would encourage prompt legislative review of collective bargaining agreements.

Bill Analysis

Page 1
Line 9 — The first section of the proposed legislation requires that negotiated agreements be submitted to the Legislature within 10 days of signing by the parties and that the Legislature have 30 days to review the monetary terms. If the Legislature finds the terms unacceptable, then it may reject the agreement by concurrent resolution. If the Legislature fails to act within 30 days, then the contracts will be considered to have legislative approval. The proposed legislation does not address the introduction or passage of an appropriation bill funding the agreements.

Line 18 — The second section of the bill contains an immediate effective date clause.

2/17/83

APEA:

Cherie Shelley, Executive Director
Darlene Livermore, Director of Field Operations

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340 North Franklin Street
Juneau, AK 99801
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CEA:

Lynda McCurry, President

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IHM #5/1/LRFL

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LRA:

C. R. "Steve" Hafling

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MEBA:

Stephen Franks, Branch Agent
Karl Landegrebe, Patrolman

NATIONAL MARINE ENGINEERS BENEFICIAL ASSOCIATION
DISTRICT #1 - PACIFIC COAST DISTRICT
2701 First Avenue
Seattle, WA 98121
Ph: (206) 622-0842

MM&P: J.E. Fischnaller (Gen. Counsel)

Captain David Boyle, Regional Director

INTERNATIONAL ORGANIZATION OF MASTERS, MATES & PILOTS
BRANCH #6, PACIFIC MARITIME REGION
55 Bell Street
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IHM #5/2/LRFL

FMCS:

Director of Arbitration Services

FEDERAL MEDIATION & CONCILIATION SERVICE
2100 "K" Street, N.W., 65th Floor
Washington, D.C. 20427

FEDERAL MEDIATION & CONCILIATION SERVICE
P.O. Box 8
Federal Building & U.S. Court House
701 "C" Street
Anchorage, AK 99513

MEMORANDUM

November 9, 1982

TO: Tom Sofo, Legislative Counsel

FROM: Teresa B. Cramer
Administrative Assistant

SUBJECT: Work Draft 13-0040
Relating to Collective Bargaining

Enclosed is a copy of the collective bargaining bill with the amendments made by the commission at its last meeting. Could you send me a final work draft for the commission's review?

Thanks.

TBC:lmk
Enclosure

13-0040
Sofo
11-29-82

BY THE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE COUNCIL (for the Blue Ribbon Commission on the State Personnel Act)

IN THE SENATE

SENATE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to collective bargaining; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 23.40.210 is amended by adding a new subsection to read:

(b) When an agreement is entered into between an organization and the state, the agreement shall be submitted to the legislature within 10 days after the signing of the agreement by the parties or 10 days after the convening of the next regular session, whichever is later. The monetary terms of an agreement shall take effect if they are not rejected by the legislature by concurrent resolution within 30 days after the agreement is submitted to the legislature.

* Sec. 2. This Act takes effect immediately in accordance with AS 01.-10.070(c).

LA-L 20A

13-0040
Sofo
11-29-82

BY THE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE COUNCIL (for the Blue Ribbon Commission on the State Personnel Act)

IN THE SENATE

SENATE BILL NO.

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* Sec. 2. This Act takes effect immediately in accordance with AS 01.-10.070(c).

LA-L 20A

13-0040
Sofo
11/5/82

Amended at Blue Ribbon Com'n meeting 11/9/82 as noted below.

BY THE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE COUNCIL (for the Blue Ribbon Commission on the State Personnel Act)

IN THE SENATE

SENATE BILL NO.

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(b) When an agreement is entered into between an organization and the state, the agreement shall be submitted to the legislature within 10 days after signing by the parties or ~~30 days after the~~ convening of the next regular session. ~~The legislature has 30 days to accept or reject the monetary terms of an agreement submitted under this subsection~~. The monetary terms of an agreement shall take effect if they are not rejected by the legislature by concurrent resolution within 30 days after the agreement is submitted to the legislature.

* Sec. 2. This Act takes effect immediately in accordance with AS 01.10.070(c).

13-0040
Sofo
11/5/82

BY THE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE COUNCIL (for the Blue Ribbon Commission on the State Personnel Act)

IN THE SENATE

SENATE BILL NO.

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* Sec. 2. This Act takes effect immediately in accordance with AS 01.10.070(c).

13-0040
Sofo
10-27-82

BY THE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE COUNCIL (for the Blue Ribbon Commission on the State Personnel Act)

IN THE SENATE

SENATE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

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* Sec. 2. This Act takes effect immediately in accordance with AS 01.10.070(c).

10/12/82

BY THE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE COUNCIL (for the Blue Ribbon Commission on the State Personnel Act)

IN THE SENATE

SENATE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to collective bargaining; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 23.40.210 is amended by adding a new subsection to read:

(b) When an agreement is entered into between an organization and the state, the agreement shall be submitted to the legislature within 60 days after the convening of the next regular session. The legislature has 60 days to accept or reject the monetary terms of an agreement submitted under this subsection. The monetary terms of an agreement shall take effect unless rejected by the legislature by concurrent resolution within 60 days after the agreement is submitted to the legislature.

* Sec. 2. This Act takes effect immediately in accordance with AS 01.10.070(c).

13-0040
Sofo
9.17

BY THE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE COUNCIL (for the Blue Ribbon Commission on the State Personnel Act)

IN THE SENATE

SENATE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE -- FIRST SESSION

A BILL

For an Act entitled: "An Act relating to collective bargaining; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 23.40.210 is amended by adding a new subsection to read:

(b) When an agreement is entered into between an organization and the state, the agreement shall be submitted to the legislature within 30 days after the convening of the next regular session for approval of the monetary terms by appropriation or for rejection by concurrent resolution. The legislature may not adjourn a regular session until it has accepted or rejected the monetary terms of an agreement submitted under this subsection. The monetary terms of an agreement may not take effect unless approved by appropriation by the legislature as provided in this subsection.

* Sec. 2. AS 23.40.215 is amended by adding a new subsection to read:

(b) If the monetary terms of an agreement for more than one year are approved by an appropriation and the agreement does not provide for reopening and negotiating adjustments in those monetary terms during the life of the agreement, the appropriation shall be for the entire cost of the monetary terms, to be expended in successive fiscal years in accordance with those terms, over the life of the agreement, and its enactment shall constitute a contract by the state not to repeal or diminish the appropriation during the life of the agreement.

* Sec. 3. This Act takes effect immediately in accordance with AS 01.10.-070(c).

Offered: 5/18/82
Adopted: 5/19/82
Journal pg 1471-3

person who (1) has broad and varied experience in the conduct of human affairs, (2) resides in the affected school district, and (3) is not at the time of selection employed in a position that requires direct participation in labor-management relations. Within three days of the date designated for submission of names under this subsection the organization and the board shall each notify the arbitrator if it accepts the person selected by the other party. If the parties agree, the persons selected shall serve on the board described in (a) of this section. If the organization and the board do not agree within three days on the members selected, the arbitrator shall request each party to submit to the labor relations agency a list consisting of not less than three nor more than five persons who meet the criteria set out in (1), (2), and (3) of this subsection. From each list submitted to the labor relations agency, the agency shall promptly choose one person who shall serve on the board described in (a) of this section.

(e) An arbitration board is entitled to compensation by the parties for its services as follows:

(1) public members shall receive per diem and travel allowances as provided by law for members of state boards and commissions;

(2) the professional arbitrator serving as chairperson shall be compensated on terms that the parties determine to represent fair value for such professional services.

* Sec. 13. AS 23.40.210 is amended by adding a new subsection to read:

(b) When an agreement is entered into between an organization and the state, the agreement shall be submitted to the legislature within 60 days after convening of a regular session. The legislature shall have 60 days to accept or reject the monetary terms of an agreement submitted under this subsection. The monetary terms of an agreement shall take effect unless rejected by the legislature by concurrent

resolution within the 60-day limitation as provided above.

* Sec. 14. AS 23.40.250(1) is amended to read:

(1) "collective bargaining" means the performance of the mutual obligation of the public employer or his designated representatives and the representative of the employees to meet at reasonable times, including meetings in advance of the budget making process and negotiate in good faith with respect to wages, hours and other terms and conditions of employment, or, for employees who are teachers, to negotiate in good faith with respect to matters pertaining to the employment and the fulfillment of the professional duties of teachers, or the negotiation of an agreement, or negotiation of a question arising under an agreement and the execution of a written contract incorporating an agreement reached if requested by either party, but these obligations do not compel either party to agree to a proposal or require the making of a concession;

* Sec. 15. AS 23.40.250(5) is amended to read:

(5) "public employee" means any employee of a public employer, whether or not in the classified service of the public employer, except elected or appointed officials or administrative employees of school boards [TEACHERS] or noncertificated employees of school districts;

* Sec. 16. AS 23.40.250(6) is amended to read:

(6) "public employer" means the state or a political subdivision of the state, including without limitation, a [TOWN,] city, borough, district, board of regents, city, borough, or regional school board, public and quasi-public corporation, housing authority or other authority established by law, and a person designated by the public employer to act in its interest in dealing with public employees;

* Sec. 17. AS 23.40.250 is amended by adding new paragraphs to read:

(8) "district" means a district as defined by AS 14.12.010;

HJR 71 cont'd

Senator Rodey moved and asked unanimous consent that CS FOR HOUSE JOINT RESOLUTION NO. 71 (SA) be held one legislative day. Senator Colletta objected, then withdrew his objection. There being no further objection, the resolution will appear on the May 20 calendar in second reading.

UNFINISHED BUSINESS

SB 668

Senator Ray requested that the reconsideration on CS FOR SENATE BILL NO. 668 (RLS) be taken up at this time.

SENATE BILLS IN THIRD READING

CS FOR SENATE BILL NO. 668 (RLS) (relating to public employees subject to collective bargaining) was before the Senate at this time on reconsideration.

Senator Ray moved and asked unanimous consent that CS FOR SENATE BILL NO. 668 (RLS) be returned to second reading for the purpose of a specific amendment. Without objection, it was so ordered.

Senator Ray offered the following amendment No. 2:

Page 9, line 23: Insert new Section 13 as follows:

*Sec. 13. AS 23.40.210 is amended by adding a new subsection to read:

(b) When an agreement is entered into between an organization and the state, the agreement shall be submitted to the legislature within 60 days after convening of a regular session. The legislature shall have 60 days to accept or reject the monetary terms of an agreement submitted under this subsection. The monetary terms of an agreement shall take effect unless rejected by the legislature by concurrent resolution within the 60-day limitation as provided above.

renumber accordingly

Senator Ray moved and asked unanimous consent for the adoption of amendment No. 2. Senator Dankworth objected.

SB 668 cont'd

Senator Colletta offered the following amendment to amendment No. 2:

delete the last sentence of amendment No. 2

Senator Colletta moved and asked unanimous consent for the adoption of the amendment to amendment No. 2. Senator Parr objected.

The question being: "Shall amendment to amendment No. 2 be adopted?" The roll was taken with the following result:

CSSB 668 RLS AM TO AM

Yeas:	10	Bennett, Bradley, Colletta, Dankworth, Eliason, Fahrenkamp, Kelly, Kerttula, Mulcahy, Ziegler
Nays:	10	Anderson, Ferguson, Fischer, Gilman, Parr, Ray, Rodey, Sackett, Stimson, Sturgulewski

and so, amendment to amendment No. 2 was not adopted.

The question now being: "Shall amendment No. 2 be adopted?" The roll was taken with the following result:

CSSB 668 RLS AM NO 2

Yeas:	13	Anderson, Bennett, Bradley, Colletta, Fahrenkamp, Ferguson, Fischer, Gilman, Kerttula, Ray, Rodey, Sackett, Stimson
Nays:	7	Dankworth, Eliason, Kelly, Mulcahy, Parr, Sturgulewski, Ziegler

and so, amendment No. 2 was adopted.

Senator Rodey moved and asked unanimous consent that CS FOR SENATE BILL NO. 668 (RLS) am be considered engrossed, advanced to third reading and placed on final passage. Without objection, it was so ordered.

CS FOR SENATE BILL NO. 668 (RLS) am was read the third time.

SB 668 cont'd

The question to be reconsidered is: "Shall CS FOR SENATE BILL NO. 668 (RLS) am (relating to public employees subject to collective bargaining) pass the Senate?" The roll was taken with the following result:

CSSB 668 AM 3RD

Yeas:	14	Bennett, Bradley, Colletta, Eliason, Fahrenkamp, Fischer, Kelly, Kerttula, Mulcahy, Parr, Ray, Rodey, Stimson, Sturgulewski
Nays:	6	Anderson, Dankworth, Ferguson, Gilman, Sackett, Ziegler

and so, CS FOR SENATE BILL NO. 668 (RLS) am with a Senate Letter of Intent passed the Senate on reconsideration and was referred to the Secretary for engrossment.

SB 666

A memorandum to President Kerttula from Senator Rodey follows:

"The Conference Committee considered SENATE BILL NO. 666 (mining loan fund (AS 17.09); eff. date) and HOUSE CS FOR SENATE BILL NO. 666 (FIN) am H (certain state loan programs; eff. date) requests an addition to the limited powers of free conference:

"Shall the language under the veterans loans (AS 26.15) be modified?"

President Kerttula granted the limited powers of free conference to the Conference Committee on the above addition.

The Secretary was requested to notify the House.

HB 2, HB 159, HJR 41

Senator Bennett, Co-Chairman of the Finance Committee, moved and asked unanimous consent that the Finance Committee referrals on the following bills and resolution be waived:

CS FOR HOUSE BILL NO. 2 (FIN) am (relating to land)

CS FOR HOUSE BILL NO. 159 (FIN) (workers' compensation)

HJR 12

Senator Kelly moved and asked unanimous consent to advance to Unfinished Business. Without objection, the Senate advanced to:

UNFINISHED BUSINESS

Senator Kelly moved and asked unanimous consent that the Senate rescind it previous action in failing SENATE CS FOR CS FOR HOUSE JOINT RESOLUTION NO. 12 (TRSP)am S (proposing an amendment to the Constitution of the State of Alaska providing a method for limiting the length of regular sessions of the legislature).

Senator Kelly moved and asked unanimous consent to withdraw his motion. The President stated that the resolution will be held on the Secretary's desk.

The Senate reverted to:

CONSIDERATION OF THE CALENDAR

SECOND READING OF SENATE BILLS

SB 668

SENATE BILL NO. 668 (relating to the resolution of impasses in public employee collective bargaining) which had been placed at the bottom of today's calendar was read the second time.

Senator Kelly moved and asked unanimous consent for the adoption of the Rules Committee Substitute offered on page 1424. Without objection, CS FOR SENATE BILL NO. 668 (RLS) (relating to public employees subject to collective bargaining) was adopted.

CS FOR SENATE BILL NO. 668 (RLS) was read the second time.

Senator Ray offered the following amendment No. 1:

Page 9, line 23: insert new Section 13 and 14 as follows:

*Section 13. AS 23.40.210 is amended by adding a new subsection to read:

(b) When an agreement is entered into between an organization and the state, the agreement shall be submitted to the legislature within 60 days after convening of a

SB 668

regular session for approval of the monetary terms by appropriation or for rejection by concurrent resolution. The legislature may not adjourn a regular session until it has accepted or rejected the monetary terms of the agreement submitted under this subsection. The monetary terms of an agreement may not take effect unless approved by appropriation by the legislature as provided in this subsection.

*Sec. 14. AS 23.40.215 is amended by adding a new subsection to read:

(b) When the monetary terms of an agreement for more than one year are approved by an appropriation and the agreement makes no provision for reopening and negotiating adjustments in those monetary terms during the life of the agreement, the appropriation shall be for the entire cost of the monetary terms to be expended in successive fiscal years in accordance with those terms over the life of the agreement, and its enactment shall constitute a contract by the state not to repeal or diminish the appropriation during the life of the agreement.

renumber accordingly

Senator Ray moved and asked unanimous consent that the question be divided. Without objection, it was so ordered.

Senator Kelly offered the following amendment to amendment No. 1, Part I (that material pertaining to Section 13).

Delete "The legislature may not adjourn a regular session until it has accepted or rejected the monetary terms of an agreement submitted under this subsection."

Senator Ferguson moved and asked unanimous consent that CS FOR SENATE BILL NO. 668 (RLS) be held one legislative day. Senator Fischer objected.

Senator Kelly moved and asked unanimous consent to withdraw his amendment to amendment No. 1, Part I. Without objection, it was so ordered.

Senator Ray offered the following 2nd amendment to amendment No. 1, Part I.

SB 668 cont'd

On Section 13 delete "The legislature may not adjourn a regular session until is has accepted or rejected the monetary terms of an agreement submitted under this subsection" insert:

"The legislature shall have 60 days to accept or reject the monetary terms of an agreement under this subsection".

Senator Ray moved the 2nd amendment to amendment No. 1, Part I. Senator Bennett asked unanimous consent. Senators Sturgulewski and Ziegler objected.

The question being: "Shall the 2nd amendment to amendment No. 1, Part I be adopted?" The roll was taken with the following result:

CSSB 668 AM TO AM 1 PT 1

Yeas:	13	Anderson, Bennett, Bradley, Colletta, Dankworth, Kelly, Kerttula, Mulcahy, Parr, Ray, Rodey, Sackett, Stimson
Nays:	7	Eliason, Fahrenkamp, Ferguson, Fischer, Gilman, Sturgulewski, Ziegler

and so, the 2nd amendment to amendment No. 1. Part I was adopted.

The question now being: Shall Part I of amendment No. 1 as amended be adopted?" The roll was taken with the following result:

CSSB 668 PT 1 AM 1

Yeas:	9	Anderson, Bennett, Dankworth, Fahrenkamp, Parr, Ray, Rodey, Sackett, Stimson
Nays:	11	Bradley, Colletta, Eliason, Ferguson, Fischer, Gilman, Kelly, Kerttula, Mulcahy, Sturgulewski, Ziegler

and so, Part I of amendment No. 1 as amended was not adopted.

Senator Ray moved and asked unanimous consent to withdraw Part II of amendment No. 1. Without objection, it was so ordered.

SB 668 cont'd

Senator Rodey moved and asked unanimous consent that CS FOR SENATE BILL NO. 668 (RLS) be considered engrossed, advanced to third reading and placed on final passage. Without objection, it was so ordered.

Senator Gilman moved and asked unanimous consent that the Rules Letter of Intent offered on page 1424 be adopted as a Senate Letter of Intent. Without objection, the Letter of Intent was adopted as a Senate Letter of Intent.

The question being: "Shall CS FOR SENATE BILL NO. 668 (RLS) (relating to public employees subject to collective bargaining) pass the Senate?" The roll was taken with the following result:

CSSB 668 3RD

Yeas:	13	Bennett, Bradley, Colletta, Eliason, Fahrenkamp, Fischer, Kelly, Kerttula, Mulcahy, Parr, Rodey, Stimson, Sturgulewski
Nays:	7	Anderson, Dankworth, Ferguson, Gilman, Ray, Sackett, Ziegler

and so, CS FOR SENATE BILL NO. 668 (RLS) passed the Senate with a Senate Letter of Intent.

Senator Rodey gave notice of reconsideration on CS FOR SENATE BILL NO. 668 (RLS) and moved and asked unanimous consent that the Rules be suspended and the bill be taken up at this time. Senators Gilman and Sackett objected.

Senator Rodey gave notice of reconsideration on CS FOR SENATE BILL NO. 668 (RLS).

CITATIONS

Senator Rodey moved and asked unanimous consent for the approval of the Citation - Honoring Dave Knapp by Representatives Grussendorf and Montgomery and Senators Eliason, Fischer and Sturgulewski. Without objection, the Citation was approved and referred to the Secretary.

1st Reading Hs - pg 1968

Referral: HESS & Fin

HESS Report pg 229 5/29/82

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

02-519 (REV 8/78)

SCOMM

#51:18

July 1, 1983

SB 56: Nepotism in state employment

History - IN THE SENATE

State Affairs: There is no history. The bill had no hearings.

Note: This bill is unlikely to move, partly because Nancy Groshek, Sen. Vic Fischer's aide, does not believe in nepotism restructions.

Companion bill: HB 49 began as the companion bill to SB 56. It had hearings in State Affairs (which adopted a committee substitute) and in Judiciary. See notes and back-up information in that file if the Senate version ever moves.

Introduced: 1/18/83
Referred: State Affairs and Judiciary

BY THE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE COUNCIL (for the Blue Ribbon Commission on the State Personnel Act)

IN THE SENATE

SENATE BILL NO. 56

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to nepotism in state employment; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 39.10.010 is repealed and reenacted to read:

Sec. 39.10.010. NEPOTISM PROHIBITED. (a) A person may not be appointed to a position in a state department or agency, whether in the legislative, judicial, or executive branch, if that person is the spouse of or is related by blood or marriage within and including the second degree of kindred to the commissioner or a deputy or assistant commissioner of the principal department, or to the executive head of the agency.

(b) A person may not be appointed to a position in a division of a state department or agency, whether in the legislative, judicial, or executive branch, if that person is the spouse of, or is related by blood or marriage within and including the second degree of kindred to, the executive head of the division.

(c) A person may not be appointed to a position in a state department or agency in the executive branch, if that person is the spouse of, or is related by blood or marriage within and including the second degree of kindred to, an employee in the department or agency unless the director of personnel and the appointing authority approve the appointment in writing. An appointment prohibited by (a) or (b) of this section may not be approved under this subsection.

* Sec. 2. This Act takes effect immediately in accordance with

AS 01.10.070(c).

Introduced: 1/18/83
Referred: State Affairs and Judiciary

BY THE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE COUNCIL (for the Blue Ribbon Commission on the State Personnel A t)

IN THE SENATE

SENATE BILL NO. 56

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to nepotism in state employment; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 39.10.010 is repealed and reenacted to read:

Sec. 39.10.010. NEPOTISM PROHIBITED. (a) A person may not be appointed to a position in a state department or agency, whether in the legislative, judicial, or executive branch, if that person is the spouse of or is related by blood or marriage within and including the second degree of kindred to the commissioner or a deputy or assistant commissioner of the principal department, or to the executive head of the agency.

(b) A person may not be appointed to a position in a division of a state department or agency, whether in the legislative, judicial, or executive branch, if that person is the spouse of, or is related by blood or marriage within and including the second degree of kindred to, the executive head of the division.

(c) A person may not be appointed to a position in a state department or agency in the executive branch, if that person is the spouse of, or is related by blood or marriage within and including the second degree of kindred to, an employee in the department or agency unless the director of personnel and the appointing authority approve the appointment in writing. An appointment prohibited by (a) or (b) of this section may not be approved under this subsection.

* Sec. 2. This Act takes effect immediately in accordance with

1 AS 01.10.070(c).

Alaska State Legislature

JUNEAU, ALASKA

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

Senator Bill Ray, Chairman

Pouch YG
Mail Stop 3123
Juneau, Alaska 99811
(907) 465-4442

MEMORANDUM

January 25, 1983

TO: Senate State Affairs Committee

FROM: Teresa B. Cramer TeresaBCramer
Administrative Assistant

SUBJECT: Senate Bill 56 - Nepotism in State Government

The existing statute prohibiting nepotism in state employment forbids only the employment of anyone related to the executive head of a department or agency. AS 39.10.010. The Personnel Rule is more extensive, prohibiting the employment of relatives of the head of a division or subdivision within that division or subdivision. In addition, the Rule prohibits the employment of two related persons in the same agency unless express approval is given by both the appointing authority and the Director of Personnel.

The scope of the Personnel Rule is broader than the statutory authority granted in AS 39.10.010. In addition, the rule-making authority given to the Personnel Board by the State Personnel Act may not extend to nepotism, since the nepotism statute is placed outside the Act. The Attorney General has advised the Division of Personnel that the nepotism rule may exceed the scope of statutory authority. A lawsuit has been filed challenging the Department of Transportation's implementation of nepotism prohibitions.

The Blue Ribbon Commission recommends that legislation prohibiting nepotism in state employment be adopted to provide statutory authority for the Personnel Rule. The prohibition against employing relatives does limit the opportunities for some Alaskans to find state jobs. The disadvantage to those people should be weighed against the appearance of impropriety and favoritism which is created by people working for a close relative. Problems can also arise if relatives are working in the same office so it is appropriate that the hiring decision be scrutinized with the potential for personnel problems in mind.

Bill Analysis

Page 1
Line 9 The first section of the proposed legislation codifies the Personnel Rule. The first paragraph retains the existing nepotism prohibition and extends it to include relatives of

deputy or assistant commissioners. The prohibition against employing a person related to the executive head of an agency applies to all legislative, judicial and executive branch agencies.

Line 17 The second paragraph adds new langage based on the Personnel Rule to prohibit appointment of a relative of the head of a division within that division. It applies to positions in the legislative, judicial or executive branch.

Line 22 The third paragraph prohibits employment of two relatives within the same executive branch department or agency unless the appointing authority and the Director of Personnel approve the second appointment in writing.

In each of the paragraphs, relatives include spouses and persons within the "second degree of kindred", which the Personnel Rules define as:

> father, mother, son, daughter, brother, sister, husband, wife, grandfather, grandmother, grandson, granddaughter, uncle and aunt including those involving half or step relationships.

Line 29 The second section of the proposed legislation provides for an immediate effective date.

Alaska State Legislature

JUNEAU, ALASKA

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

Senator Bill Ray, Chairman

Pouch YG
Mail Stop 3123
Juneau, Alaska 99811
(907) 465-4442

MEMORANDUM

December 14, 1982

TO: Members of the Blue Ribbon Commission

FROM: Teresa B. Cramer
Administrative Assistant

SUBJECT: Nepotism Regulations

I received a telephone call from a state employee concerning the effect of nepotism regulations. She reported that a man wanted to work for the Juneau Job Service Office but was told that he could not while his niece by marriage was employed there as a secretary. She had recently moved to Juneau and he had met her only a few weeks before. The niece found another secretarial position so he was hired. There would not have been a direct supervisory relationship between the man and his niece. The caller also said that she had thought of transferring from Juneau to Ketchikan but that she could not because her sister-in-law already worked in the Job Service Office there. She did not believe their personal relationship would have affected their work.

The Personnel Rules permit the departmental appointing authority and the Director of Personnel to waive the prohibition in these situations. Apparently the Job Service Center policy was against requesting nepotism waivers.

She has observed, however, that personal relationships can cause employee problems. A person and his mistress were employed in an office where she worked and when they were having a quarrel outside work it affected their behavior at work and caused tension in the whole office. Nepotism regulations do not address this situation at all.

TBC:lmk

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 Swick
Signature of Camera Operator

12/15/89
Date

02-519 (REV 8/78)

SCOMM

#51:19

July 6, 1983

CSSB 57: Limiting the adjustment of retirement benefits

History - IN THE SENATE

State Affairs	Hearings 2/8 & 4/19. Committee Substitute adopted at later meeting. Bill passed out of committee 4/26. Committee Substitute makes some technical language changes and adds a new paragraph providing that overpayments will be waived only if the members had no reasonable grounds to believe that the benefit paid was in error (i.e. a letter saying the benefit amount would be at one level and then a check for a different (and larger) amount.) See my memo to Senator Ray dated March 7 for a detailed listing of the changes.
FLOOR	5/5/83 - passed the Senate 19-0-1. Reconsideration (from Senator Halford) not taken up.

IN THE HOUSE

State Affairs	Hearing 5/13/83. Passed out with individual recommendations - hearing was originally scheduled for the House version of the bill (HB 51) and the committee added this bill at the last minute. I have not done a memo on the CS.
Rules	Referred to Rules on 5/17. Someone should probably prepare a short explanation of the bill for use by whoever carries the bill on the floor (if it gets to the floor).

Companion bill: HB 51 remains in House State Affairs and should be inactive since this bill moved.

Offered: 4/26/83
Referred: Rules

Original sponsor: Rules/Legislative Council

IN THE SENATE BY THE STATE AFFAIRS COMMITTEE

CS FOR SENATE BILL NO. 57 (State Affairs)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act limiting the adjustment of retirement benefits; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 14.25.173 is amended by adding new subsections to read:

(b) An adjustment that requires the recovery of benefits may not be made under this section if

(1) the incorrect benefit was first paid two years or more before the member or beneficiary was notified of the error;

(2) the error was not the result of erroneous information supplied by the member or beneficiary; and

(3) the member or beneficiary did not have reasonable grounds to believe that the amount of the benefit was in error.

(c) At each regularly scheduled meeting of the Teachers' Retirement Board, the administrator shall report to the board on all situations since the administrator's last report in which an adjustment has been prohibited under (b) of this section. If the board finds that there is reason to believe that one or more of the conditions set out in (b) of this section have not been met, the administrator shall notify the member or beneficiary that an adjustment will be made to recover the overpayment. A member or beneficiary who receives notice of adjustment under this subsection may appeal to the board for a waiver of the adjustment under AS 14.25.175. An adjustment that requires the repayment of benefits may not be required while the appeal is pending.

* Sec. 2. AS 39.35.520 is amended by adding new subsections to read:

(b) An adjustment that requires the recovery of benefits may not be made under this section if

(1) the incorrect benefit was first paid two years or more before the member or beneficiary was notified of the error;

(2) the error was not the result of erroneous information supplied by the member or beneficiary; and

(3) the member or beneficiary did not have reasonable grounds to believe that the amount of the benefit was in error.

(c) At each regularly scheduled meeting of the Public Employees' Retirement Board, the administrator shall report to the board on all situations since the administrator's last report in which an adjustment has been prohibited under (b) of this section. If the board finds that there is reason to believe that one or more of the conditions set out in (b) of this section have not been met, the administrator shall notify the member or beneficiary that an adjustment will be made to recover the overpayment. A member or beneficiary who receives notice of adjustment under this subsection may appeal to the board for a waiver of the adjustment under AS 39.35.522. An adjustment may not be required while the appeal is pending.

SEE NOTE PG 1 LINE 28

* Sec. 3. This Act takes effect immediately in accordance with AS 01.-10.070(c).

Introduced: 1/18/83
Referred: State Affairs

BY THE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE COUNCIL (for the Blue Ribbon Commission on the State Personnel Act)

IN THE SENATE

SENATE BILL NO. 57

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act limiting the adjustment of retirement benefits; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 14.25.173 is amended by adding a new subsection to read:

(b) An adjustment that requires repayment of benefits may not be made under this section if

(1) the incorrect benefit was first paid two years or more before the member or teacher or beneficiary was notified of the change or error; and

(2) the change or error was not caused by the member or teacher or beneficiary.

* Sec. 2. AS 39.35.520 is amended by adding a new subsection to read:

(b) An adjustment that requires repayment of benefits may not be made under this section if

(1) the incorrect benefit was first paid two years or more before the employee or beneficiary was notified of the change or error;

(2) the change or error was not caused by the employee or beneficiary; and

(3) the change or error relates to the employee's credited service with the state and does not relate to credited service with another participating employer.

* Sec. 3. This Act is retroactive to July 1, 1979.

* Sec. 4. This Act takes effect immediately in accordance with AS 01.-10.070(c).

Alaska State Legislature

JUNEAU, ALASKA

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

Senator Bill Ray, Chairman

Pouch YG
Mail Stop 3123
Juneau, Alaska 99811
(907) 465-4442

MEMORANDUM

March 7, 1983

TO: Senator Bill Ray, Chairman

FROM: Teresa B. Cramer TBC
Administrative Assistant

SUBJECT: CSSB 57 - Limiting the Adjustment of Retirement Benefits

I have reviewed the Committee Substitute prepared by the Division of Retirement and Benefits. It makes a number of language changes which appear to be uncontroversial:

SB 57 Reference	Change Made
Lines 11 & 19	Substitute "recovery" for "repayment".
Lines 14-15, 16, 22 & 24	Delete "change or". Phrase reads "notified of the error".
Lines 14 & 16-17	Delete "or teacher". Phrase reads "the member or beneficiary". (Note that teachers are included in the definition of members.)
Lines 16 & 24	Substitute "the result of erroneous information supplied by" for "caused by".
Lines 22 & 24	Substitute "member" for "employee".

The proposed Committee Substitute also makes substantive changes, some of which may be undesirable:

Lines 17 & 25	Adds a new paragraph to provide that the overpayment will be waived only if the member or beneficiary had no reasonable grounds to believe that the benefit was in error.

NO!

SB 57 Reference	Change Made
Lines 17 & 26	Adds a new subsection which:
CSSB 57 Page 1, Line 18 Page 2, Line 10	1. Requires the administrator to report any overpayments waived to the appropriate retirement board.
CSSB 57 Page 1, Line 21 Page 2, Line 13	2. Provides that if the board finds that the conditions requiring waiver of the overpayment are not met then the administrator begins collecting for the overpayment.
CSSB 57 Page 1, Line 25 Page 2, Line 17	3. Provides that the member may appeal to the board for waiver of the overpayment.
CSSB 57 Page 1, Line 27 Page 2, Line 20	4. Provides that there will be no adjustment of the member's retirement benefit during any appeal.
Lines 26 & 28	The Committee Substitute deletes Section 2, paragraph (3), which limits application of the bill to credited service with the state. Therefore, the limitations against collection of overpayments would apply also to municipalities and other employers participating in PERS.
Page 1, Line 29	The Committee Substitute deletes Section 3, which made the bill retroactive to July 1, 1979. According to information from the division, there are no appeals pending.

What should the Blue Ribbon Commission respond to the Committee Substitute?

TBC:lmk

Introduced: 1/18/83
Referred: State Affairs

BY THE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE COUNCIL (for the Blue Ribbon Commission on the State Personnel Act)

IN THE SENATE

SENATE BILL NO. 57

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act limiting the adjustment of retirement benefits; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 14.25.173 is amended by adding a new subsection to read:

(b) An adjustment that requires repayment of benefits may not be made under this section if

(1) the incorrect benefit was first paid two years or more before the member or teacher or beneficiary was notified of the change or error; and

(2) the change or error was not caused by the member or teacher or beneficiary.

* Sec. 2. AS 39.35.520 is amended by adding a new subsection to read:

(b) An adjustment that requires repayment of benefits may not be made under this section if

(1) the incorrect benefit was first paid two years or more before the employee or beneficiary was notified of the change or error;

(2) the change or error was not caused by the employee or beneficiary; and

(3) the change or error relates to the employee's credited service with the state and does not relate to credited service with another participating employer.

* Sec. 3. This Act is retroactive to July 1, 1979.

* Sec. 4. This Act takes effect immediately in accordance with AS 01.-10.070(c).

DRAFT

IN THE SENATE

CS FOR SENATE BILL NO. 57

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act limiting the adjustment of retirement benefits; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 14.25.173 is amended by adding new subsections to read:

(b) An adjustment that requires recovery of benefits may not be made under this section if

(1) the incorrect benefit was first paid two years or more before the member or beneficiary was notified of the error;

(2) the error was not the result of erroneous information supplied by the member or beneficiary; and

(3) the member or beneficiary had no reasonable grounds to believe that the amount of the benefit paid was in error.

(c) At each regularly scheduled meeting of the Teachers' Retirement Board, the administrator shall report to the board on all situations where adjustments were prohibited under (b) of this section since the last regularly scheduled meeting. If the board finds that there is reason to believe that all of the conditions set out in (b) of this section were not met, the administrator shall notify the member or beneficiary that an adjustment will be made to recover the overpayment. A member or beneficiary who receives notice of adjustment under this subsection may appeal to the board for a waiver of the adjustment under AS 14.25.175 and no adjustment that requires repayment of benefits be made while the appeal is pending.

03-038

DRAFT

* Sec. 2. AS 39.35.520 is amended by adding a new subsection to read:

(b) An adjustment that requires recovery of benefits may not be made under this section if

(1) the incorrect benefit was first paid two years or more before the member or beneficiary was notified of the error;

(2) the error was not the result of erroneous information supplied by the member or beneficiary; and

(3) the member or beneficiary had no reasonable grounds to believe that the amount of the the benefit was in error.

NO

(c) At each regularly scheduled meeting of the Public Employees' Retirement Board, the administrator shall report to the board on all situations where adjustments were prohibited under (b) of this section since the last regularly scheduled meeting. If the board finds that there is reason to believe that all of the conditions set out in (b) of this section were not met, the administrator shall notify the member or beneficiary that an adjustment will be made to recover the overpayment. A member or beneficiary who receives notice of adjustment under this subsection may appeal to the board for a waiver of the adjustment that requires repayment benefits under AS 39.35.532 and no adjustment may be made while the appeal is pending.

* Sec. 3. This Act takes effect immediately in accordance with AS 01.10.070(c).

TRS and PERS Board Appeals for a Waiver of Adjustment
of an Overpayment Since July 1, 1979

APPELLANT	SYSTEM	MEETING	ERROR MADE	ERROR DISCOVERED	AMOUNT OF OVERPAYMENT	BOARD ACTION
Katharina Riech	TRS	Fall, 1979	1971	1978 7 yrs	$14,233	Request Denied
Ella Vaughn	TRS	Fall, 1979	1970	1979 9 yrs	$ 3,535	Adj. of Overpayment Waived
Julie Isaac	PERS	Spring, 1980	1976	1979 3 yrs	$ 5,055	Adj. of Overpayment and Service Credit Waived
Woodrow, Brown	PERS	Spring, 1981	1971	1980 9 yrs	$ 6,242	Adj. of Overpayment Waived
Dean Bronson	PERS	Fall, 1981	1974	1981 7 yrs	$ 2,517	Adj. of Overpayment Waived
Leo Likit	PERS	Fall, 1981	1974	1981 7 yrs	$ 6,903	Adj. of Overpayment Waived
Evelyn Nowell	PERS	Fall, 1982	1976	1981 5 yrs	$ 2,889	Adj. of Overpayment Waived

DEPARTMENT OF ADMINISTRATION
DIVISION OF RETIREMENT & BENEFITS
POUCH CR
JUNEAU, ALASKA 99811

Public Employees Retirement System
Teachers Retirement System
Judicial Retirement System
Elected Public Officers Retirement System
National Guard Retirement System
Territorial Retirement System
Retirees Voluntary Dental-Vision-Audio Plan
Supplemental Benefits System
Group Health/Life Insurance Benefits
Deferred Compensation Plan
Public Employers Social Security Contributions

Bill Sheffield, Governor

(907) 465-4460

February 16, 1983

The Honorable Vic Fischer
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Senator Fischer:

At the February 8 meeting of the Senate State Affairs Committee on SB 57, I was asked to provide information on appeals for a waiver of adjustment in the Public Employees' Retirement System (PERS) and the Teachers' Retirement System (TRS) over the last few years. The enclosed chart gives basic information on the seven appeals for waiver of overpayment that have come before the boards since July 1, 1979.

As you can see, more than two years had elapsed in every case before the error was discovered and in every case except one the board waived the adjustment of the overpayment. None of these errors occurred after 1976.

I have also been asked to prepare a draft committee substitute which would address the division's main concerns and still preserve the primary intent of SB 57. I have enclosed such a draft but suggest that the committee might wish to delay action briefly to provide members of the two retirement boards an opportunity to comment.

Please let me know if you have an further questions or would like more information.

Sincerely,

J.K. Humphreys

J.K. Humphreys
Director

JKH/jb
Enclosures

cc: Eleanor Andrews
Deputy Commissioner for
Personnel Management

Members of Senate State Affairs Committee

PERS and TRS board members

02-B4LH

NOTE: Please Include Your Social Security Number in All Correspondence & Requests

Original sponsor: Rules/Legislative Council

IN THE SENATE BY THE STATE AFFAIRS COMMITTEE

CS FOR SENATE BILL NO. 57 (State Affairs)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act limiting the adjustment of retirement benefits; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 14.25.173 is amended by adding a new subsection to read:

(b) An adjustment that requires the recovery of benefits may not be made under this section if

(1) the incorrect benefit was first paid two years or more before the member or beneficiary was notified of the change or error; and

(2) the change or error was not the result of erroneous information supplied by the member or beneficiary.

* Sec. 2. AS 39.35.520 is amended by adding a new subsection to read:

(b) An adjustment that requires recovery of benefits may not be made under this section if

(1) the incorrect benefit was first paid two years or more before the member or beneficiary was notified of the change or error;

(2) the change or error was not the result of erroneous information supplied by the member or beneficiary; and

(3) the change or error relates to the member's credited service with the state and does not relate to credited service with another participating employer.

* Sec. 3. This Act takes effect immediately in accordance with AS 01.-10.070(c).

Alaska State Legislature

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

Senator Bill Ray, Chairman

Pouch YG
Mail Stop 3123
Juneau, Alaska 99811
(907) 465-4442

JUNEAU, ALASKA

MEMORANDUM

January 25, 1983

TO: Senate State Affairs Committee

FROM: Teresa B. Cramer Teresa B Cramer
Administrative Assistant

SUBJECT: Senate Bill 57 - Limiting the Adjustment of Retirement Benefits

On several occasions the Blue Ribbon Commission has heard testimony about problems created by overpayments of retirement benefits. Retired state employees may have substantial difficulties if they are required to repay retirement benefits improperly received because of errors made by the Division of Retirement and Benefits or because of a change in law. The commission is proposing legislation to limit the authority of the division to collect amounts paid improperly through no fault of the beneficiary or retired person if the error is not corrected within two years.

One woman testified to the commission that before she retired she asked the division to verify her years of credited service. Several years later a court-ordered change in retirement regulations reduced the number of years for which she received credit. Her employment with the University of Alaska could no longer be counted as credited service in PERS. As a result she had received more than $5000 in benefits to which she was not entitled. The division reduced her benefit to the correct amount and began withholding an additional $100 per month to be applied to the overpayment. She appealed to the Public Employees Retirement Board asking that collection of the overpayment be waived.

Both the Public Employees' Retirement Board and the Teachers' Retirement Board have authority to waive collection of overpayments, but the uncertainty of an appeal can cause considerable stress to people on fixed incomes. Both boards are required to determine whether there would be undue hardship imposed by requiring repayment. AS 14.25.175 and AS 39.35.522. In establishing whether there is financial hardship, the entire family financial situation is considered, not just the resources of the petitioner.

The commission recommends that a two-year statute of limitations be placed on the collection of overpayments which resulted from errors which were not caused by the retired state employee. Two years provides ample opportunity for the division to audit its records and correct any errors. After that period, a retired person should not be required to repay benefits erroneously received if he or she did not cause the error. The division would still correct the amount of future benefits paid to the retired person.

Bill Analysis

Page 1 Line 9	The first section of the proposed legislation adds the two-year statute of limitations to the Teachers' Retirement System.
Line 18	The second section adds the same provision to the Public Employees' Retirement System. The amendment to PERS is applied only to state employees because the Blue Ribbon Commission considered that requiring other participating employers to pay for errors made by the state was inappropriate.
Line 29	The third section makes the bill effective retroactively to July 1, 1979, in order to apply to those individuals whose situations came to the commission's attention.
Page 2 Line 2	The fourth section of the bill contains an immediate effective date clause.

MEMORANDUM

State of Alaska

TO: Teresa B. Cramer
Administrative Assistant
Blue Ribbon Commission

DATE: November 4, 1982

FILE NO:

TELEPHONE NO: 4462

SUBJECT: Fiscal Note

FROM: John A. Logan
Deputy Director
Division of Retirement & Benefits
Department of Administration

Attached is a draft of the fiscal note as you requested.

JAL/jb
Attachment

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

DRAFT

FISCAL NOTE

I. REQUEST
Bill/Resolution No. Work Draft Paper 13-0034 Asper 9-17
Title An Act Limiting the Adjustment of Retirement Benefits
Requested by _____ Date _____

II. FISCAL DETAIL
Agency Affected Administration - Division of Retirement & Benefits
Program Category Affected Labor Services
BRU, Program, or Subprogram(s) Affected 02-96-8-01-01 (PERS)
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

		FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100	PERSONAL SERVICES						
100	RETIREMENT BENEFITS						
200	TRAVEL						
300	CONTRACTUAL						
400	COMMODITIES						
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
700	STATE TRS MATCHING						
	TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
VETERAN'S FUND						
FISH & GAME FUND						
HIGHWAY FUND						
AIRPORT FUND						
CAPITAL FUND						
PERS						
TRS						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

Undoubtedly there will be some costs to the retirement system but they cannot be measured. In most instances the individual adjustment would be small.

IV. DATE 10-28-82 PREPARED BY J.K. Humphreys, Director
AGENCY Division of Retirement & Benefits
PHONE 465-4460

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)
Office of the Governor (Keith Specking)

MEMORANDUM

October 26, 1982

TO: John Logan, Deputy Director
Division of Retirement and Benefits

FROM: Teresa B. Cramer
Administrative Assistant

SUBJECT: Limiting the Adjustment of Retirement Benefits

The Blue Ribbon Commission on the State Personnel Act has requested that the enclosed work draft be prepared for introduction in the next legislative session. Could you please prepare a fiscal note for the commission's consideration. Similar legislation was introduced in the 1981 session as SB 195 for which the Division of Retirement and Benefits prepared a fiscal note.

Thank you for your assistance.

TBC:lmk
Enclosure

WORK DRAFT PAPER WORK DRAFT PAPER WORK DRAFT PAPER

13-0039
Asper
9.17

Check hardship

OK

Phoned Jennie 9/22/82 & sd OK for Introduction. She said they will send the final to Sen. Ray's office the 1st day of the session

BY THE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE COUNCIL (for the Blue Ribbon Commission on the State Personnel Act)

IN THE SENATE

SENATE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act limiting the adjustment of retirement benefits; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 14.25.173 is amended by adding a new subsection to read:

(b) An adjustment that requires repayment of benefits may not be made under this section if

(1) the incorrect benefit was first paid two years or more before the member or teacher or beneficiary was notified of the change or error; and

(2) the change or error was not caused by the member or teacher or beneficiary.

* Sec. 2. AS 39.35.520 is amended by adding a new subsection to read:

(b) An adjustment that requires repayment of benefits may not be made under this section if

(1) the incorrect benefit was first paid two years or more before the employee or beneficiary was notified of the change or error;

(2) the change or error was not caused by the employee or beneficiary; and

(3) the change or error relates to the employee's credited service with the state (and does not relate to credited service with another participating employer.)

* Sec. 3. This Act is retroactive to July 1, 1979.

13-0039
Asper
9.17

BY THE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE COUNCIL (for the Blue Ribbon Commission on the State Personnel Act)

IN THE SENATE

SENATE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act limiting the adjustment of retirement benefits and providing for an effective date."

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* Section 1. AS 14.25.173 is amended by adding a new subsection to read:

(b) An adjustment that requires repayment of benefits may not be made under this section if

(1) the incorrect benefit was first paid two years or more before the member or teacher or beneficiary was notified of the change or error; and

(2) the change or error was not caused by the member or teacher or beneficiary.

* Sec. 2. AS 39.35.520 is amended by adding a new subsection to read:

(b) An adjustment that requires repayment of benefits may not be made under this section if

(1) the incorrect benefit was first paid two years or more before the employee or beneficiary was notified of the change or error;

(2) the change or error was not caused by the employee or beneficiary; and

(3) the change or error relates to the employee's credited

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

02-519 (REV 8/78)

SCOMM

#51:20

July 6, 1983

SB 58: Prohibiting duplicate Teachers' Retirement benefits for Alaska BIA service

History - IN THE SENATE

HESS: Hearing 2/7/83. Ken Humphries, Director of Retirement & Benefits, testified that the division had no need for the legislation since it had the power to adopt those regulations without additional legislation. He also advised the committee that the regulations were being promulgated. The committee took no action on the bill. Regulations were adopted effective March 31, 1983.

Companion bill: HB 53 passed through 2 committees and is currently in House Finance. With regulations in place, the justification for either bill is that it will insure that future directors do not change their minds and rescind the regulations.

Copies of the TRS & PERS regulations are in the HB 53 file.

Introduced: 1/18/83
Referred: Health, Education and Social Services and Finance

BY THE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE COUNCIL (for the Blue Ribbon Commission on the State Personnel Act)

IN THE SENATE

SENATE BILL NO. 58

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act prohibiting duplicate teachers' retirement benefits for Alaska BIA service."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 14.25.107 is amended to read:

Sec. 14.25.107. CREDIT FOR ALASKA BIA SERVICE. A member who joins the system on or after July 1, 1978, who has Alaska BIA service may claim all of that service as credited service. [A RETIREMENT BENEFIT PAYABLE UNDER THIS CHAPTER FOR ALASKA BIA SERVICE SHALL BE REDUCED BY AN AMOUNT EQUAL TO THE RETIREMENT BENEFITS PAID TO THE MEMBER BY THE UNITED STATES GOVERNMENT FOR THE SAME SERVICE.]

* Sec. 2. AS 14.25.169 is amended to read:

Sec. 14.25.169. DUPLICATE BENEFITS. (a) If payments from this retirement system are due to a teacher or to the teacher's spouse under more than one provision of this plan, the teacher or spouse shall elect under which provision and which benefit the teacher or spouse wishes to receive and no payments may be made under any other provision. However, benefits under AS 14.25.155, 14.25.157, 14.25.160, 14.25.162, 14.25.164, and 14.25.167 shall be paid in addition to those benefits or that service credit a person is entitled to receive because of the person's own membership in the retirement system.

(b) A teacher may not receive

(1) duplicate credit under this system for the same period of service,

(2) more than one year of service credit in the course of a

school year, or

(3) a benefit while accruing service credit under this system, except as provided in this section.

(c) A retirement benefit payable under this chapter for Alaska BIA service shall be reduced by an amount equal to the retirement benefits paid to the member by the United States government for the same service. Before appointment to retirement under this chapter, and once each year thereafter, the administrator may require a member who has received credit for Alaska BIA service under AS 14.25.107 to produce verification of the benefit amount the member is receiving from the United States government for that same service or verification that the member is not entitled to receive a benefit from the United States government for that same service.

MEMORANDUM

March 24, 1983

TO: Senator Bill Ray, Chairman

FROM: Teresa B. Cramer
Administrative Assistant

SUBJECT: SB 58 and HB 53 - Prohibiting Duplicate Teachers' Retirement Benefits for Alaska BIA Service

I spoke with Ken Humphreys, director of the division of retirement. He advised me that the PERS and TRS boards have adopted regulations to require continued reporting from retired members about the amounts of any federal benefits they receive. These regulations are available for comment until March 31st, at which time they will become final unless amended by the appropriate retirement board. The regulations were promulgated because of the questions raised by the Blue Ribbon Commission bills on this issue. Copies of the proposed regulations are attached.

TBC:lmk
Attachments

February 8, 1983

The Honorable Joe Josephson, Chairman
Senate Health, Education and Social
Services Committee
Pouch V
Juneau, Alaska 99811

RE: SB 58 - Prohibiting Duplicate Teachers' Retirement Benefits for Alaska BIA Service

Dear Senator Josephson:

I have spoken with Senator Ray, chairman of the Blue Ribbon Commission, concerning the committee's question of whether this legislation is necessary given the possibility that the same thing can be accomplished by regulation. Senator Ray pointed out that, in fact, the Division of Retirement and Benefits has not yet adopted regulations on this issue. Therefore it appears to him to be advisable for the Legislature to act to make its wishes known.

Please let me know if I can be of further assistance.

Yours very truly,

Teresa B. Cramer
Administrative Assistant

Tuesday, February 8, 1983

Senator Ray -

The Senate State Affairs Committee heard testimony on SB 58 (Prohibiting Duplicate Teachers' Retirement Benefits for Alaska BIA Service) yesterday. Senator Vic Fischer asked Ken Humphreys, the Acting Director of Retirement and Benefits, whether the legislation is necessary or whether the same thing could be accomplished through regulations. Ken said that he thought that the division has the power to require annual reporting from teachers about any federal retirement benefits for BIA service already. He suggested that the bill is a good idea but probably a little redundant. Senator Fischer asked that Ken check with the Attorney General's office and that I check with the Blue Ribbon Commission about whether the bill was necessary if the division already has the power to accomplish the same thing by regulation. What should I tell him?

Terry

2/8 We still want the bill

Introduced: 1/18/83
Referred: Health, Education and Social Services and Finance

BY THE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE COUNCIL (for the Blue Ribbon Commission on the State Personnel Act)

IN THE SENATE

SENATE BILL NO. 58

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act prohibiting duplicate teachers' retirement benefits for Alaska BIA service."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 14.25.107 is amended to read:

Sec. 14.25.107. CREDIT FOR ALASKA BIA SERVICE. A member who joins the system on or after July 1, 1978, who has Alaska BIA service may claim all of that service as credited service. [A RETIREMENT BENEFIT PAYABLE UNDER THIS CHAPTER FOR ALASKA BIA SERVICE SHALL BE REDUCED BY AN AMOUNT EQUAL TO THE RETIREMENT BENEFITS PAID TO THE MEMBER BY THE UNITED STATES GOVERNMENT FOR THE SAME SERVICE.]

* Sec. 2. AS 14.25.169 is amended to read:

Sec. 14.25.169. DUPLICATE BENEFITS. (a) If payments from this retirement system are due to a teacher or to the teacher's spouse under more than one provision of this plan, the teacher or spouse shall elect under which provision and which benefit the teacher or spouse wishes to receive and no payments may be made under any other provision. However, benefits under AS 14.25.155, 14.25.157, 14.25.160, 14.25.162, 14.25.164, and 14.25.167 shall be paid in addition to those benefits or that service credit a person is entitled to receive because of the person's own membership in the retirement system.

(b) A teacher may not receive

(1) duplicate credit under this system for the same period of service,

(2) more than one year of service credit in the course of a

school year, or

(3) a benefit while accruing service credit under this system, except as provided in this section.

(c) A retirement benefit payable under this chapter for Alaska BIA service shall be reduced by an amount equal to the retirement benefits paid to the member by the United States government for the same service. Before appointment to retirement under this chapter, and once each year thereafter, the administrator may require a member who has received credit for Alaska BIA service under AS 14.25.107 to produce verification of the benefit amount the member is receiving from the United States government for that same service or verification that the member is not entitled to receive a benefit from the United States government for that same service.

Alaska State Legislature

JUNEAU, ALASKA

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

Senator Bill Ray, Chairman

Pouch YG
Mail Stop 3123
Juneau, Alaska 99811
(907) 465-4442

MEMORANDUM

January 26, 1983

TO: Senate Health, Education and Social Services

FROM: Teresa B. Cramer Teresa B Cramer
Administrative Assistant

SUBJECT: Senate Bill 58 - Prohibiting Duplicate Teachers' Retirement Benefits for Alaska BIA Service

The Blue Ribbon Commission heard testimony from the Division of Retirement and Benefits that a loophole exists in the Teachers' Retirement System statutes which permit receiving TRS credited service for federal employment in Alaska BIA schools. Teachers who qualified for federal retirement from a BIA school and who then worked for the state in a position covered by the Teachers' Retirement System could receive benefits for the same years of service from each system.

Under TRS, teachers may receive credit for Alaska BIA service by contributing 7% of their entry TRS salary for each year of BIA service to be credited. The law provides that state retirement benefits for Alaska BIA service will be reduced by the amount received from the federal government for the same service. However, this is verified only at the time of applying for retirement.

Credit from both retirement systems is possible if the teacher who has worked for both employers buys TRS credited service for BIA employment and takes a lump sum payment of his or her federal retirement contributions before retiring from the state. At the time of state retirement, the teacher reports being eligible to receive no federal retirement benefits for Alaska BIA service. After establishing state benefits, the teacher could repay the lump sum to the federal government and claim a federal retirement. The teacher would then be drawing from two retirement systems for the same period of service.

The commission recommends that language be added to the TRS statutes to permit the Division of Retirement to require retired members to verify annually any federal benefits received for Alaska BIA service.

Bill Analysis

Page 1 Line 9	The first section of the bill deletes material concerning treatment of duplicate benefits from the current authorization for claiming BIA service.

Page 2 Line 4	The language deleted in section 1 is moved to AS 14.25.169 by the second section of the bill.
Line 7	Section 2 also provides authorization for the Division of Retirement and Benefits to request annual verification of the amount of any federal retirement benefits for Alaska BIA service for which state benefits are also received.

MEMORANDUM

State of Alaska

TO: Teresa B. Cramer
Administrative Assistant
Blue Ribbon Commission

DATE: December 9, 1982

FILE NO:

TELEPHONE NO: 465-4462

FROM: John A. Logan
Deputy Director
Division of Retirement & Benefits
Department of Administration

SUBJECT: Fiscal Note
on Prohibiting Duplicate
Teachers' Ret. Ben. for
AK BIA Service

Attached is a draft of the fiscal note as you requested.

JL/jb
Attachment

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

DRAFT

FISCAL NOTE

I. REQUEST

Bill/Resolution No. Draft 13-0060 Lear 11-01-82

Title An Act Prohibiting Duplicate Teachers' Retirement Benefits for Alaska BIA Service

Requested by _____ Date _____

II. FISCAL DETAIL

Agency Affected Administration - Division of Retirement & Benefits

Program Category Affected Centralized Administrative Services & Secondary Education

BRU, Program, or Subprogram(s) Affected Retirement & Benefits

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

		FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100	PERSONAL SERVICES						
100	RETIREMENT BENEFITS						
200	TRAVEL						
300	CONTRACTUAL						
400	COMMODITIES						
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
700	STATE TRS MATCHING						
	TOTAL		-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
VETERAN'S FUND						
FISH & GAME FUND						
HIGHWAY FUND						
AIRPORT FUND						
CAPITAL FUND						
PERS						
TRS						

POSITIONS NONE

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

IV. DATE 12-07-82 PREPARED BY J.K. Humphreys, Director

AGENCY Division of Retirement & Benefits

PHONE 465-4460

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

MEMORANDUM

November 8, 1982

TO: John Logan, Deputy Director
Division of Retirement and Benefits

FROM: Teresa B. Cramer
Administrative Assistant

SUBJECT: Prohibiting Duplicate Teachers' Retirement Benefits for Alaska BIA Service

The Blue Ribbon Commission on the State Personnel Act has requested that the enclosed work draft be prepared for introduction in the next legislative session. Could you please prepare a fiscal note for the commission's consideration.

Thank you for your assistance.

TBC:lmk
Enclosure

13-0060
Lear
11-01-82

BY THE RULES COMMITTEE
BY REQUEST OF THE
LEGISLATIVE COUNCIL
(for the Blue Ribbon
Commission on the
State Personnel Act)

IN THE SENATE

SENATE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act prohibiting duplicate teachers' retirement benefits for Alaska BIA service."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 14.25.107 is amended to read:

Sec. 14.25.107. CREDIT FOR ALASKA BIA SERVICE. A member who joins the system on or after July 1, 1978, who has Alaska BIA service may claim all of that service as credited service. [A RETIREMENT BENEFIT PAYABLE UNDER THIS CHAPTER FOR ALASKA BIA SERVICE SHALL BE REDUCED BY AN AMOUNT EQUAL TO THE RETIREMENT BENEFITS PAID TO THE MEMBER BY THE UNITED STATES GOVERNMENT FOR THE SAME SERVICE.]

* Sec. 2. AS 14.25.169 is amended to read:

Sec. 14.25.169. DUPLICATE BENEFITS. (a) If payments from this retirement system are due to a teacher or to the teacher's spouse under more than one provision of this plan, the teacher or spouse

shall elect under which provision and which benefit the teacher or spouse wishes to receive and no payments may be made under any other provision. However, benefits under AS 14.25.155, 14.25.157, 14.25.160, 14.25.162, 14.25.164, and 14.25.167 shall be paid in addition to those benefits or that service credit a person is entitled to receive because of the person's own membership in the retirement system.

(b) A teacher may not receive

(1) duplicate credit under this system for the same period of service,

(2) more than one year of service credit in the course of a school year, or

(3) a benefit while accruing service credit under this system, except as provided in this section.

(c) A retirement benefit payable under this chapter for Alaska BIA service shall be reduced by an amount equal to the retirement benefits paid to the member by the United States government for the same service. Before appointment to retirement under this chapter, and once each year thereafter, the administrator may require a member who has received credit for Alaska BIA service under AS 14.25.107 to produce verification of the benefit amount the member is receiving from the United States government for that same service or verification that the member is not entitled to receive a benefit from the United States government for that same service.

AS 14.25.107 is amended to read:

Sec. 14.25.107. CREDIT FOR ALASKA BIA SERVICE. A member who joins the system on or after July 1, 1978, who has Alaska BIA service may claim all of that service as credited service. A retirement benefit payable under this chapter for Alaska BIA service shall be reduced by an amount equal to the retirement benefits paid to the member by the United States government for the same service. Prior to appointment to retirement under this chapter, and once each year thereafter, the administrator may require a member who has received credit for Alaska BIA service under this section, to obtain verification from the United States government of the amount the member is receiving from them for that same service or verification that the member is not entitled to receive a benefit from them for that same service.

10/12/82

10/19 Called Jim Lear & left msg (let him know BRC approved for introduction - let me review a draft & then hold for introduction)

AS 14.25.107 is amended to read:

Sec. 14.25.107. CREDIT FOR ALASKA BIA SERVICE. A member who joins the system on or after July 1 1978, who has Alaska BIA service may claim all of that service as credited service. A retirement benefit payable under this chapter for Alaska BIA service shall be reduced by an amount equal to the retirement benefits paid to the member by the United States government for the same service. Prior to appointment to retirement under this chapter, and once each year thereafter, the administrator may require a member who has received credit for Alaska BIA service under this section, to obtain verification from the United States government of the amount the member is receiving from them for that same service or verification that the member is not entitled to receive a benefit from them for that same service.

11/4 Should get draft tomorrow

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILE 8672
1373 SCOMM 51 BLUE RIBBON COMN. ON STATE PERSONNEL ACT 1978-1983

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

12/12/89
Date

02-519 (REV 8/78)

SCOMM

#51:21

left msg for Chris Noah 11/29/82
re: Dec 7th meeting
ACK - SENT TO TERRY CRAMER

ACST

THE ALASKA COUNCIL ON SCIENCE AND TECHNOLOGY

November 19, 1982

Senator Bill Ray, Chairman
Blue Ribbon Commission on
the Personnel Act
Alaska State Legislature
Pouch YG
Juneau, Alaska 99811

Dear Senator Ray,

Based upon discussions held at our November 17, 1982 meeting, I am sending suggestions for consideration for the draft legislation entitled "An Act Relating to Government Interests in Intellectual Work Products Developed at the Expense of the State."

The Council suggests that this act be written similarly to the statutes adopted by the federal government. These statutes differ somewhat according to application for specific agencies, but generally all follow the same general philosophy, particularly related to patents. Also, the University of Alaska has an existing policy that works well and has stood the test of time, having been in effect for more than a decade. A general state policy might consider the university approach as well.

These various federal and university policy statements or statutes contain several key elements and philosophical tenets which may be helpful to you. In summary these are:

1. Recognition that patentable inventions produced in the line of work duty may be primarily owned by the sponsoring agency, but that, depending upon the specific circumstances, the originator might rightfully have a partial ownership interest, or at least that it is in the public welfare to award such partial ownership;

2. Recognition that in accepting ownerships of a potential invention, the government or agency accepts responsibility to pursue patenting and management of the patent in a fashion that promotes its usefulness to society;

3. Recognition than in order to promote employee intellectual pursuit, to avoid infringement upon individual freedom, to avoid unnecessary litigation, and to avoid much needless work on the part of agency personnel, that the policy statements or statutes are

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written to pertain strictly to patentable inventions. (We suggest that the existing wording in the draft bill, specifically the wording "intellectual work product" and its definitions as given in Section 39:52.099 are too broad to be effective and may well be challengeable on Constitutional grounds. The proposed statute, we suggest, should pertain to patentable inventions only.); and

4. Recognition, also that for every "idea" that eventually leads to a patent deemed desirable for agency ownership, there are dozens that do not. (Hence, we suggest that the state needs an inexpensive, effective mechanism to weed out ideas of an unpatentable nature or which, if patented, have no economic value to the state. Examination of established procedures will show that the process must start as close to the inventor as possible--specifically, within the agency wherein the employee works. Determination of patentability and/or desirability of patentability should be conducted within the employee's agency. Determination of desired state ownership should be made by the employer's agency acting in conjunction with the Attorney General's office. It may be appropriate to specify in the proposed bill that the ACST would act as a participant in the decision regarding appropriate share of state ownership, once desirability of patenting has been determined.)

A useful guide to framing a patent regulation for Alaska may be the enclosed copy of patent regulations used by the U.S. Department of Interior. Additionally, as earlier stated, another useful guide could be the patenting policy of the University of Alaska. The process used there involves initial internal determination of patentability, followed by a review made by a specialized non-profit patenting organization which then takes a percentage of ownership in payment for its services should all agree that the pursuit of a patent is desirable. In this case the shares in the ownership of the patent between the non-profit corporation, the university, and the inventor are negotiated.

We trust these comments are useful to you. As this bill proceeds in the legislation process we would be pleased to offer further information for your consideration or testify upon your request.

Sincerely,

David M. Hickok

David M. Hickok
Chairman

DMH/sw
Enclosure

§ 5.2

National Park Service will be granted by the head of the Service or his authorized representative in his discretion and on acceptance by the applicant of the conditions set forth in paragraph (d) (3) of this section.

(d) *Form of application.* The following form is prescribed for an application for permission to make a motion picture, television production, or sound track on areas administered by the United States Fish and Wildlife Service or the National Park Service:

Date _____

To the head of the _____
Service, Department of the Interior _____
(Area)

(1) Permission is requested to make, in the area mentioned above, a _____

(2) The scope of the filming (or production or recording) and the manner and extent thereof will be as follows

Weather conditions permitting, work will commence on approximately _____ and will be completed on approximately _____

_____

_____

(An additional sheet should be used if necessary.)

(3) The undersigned accepts and will comply with the following conditions:

(i) Utmost care will be exercised to see that no natural features are injured, and after completion of the work the area will, as required by the official in charge, either be cleaned up and restored to its prior condition or left, after clean-up, in a condition satisfactory to the official in charge.

(ii) Credit will be given to the Department of the Interior and the Service involved through the use of an appropriate title or announcement, unless there is issued by the official in charge of the area a written statement that no such courtesy credit is desired

(iii) Pictures will be taken of wildlife only when such wildlife will be shown in its natural state or under approved management conditions if such wildlife is confined.

(iv) [Deleted]

(v) Any special instructions received from the official in charge of the area will be complied with.

(vi) Any additional information relating to the privilege applied for by this application will be furnished upon request of the official in charge.

_____
(Applicant)

For _____
(Company)

Bond Requirement $ _____

Approved: _____
(Date)

_____
(Title)

[22 FR 1987, Mar. 26, 1957, as amended at 36 FR 2972, Feb. 13, 1971]

§ 5.2 Areas administered by the Bureau of Indian Affairs.

(a) *Individual Indians.* Anyone who desires to go on the land of an Indian to make pictures, television productions or sound tracks is expected to observe the ordinary courtesy of first obtaining permission from the Indian and of observing any conditions attached to such permission.

(b) *Indian groups and communities.* Anyone who desires to take pictures, including motion pictures, or to make a television production or a sound track of Indian communities, churches, kivas, plazas, or ceremonies performed in such places, must obtain prior permission from the proper officials of the place or community. Limitations which such officials may impose must be scrupulously observed.

(c) *Use of Indian lands.* If the filming of pictures or the making of television productions or sound tracks requires the actual use of Indian lands, a lease or permit must be obtained pursuant to 25 CFR Part 131.

(d) *Employment of Indians.* Any motion picture or television producer who obtains a lease or permit for the use of Indian land pursuant to 25 CFR Part 131 shall be expected to pay a fair and reasonable wage to any Indians employed in connection with the production activities.

[22 FR 1987, Mar. 26, 1957]

PART 6—PATENT REGULATIONS

Subpart A—Inventions by Employees

Sec.
6.1 Definitions.
6.2 Report of invention.
6.3 Action by supervisory officials.
6.4 Action by Solicitor.
6.5 Rights in inventions.
6.6 Appeals by employees.
6.7 Domestic patent protection.
6.8 Foreign filing.
6.9 Publication and public use of invention before patent application is filed.

Sec.
6.10 Publicity concernin
after patent applicatio
6.11 Condition of employ

Subpart B—Lic

6.51 Purpose.
6.52 Patents.
6.53 Unpatented invention
6.54 Use or manufacture b
ernment.
6.55 Terms of licenses or s
6.56 Issuance of licenses.
6.57 Evaluation Committe

AUTHORITY: 5 U.S.C. 301;
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ecutive Order 10096, 15 FR
tive Order 10930, 26 FR 258

SOURCE: 29 FR 260, Jan.
6498, May 19, 1964, unless

Subpart A—Inventions

§ 6.1 Definitions.

As used in this subpart

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(b) The term "Secreta
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(c) The term "Solicito
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(d) The term "Commis
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Assistant Commissioner
for the Commissioner of

(e) The term "inventio
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1987, Mar. 26, 1957, as amended at 72, Feb. 13, 1971]

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dian groups and communities. who desires to take pictures, ng motion pictures, or to make vision production or a sound of Indian communities, es, kivas, plazas, or ceremonies ned in such places, must obtain ermission from the proper offi- the place or community. Limi- which such officials may must be scrupulously observed.

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Employment of Indians. Any picture or television producer btains a lease or permit for the Indian land pursuant to 25 CFR 31 shall be expected to pay a d reasonable wage to any Indi- nployed in connection with the tion activities.

1987, Mar. 26, 1957]

RT 6—PATENT REGULATIONS

bpart A—Inventions by Employees

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Sec.
6.10 Publicity concerning the invention after patent application is filed.
6.11 Condition of employment.

Subpart B—Licenses

6.51 Purpose.
6.52 Patents.
6.53 Unpatented inventions.
6.54 Use or manufacture by or for the Government.
6.55 Terms of licenses or sublicenses.
6.56 Issuance of licenses.
6.57 Evaluation Committee.

AUTHORITY: 5 U.S.C. 301; sec. 2, Reorganization Plan No. 3 of 1950, 15 FR 3174; Executive Order 10096, 15 FR 389; and Executive Order 10930, 26 FR 2583.

SOURCE: 29 FR 260, Jan. 10, 1964; 29 FR 6498, May 19, 1964, unless otherwise noted.

Subpart A—Inventions by Employees

§ 6.1 Definitions.

As used in this subpart:

(a) The term "Department" means the Department of the Interior.

(b) The term "Secretary" means the Secretary of the Interior.

(c) The term "Solicitor" means the Solicitor of the Department of the Interior, or anyone authorized to act for him.

(d) The term "Commissioner" means the Commissioner of Patents, or any Assistant Commissioner who may act for the Commissioner of Patents.

(e) The term "invention" means any new and useful art, process, method, machine, manufacture, or composition of matter, or any new and useful improvement thereof, or any new variety of plant, or any new, original and ornamental design for an article of manufacture, which is or may be patentable under the laws of the United States.

(f) The term "employee" as used in this part includes a part time consultant, a part time employee or a special employee (as defined in 18 U.S.C. 202) of the Department insofar as inventions made during periods of official duty are concerned, except when special circumstances in a specific case require an exemption in order to meet the needs of the Department, each such exemption to be subject to the approval of the Commissioner.

(g) The term "governmental purpose" means the right of the Government of the United States (including any agency thereof, state, or domestic municipal government) to practice and have practiced (made or have made, used or have used, sold or have sold) throughout the world by or on behalf of the Government of the United States.

(h) The "making of the invention" means the conception or first actual reduction to practice of such invention.

§ 6.2 Report of invention.

(a) Every invention made by an employee of the Department shall be reported by such employee through his supervisor and the head of the bureau or office to the Solicitor, unless the invention obviously is unpatentable. If the invention is the result of group work, the report shall be made by the supervisor and shall be signed by all employees participating in the making of the invention. The original and two copies of the invention report shall be furnished to the Solicitor. The Solicitor may prescribe the form of the report.

(b) The report shall be made as promptly as possible, taking into consideration such factors as possible publication or public use, reduction to practice, and the necessity for protecting any rights of the Government in the invention. Although it is not necessary to withhold the report until the process or device is completely reduced to practice, reduction to practice assists in the preparation of a patent application and, if diligently pursued, protects the interests of the Government and of the inventor. If an invention is reduced to practice after the invention report is filed, the Solicitor must be notified forthwith.

(c) For the protection of the rights of the Government and of the inventor, invention reports and memoranda or correspondence concerning them are to be considered as confidential documents.

(d) An invention report shall include the following:

(1) A brief but pertinently descriptive title of the invention;

(2) The full name, residence, office address, bureau or office and division, position or title, and official working place of the inventor or inventors;

(3) A statement of the evidence that is available as to the making of the invention, including information relative to conception, disclosures to others, and reduction to practice. Examples of such information are references to signed, witnessed and dated laboratory notebooks, or other authenticated records pertaining to the conception of the invention, operational data sheets, analysis and operation evaluation reports pertaining to a reduction to practice, and visitor log books, letters and other documents pertaining to disclosures to others. These need not be submitted with the report, only the identifying data is required, e.g., volume and page number in a laboratory notebook;

(4) Information concerning any past or prospective publication, oral presentation or public use of the invention;

(5) The problem which led to the making of the invention;

(6) The objects, advantages, and uses of the invention;

(7) A detailed description of the invention;

(8) Experimental data;

(9) The prior art known to the inventor(s) and the manner in which the invention distinguishes thereover;

(10) A statement that the employee:

(i) Is willing to and does hereby assign to the Government:

(*a*) The entire right foreign and domestic) in the inventio..;

(*b*) The domestic rights only, but grants to the Government an option to file for patent protection in any foreign country, said option to expire as to any country when it is decided not to file thereon in the United States, or within six months after such filing;

(ii) Requests, pursuant to § 6.2(e), a determination of the respective rights of the Government and of the inventor.

(e) If the inventor believes that he is not required by the regulations in this subpart to assign to the Government the entire domestic right, title, and interest in and to the invention, and if he is unwilling to make such an assignment to the Government, he shall, in his invention report, request that the Solicitor determine the respective rights of the Government and of the inventor in the invention, and he shall include in his invention report information on the following points, in addition to the data called for in paragraph (d) of this section:

(1) The circumstances under which the invention was made (conceived, actually reduced to practice or constructed and tested);

(2) The employee's official duties, as given on his job sheet or otherwise assigned, at the time of the making of the invention;

(3) The extent to which the invention was made during the inventor's official working hours, the extent use was made of government facilities, equipment, funds, material or information, and the time or services of other government employees on official duty;

(4) Whether the employee wishes a patent application to be prosecuted under the Act of March 3, 1883, as amended (35 U.S.C. 266), if it should be determined that he is not required to assign all domestic rights to the invention to the Government; and

(5) Whether the employee would be willing, upon request, to voluntarily assign foreign rights in the invention to the Government if it should be determined that an assignment of the domestic rights to the Government is not required.

§ 6.3 Action by supervisory officials.

(a) The preparation of an invention report and other official correspondence on patent matters is one of the regular duties of an employee who has made an invention and the supervisor of such employee shall see that he is allowed sufficient time from his other duties to prepare such documents. The supervisor shall ascertain that the invention report and other papers are prepared in conformity with the regulations of this part; and, before transmitting the invention report to the head of the bureau or office, shall check its accuracy and completeness, especially with respect to the circumstances in which the invention was developed, and shall add whatever com-

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§ 6.4 Action by Solicitor.

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§ 6.5 Rights in inventions.

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ments he may deem to be necessary or desirable. The supervisor shall add to the file whatever information he may have concerning the governmental and commercial value of the invention.

(b) The head of the bureau or office shall make certain that the invention report is as complete as circumstances permit. He shall report whatever information may be available in his agency concerning the governmental and commercial value of the invention, and the foreign countries in which it is likely that the invention would be most useful and would have the greatest commercial value.

(c) If the employee inventor requests that the Solicitor determine his rights in the invention, the head of the bureau or office shall state his conclusions with respect to such rights.

(d) The head of the bureau or office shall indicate whether, in his judgment, the invention is liable to be used in the public interest, and he shall set out the facts supporting his conclusion whenever the employee's invention report does not contain sufficient information on this point.

§ 6.4 Action by Solicitor.

(a) If an employee inventor requests pursuant to paragraph (e) of § 6.2, that such determination be made, the Solicitor shall determine the respective rights of the employee and of the Government in and to the invention. His determination shall be subject to review by the Commissioner in proper cases under Executive Orders 10096 and 10930 and the rules and regulations issued by the Commissioner with the approval of the President.

(b) If the Government is entitled to obtain the entire domestic right, title and interest in and to an invention made by an employee of the Department, the Solicitor, subject to review by the Commissioner in proper cases, may take such action respecting the invention as he deems necessary or advisable to protect the interests of the United States.

§ 6.5 Rights in inventions.

(a) The rules prescribed in this section shall be applied in determining the respective rights of the Government and of an employee of the Department in and to any invention made by the employee.

(b)(1) Except as indicated in the succeeding paragraphs, (b)(1)—(4), of this section, the Government shall obtain the entire domestic right, title, and interest in and to any invention made by an employee of the Department (i) during working hours, or (ii) with a contribution by the Government of facilities, equipment, materials, funds, or information, or of time or services of other government employees on official duty, or (iii) which bears a direct relation to or is made in consequence of the official duties of the inventor.

(2) In any case where the contribution of the Government, as measured by any one or more of the criteria set forth in paragraph (b)(1) of this section, to the invention is insufficient equitably to justify a requirement of assignment to the Government of the entire domestic right, title, and interest in and to such invention, or in any case where the Government has insufficient interest in an invention to obtain the entire domestic right, title, and interest therein (although the Government could obtain same under paragraph (b)(1) of this section), the Solicitor, subject to the approval of the Commissioner, shall leave title to such invention in the employee, subject, however, to the reservation to the Government of a nonexclusive, irrevocable, royalty-free license in the invention with power to grant sublicenses for all governmental purposes, such reservation, in the terms thereof, to appear, where practicable, in any patent, domestic or foreign, which may issue on such invention.

(3) In applying the provisions of paragraphs (b)(1) and (2) of this section to the facts and circumstances relating to the making of any particular invention, it shall be presumed that any invention made by an employee who is employed or assigned (i) to invent or improve or perfect any art, machine, manufacture, or composition of matter, or (ii) to conduct or perform research, development work, or both, or (iii) to supervise, direct, coordinate, or review Government financed or conducted research, development work, or both, or (iv) to act in a liaison capacity among governmental or non-

governmental agencies or individuals engaged in such work, falls within the provisions of paragraph (b)(1) of this section, and it shall be presumed that any invention made by any other employee falls within the provisions of paragraph (b)(2) of this section. Either presumption may be rebutted by a showing of the facts and circumstances in the case and shall not preclude a determination that these facts and circumstances justify leaving the entire right, title and interest in and to the invention in the government employee, subject to law.

(4) In any case wherein the Government neither (i) obtains the entire domestic right, title, and interest in and to an invention pursuant to the provisions of paragraph (b)(1) of this section, nor (ii) reserves a nonexclusive, irrevocable, royalty-free license in the invention, with power to grant sublicenses for all governmental purposes, pursuant to the provisions of paragraph (b)(2) of this section, the Solicitor, subject to the approval of the Commissioner, shall leave the entire right, title, and interest in and to the invention in the employee, subject to law.

(c) In the event that the Solicitor determines, pursuant to paragraph (b)(2) or (4) of this section, that title to an invention will be left with an employee, the Solicitor shall notify the employee of this determination and promptly prepare, and preserve in appropriate files, accessible to the Commissioner, a written signed, and dated statement concerning the invention including the following:

(1) A description of the invention in sufficient detail to identify the invention and show the relationship to the employee's duties and work assignment;

(2) The name of the employee and his employment status, including a detailed statement of his official duties and responsibilities at the time the invention was made; and

(3) A statement of the Solicitor's determination and reasons therefor. The Solicitor shall, subject to considerations of national security, or public health, safety, or welfare, submit to the Commissioner a copy of this written statement. This submittal in a case falling within the provisions of paragraph (b)(2) of this section shall be made after the expiration of the period prescribed in § 6.6 for the taking of an appeal, or it may be made prior to the expiration of such period if the employees acquiesces in the Solicitor's determination. The Commissioner thereupon shall review the determination of the Solicitor and the Commissioner's decision respecting the matter shall be final, subject to the right of the employee or the Solicitor to submit to the Commissioner within 30 days (or such longer period as the Commissioner may, for good cause, shown in writing, fix in any case) after receiving notice of such decision, a petition for the reconsideration of the decision. A copy of such petition must also be filed by the inventor with the Solicitor within the prescribed period.

§ 6.6 Appeals by employees.

(a) Any employee who is aggrieved by a determination of the Solicitor pursuant to § 6.5(b) (1) or (2) may obtain a review of the determination by filing, within 30 days (or such longer period as the Commissioner may for good cause shown in writing, fix in any case) after receiving notice of such determination, two copies of an appeal with the Commissioner. The Commissioner then shall forward one copy of the appeal to the Solicitor.

(b) On receipt of a copy of an appeal filed pursuant to paragraph (a) of this section, the Solicitor shall, subject to considerations of national security, or public health, safety, or welfare, promptly furnish both the Commissioner and the inventor with a copy of a report containing the following information about the invention involved in the appeal:

(1) A copy of a statement containing the information specified in § 6.5(c), and

(2) A detailed statement of the points of dispute or controversy, together with copies of any statements or written arguments that may have been filed, and of any other relevant evidence that the Solicitor considered in making his determination of Government interest. Within 25 days (or

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such longer period as the Commissioner may, for good cause shown, fix in any case) after the transmission of a copy of the Solicitor's report to the employee, the employee may file a reply thereto with the Commissioner and file one copy thereof with the Solicitor.

(c) After the time for the employee's reply to the Solicitor's report has expired and if the employee has so requested in his appeal, a date will be set for the hearing of oral arguments by the employee (or by an attorney whom he designates by written power of attorney filed before, or at the hearing) and the Solicitor. Unless it shall be otherwise ordered before the hearing begins, oral arguments will be limited to thirty minutes for each side. The employee need not retain an attorney or request an oral hearing to secure full consideration of the facts and his arguments. He may expedite such consideration by notifying the Commissioner when he does not intend to file a reply to the Solicitor's report.

(d) After a hearing on the appeal, if a hearing was requested, or after expiration of the period for the inventor's reply to the Solicitor's report, if no hearing is set, the Commissioner shall issue a decision on the matter, which decision shall be final after the period for asking reconsideration expires or on the date that a decision on a petition for reconsideration is finally disposed of. Any request for reconsideration or modification of the decision must be filed within 30 days from the date of the original decision (or within such an extension thereof as may be set by the Commissioner before the original period expires). The Commissioner's decision shall be made after consideration of the statements of fact in the employee's appeal, the Solicitor's report, and the employee's reply, but the Commissioner, at his discretion and with due respect to the rights and convenience of the inventor and the Solicitor, may call for further statements on specific questions of fact or may request additional evidence in the form of affidavits or depositions on specific facts in dispute.

§ 6.7 Domestic patent protection.

(a) The Solicitor, upon determining that an invention coming within the scope of § 6.5(b) (1) or (2) has been made, shall thereupon determine whether patent protection will be sought in the United States by the Department for such invention. A controversy over the respective rights of the Government and of the inventor in any case shall not delay the taking of the actions provided for in this section. In cases coming within the scope of § 6.5(b) (2), action by the Department looking toward such patent protection shall be contingent upon the consent of the inventor.

(b) Where there is a dispute as to whether paragraphs (b)(1) or (2) of § 6.5 applies in determining the respective rights of the Government and of an employee in and to any invention, the Solicitor will determine whether patent protection will be sought in the United States pending the Commissioner's decision on the dispute, and, if he determines that an application for patent should be filed, he will take such rights as are specified in § 6.5(b) (2), but this shall be without prejudice to acquiring the rights specified in § 6.5 (b) (1) should the Commissioner so decide.

(c) Where the Solicitor has determined to leave title to an invention with an employee under § 6.5(b) (2), the Solicitor will, upon the filing of an application for patent and pending review of the determination by the Commissioner, take the rights specified in that paragraph, without prejudice to the subsequent acquisition by the Government of the rights specified in § 6.5(b) (1) should the Commissioner so decide.

(d) In the event that the Solicitor determines that an application for patent will not be filed on an invention made under the circumstances specified in § 6.5(b) (1) giving the United States the right to title thereto, the Solicitor shall subject to considerations of national security, or public health, safety, or welfare, report to the Commissioner promptly upon making such determination, the following information concerning the invention:

80-147 O—81—11

(1) Description of the invention in sufficient detail to permit a satisfactory review;

(2) Name of the inventor and his employment status;

(3) Statement of the Solicitor's determination and reasons therefor.

The Commissioner, may, if he determines that the interest of the Government so requires and subject to considerations of national security, or public health safety, or welfare, bring the invention to the attention of any Government agency to whose activities the invention may be pertinent, or cause the invention to be fully disclosed by publication thereof.

§ 6.8 Foreign filing.

(a) *By Government.* (1) In every case where the employee has indicated pursuant to § 6.2(d)(10), his willingness to assign the domestic patent rights in the invention to the Government, or where it has been determined pursuant to § 6.5 that the Government shall obtain the entire domestic patent rights, the Government shall reserve an option to acquire assignment of all foreign rights including the rights to file foreign patent applications or otherwise to seek protection abroad on the invention.

(2) The Government's option shall lapse as regards any foreign country:

(i) When the Solicitor determines after consultation with the agency most directly concerned, not to cause an application to be filed in said foreign country or otherwise to seek protection of the invention, as by publication;

(ii) When the Solicitor fails to take action to seek protection of the invention in said foreign country (*a*) within six months of the filing of an application for a United States patent on the invention, or (*b*) within six months of declassification of an invention previously under a security classification, whichever is later.

(b) *By Employee.* (1) No Department employee shall file or cause to be filed an application for patent in any foreign country on any invention in which the Government has acquired the entire (foreign and domestic) patent rights, or holds an unexpired option to acquire the patent rights in said foreign country, or take any steps which would preclude the filing of an application by or on behalf of the Government.

(2) An employee may file in any foreign country where the Government has not exercised its option acquired pursuant to § 6.2(d)(10), to do so, or determines not to do so.

(3) The determination or failure to act as set forth in § 6.8(a)(2) shall constitute a decision by the Government to leave the foreign patent rights to the invention in the employee, subject to a nonexclusive, irrevocable, royalty-free license to the Government in any patent which may issue thereon in any foreign country, including the power to issue sublicenses for governmental purposes or in furtherance of the foreign policies of the Government or both.

§ 6.9 Publication and public use of invention before patent application is filed.

(a) Publication or public use of an invention constitutes a statutory bar to the granting of a patent for the invention unless a patent application is filed within one year of the date of such publication or public use. In order to preserve rights in unpatented inventions, it shall be the duty of the inventor, or of his supervisor if the inventor is not available to make such report, to report forthwith to the Solicitor any publication or use (other than experimental) of an invention, irrespective of whether an invention report has previously been filed. If an invention report has not been filed, such a report, including information concerning the public use or publication, shall be filed at once. If an invention is disclosed to any person who is not employed by the Department or working in cooperation with the Department upon that invention, a record shall be kept of the date and extent of the disclosure, the name and address of the person to whom the disclosure was made, and the purpose of the disclosure.

(b) No description, specification, plan, or drawing of any unpatented invention upon which a patent application is likely to be filed shall be published, nor shall any written descrip-

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**§ 6.10 Publicity concern
after patent applicati**

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tion, specification, plan, or drawing of such invention be furnished to anyone other than an employee of the Department or a person working in cooperation with the Department upon that invention, unless the Solicitor is of the opinion that the interests of the Government will not be prejudiced by such action. If any publication disclosing the invention, not previously approved by the Solicitor, comes to the attention of the inventor or his supervisor, it shall be the duty of such person to report such publication to the Solicitor.

§ 6.10 Publicity concerning the invention after patent application is filed.

In order that the public may obtain the greatest possible benefit from inventions in which the Secretary has transferable interests, inventions assigned to the Secretary upon which patent applications have been filed shall be publicized as widely as possible, within limitations of authority, by the Department, by the originating agency, by the division in which the inventor is employed, and by the inventor himself in his contacts with industries in which the invention is or may be useful. Regular organs of publication shall be utilized to the greatest extent possible. In addition, it shall be the duty of the Solicitor, upon being advised of the issuance of any patent assigned to the Secretary, to take steps towards listing the patent as available for licensing, where feasible.

§ 6.11 Condition of employment.

(a) The regulations in this subpart shall be a condition of employment of all employees of the Department and shall be effective as to all their inventions. These regulations shall be effective without regard to any existing or future contracts to the contrary entered into by any employee of the Department with any person other than the Government.

(b) If a patent application is filed upon an invention which has been made by an employee of the Department under circumstances that entitle the Government to the entire domestic right, title and interest in and to the invention, but which has not been reported to the Solicitor pursuant to the regulations in this subpart, title to such invention shall immediately vest in the Government, as represented by the Secretary, and the contract of employment shall be considered an assignment of such rights.

Subpart B—Licenses

§ 6.51 Purpose.

It is the purpose of the regulations in this subpart to secure for the people of the United States the full benefits of Government research and investigation in the Department of the Interior (a) by providing a simple procedure under which the public may obtain licenses to use patents and inventions in which the Secretary of the Interior has transferable interests and which are available for licensing; and (b) by providing adequate protection for the inventions until such time as they may be made available for licensing without undue risk of losing patent protection to which the public is entitled.

[31 FR 10796, Aug. 13, 1966]

§ 6.52 Patents.

Patents in which the Secretary of the interior has transferable interests, and under which he may issue licenses or sublicenses, are classified as follows:

(a) *Class A.* Patents, other than those referred to in paragraph (c) of this section, which are owned by the United States, as represented by the Secretary of the Interior, free from restrictions on licensing except such as are inherent in Government ownership;

(b) *Class B.* Patents in which the interest of the United States, as represented by the Secretary of the Interior, is less than full ownership, or is subject to some express restriction upon licensing or sublicensing (including patents upon which the Secretary of the Interior holds a license, patents assigned to the Secretary of the Interior as trustee for the people of the United States, and patents assigned to the Secretary of the Interior upon such terms as to effect a dedication to the public);

(c) *Class C.* Patents and patent rights acquired by the Secretary of the Interior pursuant to the Act of April 5, 1944 (58 Stat. 190; 30 U.S.C. 321—325), and any amendments thereof.

[29 FR 260, Jan. 10, 1964, as amended at 31 FR 10796, Aug. 13, 1966]

§ 6.53 Unpatented inventions.

The Secretary of the Interior may also have transferable interests in inventions which are not yet patented. In order to protect the patent rights of the Department, for the eventual benefit of the public, a license may be granted with respect to such an invention only if (a) a patent application has been filed thereon; (b) the invention has been assigned to the United States, as represented by the Secretary of the Interior, and the assignment has been recorded in the Patent Office; and (c) the Solicitor of the Department is of the opinion that the issuance of a license will not prejudice the interests of the Government in the invention. Such licenses shall be upon the same terms as licenses relating to patents of the same class, as described in § 6.52.

§ 6.54 Use or manufacture by or for the Government.

A license is not required with respect to the manufacture or use of any invention assigned or required to be assigned without restrictions or qualifications to the United States when such manufacture or use is by or for the Government for governmental purposes. A license or sublicense may be required, however, for such manufacture or use in the case of Class B patents or patent rights when the terms under which the Secretary of the Interior acquires interests therein necessitate the issuance of a license or sublicense in such circumstances.

[31 FR 10796, Aug. 13, 1966]

§ 6.55 Terms of licenses or sublicenses.

(a) No license or sublicense shall be granted under any patent in which the Secretary of the Interior has transferable interests, except as set forth under these regulations, the terms and conditions of which shall be expressly stated in such license and sublicense. The terms of licenses and sublicenses issued under this subpart shall not be unreasonably restrictive.

(b) To the extent that they do not conflict with any restrictions to which the licensing or sublicensing of Class B patents and unpatented inventions may be subject, all licenses and sublicenses relating to Class A and Class B patents and unpatented inventions shall be subject to the following terms and provisions, and to such other terms and conditions as the Solicitor may prescribe:

(1) The acceptance of a license or sublicense shall not be construed as a waiver of the right to contest the validity of the patent. A license or sublicense shall be revocable only upon a finding by the Solicitor of the Department that the terms of the license or sublicense have been violated and that the revocation of the license or sublicense is in the public interest. Such finding shall be made only after reasonable notice and an opportunity to be heard.

(2) Licenses and sublicenses shall be nontransferable. Upon a satisfactory showing that the Government or public will be benefited thereby, they may be granted to properly qualified applicants royalty-free. If no such showing is made, they shall be granted only upon a reasonable royalty or other consideration, the amount or character of which is to be determined by the Solicitor. A cross-licensing agreement may be considered adequate consideration.

(3) Licensees and sublicensees may be required to submit annual or more frequent technical or statistical reports concerning practical experience acquired through the exercise of the license or sublicense, the extent of the production under the license or sublicense, and other related subjects.

(4) A licensee or sublicensee manufacturing a patented article pursuant to a license or sublicense shall give notice to the public that the article is patented by affixing thereon the word "patent", together with the number of the patent, or when, from the character of the article, this cannot be done, by fixing to it, or to the package in

which it is enclosed, a
such notice.

(c) Licenses and sul
to Class C patents a
shall be granted upon
conditions as may be
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April 5 1944, and a
thereof.

[29 FR 260, Jan. 10, 196
FR 10796, Aug. 13, 1966]

§ 6.56 Issuance of licens

(a) Any person desi
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§ 6.57 Evaluation Commi

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which it is enclosed, a label containing such notice.

(c) Licenses and sublicenses relating to Class C patents and patent rights shall be granted upon such terms and conditions as may be prescribed pursuant to sections 3 and 5 of the Act of April 5 1944, and any amendments thereof.

[29 FR 260, Jan. 10, 1964, as amended at 31 FR 10796, Aug. 13, 1966]

§ 6.56 Issuance of licenses.

(a) Any person desiring a license relating to an invention upon which the Secretary of the Interior holds a patent or patent rights may file with the Solicitor of the Department of the Interior an application for a license, stating:

(1) The name, address, and citizenship of the applicant;

(2) The nature of his business;

(3) The patent or invention upon which he desires a license;

(4) The purpose for which he desires a license;

(5) His experience in the field of the desired license;

(6) Any patents, licenses, or other patent rights which he may have in the field of the desired license; and

(7) The benefits, if any, which the applicant expects the public to derive from his proposed use of the invention

(b) It shall be the duty of the Solicitor, after consultation with the bureau most directly interested in the patent or invention involved in an application for a license, and with the Evaluation Committee if royalties are to be charged, to determine whether the license shall be granted. If he determines that a license is to be granted, he shall execute on behalf of the Secretary, an appropriate license.

§ 6.57 Evaluation Committee.

At the request of the Solicitor, an Evaluation Committee will be appointed by the Secretary to recommend royalty rates with respect to any patents or inventions for which royalties may be charged.

PART 7—EMPLOYEES: INTEREST IN LANDS AND RESOURCES

Sec.

7.1 Authority.
7.2 Definitions.
7.3 Prohibition.
7.4 Exceptions.
7.5 Multiple Use Advisory Boards.
7.6 Applications for a farm unit.
7.7 Requests for advice.
7.8 Penalty.

AUTHORITY: R.S. 452; 5 U.S.C. 301, 43 U.S.C. 11.

SOURCE: 27 FR 3812, Apr. 20, 1962, unless otherwise noted.

§ 7.1 Authority.

The regulations in this part are based on (a) section 161 of the Revised Statutes (5 U.S.C. 22) which authorizes the Secretary of the Interior to prescribe regulations not inconsistent with law for the government of his Department and the conduct of its officers and employees; and (b) section 452 of the Revised Statutes (43 U.S.C. 11) which prohibits employees of the Bureau of Land Management from directly or indirectly purchasing or becoming interested in the purchase of any of the public land, and which provides that any person who violates the section shall forthwith be removed from his office.

§ 7.2 Definitions.

(a) The term "employee" as used in this part includes any person employed by the Department of the Interior, or any of its bureaus or offices however designated.

(b) The term "interest" means any direct or indirect ownership in whole or in part of the lands or resources in question, or any participation in the earnings therefrom, or the right to occupy or use the property or to take any benefits therefrom based upon a lease or rental agreement, or upon any formal or informal contract with a person who has such an interest. It includes membership in a firm, or ownership of stock or other securities in a corporation which has such an interest: *Provided*, That stock or securities traded on the open market may be purchased by an employee if the ac-

Alaska State Legislature

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

Senator Bill Ray, Chairman

Pouch YG
Mail Stop 3123
Juneau, Alaska 99811
(907) 465-4442

JUNEAU, ALASKA

MEMORANDUM

September 22, 1982

TO: Chris Noah, Executive Director
Council on Science and Technology

FROM: Teresa B. Cramer
Administrative Assistant

SUBJECT: Draft Bill Relating to Government Interests in Discoveries and Inventions

I am enclosing a copy of the draft bill on patents and have noted below the discussion at our last meeting. The commission will meet on October 15 to review a second draft to the bill and would welcome any comments the Council on Science and Technology cares to make. I am enclosing a memorandum about the time and place of the meeting for your information.

The following are the changes proposed to the draft bill at the last Blue Ribbon Commission meeting. The language which was discussed may be revised by the bill drafter, Jim Lear, as he prepares the next draft, but until then it stands.

Page 1
Line 16

Delete: inures solely to the benefit
Insert: is the property
Line to read: employee is the property of the state if the discovery or
Explanation: Make the language consistent with language on page 2, line 5

Page 1
Line 20

There was considerable discussion about whether "information" was clear enough. Some commission members were concerned that an insignificant item of information gained on the job might trigger the state's claim to a discovery or invention which was otherwise the independent work of an employee. Other members pointed out that under AS 39.52.010(c) on page 2, lines 13-22, the council could elect to waive the state's interest in the discovery or invention in those circumstances. Mr. Lear may decide to redraft the language on line 20 or it may remain in its present form.

Page 2 Line 9	Insert between "the" and "entire": public officer's or employee's Line to read: (2) assign to the state the public officer's or employee's entire right, title, and interest in and to the discovery or invention; and Explanation: Clarification
Page 2	Change citation to: AS 39.52.010(b) Explanation: Identify the particular subsection which applies.
Page 2 Line 23 to Page 3 Line 8	Mr. Lear will be redrafting Sec. 39.52.020 to make clear that state employees are entitled to 20 percent of the net proceeds only if the state actually receives revenues from the patent. If the state realizes internal savings from use of the patent, the employee will not be entitled to 20 percent of the savings.
Page 3 Line 10	Insert between "employee" and "who": or contracting party Explanation: The additional language makes clear that independent contractors will be governed by the terms of their contracts.
Page 3 Lines 25-27	Mr. Lear will check the provisions of Alaska's Arbitration Act and probably provide that the council will abide by those terms rather than giving the council the power and responsibility of adopting its own system of arbitration.
Page 4 Lines 1-2	Delete: , the Alaska Energy Center (AS 46.12), or the Alaska Resources Corporation (AS 37.12) Line to read: sity of Alaska. Explanation: The commission decided that all state employees should be governed by the same policy on patents. Mr. Lear will add a section to this bill repealing the statutes which currently give the Energy Center and the Resources Corporation the right to hold patents.

ADDITIONAL LANGUAGE

The commission also recommended that new employees be made aware of the state's patent interests and that they be required to sign a statement acknowledging the state's rights to employment-related discoveries and inventions. Mr. Lear will be drafting language to include in the bill.

Mr. Lear was also requested to draft legislation to protect the state's interests in copywrites, particularly in computer programs. When he has completed a draft bill, I will send you a copy.

TBC:lmk
Enclosures

8/30/82 mtg
re: Dale Young

August 2, 1982

Teresa B. Cramer
Administrative Assistant
Blue Ribbon Commission
Pouch YG
Mail Stop 3123

Dear Ms. Cramer:

I have worked for the Department of Fish and Game since March 30, 1976. My position is the Regional Hatchery Manager for Southeast Alaska. I accepted this position with a very positive attitude and was happy to be a part of the major aquaculture development effort in Alaska - namely the F.R.E.D. Division. I believe I have the aptitude to be an outstanding employee in my professional field, and one of my goals and desires is to do just that - perform in an outstanding way for the State of Alaska.

In 1976 I encountered a challenge on this job which was particularly interesting to me. This challenge was the need to develop a production scale salmon incubator. The nature of this task dictated that it be accomplished by private enterprise. Had I cooperated with private enterprise in this effort and profited in some way, I would have violated State conflict of interest rules, since my job was closely related to the task of developing the incubators.

I approached my supervisors with the dilemma and asked for advice. I was advised to seek a ruling on the matter. This I did, and in 1977 the state Personnel Board and the Attorney General's Office examined the request and granted me permission to proceed with the patent and development of the incubator. I was given strict guidelines to follow relative to reporting any income and separating personal interests from my state position. After receiving this ruling I proceeded to patent and, in cooperation with a private corporation, develop an incubator and a fish rearing system.

This action on my part caused an abrupt change in the way I was treated by my supervisors. This is documented in a voluminious report comprised of many letters and memos. To make a long story short, I was harassed in many ways, my performance evaluations went from highly acceptable to unacceptable with a recommendation for termination, citing conflict of interest issue as a major reason. I was prohibited from attending professional meetings. In one case I had my annual leave changed to leave without pay retroactively. I have not received a merit increase for over two years. I have been passed up for two promotions to two jobs for which I was qualified.

I have made many attempts at resolving this conflict directly with my supervisors. All efforts have failed. I finally sought assistance from APEA and have received tremendous support from Dianne Corso, the Field Representative. In spite of my efforts and Dianne Corso's as well, my supervisors are unwilling to resolve the conflict. To date, I have two years of performance evaluation's which are pending without resolution and I am facing what I believe to be retalatory layoff on August 15.

Some other points of interest are three reports which are being generated at my request. These relate to ancillary problems caused by the lack of a timely resolution of the above conflicts. These reports are a result of extensive investigations by the Office of the Ombudsman, the internal auditors of the Governor's Office and the Consumer Protection Division of the Attorney General's Office. All three reports relate to purchasing violations and or conflict of interest relative to my plight. The Governors Office report is complete and available, the Ombusman's report remains confidential until the Commissioner of Fish and Game has had an opportunity to respond to it, and the Attorney General's report is in the final stages of completion.

During investigations of these reports it was informally estimated by the auditors that the administrative costs of this conflict have exceeded a quarter of a million dollars. I would estimate that in addition to that the State is suffering unnecessary capital and operational costs in excess of several million dollars.

If possible I would like to discuss the following issues relative to the above case:

Conflict of Interest, Retaliatory Layoff, Performance Evaluations, Accountability for Violation of Standard Operating Procedures.

Sincerely,

Dale Young

Dale Young
Regional Hatchery Manager
Division of Fisheries Rehabilitation,
Enhancement and Development

Home: 789-0740
Work: 465-4236 (until Aug 15th)

[illegible] Trappers Lane
Juneau Ak
99801

Alaska State Legislature

JUNEAU, ALASKA

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

Senator Bill Ray, Chairman

Pouch YG
Mail Stop 3123
Juneau, Alaska 99811
(907) 465-4442

MEMORANDUM

January 25, 1983

TO: Senate State Affairs Committee

FROM: Teresa B. Cramer TeresaBCramer
Administrative Assistant

SUBJECT: Senate Bill 59 - Government Interests in Intellectual Work Products Developed at the Expense of the State

The Blue Ribbon Commission is proposing legislation to create and protect the state's interest in inventions, discoveries and creations developed by state employees or contractors during their employment or developed with the use of state facilities or resources.

The commission became interested in the issue when an employee of the Department of Fish and Game testified about employment problems arising from his patenting of a production scale salmon incubator. He had begun developing the incubator before he accepted employment with the state. He began working for the department and continued his project after securing advice from the Department of Law concerning avoiding the potential conflict of interest. His job for Fish and Game was closely related to the development of incubators. The employee stated that he created the incubator on his own time. He then patented it and sold the patent to a private corporation which marketed it. Thereafter, the department was required to pay royalties for use of the process.

The employee has filed several grievances over poor performance evaluations, lost promotional opportunities, and an alleged retaliatory layoff which he believed resulted from his patenting the invention. The department testified that there had been considerable morale problems because other employees believed that they had contributed to the development of the process. They thought it unfair that one individual could secure a patent and potentially profit from an invention in which others had participated and in which the state should have an interest.

The Blue Ribbon Commission is concerned that there is no statute protecting the state's interest in the inventions, discoveries and creations made by its employees or made through the use of its facilities. Legislation for the Alaska Energy Center and the Alaska

Resources Corporation gives each agency the authority to hold patents. Nothing in either chapter spells out how the state acquires that interest.

While the proposed legislation does not specifically address the situation which occurred in the Department of Fish and Game, the commission believes that this system would alleviate similar problems in the future. Information about the number of conflict of interest hearings before the Personnel Board indicates that there will probably be no more than two or three applications of the bill per year.

Bill Analysis

Page 1 Line 10	The first section of the proposed legislation gives the state all right, title and interest in any intellectual work product developed during working hours or with the use of state facilities or by employees whose duties include responsibility for research.
Page 4 Line 12	"Intellectual work product" is broadly defined later in the bill to include anything which is subject to patent, trademark or copyright laws.
Page 2 Line 8	A state employee or person under contract with the state is obliged to disclose the development of an intellectual work product to the Alaska Council on Science and Technology and to assign any interest in it to the state. If requested, the person is required to assist the Council in applying for a trademark, patent or copyright. The commission believes that the Council is the most appropriate existing state agency to administer the program.
Page 2 Line 21	The Council is given broad discretion to decide whether to pursue patenting, trademarking, or copyrighting the invention after consultation with affected state agencies. The Council may waive any state interest in the discovery or may waive all interest but retain a royalty-free license in the intellectual work product so that the state would not have to pay for its use in the future. If the state waives its interest, then the inventor would be able to pursue protection of his own interest in the discovery.
Page 3 Line 3	The proposed legislation gives the Council authority to grant monetary recognition to employees who develop an intellectual work product. The recognition could be in

the form of a cash award, a share in any royalties generated by the invention, or in any other manner the Council found appropriate. Payment would, of course, be subject to legislative appropriation. The commission believes that the Council should have wide discretion in implementing the monetary award system in order to best encourage employees in their work and serve the state's interests.

Page 3 Line 13 — Any disagreements between an employee and the state pertaining to ownership of an intellectual work product would be subject to voluntary arbitration if the parties agreed to be bound by the result. If not, then the disagreement could be settled in court. In addition, the state and the employee or contractor may enter into an employment contract which requires compulsory arbitration.

Page 3 Line 29 — Legislators and employees of the University of Alaska are exempted from the chapter. The University has its own policy on intellectual property developed at its expense which is codified in section 2 of the proposed legislation.

Page 4 Line 5 — The Council is granted rule-making authority for the chapter in accordance with the Administrative Procedure Act.

Page 4 Line 24 — Section 2 of the legislation adds language to codify the University of Alaska's right to intellectual work products developed by its employees.

Page 5 Line 7 — Section 3 requires state employees to waive their interest in intellectual work products developed at the expense of the state as set out in section 1 of the bill. The waiver is not subject to negotiation under the Public Employment Relations Act.

Page 5 Line 29 — Section 4 amends the Alaska Council on Science and Technology statutes to add the powers and responsibilities granted by the proposed legislation.

Page 6 Line 7 — Section 5 repeals the patenting powers currently granted to the Alaska Energy Center and the Alaska Resources Corporation. The commission believes that there should be a single system which applies to all legislative, judicial and executive branch employees of the state.

7/11/83

Stan Moberly (now Comr of Fish & Game) has been interested in this bill & has had info about ways to handle the state's interests & about how other states & universities & foundations share the results of discoveries etc.

Dale Young was the employee whose activities sparked this legislation? I think he no longer works for the state.

The AG's Office had some info about Dale Young's lawsuit against the state - Tom Johnke handled it for awhile and then John Gaguine. They've also hired outside counsel because of the patent aspect.

July 6, 1983

SB 59: Government interests in intellectual work products developed at the expense of the state.

History - IN THE SENATE

State Affairs Hearing 4/19 but no action taken.

Note: The Council on Science and Technology, which the bill makes responsible for carrying out the protection of the state's interest in patents, copyrights and trademarks, has been drastically reshaped by the legislature this session. If this bill goes anywhere, some alternative may have to be found for carrying out the functions assigned to the Council.

I met with Suzanne Tryck(Senator Vic Fischer's aide on this bill) several times to discuss problems. She indicated that the committee would be working on the bill during the interim.

Companion bill: HB 52 is the companion. It had no hearings and no work during the session.

See 1982 Courses for addresses

Intellectual Fruit Products Info.

1. Chris Noah, Ex Dir Council Sc & Tech
2. Michael Paradise Chancellor U of A Jnr
3. Jay Barton, Pres. U of A Fbks

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

December 7, 1982

SUBJECT: Intellectual work products
(Work Order No. 13-0041)

TO: Senator Bill Ray
Chairman, Blue Ribbon Commission on
Personnel Act

FROM: James H. Lear
Legislative Counsel JHL

I have been asked by Terry Cramer of the Blue Ribbon Commission staff to review and comment on the attached letter from David M. Hickok, Chairman of the Alaska Council on Science and Technology (ACST) regarding the draft legislation entitled "An Act relating to government interests in intellectual work products developed at the expense of the state". The Alaska Council on Science and Technology summarizes several key elements and philosophical tenets that underlie the various federal and university policy statements on the subject of inventions by public employees. I shall address the summarized elements individually.

The first issue raised is whether or not the originator of an intellectual work product rightfully has a partial ownership interest in the product when it is developed at state expense. It is clearly within the prerogative of the legislature to provide a statutory entitlement on the part of a public officer or employee to participate in the ownership of an intellectual work product developed at the expense of the state. Conversely, the legislature may legitimately reserve to the state ownership interests as contemplated in the proposed bill draft without violating the constitutional rights of the originator of an intellectual work product, so long as the product flows from the originator's association or employment with the state.

The second issue surrounds the responsibility of the state to pursue patenting of an invention and to manage the patent in a fashion that promotes its usefulness to society. This

is a policy decision of the legislature. If the state truly owns an intellectual work product developed at state expense, then it has no obligation to the originator to develop the work product unless the legislature imposes an obligation. Accordingly, Sec. 4 of the bill draft empowers the Alaska Council on Science and Technology "consistent with the provisions of AS 39.52 [to] retain, assign, license, transfer, sell, or otherwise dispose of, in whole or in part and upon terms that the council may direct, any and all rights to, interests in, or income from intellectual work products acquired by the council under AS 39.52"; and Sec. 1 of the bill draft (creating AS 39.52) requires the originator to assist the council in the prosecution of an application for a trademark, copyright, or patent and authorizes the council to either waive all rights to an intellectual work product or waive rights but reserve a royalty-free license for governmental use. These provisions are a legitimate exercise of legislative prerogative that, nonetheless, demonstrate a concern for the development of intellectual work products for the benefit of society.

The third issue raised by the council is the scope of intellectual work products subject to coverage under the proposed bill. It is suggested that the definition of "intellectual work product" is too broad and thus is challengeable on constitutional grounds. It is further suggested that the bill be structured to pertain only to patentable inventions. The proposed draft, however, would not be subject to a constitutional challenge of being overbroad since the substantive provisions of proposed Sec. 39.52.010 make it clear that regardless of how "intellectual work product" is defined, the bill would only apply if the intellectual work product were subject to trademark, copyright, or patent.

The fourth issue involves the process for determining whether an intellectual work product is owned by and of value to the state. The bill draft contemplates broad discretion on the part of the Alaska Council on Science and Technology to adopt rules implementing the bill but also requires the Alaska Council on Science and Technology to consult with affected agencies before relinquishing ownership interests. The language of the proposed bill draft would not preclude the Alaska Council on Science and Technology from adopting a rule that would require the various agencies of the state to perform a screening function on behalf of the Alaska Council on Science and Technology. Similarly, the Alaska Council on Science and Technology could adopt rules similar to the

detailed federal rules adopted by the Department of the Interior not inconsistent with the bill as it may be enacted. It would not be necessary, or perhaps advisable, to codify such details where the administrative rule process would afford greater flexibility in this area of the law where there is so little legal precedent in statutory form.

If you have questions pertaining to these comments, please contact our office.

JHL:ljb

ACK - SEND TO TERRY CRAMER

ACST

THE ALASKA COUNCIL ON SCIENCE AND TECHNOLOGY

November 19, 1982

Senator Bill Ray, Chairman
Blue Ribbon Commission on
the Personnel Act
Alaska State Legislature
Pouch YG
Juneau, Alaska 99811

Dear Senator Ray,

Based upon discussions held at our November 17, 1982 meeting, I am sending suggestions for consideration for the draft legislation entitled "An Act Relating to Government Interests in Intellectual Work Products Developed at the Expense of the State."

The Council suggests that this act be written similarly to the statutes adopted by the federal government. These statutes differ somewhat according to application for specific agencies, but generally all follow the same general philosophy,particularly related to patents. Also, the University of Alaska has an existing policy that works well and has stood the test of time, having been in effect for more than a decade. A general state policy might consider the university approach as well.

These various federal and university policy statements or statutes contain several key elements and philosophical tenets which may be helpful to you. In summary these are:

1. Recognition that patentable inventions produced in the line of work duty may be primarily owned by the sponsoring agency, but that, depending upon the specific circumstances, the originator might rightfully have a partial ownership interest, or at least that it is in the public welfare to award such partial ownership;

2. Recognition that in accepting ownerships of a potential invention, the government or agency accepts responsibility to pursue patenting and management of the patent in a fashion that promotes its usefulness to society;

3. Recognition than in order to promote employee intellectual pursuit, to avoid infringement upon individual freedom, to avoid unnecessary litigation, and to avoid much needless work on the part of agency personnel, that the policy statements or statutes are

Christopher Noah, Executive Director - Pouch CV, Juneau, Alaska 99811 - (907) 465-3510

written to pertain strictly to patentable inventions. (We suggest that the existing wording in the draft bill, specifically the wording "intellectual work product" and its definitions as given in Section 39:52.099 are too broad to be effective and may well be challengeable on Constitutional grounds. The proposed statute, we suggest, should pertain to patentable inventions only.); and

4. Recognition, also that for every "idea" that eventually leads to a patent deemed desirable for agency ownership, there are dozens that do not. (Hence, we suggest that the state needs an inexpensive, effective mechanism to weed out ideas of an unpatentable nature or which, if patented, have no economic value to the state. Examination of established procedures will show that the process must start as close to the inventor as possible--specifically, within the agency wherein the employee works. Determination of patentability and/or desirability of patentability should be conducted within the employee's agency. Determination of desired state ownership should be made by the employer's agency acting in conjunction with the Attorney General's office. It may be appropriate to specify in the proposed bill that the ACST would act as a participant in the decision regarding appropriate share of state ownership, once desirability of patenting has been determined.)

A useful guide to framing a patent regulation for Alaska may be the enclosed copy of patent regulations used by the U.S. Department of Interior. Additionally, as earlier stated, another useful guide could be the patenting policy of the University of Alaska. The process used there involves initial internal determination of patentability, followed by a review made by a specialized non-profit patenting organization which then takes a percentage of ownership in payment for its services should all agree that the pursuit of a patent is desirable. In this case the shares in the ownership of the patent between the non-profit corporation, the university, and the inventor are negotiated.

We trust these comments are useful to you. As this bill proceeds in the legislation process we would be pleased to offer further information for your consideration or testify upon your request.

Sincerely,

David M. Hickok

David M. Hickok
Chairman

DMH/sw
Enclosure

National Park Service will be granted by the head of the Service or his authorized representative in his discretion and on acceptance by the applicant of the conditions set forth in paragraph (d) (3) of this section.

(d) *Form of application.* The following form is prescribed for an application for permission to make a motion picture, television production, or sound track on areas administered by the United States Fish and Wildlife Service or the National Park Service:

Date _____

To the head of the _____
Service, Department of the Interior _____
(Area)

(1) Permission is requested to make, in the area mentioned above, a _____

(2) The scope of the filming (or production or recording) and the manner and extent thereof will be as follows

Weather conditions permitting, work will commence on approximately _____ and will be completed on approximately _____

_____

_____

(An additional sheet should be used if necessary.)

(3) The undersigned accepts and will comply with the following conditions:

(i) Utmost care will be exercised to see that no natural features are injured and after completion of the work the area will, as required by the official in charge, either be cleaned up and restored to its prior condition or left, after clean-up, in a condition satisfactory to the official in charge.

(ii) Credit will be given to the Department of the Interior and the Service involved through the use of an appropriate title or announcement, unless there is issued by the official in charge of the area a written statement that no such courtesy credit is desired

(iii) Pictures will be taken of wildlife only when such wildlife will be shown in its natural state or under approved management conditions if such wildlife is confined.

(iv) [Deleted]

(v) Any special instructions received from the official in charge of the area will be complied with.

(vi) Any additional information relating to the privilege applied for by this application will be furnished upon request of the official in charge.

_____
(Applicant)

For _____
(Company)

Bond Requirement $ _____

Approved: _____
(Date)

_____
(Title)

[22 FR 1987, Mar. 26, 1957, as amended at 36 FR 2972, Feb. 13, 1971]

§ 5.2 Areas administered by the Bureau of Indian Affairs.

(a) *Individual Indians.* Anyone who desires to go on the land of an Indian to make pictures, television productions or sound tracks is expected to observe the ordinary courtesy of first obtaining permission from the Indian and of observing any conditions attached to such permission.

(b) *Indian groups and communities.* Anyone who desires to take pictures, including motion pictures, or to make a television production or a sound track of Indian communities, churches, kivas, plazas, or ceremonies performed in such places, must obtain prior permission from the proper officials of the place or community. Limitations which such officials may impose must be scrupulously observed.

(c) *Use of Indian lands.* If the filming of pictures or the making of television productions or sound tracks requires the actual use of Indian lands, a lease or permit must be obtained pursuant to 25 CFR Part 131.

(d) *Employment of Indians.* Any motion picture or television producer who obtains a lease or permit for the use of Indian land pursuant to 25 CFR Part 131 shall be expected to pay a fair and reasonable wage to any Indians employed in connection with the production activities.

[22 FR 1987, Mar. 26, 1957]

PART 6—PATENT REGULATIONS

Subpart A—Inventions by Employees

Sec.
6.1 Definitions.
6.2 Report of invention.
6.3 Action by supervisory officials.
6.4 Action by Solicitor.
6.5 Rights in inventions.
6.6 Appeals by employees.
6.7 Domestic patent protection.
6.8 Foreign filing.
6.9 Publication and public use of invention before patent application is filed.

Subtitle A—Office of th

Sec.
6.10 Publicity concerning after patent application
6.11 Condition of employm

Subpart B—Licen

6.51 Purpose.
6.52 Patents.
6.53 Unpatented inventions.
6.54 Use or manufacture by ernment.
6.55 Terms of licenses or su
6.56 Issuance of licenses.
6.57 Evaluation Committee.

AUTHORITY: 5 U.S.C. 301; s zation Plan No. 3 of 1950, 1 ecutive Order 10096, 15 FR tive Order 10930, 26 FR 2583.

SOURCE: 29 FR 260, Jan. 1 6498, May 19, 1964, unless ot

Subpart A—Inventions b

§ 6.1 Definitions.

As used in this subpart:

(a) The term "Departn the Department of the Int

(b) The term "Secretary Secretary of the Interior.

(c) The term "Solicitor Solicitor of the Departme terior, or anyone authoriz him.

(d) The term "Commissi the Commissioner of Pat Assistant Commissioner w for the Commissioner of P

(e) The term "invention" new and useful art, proc machine, manufacture, or of matter, or any new an provement thereof, or any of plant, or any new, orig namental design for an art ufacture, which is or may able under the laws of States.

(f) The term "employee" this part includes a part tant, a part time employee employee (as defined in 18 of the Department insofa tions made during period duty are concerned, excep cial circumstances in a spe quire an exemption in or the needs of the Depart such exemption to be sub approval of the Commissio

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(Date)

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1987, Mar. 26, 1957, as amended at
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the actual use of Indian lands, a
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1987, Mar. 26, 1957]

RT 6—PATENT REGULATIONS

bpart A—Inventions by Employees

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6.10 Publicity concerning the invention after patent application is filed.
6.11 Condition of employment.

Subpart B—Licenses

6.51 Purpose.
6.52 Patents.
6.53 Unpatented inventions.
6.54 Use or manufacture by or for the Government.
6.55 Terms of licenses or sublicenses.
6.56 Issuance of licenses.
6.57 Evaluation Committee.

AUTHORITY: 5 U.S.C. 301; sec. 2, Reorganization Plan No. 3 of 1950, 15 FR 3174; Executive Order 10096, 15 FR 389; and Executive Order 10930, 26 FR 2583.

SOURCE: 29 FR 260, Jan. 10, 1964; 29 FR 6498, May 19, 1964, unless otherwise noted.

Subpart A—Inventions by Employees

§ 6.1 Definitions.

As used in this subpart:

(a) The term "Department" means the Department of the Interior.

(b) The term "Secretary" means the Secretary of the Interior.

(c) The term "Solicitor" means the Solicitor of the Department of the Interior, or anyone authorized to act for him.

(d) The term "Commissioner" means the Commissioner of Patents, or any Assistant Commissioner who may act for the Commissioner of Patents.

(e) The term "invention" means any new and useful art, process, method, machine, manufacture, or composition of matter, or any new and useful improvement thereof, or any new variety of plant, or any new, original and ornamental design for an article of manufacture, which is or may be patentable under the laws of the United States.

(f) The term "employee" as used in this part includes a part time consultant, a part time employee or a special employee (as defined in 18 U.S.C. 202) of the Department insofar as inventions made during periods of official duty are concerned, except when special circumstances in a specific case require an exemption in order to meet the needs of the Department, each such exemption to be subject to the approval of the Commissioner.

(g) The term "governmental purpose" means the right of the Government of the United States (including any agency thereof, state, or domestic municipal government) to practice and have practiced (made or have made, used or have used, sold or have sold) throughout the world by or on behalf of the Government of the United States.

(h) The "making of the invention" means the conception or first actual reduction to practice of such invention.

§ 6.2 Report of invention.

(a) Every invention made by an employee of the Department shall be reported by such employee through his supervisor and the head of the bureau or office to the Solicitor, unless the invention obviously is unpatentable. If the invention is the result of group work, the report shall be made by the supervisor and shall be signed by all employees participating in the making of the invention. The original and two copies of the invention report shall be furnished to the Solicitor. The Solicitor may prescribe the form of the report.

(b) The report shall be made as promptly as possible, taking into consideration such factors as possible publication or public use, reduction to practice, and the necessity for protecting any rights of the Government in the invention. Although it is not necessary to withhold the report until the process or device is completely reduced to practice, reduction to practice assists in the preparation of a patent application and, if diligently pursued, protects the interests of the Government and of the inventor. If an invention is reduced to practice after the invention report is filed, the Solicitor must be notified forthwith.

(c) For the protection of the rights of the Government and of the inventor, invention reports and memoranda or correspondence concerning them are to be considered as confidential documents.

(d) An invention report shall include the following:

(1) A brief but pertinently descriptive title of the invention;

(2) The full name, residence, office address, bureau or office and division, position or title, and official working place of the inventor or inventors;

(3) A statement of the evidence that is available as to the making of the invention, including information relative to conception, disclosures to others, and reduction to practice. Examples of such information are references to signed, witnessed and dated laboratory notebooks, or other authenticated records pertaining to the conception of the invention, operational data sheets, analysis and operation evaluation reports pertaining to a reduction to practice, and visitor log books, letters and other documents pertaining to disclosures to others. These need not be submitted with the report, only the identifying data is required, e.g., volume and page number in a laboratory notebook;

(4) Information concerning any past or prospective publication, oral presentation or public use of the invention;

(5) The problem which led to the making of the invention;

(6) The objects, advantages, and uses of the invention;

(7) A detailed description of the invention;

(8) Experimental data;

(9) The prior art known to the inventor(s) and the manner in which the invention distinguishes thereover;

(10) A statement that the employee:

(i) Is willing to and does hereby assign to the Government:

(*a*) The entire rights (foreign and domestic) in the invention;

(*b*) The domestic rights only, but grants to the Government an option to file for patent protection in any foreign country, said option to expire as to any country when it is decided not to file thereon in the United States, or within six months after such filing;

(ii) Requests, pursuant to § 6.2(e), a determination of the respective rights of the Government and of the inventor.

(e) If the inventor believes that he is not required by the regulations in this subpart to assign to the Government the entire domestic right, title, and interest in and to the invention, and if he is unwilling to make such an assignment to the Government, he shall, in his invention report, request that the Solicitor determine the respective rights of the Government and of the inventor in the invention, and he shall include in his invention report information on the following points, in addition to the data called for in paragraph (d) of this section:

(1) The circumstances under which the invention was made (conceived, actually reduced to practice or constructed and tested);

(2) The employee's official duties, as given on his job sheet or otherwise assigned, at the time of the making of the invention;

(3) The extent to which the invention was made during the inventor's official working hours, the extent use was made of government facilities, equipment, funds, material or information, and the time or services of other government employees on official duty;

(4) Whether the employee wishes a patent application to be prosecuted under the Act of March 3, 1883, as amended (35 U.S.C. 266), if it should be determined that he is not required to assign all domestic rights to the invention to the Government; and

(5) Whether the employee would be willing, upon request, to voluntarily assign foreign rights in the invention to the Government if it should be determined that an assignment of the domestic rights to the Government is not required.

§ 6.3 Action by supervisory officials.

(a) The preparation of an invention report and other official correspondence on patent matters is one of the regular duties of an employee who has made an invention and the supervisor of such employee shall see that he is allowed sufficient time from his other duties to prepare such documents. The supervisor shall ascertain that the invention report and other papers are prepared in conformity with the regulations of this part; and, before transmitting the invention report to the head of the bureau or office, shall check its accuracy and completeness, especially with respect to the circumstances in which the invention was developed, and shall add whatever com-

ments he may deem to be desirable. The supervisor the file whatever inform have concerning the gove commercial value of the i

(b) The head of the bu shall make certain that t report is as complete as c permit. He shall report formation may be avai agency concerning the and commercial value of t and the foreign countries likely that the inventi most useful and would h est commercial value.

(c) If the employee inve that the Solicitor determ in the invention, the bureau or office shall sta sions with respect to such

(d) The head of the bu shall indicate whether, ment, the invention is lia in the public interest, an out the facts supporting whenever the employe report does not contain formation on this point.

§ 6.4 Action by Solicitor.

(a) If an employee inve pursuant to paragraph that such determination Solicitor shall determin tive rights of the employ Government in and to t His determination shall review by the Commissio cases under Executive and 10930 and the rule tions issued by the Comn the approval of the Presi

(b) If the Government obtain the entire domes and interest in and to made by an employee o ment, the Solicitor, subj by the Commissioner in may take such action invention as he deems ne visable to protect the in United States.

§ 6.5 Rights in inventions.

(a) The rules prescribe tion shall be applied i the respective rights of ment and of an employ

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and shall add whatever com-

ments he may deem to be necessary or desirable. The supervisor shall add to the file whatever information he may have concerning the governmental and commercial value of the invention.

(b) The head of the bureau or office shall make certain that the invention report is as complete as circumstances permit. He shall report whatever information may be available in his agency concerning the governmental and commercial value of the invention, and the foreign countries in which it is likely that the invention would be most useful and would have the greatest commercial value.

(c) If the employee inventor requests that the Solicitor determine his rights in the invention, the head of the bureau or office shall state his conclusions with respect to such rights.

(d) The head of the bureau or office shall indicate whether, in his judgment, the invention is liable to be used in the public interest, and he shall set out the facts supporting his conclusion whenever the employee's invention report does not contain sufficient information on this point.

§ 6.4 Action by Solicitor.

(a) If an employee inventor requests pursuant to paragraph (e) of § 6.2, that such determination be made, the Solicitor shall determine the respective rights of the employee and of the Government in and to the invention. His determination shall be subject to review by the Commissioner in proper cases under Executive Orders 10096 and 10930 and the rules and regulations issued by the Commissioner with the approval of the President.

(b) If the Government is entitled to obtain the entire domestic right, title and interest in and to an invention made by an employee of the Department, the Solicitor, subject to review by the Commissioner in proper cases, may take such action respecting the invention as he deems necessary or advisable to protect the interests of the United States.

§ 6.5 Rights in inventions.

(a) The rules prescribed in this section shall be applied in determining the respective rights of the Government and of an employee of the Department in and to any invention made by the employee.

(b)(1) Except as indicated in the succeeding paragraphs, (b)(1)—(4), of this section, the Government shall obtain the entire domestic right, title, and interest in and to any invention made by an employee of the Department (i) during working hours, or (ii) with a contribution by the Government of facilities, equipment, materials, funds, or information, or of time or services of other government employees on official duty, or (iii) which bears a direct relation to or is made in consequence of the official duties of the inventor.

(2) In any case where the contribution of the Government, as measured by any one or more of the criteria set forth in paragraph (b)(1) of this section, to the invention is insufficient equitably to justify a requirement of assignment to the Government of the entire domestic right, title, and interest in and to such invention, or in any case where the Government has insufficient interest in an invention to obtain the entire domestic right, title, and interest therein (although the Government could obtain same under paragraph (b)(1) of this section), the Solicitor, subject to the approval of the Commissioner, shall leave title to such invention in the employee, subject, however, to the reservation to the Government of a nonexclusive, irrevocable, royalty-free license in the invention with power to grant sublicenses for all governmental purposes, such reservation, in the terms thereof, to appear, where practicable, in any patent, domestic or foreign, which may issue on such invention.

(3) In applying the provisions of paragraphs (b)(1) and (2) of this section to the facts and circumstances relating to the making of any particular invention, it shall be presumed that any invention made by an employee who is employed or assigned (i) to invent or improve or perfect any art, machine, manufacture, or composition of matter, or (ii) to conduct or perform research, development work, or both, or (iii) to supervise, direct, coordinate, or review Government financed or conducted research, development work, or both, or (iv) to act in a liaison capacity among governmental or non-

governmental agencies or individuals engaged in such work, falls within the provisions of paragraph (b)(1) of this section, and it shall be presumed that any invention made by any other employee falls within the provisions of paragraph (b)(2) of this section. Either presumption may be rebutted by a showing of the facts and circumstances in the case and shall not preclude a determination that these facts and circumstances justify leaving the entire right, title and interest in and to the invention in the government employee, subject to law.

(4) In any case wherein the Government neither (i) obtains the entire domestic right, title, and interest in and to an invention pursuant to the provisions of paragraph (b)(1) of this section, nor (ii) reserves a nonexclusive, irrevocable, royalty-free license in the invention, with power to grant sublicenses for all governmental purposes, pursuant to the provisions of paragraph (b)(2) of this section, the Solicitor, subject to the approval of the Commissioner, shall leave the entire right, title, and interest in and to the invention in the employee, subject to law.

(c) In the event that the Solicitor determines, pursuant to paragraph (b)(2) or (4) of this section, that title to an invention will be left with an employee, the Solicitor shall notify the employee of this determination and promptly prepare, and preserve in appropriate files accessible to the Commissioner, a written signed, and dated statement concerning the invention including the following:

(1) A description of the invention in sufficient detail to identify the invention and show the relationship to the employee's duties and work assignment;

(2) The name of the employee and his employment status, including a detailed statement of his official duties and responsibilities at the time the invention was made; and

(3) A statement of the Solicitor's determination and reasons therefor. The Solicitor shall, subject to considerations of national security, or public health, safety, or welfare, submit to the Commissioner a copy of this written statement. This submittal in a case falling within the provisions of paragraph (b)(2) of this section shall be made after the expiration of the period prescribed in § 6.6 for the taking of an appeal, or it may be made prior to the expiration of such period if the employees acquiesces in the Solicitor's determination. The Commissioner thereupon shall review the determination of the Solicitor and the Commissioner's decision respecting the matter shall be final, subject to the right of the employee or the Solicitor to submit to the Commissioner within 30 days (or such longer period as the Commissioner may, for good cause, shown in writing, fix in any case) after receiving notice of such decision, a petition for the reconsideration of the decision. A copy of such petition must also be filed by the inventor with the Solicitor within the prescribed period.

§ 6.6 Appeals by employees.

(a) Any employee who is aggrieved by a determination of the Solicitor pursuant to § 6.5(b) (1) or (2) may obtain a review of the determination by filing, within 30 days (or such longer period as the Commissioner may for good cause shown in writing, fix in any case) after receiving notice of such determination, two copies of an appeal with the Commissioner. The Commissioner then shall forward one copy of the appeal to the Solicitor.

(b) On receipt of a copy of an appeal filed pursuant to paragraph (a) of this section, the Solicitor shall, subject to considerations of national security, or public health, safety, or welfare, promptly furnish both the Commissioner and the inventor with a copy of a report containing the following information about the invention involved in the appeal:

(1) A copy of a statement containing the information specified in § 6.5(c), and

(2) A detailed statement of the points of dispute or controversy, together with copies of any statements or written arguments that may have been filed, and of any other relevant evidence that the Solicitor considered in making his determination of Government interest. Within 25 days (or

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est. Within 25 days (or such longer period as the Commissioner may, for good cause shown, fix in any case) after the transmission of a copy of the Solicitor's report to the employee, the employee may file a reply thereto with the Commissioner and file one copy thereof with the Solicitor.

(c) After the time for the employee's reply to the Solicitor's report has expired and if the employee has so requested in his appeal, a date will be set for the hearing of oral arguments by the employee (or by an attorney whom he designates by written power of attorney filed before, or at the hearing) and the Solicitor. Unless it shall be otherwise ordered before the hearing begins, oral arguments will be limited to thirty minutes for each side. The employee need not retain an attorney or request an oral hearing to secure full consideration of the facts and his arguments. He may expedite such consideration by notifying the Commissioner when he does not intend to file a reply to the Solicitor's report.

(d) After a hearing on the appeal, if a hearing was requested, or after expiration of the period for the inventor's reply to the Solicitor's report, if no hearing is set, the Commissioner shall issue a decision on the matter, which decision shall be final after the period for asking reconsideration expires or on the date that a decision on a petition for reconsideration is finally disposed of. Any request for reconsideration or modification of the decision must be filed within 30 days from the date of the original decision (or within such an extension thereof as may be set by the Commissioner before the original period expires). The Commissioner's decision shall be made after consideration of the statements of fact in the employee's appeal, the Solicitor's report, and the employee's reply, but the Commissioner, at his discretion and with due respect to the rights and convenience of the inventor and the Solicitor, may call for further statements on specific questions of fact or may request additional evidence in the form of affidavits or depositions on specific facts in dispute.

§ 6.7 Domestic patent protection.

(a) The Solicitor, upon determining that an invention coming within the scope of § 6.5(b) (1) or (2) has been made, shall thereupon determine whether patent protection will be sought in the United States by the Department for such invention. A controversy over the respective rights of the Government and of the inventor in any case shall not delay the taking of the actions provided for in this section. In cases coming within the scope of § 6.5(b) (2), action by the Department looking toward such patent protection shall be contingent upon the consent of the inventor.

(b) Where there is a dispute as to whether paragraphs (b)(1) or (2) of § 6.5 applies in determining the respective rights of the Government and of an employee in and to any invention, the Solicitor will determine whether patent protection will be sought in the United States pending the Commissioner's decision on the dispute, and, if he determines that an application for patent should be filed, he will take such rights as are specified in § 6.5(b) (2), but this shall be without prejudice to acquiring the rights specified in § 6.5 (b) (1) should the Commissioner so decide.

(c) Where the Solicitor has determined to leave title to an invention with an employee under § 6.5(b) (2), the Solicitor will, upon the filing of an application for patent and pending review of the determination by the Commissioner, take the rights specified in that paragraph, without prejudice to the subsequent acquisition by the Government of the rights specified in § 6.5(b) (1) should the Commissioner so decide.

(d) In the event that the Solicitor determines that an application for patent will not be filed on an invention made under the circumstances specified in § 6.5(b) (1) giving the United States the right to title thereto, the Solicitor shall subject to considerations of national security, or public health, safety, or welfare, report to the Commissioner promptly upon making such determination, the following information concerning the invention:

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(1) Description of the invention in sufficient detail to permit a satisfactory review;

(2) Name of the inventor and his employment status;

(3) Statement of the Solicitor's determination and reasons therefor.

The Commissioner, may, if he determines that the interest of the Government so requires and subject to considerations of national security, or public health safety, or welfare, bring the invention to the attention of any Government agency to whose activities the invention may be pertinent, or cause the invention to be fully disclosed by publication thereof.

§ 6.8 Foreign filing.

(a) *By Government.* (1) In every case where the employee has indicated pursuant to § 6.2(d)(10), his willingness to assign the domestic patent rights in the invention to the Government, or where it has been determined pursuant to § 6.5 that the Government shall obtain the entire domestic patent rights, the Government shall reserve an option to acquire assignment of all foreign rights including the rights to file foreign patent applications or otherwise to seek protection abroad on the invention.

(2) The Government's option shall lapse as regards any foreign country:

(i) When the Solicitor determines after consultation with the agency most directly concerned, not to cause an application to be filed in said foreign country or otherwise to seek protection of the invention, as by publication;

(ii) When the Solicitor fails to take action to seek protection of the invention in said foreign country (*a*) within six months of the filing of an application for a United States patent on the invention, or (*b*) within six months of declassification of an invention previously under a security classification, whichever is later.

(b) *By Employee.* (1) No Department employee shall file or cause to be filed an application for patent in any foreign country on any invention in which the Government has acquired the entire (foreign and domestic) patent rights, or holds an unexpired option to acquire the patent rights in said foreign country, or take any steps which would preclude the filing of an application by or on behalf of the Government.

(2) An employee may file in any foreign country where the Government has not exercised its option acquired pursuant to § 6.2(d)(10), to do so, or determines not to do so.

(3) The determination or failure to act as set forth in § 6.8(a)(2) shall constitute a decision by the Government to leave the foreign patent rights to the invention in the employee, subject to a nonexclusive, irrevocable, royalty-free license to the Government in any patent which may issue thereon in any foreign country, including the power to issue sublicenses for governmental purposes or in furtherance of the foreign policies of the Government or both.

§ 6.9 Publication and public use of invention before patent application is filed.

(a) Publication or public use of an invention constitutes a statutory bar to the granting of a patent for the invention unless a patent application is filed within one year of the date of such publication or public use. In order to preserve rights in unpatented inventions, it shall be the duty of the inventor, or of his supervisor if the inventor is not available to make such report, to report forthwith to the Solicitor any publication or use (other than experimental) of an invention, irrespective of whether an invention report has previously been filed. If an invention report has not been filed, such a report, including information concerning the public use or publication, shall be filed at once. If an invention is disclosed to any person who is not employed by the Department or working in cooperation with the Department upon that invention, a record shall be kept of the date and extent of the disclosure, the name and address of the person to whom the disclosure was made, and the purpose of the disclosure.

(b) No description, specification, plan, or drawing of any unpatented invention upon which a patent application is likely to be filed shall be published, nor shall any written descrip-

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tion, specification, plan, or drawing of such invention be furnished to anyone other than an employee of the Department or a person working in cooperation with the Department upon that invention, unless the Solicitor is of the opinion that the interests of the Government will not be prejudiced by such action. If any publication disclosing the invention, not previously approved by the Solicitor, comes to the attention of the inventor or his supervisor, it shall be the duty of such person to report such publication to the Solicitor.

§ 6.10 Publicity concerning the invention after patent application is filed.

In order that the public may obtain the greatest possible benefit from inventions in which the Secretary has transferable interests, inventions assigned to the Secretary upon which patent applications have been filed shall be publicized as widely as possible, within limitations of authority, by the Department, by the originating agency, by the division in which the inventor is employed, and by the inventor himself in his contacts with industries in which the invention is or may be useful. Regular organs of publication shall be utilized to the greatest extent possible. In addition, it shall be the duty of the Solicitor, upon being advised of the issuance of any patent assigned to the Secretary, to take steps towards listing the patent as available for licensing, where feasible.

§ 6.11 Condition of employment.

(a) The regulations in this subpart shall be a condition of employment of all employees of the Department and shall be effective as to all their inventions. These regulations shall be effective without regard to any existing or future contracts to the contrary entered into by any employee of the Department with any person other than the Government.

(b) If a patent application is filed upon an invention which has been made by an employee of the Department under circumstances that entitle the Government to the entire domestic right, title and interest in and to the invention, but which has not been reported to the Solicitor pursuant to the regulations in this subpart, title to such invention shall immediately vest in the Government, as represented by the Secretary, and the contract of employment shall be considered an assignment of such rights.

Subpart B—Licenses

§ 6.51 Purpose.

It is the purpose of the regulations in this subpart to secure for the people of the United States the full benefits of Government research and investigation in the Department of the Interior (a) by providing a simple procedure under which the public may obtain licenses to use patents and inventions in which the Secretary of the Interior has transferable interests and which are available for licensing; and (b) by providing adequate protection for the inventions until such time as they may be made available for licensing without undue risk of losing patent protection to which the public is entitled.

[31 FR 10796, Aug. 13, 1966]

§ 6.52 Patents.

Patents in which the Secretary of the interior has transferable interests, and under which he may issue licenses or sublicenses, are classified as follows:

(a) *Class A.* Patents, other than those referred to in paragraph (c) of this section, which are owned by the United States, as represented by the Secretary of the Interior, free from restrictions on licensing except such as are inherent in Government ownership;

(b) *Class B.* Patents in which the interest of the United States, as represented by the Secretary of the Interior, is less than full ownership, or is subject to some express restriction upon licensing or sublicensing (including patents upon which the Secretary of the Interior holds a license, patents assigned to the Secretary of the Interior as trustee for the people of the United States, and patents assigned to the Secretary of the Interior upon such terms as to effect a dedication to the public);

(c) *Class C.* Patents and patent rights acquired by the Secretary of the Interior pursuant to the Act of April 5, 1944 (58 Stat. 190; 30 U.S.C. 321—325), and any amendments thereof.

[29 FR 260, Jan. 10, 1964, as amended at 31 FR 10796, Aug. 13, 1966]

§ 6.53 Unpatented inventions.

The Secretary of the Interior may also have transferable interests in inventions which are not yet patented. In order to protect the patent rights of the Department, for the eventual benefit of the public, a license may be granted with respect to such an invention only if (a) a patent application has been filed thereon; (b) the invention has been assigned to the United States, as represented by the Secretary of the Interior, and the assignment has been recorded in the Patent Office; and (c) the Solicitor of the Department is of the opinion that the issuance of a license will not prejudice the interests of the Government in the invention. Such licenses shall be upon the same terms as licenses relating to patents of the same class, as described in § 6.52.

§ 6.54 Use or manufacture by or for the Government.

A license is not required with respect to the manufacture or use of any invention assigned or required to be assigned without restrictions or qualifications to the United States when such manufacture or use is by or for the Government for governmental purposes. A license or sublicense may be required, however, for such manufacture or use in the case of Class B patents or patent rights when the terms under which the Secretary of the Interior acquires interests therein necessitate the issuance of a license or sublicense in such circumstances.

[31 FR 10796, Aug. 13, 1966]

§ 6.55 Terms of licenses or sublicenses.

(a) No license or sublicense shall be granted under any patent in which the Secretary of the Interior has transferable interests, except as set forth under these regulations, the terms and conditions of which shall be expressly stated in such license and sublicense. The terms of licenses and sublicenses issued under this subpart shall not be unreasonably restrictive.

(b) To the extent that they do not conflict with any restrictions to which the licensing or sublicensing of Class B patents and unpatented inventions may be subject, all licenses and sublicenses relating to Class A and Class B patents and unpatented inventions shall be subject to the following terms and provisions, and to such other terms and conditions as the Solicitor may prescribe:

(1) The acceptance of a license or sublicense shall not be construed as a waiver of the right to contest the validity of the patent. A license or sublicense shall be revocable only upon a finding by the Solicitor of the Department that the terms of the license or sublicense have been violated and that the revocation of the license or sublicense is in the public interest. Such finding shall be made only after reasonable notice and an opportunity to be heard.

(2) Licenses and sublicenses shall be nontransferable. Upon a satisfactory showing that the Government or public will be benefited thereby, they may be granted to properly qualified applicants royalty-free. If no such showing is made, they shall be granted only upon a reasonable royalty or other consideration, the amount or character of which is to be determined by the Solicitor. A cross-licensing agreement may be considered adequate consideration.

(3) Licensees and sublicensees may be required to submit annual or more frequent technical or statistical reports concerning practical experience acquired through the exercise of the license or sublicense, the extent of the production under the license or sublicense, and other related subjects.

(4) A licensee or sublicensee manufacturing a patented article pursuant to a license or sublicense shall give notice to the public that the article is patented by affixing thereon the word "patent", together with the number of the patent, or when, from the character of the article, this cannot be done, by fixing to it, or to the package in

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[29 FR 260, Jan. 10, 1964,
FR 10796, Aug. 13, 1966]

§ 6.56 Issuance of license

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(c) Licenses and sublicenses relating to Class C patents and patent rights shall be granted upon such terms and conditions as may be prescribed pursuant to sections 3 and 5 of the Act of April 5 1944, and any amendments thereof.

[29 FR 260, Jan. 10, 1964, as amended at 31 FR 10796, Aug. 13, 1966]

§ 6.56 Issuance of licenses.

(a) Any person desiring a license relating to an invention upon which the Secretary of the Interior holds a patent or patent rights may file with the Solicitor of the Department of the Interior an application for a license, stating:

(1) The name, address, and citizenship of the applicant;

(2) The nature of his business;

(3) The patent or invention upon which he desires a license;

(4) The purpose for which he desires a license;

(5) His experience in the field of the desired license;

(6) Any patents, licenses, or other patent rights which he may have in the field of the desired license; and

(7) The benefits, if any, which the applicant expects the public to derive from his proposed use of the invention

(b) It shall be the duty of the Solicitor, after consultation with the bureau most directly interested in the patent or invention involved in an application for a license, and with the Evaluation Committee if royalties are to be charged, to determine whether the license shall be granted. If he determines that a license is to be granted, he shall execute on behalf of the Secretary, an appropriate license.

§ 6.57 Evaluation Committee.

At the request of the Solicitor, an Evaluation Committee will be appointed by the Secretary to recommend royalty rates with respect to any patents or inventions for which royalties may be charged.

PART 7—EMPLOYEES: INTEREST IN LANDS AND RESOURCES

Sec.

7.1 Authority.
7.2 Definitions.
7.3 Prohibition.
7.4 Exceptions.
7.5 Multiple Use Advisory Boards.
7.6 Applications for a farm unit.
7.7 Requests for advice.
7.8 Penalty.

AUTHORITY: R.S. 452; 5 U.S.C. 301, 43 U.S.C. 11.

SOURCE: 27 FR 3812, Apr. 20, 1962, unless otherwise noted.

§ 7.1 Authority.

The regulations in this part are based on (a) section 161 of the Revised Statutes (5 U.S.C. 22) which authorizes the Secretary of the Interior to prescribe regulations not inconsistent with law for the government of his Department and the conduct of its officers and employees; and (b) section 452 of the Revised Statutes (43 U.S.C. 11) which prohibits employees of the Bureau of Land Management from directly or indirectly purchasing or becoming interested in the purchase of any of the public land, and which provides that any person who violates the section shall forthwith be removed from his office.

§ 7.2 Definitions.

(a) The term "employee" as used in this part includes any person employed by the Department of the Interior, or any of its bureaus or offices however designated.

(b) The term "interest" means any direct or indirect ownership in whole or in part of the lands or resources in question, or any participation in the earnings therefrom, or the right to occupy or use the property or to take any benefits therefrom based upon a lease or rental agreement, or upon any formal or informal contract with a person who has such an interest. It includes membership in a firm, or ownership of stock or other securities in a corporation which has such an interest: *Provided*, That stock or securities traded on the open market may be purchased by an employee if the ac-

M E M O R A N D U M

November 9, 1982

TO: Chris Noah, Executive Director
Council of Science & Technology

FROM: Teresa B. Cramer
Administrative Assistant

SUBJECT: Proposed Legislation Relating to Government Interests in Intellectual Work Products Developed at the Expense of the State.

At its last meeting November 9th, the Blue Ribbon Commission approved the October 29th draft of the Intellectual Work Products bill for introduction next session. Could you send me a fiscal note to the bill? I am enclosing a copy for your information.

Thanks for your help.

TBC:lmk
Enclosure

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10-29-82

BY THE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE COUNCIL (for the Blue Ribbon Commission on the State Personnel Act)

IN THE SENATE

SENATE BILL NO. ____

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to government interests in intellectual work products developed at the expense of the state."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 39 is amended by adding a new chapter to read:

CHAPTER 52. INTELLECTUAL PROPERTY DEVELOPED AT THE EXPENSE OF THE STATE.

Sec. 39.52.010. RIGHT TO INTELLECTUAL WORK PRODUCT. (a) Except as provided in AS 39.52.040 and AS 14.40.345, all right, title, and interest in and to an intellectual work product of any kind that is subject to the trademark, copyright, or patent laws of the United States or this state or any foreign country that is developed by a public officer or employee or a person under contract with the state is the property of the state if developed

(1) during working hours;

(2) with the contribution of the state beyond what is available to the public in general in the form of facilities, equipment, materials, money, or information, or of time or services of another public officer or employee in the course of state employment or another person under contract with the state; or

(3) in connection with the official duties of the public officer or employee or the person under contract, including but not limited to circumstances in which the public officer or employee or the person is employed or assigned to

(A) produce or improve an intellectual work product;

(B) conduct or perform research, development work, or both;

(C) supervise, direct, coordinate, or review state financed or conducted research, development work, or both; or

(D) act in a liaison capacity among governmental or nongovernmental agencies or individuals engaged in such work.

(b) If a public officer or employee or a person under contract with the state develops an intellectual work product that is the property of the state, the developer is obligated to

(1) fully and promptly disclose the intellectual work product to the Alaska Council on Science and Technology (AS 44.21.241);

(2) assign to the state the entire right, title, and interest in and to the intellectual work

product if not already waived by signing of a general waiver upon commencement of employment in accordance with AS 39.05.160 or as part of a contract for services; and

(3) upon request by the council, execute and reasonably assist in the prosecution of an application for a trademark, copyright, or patent.

(c) If the state has a right to an intellectual work product under (a) of this section but the council decides that it is inadvisable to prosecute an application for trademark, copyright, or patent, the council, on behalf of the state, may, after consultation with affected state agencies,

(1) waive all right, title, and interest in and to the intellectual work product; or

(2) waive all right, title, and interest in and to a trademark, copyright, or patent but reserve a nonexclusive, irrevocable, royalty-free license in the intellectual work product with power to grant licenses for all governmental purposes.

Sec. 39.52.020. COUNCIL AUTHORIZED TO GRANT MONETARY RECOGNITION FOR CREATION OF INTELLECTUAL WORK PRODUCT. (a) The council is authorized to give monetary recognition to a public officer or employee who develops an intellectual work product that is the property of the state and who discharges the obligations set out in AS 39.52.010.

(b) The council shall determine the guidelines, terms, and conditions, as well as amount, source, distribution, and manner of payments under (a) of

this section. The council shall consider the actual or potential value of the intellectual work product in terms of revenue or reduced operating costs to the state.

Sec. 39.52.030. ARBITRATION OF DISAGREEMENTS. (a) Disagreements between a public officer or employee or a person under contract with the state and the council pertaining to ownership of an intellectual work product or obligations of the respective parties shall be disposed of by

(1) voluntary arbitration of all relevant issues, if the disagreeing parties agree to be bound by the decision upon arbitration;

(2) compulsory arbitration if that is provided for in any applicable contract between the disagreeing parties; or

(3) recourse to the court if arbitration cannot be resorted to.

(b) The council is authorized to make contracts for compulsory arbitration on behalf of the state.

(c) If arbitration is used to settle disagreements, the provisions of AS 09.43 (Uniform Arbitration Act) shall govern.

Sec. 39.52.040. EXCEPTIONS. The provisions of this chapter do not apply to a public officer or employee associated with or a person under contract with the University of Alaska. Those persons shall be governed by the provisions of AS 14.40.345. The provisions of this chapter do not apply to a member of the legislature.

Sec. 39.52.050. ADOPTION OF RULES. The council may adopt rules implementing the provisions of this chapter in accordance with the Administrative Procedure Act (AS 44.62).

Sec. 39.52.099. DEFINITIONS. As used in this chapter, unless the context otherwise requires,

(1) "council" means the Alaska Council on Science and Technology established in AS 44.21.241;

(2) "intellectual work product" means any product of the mind including but not limited to the following:

(A) discovery, invention, or idea;

(B) process, system, or method;

(C) machine, manufacture, or product;

(D) composition of matter;

(E) design or composition in letters, art, or graphics;

(F) literary, dramatic, musical, educational, or artistic work;

(G) certification mark, trademark, patent, or copyright.

* Sec. 2. AS 14.40 is amended by adding a new section to read:

Sec. 14.40.345. INTELLECTUAL PROPERTY DEVELOPED AT THE EXPENSE OF THE UNIVERSITY. All right, title, and interest in and to an intellectual work product developed by a public officer or employee associated with or a person under contract with the University of Alaska is the property of the university in accordance with a general policy established by the

university. The policy adopted by the University of Alaska may provide for ownership, control, management, and disposal of intellectual work products by an independent foundation created for the purpose of obtaining intellectual work products, receiving gifts, administering or disposing of interests in intellectual work products, and promoting research.

* Sec. 3. AS 39.05 is amended by adding a new section to read:

ARTICLE 5. WAIVER OF RIGHT TO INTELLECTUAL PROPERTY.

Sec. 39.05.160. WAIVER OF RIGHT TO INTELLECTUAL PROPERTY. (a) A public officer or employee of the state, before engaging in the duties of the office or employment, shall sign a waiver of all right, title, and interest in and to an intellectual work product that may be developed by the officer or employee at the expense of the state as set out in AS 39.52.

(b) Notwithstanding the requirement in (a) of this section, the state, in accordance with AS 39.-52.020, may share a portion of the resulting revenue with or grant a cash award for resulting reductions in operating costs to a public officer or employee who develops an intellectual work product at the expense of the state.

(c) A public officer or employee may be required to sign, before engaging in the duties of the office or employment, an acknowledgement that the public officer or employee will not receive a share of the revenue or reduction in operating costs attributable to an intellectual work product developed as a duty

of the office or employment.

(d) The waiver under (a) of this section and the acknowledgement under (c) of this section are not considered terms and conditions of employment that are subject to negotiation for purposes of collective bargaining under the Public Employment Relations Act (AS 23.40).

* Sec. 4. AS 44.21.242(b) is amended by adding new paragraphs to read:

(9) consistent with the provisions of AS 39.-52, retain, assign, license, transfer, sell, or otherwise dispose of, in whole or in part and upon terms that the council may direct, any and all rights to, interests in, or income from intellectual work products acquired by the council under AS 39.52;

(10) adopt rules implementing the provisions of AS 39.52.

* Sec. 5. AS 37.12.070(9) and AS 46.12.110(10) are repealed.

Alaska State Legislature

JUNEAU, ALASKA

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

Senator Bill Ray, Chairman

Pouch YG
Mail Stop 3123
Juneau, Alaska 99811
(907) 465-4442

MEMORANDUM

September 22, 1982

TO: Chris Noah, Executive Director
Council on Science and Technology

FROM: Teresa B. Cramer Jerry
Administrative Assistant

SUBJECT: Draft Bill Relating to Government Interests in Discoveries and Inventions

I am enclosing a copy of the draft bill on patents and have noted below the discussion at our last meeting. The commission will meet on October 15 to review a second draft to the bill and would welcome any comments the Council on Science and Technology cares to make. I am enclosing a memorandum about the time and place of the meeting for your information.

The following are the changes proposed to the draft bill at the last Blue Ribbon Commission meeting. The language which was discussed may be revised by the bill drafter, Jim Lear, as he prepares the next draft, but until then it stands.

Page 1
Line 16

Delete: inures solely to the benefit
Insert: is the property
Line to read: employee is the property of the state if the discovery or
Explanation: Make the language consistent with language on page 2, line 5

Page 1
Line 20

There was considerable discussion about whether "information" was clear enough. Some commission members were concerned that an insignificant item of information gained on the job might trigger the state's claim to a discovery or invention which was otherwise the independent work of an employee. Other members pointed out that under AS 39.52.010(c) on page 2, lines 13-22, the council could elect to waive the state's interest in the discovery or invention in those circumstances. Mr. Lear may decide to redraft the language on line 20 or it may remain in its present form.

Page 2 Line 9	Insert between "the" and "entire": <u>public officer's or employee's</u> Line to read: (2) assign to the state the public officer's or employee's entire right, title, and interest in and to the discovery or invention; and Explanation: Clarification
Page 2	Change citation to: AS 39.52.010<u>(b)</u> Explanation: Identify the particular subsection which applies.
Page 2 Line 23 to Page 3 Line 8	Mr. Lear will be redrafting Sec. 39.52.020 to make clear that state employees are entitled to 20 percent of the net proceeds only if the state actually receives revenues from the patent. If the state realizes internal savings from use of the patent, the employee will not be entitled to 20 percent of the savings.
Page 3 Line 10	Insert between "employee" and "who": <u>or contracting party</u> Explanation: The additional language makes clear that independent contractors will be governed by the terms of their contracts.
Page 3 Lines 25-27	Mr. Lear will check the provisions of Alaska's Arbitration Act and probably provide that the council will abide by those terms rather than giving the council the power and responsibility of adopting its own system of arbitration.
Page 4 Lines 1-2	Delete: , the Alaska Energy Center (AS 46.12), or the Alaska Resources Corporation (AS 37.12) Line to read: sity of Alaska. Explanation: The commission decided that all state employees should be governed by the same policy on patents. Mr. Lear will add a section to this bill repealing the statutes which currently give the Energy Center and the Resources Corporation the right to hold patents.

ADDITIONAL LANGUAGE

The commission also recommended that new employees be made aware of the state's patent interests and that they be required to sign a statement acknowledging the state's rights to employment-related discoveries and inventions. Mr. Lear will be drafting language to include in the bill.

Mr. Lear was also requested to draft legislation to protect the state's interests in copywrites, particularly in computer programs. When he has completed a draft bill, I will send you a copy.

TBC:lmk
Enclosures

13-0041
Lear
10/12/82

BY THE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE COUNCIL (for the Blue Ribbon Commission on the State Personnel Act)

IN THE SENATE

SENATE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to government interests in intellectual work products developed at the expense of the state."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 39 is amended by adding a new chapter to read:

CHAPTER 52. INTELLECTUAL PROPERTY DEVELOPED AT THE EXPENSE OF THE STATE.

Sec. 39.52.010. RIGHT TO INTELLECTUAL WORK PRODUCT. (a) Except as provided in AS 39.52.040 and AS 14.40.345, all right, title, and interest in and to an intellectual work product of any kind that is subject to the trademark, copyright, or patent laws of the United States or this state or any foreign country that is developed by a public officer or employee or person under contract with the state is the property of the state if developed

(1) during working hours;

(2) with the contribution of the state beyond what is available to the public in general in the form of facilities, equipment, materials, money, or information, or of time or services of another public officer or employee in the course of state employment or another person under contract with the state; or

(3) in connection with the official duties of the public officer or employee or person under contract, including but not limited to circumstances in which the public officer or employee or person is employed or assigned to

(A) produce or improve an intellectual work product;

(B) conduct or perform research, development work, or both;

(C) supervise, direct, coordinate, or review state financed or conducted research, development work, or both; or

(D) act in a liaison capacity among governmental or nongovernmental agencies or individuals engaged in such work.

(b) If a public officer or employee or person under contract with the state develops an intellectual work product that is the property of the state, the developer is obligated to

(1) fully and promptly disclose the intellectual work product to the Alaska Council on Science and Technology (AS 44.21.241);

(2) assign to the state the entire right, title, and interest in and to the intellectual work product if not already waived by signing of a general waiver upon commencement of employment or as part of a contract for services; and

(3) upon request by the council, execute and reasonably assist in the prosecution of an application for a trademark, copyright, or patent.

(c) If the state has a right to an intellectual work product under (a) of this section but the council decides that it is inadvisable to prosecute an application for trademark, copyright, or patent, the council, on behalf of the state, may, after consultation with affected state agencies,

(1) waive all right, title, and interest in and to the intellectual work product; or

(2) waive all right, title, and interest in and to a trademark, copyright, or patent but reserve a nonexclusive, irrevocable, royalty-free license in the intellectual work product with power to

grant licenses for all governmental purposes.

Sec. 39.52.020. PUBLIC OFFICERS AND EMPLOYEES TO SHARE IN PROCEEDS. (a) A public officer or employee who develops an intellectual work product that is the property of the state and discharges the obligations set out in AS 39.52.010 is entitled to share in any net revenue that may be derived from the assignment, grant, license, or other disposal by the state of the intellectual work product. The amount of the net revenue shall be computed by, or with the approval of, the council, with reasonable promptness after collection and after deducting from gross revenue the costs and expenses reasonably allocated to the intellectual work product. The council shall pay from its operating budget annually a minimum of 20 percent of the amount of the net revenue to a public officer or employee who solely develops an intellectual work product or in shares to two or more public officers or employees who jointly develop an intellectual work product in a proportion determined by the council. The council in its discretion may increase the amount by which a public officer or employee may participate in the net revenue.

(b) The provisions of (a) of this section do not apply to a person under contract with the state or to a public officer or employee whose contract of employment with the state includes contrary terms.

(c) The provisions of (a) of this section do not apply if the intellectual work product is not used to generate actual revenue to the state, such as an intellectual work product used to reduce operating costs.

Sec. 39.52.030. ARBITRATION OF DISAGREEMENTS. (a) Disagreements between a public officer or employee or person under contract with the state and the council pertaining to ownership of an intellectual work product, obligations of the respective parties, or the extent of

participation by a public officer or employee in the net revenue of the intellectual work product shall be disposed of by

(1) voluntary arbitration of all relevant issues, if the disagreeing parties agree to be bound by the decision upon arbitration;

(2) compulsory arbitration if that is provided for in any applicable contract between the disagreeing parties; or

(3) recourse to the court if arbitration cannot be resorted to.

(b) The council is authorized to make contracts for compulsory arbitration on behalf of the state.

(c) If arbitration is used to settle disagreements, the provisions of AS 09.43 (Uniform Arbitration Act) shall govern.

Sec. 39.52.040. UNIVERSITY OF ALASKA EXCEPTED. The provisions of this chapter do not apply to public officers or employees associated with or persons under contract with the University of Alaska. Those persons shall be governed by the provisions of AS 14.40.345.

Sec. 39.52.050. ADOPTION OF RULES. The council may adopt rules implementing the provisions of this chapter in accordance with the Administrative Procedure Act (AS 44.62).

Sec. 39.52.099. DEFINITIONS. As used in this chapter, unless the context otherwise requires,

(1) "council" means the Alaska Council on Science and Technology established in AS 44.21.241;

(2) "intellectual work product" means any product of the mind including but not limited to the following:

(A) discovery, invention, or idea;

(B) process, system, or method;

(C) machine, manufacture, or product;

(D) composition of matter;

(E) design or composition in letters, art, or graphics;

(F) literary, dramatic, musical, educational, or artistic work;

(G) certification mark, trademark, patent, or copyright.

* Sec. 2. AS 14.40 is amended by adding a new section to read:

Sec. 14.40.345. INTELLECTUAL PROPERTY DEVELOPED AT THE EXPENSE OF THE UNIVERSITY. All right, title, and interest in and to an intellectual work product developed by a public officer or employee associated with or a person under contract with the University of Alaska is the property of the university in accordance with a general policy established by the university. The policy adopted by the University of Alaska may provide for ownership, control, management, and disposal of intellectual work products by an independent foundation created for the purpose of obtaining intellectual work products, receiving gifts, administering or disposing of interests in intellectual work products, and promoting research.

* Sec. 3. AS 44.21.242(b) is amended by adding new paragraphs to read:

(9) consistent with the provisions of AS 39.52, retain, assign, license, transfer, sell, or otherwise dispose of, in whole or in part and upon terms that the council may direct, any and all rights to, interests in, or income from intellectual work products acquired by the council under AS 39.52;

(10) adopt rules implementing the provisions of AS 39.52.

* Sec. 4. AS 37.12.070(9) and AS 46.12.110(10) are repealed.

13-0041
Lear
9.17

BY THE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE COUNCIL (for the Blue Ribbon Commission on the State Personnel Act)

IN THE SENATE

SENATE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to government interests in discoveries and inventions made by public officers and employees of the state."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 39 is amended by adding a new chapter to read:

CHAPTER 52. DISCOVERIES AND INVENTIONS BY PUBLIC OFFICERS AND EMPLOYEES.

Sec. 39.52.010. RIGHTS TO DISCOVERIES AND INVENTIONS PROPERTY OF STATE. (a) Except as provided in AS 39.52.040, all right, title, and interest in and to a discovery or invention made by a public officer or employee inures solely to the benefit of the state if the discovery or invention is made

(1) during working hours;

(2) with the contribution by the state of facilities, equipment, materials, funds, or information, or of time or services of another public officer or employee in the course of state employment; or

(3) in connection with the official duties of the public officer or employee, including but not limited to circumstances in which the public officer or employee is employed or assigned to

(A) invent or improve or perfect any art, machine, manufacture, or composition of matter;

(B) conduct or perform research, development work, or both;

(C) supervise, direct, coordinate, or review state

financed or conducted research, development work, or both; or

(D) act in a liaison capacity among governmental or nongovernmental agencies or individuals engaged in such work.

(b) If a public officer or employee makes a discovery or invention that is the property of the state, the public officer or employee is obligated to

(1) fully and promptly disclose the discovery or invention to the Alaska Council on Science and Technology (AS 44.21.241);

(2) assign to the state the entire right, title, and interest in and to the discovery or invention; and

(3) upon request by the council, execute a patent application and reasonably assist in the prosection of the application.

(c) If the state has a right to a discovery or invention under (a) of this section but the council decides that it is inadvisable to prosecute a patent application for the discovery or invention, the council, on behalf of the state, may

(1) waive all right, title, and interest in and to the discovery or invention; or

(2) waive all right, title, and interest in and to a patent on the discovery or invention but reserve a nonexclusive, irrevocable, royalty-free license in the discovery or invention with power to grant licenses for all governmental purposes.

Sec. 39.52.020. PUBLIC OFFICERS AND EMPLOYEES TO SHARE IN PROCEEDS. (a) A public officer or employee who makes a discovery or invention and discharges the obligations set out in AS 39.52.010 is entitled to share in any net proceeds that may be derived from the assignment, grant, license or other disposal of the discovery or invention. The amount of the net proceeds shall be computed by, or with the approval of, the council, with reasonable promptness after collection and after deducting

from gross proceeds the costs and expenses reasonably allocated to the discovery or invention. A minimum of 20 percent of the amount of the net proceeds shall be paid to a public officer or employee who solely made the discovery or invention and shall be paid in shares to two or more public officers or employees who jointly made the discovery or invention in a proportion determined by the council. The council in its discretion may increase the amount by which any public officer or employee may participate in the net proceeds.

(b) The provisions of (a) of this section do not apply to a public officer or employee who has executed a contract of employment with contrary terms.

Sec. 39.52.030. ARBITRATION OF DISAGREEMENTS. (a) Disagreements between a public officer or employee and the council pertaining to ownership of a discovery or invention, obligations of the respective parties, or the extent of participation by a public officer or employee in the net proceeds of the discovery or invention shall be disposed of by

(1) voluntary arbitration of all relevant issues, if the disagreeing parties approve and agree to be bound by the decision upon arbitration;

(2) compulsory arbitration if that is provided for in any applicable contract between the disagreeing parties; or

(3) recourse to the court if arbitration cannot be resorted to.

(b) The council is authorized to adopt rules pertaining to arbitration and to make contracts for compulsory arbitration on behalf of the state.

Sec. 39.52.040. EXCEPTIONS. (a) The provisions of this chapter do not apply to public officers or employees associated with the Univer-

sity of Alaska, the Alaska Energy Center (AS 46.12), or the Alaska Resources Corporation (AS 37.12).

(b) All right title and interest in and to a discovery or invention made by a public officer or employee associated with an entity listed in (a) of this section inures to the benefit of the respective entity in accordance with a general policy established by each entity. The policy adopted by the University of Alaska may provide for ownership, control, management, and disposal of discoveries or inventions by an independent foundation created for the purpose of obtaining patents or inventions, receiving gifts, administering or disposing of patents and promoting research.

Sec. 39.52.050. ADOPTION OF RULES. The council may adopt rules implementing the provisions of this chapter in accordance with the Administrative Procedure Act (AS 44.62).

Sec. 39.52.099. DEFINITIONS. As used in this chapter, unless the context otherwise requires

(1) "council" means the Alaska Council on Science and Technology established in AS 44.21.241.

* Sec. 2. AS 44.21.242(b) is amended by adding new paragraphs to read:

(9) consistent with the provisions of AS 39.52, retain, assign, license, transfer, sell, or otherwise dispose of, in whole or in part and upon terms that the council may direct, any and all rights to, interests in, or income from discoveries, inventions, or patents acquired by the council;

(10) adopt rules implementing the provisions of AS 39.52.

PART IV

PERSONNEL

Chapter VIII

GENERAL INFORMATION

Academic Freedom 04.08.01

The University of Alaska is dedicated to providing the environment of free and honest inquiry essential to its functioning. (05-18-79)

Copyrights 04.08.02

The University of Alaska, as an employer, shall not claim copyright to the writings of faculty, even though such writings are prepared in the course of employment, except in the following cases:

1. The work of University employees who are paid by the University primarily to write (such as staff technical writers, newswriters, publications writers, and editors) is "commissioned work" and the University shall be the owner of the copyright.

2. The results of University research generally shall not be copyrighted by the University unless otherwise required by specific arrangement with a sponsoring agency.

3. All books published by the University of Alaska Press shall be copyrighted, either in the name of the University or in the name of the author, depending upon the contractual agreement made for publication of the work. (05-18-79)

Outside Activities 04.08.03

A. Scope: Outside activities shall mean work or activities which are not within the scope of the regular employment duties of the University employee.

B. Conduct of Outside Activities: Outside activities which will increase the effectiveness and broaden the experience of employees in relation to their functions at the University or which will be of service to the community or the state, are encouraged, provided outside activities do not interfere with the performance of the employee's regular University duties; and provided the outside activities do not involve the appropriation of University property facilities, equipment, or services. (05-18-79)

Patents 04.08.04

Patentable inventions invented with the use of University facilities or equipment, or invented by University personnel within the course of their employment, shall normally belong to the University. The President of the University shall, by regulation, provide for procedures for determining whether to seek to patent an invention, and providing appropriate exceptions to the University's ownership of patents. (05-18-79)

Security Clearances 04.08.05

Persons having access to classified information shall be required to obtain a security clearance. All other persons not cleared shall be denied access to classified information and shall not be permitted to occupy positions that would enable them to affect adversely University policies and practices in the performance of classified contracts for the Department of Defense regarding security of classified information. (05-18-79)

Abuse of Office for Political Purposes 04.08.06

No University employee may assert or imply that he or she is officially representing the University or its policies, unless expressly authorized to do so by the President of the University. Any employee who, in a political forum, uses his or her University rank or position as a means of identification, must clearly state that the opinions being expressed are private and imply no University endorsement.

An employee who acquires a state, federal, or local public office which may not legally be simultaneously held by a University employee will resign from University employment. Where there is no legal prohibition on simultaneous office holding, the employee need not resign, but will remain subject to the regulations which apply to outside activities.

Any employee who wishes to campaign for or hold any political office or to serve as a registered state or federal lobbyist will come under the regulations of the University which apply to outside activities.

University funds or resources may not be used to support political activity. Letters constituting political activity may not be written on University stationery unless expressly authorized by the President of the University. (05-18-79)

Official Spokesperson for the University 04.08.07

A. The President of the University is designated as the representative of the University in all official University discussions

and communications with officials of the executive, legislative, and judicial branches of state and federal governments in their official capacities. All official communications sent to such officials must be sent through the President, except in the following cases:

1. Routine development and administration of grants or contracts; or

2. Supplying of routine facts and information which are supplied to the general public;

3. Communications by a Chancellor, or under the direction of a Chancellor, the substance of which is promptly reported to the Office of the President; or

4. Communications made at the request of the President or authorized by the President; or

5. Testimony at the request of the Legislature.

B. This policy should not be construed as limiting direct communication of University personnel with government officials concerning matters of private interest. (05-18-79)

PART IV

PERSONNEL

Chapter VIII

GENERAL INFORMATION

Outside Activities 04.08.03

A. Scope

1. Teaching, research, application of research findings, preparation and publication of articles and books (whether for royalty or not), preparation and delivery of lectures, serving on advisory bodies, memberships and activities in professional societies, participation in artistic performances or activities, when said activities are related to staff members' professional fields and no compensation or honorarium (other than royalties from publication) is received, are considered to be within the regular work duties of University employees.

   Examples of activities considered to be outside the regular work or duties are: consulting for or providing other services to individuals or firms, serving on boards of directors, or as officers of business organizations, and engaging in commercial operations and practice except as noted above.

2. Outside activities may be of one-time nature, intermittent or occasional, or regularly recurring. They may involve little or considerable amounts of compensation.

3. For purposes of this regulation "employee" is intended to include all personnel of the University, including both staff and faculty enrolled on the University payroll records and receiving compensation from the University of Alaska (no matter what the basic fund source) for the performance of regular staff or academic duties. It includes part-time as well as full-time employees. Nothing contained herein shall be considered applicable to any outside activities of employees during the period of time for which they are not compensated as University employees, except insofar as the use of University name, property, equipment, etc., is concerned.

B. Conduct of Outside Activities

1. Prior to engaging in any outside activity, as defined herein, the employee concerned shall secure approval of his/her immediate supervisor. Department heads, deans, and directors or equivalent level are designated as

representatives of the University to grant such approval for employees under their jurisdiction. If the approval is denied, the individual shall have the right to appeal the decision as set forth below.

(a) In making these determinations the chief consideration shall be whether the employee's current or proposed outside activities, taken individually or cumulatively, would substantially interfere with the performance of his/her regular duties. The fact that the outside activity involved compensation or the amount of such compensation will not be a reason for a refusal.

(b) In some cases the outside activity of an employee may be in the interest of the University or contribute to a significant enhancement of the employee's professional standing or competence, even though engaging in the outside activity would substantially interfere with the employee's performance of his/her regular duties. In such cases the University may, upon consideration, determine that a re-allocation of the employee's duties is justified. Heads of departments and offices should process such cases through regular channels for approval.

2. Review

Heads of offices, departments, deans, and other supervisors may, from time to time, review a case if, in their judgment, reasonable evidence suggests that:

(a) The outside activity or activities, individually or cumulatively constitutes in fact a substantial interference with the satisfactory accomplishment of the employee's regular University duties, or

(b) The employee may otherwise be violating the provisions of this policy.

3. Community, State and Governmental Service

Community, state and governmental service is encouraged by the University as a function of citizenship, provided it does not constitute deterimental interference with the employee's discharge of his/her regular work duties. If community, state or governmental service duties, whether compensated or not, in fact substantially interfere with the employee's discharge of his/her regular work duties, then it becomes an outside activity.

4. Use of the University Name

(a) In conducting outside activities for compensation, the employee will make it clear to his/her employers or associates that he/she is serving in an individual

capacity and that the University accepts no responsibility in connection with the outside activities.

(b) Official stationery of the University will not be used in connection with consultant's reports, bills for services or correspondence relating to the fulfillment of the staff member's performance of the outside activity.

(c) Employees whose names are included in commercial listings or other public documents, the purpose of which is to draw attention to the employee's availability for compensated services, will not list University buildings as an address, or list a University telephone number.

5. Purchase Through the University for Private Purposes

Individuals are not permitted to purchase supplies or equipment for personal use through institutional channels.

6. Use of University Property, Equipment, Facilities, or Services

The use of University property, equipment, facilities, or services by employees for purposes not directly related to their University duties is prohibited. Exception will be made for the use of specialized equipment not available to industry or individuals through any private source within the state for which a pre-determined fee or rate has been established. The individual staff member may use such equipment on the same basis as other members of the public. (05-18-79)

Patents 04.08.04

The President shall appoint a Patent Committee of at least five members, a majority of whom shall be from the teaching and/or research faculty of the University. This Committee shall advise the President in the administration of the patent policy. However, at his/her discretion, the President may assign this function to some other established committee having membership requirements specified for the Patent Committee.

The agreement which it is recommended that the University make with Research Corporation should provide that a staff member of the University may agree to assign an invention to Research Corporation, with the understanding that Research Corporation, if it accepts the assignment, is to carry out the patenting and commercialization of the invention without any expense to the inventor; that Research Corporation is to pay the inventor a share

(15 per cent) of the gross income which Research Corporation receives from the invention; that the balance, after the special expenses in connection with the patent have been met, is to be divided equally between the University and Research Corporation.

Any member of the staff of the University may bring his/her patentable invention or discovery to the Patent Committee for consideration.

When the question of the patenting of a particular invention is brought to the attention of the Patent Committee, the Committee will consider the soundness of the scientific basis of the invention and advisability of patenting according to University policy. If the Committee reaches a negative conclusion, it will so advise the inventor and the President. If the Committee reaches a positive conclusion, or is in doubt, it will recommend that the President of the University refer the matter to Research Corporation to ascertain its opinion and whether Research Corporation desires to accept assignment of the invention. If Research Corporation is unwilling to accept such an assignment, the staff member offering the invention should be notified and the University relinquish all claim to it.

A member of the staff of the University may obtain a patent on his/her own responsibility, whether or not the Patent Committee has been consulted, but shall notify the Patent Committee of such action within sixty days after the date of application. The Committee may raise the question of whether the University has an equity in the proceeds of the invention either because work leading to the patent was done on University time or because University facilities were used. It is expected that the determination of the character and amount of the University's equity in any such invention will be established in conference between the Patent Committee and the staff member or members concerned. It is expected that the same procedures will be followed in connection with any other question arising out of the patent policy. Decisions of the Patent Committee are to be referred to the President for appropriate action.

If two or more staff members together produce a patented invention or discovery, they shall share equitably the "inventor's share" of the proceeds of the patent.

The handling of inventions which grow out of contract research will be governed by the terms of the contract; except that, if the contract assigns resultant inventions to the University or does not specify their assignment, the patent policy of the University will apply. (05-18-79)

Abuse of Office for Political Purposes 04.08.06

Any employee seeking an elected public office shall:

1. Campaign completely on his/her own time, without adversely affecting his/her duties at the University; and

2. Be subject to any general University procedures governing appearances and activities of political candidates on the campus.

Any employee, who acquires a state or federal public office or a full-time local government office which is legally not permitted to be held by a University employee, will resign from University employment. Such resignation shall be without prejudice if adequate notice has been given by the employee and mutually satisfactory arrangements have been made concerning possible replacement of the employee. (05-18-79)

13-0041
Lear
10/12/82

BY THE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE COUNCIL (for the Blue Ribbon Commission on the State Personnel Act)

IN THE SENATE

SENATE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to government interests in intellectual work products developed at the expense of the state."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 39 is amended by adding a new chapter to read:

CHAPTER 52. INTELLECTUAL PROPERTY DEVELOPED AT THE EXPENSE OF THE STATE.

Sec. 39.52.010. RIGHT TO INTELLECTUAL WORK PRODUCT. (a) Except as provided in AS 39.52.040 and AS 14.40.345, all right, title, and interest in and to an intellectual work product of any kind that is subject to the trademark, copyright, or patent laws of the United States or this state or any foreign country that is developed by a public officer or employee or person under contract with the state is the property of the state if developed

(1) during working hours;

(2) with the contribution of the state beyond what is available to the public in general in the form of facilities, equipment, materials, money, or information, or of time or services of another public officer or employee in the course of state employment or another person under contract with the state; or

(3) in connection with the official duties of the public officer or employee or person under contract, including but not limited to circumstances in which the public officer or employee or person is employed or assigned to

(A) produce or improve an intellectual work product;

(B) conduct or perform research, development work, or both;

(C) supervise, direct, coordinate, or review state financed or conducted research, development work, or both; or

(D) act in a liaison capacity among governmental or nongovernmental agencies or individuals engaged in such work.

(b) If a public officer or employee or person under contract with the state develops an intellectual work product that is the property of the state, the developer is obligated to

(1) fully and promptly disclose the intellectual work product to the Alaska Council on Science and Technology (AS 44.21.241);

(2) assign to the state the entire right, title, and interest in and to the intellectual work product if not already waived by signing of a general waiver upon commencement of employment or as part of a contract for services; and

(3) upon request by the council, execute and reasonably assist in the prosecution of an application for a trademark, copyright, or patent.

(c) If the state has a right to an intellectual work product under (a) of this section but the council decides that it is inadvisable to prosecute an application for trademark, copyright, or patent, the council, on behalf of the state, may, after consultation with affected state agencies,

(1) waive all right, title, and interest in and to the intellectual work product; or

(2) waive all right, title, and interest in and to a trademark, copyright, or patent but reserve a nonexclusive, irrevocable, royalty-free license in the intellectual work product with power to

grant licenses for all governmental purposes.

Sec. 39.52.020. PUBLIC OFFICERS AND EMPLOYEES TO SHARE IN PROCEEDS. (a) A public officer or employee who develops an intellectual work product that is the property of the state and discharges the obligations set out in AS 39.52.010 is entitled to share in any net revenue that may be derived from the assignment, grant, license, or other disposal by the state of the intellectual work product. The amount of the net revenue shall be computed by, or with the approval of, the council, with reasonable promptness after collection and after deducting from gross revenue the costs and expenses reasonably allocated to the intellectual work product. The council shall pay from its operating budget annually a minimum of 20 percent of the amount of the net revenue to a public officer or employee who solely develops an intellectual work product or in shares to two or more public officers or employees who jointly develop an intellectual work product in a proportion determined by the council. The council in its discretion may increase the amount by which a public officer or employee may participate in the net revenue.

(b) The provisions of (a) of this section do not apply to a person under contract with the state or to a public officer or employee whose contract of employment with the state includes contrary terms.

(c) The provisions of (a) of this section do not apply if the intellectual work product is not used to generate actual revenue to the state, such as an intellectual work product used to reduce operating costs.

Sec. 39.52.030. ARBITRATION OF DISAGREEMENTS. (a) Disagreements between a public officer or employee or person under contract with the state and the council pertaining to ownership of an intellectual work product, obligations of the respective parties, or the extent of

participation by a public officer or employee in the net revenue of the intellectual work product shall be disposed of by

(1) voluntary arbitration of all relevant issues, if the disagreeing parties agree to be bound by the decision upon arbitration;

(2) compulsory arbitration if that is provided for in any applicable contract between the disagreeing parties; or

(3) recourse to the court if arbitration cannot be resorted to.

(b) The council is authorized to make contracts for compulsory arbitration on behalf of the state.

(c) If arbitration is used to settle disagreements, the provisions of AS 09.43 (Uniform Arbitration Act) shall govern.

Sec. 39.52.040. UNIVERSITY OF ALASKA EXCEPTED. The provisions of this chapter do not apply to public officers or employees associated with or persons under contract with the University of Alaska. Those persons shall be governed by the provisions of AS 14.40.345.

Sec. 39.52.050. ADOPTION OF RULES. The council may adopt rules implementing the provisions of this chapter in accordance with the Administrative Procedure Act (AS 44.62).

Sec. 39.52.099. DEFINITIONS. As used in this chapter, unless the context otherwise requires,

(1) "council" means the Alaska Council on Science and Technology established in AS 44.21.241;

(2) "intellectual work product" means any product of the mind including but not limited to the following:

(A) discovery, inventi or idea;

(B) process, system, or method;

(C) machine, manufacture, or product;

(D) composition of matter;

(E) design or composition in letters, art, or graphics;

(F) literary, dramatic, musical, educational, or artistic work;

(G) certification mark, trademark, patent, or copyright.

* Sec. 2. AS 14.40 is amended by adding a new section to read:

Sec. 14.40.345. INTELLECTUAL PROPERTY DEVELOPED AT THE EXPENSE OF THE UNIVERSITY. All right, title, and interest in and to an intellectual work product developed by a public officer or employee associated with or a person under contract with the University of Alaska is the property of the university in accordance with a general policy established by the university. The policy adopted by the University of Alaska may provide for ownership, control, management, and disposal of intellectual work products by an independent foundation created for the purpose of obtaining intellectual work products, receiving gifts, administering or disposing of interests in intellectual work products, and promoting research.

* Sec. 3. AS 44.21.242(b) is amended by adding new paragraphs to read:

(9) consistent with the provisions of AS 39.52, retain, assign, license, transfer, sell, or otherwise dispose of, in whole or in part and upon terms that the council may direct, any and all rights to, interests in, or income from intellectual work products acquired by the council under AS 39.52;

(10) adopt rules implementing the provisions of AS 39.52.

* Sec. 4. AS 37.12.070(9) and AS 46.12.110(10) are repealed.

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILE 8672
1374 SCOMM 51, BLUE RIBBON COMN. ON STATE PERSONNEL ACT 1978-1983

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

02-519 (REV 8/78)

SCOMM

#51:22

July 1, 1983

SB 64 - Licensed physicians placed in the exempt service

History - IN THE SENATE

Labor & Commerce: This bill had no hearings because the House Bill moved first.

Companion Bill: HB 108 is the companion. It became Chapter 11, SLA 1983 on May 2, 1983. The Senate Bill is no longer needed.

Introduced: 1/21/83
Referred: Labor and Commerce

BY THE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE COUNCIL (for the Blue Ribbon Commission on the State Personnel Act)

IN THE SENATE

SENATE BILL NO. 64

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the inclusion in the state exempt service of licensed physicians employed by the division of mental health and developmental disabilities, Department of Health and Social Services."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 39.25.110(13) is amended to read:

(13) [LICENSED] physicians <u>licensed to practice in this state and</u>[, AS DEFINED IN AS 47.30.340(9)] employed by <u>the division of mental health and developmental disabilities, Department of Health and Social Services</u> [THE STATE];

Alaska State Legislature

JUNEAU, ALASKA

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

Senator Bill Ray, Chairman

Pouch YG
Mail Stop 3123
Juneau, Alaska 99811
(907) 465-4442

MEMORANDUM

January 25, 1983

TO: Senate Labor and Commerce Committee

FROM: Teresa B. Cramer
Administrative Assistant

SUBJECT: Senate Bill 64 - Licensed Physicians in the Department of Health and Social Services

An unintended change created by an amendment to the State Personnel Act last session has caused some question in the Department of Health and Social Services. Prior to the amendment, licensed physicians employed by the Division of Mental Health and Developmental Disabilities were placed in the exempt service. Other physicians working for the department were members of the classified service. This system worked well. The exception for those working in the mental health field was necessary in order to attract and pay qualified staff.

The amendment placed all licensed physicians, as defined in AS 47.30.340(9), employed by the state into the exempt service. Title 47.30 addresses mentally ill and insane persons but the definition section defined "licensed physician" in general terms. The department brought to the commission's attention an unforeseen situation. There were two employees in the Division of Public Health serving as Regional Health Officers. One was a medical doctor and the other a licensed veterinarian. Under the amended version of the State Personnel Act, the doctor could be placed in the exempt service and the veterinarian would remain in the classified service. Both have the same duties, though in different locations.

The commission recommends that legislation be adopted to return all medical doctors except those employed by the Division of Mental Health and Developmental Disabilities to the classified service.

Bill Analysis

The bill amends the section of the State Personnel Act which lists membership in the exempt service to place only those physicians employed by the Division of Mental Health and Developmental Disabilities in the exempt service.

TBC:lmk
Attachment

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES

OFFICE OF THE COMMISSIONER

BILL SHEFFIELD, GOVERNOR

POUCH H 01
JUNEAU, ALASKA 99811
PHONE: 465-3030

December 14, 1982

The Honorable Bill Ray, Chairman
Blue Ribbon Commission on the State Personnel Act
Pouch YG, Mail Station 3123

Attention: Terry Cramer, Adminstrative Assistant

Subject: Licensed Physicians - Department of Health & Social Services

Dear Senator Ray:

Subsequent to the December 7 meeting of the Blue Ribbon Commission, and at its direction, the Department of Health & Social Services considered the circumstances surrounding the statutory language relating to licensed physicians employed by the state. The original purpose for the inclusion of licensed physicians in the exempt service under AS 39.25.0110 (19) was to provide for recruitment and retention of qualified and competent staff within the Division of Mental Health & Developmental Disabilities. That situation has worked well since that time.

The amendments to that statute as adopted under HCS CSSB 193 in 1982 eliminated that particular distinction. As presently written, that statute could be interpreted to include licensed physicians in the Division of Public Health. That action is not adjudged to be in the best interests of the state and those employees. It should be noted that in 1981, AS 47.30.340 was repealed in its entirety and AS 47.30.915 was added. That section again defined "licensed physician" in the legislative reference to mental health programs.

It is therefore respectfully requested that the language in AS 39.25.110 (13) be amended to read as follows: "licensed physicians, as defined in AS 47.30.915 (11), employed by the Division of Mental Health & Developmental Disabilities, Department of Health & Social Services.

Thank you for your consideration of this matter.

Sincerely,

Allen K. Korhonen
Acting Commissioner

06-F38LH

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPT. OF HEALTH AND SOCIAL SERVICES

OFFICE OF THE COMMISSIONER

POUCH H 01
JUNEAU, ALASKA 99811
PHONE: 465-3030

December 14, 1982

The Honorable Bill Ray, Chairman
Blue Ribbon Commission on the State Personnel Act
Pouch YG, Mail Station 3123

Attention: Terry Cramer, Adminstrative Assistant

Subject: Licensed Physicians - Department of Health & Social Services

Dear Senator Ray:

Subsequent to the December 7 meeting of the Blue Ribbon Commission, and at its direction, the Department of Health & Social Services considered the circumstances surrounding the statutory language relating to licensed physicians employed by the state. The original purpose for the inclusion of licensed physicians in the exempt service under AS 39.25.0110 (19) was to provide for recruitment and retention of qualified and competent staff within the Division of Mental Health & Developmental Disabilities. That situation has worked well since that time.

The amendments to that statute as adopted under HCS CSSB 193 in 1982 eliminated that particular distinction. As presently written, that statute could be interpreted to include licensed physicians in the Division of Public Health. That action is not adjudged to be in the best interests of the state and those employees. It should be noted that in 1981, AS 47.30.340 was repealed in its entirety and AS 47.30.915 was added. That section again defined "licensed physician" in the legislative reference to mental health programs.

It is therefore respectfully requested that the language in AS 39.25.110 (13) be amended to read as follows: "licensed physicians, as defined in AS 47.30.915 (11), employed by the Division of Mental Health & Developmental Disabilities, Department of Health & Social Services.

Thank you for your consideration of this matter.

Sincerely,

Allen K. Korhonen
Acting Commissioner

06-F38LH

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM December 27, 1982

SUBJECT: Work Order No. 13-0381

TO: Senator Bill Ray

FROM: Russ Josephson RJ
Legislative Counsel

I have tried to reach Terry Cramer at the Blue Ribbon Commission on the State Personnel Act to inquire about a problem I encountered while drafting the enclosed bill.

The draft varies from the request you sent us because it adds the term "mental health professionals" to the bill. The reason for this is that AS 47.30.915(11), which was requested to be in the draft, defines "mental health professionals" and not "physicians". In order to use the requested approach, I felt it was necessary to add the phrase "mental health professionals". If it is your desire to limit the scope of the exempt service so that it includes the physicians employed by the Division of Mental Health and Developmental Disabilities, Department of Health and Social Services but excludes the other mental health professionals employed in that division, I certainly can draft the bill accordingly. To do so, we will have to modify the requested language "licensed physicians, as defined in AS 47.30.915(11)".

Please let us know how you want this handled and we will proceed accordingly.

RJ:lmb

Enclosure

This is the commission's intent, so make whatever modifications are necessary.

Thanks

Terry Cramer
Blue Ribbon Commission
465-4442

Please make the indicated changes

13-0382
Josephson
12-22-82

BY THE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE COUNCIL (for the Blue Ribbon Commission on the State Personnel Act)

IN THE SENATE

SENATE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the inclusion in the state exempt service of licensed physicians ~~and mental health professionals~~ employed by the division of mental health and developmental disabilities, Department of Health and Social Services."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 39.25.110(13) is amended to read:

(13) licensed physicians ~~and mental health professionals~~, as defined in AS 47.30.915(11) [AS 47.30.340(9)], employed by the division of mental health and developmental disabilities, Department of Health and Social Services [THE STATE];

It might be appropriate to add, for clarification, to line 16 before the ";" "but not mental health professionals"

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M December 27, 1982

SUBJECT: Work Order No. 13-0381

TO: Senator Bill Ray

FROM: Russ Josephson RJ
Legislative Counsel

I have tried to reach Terry Cramer at the Blue Ribbon Commission on the State Personnel Act to inquire about a problem I encountered while drafting the enclosed bill.

The draft varies from the request you sent us because it adds the term "mental health professionals" to the bill. The reason for this is that AS 47.30.915(11), which was requested to be in the draft, defines "mental health professionals" and not "physicians". In order to use the requested approach, I felt it was necessary to add the phrase "mental health professionals". If it is your desire to limit the scope of the exempt service so that it includes the physicians employed by the Division of Mental Health and Developmental Disabilities, Department of Health and Social Services but excludes the other mental health professionals employed in that division, I certainly can draft the bill accordingly. To do so, we will have to modify the requested language "licensed physicians, as defined in AS 47.30.915(11)".

Please let us know how you want this handled and we will proceed accordingly.

RJ:lmb

Enclosure

13-0381
Josephson
12-21-82 ✓

BY THE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE COUNCIL (for the Blue Ribbon Commission on the State Personnel Act)

IN THE HOUSE

HOUSE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the inclusion in the state exempt service of licensed physicians and mental health professionals employed by the division of mental health and developmental disabilities, Department of Health and Social Services."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 39.25.110(13) is amended to read:

(13) licensed physicians and mental health professionals, as defined in AS 47.30.915(11) [AS 47.30.340(9)], employed by the division of mental health and developmental disabilities, Department of Health and Social Services [THE STATE];

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

02-519 (REV 8/78)

SCOMM

#51:23

July 1, 1983

SB 83 - Court Leave for Nonpermanent Employees

History - IN THE SENATE

State Affairs: Hearing 3/16 - Redcommended do pass

Finance: No hearing held. Assigned to Senator Ferguson. Talked with Kathy Hathaway to ask that she let me know if any more information was needed.

Companion bill: HB 135 is identical and resides, at the moment, in House Finance.

Sec. 09.20.020. Disqualification of jurors.

NOTES TO DECISIONS

Mere service in another case in which a guilty verdict was returned does not disqualify a juror. Vail v. State, Sup. Ct. Op. No. 1922 (File Nos. 3309, 3382), 599 P.2d 1371 (1979).

Sec. 09.20.025. Limitation on jury service. No person may be required to serve more than a total of three months as a juror during any consecutive two-year period. However, if a person is serving as a juror at the conclusion of the three months period, that person shall complete the trial then in progress. In this section, a person is "serving as a juror" whenever that person is in attendance in court as a member of a jury or a jury panel. (§ 1 ch 147 SLA 1968; am § 2 ch 66 SLA 1981)

Effect of amendments. — The 1981 amendment, effective July 11, 1981, added "a total of" preceding "three months" in the first sentence, substituted "that person" for "he" preceding "shall complete" in the second sentence and added the third sentence.

JURY SERVICE

Sec. 09.20.030. Exemptions [Effective January 1, 1982]. A person may claim exemption and may be excused from service as a juror if it is shown that his health, the health or proper care of his family, a permanent physical or mental disability, or other substantial hardship expected to last more than two years makes it necessary for him to be excused, or if he is a judicial officer. (§ 2.03 ch 101 SLA 1962; am § 1 ch 8 SLA 1964; am § 1 ch 70 SLA 1981)

Effect of amendments. — The 1981 amendment, effective January 1, 1982, deleted "jury service will cause him to suffer material injury or destruction to his property or to the property entrusted to him, or if" preceding "his health," substituted " a permanent physical or mental disability, or other substantial hardship expected to last more than two years" for "or the sickness or death of a member of his family" preceding "makes it necessary" and deleted former paragraph designation (1) preceding "a judicial officer." The amendment also deleted paragraphs (2) — (7) which read "(2) any other civil officer of the state or United States whose duties are at the time inconsistent with his attendance or service as a juror; (3) an attorney; (4) a minister of the gospel or priest of any denomination; (5) a teacher in a university, college, academy, or school; (6) a practicing physician; (7) a practicing dentist."

Sec. 09.20.035. Deferral of jury service [Effective January 1, 1982]. A person may have his jury service deferred if he shows that jury service at the time for which he is summoned will cause hardship to himself or others, or that transportation problems make it temporarily impossible for him to serve. Jury service may be deferred under this section only if the person seeking the deferment agrees to a deferred date. Jury service may not be deferred for more than 10 months from the date the initial jury service was to begin. (§ 2 ch 70 SLA 1981)

JUNEAU, ALASKA

Alaska State Legislature

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

Senator Bill Ray, Chairman

Pouch YG
Mail Stop 3123
Juneau, Alaska 99811
(907) 465-4442

MEMORANDUM

March 24, 1983

TO: Senate Finance Committee

FROM: Teresa B. Cramer Teresa B Cramer
Administrative Assistant

SUBJECT: Senate Bill 83 - Granting Court Leave to Nonpermanent Employees

The Blue Ribbon Commission received a request that it consider whether nonpermanent employees should receive court leave benefits. Nonpermanent employees are short-term classified service employees. By statute their period of service is limited to 120 calendar days or to the duration of a program or project. Nonpermanent employees are not entitled to receive state leave, health or retirement benefits. Short-term employees in the partially exempt and exempt services are called temporary employees.

Most state employees continue to receive their regular salaries while serving as jurors or when they are subpoenaed to serve as a witness in a court proceeding. In return, the employee gives the state his or her jury service fee (currently $25 a day) or witness fee. Nonpermanent and temporary employees are not entitled to this benefit. They must take leave without pay since they do not earn annual, sick or personal leave, and their only compensation is the jury service or witness fee provided by the court.

Collective bargaining agreements set out the leave provisions for their members. The statutory leave benefits set out in AS 39.20 do not apply to state employees covered by contracts. AS 39.20.810(8) and (9). Amending the law to permit nonpermanents and temporaries to receive court leave would therefore apply only to short-term employees in the exempt and partially exempt services and to those few classified service nonpermanent employees who are not members of collective bargaining units. Extending leave benefits to unionized employees would remain the subject of possible negotiation between the state and employee representatives.

Jury service is a civic duty. All state employees should be treated equally while meeting this obligation. The Blue Ribbon Commission strongly recommends that the Alaska Statutes be amended to provide that nonpermanent and temporary employees are entitled to receive the same court leave benefits as other state employees.

Bill Analysis

Paragraph (7) of AS 39.20.310 exempts temporary employees from all leave benefits granted to other state employees by statute. The proposed legislation amends the court leave statute to nullify the general exclusion. Temporary and nonpermanent employees would therefore be eligible to receive the court leave benefits provided other state employees.

TBC:lmk

Introduced: 1/27/83
Referred: State Affairs and Finance

BY THE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE COUNCIL (for the Blue Ribbon Commission on the State Personnel Act)

IN THE SENATE

SENATE BILL NO. 83

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to court leave for nonpermanent and temporary employees of the state."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 39.20.270 is amended to read:

Sec. 39.20.270. COURT LEAVE. Notwithstanding AS 39.20.310(7), court [COURT] leave shall be granted to an employee who is classified as full time, whether permanent, nonpermanent, or temporary. An officer or employee called to serve as a juror or subpoenaed as a witness is entitled to administrative leave with pay, but compensation received by the employee [HIM] or to which the employee [HE] is entitled, whichever is greater, for service as a juror or witness shall be deducted from pay to which the employee [HE] is entitled as a state officer or employee.

Alaska State Legislature

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

Senator Bill Ray, Chairman

Pouch YG
Mail Stop 3123
Juneau, Alaska 99811
(907) 465-4442

JUNEAU, ALASKA

MEMORANDUM

February 3, 1983

TO: Members of the Senate State Affairs Committee

FROM: Teresa B. Cramer
Administrative Assistant

SUBJECT: Senate Bill 83 - Granting Court Leave to Nonpermanent Employees

The Blue Ribbon Commission received a request that it consider whether nonpermanent employees should receive court leave benefits. The person who called was working as a nonpermanent employee on a project which was expected to last for nine months. She was summoned to serve on a jury for a criminal trial. The proceedings lasted two weeks.

Nonpermanent employees are short-term classified service employees. By statute their period of service is limited to 120 calendar days or to the duration of a program or project. Short-term employees in the partially exempt and exempt services are called temporary employees. Nonpermanent employees must be hired based on their relative ability from the lists of eligibles maintained by the Division of Personnel for that job class. They are paid according to the pay rate assigned to that job class. They are not eligible for state leave, health or retirement benefits.

Most state employees continue to receive their regular salaries while serving on juries or when they are subpoenaed to serve as a witness in a court proceeding. The employee gives the state his or her jury service fee (currently $25 a day) or witness fee. Nonpermanent and temporary employees are not entitled to this benefit. They must take leave without pay since they do not earn annual, sick or personal leave, and their only compensation is the jury service or witness fee provided by the court.

Jury service is a civic duty. All state employees should be treated equally while meeting this obligation. The Blue Ribbon Commission strongly recommends that nonpermanent and temporary employees be entitled to the same court leave benefits as other state employees.

Bill Analysis

Paragraph (7) of AS 39.20.310 denies temporary employees the leave benefits granted to other state employees. The proposed legislation amends the court leave statute to nullify the general exclusion. Temporary and nonpermanent employees would therefore be eligible to receive the court leave benefits provided other state employees.

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

02-519 (REV 8/78)

SCOMM

#51:24

July 12, 1983

RE: HB 207, HB 209 and SB 116 - all about emergency guards in the Department of Public Safety and miscellaneous other matters

There are three bills which originally proposed placing guards used by the Department of Public Safety in emergencies into the exempt service: HB 207 (sponsored by the Blue Ribbon Commission), HB 209 (sponsored by Rep. Bussell and modelled after the Senate version of the Blue Ribbon Commission bill), and SB 116 (the Blue Ribbon Commission Senate version).

HB 207 - this bill had no hearings because House State Affairs took up Rep. Bussell's bill, HB 209, instead. It is still, untampered with, in House State Affairs.

HB 209 - This bill went through numerous changes, some desirable and some less so, and currently may be found [as SCS CSHB 209 (SA)] in Senate Finance.

SB 116 - This bill was amended in Senate State Affairs and passed the Senate. It has been referred [as CSSB 116 (SA)] to House Judiciary and has had no hearings there.

SCS CSHB 209 - Relating to the classification of personnel

Bill history

3/11/83 State Affairs heard the bill and adopted a CS changing the placement of the guards to the partially exempt service rather than the exempt service at the suggestion of Frank Raye, the director of personnel. The change leaves the positions as part of the state classification plan and pay plan, which insures that the division of personnel can watchdog salary to insure pay equity for incumbents.

3/25/83 Hearing in House Finance. The division of personnel and the Blue Ribbon Commission jointly recommended adding language to require that the Department of Public Safety report to the Division of Personel about emergency appointments made under this legislation. House Finance adopted that language in its CS. The language was originally developed for the Senate version, SB 116.

5/3/83 Hearing in House Rules in which the Department of Natural Resources proposed that young people employed in the youth employment/student intern programs be placed in the exempt service. The Division of Personnel had no problem with this admendment - there is a memo on the change in the file.

Rep. Bussell proposed adding correctional superintendents I & II to the partially exempt service because they should reflect policy (and unspokenly, should be subject to firing if a prisoner escapes, presumably). The hearing went quickly and both amendments were adopted. The Division of Personnel was not in support of Bussell's amendment although they did not testify at the hearing.

5/10/83 CSHB 209 (Rules) passed the House 33-6-1. Rep. Duncan moved for reconsideration and the bill passed on reconsideration on 5/13/83, 26-9-3-2.

6/9/83 Hearing in Senate State Affairs. Sen. Ray moved that the correctional superintendents be deleted from the bill and the motion passed.

I did not write a memo for Senate State Affairs since they had heard SB 116 earlier, but I did testify and raise questions about the correctional superintendents since the Blue Ribbon Commission had long been concerned about maintaining the merit system standards, which apply to the classified service and not as much to the partially exempt service (which is exempt from selection and firing standards and rules). I told them I had no information on the changes requested by the Department of Natural Resources.

6/13/83 SCS CSHB 209 (SA) was referred to Senate Finance. No hearings were held on the bill before adjournment.

* * * * * * * * *

CSSB 116 (SA) - Placing emergency guards employed by the department of public safety in the partially exempt service.

Bill history

3/11/83 Hearing in Senate State Affairs. Suzanne Tryck, staff to the committee, and Frank Raye, Director of Personnel, and I met and developed language to require reports from the department on the use of the legislation and also to change the placement of the guards from the exempt to the partially exempt service. Partially exempt postions remain part of the state's classification and pay plans and therefore are guaranteed pay equity for their work. The CS adopted by State Affairs included both of these changes.

3/11/83 Judiciary waived referral of CSSB 116 (SA)

3/21/83 Passed the Senate, 18-0-2

3/23/83 Referred to House Judiciary - there's a memo for them in the file. The House held no hearings.

* * * * * * * * * *

Comment - the Senate State Affairs Committee Substitute for HB 209 is probably what should be the final language for whichever of these three bills makes it through the legislature, at least under ideal circumstances.

Offered: 3/11/83
Referred: Rules

Original sponsor: Rules/Legislative Council

IN THE SENATE BY THE STATE AFFAIRS COMMITTEE

CS FOR SENATE BILL NO. 116 (State Affairs)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act placing emergency guards employed by the department of public safety in the partially exempt service."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 39.25.120(c) is amended by adding a new paragraph to read:

(19) emergency guards employed by the Department of Public Safety.

* Sec. 2. AS 44.41 is amended by adding a new section to read:

Sec. 44.41.030. REPORT TO DIVISION OF PERSONNEL. The Department of Public Safety shall submit a report to the director of the division of personnel quarterly and on request of the director. The report shall contain a description of each emergency and shall include the total amount of time by hours for each emergency for which emergency guards under AS 39.25.120(c)(19) were used.

Alaska State Legislature

JUNEAU, ALASKA

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

Senator Bill Ray, Chairman

Pouch YG
Mail Stop 3123
Juneau, Alaska 99811
(907) 465-4442

MEMORANDUM

March 25, 1983

TO: Members of the House Judiciary Committee

FROM: Teresa B. Cramer Teresa B Cramer
Administrative Assistant

SUBJECT: CSSB 116(SA) - Placing Emergency Guards Employed by the Department of Public Safety in the Partially Exempt Service

In 1979, the Blue Ribbon Commission sponsored legislation to place greater restraints on the employment of both nonpermanent and emergency classified state workers. These restrictions have created some difficulties for the Department of Public Safety because of the large number of emergency guards they hire. In 1982 the department hired 495 emergency guards. There were only 112 other emergency appointments in the state.

An emergency employee is defined as "an employee appointed for a period not to exceed 30 calendar days, whose appointment was made under conditions requiring immediate action to carry on work that is required in the public interest". AS 39.25.200(3). Departments are required to report the reason for hiring an emergency employee within 15 working days of the appointment. Personnel practices require that departments prepare Personnel Action forms at the beginning and ending of an emergency appointment. In addition, employment forms from the Division of Payroll and the Division of Retirement and Benefits must be prepared for each appointment.

For some communities with frequent need for emergency guards, the department employs the same individuals each time the need arises. There were 136 individuals who filled the 495 emergency guard appointments during 1982. These employees guard prisoners or seized property in rural areas where a one- or two-person post prevents a trooper from maintaining 24-hour per day watch. The period required for the emergency service is between arrest and either arraignment or transportation to a correctional facility or until other arrangements are made to maintain custody of the seized property. According to the Department of Public Safety, typical appointments last from two to four days.

Placing emergency guards in the partially exempt service will substantially reduce the paperwork burden placed on the Departments of Public Safety and Administration. Those employees who are repeatedly hired when an emergency occurs can remain on the payroll indefinitely, preparing time sheets for each period they actually work. Making the positions part of the partially exempt service means that the positions remain part of the state's classification plan and are paid according to the state's pay plan. This will insure pay equity for those employees.

The Blue Ribbon Commission recommends placing these positions in the partially exempt service. It will reduce the paperwork burden on the department with little effect on the employee. (The protections for emergency appointments in the classified service are not much greater, if at all, than for partially exempt employees.) The continuing need for these appointments has been adequately documented.

Bill Analysis

Line 10 Section 1 amends the section of the State Personnel Act which lists positions placed in the partially exempt service to include emergency guards.

Line 14 Section 2 amends the chapter which creates the Department of Public Safety by requiring the department to report to the Director of Personnel on the number and description of appointments of emergency guards. Departments are currently required to report the number of classified service emergency appointments they make. This will retain that requirement for emergency guards after they are moved to the partially exempt service.

TBC:lmk

Alaska State Legislature

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

Senator Bill Ray, Chairman

Pouch YG
Mail Stop 3123
Juneau, Alaska 99811
(907) 465-4442

JUNEAU, ALASKA

MEMORANDUM

March 11, 1983

TO: Members of the ~~Senate~~ HS Judiciary Committee

FROM: Teresa B. Cramer
Administrative Assistant

SUBJECT: CSSB 116(SP) - Placing Emergency Guards Employed by the Department of Public Safety in the Partially Exempt Service

In 1979, the Blue Ribbon Commission sponsored legislation to place greater restraints on the employment of both nonpermanent and emergency classified state workers. These restrictions have created some difficulties for the Department of Public Safety because of the large number of emergency guards they hire. In 1982 the department hired 495 emergency guards. There were only 112 other emergency appointments in the state.

An emergency employee is defined as "an employee appointed for a period not to exceed 30 calendar days, whose appointment was made under conditions requiring immediate action to carry on work that is required in the public interest". AS 39.25.200(3). Departments are required to report the reason for hiring an emergency employee within 15 working days of the appointment. Personnel practices require that departments prepare Personnel Action forms at the beginning and ending of an emergency appointment. In addition, employment forms from the Division of Payroll and the Division of Retirement and Benefits must be prepared for each appointment ~~for the Supplemental Benefits System, retirement, insurance, etc.~~

For some communities with frequent need for emergency guards, the department employs the same individuals each time the need arises. There were 136 individuals who filled the 495 emergency guard appointments during 1982. These employees guard prisoners or seized property in rural areas where a one- or two-person post prevents a trooper from maintaining 24-hour per day watch. The period required for the emergency service is between arrest and either arraignment or transportation to a correctional facility or until other arrangements are made to maintain custody of the seized property. According to the Department of Public Safety, typical appointments last from two to four days.

Placing emergency guards in the partially exempt service will substantially reduce the paperwork burden placed on the Departments of Public Safety and Administration. Those employees who are repeatedly hired when an emergency occurs can remain on the payroll indefinitely, preparing time sheets for each period they actually work. Making the positions part of the partially exempt service means that the positions remain part of the state's classification plan and are paid according to the state's pay plan. This will insure pay equity for those employees.

The Blue Ribbon Commission ~~agrees with the recommendation.~~ supports recommend it Placing these positions in the partially exempt service will reduce the paperwork burden on the department with little effect on the employee. (The protections for emergency appointments in the classified service are not much greater, if at all, than for partially exempt employees.) The continuing need for these appointments has been adequately documented.

Bill Analysis

Line 10 Section 1 amends the section of the State Personnel Act which lists positions placed in the partially exempt service to include emergency guards.

Line 14 Section 2 amends the chapter which creates the Department of Public Safety by requiring the department to report to the Director of Personnel on the number and description of appointments of emergency guards. Departments are currently required to report the number of classified service emergency appointments they make. This will retain that requirement for emergency guards after they are moved to the partially exempt service.

TBC:lmk

Alaska State Legislature

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

Senator Bill Ray, Chairman

Pouch YG
Mail Stop 3123
Juneau, Alaska 99811
(907) 465-4442

JUNEAU, ALASKA

MEMORANDUM

March 11, 1983

TO: Members of the Senate Judiciary Committee

FROM: Teresa B. Cramer
Administrative Assistant

SUBJECT: CSSB 116 - Placing Emergency Guards Employed by the Department of Public Safety in the Partially Exempt Service

In 1979, the Blue Ribbon Commission sponsored legislation to place greater restraints on the employment of both nonpermanent and emergency classified state workers. These restrictions have created some difficulties for the Department of Public Safety because of the large number of emergency guards they hire. In 1982 the department hired 495 emergency guards. There were only 112 other emergency appointments in the state.

An emergency employee is defined as "an employee appointed for a period not to exceed 30 calendar days, whose appointment was made under conditions requiring immediate action to carry on work that is required in the public interest". AS 39.25.200(3). Departments are required to report the reason for hiring an emergency employee within 15 working days of the appointment. Personnel practices require that departments prepare Personnel Action forms at the beginning and ending of an emergency appointment. In addition, employment forms from the Division of Payroll and the Division of Retirement and Benefits must be prepared for each appointment.

For some communities with frequent need for emergency guards, the department employs the same individuals each time the need arises. There were 136 individuals who filled the 495 emergency guard appointments during 1982. These employees guard prisoners or seized property in rural areas where a one- or two-person post prevents a trooper from maintaining 24-hour per day watch. The period required for the emergency service is between arrest and either arraignment or transportation to a correctional facility or until other arrangements are made to maintain custody of the seized property. According to the Department of Public Safety, typical appointments last from two to four days.

Placing emergency guards in the partially exempt service will substantially reduce the paperwork burden placed on the Departments of Public Safety and Administration. Those employees who are repeatedly hired when an emergency occurs can remain on the payroll indefinitely, preparing time sheets for each period they actually work. Making the positions part of the partially exempt service means that the positions remain part of the state's classification plan and are paid according to the state's pay plan. This will insure pay equity for those employees.

The Blue Ribbon Commission agrees with the recommendation. Placing these positions in the partially exempt service will reduce the paperwork burden on the Department with little effect on the employee. (The protections for emergency appointments in the classified service are not much greater, if at all, than for partially exempt employees.) The continuing need for these appointments has been adequately documented.

Bill Analysis

Line 10 Section 1 amends the section of the State Personnel Act which lists positions placed in the partially exempt service to include emergency guards.

Line 14 Section 2 amends the chapter which creates the Department of Public Safety by requiring the department to report to the Director of Personnel on the number and description of appointments of emergency guards. Departments are currently required to report the number of classified service emergency appointments they make. This will retain that requirement for emergency guards after they are moved to the partially exempt service.

TBC:lmk

Introduced: 2/9/83
Referred: State Affairs and Judiciary

BY THE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE COUNCIL (for the Blue Ribbon Commission on the State Personnel Act)

IN THE SENATE

SENATE BILL NO. 116

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act placing emergency guards employed by the department of public safety in the partially exempt service."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 39.25.~~110~~ 120 is amended by adding a new paragraph to read:

(19) ~~(22)~~ emergency guards employed by the Department of Public Safety.

3/7/83 - Frank Raye → pk + ef

Alaska State Legislature

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

Senator Bill Ray, Chairman

Pouch YG
Mail Stop 3123
Juneau, Alaska 99811
(907) 465-4442

JUNEAU, ALASKA

MEMORANDUM

February 15, 1983

TO: Members of the Senate State Affairs Committee

FROM: Teresa B. Cramer Teresa B Cramer
Administrative Assistant

SUBJECT: Senate Bill 116 - Placing Emergency Guards Employed by the Department of Public Safety in the Exempt Service

~~HB 209 / HB 209~~

~~The Blue Ribbon Commission is recommending that emergency guards employed by the Department of Public Safety be moved from the classified service to the exempt service.~~ In 1979, the commission sponsored legislation to place greater restraints on the employment of both nonpermanent and emergency classified state workers. These restrictions have created some difficulties for the Department of Public Safety because of the large number of emergency guards they hire. In 1982 the dept hired 495 emerg. guards. There were only 112 other emerg appts in the state.

Blue Ribbo

An emergency employee is defined as "an employee appointed for a period not to exceed 30 calendar days, whose appointment was made under conditions requiring immediate action to carry on work that is required in the public interest". AS 39.25.200(3). Departments are required to report the reason for hiring an emergency employee within 15 working days of the appointment. Personnel practices require that departments prepare Personnel Action forms at the beginning and ending of an emergency appointment. ~~Departments are not required to report as extensively for an appointment to an exempt position.~~

In addition, for each appt exempt forms from the Div. of Payroll & the Div. of Retirement & Benefits must be prepared.

According to the Division of Personnel's "Report on Nonpermanent and Emergency Employment 1982", the Department of Public Safety made 495 emergency guard hires in 1982. These employees guard prisoners or seized property in rural areas where a one- or two-person post prevents a trooper from maintaining 24-hour per day watch. The period required for the emergency service is between arrest and either arraignment or transportation to a correctional facility or until other arrangements are made to maintain custody of the seized property. According to the Department of Public Safety, typical appointments last from two to four days.

~~many of the appl~~ For some communities w/ frequent need for emergency guards, the dept employs the same individuals each time the need arises. There were 136 individuals who worked as emergency guards during 1982.

REPLACE w/ ¶ BELOW

In its report, the Division of Personnel states that the conditions for making emergency appointments place a significant paperwork burden on the Department of Public Safety, and on the Divisions of Personnel, Finance, and Retirement and Benefits in the Department of Administration. The division and the department recommend that emergency guards working for the Department of Public Safety be placed in the exempt service. The division points out that there are similarities between these positions and emergency firefighters in the department, who are already included in the exempt service by statute. AS 39.25.110(19).

The Blue Ribbon Commission agrees with the recommendation. Emergency guards are typically employed repeatedly in the locations which need them, but for short times each time. The paperwork burden on the departments would be substantially reduced with little effect on the employee because the appointments are of such short duration. (The protections for emergency appointments are not much greater, if at all, than for partially exempt employees.) The continuing need for these appointments has been adequately documented.

Bill Analysis

Section 1 adds emergency guards employed by the Department of Public Safety to the section of the State Personnel Act which lists exempt positions.

TBC:lmk

Placing emergency guards in the partially exempt service will substantially reduce the paperwork burden placed on the Departments of Public Safety & Administration. Those employees who are regularly hired when an emergency occurs can remain on the payroll indefinitely, preparing time sheets for each period they actually work. Making the positions

SEE PAGE 2

MEMORANDUM March 10, 1983

TO: Senator Bill Ray, Chairman

FROM: Teresa B. Cramer
Administrative Assistant

SUBJECT: HB 207, HB 209 and SB 116 - Placing Emergency Guards Employed by Public Safety in the Exempt Service

HB 207 and HB 209

The House State Affairs Committee considered HB 209, sponsored by Representative Bussell, yesterday. It is identical to HB 207 and SB 116, sponsored by the Blue Ribbon Commission, and moves emergency guards from the classified service to the exempt service. The bill was introduced at the recommendation of the Division of Personnel made in its 1982 "Report on Nonpermanent and Emergency Hire Practices in State Government". I attended the hearing at the request of the staff of State Affairs.

I talked with Frank Raye, Director of Personnel, prior to the meeting. He recommended that emergency guards be placed in the partially exempt rather than the exempt service. Partially exempt positions are part of the state classification plan and are paid according to the pay plan, so there is some restraint on the department from either overpaying or underpaying those employees. He proposed these changes to the House State Affairs Committee and I said that I believed the commission would have no objection. The goal of the bill is to reduce the paperwork which the department has to process when making the large number of emergency appointments. This goal would not be affected by the amendment which was adopted.

SB 116

Suzanne Tryck, professional assistant to the Senate State Affairs Committee, met with Frank Raye, Mike McMullen (Deputy Director of Personnel) and with me this morning to discuss SB 116. Mr. Raye proposed the same amendment to SB 116 which was made to HB 209 -- placing

emergency guards in the partially exempt rather than the exempt service. Ms. Tryck was concerned that there are few controls over the length of service of partially exempt or exempt temporary employees (they are not covered by the nonpermanent law) and that there is not even any requirement that the departments report on the length of time they work as temporaries. We discussed the problem and arrived at a possible solution which she will suggest to Senator Fischer for inclusion in a Committee Substitute. In addition to amending the bill to place emergency guards in the partially exempt service, she will suggest adding a new section to the bill amending the nonpermanent law to require the Department of Public Safety to report quarterly on the emergency guards it hires. (The vase majority of the paperwork requirements will be eliminated by moving the positions to the partially exempt service.) The new section would read something like:

> Section 2. AS 39.25.195 is amended by adding a new paragraph to read:
>
> (i) The department of public safety shall submit to the director a quarterly report of each emergency for which an employee under AS 39.25.120(c)(19) was employed. The director may request more frequent reports. The director shall include this information in the report on nonpermanent and emergency hire practices in state government.

TBC:lmk

Alaska State Legislature

JUNEAU, ALASKA

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

Senator Bill Ray, Chairman

Pouch YG
Mail Stop 3123
Juneau, Alaska 99811
(907) 465-4442

MEMORANDUM

February 15, 1983

TO: Members of the Senate State Affairs Committee

FROM: Teresa B. Cramer Teresa B Cramer
Administrative Assistant

SUBJECT: Senate Bill 116 - Placing Emergency Guards Employed by the Department of Public Safety in the Exempt Service

The Blue Ribbon Commission is recommending that emergency guards employed by the Department of Public Safety be moved from the classified service to the exempt service. In 1979, the commission sponsored legislation to place greater restraints on the employment of both nonpermanent and emergency classified state workers. These restrictions have created some difficulties for the Department of Public Safety because of the large number of emergency guards they hire.

An emergency employee is defined as "an employee appointed for a period not to exceed 30 calendar days, whose appointment was made under conditions requiring immediate action to carry on work that is required in the public interest". AS 39.25.200(3). Departments are required to report the reason for hiring an emergency employee within 15 working days of the appointment. Personnel practices require that departments prepare Personnel Action forms at the beginning and ending of an emergency appointment. Departments are not required to report as extensively for an appointment to an exempt position.

According to the Division of Personnel's "Report on Nonpermanent and Emergency Employment 1982", the Department of Public Safety made 495 emergency guard hires in 1982. These employees guard prisoners or seized property in rural areas where a one- or two-person post prevents a trooper from maintaining 24-hour per day watch. The period required for the emergency service is between arrest and either arraignment or transportation to a correctional facility or until other arrangements are made to maintain custody of the seized property. According to the Department of Public Safety, typical appointments last from two to four days.

In its report, the Division of Personnel states that the conditions for making emergency appointments place a significant paperwork burden on the Department of Public Safety, and on the Divisions of Personnel, Finance, and Retirement and Benefits in the Department of Administration. The division and the department recommend that emergency guards working for the Department of Public Safety be placed in the exempt service. The division points out that there are similarities between these positions and emergency firefighters in the department, who are already included in the exempt service by statute. AS 39.25.110(19).

The Blue Ribbon Commission agrees with the recommendation. Emergency guards are typically employed repeatedly in the locations which need them, but for short times each time. The paperwork burden on the departments would be substantially reduced with little effect on the employee because the appointments are of such short duration. (The protections for emergency appointments are not much greater, if at all, than for exempt employees.) The continuing need for these appointments has been adequately documented.

Bill Analysis

Section 1 adds emergency guards employed by the Department of Public Safety to the section of the State Personnel Act which lists exempt positions.

TBC:lmk

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

02-519 (REV 8/78)

SCOMM

#51:25

July 12, 1983

SCR 3 & HCR 13 - Extending the Life of the Blue Ribbon Commission on the State Personnel Act

These resolutions are identical. The House version had no hearings. The Senate version had many and was ultimately failed by the House of Respresentatives on reconsideration on the last day they were in session and returned to the Senate for permanent filing.

Bill History - SCR 3

2/9/83	Senate State Affairs recommended do pass
2/21/83	Senate Finance recommended do pass - used memorandum prepared for Senate State Affairs
3/1/83	Senate approved SCR 3 16-4 (No votes from Sen. Paul Fischer, Halford, Kelly and Pettyjohn)
3/7/83	House State Affairs recommended do pass
3/21/83	House Finance recommended do pass - Fiscal Note in House Journal Supp. 27 - 3/21/83
3/21/83	Referred to House Rules - I prepared a memo for Rep. Fuller to use on the floor, should he wish to do so
6/26/83	House failed SCR 3 16-22-0-2(absent). Rep. Duncan gave notice of reconsideration (or maybe Rep. Miller) and it failed on reconsideration by a vote of 17-23. Vote was along coalition lines.
6/27/83	SCR 3 returned to Senate for permanent filing.

Introduced: 2/1/83
Referred: State Affairs and Finance

BY THE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE COUNCIL (for the Blue Ribbon Commission on the State Personnel Act)

IN THE SENATE

SENATE CONCURRENT RESOLUTION NO. 3

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

Extending the life of the Blue Ribbon Commission on the State Personnel Act.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

WHEREAS in 1978 the legislature through Legislative Resolve No. 27 authorized the Legislative Council, in cooperation with the director of personnel, to form a "blue ribbon" commission to study the State Personnel Act; and

WHEREAS the commission was formed as authorized by the resolution, made its report to the First Session of the Eleventh Legislature, and, in response to the commission's request for additional time to study problems it had identified, was funded by the legislature for a second year; and

WHEREAS in 1980 the commission made its second report to the legislature, and the legislature through Legislative Resolve No. 38 authorized the commission to continue to perform the assignments made to it by 1978 Legislative Resolve No. 27; and

WHEREAS in 1981 the legislature, through Legislative Resolve No. 37, found that additional time was needed for the commission to complete the task to which it was assigned and authorized the commission to continue to perform its assignments until June 30, 1982; and

WHEREAS in 1982 the legislature, through Legislative Resolve No. 17 found that additional time was needed for the commission to complete the task to which it was assigned and authorized the commission to continue to perform its assignments until June 30, 1983; and

WHEREAS the commission has now identified problems relating to personnel issues but is unable to adequately address those problems before

June 30, 1983;

BE IT RESOLVED by the Alaska State Legislature that the Blue Ribbon Commission on the State Personnel Act is authorized to continue to perform the assignments made to it by 1978 Legislative Resolve No. 27 through June 30, 1984.

SCR 3 - Extending the Life of the Blue Ribbon Commission

The Blue Ribbon Commission has been working for the past four and one-half years on issues in the personnel area. During that time it has recommended legislation to address the problem created by temporary state employees; it has prepared a thorough review of the State Personnel Act which passed the Legislature last session; and it has addressed other issues in the personnel and retirement areas with legislation and with suggestions to the appropriate agency where legislation was unnecessary.

The Blue Ribbon Commission has pending before it a number of questions which it has not had time to resolve. These questions include consideration of the state's written examinations for applicants for state jobs, other issues concerning the state's hiring practices, and examination of the conflict of interest regulations which apply to state employees and limit their political activities. There are also questions pending before the commission about the state's retirement systems. The commission needs more time to consider these issues and make recommendations on them. SCR 3 extends the life of the commission for one year, to June 30, 1984. The fiscal note is based on last year's budget with a slight increase for inflation.

The commission has a membership of 15 people. Members include legislators, representatives of the Department of Administration and the Division of Personnel, representatives from employee unions and associations, program managers from state agencies, and the public. There are two vacancies - one from the House of Representatives (to be filled by appointment by the Speaker of the House). The second vacancy will be filled by vote of commission members from people who have expressed an interest in serving on the commission.

Given to Rep Fuller for info on floor session
3/31/83

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE - REVISED 3/15/83

I. REQUEST
Bill/Resolution No. SENATE CONCURRENT RESOLUTION NO. 3
Title Extending the life of the Blue Ribbon Commission on the State Personnel Act
Requested by Senator Bill Ray Date 03-15-83

II. FISCAL DETAIL
Agency Affected Legislative Affairs Agency
Program Category Affected General Government
BRU, Program, Or Subprogram(s) Affected Legislative Council
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES		87.0				
200 TRAVEL		10.6				
300 CONTRACTUAL		2.1				
400 COMMODITIES		1.1				
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL		100.8				

FUNDING (Thousands of Dollars)

GENERAL FUND		100.8				
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME		2				
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

Continuation of present staff and activity:

One Administrative Assistant full-time and One Secretary full-time with benefits	$ 87,000
Travel - Staff & Commission Estimate 10 members per meeting at $530 travel and per diem per trip for two trips	$ 10,600
Contractual - phone, public notices, etc.	$ 2,100
Commodities - Office Supplies	$ 1,100
TOTAL	$100,800

IV. DATE 3/15/83 PREPARED BY Wally Harrison, Director, Admin. Svcs
AGENCY Legislative Affairs Agency
PHONE 465-3850

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/82)

SENATE CONCURRENT RESOLUTION NO. 3:

FY 1978 -	
FY 1979 -	
FY 1980 -	$ 58,195
FY 1981 - Ch 120, SLA 1980	$ 93,700
FY 1982 - Ch 82, SLA 1981	$ 99,100
FY 1983 - Ch 139, SLA 1982	$100,000

Alaska State Legislature

JUNEAU, ALASKA

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

Senator Bill Ray, Chairman

Pouch YG
Mail Stop 3123
Juneau, Alaska 99811
(907) 465-4442

MEMORANDUM

March 10, 1983

TO: House Finance Committee

FROM: Teresa B. Cramer Teresa B Cramer
Administrative Assistant

SUBJECT: SCR 3 - Extending the Life of the Blue Ribbon Commission

The Alaska State Legislature created the Blue Ribbon Commission on the State Personnel Act in 1978 and directed it to review the personnel system and make recommendations to improve it. Since then, the commission has worked on the issues it has identified, sponsoring legislation, making recommendations to appropriate state agencies and reporting its progress to the legislature each year.

In its first year, the commission studied the temporary employee issue extensively and sponsored a bill creating the nonpermanent employee system. The bill intended to curb the administrative practice of using temporary state employees to evade departmental accountability and mask poor planning. The legislation became effective on January 1, 1980.

The commission continued to address personnel issues and also addressed issues in collective bargaining during its second year. It studied and made recommendations to the Division of Personnel concerning the state's application process, testing practices, and identified and began discussion of problems which it was not able to act on because of time constraints. In its third year, the commission sponsored a comprehensive revision of the State Personnel Act as well as several other pieces of legislation in the personnel and retirement areas. The revision of the State Personnel Act became effective in 1982.

The commission reviewed the state's practices on employment of women and minorities during its fourth year. It recommended that a local hiring preference system be implemented particularly for state government positions in rural Alaska. It identified administrative changes to address issues presented to it and made recommendations to the Governor and to the Department of Administration. The legislature extended the existence of the commission until June 30, 1983, so that it could continue to perform the assignments made to it.

During the past year, the commission has considered a variety of issues and topics which were identified in public testimony and inquiries. It has sponsored legislation this session addressing seven of these issues, including amending the nepotism statute to provide statutory authorization for the current Personnel Rule, proposing a system of legislative review of labor agreements between the state and employee unions and associations, addressing issues in the retirement statutes, creating and protecting the state's interests in the discoveries and inventions of its employees when they are job-related, and resolving issues in the personnel system.

The commission is currently considering issues in the retirement and personnel fields which it has not had time to fully investigate and make recommendations on. These include questions concerning the appropriateness of some of the written tests used to evaluate applicants for state jobs, studying conflict of interest regulations which limit state employees' right to speak on public issues relating to their job duties, problems with disability retirement and other personnel issues.

The commission is composed of representatives from groups and persons most concerned about the state personnel system. In addition to legislators, the membership includes representatives from the unions and associations representing state employees, from the Department of Administration and the Division of Personnel, from the Ombudsman, other state agencies and the public. The breadth of expertise insures that a diversity of viewpoints is heard on the issues raised before the commission.

The commission has been unable to resolve all the questions it has considered. It therefore requests that the legislature authorize the Blue Ribbon Commission on the State Personnel Act to continue to perform the assignments delegated to it through June 30, 1984.

TBC:lmk

MEMORANDUM

February 3, 1983

TO: Wally Harrison, Director
LAA, Division of Administrative Services

FROM: Teresa B. Cramer
Administrative Assistant

SUBJECT: Fiscal Note for SCR 3

Please prepare a fiscal note for SCR 3, Extending the Life of the Blue Ribbon Commission. The note should be based on the current budget with any modifications for inflation which you believe are advisable. I am enclosed copies of SCR 3 and last year's Fiscal Note for your information. Please deliver the note to Senator Ray's office, attention Terry Cramer. Thanks.

TBC:lmk
Attachments

MEMORANDUM

January 18, 1983

TO: Legislative Affairs Legal Services

FROM: Teresa B. Cramer
Administrative Assistant

SUBJECT: Work Order Request to Extend the Life of the Blue Ribbon Commission

I am enclosing a copy of SCR 44 from last session. Please prepare a similar resolution for introduction in both houses to extend the commission until June 30, 1984. If you have questions, please give me a call. The resolution should be delivered to Senator Ray's office.

The commission's activities this past year focused on personnel issues, and several have been identified for which the commission has been unable to recommend solutions in the time available to it.

Thanks.

TBC:lmk
Enclosure

SENATE
JOURNAL SUPPLEMENT

2/21/83 No. 6

I. REQUEST SCR 3
Bill/Resolution No. SENATE CONCURRENT RESOLUTION NO. 3
Title Extending the life of the Blue Ribbon Commission on the State Personnel Act
Requested by Senator Ray Date 2/4/83

II. FISCAL DETAIL
Agency Affected Legislative Affairs Agency
Program Category Affected General Government
BRU, Program, Or Subprogram(s) Affected Legislative Council
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES	87.0	87.0				
200 TRAVEL	10.0	10.6				
300 CONTRACTUAL	2.0	2.1				
400 COMMODITIES	1.0	1.1				
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL	100.0	100.8				

FUNDING (Thousands of Dollars)

GENERAL FUND	100.0	100.8				
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME	2	2				
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

Continuation of present staff and activity:

One Administrative Assistant full-time and One Secretary full-time with benefits	$ 87,000
Travel - Staff & Commission Estimate 10 members per meeting at $530 travel and per diem per trip for two trips	$ 10,600
Contractual - phone, public notices, etc.	$ 2,100
Commodities - Office Supplies	$ 1,100
TOTAL	$100,800

IV. DATE 2/7/83 PREPARED BY Wally Harrison, Director, Admin.
AGENCY Legislative Affairs Agency
PHONE 465-3850

— FILE —

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

POUCH Y · STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

MEMORANDUM

February 7, 1983

TO: Teresa B. Cramer
Administrative Assistant
Blue Ribbon Commission on the
State Personnel Act

FROM: Wally Harrison, Director
Division of Administrative Services

SUBJECT: Fiscal Note - SCR No. 3

Attached is the fiscal note you requested January 4.

In studying the actual expenditures for FY 82 and reviewing the expenditures for the first half of FY 83 and providing for a slight inflation factor, it appears that the $100,800 will be enough to cover your operations for FY 84.

WH:mm

Attachment

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. SENATE CONCURRENT RESOLUTION NO. 3
Title Extending the life of the Blue Ribbon Commission on the State Personnel Act
Requested by Senator Ray Date 2/4/83

II. FISCAL DETAIL
Agency Affected Legislative Affairs Agency
Program Category Affected General Government
BRU, Program, Or Subprogram(s) Affected Legislative Council
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES	87.0	87.0				
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300 CONTRACTUAL	2.0	2.1				
400 COMMODITIES	1.0	1.1				
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700 GRANTS,CLAIMS,ETC.						
TOTAL	100.0	100.8				

FUNDING (Thousands of Dollars)

GENERAL FUND	100.0	100.8				
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME	2	2				
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

Continuation of present staff and activity:

One Administrative Assistant full-time and One Secretary full-time with benefits	$ 87,000
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TOTAL	$100,800

IV. DATE 2/7/83 PREPARED BY Wally Harrison, Director, Admin. Svcs.
AGENCY Legislative Affairs Agency
PHONE 465-3850

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/82)

MEMBERSHIP

February, 1983

Senator Bill Ray, Chairman — Rep. Jack Fuller, Vice Chairman

Members and Alternates:

Myrton Charney, Executive Director, Legislative Affairs Agency

John Chenoweth, Ombudsman

Senator Richard Eliason

William Huston, Superintendent, S.E. Regional Correctional Institution

Lois Jund, Retired State Employee
(Dorothy Whitney)

Frank Raye Director, Division of Personnel

Lynda McCurry, Personnel Officer, Department of Labor
(Roger Thayer, Personnel Officer, DOT)

Greg O'Claray, Inlandboatmen's Union - SIUNA

John Pugh, Director, Division of Social Services
(Robert Mourant, DOT)

Lisa Rudd, Commissioner, Department of Administration
(Director, Division of Labor Relations)
(Deputy Commissioner, Department of Administration)
(James Fisher, Director Division of EEO)

Cherie Shelley, Executive Director, APEA
(Darlene Livermore, APEA)
(Doryce Eggleston, APEA)
(Dianne Corso, APEA)

(Alternates)

Two vacancies

Introduced: 1/28/83
Referred: State Affairs
and Finance

BY THE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE COUNCIL (for the Blue Ribbon Commission on the State Personnel Act)

IN THE HOUSE

HOUSE CONCURRENT RESOLUTION NO. 13

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

Extending the life of the Blue Ribbon Commission on the State Personnel Act.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

WHEREAS in 1978 the legislature through Legislative Resolve No. 27 authorized the Legislative Council, in cooperation with the director of personnel, to form a "blue ribbon" commission to study the State Personnel Act; and

WHEREAS the commission was formed as authorized by the resolution, made its report to the First Session of the Eleventh Legislature, and, in response to the commission's request for additional time to study problems it had identified, was funded by the legislature for a second year; and

WHEREAS in 1980 the commission made its second report to the legislature, and the legislature through Legislative Resolve No. 38 authorized the commission to continue to perform the assignments made to it by 1978 Legislative Resolve No. 27; and

WHEREAS in 1981 the legislature, through Legislative Resolve No. 37, found that additional time was needed for the commission to complete the task to which it was assigned and authorized the commission to continue to perform its assignments until June 30, 1982; and

WHEREAS in 1982 the legislature, through Legislative Resolve No. 17 found that additional time was needed for the commission to complete the task to which it was assigned and authorized the commission to continue to perform its assignments until June 30, 1983; and

WHEREAS the commission has now identified problems relating to personnel issues but is unable to adequately address those problems before

June 30, 1983;

BE IT RESOLVED by the Alaska State Legislature that the Blue Ribbon Commission on the State Personnel Act is authorized to continue to perform the assignments made to it by 1978 Legislative Resolve No. 27 through June 30, 1984.

Alaska State Legislature

JUNEAU, ALASKA

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

Senator Bill Ray, Chairman

Pouch YG
Mail Stop 3123
Juneau, Alaska 99811
(907) 465-4442

MEMORANDUM

February 7, 1983

TO: House State Affairs Committee

FROM: Teresa B. Cramer Teresa B Cramer
Administrative Assistant

SUBJECT: HCR 13 - Extending the Life of the Blue Ribbon Commission

The Alaska State Legislature created the Blue Ribbon Commission on the State Personnel Act in 1978 and directed it to review the personnel system and make recommendations to improve it. Since then, the commission has worked on the issues it has identified, sponsoring legislation, making recommendations to appropriate state agencies and reporting its progress to the legislature each year.

In its first year, the commission studied the temporary employee issue extensively and sponsored a bill creating the nonpermanent employee system. The bill intended to curb the administrative practice of using temporary state employees to evade departmental accountability and mask poor planning. The legislation became effective on January 1, 1980.

The commission continued to address personnel issues and also addressed issues in collective bargaining during its second year. It studied and made recommendations to the Division of Personnel concerning the state's application process, testing practices, and identified and began discussion of problems which it was not able to act on because of time constraints. In its third year, the commission sponsored a comprehensive revision of the State Personnel Act as well as several other pieces of legislation in the personnel and retirement areas. The revision of the State Personnel Act became effective in 1982.

The commission reviewed the state's practices on employment of women and minorities during its fourth year. It recommended that a local hiring preference system be implemented particularly for state government positions in rural Alaska. It identified administrative changes to address issues presented to it and made recommendations to the Governor and to the Department of Administration. The legislature extended the existence of the commission until June 30, 1983, so that it could continue to perform the assignments made to it.

During the past year, the commission has considered a variety of issues and topics which were identified in public testimony and inquiries. It has sponsored legislation this session addressing seven of these issues, including amending the nepotism statute to provide statutory authorization for the current Personnel Rule, proposing a system of legislative review of labor agreements between the state and employee unions and associations, addressing issues in the retirement statutes, creating and protecting the state's interests in the discoveries and inventions of its employees when they are job-related, and resolving issues in the personnel system.

The commission is composed of representatives from groups and persons most concerned about the state personnel system. In addition to legislators, the membership includes representatives from the unions and associations representing state employees, from the Department of Administration and the Division of Personnel, from the Ombudsman, other state agencies and the public. The breadth of expertise insures that a diversity of viewpoints is heard on the issues raised before the commission.

The commission has been unable to resolve all the questions it has considered. It therefore requests that the legislature authorize the Blue Ribbon Commission on the State Personnel Act to continue to perform the assignments delegated to it through June 30, 1984.

TBC:lmk

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HOUSE CONCURRENT RESOLUTION NO. 13
Title Extending the life of the Blue Ribbon Commission on the State
Requested by Senator Ray /Personnel ACt Date 2/14/83

II. FISCAL DETAIL
Agency Affected Legislative Affairs Agency
Program Category Affected General Government
BRU, Program, Or Subprogram(s) Affected Legislative Council
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES	87.0	87.0				
200 TRAVEL	10.0	10.6				
300 CONTRACTUAL	2.0	2.1				
400 COMMODITIES	1.0	1.1				
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL	100.0	100.8				

FUNDING (Thousands of Dollars)

GENERAL FUND	100.0	100.8				
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME	2	2				
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

Continuation of present staff and activity:

One Administrative Assistant full-time and One Secretary full-time with benefits	$ 87,000
Travel - Staff & Commission Estimate 10 members per meeting at $530 travel and per diem per trip for two trips	$ 10,600
Contractual - phone, public notices, etc.	$ 2,100
Commodities - Office Supplies	$ 1,100
TOTAL	$100,800

IV. DATE 2/14/83 PREPARED BY Wally Harrison, Director, Admin. Svcs.
AGENCY Legislative Affairs Agency
PHONE 465-3850

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

Alaska State Legislature

JUNEAU, ALASKA

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

Senator Bill Ray, Chairman

Pouch YG
Mail Stop 3123
Juneau, Alaska 99811
(907) 465-4442

MEMORANDUM

February 7, 1983

TO: House State Affairs Committee

FROM: Teresa B. Cramer Teresa B Cramer
Administrative Assistant

SUBJECT: HCR 13 - Extending the Life of the Blue Ribbon Commission

The Alaska State Legislature created the Blue Ribbon Commission on the State Personnel Act in 1978 and directed it to review the personnel system and make recommendations to improve it. Since then, the commission has worked on the issues it has identified, sponsoring legislation, making recommendations to appropriate state agencies and reporting its progress to the legislature each year.

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The commission has been unable to resolve all the questions it has considered. It therefore requests that the legislature authorize the Blue Ribbon Commission on the State Personnel Act to continue to perform the assignments delegated to it through June 30, 1984.

TBC:lmk

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE - REVISED 3/15/83

I. REQUEST
Bill/Resolution No. HOUSE CONCURRENT RESOLUTION NO. 13
Title Extending the life of the Blue Ribbon Commission on the State Personnel Act
Requested by Senator Bill Ray Date 3-15-83

II. FISCAL DETAIL
Agency Affected Legislative Affairs Agency
Program Category Affected General Government
BRU, Program, Or Subprogram(s) Affected Legislative Council
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

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600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL		100.8				

FUNDING (Thousands of Dollars)

GENERAL FUND		100.8				
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME		2				
PART TIME						
TEMPORARY						

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Commodities - Office Supplies	$ 1,100
	$100,800

IV. DATE 3/15/83 PREPARED BY Wally Harrison, Director, Admin. Svcs.
AGENCY Legislative Affairs Agency
PHONE 465-3850

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/82)

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HOUSE CONCURRENT RESOLUTION NO. 13
Title Extending the life of the Blue Ribbon Commission on the State
Requested by Senator Ray /Personnel ACt Date 2/14/83

II. FISCAL DETAIL
Agency Affected Legislative Affairs Agency
Program Category Affected General Government
BRU, Program, Or Subprogram(s) Affected Legislative Council
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TOTAL	$100,800

IV. DATE 2/14/83 PREPARED BY Wally Harrison Director Admin. Svcs

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILE 8672

1375 SCOMM 51: BLUE RIBBON COMN. ON STATE PERSONNEL ACT 1978-1983

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 Swick
Signature of Camera Operator

12/15/89
Date

02-519 (REV 8/78)

SCOMM

#51:26

July 1, 1983

CS HB 49 (SA): Nepotism in state employment

History - IN THE HOUSE

State Affairs: Hearings 1/26, 2/10, 2/22 and final passing out of committee on February 28.

Judiciary: Hearings 4/13 and 4/25. Rep. Bussell (and others - perhaps Rep. Liska?) wanted to try to address the relationship between non-married state employees living together. John Rubini of the AG's office pointed out that there could be constitutional problems related to invasion of privacy but said he would work on the question. Nothing happened after that.

John also said that the Division of Personnel may, contrary to the earlier AG's opinion, have authority to adopt nepotism regulations which are more comprehensive (and restrictive) than the nepotism statute, which (if it were true) would make this bill unnecessary.

Note: Senator Ray wanted, at one time, to try to include non-married people living in a marital-style relationship within the nepotism prohibitions. See my short note to him dated February 7th.

At one time, there was discussion of changing the language so that "close relatives" were prohibited from employment situations, rather than prohibiting "spouses or persons related by blood or marriage within and including the second degree of kindred" and then providing, in the bill, a definition of "close relatives." This might make the bill more readable, and could be pursued later if the bill goes anywhere.

A copy of the case which has been filed, challenging DOT's implementation of nepotism regulations, is enclosed. John Rubini said that it wasn't going anywhere, the last time I spoke with him about it. The case may be assigned to someone else.

Compainion bill: SB 56 is identical to the original HB 49. It had no hearings last session, largely because Nancy Groshek, Sen. Vic Fischer's aide, does not believe in nepotism restrictions. From what I can tell, she is unlikely to change her mind.

STATE OF ALASKA

Bill Sheffield, Governor

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K – STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

Clocksin - promotion across dept lines

April 25, 1983

The Honorable Charlie Bussell
Chairman, House Judiciary Committee
Alaska State Legislature
Pouch V
Juneau, AK 99811

Re: CS for HB 49
Our file no.: 366-568-83

Dear Representative Bussell:

This letter responds to the several questions relating to the nepotism restrictions proposed in the CS for HB 49, now pending before the House Judiciary Committee.

As discussed at the prior committee hearing, the state is presently a party to litigation which questions the permissible scope of any nepotism prohibition established under the Personnel Rules. Public Employees Local 71 v. State, Case No. 82-4931 Civ. (Third Judicial District). The complaint, filed in June 1982, alleges, in pertinent part, that the director of the division of personnel exceeded statutory authority in adopting Personnel Rule 13 09. The state's position in the litigation is that the personnel Rule was adopted under the authority of AS 39.25. At the present time, the parties are pursuing settlement negotiations.

A brief summary of the legal questions posed in the litigation may prove helpful to the committee. Directly at issue in the litigation is whether AS 39.25.150 confers the requisite statutory authority for the promulgation of any Personnel Rules which relate to a nepotism restriction. See AS 44.62.020. See also Kelly v. Zamarello, 486 P.2d 906, 910 n. 19 (Alaska 1971). If adoption of a nepotism restriction is authorized under AS 39.25, the inquiry turns to whether the rules are "in accordance with standard prescribed by other provision of law." AS 44.62.020. See Boehl v. Sabre Jet Room, Inc., 349 P.2d 585 (Alaska 1960). Our research has not as yet disclosed any Alaska case authority which offers a direct answer to whether it is per-

missible to adopt under the authority of the enabling statute a regulation which extends, but is not inconsistent with, the policy expressed in a separate statutory provision. Two factors may prove relevant were the litigation to proceed to a judicial resolution. First, regulations are typically accorded a presumption of validity. Alaska Intern Industries, Inc. v. Musarra, 602 P.2d 1240 (Alaska 1979). Second, the legislature has amended AS 39.25 subsequent to the enactment of AS 39.10.010, as recently as last session, presumably with knowledge of the long-standing nepotism prohibition in the Personnel Rules. However, since the matter is presently in litigation, any further comment on the merits of the pending litigation would be inappropriate. If, ultimately, the matter is not resolved in the immediate litigation, the Department of Law will review whether the director of personnel enjoys the authority to establish reasonable nepotism restrictions beyond the scope of AS 39.10.010. We are in formed that in the interm the division of personnel does not intend to enforce Personnel Rule 13 09. See 1979 Inf. Att'y Gen. Op. (Feb. 13; J-66-191-79).

The committee also questioned whether any legislative action to amend AS 39.10.010 would unduly prejudice the state's position in the litigation. That the propriety of Personnel Rule 13 09 is questioned in pending litigation should not, in our view, impair the Legislature's ability to address this matter. Any inference drawn from the legislature's action or, alternatively, inaction would be speculative at best, and would not be a determining factor in the litigation. Moreover, an appropriate letter of intent would dispel whatever inference may be suggested due to prospective legislative reform.

The committee also raised several questions broadly relating to the scope of CSHB 49. The proposed bill establishes nepotism restrictions specific to state "department[s] or agenc[ies]." Absent specific statutory provision to the contrary, the nepotism restrictions would not apply, for example, to the appointment of members or employees of regulatory boards and commissions, such as those regulatory bodies established in Title 8 of the Alaska Statutes. Further, in its most expansive scope the restrictions concern only the relationship between a prospective employee and the commissioner, deputy commissioner or executive head of a particular agency or department. The bill does not, therefore, address the situation of a relationship between two persons not employed within the same department or agency. The example raised at the prior committee hearing, the appointment of a legislator's spouse or child to a position in a state agency or, for that matter, to a position on any legislator's personal staff, would not be within the ambit of the present bill. Of course, other rules adopted by the legislature to

manage internal affairs may address such a situation. Finally, a question was raised as to whether it would be appropriate to limit the coverage to persons related by blood or marriage. More specifically, the question concerned the possible extension of the nepotism prohibition to persons in a meretricious relationship. Without addressing any policy implications, we caution that amending the bill to obtain the contemplated policy objectives would render the legislation extremely vulnerable to challenge as violative of the constitutional guarantees to equal protection, due process and personal privacy.

Please let us know if we can offer any further assistance on this matter.

NORMAN C. GORSUCH
ATTORNEY GENERAL

By: Jonathan B. Rubini
Jonathan B. Rubini
Assistant Attorney General

JBR:jb

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

RECEIVED
FEB 24 1983

ROUC STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

MEMORANDUM February 24, 1983

SUBJECT: Nepotism
(HB 49)

TO: Representative Mitchell E. Abood, Jr.
Chairman, House State Affairs Committee

FROM: Linn H. Asper
Legislative Counsel

You have asked whether the relationships included in the "second degree of kindred" as that term is defined in the proposed committee substitute for HB 49 are the same relationships that are traditionally associated with that phrase. The term "degree of kindred" is not defined in the Alaska Statutes. In other jurisdictions the "degree of kindred" between one person and another is normally determined as follows: Take the closest common ancestor of the two persons and count the generations back to that ancestor from each; each generation represents a degree of kindred. Thus, the first degree of kindred to a person includes the parents and children of that person, the second degree includes brothers and sisters, grandparents, and grandchildren, and the third degree includes nephews and nieces and aunts and uncles. In proposed CSHB 49 aunts and uncles are included within the definition of "second degree of kindred" although they would normally be considered to be in the "third degree of kindred". In other respects the statutory and common law definitions are the same.

It should be pointed out that since the definition of "second degree of kindred" in the proposed CSHB 49 only applies to the section in which it appears, the term can include any relationships that the legislature sees fit to include. You can also use a different term, such as "close relationship" if you feel that use of the traditional "degree of kindred" terminology will cause confusion.

LHA:ljb

Enclosure

Alaska State Legislature

JUNEAU, ALASKA

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

Senator Bill Ray, Chairman

Pouch YG
Mail Stop 3123
Juneau, Alaska 99811
(907) 465-4442

February 21, 1983

TO: Linn Asper, Legislative Counsel

FROM: Teresa B. Cramer Jerry
Administrative Assistant

SUBJECT: HB 49 - Relating to Nepotism in State Employment
Work Order 13-0396

The Department of Law has prepared a proposed committee substitute to HB 49 which need some changes. Since John Rubini is out of town, could you review the following changes and, if there is no problem with them, prepare a committee substitute for a hearing in State Affairs tomorrow afternoon? Thanks.

ADD TO LINE 26

The commissioner of the department or the executive head of the agency may not approve an appointment which places a person in a direct supervisory relationship to a spouse or a person within the second degree of kindred.

LINE 28 - Add paragraph (d):

(d) For purposes of this section, "second degree of kindred" includes father, mother, son, daughter, brother, sister, husband, wife, grandfather, grandmother, grandson, granddaughter, uncle and aunt including those involving half or step relationships.

DRAFT
Law

IN THE _____ BY THE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

_____ BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to nepotism in state employment; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 39.10.010 is repealed and reenacted to read:

Sec. 39.10.010. NEPOTISM PROHIBITED. (a) The appointing authority under AS 39.25.020 may not appoint a person to a position in a state department or agency, if that person is the spouse of or is related by blood or marriage within and including the second degree of kindred to the commissioner or a deputy or assistant commissioner of the principal department, or to the executive head of the agency.

(b) The appointing authority under AS 39.25.020 may not appoint a person to a position in a division of a state department or agency, if that person is the spouse of, or is related by blood or marriage within and including the second degree of kindred to, the executive head of the division.

(c) The appointing authority under AS 39.25.020 may not appoint a person to a position in a state department or agency in the executive branch, if that person is the spouse of, or is related by blood or marriage within and including the second degree of kindred to, an employee in the department or agency unless the commissioner of the department or executive head of the agency ~~(appointing authority)~~ approves the appointment in writing. ADB An appointment prohibited by (a) or (b) of this section may not be approved under this subsection.

* Sec. 3 4. This Act takes effect immediately in accordance with AS 01.-10.070(c).

Sec 2. Def. of ~~appointing auth.~~ 2nd degree of kindred - from PR's

03-038 ~~Sec 3. Pbd adopt regs to implement~~

February 7, 1983

Senator Ray -

I looked for a definition for people living together but not married and came up with the following from AS 18.66.900(3):

> "domestic violence" means a crime specified in AS 11.41 when the victim is a spouse or a former spouse of the defendant or a <u>member of the social unit comprised of those living together in the same dwelling</u> as the defendant.

I called the Council on Domestic Violence and Sexual Assault to ask whether they had anything which would explain "social unit." They don't but they are working on a definition and will let me know if they develop something satisfactory. Is this the language you were interested in adding to the nepotism statute?

Jerry

2/8 - Hold for hearing in committee

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF ADMINISTRATION

POUCH C-0201
JUNEAU, ALASKA 99811-0201
(907) 465-4430

DIVISION OF PERSONNEL

February 2, 1983

Honorable Mitch Abood
Chairman
House State Affairs Committee
Alaska State Legislature

Dear Mr. Chairman:

This is a follow up to my testimony given before the House State Affairs Committee on January 26, 1983. At your request I am reducing to writing some of my concerns about House Bill 49.

At the outset I wish to express my support for a nepotism bill for the Executive Branch of Government. At the present time AS 39.10.010 only prohibits spouses and close relatives of "... the executive head of a principal state department or agency..." from being employed. Therefore the need for additional prohibitions is obvious.

There are, however, some potential problems with House Bill 49 which I would like to point out:

1. Concepts of Nepotism - There are two concepts of nepotism, one of which should be decided on:

    a. The Narrow Concept - Nepotism is the prohibition of a high official from using his or her influence to hire a spouse or other close relative.

    b. The Broader Concept - Nepotism is the prohibition of spouses or close relatives working together.

Under the first concept, it would be permissible for two people to continue to work together provided they were married after being employed. Under the second broader concept, when two employees got married, one of them would have to quit because of apparent conflict of interest.

I recommend the narrower concept to allow people who meet on the job and decide to live together to have the choice of marriage.

It is my understanding that the phrase "A person may not be appointed..." incorporates the narrower concept only. I support this interpretation. However, I feel it is arguable. There-

FR/sjh

c.c. Teresa B. Cramer
Blue Ribbon Commission

Commissioner Lisa Rudd
Department of Administration

Members of Blue Ribbon Commission

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF ADMINISTRATION

POUCH C-0201
JUNEAU, ALASKA 99811-0201
(907) 465-4430

DIVISION OF PERSONNEL

February 2, 1983

Honorable Mitch Abood
Chairman
House State Affairs Committee
Alaska State Legislature

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This is a follow up to my testimony given before the House State Affairs Committee on January 26, 1983. At your request I am reducing to writing some of my concerns about House Bill 49.

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I recommend the narrower concept to allow people who meet on the job and decide to live together to have the choice of marriage.

It is my understanding that the phrase "A person may not be appointed..." incorporates the narrower concept only. I support this interpretation. However, I feel it is arguable. There-

fore, I recommend that the intent of the legislation be clear in the bill so that it will not be administered on the basis of an Attorney General's Opinion.

2. Possible conflict with Title 18 - Alaska law prohibits discrimination on the basis of marital status or change in marital status. To prohibit one from working with a spouse could be argued to be discrimination. The counter argument is that the discrimination is based on who a person is married to (that is a state employee) not on marital status per se (that is if a person is married or single). Again, I believe the argument should be settled prior to the adoption of the legislation.

3. Approval by the Director of Personnel - Paragraph C of House Bill 49 prohibits a person from being appointed to any executive branch, department or agency if they are the spouse or close relative to any other employee in that department or agency "...unless the director of personnel and the appointing authority approve the appointment in writing."

I recommend that language be changed to permit the executive head of a department or agency to give written approval. I see no need to have the Director of Personnel give approval. Furthermore, you may wish to state in the bill conditions under which commissioners and agency heads may give their approval. For example, it may be desirable to prohibit one spouse from supervising another.

4. Definition - I also suggest the bill provide a definition of "second degree of kindred". This is a term which, as I understand it, comes from probate law and which does in fact have a legal definition. However, that definition is not commonly understood nor readily available.

Thank you for the opportunity to give testimony before your committee and for considering these points. I will be glad to appear before you again to answer any questions or discuss any of these issues further.

Sincerely,

Frank Raye

Frank Raye
Director

FR/sjh

c.c. Teresa B. Cramer
Blue Ribbon Commission

Commissioner Lisa Rudd
Department of Administration

Members of Blue Ribbon Commission

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

PUBLIC EMPLOYEES LOCAL 71, AFL-CIO

Plaintiff,

vs.

STATE OF ALASKA; THE DIVISION OF PERSONNEL, DEPARTMENT OF ADMINISTRATION; KENNETH KARREN, in his official capacity as DIRECTOR OF THE DIVISION OF PERSONNEL; CAROL BURGER, in her official capacity as COMMISSIONER OF THE DEPARTMENT OF ADMINISTRATION; THE BOARD OF PERSONNEL; THE DEPARTMENT OF TRANSPORTATION,

Defendant

RECEIVED
JUN 25 1982
Dept. of Administration
Commissioner's Office

Civil No. 82-493

SUMMONS

To the above-named defendants:

You are hereby summoned and required to serve upon Kevin Dougherty, plaintiff's attorney, whose address is 2501 Commercial Drive, Box 899, Anchorage, Alaska 99510, an answer to the complaint which is herewith served upon you within 40 days after the service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

SEAL OF THE TRIAL COURTS OF THE STATE OF ALASKA THIRD DISTRICT

GOLDEEN GOODFELLOW
Clerk of Court

Clerk of the Court

By R. Jordan
Deputy

DATED: 6-23-82

DIRECTOR'S OFFICE
JUN 25 1982
DIVISION OF
LABOR RELATIONS

KEVIN DOUGHERTY, ESQ.
ATTORNEY AT LAW
P. O. BOX 899
ANCHORAGE, ALASKA 99510
(907) 279-1640

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

PUBLIC EMPLOYEES LOCAL 71, AFL-CIO

Plaintiff,

vs.

STATE OF ALASKA; THE DIVISION OF PERSONNEL, DEPARTMENT OF ADMINISTRATION; KENNETH KARREN ,in his official capacity as DIRECTOR OF THE DIVISION OF PERSONNEL; CAROL BURGER, in her official capacity as COMMISSIONER OF THE DEPARTMENT OF ADMINISTRATION; THE BOARD OF PERSONNEL; THE DEPARTMENT OF TRANSPORTATION,

Defendant

Civ. No. 82-4931

COMPLAINT

COMES NOW the plaintiff, Public Employees Local 71, AFL-CIO as alleges as follows:

THE PARTIES;

1.(a) Plaintiff Public Employees Local 71 is a labor organization certified, pursuant to A.S.23.40.100, as the exclusive collective bargaining representative for all persons employed by the State of Alaska within the Labor, Trades and Craft (LTC) unit.

(b) Defendant State of Alaska is a governmental body which employs persons in the LTC unit for the purpose of discharging its public functions.

(c) Defendant the Division of Personnel is a governmental agency of the State charged with administering the State Personnel Act. A.S.39.25.

(d) Defendant Kenneth Kareen, the Director of the Division of Personnel is a public officer charged with directing and supervising the

KEVIN DOUGHERTY, ESQ.
ATTORNEY AT LAW
P. O. BOX 899
ANCHORAGE, ALASKA 99510
(907) 276-1640

Division and also charged with promulgating personnel rules not inconsistent with the State Personnel Act and which are required to implement and administer that Act.

(e) Defendant Carol Burger, the Commissioner of Administration, is a public officer charged with reviewing the State personnel rules.

(f) Defendant Board of Personnel is a governmental agency of the State charged with final approval or disapproval of the State personnel rules.

(g) Defendant Department of Transportation is a governmental agency authorized to adopt personnel regulations pertaining to its employees and subject to the approval of the Director of Personnel. A.S.39.25.153.

2. On May 22, 1980, plaintiff and the State of Alaska entered into a collective bargaining agreement (attached hereto).

3. That the agreement provides for the fair and orderly distribution of employment opportunities with the State of Alaska for all qualified applicants. Article IV of that agreement states in part,"

> PREFERENTIAL HIRING FACILITIES
>
> 1. The Union agrees to maintain preferential hiring facilities for the purpose of soliciting qualified workmen in order to fill all Employer referral requests. Except for promotions, demotions, transfers and emergency appointments, the Employer agrees to use such referral services and will call upon the Union to furnish all qualified workmen required. The Employer further agrees to notify the Union of all promotions, demotions, transfers and emergency appointments."

4. That Defendants have promulgated Personnel Rule 13.09.03 which states,"

> 13 09.3 No person may be employed in a position in any agency who is the spouse of or is related by blood or marriage within and including the second degree of kindred to any other employee in the agency without the expressed approval of the appointing authority and the Director."

5. That Defendant Department of Transportation has promulgated Policy and Procedures No. 22-8002 (copy attached hereto).

KEVIN DOUGHERTY, ESQ.
ATTORNEY AT LAW
P. O. BOX 899
ANCHORAGE, ALASKA 99510
(907) 276-1640

6. Acting pursuant to such rules and its policies Defendants have rejected the applications for employment of;

Bonnie Francis on May 4, 1982,
Michael Hartman on May 10, 1982,
Chris Howath on May 10, 1982,
Sami Killian on May 13, 1982,
Darren Morfield on June 10, 1982,
Diane Taylor on May 26, 1982,
Darrel Thompson on June 26, 1982,
Randall Miller on May 24, 1982,
Rodney Brown, on June 1, 1982,
Blake Beaudoin, on May 5, 1982,

despite their qualifications for that employment opening with the State, based solely on said personnel rules and its policies.

7. That Edwardo Machuca was discharged from employment with defendant on May 21, 1982 based solely on said personnel rules and its policies.

8. That plaintiff has reason to believe that defendants will continue such unfair and restrictive practices pursuant to said personnel rules and its policies.

9. That the Defendants unreasonably broad definition of nepotism within such rules arbitrarily and capriciously precludes employment for qualified applicants.

10. That such personnel rules and regulations are contrary to very purpose of the State Personnel Act, as expressly set forth in A.S.39.25.010.

11. That the Director of Personnel has exceeded the statutory authority conferred upon him in A.S.39.25.050 by preparing such rules contrary and inconsistent with the purpose of the State Personnel Act.

12. That the Board of Personnel has exceeded the statutory authority conferred upon it in A.S.39.25.070 through its acts of adopting and approving said personnel rules.

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ATTORNEY AT LAW
P. O. BOX 808
ANCHORAGE, ALASKA 99510
(907) 276-1640

13. That Personnel Rule 13.09.3 and Policy and Procedure No. 22-8002 exceed the narrow scope of the personnel rules as expressly prescribed in A.S.39.25.150.

14. That Personnel Rule 13.09.3 and Policy and Procedure No. 22-8002 has created a classification of persons based on kindred relationship which arbitrarily and unreasonably restricts plaintiffs employment opportunities.

15. That such classification violates the equal protection clause of Article 1 - 1 of the Alaska Constitution and of the Fourteenth Amendment of the U. S. Constitution.

16. That said regulations and policies arbitrarily and capriciously deprive qualified applicants of their rights to fair employment opportunities as bestowed upon them by the parties collective bargaining agreement.

17. That said regulations and policies violate the due process clause of Article 1 - 7 of the Alaska Constitution and of the Fourteenth Amendment of the U. S. Constitution.

WHEREFORE, Plaintiff prays for the following relief :

1. For a declaratory judgement entered that declares Personnel Rule 13.09.3 and Policy and Procedure no. 22-8002 invalid,

2. For injunctive relief, enjoining defendants their officers, agents, servants and employees from the use, enforcement or application of such regulations,

3. For judgement against defendants in the amount of back wages lost through defendants unlawful actions and policies.

4. For other relief as the Court may deem just and equitable.

Date this 23 day of June 1982 at Anchorage, Alaska.

Kevin Dougherty
Attorney for Plaintiff

KEVIN DOUGHERTY, ESQ.
Attorney at Law
P. O. Box 999
Anchorage, Alaska 99510
(907) 276-1640

Alaska State Legislature

JUNEAU, ALASKA

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

Senator Bill Ray, Chairman

Pouch YG
Mail Stop 3123
Juneau, Alaska 99811
(907) 465-4442

MEMORANDUM

March 2, 1983

TO: House Judiciary Committee

FROM: Teresa B. Cramer Teresa B Cramer
Administrative Assistant

SUBJECT: Committee Substitute for House Bill 49 (State Affairs)
Nepotism in State Government

The existing statute prohibiting nepotism in state employment forbids only the employment of anyone related to the executive head of a department or agency. The statute states in full:

> It is unlawful for a person who is the spouse of or is related by blood within and including the second degree of kindred to the executive head of a principal state department or agency to be employed in that department or agency. AS 39.10.010.

The Personnel Rule is more extensive, prohibiting the employment of relatives of the head of a division or subdivision within that division or subdivision. In addition, the Rule prohibits the employment of two related persons in the same agency unless express approval is given by both the appointing authority and the Director of Personnel. A copy of the Rule is attached.

The scope of the Personnel Rule is broader than the statutory authority granted in AS 39.10.010. The rule-making authority given to the Personnel Board by the State Personnel Act may not extend to nepotism, since the nepotism statute is not part of that Act. The Attorney General has advised the Division of Personnel that the nepotism rule exceeds the scope of statutory authority. A lawsuit has been filed challenging the Department of Transportation's implementation of nepotism prohibitions.

The Blue Ribbon Commission recommends that legislation prohibiting nepotism in state employment be adopted to provide statutory authority for the Personnel Rule. The prohibition against employing relatives does limit the opportunities for some Alaskans to find state jobs. The disadvantage to those people should be weighed against the appearance of impropriety and favoritism which is created by people working for a close relative who is a highly-placed state official.

Bill Analysis

Page 1 Line 9 — The first section of the Committee Substitute is based on the existing statute and Personnel Rule. The first paragraph prohibits the appointment of relatives or the spouse of the commissioner, assistant or deputy commissioner of a department or the relatives or spouse of an executive head of an agency. The reference to AS 39.25.020 means that the prohibition will extend to departments or agencies in all branches of government.

Paragraph (a) differs from the existing Personnel Rule and the statute by including reference to assistant and deputy commissioners and by its application to departments and agencies which are not part of the executive branch of government. It also differs by prohibiting the appointment rather than the employment of relatives. Prohibiting appointments of relatives permits people whose relationship is created (by marriage or adoption) after both are employed within a department to continue their employment even if one is the commissioner, deputy or assistant commissioner. However, the relative could not be promoted while related to the commissioner, since a promotion is an appointment to a higher position.

Line 16 — Paragraph (b) prohibits the appointment of relatives of a division director to a position within that division. Like the first section, this prohibition extends to all branches of government through reference to AS 39.25.020.

Line 21 — Paragraph (c) requires that before two relatives may be employed in the same department, the commissioner must approve the appointment in writing. This prohibition is limited to the executive branch.

Line 27 — The commissioner may not approve an appointment if one of the people will be working in a direct supervisory relationship to the other spouse or relative.

Page 2 Line 1 — The commissioner may not approve an appointment which is prohibited by paragraphs (a) or (b).

Line 3 — Paragraph (d) defines "second degree of kindred" as it is defined in the current Personnel Rule. The definition extends beyond the normal definition by including aunts and uncles,

who are usually defined as being third degree kindred. The definition applies only to the nepotism statute.

"Second degree of kindred" is defined to include full, half, and step relationships. It does not include in-law relationships.

Line 7 The second section of the Committee Substitute provides for an immediate effective date.

TBC:lmk
Attachment

13 09.0 Nepotism

13 09.1 No person may be employed in a position in any agency who is the spouse of or is related by blood or marriage within and including the second degree of kindred to the appointing authority of the agency.

13 09.2 No person may be employed in a position in any division or subdivision of any agency who is the spouse of or is related by blood or marriage within and including the second degree of kindred to the head of the division or subdivision of the agency.

13 09.3 No person may be employed in a position in any agency who is the spouse of or is related by blood or marriage within and including the second degree of kindred to any other employee in the agency without the expressed approval of the appointing authority and the Director.

Alaska State Legislature

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

Senator Bill Ray, Chairman

Pouch YG
Mail Stop 3123
Juneau, Alaska 99811
(907) 465-4442

JUNEAU, ALASKA

MEMORANDUM

January 20, 1983

TO: House State Affairs Committee

FROM: Teresa B. Cramer Teresa B Cramer
Administrative Assistant

SUBJECT: House Bill 49, Relating to Nepotism in State Employment

The existing statute prohibiting nepotism in state employment forbids only the employment of anyone related to the executive head of a department or agency. AS 39.10.010. The Personnel Rule is more extensive, prohibiting the employment of relatives of the head of a division or subdivision within that division or subdivision. In addition, the Rule prohibits the employment of two related persons in the same agency unless express approval is given by both the appointing authority and the Director of Personnel.

The scope of the Personnel Rule is broader than the statutory authority granted in AS 39.10.010. In addition, the rule-making authority given to the Personnel Board by the State Personnel Act may not extend to nepotism, since the nepotism statute is placed outside the Act. The Attorney General has advised the Division of Personnel that the nepotism rule may exceed the scope of statutory authority. A lawsuit has been filed challenging the Department of Transportation's implementation of nepotism prohibitions.

The Blue Ribbon Commission recommends that legislation prohibiting nepotism in state employment be adopted to provide statutory authority for the Personnel Rule. The prohibition against employing relatives does limit the opportunities for some Alaskans to find state jobs. The disadvantage to those people should be weighed against the appearance of impropriety and favoritism which is created by people working for a close relative. Problems can also arise if relatives are working in the same office so it is appropriate that the hiring decision be scrutinized with the potential for personnel problems in mind.

Bill Analysis

Page 1
Line 9 The first section of the proposed legislation codifies the Personnel Rule. The first paragraph retains the existing nepotism prohibition and extends it to include relatives of

deputy or assistant commissioners. The prohibition against employing a person related to the executive head of an agency applies to all legislative, judicial and executive branch agencies.

Line 17 The second paragraph adds new langage based on the Personnel Rule to prohibit appointment of a relative of the head of a division within that division. It applies to positions in the legislative, judicial or executive branch.

Line 22 The third paragraph prohibits employment of two relatives within the same executive branch department or agency unless the appointing authority and the Director of Personnel approve the second appointment in writing.

In each of the paragraphs, relatives include spouses and persons within the "second degree of kindred", which the Personnel Rules define as:

> father, mother, son, daughter, brother, sister, husband, wife, grandfather, grandmother, grandson, granddaughter, uncle and aunt including those involving half or step relationships.

Line 29 The second section of the proposed legislation provides for an immediate effective date.

Introduced: 1/18/83
Referred: State Affairs and Judiciary

BY THE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE COUNCIL (for the Blue Ribbon Commission on the State Personnel Act)

IN THE HOUSE

HOUSE BILL NO. 49

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to nepotism in state employment; and providing for an effective date."

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(b) A person may not be appointed to a position in a division of a state department or agency, whether in the legislative, judicial, or executive branch, if that person is the spouse of, or is related by blood or marriage within and including the second degree of kindred to, the executive head of the division.

(c) A person may not be appointed to a position in a state department or agency in the executive branch, if that person is the spouse of, or is related by blood or marriage within and including the second degree of kindred to, an employee in the department or agency unless the director of personnel and the appointing authority approve the appointment in writing. An appointment prohibited by (a) or (b) of this section may not be approved under this subsection.

* Sec. 2. This Act takes effect immediately in accordance with

Offered: 2/28/83
Referred: Judiciary

Original sponsor: Rules/Legislative Council

IN THE HOUSE BY THE STATE AFFAIRS COMMITTEE

CS FOR HOUSE BILL NO. 49 (State Affairs)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

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(c) The appointing authority under AS 39.25.020 may not appoint a person to a position in a state department or agency in the executive branch, if that person is the spouse of, or is related by blood or marriage within and including the second degree of kindred to, an employee in the department or agency unless the commissioner of the department or the executive head of the agency approves the appointment in writing. The commissioner of the department or the executive head of the agency may not approve an appointment under this subsection that places a person in a direct supervisory relationship to a

JUNEAU, ALASKA

Alaska State Legislature

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

Senator Bill Ray, Chairman

Pouch YG
Mail Stop 3123
Juneau, Alaska 99811
(907) 465-4442

MEMORANDUM

December 14, 1982

TO: Members of the Blue Ribbon Commission

FROM: Teresa B. Cramer Jerry
Administrative Assistant

SUBJECT: Nepotism Regulations

I received a telephone call from a state employee concerning the effect of nepotism regulations. She reported that a man wanted to work for the Juneau Job Service Office but was told that he could not while his niece by marriage was employed there as a secretary. She had recently moved to Juneau and he had met her only a few weeks before. The niece found another secretarial position so he was hired. There would not have been a direct supervisory relationship between the man and his niece. The caller also said that she had thought of transferring from Juneau to Ketchikan but that she could not because her sister-in-law already worked in the Job Service Office there. She did not believe their personal relationship would have affected their work.

The Personnel Rules permit the departmental appointing authority and the Director of Personnel to waive the prohibition in these situations. Apparently the Job Service Center policy was against requesting nepotism waivers.

She has observed, however, that personal relationships can cause employee problems. A person and his mistress were employed in an office where she worked and when they were having a quarrel outside work it affected their behavior at work and caused tension in the whole office. Nepotism regulations do not address this situation at all.

TBC:lmk

Offered: 2/28/83
Referred: Judiciary

Original sponsor: Rules/Legislative Council

IN THE HOUSE BY THE STATE AFFAIRS COMMITTEE

CS FOR HOUSE BILL NO. 49 (State Affairs)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 39.10.010 is repealed and reenacted to read:

Sec. 39.10.010. NEPOTISM PROHIBITED. (a) The appointing authority under AS 39.25.020 may not appoint a person to a position in a state department or agency, if that person is the spouse of or is related by blood or marriage within and including the second degree of kindred to the commissioner or a deputy or assistant commissioner of the principal department, or to the executive head of the agency.

(b) The appointing authority under AS 39.25.020 may not appoint a person to a position in a division of a state department or agency, if that person is the spouse of, or is related by blood or marriage within and including the second degree of kindred to, the executive head of the division.

(c) The appointing authority under AS 39.25.020 may not appoint a person to a position in a state department or agency in the executive branch, if that person is the spouse of, or is related by blood or marriage within and including the second degree of kindred to, an employee in the department or agency unless the commissioner of the department or the executive head of the agency approves the appointment in writing. The commissioner of the department or the executive head of the agency may not approve an appointment under this subsection that places a person in a direct supervisory relationship to a

spouse or to a person within the second degree of kindred, or that is prohibited by (a) or (b) of this section.

(d) In this section "second degree of kindred" includes a father, mother, son, daughter, brother, sister, grandfather, grandmother, grandson, granddaughter, uncle, or aunt in a full, half, or step relationship.

* Sec. 2. This Act takes effect immediately in accordance with AS 01.-10.070(c).

Alaska State Legislature

JUNEAU, ALASKA

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

Senator Bill Ray, Chairman

Pouch YG
Mail Stop 3123
Juneau, Alaska 99811
(907) 465-4442

MEMORANDUM

December 14, 1982

TO: Members of the Blue Ribbon Commission

FROM: Teresa B. Cramer
Administrative Assistant

SUBJECT: Nepotism Regulations

I received a telephone call from a state employee concerning the effect of nepotism regulations. She reported that a man wanted to work for the Juneau Job Service Office but was told that he could not while his niece by marriage was employed there as a secretary. She had recently moved to Juneau and he had met her only a few weeks before. The niece found another secretarial position so he was hired. There would not have been a direct supervisory relationship between the man and his niece. The caller also said that she had thought of transferring from Juneau to Ketchikan but that she could not because her sister-in-law already worked in the Job Service Office there. She did not believe their personal relationship would have affected their work.

The Personnel Rules permit the departmental appointing authority and the Director of Personnel to waive the prohibition in these situations. Apparently the Job Service Center policy was against requesting nepotism waivers.

She has observed, however, that personal relationships can cause employee problems. A person and his mistress were employed in an office where she worked and when they were having a quarrel outside work it affected their behavior at work and caused tension in the whole office. Nepotism regulations do not address this situation at all.

TBC:lmk

STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

POLICY AND PROCEDURES

P & P No.	1 OF 3
22-8002	
Effective Date: 5/26/82	
Supersedes P & P No.	Dated
22-8002	3/1/82
APPROVED BY: [signature]	

SUBJECT: CONTROL OF NEPOTISM WAIVERS

DIVISION	SECTION	CHAPTER TITLE
Support Services	Personnel	General

PURPOSE:

To establish a standard procedure to control the approval of nepotism waivers for all employees of this Department, including employees of Marine Highways.

POLICY:

It is the policy of this Department to not hire or commit to hire employees which require a nepotism waiver prior to its approval. It is further the Department's policy to approve all legal waivers where employees are not in the same division. Requests for nepotism waivers for employees within the same division are not encouraged; however, it is recognized that in areas where we have critical shortages of candidates in certain job classifications, it may be necessary; this will normally be a last resort consideration after all other possibilities have been explored. Under no circumstances will we consider the hire of relatives within and including the second degree of kindred (see Personnel Rule No. 1) who would have a direct supervisory/subordinate relationship.

DISTRIBUTION:

All holders of the Policy and Procedures Manual and posting on bulletin boards to the extent of insuring proper notice to all employees of this Department.

PROCEDURE:

Request for nepotism waiver for a position is initiated by completing the form shown on page 2 for classified positions or the form shown on page 3 for vessel employees. Care will be taken to be sure that justification for hire is logical and adequate. If the request is for nepotism within a division, the justification must explain the extraordinary circumstances which necessitate the request and must indicate that no supervisory/subordinate relationship exist or is likely to exist in the future.

After initiation and signing by immediate supervisors, the form will be processed through normal administrative channels to the Deputy Commissioner for the unit wanting to hire the new employee. The form should then be submitted to the Department Personnel Officer who will be responsible for forwarding approved requests for classified positions to the Division of Personnel for final approval. If time is of the essence and the Deputy Commissioner has delegated the authority, request may be made for non-intra divisional waivers by a telephone call to the Department Personnel Officer who will prepare the form and secure final approval.

Requests denied will be returned indicating reasons therefore. Requests for vessel employees will be returned to the Division of Marine Highways indicating approval or denial. A copy of each approved nepotism waiver will be placed in each employee file.

STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES
POLICY AND PROCEDURES

P & P No.	Page
22-8002	1 OF 3
Effective Date: 5/26/82	
Supersedes P & P No.	Dated
22-8002	3/1/82
APPROVED BY: [signature]	

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After initiation and signing by immediate supervisors, the form will be processed through normal administrative channels to the Deputy Commissioner for the unit wanting to hire the new employee. The form should then be submitted to the Department Personnel Officer who will be responsible for forwarding approved requests for classified positions to the Division of Personnel for final approval. If time is of the essence and the Deputy Commissioner has delegated the authority, request may be made for non-intra divisional waivers by a telephone call to the Department Personnel Officer who will prepare the form and secure final approval.

Requests denied will be returned indicating reasons therefore. Requests for vessel employees will be returned to the Division of Marine Highways indicating approval or denial. A copy of each approved nepotism waiver will be placed in each employee file.

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

02-519 (REV 8/78)

SCOMM

#51:27

July 6, 1983

HB 50: Collective Bargaining

History - IN THE HOUSE

L & C — I met with staff of the committee (Steve Levy?) on 1/26. He suggested that there be some provision added to the bill to insure that there would be floor action on approval or disapproval of a collective bargaining contract, rather than permitting inaction by the legislature to indicate anything. He suggested looking at the Sunset provisions as an example of how to do that. Senator Ray was not enthused so I did not pursue the suggestion.
No hearings were held in committee.

Companion bill: SB 55 is the companion and has been amended (CS), passed the Senate, passed House Labor & Commerce, which adopted its own CS, and is in House Finance.

February 1, 1983

Senator Ray -

I met with a staff person for House Labor and Commerce to talk about the Blue Ribbon Commission bills which are in their committee. He suggested that the collective bargaining bill include some provision to insure that any resolution disapproving a labor agreement actually makes its way through the committee process and is voted on by the whole body. The sunset laws may provide an example for doing that. They require that

> (d) As to each board, commission, or agency program assigned to it for purposes of review, the committee of reference shall, not later than the 60th day of the legislative session, submit a report to the presiding officer of the house. (AS 44.66.050)

Shall I follow up on this idea?

Jerry

Introduced: 1/18/83
Referred: Labor & Commerce,
State Affairs and Finance

BY THE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE COUNCIL (for the Blue Ribbon Commission on the State Personnel Act)

IN THE HOUSE.

HOUSE BILL NO. 50

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to collective bargaining; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 23.40.210 is amended by adding a new subsection to read:

(b) When an agreement is entered into between an organization and the state, the agreement shall be submitted to the legislature within 10 days after the signing of the agreement by the parties or 10 days after the convening of the next regular session. The monetary terms of an agreement take effect if they are not rejected by the legislature by concurrent resolution within 30 days after the agreement is submitted to the legislature.

* Sec. 2. This Act takes effect immediately in accordance with AS 01.-10.070(c).

after the agreement is referred to it

negotiated agreement

(d) As to each ~~board, commission, or agency program~~ assigned to it for purposes of review, the committee of reference shall, not later than the ~~60th~~ 30th day ~~of the legislative session~~, submit a report to the presiding officer of the house. The report shall contain a summary of the findings of the committee as to the compliance of the board, commission or program with the factors enumerated in (c) of this section, together with a summary or recommendations of the committee as to each of the following:

(1) an identification of the problems or the needs that the programs and activities of the board, commission or agency are intended to address;

(2) a statement, to the extent practicable, of the objectives of the program of the board, commission, or agency program, and its anticipated accomplishments;

(3) an identification of any other programs having similar, conflicting or duplicate objectives;

(4) an assessment of alternative methods of achieving the purposes of the program;

(5) an assessment of the consequences of eliminating the board, commission or program and consolidating its activities with another program, or of funding it at a lower level;

(6) a justification for the recommended continuation or extension of the board, commission or program, and an explanation of the manner in which it avoids duplication of or conflict with other efforts; and

(7) any other information which, in the opinion of the committee, would improve the performance of the board, commission or agency with respect to its representation of and responsiveness to the public interest.

(e) The committee of reference may introduce a bill providing for the reorganization or continuation of the board, commission or agency program. No more than one board, commission, or agency program shall be continued or reestablished in any legislative bill, and the board, commission, or agency program shall be mentioned in the title of the bill. (§ 3 ch 149 SLA 1977)

Sec. 44.66.060. Existing claims. This chapter shall not cause the termination or dismissal of a claim or right of a citizen against a board, commission or program of an agency terminated under this chapter which is subject to litigation. Claims and rights shall be assumed by the department to which the board or commission terminated under this chapter was attached for administrative purposes. (§ 3 ch 149 SLA 1977)

The fourth 1980 amendment added paragraph (8) of subsection (a).

The fifth 1980 amendment added paragraph (9) of subsection (a).

Sec. 44.66.020. Agency programs. (a) Agency programs and activities listed in this subsection which are specifically designated as provided in AS 44.66.030 are subject to termination during the regular legislative session convening in the month and year set out after each:

(1) programs in the budget categories of general government, public protection, and administration of justice — January, 1980;

(2) programs in the budget categories of education and the University of Alaska — January, 1981;

(3) programs in the budget categories of health and social services — January, 1982;

(4) programs in the budget categories of natural resources management, development and transportation — January, 1983.

(b) An agency program or activity designated in (a) of this section shall be subject to termination during the regular legislative session convening four years after the preceding review and may be subject to termination at any time upon the recommendation of the Legislative Budget and Audit Committee and the concurrence of the legislature as if under AS 44.66.030. (§ 3 ch 149 SLA 1977)

Sec. 44.66.030. Program identification. During the legislative session preceding each of the years set out in AS 44.66.020, the Legislative Budget and Audit Committee shall designate, not later than March 1 of those years, the programs and activities within each program category which shall be subject to termination in the next fiscal year. The recommendations of the Legislative Budget and Audit Committee shall be submitted to the respective houses of the legislature in the form of a bill which, if enacted into law, would terminate those designated programs and activities on or before July 1 of the following year. (§ 3 ch 149 SLA 1977)

Sec. 44.66.050. Legislative oversight. (a) Before the termination, dissolution, continuation or reestablishment of a board or commission under AS 08.03.010 or AS 44.66.010, or of an agency program under AS 44.66.020 and 44.66.030, a committee of reference of each house, which shall be the standing committee of legislative jurisdiction as provided in the Uniform Rules of the Legislature, shall hold one or more hearings to receive testimony from the public, the commissioner of the department having administrative responsibility for each named board, commission, or agency program, and the members of the board or commission involved. The hearings may be joint hearings. The committee shall also consider the proposed budget of the board, commission, or agency program, prepared in accordance with AS 37.07.050(f), and the performance audit of the activities of the board, commission, or agency program, prepared by the legislative audit division as prescribed in AS 24.20.271(1). The committee may consider

any other report of the activities of the board, commission or program, including but not limited to annual reports, summaries prepared by the Legislative Affairs Agency, and any evaluation or general report of the manner of conduct of activities of the board, commission, or agency program prepared by the office of the ombudsman.

(b) During a public hearing, the board, commission or agency shall have the burden of demonstrating a public need for its continued existence or the continuation of the program, and the extent to which any change in the manner of exercise of its functions or activities may increase efficiency of administration or operation consistent with the public interest.

(c) A determination as to whether a board or commission or agency program has demonstrated a public need for its continued existence shall take into consideration the following factors:

(1) the extent to which the board, commission or program has operated in the public interest;

(2) the extent to which the operation of the board, commission, or agency program has been impeded or enhanced by existing statutes, procedures, and practices which it has adopted, and any other matter, including budgetary, resource, and personnel matters;

(3) the extent to which the board, commission or agency has recommended statutory changes which are generally of benefit to the public interest;

(4) the extent to which the board, commission or agency has encouraged interested persons to report to it concerning the effect of its regulations and decisions on the effectiveness of service, economy of service, and availability of service which it has provided;

(5) the extent to which the board, commission or agency has encouraged public participation in the making of its regulations and decisions;

(6) the efficiency with which public inquiries or complaints regarding the activities of the board, commission or agency filed with it, with the department to which a board or commission is administratively assigned, or with the office of the ombudsman have been processed and resolved;

(7) the extent to which a board or commission which regulates entry into an occupation or profession has presented qualified applicants to serve the public;

(8) the extent to which state personnel practices, including affirmative action requirements, have been complied with by the board, commission or agency to its own activities and the area of activity or interest; and

(9) the extent to which statutory, regulatory, budgeting or other changes are necessary to enable the agency, board or commission to better serve the interests of the public and to comply with the factors enumerated in this subsection.

Introduced: 1/18/83
Referred: Labor & Commerce,
State Affairs and Finance

BY THE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE COUNCIL (for the Blue Ribbon Commission on the State Personnel Act)

IN THE HOUSE

HOUSE BILL NO. 50

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to collective bargaining; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 23.40.210 is amended by adding a new subsection to read:

(b) When an agreement is entered into between an organization and the state, the agreement shall be submitted to the legislature within 10 days after the signing of the agreement by the parties or 10 days after the convening of the next regular session. The monetary terms of an agreement take effect if they are not rejected by the legislature by concurrent resolution within 30 days after the agreement is submitted to the legislature.

* Sec. 2. This Act takes effect immediately in accordance with AS 01.-10.070(c).

Alaska State Legislature

JUNEAU, ALASKA

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

Senator Bill Ray, Chairman

Pouch YG
Mail Stop 3123
Juneau, Alaska 99811
(907) 465-4442

MEMORANDUM

January 25, 1983

TO: House Labor and Commerce Committee

FROM: Teresa B. Cramer Teresa B Cramer
Administrative Assistant

SUBJECT: House Bill 50 - Collective Bargaining

The Public Employment Relations Act provides that the monetary terms of any agreement entered into between the state and an employee representative are subject to funding through legislative appropriation. AS 23.40.215. The Act does not set out how the legislative review should occur.

The Blue Ribbon Commission has discussed the problems which can arise if the Legislature fails to act expeditiously on collective bargaining agreements submitted to it. Delay followed by legislative rejection can preclude the parties from completing any renegotiations before the Legislature adjourns. There would then be no funding for the new agreement and the Legislature might have to convene in special session, an expensive alternative.

The commission recommends that legislation be adopted which would encourage prompt legislative review of collective bargaining agreements.

Bill Analysis

Page 1
Line 9 — The first section of the proposed legislation requires that negotiated agreements be submitted to the Legislature within 10 days of signing by the parties and that the Legislature have 30 days to review the monetary terms. If the Legislature finds the terms unacceptable, then it may reject the agreement by concurrent resolution. If the Legislature fails to act within 30 days, then the contracts will be considered to have legislative approval. The proposed legislation does not address the introduction or passage of an appropriation bill funding the agreements.

Line 18 — The second section of the bill contains an immediate effective date clause.

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 D. O. Smith
Signature of Camera Operator

12/15/89
Date

02-519 (REV 8/78)

SCOMM
#51:28

July 6, 1983

HB 51: Limiting the adjustment of retirement benefits

History - IN THE HOUSE

L & C	Hearing 2/7 and 3/25. At first hearing, Ken Humphreys, Director of Retirement & Benefits, testified that current law provides that the boards of retirement may waive collection of an overpayment where there is hardship. He added that in fact, the boards have been generous in waiving overpayments (as they have been). Committee staff urged passage of the bill & compared its provisions to federal requirements which are imposed on private pension funds.
State Affairs	Hearing 4/29. The Senate version, SB 57, arrived in State Affairs just before the hearing, and the committee acted on that bill rather than this one.

Companion bill: CS SB 57 is the companion and is the one which moved out of House State Affairs. This bill is therefore inactive. The administration prefers CS SB 57 to the original bill.

Introduced: 1/18/83
Referred: Labor & Commerce,
State Affairs and Finance

BY THE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE COUNCIL (for the Blue Ribbon Commission on the State Personnel Act)

IN THE HOUSE

HOUSE BILL NO. 51

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act limiting the adjustment of retirement benefits; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 14.25.173 is amended by adding a new subsection to read:

(b) An adjustment that requires repayment of benefits may not be made under this section if

(1) the incorrect benefit was first paid two years or more before the member or teacher or beneficiary was notified of the change or error; and

(2) the change or error was not caused by the member or teacher or beneficiary.

* Sec. 2. AS 39.35.520 is amended by adding a new subsection to read:

(b) An adjustment that requires repayment of benefits may not be made under this section if

(1) the incorrect benefit was first paid two years or more before the employee or beneficiary was notified of the change or error;

(2) the change or error was not caused by the employee or beneficiary; and

(3) the change or error relates to the employee's credited service with the state and does not relate to credited service with another participating employer.

* Sec. 3. This Act is retroactive to July 1, 1979.

* Sec. 4. This Act takes effect immediately in accordance with AS 01.-10.070(c).

STATE OF ALASKA

DEPARTMENT OF ADMINISTRATION
DIVISION OF RETIREMENT & BENEFITS
POUCH CR
JUNEAU, ALASKA 99811

Public Employees' Retirement System
Teachers' Retirement System
Judicial Retirement System
Elected Public Officers Retirement System
National Guard Retirement System
Territorial Retirement System
Retirees' Voluntary Dental-Vision-Audio Plan
Supplemental Benefits System
Group Health/Life Insurance Benefits
Deferred Compensation Plan
Public Employers Social Security Contributions

Bill Sheffield, Governor

(907) 465-4460

May 13, 1983

Honorable Mitchell Abood, Jr.
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Representative Abood:

You requested further written clarification of the Department of Administration's position on HB 51. The department, as well as the Public Employees' and Teachers' Retirement Boards, feel that adequate and equitable mechanisms already exist (AS 14.25.175 and AS 39.35.522) to grant relief in the form of waivers of adjustments to retirees who have been overpaid as a result of errors.

However, if the legislature feels that some change is appropriate, we feel that two major deficiencies in HB 51 should be addressed. First, the bill would prevent recovery of an overpayment even if the recipient of the overpayment knew or had reason to know an error had occurred. The language on page 1, lines 16 and 17 and on page 2, lines 8 and 9 of the attached CSSB 57 addresses this problem. Second, HB 51 makes no provision for oversight by the boards or for a hearing by the boards if it appears that a waiver of overpayment may not be justified. The language on page 1, lines 18-29 and on page 2, lines 10-21 of CSSB 57 addresses this problem.

Please let us know if you need further information.

Sincerely,

J.K. Humphreys
Director

JKH/jb
Enclosure

cc: Members of the HSA Committee
Eleanor Andrews
Cynthia Halterman

Offered: 4/26/83
Referred: Rules

Original sponsor: Rules/Legislative Council

IN THE SENATE BY THE STATE AFFAIRS COMMITTEE

CS FOR SENATE BILL NO. 57 (State Affairs)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act limiting the adjustment of retirement benefits; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 14.25.173 is amended by adding new subsections to read:

(b) An adjustment that requires the recovery of benefits may not be made under this section if

(1) the incorrect benefit was first paid two years or more before the member or beneficiary was notified of the error;

(2) the error was not the result of erroneous information supplied by the member or beneficiary; and

(3) the member or beneficiary did not have reasonable grounds to believe that the amount of the benefit was in error.

(c) At each regularly scheduled meeting of the Teachers' Retirement Board, the administrator shall report to the board on all situations since the administrator's last report in which an adjustment has been prohibited under (b) of this section. If the board finds that there is reason to believe that one or more of the conditions set out in (b) of this section have not been met, the administrator shall notify the member or beneficiary that an adjustment will be made to recover the overpayment. A member or beneficiary who receives notice of adjustment under this subsection may appeal to the board for a waiver of the adjustment under AS 14.25.175. An adjustment that requires the repayment of benefits may not be required while the appeal is pending.

* Sec. 2. AS 39.35.520 is amended by adding new subsections to read:

(b) An adjustment that requires the recovery of benefits may not be made under this section if

(1) the incorrect benefit was first paid two years or more before the member or beneficiary was notified of the error;

(2) the error was not the result of erroneous information supplied by the member or beneficiary; and

(3) the member or beneficiary did not have reasonable grounds to believe that the amount of the benefit was in error.

(c) At each regularly scheduled meeting of the Public Employees' Retirement Board, the administrator shall report to the board on all situations since the administrator's last report in which an adjustment has been prohibited under (b) of this section. If the board finds that there is reason to believe that one or more of the conditions set out in (b) of this section have not been met, the administrator shall notify the member or beneficiary that an adjustment will be made to recover the overpayment. A member or beneficiary who receives notice of adjustment under this subsection may appeal to the board for a waiver of the adjustment under AS 39.35.522. An adjustment may not be required while the appeal is pending.

* Sec. 3. This Act takes effect immediately in accordance with AS 01.-10.070(c).

Alaska State Legislature

JUNEAU, ALASKA

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

Senator Bill Ray, Chairman

Pouch YG
Mail Stop 3123
Juneau, Alaska 99811
(907) 465-4442

MEMORANDUM

April 14, 1983

TO: House State Affairs Committee

FROM: Teresa B. Cramer Teresa B Cramer
Administrative Assistant

SUBJECT: House Bill 51 - Limiting the Adjustment of Retirement Benefits

Retired state employees may have substantial difficulties if they are required to repay retirement benefits improperly received because of errors made by the Divisic of Retirement and Benefits or because of a change in law. The commission is proposing legislation to limit the authority of the division to collect amounts paid improperly through no fault of the beneficiary or retired person if the error is not corrected within two years.

One woman testified to the commission that before she retired she asked the division to verify her years of credited service. Several years later a court-ordered change in retirement regulations reduced the number of years for which she received credit. Her employment with the University of Alaska could no longer be counted as credited service in PERS. As a result she had received more than $5000 in benefits to which she was not entitled. The division reduced her benefit to the correct amount and began withholding an additional $100 per month to be applied to the overpayment. She appealed to the Public Employees Retirement Board asking that collection of the overpayment be waived. The Board agreed.

Both the Public Employees' Retirement Board and the Teachers' Retirement Board have authority to waive collection of overpayments, but the uncertainty of an appeal can cause considerable stress to people on fixed incomes. Both boards are required to determine whether there would be undue hardship imposed by requiring repayment. AS 14.25.175 and AS 39.35.522. In establishing whether there is financial hardship, the entire family financial situation is considered, not just the resources of the petitioner.

The commission recommends that a two-year statute of limitations be placed on the collection of overpayments which resulted from errors which were not caused by the retired state employee. Two years provides ample opportunity for the division to audit its records and correct any errors. After that period, a retired person should not be required to repay benefits erroneously received if he or she did not cause the error. The division would still correct the amount of future benefits paid to the retired person.

Bill Analysis

Page 1 Line 9	The first section of the proposed legislation adds the two-year statute of limitations to the Teachers' Retirement System.
Line 18	The second section adds the same provision to the Public Employees' Retirement System. The amendment to PERS is applied only to state employees because the Blue Ribbon Commission considered that requiring other participating employers to pay for errors made by the state was inappropriate.
Line 29	The third section makes the bill effective retroactively to July 1, 1979, in order to apply to those individuals whose situations came to the commission's attention.
Page 2 Line 2	The fourth section of the bill contains an immediate effective date clause.

Alaska State Legislature

JUNEAU, ALASKA

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

Senator Bill Ray, Chairman

Pouch YG
Mail Stop 3123
Juneau, Alaska 99811
(907) 465-4442

MEMORANDUM

January 25, 1983

TO: House Labor and Commerce Committee

FROM: Teresa B. Cramer Teresa B Cramer
Administrative Assistant

SUBJECT: House Bill 51 - Limiting the Adjustment of Retirement Benefits

On several occasions the Blue Ribbon Commission has heard testimony about problems created by overpayments of retirement benefits. Retired state employees may have substantial difficulties if they are required to repay retirement benefits improperly received because of errors made by the Division of Retirement and Benefits or because of a change in law. The commission is proposing legislation to limit the authority of the division to collect amounts paid improperly through no fault of the beneficiary or retired person if the error is not corrected within two years.

One woman testified to the commission that before she retired she asked the division to verify her years of credited service. Several years later a court-ordered change in retirement regulations reduced the number of years for which she received credit. Her employment with the University of Alaska could no longer be counted as credited service in PERS. As a result she had received more than $5000 in benefits to which she was not entitled. The division reduced her benefit to the correct amount and began withholding an additional $100 per month to be applied to the overpayment. She appealed to the Public Employees Retirement Board asking that collection of the overpayment be waived.

Both the Public Employees' Retirement Board and the Teachers' Retirement Board have authority to waive collection of overpayments, but the uncertainty of an appeal can cause considerable stress to people on fixed incomes. Both boards are required to determine whether there would be undue hardship imposed by requiring repayment. AS 14.25.175 and AS 39.35.522. In establishing whether there is financial hardship, the entire family financial situation is considered, not just the resources of the petitioner.

The commission recommends that a two-year statute of limitations be placed on the collection of overpayments which resulted from errors which were not caused by the retired state employee. Two years provides ample opportunity for the division to audit its records and correct any errors. After that period, a retired person should not be required to repay benefits erroneously received if he or she did not cause the error. The division would still correct the amount of future benefits paid to the retired person.

Bill Analysis

Page 1 Line 9	The first section of the proposed legislation adds the two-year statute of limitations to the Teachers' Retirement System.
Line 18	The second section adds the same provision to the Public Employees' Retirement System. The amendment to PERS is applied only to state employees because the Blue Ribbon Commission considered that requiring other participating employers to pay for errors made by the state was inappropriate.
Line 29	The third section makes the bill effective retroactively to July 1, 1979, in order to apply to those individuals whose situations came to the commission's attention.
Page 2 Line 2	The fourth section of the bill contains an immediate effective date clause.

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 Swick
Signature of Camera Operator

12/15/89
Date

02-519 (REV 8/78)

SCOMM

#51:29

July 6, 1983

HB 52: Government interests in intellectual work products developed at the expense of the state.

History - IN THE HOUSE

Judiciary This bill had no hearings in the House.

Note: The Council on Science and Technology, which the bill makes responsible for carrying out the protection of the state's interest in patents, copyrights and trademarks, has been drastically reshaped by the legislature this session. If this bill goes anywhere, some alternative may have to be found for carrying out the functions assigned to the Council.

Companion bill: SB 59 is the companion. It had one hearing in committee and I met with Suzanne Tryck(Senator Vic Fischer's aide on this bill) several times to discuss problems. She indicated that the committee would be working on the bill during the interim.

Introduced: 1/18/83
Referred: Judiciary and Finance

BY THE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE COUNCIL (for the Blue Ribbon Commission on the State Personnel Act)

IN THE HOUSE

HOUSE BILL NO. 52

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to government interests in intellectual work products developed at the expense of the state."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 39 is amended by adding a new chapter to read:

CHAPTER 52. INTELLECTUAL PROPERTY DEVELOPED AT THE EXPENSE OF THE STATE.

Sec. 39.52.010. RIGHT TO INTELLECTUAL WORK PRODUCT. (a) Except as provided in AS 39.52.040 and AS 14.40.345, all right, title, and interest in and to an intellectual work product of any kind that is subject to the trademark, copyright, or patent laws of the United States or this state or any foreign country that is developed by a public officer or employee or a person under contract with the state is the property of the state if developed

(1) during working hours;

(2) with the contribution of the state beyond what is available to the public in general in the form of facilities, equipment, materials, money, or information, or of time or services of another public officer or employee in the course of state employment or another person under contract with the state; or

(3) in connection with the official duties of the public officer or employee or the person under contract, including but not limited to circumstances in which the public officer or employee or the person is employed or assigned to

(A) produce or improve an intellectual work product;

(B) conduct or perform research, development work, or both;

(C) supervise, direct, coordinate, or review state financed or conducted research, development work, or both; or

(D) act in a liaison capacity among governmental or nongovernmental agencies or individuals engaged in such work.

(b) If a public officer or employee or a person under contract with the state develops an intellectual work product that is the property of the state, the developer is obligated to

(1) fully and promptly disclose the intellectual work product to the Alaska Council on Science and Technology (AS 44.21.-241);

(2) assign to the state the entire right, title, and interest in and to the intellectual work product if not already waived by signing of a general waiver upon commencement of employment in accordance with AS 39.05.160 or as part of a contract for services; and

(3) upon request by the council, execute and reasonably assist in the prosecution of an application for a trademark, copyright, or patent.

(c) If the state has a right to an intellectual work product under (a) of this section but the council decides that it is inadvisable to prosecute an application for trademark, copyright, or patent, the council, on behalf of the state, may, after consultation with affected state agencies,

(1) waive all right, title, and interest in and to the intellectual work product; or

(2) waive all right, title, and interest in and to a trademark, copyright, or patent but reserve a nonexclusive, irrevocable, royalty-free license in the intellectual work product with power to

grant licenses for all governmental purposes.

Sec. 39.52.020. COUNCIL AUTHORIZED TO GRANT MONETARY RECOGNITION FOR CREATION OF INTELLECTUAL WORK PRODUCT. (a) The council is authorized to give monetary recognition to a public officer or employee who develops an intellectual work product that is the property of the state and who discharges the obligations set out in AS 39.52.010.

(b) The council shall determine the guidelines, terms, and conditions, as well as amount, source, distribution, and manner of payments under (a) of this section. The council shall consider the actual or potential value of the intellectual work product in terms of revenue or reduced operating costs to the state.

Sec. 39.52.030. ARBITRATION OF DISAGREEMENTS. (a) Disagreements between a public officer or employee or a person under contract with the state and the council pertaining to ownership of an intellectual work product or obligations of the respective parties shall be disposed of by

(1) voluntary arbitration of all relevant issues, if the disagreeing parties agree to be bound by the decision upon arbitration;

(2) compulsory arbitration if that is provided for in any applicable contract between the disagreeing parties; or

(3) recourse to the court if arbitration cannot be resorted to.

(b) The council is authorized to make contracts for compulsory arbitration on behalf of the state.

(c) If arbitration is used to settle disagreements, the provisions of AS 09.43 (Uniform Arbitration Act) shall govern.

Sec. 39.52.040. EXCEPTIONS. The provisions of this chapter do not apply to a public officer or employee associated with or a person

under contract with the University of Alaska. Those persons shall be governed by the provisions of AS 14.40.345. The provisions of this chapter do not apply to a member of the legislature.

Sec. 39.52.050. ADOPTION OF RULES. The council may adopt rules implementing the provisions of this chapter in accordance with the Administrative Procedure Act (AS 44.62).

Sec. 39.52.099. DEFINITIONS. As used in this chapter, unless the context otherwise requires,

(1) "council" means the Alaska Council on Science and Technology established in AS 44.21.241;

(2) "intellectual work product" means any product of the mind including but not limited to the following:

(A) discovery, invention, or idea;

(B) process, system, or method;

(C) machine, manufacture, or product;

(D) composition of matter;

(E) design or composition in letters, art, or graphics;

(F) literary, dramatic, musical, educational, or artistic work;

(G) certification mark, trademark, patent, or copyright.

* Sec. 2. AS 14.40 is amended by adding a new section to read:

Sec. 14.40.345. INTELLECTUAL PROPERTY DEVELOPED AT THE EXPENSE OF THE UNIVERSITY. All right, title, and interest in and to an intellectual work product developed by a public officer or employee associated with or a person under contract with the University of Alaska is the property of the university in accordance with a general policy established by the university. The policy adopted by the University

of Alaska may provide for ownership, control, management, and disposal of intellectual work products by an independent foundation created for the purpose of obtaining intellectual work products, receiving gifts, administering or disposing of interests in intellectual work products, and promoting research.

* Sec. 3. AS 39.05 is amended by adding a new section to read:

ARTICLE 5. WAIVER OF RIGHT TO INTELLECTUAL PROPERTY.

Sec. 39.05.160. WAIVER OF RIGHT TO INTELLECTUAL PROPERTY. (a) A public officer or employee of the state, before engaging in the duties of the office or employment, shall sign a waiver of all right, title, and interest in and to an intellectual work product that may be developed by the officer or employee at the expense of the state as set out in AS 39.52.

(b) Notwithstanding the requirement in (a) of this section, the state, in accordance with AS 39.52.020, may share a portion of the resulting revenue with or grant a cash award for resulting reductions in operating costs to a public officer or employee who dev lops an intellectual work product at the expense of the state.

(c) A public officer or employee may be required to sign, before engaging in the duties of the office or employment, an acknowledgement that the public officer or employee will not receive a share of the revenue or reduction in operating costs attributable to an intellectual work product developed as a duty of the office or employment.

(d) The waiver under (a) of this section and the acknowledgement under (c) of this section are not considered terms and conditions of employment that are subject to negotiation for purposes of collective bargaining under the Public Employment Relations Act (AS 23.40).

* Sec. 4. AS 44.21.242(b) is amended by adding new paragraphs to read:

(9) consistent with the provisions of AS 39.52, retain,

assign, license, transfer, sell, or otherwise dispose of, in whole or in part and upon terms that the council may direct, any and all rights to, interests in, or income from intellectual work products acquired by the council under AS 39.52;

(10) adopt rules implementing the provisions of AS 39.52.

* Sec. 5. AS 37.12.070(9) and AS 46.12.110(10) are repealed.

Alaska State Legislature

JUNEAU, ALASKA

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

Senator Bill Ray, Chairman

Pouch YG
Mail Stop 3123
Juneau, Alaska 99811
(907) 465-4442

MEMORANDUM

January 25, 1983

TO: House Judiciary Committee

FROM: Teresa B. Cramer Teresa B Cramer
Administrative Assistant

SUBJECT: House Bill 52 - Government Interests in Intellectual Work Products Developed at the Expense of the State

The Blue Ribbon Commission is proposing legislation to create and protect the state's interest in inventions, discoveries and creations developed by state employees or contractors during their employment or developed with the use of state facilities or resources.

The commission became interested in the issue when an employee of the Department of Fish and Game testified about employment problems arising from his patenting of a production scale salmon incubator. He had begun developing the incubator before he accepted employment with the state. He began working for the department and continued his project after securing advice from the Department of Law concerning avoiding the potential conflict of interest. His job for Fish and Game was closely related to the development of incubators. The employee stated that he created the incubator on his own time. He then patented it and sold the patent to a private corporation which marketed it. Thereafter, the department was required to pay royalties for use of the process.

The employee has filed several grievances over poor performance evaluations, lost promotional opportunities, and an alleged retaliatory layoff which he believed resulted from his patenting the invention. The department testified that there had been considerable morale problems because other employees believed that they had contributed to the development of the process. They thought it unfair that one individual could secure a patent and potentially profit from an invention in which others had participated and in which the state should have an interest.

The Blue Ribbon Commission is concerned that there is no statute protecting the state's interest in the inventions, discoveries and creations made by its employees or made through the use of its facilities. Legislation for the Alaska Energy Center and the Alaska

Resources Corporation gives each agency the authority to hold patents. Nothing in either chapter spells out how the state acquires that interest.

While the proposed legislation does not specifically address the situation which occurred in the Department of Fish and Game, the commission believes that this system would alleviate similar problems in the future. Information about the number of conflict of interest hearings before the Personnel Board indicates that there will probably be no more than two or three applications of the bill per year.

Bill Analysis

Page 1 Line 10	The first section of the proposed legislation gives the state all right, title and interest in any intellectual work product developed during working hours or with the use of state facilities or by employees whose duties include responsibility for research.
Page 4 Line 12	"Intellectual work product" is broadly defined later in the bill to include anything which is subject to patent, trademark or copyright laws.
Page 2 Line 8	A state employee or person under contract with the state is obliged to disclose the development of an intellectual work product to the Alaska Council on Science and Technology and to assign any interest in it to the state. If requested, the person is required to assist the Council in applying for a trademark, patent or copyright. The commission believes that the Council is the most appropriate existing state agency to administer the program.
Page 2 Line 21	The Council is given broad discretion to decide whether to pursue patenting, trademarking, or copyrighting the invention after consultation with affected state agencies. The Council may waive any state interest in the discovery or may waive all interest but retain a royalty-free license in the intellectual work product so that the state would not have to pay for its use in the future. If the state waives its interest, then the inventor would be able to pursue protection of his own interest in the discovery.
Page 3 Line 3	The proposed legislation gives the Council authority to grant monetary recognition to employees who develop an intellectual work product. The recognition could be in

the form of a cash award, a share in any royalties generated by the invention, or in any other manner the Council found appropriate. Payment would, of course, be subject to legislative appropriation. The commission believes that the Council should have wide discretion in implementing the monetary award system in order to best encourage employees in their work and serve the state's interests.

Page 3
Line 13

Any disagreements between an employee and the state pertaining to ownership of an intellectual work product would be subject to voluntary arbitration if the parties agreed to be bound by the result. If not, then the disagreement could be settled in court. In addition, the state and the employee or contractor may enter into an employment contract which requires compulsory arbitration.

Page 3
Line 29

Legislators and employees of the University of Alaska are exempted from the chapter. The University has its own policy on intellectual property developed at its expense which is codified in section 2 of the proposed legislation.

Page 4
Line 5

The Council is granted rule-making authority for the chapter in accordance with the Administrative Procedure Act.

Page 4
Line 24

Section 2 of the legislation adds language to codify the University of Alaska's right to intellectual work products developed by its employees.

Page 5
Line 7

Section 3 requires state employees to waive their interest in intellectual work products developed at the expense of the state as set out in section 1 of the bill. The waiver is not subject to negotiation under the Public Employment Relations Act.

Page 5
Line 29

Section 4 amends the Alaska Council on Science and Technology statutes to add the powers and responsibilities granted by the proposed legislation.

Page 6
Line 7

Section 5 repeals the patenting powers currently granted to the Alaska Energy Center and the Alaska Resources Corporation. The commission believes that there should be a single system which applies to all legislative, judicial and executive branch employees of the state.

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILE 8672

1376 SCOMM 51: BLUE RIBBON COMN. ON STATE PERSONNEL ACT 1978-1983

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

02-519 (REV 8/78)

SCOMM
#51:30

July 6, 1983

HB 53: Prohibiting duplicate Teachers' Retirement benefits for Alaska BIA service

History - IN THE HOUSE

L & C	Hearings on 2/7/83 and 4/18/83. Passed with individual recommendations. Ken Humphries, Director of Retirement & Benefits, testified that the division had no need for this legislation since it has the power to adopt regulations of this sort without additional authorization but the committee passed the bill anyway. (I responded that the commission chairman recommended the bill because future directors might see the matter differently.)
State Affairs	Hearings 4/29 and 5/10/83. A technical amendment was proposed by Ken Humphries at the earlier meeting but the committee did not amend the bill.
Finance	No hearings were held before adjournment.

Companion bill: SB 58 had one hearing in Senate HESS and then came to a stop. With regulations in place, the justification for either bill is that it will insure that future directors do not change their minds and rescind the regulations. Copies of the regulations are in the file and also are attached to my memo to House Finance. That committee got 12 or 15 copies of the memo.

Introduced: 1/18/83
Referred: Labor & Commerce, State Affairs and Finance

BY THE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE COUNCIL (for the Blue Ribbon Commission on the State Personnel Act)

IN THE HOUSE

HOUSE BILL NO. 53

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act prohibiting duplicate teachers' retirement benefits for Alaska BIA service."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 14.25.107 is amended to read:

Sec. 14.25.107. CREDIT FOR ALASKA BIA SERVICE. A member who joins the system on or after July 1, 1978, who has Alaska BIA service may claim all of that service as credited service. [A RETIREMENT BENEFIT PAYABLE UNDER THIS CHAPTER FOR ALASKA BIA SERVICE SHALL BE REDUCED BY AN AMOUNT EQUAL TO THE RETIREMENT BENEFITS PAID TO THE MEMBER BY THE UNITED STATES GOVERNMENT FOR THE SAME SERVICE.]

* Sec. 2. AS 14.25.169 is amended to read:

Sec. 14.25.169. DUPLICATE BENEFITS. (a) If payments from this retirement system are due to a teacher or to the teacher's spouse under more than one provision of this plan, the teacher or spouse shall elect under which provision and which benefit the teacher or spouse wishes to receive and no payments may be made under any other provision. However, benefits under AS 14.25.155, 14.25.157, 14.25.-160, 14.25.162, 14.25.164, and 14.25.167 shall be paid in addition to those benefits or that service credit a person is entitled to receive because of the person's own membership in the retirement system.

(b) A teacher may not receive

(1) duplicate credit under this system for the same period of service,

(2) more than one year of service credit in the course of a

school year, or

(3) a benefit while accruing service credit under this system, except as provided in this section.

(c) A retirement benefit payable under this chapter for Alaska BIA service shall be reduced by an amount equal to the retirement benefits paid to the member by the United States government for the same service. Before appointment to retirement under this chapter, and once each year thereafter, the administrator may require a member who has received credit for Alaska BIA service under AS 14.25.107 to produce verification of the benefit amount the member is receiving from the United States government for that same service or verification that the member is not entitled to receive a benefit from the United States government for that same service.

Alaska State Legislature

JUNEAU, ALASKA

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

Senator Bill Ray, Chairman

Pouch YG
Mail Stop 3123
Juneau, Alaska 99811
(907) 465-4442

MEMORANDUM

May 17, 1983

TO: House Finance Committee

FROM: Teresa B. Cramer Teresa B Cramer
Administrative Assistant

SUBJECT: House Bill 53 - Prohibiting Duplicate Teachers' Retirement Benefits for Alaska BIA Service

The Blue Ribbon Commission heard testimony from the Division of Retirement and Benefits that a loophole exists in the Teachers' Retirement System statutes which permit receiving TRS credited service for federal employment in Alaska BIA schools. Teachers who qualified for federal retirement from a BIA school and who then worked for the state in a position covered by the Teachers' Retirement System could receive benefits for the same years of service from each system.

Under TRS, teachers may receive credit for Alaska BIA service by contributing 7% of their entry TRS salary for each year of BIA service to be credited. The law provides that state retirement benefits for Alaska BIA service will be reduced by the amount received from the federal government for the same service. However, this is verified only at the time of applying for retirement.

Credit from both retirement systems is possible if the teacher who has worked for both employers buys TRS credited service for BIA employment and takes a lump sum payment of his or her federal retirement contributions before retiring from the state. At the time of state retirement, the teacher reports being eligible to receive no federal retirement benefits for Alaska BIA service. After establishing state benefits, the teacher could repay the lump sum to the federal government and claim a federal retirement. The teacher would then be drawing from two retirement systems for the same period of service.

The commission recommends that language be added to the TRS statutes to permit the Division of Retirement to require retired members to verify annually any federal benefits received for Alaska BIA service. The division has adopted regulations which permit requiring members of TRS and PERS to report annually about whether they are receiving a

retirement benefit from the United States Government for the same period of service for which they are receiving a state retirement benefit. Copies of the regulations are attached. The commission continues to recommend passage of HB 53 to place authorization for the regulation in statute.

Bill Analysis

Page 1 Line 9	The first section of the bill deletes material concerning treatment of duplicate benefits from the current authorization for claiming BIA service.
Page 2 Line 4	The language deleted in section 1 is moved to AS 14.25.169 by the second section of the bill.
Line 7	Section 2 also provides authorization for the Division of Retirement and Benefits to request annual verification of the amount of any federal retirement benefits for Alaska BIA service for which state benefits are also received.

House State Affairs Committee Amendment

At the request of the Director of Retirement and Benefits, the House State Affairs Committee adopted the following amendment:

Page 2, line 5: Between the words "service" and "shall" insert:
claimed under AS 14.25.107

The amendment makes clear that those who qualified for TRS benefits before July 1, 1978, when the statutes were amended to require offsetting state benefits by the amount of any federal benefits received, are not affected by this amendment.

DRAFT

PUBLIC EMPLOYEES' RETIREMENT SYSTEM

Regulation No. 83-1

Verification of Federal Benefit

Before being appointed to retirement, and once a year thereafter, a member who has been credited with service under AS 39.35.360 may be required to provide the administrator with confirmation from the United States Government of the benefit amount the member is receiving from the United States Government for that same period of service or confirmation that the member is not entitled to receive a benefit from the United States Government for that same period of service.

Approved:_____

C.R. "Steve" Hafling, Chairman
Public Employees' Retirement Board

Dated this ____ day of_____, 1983

DRAFT

TEACHERS' RETIREMENT SYSTEM

Regulation No. 83-1

Verification of Federal Benefit

Before being appointed to retirement, and once a year thereafter, a member who has been credited with service under AS 14.25.107 may be required to provide the administrator with confirmation from the United States Government of the benefit amount the member is receiving from the United States Government for that same period of service or confirmation that the member is not entitled to receive a benefit from the United States Government for that same period of service.

Approved:_____

Dated this ___ day of_____, 1983

Introduced: 1/18/83
Referred: Labor & Commerce, State Affairs and Finance

4/29 Hold

BY THE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE COUNCIL (for the Blue Ribbon Commission on the State Personnel Act)

IN THE HOUSE

HOUSE BILL NO. 53 w/ amdt

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act prohibiting duplicate teachers' retirement benefits for Alaska BIA service."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 14.25.107 is amended to read:

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* Sec. 2. AS 14.25.169 is amended to read:

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(b) A teacher may not receive

(1) duplicate credit under this system for the same period of service,

(2) more than one year of service credit in the course of a

school year, or

(3) a benefit while accruing service credit under this system, except as provided in this section.

(c) A retirement benefit payable under this chapter for Alaska BIA service claimed under AS 14.25.107 shall be reduced by an amount equal to the retirement benefits paid to the member by the United States government for the same service. Before appointment to retirement under this chapter, and once each year thereafter, the administrator may require a member who has received credit for Alaska BIA service under AS 14.25.107 to produce verification of the benefit amount the member is receiving from the United States government for that same service or verification that the member is not entitled to receive a benefit from the United States government for that same service.

Alaska State Legislature

JUNEAU, ALASKA

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

Senator Bill Ray, Chairman

Pouch YG
Mail Stop 3123
Juneau, Alaska 99811
(907) 465-4442

MEMORANDUM

April 25, 1983

TO: House State Affairs Committee

FROM: Teresa B. Cramer Teresa B Cramer
Administrative Assistant

SUBJECT: House Bill 53 - Prohibiting Duplicate Teachers' Retirement Benefits for Alaska BIA Service

The Blue Ribbon Commission heard testimony from the Division of Retirement and Benefits that a loophole exists in the Teachers' Retirement System statutes which permit receiving TRS credited service for federal employment in Alaska BIA schools. Teachers who qualified for federal retirement from a BIA school and who then worked for the state in a position covered by the Teachers' Retirement System could receive benefits for the same years of service from each system.

Under TRS, teachers may receive credit for Alaska BIA service by contributing 7% of their entry TRS salary for each year of BIA service to be credited. The law provides that state retirement benefits for Alaska BIA service will be reduced by the amount received from the federal government for the same service. However, this is verified only at the time of applying for retirement.

Credit from both retirement systems is possible if the teacher who has worked for both employers buys TRS credited service for BIA employment and takes a lump sum payment of his or her federal retirement contributions before retiring from the state. At the time of state retirement, the teacher reports being eligible to receive no federal retirement benefits for Alaska BIA service. After establishing state benefits, the teacher could repay the lump sum to the federal government and claim a federal retirement. The teacher would then be drawing from two retirement systems for the same period of service.

The commission recommends that language be added to the TRS statutes to permit the Division of Retirement to require retired members to verify annually any federal benefits received for Alaska BIA service.

Bill Analysis

Page 1 Line 9	The first section of the bill deletes material concerning treatment of duplicate benefits from the current authorization for claiming BIA service.

Page 2 Line 4	The language deleted in section 1 is moved to AS 14.25.169 by the second section of the bill.
Line 7	Section 2 also provides authorization for the Division of Retirement and Benefits to request annual verification of the amount of any federal retirement benefits for Alaska BIA service for which state benefits are also received.

DRAFT

PUBLIC EMPLOYEES' RETIREMENT SYSTEM

Regulation No. 83-1

Verification of Federal Benefit

Before being appointed to retirement, and once a year thereafter, a member who has been credited with service under AS 39.35.360 may be required to provide the administrator with confirmation from the United States Government of the benefit amount the member is receiving from the United States Government for that same period of service or confirmation that the member is not entitled to receive a benefit from the United States Government for that same period of service.

Approved:_____

C.R. "Steve" Hafling, Chairman
Public Employees' Retirement Board

Dated this ____ day of_____, 1983

DRAFT

TEACHERS' RETIREMENT SYSTEM

Regulation No. 83-1

Verification of Federal Benefit

Before being appointed to retirement, and once a year thereafter, a member who has been credited with service under AS 14.25.107 may be required to provide the administrator with confirmation from the United States Government of the benefit amount the member is receiving from the United States Government for that same period of service or confirmation that the member is not entitled to receive a benefit from the United States Government for that same period of service.

Approved:_____

Dated this ___ day of_____, 1983

MEMORANDUM March 24, 1983

TO: Senator Bill Ray, Chairman

FROM: Teresa B. Cramer
Administrative Assistant

SUBJECT: SB 58 and HB 53 - Prohibiting Duplicate Teachers' Retirement Benefits for Alaska BIA Service

I spoke with Ken Humphreys, director of the division of retirement. He advised me that the PERS and TRS boards have adopted regulations to require continued reporting from retired members about the amounts of any federal benefits they receive. These regulations are available for comment until March 31st, at which time they will become final unless amended by the appropriate retirement board. The regulations were promulgated because of the questions raised by the Blue Ribbon Commission bills on this issue. Copies of the proposed regulations are attached.

TBC:lmk
Attachments

February 8, 1983

The Honorable Joe Josephson, Chairman
Senate Health, Education and Social
Services Committee
Pouch V
Juneau, Alaska 99811

RE: SB 58 - Prohibiting Duplicate Teachers' Retirement
Benefits for Alaska BIA Service

Dear Senator Josephson:

I have spoken with Senator Ray, chairman of the Blue Ribbon Commission, concerning the committee's question of whether this legislation is necessary given the possibility that the same thing can be accomplished by regulation. Senator Ray pointed out that, in fact, the Division of Retirement and Benefits has not yet adopted regulations on this issue. Therefore it appears to him to be advisable for the Legislature to act to make its wishes known.

Please let me know if I can be of further assistance.

Yours very truly,

Teresa B. Cramer
Administrative Assistant

Alaska State Legislature

JUNEAU, ALASKA

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

Senator Bill Ray, Chairman

Pouch YG
Mail Stop 3123
Juneau, Alaska 99811
(907) 465-4442

MEMORANDUM

January 26, 1983

TO: House Labor and Commerce Committee

FROM: Teresa B. Cramer Teresa B Cramer
Administrative Assistant

SUBJECT: House Bill 53 - Prohibiting Duplicate Teachers' Retirement Benefits for Alaska BIA Service

The Blue Ribbon Commission heard testimony from the Division of Retirement and Benefits that a loophole exists in the Teachers' Retirement System statutes which permit receiving TRS credited service for federal employment in Alaska BIA schools. Teachers who qualified for federal retirement from a BIA school and who then worked for the state in a position covered by the Teachers' Retirement System could receive benefits for the same years of service from each system.

Under TRS, teachers may receive credit for Alaska BIA service by contributing 7% of their entry TRS salary for each year of BIA service to be credited. The law provides that state retirement benefits for Alaska BIA service will be reduced by the amount received from the federal government for the same service. However, this is verified only at the time of applying for retirement.

Credit from both retirement systems is possible if the teacher who has worked for both employers buys TRS credited service for BIA employment and takes a lump sum payment of his or her federal retirement contributions before retiring from the state. At the time of state retirement, the teacher reports being eligible to receive no federal retirement benefits for Alaska BIA service. After establishing state benefits, the teacher could repay the lump sum to the federal government and claim a federal retirement. The teacher would then be drawing from two retirement systems for the same period of service.

The commission recommends that language be added to the TRS statutes to permit the Division of Retirement to require retired members to verify annually any federal benefits received for Alaska BIA service.

Bill Analysis

Page 1 Line 9	The first section of the bill deletes material concerning treatment of duplicate benefits from the current authorization for claiming BIA service.

Page 2 Line 4	The language deleted in section 1 is moved to AS 14.25.169 by the second section of the bill.
Line 7	Section 2 also provides authorization for the Division of Retirement and Benefits to request annual verification of the amount of any federal retirement benefits for Alaska BIA service for which state benefits are also received.

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

02-519 (REV 8/78)

SCOMM
#51:31

July 1, 1983

HB 108 - Licensed phsycians placed in the exempt service

History - IN THE LEGISLATURE

In the House this bill had hearings in House HESS, Finance and passed on 2/28. In the Senate, it had hearings in Labor and Commerce and Finance and passed on April 13. It became Chapter 11, SLA 1983 on May 2, 1983. Hooray!

Companion Bill: SB 64 is the companion. It went nowhere and is no longer needed. Its only referral was Senate Labor and Commerce.

Introduced: 1/21/83
Referred: Health, Education and Social Services & Finance

BY THE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE COUNCIL (for the Blue Ribbon Commission on the State Personnel Act)

IN THE HOUSE

HOUSE BILL NO. 108

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the inclusion in the state exempt service of licensed physicians employed by the division of mental health and developmental disabilities, Department of Health and Social Services."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 39.25.110(13) is amended to read:

(13) [LICENSED] physicians <u>licensed to practice in this state and</u>[, AS DEFINED IN AS 47.30.340(9)] employed by <u>the division of mental health and developmental disabilities, Department of Health and Social Services</u> [THE STATE];

Alaska State Legislature

JUNEAU, ALASKA

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

Senator Bill Ray, Chairman

Pouch YG
Mail Stop 3123
Juneau, Alaska 99811
(907) 465-4442

MEMORANDUM

January 25, 1983

TO: House Health, Education & Social Services Committee

FROM: Teresa B. Cramer Teresa B Cramer
Administrative Assistant

SUBJECT: HB 108, Licensed Physicians in the Department of Health and Social Services

An unintended change created by an amendment to the State Personnel Act last session has caused some question in the Department of Health and Social Services. Prior to the amendment, licensed physicians employed by the Division of Mental Health and Developmental Disabilities were placed in the exempt service. Other physicians working for the department were members of the classified service. This system worked well. The exception for those working in the mental health field was necessary in order to attract and pay qualified staff.

The amendment placed all licensed physicians, as defined in AS 47.30.340(9), employed by the state into the exempt service. Title 47.30 addresses mentally ill and insane persons but the definition section defined "licensed physician" in general terms. The department brought to the commission's attention an unforeseen situation. There were two employees in the Division of Public Health serving as Regional Health Officers. One was a medical doctor and the other a licensed veterinarian. Under the amended version of the State Personnel Act, the doctor could be placed in the exempt service and the veterinarian would remain in the classified service. Both have the same duties, though in different locations.

The commission recommends that legislation be adopted to return all medical doctors except those employed by the Division of Mental Health and Developmental Disabilities to the classified service.

Bill Analysis

The bill amends the section of the State Personnel Act which lists membership in the exempt service to place only those physicians employed by the Division of Mental Health and Developmental Disabilities in the exempt service.

TBC:lmk
Attachment

BILL SHEFFIELD, GOVERNOR

DEPT. OF HEALTH AND SOCIAL SERVICES
OFFICE OF THE COMMISSIONER

POUCH H 01
JUNEAU, ALASKA 99811
PHONE: 465-3030

December 14, 1982

The Honorable Bill Ray, Chairman
Blue Ribbon Commission on the State Personnel Act
Pouch YG, Mail Station 3123

Attention: Terry Cramer, Adminstrative Assistant

Subject: Licensed Physicians - Department of Health & Social Services

Dear Senator Ray:

Subsequent to the December 7 meeting of the Blue Ribbon Commission, and at its direction, the Department of Health & Social Services considered the circumstances surrounding the statutory language relating to licensed physicians employed by the state. The original purpose for the inclusion of licensed physicians in the exempt service under AS 39.25.0110 (19) was to provide for recruitment and retention of qualified and competent staff within the Division of Mental Health & Developmental Disabilities. That situation has worked well since that time.

The amendments to that statute as adopted under HCS CSSB 193 in 1982 eliminated that particular distinction. As presently written, that statute could be interpreted to include licensed physicians in the Division of Public Health. That action is not adjudged to be in the best interests of the state and those employees. It should be noted that in 1981, AS 47.30.340 was repealed in its entirety and AS 47.30.915 was added. That section again defined "licensed physician" in the legislative reference to mental health programs.

It is therefore respectfully requested that the language in AS 39.25.110 (13) be amended to read as follows: "licensed physicians, as defined in AS 47.30.915 (11), employed by the Division of Mental Health & Developmental Disabilities, Department of Health & Social Services.

Thank you for your consideration of this matter.

Sincerely,

Allen K. Korhonen
Acting Commissioner

06-F38LH

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

02-519 (REV 8/78)

SCOMM

#51:32

July 1, 1983

HB 135 - Court Leave for Nonpermanent & Temporary Employees

History - IN THE HOUSE

State Affairs: Hearing 3/16/83. Passed with fiscal note (I don't have a copy in the file - it's probably a zero note because they couldn't calculate what it might be - no easily-accessible records.)

Finance: Referred 3/16 - no hearings.

Companion bill: SB 83 is identical and in Senate Finance. Copies of pertinent statues (as they existed in 1983 - and probably unchanged) may be found in the file.

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"under (b)" in the first sentence and added the second sentence.

The 1980 amendment substituted "Workers' Compensation Act" for "Workmen's Compensation Act" in subsection (e).

Legislative history report. — For the House State Affairs Committee letter of intent on Senate Bill No. 116 (ch. 52, SLA 1979), see 1979 House Journal, p. 1052.

Sec. 39.20.260. Medical leave.
Repealed by § 15 ch 136 SLA 1978.

Cross reference. — For present provisions covering the subject matter of the repealed section, see AS 39.20.225(b).

Editor's note. — The repealed section derived from § 11-5-6 g, ACLA 1949; § 1, ch. 182, SLA 1957; § 1, ch. 145, SLA 1960; § 1, ch. 82, SLA 1966; § 2, ch. 37, SLA 1967; § 51, ch. 32, SLA 1971; § 3, ch. 151, SLA 1972; § 1, ch. 67, SLA 1974; § 11, ch. 148, SLA 1976.

Sec. 39.20.270. Court leave. Court leave shall be granted to an employee who is classified as full time, whether permanent or temporary. An officer or employee called to serve as a juror or subpoenaed as a witness is entitled to administrative leave with pay, but compensation received by him or to which he is entitled, whichever is greater, for service as a juror or witness shall be deducted from pay to which he is entitled as a state officer or employee. (§ 11-5-6 h ACLA 1949; am § 1 ch 182 SLA 1957; am § 1 ch 145 SLA 1960)

Sec. 39.20.280. Maternity leave.
Repealed by § 2 ch 67 SLA 1974.

see also 39.20.310(7)-(9).

Cross reference. — For present provisions covering the subject matter of the repealed section, see AS 39.20.225(b)(4).

Editor's note. — The repealed section derived from § 11-5-6 i ACLA 1949; § 1, ch. 182, SLA 1957; § 1, ch. 145, SLA 1960; § 105, ch. 127, SLA 1974.

Sec. 39.20.290. Definition of days of leave. The days of leave provided for in AS 39.20.200 — 39.20.330 mean days upon which an officer or employee would otherwise work and receive pay, and are exclusive of holidays. (§ 11-5-6 j ACLA 1949; am § 1 ch 182 SLA 1957; am § 1 ch 145 SLA 1960)

Sec. 39.20.295. Special regulations on leave period. In accord with the procedures established in AS 39.20.320, the Department of Administration shall promulgate rules defining and establishing a uniform beginning and a uniform concluding date for the 12-month periods applicable to leave use and accumulation by officers and employees of state government. (§ 2 ch 151 SLA 1972)

Sec. 39.20.300. Personal and banked medical leave transfers with officer or employee. When an officer or employee terminates employment with one department, office, institution, or agency of the state government and is employed by another department, office, institution, or agency of the state government without break in service,

(b) An employee of the legislature or of a legislative agency with the approval of the person authorizing the employment may donate accrued personal leave to another employee of the legislature or of a legislative agency only for use as leave for medical reasons. The official responsible for legislative employee accounts shall debit the donor's personal leave account and credit the donee's personal leave account for medical reasons only, by converting the donated leave into cash value at the donor's rate of pay and reconverting the cash value to hours of leave at the donee's rate of pay. Leave donated under this subsection is not leave taken by the donor for purposes of AS 39.20.225(c). (§ 2 ch 33 SLA 1969; am § 23 ch 136 SLA 1974; am § 4 ch 136 SLA 1978; am § 1 ch 75 SLA 1981)

Effect of amendments. — The 1981 amendment added subsection (b).

Sec. 39.20.310. Exceptions. AS 39.20.200 — 39.20.330 do not apply to

(1) members of the state legislature, the governor, the lieutenant governor, and justices and judges of the supreme and superior courts and of the court of appeals, but nothing in AS 39.20.200 — 39.20.330 may be construed to diminish the salaries fixed by law for these officials by reason of absence from duty on account of illness or otherwise;

(2) magistrates serving the state on less than a full-time basis;

(3) officers, members of the teaching staff, and employees of the University of Alaska;

(4) Repealed by § 76 ch 59 SLA 1982;

(5) persons employed in a professional capacity to make a temporary and special inquiry, study, or examination as authorized by the governor, the legislature, or a legislative committee;

(6) members of boards, commissions, and authorities who are not otherwise employed by the state;

(7) temporary employees hired for periods of less than 12 consecutive months;

(8) persons employed by the division of marine transportation as masters and members of the crews operating the state ferry system who are covered by collective bargaining agreements as provided in AS 23.40.040.

(9) persons employed by the state who are covered by collective bargaining agreements as provided in AS 23.40.210. (§ 11-5-61 ACLA 1949; am § 1 ch 182 SLA 1957; am § 1 ch 145 SLA 1960; am § 1 ch 100 SLA 1961; am § 4 ch 93 SLA 1962; am § 3 ch 24 SLA 1966; am § 1 ch 62 SLA 1972; am § 10 ch 136 SLA 1978; am § 26 ch 12 SLA 1980; am § 76 ch 59 SLA 1982)

Effect of amendments. — The ... amendment, effective May 28, 1...

Sec. 39.20.320. Adoption ... ...tion of personnel in the Depar... and submit regulations nece... 39.20.200 — 39.20.330. These ... crediting and, if necessary, con... employee transfers, without bre... agency of the state government ... 39.20.330 and a department or ... he is not subject to AS 39.20.20... be submitted to the commissione... of administration shall review t... personnel board. The regulation... the force and effect of law 30 ... personnel board if not disapprove... to the regulations shall be pr... manner, and have the force and... submitted to the personnel boar... board. The regulations adopted u... to the internal management of st... subject to the provisions of the ... 44.62). (§ 11-5-6 m ACLA 1949; ... 145 SLA 1960; am § 11 ch 136 S...

Effect of amendments. — The 1982 amendment, effective May 28, 1982, inserted "and labor relations" following "division of personnel" in the first sen-...

Sec. 39.20.340. Leave of abse... bers of armed forces. (a) An e... subdivision, with the approval of t... who is a member of a reserve or ... States Armed Forces is entitled t... pay, time or efficiency rating on ... ordered to training duty, as disting... or at field exercises, or for instruct... control in the performance of a sea... of absence may not exceed 16½ wo...

(b) If an employee is called to ... employee otherwise qualified in (a... days leave of absence without loss of ... 20 SLA 1951; am § 1 ch 154 SL... am § 1 ch 49 SLA 1976)

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§ 1 ch 145 SLA 1960; am § 1 ch 136
2; am § 3 ch 24 SLA 1966; am § 1 ch
A 1978; am § 26 ch 12 SLA 1982 am

Effect of amendments. — The 1982 amendment, effective May 28, 1982, repealed paragraph (4) as that paragraph appears in the main pamphlet.

Sec. 39.20.320. Adoption of regulations. The director of the division of personnel in the Department of Administration shall prepare and submit regulations necessary to carry out the intent of AS 39.20.200 — 39.20.330. These regulations shall include provisions for crediting and, if necessary, converting accrued leave when an officer or employee transfers, without break in service, between a department or agency of the state government where he is subject to AS 39.20.200 — 39.20.330 and a department or agency of the state government where he is not subject to AS 39.20.200 — 39.20.330. These regulations shall be submitted to the commissioner of administration. The commissioner of administration shall review the regulations and submit them to the personnel board. The regulations, or any part of the regulations, have the force and effect of law 30 days after they are submitted to the personnel board if not disapproved by the personal board. Amendments to the regulations shall be prepared and submitted in the same manner, and have the force and effect of law 30 days after they are submitted to the personnel board, if not disapproved by the personnel board. The regulations adopted under AS 39.20.200 — 39.20.330 relate to the internal management of state agencies and their adoption is not subject to the provisions of the Administrative Procedure Act (AS 44.62). (§ 11-5-6 m ACLA 1949; am § 1 ch 182 SLA 1957; am § 1 ch 145 SLA 1960; am § 11 ch 136 SLA 1978; am § 77 ch 59 SLA 1982)

Effect of amendments. — The 1982 amendment, effective May 28, 1982, inserted "and labor relations" following "division of personnel" in the first sentence, and, deleted "within 60 days of July 9, 1978" following "commissioner of administration" in the third sentence.

Sec. 39.20.340. Leave of absence for reserve or auxiliary members of armed forces. (a) An employee of the state, or a political subdivision, with the approval of the city council or borough assembly, who is a member of a reserve or auxiliary component of the United States Armed Forces is entitled to a leave of absence without loss of pay, time or efficiency rating on all days during which he or she is ordered to training duty, as distinguished from active duty, with troops or in field exercises, or for instruction, or when under direct military control in the performance of a search and rescue mission. The leave of absence may not exceed 16½ working days in any 12-month period.

(b) If an employee is called to active duty by the governor, an employee otherwise qualified in (a) of this section is entitled to five days leave of absence without loss of pay, time, or efficiency rating. (§ 1 ch 20 SLA 1951; am § 1 ch 154 SLA 1970; am § 4 ch 151 SLA 1972; am § 1 ch 49 SLA 1976)

Alaska State Legislature

JUNEAU, ALASKA

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

Senator Bill Ray, Chairman

Pouch YG
Mail Stop 3123
Juneau, Alaska 99811
(907) 465-4442

MEMORANDUM

March 24, 1983

TO: House Finance Committee

FROM: Teresa B. Cramer Teresa B Cramer
Administrative Assistant

SUBJECT: House Bill 135 - Granting Court Leave to Nonpermanent Employees

The Blue Ribbon Commission received a request that it consider whether nonpermanent employees should receive court leave benefits. Nonpermanent employees are short-term classified service employees. By statute their period of service is limited to 120 calendar days or to the duration of a program or project. Nonpermanent employees are not entitled to receive state leave, health or retirement benefits. Short-term employees in the partially exempt and exempt services are called temporary employees.

Most state employees continue to receive their regular salaries while serving as jurors or when they are subpoenaed to serve as a witness in a court proceeding. In return, the employee gives the state his or her jury service fee (currently $25 a day) or witness fee. Nonpermanent and temporary employees are not entitled to this benefit. They must take leave without pay since they do not earn annual, sick or personal leave, and their only compensation is the jury service or witness fee provided by the court.

Collective bargaining agreements set out the leave provisions for their members. The statutory leave benefits set out in AS 39.20 do not apply to state employees covered by contracts. AS 39.20.810(8) and (9). Amending the law to permit nonpermanents and temporaries to receive court leave would therefore apply only to short-term employees in the exempt and partially exempt services and to those few classified service nonpermanent employees who are not members of collective bargaining units. Extending leave benefits to unionized employees would remain the subject of possible negotiation between the state and employee representatives.

Jury service is a civic duty. All state employees should be treated equally while meeting this obligation. The Blue Ribbon Commission strongly recommends that the Alaska Statutes be amended to provide that nonpermanent and temporary employees are entitled to receive the same court leave benefits as other state employees.

Bill Analysis

Paragraph (7) of AS 39.20.310 exempts temporary employees from all leave benefits granted to other state employees by statute. The proposed legislation amends the court leave statute to nullify the general exclusion. Temporary and nonpermanent employees would therefore be eligible to receive the court leave benefits provided other state employees.

TBC:lmk

Alaska State Legislature

JUNEAU, ALASKA

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

Senator Bill Ray, Chairman

Pouch YG
Mail Stop 3123
Juneau, Alaska 99811
(907) 465-4442

MEMORANDUM

February 3, 1983

TO: Members of the House State Affairs Committee

FROM: Teresa B. Cramer
Administrative Assistant

SUBJECT: House Bill 135 - Granting Court Leave to Nonpermanent Employees

The Blue Ribbon Commission received a request that it consider whether nonpermanent employees should receive court leave benefits. The person who called was working as a nonpermanent employee on a project which was expected to last for nine months. She was summoned to serve on a jury for a criminal trial. The proceedings lasted two weeks.

Nonpermanent employees are short-term classified service employees. By statute their period of service is limited to 120 calendar days or to the duration of a program or project. Short-term employees in the partially exempt and exempt services are called temporary employees. Nonpermanent employees must be hired based on their relative ability from the lists of eligibles maintained by the Division of Personnel for that job class. They are paid according to the pay rate assigned to that job class. They are not eligible for state leave, health or retirement benefits.

Most state employees continue to receive their regular salaries while serving on juries or when they are subpoenaed to serve as a witness in a court proceeding. The employee gives the state his or her jury service fee (currently $25 a day) or witness fee. Nonpermanent and temporary employees are not entitled to this benefit. They must take leave without pay since they do not earn annual, sick or personal leave, and their only compensation is the jury service or witness fee provided by the court.

Jury service is a civic duty. All state employees should be treated equally while meeting this obligation. The Blue Ribbon Commission strongly recommends that nonpermanent and temporary employees be entitled to the same court leave benefits as other state employees.

Bill Analysis

Paragraph (7) of AS 39.20.310 denies temporary employees the leave benefits granted to other state employees. The proposed legislation amends the court leave statute to nullify the general exclusion. Temporary and nonpermanent employees would therefore be eligible to receive the court leave benefits provided other state employees.

Introduced: 1/28/83
Referred: State Affairs
and Finance

BY THE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE COUNCIL (for the Blue Ribbon Commission on the State Personnel Act)

IN THE HOUSE

HOUSE BILL NO. 135

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to court leave for nonpermanent and temporary employees of the state."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 39.20.270 is amended to read:

Sec. 39.20.270. COURT LEAVE. Notwithstanding AS 39.20.310(7), court [COURT] leave shall be granted to an employee who is classified as full time, whether permanent, nonpermanent, or temporary. An officer or employee called to serve as a juror or subpoenaed as a witness is entitled to administrative leave with pay, but compensation received by the employee [HIM] or to which the employee [HE] is entitled, whichever is greater, for service as a juror or witness shall be deducted from pay to which the employee [HE] is entitled as a state officer or employee.

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 Swick
Signature of Camera Operator

12/15/89
Date

02-519 (REV 8/78)

SCOMM
#51:33

July 12, 1983

RE: HB 207, HB 209 and SB 116 - all about emergency guards in the Department of Public Safety and miscellaneous other matters

There are three bills which originally proposed placing guards used by the Department of Public Safety in emergencies into the exempt service: HB 207 (sponsored by the Blue Ribbon Commission), HB 209 (sponsored by Rep. Bussell and modelled after the Senate version of the Blue Ribbon Commission bill), and SB 116 (the Blue Ribbon Commission Senate version).

HB 207 - this bill had no hearings because House State Affairs took up Rep. Bussell's bill, HB 209, instead. It is still, untampered with, in House State Affairs.

HB 209 - This bill went through numerous changes, some desirable and some less so, and currently may be found [as SCS CSHB 209 (SA)] in Senate Finance.

SB 116 - This bill was amended in Senate State Affairs and passed the Senate. It has been referred [as CSSB 116 (SA)] to House Judiciary and has had no hearings there.

SCS CSHB 209 - Relating to the classification of personnel

Bill history

3/11/83 State Affairs heard the bill and adopted a CS changing the placement of the guards to the partially exempt service rather than the exempt service at the suggestion of Frank Raye, the director of personnel. The change leaves the positions as part of the state classification plan and pay plan, which insures that the division of personnel can watchdog salary to insure pay equity for incumbents.

3/25/83 Hearing in House Finance. The division of personnel and the Blue Ribbon Commission jointly recommended adding language to require that the Department of Public Safety report to the Division of Personel about emergency appointments made under this legislation. House Finance adopted that language in its CS. The language was originally developed for the Senate version, SB 116.

5/3/83 Hearing in House Rules in which the Department of Natural Resources proposed that young people employed in the youth employment/student intern programs be placed in the exempt service. The Division of Personnel had no problem with this admendment - there is a memo on the change in the file.

Rep. Bussell proposed adding correctional superintendents I & II to the partially exempt service because they should reflect policy (and unspokenly, should be subject to firing if a prisoner escapes, presumably). The hearing went quickly and both amendments were adopted. The Division of Personnel was not in support of Bussell's amendment although they did not testify at the hearing.

5/10/83 CSHB 209 (Rules) passed the House 33-6-1. Rep. Duncan moved for reconsideration and the bill passed on reconsideration on 5/13/83, 26-9-3-2.

6/9/83 Hearing in Senate State Affairs. Sen. Ray moved that the correctional superintendents be deleted from the bill and the motion passed.

I did not write a memo for Senate State Affairs since they had heard SB 116 earlier, but I did testify and raise questions about the correctional superintendents since the Blue Ribbon Commission had long been concerned about maintaining the merit system standards, which apply to the classified service and not as much to the partially exempt service (which is exempt from selection and firing standards and rules). I told them I had no information on the changes requested by the Department of Natural Resources.

6/13/83 SCS CSHB 209 (SA) was referred to Senate Finance. No hearings were held on the bill before adjournment.

* * * * * * * * *

CSSB 116 (SA) - Placing emergency guards employed by the department of public safety in the partially exempt service.

Bill history

3/11/83 Hearing in Senate State Affairs. Suzanne Tryck, staff to the committee, and Frank Raye, Director of Personnel, and I met and developed language to require reports from the department on the use of the legislation and also to change the placement of the guards from the exempt to the partially exempt service. Partially exempt postions remain part of the state's classification and pay plans and therefore are guaranteed pay equity for their work. The CS adopted by State Affairs included both of these changes.

3/11/83 Judiciary waived referral of CSSB 116 (SA)

3/21/83 Passed the Senate, 18-0-2

3/23/83 Referred to House Judiciary - there's a memo for them in the file. The House held no hearings.

* * * * * * * * * *

Comment - the Senate State Affairs Committee Substitute for HB 209 is probably what should be the final language for whichever of these three bills makes it through the legislature, at least under ideal circumstances.

Offered: 6/13/83
Referred: Finance

Original sponsor: Bussell

IN THE HOUSE BY THE STATE AFFAIRS COMMITTEE

SENATE CS FOR CS FOR HOUSE BILL NO. 209 (State Affairs)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the classification of personnel; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 39.25.110 is amended by adding a new paragraph to read:

(22) youth employed by the Department of Natural Resources under the Youth Employment and Student Intern programs.

* Sec. 2. AS 39.25.120(c) is amended by adding a new paragraph to read:

(19) guards employed by the Department of Public Safety for emergencies.

* Sec. 3. AS 44.41 is amended by adding a new section to read:

Sec. 44.41.030. REPORT TO DIVISION OF PERSONNEL. The Department of Public Safety shall submit a report to the director of the division of personnel quarterly and on request of the director. The report shall contain a description of each emergency and shall include the total amount of time by hours for each emergency for which emergency guards under AS 39.25.120(c)(19) were used.

* Sec. 4. This Act takes effect immediately in accordance with AS 01.-10.070(c).

Offered: 3/11/83
Referred: Finance

Original sponsor: Bussell

IN THE HOUSE BY THE STATE AFFAIRS COMMITTEE

CS FOR HOUSE BILL NO. 209 (State Affairs)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act placing emergency guards employed by the Department of Public Safety in the partially exempt service; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 39.25.120(c) is amended by adding a new paragraph to read:

(19) emergency guards employed by the Department of Public Safety.

* Sec. 2. This Act takes effect immediately in accordance with AS 01.-10.070(c).

Alaska State Legislature

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

Senator Bill Ray, Chairman

Pouch YG
Mail Stop 3123
Juneau, Alaska 99811
(907) 465-4442

JUNEAU, ALASKA

MEMORANDUM

February 24, 1983

TO: Members of the House State Affairs Committee

FROM: Teresa B. Cramer
Administrative Assistant

SUBJECT: House Bill 207 - Placing Emergency Guards Employed by the Department of Public Safety in the Exempt Service

The Blue Ribbon Commission is recommending that emergency guards employed by the Department of Public Safety be moved from the classified service to the exempt service. In 1979, the coommission sponsored legislation to place greater restraints on the employment of both nonpermanent and emergency classified state workers. These restrictions have created some difficulties for the Department of Public Safety because of the large number of emergency guards they hire. In 1982 the department hired 495 emergency guards. There were only 112 other emergency appointments in the state.

An emergency employee is defined as "an employee appointed for a period not to exceed 30 calendar days, whose appointment was made under conditions requiring immediate action to carry on work that is required in the public interest". AS 39.25.200(3). Departments are required to report the reason for hiring an emergency employee within 15 working days of the appointment. Personnel practices require that departments prepare Personnel Action forms at the beginning and ending of an emergency appointment. Departments are not required to report as extensively for an appointment to an exempt position.

According to the Division of Personnel's "Report on Nonpermanent and Emergency Employment 1982", the Department of Public Safety made 495 emergency guard hires in 1982. These employees guard prisoners or seized property in rural areas where a one- or two-person post prevents a trooper from maintaining 24-hour per day watch. The period required for the emergency service is between arrest and either arraignment or transportation to a correctional facility or until other arrangements are made to maintain custody of the seized property. According to the Department of Public Safety, typical appointments last from two to four days.

In its report, the Division of Personnel states that the conditions for making emergency appointments place a significant paperwork burden on the Department of Public Safety, and on the Divisions of Personnel, Finance, and Retirement and Benefits in the Department of Administration. The division and the department recommend that emergency guards working for the Department of Public Safety be placed in the exempt service. The division points out that there are similarities between these positions and emergency firefighters in the department, who are already included in the exempt service by statute. AS 39.25.110(19).

The Blue Ribbon Commission agrees with the recommendation. Emergency guards are typically employed repeatedly in the locations which need them, but for short times each time. The paperwork burden on the department would be substantially reduced with little effect on the employee because the appointments are of such short duration. (The protections for emergency appointments are not much greater, if at all, than for exempt employees.) The continuing need for these appointments has been adequately documented.

The problem for the Department of Public Safety derives from the large number of emergency guards which they must hire. The following table shows the five job classes in which emergency appointments were most frequently made in 1982.

JOB CLASSIFICATION	DEPARTMENT	NUMBER OF APPOINTMENTS
Guards	Public Safety	495
Fish Culturist I	Fish and Game	30
Fish & Game Tech II	Fish and Game	17
Psychiatric Nurses Ass't I	Health & Social Services	12
Fish & Game Tech III	Fish and Game	9

Bill Analysis

Section 1 adds emergency guards employed by the Department of Public Safety to the section of the State Personnel Act which lists exempt positions.

TBC:lmk

Offered: 5/5/83
Referred: Rules

Original sponsor: Bussell

IN THE HOUSE BY THE RULES COMMITTEE

CS FOR HOUSE BILL NO. 209 (Rules)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the classification of personnel; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 39.25.110 is amended by adding a new paragraph to read:

(22) youth employed by the Department of Natural Resources under the Youth Employment and Student Interim programs.

* Sec. 2. AS 39.25.120(c) is amended by adding new paragraphs to read:

(19) guards employed by the Department of Public Safety for emergencies;

(20) correctional superintendents I and II employed by the Department of Health and Social Services.

* Sec. 3. AS 44.41 is amended by adding a new section to read:

Sec. 44.41.030. REPORT TO DIVISION OF PERSONNEL. The Department of Public Safety shall submit a report to the director of the division of personnel quarterly and on request of the director. The report shall contain a description of each emergency and shall include the total amount of time by hours for each emergency for which emergency guards under AS 39.25.120(c)(19) were used.

* Sec. 4. This Act takes effect immediately in accordance with AS 01.-10.070(c).

Offered: 5/5/83
Referred: Rules

Original sponsor: Bussell

IN THE HOUSE BY THE RULES COMMITTEE

CS FOR HOUSE BILL NO. 209 (Rules)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the classification of personnel; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

exempt

* Section 1. AS 39.25.110 is amended by adding a new paragraph to read:

(22) youth employed by the Department of Natural Resources under the Youth Employment and Student ~~Interim~~ Intern programs.

pf

* Sec. 2. AS 39.25.120(c) is amended by adding new paragraphs to read:

(19) guards employed by the Department of Public Safety for emergencies; stat CS

(20) correctional superintendents I and II employed by the Department of Health and Social Services.

* Sec. 3. AS 44.41 is amended by adding a new section to read:

Sec. 44.41.030. REPORT TO DIVISION OF PERSONNEL. The Department of Public Safety shall submit a report to the director of the division of personnel quarterly and on request of the director. The report shall contain a description of each emergency and shall include the total amount of time by hours for each emergency for which emergency guards under AS 39.25.120(c)(19) were used. stat CS

* Sec. 4. This Act takes effect immediately in accordance with AS 01.-10.070(c).

Ray - delete lines 15 & 16 - No objection - SCS CS HB 209 (SA)
Move w/ indiv recs - No objection

MEMORANDUM State of Alaska

TO: Rep. Charlie Bussell
Rep. Jack Fuller

DATE: May 2, 1983

FILE NO:

TELEPHONE NO:

FROM: Esther C. Wunnicke
Commissioner
Natural Resources

SUBJECT: Proposed Amendments to CSHB 209

The Department of Natural Resources would appreciate the House Rules Committee's consideration of two amendments to CSHB 209.

The first amendment is to add a subsection (22) to AS 39.25.110 which would place young people employed by DNR in the youth employment-student intern programs in the exempt service. The Department proposes this amendment to ensure that these programs may employ youths at minimum wage as proposed under the funding placed by House Finance in DNR's budget. Previously the Youth Conservation Corps program was basically federally funded and thus fell under federal wage restrictions provided for in AS 39.25.190.

The second amendment is to clarify the status of certain petroleum geologists and petroleum engineers working for the Division of Geological and Geophysical Surveys (DGGS). Current statute (AS 39.25.110 (14)) provides all petroleum engineers and petroleum geologists employed by DNR are in exempt service except those in DGGS. This exception has created ongoing administrative difficulties resolved in the past by the Governor specifically approving the appointments of the DGGS petroleum engineers and petroleum geologists. The proposed change would place all the petroleum engineers and petroleum geologists in the exempt service.

cc: Lisa Rudd, Commissioner Admin.

PROPOSED AMENDMENT TO CS HB 209 (Finance)

Section ___. AS 39.25.110 is amended by adding subsection (22) to read:

(22) youth employed by the Department of Natural Resources under the Youth Employment and Student Intern programs.

Hayes moves — passed w/o obj.

POUCH V
JUNEAU, ALASKA 99811
465-4990

P.O. BOX 4-1325
ANCHORAGE, ALASKA 99509
248-1515

Representative Charlie Bussell
ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES

CHAIRMAN
HOUSE JUDICIARY COMMITTEE
MEMBER
HOUSE RESOURCES COMMITTEE
MEMBER
SPECIAL COMMITTEE ON FISHERIES
MEMBER
LEGISLATIVE COUNCIL
MEMBER
ALASKA CODE REVISION COMMISSION

M E M O R A N D U M

DATE: May 2, 1983

TO: Representative Jack Fuller
Chairman, Committee on Rules

FROM: Representative Charlie Bussell CB

SUBJECT: Proposed Amendment to CSHB 209

Line 13 - Add
(20) correctional superintendents I and II employed by the Department of Health and Social Services.

The "Executive Head" of Corrections is ultimately responsible for all actions, or inactions, taken by his Correctional Superintendents who are responsible for direct management of correctional institutions.

Correctional Superintendents are responsible for the planning, general administration, operations, maintenance and logistics of correctional facilities with the distinctions of I and II being related to the size of the facility being managed. These personnel establish policies, procedures and programs within the institutions in conformity with agency and department regulations.

The intent of this amendment is not to infer the impression that the Superintendents who presently manage correctional institutions are not doing a good job. It is felt, however, if these positions are placed in the partially exempt service that timely implemention of new policies and directions will be assured.

On April 22, 1984 the Cleary vs Bierne law suit was expanded to encompass all correctional institutions in the state and any additional facilities which may open during this calendar year. The State has managed to continue the trial date until January 1983 and has until that time to show the court that the state is making a concerted effort to improve conditions in correctional facilities. During this time of critical observation by the court the smooth and continuous reorganization of the correctional system will be most advantageous to the state.

Placing Correctional Superintendents in the partially exempt service will enhance the coordination within Corrections and will contribute to an orderly and systematic implementation of new policies and directives leading to a comprehensive development of corrections within the state.

Current

STATE OF ALASKA

Class Specification

CORRECTIONAL SUPERINTENDENT I smaller facilities 7664-19
CORRECTIONAL SUPERINTENDENT II larger " 7657-21

Definition:

Under general direction is responsible for the management of an adult correctional institution, including planning, general administration, operations, maintenance and logistics. These are supervisory classes with substantial responsibility for the exercise of independent judgement in appointing, promoting, transferring, suspending, discharging and adjudicating grievances of subordinates.

Distinguishing Characteristics:

The classes of Correctional Superintendent I and Correctional Superintendent II are differentiated on such factors as: Size of physical plant, size of staff, scope, intensity and impact of correctional programs, and operating budgets. Correctional Superintendent II is in charge of a recognized major adult correctional facility equivalent to the Juneau, Fairbanks, and major Anchorage facilities. Correctional Superintendent I is in charge of those facilities with lesser inmate capacity, such as Ketchikan and Nome.

Example of Duties:

Establishes policies, procedures and programs within the institutions in conformity with agency and department regulations.

Selects personnel, conducts in-service training programs; assigns and supervises custodial, maintenance, clerical and other personnel; submits evaluations on work performance.

Reviews and monitors actions of inmate classification and other committees to evaluate the care and treatment program through custody classification, specific and general maintenance, work assignments, program changes, disciplinary actions, meritorious good time, and to consider any other problems which may arise.

Drafts and submits annual budget for institutions; authorizes and approves budget expenditures; supervises food service operations and all other institutional operations.

Supervises the maintenance of the booking, committment, health, fingerprint, inmate personal fund accoutns, disciplinary court, classification, release, fines, and other required records.

Responsible for preparation and submission of monthly reports on operations; submits a total fiscal report annually; may be responsible for maintaining a records and identification section within the Division of Corrections.

Makes recommendations on the planning and design of capital programs relating to correctional institutional facilities.

CORRECTIONAL SUPERINTENDENT I 7664-19
CORRECTIONAL SUPERINTENDENT II 7657-21

Maintains close relationships with civic clubs and organizations within the community to promote better understanding of institutional programs and responsibilities.

Maintains close working relationships with various federal, state and local agencies to advance the smooth operation of the facility.

Oversees, maintains and utilizes emergency equipment (gas masks, forced air administrators, restraint equipment) for emergency situations.

Knowledges, Skills and Abilities:

Knowledge of: Principles, practices, rules and regulations and legal implications and restraints of correctional administration; current theory and method of application of rehabilitation and discipline of persons under restraint; principles and practices of personnel supervision and training; methods and procedures involved in probation, parole, court evidence, and arrests; first aid; various departmental and division policies and procedures related to the operation and administration of correctional institutions; familiarity with state purchasing regulations and personnel rules, and methods of budget preparation.

Ability to: Plan, direct, instruct and supervise the work of others; control, direct, and instruct inmates individually and in groups; interpret and enforce institutional rules and regulations with firmness, tact, and impartiality; promote socially acceptable attitudes and behavior of inmates and rate their conduct accurately and impartially; establish and maintain close and cooperative working relationships with those contacted in the course of the work; analyze administrative problems and adopt and effective course of action; compile budget requests; prepare clear and comprehensive reports; participate effectively in conferences and interviews; maintain physical and health standards sufficient to meet job requirements.

Minimum Qualifications:

Three years of corrections experience as or above the level of Correctional Officer III, Training Officer I, Division of Adult Corrections or Unit Leader with the State of Alaska or the equivalent elsewhere.

Substitution: Two years of experience as a Probation Officer II, or Social Worker III with the State of Alaska or the equivalent elsewhere provided the experience was in a correctional setting;

AND

One year as Assistant Correctional Superintendent with the State of Alaska or the equivalent elsewhere.

A Master's degree in Corrections, Criminal Justice, Correctional Administration or closely related area may substitute for one year of the required experience.

Rev: 07/01/72
Rev: 11/16/78 Supv. Statement; MQs
Rev: 01/01/82 Added C.S.I. level; Range Change; Def.; MQs
9/SPECV/L

Sofo
4/25/83.

Original sponsor: Bussell

IN THE HOUSE BY THE RULES COMMITTEE

CS FOR HOUSE BILL NO. 209 (Rules)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act placing certain employees in the partially exempt service; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 39.25.120(c) is amended by adding new paragraphs to read:

(19) guards employed by the Department of Public Safety for emergencies;

(20) correction superintendents I and II employed by the Department of Health and Social Services.

* Sec. 2. AS 44.41 is amended by adding a new section to read:

Sec. 44.41.030. REPORT TO DIVISION OF PERSONNEL. The Department of Public Safety shall submit a report to the director of the division of personnel quarterly and on request of the director. The report shall contain a description of each emergency and shall include the total amount of time by hours for each emergency for which emergency guards under AS 39.25.120(c)(19) were used.

* Sec. 3. This Act takes effect immediately in accordance with AS 01.-10.070(c).

Disher moves to accept CS - no objection

Barnes moves CS and be moved - no objection

Alaska State Legislature

JUNEAU, ALASKA

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

Senator Bill Ray, Chairman

Pouch YG
Mail Stop 3123
Juneau, Alaska 99811
(907) 465-4442

MEMORANDUM

March 23, 1983

TO: House Finance Committee

FROM: Teresa B. Cramer Teresa B Cramer
Administrative Assistant

SUBJECT: Proposed Amendment to CSHB 209(SA)

The Blue Ribbon Commission supports the passage of legislation to place emergency guards in the partially exempt service. The commission suggests the following amendment to CSHB 209(SA) in order to provide for oversight by the Division of Personnel of emergency guard appointments by the Department of Public Safety. Emergency guards are currently placed in the classified service, and the Division of Personnel maintains oversight of emergency appointments in compliance with AS 39.25.195(h). The proposed language would continue this function.

Line 13: Add a new section to read:

Sec. 2. AS 44.41 is amended by adding a new section to read:

Sec. 44.41.030. REPORT TO DIVISION OF PERSONNEL. The Department of Public Safety shall submit a report to the director of the division of personnel quarterly and on request of the director. The report shall contain a description of each emergency and shall include the total amount of time by hours for each emergency for which ~~emergency~~ guards under AS 39.25.120(c)(19) were used.

Div of Pers. proposal

Line 14: Renumber the following section.

TBC:lmk

Moved 2/23/83 w/ both Div Pers & BRC audits

Offered: 3/11/83
Referred: Finance

Original sponsor: Bussell

IN THE HOUSE BY THE STATE AFFAIRS COMMITTEE

CS FOR HOUSE BILL NO. 209 (State Affairs)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act placing ~~emergency~~ guards employed for emergencies by the Department of Public Safety in the partially exempt service; and providing for an effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 39.25.120(c) is amended by adding a new paragraph to read:

(19) ~~emergency~~ guards employed by the Department of Public Safety for emergencies.

* Sec. 2. This Act takes effect immediately in accordance with AS 01.-10.070(c).

Alaska State Legislature

JUNEAU, ALASKA

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

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Line 14: Renumber the following section.

TBC:lmk

Alaska State Legislature

JUNEAU, ALASKA

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT

Senator Bill Ray, Chairman

Pouch YG
Mail Stop 3123
Juneau, Alaska 99811
(907) 465-4442

MEMORANDUM

March 10, 1983

TO: Senator Bill Ray, Chairman

FROM: Teresa B. Cramer
Administrative Assistant

SUBJECT: HB 207, HB 209 and SB 116 - Placing Emergency Guards Employed by Public Safety in the Exempt Service

HB 207 and HB 209

The House State Affairs Committee considered HB 209, sponsored by Representative Bussell, yesterday. It is identical to HB 207 and SB 116, sponsored by the Blue Ribbon Commission, and moves emergency guards from the classified service to the exempt service. The bill was introduced at the recommendation of the Division of Personnel made in its 1982 "Report on Nonpermanent and Emergency Hire Practices in State Government". I attended the hearing at the request of the staff of State Affairs.

I talked with Frank Raye, Director of Personnel, prior to the meeting. He recommended that emergency guards be placed in the partially exempt rather than the exempt service. Partially exempt positions are part of the state classification plan and are paid according to the pay plan, so there is some restraint on the department from either overpaying or underpaying those employees. He proposed these changes to the House State Affairs Committee and I said that I believed the commission would have no objection. The goal of the bill is to reduce the paperwork which the department has to process when making the large number of emergency appointments. This goal would not be affected by the amendment which was adopted.

SB 116

Suzanne Tryck, professional assistant to the Senate State Affairs Committee, met with Frank Raye, Mike McMullen (Deputy Director of Personnel) and with me this morning to discuss SB 116. Mr. Raye proposed the same amendment to SB 116 which was made to HB 209 -- placing

emergency guards in the partially exempt rather than the exempt service. Ms. Tryck was concerned that there are few controls over the length of service of partially exempt or exempt temporary employees (they are not covered by the nonpermanent law) and that there is not even any requirement that the departments report on the length of time they work as temporaries. We discussed the problem and arrived at a possible solution which she will suggest to Senator Fischer for inclusion in a Committee Substitute. In addition to amending the bill to place emergency guards in the partially exempt service, she will suggest adding a new section to the bill amending the nonpermanent law to require the Department of Public Safety to report quarterly on the emergency guards it hires. (The vast majority of the paperwork requirements will be eliminated by moving the positions to the partially exempt service.) The new section would read something like:

> Section 2. AS 39.25.195 is amended by adding a new paragraph to read:
>
> (i) The department of public safety shall submit to the director a quarterly report of each emergency for which an employee was hired under AS 39.25.120(c)(19) was employed. The director may request more frequent reports. The director shall include this information in the report on nonpermanent and emergency hire practices in state government.

TBC:lmk

Introduced: 2/17/83
Referred: State Affairs
and Finance

BY THE RULES COMMITTEE BY REQUEST OF THE LEGISLATIVE COUNCIL (for the Blue Ribbon Commission on the State Personnel Act)

IN THE HOUSE

HOUSE BILL NO. 207

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act placing emergency guards employed by the department of public safety in the exempt service."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. AS 39.25.110 is amended by adding a new paragraph to read:

(22) emergency guards employed by the Department of Public Safety.

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILE 8672
1377 SCOMM 51 BLUE RIBBON COMN. ON STATE PERSONNEL ACT 1978-1983

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. Sniad
Signature of Camera Operator

12/15/89
Date

02-519 (REV 8/78)

SCOMM
#51:34

STATE OF ALASKA
Department of Administration
Division of Personnel

TABLE OF CONTENTS:

Steering Committee
- Steering Committee Members.....1
- Role of Steering Committee.....2

Classification
- Classification History.....3
- Classification Definition and Problems.....4-6
- State of Alaska Workforce.....7

Study Timeline
- First Draft.....8-12

Meetings
- 10/19/83 Meeting (Agenda and Working Papers).....13-15
- 10/19/83 Actions:
  - Meeting Summary.....16-17
  - Advertising.....18-19
  - Letters.....20-25
  - Mailing List.....26-29
- Request for Proposals.....30-52
- 12/8/83 Meeting Agenda..... 53
  - Timeline for Proposal Process.....54-55
- 12/8/83 Actions:
  - Meeting Summary.....56-58
  - Budget Reappropriation.....59-60
  - Advertising.....61-63
  - Meetings with Unions..... 64
  - Personnel Officer Comments...65-68
- 2/4/84 Meeting Agenda..... 69
- 2/4/84 Actions:
  - Meeting Summary.....70-72
  - Meetings with Unions..... 73
- 4/9/84 Meeting Agenda..... 74
  - List of Proposers.....75-76
  - Selection Criteria - Written Proposals..... 77
  - Selection Process Overview... 78
  - Proposers Identified for Interviews..... 79

STATE OF ALASKA

Department of Administration

Division of Personnel

TABLE OF CONTENTS:

Steering Committee

Steering Committee Members.....1
Role of Steering Committee.....2

Classification

Classification History.....3
Classification Definition and Problems.....4-6

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10/19/83 Actions:

Meeting Summary.....16-17
Advertising.....18-19
Letters.....20-25
Mailing List.....26-29

Request for Proposals.....30-52

12/8/83 Meeting Agenda..... 53
Timeline for Proposal Process.....54-55

12/8/83 Actions:

Meeting Summary.....56-58
Budget Reappropriation.....59-60
Advertising.....61-63
Meetings with Unions..... 64
Personnel Officer Comments...65-68

2/4/84 Meeting Agenda..... 69

RAY

STATE OF ALASKA

Department of Administration

Division of Personnel

TABLE OF CONTENTS:

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Steering Committee Members..... 1

Role of Steering Committee..... 2

Classification

Classification History..... 3

Classification Definition and Problems..... 4-6

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STATE OF ALASKA

Department of Administration

Division of Personnel

Classification Study February 1984

STEERING COMMITTEE

1) Governor's Office: Henry Lancaster (-3500)

2) EEO: Barry Best (Pat: -3570)

3) OMB: Gary Bader (-3568)

4) Personnel: Frank Raye (Sandy: -4430)

Janet Jaron (Brett: -4424)

Advisory

5) House: Representative Mitch Abood (Ann Williams: -4947, -4964)

6) Senate: Senator Bill Ray (Jackie: -4922, -3717)

Senator Jan Faiks, Alternate (Cheryl: 277-9753; Jens Zehbe: -4523, Juneau)

7) Court System: Karrold Jackson (264-0574, Anchorage)

STATE OF ALASKA
Department of Administration
Division of Personnel

Classification Study

Role of Steering Committee

-Establish policy and processes for the Classification Study

-Seek, review and incorporate the ideas of others

-Select a consultant

-Serve as spokesperson to organization represented

-Communicate Study process and goals

-Review Study results

-Comment on final proposal

October 1983

STATE OF ALASKA
Department of Administration
Division of Personnel

HISTORY OF THE CLASSIFICATION AND PAY SYSTEM

1960-1961
- -State Personnel Act leads to Alaska Statute 39, Chapter 25.
- -Federal classifiers submit a class and pay plan for 2500 State positions. LAST IMPLEMENTED PLAN.

1961-1965
- -Changes, additions to class and pay plan. Class Specifications incomplete or missing.

1965-1966
- -Griffenhagen-Kroeger Study of 4300 State positions. Study results not implemented.

1966
- -First salary and benefits survey completed.

1968
- -First integrated salary schedule recommended and adopted by the Legislature.

1970
- -The second salary and benefits survey recommends geographic pay differentials by election district and is adopted in the 1971 Legislative session.

1972
- -First statewide housing and food cost survey.
- -The Public Employment Relations Act (AS 23.40.070) was passed which authorizes collective bargaining.

1975
- -Delegated authority to departments for Classification Reviews begins.

1980
- -Delegated authority expanded.

1981-1982
- -Texas A & M Study. Not completed.

1983
- -Classification study funded for $500,000 to study approximately 15,000 positions.
- -39 personnel staff are now classifying positions.

October 1983
Revised 11/83

STATE OF ALASKA

Department of Administration

Division of Personnel

Classification Overview

CLASSIFICATION: Grouping like things together in related order. Serves as "backbone" to personnel system.

EXAMPLES:

TRANSPORTATION		JOBS	
Land Transport	Ocean Transport	Labor/Trades	Professional
bicycle	rowboat	Laborer	Accountant
motorcycle	motorboat	Electrician's Helper	Senior Accountant
car	ferry	Electrician	Accounting Supervisor
bus	ocean liner	Electrical Supervisor	Accounting Manager
train			

CLASSIFICATION USES:

** set pay **

** career counseling **

** performance evaluation **

** evaluate applicants **

** training plans **

** organizational planning **

10/18/83

Classification Overview

WHAT'S WRONG NOW-- OLD SYSTEM

Employee Complaints	Management Complaints	Classifiers' Complaints	Legal Questions
- don't understand how jobs are measured and paid	- don't understand how jobs are measured and paid	- subjective	- can't prove unbiased
- pay is unfair and unequal	- doesn't solve problems	- must compare to several varying things	- can't show compliance with Equal Pay Act
- system is biased	- system is biased	- hard to explain	- lack of written guidelines to support pay practices
- review takes too long	- review takes too long	- review takes too long	- unproven pay methods
- qualifications for job are unreasonable	- cross-training hampered	- Classifiers disagree	
	- hard to change job content	- present system open to twisting	

WHAT SOLVES PROBLEMS-- NEW SYSTEM

** Measure jobs the same way **

** Measure the same things **

** Simplify the process, have results sooner **

** Make written descriptions clearer **

** Be able to show how the system works **

** Be able to explain how decisions are made **

** Classifiers using the system get same results **

** Be able to measure consistency **

** Automate information **

10/18/83

STATE OF ALASKA

DEPARTMENT OF ADMINISTRATION

DIVISION OF PERSONNEL

October 1983

CLASSIFICATION: WHAT COUNTS

These things count in classifying positions:

Authority and responsibility exercised

Extent of supervisory controls over the work

Nature and variety of work

Guidelines available and individual judgement required

Qualification requirements of the work

Working conditions

These do not:

Personality

Relative Efficiency

Length of service

Volume of work

Scarcity of new employees

Unusual diligence or overtime

Financial need

STATE OF ALASKA
Department of Administration
Division of Personnel

October 1983

WORKFORCE

Positions	Designation	Class Specifications
13,414	Classified	1137
484	Partially Exempt	
700	Marine Transport	38
459	Court System	85
15,057		1260
426	Exempt	—

Revised 11/83

CLASSIFICATION STUDY - TASKS AND TIMELINES

DRAFT

TASK	PERSON/S RESPONSIBLE	Sep 83	Oct 83	Nov 83	Dec 83	Jan 84	Feb 84	Mar 84	Apr 84	May 84	June 84	Jul 84	Aug 84
PHASE #1 PRE-STUDY													
Draft plan components & timeline	Administration, Governor's Office, OMB	X											
Develop tentative program budget	Administration, Governor's Office, OMB	X											
Establish a Steering Committee	Administration, Governor's Office, OMB	X	X										
Determine groups of positions for inclusion	Administration	X	X X										
Review plan components	Steering Committee		X X										
Establish communication and input mechanisms for Personnel Division, Labor Relations, Personnel Officers, unions, management, executive, legislative and employees	Steering Committee		X X X										
Write and distribute internally information on Alaska's Classification System	Administration		X X X										
Define consultant responsibilities and staff responsibilities	Steering Committee		X X	X X									
Draft the RFP and selection criteria	Steering Committee		X	X X									
Train staff in the use of factor evaluation systems, presentations and pay issues	Administration		X	X X X X	X X					X X X X			
Develop a spec numbering system	Administration			X X X X	X X X X								
Distribute draft RFP for review	Steering Committee			X X									

Date: 10/19/83

CLASSIFICATION STUDY - TASKS AND TIMELINES

DRAFT

TASK	PERSON/S RESPONSIBLE	Oct 83	Nov 83	Dec 83	Jan 84	Feb 84	Mar 84	Apr 84	May 84	June 84	Jul 84	Aug 84	Sep 84
Prepare and process Authority to Negotiate	Administration		X										
Review input from expert sources on draft RFP	Steering Committee			X X									
Develop a structure to assure review of each position in system	Administration			X X X X									
Law Department review of RFP	Law			X X	X								
Finalize RFP	Steering Committee				X								
RFP out to bid (includes advertising	Administration				X X X	X X X							
Bidders Conference (if desired)	Steering Committee				X								
Briefings on progress to date	Steering Committee				X X								
Determine classification appeal procedures	Steering Committee					X X							
Determine level of maintenance to existing system during study	Administration					X X							
Evaluation process	Steering Committee						X X X						
Update all organization charts							X X X X	X X X X					
Define data processing needs, including schematic							X X	X X X X	X X				
On-site presentation from finalists	Steering Committee							X X					
Design supporting file and tracking systems								X X X X	X X X X				
Award and negotiation of contract	Steering Committee								X	X			
Contract review period	Administration								X X				

 Date: 10/19/83

CLASSIFICATION STUDY - TASKS AND TIMELINES

DRAFT

TASK	PERSON/S RESPONSIBLE	Feb 84	Mar 84	Apr 84	May 84	June 84	Jul 84	Aug 84	Sep 84	Oct 84	Nov 84	Dec 84	Jan 85
PHASE II - STUDY													
Make occupational assignments to analyst teams	Administration				X X								
Finalize program budget	Administration				X								
Begin consultant component						X X		/					
Develop or refine specification format	Consultant, Staff					X X							
Consultant briefings						X							
Train personnel and union staff in FES and interviewing	Consultant					X X							
Prepare spec writing manual	Staff					X X	X X						
Demonstrations of FES to management	Consultant					X	X X						
Train employees to complete position description questionnaires (unions present)	Consultant, Staff					X	X X X X	X					
Provide guidelines for clustering positions							X X X X						
Collect position description questionnaires							X X X	X X X X	X X X X	X			
Training in spec writing	Staff						X X						
Establish control point for one-of-a-kind classes							X X						
Sort to occupational groups	Staff						X X	X X X X	X X X X	X X X			
First inter-rater reliability check	Staff								X X	X			
Interviews (desk audits)	Consultant, Staff								X X	X X X X	X X X X	X X	

Date: 10/19/83

CLASSIFICATION STUDY - TASKS AND TIMELINES

DRAFT

TASK	PERSON/S RESPONSIBLE	Aug 84	Sep 84	Oct 84	Nov 84	Dec 84	Jan 85	Feb 85	Mar 85	Apr 85	May 85	June 85	Jul 85
Employee Committees (ratings)			X X	X X X X	X X X X	X X							
Ratings	Consultant, Staff			X X	X X X X	X X X X	X X						
Draft specs on word processor	Administration				X X X X	X X X X	X X X X	X X X X	X X X X	X X X X			
Prepare new schematic					X X X X	X X X X	X X X X	X X X X	X X X X	X X X X	X X X X	X X X X	
Collect, revise, display ratings					X X X	X X X X	X X X X	X X X X					
Recommend and display series and levels	Staff					X X	X X X X	X X X X	X X				
Management review of specs	Departments								X X X X	X X X X	X X X X		
Management review of rankings, series, levels	Departments								X X	X X			
Cost estimate for implementation	Consultant								X X	X X X X			
Union review of specs	Unions									X X X X	X X X X	X X	
Display of benchmark ratings for classes	Staff									X X X	X X X X		
Union review of rankings, series, levels	Unions									X X	X X		
Prepare final specs	Staff										X X X X	X X X X	X X
Second inter-rater reliability check	Staff											X X	
Track old system to new	Staff											X X X X	X X X X
Statistical analysis of State workforce	Staff												X X X X

Date: 10/19/83

CLASSIFICATION STUDY - TASKS AND TIMELINES

DRAFT

TASK	PERSON/S RESPONSIBLE	Sep 84	Oct 84	Nov 84	Dec 84	Jan 85	Feb 85	Mar 85	Apr 85	May 85	Jun 85	Jul 85	Aug 85
PHASE III - PAY PLAN													
Determine survey design		X X X X	X X X X										
Determine survey distribution				X X X X	X X								
Select and describe benchmarks						X X X X	X X X X	X X					
Survey evaluation									X X	X X			
Merge class and pay plan											X X X X	X X	
Present material to Governor													X X

		Sept 85	Oct 85	Nov 85	Dec 85	Jan 86	Feb 86
PHASE IV - POST STUDY							
Appeals		X X X X	X X X X	X X X X	X X X X	X X X X	X X X X

Classification Study

Steering Committee

October 19, 1983

AGENDA

I. Steering Committee

A. List of Members

B. Role of Members

II. Classification Overview

III. Classification Study Timeline

IV. Discuss Communication networks- who to involve, how and when

V. Discuss methods for reviewing draft RFP

VI. Next meeting- last week in November

Classification Study

Outreach List

Unions

Management

Employees

Personnel Officers and Classifiers in Departments

Labor Relations Division

Personnel Board

Communication Tools

Meetings

Open meetings -for observation

-for input

Teleconferencing

Establishing smaller groups to hold meetings

Personnel Council Meetings

Written Information

Mailing lists

Newsletters (Personnel's and/or space in others)

Memos

Media

Radio

Newspaper

DEPARTMENT OF ADMINISTRATION
Division of Personnel

Classification Study
Steering Committee Meeting Summary
10/19/83

Members present: Representative Abood
Barry Best
Al Eagle
Senator Faiks
Ben Harding
Janet Jaron
Senator Ray
Frank Raye

Goal statement developed:

- That the Study produces a system which provides equity in classification decisions.

Specific concerns identified:

- That communication with Commissioners, unions, department personnel and the press be emphasized.
- That the process be open to observation.
- That the classification system adopted have the flexibility for adjustment to Alaska's needs.
- That we maintain adequate control of the process to assure tailoring to Alaska's requirements.
- That the classification system adopted weighs experience as well as education when evaluating knowledge requirements.
- That we recognize now that there will be costs associated with Study implementation.

Actions planned:

The attached chart shows specific activities to be completed in November. In addition, the Committee determined that:

- A packet of all materials prepared in November will be available at the next meeting.
- The possibility of public hearings at a later date will be considered.
- Future meetings will be held in Anchorage and Fairbanks, as well as Juneau.
- Teleconferencing will be utilized at later meetings.

Classification Study
10/19/83
Steering Committee Decisions

TASK	DRAFT BY	FINAL BY	DISTRIBUTE
Request for Proposal	Outline by 10/28/83	First draft 11/28/83	Discuss at 12/8/83 mtg.
Summary of 10/19/83 Meeting	10/28/83	11/4/83	11/4/83
Mailing List	10/31/83	11/4/83	At 12/8/83 mtg.
Written notice of status and plans to unions, commissioners and personnel officers from Commissioner Rudd	10/28/83	11/2/83	11/14/83
Request personnel Officers concerns regarding study in writing, cc: Commissioners from Frank Raye	11/1/83	11/4/83	11/15/83
Letter to Commissioners from Governor asking cooperation during study	11/1/83		11/11/83 estimate
Publish notice that Study in progress - written input sought- in Fairbanks Daily News, Empire, Anchorage Daily News and Anchorage Times	11/1/83	11/4/83	11/11 Juneau 11/18 Anch/Fbks.
Publish notice of 12/8 meeting and agenda in 2 Anchorage papers	11/1/83	mail 11/17/83	publish 12/1/83
Arrange Anchorage meeting, place and time	10/28/83	confirm 11/1/83	notify committee 11/2 & 11/28

10/28/83

17

INVITATION TO COMMENT

Juneau Empire

STATE OF ALASKA

DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL
NOTICE OF STUDY
AND
INVITATION TO COMMENT

The Division of Personnel has been funded for development of a new classification system for state jobs. The goal is to provide a sound job evaluation method and promote consistency and equity in classification. A Steering Committee with executive and legislative representation will conduct a selection process for a consultant and review the products of the forthcoming study. This is a two-year project with components for consultant selection, data collection and evaluation, systemsupport design and appeal hearings.

Any comments on the process and desired results should be received by December 9, 1983, and sent to:

Classification Study Steering Committee
c/o Chief, Classification and Pay
Department of Administration
Division of Personnel
Pouch C-0201
Juneau, AK 99811

Publish: Nov. 11

Legal 1100-001

A.O. 02-73662

MEETING NOTICE
Anchorage Daily News

Public Notices 900	Public Notices 900

STATE OF ALASKA
DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL
MEETING NOTICE

The Steering Committee for the Classification Study of State positions will meet in Anchorage on December 8th at the Legislative Information Office, 1024 West 6th, first floor conference room, from 1:00 p.m. to 4:00 p.m.

Activity to-date will be reviewed and the draft Request for Proposals discussed. Space will be available for observation of proceedings. Agendas will be available at the meeting.

For additional information, contact the Chief, Classification and Pay, Division of Personnel, Pouch C - 0201, Juneau, AK 99811, or call 465-4424.

Pub: December 1, 1983 AO-02 73672

MEMORANDUM

State of Alaska

TO: Commissioner Esther Wunnicke
Department of Natural Resources

DATE: November 10, 1983

FILE NO:

TELEPHONE NO: 465-2200

FROM: Commissioner Lisa Rudd
Department of Administration

SUBJECT: Classification Study

At the direction of the legislature, the Division of Personnel is engaged in the development of a new classification system. In addition to providing a sound evaluation method that promotes consistency and equity in classification, we will look for a system that is capable of responding to comparable worth questions. I have formed a Steering Committee for this project composed of the following:

Representative Mitch Abood
Barry Best, EEO Director
Al Eagle, representing OMB
Ben Harding, Governor's Office
Janet Jaron, Classification and Pay Section
Senator Bill Ray, Senator Jan Faiks (alternate)
Frank Raye, Director of Personnel

One of the first tasks of the Steering Committee is to develop communication links with all groups and individuals who should receive information and/or comment on the project steps and progression. In addition, the Committee will determine policies, evaluate proposals, establish processes and review deliverables.

Your cooperation in this process will be critical to its success. While involvement of your personnel staff is a constart (though not demanding their full time), there will also be stages when employees will be asked for updated information on their job duties, and managers will be asked to review a high volume of class specifications and recommended series designs.

As I mentioned, the Division of Personnel will need assistance from your personnel staff to complete this project. Our preference is to train all people classifying positions, whether in the central division or under delegated authority, at the same time. By active involvement in the rating and classifying of positions, personnel officers can best convey special knowledge regarding department jobs and assist us in tailoring the new system to State needs.

A draft timeline for the Classification Study is attached. Phase I includes all preliminary steps leading to contracting for a factor evaluation system. Key dates and tasks in this phase are:

1. Draft Request for Proposal (RFP) in early December
2. Publication of RFP in January
3. Consultants "on board" in June of 1984

During this eight-month period your personnel officer will have an opportunity for input into the process, will be invited to attend any relevant training arranged for Classification and Pay staff, and may be asked to sit on subcommittees with specific assignments in support of the Study. Phase II, the data collection and evaluation period, may require substantial revision to tasks and timelines once the consultant is selected. If projected timelines are accurate, the eight-month period from June of 1984 to February of 1985 will require the most intensive work of classification staff.

To facilitate communication, I am requesting that one employee from each department be designated as the Steering Committee's primary contact. This person should be able to disseminate information through the department's hierarchy, understand personnel issues, and represent departmental views and operating concerns to the Steering Committee. These individuals will be placed on the Committee's mailing list immediately, and a meeting with the Steering Committee will be scheduled at a later date. The name of your designee should be sent to Janet Jaron, Chief of Classification and Pay.

Please advise me or my staff if you wish additional information at any time about the process or content of this Study. I will be contacting you in 1984 with specific requests for support from your staff as tasks and the approach for the review process are better defined. Thank you for the help of your department in this project.

LR/JJ/je
20/4D1/1103-05/22
Attachment
Original to each Commissioner
and the Attorney General
cc: Personnel Officers

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF ADMINISTRATION

OFFICE OF THE COMMISSIONER

POUCH C (MS 0200)
JUNEAU, ALASKA 99811
PHONE: (907) 465-2200

November 10, 1983

Cherie Shelley, Executive Director
Alaska Public Employees Association
Juneau Headquarters
340 North Franklin Street
Juneau, AK 99801

Dear Ms. Shelley:

The Division of Personnel budget for the 1984 fiscal year contains $500,000 for development of a new classification system. In addition to providing a sound evaluation method that promotes consistency and equity in classification, we will look for a system that is capable of responding to comparable worth questions. I have formed a Steering Committee for this project composed of the following:

Representative "Mitch" Abood
Barry Best, Equal Employment Opportunity Director
Al Eagle, representing Office of Management and Budget
Ben Harding, Governor's Office
Janet Jaron, Classification and Pay Section
Senator Bill Ray, Senator Jan Faiks (alternate)
Frank Raye, Director of Personnel

One of the first tasks of the Steering Committee is to develop communication links with all groups and individuals who should receive information and/or comment on the project steps and progression. In addition, the Committee will determine policies, evaluate proposals, establish processes and review deliverables.

A draft timeline for the Classification Study is enclosed. Phase I includes all preliminary steps leading to contracting for a factor evaluation system. Key dates and tasks in this phase are:

1) draft Request for Proposal in early December;
2) publication of RFP in January;
3) on-site, open-to-observation presentations by finalists in April of 1984; and
4) consultants "on board" in June of 1984.

Phase II is the data collection and evaluation period. This section may require substantial revision when the contract is negotiated with the selected consultant. However, provisions for training interested union staff in the

new system and forwarding d[illegible] material to unions for comment will remain components. Phase III provi[illegible] for collection of pay data which, along with information from the internal evaluations, will result in recommendations to the Governor's Office. Phase IV allows a considerable period of time for hearing any appeals which result from the Study and recommended allocations.

You will be receiving additional information from the Steering Committee in the future. The next meeting of this group will be in Anchorage on December 8 at 1:00 p.m. at the Legislative Information Office, 1024 West 6th, first floor conference room. The intent of this particular meeting is to allow observation rather than hear public testimony.

Please advise me, Labor Relations or Personnel staff if you wish additional information at any time about the process or content of this study.

Sincerely,

Lisa Rudd
Commissioner

LR/kw
122D1/1103-10/1
cc: Steve Hafling
State Labor Relations Agency

Bruce Ludwig
Labor Relations Division

Additional actions planned by the Steering Committee include:

- Creation of a mailing list
- Publication of the open meeting in Anchorage papers
- Publication of the Study's existance and invitation to comment in Juneau, Anchorage and Fairbanks papers
- A future Steering Committee meeting in Fairbanks

Thank you for your "front-end" assistance. Please contact Janet or me if you have questions about the Study at any time.

FR/JJ/je
20/4D1/1103-06
cc: Commissioners - Dick Lyon
Mark Lewis
Harold Raynolds, Jr.
Richard Neve'
Don Collinsworth
Robert Smith
James Robison
Edward Pagano
Esther Wunnicke
Robert Sundberg
Robert Heath
Daniel Casey
Attorney General Norman Gorsuch

MEMORANDUM State of Alaska

TO: All Personnel Officers

DATE: November 11, 1983

FILE NO:

TELEPHONE NO: 465-4430

SUBJECT: Classification Study

FROM: Frank Raye
Director
Division of Personnel
Department of Administration

The Steering Committee for the Classification Study focused on communication networks at the first meeting. The role of departmental personnel staff in the Study will be varied and extensive. At various times it will include staffing committees, training, reviewing drafts, and the rating and allocation of positions. Because of the critical role you have and your experience with the State system, the Steering Committee would like your comments at the beginning of this process. Your responses will be consolidated and considered by the Steering Committee when making decisions.

Replies can address the process, content and/or desired outcomes of the Classification Study. The timeline sent with correspondence from Commissioner Rudd provides the tentative plan. Some of the areas you may want to speak to are:

- What the Study should accomplish
- Specific concerns the Study should address
- Elements that are critical to Study success
- Elements to be avoided
- How often and in what manner you would prefer receiving information
- The kind of information most needed by departments and employees

Please have your written response to Janet Jaron by December 2. This allows time to prepare and present this information at the December 8 meeting of the Steering Committee. This will be an open meeting held in Anchorage at the Legislative Information Office, 1024 West 6th, first floor conference room. The intent of the open meeting at this time is to allow observation rather than hear public testimony.

Additional actions planned by the Steering Committee include:

- Creation of a mailing list
- Publication of the open meeting in Anchorage papers
- Publication of the Study's existance and invitation to comment in Juneau, Anchorage and Fairbanks papers
- A future Steering Committee meeting in Fairbanks

Thank you for your "front-end" assistance. Please contact Janet or me if you have questions about the Study at any time.

FR/JJ/je
20/4D1/1103-06
cc: Commissioners - Dick Lyon
Mark Lewis
Harold Raynolds, Jr.
Richard Neve'
Don Collinsworth
Robert Smith
James Robison
Edward Pagano
Esther Wunnicke
Robert Sundberg
Robert Heath
Daniel Casey
Attorney General Norman Gorsuch

Mailing List

Commissioners & A.G.

Commissioner Mark Lewis
Department of Community
and Regional Affairs
Mail Stop 2100

Commissioner Don Collinsworth
Department of Fish & Game
Mail Stop 1100

Norman Gorsuch
Attorney General
Department of Law
Mail Stop 0300

Commissioner Robert Sundberg
Department of Public Safety
Mail Stop 1200

Arthur H. Snowden, II
Administrative Director
Court System
Mail Stop 4100

Judy Porter
Personnel Officer
Department of Law
Mail Stop 0300

Commissioner Harold Reynolds,
Sr.
Department of Education
Mail Stop 0500

Commissioner Robert L. Smith
Department of Health &
Social Services
Mail Stop 0600

Commissioner Dick Lyon
Department of Commerce and
Economic Development
Mail Stop 0800

Commissioner Richard A. Neve'
Department of Environmental
Conservation
Mail Stop 1800

Commissioner Jim Robison
Department of Labor
Mail Stop 0700

Commissioner Esther Wunnicke
Department of Natural
Resources
Mail Stop 1000

Commissioner Daniel A. Casey
Department of Transportation
and Public Facilities
Mail Stop 2500

Maj. Gen. Edward Pagano
Adjutant General
Department of Military
Affairs
Mail Stop 0900

Commissioner Robert Heath
Department of Revenue
Mail Stop 0400

Personnel Officers

Larae Jones
Personnel Officer
Office of the Governor
Mail Stop 0101

Mavis Magnuson
Personnel Officer
Department of Revenue
Mail Stop 0400

Tom Farnan
Personnel Officer
Department of Administration
Mail Stop 0208

Kay Schilz
Peronnel Officer
Department of Education
Mail Stop 0500

Lynda McCurry
Personnel Officer
Department of Labor
Mail Stop 0700

Marianne Brustad
Personnel Officer
Natural Resources
Mail Stop 1000

Al Hanson
Personnel Officer
Department of Environmental
Conservation
Mail Stop 1800

Roger Thayer
Personnel Officer
Department of Transportation
and Public Facilities
Mail Stop 2500

James Lawson
Personnel Officer
Department of Commerce and
Economic Development
Mail Stop 0800

Carol McQueen
Personnel Officer
Department of Fish and Game
Mail Stop 1100

4/4D1/1114-02/1

Personnel Officers - Cont.

Phyllis Schmidt
Personnel Officer
Division of Adult Corrections
Mail Stop 2000

Tom O'Donnell
Personnel Officer
Department of Health &
Social Services
Mail Stop 0600

Fran Kinney
Personnel Officer
Department of Military
Affairs
Mail Stop 0900

Chet Cottongim
Personnel Officer
Department of Public Safety
Mail Stop 1200

Debra English
Personnel Officer
Department of Community &
Regional Affairs
Mail Stop 2100

Unions

Ms. Cherie Shelley,
Executive Director
APEA
340 N. Franklin St.
Juneau, AK 99801

Mr. Ed Harter, President
PSEA
P.O. Box 4-2624
Anchorage, AK 99509

Mr. Steven Frank
National Marine Eng.
Beneficial Assoc.
2701 First Avenue
Seattle, WA 98121

Mr. Al J. Baffone, Sr.
Business Manager
Public Employees Local #71
530 East Fourth Avenue
Anchorage, Ak 99501

Mr. Jerry Johansen,
Regional Director
Inlandboatmen's Union
P.O. Box 6300
Ketchikan, AK 99901

Capt. David Boyle
International Organization of
Masters, Mates & Pilots
55 Bell Street
Seattle, WA 98121

Ms. Janet Pusich, President
Confidential Empl. Assoc.
P.O. Box 558
Juneau, AK 99802

State Personnel Board

Mr. C. R. "Steve" Hafling
State Labor Relations
& State Personnel Board
P. O. Box 6701
Anchorage, Ak 99502

Senate Committee on
Employment Practices

Ms. Myrt Charney
Executive Director
Legislative Affairs Ag.
Room 100, Behrends Buildin
Juneau, AK 99811

Honorable Don Bennett
Alaska State Senator
P.O. Box 2801
Fairbanks, AK 99707

Mr. Ken Kareen
Personnel Officer
City & Borough of Juneau
Juneau, AK 99801

Honorable Dick Eliason
Alaska State Senator
P.O. Box 143
Sitka, AK 99835

John Chenowith
Ombudsman
Pouch WO
Juneau, AK 99811

Honorable Rick Halford
Alaska State Senator
Chugiak, AK 99564

John Pugh
Acting Deputy Commissioner
Department of Health &
Social Services
Mail Stop 0600

Mr. Greg O'Clary
124 Front Street
Juneau, AK 99801

4/4D1/1114-02/2

Senate Comm. on Empl. Practices-Cont.

Fran Rose
Special Assistant to the Commissioner
Department of Administration

Ms. Cherie Shelley
(See Unions)

Lynda McCurry
(See Personnel Officers)

Other State Offices

Executive Director
Alaska's Women's Commission
Mail Stop 0101

Administration

Janet Bradley
Executive Director
Human Rights Commission
Mail Stop 0112

Commissioner Lisa Rudd
Department of Administration

Department Representatives

Eleanor Andrews
Deputy Commissioner
Department of Administration

Ervin B. Jones
Director, Administrative Svcs.
Department of Revenue
Mail Stop 0400

Director of Labor Relations
Department of Administration
Mail Stop _____

Richard I. Pegues
Director, Administrative Svcs.
Department of Law
Mail Stop 0305

Caroline Venusti
Manager, FFO
Division of Personnel

Joe Betit
Asst. Commissioner, Admin.
Dept. of Health & Social Svcs.

Bill Publicover
Director, Administrative Svcs.
Dept. of Environmental Conservation

Darrell Keith
Manager, AFO
Division of Personnel

4/4D1/1114-02/3

By Request

Ms. Leta Kaye
c/o Honorable Robert H.
Bettisworth
Alaska State Representative
211 Cushman St.
Fairbanks, AK 99701

Honorable Niilo Koponen
Alaska State Representative
P.O. Box 252
Fairbanks, AK 99707

Honorable Jim Duncan
Alaska State Representative
Mail Stop 3100

Honorable Mike Miller
Alaska State Representative
Mail Stop 3100

Honorable Donald E. Clocksin
Alaska State Representative
1527 "H" Street
Anchorage, Ak. 99501

Honorable Vic Fischer
Alaska State ~~Representative~~ Senator
1024 W. 6th, Anchorage, Ak. 99501
4/4D1/1114-02/4

REQUEST FOR PROPOSALS

FOR THE

CLASSIFICATION PROJECT

State of Alaska

Department of Administration

Division of Personnel

January 1984

CLASSIFICATION STUDY

Request for Proposals

Table of Contents

I. Introduction..... 1

II. Background
A. The current system..... 2-3
B. The Workforce..... 3-4

C. Additional Factors..... 4-5
1. Decentralization
2. Geography
3. Working Conditions

III. Minimum Requirements..... 6

IV. Scope of Work..... 7-10

V. Responsibilities
A. Consultant.....11-12
B. State.....12-13
C. Joint..... 13

VI. Guidelines for Submittal
A. Conflict of Interest Statement..... 14
B. General Statement..... 14
C. Minimum Requirements..... 14
D. Scope of Work..... 14
E. Staff Assignments.....14-15
F. Cost Proposal.....15-16
G. References.....16-17
H. Other..... 17

VII. Special Conditions
A. Rights of the State..... 18
B. Contracts.....18-19
C. News Releases..... 19
D. Proprietory Information..... 19

VIII. Selection Process..... 20

VIV,. Selection Criteria..... 21

Attachments A - H

INTRODUCTION

The State of Alaska Legislature has funded a Classification Study of the State's workforce. The goal is to provide consistency and equity in classification. The new system must be legally defensible by complying with all state and federal regulations regarding employment. It will also be rationally defensible by improving response time for classification review and increasing the ability of personnel staff to explain the evaluation method to employees and others.

The intent of this Study is to replace the existing method of evaluation with factor evaluation and provide a quantitative base for allocating positions. Additionally, the new system must provide for internal comparison across occupational lines.

The State seeks a consulting firm to provide a factor evaluation system and work cooperatively with State personnel staff to develop an integrated classification and pay plan. The tasks and respective roles envisioned are detailed in this document. It is anticipated that proposals will be in the $250,000 to $350,000 range, including Task #6. This is a realistic estimate of the funds the State has available for the consultant component of this study.

A Pre-proposal Conference will be held on February 9, 1984 in Room 707, State Office Building, Juneau, Alaska. The intent of this Conference is to identify, prior to proposal submittals, areas or statements in the RFP that would benefit from clarification. Questions submitted in advance will be read and answered first. Oral questions and responses will follow.

A transcript of the Conference will be mailed to each firm who has requested a copy of the Request for Proposals. Written questions to be addressed at the Conference must be received by February 7. Attendance will not be taken at the Conference. No questions will be answered following this Conference.

This RFP is issued by the State of Alaska, Department of Administration, Division of Personnel. The issuing office is the sole point of contact in the State for this RFP. Mail questions for the Pre-Proposal Conference to:

Janet Jaron
Chief, Classification and Pay
Department of Administration
Division of Personnel
Pouch C-0201
Juneau, AK 99811

BACKGROUND

Alaska Statute, Title 39 Section 25.150 charges the Director of Personnel with the preparation, maintenance and revision of a position classification plan for all positions in the classified and partially exempt services. By law, positions are to be grouped into classes based on duties and responsibilities and the plan must include for each class a title, a description of duties and responsibilities, training and experience qualifications, and other necessary position qualifications.

Attachment A highlights some of the historical aspects of the Classification and Pay Plan for the State of Alaska. Studies occurred in 1965 and 1982 but were not implemented. The 1965 Study recommended a pay matrix which was unacceptable because it deviated considerably from the existing matrix. The 1982 Study was not completed when funds were exhausted. No further funding was sought because communication channels for the Study had not been sufficiently open to all elements of the workforce, and the method being developed was occupationally specific. The only integrated classification and pay plan which reviewed all positions and was implemented occurred in 1961. The following explains the system in use, size and nature of the workforce, and additional factors that require consideration.

A. THE CURRENT SYSTEM

Whole job evaluation is used to determine appropriate classification. While analysts consider elements such as responsibility, knowledge, reporting relationships, complexity and work environment, there are no weights assigned to these components. How each element influences the classification outcome varies from review to review. Complaints are received regularly from employees, management, unions and classifiers that the system is hard to understand, inconsistent, subjective, and non-responsive to new information. There is also the charge that classification reviews take an unreasonable amount of time.

Pay schedules are negotiated with respective unions during collective bargaining. Usually adjustments to the pay schedule occur annually. Several schedules result: the Public Safety unit has 7 ranges and the Labor, Trades and Crafts unit has 12. However, the majority have approximately 25 ranges, each with six progressive steps and additional longevity steps. The ranges and steps vary by a few dollars across schedules for partially exempt, non-represented, and employees in the General Government, Supervisory, and Confidential bargaining units. All units work a 37.5 hour week except the Supervisory unit, which has a 40 hour week. The current schedules appear as Attachment B.

Ranges for partially exempt and non-represented classified jobs are recommended by the Classification and Pay Section. During the contract year, this Section also recommends: 1) ranges for new classes identified and 2) increases and decreases to existing classes when data indicates pay ranges need adjustment.

Common practice is followed in recommending ranges: internal comparisons are considered, and market information adjusted to Alaska's cost-of-living is evaluated. Again, no weight has been determined for these elements, and consistency in pay recommendations is questionable. The potential problems are compounded by the number of new classes added one-at-a-time since the complete review in 1961.

Class specifications have been developed and individually revised over 23 years. While specifications contain similar sections, they are not all uniform in format or content. Additionally, no attempt has been made to validate the Minimum Qualifications section or to analyze the system for consistency in existing Minimum Qualifications.

B. THE WORKFORCE

There are 13,414 classified positions in the State. An additional 484 positions are designated as "partially exempt." The latter are not governed by the selection process mandated for classified staff but do have pay rates recommended by the Classification and Pay Section. Of the 1137 class specifications in existence, 45 are specific to partially exempt positions. 700 positions in the Marine Transport system which are essentially without written descriptions will be included in the Classification Study. Lastly, 459 exempt positions in the Court System will be evaluated and described in the Study context. Total filled and vacant positions for evaluation = 15,057.

In the Study group there are approximately 3600 positions in Juneau, 5300 in Anchorage and 1750 in Fairbanks. The balance are distributed across the State. 13,984 positions, or 93% of the study group, are represented by one of seven unions. With few exceptions, all positions in the classified service, including Personnel Analysts and Personnel Officers, are represented by a union. The distribution and unions are:

Positions	Unions
9314	Alaska Public Employees Assn., General Govt. Unit
1126	Alaska Public Employees Assn., Supervisory Unit
434	Public Safety Employees Association
2215	Public Employees Local #71, Labor, Trades & Crafts
195	Confidential Employees Association
560	Inlandboatman's Union
70	Intl. Organization of Masters, Mates and Pilots
70	National Marine Engineers Beneficial Association

Note: The Alaska Public Employees Association has two staff positions designated as Classification Officers.

State Departments and the number of positions per department are: Administration (1050), Law (300), Revenue (325), Education (360), Health and Social Services (1780), Labor (620), Commerce and Economic Development (300), Military Affairs (90), Natural Resources (810), Fish and Game (1040), Public Safetly (800), Environmental Conservation (210), Community and Regional Affairs (170), and Transportation and Public Facilities (3270). A new Department of Corrections is recommended and would include 800 employees from the Health and Social Services total. Besides a full complement of clerical, administrative, labor/trades, public safety, scientific and technical positions, the State staffs a ferry system, hospitals, correctional institutions, homes for the aged, libraries, museums, airports and a telecommunications system.

C. ADDITIONAL FACTORS

1. Decentralization

A central Personnel Division consisting of Classification and Pay, Recruitment and Examining, Certification and Records and Training is located in Juneau. There are Personnel Division offices in Anchorage and Fairbanks that serve applicants and service departments and employees in those areas.

The central Personnel Division has delegated authority to most departments for major personnel functions, including classification. There are presently seven analysts in the Juneau Personnel Office and two in the Anchorage Personnel Office doing some classification work. 31 departmental personnel complete classification reports as their major duty or one of several duties. In full-time equivalents, approximately 19.0 positions are classifying jobs. While all work is submitted to the central personnel office for review, it is impossible because of time restraints and the size of central staff to do more than a cursory review of this work. In addition, a thorough review by central staff defeats the intent of delegation. Because of this structure, a large number of people must receive training in any new system. Also, a quantitative system that allows inter-rater reliability checks is mandatory to assure consistency in allocations.

2. Geography

Alaska is the largest State in the Union in area with 589,757 square miles. Of 460,850 people, population in the three major cities is approximately 200,500 for Anchorage, 59,200 for Fairbanks and 22,000 for Juneau. Attachments C and D show Alaska's relationship in size to other states and a detail of the State. Note that transportation in the Southeast Region, which includes Juneau, is by air and water only south of Haines. Many locations in other regions are not tied into a road system.

3. Working Conditions

In addition to isolation, working conditions in some locations include:

-below freezing temperatures

-18 to 24 hours of darkness in winter months
-delays in receiving goods and information

MINIMUM REQUIREMENTS

The State will review only those written proposals of firms which have:

-developed and utilized a factor evaluation system which allows comparisons across occupational lines;

-experience in data collection and the application of factor evaluation systems in public sector environments;

-experience working with government senior management;

-experience training employees in the use and maintenance of the evaluation method.

SCOPE OF THE WORK

The scope of work defined here is to provide guidance to those firms submitting proposals and is insufficient for the legal purposes of entering into a contract with a management consultant. Full details of any resulting offer will be explained in the contract negotiated.

The final product of this Study will be an integrated classification and pay plan proposal. It will include a complete set of classification specifications, a schematic, recommended pay matrices, training manuals for evaluating jobs and using the system selected, automated support to sustain the system, and an appeal process for employees.

The selected firm will work with Division of Personnel, a Steering Committee and departmental personnel staff in developing recommendations and assisting in the process of gathering and analyzing information.

Task #1. Provide a factor evaluation system to the State for use in the classification and compensation of all occupational groups.

The consultant will:

(a) Adapt the wording and/or weight of factors to accommodate State needs.

(b) Train approximately 45 personnel professionals in the use of the rating system.

(c) Explain the factor evaluation system to department management.

(d) Recommend a class specification format which reflects the rating system and is consistent with requirements in the Personnel Rules, Attachment E.

Task #2. Recommend and oversee data collection methods during the Study.

The Division of Personnel will identify the study group, address on-going maintenance needs of the existing system, allocate internal staff resources, and coordinate data collection and review.

The Consultant will:

(a) Provide and adapt as necessary a position description questionnaire.

(b) Provide and adapt other forms for collecting rating information.

(c) Train personnel staff in relevant interviewing techniques if audits will be used.

(d) Train personnel staff in committee techniques or other group or presentation techniques needed for data collection.

(e) Review a sampling of ratings completed by State staff to assure accuracy; retrain as necessary for consistency.

Task #3. Develop a communication system that will involve employees, management and unions and increase acceptability of final product.

With direction from the Steering Committee, the Consultant will:

(a) Identify stages of the process and recommend communication methods for each stage and group involved.

Task #4. Recommend methods of automating data collection which facilitate reviews, revisions and comparisons during the Study and system maintenance following the Study.

The Classification and Pay Section has an IBM Personal Computer and a terminal accessing a mainframe. The State's computer system consists of several IBM computers with MVS and VM operating systems linked by a VTAM network. RAMIS, XEDIT, and SAS are available for report generation, statistical analysis and file manipulation. Attachment F provides technical specifications. These resources are not available for Consultant use.

The Consultant will:

(a) Identify any applicable software developed by the firm for use with the factor evaluation system and assess its applicability to the State of Alaska system.

(b) Advise the State regarding the best use of the above resources to support this Study and maintain the resulting system, taking into account the decentralized nature of classification reviews in the State.

(c) Provide documentation to allow automated maintenance of the pay formula following implementation.

Task #5. Project a pay table consistent with existing pay schedules and project implementation costs based on internal analysis. Existing schedules are provided as Attachment B.

The Consultant will:

(a) Display information by class within occupational groups, recommend pay grades and show costs.

(b) Recommend options for implementing any anticipated costs.

Task #6. Evaluate and recommend ratings, series and pay based on points for personnel, partially exempt, medical care, and law enforcement, corrections and public safety positions. (See Task #5 for instructions on pay format.)

NOTE: SUBMIT A SEPARATE COST PROPOSAL FOR THIS ITEM. INDICATE A DOLLAR AMOUNT FOR EACH OF THESE FOUR GROUPS AND A TOTAL FOR ALL FOUR.

Attachment G gives a detail of the current classifications for these groups, and indicates location and department. Summarized:

CATEGORY	# OF DEPTS. WITH POSITIONS	# OF TITLES	LARGEST CLASSES	# OF POS.
Law enforcement, Corrections and Public Safety	10	69	Probation Officer I-IV, Youth Counselor I-III, Corrections Officer I-III, State Trooper, Corporal, Sgt., Airport Safety Officer II-V	1471
Partially exempt	all	78	Division Director, Special Asst. to the Commissioner, Deputy Commissioner, Attorney I-V	486
Medical care	5	64	Nurse I-IV, LPN I-II, Public Health Nurse I-V, Psych. Nurse Asst. I-IV, Nursing Aide, Mental Health Clinician I-IV, Resident Aide I-IV	702
Personnel	all	20	Personnel Tech., Personnel Asst., Personnel Officer and Analyst II-V	130

The Division of Personnel will coordinate data collection.

The Consultant will:

(a) Identify and rate classes of work using the same data collection techniques as State staff reviewing the workforce.

(b) Draft class specifications using the format as agreed upon in Task #1(d).

(c) Present recommendations including class and rating displays consistent in format with those prepared by State staff.

RESPONSIBILITIES

The following shows the tasks, party responsible, and product expected as envisioned at this time. Timeframes will be incorporated into any contract negotiated.

A. CONSULTANT

Task	Product
Review factors and weights with Steering Committee, incorporate revisions.	Factor evaluation system in final form
Recommend methods of data collection.	Data Collection Method
Present data collection forms, including position description questionnaire, to Steering Committee; revise as necessary.	Data Collection Forms
Recommend a standardized class specification format which reflects the rating system.	Specification Format
Train staff (approximately 45 people) in rating method, interviewing techniques, and completion of forms, including position description questionnaire.	Training Workshops
Train staff in any additional data collection skills needed to support the study.	Training Workshops
Present recommendations for communication networks to Steering Committee.	Communication Plan
Demonstrate system to management.	Presentations
Provide or recommend software for automating rating information by class and position.	Automated System and Documentation
Review sample of ratings from staff; retrain as necessary.	Inter-rater Reliability Report and Methodology
Review, rate, format and draft specifications for personnel, law enforcement, partially exempt and health positions.	Classification Recommendations
Cost out dollars needed to implement points.	Cost estimate & Report
Provide software and documentation for maintenance of classification and compensation components of the new system.	Automated System

Task	Product
Train staff in system maintenance.	Training
Present findings and recommendations for job groups in Task #6, Scope of Work.	Presentations & Report
Format all rating information and salary recommendations.	Report

Other

Typing and computer services to support consultant work, copies of reports prepared by consultants, and long distance phone calls initiated by the consultant are the responsibility of the firm selected.

B. STATE

Develop a specification numbering system.	Schematic
Determine appeal process for employees.	Appeal Procedure
Update organizational charts.	Organizational Information
Assign occupational groups and functional areas to staff.	Assignments
Write instructions for clustering jobs, including one-position classes.	Training Manual
Write instructions for preparing class specifications.	Training Manual
Make presentations to departments, log in position description questionnaires received, follow up for missing information.	Data Collection
Prepare specifications.	Classification Specification Book
Collect, revise, display ratings.	Charts
Recommend series and levels.	Charts & Report
Display benchmark ratings for classes.	Charts
Track old system to new.	Charts & Report
Consider adjustments to system based on market data.	Pay Recommendations

Other

The State will provide workspace in the Classification and Pay Section for two consultants for the duration of the Study.

The State will cover duplicating costs for forms to be used and data collected from State sources.

The State will provide easy-to-read, formatted information to consultants for use in the preparation of reports and recommendations.

C. JOINT CONSULTANT AND STATE

Consultant orientation to State system.	Training
Rating jobs consistently.	Ratings & Report

GUIDELINES FOR SUBMITTAL

Eight copies of the proposal narrative and one copy of the cost statement should be submitted and contain the indicated information in the following order. The proposal should be submitted in two separate sections; 1) technical section (eight copies) and 2) cost section (one copy). For this RFP, the proposal must remain valid for at least 90 days.

LATE RESPONSES WILL NOT BE CONSIDERED AND WILL BE RETURNED TO SENDERS.

Proposals are to be submitted in double envelopes. Indicate on the outside envelope that a proposal is enclosed. Mailed material should be sent by registered, certified or express mail.

If there is doubt that your proposal or amendments will be received in time, telegraph or other forms of written notice that the proposal is in the mail will reserve the right to have your proposal read when it is received. This written notice must be received on or before 4:30 p.m. on March 14, 1984.

It is suggested that proposals be mailed at least five (5) days prior to March 14, 1984 due to possible postal delays.

<u>The submittal shall consist of</u>:

A. A statement indicating that there are no conflicts of interest for the consultant in proposing or executing this Study or an explanation of potential conflicts.

B. The consultant's statement of the problem and desired outcome.

C. A one-page summary addressing the Minimum Requirements.

D. Scope of Work:

A discussion of how the proposer would prepare for and conduct the tasks and a description or discussion of each task.

- Bidders should describe the job evaluation methodology to be used, why it is appropriate for this application, how it was validated, and the level of reliability which has been achieved or can be expected.

- Indicate if the system has been modified for previous applications and, if so, how.

E. Consultant Staff Assignments.

The commitment of each individual's time through the completion of the project indicated as follows:

Task	Individual X	Y	Z
1a.	%	%	%
b.	%	%	%
c.	%	%	%
d.	%	%	%
2a.	%	%	%
Etc.			

Indicate on the table who would be the project manager. Attach resumes for each individual identified.

Indicate how turnover in assigned staff would be addressed.

Indicate how much time would be spent on-site in Alaska.

Indicate what percentage of job audits are assumed in the proposal.

F. Cost Proposal.

Submit two fee schedules, one including and one excluding Task #6. Prepare the proposal in four parts:

1. A narrative
2. A summary cover sheet
3. A line-item detail
4. A work plan

The cost proposal must be supplied with the technical proposal by the deadline set for submittals. NOTE: The cost proposal and the technical proposal must be packaged separately with the cost proposal clearly marked.

In order to receive full consideration, this section must be complete. The prices and information provided will form the basis of payment under any resulting contract.

Narrative

This section should be brief and should reflect:

- -An official offer to undertake the project at the quoted price
- -A commitment to perform all financial responsibilities relevant to the performance of the proposed contract
- -the length of time the offer is valid (90 day minimum)
- -a statement that the price has been determined independently without discussions or information exchange with other competing interested parties

-the approval and title of an authorized signer for the organization.

Summary Cover Sheet

Show costs by categories from the line-item detail and total price quote.

Line-item Detail

List:

-Personnel costs for professional staff by individual by hour including benefits
-Personnel costs for other support staff by hour including benefits
-Travel costs with detail of destinations, number of trips and purpose of travel
-Per diem expense by days
-Sub-contract costs, if any
-Duplicating costs
-Computer costs by hour
-Other direct costs itemized
-Overhead and administrative costs detailed and explained

The Work Plan

The State desires to have the project begin in June of 1984 and be completed not later than August 1985.

-Submit a proposed timetable for the performance and schedule for completion of each segment of each task.

-Show each task, the number of weeks and staff hours for each function, the cost and available start date.

-For Task #6, show how many audits are assumed in the estimate.

-Provide a schedule of reports to be provided and estimated dates for delivery.

If arrangements have been made to subcontract any of the items in the study, indicate the amount of time subcontractors would devote to each work item.

G. References

Attach a list of current projects and projects completed in the last three years in the area of classification/compensation. For completed projects, indicate: 1) the scheduled completion date and actual completion date; and 2) whether or not results were implemented.

Provide the organization's name, address, phone number and name of

that organization's project coordinator for each listing.

H. Other

Also submit:

-Any other material not specifically requested in the RFP that is indicative of the proposer's ability to perform the work under the stated provisions of the RFP.

-Any important tasks associated with the project that have been left out of the scope of work in this RFP.

Mail proposals to:

Janet Jaron
Chief, Classification and Pay
Dept. of Administration
Division of Personnel
Pouch C-0201
Juneau, Alaska 99811

SPECIAL CONDITIONS

The State will not pay any costs involved in the preparation and submittal of proposals or expenses incurred to prepare for or be present for oral presentations during the selection process. A consultant may be disqualified at any time because of unfavorable reference reports. Proposals that exceed the range stated may be eliminated as non-responsive.

The State reserves the right to:

-Accept or reject any or all proposals received.

-Negotiate with all qualified sources.

-Cancel this RFP in part or in its entirety.

-Request additional written or oral information in support of the proposal or to clarify any aspect of the proposal.

-Inspect the premises of the Consulting firm.

-Retain all copies of proposals or information submitted to support a proposal.

-Make any deletions or additions to the statements in the RFP.

-Terminate this project prior to its completion by the offeror according to the terms outlined in the attached contract form.

-Require the selected proposer to participate in negotiations on the terms and conditions of a contract and to submit revisions, including price revisions that may result from such negotiations.

-Check references.

-Retain all data and working papers generated during the Study.

-Retain all rating forms and class specifications completed by consultants.

Contracts

-The RFP does not commit the State to award a contract.

-A copy of a typical contract form is included in Attachment H. Any exceptions to the stated contract provisions should be noted in proposals.

-Payments under this contract will be made upon receipt of contractor's billing statement together with acceptable completed work products identified as Consultant Responsibilities (see 5(a)).

The specific incremental payment schedule will be negotiated with the successful bidder. Conditions for payment will be detailed in any contract negotiated.

-State payments will not exceed those specifically agreed to in the written contract.

-The State of Alaska will be strongly committed to the agreed-upon timetable and will consider penalty clauses for late deliveries when negotiating any contract.

-The contents of the proposal of the successful bidder may become contractual obligations, if a contract ensues. Failure of the successful bidder to accept these obligations may result in cancellation of the award.

-A contract resulting from this Request for Proposals for Professional Services must be submitted to the Commissioner of Administration for approval. If approved, it is effective from the date of approval.

News Releases

News releases pertaining to this RFP or the service, study or project to which it relates will not be made without prior State approval, and then only in coordination with the Issuing Office.

Proprietary Information

The State will attempt to prevent disclosure of information supplied by each proposer to others, provided such information is appropriately identified, arranged in such a way as to permit segregation and is not subject to public record. The State may release a summary of total prices.

SELECTION PROCESS

There will be a two-stage selection process for responding firms. The Steering Committee will evaluate the written proposals of firms meeting the specified qualifications using the criteria outlined in this narrative.

From this process finalists whose proposals appear to best fit requirements will be identified and requested to make on-site presentations. No more than three persons should participate in presentations. The project manager must be one of the participants and must be present at all contract negotiation sessions. Other participants would be those anticipated for most direct involvement in the Study. The rating criteria for presentations appears under "Selection Criteria."

All firms will be notified as soon as possible following the evaluation of written submittals.

The State reserves the right to ask for references and contact such references about the consultant's ability to perform the work.

The anticipated timetable for the selection process is:

1/13/84	RFP available
2/7/84	Deadline for receiving written questions from Consultants
2/9/84	Pre-proposal Conference
3/14/84	Deadline for responding to RFP
4/10/84	Identification of finalists
4/23/84 - 4/30/84	On-site presentations
5/1/84 - 5/21/84	Award and negotiation of contract
5/21/84 - 6/6/84	Contract review period
6/11/84	Commencement of consultant work

SELECTION CRITERIA

Consultants meeting the Minimum Requirements will be evaluated as follows:

Written Proposal	
Adequacy of scope of work	20.0%
Qualifications and experience of firm and individual consultants in develop-in classification/compensation plans with features outlined on the RFP for organizations similar to the State of Alaska	12.5%
Costs for services proposed	12.5%
Schedule and availability of consultants	5.0%
Total for Written Proposal	50.0%
Interview	30.0%
References	20.0%

Classification Study

Steering Committee

December 8, 1983

AGENDA

I. Activity since 10/19/83 Meeting

   A. Advertising

   B. Communication Network

   C. Input

II. Budget Reappropriation

III. Request for Proposals

   A. Highlights

   B. Pre-proposal Conference - revision to timeline

   C. Comments

IV. Next Meeting Date (Week of 1/30 - 2/3?)

DRAFT
Pg. 1

CLASSIFICATION STUDY - TASKS AND TIMELINES

Request for Proposals and Selection Process

TASK	PERSON/S RESPONSIBLE	Dec. 83	Jan. 84	Feb. 84	Mar. 84	Apr. 84	May 84	June 84
Establish log of phone calls related to RFP process		X						
Prepare cost estimate for professional services		X						
Review input on RFP		X X X						
Process Authority to Negotiate		X						
Request Professional Services Contractors Register		X						
Final draft of RFP		X						
Law Dept. review of RFP			X					
Notice Letter to Contractors Register & inquiry letters			X					
Advertise availability of RFP			X					
Pre-proposal Conference				X				
Consider amendments to RFP - distribute any changes				X				
Mail transcript of Conference to Consultants who returned Information sheets.				X				
Receive Proposals					X			
Evaluate Proposals -Screen for non-responsive proposals					X			
-Evaluate written proposals					X			
-Summarize evaluations						X		
-Status letter to respondents						X		
-Oral presentations						X		
-Notice of Award to respondents							X	

CLASSIFICATION STUDY - TASKS AND TIMELINES
Request for Proposals and Selection Process

TASK	PERSON/S RESPONSIBLE	Dec. 83	Jan. 84	Feb. 84	Mar 84	Apr.84	May 84	June 84	
Contract negotiation							X X X		
Finalize contract							X X	X	
Consultants begin								X X X	

02-001B (Rev. 10/76)

STATE of ALASKA

MEMORANDUM

TO: Classification Study Steering Committee

DATE: 12/22/83

FILE NO:

TELEPHONE NO: 465-4424

FROM: Janet Jaron
Division of Personnel
Department of Administration

SUBJECT: Attached and next meeting

- The two pages accompanying this note summarize our second meeting. Please call any errors or omissions to my attention.

- The Assembly Chambers of the Municipal Building is reserved for our use on February 4th from 10:00 a.m. to 1:00 p.m. You will receive a second meeting notice a week prior to the 4th.

DEPARTMENT OF ADMINISTRATION
Division of Personnel

Classification Study
Steering Committee Meeting Summary
12/8/83, Anchorage

Members present: Representative Abood
Barry Best
Gary Bader
Senator Faiks
Ben Harding
Janet Jaron
Frank Raye

Information update:

- Gary Bader now represents OMB on the Steering Committee.
- Tasks identified at the 10/19 meeting were completed on time.
- The Request for Proposals was summarized and recommendations for change noted.
- A request will be sent to the Legislature to identify Study funds as continuing.

Actions planned:

The attached chart shows specific activities to be completed in December and January. In addition, the Committee determined that:

- Follow-up for Personnel Officers' comments will continue until successful.
- All unions will be contacted before February 4th and given a summary of activity-to-date.
- Meeting notices will be published in Anchorage, Fairbanks, and Juneau regardless of meeting location.
- All names on the mailing list will receive meeting agendas.
- A Committee meeting will be held 2/4/84 in Juneau. A future meeting will be scheduled in Fairbanks.

Classification Study
12/8/83
Steering Committee Decisions

TASK	DRAFT	FINAL	DISTRIBUTE
Summary of 12/8/83 Meeting.		12/23/83	12/27/83
Publish notice of 2/4/84 meeting in 2 Anchorage papers, Fairbanks, and Juneau.	1/13/84	1/17/84	Juneau - 1/27/84 Anchorage/Fairbanks - 1/23/84
Notify Committee of 2/4/84 meeting, place and time.		12/27/83	1/26/84
RFP - second draft.	12/30/83	1/12/84	Available 1/13/84
Draft ad for RFP.	12/30/83	1/4/84	1/13/84
Prepare agenda.		1/25/84	1/27/84 to Mailing List

12/22/83

MEMORANDUM State of Alaska

TO: Jay Hogan
Associate Director
Division of Budget Review
Office of Management and Budget

DATE: January 23, 1984

FILE NO:

TELEPHONE NO: 465-2277

FROM: Kenneth R. Ryals
Director
Division of Administrative Services
Department of Administration

SUBJECT: FY 84 Supplementals
And Lapse Dates

I have reviewed the Department of Administration operations and after implementing several operating efficiencies find that only the following divisions need supplemental '84 funding to operate without serious program impacts. This supplemental request is essentially the same as the request forwarded to Gary Bader on November 10, 1983. The changes are in the Personnel Applicant Tracking System and in Telecommunications Systems' attorney fees. The other item of importance is to procure an extension on the lapse date for the Classification Study ($500.0; Sec. 30, Chapter 107, SLA 83). This study will continue into FY 85 and the funding lapse date should be extended to June 30, 1985 to reflect this plan.

1. Retirement Systems - 560.1

As we have discussed, supplemental budget requests are necessary for both the TRS State Match and Elected Public Officers Retirement System (EPORS) to meet FY 83 obligations. Funding for the TRS State Match is required by AS 14.25.080. Funding for the EPORS is required by AS 39.37.110.

To fully meet the FY 83 obligations requires a supplemental for the TRS State Match of $161.5; and a supplemental for the EPORS of $28.9. These monies are needed to fully meet the actuarially determined benefit costs of each system.

It is estimated at this time that FY 84 obligations would require supplementals of $267.9 for the TRS State Match and $101.8 for the EPORS.

2. Public Defender - 78.0

The budgeted office in Anchorage was required to move to new space, due to very cramped space and concerns of neighboring bank which had become an overflow waiting room. The new field office was closer to OSHA space standards.

02-001A(Rev. 10/79)

3. Information Resource Management - 2,250.0

As part of a data center consolidation, there will be costs of getting out of the existing purchase contract on the IBM 3033A computer in Juneau. Even if there were no consolidation, the State would require a larger computer so there would be a need to get out of the existing purchase contract. While this item is a budgetted FY 85 Capital Request, it is advantageous to begin in FY 84 if possible.

4. Pioneer's Homes - 380.1

This program budget was initially submitted to the legislature at less than full funding needed to run the Anchorage Nursing Wing and to fund contractual services. Supplemental funding is necessary to prevent relocation of residents to other Homes, Senior Centers, relatives, etc.

5. Personnel - 100.0

To fund repair and maintenance of the Automated Personnel Applicant Tracking System. Contractor is completing DMS version. State will bear the expense for parallel testing and installation of the new system. Funds needed to RSA to CUS for the effort. Funds were inadvertently cut twice during the 1983 Legislative Session. There are no funds budgeted to maintain this system. The system has developed unanticipated problems in December, which will require more funding to expeditiously repair. This system must keep running or Personnel will have to pull staff away from other duties to run a slower manual system. If the manual system is in operation, the hiring processes will slow down, applicant waiting time will increase and public services may suffer as needed positions remain vacant.

6. Telecommunications Systems - 75.0

An additional 75.0 is necessary for attorney fees covering representation of Alaska in Washington D.C. on Telecommunication matters. Most recently, active protection of Alaska citizens' interests on the nation-wide unbundling of telephone toll tarrifs is an example of these activities.

I would be glad to discuss this request and to forward any further documentation as you request it. I look forward to continuing to provide solid public and administrative services to other departments.

KRR/tzt
19/1D1/1219-04

Request for Proposals

The State of Alaska, Division of Personnel is starting a classification study of State positions and seeks a consultant to provide a factor evaluation system. The goal is to propose an integrated classification and pay plan with a quantitative base. Several study tasks will be executed by State personnel staff. Consultant responsibilities include:

- Recommendations for data collection procedures.
- Recommendations for internal communication networks.
- Staff training.
- Evaluation of a portion of the work force.
- Recommendations for automation to support data collection, system implementation, and system maintenance.
- Pay recommendations.
- Cost estimates for implementation.

Work begins June of 1984 with final recommendations in August of 1985.

A pre-proposal conference is scheduled for February 9, 1984; therefore, written inquiries must be received by February 7, 1984. Proposals are due by 4:30pm on March 14, 1984. Full details of requirements and submittal guidelines are contained in the Request for Proposals available from: **Janet Jaron, Chief, Classification and Pay, State of Alaska, Department of Administration, Division of Personnel, Pouch C-0201, Juneau, AK 99811, (907) 465-4424.**

State of Alaska

January 13, 1984

STATE OF ALASKA

DEPARTMENT OF ADMINISTRATION
Division of Personnel

The attached advertisement advises the availability of the Request for Proposals. The following lists the newspapers and scheduled dates the advertisement will appear:

Anchorage Daily News	Jan 13, 16, 17
Anchorage Times	Jan 13, 16, 17
Fairbanks Daily News Miner	Jan 13
Juneau Empire	Jan 13
Nome Nugget	Jan 19
Alaska Journal of Commerce	Jan 16
Administrative Journal	Jan 16
North Star Reporter	Jan 15
Wall Street Journal - National	Jan 17, 18
National Business Weekly Wall Street Journal	Jan 20
Seattle P I/Seattle Times	Jan 17

STATE OF ALASKA

DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL
MEETING NOTICE

The Steering Committee for the Classification Study of State positions will meet in Juneau on Saturday, February 4th, in the Assembly Chambers of the Municipal Building, 155 South Seward Street, from 10:00 a.m. to 1:00 p.m.

Activity to date will be reviewed and new issues discussed. Space will be available for observation of proceedings. Agendas will be available at the meeting.

For additional information, contact the Chief, Classification and Pay, Division of Personnel, Pouch C-0201, Juneau, AK 99811, or call 465-4424.

Publish: January 27, 1984 A.O. 02-73708

Meeting notice appeared in both Anchorage papers and the Fairbanks paper, in addition to the display ad above from the Juneau Empire.

2/84

Meetings with Unions
to Explain Classification Study

Alaska Public Employees Association Cherie Shelley, Darlene Livermore, Doryce Eggleston, Deborah Manion	11/83
Confidential Employees Association Janet Pusich	11/83
Labor Trades and Crafts, Local 71 Al Baffone, Don Valesco, Ginny Peterson	2/1/84
Public Safety Employees Association Ed Harter (Anchorage: 276-6464)	
Inlandboatmans Union Jerry Johanson (Ketchikan: 225-6360)	
Masters, Mates and Pilots Captain David Boyle (Seattle: 623-2271)	2/15/84
National Marine Engineers Beneficial Association Karl Landegrebe (Seattle: 682-6322)	2/15/84

Classification Study

PERSONNEL OFFICERS' COMMENTS
February, 1984

The following organizes the major categories Personnel Officers addressed. Those recommendations or concerns listed most frequently appear first. In summary, those issues mentioned most are:

-need for good communication

-desire to remove inequities in the existing system

-problems in the clerical classes.

Communication

-Provide for frequent and on-going input and involvement for personnel officers.

-Encourage "up-front" and continuing involvement of Governor's Office, Legislature and unions; don't ignore input of any affected/interested group.

-Involve managers, respect departmental concerns, expertise, and input.

-Provide step-by-step progress reports at least once a month.

-Have an open environment and free flow of information; avoid misleading information.

-Use personnel officers as key information disseminators.

-Try to identify and inform employees in advance of the goals, timeframe and effects of this Study.

-Make it clear that the Study will not solve all problems but will improve the quality of decision-making.

-Use memos to send information but call personnel officers if there will be a delay in sending a memo.

-Use Personnel Council meeting to provide information.

-Avoid surprises.

-Sell the Study to users.

Structuring Classes/Class Series

-Provide clear distinctions between levels in a series, particularly in the clerical group.

-Remove inequities in the clerical classes.

-Identify significant factors common to many jobs and use them to classify positions.

-Look for more generic classes.

-Review the existing flex-staffed classes, eliminate flex for those that are not appropriate for flexing, develop specific criteria for all flex-staffed positions.

-Emphasize responsibility of a position, do not consider volume.

-Straighten out the Administrative Assistant and Administrative Officer series.

-Clearly identify clerical vs. administrative classes.

-Have a clear definition of classes, eliminate the need for "clarification memos."

-Allocate secretaries based on duties.

-Remove restrictions, allow movement through and across related classes.

-Study Labor/Trades and Crafts positions.

-Consider a general Deputy Director class, similar to Director I and II classes.

-Establish clear responsibilities for supervisory jobs.

-Recognize classification differences between Departments and work assignments.

-Consider highly skilled specialists vs. a generalist supervisor.

Class Specifications

-Identify key elements of the class.

-Update specifications to reflect any new technology or skill not reflected now.

-Make sure minimum qualifications are minimum and realistic.

-Remove subjective elements in class specifications.

-Use simple duty statements.

Timing

-Need advanced notice and adequate lead time to complete tasks.

Pay

-Be able to compare across occupational groups and pay accordingly.

-Address pay inequities caused by movement between bargaining units.

-Review pay evaluations for clerical classes.

-Explain thoroughly the method used to determine pay recommendations.

-Bring pay in line with current recruitment needs.

-Stress objectivity and defensibility in the pay plan.

-Explain differences in range relationships for professional and paraprofessional positions, or make them uniform.

-Consider paying on the basis of internal values and recruitment needs instead of on practices in California, Washington and Oregon.

Data Collection

-Training for departmental classifiers is critical.

-Review each position in the system, correct inaccuracies in current classifications.

-Scrutinize jobs equally, regardless of current pay range.

-Review the salary range of each class.

-Simplify writing job descriptions.

-Use desk audits at every level.

-If committees are used, select employees with a background in the personnel system.

Staffing

-Increase the Class and Pay staff for the Study, remember the maintenance work will still have to be processed.

-Suggest an arrangement for generalists to assume some personnel officer responsibilities to free time for officers to do the Study.

Related Personnel Functions

-Review all Training and Experience rating sheets as part of the Study.

-Provide a mechanism for reviewing and resolving any disputes.

-Review the examining process.

-Use the Study information to help applicants identify classes they qualify for.

-The new system should reduce the time spent to classify jobs.

STATE OF ALASKA

DEPARTMENT OF ADMINISTRATION

DIVISION OF PERSONNEL

BILL SHEFFIELD, GOVERNOR

POUCH C-0201
JUNEAU, ALASKA 99811-0201
(907) 465-4430

Classification Study
Steering Committee
February 4, 1984

AGENDA

Location: Assembly Chambers
Municipal Building
155 Seward St.
Juneau, Ak.

I. Status Report

A. Steering Committee Membership
B. Budget reappropriation
C. Request for Proposals
D. Advertising
E. Communication Network

II. February and March activities

A. Pre-Proposal Conference 2/9/84
B. Deadline for Proposal submittals
C. Establishing appeal process

III. Alaska's workforce

A. Responsibilities in jobs and supervision
B. Difficulty/complexity of the work
C. Knowledge/experience requirements for jobs
D. Personal contacts
E. Working conditions

IV. Next Meeting dates:

Rating members for selection process -
Week of March 12

Full Committee meeting - Week of
April 9

DEPARTMENT OF ADMINISTRATION
Division of Personnel

Classification Study
Steering Committee Meeting Summary
2/4/84, Juneau

Members present: Barry Best
Gary Bader
Henry Lancaster
Karrold Jackson
Janet Jaron
Frank Raye

Status Report

- Changes to Steering Committee underlined:

  Rep. Abood, House, Advisory Member
  Gary Bader, Executive
  Barry Best, Administration
  Karrold Jackson, Court System, Advisory Member
  Janet Jaron, Administration
  Senator Ray, Senate, Advisory Member
  (Senator Faiks, alternate)
  Henry Lancaster, Executive
  Frank Raye, Administration

- Budget reappropriation

  + House Bill #581 has been submitted to continue Study funds to 6-30-85.

- Request for Proposals

  + 205 RFP's have been mailed to requesting firms.

- Advertising

  + Average cost for Steering Committee meeting notice in Fairbanks, Juneau and 2 Anchorage papers = $200.

- Communication Network

  + Personnel Officer input on the Classification Study is attached in summary form. This will be an April agenda item. The summary will be given to the selected consulting firm.

  + Meetings with unions continue. Marine Trans unions and PSEA will be seen in February and March.

  + Notice of Steering Committee meetings is being sent to names on the mailing list.

February & March activities

- Preproposal Conference 2/9/84
- 3/14/84 deadline for proposal submittal (advisory members can request copies of proposals received from Jaron.)

Alaska's Workforce

- Members are asked for their ideas on the uniqueness of Alaska's workforce. We need to identify what uncommon circumstances should be weighed in an evaluation system. This will be an April agenda item.

Actions planned:

The attached chart shows specific activities to be completed in March and April. In addition, the Committee determined that:

- Outreach meetings for employees over lunch hours should be scheduled.
- An administrative appeal process should be drafted and reviewed.
- An overview meeting for Departmental representatives should be scheduled before June.
- Rating members will meet the week of 3/12/84 to prepare for evaluation of proposals. Advisory members are invited.
- The Steering Committee will schedule a meeting for mid-April in Juneau.
- A late May or early June meeting will be scheduled in Fairbanks.

Classification Study
2/4/84
Steering Committee Decisions

TASK	DRAFT	FINAL	DISTRIBUTE
Summary of 2/4/84 meeting.		2/28/84	2/28/84
Draft an administrative appeal process for review.	3/16/84	5/1/84	6/1/84
Schedule overview meeting with Department representatives.			4/84
Complete meetings with unions.		3/30/84	
Publish notice of April meeting in 2 Anchorage papers, Fairbanks, and Juneau.		3/21/84	Juneau - 4/1/84 Anchorage/Fairbanks - 3/26/84
Send April meeting notice to names on mailing list.			4/1/84
Notify Committee of April meeting, place and time.			3/26/84 and 4/6/84

2/28/84

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILE 8672
1378 SCOMM 51: BLUE RIBBON COMN. ON STATE PERSONNEL ACT 1978-1983

Meetings with Unions
to Explain Classification Study

Public Safety Employees Association — 3/5/84
Ed Harter (Anchorage: 276-6464)

Inlandboatmans Union — 2/23/84
Jerry Johanson (Ketchikan: 225-6360)

This completes the initial meeting schedule with all unions. See page 64 for dates of previous meetings.

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF ADMINISTRATION

DIVISION OF PERSONNEL

POUCH C (MS 0201)
JUNEAU, ALASKA 99811

Agenda

CLASSIFICATION STUDY

STEERING COMMITTEE

April 9, 1984

Location: Assembly Chambers
Municipal Building
155 Seward Street
Juneau, Alaska
3:00 P.M.

I. Status Report

A. Proposal Review
   1. Response
   2. Firms identified for interviews
   3. Interview process
   4. Reference checking
B. Advertising
C. Communications network

II. April and May Activities

A. Interviews: April 23-30, Room 713 S. O. B.
B. Selection of Contractor
C. Contract development and approval
D. Information releases to Press

III. Study Planning

A. Increase Planning Phase
B. Discussing values - State Workforce
C. Personnel Officers' comments

IV. Next Meeting Dates

(Week of May 1- Selection of vendor)

A. April
B. May
C. June

Classification Study
Proposal Log

Date Received	Firm	Date to Committee
3/9/84	1. Simon-Tanner & Associates 5408 Seventh Street Lubbock, Texas 79416	3/15/84
3/12/84	2. Brennan, Thomsen Assoc., Inc. 106 Four Seasons Center Chesterfield, Missouri 63017	3/15/84
3/12/84	3. Cresap, McCormick & Paget 1875 I Street NW Washington, DC 20006	3/15/84
3/12/84	4. Jeanneret & Assoc., Inc. 3223 Smith St., Suite #212 Houston, Texas 77006	3/15/84
3/12/84	5. Hay Management Consultants 110 - 110th N.E., Suite 312 Bellevue, Washington 98004	3/15/84
3/13/84	6. The Wyatt Company 111 S.W. Columbia Street, Suite 1300 Portland, Oregon 97201	3/15/84
3/13/84	7. B. Matthews 17402 6th Ave. SW Seattle, Washington 98166	3/15/84
3/13/84	8. GH Associated Consultants International, Inc. P.O. Box 19387 San Diego, California 92119-0387	3/15/84
3/13/84	9. Hamilton & Associates 133 Montair Drive Danville, California 94526	3/15/84
3/14/84	10. Yager Associates 3697 Wagon Wheel Park City, Utah 84060	3/15/84
3/14/84	11. Martin T. Kenny James Consulting Services 1700 Fourth & Blanchard Bldg. Seattle, Washington 98121	3/15/84
3/14/84	12. Philip Hamilton & Associates 8 East Long Street, Suite 910 Columbus, Ohio 43215	3/15/84

3/14/84	13. Norman D. Willis & Assoc., Inc. 700 Central Building Seattle, Washington 98102	3/15/84
3/14/84	14. Morris & McDaniel 2918 Napoleon Ave., Suite B New Orleans, Louisiana 70115	3/15/84
3/14/84	15. Arthur Young & Company Suite 600 1031 West 4th Avenue Anchorage, Alaska 99501-5992	3/15/84
3/14/84	16. Booz, Allen & Hamilton Suite 600 311 First Street, NW Washington, DC 20001	3/15/84
3/14/84	17. Organization Resources Counselors, Inc. Rockefeller Center 1211 Avenue of the Americas New York, New York 10036	3/15/84
3/14/84	18. Peat, Marwick, Mitchell & Co. 303 East Wacker Drive Chicago, Illinois 60601	3/15/84
3/14/84	19. The Ohio Labor Relations Institute, Inc. 2101 S. Hamilton Rd. - Suite 211 Columbus, Ohio 43232	3/15/84
3/14/84	20. William Hamilton & Associates 980 W. 17th Street Santa Ana, California 92706	3/15/84
3/14/84	21. Associated Students, Inc. 900 Boylston, Suite 3 Seattle, Washington 98104	3/15/84
3/15/84	22. Waters, Trego, Davis One Turtle Creek, #520 Dallas, Texas 75219	3/15/84
3/15/84	23. John H. Burnett & Associates Management Consultants Suite 611 730-740 N. Franklin Ave. Chicago, Illinois 60610	3/15/84
3/16/84	24. Personnel Technology & Productivity P.O. Box 146 Sebastopol, California 95472	3/16/84
3/15/84	25. Scontrino & Associates 21832 S.E. 28th Issaquah, Washington 98027	3/15/84

Classification Study
Division of Personnel

Criteria for Written Proposals

Adequacy of Scope of Work	40%
Qualifications/Experience of Firm & Members in Developing Similar Plans	25%
Schedule & Availability	10%
Costs	25%
	100%

Written Proposal	=	50% of total score
Interview	=	30% of total score
References	=	20% of total score

Selection Process Overview

Function	Date
Pre-rating meeting - written proposals 1. Discuss rater error 2. Explain rating process and forms 3. Distribute proposals received to date 4. Decide meeting date - first week of April	3/15/84
Hand-deliver any additional proposals received which are consistent with RFP submittal instructions (call each office to advise package coming)	3/20/84
Independent ratings or proposals	3/16 - 4/4
Deliver ratings to JJ for recording or call for pick-up	4/4/84
Meet to discuss ratings	4/6/84, 10 a.m., Personnel Conference Room
Full Steering Committee meeting	4/9/84
Notify top scorers by phone and in writing - indicate time for interview	4/10/84
Notify balance of proposers of status	4/10/84
Pre-rating meeting, interviews Discuss format, roles Review rating forms	(4/16 - 4/20)
Presentations, scoring, finalize interview rating	4/23/84 - 4/30/84
Reference checks (FR, JJ, BB)	4/23/84 - 4/30/84
Rating meeting Present reference checks and rate Compute final ratings Select consultant	5/1/84
Notice of award to respondents	5/2/84

Classification Study
4-9-84

Proposers Identified for Interviews

In alphabetical order:

Booz, Allen & Hamilton
Suite 600
311 First Street, NW
Washington, DC 20001

Cresap, McCormick & Paget
1875 I Street NW
Washington, DC 20006

Jeanneret & Associates, Inc.
3223 Smith St., Suite #212
Houston, Texas 77006

Morris & McDaniel
2918 Napoleon Ave., Suite B
New Orleans, Louisiana 70115

Peat, Marwick, Mitchell & Co.
303 East Wacker Drive
Chicago, Illinois 60601

Norman D. Willis & Assoc., Inc.
700 Central Building
Seattle, Washington 98102

Arthur Young & Company
Suite 600
1031 West 4th Avenue
Anchorage, Alaska 99501-5992

Department of Administration
Division of Personnel

Classification Study
7/30/84 Meeting

INDEX

Agenda

Contract Highlights

Work Plan

Communications Plan

Alaska Quantitative Evaluation System

- Committee Composition and Purpose
- Factors and Weights

Cabinet-level Briefing

Fairbanks Meeting Ad

Future Meeting Dates

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF ADMINISTRATION

POUCH C (MS 0201)
JUNEAU, ALASKA 99811

DIVISION OF PERSONNEL

Classification Study
Steering Committee
July 30, 1984

AGENDA

Location: Training Room
Public Safety Building
1979 Peger Road
Fairbanks, Alaska
1:30 p.m.

I. Status Report

A. Steering Committee Membership
B. Terms of Professional Services Contract
C. Completed Tasks
   1. work plan
   2. communications plan
   3. factor evaluation system
   4. Cabinet-level briefing
D. Current Committees
   1. Class Specification Committee
   2. Data Collection Forms Committee
   3. Data Collection Methods Committee
E. Advertising

II. August and September Activities

A. Presentations to Management
B. Training
C. Anchorage Orientation
D. Data Collection begins

III. New Business

A. Additional Questions and Comments
B. Agenda Items for This or Next Meeting
C. Meeting Dates and Locations for Project Duration

Department of Administration
Division of Personnel

Classification Study

Booz-Allen & Hamilton and State of Alaska
Contract Highlights

- Orientation (executive and judicial) completed - in work
- Work and communications plans
- Factor Evaluation System
- Camera-ready data collection forms
- Recommend data collection methods and a class specification format
- Management presentations - 8 sessions deputy level - and above
- Training (3 sessions) in September in Juneau
- System design to support AQES; review and advise on automated support in a decentralized system
- Inter-rater reliability - test model and report for maintenance
- Evaluation of 2800 positions
- Prepare a pay table (2)
- Determine costs and implementation options
- Format all rating information
- Monthly reports

7/84

STATE OF ALASKA
DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL

WORK PLAN
FOR THE
CLASSIFICATION STUDY

JULY 19, 1984

TABLE OF CONTENTS

	Page
INTRODUCTION	i
STUDY TIME LINE	ii
TASK 1 - ORIENTATION	1
TASK 2 - WORK PLAN	3
TASK 3 - COMMUNICATIONS PLAN	5
TASK 4 - DATA PROCESSING	7
TASK 5 - FACTOR EVALUATION SYSTEM	11
TASK 6 - DATA COLLECTION FORMS AND METHODS	13
TASK 7 - PRESENTATION TO MANAGEMENT	16
TASK 8 - STAFF TRAINING IN SYSTEM	18
TASK 9 - DATA COLLECTION, EVALUATION & REVIEW	21
TASK 10 - MARKET SURVEYING	24
TASK 11 - PREPARE PAY TABLE, EVALUATE COSTS & IMPLEMENTATION OPTIONS	25
TASK 12 - TRACK OLD SYSTEM TO NEW	27
TASK 13 - FINAL REPORT	28
TASK 14 - SYSTEM APPEALS	29

INTRODUCTION

This Work Plan details the tasks, time frames, roles and responsibilities for accomplishing a State-wide study to update the classification system, design and implement a new job evaluation system and conduct a market survey. The final report resulting from the study must be delivered to the Governor's office in August 1985.

The Work Plan contains fourteen major tasks, each having a number of subtasks. These tasks are to be performed by a large number of State employees, with specific tasks assigned to a Consultant. The project extends over a fifteen month time frame and many of the tasks must be performed sequentially. Thus the scope and complexity of the study necessitated the development of a detailed plan for proper management and control.

The Work Plan was developed in June 1984 by the study's Project Manager and Consultant, with considerable assistance from a committee established especially for this purpose. The Work Plan Committee consisted of managers and personnel staff from representative departments:

Bob Rehfeld	Director, Admin. Services	Community & Regional Affairs
Judy Knight	Director, Admin. Services	Labor
Frank Raye	Personnel Director	Administration
Kay Schilz	Personnel Officer	Education
Roger Thayer	Personnel Officer	Transportation & Public Facilities

Karrold Jackson	Personnel Director	Court System
Janet Jaron	Chief, Class & Pay	Administration
Kate Larson	Personnel Analyst	Adminstration
Patty Judson	Personnel Analyst	Administration

This Committee helped identify necessary tasks and appropriate time frames.

The Work Plan is designed to be used by the Project Manager to ensure that all necessary tasks are accomplished successfully. The tasks that occur in the next several months are described in detail, while those occurring towards the latter part of the study are only broadly outlined. The Work Plan will be reviewed monthly to ensure that scheduled tasks were performed, to identify tasks to be performed in the upcoming month, and to add detail as tasks become more imminent. Thus, it is a working document that will be revised as the study progresses.

CLASSIFICATION STUDY TIMELINE

TASKS	June	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	March	April	May	June	July	Aug
1. ORIENTATION	XXX														
2. WORK PLAN	XXXXX														
3. COMMUNICATIONS PLAN	XXXXX														
4. DATA PROCESSING	XXXXXXXXXXX														
5. FACTOR EVALUATION SYSTEM	XXXXXXX														
6. DATA COLLECTION FORMS AND METHODS	XXXXXXXXXX														
7. PRESENTATIONS TO MANAGEMENT	XXXXXXXX														
8. STAFF TRAINING ON SYSTEM	XXXXXXXXXXXXXXX														
9. DATA COLLECTION, EVALUATION AND REVIEW	XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX														
10. MARKET SURVEYING	XXXXXXXXXXXXXXXXXXXX

Department of Administration
Division of Personnel

Classification Study
Work Plan

Task	WHEN 84 J J A S O N D / 85 J F M A M J J A S / 85 - 86 F	Dates	People & Roles	Time Estimate
1. ORIENTATION: To acquaint consultants with State structure by review of written material related to the Classification & Pay Plan and meetings with personnel and union representatives.	X-X-X-X	June 11 - Sept 14		
Juneau . Provide written material on State and Court Systems.	X	June 11 - June 22	Class & Pay provides executive branch documents; Court Personnel Director provides Court documents	6 hours 3 hours
. Open House for Personnel Officers and union representatives.	X	June 18	Class & Pay plans Personnel Officers attend	4 hours 1 hour each
. Meeting with Personnel Officers for departmental overviews.	X	June 21-22	Class & Pay sets up meetings. One Personnel Officer per department	2 hours 15 minutes each
Anchorage . Open House for Personnel Officers and union representatives.	X	Sept 10-14	Juneau & Anchorage Class & Pay plans Personnel Officers attend	4 hours 1 hour each

Department of Administration
Division of Personnel

Classification Study
Work Plan

Task	WHEN 84 J J A S O N D / 85 J F M A M J J A S / 85 - 86 F	Dates	People & Roles	Time Estimate
. Meeting with Court System.	X	Sept 10	Project Manager attends. Court System Personnel plan	2 hours
. Monthly review of written materials and communications for inclusion in Consultant's package	X-X-X-X-X-X-X-X-X-X-X-X-X	July 84 - July 85	Class & Pay staff	1 hour/month

Department of Administration
Division of Personnel

Classification Study
Work Plan

Task	WHEN 84 J J A S O N D / 85 J F M A M J J A S / 85 - 86 F	Dates	People & Roles	Time Estimate
2. WORK PLAN: This task includes the development, drafting, review and finalization of the study work plan which fully describes the tasks to be completed, schedule, and responsible parties.				
. Work Sessions - Consultant, State personnel and departmental staff will work to develop a study work plan.	X	June 18-22	Work Plan Committee	Two 1-1/2 hour sessions
. Drafting - The work session input will be used to prepare a draft plan.	X	June 18-29	Project Manager and consultant	One week to complete draft
. Review - Review and comments on the proposed work plan.	X	July 2-10	Work Plan Committee, management representatives from departments, Personnel Officers, and Class & Pay staff	1-2 hours during a 3-day period for review and comment
. Final - Incorporation of comments and finalization of plan.	X	July 23-27	Project Manager and consultant	Three days

Department of Administration
Division of Personnel

Classification Study
Work Plan

Task	WHEN	Dates	People & Roles	Time Estimate
	84 J J A S O N D / 85 J F M A M J J A S / 85 - 86 F			
. Monthly review of plan for possible revision.	X X	July thru May 85 with monthly report & discussion	Project Manager & consultant	One hour each month

Department of Administration
Division of Personnel

Classification Study
Work Plan

Task	WHEN 84 J J A S O N D / 85 J F M A M J J A S / 85 - 86 F	Dates	People & Roles	Time Estimate
3. COMMUNICATIONS PLAN: This task includes review of work plan tasks & identification of the methods, timing, distribution, signator & State staff/consultant roles of any communications.	X			
. Work Sessions - Consultant, State personnel & departmental staff will work to develop a draft plan.	X	June 18-22	Communications Plan Committee	Three 1-1/2 hour sessions
. Drafting - The work session input will be used to prepare a draft plan.	X	June 18-29	Project Manager and consultant	One week to complete draft
. Review - Review and comment on the proposed work plan.	X	July 2-10	Communications Plan Committee, management representatives from departments, Personnel Officers, and Class & Pay staff	1-2 hours during a 2-day period for review and comment
. Final - Incorporation of comments and finalization of plan.	X	July 16-20	Project Manager and consultant	Three days

Department of Administration
Division of Personnel

Classification Study
Work Plan

Task	WHEN 84 85 86 J J A S O N D J F M A M J J A S - F	Dates	People & Roles	Time Estimate
. Monthly review of plan.	X-X-X-X-X-X-X-X-X-X-X	July 1984 thru May 1985 with monthly report & discussion	Project Manager & consultant	One hour each month

Department of Administration
Division of Personnel

Classification Study
Work Plan

Task	WHEN 84 J J A S O N D / 85 J F M A M J J A S / 85 - 86 F	Dates	People & Roles	Time Estimate
4. DATA PROCESSING - Design, development and implementation of ADP automated support.				
. Class and Position Evaluation - develop requirements/preliminary design for providing automated support for key classification and rating functions.	X	June 18-22	Consultant	Five days
. Discuss requirements and design alternatives.	X	June 18-22	Consultant, User Services, and Project Manager	Meetings over three days
. Finalize requirements and preliminary design.	X-X	June 25 - July 13	Consultant	Four weeks
. Meet with D.P. Directors & Deputy Commissioner to agree on level of service & date requirements.	X	July 30 - Aug 3	Department of Administration staff	2 hour meeting
. Detailed design, development, testing & acceptance of programs.	X-X	July 13 - Aug 31	User Services staff; consultant to provide test data; 1 Class & Pay analyst for programming and formatting	Two person-months

Department of Administration
Division of Personnel

Classification Study
Work Plan

Task	WHEN 84 J J A S O N D	 85 J F M A M J J A S	 85 86 - F	Dates	People & Roles	Time Estimate
. System implementation and maintenance.	X			Sept 4	Class & Pay staff and User Services	
. Decentralized application of position evaluation.	X-X			Aug - Sept 1984	Consultant	
. Review of all departments' resources.	X-X			Aug - Sept 1984	Class & Pay staff obtains information for consultant review	
. Identify options for decentralized use.	X-X			Aug - Sept 1984	Consultant	
. Training for departmental personnel staff in use.		X----------|		1985	Class & Pay staff	
. Ongoing study and maintenance support; Identify each function for support.	X-X			Aug - Sept 1984	Consultant and Project Manager	

Department of Administration
Division of Personnel

Classification Study
Work Plan

Task	WHEN 84 J J A S O N D / 85 J F M A M J J A S / 85 - 86 F	Dates	People & Roles	Time Estimate
. Program budget.	X-X-X X-X-X-X-X-X-X-X-X-X-X-X-X-X-X	June - Aug 1984 for automated support June 1984 - July 1985 for monitoring	Project Manager	
. Position control for receipt of questionnaire, assignment, allocation, & audit if applicable.	X-X	Aug - Sept 1984	Class & Pay staff, User Services	
. Contact OMB to discuss possible integration of listings.	X	Sept 1984	Vic Ferreros and Gary Bader, OMB; Project Manager; 1 Class & Pay analyst; User Services	2 hour meeting
. Class spec numbering system.	X-X-X-X	June - Sept 1984	Class & Pay staff, consultant, Finance	
. New Schematic.	X-X-X-X-X-X-X-X-X-X-X-X	Sept 1984 - July 1985	Class & Pay staff, consultant	
. Establish inter-rater reliability routine, establish test material & schedule for periodic review.	X	Sept 1984	Class & Pay staff, User Services, consultant	

Department of Administration
Division of Personnel

Classification Study
Work Plan

Task	WHEN 84 J J A S O N D / 85 J F M A M J J A S / 85 - 86 F	Dates	People & Roles	Time Estimate
. Establish system for automating specifications	X	Oct 1984	Class & Pay staff	
. Evaluation of and ordering equipment	X-X-X-X	July - Oct 1984	Class & Pay staff	
. Statistical analysis of workforce.	X-X-X	May - July 1985	EEO staff, Class & Pay staff	1 week
. Develop Systems for evaluation of survey material.	X-X	Nov - Dec 1984	Class & Pay staff	
. Pay Table & conversion formula.	X-X-X	May - July 1985	Consultant	

Department of [illegible]nistration
Division of [illegible]sonnel

Classification Study
Work Plan

Task	WHEN 84 J	J	A	S	O	N	D	85 J	F	M	A	M	J	J	A	S	85	86 - F	Dates	People & Roles	Time Estimate
5. FACTOR EVALUATION SYSTEM: Establish the factors and weights to be used in the Alaska Quantitative Evaluation System.																					
. Meet with Class & Pay staff for input on system guidelines.	X																		June 21	Consultant & Class & Pay staff	1-1/2 hours x each participant
. Establish task force to define factors and weights. Define responsibility level of committee in writing.	X																		June 25-29	Project Manager & Commissioner of Administration	2 hours
. Schedule task force meetings and arrange logistics including Anchorage teleconference.	X																		June 25-29	Class & Pay staff and Court Personnel Director	6 hours
. Conduct task force proceedings		X																	July 23-27	Task force, consultant	3 days x number of task force members for input; 1 day x number of task force members to review findings; 5 days x 2 consultants

Department of Administration
Division of Personnel

Classification Study
Work Plan

Task	WHEN 84 J J A S O N D / 85 J F M A M J J A S / 85 - 86 F	Dates	People & Roles	Time Estimate
. Update on task force work	X	August 1984	Project Manager drafts	
. Document Task Force decisions into an Alaska QES Manual	X-X	July 30 - Aug 10	Consultant	10 days

Department of Administration
Division of Personnel

Classification Study
Work Plan

Task	WHEN 84 J J A S O N D / 85 J F M A M J J A S / 85 86 - F	Dates	People & Roles	Time Estimate
6. DATA COLLECTION FORMS AND METHODS: Establish the data collection forms and procedures to be used in the project.				
. Establish committees to determine data collection forms and procedures.	X	June 25-29	Project Manager	12 hours
. Draft data collection forms and procedures.	X-X	July 9 - Aug 3	Consultant, Class & Pay staff	16 hours
. Review and determine data collection forms and procedures, including: -method for questionnaire distribution and collection -audit percentages and methods to identify positions for audit -specification format	X-X-X	July - Sept 1984	Committees: 2 Class & Pay analysts, 3 Personnel Officers, Court Personnel Director, Project Manager	4 hours each
. Collect all organizational charts.	X-X-X-X-X	June - Oct 1984	Class & Pay staff	
. Confirm all positions for inclusion.	X	July 1984	Department of Administration staff	

Department of Administration
Division of Personnel

Classification Study
Work Plan

Task	WHEN 84: J J A S O N D 85: J F M A M J J A S 85 86: - F	Dates	People & Roles	Time Estimate
. Determine evaluation approach for seasonal employees.	X-X	July - August 1984	Class & Pay staff, Personnel Officers with seasonal employees in their departments	
. Occupational assignments to Class & Pay analysts.	X	Sept 1984	Project Manager	
. Establish committees of departmental personnel people to support occupational groups.	X	Sept 1984	Project Manager	
. Establish control point for one-of-a-kind classes.	X	Oct 1984	Project Manager	
. Establish audit schedule.	X	Sept 1984	Personnel Officers, Class & Pay staff, consultant	
. Prepare supporting file systems.	X-X-X	Aug - Oct 1984	Class & Pay staff	
. Review maintenance support in Class & Pay - notify departments of any changes in process.	X X X	July 1984, Nov 1984, Feb 1985	Project Manager	

Department of Administration
Division of Personnel

Classification Study
Work Plan

Task	WHEN 84 J J A S O N D / 85 J F M A M J J A S / 85 O N D / 86 J F	Dates	People & Roles	Time Estimate
. Finalize forms, prepare camera-ready copy.	X	Aug 17, 1984	Consultant	8 hours
. Incorporate procedures into training materials.	X	Aug 17-24, 1984	Consultant	40 hours
. Print job analysis questionnaires.	X-X	Aug 27 - Sept 14, 1984	Class & Pay staff	

Department of Administration
Division of Personnel

Classification Study
Work Plan

Task	WHEN 84 J J A S O N D / 85 J F M A M J J A S / 85 - 86 F	Dates	People & Roles	Time Estimate
7. PRESENTATION TO MANAGEMENT: Explaining the system, data collection processes and time frames, and allowing questions and answers.				
. Schedule presentations - check on other activities for possible conflicts in timing.	X	July 23-27	Class & Pay staff	8 hours
. Arrange logistics: -Space -Video tape (audio-tape) -Overhead	X-X-X	July 23 - Sept 13	Class & Pay staff	20 hours
. Notify managers - send memo.	X-X	Aug 1, Aug 15, Sept 1	Class & Pay staff	3 hours
. Prepare presentation: talking points, viewgraphs, handouts.	X-X	July 30 - Aug 17	Consultant with Class & Pay review	16 hours + 8 hours review
. Conduct presentations -Juneau -Anchorage -Fairbanks	X X X	Aug 22-29 Sept 10-13 Sept 10-13	Consultant with Class & Pay staff Managers attending: Deputy Directors, or Comparable level (e.g., Regional Managers), through Commissioners	16 hours x 4 people (2 consultants, 2 Div. of Personnel) 2 hour presentation

Department of Administration
Division of Personnel

Classification Study
Work Plan

Task	WHEN 84 J J A S O N D / 85 J F M A M J J A S / 85 - 86 F	Dates	People & Roles	Time Estimate
. Staff training to repeat presentations	X-X	Aug - Sept 1984	Class & Pay staff	
. Additional presentations	X-X	Sept - Oct 1984	Class & Pay staff does make-up sessions for Deputy Director and above in Sept. Class & Pay staff does sessions for supervisors in Sept/Oct.	

Department of Administration
Division of Personnel

Classification Study
Work Plan

Task	WHEN 84 85 86 J J A S O N D J F M A M J J A S - F	Dates	People & Roles	Time Estimate
8. STAFF TRAINING IN SYSTEM.				
. Identify personnel staff to attend each session. -Juneau I -Juneau II -Anchorage	X	July 9-13, 1984	Class & Pay staff	8 hours
. Arrange logistics for training sessions.	X-X-X	July 9 - Sept 14, 1984	Class & Pay staff	24 hours
. Prepare training materials.	X-X	July 9 - Aug 22, 1984	Consultant	15 days
. Prepare guidelines for clustering positions.	X-X	July - Aug 1984	Class & Pay staff	
Prepare specification writing manual.	X-X	July - Aug 1984	Class & Pay staff	
. Incorporate training on specification writing into training sessions.	X-X	Aug - Sept 1984	Class & Pay staff and consultant	

Department of Administration
Division of Personnel

Classification Study
Work Plan

Task	WHEN 84 J J A S O N D 85 J F M A M J J A S 86 - F	Dates	People & Roles	Time Estimate
. Conduct training. -Juneau I -Juneau II -Anchorage	 X X X	 Aug 22-24 Aug 27-29 Sept 11-13	Consultant Personnel staff attending	3 days/sessions x 2 consultants
. Training of Class & Pay analysts to repeat 3 day program	X-X	Aug - Sept 1984	Consultant trains designated Class & Pay staff; Project Manager	
. Conduct make-up training sessions for personnel staff	X	Sept 1984	Class & Pay staff	
. Review inter-rater reliability results	X-X	Sept - Oct 1984	Project Manager and consultant	16 hours - PM 16 hours x 2 consultants
. Identify needed retraining	X----------|	Oct 1984 ----|	Project Manager and consultant	
. Conduct retraining		As needed	Class & Pay Analysts	

Department of Administration
Division of Personnel

Classification Study
Work Plan

Task	WHEN 84 J J A S O N D / 85 J F M A M J J A S / 85 86 - F	Dates	People & Roles	Time Estimate
. Prepare gene training in clas.ifi-cation.	X-X	Aug - Sept 1984	Class & Pay Analysts	
. Identify personnel staff who need general training.	X-X	Aug - Sept 1984	Class & Pay staff with suggestions from Personnel Officers	
. Arrange training sessions.	X	Sept 1984	Class & Pay staff	
. Conduct training.	X	Oct 1984	Class & Pay Analysts	

Task	WHEN 84 J J A S O N D / 85 J F M A M J J A S / 85 O N D / 86 J F	Dates	People & Roles	Time Estimate
9. DATA COLLECTION, EVALUATION & REVIEW.				
. Distribution & completion of questionnaires	X-X	Sept 27 - Oct 18, 1984	Class & Pay staff; State employees and supervisors	
. Return and logging of questionnaires.	X-X	Oct 12 - Nov 15, 1984	Personnel Officers; Class & Pay staff	
. Follow-up for missing forms.	X-X	Nov 1 - Dec 31, 1984	Personnel Officers	
. Questionnaire distribution in Class & Pay for evaluation.	X-X-X	Oct 17 - Dec 31, 1984	Class & Pay staff	
. Field audits.	X-X-X-X	Nov 12, 1984 - Feb 15, 1985	Personnel Officers/ analysts; Class & Pay staff; consultant	
. General update	X	Nov 1984	Project Manager	
. Organizational committee meetings.	X-X-X-X-X-X-X	Oct 1, 1984 - April 30, 1985	Personnel Officers/ analysts; Class & Pay analysts	

Department of Administration
Division of Personnel

Classification Study
Work Plan

Task	WHEN 84 J J A S O N D / 85 J F M A M J J A S / 85 - 86 F	Dates	People & Roles	Time Estimate
. General Update.	X	Jan 1985	Project Manager	
. Job/class formation.	X-X-X-X-X	Dec 3, 1984 - April 1985	Classification teams; Personnel Officers/ analysts; consultant	
. Evaluations.	X-X-X-X-X	Dec 3, 1984 - April 1985	Classification teams; PersonnelOfficers/ analysts; consultant	
. Check and confirm evaluations.	X-X-X-X-X	Dec 3, 1984 - April 1985	Class & Pay staff; consultant	
. Prepare class specifications	X-X-X-X-X-X	Dec 3, 1984 - April 30, 1985	Classification teams; Personnel Officers/ analysts; consultant	
. General update	X	March 1985	Project Manager	
. Collect, revise, display ratings.	X-X-X-X-X	Jan 2 - May 15, 1985	Class & Pay staff; consultant	

Department of Administration
Division of Personnel

Classification Study
Work Plan

Task	WHEN 84 J J A S O N D	85 J F M A M J J A S	85 86 - F	Dates	People & Roles	Time Estimate
. Recommend & display series and levels.		X-X-X-X-X		Jan 2 - May 15, 1985	Class & Pay staff; consultant	
. Management reviews of specifications & recommendations.		X-X-X-X-X		Jan 2 - May 15, 1985	Class & Pay staff prepare	
. Union review of specifications & recommendations.		X-X-X-X		Feb 1 - May 31, 1985	Class & Pay staff prepare	

Department of Administration
Division of Personnel

Classification Study
Work Plan

Task	WHEN 84 J J A S O N D 85 J F M A M J J A S 85 - 86 F	Dates	People & Roles	Time Estimate
10. MARKET SURVEYING: To collect information from the relevant markets and consider what integration is necessary on the pay table.				
. Determine survey design.	X-X	Sept 3 - Oct 31, 1984	Class & Pay staff	
. Determine survey distribution.	X-X	Nov 1 - Dec 14, 1984	Class & Pay staff	
. Select and describe benchmarks.	X-X-X	Jan 2 - Mar 15, 1985	Class & Pay staff	
. Survey evaluation.	X-X	Apr 15 - May 17, 1985	Class & Pay staff	
. Review for implications in salary schedule.	X-X	May 17 - June 28, 1985	Class & Pay staff	

Department of Administration
Division of Personnel

Classification Study
Work Plan

Task	WHEN 84 J J A S O N D / 85 J F M A M J J A S / 85 O N D / 86 J F	Dates	People & Roles	Time Estimate
11. PREPARE PAY TABLE, EVALUATE COSTS & IMPLEMENTATION OPTIONS . Prepare Pay Tables. Develop pay line based on current rates. Develop new unified salary schedule. Develop point to grade conversion tables.	X-X-X	May 1 - July 31, 1985	Consultant develops, analyzes and prepares a report; Class & Pay staff review and comment	30-40 days total
. Determine State rules & contract provisions governing step placement.	X	May 1985	Consultant	
. Convert employees' current rates to new rates, considering different forms of implementation in those classes whose salary grades are proposed to change.	X-X	June - July 1985	Consultant	

Department of Administration
Division of Personnel

Classification Study
Work Plan

Task	WHEN 84 J J A S O N D 85 J F M A M J J A S 85 - 86 F	Dates	People & Roles	Time Estimate
. Calculate difference in costs between current payroll & each form of implementation.	X	July 1985	Consultant	
. Repeat above for the Court System.	X-X-X	May - July 1985	Consultant	

Classification Study
Work Plan

Task	WHEN 84 J J A S O N D / 85 J F M A M J J A S / 86 - F	Dates	People & Roles	Time Estimate
12. TRACK OLD SYSTEM TO NEW: Graphically show existing classes, rates & codes with new classes, rates & codes.				
. Design forms	X	Jan 1985	Class & Pay staff	
. Record existing information by occupational & alphabetical order.	X	Feb 1985	Class & Pay staff	
. Chart information on new system.	X-X-X-X	March - June 1985	Class & Pay staff	
. Record nature of any change.	X-X-X-X	March - June 1985	Class & Pay staff	

Department of Administration
Division of Personnel

Classification Study
Work Plan

Task	WHEN 84 J J A S O N D / 85 J F M A M J J A S / 85 O N D / 86 J F	Dates	People & Roles	Time Estimate
13. FINAL REPORT: Combine information from consultant & Personnel staff for comprehensive package.				
. Integrate necessary survey information into pay plan.	X-X	May - June 1985	Class & Pay staff	
. Prepare summary sheets and graphs.	X-X	June - July 1985	Class & Pay staff	
. Meetings to review package.	X	August 1985	Department of Administration	
. Deliver to Governor's Office.	X	August 31, 1985	Commissioner of Administration	
. Publish Report	X	After Governor's release	Division of Personnel	

Classification Study
Work Plan

Task	WHEN 84 J J A S O N D / 85 J F M A M J J A S / 85 - 86 F	Dates	People & Roles	Time Estimate
14. SYSTEM APPEALS: To review employee appeals of allocation actions.				
. Review and record contract appeal processes.	X	July 1984	Class & Pay and Labor Relations	
. Draft additional administrative process.	X	July 1984	Divisions of Personnel and Labor Relations	
. Review process.	X	July 1984	Director of Personnel, EEO, and Deputy Commissioner of Administration	
. General update	X	May 1985	Project Manager	
. Establish board to hear appeals and draft procedures.	X	July 1985	Department of Administration	
. Hear appeals.	X-X	Sept 1985 - Feb 1986	Appeals Board	

STATE OF ALASKA
DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL

COMMUNICATIONS PLAN FOR THE CLASSIFICATION STUDY

JULY 19, 1984

TABLE OF CONTENTS

	Page
INTRODUCTION	i
STUDY TIME LINE	ii
TASK 1 - ORIENTATION	1
TASK 2 - WORK PLAN	3
TASK 3 - COMMUNICATIONS PLAN	5
TASK 4 - DATA PROCESSING	7
TASK 5 - FACTOR EVALUATION SYSTEM	11
TASK 6 - DATA COLLECTION FORMS AND METHODS	13
TASK 7 - PRESENTATION TO MANAGEMENT	16
TASK 8 - STAFF TRAINING IN SYSTEM	18
TASK 9 - DATA COLLECTION, EVALUATION & REVIEW	21
TASK 10 - MARKET SURVEYING	25
TASK 11 - PREPARE PAY TABLE, EVALUATE COSTS & IMPLEMENTATION OPTIONS	26
TASK 12 - TRACK OLD SYSTEM TO NEW	28
TASK 13 - FINAL REPORT	29
TASK 14 - SYSTEM APPEALS	30

INTRODUCTION

This Communications Plan details the communications needed during the performance of a State-wide study to update the classification system, design and implement a new job evaluation system, and conduct a market survey. The final report resulting from the study must be delivered to the Governor's office in August 1985.

The development of a Communications Plan was undertaken to ensure that those individuals and groups who need information about the study receive it in a timely fashion. The Plan was developed in June 1984 by the Project Manager and Consultant, with considerable assistance from a committee established especially for this purpose. The Communications Committee consisted of managers and personnel staff from representative departments:

Beverly Reaume	Director of Administration	Fish & Game
Ervin Jones	Director, Admin. Services	Revenue
Frank Raye	Personnel Director	Administration
Tom O'Donnell	Personnel Officer	Health & Social Services
Alice Blumenshine	Personnel Officer	Labor
Karrold Jackson	Personnel Director	Court System
Janet Jaron	Chief, Classification & Pay	Administration
Patty Judson	Personnel Analyst, Classification & Pay	Administration

Linda Lowe	Personnel Analyst, Classification & Pay	Administration
Fran Rose	Special Staff Assistant	Administration
Harry Gamble	Information Officer	Education

This Committee helped ensure that the Plan is comprehensive in coverage; that it identifies all parties with a "need to know" and the appropriate communication mechanism for reaching them.

The Communications Plan is designed to be used by the Project Manager to ensure that the study is accomplished successfully. Communication of the study, its objectives, tasks, dates, potential outcomes, roles and responsibilities are essential to the study's success. The Plan will be reviewed monthly to ensure that planned communications were accomplished, to identify communication activities for the upcoming month, and to identify new forms of communication that appear to be needed. Thus the Plan is a flexible document that will guide, but not restrict, communication about the study.

Department of Administration
Division of Personnel

Classification Study
Communication Plan

Task	Dates	People & Roles	Communication			
			Who	Mechanism	Signed or Presented by	Date
1. ORIENTATION: To acquaint consultants with State structure by review of written matterial related to the Classification & Pay Plan and meetings with personnel and union representatives.	June 11 - Sept 14					
Juneau . Provide written material on State and Court Systems.	June 11 - June 22	Class & Pay provides executive branch documents; Court Personnel Director provides Court documents	Consultant	Materials given during meetings	Project Manager and Court Personnel Director	June, 1984
. Open House for Personnel Officers and union representatives.	June 18	Class & Pay plans Personnel Officers attend	State Personnel Staff and union representatives	Invitation	Project Manager	June, 1984
			Consultant	Meetings	State Personnel Staff	June 18, 1984
. Meeting with Personnel Officers for departmental overviews.	June 21-22	Class & Pay sets up meetings One Personnel Officer per department	Consultant	Meetings	Personnel Officers	June 20-21, 1984

Department of Administration
Division of Personnel

Classification Study
Communication Plan

Task	Dates	People & Roles	Communication			
			Who	Mechanism	Signed or Presented by	Date
Anchorage . Open House for Personnel Officers and union representatives.	Sept 10-14	Juneau & Anchorage Class & Pay plans Personnel Officers attend	State Personnel staff and Union Representatives	Invitation	Project Manager and Court Personnel Director	Aug 1984
			Consultants	Meetings	State Personnel staff	Sept 1984
. Meeting with Court System.	Sept 10	Project Manager attends Court System Personnel plan	Consultant	Meeting	Court Personnel Director and Staff	Sept 1984
. Monthly review of written materials and communications for inclusion in consultant's package	July 1984-July 1985	Class & Pay staff	Consultant	Materials	Project Manager and Court Personnel Director	Ongoing

Department of Administration
Division of Personnel

Classification Study
Communication Plan

Task	Dates	People & Roles	Communication			
			Who	Mechanism	Signed or Presented by	Date
2. WORK PLAN: This task includes the development, drafting, review and finalization of the study work plan which fully describes the tasks to be completed, schedule, and responsible parties.						
. Work Sessions - Consultant, State personnel and departmental staff will work to develop a study work plan.	June 18-22	Work Plan Committee	Two managers Two Personnel Officers Two Class & Pay staff Project Manager Personnel Director	Meetings		June 18-22, 1984
. Drafting - The work session input will be used to prepare a draft plan.	June 18-29	Project Manager and consultant				
. Review - Review and comment on the proposed work plan.	July 2-10	Work Plan Committee, management representatives from departments, Personnel Officers, and Class & Pay staff	Work Plan Committee members Personnel Officers C&P staff Steering Committee	Cover Memo transmitting draft document	Project Manager	July 2, 1984

Department of Administration
Division of Personnel

Classification Study
Communication Plan

Task	Dates	People & Roles	Communication			
			Who	Mechanism	Signed or Presented by	Date
. Final - Incorporation of comments and finalization of plan.	July 23-27	Project Manager and consultant	Work Plan Com. Personnel Offices Steering Com. Class & Pay Staff Unions Reps. Duncan/ Miller	Cover Letter transmitting final document	Project Manager	Aug 1984
			Commissioners Department Representatives Reps. Duncan/ Miller	Cover Memo transmitting a summary document	Each Department's Personnel Officer	August 1984
. Monthly review of plan for possible revision.	July thru May 85 with monthly report & discussion	Project Manager and consultant				

Department of Administration
Division of Personnel

Classification Study
Communication Plan

Task	Dates	People & Roles	Communication			
			Who	Mechanism	Signed or Presented by	Date
3. COMMUNICATIONS PLAN: This task includes review of work plan tasks & identification of the methods, timing, distribution, signator & State staff/consultant roles of any communications.						
. Work Sessions - Consultant, State personnel & departmental staff will work to develop a draft plan.	June 18-22	Communications Plan Committee	Two Managers Two Personnel Officers Two Class & Pay staff Project Manager Personnel ~~Manager~~ Director	Meetings		June 18-22, 1984
. Drafting - The work session input will be used to prepare a draft plan.	June 18-29	Project Manager and consultant				
. Review - Review and comment on the proposed work plan.	July 2-10	Communications Plan Committee, Management representatives from departments, Personnel Officers, and Class & Pay staff	Communications Plan Committee members Personnel Officers C&P staff Steering Committee	Cover Memo transmitting draft document	Project Manager	July 2, 1984

Department of Administration
Division of Personnel

Classification Study
Communication Plan

Task	Dates	People & Roles	Communication			
			Who	Mechanism	Signed or Presented by	Date
. Final - Incorporation of comments and finalization of plan.	July 16-20	Project Manager and consultant	Communications Plan Committee members Personnel Officers C&P Staff Steering Committee Unions Reps. Duncan/ Miller	Cover memo transmitting final document	Project Manager	July 27, 1984
			Commissioners Department Representatives Reps. Duncan/ Miller	Cover memo transmitting summary document	Each Department's Personnel Officer	August 1984
. Monthly review of plan.	July 1984 thru May 1985 with monthly report & discussion	Project Manager & consultant				

Classification Study
Communication Plan

Task	Dates	People & Roles	Communication			
			Who	Mechanism	Signed or Presented by	Date
4. DATA PROCESSING - Design, development and implementation of automated support.						
. Class and Position Evaluation - develop requirements/preliminary design for providing automated support for key classification and rating functions.	June 18-22	Consultant				
. Discuss requirements and design alternatives.	June 18-22	Consultant, User Services and Project Manager				
. Finalize requirements and preliminary design.	June 25 - July 13	Consultant	Project Manager	Report	Consultant	July 13, 1984
			Court System	Letter & Copy	Project Manager	July 1984
. Meet with D.P. Directors & Deputy Commissioner to agree on level of service & date requirements.	July 30 - Aug 3	Department of Administration staff	Data Processing Deputy Commissioner	Obtain agreement for services from data processing	Personnel Division	July 20, 1984
. Detailed design, development, testing & acceptance of programs.	July 13 - Aug 31	User Services staff, consultant to provide test data; 1 Class & Pay analyst for programming and formatting.				

Department of Administration
Division of Personnel

Classification Study
Communication Plan

Task	Dates	People & Roles	Communication			
			Who	Mechanism	Signed or Presented by	Date
. System implementation and maintenance.	Sept 4	Class & Pay staff and User Services	Class & Pay staff	Training	User Services staff and one Class & Pay Analyst	Sept 4, 1984 +
. Decentralized application of position evaluation.	Aug-Sept 1984	Consultant	Personnel Officers	Presentation at Personnel Council	Project Manager	July 1984 meeting
. Review of all departments' resources.	Aug-Sept 1984	Class & Pay staff obtains information for consultant review	Personnel Officers	Memo	Project Manager	July 1984
. Identify options for decentralized use. . Training for departmental personnel staff in use.	Aug-Sept 1984 1985	Consultant Class & Pay staff	Personnel Officers	Training	Class & Pay staff	Oct 1985
. Ongoing study and maintenance support; identify each function for support.	Aug-Sept 1984	Consultant and Project Manager	Project Manager	Report	Consultant	
. Program budget.	June-Aug 1984 for automated support. June 1984 to July 1985 for monitoring	Project Manager				
. Position control for receipt of questionnaire, assignment, allocation, & audit if applicable.	Aug-Sept 1984	Class & Pay staff, User Services	Personnel Officers Class & Pay staff	Training	Consultant	Aug/ Sept 1984

Department of Administration
Division of Personnel

Classification Study
Communication Plan

Task	Dates	People & Roles	Communication			
			Who	Mechanism	Signed or Presented by	Date
. Contact OMB to discuss possible integration of listings.	Sept 1984	Vic Ferreros and Gary Bader, OMB; Project Manager, 1 Class & Pay analyst, User Services	OMB, User Services	Meeting	Project Manager	Sept 1984
. Class spec numbering system.	June-Sept 1984	Class & Pay staff, consultant, Finance	Payroll Retirement & Insurance EEO Risk Management Legislative Personnel Court Personnel Personnel Officers	Meeting	Divisions of Personnel and Finance	July 1984
. New Schematic.	Sept 1984-July 1985	Class & Pay staff, consultant	Personnel Officers	Training	Consultant	Aug/Sept 1984
. Establish inter-rater reliability routine, establish test material & schedule for periodic review.	Sept 1984	Class & Pay staff, User Services, consultant	Personnel Officers	Memo or Personnel Council presentation	Project Manager	late Sept. or early Oct. then ongoing
			Class & Pay staff	Training	Project Manager	
. Establish system-for automating specifications	Oct 1984	Class & Pay staff	Personnel Officers Class & Pay staff	Training	Consultant	Aug/Sept 1984

Department of Administration
Division of Personnel

Classification Study
Communication Plan

Task	Dates	People & Roles	Communication			
			Who	Mechanism	Signed or Presented by	Date
. Evaluation of and ordering equipment	July-Oct 1984	Class & Pay staff				
. Develop systems to support statistical analysis of work force.	May-July 1985	EEO staff, Class & Pay staff				
. Develop systems to support evaluation of survey material.	Nov-Dec 1984	Class & Pay staff				
. Pay Table & conversion formula.	May-July 1985	Consultant	Project Manager	Report	Consultant	

Department of Administration
Division of Personnel

Classification Study
Communication Plan

Task	Dates	People & Roles	Communication			
			Who	Mechanism	Signed or Presented by	Date
5. FACTOR EVALUATION SYSTEM: Establish the factors and weights to be used in the Alaska Quantitative Evaluation System.						
. Meet with Class & Pay staff for input on system guidelines.	June 21	Consultant & Class & Pay staff	Consultant	Meeting	Class & Pay staff	June 21, 1984
. Establish task force to define factors and weights. Define responsibility level of committee in writing.	June 25-29	Project Manager & Commissioner of Administration	Commissioners Department Representatives	Memo establishing Task Force	Commissioner of Administration	last week of June or first week of July, 1984
. Schedule task force meetings and arrange logistics including Anchorage teleconference.	June 25-29	Class & Pay staff and Court Personnel Director	Designated Task Force members: . 2 from Admin. . 1 from each Department . 1 each from LTC, PSEA, . CEA, APEA . 3 from courts	Briefing meeting	Project Manager	July 9-18, 1984
. Conduct task force proceedings	July 23-27	Task force, consultant				

Department of Administration
Division of Personnel

Classification Study
Communication Plan

Task	Dates	People & Roles	Communication			
			Who	Mechanism	Signed or Presented by	Date
. Update on task force work	August 1984	Project Manager drafts	Employees Senate Committee on Employment Practices Senate/House State Affairs Steering Committee Mailing List	Newsletter (progress, announce open meetings, give names & phone numbers to contact, mention appeal rights)	Jointly from Department Personnel Officer and Project Manager	August 1984
. Document task force decisions into an Alaska QES Manual	July 30 - Aug 10	Consultant	Project Manager	Report	Consultant	Aug. 10, 1984

Department of Administration
Division of Personnel

Classification Study
Communication Plan

Task	Dates	People & Roles	Communication			
			Who	Mechanism	Signed or Presented by	Date
6. DATA COLLECTION FORMS AND METHODS: Establish the data collection forms and procedures to be used in the project.						
. Establish committees to determine data collection forms and procedures.	June 25-29	Project Manager	Personnel Officers Class & Pay staff	Memo and briefings	Project Manager	July 1984
. Draft data collection forms and procedures.	July 9 - Aug 3	Consultant, Class & Pay staff	Project Manager	Draft Reports	Consultant	Aug. 3 1984
. Review and determine data collection forms and procedures - Method for questionnaire distribution and collection - audit percentages and methods to identify positions for audit - specification format	July-Sept 1984	Committees: 2 Class & Pay Analysts, 3 Personnel Officers, Court Personnel Director, Project Manager	Data Collection Forms and Procedures Committees	Meetings Draft reports	Project Manager	July/ August 1984
. Collect all organizational charts.	June-Oct 1984	Class & Pay staff	Personnel Officers	Presentation at Personnel Council	Project Manager	June 1984
. Confirm all positions for inclusion.	July 1984	Department of Administration staff	Personnel Officers Steering Committee Mailing list	Memo	Project Manager	July 1984

Department of Administration
Division of Personnel

Classification Study
Communication Plan

Task	Dates	People & Roles	Communication			
			Who	Mechanism	Signed or Presented by	Date
. Determine evaluation approach for seasonal employees.	July-Aug 1984	Class & Pay staff, Personnel Officers with seasonal employees in their departments				
. Occupational assignments to Class & Pay analysts.	Sept 1984	Project Manager	Class & Pay Analysts	Meeting	Project Manager	
. Establish committees of departmental personnel people to support occupational groups.	Sept 1984	Project Manager	Personnel Officers	Presentation at Personnel Council	Project Manager	Aug. or Sept. 1984
. Establish control point for one-of-a-kind classes.	Oct 1984	Project Manager	Class & Pay staff Personnel Officers	Training	Consultant	Aug/Sept 1984
. Establish audit schedule.	Sept 1984	Personnel Officers, Class & Pay staff, consultant				
. Prepare supporting file systems.	Aug-Oct 1984	Class & Pay staff				
. Review maintenance support in Class & Pay - notify departments of any changes in process.	July 1984 Nov 1984, Feb 1985	Project Manager	Personnel Officers	Memo	Project Manager	July 1984 Nov 1984 Feb 1985

Department of Administration
Division of Personnel

Classification Study
Communication Plan

Task	Dates	People & Roles	Communication			
			Who	Mechanism	Signed or Presented by	Date
. Finalize forms, prepare camera-ready copy.	Aug 17, 1984	Consultant	Project Manager	Report	Consultant	Aug 17, 1984
			Court Personnel Director	Forms and cover memo	Project Manager	Aug-Sept 1984
. Incorporate procedures into training materials.	Aug 17-24, 1984	Consultant	Project Manager	Training Outline	Consultant	Aug 24, 1984
			Court Personnel Director	Training Outline with cover memo	Project Manager	Aug-Sept 1984
. Print job analysis questionnaires.	Aug 27 - Sept 14, 1984	Class & Pay staff				

Department of Administration
Division of Personnel

Classification Study
Communication Plan

Task	Dates	People & Roles	Communication			
			Who	Mechanism	Signed or Presented by	Date
7. PRESENTATION TO MANAGEMENT: Explaining the system, data collection processes and time frames, and allowing questions and answers.						
. Schedule presentations - check on other activities for possible conflicts in timing.	July 23-27	Class & Pay staff				
. Arrange logistics: -Space -Videotape (audio-tape) -Overhead	July 23 - Sept 13	Class & Pay staff				
. Notify managers - send memo.	Aug 1, Aug 15, Sept 1	Class & Pay staff	Governor's Cabinet	Presentation	Commissioner of Administration, Deputy, Director of Personnel, Project Manager	July 1984
			Commissioners cc: Department Representatives Personnel Officers	Memo	Commissioner of Administration	August 1984
			Commissioners	Follow-up phone call	Commissioner of Administration	Aug/ Sept 1984
. Prepare presentation: talking points, viewgraphs, handouts.	July 30 - Aug 17	Consultant with Class & Pay review	Project Manager	Draft presentation	Consultant	Aug. 17, 1984

Department of Administration
Division of Personnel

Classification Study
Communication Plan

Task	Dates	People & Roles	Communication			
			Who	Mechanism	Signed or Presented by	Date
. Conduct presentations -Juneau -Anchorage -Fairbanks	Aug 22-29 Sept 10-13 Sept 10-13	Consultant with Class & Pay staff	Managers: Deputy Directors, or comparable level (e.g., Regional Managers), through Commissioners	Presentations	Consultant Project Manager	Aug/ Sept 1984
. Staff training to repeat presentations	Aug-Sept 1984	Class & Pay staff	Class & Pay Analysts	Training (attendance at presentations and review of video tape)	Consultant Project Manager	Sept 1984
. Additional presentations	Sept-Oct 1984	Class & Pay staff does make-up sessions for Deputy Director and above in Sept. Class & Pay staff does sessions for supervisors in Sept/Oct.	Personnel Officers cc: Commissioners Department Representatives	Memo request-the identification of staff needing information	Project Manager	Sept 1984
			Supervisors	Presentations	Class & Pay Analysts	Sept/ Oct 1984

Department of Administration
Division of Personnel

Classification Study
Communication Plan

Task	Dates	People & Roles	Communication			
			Who	Mechanism	Signed or Presented by	Date
8. STAFF TRAINING IN SYSTEM.						
. Identify personnel staff to attend each session. -Juneau I -Juneau II -Anchorage	July 9-13, 1984	Class & Pay staff	Personnel Officers cc: Directors of Administrative Services	Memo (Director of Administrative Services must approve training for Assistants)	Project Manager	July 1984
. Arrange logistics for training sessions.	July 9 - Sept 14, 1984	Class & Pay staff				
. Prepare training materials.	July 9 - Aug 22, 1984	Consultant	Project Manager	Materials	Consultant	Aug 22, 1984
. Prepare guidelines for clustering positions.	July-Aug 1984	Class & Pay staff				
. Prepare specification writing manual.	July-Aug 1984	Class & Pay staff				
. Incorporate training on specification writing into training sessions.	Aug-Sept 1984	Class & Pay staff and consultant				

Department of Administration
Division of Personnel

Classification Study
Communication Plan

Task	Dates	People & Roles	Communication			
			Who	Mechanism	Signed or Presented by	Date
. Conduct training. -Juneau I -Juneau II -Anchorage	Aug 22-24 Aug 27-29 Sept 11-13	Consultant Personnel staff attending	Department Personnel staff Division of Personnel staff EEO staff Union staff	3 Training sessions	Consultant	Aug/ Sept 1984
. Training of Class & Pay analysts to repeat 3 day program	Aug 22-Sept 12, 1984	Consultant trains designated Class & Pay staff; Project Manager				
. Conduct make-up training sessions for personnel staff	Sept 1984	Class & Pay staff	Department Personnel staff Division of Personnel staff EEO staff Union staff	Training	Class & Pay Analysts	late Sept 1984
. Review inter-rater reliability results	Sept-Oct 1984	Project Manager and consultant	Personnel Officers	Memo	Project Manager	Oct 1984
			Personnel Officers	Presentation at Personnel Council	Project Manager	Nov 1984
. Identify needed retraining	Oct 1984 +	Project Manager and consultant				

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILE 8672
1379 SCOMM 51: BLUE RIBBON COMN. ON STATE PERSONNEL ACT 1978-1983

Department of Administration
Division of Personnel

Classification Study
Communication Plan

Task	Dates	People & Roles	Communication			
			Who	Mechanism	Signed or Presented by	Date
. Conduct retraining	As needed	Class & Pay Analysts	Personnel staff involved in project who need retraining	Training	Class & Pay Analysts	As needed
. Prepare general training in classification.	Aug-Sept 1984	Class & Pay Analysts				
. Identify personnel staff who need general training.	Aug-Sept 1984	Class & Pay staff with suggestions from Personnel Officers	Personnel Officers	Memo	Project Manager	Sept 1985
. Arrange training sessions.	Sept 1984	Class & Pay staff				
. Conduct training.	Oct 1984	Class & Pay Analysts	Personnel staff identified for general training	Training	Class & Pay Analysts	Sept-Oct 1984 and as needed

Department of Administration
Division of Personnel

Classification Study
Communication Plan

Task	Dates	People & Roles	Communication			
			Who	Mechanism	Signed or Presented by	Date
9. DATA COLLECTION, EVALUATION & REVIEW.			Governor's Cabinet	Announcement	Commissioner of Administration	Sept 1984
. Distribution & completion of questionnaires	Sept 27 - Oct 18, 1984	Class & Pay staff; State employees and supervisors	Department Managers Personnel Officers	Meeting to address procedures in each department, especially problems	Administration staff	Aug/ Sept 1984
			Employees	Mailing/distribution through department cover letter to include info. on audits and appeals	Commissioner of each Department	Sept 27, 1984
			Media	Press release or Press conference	Commissioner of Adminstration and/or Governor	Sept 1984
			APEA and other Unions	Letter request for coverage in newsletters	Director of Personnel	Sept 1984
			Bush employees	TV scanner	Project Manager	Oct 1984
			Steering Committee mailing list	Copy of employee letter	Project Manager	Sept 27, 1984
. Return and logging of questionnaires.	Oct 12 - Nov 15, 1984	Personnel Officers; Class & Pay staff				

Department of Administration
Division of Personnel

Classification Study
Communication Plan

Task	Dates	People & Roles	Communication			
			Who	Mechanism	Signed or Presented by	Date
. Follow-up for missing forms.	Nov 1 - Dec 31, 1984	Personnel Officers				
. Questionnaire distribution in Class & Pay for evaluation.	Oct 17 - Dec 31, 1984	Class & Pay staff				
. Field audits.	Nov 12, 1984 - Feb 15, 1985	Personnel Officers/analysts; Class & Pay staff; consultant	Employees selected cc: Supervisors Personnel Officers	Memo: schedule, what to expect	Analyst doing the audit (?)	Nov 1984 to Feb 1985
. General Update.	Nov 1984	Project Manager	Employees Steering Committee Mailing list Senate Committee on Employment Practices	Newsletter updating progress and procedures	Division of Personnel and each Department's Personnel Officer	Nov 1984
. Organizational committee meetings.	Oct 1, 1984 - Apr 30, 1985	Personnel Officers/analysts; Class & Pay analysts				
. General Update.	Jan 1985	Project Manager	Employees Steering Committee Mailing list Senate Committee on Employment Practices	Newsletter updating progress and procedures	Division of Personnel and each Department's Personnel Officer	Jan 1985
			Senate/House State Affairs	Presentation or written briefing	Division of Personnel	Jan 1985

Department of Administration
Division of Personnel

Classification Study
Communication Plan

Task	Dates	People & Roles	Communication			
			Who	Mechanism	Signed or Presented by	Date
. Job/class formation.	Dec 3, 1984 - Apr 19, 1985	Classification teams; Personnel Officers/analysts; consultant				
. Evaluations.	Dec 3, 1984 - Apr 19, 1985	Classification teams; Personnel Officers/analysts; consultant				
. Check and confirm evaluations.	Dec 3, 1984 - Apr 19, 1985	Class & Pay staff; consultant				
. Prepare class specifications	Dec 3, 1984 - Apr 30, 1985	Classification teams; Personnel Officers/analysts; consultant	Division of Personnel and Department Personnel staff	Meetings on impact of new system	Project Manager	April 1984
. General Update.	March 1985	Project Manager	Employees Steering Committee Mailing list Senate Committee on Employment Practices	Newsletter updating progress and procedures	Division of Personnel and each Department's Personnel Officer	March 1984
. Collect, revise, display ratings.	Jan 2 - May 15, 1985	Class & Pay staff; consultant				
. Recommend & display series and levels.	Jan 2 - May 15, 1985	Class & Pay staff; consultant				

Department of Administration
Division of Personnel

Classification Study
Communication Plan

Task	Dates	People & Roles	Communication			
			Who	Mechanism	Signed or Presented by	Date
. Management reviews of specifications & recommendations.	Jan 2 - May 15 1985	Class & Pay staff	Department Director of Administrative Services or comparable	Meetings	Director of Personnel Project Manager	Jan - May 1985
			Cabinet level staff in each Department	Meetings	Department of Administration staff	Jan - May 1985
			Personnel Officers	Cover memo with specifications and recommendations	Project Manager	Jan - May 1985
. Union review of specifications & recommendations.	Feb 1 - May 31, 1985	Class & Pay staff	Unions	Meetings to deliver material	Director of Personnel Project Manager	Feb - May 1985

Department of Administration
Division of Personnel

Classification Study
Communication Plan

Task	Dates	People & Roles	Communication			
			Who	Mechanism	Signed or Presented by	Date
10. MARKET SURVEYING: To collect information from the relevant markets and consider what integration is necessary on the pay table.						
. Determine survey design.	Sept 3 - Oct 31, 1984	Class & Pay staff				
. Determine survey distribution.	Nov 1 - Dec 14, 1984	Class & Pay staff	Personnel Officers	Discussion at Personnel Council to identify matching jobs	Project Manager	Jan 1985
. Select and describe benchmarks.	Jan 2 - Mar 15, 1985	Class & Pay staff	Personel Officers	Discussion at Personnel Council to identify recruiting problems, representative jobs	Project Manager	Jan 1985
. Survey evaluation.	Apr 15 - May 17, 1985	Class & Pay staff				
. Review for implications in salary schedule.	May 17 - June 28, 1985	Class & Pay staff				

Classification Study
Communication Plan

Task	Dates	People & Roles	Communication			
			Who	Mechanism	Signed or Presented by	Date
11. PREPARE PAY TABLE, EVALUATE COSTS & IMPLEMENTATION OPTIONS	May 1 - July 31, 1985					
. Prepare Pay Tables. Develop pay line based on current rates. Develop new unified salary schedule. Develop point to grade conversion tables.		Consultant develops, analyzes and prepares a report; Class & Pay staff review and comment				
. Determine State rules & contract provisions governing step placement.	May 1985	Consultant				
. Convert employees' current rates to new rates, considering different forms of implementation in those classes whose salary grades are proposed to change.	June-July 1985	Consultant				

Department of Administration
Division of Personnel

Classification Study
Communication Plan

Task	Dates	People & Roles	Communication			
			Who	Mechanism	Signed or Presented by	Date
. Calculate difference in costs between current payroll & each form of implementation.	July 1985	Consultant	Project Manager	Report on total task	Consultant	July 31, 1985
. Repeat above for the Court System.	May-July 1985	Consultant	Project Manager	Report on total task	Consultant	July 31, 1985

Department of Administration
Division of Personnel

Classification Study
Communication Plan

Task	Dates	People & Roles	Communication			
			Who	Mechanism	Signed or Presented by	Date
12. TRACK OLD SYSTEM TO NEW: Graphically show existing classes, rates & codes with new classes, rates & codes.						
. Design forms	Jan 1985	Class & Pay staff				
. Record existing information by occupational & alphabetical order.	Feb 1985	Class & Pay staff				
. Chart information on new system.	March-June 1985	Class & Pay staff				
. Record nature of any change.	March-June 1985	Class & Pay staff				

Department of Administration
Division of Personnel

Classification Study
Communication Plan

Task	Dates	People & Roles	Communication			
			Who	Mechanism	Signed or Presented by	Date
13. FINAL REPORT: Combine information from consultant & Personnel staff for comprehensive package.						
. Integrate necessary survey information into pay plan.	May-June 1985	Class & Pay staff				
. Prepare summary sheets and graphs.	June-July 1985	Class & Pay staff				
. Meetings to review package.	Aug 1985	Department of Administration	Director of Personnel Commissioner of Administration Deputy Commissioner	Memo on report Meetings	Project Manager	Aug 1985
. Deliver to Governor's Office.	Aug 31, 1985	Commissioner of Administration	Governor	Memo on report	Commissioner of Administration	Aug 1985
. Publish Report	After Governor's release	Division of Personnel	Personnel Officers Steering Committee Department Representatives Unions Senate/House State Affairs Mailing list	Report and cover memo	Commissioner of Administration	Sept 1985

Department of Administration
Division of Personnel

Classification Study
Communication Plan

Task	Dates	People & Roles	Communication			
			Who	Mechanism	Signed or Presented by	Date
14. SYSTEM APPEALS: To review employee appeals of allocation actions.						
. Review and record contract appeal processes.	July 1984	Class & Pay and Labor Relations				
. Draft additional administrative process.	July 1984	Divisions of Personnel and Labor Relations	Committee from Personnel and Labor Relations	Meetings Work sessions	Project Manager	
. Review process.	July 1984	Director of Personnel, EEO, and Deputy Commissioner of Administration				
. General update	May 1985	Project Manager	Employees Steering Committee Senate Committee on Employment Practices Senate/House State Affairs	Newsletter on progress including appeals process	Division of Personnel with each Department ficer	May 1985
. Establish board to hear appeals and draft procedures.	July 1985	Department of Administration	Individual Employee	Memo with allocation and appeal information	Director of Personnel?	Oct 1985?
. Hear appeals.	Sept 1985 - Feb 1986	Appeals Board				

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF ADMINISTRATION

POUCH C (MS 0201)
JUNEAU, ALASKA 99811

DIVISION OF PERSONNEL

Classification Study

ALASKA QUANTITATIVE EVALUATION SYSTEM COMMITTEE

July 23, 1984

Purpose: Establish the factors and weights that will be used to evaluate State jobs.

The Committee will review a set of draft factors (.e.g. knowledge, complexity, responsibility, working conditions) and factor definitions prepared by the consultant. These will be discussed, and the Committee will make a final decision on the factors and the number of levels needed to compensate the range of State employees. The Committee will also rank the factors in relation to each other and will review and decide on the final system to be used.

PARTICIPANTS

EXECUTIVE DEPARTMENTS

Administration:	Eleanor Andrews Deputy Commissioner
	Frank Raye Director, Personnel
Commerce:	Lois Cook Director, Admin. Svcs.
Community & Regional Affairs:	Jeff Smith Deputy Commissioner
Corrections:	Danith Arnoldt Admin. Officer 3
Education:	Jan Hiley Special Asst.
Environmental Conservation:	Bill Publicover Director, Admin. Svcs.

EXECUTIVE DEPARTMENTS - Cont.

Fish & Game:	Beverly Reaume Director, Admin. Svcs. & Fiscal Mgmt.
Health & Social Svcs.:	Norma Lang Special Asst.
Labor:	Judy Knight Director, Admin. Svcs.
Law:	Richard Pegues Director, Admin. Svcs.
Military Affairs:	Dick Rountree Director, Admin. & Support Svcs.
Natural Resources:	Sharon Barton Director, Mgmt.
Public Safety:	Jos Mapranath Director, Admin. Svcs.
Revenue:	Martin Richard Director, Public Svcs. or Ervin Jones Director, Admin Svcs.
Transportation & Public Facilities:	Ron Lind Director, Admin. Policy & Fiscal Mgmt.

COURT SYSTEM

First Judicial District:	Kris Carlisle Area Court Administrator
Third Judicial District:	Goldeen Goodfellow Clerk of Court, Asst. Area Court Administrator

COURT SYSTEM - Cont.

Fourth Judicial District:	Wayne Wolfe Clerk of Court, Asst. Area Court Administrator

EMPLOYEE REPRESENTATIVES

Alaska Public Employees Association:	Diane Corso Field Office Mgr.
Confidential Employees Association:	Tom O'Donnell
	Don Rouleau
Labor, Trades and Crafts:	
Public Safety Employees Association:	Dave Kaiser representing Ed Harter, Pres.

Department of Administration
Division of Personnel

Classification Study

FACTORS IN THE ALASKA QUANTITATIVE EVALUATION SYSTEM AND RELATIVE WEIGHTS

	Factor	Weight
1.	Knowledge Required	17.9%
2.	Scope of Actions	16.4%
3.	Job Complexity	15.6%
4.	Amount of Discretion	14.7%
5.	Consequence of Error	17.9%
6.	Contacts	7.7%
7.	Physical Effort	1.7%
8.	Hazards	6.9%
9.	Surroundings	1.2%
		100.0%

10. Personnel Authority

11. Employees Supervised

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STATE OF ALASKA
Department of Administration
Division of Personnel

Classification Overview

CLASSIFICATION: Grouping like things together in related order
- Placing like jobs in a class
- Ordering classes in series
- Placing series in occupational groups like trades, clerical, professional

Serves as the "backbone" to a personnel system.

CLASSIFICATION EXAMPLES:

TRANSPORTATION		JOBS	
Land Transport	Ocean Transport	Labor/Trades	Professional
bicycle	rowboat	Laborer	Accountant
motorcycle	motorboat	Electrician's Helper	Senior Accountant
car	ferry	Electrician	Accounting Supervisor
bus	ocean liner	Electrical Supervisor	Accounting Manager
train			

CLASSIFICATION USES:

** set pay **

** career counseling **

** performance evaluation **

** evaluate applicants **

** training plans **

** organizational planning **

7/84

STATE OF ALASKA

Department of Administration

Division of Personnel

CLASSIFICATION: WHAT COUNTS

These things count in classifying positions:

Authority and responsibility exercised

Extent of supervisory controls over the work

Nature and variety of work

Guidelines available and individual judgment required

Qualification requirements of the work

Working conditions

These do not:

Personality

Relative efficiency

Length of service

Volume of work

Scarcity of new employees

Unusual diligence or overtime

Financial need

STATE OF ALASKA
Department of Administration
Division of Personnel

Reasons for a Classification Study

Age of State Classification System

- o No comprehensive review of classes implememented since Statehood.
- o No comprehensive salary review implemented since Statehood.

Method of Classification

- o Current method is subjective. Individual departments do classification - consistency in the use of the system can't be assured.
- o Existing method is time-consuming and labor intensive.
- o Current method is hard to explain and subject to abuse.

Legal Issues

- o Need to show consistency in classification and pay.
- o Need to assure compliance with Equal Pay Act.
- o Need to assure compliance with Title VII and guarantee no adverse impact in classification system.

Additional Problems in Existing System

- o 25% of positions involve automatic promotion. Doubt exists regarding the consistency and supportability of this practice.
- o There are 294 one-position classes and 136 two-position classes, which equals 40% of the existing 1,075 classes. 20% for one- and two-position classes is a public sector average.

FUNDING: $50[illegible]000
Legislative [illegible]propriation
in FY 1984 budget

DEPARTMENT OF ADMINISTRATION
Division of Personnel

Classification Study Activity Summary
May 1983 -- June 1984

Phase I

GOVERNOR'S OFFICE	LEGISLATIVE OUTREACH	STEERING COMMITTEE	DEPARTMENT OUTREACH	UNION OUTREACH	PROFESSIONAL SERVICES CONTRACT	ADVERTISING/MEDIA
8/83: Approval of initial timeline and format 6/84: Approval of final timeline and format; established 8/85 as deadline for final report	9/83: Presentation to Senate Committee on Employment Practices Steering Committee representation 10/83: Meetings with Rep. Duncan/Miller & Sen. Ray 4/84: Presentation to House State Affairs Committee	9/83: Committee established -- DOA Staff Asst., Governor's Office DOA Budget Analyst, Office of Mgmt. & Budget Director of Personnel Director of EEO Chief of Class & Pay Senator Ray Senator Faiks, alternate Representative Abood Personnel Director, Courts 10/83, 12/83, 2/84, 4/84, 7/84: Meetings in Juneau, Anchorage, Fairbanks 3/84 - 5/84: Rating members of committee completed consultant selection	11/83: Initial timeline sent to Commissioners and Personnel Officers Established contact group of one manager per department Received written recommendations on study process and goals from Personnel Officers 12/83 - 6/84: Monthly updates on Study plans to all Personnel Officers	11/83: Initial timeline sent to 7 unions 11/83 - 3/84: "Meet and confer" sessions with 7 unions 1/84 - 2/84: Language regarding the Classification Study incorporated in contract drafts - APEA, CEA, LTC, PSEA	3/84: Received 25 proposals 4/84: 7 firms gave presentations in public 5/84: Selected Booz, Allen & Hamilton with Hallcrest-Craver & Associates 6/84: Contract signed - consultants on site	9/83: Juneau Empire & Anchorage Times feature stories & related editorial 11/83: "Invitation to Comment" published statewide 1/84: RFP advertised statewide and nationally 12/83, 2/84, 4/84, 7/84: Steering Committee meetings advertised statewide

DEPARTMENT OF ADMINISTRATION
Division of Personnel

Classification Study Timeline
Highlights

	84	Phase II					85								85-86
Task	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep-Feb
Final Work Plan, Final Communications Plan (Done in committee - each committee = 2 dept. mgrs., 2 dept. personnel officers, 4 DOA staff)	XX															
Factor Evaluation System (Done in committee - 16 department managers, 4 union representatives, 3 Court managers)		X														
Data Collection Forms, Data Collection Methods (Done in committee - 4 dept. personnel officers & 4 DOA staff)		XXX	XXX													
Presentation to Management (5 sessions in Juneau, 2 in Anchorage, 1 in Fairbanks)			XX	XX												
Staff Training in System (Personnel Officers, Personnel Analysts and union representatives)			XX	XX												
*Data Collection (Distribution & return through departments of job description questionnaires)				XXXX	XXXX	XXXX	XXXX									
Market Surveying (Design, send and evaluate results)				XXXX	XXXX	XXXX	XXXX	XXXX	XXXX	XXXX	XXXX	XXXX	XXXX			
Draft Class Specifications & Recommendations (Departmental personnel officers and DOA staff)							XXXX	XXXX	XXXX	XXXX	XXXX					
*Review Specifications & Recommendations with Department Management								XXXX	XXXX	XXXX	XXXX	XXXX				
Review Specifications & Recommendations with Unions									XXXX	XXXX	XXXX	XXXX	XXXX			
Prepare Pay Table, Evaluate Costs & Implementation Options (Completed by consultant)													XXXX	XXXX		
Submit Final Recommendations to Governor's Office															XXX	
System Appeals																XXXX XXXX

7/84 *These functions create a lot of activity within departments.

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF ADMINISTRATION

DIVISION OF PERSONNEL

POUCH C (MS 0201)
JUNEAU, ALASKA 99811
(907) 465-4430

STATE OF ALASKA
DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL
MEETING NOTICE

The Steering Committee for the Classification Study of State positions will meet in Fairbanks on Monday, July 30, in the Training Room of the Public Safety Building, 1979 Peger Road, at 1:30 p.m.

Activity to date will be reviewed and new issues discussed. Space will be available for observation of proceedings. Agendas will be available at the meeting.

For additional information, or if you would like to be on the Classification Study mailing list, please contact the Chief, Classification and Pay, Division of Personnel, Pouch C-0201, Juneau, AK 99811, or call 465-4424.

13/4D3/0713-02

Department of Administration
Division of Personnel

Classification Study

Steering Committee
Suggested Meeting Dates & Updates

DATE	LOCATION
Sept. 21, 1984 (Friday)	Juneau
November, 1984	Written Update
December 14, 1985 (Friday)	Anchorage
January, 1985	Written Update
March, 1985	Juneau
May, 1985	Fairbanks
July, 1985	Juneau

7/84

March 3, 1987

The attached are title pages from publications which were originally in the materials sent to the Library by the Blue Ribbon Commission on the State Personnel Act. The full reports have not been retained in the files because they should all be easily available from other sources. Jeanie Henry

A Preliminary Study:

The Status of Women in Alaska



Compiled by the University of Alaska Institute for Social and Economic Research, and Joan Katz, for the Alaska State Commission for Human Rights

January, 1977

ALASKA'S WOMEN: DETERMINING OUR FUTURES



Woodcut print "Communicating" by Polk, Inc. of Petersburg

March 19, 20, 21, 1982

A statewide women's conference sponsored by the Alaska Commission on the Status of Women at the Sheraton Anchorage Hotel. The conference will bring together women from all parts of the state to learn together, grow together, and express ourselves together.

For information, write the Alaska Commission on the Status of Women, 338 Denali Street, Suite 850, Anchorage 99501, or call 276-3003

Conference Report

Alaska Commission on the Status of Women

JAY S. HAMMOND
GOVERNOR

BARBARA L. SCHUHMANN
CHAIR

KATHERINE T. HURLEY
EXECUTIVE DIRECTOR

PHONE
(907) 276-3003

STATE OF ALASKA
OFFICE OF THE GOVERNOR

ALASKA COMMISSION ON THE STATUS OF WOMEN
338 DENALI STREET, SUITE 850
ANCHORAGE, ALASKA 99501

FIVE YEARS LATER

A REVIEW OF THE RECOMMENDATIONS CONTAINED IN

A PRELIMINARY STUDY:

THE STATUS OF WOMEN IN ALASKA, 1977

AUGUST 1982

PREPARED BY: CHRISTINE CALLAHAN, RESEARCH ANALYST

ALASKA'S 1980 POPULATION

—A PRELIMINARY LOOK—

STATE OF ALASKA Jay S. Hammond, *Governor*

ALASKA DEPARTMENT OF LABOR Edmond N. Orbeck, *Commissioner*

ADMINISTRATIVE SERVICES DIVISION John Post, *Director*

RESEARCH AND ANALYSIS SECTION Chuck Caldwell, *Chief*

PREPARED BY: Stephen D. Harrison, *Labor Economist*
Jim Fowler, *Graphic Artist*
Melanie Wilhelm, *Administrative Assistant*
Ingrid Zaruba, *Statistical Clerk*

JANUARY 1, 1981

Alaska Population Overview

Prepared by

Stephen D. Harrison

FIRST EDITION

December 1979

ALASKA DEPARTMENT OF LABOR Edmund N. Orbeck, *Commissioner*

RESEARCH AND ANALYSIS SECTION John E. Post, *Chief*

LABOR MARKET INFORMATION

FOR 1982

AFFIRMATIVE ACTION PROGRAMS

STATE OF ALASKA

Jay S. Hammond, Governor
State of Alaska

Edmund N. Orbeck, Commissioner
Department of Labor

John E. Post, Director
Administrative Services

Chuck Caldwell, Chief
Research and Analysis

4500

June 1981

Review
by
Executive Branch of Alaska State Government
of
CHANGING COMMITMENT INTO ACTION
EMPLOYMENT OF WOMEN AND MINORITIES IN ALASKA STATE GOVERNMENT

- A Report of the Alaska Advisory Committee to the United States Commission on Civil Rights

PREFACE

The report, "Changing Commitment into Action -- Employment of Women and Minorities in Alaska State Government" is the product of a study by the Alaska Advisory Committee to the U.S. Commission on Civil Rights. The study commenced in 1977 and ended September 22, 1978. The report of the study was not released until September 22, 1980.

While there was a substantial amount of time, effort and expense that went into both the study and report the final observations and recommendations are, at this late date, of limited value. A majority of the reports' recommendations had either been implemented or were "in the works" long before the report was released.

In addition, the report makes several assumptions which appear to be based on uninformed testimony gathered during the study. As a result the report is, in some respects, inaccurate and tends to mislead.

The following review of the committee's report attempts to "set the record straight" with regard to equal employment opportunity within the executive branch of Alaska State Government by responding to applicable portions of relevant chapters, the recommendations, and by the inclusion of replies from several executive branch agency officials to Mr. Brook's requests of December 3, 1980, for reviews of "Changing Commitment into Action."

CONTENTS

INTRODUCTION..... 1

AGENCIES RESPONSIBLE FOR EQUAL EMPLOYMENT OPPORTUNITY IN ALASKA..... 3

STATE EEO RESPONSIBILITY - DIVISION OF EQUAL EMPLOYMENT OPPORTUNITY..... 7

STATE DEPARTMENTS AND OFFICES..... 10

CONCLUSIONS, FINDINGS AND RECOMMENDATIONS..... 40

Chapter 1

INTRODUCTION

This chapter of the report includes the background of the study with excerpts of a letter from the chairman of the Alaska State Commission for Human Rights to the Governor, a description of the area of Alaska, its population, Alaska Labor Market Information for Affirmative Action Programs - 1976, and workforce statistics.

The letter from the chairman of the Alaska State Commission for Human Rights to Governor Hammond dated February 9, 1978 was partial information furnished to the committee during its study. Since the information in the letter was "already a matter of public record" there apparently was no effort to check its accuracy either during the study or prior to releasing the report.

The letter stated:

> There is an embarrasing absence of minorities at all levels. One could go blind looking for women (24) and minorities (1) in the recently released list of 457 State employees making over $40,000.00.
>
> Alaska's equal employment monitoring and auditing efforts since the EEO program was established six years ago have been ill-conceived failures...(We wish to stress that our criticism of the State's efforts is not directed solely at the program's present employees. The worst which could be said about them is that they have failed to correct faulty program concepts which were adopted by other than staff long before the present staff began work.)

The above quotation implies that the Division of Equal Employment Opportunity is the agency responsible for equal employment opportunity for all three branches of State government (Executive, Legislative and Judicial) and the University of Alaska; whereas, the Division is responsible solely for the executive branch.

It is not known where the statistics for "the recently released list of 457 State employees making over $40,000.00" was obtained. But we question their reliability because, in the executive branch alone, 275 classified employees made $40,000.00 plus in February, 1978. Of this total, 21 were women and 4 were minorities. In February, 1979 a total of 252 employees made $40,000.00 or more, 29 were women and 5 minorities. During December 1980 a total of 690 classified employees were making $40,000.00 and over, 101 women and 45 minorities. It is evident that, in spite of statements to the contrary, statistics maintained by the Division of EEO show a fairly small but steady improvement in the numbers of women and minorities at this level within the executive branch of State government. And, at least three of the minority employees within the executive branch were not included in the list of those making $40,000.00 or more in 1978.

Chapter 2

AGENCIES RESPONSIBLE FOR EQUAL EMPLOYMENT OPPORTUNITY IN ALASKA

This chapter describes the agencies responsible for Equal Employment Opportunity in Alaska. It is interesting to note that although staff of the U.S. Commission were provided with copies of Administrative Order No. 59, the report used outdated information from the State of Alaska Affirmative Action Plan dated March 16, 1977 and an interview on December 13, 1977 with a former director of the EEO Division to describe the Governor's commitment and the Division of EEO respectively.

Administrative Order No. 59, which was signed by Governor Hammond June 20, 1980 is printed below. All aspects of this Administrative Order have been implemented.

STATE OF ALASKA

Office of the Governor

Administrative Order No. 59

In further pursuit of the State of Alaska's commitment to human rights as expressed in the State Constitution and Alaska Statute 18.80.200, as amended, I, Jay S. Hammond, Governor of the State of Alaska, under the authority granted by Article III of the Alaska Constitution and by Alaska Statute 44.17.060, order the following as the equal employment opportunity policy of the executive branch of the State of Alaska:

1. Statement of Policy; General Requirements

1.1 The policy of the executive branch of the State of Alaska is equal opportunity and nondiscrimination in all of its employment decisions, programs, and activities. The State shall take affirmative steps to implement this policy in the internal affairs of State government, as well as its relations with the public.

1.2 All departments or appointing authorities shall have affirmative action programs and written plans to conform with this order. All affirmative action programs and plans shall be reviewed by the Department of Administration, Division of Equal Employment Opportunity, established in part 2 of this order.

1.3 Affirmative action requires that steps be taken in all departments to eliminate discriminatory barriers to employment on the grounds of race, religion, color, national origin, age, sex, handicap, marital status, changes in marital status, pregnancy or parenthood, when the reasonable demands of the position do not require a distinction. It also requires positive, aggressive measures to ensure that all terms and conditions of employment including, but not limited to, the areas of recruitment, hiring, assignments, evaluation, promotion or transfer, layoff, termination, training, compensation, and treatment are not arbitrarily discriminatory on the grounds listed.

2. Responsibilities

2.1 The Commissioner of the Department of Administration is responsible for the Equal Employment Opportunity Program. Specific responsibility and authority for administering and implementing the State's Equal Employment Opportunity Program is assigned to the Division of Equal Employment Opportunity, established within the Department of Administration.

2.2 The Director of the State Division of Equal Employment Opportunity shall administer the Equal Employment Opportunity Program for employment within the executive branch, and shall carry out the State's policy on nondiscrimination, equal employment opportunity, and affirmative action in employment within the executive branch. The Director shall:

(1) Develop and implement guidelines, standards, and procedures governing the preparation, timely submission, and review of affirmative action plans by all departments within the executive branch;

(2) Give final approval or disapproval of all affirmative action plans submitted by each department;

(3) Conduct an ongoing review of affirmative action plans and their implementation to assure that programs are in compliance with this administrative order;

(4) Establish a uniform compliant procedure which is to be included in all affirmative action plans and available to all persons subject to this administrative order, including applicants as well as employees. This procedure must be used to investigate, determine, and resolve issues covered by this Administrative Order or related to affirmative action plans. This procedure is a means by which persons may bring issues covered by this order to the attention of responsible officials for the purpose of investigation, determination, and resolution. However, a failure to comply with this procedure does not deny a person any right he would not otherwise have under the United States and Alaska Constitutions and statutes.

(5) Maintain contact with State agencies, employees, or applicants and any State or federal enforcement agency in connection with all issues covered by this administrative order.

(6) Cooperate with the director of the Division of Personnel to ensure that the State personnel system is operated in ways which provide assistance to appointing authorities in meeting affirmative action goals and that all personnel system policies, practices, and regulations comply with this administrative order.

(7) Monitor employment practices and policies and take necessary measures to ensure that all conditions of employment, including but not limited to, the areas of recruitment, hiring, assignment, evaluation, promotion, demotion, transfer, layoff, termination, training, compensation and treatment are not arbitrarily discriminatory on the grounds listed in sections 1.3 of this order.

(8) Review all employee collective bargaining agreements on a continuing basis to ensure compliance with this administrative order and advise the director of the Division of Labor Relations on EEO matters as they pertain to contract negotiations and management.

(9) Provide training to management, supervisors, and employees to strengthen knowledge and understanding of State and federal anti-discrimination laws and subjects covered under this administrative order.

(10) Prepare the overall State affirmative action plan which is to consist of this administrative order, the annual plan, and the annual report. The State affirmative action plan must be submitted to the commissioner of administration, the governor, and the legislature each year.

2.3 The commissioner of each department or the authority in agencies of the executive branch that are not in departments shall:

(1) Have an affirmative action plan setting forth goals and timetables, identifying problem areas, outlining remedies, and specifying reasonable measures to eliminate the effects of any past or present discriminatory practices and terms, conditions, and privileges of employment.

(2) Select an official of the department at the level of director or above who is to be designated the department equal employment opportunity representative. The department equal employment opportunity representative shall supervise development and implementation of the department's affirmative action plan and program.

This administrative order takes effect immediately.

DATED June 20, 1980, at Juneau, Alaska.

Jay S. Hammond, Governor

There are two additional errors in this chapter: (1) The EEO Committee was not established by executive order of the governor. Members of the committee were appointed by the governor and, (2) The Alaska Equal Pay for Women Act, AS 23.10.155 was repealed in 1980 during the eleventh session of the Alaska Legislature.

Chapter 3

STATE EEO RESPONSIBILITY
DIVISION OF EQUAL EMPLOYMENT OPPORTUNITY

The purpose of Chapter 3 of the Advisory Committee report was to describe and assess the responsibilities of the Division of Equal Employment Opportunity as listed by the Advisory Committee in Chapter 2 of their report.

Restating what has already been said in the review of Chapters 1 and 2:

- The responsibilities of the Division of EEO extend to the executive branch of State government only,
- The limited value of a report covering three and four year old material, and
- The questionable accuracy of the information furnished.

Rather than continue to comment on Chapter 3, further discussion will be limited to the major accomplishments of both the Division of EEO and the executive branch since early 1979.

- The Division of EEO completely revised and rewrote the affirmative action plan for the executive branch. It is entitled, State of Alaska Affirmative Action Workbook and includes a section on each of the essential components required to be in all approved plans of each department within the executive branch.

  This plan was published July 1, 1980 and copies were distributed to the EEO representatives and personnel officers of each department during a 3-day Affirmative Action Plan Workshop conducted by Division of EEO staff July 23, 24 and 25, 1980.

  All departments now have plans which, in addition to other components, contain short term and long term hiring goals for minorities and women in job groups where they are underutilized. To assist departments to attain their goals the Division of EEO and the Division of Personnel have developed a procedure. This procedure enables department hiring authorities to consider the top five minorities and the top five women in addition to the top five on an eligible list whenever filling a position. The procedure may be used for classifications in which minorities and/or women are under-represented and is due to go into effect in the near future.

  Monitoring of program progress including attainment of goals and other affirmative actions under department plans is being carried out by staff of the Division.

- Administrative Order No. 59 was signed by Governor Hammond June 20, 1980. The order is in this review under the previous section (Chapter 2).

- Staff of the Division of EEO continue to conduct workshops for managers, supervisors and EEO representatives in Juneau, Anchorage and Fairbanks. Three additional workshops have been added: Employment Law and the Handicapped, Upward Mobility for Employees, and EEO for Employees. Approximately 850-900 executive branch employees have attended these workshops since April 1979.

- Targeted, outreach recuitment is conducted by staff of the Divisions of Personnel and EEO to encourage minorities and women to apply for jobs within the executive branch. During recruitment trips tests have been administered in rural and bush areas of the State. The Division of Personnel is attempting to utilize the services of other agencies to administer examinations in rural communities.

  The Alaska Resource and Recruitment Directory -- of Minority, Women, Handicapped and The Elderly Organizations and Agencies was published in April 1980. The directory is distributed state-wide and is used by executive branch agencies and by the Division of Personnel as a recruitment aid.

  Division of Personnel recruitment staff regularly attend job fairs and career days throughout the State and at the University of Alaska in special recruitment efforts.

  Recruitment bulletins are distributed to all Job Service offices throughout the State, and to Minority, Women, Handicap and Elderly Organizations. For promotional purposes recruitment bulletins are posted conspicuously throughout all offices of agencies of the executive branch.

- The Division continues to operate the Talent Bank based in the Anchorage office of the Division.

- The Division of Personnel received funding from the legislature to establish an automated applicant flow data system which is targeted operational in October 1981.

- The Division of EEO has submitted a capital budget request to the legislature which if appropriated, will enable the Division to establish an automated employee tracking system. This system will track all the promotions, transfers, terminations both voluntary and involuntary, position realocations and reclassifications, etc., by race and sex of all employees in all departments of the executive branch.

Chapter 4

STATE DEPARTMENTS AND OFFICES

NOTE: Included in this portion of the review are responses from various executive department officials to Mr. Brook's letter of December 3, 1980.

DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

MEMORANDUM State of Alaska

TO: William R. Hudson, Commissioner
Department of Administration

THRU: Lois Cook, Director
Division of Administrative Services
Department of Commerce &
Economic Development

FROM: James C. Lawson, Personnel Officer
Division of Administrative Services
Department of Commerce &
Economic Development

DATE: January 7, 1981

FILE NO:

TELEPHONE NO:

SUBJECT: Reply to Letter From Commission on Civil Rights

RECEIVED
JAN 9 1981
Dept. of Administration

The following is my reply to the letter from Joseph T. Brooks, Regional Director, United States Commission on Civil Rights, for incorporation into the executive branch response.

Finding #5 and Recommendation.

Impartial interview board to interview applicants instead of individual interviewer and varying interviews.

It would, in most cases, be impractical to use a "board" for reviewing. The use of a preplanned interview guide sheet, which can be used for interviewing all applicants equally is more favorable. The "EEO for Supervisors" training session suggests this guide sheet, and this department is moving for compliance in this manner.

Promotions and Upward Mobility.

Problem - No strong positive steps to ensure equal access to jobs and promotions within the department. Also vacancy announcements for promotions not circulated to all employees <u>across</u> <u>all</u> departments.

A procedure bulletin is being formulated which will itemize the necessary steps for filling a vacant or soon-to-be vacant position. Steps include encouraging known minorities within the department to seek certification to specific job classifications, prior to calling for the register. When a departmental register is not used, an open register is called, which makes the job vacancy available to anyone who is qualified and on that register.

Problem - Alaska Natives restricted account of required formal education which they may lack.

Reclassification to reflect true minimum qualifications instead of "ideal" qualifications is a current on-going consideration, as is substitution of related work experience for educational requirements. Further, the department will pay the expense of training when funds are available, and division directors are encouraged to request training funds in their annual budget.

02.001 A (Rev. 10/79)

Problem - No contract compliance nor affirmative action program to encourage participation of minority and women's firms in State contracts.

Within the department, minority firms (mostly Alaska Native) are currently asked to bid and are awarded contracts over majority bidders. This is due in part to the fact that the projects involved are largely in Native communities. Women's firms are directed to the proper division and are sent bidding information.

Comment:

At present the Department of Commerce and Economic Development is recruiting for EEO Affirmative Action Committee members. Once appointments are announced, the committee will meet to identify the objectives which will be handled in an expeditious manner to bring the department even more into compliance. Among the top priorities will be implementation of EEO evaluation within the normal performance evaluations for supervisors. Also, an updated awareness that minorities ranked below number five on a register may be utilized when EEO division indicates underutilization.

With regard to underutilization charts, we have made good progress in our goals to utilize the female and minority work force. We have recently hired a severely handicapped person, thereby further improving our utilization of all the available work force.

JLC/mhl/23

DEPARTMENT OF COMMUNITY AND REGIONAL AFFAIRS

December 19, 1980

Joseph T. Brooks
Regional Director
United States Commission on
Civil Rights
915 Second Avenue, Room 2852
Seattle, Washington 98174

Dear Mr. Brooks:

Your letter of December 3, questioned whether Community and Regional Affairs had implemented recommendations made by the Alaska Advisory Committee to the U.S. Commission on Civil Rights in a publication entitled "Changing Commitment Into Action -- Employment of Women and Minorities in Alaska State Government.

I fail to find any specific recommendations or findings made for Community and Regional Affairs, one section does state that "The advisory Committee hopes that with technical assistance...the Department will be able to improve its statistical "picture" of presentation of Women and minorities at all levels". (Based on 1978 employee statistics). Community and Regional Affairs has one of the highest minority profiles in the state departments -- 17%. This figure is only 2% under the standard for minority employment. We continue to rank high, 65%, for female employment

The 1980-81 Department Affirmative Action Program (enclosed) provid[illegible] an up-to-date look at our employment profile, specific employment goals and objectives, problems and corrective actions, responsibilities of our Affirmative Action Committee, etc.

If, after review of our new Program, you have any questions, feel free to contact me again.

Sincerely,

Lee McAnerney
Commissioner

DEPARTMENT OF EDUCATION

MEMORANDUM State of Alaska

TO William R. Hudson, Commissioner
Department of Administration

DATE January 15, 1981

FILE NO

TELEPHONE NO. 465-2800

FROM Marshall L. Lind, Commissioner
Department of Education

SUBJECT Letter from U. S. Commission on Civil Rights

RECEIVED
JAN 16 1981
Dept. of Administration
Commissioner's Office

We have reviewed the recommendations to our department in the study of the Alaska Advisory Committee to the U. S. Commission on Civil Rights. The following is our update on our action regarding these recommendations.

Recommendation 1

This recommendation speaks to the need to develop a career ladder for upward mobility from mid-level to upper-level management positions and to review minimum qualifications so that various kinds of administrative experience can be translated formally to school administration experience.

Action

Upon further analysis, the Department of Education has determined that, organizationally at least, a career ladder does exist between mid-management (ranges 19-21) and upper-management (ranges 22-26). Overall in the Department, the ratio of mid-management positions to top-management positions is 129:15 or approximately 9:1. Since most top-level positions are filled by within-department promotions, it would appear that adequate access is afforded to mid-management level employees.

However, while the percentages of women and minorities represented in mid-management positions are 41% and 5% respectively, percentages of the same groups in upper-management are 20% and 0% respectively. Since the advisory committee report, an additional woman has been appointed to a top-management position, raising the number of women in top-management from three to four.

Part of the difficulty is the low turnover in top-management positions. In the past two years, only four such positions were open. Two were filled with women (one as a lateral transfer; thus the statistics did not change); one had no women applicants at all, and the fourth required an extensive background in school finance and contract procedures, which the few women applicants did not have.

In an attempt to provide more expanded opportunities for women and minorities to gain the experience which would enable them to meet the qualifications for top-management positions, the Commissioner has reworked the current position of Special Assistant to the Commissioner to provide a short term (i.e., one to two year) internship experience for women and minority candidates within the department. Because incumbents of this position in the past have been promoted to top-management positions within the department, it is felt that the proposed use of this position exclusively for women or minority candidates would allow such candidates to be groomed for higher-level administrative positions.

Some work is continuing on review of minimum qualifications for professional positions within the department. It seems likely for the near future that many professional positions will continue to require a teaching certificate. However, the department has begun to review applicant experiences on a case-by-case basis and to allow credit for administrative experience - both paid and volunteer - outside of the more normal principal/superintendent experience.

Recommendation 2

This recommendation asked the department to study and implement criteria for alternative methods of teacher certification.

Action

The Department spearheaded a two-year study of teacher certification requirements, including alternative routes to certification beyond the normal baccalaureate degree in teacher education. The study was followed by proposed regulatory changes in several areas of certification. Strong public resistance to the proposed regulations, given at extensive public hearings, caused the State Board to withdraw the proposed regulations.

In a time of nationwide teacher surplus, which is felt in all but the most isolated parts of Alaska, it seems questionable if any effort to open up alternative routes to full certification will be successful. No such alternative is planned again for the near future in Alaska.

However, although it does not carry with it all of the benefits of full certification (in particular those of tenure and membership in the Teachers Retirement System), Alaska's Recognized Expert Certificate does allow persons with recognized skills to teach on a limited basis.

Recommendation 3

This recommendation asked the Department to work with the University of Alaska and others to develop appropriate teacher training programs for bilingual aides.

Action

In the past two years, significant studies have been made by individual school districts, the University of Alaska system (in particular, the community colleges) and the state's two private colleges and universities to expand the career ladder for bilingual teacher aides. Since most programs are delivered on-site to persons who are employed full or part-time, progress along the career ladder to full certification is slow. It is not unusual for a village resident to take between six and eight years to complete a degree under these circumstances. On the other hand, asking villagers to leave the village for four years in campus study has never been a very effective route to a degree. It appears likely that the current system - time consuming as it may be - is the more effective approach.

The Department also sponsors short-term, for-credit, workshops and training experiences for bilingual aides that can help speed up the time required to get a degree.

DEPARTMENT OF ENVIRONMENTAL CONSERVATION

02 001B (Rev. 10/76)

STATE
of ALASKA

MEMORANDUM

TO: The Honorable William R. Hudson
Commissioner
Department of Administration

DATE: January 2, 1980

FILE NO:

TELEPHONE NO: 465-2600

SUBJECT: Letter, U.S. Commission on Civil Rights

FROM: Ernst W. Mueller
Commissioner
Department of Environmental Conservation

The letter and enclosure received from Mr. Joseph T. Brooks, Regional Director, U.S. Commission on Civil Rights, made only one very general recommendation to this department; i.e., "The Department should be taking affirmative steps to correct the under-representation of minorities and women.

This recommendation leaves a great latitude for interpretation. We believe the Department has acted within the intent and spirit of the Equal Employment Opportunity laws in our recruitment and employment practices.

The Department has:

1. Filled a vacancy in the upper management level with a white female.
2. Hired minorities when available.
3. Hired the handicapped through the Division of Vocational Rehabilitation.
4. Provided opportunity for upward mobility through "in house" recruitment, training, and tuition payments.
5. Recruited through trade journals and national publications.
6. Rewritten Class Specifications and task descriptions to provide for upward mobility, promotional opportunity, and easier entry into our specialized job class.
7. The Department has suffered no grievances resulting from recruitment or hiring practices.

RECEIVED
AN 8 1981

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

Mr. Joseph T. Brooks
Regional Director
United States Commission on Civil Rights
Northwestern Regional Office
The Federal Buiding
915 Second Avenue, Room 2852
Seattle, Washington, 98174

Dear Mr. Brooks:

Thank you for your recent letter regarding the study conducted by the Alaska Advisory Committee to the U.S. Commission of Civil Rights entitled "Cnanging Commitment Into Action -- Employment of Women and Minorities in Alaska State Government."

We have thoroughly reviewed and analyzed the report and the recommendations made by the Alaska Advisory Committee, and would like to take this opportunity to respond.

As of November 19, 1980, there were 1,816 employees in the Department of Health and Social Services. Of these, 338 were minorities, and 1,478 were women. In salary ranges 16 and above, 53 were minorities and 238 were white women, and 236 were white men, for a total of 527 employees. A comparison was made of the employment status of male and female minorities in FY 78, the period of time the report was based on, and FY 80. The comparative statistics are displayed in Table I, and show increases in the employment of both male and female minorities in all salary ranges. In summary, for ranges 22-28, there was an increase of 100% employment for male minorities; in ranges 16-21, employment for male minorities increased 41.6%, and female minorities increased 70.5%. In ranges 10-15, employment for male minorities increased 26.8%, and in ranges 5-9 there was an increase of 56.5%. The employment rates for female minorities do not reflect as high an increase, but are significant. In response to the specific findings and recommendations made in the report, we would like to address each of these separately.

Table I

Department of Health and Social Services

COMPARISON OF EMPLOYMENT OF MALE AND FEMALE MINORITIES

FY 78 - FY 80

SALARY RANGES	MALES					FEMALES					Total Employees		
	White		Minorities		%	White		Minorities		%			%
	FY 78	FY 80	FY 78	FY 80	(+ -)	FY 78	FY 80	FY 78	FY 80	(+ -)	FY 78	FY 80	(+ -)
Ranges 22-28	37	31	0	1	+100%	12	11	0	0	0%	49	43	-12%
Ranges 16-21	202	213	12	17	+41.6%	187	212	17	29	+70.5%	418	471	+12.7%
Ranges 10-15	230	243	41	52	+26.8%	262	261	52	49	+ 5.7%	585	605	+ 3.4%
Ranges 05-09	48	37	23	10	-56.5%	360	316	90	80	-11%	521	443	-14.9%
Ranges 51-60	50	48	16	21	+31%	51	49	11	12	+ 9%	128	130	+ 1.5%

TRAINING

The Department has increased its recruitment and training of Alaska Natives in technical programs, and includes persons providing services as well as employees of the State.

This is accomplished through the training provided by several divisions; namely, the Division of Public Health, the Office of Alcoholism and Drug Abuse, the Division of Mental Health, the Division of Corrections, and specifically the Division of Social Services, reorganized as the Division of Family and Youth Services. These programs offer training to providers and consumers of services throughout the state and prepare them to understand and cope with situations arising in their villages and communities, especially in the absence of state-funded positions to provide the services. In addition, training for state employees has increased considerably in order to broaden the base of bicultural-bilingual skills needed to more appropriately serve Alaska Natives and other minorities. Attached is an outline of the training offered by the Division of Family and Youth Services for FY 81, and gives you an indication of the types of training being offered the social workers in thier division.

In FY 80, the Department sponsored 107 employees in training appropriate to their employment, and of this number 82 were women or minorities. In the first quarter of FY 81, 36 employees were sponsored in training by the Department, and of this number, 22 were females and 8 were minorities.

We are also providing you with Department's Affirmative Action Plan for 1981, and call your attention to Section VIII: Identification of Problem Areas, page 151-158, and the emphasis on training for upward mobility, targeting females and minorities. In fact, throughout the plan you will find a strong Department commitment to the advancement of those protected class members the Department presently employs, and the recruitment of those identified as underutilized.

IMPARTIAL REVIEW COMMITTEES FOR PROMOTIONAL EVALUATIONS

The Department's response to assuring that each employee considered for promotion receives equal opportunity is the establishment of several "checkpoints" in the Department. First, the Personnel Section of the Division of Administrative Services is responsible for the individual career development of trageted employees--those identified as underutilized. Specific training plans are developed with the employee and the supervisor and if variable scheduling of work hours

is required, that can be accomplished. For example, the Department presently has Permanent Part-time Positions established, which allow the employee to work flexible or shorter hours, or even part-year in some cases. For example, one employee attends college nine months of the year and works in the summer, while her alternate works the nine months she is in school.

The Department has always had Equal Employment Opportunity Representatives for each division and separate office in the Department. However, that responsibility has formalized in the creation of an Affirmative Action Committee this year. This committee serves as "an impartial review committee" in situations where the Department deems it is needed. It is not considered appropriate for non-State employees to be involved in the selection of supervisors for State employees, and in fact would violate both the General Government and Supervisory Agreements with Alaska Public Employees Association. The closest situation that would parallel the Alaska Advisory Committee's recommendation made to use community residents in the selection of employees for promotion might be unsolicited recommendations made by the Department's board or commission members regarding the appointment of a partially exempt director. even in that situation, there are personnel rules which must be followed, as well as equal opportunity and affirmatie action principles we endorse and practice, which would preclude the selectrion of any State employee based on criteria other than qualifications and merit.

DIVISION OF CORRECTIONS ALLEGED DISCRIMINATORY PRACTICES

The Division of Corrections has undertaken a very aggressive affirmative action program this year, as evidenced by their corrective action plan which is attached. This corrective action includes training for all their employees in the principles of equal opportunity and affirmative action, to insure that promotional opportunities will be made available to those minorities and females presently employed. It will also insure that hiring officials give equal consideration to all applicants.

We trust that we have adequately answered your inquiry regarding the Department's response to the report. We appreciated the work done by the Alaska Advisory Committee and felt that the recommendations were very appropriate, with the one exception noted regarding the use on non-state employees in evaluating promotional opportunities. If we may provide additional information or clarification in any area of our civil rights work, please let us know.

Sincerely,

DEPARTMENT OF LABOR

MEMORANDUM

State of Alaska



TO: William Hudson, Commissioner
Department of Administration

DATE: January 30, 1981

FILE NO:

TELEPHONE NO: 465-2700

FROM: Edmund N. Orbeck, Commissioner
Department of Labor

SUBJECT: Draft Response to Report by the United States Commission on Civil Rights

Pursuant to Governor Hammond's memorandum of December 22, 1980 on this same subject, I am providing you with comments of the Department of Labor with respect to the findings and recommendations by the U.S. Commission on Civil Rights in those instances where their findings relate to activities of the Department of Labor.

Several of the recommendations made by the Alaska Advisory Committee to the U.S. Commission on Civil Rights concern the need for more comprehensive labor force information. Specific data limitations were pointed out in their findings and their recommendations call for the Alaska Department of Labor to rectify those deficiencies. There is a mistaken assumption that the Alaska Department of Labor is responsible for the quality of labor force data collected by the Bureau of the Census in its decennial census or that such data deficiencies can be easily corrected. In particular, problems associated with categorical data by race were built into Census procedures. Some of these problems deal with the race categories themselves (for example, Spanish-speaking is not a race) while others deal with sampling limitations. The Department of Labor utilizes census data in order to prepare specific reports and studies, including statistical reports for affirmative action programs. Unfortunately, reports published by the Department of Labor cannot overcome basic data limitations contained within the census data sources.

Under the title "Availability of Women and Minorities in the Labor Force," recommendation number one states that the Alaska Department of Labor in conjunction with the EEO Division, Department of Administration, "should develop current data on the labor pool for urban and rural areas for the following discrete categories: white (not including Hispanic), Black, Aleut, Eskimo, American Indian, Asian American, Pacific Islander, and Hispanic." Since this detail of information was not even collected by the 1970 decennial census, the magnitude of this task could exceed the cost in Alaska of the decennial census. Further, this effort would necessarily have to be undertaken periodically to keep such information current. Neither the Department of Labor nor the Department of Administration has the resources to undertake a project of this magnitude. Therefore, future informational needs will necessarily have to be met by decennial census data. The 1980 census will provide some information in the near future, but even this data will quickly become dated. In summary, there is no acceptable data source which can be tapped to provide the requested information on a continuing basis.

02-001A(Rev.10/79)

Under the same heading (women and minorities in the labor force), recommendation three suffers a similar but more complicated fate. In addition to the lack of ongoing data sources as outlined above, labor force definitions obscure the true pattern of worker availability. The Department of Labor has long been criticized for its statistical treatment of the rural unemployed. It is felt by many Alaskan administrators that the BLS-census definition of "unemployed" is excessively restrictive in that "discouraged workers" (those who are not seeking work) are not counted as being in the labor force. Again, the 1980 census will provide some relief but it will not overcome definitional limitations. The Alaska legislature has funded a one time study of "the real unemployed" for a specific geographic area of the State. It is hoped that information gained from this study will provide additional insights regarding the definitional limitations of present labor force concepts. Unfortunately, we will not be able to establish a definitive data series from this study alone. In summary, the State Department of Labor cannot comply with recommendation number three because the data to do so is not available from any known source.

It should be noted that the Department's affirmative action plan has been revised considerably from the plan in effect at the time the review was conducted initially (presumably 1978), in accordance with directions from the EEO Division. The current plan has been processed to the EEO Division for approval as well as having been submitted to (and approval received from) the Employment & Training Administration of the U.S. Department of Labor.

The inquiry from the U.S. Commission for Civil Rights indicates some confusion in the use of racial and ethnic categories. It should be understood from foregoing comments that the problems with these categories stem from their beginnings in the census data. Within the Department, they do not cause the particular confusion cited in the Commission report. There may be some confusion in use by other agencies not familiar with the terms. It should be noted that there is a difference between the requirements of the State of Alaska EEO Office, which separates Alaska Native and American Indian, from that of the U.S. Department of Labor's Employment & Training Administration, which combines American Indian and Alaska Native into the same category.

That summarizes our response to the items which we feel fall within our purview. If there are further questions, please have representatives of your staff contact Glenn Lundell, Deputy Commissioner. Also, if significant rewrite should occur in the sections for which we have contributed information, we would appreciate the opportunity to review those prior to their being mailed as a composite report.

DEPARTMENT OF MILITARY AFFIARS

31 Dec 1980

Mr. Joseph T. Brooks
Regional Director
United States Commission on Civil Rights
Northwestern Regional Office
915 Second Avenue, Room 2952
Seattle, Washington 98174

Dear Mr. Brooks:

This is in response to your inquiry as to whether the recommendations directed to the Department of Military Affairs, based on the findings listed in the report of the Alaska Advisory Committee to the United States Commission on Civil Rights, have been implemented. In October 1980 this Department rewrote our affirmative Action Plan, submitted and received approval from the Division of Equal Employment Opportunity, Department of Administration. The Department has implemented much of the plan already utilizing the recommendations stated in the report written by the Alaska Advisority Committee and the Affirmative Action Workshop given by the Division of Equal Opportunity. Some areas where the Department has initiated review and taken action are; 1) position classification: review of minimum qualifications unique to this Department, 2) recruitment in job classes of underutilization, 3) career counciling, 4) employee development training.

Sincerely,

Major General C.F. Necrason
Adjutant General
Department of Military Affairs.

DEPARTMENT OF PUBLIC SAFETY

12-L2LH

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF PUBLIC SAFETY

OFFICE OF THE COMMISSIONER / *POUCH N - JUNEAU 99811*

December 30, 1980 465-4322

Joseph T. Brooks
Regional Director
United States Commission on
Civil Rights
Northwestern Regional Office
The Federal Building
915 Second Avenue, Room 2852
Seattle, Washington 98174

Dear Mr. Brooks:

At the outset, the publication "Changing Commitment into Action," and the accompanying letter dated September 15, 1980, referencing the publication and indicating a news conference to be held on September 22, 1980 was received after the press release date. Therefore, this department did not have an opportunity to attend.

The information contained in the publication is somewhat dated in that the statistical data and other related information is over two years old. I am sure you will recall that the department was not pleased with the interviews conducted by one of your staff members and thus did not attend the open meeting of "The Employment Status of Minorities and Women in Alaska State Government." This of course was not an indication of the department's attitude toward the subject matter but rather a show of indignation, but that is past history.

The department is pleased to respond to the reports contents as related to its activities in the area of "Employment of Women and Minorities in Alaska State Government" and the measures taken toward that end even though there were no recommendations incorporated in the report directed specifically toward this department.

Affirmative Action

In fiscal year 1980 the department developed and distributed an Affirmative Action Plan. The plan has been updated and expanded upon for this Fiscal Year.

Upper Mobility

Upper mobility is being addressed through a career path package being developed by the Personnel section of the department's Administrative Services Division. The package will contain job descriptions in related fields and times of competative examination openings. Distribution of the package, which is behind schedule as a result of position vacancies in the personnel section, will be department wide. During the recruitment drives for State Trooper and Fish & Wildlife Protection Officers, members of the department, and in particular women and minorities, were encouraged to apply.

The department is continuing to provide training opportunities to its members to the full extent possible.

Recruitment

The department in the last two years has conducted its recruitment campaign for the Trooper recruit class with accelerated emphasis toward minorities and women with the added assistance of the Division of Equal Employment Opportunity. During this deparment's 1979 recruitment program personal contacts were made, letters and brochures mailed, and advertisements in various medias were conducted statewide. Out of the 789 applicants received in 1979, 37.2% were from women and minorities.

For the 1980 recruitment drive the approach zeroed in more on minorities and women with emphasis on rural (bush) areas. Teams of recruiters from the Department of Aministration's Divisions of Personnel and Equal Employment Opportunity traveled to various and numerous areas throughout the state recruiting and testing at the same time. This enabled an applicant to take the written test for the position without having to travel at their own expense to central areas for testing, as had been done in the past.

As of this writing, the department has not received the requested results of the recruitment, such as number of applicants and of those the numbers of minorities and women, the numbers that took the test and the pass/fail ratio.

Of the number of those entering the department's last recruitment academy, 32% were minorities and/or women.

Native Village Assistance

To meet the public safety needs for native villages in Alaska, as was referenced by Dr. John Angell's March 1979 report to the Alaska Criminal Justice Planning Agency, the department developed the Village Public Safety Officer (VPSO) program.

This program in essence establishes a position in a village who is trained in law enforcement, fire prevention and emergency medical assistance and given the material to be effective. VPSO personnel are not members of this department. Through contractual arrangements, the personnel are selected and supported by various Native non-profit corporations. The department trains, assists and monitors the VPSO's in the field and administers the pass-through State funds supporting the program.

The program was implemented this fiscal year and some 40 villages within 5 native corporations were targeted for the VPSO program. Expansion will continue to other villages in succeeding years.

Enclosed is statistical data from the State's EEO-4 Report of June 30, 1980 related to this department.

In the final analysis, the department has made good progress and expects to accellerate that progress in the years to come in the effort to realize full equal employment opportunities for all.

Sincerely,

William R. Nix
Commissioner

Enclosure: a/s

STATE OF ALASKA
EXECUTIVE BRANCH

AAP Form 01

SURVEY OF EMPLOYEES

Department Public Safety 6-30-80

Job Categories	Total Employees	Total Female	Total Minority	MALE						FEMALE					
				W	B	H	AN	AI	A	W	B	H	AN	AI	A
Officials/Administrators	19	1	1	17	1					1					
Professionals	48	7	3	38	1			1	1	7					
Technicians	115	58	12	52	1		1	1	2	51	2	1	1	2	1
Protective Service	351	20	27	304	5	1	7	9	5	20					
Para-Professionals	13	6	1	7						5	1				
Office/Clerical	194	183	21	11						162	5	2	4	5	5
Skilled Craft	5			5											
Service/Maintenance	17	3	2	13			1			2	1				
All Other															
TOTAL	762	278	67	447	8	1	9	11	8	248	9	3	5	7	6

Division

Job Categories	Total Employees	Total Female	Total Minority	MALE						FEMALE					
				W	B	H	AN	AI	A	W	B	H	AN	AI	A
Officials/Administrators															
Professionals															
Technicians															
Protective Service															
Para-Professionals															
Office/Clerical															
Skilled Craft															
Service/Maintenance															
All Other															
TOTAL															

W - White
B - Black
H - Hispanic
AN - Alaska Native
AI - American Indian
A - Asian

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES



December 17, 1980
000H

Joseph T. Brooks, Regional Director
U.S. Commission on Civil Rights
Northwestern Regional Office
The Federal Building
915 Second Avenue, Room 2852
Seattle WA 98174

Dear Mr. Brooks:

In response to your letter of December 3, 1980, since your report did not contain specific recommendations for our department, I think that our Affirmative Action Plan contains the most complete picture of our efforts concerning minority and female employment. This plan, copy attached, spells out the duties and responsibilities of the people within the Department of Transportation and Public Facilities in this area. If, after your review of this plan, you have any specific areas that are still of concern, please contact Ron Lind, Deputy Commissioner for Administration, Department of Transportation and Public Facilities.

Sincerely,

Robert W. Ward
Commissioner

Attachment

Chapter 5

CONCLUSIONS, FINDINGS, AND RECOMMENDATIONS*

* Source: "Changing Commitment into Action," Chapter 5 - A report of the Alaska Advisory Committee to the United States Commission on Civil Rights - July 1980.

Availability of Women and Minorities in the Labor Force

Recommendation 1

The Alaska State Department of Labor, in conjunction with the Equal Employment Opportunity Division of the Department of Administration, should develop current data on the labor pool for urban and rural areas for the following discrete categories: White (not including Hispanic), Black, Aleut, Eskimo, American Indian, Asian American and Pacific Islander, and Hispanic. Data should also be gathered and published on the presence of the older and disabled (handicapped) workers in the State work force. This data should be displayed by job classification and pay levels.

Response

The Alaska State Department of Labor, in conjunction with the Division of EEO, developed labor pool statistics for White, Black, Hispanic, Alaska Native (Eskimo, Aleut, etc.), American Indian, and Asian and Pacific Islander. These available labor pool statistics were distributed to departments of the executive branch in September 1979. They are updated annually.

Current work force data is collected by job classification and pay level for all departments. This work force data system was automated in February 1977 and has been distributed to departments of the executive branch on a quarterly basis by the Division of EEO ever since. Data on the presence of the older and handicapped worker will be displayed and published in the same report if funds are appropriated by the legislature.

Recommendation 2

The U.S. Commission on Civil Rights should recommend to the Bureau of the Census that measures be taken in the 1980 census to obtain an accurate count of Alaska Natives.

Response

Same as response for recommendation #3.

Recommendation 3

The State Department of Labor should revise its population and work force figures to reflect accurately the number of Alaska Natives and their employment status.

Response

The Alaska Department of Labor updates its population and work force data annually. See memorandum of January 30, 1980 from Department of Labor Commissioner Orbeck to Department of Administration Commissioner Hudson under Chapter 4 of this review.

Recommendation 4

Increased efforts must be made by the Department of Administration and all other departments to recruit and fill positions in rural areas with Alaska Natives.

Response

Efforts are made by departments to fill State jobs in rural areas with Alaska Natives. Not all departments have positions in rural areas but those that do are encouraged to recruit Alaska Natives.

Division of EEO conducts targetted recruitment in the rural areas.

Recruitment

Recommendation 1A

The Cook Inlet Native Association (CINA) has developed a comprehensive program for access to State hiring; other groups testifying before the Alaska Advisory Committee apparently have not developed this kind of liaison mechanism yet. The plan is included in this report as appendix B. The Advisory Committee feels that the State's endorsement of the proposed voluntary plan would serve as a model for other Alaska Native associations and minority advocacy groups. The State EEO Division should initiate this program and maintain routine contact with minority groups.

Response

The Divisions of EEO and Personnel do maintain routine contact with minority groups. Publication and dissemination of The Alaska Resource and Recruitment Directory is a part of this effort as are targetted recruitment, outreach testing and participation in "career" day events.

Recommendation 1B

The Department of Administration, as the State's recruiter, and each department that recruits for jobs requiring special skills should develop a recruitment program to enlarge their labor pool to include a nationwide search for minorities and women.

Response

It is the policy to hire Alaskans whenever possible. If workers with special skills are not available within the State, the Department of Administration and affected departments do recruit nationwide for workers with the necessary special skills.

Recommendation 2

The University of Alaska should work with the EEO Division, Department of Administration, and the State Department of Labor to identify those areas where there are few women and minorities available in the labor pool to develop programs for training women and minorities in these job skills, using funding available from Federal, State, and local programs. Where this approach is deemed unrealistic, recruitment efforts outside the State should emphasize women and minority sources of workers.

Response

When recruiting is conducted out-of-state emphasis is placed on sources of minorities and women if women and/or minorities are underrepresented in the work force within the classifications for which recruitment is being conducted.

Hiring

Recommendation 1

The Department of Administration should make assistance available to persons filling out applications for State employment. Instructions should be clarified, should be as bias free as possible, and should specify that voluntary, job-related experience should be included and will be considered. The EEO Division should work with minority and women's advocacy groups to assist minorities and women in applying for State employment.

Response

Assistance has been provided to minorities and women in applying for State employment since early 1978. Voluntary job-related experience is included and considered.

Recommendation 2

The EEO Division should develop a tracking system for job applicants that could be used to determine the number of women and minorities placed in jobs in State government and the length of time it takes to obtain a position after initial application. Such a system could also be used to identify barriers to State employment by documenting the points at which applicants drop out of the application, placement on the register, or interview processes.

Response

An applicant flow system is being automated by the Division of Personnel. The system is targetted to be operational in August 1981.

Recommendation 3

The Department of Administration should continue to analyze job classifications and should utilize findings from Federal and other State studies, where possible, to avoid additional costs and duplication of efforts.

Response

The Department of Administration, Division of Personnel does utilize findings from other State and Federal agencies and continues to analyze job classifications.

Recommendation 4

The Department of Administration should make testing available in locations throughout the State when at all feasible.

Response

Testing is available in rural areas of Alaska in connection with targetted recruitment.

Recommendation 5

The Advisory Committee encourages the EEO Division to continue to contact as many managers and supervisors as possible throughout the State on an ongoing basis. Impartial interview boards that include minorities and women should be used where feasible to reduce individual bias in selection procedures.

Response

The Division of EEO is continuing to conduct workshops for managers and supervisors which include emphasis on interviewing techniques. Interview panels are used where feasible.

Recommendation 6

The departments should consider using an interpreter for examinations for those positions in which English language facility would not be a requirement for performance of the job.

Response

Interpreters are used for examinations whenever needed.

Recommendation 7

A contract compliance program should be established by the State legislature for departmental purchasing and contract awards to ensure participation of minority and women's firms.

Response

N/A .

Promotions and Upward Mobility

Recommendation 1

The EEO Division must assist departments in identifying problem areas, in developing analyses as a part of their affirmative action plans in problems relating to the underutilization of minorities and females. Each department should create a plan for improving utilization of minorities and females.

Response

The Division of EEO has been assisting departments in all of these areas. They will continue to do so.

Recommendation 2

The departmental EEO Division should ensure circulation of vacancy announcements to all employees.

Response

Vacancy announcements are posted on bulletin boards throughout departments and employees are encouraged to apply for promotions. The Division of Personnel receives more applications from among current employees than it does from non-employees.

Recommendation 3A

The EEO Division should conduct a study of the status of female employees throughout State government related to advancement and equal pay to develop recommendations to address these problems.

Response

The Division of EEO plans to conduct such a study as soon as resources are available to do so. In the meantime the hiring and promotion of women into jobs where they are presently under-represented is a major affirmative action goal for all departments.

Recommendation 3B

The EEO Division should work with each department to develop training for advancement and upgrading of skills through management intern programs, tuition reimbursement programs, and other employee development programs as appropriate.

Response

This is addressed in current department affirmative action plans. The Division of EEO will monitor progress.

Recommendation 4

The Division of EEO and the Division of Personnel in the Department of Administration should develop a plan for ensuring that qualification requirements described in vacancy announcements are realistic and accurately reflect the qualifications that are necessary to perform the job. They should also allow for substitution of relevant experience for educational requirements and should encourage development of on-the-job training programs in all departments that would lead towards academic accreditation.

Response

The Division of Personnel by decentralizing many of the classification functions has placed more burden on departments to insure accurate and realistic minimum qualifications. Minimum qualification requirements do allow for the substitution of relevant work experience for education virtually in all classifications.

Affirmative Action Plans and Enforcement

Recommendation 1

EEO performance must be included in every manager's and supervisor's job evaluation. Managers and supervisors should be evaluated on their efforts and on results in this area.

Response

EEO performance is one of the factors on the Performance Evaluation Report which is considered when evaluating managers and supervisors. However, the use of this factor has not been closely monitored.

Recommendation 2

The Alaska Advisory Committee endorses the continuation of affirmative action and EEO responsibilities resting within the upper level of departmental authority.

Response

EEO and affirmative action responsibilities continue to rest with personnel in the upper levels of department authority.

Recommendation 3

Selective certification of qualified minority or female candidates should be used in all cases where they are under-represented.

Response

A procedure for selective certification of qualified minority or female candidates has been designed and is scheduled for implementation in the near future.

Recommendation 4

The Advisory Committee recommends that impartial interview panels that include representatives of minority groups and women be used for initial hire and promotions.

Response

This is a good method for conducting interviews which is used by some departments, but not all. The Division of EEO will encourage more extensive use of panel interviewing in all departments for initial hire and promotion.

Recommendation 5

The Division of EEO should work with each department to develop a program for counseling all State employees on the options available to them for promotion and upward mobility. Goals and timetables should be established for each EEO-4 job category. The EEO Division should monitor and evaluate the implementation. It should review all promotions, and if any result in disparate impact on minorities and women, it should be given the authority to deny the promotions until good faith efforts for remedy are demonstrated.

Response

Goals and timetables are established -although not specifically for upward mobility. The Division of EEO is not sufficiently staffed or funded at this time to monitor all internal procedures. If the capital budget request to fund an automated employee tracking system is appropriated during this legislative session this recommendation will be implemented.

Recommendation 6

The development of career ladders and plans for lateral movement giving a greater experience base should be required of each department and should be an integral part of each department's affirmative action plan. This information should be communicated to all staff and be included in the orientation of new employees.

Response

This is provided for in most current departmental affirmative action plans.

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILE 8672

1380 SCOMM 51 BLUE RIBBON COMN. ON STATE PERSONNEL ACT 1978-1983

Recommendation 7

A job reclassification analysis system should be developed by the EEO Division for use in each department. This system should produce information on the number of reclassifications made during the year, who received them, and whether there was a salary adjustment made that resulted in increased pay. In addition, it should describe the preparation the individual was given leading to the promotion. If the analysis shows that there is an adverse impact on minorities and women, then affirmative action should be instituted.

Response

This will be done if funding is appropriated for the employee tracking system mentioned in #5 above.

Recommendation 8

The legislature should reconsider the legislation on child care facilities in State office buildings.

Response

N/A

Recommendation 9

Departments should increase their recruitment efforts to provide the opportunity of permanent part-time positions and advertise the possibility of filling specific jobs in this way.

Response

Departments do have permanent part-time positions which are advertised as such.

Recommendation 10

The Governor should issue an executive order prohibiting sexual harassment of State employees, with provisions for disciplinary action.

Response

This is being considered. Sexual harassment is a growing area of concern.

State Departments

Responses to these recommendations are included in the section on Chapter 4, State Departments and Offices.

-TERRY-

JAY S. HAMMOND
GOVERNOR

PHONE
(907) 276-3003

STATE OF ALASKA
OFFICE OF THE GOVERNOR

ALASKA COMMISSION ON THE STATUS OF WOMEN
338 DENALI STREET, SUITE 850
ANCHORAGE, ALASKA 99501

July 8, 1981

Honorable Bill Ray
Special Gas Pipeline Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear ~~Senator~~ Bill Ray:

As a member of the Special Gas Pipeline Committee I thought you would be interested in the transcript of the public hearing on women and construction held in Fairbanks in March of this year.

The participants were invited to testify regarding affirmative action goals, proposed training programs and anticipated equal employment opportunity monitoring responsibility for the gas pipeline.

A summary of the hearing is also enclosed.

Sincerely yours,

Katie

Katie Hurley
Executive Director

JAY S. HAMMOND
GOVERNOR

PHONE
(907) 276 3003

STATE OF ALASKA
OFFICE OF THE GOVERNOR

ALASKA COMMISSION ON THE STATUS OF WOMEN
338 DENALI STREET, SUITE 850
ANCHORAGE, ALASKA 99501

WOMEN AND CONSTRUCTION

A Hearing by the Alaska Commission
on the Status of Women

Summary

On Friday, March 20, 1981 the Alaska Commission on the Status of Women held a public hearing on "Women and Construction" as part of its effort to identify, deal with and recommend ways to remove the artificial barriers which might prevent women from moving into skilled and responsible pipeline jobs. Representatives from Northwest Alaskan Pipeline Company; the Office of the Federal Inspector; the State Pipeline Coordinator's Office; the Alaska Department of Labor; and the Alaska Human Rights Commission were invited to testify regarding affirmative action goals, proposed training programs and anticipated equal employment opportunity monitoring responsibility for the gas pipeline.

Alaska Department of Labor statistics, presented by deputy commissioner Glenn Lundell, show that 10 to 15 percent of the members of the Laborers, Teamsters and Operating Engineers are women. Despite this fact, the affirmative action plan proposed by Northwest Alaskan Pipeline Company would establish a goal of only 5.7 percent women in the lucrative craft positions. In another area, that of female business enterprise goals, Northwest's goal for 1981 actually decreased from its 1980 affirmative

action plan, dropping from 4% to 2.25% of total projected contractable opportunities to be let to female operated businesses. Al Kuhn, director for governmental affairs for Northwest Alaskan Pipeline Company, said that during the peak of pipeline construction twelve to thirteen thousand jobs would be available and thus should provide significant opportunities for women for new entry through the union halls. But several of the Commissioners pointed out that if affirmative action goals are low, and if these programs continue to rely only on the traditional structures of training and union enrollment, nothing will change and women will continue to have minimal access to non-traditional jobs.

John Alexander, director of the Office of Equal Employment of the Office of the Federal Inspector, provided the Commission with information regarding his office's responsibilities with regard to the gas pipeline. His office has been negotiating with the three prime sponsors over their affirmative action plans and has approved two of them. Once they agree upon a plan with Northwest for the Alaska segment it will be the Federal Inspector's responsibility to see that Northwest lives up to its affirmative action responsibilities.

Mr. Alexander and Mr. Kuhn were both questioned closely about enforcement and monitoring of women and minority hire. Commission members expressed serious concern over whether, given the size, the projected equal employment opportunity staff would be capable of ever emerging "from under a mountain of paperwork to get out into the real world and deal with the questions of whether real people are getting real jobs..."

Charles Behlke, State Pipeline Coordinator, discussed the draft socioeconomic stipulations which his office has prepared to attach to the state right-of-way lease. Participation by various interested public groups is planned to oversee the manner in which socioeconomic impact is mitigated. In addition, the state plans to require that Northwest fund impact information centers at various locations along the pipeline in order that information can flow as quickly as possible. When asked if it might be desirable for the state to have provisions in the socioeconomic stipulations which provide it with a separate enforcement mechanism to enforce equal employment opportunity, Mr. Behlke agreed that it would.

Neil Thomas and Cathi Carr-Lundfeldt of the State Human Rights Commission were fairly optimistic about the ability of the state of Alaska under its laws against discrimination to deal with whatever problems of discrimination may come up on the gas line. They indicated that the primary barrier for women who wish to work on the pipeline is tradition. They urged that project labor agreements be negotiated to include access for women to union apprenticeship programs and to union membership to offset the traditional barriers.

While harassment and discrimination on the job can be expected, the Human Rights Commission is in a much better position to investigate complaints than it was during construction of the oil pipeline. In addition, constructive use of union grievance procedures was recommended. Finally, Human Rights Commission staff expressed the need for attitudinal change regarding affirmative action; that is, that employers be committed to developing the resources of women and minority labor rather than

approaching it as something they are compelled to do.

In addition to the issues of affirmative action goals and enforcement procedures, Commission members questioned a number of the participants about proposed training opportunities for women. Answers indicated that no major training effort exists now, nor is one planned, to prepare and qualify women for construction jobs.

In addition to the testimony heard from the government agencies, personal experiences were related by women who had worked on the oil pipeline. The majority of the women who testified described a variety of difficulties encountered by women who enter the world of non-traditional labor, ranging from the merely uncomfortable to the dangerous and violent.

Copies of the entire transcript are available for review at the Commission office.

INTRODUCTION	1	1
Glenn Lundell, Deputy Commissioner for DOL		5
Mr. Alexander, Federal Pipeline Coord's Office		25
Edwin A. Kuhn, Dir. of Gov't Affiars, Northwest Alaskan Pipeline Company		36
Mr. Alexander response to Alphonse/Gaston		91
Lundell - appresnticeship programs		94
Mr. Behlke		101
Niel Thomas, State Human Rights Commission		110
Cathi Carr-Lundfeldt, State Human Rights Commission		114
Behlke		115
Kuhn/Berkowitz ...Behlke		120
Niel Thomas/Carr-Lundfeldt		124
Linda Wike, Fairbanks		150
~~Linda~~ Karen Ander, Homer		155
Eleanor Gutierrez, labor relations spec., Alaska Plan		164
Anette Aiken, Fairbanks		168
Karen Perdue		175
Rebecca Miller, Dir of the CETA Div.		179
Jerry Woods, AK St Com'n for Human Rights, Anchrage		183
Pat McNeil		185
Shirley Dean		189
Mary Langan		202
Karen Ander		211
Richard Fineberg, freelance reporter		214

AIR CARGO

There are three types of air cargo flights flying in and out of the Anchorage and Fairbanks International Airports: intrastate cargo distribution flights, international air cargo refueling flights, and flights carrying Alaskan trade.

Traditionally, Alaska has imported most of its essentials and air cargo has been the lifeline to many bush communities. Intrastate air travel has been visualized in a complete service manner by the state. The state has realized the bush community need for the Anchorage and Fairbanks International Airports, so landing fees and expenses have been maintained as much as possible. This state of equilibrium might not be as well maintained if the Anchorage and Fairbanks communities managed their own airports without the broad scope of the whole intrastate transportational network.

The refueling of the international cargo flights has been a changing market in the last two years, with the availability of fuel and the CAB deregulation. Anchorage has been catering to and has developed an infrastructure for this market for quite some time, because of the relationship to the transpolar flight plan and the two refineries in the Kenai. Fairbanks, up until two years ago, was used as the alternate landing field for the flights. This situation changed with the addition of the North Pole Refinery and the availability of competitively-priced fuel in Fairbanks. As of FY '80 there were 2463 international air cargo flights into Fairbanks and only 38 of those flights were diverted flights scheduled for Anchorage. This is compared to two years ago when there were no scheduled international air cargo flights into Fairbanks. This could become a competitive market between the two airports, since each flight qualifies as a revenue landing and provides a source of commerce within the respective communities. The competition between the communities might result in lowering of landing fees in Anchorage before Fairbanks is able to develop the needed infrastructure to support the additional traffic being developed between the orient and the european markets.

Until 1978 the amount of Alaskan trade transported by the international flights was negligible. Since then the air cargo industry has been deregulated and the poundage has increased five hundred percent. Most of the present cargo being exported is fresh fish to the orient from Anchorage, but as Alaska's renewable and nonrenewable resources develop there will be an increase in traffic between Alaska and the lower 48, oriental, and european markets. This will require the management of both airports to develop the proper warehousing and ramp space to meet the increased needs.

* * *

WOMEN AND CONSTRUCTION

A HEARING BY THE

ALASKA COMMISSION ON THE STATUS OF WOMEN

* * *

APPEARANCES:

BARBARA SCHUHMANN, Chairperson
JEAN VON DOHRMANN, Commissioner
TERESA SOCKPEALUK-PERRY, Commissioner
DOROTHY JONES, Commissioner
HERB BERKOWITZ, Commissioner
BARBARA DALE, Commissioner
MARY ANN HENRY, Commissioner
EVALEE AZAR, Commissioner
CARLA SLAUGHTER, Commissioner
KATIE HURLEY, Executive Director
CHRISTINE CALLAHAN, Research Analyst

* * *

9:00 A.M.

Friday, March 20, 1981

Fairbanks North Star Borough Library

1215 Cowles Street

Fairbanks, Alaska

* * *

TABLE OF CONTENTS	PAGE
Testimony by Glen Lundell	5
Testimony by John Alexander	25
Testimony by Al Kuhn	36
Question and Answer session	80
Testimony by Chuck Behlke	101
Testimony by Neil Thomas	124
Testimony by Cathy Carr-Lundfeldt	128
Public testimony	
Linda Wike	150
Karen Ander	155
Eleanor Gutierrez	164
Annette Aiken	168
Karen Perdue	175
Rebecca Miller	179
Jerry Woods	183
Pat McNeil	185
Shirley Dean	189
Mary Langan	202
Richard Fineberg	214

* * *

PROCEEDINGS

MS. SCHUHMANN: I'd like to call the meeting to order. Welcome everyone in the audience. And welcome our new Commissioner, Mary Ann Henry. I'm going to take a roll call just so everyone in the audience knows who we are up here by name. Evalee Azar.

MS. AZAR: Here.

MS. SCHUHMANN: Herb Berkowitz.

MR. BERKOWITZ: Here.

MS. SCHUHMANN: Barbara Dale.

MS. DALE: Here.

MS. SCHUHMANN: Dorothy Jones.

MS. JONES: Here.

MS. SCHUHMANN: Mary Ann Henry.

MS. HENRY: Here.

MS. SCHUHMANN: Roxane Lee could not be with us. Barbara Schuhmann, here. Teresa Sockpealuk-Perry.

MS. SOCKPEALUK-PERRY: Here.

MS. SCHUHMANN: Carla Slaughter-Timpone has been trying to get here from Juneau and apparently is going to be coming to Fairbanks by way of Seattle. Jean von Dohrmann.

MS. VON DOHRMANN: Here.

MS. SCHUHMANN: Did I miss anyone? (No response.) This is a hearing this morning on women and

construction. I might take a few moments to explain the Commission on the Status of Women and our legislative purpose.

The Commission was formed in 1978 under State legislation. And I might quote to you the purpose of the Commission, which is "To implement the recommendations contained in the Preliminary Study on the Status of Women in Alaska, which was mandated in the Legislature in 1976; and to improve the status of women in Alaska by conducting further research and by making and implementing additional recommendations on the opportunities, needs, problems, and contributions of women in Alaska including, but not limited to, education, homemaking, civil and legal rights, labor and employment." And today, of course, we're going to be looking into the employment field, particularly nontraditional jobs for women, women in construction.

We have invited a number of people to speak to us this morning. And I could give you a rundown of who we expect to be testifying and the approximate times, even though we're running a little bit late. Glen Lundell, who is with the State Department of Labor, we expect to be testifying first; Elston Lawson, or someone from the State Pipeline Co-ordinator's Office at approximately 10:20 -- well, in approximately 20 minutes, I guess; John Alexander of the Office of the Federal Inspector; Al Kuhn of Northwest Alaska Pipeline Company; and Cathy Carr-Lundfeldt of the Human Rights

Commission.

We hope to break for lunch at about 12 or 12:30, and come back for questions and answers and further testimony from private people in the afternoon, particularly women who worked on the Trans-Alaska -- or the oil pipeline and hear some of the problems that they encountered; and their suggestions of how those problems might be avoided in the future.

The Commission doesn't necessarily want to look only at construction jobs on this gas pipeline project. We foresee that there will be a lot of construction work in the State in the future; and that this is really a chance for women to become involved, to get experience, to get training. And so we do -- we're looking beyond this pipeline project, but we think that it's important to encourage women to take advantage of whatever opportunities there might be to obtain employment on this project.

MS. JONES: Barbara?

MS. SCHUHMANN: Yes, Dorothy.

MS. JONES: You mentioned that the questions would occur this afternoon. If we have any burning questions in our mind as a speaker concludes, can we ask them at that time?

MS. SCHUHMANN: Well, yes. In fact, I'm going to ask your indulgence and perhaps even let us

interrupt as you are giving your testimony today so that we can make sure that as you are testifying that we can get to the heart of what we're really after in these hearings.

We -- the Commission wrote letters of invitation to the various people that I just named and asked the people to answer specific questions so that I imagine that the people that will be speaking this morning will be looking directly at those -- at answering the questions that we directed to them. In addition, I would ask that if you have further comments on the socio-economic impact that the gas pipeline is likely to have in Alaska and how the painful and the bad effects of the socio-economic impacts can be met or avoided -- if you have any comments in that regard, we would certainly appreciate it. For instance, we would anticipate that additional domestic violence, additional crime is going to occur along the pipeline corridor because of this project; and if anything is being planned or could be planned to try to address those problems now, we would appreciate hearing your suggestions along those lines as well.

Are there any other preliminaries that I need to take care of? (No response.) Mr. Lundell. We are now in a Committee of the whole. I apologize to everyone for being a little bit late in getting started this morning

and late in getting our coffee ready. We anticipate that that will be done in the next few minutes. Mr. Lundell.

MR. LUNDELL: Thank you Miss Schuhmann. I guess you want for the record identification and things, right?

MS. SCHUHMANN: Yes, please.

MR. LUNDELL: My name is Glen Lundell, L-u-n-d-e-l-l; and I am the Deputy Commissioner of the Alaska Department of Labor.

I had received letter a few days ago inviting us to be represented and inviting me to come. I'm very happy to do so to attempt to respond initially to the questions here. I may have some additional comments as well, most of which your Executive Director will have heard in the past and when we were also fellow members of the Alaska Manpower Services Council and used to share some of these things in those discussions.

MS. SCHUHMANN: Can everyone in the back hear? If you could speak a little bit louder. And you might want to move up. I think if people in the back have trouble, you might want to move up closer to the front.

MR. LUNDELL: I'll try to speak up a little bit. Perhaps that'll help. The letter which I received actually directed itself more toward employment opportunities, nontraditional employment opportunities, for women in

connection with the construction of the gas pipeline. And it began by mentioning statistics from the previous construction work on the oil pipeline as far as the concentrations of women in different types of occupations and what had taken place at that time.

The reference was made to some information which I -- as you indicated in the letter I had previously provided and when a study was being done in a different capacity when I was gathering those statistics in a program at -- working for Alyeska at the time. And so obviously, I must state those statistics are correct; no question about it in my mind.

The information does reflect that concentrations can occur in the service industries, and in the clerical industries as opposed to in various construction occupations themselves. I should point out that Alaska is the leader in the United States as far as the participation of women in the construction industry. To the best of my knowledge, there is no state that matches the progress that has been made in this area here in Alaska. I think a large part of this was based upon the Affirmative Action Plans from the oil pipeline and the progress that took place during that period of time.

One of the questions which I was asked to respond to said based on its analysis of women in the work force, has

the Department of Labor determined the potential labor pool of women who would be qualified or seriously interested in construction jobs. If yes, what are these figures; if no, what are the Department's plans and schedule for obtaining and publicizing this information prior to the finalization of the Affirmative Action Plan for the gas pipeline project.

Let me respond in reverse. We do have some figures. The answer is between yes and no. I can't do it on a straight basis.

As far as the plans and schedule for obtaining and publicizing this information, I'm sure that you're aware of the expense that would involved in a detailed survey that would really give the full information. Most of what we derive will come from things such as the 1980 census; it will come from unemployment figures; it will come from registration with our Job Service offices. This type of information is what we do to determine what type of information is available and to compile it.

As far as publicizing it, it is publicized rather regularly. Among other documents, there is one called "The Alaska Economic Trends" that is published by the Department's research and analysis section. In October, 1980 there was this specific topic, Women in the Labor Force. We participated, and in fact, developed in May,

1980 the publication "Women in Alaska's Labor Force", which was put out; and many people will say I haven't seen this; why haven't I. I don't know the answer to the second part of the question -- you know, the question as to why haven't you, because there are thousands of copies that are distributed throughout the State of Alaska to schools, libraries, to any organization that requests -- any individual may request to be on the mailing list for the publications from the research and analysis section; and they will receive them directly.

That is the nature of how we compile and how we publicize the information on women in the labor force, minorities in the labor force. All of these cover the different -- unemployment status of the different areas of the State in each of the issues. So there's a lot of information in these. They are used not only by governmental people working with them; they're not only requested by individuals; but many commercial institutions, banks and businesses subscribe to these and use them in the compilation of their economic forecasts for the State.

So I cannot say that we have the figures. This is the way in which we do it. I would have to say that there is no intent to specifically compile a pool of people by skills and by qualifications, women or others, totally that would be available. We will use information that comes from the

sources that I have indicated; our labor economist would analyze this and make these reports. They will do special projections and things. From time to time we have requests for this. But it will always be based on the existing data. Much of this is getting better because the research and analysis section has been designated as the State data center for demographics. We have a demographer, which is a particular profession and skill, on our staff now. We are the contact with the census people, and thus have the in-roads back and forth with them about data; in addition to all the normal Bureau of Labor statistics information and the general things that we compile in the interest of the unemployment data, etcetera, in the State.

MS. SCHUHMANN: Mr. Lundell, before you go on to the next question, you say that there's no intent to undertake a study to determine the pool of eligible or interested workers in the State. Is that because of the expense involved?

MR. LUNDELL: There is not the intent -- that's right -- to undertake a specific survey to do that. Not only the expense -- frankly, from past experience, doing a survey like that is almost meaningless when you come down to the actual facts of employment and training at the time. That sounds a strange statement to make.

MS. SCHUHMANN: Such studies have been

undertaken in the past, I take it or...?

MR. LUNDELL: For -- in -- let's say in a specific geographical area covering a particular group that might have expressed an interest, things have been done in the way of surveying it. But when you come down to offering the training and employment opportunities, it doesn't always follow that the people that said yes, we'd like to do that will then accept and do it. I -- there is -- could be a viewpoint that if 2 or 3 do, it was worthwhile to do the study. Looking a budget in the face, I can't say that with any responsibility. I think there has to be a benefit that comes from it that offsets the costs to it.

So the information that is -- there is very, very much useful information that is there. It does not get down to the level of -- and I think this is what -- some what you may be doing in asking the question, the level of who, by name, located where is interested in what. That's the level of information that we really could not possibly get to with anything we have available. And that's when I say we don't have the intent to do that.

We will compile this, we will expand these to the greatest extent of the available information. (Pause). Do you have further on the subject, or do you want...

MS. SCHUHMANN: You can go on, please.

MR. LUNDELL: The second question that I

was asked was would the Department of Labor be able to provide the Commission and all other interested parties with a current inventory of pertinent training and apprenticeship programs which presently exist in the State. This inventory would hopefully include such items as total capacity; duration of program; percentage, if any, of assured positions for women; and the type of certification such programs provide upon completion. The answer is is the information available; yes, it is. I wish I could say that we had compiled it and thus we could take the credit for it. It was actually done as a joint effort of the Alaska State Advisory Council on Career -- Vocational and Career Education and the State Manpower Services Council. The latest full scale study was done in the latter part of 1978.

There, also, is a document which was issued at about the same time by the Institute of Social and Economic Research under a contract that they had with the Vocational Education people, I believe, with the Department of Education. It was done by Lynn Wright under the direction of Judith Kleinfeld, dated November, 1978.

I guess to paraphrase Ed McMann, everything you ever wanted to know about a vocational training institution in Alaska is probably in these books as of that time. The updating of it is not directly -- we contribute to it, again, through our research and analysis; and we will keep some

of the information or provide some. It is not a direct function of the Department of Labor.

The councils that we've mentioned in here are involved in that as is the Department of Education,and to some extent, the CETA division of the Department of Community and Regional Affairs. But these -- well, they happen to be the only ones I have. I can make reference to them, or I can leave them with you; and I'm sure I can find some more somewhere. But there's one of them available right in Fairbanks. So I will provide those.

As far as updating, I don't have any idea of whether there has been any updating taking place directly involved with those.

Asked whether the Department of Labor has estimated the number and kinds of jobs which will be available on the gas pipeline project, and the amount and degree of training and experience which these jobs will require. The Department is engaged, by arrangements that have been going on for some time, as information on the project is developed by the sponsoring company, Northwest Alaskan Pipeline Company, we have agreed that as they develop what types are there that we would provide information on the labor supply from that which we developed these publications from. And that has been an ongoing exercise for quite some time. As they are able to refine their needs and update them,

they are communicating with us. And we make every effort to provide back the information. I'm sure that some of it has been of use to them in the preparation of their Affirmative Action plans.

It was indicated that you'd like to have something that was prepared. And I do have something that I would like to add here, and I don't want -- if I'm running over, tell me and I'll stop, but...

MS. SCHUHMANN: No, go ahead.

MR. LUNDELL: I'm working from a memorandum which was prepared out of our research and analysis section, which I will leave you for the record with the attachments that are there.

In essence, the research and analysis section has prepared quite a few studies on women in the work force, and I cited these as being a couple of them. Our major data source on industry information is a Bureau of Labor Statistics 790 Survey. That's the title of the program under which the information is obtained.

The percentage of women in the construction industry has actually declined from 1979 to 1980, according to our figures. In 1979 women, according to the data available, comprised approximately 8 percent of the labor force in the construction industry. According to our figures in 1980, that comes out about 6.6 percent. That's defined

not only from participation, but also from those who apply for different types of jobs; for example, at the Job Service; those statistics that come from unemployment insurance statistics; and all these indicators indicate -- or show that there has been an actual decline in the availability of women in the construction work force in the last year.

I'm sorry to report that, but according to our information that is a fact.

Now, bear in mind these jobs include all the occupations within an industry; and they don't separate it out by specific trade skills, electrician to plumber to carpenter and things. That's -- this is an overall statement. It may not apply in a particular trade.

We have tried to gather some additional data within that construction sector using other data sources than those that would be used for the basic reports usually. For example, the Alaska Plan and Policy Board releases minority breakouts by different crafts and skills, also for women in the construction industry. There -- an example of this is attached to my report that I'm leaving with you for one of the months, like in November, 1980.

This -- the information that's covered in their report is probably about 50 percent of the overall construction work force as they deal --

MS. SCHUHMANN: I'm sorry, it's 50 percent did you...?

MR. LUNDELL: 50 percent. There are elements of construction, for example the home builders and things like that, that are not covered within the purview of the Alaska plan. They deal specifically with State and Federal contractors, not with other things; unless they happen to -- unless the companies involved provided across the board instead of just for those contracts. So it would be about 50 percent of the potential work force.

The most current report of this type reflected women comprising approximately 3 percent of all working craft people. And it would indicate over the previous 12 months that that approximate 3 percent has been fairly well maintained. They'll be some fluctuations, but it's been generally at that level. And, again, there's a --

MS. SCHUHMANN: What would be a definition of working crafts? What would that cover?

MR. LUNDELL: People in all of these various crafts who are actually at work. As you'll see from this report, it actually gets down to work hour participation, too, as a cross check to just sending somebody to the job to say you did and let letting him go the next day. So the work hours are also reported, which give you a pretty good cross check on how effective the program really is.

Interestingly enough, female work hour participation is above the level of average participation, which means they're getting at least as much overtime and staying on the job at least as long as the average person in ratio to the percentage of the work force.

MS. SCHUHMANN: Which crafts would that cover?

MR. LUNDELL: Do you have someone from the Alaska Plan appearing at this, or just ...

MS. SCHUHMANN: I don't think ... We have someone here in the audience, apparently.

MR. LUNDELL: Not making a report, okay. Because I didn't want to take somebody else's thunder or whatever, but there is a complete list of the various crafts that are covered ranging alphabetically from asbestos workers to teamsters. So it's all on the sheet, craft by craft. I don't think it'd be -- I'd rather have you do it as a part of the report than list them individually here, I think, with the time constraints.

Another indicator of potential labor supply for the construction trades are the enrollments with major unions that might be involved in dispatching workers to a project such as the gas pipeline. There was an informal survey on the telephone done last week by the people who prepared this report in order to help me have information for you today.

They talked with the Laborer's Union, the Teamsters, the Hotel, Motel, Restaurant Construction Camp Employees Union, the Operating Engineers in both Fairbanks and Anchorages, those unions; those 2 locations. According to the information they received from that survey and covering the others that they didn't call, the smaller ones that they didn't call, they estimated 5,831 women who are enrolled within those various unions. That doesn't mean they're all members in good standing. They are enrolled; they may not have kept up their membership, which is an important thing to remember for someone who really wants to get dispatched from a union hiring hall. If the membership isn't current, you're way at the back of the list. And that has to be remembered.

MS. SCHUHMANN: Yes, Dorothy.

MS. JONES: What proportion of total enrollees is 5,831? Or estimated?

MR. LUNDELL: Let's see if I got a total. Let me do it by large group, if I may, in the course of this; because otherwise it's distorted because there's such a high registration factor and membership factor in the Hotel, Restaurant -- the Culinary trade that I -- the others would be distorted if I tried to answer it on an overall. I'd have to do some addition; and that's my way of avoiding doing that arithmetic right here. But I'll give it to you if necessary.

The proportion of women vary considerably amongst the different unions. Again, in that -- in the Culinary trade the percentage was between 60 to 65 percent in those 2 locals in Anchorage and Fairbanks of women. The others, Laborors, Teamsters, Operating Engineers, the registration or enrollment factor runs from 10 to 15 percent. You see, that's the wide disparity I was speaking of there in trying to respond to you.

There is always the question of whether the -- whether a skilled labor pool for any particular group, women as an example, would be expanded through immigration of workers. It's something that we are very concerned about because we don't want people coming -- prematurely migrating to Alaska because that causes problems with unemployment factors. There are the vocational educational programs that we spoke of that can expand that pool.

Mentioning apprenticeship programs, this is somewhat interesting in that according to the information obtained in summarizing the programs, 9 percent, which would be 91 women, 9 percent of the overall apprentices, were women this year that are enrolled in the apprenticeship training programs. Of this 91, they're in various states of these anywhere from 3 to 4 year programs; and there are 6 that are graduating of that 91 during this year. In -- oh, let's see, in 1978, which is the latest total figures that were

available, the largest number of women enrollees were clustered in the electrical, pipefitting, and painting trades.

You must bear in mind that not all the apprenticeship programs are currently operating, because they have such a high factor of unemployment on their regular rolls, that they are not always operating the apprenticeship programs. Recruitment is open today for the 1982 programs only in the electrical and sheetrock trades, for example. The others really have a problem with maintaining it. This is according to the apprenticeship schools and to the outreach coordinator that works on that program.

Another strong possibility are things such as the Seward Skill Center, which has a great deal of coverage of programs. Pertaining to things like gas line employment, some of these include mechanical training, building trades, oil field technology, and the culinary trades.

In 1980 there were 4 women graduated as mechanics. And that's -- I don't know the percentage exactly, but there probably weren't more than about 20 or 25 total that graduated from those mechanical programs; 4 of them were women. The oil field technology course, there were 6, which again it's a fairly good percentage. The building trades, there were 5. Now, that's not a facility, again, of the Department of Labor. I'm providing information that we obtained from them.

The people who are interested in that can contact the Center directly down in Seward. It actually can accommodate about 250 people in any given time. It's a first come, first serve type of thing as far as applying there.

In addition to people who can be funded there through public programs, it is possible to go to the Seward Skill Center and pay your own tuition. Or it's my understanding you can also use an Alaska Scholarship Loan to go there just the same as you can to a university. And many, many people have taken advantage of that since that option was open to them.

I close of any formal remarks. I'm open to questions, but I would like to mention one thing in general. And I guess it's a plea from observation; not to let a project, gas line project or any other project, occupy your thought processes more than it should. There are so many things going on; and there's so much danger to preoccupation with a project alone, putting it in a fishbowl, if you will, as far as people and how they work. I can't tell you how many people I saw leave a good job in town and go to work temporarily on the oil pipeline; and then come back and say you mean you won't fire them and put me back in my job. And an employer in town isn't going to do that. That's how we gained a lot of people in the state who took the jobs in town when they couldn't get to work on the pipeline. And then the longer term resident wasn't able to get back to the job. I guess

I'm just asking you to keep it all in perspective as opposed to direct -- more than necessary attention to a single project. And I'm open to other questions.

MS. SCHUHMANN: Is your Department looking ahead, then, in trying to figure out what jobs in construction are going to be available beyond this pipeline? So that, for instance, if this Commission were to give any advice in the form of a pamphlet or whatever for long term job opportunities, not just on this pipeline, does your Department have any statistics or any projections along those lines?

MR. LUNDELL: Yes, it's something we are actively working on. They may not be to the specific craft level, as we are -- as Northwest Pipeline has been asked to provide, we might not be at the specific level, let's say for the capital projects program of the State, for example. There's probably almost as much work in any given year out of that as you might be looking at in the beginning years of the pipeline. In fact, what we have done is attempted to gauge the availability of work force in the information we're trying to provide to Northwest by doing kind of a sliding scale thing as projects are announced under the state's capital funding. We try to adjust the curve as far as the work -- overall labor force is concerned so that we can better identify when shortages may occur and when surpluses may occur. It's certainly of value in planning any projects

roll within that. So, yes, we would like -- we do pursue that as much as possible.

MS. SCHUHMANN: It's been our impression that the type of study or survey on either qualified people who may not have a job or even those that just simply would be interested in learning more about or obtaining a construction job would be of assistance, particularly in trying to formulate Affirmative Action Plans. And so I would ask that your Department at least try to keep an open mind on that question as we have heard that that's the very information that really is quite necessary.

MR. LUNDELL: It certainly is. And we are trying our best to develop better and better sources and compile this. And if you wish to, at any time, raise any questions please contact us, and we'll do our best to work -- if you have a special study requirement or anything like that, we'll certainly do it as quickly and as best we can. And if there's something missing, we'll tell you what it is. If there's some way to help go get it, then maybe we can work together on it.

MS. SCHUHMANN: Do you have your statistics broken out also by way of minority women; for instance, native women, black women, or all women more or less counted as one group?

MR. LUNDELL: A considerable part of the

information is broken out as you suggest. Unfortunately, the census didn't use exactly the same breakout as everyone else when they do it. And it -- we get the blame for not having this very detailed data. And the only real source is the census, which is not compliled in a way to really do it. And I'm afraid we don't set the rules for the U.S. Bureau of Census. Considerable -- to answer your question, considerable information on the racial or ethnic mix, as opposed to just male - female, is available. And we're still -- we're trying to sharpen that up as best we can from all sources.

MS. SCHUHMANN: Any of the Commissioners have any questions? (No response.) Well, thank you very much. I imagine that we will be back in touch with you. We appreciate very much your cooperation to date, and look forward to working together with you in the future.

MR. LUNDELL: Let me -- I'll leave these with you for the record, and a copy of what I was working from. There are some other booklets, "The Alaska Resource and Recruitment Directory" that was put out by the State of Alaska's Division of Equal Opportunity, which could be obtained. I'll just leave that as another example. There's a pamphlet from the Adult and Continuing Education Division of the Department of Education. I'll leave those and I'll leave the stand so you can get on with the program.

MS. SCHUHMANN: Okay. Could you be available at 1:30 if we do have any further questions? I think that we had scheduled a question and answer period at that time.

MR. LUNDELL: I certainly can be available then. I would request that I be able to finish by 3:00 as I'm planning to catch the 3:55 airplane, so...

MS. SCHUHMANN: Okay, fine. Thank you.

MR. LUNDELL: As I'm standing up doing this, let me mention something that I think an organization or at least some of your membership should consider. At one time there was a chapter of the American Society for Personnel Administration in Fairbanks. It disappeared through lack of the folks who had started it and after the pipeline years, oil pipeline. There are -- this is one of the issues -- this is part of the regular thing that comes from it. There's excellent articles on women in the work force -- these are national articles -- women in management, special seminar availability and things like this that I think your organization would be very interested in. I think it would fine if you had the opportunity to have chapters. There is one in Anchorage. They're just begun one in Juneau. There was one in Fairbanks; it could be revitalized. And I think you would be well advised to individually participate. You can't participate as an

organization, but individually participate in something like that. It'll give you additional new sources of data that might be of interest to you.

MS. SCHUHMANN: Thank you very much. I wonder, Chris, could you come up and sit with the Commission. This is Chris Callahan, who is a member of our staff. And I haven't introduced Katie Hurley, either, who is our Executive Director. Chris is our research analyst. Is Elston Lawson here, or someone from the State Pipeline Co-ordinator's Office? (No response.) Okay. Is Mr. Alexander here, or someone from the Federal Pipeline Co-ordinator's Office.

MR. ALEXANDER: Yes, I am someone from the Federal Inspector's Office. The... First of all, let me say it's a pleasure to be home. I've been in the State since last Sunday. And I think I've met with practically everyone that felt like they wanted a meeting between Juneau and here. And we're not finished yet. We have a meeting scheduled for practically everyday next week in Anchorage, including one with my old friend, Katie, who I haven't seen for awhile. And I promised I'd come in and spend some time with her when I got back.

It's always a pleasure to come home, even though there are problems, questions, sometimes upsets, arguements, disagreements, and once in awhile there's a compliment.

But it's always good to come home, anyway.

I got the questionnaire. And we were in a state of confusion, due to a severe personal crisis I had just prior to leaving to come back. And so I was -- a little bit sheepishly had to ask for a copy of the letter from Chris this morning. But at any rate, we do have it and we will respond.

I think that I'd like to approach this a little differently and then work into the questions you ask me. I'd like to give you just a bit of background, what we do, so you can get the complete picture of where I fit with regard to the pipeline.

First of all, let me say that I agree in part with Glen Lundell, that I think -- I get the impression that there will be so much work going on here in 1982, '83, and so forth that we may have a problem filling all the jobs that we want to fill with residents. I don't necessarily regard that as a problem at this point. But it would certainly please me to find that we've met and exceeded all our goals, we've run out of people, and now we've got to go get some other people from someplace else to get our work done.

What we're doing now and what we've been engaged in, which leads into the first question in my letter, is we've been negotiating with the sponsors, the 3 sponsor companies

for the 3 various legs on the pipeline, over their Affirmative Action Plans. Two of those plans have been approved. The third one, there's a question with regard to that that I'll get to a little later. And you have representatives from Northwest who are here who may touch on it, too, and I think I will defer that to them.

But our job is to--according to the regulations regarding equal opportunity for the Alaska Gas Pipeline system, our job is to negotiate with the sponsors to see that the requirements under the regulations are addressed in their Affirmative Action Plans. And sometimes we get a bit more. But that is our basic job. Once the plan is approved and in place, then we are charged also with the responsibility for monitoring those plans to see that there is compliance, that there is -- the goals are being at least approached and met, and hopefully, again, exceeded.

As I said, two of those have been approved. I have -- I didn't bring copies of the entire plans. I did bring copies of what you would probably be more interested in; and that is the goals for the eastern and western legs. I will leave those here. I thought I had enough copies to pass out, but you can probably get some copies for the Commission members.

Once we agree on a plan with Northwest, once their basic plan is agreed upon, then we'll see that you receive

copies of those also.

The goal setting process is a little bit involved; again, leads into the first question, which is giving the Commission a summary of the facts and figures and identifying the data upon which they were based. That would take me probably from now until Sunday, because the information submitted to our office was about so much with regard to how they did the data; where they got it from; how they used it.

What they did was use the population statistics. Included in those regulations is an eight factor analysis that they go through in coming up for goals in hiring and so forth. It, again, is very involved. I can leave with you a copy of those regulations. And it will explain it so you will be an expert on it just like I am.

The second question you asked is is it reasonable to assume that the Affirmative Action goals for the Alaskan segment will be similar. Yes, they will be similar. And let me qualify that by saying that the Alaskan segment is one of the largest segments. They will be similar. They may be somewhat larger -- or higher, that is. But they will be similar to the ones that have been approved on the other two segments.

When you talk of a goal, keep in mind a goal very often means the minimum that you will do. A goal means something that you will strive for. If you exceed that goal, then

that's wonderful. And I think one of the sponsors, and I won't give it away, has exceeded for 1980 their goal for minority and female contracting. They're exceeded what I thought they would do, even. So sometimes those things do happen, if you watch them.

Upon what data will the Affirmative Action goals be based. As I mentioned earlier, the data will come from the population statistics; it will come from the eight factor analysis that they do as they go through the steps in drawing up their plans.

Is this data base subject to revision as census or other figures become available; yes, it is. We have the responsibility -- or maybe not the responsibility, but we do have enough leeway to go back in a year, review the figures, review the plans that were submitted to us, and put into place this year and make such revisions as are deemed necessary. So there is -- they're not set in concrete forever and a day.

The census material, of course, we don't know when that's going to be available in any useable form.

When do you anticipate approval of the Affirmative Action Plan for the Alaskan segment? Will this be a final approval or subject to revisions in the future? They're all subject to revisions in the future, as I just mentioned. Within a year after they're put into place, they're subject

to revision. Whether there will be revision, of course, will have to come from our experiences over the first year. I would suspect that there will be some revisions in all three of them.

When do we anticipate approval of the Affirmative Action Plan for the Alaskan segment? I think someone asked me that the other day, and I said that we would like to try to do it within the next month, if that's possible. We think we are that close. I won't say any more about it; we think we are that close.

The next question I think I would like to defer to Mr. Kuhn, who will follow me. What numerical and financial requirements, if any, do you anticipate establishing with regard to Northwest Alaskan Pipeline Company's responsibility to provide training for both minorities and women to prepare them for employment on the pipeline? This is something right now, -- Just for my part here, it's something now that is being negotiated. It will be discussed at our next meeting. And I'd prefer not to go any further at this point. But it will be talked about at our next meeting between OFI and Northwest.

Will all requirements for such programs as Affirmative Action and other training clearly identify women as a separate target group? What other target groups are identified, if any? Our charge is to see that women and minorities are

provided opportunities for contracting and employment on this project. And I said that in that manner because that's the way the regulations read: women and minorites. They're listed in separate categories.

The sponsors, the three sponsors, have broken out and identified other minority groups. They're identified women, blacks, Hispanics, Orientals, native Alaskans, and so forth. So the goals that are listed are broken out in that fashion. So women are most certainly identified as a separate target group.

Someone is probably going to ask me on counting, if they will be counted as both; no.

MS. SCHUHMANN: Which will they be counted as, then?

MR. ALEXANDER: This was a debate that was going on in my own office when I left, between my secretary and my assistant. So I don't know; I'll have to get into that one when I go back and decide. But they will not -- we decided that we didn't want the double count system. It looks good on paper, but...

One other thing in my staffing in my own office, I will be coming back here quite often, I suppose, if I'm able to hire the other two people that I'm authorized. As of right now, we have three people. And we jokingly said that three people are really all we need. We've only got three legs

on the pipeline to be responsible for, so, what, a leg apiece.

I can tell you that my leg will be the Alaska leg. One of my assistance is enamorate of San Francisco, so she can have that one. One will be going into Omaha quite often; I don't think -- I think we'll probably have to draw straws for that one. Alaska will be my own special interest.

MS. SCHUHMANN: Yes, Dorothy.

MS. JONES: I may have missed something, but did you say that you have approved the Affirmative Action and minority female business enterprise goals for the eastern leg?

MR. ALEXANDER: Eastern and western legs.

MS. JONES: And what are those goals?

MR. ALEXANDER: I just handed those to Katie. I don't have those now.

MS. JONES: Oh. What -- is there an estimate?

MR. ALEXANDER: I can't give it to you, Ma'am, it's there in the fact sheet. I didn't keep a copy myself.

MS. SCHUHMANN: It looks like, from this first page, that the total female would be 3.8 percent. And it's broken out; officials and managers would be .7 --

MR. ALEXANDER: You're looking at the company

goals, I think.

MS. SCHUHMANN: I'm sorry?

MR. ALEXANDER: Are those the company goals or the construction goals?

MS. SCHUHMANN: These are the percentage goals for contractor construction work force.

MR. ALEXANDER: Okay, I think you have all 3 of them there, construction, pre-construction, and company goals.

MS. SCHUHMANN: What would be the -- when does pre-construction end and construction begin?

MR. ALEXANDER: That's a good question. I think it would take an engineer to really explain that to me. I think what is going on -- Al, you'll probably pull my coat if I'm wrong. I think what is going on now here is considered pre-construction, is that correct?

MR. KUHN: Yes, this this the pre-construction--

MR. ALEXANDER: Preparation for construction and so forth; your site clearing and that kind of stuff.

MS. SCHUHMANN: Then is there a third period of time after construction, also, or at the end -- when does the construction end?

MR. ALEXANDER: The post construction? I don't -- I haven't heard anyone mention post construction

yet, but you have, you know, your site clearing and all that; then the actual construction. I don't know what the period -- clean up, I guess.

MS. SCHUHMANN: Did you have a follow up?

MS. JONES: Well, I just feel baffled because I don't have a concept of what, in general, the goal that's been approved is; if it would average 4 percent or 12 percent or 20 percent, it would make a big difference. And I guess I'm not analyzing this. I mean, I don't know how to respond if I think --

MR. ALEXANDER: I can tell you what the contracting goal is. The contracting goal is 10 percent for -- you're talking about eastern leg; 10 percent for minorities, 1 percent for female business enterprises. The hiring goals, you know, I'd have to tell you again that they're in there. I don't have them.

MS. SCHUHMANN: Yeah, maybe I'll give it back to you so...

MS. JONES: I mean, it's hard to have a response about whether this is awful or wonderful.

MR. ALEXANDER: Well, I think that we have to realize is that regardless of whether we perceive it as awful or wonderful, you have to remember that in doing this analysis there was a factor such as availability that they had to crank into this. And we argued with them for months

over these goals before they finalized them.

MS. SCHUHMANN: But if I heard Mr. Lundell correctly, the availability studies aren't really in existence, at least in Alaska, --

MR. ALEXANDER: No.

MS. SCHUHMANN: -- a total availability study.

MR. ALEXANDER: Well, the sponsor here has had to do an availability study. He's had to do that on his own. He's had to hire that done. And all 3 of the other -- both the others have had to do the same thing.

MS. JONES: Well, excuse me if I'm pressing a point, and just maybe I'm having difficulty grasping it. The report on the status of women in Alaska, I think, indicated there were 11 percent of women employed in the -- on the oil pipeline in construction work. Is that one of the guides you use? I mean, I would assume it's not going to be less than what existed then.

MR. ALEXANDER: No doubt it will be; no doubt that will be considered. But here, again, I'm stealing Northwest's thunder when I tell you that. We're still discussing these goals.

MS. SCHUHMANN: Are there other questions from the Commissioners, or followup? (No response.) Would you be available at 1:30?

MR. ALEXANDER: I can come for about an hour; and then I've got a 2:45 meeting, a 3:00 meeting, a... Yes.

MS. SCHUHMANN: Okay, great. We'd appreciate that very much.

MR. ALEXANDER: Thank you very much for allowing me to appear.

MS. SCHUHMANN: Thank you. How about if we take, say, a 5 minute break and try to reconvene at about 11:15 promptly. There is coffee in the back, now.

OFF THE RECORD

ON THE RECORD

MS. SCHUHMANN: I'd like to call the meeting back to order. We'd like to welcome Mr. Al Kuhn of Northwest Alaskan Pipeline Company.

MR. KUHN: Thank you, Mrs. Schuhmann, Commission members. For the record, I'm Edwin Alan Kuhn, Director of Governmental Affairs for Northwest Alaskan Pipeline Company. I also happen to chair an in-house task force that was charged with the responsibility of developing our Affirmative Action Plan.

I'm very pleased to be here this morning to focus on some of the specifics in that plan, particularly as they relate to women. And I want to go on beyond that and say I'm not only pleased to be here, but I'm very proud to be

here as a representative of Northwest Alaskan Pipeline Company, a firm that I believe has made very substantial and honest efforts to become a good Alaska citizen. And I'd like to give you a few specifics.

We have about 530 plus or minus employees in Alaska at this time. Now, these include not only Northwest Alaskan employees, but our contractors and including the Fluor Corporation, our major project management contractor. Of these 530 employees approximately 83 percent are local Alaska hires. And of this 530 employees, approximately 24 percent are women.

Now, it's always interesting to look at some of the key categories, also. And I might single out officials and managers.Of our 530, roughly, Alaskan work force 22 percent are women. Now, we're proud of these numbers. And I would contrast them with some of the other numbers you've heard this morning. But forgive me for getting ahead a little bit here. Some of these facts are perhaps not well appreciated by people generally.

I have some prepared remarks, which I'll leave with you, and including statistically information and data that will be of interest along with a number of other items in these packets. And we do have enough for all of the Commission members, and I think we have enough for at least part of the audience.

I'm not going to go into an awful lot of background here, and I'm not going to read my statement. I might just skim through some of the highlights of it. We do have, I think, some very good numbers for you to look at, tables, and pie charts, and that sort of thing that will bring a lot more lucidity to some of these things.

The whole Affirmative Action requirement for us started in 1976 with the passage of the Alaskan Natural Gas Transportation Act. And as you know, that mandated certain affirmative actions to be taken by all federal officers and agencies to insure that equal opportunity was accorded everybody without regard to sex, national origin and so on. The Act also required the promulgation of specific regulations to set out the specifics of what we were to do. And in addition, there was the President's decision and report to Congress of September, 1977, which very specifically mandated that we develop and affirmative action plan and submit it to the federal inspector for approval.

Well, in due course, the regulations were developed. And they were published on May 12, 1980, just about a year ago, by the Department of the Interior. And that was done after consultation with the State, other federal agencies, local governments, they had public hearings, all sorts of things. These regulations provided detailed procedures for our development of goals and timetables both for hiring and for

minority and female contracting. It told us precisely how to proceed in developing those things. It gave us a certain amount of time in which to act, which we took. And in September of last year we submitted our initial Project Affirmative Action Plan. It's a thick document about, oh, I'd say 3 inches thick. And we had, as John Alexander observed, a mountain of detailed backup studies and statistically information to support it.

After our initial submission, there was a series of discussions with the Office of the Federal Inspector. And we submitted a revised Affirmative Action Plan for the entire project in the middle of December, 1980. Now, I might say what's really in there. Well, what is in there is -- or was specific goals for 1980. Of course, we were, you know, well into 1980. But it had specific goals for the year 1980. And it had projections for the following years through the entire construction period, that is out through 1986.

The regulations, the federal regulations, also require that we update our Affirmative Action Plan on an annual basis. Now, since we only have -- we are at this point approaching goals on an annual basis. We -- and we are on an annual budget cycle, so we really need that kind of information -- that input early in the year. We have set as a timetable to update our plan annually and submit it

by the first of March.

Well, we, in fact, did that. It happened to be on Monday, the 2nd of of March, we submitted to the Office of the Federal Inspector, our 1981 annual update for the Affirmative Action Plan. And in that plan, we comment on how well we did in 1980 in reaching our goals. And we set out our specific goals for the balance of the year 1981. We commented on any shortcomings and our plans for the future, and so on. As John Alexander said, that's under consideration at this point.

I think it's important for everyone to recognize just what these Affirmative Action Plans -- these Project Affirmative Action Plans amount to. Right now, in our Alaskan work force, Northwest Alaskan Pipeline Company itself represents about 8 percent of our total employment. The rest of it is our contractors. And at the peak year of our project in the construction phase, on the current schedule -- and that, incidentally, would be the year 1984 -- Northwest Alaskan itself would represent but 4 percent of the total work force in Alaska. So we're only a small part of it.

The Affirmative Action Plan, however, by the regulations is applicable to all of our contractors. And we make that a part of our contracts. We pass down contractually to a prime contractor. And he is bound to pass down these requirements to all of the subcontractors. So the chain is

maintained in that manner.

I might add there are certain size limitations on that. We're talking about contracts in the amount of $50,000 or more and contractors employing 50 persons or more. The important thing to recognize is that when a contractor who's above those size thresholds gets a contract, he is obliged to follow our goals. He is also required to develop an affirmative action plan saying how he's going to carry out the work and meet the goals.

MS. SCHUHMANN: Barbara.

MS. DALE: Excuse me, is that required by law?

MR. KUHN: Yes, if you construe it all in a broad sense as including the regulations and contract law, certainly, if I understand you correctly.

MS. DALE: Thank you.

MS. SCHUHMANN: Herb.

MR. BERKOWITZ: How does Northwest Alaskan plan to enforce compliance with such clauses in their contracts with their contractors and in their contractor's contracts with their subcontractors?

MR. KUHN: Well, we require reports on a very frequent basis. And we work with them to see if they're carrying out the commitments that they have made. But I'm perhaps jumping ahead a little bit. Before we ever award

a contract, in our request for proposal, request for bids, we require that they give us some specifics as to how they think they're going to meet our goals. We include a summary of our Affirmative Action Program in our bid packages so they know right at the beginning exactly what it is they're going to have to do. And they have to tell us how they're going to do it. And our evaluation of one bid vis a vis another certainly takes into consideration what they tell us they're going to do in these areas.

MR. BERKOWITZ: If their reports show noncompliance with their contractual commitments in that regard, what's Northwest's policy going to be? Is it going to terminate those contracts?

MR. KUHN: Well, there's always a difference of opinion, perhaps, about whether somebody's in compliance or not. But if there is -- if somebody is clearly not meeting their contractual commitment in this area, it would be no different than not meeting their contractual commitment in any other area. I don't care whether it's in, you know, meeting the schedule or doing the job according to specifications, whatever. It's -- we're going to hold them accountable to their -- the contract terms.

MR. BERKOWITZ: And terminate?

MR. KUHN: That would be an extreme remedy. There are other steps that could be considered

before, you know, terminating a contract. That would -- when you have, you know, a work force mustered in the field and so on.

MR. BERKOWITZ: Well, Mr. Kuhn, you've said that they can throw a bunch of numbers at you to solicit a contract. Don't you think it's a perfectly reasonable remedy that termination be --

MR. KUHN: I would not rule that out as an extreme eventuality. You don't -- you wouldn't start with that, though.

MS. DALE: Have you ever taken action against any of the subcontractors for not complying with the Affirmative Action Plan?

MR. KUHN: Well, when you say taken action, we have applied moral suasion, if you will, to encourage them to do what they're supposed to do. And we've provided them additional help where that appeared appropriate.

MS. JONES: Does that work?

MR, KUHN: Yes. I'll give you some specifics. Continuing on and kind of a little more general background here, we expect the construction project to be a union job. And certainly a major factor in our ability to attain the Affirmation Action goals that we set out are going to be the labor unions. Now, we expect that there will be an agreement between the project sponsors and the labor

unions. And that agreement will contain certain nondiscrimination requirements and Affirmative Action requirements, and a commitment that the unions will dispatch minorities and females in sufficient numbers to insure that we meet the Project Affirmative Action goals.

I'd like to now make sure that some of these key considerations are -- and these are important considerations. I'd like to just kind of summarize a few things here, maybe in slightly different words. A) Our hiring is going to be decentralized. It's not going to be done largely by Northwest Alaskan Pipeline Company. It's going to be done by those execution contractors. And some of them are going to have billion dollar contracts. So we're talking about joint ventures for the most part. It's going to be done by them; not us. They will have to adopt our Affirmative Action goals, or they're never going to get the contract. And I've indicated that Northwest Alaskan itself, at the peak, we're going to be doing about 4 percent, you recall.

All right, B), the second point; hiring of craft labor will be through the union halls, the union halls in Alaska.

And the third point, as you -- and I haven't raised this yet, we are required by law to endeavor to use fixed price contracts in contrast, distinct contrast, to the approach used by Alyeska. Now, if we're going to use fixed price contracts, and there is a mechanism for obtaining

exceptions under certain circumstances from the Federal Inspector. But, in good faith, we're endeavoring to use fixed price contracts for our execution contractors, the heavy work in the field.

Now, if we're going to do that, we have to give a large measure of control of labor relations to the execution contractors. However, I want to emphasize that we, as project sponsors, will act strongly to insure that there is no discrimination and specifically no sexual harassment.

Another point along the same line is that it necessarily follows with this sort of a scheme that there's no way that we reasonably could be expected to be highly specific at this time about how many, for example, individuals will be hired from a given village, or a specific location in the State, or anything like that. We're simply not at that stage yet, and there's just no way to really, you know, get down to that level of detail. Yes.

MS. JONES: Do you have a figure to represent your goal for women?

MR. KUHN: I'm coming to that. Still, in a little -- I'll get to some specific numbers, I promise. And it's all in the document that will be in front of you in a few minutes here. What are the real oppor-- this is one of the specific questions you raised. What are the real opportunities for women on this project? When you get my

document, you will see a table 6. And on table 6, it's projection in Alaska -- and this is Alaska only, not -- we'll have certain activities in the Lower 48, but Alaska manpower projections 1982 through 1986. And certain things will pop out at you.

Obviously 1984 is going to be the peak year based on our current schedule. 1984 would be the peak year in Alaska. And we're talking about a total of twelve to thirteen thousand people. Now, that's less, considerably less than the oil pipeline, just incidentally. Twelve to thirteen thousand people, and of that total, craft workers will be about -- call it nine thousand. So the bulk of our employment opportunities are going to be in the craft labor area, as you might expect.

Now, I also have another table in the document that breaks it down a little further, breaks down that craft area so you can see specifically what trades are involved. And the thing that immediately pops out is that there are four, four categories: laborers, operating engineers, pipefitters, teamsters. That's where the bulk of the employment's going to be on this project.

Now, another point you specifically asked about is job entry requirements. And there's only two job entry requirements that Northwest Alaskan itself is going to establish. And one of those is a pre-employment physicial examination

for everybody. And we're going to take steps to have that occur not just in one location in this State, but we'll endeavor to work out a way that will suit the convenience and proximity to homes of others. We haven't got all the specifics on that yet. But in any event, that is one.

And the other is a certification for mainline welders, a very critical operation. Those are our only two requirements. Now, some of the individual employers may have further requirements of their own as long as they are reasonable and nondiscriminatory there should be no problem on that.

Now, I would hasten to add that, keeping in mind that this is going to be a union job in the craft area, the unions have certain qualification requirements for certain of the jobs. Now, the -- and I don't have the specifics on those to give you. I think they're pretty well known. They're available from the unions.

I can assure you that we will be monitering the operation of this whole system to make sure that there are equal opportunities; that it's carried out in an nondiscriminatory way.

Now I'd like to get to some of the specifics. In all categories of hiring and contracting for minorities and females, Mr. Alexander -- and I haven't seen those papers myself, but I'm told that in all categories, we substantially exceed in our goals those of either the eastern leg or the

western leg. And you'll be able to judge those numbers for yourself.

I'd like to -- and we -- do you have this document in front of you yet? You don't; all right. When you get it, you'll see a Table 5, which gets down to our specific goals for 1981, not yet approved by the Federal Inspector I would hasten to add. This is what's in our document, though, both for hiring and for contracting.

Now, I want to talk a little bit about how we got to those goals, which you'll see here. And I'd like to take contracting first. I know, Miss Schuhmann, that you didn't have much emphasis in your letter on the female contracting, but I presume you are interested in that --

MS. SCHUHMANN: Yes, we are.

MR. KUHN: -- and would like to hear about that. We have a -- what I believe to be a very innovative approach to minority and female contracting. We have a computerized bank of names of minority, female, and other contractors who are interested in doing work on this project. We have actively solicited the identification and interest of minority and female firms. As a matter of fact, we sent out approximately 18,000 questionnaires and invited responses. And in this package, which you will have shortly, you will find a copy of the questionnaire that was sent out. It's a multipage questionnaire set up for machine coding.

And it asks a person, are you interested in doing business, what have you got to offer, how big of job can you handle, etcetera; and breaks down into different categories. All of this is computer coded.

And whenever we are preparing to let out a request for bid or proposal, we punch the button for that particular contract and get the names of all of the people -- the firms that might be interested in bidding. And then we don't just, you know, advertise in a general publication or something like that, we directly solicit from -- a response from those firms that are on the list.

Now, the -- I asked our people to give me the number of female business enterprises that are in our computer bank. And it totals 174 on a nationwide basis. And of that number, 57 are in Alaska. And we would be pleased to have additional firms identified, because we don't have frankly very many to draw from in the female business enterprise area.

MS. SCHUHMANN: What would be the definition of -- you know,what requirement would there be to meet the requirements of a --

MR. KUHN: The definition?

MS. SCHUHMANN: Yeah, the definition.

MR. KUHN: Yes, the business must be at least 51 percent owned and operated by a female. It can't be just owned; it's got to be actively managed, also.

MS. SCHUHMANN: So I take it you're soliciting other female business enterprises to let you know that they exist so that you can put them on your computer bank?

MR. KUHN: That's right. That's right, we are. And now I might add of the 18,000 solicitations, you know, we got back some saying sorry, we're not interested, you know, for whatever reason; and some -- there was non-response, a certain percentage. I don't have those numbers at my fingertip. But we would welcome additional female business enterprises.

MS. JONES: Do you give preferential consideration to a female business enterprise in the contracting process?

MR. KUHN: I would say that we would give equal consideration to all prospective bidders. I don't like to say preferential consideration. But we have certain goals to meet. And we're encouraging bids. And a person -- to get a bid, just because a person is representing a minority or female firm doesn't mean that they can come in with the high bid and expect to get the contract. We still have to make our awards on an economic basis.

MS. SCHUHMANN: Herb.

MR. BERKOWITZ: Mr. Kuhn, a couple of minutes ago you made reference to our work force and the number of

people working in each craft.

MR. KUHN: Um-hm.

MR. BERKOWITZ: Although a few minutes before that you'd pointed out very clearly that it's really not your work force; it's the work force of your contractors; --

MR. KUHN: Right.

MR. BERKOWITZ: -- and that really your only source of control over them is through enforcement of contractual provisions which bind them to meet certain goals. And I asked you about the means of enforcement you proposed to use. And you told me that cancellation would be an extreme means; and would probably be used seldom and very reluctantly. Could you tell me what other means the company proposes to use to see that those clauses are complied with?

MR. KUHN: Well, I think the best means is to be certain going in what you're getting. And we work actively with these contractors to be certain how things are going to be done. And we provide them assistance. We have staff assistants who are -- if something is slipping and they say well gee, we're not getting any -- we don't know how to get -- for example, if it's an Alaskan native, we don't know how to go about getting them on this job. Well, we'll suggest ways of doing it. We may make some contacts for them or whatever. There are various ways that we can do it. It's usually not a lack of desire to comply. It's

often a lack of knowledge as to how to go about doing things. That's what we've found so far. We've got a pretty good record, which you'll see, in achieving results.

MR. BERKOWITZ: Are there specific active and innovative things that Northwest Alaskan is planning to do to help encourage the use by your contractors of females in nontraditional employment rolls?

MR. KUHN: Yes. I think that we have been very active in encouraging the participation of minority and female firms in joint ventures. I would single that out as a key area. A lot of these firms are by nature relatively small. And a lot of our -- even if you break down a job into smaller components that are, you know, open for bidding by smaller firms and so on, very often the level is still beyond the capability of a single minority or female firm to get in and have a chance at it.

But if they can be encouraged and given the information about what's coming down the pike, to get in and get themselves associated with a joint venture, then we have found that that is a very fruitful way to encourage the participation.

MR. BERKOWITZ: But you're talking about contracting, --

MR. KUHN: Yes.

MR. BERKOWITZ: -- and I'm talking about the employment. What steps is Northwest Alaskan proposing

to take specifically to see to it that some women in Fairbanks or Anchorage, or in the bush with the interest and inclination, and talent to work on this project will be reached?

MR. KUHN: Well, you say reached. They -- keep in mind this is -- we're -- if we're talking craft area, it's going to have to be through the unions. If you're talking about information dissemination on opportunities and so on, we are already providing information, have been to the State Department of Labor and encouraging its dissemination as to what the opportunities are.

MR. BERKOWITZ: Will you be requiring your contractors to do the same in the course of the construction of this project to be making a current ongoing effort?

MR. KUHN: Keep in mind that these contractors must -- as we provided and constructed the Project Affirmative Action Plan, each of these contractors must develop his own detailed affirmative action plan. And it, too, must be approved.

MR. BERKOWITZ: But it's a plan?

MR. KUHN: It's a plan, that's right.

MR. BERKOWITZ: How do you intend to see the fulfillment of that plan?

MR. KUHN: By monitoring it. There are penalties -- if you're talking about enforcement of affirmative action requirements, that's also the job of the Office of the

Federal Inspector. And there are penalties and law that can be imposed; fines. I don't think things are going to get to that point. We hope they won't, but there -- you know, there's a variety of things, which as you've suggested, that could extend to a termination of a contract, an extreme measure.

MR. BERKOWITZ: But is Northwest Alaskan itself going to be actively monitoring?

MR. KUHN: We're going to be actively monitoring contract performance, yes. And if somebody falls substantially behind and is patently not making reasonable, good faith efforts to achieve its goals, that would be noncompliance with our contract just as much as it would in any other area. There are legal remedies. We don't think it's going to come to that. We hope it won't.

MS. DALE: I have a question about the statistics that we were talking about earlier of the analysis of women in the work force; that I believe it was Mr. Lundell said that you -- the company did a study to find that information out. Is that right?

MR. KUHN: Yes. I was still on contracting. Let me just close out contracting, --

MS. DALE: Okay.

MR. KUHN: -- and I'll swing immediately to employment.

MS. DALE: Okay, fine. I have a few more questions in that area.

MR. KUHN: The -- just to give you a few specifics, in 1981 our goals for minority contracting were 16. -- are 16.75 percent of our total contractable opportunities. And for females, it's 2.25 percent of our total contractable opportunities. Now, in 1980--if you want to compare it, in 1980 we established a goal of 12 percent for minority contractors. And we actually made 22.7 percent. What I'm saying is that 22.7 percent of all of our procurement, project procurement, in 1980 went to minority firms. That's a record I'll match with anybodies.

Now, in 1980, our goal for females was -- female business enterprises was 4 percent, and that equated to 2.8 million. And in 1981 the dollar figure for female business enterprises is 4 million.

Now, how do we -- I guess one -- I need to say one more thing, how do we get those specific numbers and everything like that. Well, we start at the beginning of the year when we get our budget firm. And we know reasonably well what we expect to do during the year. We analyze the specific contracts, take them apart piece by piece and see how they can be structured in such a way that -- into smaller pieces perhaps, or whatever, and what joint venture possibilities -- and usually we've been discussing some of these things with

potential joint venture firms for months before that. And we make the best reasonable effort -- estimate we can as to what a -- you know, a reasonable goal would be for that year. That's how we do it in the contracting area. Now, that's distinctly different in employment. And I will now swing to hiring.

The data base for our hiring goals posed a real challenge to us, because we had the 1970 census. And that's been a number of years, of course. And even more important, far overshadowing that, was the fact that it was obvious that the work force in Alaska had changed substantially since the 1970 census. So we didn't give much consideration to using that for our -- the people that would be up here in Alaska. We looked at that, and we decided that we had to have some outside, highly objective assistance. We went to the firm of Data Resources, Incorporated. It's a highly respected economic consulting firm; worldwide, as a matter of fact. We also obtained the services of Dr. David Rayum (ph), who had just come from a position as chief economist with the Alaska Department of Commerce and Economic Development. We obtained the services of other economists through DRI and obtained information from the State Department of Labor. We had various and sundry other studies I'd mentioned, the Larel Bland (ph) Study that may ring a bell with some of you. All of these things are referenced in our plan. In any event,

in the most objective way possible, we updated or constructed a new data base regarding Alaska, the population and labor force. And we then followed-very strictly complying with the detailed regulations and,as John Alexander mentioned, the eight factor analysis and all of that; followed those procedures and came up with the goals.

Now, when you see the paper that I'll be submitting for the record here, you will find a --

MS. SCHUHMANN: Could we have a copy of that while you're testifying? Do you have an extra one or...?

MR. KUHN: Yes. Would you bring them up, please, Randy. (Pause while report is being distributed.) All right, what I would -- you'll find on my statement, toward the back, it's about the third page from the back; table 5. And this is Project Wide Employment Goals for 1981. Now, these are contained in that update to our Affirmative Action Plan that I said we submitted on March 2nd.

And if you'll look at the column on the right on Table 5 you'll see the goals for female employment in the calendar year 1981. And for the benefit of the -- those who don't have the document in front of them, I'll just read the categories and tell you what they are. Officials and managers, 17.8 percent of our total project work force; that includes Alaska and the Lower 48. Professionals, 20.5 percent; technicians, 9 percent; clericals, 55.9 percent; service

workers, 31.4 percent; crafts, 5.7 percent.

MS. DALE: Could you please give us an estimate on the percentage of the people who will be hired from Alaska in these. You said in the first one that this total included Outside.

MR. KUHN: I think the numbers -- the percentages are about the same. But Aaron, is that about right, Alaska and the Lower 48; the percentages are about the same?

UNIDENTIFIED VOICE: That's correct.

MR. KUHN: Okay. The percentages -- there's no great disparity between Alaska and the Lower 48 on the percentages.

Now the -- this is going back one step, but on that same page you'll see the number I mentioned, 4 million dollars down there for the female contracting; 2.25 percent of our total contractable opportunities this year, totalling 185 million.

MS. SCHUHMANN: Dorothy.

MS. JONES: Regarding the goal for female craft workers of 5.7 percent. My memory is that it's considerably lower than the portion of female craft workers on the oil pipeline. Could you explain how you derived that figure?

MR. KUHN: Yes, it was, again, determined on the information of available qualified workers. But I'd

like to go beyond that --in other words, with the 8 factor analysis -- and comment on the number that I think you mentioned earlier about 11 percent on the oil line. And I think you will find in the document,put into the record by Mr. Lundell earlier today, a table which analyzes and breaks down the peak employment on the oil line. And you will find that the peak month brought Alyeska to 12.7 percent for females, but that included a lot of other things. It included the clericals; it was everything, 12.7 percent. That included in the craft area, 1.1 percent. And it also had operators -- the categories are a little different, but operators, 6.9 percent; the labor category, 9.7 percent; service workers, 47.9. By the time you get -- you know, add it all up, it came out to the 12.7 total.

MS. JONES: What puzzles me about this when you set Affirmative Action goals, if we rely on the present structure of training opportunities; if we rely on unions for the employees, then nothing will change because there are very few women who are in the craft unions. So that if -- let's see if I can say this clearly, if you say our Affirmative Action goals will be based on the present structure of union apprentice programs and union enrollment figures, then it has to necessarily be low because women are low. And my question is, how do you break through that if you want to achieve a more meaningful representation of women in nontraditional jobs if you base it on what the present

structure is?

MR. KUHN: Well, there's going to be a need, at least at the peak, for more than the -- you know, the current union membership, we believe. If you take that peak year figure of twelve to thirteen thousand, in that range, for that year at any rate, that is going to exceed the availability within the state. And there will be -- there should be opportunities for, you know, significant new entry through the union hiring halls.

MS. SCHUHMANN: Barbara.

MS. DALE: Maybe I just need a little explanation, but if you depend on the unions to use up a certain percentage of all the women that are going to be hired or to come up to your goal in the Affirmative Action Plan; and they have a low percentage, are you required, then, to train the other women to come up to that goal or are your subcontractors if there aren't women available? And if you are, wouldn't it be to your advantage to encourage the unions to get more women in their training programs so that you wouldn't have to to come up on this end?

MR. KUHN: Well, the whole area of union seniority and dispatch sequence and all of that, that's a knotty one and ultimately will be addressed in the agreement we have with the unions. And I really can't give you any more specifics on that at this point.

MS. SCHUHMANN: Herb.

MR. BERKOWITZ: Do you have a project labor agreement?

MR. KUHN: No, we do not.

MR. BERKOWITZ: What's the present status of it?

MR. KUHN: Well, that's something to be negotiated in the future.

MR. BERKOWITZ: Do you have any idea of when those negotiations are going to commence?

MR. KUHN: I can't put a specific date on it at this point.

MR. BERKOWITZ: What are the principal unions you expect to be negotiating with?

MR. KUHN: We expect to be negotiating with the Teamsters, the Operating Engineers, the Laborors, and the Welders, the four traditional pipeline unions. They'll be certain building trade unions, perhaps, in addition to that.

MS. DALE: I have another question.

MS. SCHUHMANN: Barbara.

MS. DALE: Also, it seems to me that if you are having to provide the statistical information yourself on what's available and are depending on the unions to pick up some of it, it seems to me a conflict of interest if you have to do the training for you to provide the statistics.

MR. KUHN: The statistics are, you know, available for everybody to see. Their footnoted. The references that were available, we think they'll stand scrutiny by any -- on a professional basis by anybody.

MS. SCHUHMANN: Are those contained in the packet, the -- you know, the data base that you used for your --

MR. KUHN: Oh, yes.

MS. SCHUHMANN: They're in here?

MR. KUHN: No, no. No. What we're talking about is a stack of paper that high that John Alexander was referring to. We didn't just file our plan with, you know, the summary, the end result. We gave him every piece of paper that went into it. And it's been -- believe me, it's been looked over -- we had our PhD economist and they got theirs, and they went over it very thoroughly. And theirs happened to be an Alaskan PhD economist, also so he knew what he was talking about.

MS. SCHUHMANN: Herb.

MR. BERKOWITZ: Mr. Kuhn, is Northwest Alaskan going to have some sort of department specifically assigned with the task of enforcing compliance with female hire goals?

MR. KUHN: The word enforcement has a particular sort of legal connotation. Enforcement, per se, is not the company's role because that is specifically

reserved to the various agencies of the federal government, particularly the -- and that'll be done, in effect, by the Federal Inspector and his people.

Now, and if you're talking about insuring that our contracts are complied with; yes, we have -- we're going to have quite a staff. And largely our modus operandi is to have a relatively small Northwest Alaskan staff. And then to rely on our project management contractor to ride herd on the various execution contractors and to provide that detailed oversight.

MR. BERKOWITZ: Well, isn't that kind of like putting the fox in charge of the hen house?

MR. KUHN: In what way?

MR. BERKOWITZ: That contractor has as a principal responsibility the completion of your project and of necessity, I think, would put concerns of this kind in a somewhat lower priority. Your company has a permit from the federal government that stands or falls on your compliance with these requirements. And your contracts with these contractors require them to meet certain requirements. Now, you're telling me that your involvement, your company's involvement, is going to be small. I would like to understand why your company's involvement isn't going to be big, because it sounds like it ought to be.

MR. KUHN: Our involvement will be on a

policy and an oversight level. And we think it is entirely effective. We think the record substantiates the results.

MR. BERKOWITZ: Well, you haven't even built your pipeline yet, how can you have any results, Mr. Kuhn?

MR. KUHN: I beg your pardon?

MR. BERKOWITZ: You haven't built your pipeline yet, so you can't have any results.

MR. KUHN: Not results, I've cited you some results about our performance to date of -- I've cited you what we're doing in the way of -- and I might add that we don't have an obligation yet, in one way of looking at it, on some of these things in that we don't have, you know, approved goals. There's no requirement, for example, on the Alaska hire yet we're up, I said, 83 percent; something like that. The -- I think that the -- this is a matter of management and organization. And we have made a conscious decision to operate at a policy and an oversight level and to use the Fluor engineers and constructors in a staff support role. Now, I can tell you that the relationship is extremely close. And they have the flexibility to draw on a worldwide organization with thousands of people and experts in any field you want and they can bring in on a specific problem on very short notice. It gives us great advantages, really, to do that. Otherwise, we'd have to hire, you know, an enormous staff of specialists that we might only use for a portion of the

time.

MR. BERKOWITZ: Well, let me ask you this, Mr. Kuhn, during the anticipated height of gas line construction how many personnel does Northwest Alaskan intend to devote to this subject matter; that is, of female employment?

MR. KUHN: Okay I -- to female employment. It's going to be difficult for me to separate female and minority employment for you. (To member of audience) What's that number, we had a number?

UNIDENTIFIED VOICE: 7 for Northwest; 42 for the (inaudible).

MR. KUHN: 7 for Northwest; 42 people,full time employees,working on minority and female hiring and contracting, exclusively on that.

MR. BERKOWITZ: But 7 of yours?

MR. KUHN: That's correct. We have --

MR. BERKOWITZ: And you're going -- so you are going to enforce compliance with those contractual stipulations through 7 of your own personnel?

MR. KUHN: That is correct.

MR. BERKOWITZ: Thank you.

MS. SCHUHMANN: On Table #5, Mr. Kuhn, is it fair to say that in your availability studies that the availability of female craft workers was higher in Alaska than in the Lower 48? In other words, you know, actual

construction type employment; is it fair to say that your availability studies show that more women had actually been working in those --

MR. KUHN: I don't -- I honestly don't have the answer to that question. Maybe one of my colleagues does. (To colleague). Availability of craft workers, Alaska vis a vis Lower 48? Is the availability higher of qualified workers up here? It's about the same?

UNIDENTIFIED VOICE: Craft by craft, yes, they're lower.

MR. KUHN: Up here?

UNIDENTIFIED VOICE: Actual numbers; percentage wise, males to females, I think they might be just a little bit higher.

MS. SCHUHMANN: But on Table 5 you are -- employment goals are about the same for Alaska and the Lower 48; in other words, you're not --

MR. KUHN: Okay, but -- yes, but recognize that, you know, we're not doing any craft work in the Lower 48, so this number is essentially an Alaska number. All right, let's see where I was here.

Training. We have just recently established another internal task force to deal with the question of training. And I don't have any great specifics to bring to you at this time. But I would take note of one of the requirements that

is in our federal right-of-way grant; and that is that we enter into an agreement with the Secretary of the Interior and the Federal Inspector with regard to recruitment, testing, training, placement, hiring, and job counseling of Alaska natives. That is a specific requirement. And we, of course, recognize that we have a potential requirement to do other training as may be necessary to reasonably assist us in meeting our Affirmative Action goals. We would expect that anything we do in this area would be nondiscriminatory, females, other minorities and so on.

MS. SCHUHMANN: Do you have under consideration any training programs specifically for females; or is that a possibility or...?

MR. KUHN: Specifically for females? We haven't really honestly gotten to that -- at that -- to that stage yet. I ...

MS. SCHUHMANN: The native portion, then, would be open to female natives as well as males?

MR. KUHN: On a nondiscriminatory basis, right.

MS. SCHUHMANN: Barbara, did you have a question?

MS. DALE: When you get -- in your projections in regard to training, when you look at what you've done as far as the studies that you've done and your

availability, your work force pool, and what you have to comply with in the Affirmative Action goals and you find that you know -- you can project what the crafts are going to give you; and you have this big open area that you have to comply with, is that how you look at your training or what you have to do to train women to be able to come up to your goals? I mean, is that what you're looking at?

MR. KUHN: Well, there's no point in training unless somebody's going to be getting a job. Now, I'm not sure what you're getting at there. And we really don't have the specifics on that yet so I really can't respond very meaningfully to this area in any detail at this point.

MS. DALE: Okay, maybe I should word my question differently. When you're looking at what you have to develop in your training programs, --

MR. KUHN: Um-hm.

MS. DALE: -- is there a special area in regards to women to fulfil your Affirmative Action goals?

MR. KUHN: We have not gotten down to that level of implementation and so on. We're really working to structure how the program will be set up right now.

MS. DALE: Okay.

MR. KUHN: Okay. One -- I might make one suggestion. As we move forward in our planning and implementation of our Affirmative Action Plan that -- for your

organization specifically, we think it would be very helpful to us, and we hope helpful to you, to get information from us. If your Commission could designate somebody as a primary liaison person to interface on a continuing basis with our Affirmative Action staff. We would -- we think that would be a useful step. And we'd be pleased to, you know, enhance the communications.

I'm nearing the end of what I had in the way of intended remarks here. I would like to just say that we have a very firm policy, and it stems right from the very top of our organization, that we will take affirmative action to assure that all persons and firms have the maximum practicable opportunity to participate in this project without regard to race or sex. We have established mechanisms to insure that this occurs. And we believe that any objective assessment of what we have accomplished and what we are doing would indicate that we have an excellent record to date on this.

Finally, I guess there are just two observations I would -- maybe three -- like to make, thoughts that I'd like to leave with you; maybe a little off the track from your letter. But the first is that putting this project together has not been easy. And it has involved a considerable commitment of equity funds thus far by investors who have -- who did so with no guarantee whatsoever that they'd ever get their money back. That's the first point. And that kind

of leads to two other things that I'm going to make reference to.

There was testimony before the Alaska Legislature last week; the Alaska Legislature has retained a law firm, Birch, Horton, Bittner, and Monroe. And one of the partners -- and that's been a law firm advising the Legislature since -- on gas pipeline matters since 1978. Joseph Chalmski (ph), one of the partners of that firm, testified last week on Thursday and there were several comments that he made. One of them is that -- well, it had to do with -- and I'm reading from a newspaper article. I do have his statement, but I think it's accurately quoted -- prospective lenders. And he talks about their fears that the State will impose unduly harsh regulation and taxes. Then it's -- another statement was made by him, and I can quote this one,"The accumulative record is clear; and a general consensus asserts that the State probably has much to gain if the gas pipeline is built."

We would certainly welcome the assistance of your Commission to see that the gas pipeline is built, and we'd like to work with you.

MS. SCHUHMANN: Thank you. Barbara.

MS. DALE: I have one more question. You brought up the subject of sexual harrassment, and it was when you were talking about the contractors. Have you developed any -- obviously, you know that it existed on the

oil pipeline.

MR. KUHN: Yes.

MS. DALE: And I was wondering if you have developed any way of communicating to the contractors, or what do you have in mind to do to prevent it?

MR. KUHN: I can't offer you any specifics at this time. We have very strict legal liability in this area. And I can only offer you an assurance that we're conscious of the need to take very strong action in this area. And we will not permit that sort of thing to occur.

MS. SCHUHMANN: Going through the letter that we sent earlier. I want to make sure that all of our questions were answered. One of the first ones that we asked was what the current work force projections are for the Alaska segment. Is that answered in the packet?

MR. KUHN: That's contained in one of the tables in my statement.

MR. SCHUHMANN: Okay. And are they broken down pretty much as we asked, okay.

MR. KUHN: By job classification -- I think on table... let's see.

MR. BERKOWITZ: Table 7, I think.

MS. SCHUHMANN: Is there -- do you have any breakdown for the location of jobs at this point? What jobs will be available where in the State?

MR. KUHN: Within the State, you mean? Let me comment on that. The way we're going to construct the project is by use of what we call six spreads. And a spread will cover anywhere -- and it varies, somewhere between 97 miles up to a hundred -- and I think it's 143, something like that; varying lengths. Now Fairbanks happens to be in the spread 4 area. And each spread will have one or more compresser stations and one or more camps in that area.

I would also give you a good example of that sort of breakdown by referring you to a letter in the information packet. And that letter is dated February 25, 1981, addressed to David L. Brennen, presiding officer of the Fairbanks North Star Borough Assembly. And attached to that letter, I think you'll find, incidentally, some additional general information on manpower planning, and projections, and so on; but very specifically information related to the Fairbanks area. And that's on Table 2, if you found the letter to Mr. Brennen.

And we break it down very specifically by Fairbanks headquarters, the double joining and warehousing numbers, construction camps which are located within the spread area, and a total for the section by quarter, 1982 through 1986.

Now, let me add this; we can probably develop, and we are moving to develop similar information for all of the other areas. Things are in motion on that. And I, incidentally, expect that we'll have -- I should have mentioned this earlier

as one of my concluding observations, we are moving toward a much more extensive information transfer as our planning is progressing here. A lot of this information is being computerized. And we'll be able to, in the next few months, provide substantially more detailed information than we have thus far. I would take this as an example, this table that I just referred to about the Fairbanks area.

MS. SCHUHMANN: Is there an ability, say, for someone in a different location to work in one of these -- like spread 4 if you really live in a different area. Or is there going to be any kind of job availability by location along these spreads? Are you going to break it up, or is everyone just going to be able to work anywhere?

MR. KUHN: Well, I don't profess to be an expert on how union hiring halls work and dispatch works and so on. I just don't feel real qualified to answer that question in detail. But in general, I would expect that people will have some measure of control over where they work, and...

MS. SCHUHMANN: So it's really going to be -- since most of the crafts jobs are going to be union, the hiring is going to be through the union halls, that's basically--

MR. KUHN: That's correct.

MS. SCHUHMANN: What were the initial figures that you submitted to the Office of the Federal Inspector for your Affirmative Action and minority female

business enterprise goals?

MR. KUHN: The initial figures?

MS. SCHUHMANN: Yes. It's my understanding that these have been updated and changed, you know, various versions you've gone through.

MR. KUHN: The December version, oh, corrected a few errors. It provided substantially more in the way of elaboration. If you're talking about the goals for 1980 itself, they were on the same order. There were no substantial changes in the goals per se. If you'll recall, I said we only established goals on an annual, firm goals that we commit ourselves to.

MS. SCHUHMANN: I think you gave us the contracting goals for 1980 and 1981.

MR. KUHN: Yes, that's in my statement. And also -- for both years, that's correct.

MS. SCHUHMANN: Right. It looks as though the female went down, the female percentage went down from 4 to 2 --

MR. KUHN: That's correct, it went down in percentage terms. It's going up in dollar value. The -- again, that's based on -- you know, on objective analysis of those firms in our computer bank and what capability they have for the particular contracts, the type of contracts we'll be letter this year. We'd love to have more female

business enterprise firms in that computer bank, really.

MS. SCHUHMANN: Did you give us the goals as far as employment is concerned? I don't recall that you --

MR. KUHN: Yes, that's on -- let's see...

MS. SCHUHMANN: Is that the table that you referred...

MR. KUHN: You'll find that on Table 5. That's the one I read for females and minority goals are on there.

MS. SCHUHMANN: Did you provide us with the goals for 1980 in here as well?

MR. KUHN: I didn't break them down. My recollection is they're substantially the same, am I correct, the percentage numbers?

UNIDENTIFIED VOICE: Within two or three tenths of a percent either way.

MR. KUHN: Within a couple of tenths of percent they're unchanged. You should not expect radical changes in the percentage goals from year to year. Now, when the 1980 census information is available, we have committed ourself to taking a very objective look at that and reassessing our goals, if that's warranted.

MS. SCHUHMANN: Did you meet your 1980 Affirmative Action goals for female employment?

MR. KUHN: I believe we did. Aaron....?

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILE 8672
1381 SCOMM 51: BLUE RIBBON COMN. ON STATE PERSONNEL ACT 1978-1983

UNIDENTIFIED VOICE: Yes, we did; in all areas.

MR. KUHN: In all areas.

MS. SCHUHMANN: At least at this point in time, it's my understanding that you don't plan to provide any training specifically directed at qualifying women for pipeline jobs, the way that you plan to qualify natives, the native training?

MR. KUHN: Our training -- the -- our plans, very honestly, haven't jelled yet in this area. And it's not going to be a unilateral decision on the native training thing anyhow. That has to be an agreement with two government agencies. But our basic thinking at this time is that any efforts along these lines would be nondiscriminatory among females, Alaskan natives, other minorities.

MS. SCHUHMANN: If I understood your statement, one thing that you mentioned was that these Affirmative Action goals for the most part are going to be carried out by your contractors rather than you; your employment through you is going to be fairly minimal in comparison to your -- the numbers --

MR. KUHN: That's correct.

MS. SCHUHMANN: -- through your contractors. So I guess I'm a little bit confused about the numbers or the goals that you're setting. It seems to me that the higher --

it's no skin off your nose necessarily if you make them a little higher than what you have because it's really your contractors that are going to have to carry them out. The majority of the employment is going to be through your contractors; not through you.

MR. KUHN: Well, no, we commit, in the first instance, to the Project Affirmative Action Plan. And we approach the goal setting very objectively and documented it and in accordance with the regulations. The -- we didn't just arbitrarily, you know, change numbers without reason. And sure, there are judgements that came in based on, you know, experienced people knowledgeable about the various job groups and the different craft areas, all of that sort of thing. But the goals are, in all cases -- in all cases -- the goals that we have set are in excess of the number that you would get strictly looking at the available, qualified workers in a given category.

MS. SCHUHMANN: Yeah, I guess that's part of the problem from the Commission's standpoint is that we're not satisfied with some of the studies that have been undertaken to show what the available female work force is. And that's why we were questioning Commissioner Lundell earlier. We would like to see that kind of study undertaken. Apparently, the State Department of Labor doesn't intend to undertake it. We've asked for money to do it ourselves, and have not been

funded to do it. It probably would be quite expensive. But how can you really gauge a goal unless you really have that information, unless you really know the available work force; the women that are interested that are qualified, that may never have worked before and would not show up on the unemployment lists or, you know, the union lists right now. This is a problem that the Commission has, anyway, with the goals. We question the data base upon which they, you know, were formed. And we also question, looking at the last oil pipeline here, why the figures aren't higher anyway; because apparently on the last pipeline the percentages were much higher than what your goal is for 1981, in any case.

MR. KUHN: Well, I'd -- that -- I would take issue with that. I went through those numbers, the numbers that you have in the record, on the peak -- the very peak in the Alyeska employment, the breakdown, for example, of crafts, 1.1 percent. The categories may not be exactly comparable. But we have -- some of our numbers are way up there; officials and manager, 17.8 percent; professionals, 20.5 percent. These are not inconsiderable numbers. A lot of these crafts, as I understand it, do have experience requirements. There's certain...

MS. CALLAHAN: Does your table of page 5 include crafts, operatives, and laborers; or is it simply crafts?

MR. KUHN: Crafts would include the -- all of the trades; the building trades, the pipeline unions...

MS. CALLAHAN: In the labor statistics, crafts is 1.1 percent, but there are others such operatives at 6.9, --

MR. KUHN: That's correct.

MS. CALLAHAN: -- and laborers at 9.7. If the categories aren't exactly the same, then those may all be included in your figures in crafts.

MR. KUHN: Um-hm, but their bottom line was -- I don't -- those are percentages, and you'd have to go by the -- look at the absolute numbers and multiple it to see what you really were getting as an overall total. There may be -- some of those categories may have been small.

MS. SCHUHMANN: I wonder, would you be able to come back at 1:30 to finish up the -- for some more questions?

MR. KUHN: I'd be glad to.

MS. SCHUHMANN: Okay.

MR. KUHN: Now, I, like several others, am on that 3:55 plane, so...

MS. SCHUHMANN: Um-hm.

MR. KUHN: But I'd be pleased to.

MS. SCHUHMANN: What is the feeling of the Commission, do you want to break for a quick lunch and try to get back here at 12:30 (sic). Since everybody's

going to have to leave fairly shortly after we come back, maybe we could make the questioning as short as possible so nobody misses a plane or anything. We do have at least one other -- two other speakers that we didn't get to from the morning. Okay, Mr. Behlke, I understand, came in. Is Mr. Behlke -- oh, would you be able to come back at 1:30? (No audible response.) And the Human Rights Commission people, would you be able to come back at 1:30? (No audible response). Thank you. We'll try to start just as quickly as we can at 1:30, then. Thank you.

OFF THE RECORD

ON THE RECORD

MS. SCHUHMANN: I'd like to call the meeting back to order. And I wonder if we could ask the 3 people that spoke already this morning, all 3 of you maybe, to come up to the table. And then that way get the remaining questions that have not yet been answered. Mr. Alexander, could you also join the front table, and we could maybe...

MR. ALEXANDER: Sure. Do you want (indiscernible).

MS. HURLEY: And pass -- if you wouldn't mind passing the mike back and forth so that the recorder can pick it up.

MS. SCHUHMANN: One of the questions that I wanted to follow up with you, Mr. Kuhn, was on what

reporting requirements you're going to have for your contractors. Will you ask them to keep their statistics by job description instead of, you know, an overall -- like female hire, that could be clerical, craft, or whatever?

MR. KUHN: The answer is yes. We have in our Affirmative Action Plan, in one of the appendices, the original December submission, set forth the forms that each contractor will be obliged to send into us, I think it's monthly. It may be more frequent than that, I'm not certain offhand. And it is a -- it's an extensive breakdown.

MS. SCHUHMANN: Will it have -- will it be broken down even by the hours worked so that if someone's called out, but only works, say, 1 hour of the day --

MR. KUHN: We do collect information by hours, that is correct.

MS. SCHUHMANN: Okay. Yes, Herb?

MR. BERKOWITZ: Mr. Alexander, I take it your title is the Director of the Office of Equal Employment within the Office of the Federal Inspector?

MR. ALEXANDER: You take it correctly.

MR. BERKOWITZ: So that means it's your responsiblity to see to it that Mr. Kuhn's company lives up to its responsibilities under the federal permit?

MR. ALEXANDER: Yes.

MR. BERKOWITZ: And that includes their

equal employment opportunity responsibilities?

MR. ALEXANDER: Let me explain. I'm responsible for seeing that Mr. Kuhn lives up to -- you know, permit or no, lives up to his Affirmative Action responsibilities, period.

MR. BERKOWITZ: Now, Mr. Kuhn has indicated, if I understood his testimony correctly, that during the time of peak pipeline construction when, if I understand the statistics correctly, there will be over a 3 year period a minimum of 7,000 positions filled and as many as 12,000 positions filled; that during that 3 year interim Northwest is going to be dedicating 7 of its own employees to see to it that Northwest, as the federal government's permitee, is living up to its responsibilities in the area of equal employment opportunity; and that includes both women and minorities. So that's 7 to cover both women and minorities. Do you consider that to be an adequate number, Mr. Alexander?

MR. ALEXANDER: I don't think I'd prefer to answer that question at this time because we don't know what's adequate until they do get to that peak. If it isn't adequate, then we certainly will so advise Mr. Kuhn, and I'll certainly have to beef my own staff up. I just don't think that that's a fair question at this point.

MR. BERKOWITZ: Well, Mr. Alexander, if -- a simple division. If you have 7 employees monitoring both

with respect to women and minorities 7,000 positions, which is the low number over the 3 year period. That's 1 employee per 1,000 positions. Now is -- can you conceive of a basis under which that would be considered an adequate ratio?

MR. ALEXANDER: I don't -- again, I can't answer that question at this time. If it isn't adequate, then we'll have to make adjustments. What --

MR. BERKOWITZ: Is there something you don't know, Mr. Alexander, that if you knew it --

MR. ALEXANDER: No, I'm not going to say that I don't know it. Let me explain it to you further. There will be other people involved in monitoring and enforcement, which will raise that number considerably. We have, at present, enforcement regulations that have been caught in the President's hold on regulations that include a memorandum of understanding between our office, the State Human Right's Commission, the EEOC, and in addition to the monitoring that will be done by the company's themselves. So at this time I can't give you any information because it's caught in that freeze. I can't give you any further information. I don't know how many people that EEOC, for instance, is going to dedicate to monitoring. I don't know how many Neil Thomas will have for monitoring. So I really can't say at this time. I would if I could.

MR. BERKOWITZ: I'm still not sure I understand

the thrust of your -- what you're saying is, Mr. Alexander, that if a sufficient number of federal and state bureaucrats are employed to deal with this problem, then that will make the seven private sector employees of Mr. Kuhn's company a sufficient number?

MR. ALEXANDER: No, what you're overlooking is that the federal and state bureaucrats, as you refer to them, have also a certain responsibility for enforcement. In fact, the prime responsibility lies in my office. So, you know, I will be looking over Mr. Kuhn's shoulder, so to speak.

MR. BERKOWITZ: Well, Mr. Alexander, it's the project of Mr. Kuhn's company. They have conceived it; they presumeably will engineer it; they will contract for it; and they will see to it that it is constructed. No one will have better or more intimate knowledge of what this project is going to consist of than Northwest Alaskan. Now, I still can't understand why it would not be a major concern of your Department to see to it that Northwest Alaskan itself lives up to its responsibilities by hiring sufficient personnel to monitor that area of endeavor.

MR. ALEXANDER: You are -- you're chopping the whole problem of enforcement up into segments. It will be my responsibility to see that he hires a sufficient number, as you say. Right now I'm not prepared to give you

what will be a sufficient number. I will certainly be talking with Mr. Kuhn or anyone else with the company who has responsibility in that area if I see that they don't have a number of people in the field to see that these responsibilities are carried. But, you know, it's not a two part problem, just like the training is not a two part problem where you're doing your thing over here and I'm doing mine there.

MR. BERKOWITZ: It strikes me, Mr. Alexander, if you'll forgive me for saying this that you're being remarkably unassertive in asking Northwest Alaskan to live up to the terms of their permit.

MR. ALEXANDER: You don't -- you're not aware of what we've asked them at this point. That's what I'm trying to say, that negotiations on certain things here are still going on. So you can't say that we haven't asked or demanded or requested. I'm just not at liberty right now to go into the whole thing in detail with you.

MR. BERKOWITZ: And you have no theories, no philosophy, no thinking --

MR. ALEXANDER: I don't want to theorize --

MR. BERKOWITZ: -- on whether or not seven is a sufficient number of people to honor this contract?

MR. ALEXANDER: No, I don't --

MR. LUNDELL: Madame Chairman, I think that Mr. Alexander is being pursued beyond what would be the norm.

And I'd like to ask Mr. Berkowitz a question as a person that's not involved in the enforcement or the administration of it. What does he mean by monitoring? Does he mean 1 person watching 10; or does he mean a review of figures; or does he mean a plan that encompasses outreach and training, and encompasses working with the unions to see that women and minorities do come through those channels? Those are far more important than how many people are monitoring on a project line. And I guess the question -- the answer to his question is a question, what is monitoring to you, Mr. Berkowitz?

MR. BERKOWITZ: Well, as best I can respond, and once again, Mr. Kuhn knows Mr. Kuhn's project better than I do, so to that extent I deal from ignorance. It sounds like there's going to be a substantial volume of paper produced as part of this equal opportunity employment effort. It's going to be involved in the contracting process. After the contracting process apparently there's going to be some form of fairly frequent reporting. And this reporting is ultimately going to involve these seven to twelve thousand positions over this period of time. I have difficulty of conceiving of how these 7 people are ever going to be able to get out from under that mountain of paperwork to get out into the real world and deal with the questions of whether real people are getting real jobs rather than whether numbers on pieces of paper are

the numbers that people want to see.

MR. ALEXANDER: I see where you're coming from, really. It's just that I'm saying I can't give you the solution to the entire problem at this point because I feel that enforcement and monitoring are very important aspects of the whole thing. If you don't have that, then we're just talking about an exercise. I just am not able at this time to tell you exactly whether 7 is sufficient, or 47, or whatever. You know, I don't -- I can't give you a number, I could just -- I'd only be speculating. We got into a terrible problem with speculation on the other 2 legs, and I'd like not to do that.

MR. BERKOWITZ: Let me ask you this question, Mr. Alexander. Do you believe that Northwest Alaskan in and of itself, putting aside its contractors, and putting aside your office, has an independent responsibility and a legal and more obligation to see to it that a program for appropriate female hire is carried out?

MR. ALEXANDER: Certainly, and they will be -- they have that in their draft Affirmative Action Plan.

MR. BERKOWITZ: Well, it says that.

MR. ALEXANDER: Yeah.

MS. SCHUHMANN: Mr. Kuhn, you had --

MR. ALEXANDER: They're required to do that.

MR. KUHN: Miss Schuhmann, I just want the record to be clear. I made a prior statement that in addition

to the 7 Northwest Alaskan employees there will be 42 full time employees under their -- under the direction supervision of those 7 engaged exclusively in affirmative action matters. In addition, our contracts require certain additional people to be provided working exclusively with them on equal opportunity matters. There is a comprehensive program. Each of the execution contractors, moreover, must prepare his own affirmative action plan. And he is going to be held liable for his enforcement of that -- his performance of that.

MS. SCHUHMANN: Will the affirmative action goals that you eventually reach agreement upon, will they apply both to the -- what you have been calling pre-construction as well as the construction?

MR. KUHN: There's really no -- we make no distinction there. I mean, it flows 1981 through '86, the work -- in the hiring area. It changes somewhat as you use up certain minorities, so to speak, and there are few available from a ... But the percentages do not radically change. Insofar as the contracting is concerned, all we have at this point is projections and obviously you're going to have an awful lot more as you move toward the peak.

MS. SCHUHMANN: Does Northwest plan, at this point, to have any support services, for instance, in your training of natives which is, I understand, required. Do you anticipate any, say, child care services. It's going to be

difficult for people to leave the village if they're the only person that's in charge of the family to come into town for training as well as to go to work. Do you have any anticipation or any plans for any kind of support services?

MR. KUHN: We haven't really addressed that level of detail yet.

MS. SCHUHMANN: What influence will you have over the unions? Will you be directly contracting with the unions or will your contractors?

MR. KUHN: There -- we anticipate an agreement with the unions, directly with the unions. And I want to emphasize that'll be the local unions. We'll be heavily involved in that at some point.

MS. SCHUHMANN: Do you have any plans to try to make sure that the unions have affirmative action plans?

MR. KUHN: Well, it's not our task to, you know, insure that they have an affirmative action plan per se. But our -- what we would hope to come out of the -- and we would expect that the government will be involved in these negotiations, would be an understanding that the unions will provide minorities in the requisite number and females in the requisite number to meet the affirmative action goals set forth in our plan.

MR. LUNDELL: Excuse me Madame Chairman, there's one thing missing in the middle of that answer and

to your question itself. There is no possible legal way that a private company can have any sway over that union dispatch thing except in accordance with rules that are established by the federal government, because it's strictly a National Relations Board to Equal Employment Opportunity Commission or Office of Federal Contracts Compliance program type relationship. The unions have reporting requirements as well to those federal agencies. As long as they dispatch in accordance with an agreement and follow the terms of an agreement, a private company doesn't have anything it can do to that union. And that should be understood, I think, as part of that answer.

MS. SCHUHMANN: Barbara.

MS. DALE: Did I understand you to say, Mr. Kuhn, that you will expect the unions to come up to bring your requirements -- to bring up the requirements set forth by your Affirmative Action Plan. Are you depending on the unions to fill up your quota for women on your Affirmative Action --

MR. KUHN: In the craft area, there is no alternative.

MS. DALE: Okay. Just exclusively in the craft area, the 5 percent that you have listed on your...?

MR. KUHN: Well, the craft area is the unionized employment areas.

MS. SCHUHMANN: Yes, Herb.

MR. KUHN: Predominately.

MR. BERKOWITZ: Mr. Kuhn, do you anticipate that the project labor agreement will deal with the question of female affirmative action?

MR. KUHN: It will deal with the question of dispatch of females as much as it does dispatch of minorities to meet the goals in the plan. I would have to answer that yes.

MS. SCHUHMANN: Are there any other questions the Commissioners have?

MR. BERKOWITZ: I'd just like to make one comment, and I think my concern has been pretty obvious from the outset. I think we would like to know where the buck stops on this issue. And it's sometimes a little bit hard to pin down with lots of people delegating responsibility to others or looking to others to carry out the responsibility. I think that we would like to see some more certainty in that regard so that we know who to turn to as who's responsible rather than to have it turn out to be an Alfonse Gastone (ph) routine where everyone points the finger at someone else and says that that person is the one that laid down on the job. We don't -- we want the job done, not undone.

MR. ALEXANDER: Madame Chairman.

MS. SCHUHMANN: Yes.

MR. ALEXANDER: If I might respond to that

in part. I will see that you get a copy of the regulations that -- immediately, that govern what we're supposed to be doing. It should fairly clearly outline who will be doing what, who has this responsibility for what. You asked the question earlier about goals. There is a provision in the regulations that the sponsor may say that I will set a 25 percent hiring goal, period. If that sponsor is hiring 6 contractors, he may assign a portion of that goal to be reached by that contractors. If it appears in the contract, it's his responsibility. And, you know, the responsibilities are spread around, and I could go on and on with them. Just like enforcement falls -- it starts with my office and flows through the system. I will give you a copy of the regulations. Some of the answers are vague at this point. I will tell you that I would be willing to come back to a meeting of the Commission when the plan is completed and approved and lay it out for you and perhaps clear up some of the areas that you have questions about.

MR. BERKOWITZ: I, for one, will be more than happy to follow up on this.

MR. ALEXANDER: I would also immediately, if not sooner, provide you what information my office can as to what we're doing without violating any confidences at this point of what we expect to be doing, what we have done, and so forth so you'll know a little bit about what operation

is; where some of our responsibilities lie; who we will be looking to to provide this type support. For instance, I could speculate that we will be hiring "X" number of contractors to assist in the monitoring effort. That's been a plan, but it hasn't been finalized at this point. But I will send you the information I can and I have at this time. It may clear up some of the areas where the Commission has questions.

MS. SCHUHMANN: Thank you. That would be very helpful

MS. DALE: I just wanted to -- my concern lies in this -- and I don't feel totally comfortable with the information I have, the area of training, of -- you know, we have our figures of women that are in -- already trained and available. If -- there's an increasing number of women who are becoming heads of households. I think we could take the people who are already trained and put them to work. But I think what I'm interested in doing is increasing the training opportunities so that more women will be, -- you know, will be trained and be able to get something out of this.

MR. ALEXANDER: I understand your concern, but I can't say that the training issue has not been fully addressed, either. The reason for -- you know, so many of these things are not finalized at all, and some haven't even begun for one reason or another. In the middle of all this,

we have a freeze on hiring, which limits my staff; a freeze on regulations, which holds my enforcement regulations that were ready to come out. You know, these are the type things that we have to face. So a number of the things have not been set in concrete yet and allowed to flower. They will be -- again, I'll -- we can start the information flow to keep you posted on where we are and what we're doing.

MS. DALE: Good.

MS. SCHUHMANN: Mr. Lundell, in the -- is the-- are the state apprenticeship programs worked out so that they track the union apprenticeship programs? In other words, if you go through the Seward Skill Center, is that going to help you get a union position, you know, get union hire...?

MR. LUNDELL: Pursuant to existing statutes, there is no state apprenticeship program. The apprenticeship programs that are run by the labor and management trusts that operate them jointly, hire a director of the school or program, exist under the Federal Department of Labor Apprenticeship and Training plans. Some states have -- where they have huge work forces have also adopted state apprenticeship plans; that is, where there is a formal program. And the actual -- the term apprenticeship is a rather formal one. It means a certain thing. An indentured apprentice enters into the program under certain ground rules, stays in for a certain period of time at certain wages, percents of wages per hour

of a journeyman level and moves through the program that way. And they're under very strict rules as to how they are operated. And these, again, are the Federal Bureau of Apprenticeship and Training standards. The state doesn't happen to have any. When you make reference to the Seward Skill Center, in a sense that's like your Hutchinson Career Development Center here except it's a residential one; and it has a little more flexibility; was set up on that basis. I think there was recently set up on the northwest part of the state, Kotzebue, a small training center to deal with certain things there that is residential, I believe. Those are the only ones that are residential. Others are in the community college system or private schools, such as the Anchorage Business College, you know, things like that. In the area of the crafts they are run under the Bureau of Apprenticeship and Training programs. And a group can apply to them and then they can follow the same rules. But that's -- so it's -- there isn't a direct answer; the state apprenticeship doesn't link because there isn't one.

MS. SCHUHMANN: The training that you might receive, though, say at Hutchinson or at the Seward Skill Center would not necessarily qualify you for ...?

MR. LUNDELL: It won't qualify you for journeyman status, generally speaking. Those schools are one of the best means of insuring success once you enter an

indentured apprenticeship program. They also suffice for the creation of what someone might make a living, not as an apprentice but working for a company that is not affiliated with organized labor by agreement. They might produce some people that can build some houses and can do some work and things, but are not fully trained as is a full fledged apprentice, that's the basic difference that's involved there.

MS. CALLAHAN: This is a question for any or all of you. Do you know if it's anticipated at all that there might exist some kind of a clearing house of information for women and minorities to help in matching up interested people with available training programs with available jobs. It's a maze of information with the involvement of so many different agencies and companies. I just was wondering if that had ever been discussed in any of your negotiations of some kind of a possibility.

MR. ALEXANDER: Not specifically. However, in the area of training there has been talk of that type situation, how to disseminate information and so forth. So maybe in our deliberations that could be tied in somehow, or could be an adjunct somehow. It has not been addressed, but I don't see that there'd be any problem with it.

MR. LUNDELL: If you're talking outside of the jobs that we dispatched by organized labor, I think you could say that the cooperative effort, that it does exist

now; not with respect to this pipeline project, but in general between the CETA program and the Job Service program does provide a great deal of what you're asking. And, in fact, we have had discussions among the sponsoring company, the Federal Inspector, and the State Pipeline Co-ordinator's Office about doing some type of co-ordinative activity like this. And it's very likely that something like that will occur. There's a question of where, what's it cost, how does it tie in, and what real benefit can it give other than making someone feel good by being on a list. If it will actually achieve putting them in a job somehow, then we'll proceed. If it isn't, then there's no real benefit to be gained from it.

MS. SCHUHMANN: Um-hm. Any further questions or comments; any further from your folks?

MR. KUHN: I have one, Miss Schuhmann. I gave you one incorrect number this morning and I want to correct it for the record. I said that our total Alaskan employment was 530, and I quoted certain percentages. All of the percentage numbers that I quoted were exactly right, and they're as reflected on the written statement. The actual correct total for our employment in Alaska is 641, which is also reflected on the sheet you had. I just picked the wrong column off one of the tables.

MS. SCHUHMANN: Thank you. On behalf of the

Commission I'd like to thank all 3 of you for your testimony and your graciousness under fire. We -- I want to assure you, on behalf of the Commission, that we do want to work together to try to see that women do have a fair opportunity on the -- to get jobs on this project as well as other construction projects. But I think you do have to understand our concern and what we consider to be rather low affirmative action goals; declining percentages for the female business contracting; and the lack of training in any -- in your stipulations or -- you know, I'm sure a lot of this was done under federal law. And there's not a whole lot that any of you can do about it now except that we would, in the best of all worlds, like to have seen it be included.

MR. LUNDELL: We hope you're all pleasantly surprised when the project is going on.

MS. DALE: So do we.

MS. SCHUHMANN: Katie.

MS. HURLEY: I just wanted to say is it possible that before final decisions are made that the Commission, you know, could be consulted and, you know, asked whether this meets the kind of goals that the Commission has before finding out afterwards that the goal has been set and it's low. Is that unrealistic to ask that kind of chance for input?

MR. ALEXANDER: I'll take that under serious

consideration remembering that the goals are very likely to be -- or let me not say very likely because that implies certainty, but the goals could possibly be adjusted as a result of the census information later on. What I want, and I'll reiterate, are reasonable obtainable goals. I want -- in the best of all worlds, I'd like to see them exceeded. I'm not giving -- attempting to give the sponsors that charge, but I certainly would like to see them exceeded; and I think we all would. But I'll reiterate that I certainly will be in touch with you. I certainly will be talking to you. I'll be giving you the information that I can. I don't want it to be a one-way street. If there's something that you want to get, some information you need, Mr. Roy Rule (Ph) is here in town. If you can't reach him, then you can reach me in Washington. And we'll certainly see that it's provided. I'm going to leave this copy of the regulations now. I do realize that later on we probably will come under fire for one reason or another, just because somebody's mad or whatever. There may be disagreements and so forth, but the one thing that I'd like not to get any fire for is these; they're in place and there's nothing I can do about them. You know, I would like to have seen some other things included or maybe excluded or amended or whatever, but --

MS. SCHUHMANN: Thank you.

MR. ALEXANDER: -- we can't do that now. So

the best we can do is try to do the best job under the regulations we have. And, you know, the next time around we'll do even better. We don't want to make the mistakes that were made on the oil line. But if there were good things that happened, we want to build on those good things.

MS. SCHUHMANN: Thank you very much.

MR. LUNDELL: Thank you. Miss Schuhmann?

MS. SCHUHMANN: Yes.

MR. LUNDELL: I wanted to mention one thing. And since the subject of apprenticeship and things like that came up, I did ask one of the people from our Department to come down here today; and she would be available if you needed -- if you wanted some explanation of that or if people wanted a 1 on 1 discussion of what is apprenticeship, how do you go into it, how does it work. I'm speaking of Adele Bagin (ph) who is an inspector with our Division of Wage and Hour and Mechanical Inspection. She was an apprentice plumber, is a journeyman plumber, and is a full fledged inspecting plumber at this time. And if she could be of help to you in describing these things, she has offered to do so. I asked her if she would mind coming down, and she said she'd be happy to come down and see you.

MS. SCHUHMANN: Thank you. What is her name again? Adele?

MR. LUNDELL: Adele Bagin.

MS. SCHUHMANN: Thank you. Mr. Behlke, I know that you've been waiting. I saw Mr. Lawson earlier this week downtown, and I think he was being teased while he was on vacation that your office had told -- had planned on him coming unbeknownst to him. He found it --

MR. BEHLKE: Well, really we had, yeah. You've heard I think most of what's important for you to hear about female women hire on the pipeline. The State is pretty largely pre-empted by the federal government in relation to EEO and MBE on this pipeline and by federal law. It doesn't mean we intend to ignore it, but we feel that the prime responsiblity is with John Alexander's group and their promulgating regulations and so on for that.

MS. SCHUHMANN: We don't have a public announcement system, so if you could speak up. That's just for the transcript, that microphone.

MR. BEHLKE: Okay, yeah. I think that -- I wasn't here this morning for very long, but I think that it's important for everyone who is hanging his or her hat on the pipeline to know what the status of the pipeline is because I think there's a good deal of speculation; perhaps some misinformation. I think people are telling each other this and that. And after they've told each other this for several go-arounds they begin to believe it.

At present, the pipeline is under very, very heavy

design. And it's in a very heavy design and planning stage. The Northwest Pipeline Company has, as Mr. Kuhn told you, several hundred people working in Alaska, many of them in the field.

Last week I drove down from Prudhoe with my deputy and we stopped in each of the 4 fly camps that Northwest has between Prudhoe and here. And those are 78 person camps, and one of them was not running full, but the others were pretty full. So they're in the field doing a lot of bore hole work, doing stream studies, stream flow studies; doing pipeline alignment studies and so on. But this is only the design phase. And so far there's only money in hand for design. There isn't money in hand for construction. I think it's extremely important that everyone recognize this. This is different from Alyeska where the sponsors could write out the checks, and they were only too willing to write out the checks; and it didn't appear that the overruns worried them at all.

Northwest Pipeline Company is working valiantly and has been working for a number of years now attempting to line up the total financing package for the pipeline. This is rather complicated because first, a conditioning plant is required at Prudhoe Bay to condition the gas before it can go into the pipeline. That's a three or four billion dollar item. Then financing has to come together for roughly eight billion dollars worth of pipeline. That's eight billion up front.

We don't know what it ultimately will go. That's in 1980 dollars.

At present that financing is not in place. So Northwest isn't going ahead right now, today, with the project. They haven't ordered pipe; they have not yet put into operation the Alyeska construction camps and so on. And I would caution you that you not get your aspirations too high on an immediate basis. I'm quite certain the pipeline will probably be constructed. But I'm not absolutely certain that darn thing's going to begin next summer. It's possible that it could slip a year. It depends upon financing. And if that financing isn't in place probably by summer it will, indeed, slip a year. And you should be aware of that. Don't run out and quit your jobs and go out and attempt to get a pipeline job, because I think by the end of summer if there isn't financing in place, the pipeline jobs could, indeed, dry up very considerably because the field work will be pretty much done on the design basis.

With regard to camps, I -- and field activities, I have our people give me verbal impressions of what they see in the field in regard to EEO and MBE. And I have the perceptions that, and my own observations are that, Northwest is doing fairly well in regard to female hire, native hire, and so on. I haven't kept track of it, but I know in all the camps that I visited and stayed in there were 3 or 4 women out of

approximately 78 people who showed up at that camp that night.

The federal government and the state government have females on our field crews. So they're out there monkeying around in the snow and the mud and so on just the same as the males are.

I've had something come through to me. I'm a Fairbanks resident, and I've had something come through to me which I want to pass on to you that I think is extremely important. I have long wondered why on a project of any consequence -- as the engineer -- I'm an engineer, so I wondered why the engineering hasn't been done in Alaska. We have lots of experienced engineers, how come. And I've been very -- and since becoming involved in this project, though, I've been very impressed and I suppose depressed to an extent, but anyhow, impressed by the fact that large numbers of people have to be mobilized very quickly for specific jobs on design of a project this size. And I'll give you an example. The conditioning plant; there was no design in operation last summer. The design began this last fall. And it was necessary for Northwest who represents the design and engineering board to get to a large company which could mobilize 400, let's say, 400 engineers to go to work on this job within a week; get the job finished; and then phase off of that job after perhaps 6 months work. Well, there's no place in Alaska where you

find any organization like that. There's just no way. So you have to go out to America to have this happen.

Now, the unions are very similar to this, I think. We would like to have certain quotas met in regard to minorities and regard to females and so on through union hirings. But I think we have to remember that Northwest has to hire through unions. There is virtually no way -- that is Northwest contractors; Northwest probably wouldn't do very much of this. But there's virtually no way that Northwest can field a project of this magnitude unless it's a union project; there's just no way. And the unions, therefore, are similar to these large design firms. They have a large body of people that they can throw at the job, and they can get mobilized in a hurry. That's a big plus for a union, really, or for a group of unions.

Now, Northwest doesn't run those unions, as you've heard; Northwest doesn't run those unions. In the project labor agreement, they can, indeed, get in and try to get as much as they can out of those unions. But that's a negotiating process also. One of the things that has concerned me since I first came into this position is 798. I remember the stories of 798 during the last pipeline. They came in from somewhere out in America and they just really tore up the State as far as I was concerned and as far as many people were. And they came in with white people from the south, principally. There weren't blacks, there weren't natives, there were very few

women as I understand it, that had anything to do with 798. And I've asked the question since I came onto my job, what about 798. Is 798 going to have 15 percent natives, and so many percent blacks and so on. And I really haven't gotten an answer. I've raised hell about this, I think, in various federal meetings. And it's easy for me to do that because I'm not responsible for EEO and MBE, but I certainly can ask the questions. And I don't really know, is John still here?

MS. SCHUHMANN: Yes, he is.

MR. BEHLKE: I guess I could toss the question back to you, John. What do you think about 798, is it going to get black or...?

MR. ALEXANDER: Not much. They certainly will have to be dealt with. I can't tell you how, at this point because the labor issue (inaudible) I can't give you a master plan.

MR. BEHLKE: Well, you begin to see the point here, I think. Politicians don't want to deal with labor unions if they can help it because labor unions are large; and they're, of course, a political entity. That's the working man. And yet Northwest has to deal with those labor unions. And Northwest doesn't really have all that much control over labor unions. It's easy to say that the federal government has control over Northwest; and Northwest

is spending the money so it has control over labor unions and can call the shots. But I think Northwest is going to have a -- it's my perception they probably will have a tough time with that. And I think we have to recognize that and realize that maybe it's not all Northwest's fault that this happens.

Mr. Kuhn in relation to that mentioned that there would be 7 Northwest people and 42 or 44 project management people who would be dealing with EEO-MBE. I think it is fair to say that it's 7 plus 42 or whatever, rather than just 7 because the project management and Northwest have to work very closely together. And that's the way it's been working on the pipeline so far as far as the quality assurance and quality control is concerned. We have difficulty who's Northwest and who's the project management, Fluor, because they work together very well and we don't see -- I'm sure Northwest sees some differences but we don't see a lot of differences in this. So I think they have a team there that -- you may not agree it's large enough, but anyhow I think that's really what it consists of is 7 plus rather than just 7.

The State is in a bit of a strange position on the pipeline in that it is a project in which the federal government rattles into very heavily. Northwest has to cross State lands, it has to cross native lands, some private lands, and a lot of federal lands with its pipeline. Northwest does have a federal right-of-way grant from the Department of

Interior for the pipeline. It doesn't have permits yet for any other sites, such as material sites and so on. But for the pipeline and compresser stations it has a permit on federal lands. It has not approached the State yet for a right-of-way lease from the State of Alaska for the pipeline itself. It has approached the State for a land lease for the conditioning plant at Prudhoe Bay. It's presently the State's position that that is a pipeline system, and that the two probably should go together. But we don't know whether that will be the ultimate outcome or not of that.

Northwest has, I think to an extent, ignored the State in certain matters and really paid a lot more attention to the federal government. And we've sort of felt that in many things we're perhaps being strung along a little while. And then when the right time comes and Northwest needs something very quickly, it will be the State's responsibility to give it to them quickly; otherwise, the State will be responsible for holding up the project. Now, I don't think that has much credibility in Alaska, because we've all waited for a long time and not much has happened on the actual construction of the pipeline. But we still have not been approached for our right-of-way lease yet for on State lands and the federal government was approached last summer.

The State has prepared a set of socio-economic -- draft socio-economic stipulations to attach to the right-of-way

lease. These have not been negotiated with Northwest yet. Some of the salient features, though, of those draft stipulations are indeed some precipitation -- precipitation, I'm caught in my own misnomer. Some participation by various interested public groups and by various interested and involved State and federal agencies into Northwest's socio-ecio plans for its activities.

One of the things that we have put into those stips is that Northwest would fund impact information centers at various locations along the pipeline. These have not been negotiated yet. I'm sure Northwest will probably not want to be involved in those impact center anymore than it needs to be. But we have felt that that is a very important aspect of socio-economics for the pipeline; that impact centers be in place in Barrow, in Tok, Fairbanks, and various other places along the highway route in order that information can flow as quickly as possible to the impacted people; and information can flow back to us and to Northwest as quickly as possible from impacted people. This is something that we feel is extremely important and we'll hang in a long time on. I think I've come to the end of the line on -- yes.

MS. JONES: One of the -- I missed a few minutes, and this may have been discussed, but one of the problems that you've talked about is that the recruit -- the goals for female hire are based on what might be available

and that Northwest has to contract with the unions. Is it within the State's prerogative to establish legislation that could eliminate some of the union requirements that discriminate against women? For example, age requirements so that women re-entering the labor market are ineligible for apprentice -- John Alexander's shaking his head.

MR. BEHLKE: Which way is he shaking it, yes or no? He probably knows the answer to that --

MR. ALEXANDER: (Inaudible) because I think Glen Lundell mentioned earlier that unions are under federal jurisdiction, so the State wouldn't have that prerogative.

MR. THOMAS: I'd appreciate me answering the question.

UNIDENTIFIED VOICE: Do you want to answer it? Neil would like to --

MR. THOMAS: Well, I'll wait until I get up there.

MS. SCHUHMANN: Well, why don't you answer it now. This is Neil Thomas with the State Human Rights Commission.

MR. THOMAS: Well, this issue has come up in the Legislature already.

MS. SCHUHMANN: Could you come up to a microphone so that we're sure to catch this.

MR. THOMAS: This issue of women in the apprenticeship programs came up in the Alaska Legislature just a couple of years ago, and it came up in this context. Women and minority group people typically may be trying to get into an apprenticeship program at an older age. You know, they're coming into the job market typically at an older age and running up against an age barrier where a union's apprenticeship committe, by its own rules, will not admit anybody into an apprenticeship program who's over a given age; and that tends to be a pretty young age, 27, 28, 29. And so allegations were brought before the State Human Rights Commission to the effect that this constitutes sex discrimination. It's a kind of an effect analysis. The effect of that rule is more disadvantageous to women than to men. It's the idea of the effect of different policies being discriminatory is something that's been inshrined in equal employment law for basically the last 8 years.

As those cases were being considered administratively before the Human Rights Commission, even before findings had been entered or cases had reached the hearing stage, a bill was introduced in the Alaska Legislature to exempt union apprenticeship programs from the Alaska Human Rights Law. The Alaska Human Rights Law prevents age discrimination as well, so of course, inherent in this case in addition to the effect argument that could be made about sex discrimination

was that it was on its face age discrimination. So the bill created an exemption to the general principal of age discrimination specifically for union apprenticeship programs. And it's important to remember how narrow that is. That is to say, it did not create an exemption for any other type of employment in any other context by any other type of employer from the general provisions against age discrimination. That bill passed overwhelmingly.

About a year later, the issue came up again. And one of the people who had the most to say about it was a former member of the State Human Rights Commission who was then representative Lisa Rudd. And when that bill was pending before the House -- it may have been in the same year now that I think about it, but I do remember Representative Rudd speaking very forcefully on the House floor against a bill of that type, and I think garnered about 14 or 15 supporting votes in the House. It wasn't enough to keep the bill from passing. Since that time there have been various requests. I remember one Senator Orsinni (ph) writing us a couple of years ago asking why that law was on the books. Now, the argument that gets made in support of allowing this kind of legislation or this kind of practice is that it all falls within the federal jurisdiction and the State of Alaska can't say a thing about it. That issue has been coming up at the federal arena. And when you really get down to the bottom

of it, what you find is an administrative rule in the Federal Labor Department -- that's really not supported by any federal statute at all; we can haul those out for you -- which says that it's okay for unions to have rules of this type.

Well, since that time, jurisdiction over age discrimination cases was transferred by the Carter administration to the Equal Employment Opportunity Commission. And they now handle all age discrimination complaints. And I've been seeing some material recently where the EEOC is raising serious questions about why this rule exists, recognizing that there's no federal statute or anything that explains to it. And it's one of those sort of motherhood issues where everybody sort of says it's all federal and they control it; and the State can't do anything about it; and it's all carved in stone; and unions only answer to the Federal Labor Department. It sounds good but it isn't true. It's one of those arguments that gets raised before us from time to time. And again, once you get down to it, the courts don't even listen to it. It was argued a couple of years ago that the Alaska Human Rights Law doesn't apply to labor unions because the National Labor Relations Act does that. Well, the Supreme Court of the United States wouldn't even listen to it. And the Lonzelle (ph) case held very clearly that the regulation of labor unions through a state law against discrimination is not contrary to the principles of the National Labor Relations Act.

MS. SCHUHMANN: Yes, Cathy?

MS. CARR-LUNDFELDT: I have some further information on this if you want to hear it.

MS. SCHUHMANN: This is Cathy Carr-Lundfeldt, also of the State Human Rights Commission.

MS. CARR-LUNDFELDT: In addition to being the Assistant Director here in Fairbanks, I'm also a member -- sort of semi-active -- of a national task force on women in construction. I'm semi-active because I don't get back to D.C. as often as the task force tends to meet. But the fact is that on the age discrimination issue, there are suits pending against the U.S. Department of Labor on the age discrimination issue, alleging again that it aids in sex discrimination and bars women from participating in apprenticeship programs.

And as a result of that, the U.S. Department of Labor issued a memorandum out to the Bureau of Apprenticeship Training Programs a year ago in the fall which urged them to get unions to rescind those specifications. You will find, if you check with local unions that a number of the locals have rescinded the age requirement. Some of them have considered it and said they don't want to rescind it; it isn't in their best interest. But some of them have taken that step. So it is not something that's written in concrete; it's not something which is federally pre-empted.

MS. SCHUHMANN: Thank you.

MR. BEHLKE: I didn't mention one important aspect in the socio-economic stips; and that is that we have worked for, oh, about a year in looking at local hire. You'll recall that local hire was struck down by the Supreme Court out in America some time ago. And we wanted to know more about that. I couldn't accept that, you know, that this thing just went dead and there was nothing you could do about it. So I wanted to look at that pretty hard. And we have attempted with our AG lawyers to look at it pretty hard this last year. And I think we have a local hire provision in there now which will probably fly in the big time. It does not provide automatic employment for each and every Alaskan. It has to do with unemployed Alaskans, chronically unemployed Alaskans, and so on. So it's much more restricted than any other local hire law. And the reason it is, of course, is the other one did not fly. We think we know why it didn't fly, and so we tried to take care of that in our stipulations this time.

I think perhaps there will be a bill in the Legislature that will be patterned on what we've done so far here; in other words, the Legislator who's doing this has been working with the AG's office in an attempt to get a local hire law that will stand the test and will mean something to Alaskans. That local hire law, however, doesn't relate specifically to women, it relates to Alaskans of various other categories.

MS. SCHUHMANN: Herb?

MR. BERKOWITZ: Dr. Behlke, you mentioned that the State and Northwest haven't really gotten together yet on the subject of a right-of-way lease over the State lands.

MR. BEHLKE: Right.

MR. BERKOWITZ: When that day comes, do you anticipate the State including in that right-of-way lease provisions regarding female employment and affirmative action?

MR. BEHLKE: No, I don't anticipate that. I think that we'll use the federal regulations. The federal government, I think, pre-empts us in this.

MR. BERKOWITZ: I think I'd like to question that conclusion, Dr. Behlke, because I think the State has as free a right to assert its jurisdiction over a lease over its lands as the federal government has a right to assert its jurisdiction of a lease over federal lands. Obviously, a great deal turns on the performance of Mr. Alexander's office in carrying out its mandate. But in this day of budget cutting there can be no assurance that they'll be a large federal presence over the next few years. I would urge you to consider whether or not it might be desirable in the State stipulations to have provisions that are not inconsistent with the federal provisions; they ought to be consistent, but which provide the State with a separate enforcement mechanism in the

event that the federal government, for one reason or another, doesn't follow through. I don't think there's anything to be lost by doing that; and I think there is something to be gained.

MR. BEHLKE: I agree with you. It's a good idea. We can attach what he asked. It's a good suggestion.

MS. SCHUHMANN: Barbara.

MS. DALE: You were talking about a draft of you socio-economic plans that you're working on now --

MR. BEHLKE: Yeah.

MS. DALE: -- that have not been negotiated with Northwest.

MR. BEHLKE: No.

MS. DALE: And you were talking about getting input from different groups or organizations.

MR. BEHLKE: No, in the -- not for the socio-economic plans as they exist today. Let me go through the process now of a right-of-way lease. We negotiate -- Northwest has to apply for the right-of-way lease. When Northwest applies for the right-of-way lease, we began -- we begin, in the Pipeline Co-ordinator's Office, to develop the lease. We've done a lot of development, obviously, already. But anyhow, in the normal course of events we develop the right-of-way lease with the various stipulations, technical, environmental, socio-ecio, whatever special provisions;

negotiate these with Northwest on a preliminary basis. And then we have to go to public hearings with such a right-of-way lease.. At that time, the public has a crack at whatever stipulations and what have you that it wants to. Now, within the existing stipulations we have, on a draft basis, required Northwest to do certain things in relation to its pipeline. And there's working groups or this, and working groups on that, and so on. And within these working groups to develop Northwest's plans for the handling of various phases, socio-economic phases of their pipeline, we would then get some public participation -- qualified people who really are into something; in a specific area; not just someone who comes off the woodwork or out of the woodwork -- but anyhow, someone who's qualified to give information or discuss in a specific area; someone who has some experience in that area; and the various State and federal agencies that are into that; not just every State and every federal agency.

MS. DALE: Is --

MR. BEHLKE: Actually, this process has worked out extremely well, I think, in the technical and environmental stips that were developed for the federal right-of-way grant and which will probably be attached to the State right-of-way lease almost verbatim.

MS. DALE: Is it possible when it's appropriate that the Commission have an opportunity to give some

of the information that they've gathered to these plans?

MR. BEHLKE: Oh, yeah.

MS. DALE: Good.

MS. SCHUHMANN: You have an advisory committee or group that you're already working...?

MR. BEHLKE: We've had -- again, one of the stipulations which we would attach to a right-of-way lease is that there be a socio-economic committee. We have had an interim committee of about 6 people working, 2 from Barrow; 2 from Tok; 1 from Delta; and the remainder from the Fairbanks area, 3 people from the Fairbanks area, working on a permanent charter -- or charter, I should say, for a permanent socio-economic committee in relation to the pipeline. And they develop that charter and this group has worked very hard in assisting us in development of socio-economic stipulations. This has been a very good group because it's been one way we've been able to gather information from the local communities about what are your problems; and what are you worried about; and so on and also to feed some information back. It's been very effective. And it's an interim group that has worked very hard. Leslie Corvola (ph) is the -- I'll call her chairman, I don't know if she wants to be called that of the group, anyhow.

UNIDENTIFIED VOICE: I hope not.

MS. SCHUHMANN: Chairperson. Yes, Herb?

MR. BERKCWITZ: I wonder if I could ask Mr. Kuhn, since he's still here, whether he anticipates there'd be any difficulty from the Northwest Alaskan side with including female hire provisions in the State right-of-way lease when that lease is finally negotiated?

MR. KUHN: I think it's a legal question, pre-emption by federal law or not.

MR. BERKOWITZ: But if it turns out that your counsel tell you that it's lawful to do so, do you anticipate that you'll do so?

MR. KUHN: It's -- if it's, in essence, the same requirement. I might add that the -- I think you're, perhaps, missing the point on that. The EPO regulations, the Affirmative Action regulations, our plan, applies without regard to land ownership. It applies regardless of whether you're on State land or federal land. There are certain other things as far as a right-of-way lease or a right-of-way grant from the federal government;that is land related. The Affirmative Action Plan is not.

MR. BERKOWITZ: The reason I raise the point, Mr. Kuhn, is that we've had a very mixed experience in Alaska with looking to the federal government to protect our rights in various areas. And therefore, I think we'd feel more secure with another arrow in our quiver with the State government having the same parallel responsibility. And I'm

glad to see that Northwest appears to be forthcoming, and if it's lawful to do so apparently will.

MR. KUHN: Let me say that's a question to be resolved between the lawyers in the State, and the lawyers of the federal government; and we don't want to be involved in that sort of a...

MR. BERKOWITZ: But you will be a party to the lease, won't you? Won't Northwest be a party to the lease?

MR. KUHN: We're going to do the same thing, not matter what, so far as the Affirmative Action Plan goes. We're going to implement it either way. So it really isn't going to make any difference from our viewpoint.

MR. BERKOWITZ: So it doesn't really matter to Northwest that the State has an independent enforcement possibility, if not actuality?

MR. KUHN: Well, we, you know, have to see the specifics of what's involved.

MR. BERKOWITZ: Well, what if they were essentially the same terms that you've agreed to with the federal government?

MR. KUHN: You're asking, you know, a hypothetical question about the -- insofar as the legal things not yet resolved. I think that -- my own opinion, I'm not a lawyer, is that there would be considerable difficulty in

entering into a field that is already well established by federal statutes and regulations. That's an opinion; not a legal opinion.

MR. BERKOWITZ: Do you have any policy difficulties with that?

MR. KUHN: Well, we wouldn't want to see conflicts between the State government and the federal government that would in some way cause difficulties or unnecessary litigation just because we've got two different governmental enforcing agencies. If I thought about it long enough there might be, you know, considerably other problems with it. But it's really not an issue for, though. Whatever is legal and is worked out between the federal and State government is -- we'll live with that.

MR. BEHLKE: I might say that our group, the State Pipeline Co-ordinator's Office, and the State agencies that work with us, all we do is co-ordinate State agencies. We don't have a super agency like the Federal Inspector, who takes permits and then supervises them. We have Fish and Game; DEC; DNR; AG; we'll have the Department of Labor; we have DOT-PuF representatives right in our office and we just work together as one group; so the agency gives the permit. And then in essence, that agency really surveils its permit under our ages (ph). But we have had awfully good working relationships with the OFI, the Office

of the Federal Inspector, very good. And in some areas we've said we'll stay out of it; you go ahead and do it; you have better expertise. And in other areas, we're taking the lead as far as pre-construction design survey, and this sort of thing is concerned. So our relationships have been very good. It's been almost like one government rather than two.

MS. SCHUHMANN: Mr. Kuhn, did you have another comment?

MR. KUHN: Yeah. The more I think about it, if there are parallel or duplicate enforcement structures set up, where the heck does an employee go, to the federal, State? I can see some practical problems on that.

MR. BERKOWITZ: I wouldn't anticipate the State having any enforcement structure at all. I would anticipate that the federal government will live up to its responsibilities, and you'll live up to your responsiblilities, and you'll meet your goals. My only concern is if the federal government completely falls down on its enforcement responsibility and you don't meet your goals in which case I expect the State -- if it is deemed to be in the public interest of the State -- will create the necessary enforcement authority who would only be a last resort. As I say, it's a question of retaining some measure of local control over what is essentially a local problem, and that is the hire of female Alaskans.

MS. SCHUHMANN: Do the Commissioners have any other questions?

MR. BEHLKE: Thank you.

MS. SCHUHMANN: Thank you. The next people scheduled on the agenda are the Human Rights Commission representatives, Neil Thomas and Cathy Carr-Lundfeldt.

MR. THOMAS: Thank you. Cathy and I are going to share the time today, and try not to trench on the time of -- I know you have quite a considerable group of witnesses you probably have coming.

I'm in a position to share with you some statewide concerns and issues. But Cathy's office was the one that was on the scene during the Alyeska project. And to the extent that -- anything that happened during the Alyeska project is instructive as to what should not happen during the gas line project, Cathy has that information.

I'm going to paint for you a fairly optimistic picture, I think, of the ability of the State of Alaska under its laws against discrimination to deal with whatever problems of discrimination may come up under the gas line. But I don't want to leave the impression by some of the things that I'm going to say that discrimination has gone away in the State of Alaska.

In fact, I just heard a story at breakfast this morning about some company evidentally that announced to a women that

it had a firm and unfailing policy against hiring women to run chain saws. When the woman pressed the point, it seems that they did back down a bit and offer to let her work a 10 day trial period for free.

Discrimination is alive and well in Alaska. And it could very well surface during the gas line. But I think Commissioner Berkowitz's point is well taken when he indicates that there are a lot of things that appear to be underway, both at Northwest Pipeline and at the federal level, which if it all works could minimize the numbers of issues that would come up; could minimize the numbers of complaint situations that would happen. And I think we're all kind of sitting, at least at the State level, hoping that there is nothing like the Alyeska project mess that we found ourselves in late in 1974 when many of us came on the scene at the Alaska State Commission.

However, even as things do come up and come to our attention, I think the State of Alaska is far better prepared to meet any of these things than it was 6 years ago. Six years ago, the State laws against discrimination had never been interpreted in the form of an order by the State Human Rights Commission. There had been no development of Alaska case law because no case had ever found its way to court. The agency administering law didn't even know how many complaints it had and was being inundated by a new flood of complaints right at the time it had only about 5 State funded

staff people and 2 people on federal funding to deal with the issue.

In the meantime, in the last 6 years, virtually all of the major questions of discrimination that sort of exist in this body of law known as anti-discrimination law have been addressed and resolved by the Alaska courts, by the federal courts, and by opinions issued by the State Human Rights Commission. We are about to publish a report which summarizes how the law of discrimination has developed in the State of Alaska in the next 6 years; it's a rather remarkable article by the Commission's attorney; and with it the first index to Human Rights Commission decisions that have been issued which should be helpful to everybody practicing law in this area. And the central point of the article is that Alaska's laws against discrimination have been construed for the most part as being stronger than federal law, broader than federal law, and most of the legal jigsaw puzzle is now complete. So just from a pure law sense, I think the State of Alaska is very well equipped to deal with just about any issue of discrimination that may come up under the gas line or anywhere else, including most of the issues of women in construction.

We do owe this much, I think, to the Alyeska project in that its sponsors and its labor unions played a very important role in the development of this law. They were the respondents, they were the cases. And so to that extent,

I guess we owe them a thank you.

Now, you can have a law in the books that says something, and then the question is is there any way to respond to all of that. And, again, I think I can give you a pretty optimistic picture in terms of the administrative ability of State government to respond to issues, to respond to complaints. Again, I think much of that picture is now in place. You have a State Human Rights Commission with a lot of experience and people who have been there for some period of time who know how to do this kind of a case; and an agency with 27 permanent positions plus a few CETA positions and other sorts as long as those fundings still remain. You have an agency which has passed muster in a very intensive audit, performance audit, by the State Legislature with a favorable report coming from that process with budget cuts having been restored for the most part. You have federal performance measures that are used for agencies of this type that show that Alaska Commission is at or near the top of agencies of its type around the country. And you have pretty sophisticted case processing systems. The agency's legendary backlog is very close to being eliminated. There is -- the total case load is back at the level that it was at in 1974 as the pipeline boom was coming up. And certainly by the time the gas line comes the case load is going to have been well under control probaby for some time. So just administratively, I think, the State of

Alaska is in a pretty good position to respond to that type of thing.

The question of where -- whether this is awful or wonderful, as one Commissioner said, needs to be answered, I think, in the context of where things were back in 1974. And the recognition that's inherent, I think, in some of your questions that the State of Alaska really does have an independent responsibility. It has taken that responsibility seriously knowing full well that, for instance, during the Alyeska project the federal response was very hard to come by if not almost nonexistent. And so the State of Alaska did have to carry the ball and did respond to the need.

Therefore, I think as a general rule we are in a good position to respond as to specific and issues and things that have come up. I can answer questions, and I think I'd prefer to turn it over to Cathy and let her share with you some more specific kinds of experiences.

MS. CARR-LUNDFELDT: I kept by me the list of questions that you asked me in your letter. And I will try to address them as briefly as I can, but as concisely.

MS. JONES: A little louder, please.

MS. CARR-LUNDFELDT? Speak up?

MS. JONES: A little louder.

MS. CARR-LUNDFELDT: Get the thing closer here. The first question is what barriers exist for women

who are interested in obtaining employment on the Alaska natural gas transportation system. Basically, the barrier is tradition. And because of that stereotyping what should be said is that there is now, coming into my office today, complaints involving very traditional sorts of attitudes and behaviors from women who are having difficulty with employment situations on the pre-construction portion.

So, it is starting now. It is not something that's going to start when the financing begins or whatever; it is happening today. The attitudes are quite similar to what went on before.

The other problem with this -- excuse me?

MS. DALE: Are those employed women or women who are looking for employment on the pre-construction...?

MS. CARR-LUNDFELDT: Both, these are women who have obtained employment and women who have not obtained employment; and that's why they're talking about it.

There is also the situation involving apprenticeship and access to the unions. The economic condition has necessarily limited working opportunities in construction. So as a consequence, you heard about the limitations in apprenticeship opportunities. What no one is saying is that there are other opportunities for gaining access to unions other than apprenticeship programs. That's also traditional, but it's not widely advertised.

Certainly labor agreements could be negotiated to include access to those kind of programs. The other thing you should know that in terms of attachment to the right-of-way leasing, in other words land attachment which was referred to, there are ongoing training programs for native people. I specifically heard one mentioned the other day involving the Teamsters, which already has graduates from last year, and is employing the graduates in the program. So although the negotiations are not complete for passage over the native lands, the company has engaged in negotiating training programs for native people through unions.

You asked what conditions can women expect to find when they obtain nontraditional jobs on the pipeline. Well, let me give you a couple of interesting examples. The first time I ever got out on the line to investigate a case and to make contact with people in the camps, I was housed in a women's section of the dorms. It was the oldest section of the trailers which were used for housing women. Women were doubled up in that section when there were men who were in singles throughout the rest of the camp. Over the doorway of the trailer was a painted sign of a woman in a bikini. Women were required to, in that particular instance, bullcook their own rooms. They didn't have to bullcook the bathrooms, but they did have to do their own rooms. In other words, change their own sheets, empty the wastebaskets, that kind of thing.

There were other things that we encountered at different times. One of them was, for instance, a meeting held in a camp for women only involving instruction about how to keep from spreading VD. No men ever attended those meetings. And the women were under the impression that the meeting was mandatory, even though it was denied subsequently.

You asked were there problems with such subjects as housing and facilities. I doubt this arguments going to come up again, but the first argument made on the line about hiring women was that there were no facilities. And that wasn't resolved until late '74, I think you may remember.

As far as sexual harassment, yeah, they can expect it. They can expect to be harassed if they want to room with a man on the pipeline, or they can expect to be harassed if they don't want to. They can expect it on the job. There were numerous instances of testimony from women who said that the way they got to keep their jobs was to sleep with the superintendent, the foreman, and so on. And one particular charge we had a superintendent who was charged individually with harassing 11 different women. And then they were criticized because they didn't take the complaint through the company, and he was the highest level employee in that camp.

If women encounter such problems in the future, what are their options? Well, the option I'm most familiar with,

of course, is the agency for whom I work. And I would urge women who have those kind of problems to come to us. We don't act quickly in the sense of tomorrow because that's not the way we operate. We're required to investigate impartially. But we're much better skilled at what we do than we were back then. I was brand new. And we are familiar with issues and problems and situations. We've seen them before. We've even heard some of the names before. So we're in a much better position to investigate this time around.

There are other options I would like to see. For instance, women be able to make constructive use of union grievance programs. There should be more action on that line. Unions are more aware--we understand, by working with them upon occasion, more aware of their responsibilities in this direction. And we have had some cases solved through direct intervention by union B.A.'s. It's not consistent, but it's much better than before.

What constructive suggestions would you make for employers and unions to avoid such past problems? Well, the first one would be for this to be a key issue in the negotiation of the labor agreement process. There isn't any reason why this can't be made a key issue. It won't be if it isn't made one.

The other thing I would like to see is a real commitment to go out and to recruit, hire, train, and employ women and minorities rather than the viewpoint that we must do it because

we have to. If there is the real commitment to do so, then there will be -- develop management systems and personnel responsibilities.

Recently the Commission saw a wonderful memo come through from a construction type firm specifying two foreman on the line that evaluations of their job performance would be based on whether they could meet their goals of recruiting, hiring, training, and retaining women and minorities. Now, when you have that kind of specification for performance evaluation from the top to the bottom, you get results. That's true for any management question, any business question. If you attach money and incentive to do it, and specify that that is the goal, it will happen.

And I would like to speak specifically to a union program, which I had no idea -- I was not involved in encouraging them to do this, they did it on their own. It could be used as a model for other unions and for getting women into programs. Dave Rasley of the Operating Engineers observed that they'd had some difficulty in recruiting and retaining natives as members of the Operating Engineers. He worked specifically with a man over at the Tanana Chiefs Conference by the name of Richard Frank. The two of them, using union funds and Tanana Chiefs' funds traveled to villages to meet with potential apprenticeship applicants to explain union procedures, to urge persons who had been members to reinstate

membership, to explain that instead of quitting on the line because conditions became tough to stay there and make use of the union grievance process. That certainly could be used as a model if there was a real commitment to increase membership.

Based on your knowledge of the difficulties some women may have experienced with previous pipeline employment, can you suggest any alternative and future construction efforts that would alleviate these conditions. I think I did that. But you specifically ask, for instance, should there be an EEO officer or counselor at each construction site in whose employ. If it is to follow the pattern that was followed on the oil pipeline, I would recommend that there not be such an arrangement because it was our experience for the most part -- there were exceptions, I will allow that -- but for the most part the EEO office or personnel who were generally employed by the subcontractors, there were some by the major contractor, spent a great deal of time investigating situations in order to protect the company image rather than to determine whether or not something fair, unreasonable, or discriminatory had gone on. But that was simply to be expected because they were in the employ of a person who had an interest in doing that. Now, on the other hand, I'm not sure that it would be effective at all to have an EEO type person in each camp hired by anybody else because who would do the monitoring, what would

be the process for training. Many of the EEO people on the line didn't have any prior construction or oil line or camp experience either. And many of them had very limited experience as far as exposure to enforcement of discrimination law.

It is still not widely understood that discrimination law also is based on the theory of the effect of an act rather than a specific -- in other words, people understand that you can discriminate by doing it overtly; they understand that you can discriminate by treating people differently. But they don't understand that by establishing a neutral rule, say, such as having a high school diploma, you can arbitrarily bar certain people of certain groups from employment opportunities. And, of course, the age in apprenticeship programs is one of those types of things. I think I've answered your questions.

MS. DALE: Are there any questions of the Commissioners? Herb.

MR. BERKOWITZ: Neil, I ask you this question because you live in the Human Rights enforcement world every day, and I see it very much from a distance. Also, have you --

MR. THOMAS: Not on some weekends.

MR. BERKOWITZ: Right. Also, you are responsible for the interests of women and minorities, while this Commission's legislative mandate is to deal with women's issues. In looking at Northwest Alaskan's projections with

respect to, for example, minority and female business enterprise goals -- and the reason I raise this point at all is that the words minority and female seem to be treated as they're almost one word, they always seem to be lumped together. In Mr. Kuhn's discussion of how enforcement was going to be handled, it was all going to be handled by one group. But when you look at the relative breakdown between minority and female in the contracting area, the female is 4 million dollars and the minority is 31 million dollars, which is greater by a factor of 7, a number which seems to recur today. I guess my question is do you think that females and minorities are, to a certain extent, competing with each other for opportunities in these projects? And do you think that this commission has an independent responsibility to be the sales force for the needs as perceived on the female; and rather than to relatively passively be lumped in with minorities in an overall equal opportunity context?

MR. THOMAS: Well, there's several questions inherent in that. But let me give you a general answer and some specifics. I think competition among out groups generally is unhealthy and is definitely to be avoided. And for that reason, if minority business enterprises and female business enterprises were lumped together and one goal were established for the whole group, you run into that potential problem. And, in fact, that happened in the first year of the federal Public

Works Act Program, which was the first of those federal statutes that had this minority - female business enterprise concept built into it with a fixed percentage of the total federal Public Works Act money supposedly going to female minority owned businesses. What happened during the first year was that a lot of white owned contractors rolled the titular ownership of those same companies over to some female relative; billed themselves as a minority business enterprises, and gobbled up the whole quota, so to speak, thus shutting minority business enterprises out of the picture almost exclusively.

Well, Congress wised up to that pretty quickly. And in the second year of the program,and in general,in programs of this type ever since, it's been thought essential one set of goals for minority business enterprises and separate goals for female business enterprises. And from what I can see, I'm not terribly familiar with their methodology, it looks like Northwest is doing that and I think should be encouraged to.

As to whether or not the dollar level for female business enterprises is appropriate, again, I think you'd have to go back and see -- double track over Northwest's methodology to see whether it's sound. It looks like what they have done is to get a computer to tell them how many businesses seem to be available; and they're setting goals

more or less in proportion to that. That's probably an appropriate methodology in which case they are probably in order by coming in here, as they did today, and say that's an acceptable methodology. But there's the possibility that we don't know where those firms are and who they are; and so they come here to a public forum and say let's get those names in here. It's just like an employer recognizing an under-utilization of women in an executive level, for instance, and doing affirmative recruitment to try to find qualified people to bring them into -- applicants. And I think Northwest has a duty to recruit, much in the fashion that we, to an extent, saw them do here today by saying we need to know who the female business enterprises are because the more of them we know about, the higher we can set goal levels. I hope that answers what you're -- does that get to what you were asking?

MR. BERKOWITZ: Well, let me ask you this. Don't you think that a factor of 7 to 1, when you have on the one hand groups that are denominated as minorities -- we know that they're a minority of the population -- versus another group that is probably a numerical majority of the population or anything pretty close to a majority of the population, don't you think that that's inherently suspect?

MR. THOMAS: I would make the comparison between, you know, the 4 percent figure and the total

population. Now, I think that's saying the same thing that you're saying in much the same way. I mean, if over half the population is female, how come only supposedly 4 percent of the known businesses that are available to do work on the gas line -- and that's what they're saying their definition of it is -- is female. I wouldn't express it in ways which imply that there's some competition for a limited piece of the pie between minority owned firms and female owned firms because I don't think that's what happens. I think Northwest has a duty to set a goal level for female owned businesses that's rational. And I think it's rational to set that at a level which is proportionate to that dollar volume of businesses which female owned businesses are prepared to do.

Now, if they don't know who those businesses are, and they haven't done an adequate job of finding that out, you know, they've opened themselves to criticism.

MS. DALE: Yes.

MS. JONES: Along these lines, and I think it came out both in terms of setting quotas for employment and for contracting, there seems to be an inherent tautology. We say we need to increase the employment of women and the contracting to women because they are under-represented. We then use the status quo figures of that unrepresentativeness to determine what the quota should be. So it strikes me that we go around in a circle on that.

MR. THOMAS: That, I think, is inherent in the kind of questions we were asking earlier today about to what extent availability can be used as that level.

MS. JONES: Yeah.

MR. THOMAS: Well, that's a constant fight. The courts generally accept, unless you can put something better up there in the context of discrimination cases, reasonable and rational availability figures. There's not a body of EEO law yet which says that an employer has a legal duty to prepare people for occupations for which they're otherwise unqualified. Now, how you define qualifications gets you into another body of law, because a lot of qualification standards are questionable and flat out illegal. But if you accept that certain qualifications are consistent with the needs of a position, the body of EEO law at this point does not create upon an employer a legal duty to bring people up to a level where they can perform. And employer does not have a legal duty to take someone and give them a typing course, and subsequently hire them for a typing job. An employer does have a duty not to discriminate among people who are capable of typing for a typing job. And so you're going into the next logical step in this whole social area; but you're raising a question that's socially logical and has equities on your side when you say, you know, society has disadvantaged certain people and therefore society collectively, including private employers, has some

moral obligation to help people along. Unfortunately not all of that concept is, you know, enshrined in the legal principals of this country at this point. But I think it's a direction it's going and is inherent in a lot of our activities.

MS. SCHUHMANN: Barbara?

MS. DALE: What happens, then, when -- and maybe you can answer this question for me, I haven't gotten it answered yet -- what happens, then, if they have not -- if, let's say Northwest does not comply, can they come up -- with their affirmative action goals, can they come up and say well, there just weren't enough people qualified. I mean, who has the responsibility to make sure that, at this point in time in the planning stage, you know, that there are people who are qualified?

MR. THOMAS: That's where the big if's come in in these availability studies. In the EEO court fights, almost -- in the big pattern and practice cases, it frequently comes down to an availability question. It's happening with us in our negotiations with different companies in context of class action complaints we might file. And we're negotiating something that we think is reasonable and they're coming back and saying the availability isn't there; you can't force it on us and so on. So, you know, the same process occurs here. There's a certain amount of guesswork involved, there's -- particularly at this point right before our new census is going

to come out. And therefore, it is a negotiating process. Now, sometimes you can pin it down. I had a case once where an employer didn't reach a particular level. And because of the records that were set up under the agreement were such that they were, we could go back and discover literally every single person who applied and make a determination about whether every person who was qualified was, in fact, offered a job and whether they turned it down or not. That's because that whole system had been set up in the context of an agreement, and we could go back, track and see whether the agreement had been lived up to.

MS. CARR-LUNDFELDT: Can I speak to your question, too? The thing that you need to remember above and beyond the EEO standards, because that is one set of things that's being considered, you're also talking about affirmative action. Availability statistics is only one element in that so-called 8 factor analysis. I am assuming they're using the one from the revised order #4 put out by the Office of Federal Contract Compliance. One of the elements in that 8 factor analysis is population. So certainly you could lobby for higher statistics on that basis.

I also wanted to add there's a historical reason for those low female goals. They started back on the pipeline. I don't know whether you were aware of the fact that there were no federally prescribed goals or project goals for women

signed off on on the oil pipeline. None, I mean zero. They talk about the percentages, but there were no goals to begin with. And so those percentages would come up without goals. There was a great deal of lobbying. There were groups that tried to get goals formulated. There was an agreement drawn up which had goals of about 7 percent specified. But the thing was never signed off on by the U.S. Department of Labor, which apparently had the authority to do so.

Now, one of the things about the task force that I was involved with -- or am involved with is that some women's groups, including the National League of Women Voters sued the Secretary of Labor and said you have a responsibility under law, it's right there in your responsibilities, to set those goals in construction. And this was nationwide. It was not just the pipeline. And they had to sue the secretary in order to get the U.S. Department of Labor to look at those kinds of goals. So what you are looking at essentially is goals that would have been established back in 1974, and yet were sat on, neglected. And as a consequence, women in construction throughout the nation have been victimized by those low goals.

MS. SCHUHMANN: Yes, Herb.

MR. BERKOWITZ: Neil, this is another question which I ask for the benefit of your experience. It seems like the EEO process can pretty much function as an independent game bearing a limited relationship with what's going on in

the real world of any given project with huge reams of paper flying back and forth and ultimately no outcome. Do you have any feelings for what it takes in a practical sense to get the people you're dealing with to do the right thing? In other words, how do you break away from this paper chase and mold the people in the direction of doing something which they ought to feel is the right thing to do and to help them believe that and carry it out in that spirit, because I think that's in everyone's best interest.

MR. THOMAS: There's a couple of things, and it runs to what I sort of call our theory of the business, at least where I work. I think the reason people pay their taxes is because they think they'll get caught and they think it'll go hard on them if they get caught. In other words, the enforcement process is visible, near at hand in the sense that that great computer in the sky is near at hand. And it's credible. And one of the theories of the business of people like me who work in this business is to create that same kind of client about EEO; to make enforcement a credible, nearby -- not in Seattle or Washington, D.C. -- reality. And I think that sort of what is developing here in Alaska, and has developed maybe farther than many of us since in the last 6 years. I think there's far more discrimination that doesn't happen these days than would have happened in the past. And I think the reason it does is because people generally know

that there's some discrimination laws out there and they read about it in the paper all the time. And Cathy-Carr Lundfeldt goes around to meetings; and her office is right down the street. It's not the EEOC in Seattle or some acronym full of letters off in Washington, D.D. someplace. And these stories get around. And Alaska's one big small town. And I think that kind of credibility is really what does it. And I think that's basically where we're headed with it. It's making the enforcement process credible and close at hand.

Now, I think there are still some links to establish credibility, and in that regard I'd like to say something about 798, which came up for discussion earlier. 798 will be, apparently from statistics we've seen here, one of the major dispatchers of people to the pipeline. A portion of 798's work force is basically not that complex welding job which takes a certain amount of certification and such. Over half of those people, if it goes like it did during the oil line, will be known as helpers, which is described as basically monkey see monkey do kind of work; carry coats, welding rods, and that type of thing. There is a case now pending before the State Commission very close to a decision. We think that the examiner, Joan Katz (ph) who has already circulated a preliminary opinion of some 78 pages or something -- we had oral argument on that case yesterday and we think there's

an opinion going to be forthcoming from her very shortly which is in the form of a recommendation to a three member panel of the State Commissioners.

That puts the State Commissioners in a position, and I'm guessing here, to put an order out involving 798's future dispatching practices in the next few months; an order which is appealable to Superior Courts, but an appeal process which arguably can be completed to the Alaska Supreme Court or to possibly the Supreme Court of the United States within a time frame that still would encompass 798's dispatching practices on the gas line.

The staff which has argued this case -- my staff which has argued the case before the Commission has basically been advancing a remedy which would put something of a quota involving females as well as blacks into 798's dispatching practices in the future. Oral argument yesterday focused on at what level that quota should be fixed, which goes right back to this availability question with the Commission staff arguing that since 798's membership is drawn from the deep south, that availability should be in consideration. And this goes not to the female quota which is easier to reason with, but the quota for blacks; and 798 predictably arguing that the Alaska black population is what's relevant. We don't know what the final order's going to be, but I think the 7-- and when I filed this clase action case against 798

years and years ago, it was with the clear understanding that this case was going to take a long time; raised some very heavy issues; be hotly litigated; and ultimately show that when you want to get down to making the enforcement process credible in a real way, as you say, you want to make things happen. State law can do it. It's not going to do it overnight. But it will establish a body of principles, which in a period of time will have to be uniformly respected. That's why I think you rarely hear the argument anymore,and it doesn't last for long, that an employer can get out of hiring women by simply claiming they don't have any facilities. Now, those first cases started in 1974 with women picketing the Culinary Union hiring hall here; and with the Alaskan Ferry System claiming that they couldn't rebuilt the boats to accommodate women working on the deck. It took years for those cases to get pinned down, but at least in 1981 that's not really a serious issue anymore.

I think cases like 798, even though they may take a total of 8 years, and that's really what we could be looking at altogether maybe, will establish certain kinds of principles about union dispatching practices and about how State law can regulate the dispatching practices of labor unions that will get to what everybody had been saying up to that point was an issue that nobody could face. Labor unions are controlled by the federal government; the employers can't control labor

unions; and all of these kind of arguments that you hear. I don't believe their true. I think the State law can reach these issues; I think it will. It's just going to take time, but we're getting there.

MS. CARR-LUNDFELDT: One of the things that was interesting to me to hear today was a suggestion that there would be a problem with the contractors trying to handle State law -- State enforcement versus federal enforcement if they're different. Well, they already are. Our State law covers a number of areas that are not covered specifically by federal law. Our State law specifies that you can't discriminate on the basis of pregnancy, on the basis of marital status, on the basis of parenthood, on the basis -- other basis; age, the age section is open-ended. So they're going to have to be dealing with those differences to begin with.

The other interesting thing that has come up recently, and I don't know that anybody's tried it out yet, but there has been a legal opinion out lately that suggests that an employer may, under Title 7, sue a union for engaging in practices which cause it to discriminate by not employing the people which is an interesting idea.

MR. THOMAS: The other remedy is, of course, the principle that an employer can't use a recruitment source that's discriminatory; so the employer has to recruit more broadly. If my recruitment source is only people living in

that part of town, all of whom are white -- picture a city down in the South 48, say, where neighborhood patterns are clear -- and I recruit only here, I can be legally enjoined from recruiting in that fashion. I can be ordered to recruit in a rational way around my place of business; in a way which includes black neighborhoods, hispanic neighborhoods, and such. Well, as a matter of law, there isn't any difference between that principle and the idea that an employer using this labor union can be ordered to broaden the recruitment base. Now, labor unions hate to hear that, and you'll always have people jumping up and down about the National Labor Relations Act, and their contract and so on and so forth. Well, you and I can't enter into a contract to do something that's illegal. Well, an employer can't enter into a labor agreement which is illegal; and it's illegal to discriminate. I mean, these issues have come up in the courts for years. And there's no court in the country that's ever said that a labor agreement which is discriminatory can be enforced. So as I say, that's one of those arguments that gets thrown up that sounds kind of logical on its face, and it's just -- it's legal nonsense, really.

MS. SCHUHMANN: Any further questions from Commissioners? (No response). Thank you very much. Why don't we take a break for just about -- only 5 minutes. And then we come back, we're going to have an open session, and

any member of the public that wishes to testify about -- and in particular we have asked the women who worked on the last pipeline might share some of their suggestions with us on suggestions on how to avoid problems that women found in working on the last pipeline. Could I -- could we have a show of hands of the number of people that intend to testify this afternoon that were planning on it, if we twist your arm? Okay.

OFF THE RECORD

ON THE RECORD

MS. SCHUHMANN: I'd like to call the meeting back to order and invite whoever would be interested in addressing the Commission to come forward and announce your name; and if you could spell your name so that we get it for the record; and maybe give us your address as well. (Pause) Don't be bashful.

MS. WIKE: Well, I know I only raised my hand halfway, and someone was counted three times.

MS. SCHUHMANN: You could start.

MS. WIKE: My name is Linda Wike, and I'm from Fairbanks. Do you need a home address?

MS. SCHUHMANN: A mailing address would be fine.

MS. WIKE: P.O. Box 73824.

MS. SCHUHMANN: And how do you spell your

MS. WIKE: W-i-k-e. And I don't have a prepared statement, and I came here not -- I wasn't even going to testify or anything. I really came just to see what the condition on the status of women is all about; and the first time I'd ever even heard about it. And after listening to what has been said by the gentlemen earlier and the lady, I found out that I'm in the position where I think -- Miss Jones kept making statements that would kind of poke a pin in my head over here, and Dale, too -- also Miss Dale, and found out that I'm in that position of being a 40 year old lady that doesn't have any craft skills; and in prior years was kept out of any training in the construction trades because of being female. Now I find I'm kept out of any apprenticeship programs because I'm 40.

It seems to me like when I was younger and had to raise children I was allowed to do traditional female clerical work if I had a high school diploma, which I didn't have so I was thrown into the manual labor market of which I couldn't get a job that would pay me enough to support children; because even though I was perfectly qualified to do strenuous manual labor a lower wage scale, for some reason when it came to higher wage scales that would afford me an opportunity to support children I either became -- I don't know what happened. I could do it when they didn't want to pay very much, but when they wanted to pay a living wage well then suddenly I

wasn't capable of doing it.

I found out that when I talked to people who are in union position -- not union management positions, but people who are generally in the union, and I find that most of the ones I run up against -- in fact, all of them I have come in contact with happen to be male. And it's very hard to get them to tell you how to join -- get into the union, how to join it. It's either an apprenticeship program, which I've been excluded from for the reasons I have, or they -- or I don't have any experience. If I don't have any experience, then I'm on some obscure list where I'll never have a chance of getting to the top to get into the job force.

And when you were talking about training now, I'm wondering -- they keep saying we haven't discussed that yet; we haven't discussed that yet. Well, when they finally do discuss it, is there enough time to train someone like me to get into a position. If so, when will that be; where will it be; how do I find out about it? What do I do? I'm sitting around here trying to get somewhere.

I have applied to a union. My main goal for applying to the union was to learn a trade so that when I once learned it, that I could become a contractor and hire people that would probably be hired through a union and proceed onward and get someplace. And I find out that I'm stymied wherever I go. Now, I may stymie myself by saying I don't know exactly

what to do so therefore I'm scared to do it. But I don't know where to take the first step. This, today, has been my second step. The first step was to go to the market and try and find a niche and realized that I either cannot ask the correct questions;or I'm not coming to the right people; or there's nobody inbetween them and me to go -- to follow any steps through. And I think that's about all that I have to ask.

They keep talking about contractors, women contractors, how do I get the experience to become a contractor. At that stage in the game, is right now, I have to do what they have frowned upon. I would have to do what they frowned upon; go out and say George, or somebody else, do you have the skills to know whether something's, you know, being done right or wrong; and if so, would you merge with me as I take my life's savings and we'll proceed to bid on a contract or going on a joint venture with seven or eight smaller companies and go on. It seems like time is... Maybe I want to run before I can walk, but I've been walking for 40 years trying to figure out how in the devil I'm going to run. You know, that's the whole -- that's where I'm sitting. And I guess that's all I have to say.

MS. SCHUHMANN: I'm not sure that we have much of an answer.

MS. WIKE: Yeah, I know; I don't, but I figured, you know I might as well say it.

MS. SCHUHMANN: I think, though, that one

of the problems that we've identified today is that the next step would be to approach the unions that will be involved with this project and other construction projects around the State and try to get an answer to questions like that were asked this morning by the Commissioners and questions that you're raising.

MS. WIKE: I agree that the way it appeared to--and I'm not at all learned in what is really going on -- and from the feedback I've got and what the way my mind shows me now -- and you see, our problem is with the union in general. It seems like it kind of got passed around and passed around, and now it's over there with the union who -- or unions who are not represented or are not here so we couldn't direct any questions to them. And I thank you for allowing me to voice my...

MS. JONES: I think what you're describing is a system that has all of these parts that prevent you from getting there. And my only regret would be to see anyone take that personnally, because it's beyond a person's initiative; the system is set up and operating.

MS. WIKE: I have gone past it.

MS. JONES: Okay, good.

MS. WIKE: I have gone past taking it really personally and realized that it definitely is the system. But I can only relate it to myself, you know. Thank you.

MS. SCHUHMANN: Thank you.

MS. ANDER: I'd like to say (inaudible). My name's Karen Ander, and I have been living down in Homer for the last 5 years.

MS. SCHUHMANN: How do you spell your last name?

MS. ANDER: Ander, A-n-d-e-r.

MS. SCHUHMANN: Thank you.

MS. ANDER: And my P.O. Box number is 768. I thought there were gonna be a lot more women here who had real complaints and accounts of vicious occurances going on during pipeline construction. But I worked on the pipeline as a Teamster surveyor, just being a chainperson on a four or five-man crew. And let's see, I started work in 1975 and worked for about 5 months. And then I went back on the job in 1976. And I worked for a couple of different contractors in different capacities as a chainman.

I didn't really had any bad experiences while I was working. I found that everything that occurred while I was on the job was basically positive in regards to employee-employer relationships. There was some politics involved, but they were mostly of a personal nature that you're going to encounter in any job situation, men or women. And I think I was real lucky being around in the State at the time that the pipeline started up. And I had a few friends who joined the Teamsters

Union and decided to become surveyors because at the time they needed people to do the survey work; and there wasn't enough qualified people to go around, so they were hiring anybody. All you had to do was pass a test. And the test that they gave was a 25 question multiple quess thing. And my friends, when they took it, it was open book. You could take books, notes, you know, everything. And they give you an hour or so to study all the questions and look them up and write down the answers. And so --

MS. CALLAHAN: Who gave the test?

MS. ANDER: The Teamsters Union.

MS. CALLAHAN: The Teamsters.

MS. ANDER: Um-hm, the Business Agent for the tech engineers, as they're called. So...

MS. SCHUHMANN: How did you hear about the opening, to begin with? How did you know to join and...?

MS. ANDER: My friends. They -- I had friends just in town or in Anchorage who had been working surveying the haul road when it was contructed. And they'd come into town and they'd be just loaded down with money, you know. And I was pretty poor, and they said oh well, gee, you should go sign up and take the exam and you'll get out no problem. And the only thing I had to overcome in myself was sort of intimadation by the whole construction world, you know. I mean, it was all men; you'd have to

somehow work up the courage to go out there and be a single woman. And you know that you're going to get hassled -- or you expect it because you do in any phase of life, you know. So -- but I decided that it would be worth it for the money. And I just didn't have any problems. I went and took the test. And the day that I took the test they decided it wasn't open book anymore. So I lucked out and passed it anyway. But I'd done my homework.

And when I finally got a job I went up north to Happy Valley. And the day that I arrived, the Chief of Parties -- that's the person who is head of all the survey crews --

MR. BERKOWITZ: It's not what it sounds like.

MS. ANDER: I realize that. You have party chiefs and then you have chief of parties. And he delegates the different portions of the work to the different survey crews. He was out of camp for the weekend. But somebody told me right away that he didn't like women on the job and that I was the first woman to come work for Arctic Constructors, at least at that camp; and that if he'd been around, he would have sent me right back because he insisted on having very qualified people, you know. But he wasn't there. So the other men who were in the office just took me out to a crew out in the field. And there I was, I was a chainman. And I was introduced to the other guys on the crew. And we started

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILE 8672
1382 SCOMM 51: BLUE RIBBON COMN. ON STATE PERSONNEL ACT 1978-1983

working and they just showed me -- you know, they knew I didn't have a lot of experience. I probably looked kind of bewildered. But they understood because a lot of the guys who were working out there didn't have any experience either. And so by the time the Chief of Parties got back I'd already been working for 2 days and it was too late for him to send me home. But, you know, so it was just all -- it was easy from then, really, except for a few personal relationships with the guys who had sensitive ego problems, you know. But that's... And I noticed -- there weren't a lot of women in camp, but the women that were in camp were all very different. And it seemed like a lot of them came from the Laborer's Union; and they got out on a special minority dispatch, which the Teamster's Union didn't have for at least the tech engineers.

And I heard all sorts of stories; everything from, you know, specific incidents of harassment to situations where I could see that women were perfectly willing to let the men give them lightweight jobs because they were women. And, you know, they just sort of went along with it because it was real easy. Like when the weather was bad and a lot of the laborers would be out working in the rain and the snow and the mud, you know, this one fairly pretty young gal -- she was right out of high school -- the foreman stuck her in the warehouse right away doing something, handing out parts or something that was real simple, you know. It was just -- you'd

see that there's discrimination in all phases. And it's not always the men who are at fault, either. Sometimes the women just accept it because it's easier.

MS. SCHUHMANN: Herb, did you have a question?

MR. BERKOWITZ: Do you have any personal theory to account for your good experience? You know, for example, do you feel that, you know, the fact that there were women there before made your showing up on the scene no big deal. Do you feel that the people you were working with were unusually good forward thinking people? Just what -- how do you explain to yourself the fact that other people had bad experiences and yet you had a good one?

MS. ANDER: Well, I could guess that 90 percent of it's just one's own personal attitude. You know, if you're willing to meet people halfway and be nice about it in tense situations, you can usually work things so that everybody's happy without having to compromise your own particular values. I tried really hard to get along with everybody, you know. And I suppose my own background, my upbringing had a lot to do with that. I saw a lot of people who weren't trying at all to get along with anybody. And that always creates conflicts. But I couldn't afford to be like that because I was there to make a lot of money; you know, I couldn't afford to lose my job. I didn't have to compromise

any of my morals. But I had to keep my mouth shut a lot of times when I felt that things were wrong because I was low man on the pole. You know, I couldn't say, well, so and so isn't doing his job; you know, what are you going to do about it. I had some horrible days where I thought that the guys I was working with were just intolerable in their behavior, in the way that they were doing their work. You know, they weren't good workers. But they got -- they were still out on the job because they were in the union. You know, there's a lot of power just in being in the union.

MR. BERKOWITZ: All things considered, having had your experience, what's your feeling about unions from the point of view of women in construction; do you view them as positive institutions or as negative institutions?

MS. ANDER: Well, since my experiences have all been of a fairly positive nature, I don't have any complaints about the union. In fact, since I have been living down in a small village and there's not a union local in my town, I was signed up with one in a nearby town. And I had withdrawn from the union a few years ago when there wasn't much work on the horizons and I didn't want to keep paying dues after my benefits had run out, so I withdrew. And last summer there was some union work that came up. And I found out about it and called them up, and they put me back to work right away. And, you know, it seemed like they made things

easy for me. It's a real small branch of the union. And they sort of -- I think they just look out for people, you know.

MS. SCHUHMANN: Would you have any recommendations for other women that might be thinking of going into construction type work? Where do they go; where do they start; what would you recommend?

MS. ANDER: Well, right now -- I asked the Business Agent's office not too long about about what they want for qualified people to take their surveyor's exams and to get into the union. And they said they wanted people who'd had one to two years field experience and -- or some semesters of college work in surveying and engineering. And then I've also heard that they'd like to have people like that, but they don't check your qualifications when you go to take the exams. So, you know, if you can fake it... I guess it all depends on how you want to do it.

The Carpenter's Union, I know they have an apprenticeship program going on. I think every year they put new people into it. I don't know what their age restriction is on that, though. I applied a couple of years ago; and let's see, I had to take a 2 hour math test. And then there were 4 of us who passed the test. This was in Juneau. And there were 2 people who were accepted into the program,and I wasn't one of them. But I'm not sure, I decided that I didn't want to

go into that program, anyway.

MS. JONES: Just a comment, and not at all to discredit your experience; but when I studied restrictions, union restrictions, against minorities and women in Anchorage, one of the things that came out was that where the men want the jobs, that's where there are the greatest restrictions against women. You fell into something where there wasn't a lot of competition for men. And so there were opportunities for women. But most of the trades that I found in Anchorage were preserved; that men who had worked in them for a long time and wanted to hang onto. And that's why these unions that are run by men have regulations that do restrict minorities and women from getting into them. And it sort of reminds me of during World War II when there were lots of opportunities for women because they were needed. And after World War II those opportunities sort of dried up fast because they wanted the jobs for the veterans.

MS. ANDER: Um-hm.

MS. JONES: And I think it's that -- you're making a good point. Where there is a need, that's one place women can enter. But I don't think that denies the point that where there's competition for a certain craft, we have to try to do something about the regulations that are discriminatory.

I also wanted to just make another comment that struck me so forceably as a sociologist; that when we were talking about

the big designs for all this, this room was crowded with men. And when women started to talk about their real live experience, all the men took a powder, and I couldn't help but be struck by it.

MR. BERKOWITZ: Almost all the men.

MS. JONES: I'm referring to the audience, not the Commission, Herb.

MS. ANDER: Well I -- you know, just getting back to that question about what women should do if they want to get into the trades, you have to contact the union to find out what their programs are, and it takes an effort. And a lot of times, gee, the Seward Vocational Center, the skill center down in Seward, they accept women into their programs. That doesn't guarantee you a job, but that's one source of training. I've had some luck in working in, you know, other construction fields doing some carpentry and plumbing business. Like, those are things that I sought out for myself. I don't know generally how to recommend to other women that they go about getting into a chosen trade that's -- there's so many factors that are involved. So... Anyway, that's about all I have to say.

MS. SCHUHMANN: Thank you.

MS. ANDER: Thank you.

MS. SCHUHMANN: Yes.

UNIDENTIFIED VOICE: I just want to ask you

a question. Do I understand you're going to meet with the unions later on --

MS. SCHUHMAN: No -- well, I think we will have to vote on it. But my own personal feeling is that it's so obvious after this meeting today where we're going to have to go next; and that's the unions. And so if we're going to have any follow-up, I think -- you know, the Commission will have to vote on it, but I think it's pretty obvious where the next move is.

UNIDENTIFIED VOICE: I think (indiscernible) if you go to see the unions. Because you can encourage women to talk to the unions. But they're going to be put on the C list they're going to lose their number and not work. A C list is --

MS. SCHUHMANN: Could you come -- you're with the Alaska Plan, aren't you?

UNIDENTIFIED VOICE: Right.

MS. SCHUHMANN: Why don't you come up and introduce yourself, if you don't mind, and...

MS. JONES: You can help inform us.

MS. SCHUHMANN: Yes, tell us what you know. That's what this is all about.

MS. GUTIERREZ: I am Eleanor Gutierrez (ph). I work for the Alaska Plan, their labor relations person. I work both sides of the fence; I work with minorities, females,

the unions and the contractors. Their all signatory to the Alaska Plan. But our understanding at this point is that the unions that have had apprenticeship programs have been very few. Apprenticeship programs are started with anticipation of more work.

On the onset right now, they feel that their unions can just hold the people they have right now and put them off to work the remainder of the year. If they don't see more work anticipated, they're not going to open up more apprenticeship programs. If they do put apprenticeship programs, and you have women follow-up with this apprenticeship program, she can out as an apprentice for 4 years.

You do have people that right now -- women, in particular, that have gotten off the rolls in unions that would have to be reinstated again. Again, their hours at the union has -- they ask for 6,000 hours to be on an A list. And you're talking of memberships of over 2,000 people. If this woman becomes a C-list member, even a B-list person, which was in the last oil line, she never did go out; or neither did the male for that fact, minorities or otherwise. The chances get slimmer and slimmer as they go down this list.

Each individual union has a collective bargaining booklet. It would be wise to read it before you go talk to these business agents. You'll find a lot of your answers right there on the collective bargaining booklet.

And they can tell you all they want about expertise people, everyone's an expertise person. But that's the first thing that'll come up; and no one has defined an expertise person in any trade. So they have the answers; and they have the stumbling blocks. They will set up people so they can fail, and turn around and say they just couldn't make the grade.

There's a lot of things that entail not only unions, but contractors. And again answers, a lot of people have the answers but do they want to answer them to you. That's all I have to say.

MS. SCHUHMANN: Yes, Carla.

MS. SLAUGHTER: I wanted to ask whether or not the Alaska Plan still employed -- had the money to employ people who actually go out in the field and sort of count heads, and see what's happening out there --

MS. GUTIERREZ: We have project moniters. There's a big thrust that we have had for the past 2 years, is actually making (ph) on sites... We do have the percentages. And our biggest problem, of course, in various unions is not having the personnel there. If a contractor particularly is using electricians and he has 3 female electricians, and 10 minority electricians, he's not going to come up with 28 percent or 6.9. And you'll see that as the disparity in each union.

MS. JONES: I didn't get that...?

MS. GUTIERREZ: Our goals in the Alaska Plan is 28 percent minority, and 6.9 female. And again, if you go out and specifically look at a contractor, and his heavy contracting is with electricians or a expertise (ph) like our workers, you're not going to find these people there. And you're not going to have them unless you have apprenticeship programs. And they're not going to open apprenticeship programs unless they anticipate more work. And you go around in the circle again.

MS. SLAUGHTER: I know that there was some difficulties in years past when the project moniter would go out in the field to count heads and all of a sudden all the minorities peoples who were supposedly employed on this project were either out to lunch, or in the bathroom; you know, they all of a sudden just were not there; or some blond haired, blue eyed person was held up to be an American Indian; that that was happening a lot, especially during the years when there was heavy pipeline construction. And I was wondering if you were still seeing that kind of thing happening?

MS. GUTIERREZ: No, I think --

MS. SLAUGHTER: Or are the numbers really reflecting the bodies that are there?

MS. GUTIERREZ: No, a project moniter, before he even goes out, has to see; and the contractor knows that

before he even goes out there that he visually has to see this person. They're progressing lots and lots more. I think the fact that we are always on top of these contractors that do get these jobs, pre-job conferences that we attend, we attend personalized management and going down and talking to supervisors; foremens and let him know what we're looking for. The awareness, just the awareness that we're really looking for females and minorities does a lot to bring up that contractor to compliance. Again, sometimes you get short-changed because the unions do not specifically have them. And that would be versus getting them from down in the Lower 48 and with what Alaska has to offer. I mean, you do have union jurisdictions.

MS. SCHUHMANN: Thank you very much. Oh, could you spell your last name so that we have it in the record?

MS. GUTIERREZ: G-u-t-i-e-r-r-e-z.

MS. SCHUHMANN: Thank you. Would you like to come...?

MS. AIKEN: My name is Annette Aiken, A-i-k-e-n. Am I supposed to give an address, also, or something?

MS. SCHUHMANN: A mailing address, if you don't mind.

MS. AIKEN: Mailing address, 675 7th Avenue, Station H, Fairbanks. I worked on the pipeline for awhile. I really don't know what you want to know right now. Do you

want, you know, horror stories, or you know... I mean...

MS. SCHUHMANN: If you've got 'em, we'll listen.

MS. AIKEN: Everybody can -- well, you've heard quite a few. And I think that's kind of -- just the way it is, not only on the pipeline, but just in real life. And we can always kind of put blinders on and just pretend that it doesn't exist, which is what seems like is kind of happening.

But I also think that -- you know, I could just go down the list, because I was a laborer. I was the only female on a 60 man crew. And that was quite bizzarre. But I think some of the problems are that -- or some of the problems that the Commission and our Commission, I work for the Human Rights Commission, and the Legislators, and everybody needs to be concerned with this is this he said - she said stuff that you saw sitting right in front of you, you know, with the Department of Labor; and then you have a prime contractor; and then you have the sub; and then you have the union. And they're all saying oh well, you know, it's not really our responsibility, you know. We're really trying and we have the rules. And unfortunately legislation and project labor agreements and handshakes and things like that don't change minds; and they also don't change actions to a certain extent. And I think that one of the most important things to do is to break that -- the facility for them to just kind of pass the buck back and

forth.

And I don't know, I -- and this is -- this perspective, is it only because of my, you know, work with the Commission; but it appears to me that once you start charging certain parties, then they start singing stories about the other person who they said, oh, gee, we don't know about them, you know, we don't have any authority over that. Like the one gentleman who told you that he didn't have any authority -- he didn't have any enforcement authority, right. And then when it got down to the bottom line, well, we kind of do, you know. Well, things like that I think are probably the most important things.

But I also think we, as women, and then of course because I'm the double minority -- minorities, need to accept some of the responsiblity for breaking the stereotype. I think that you have to get out there and show them that you are not equal, but just capable, that's all. That's all you have to do, you know. And I think that the stereotype is reinforced by a lot of women and/or minorities that are content to be either hired through a minority program or in the case of women get a couple of extra hours on their time sheets, you know, for sexual favors or something like that; or those who see these things happening and that don't come up and say something about them. You know, you're part of the problem if you're not part of the solution. So I think that kind of needs to be instilled in settings like this where we're sitting

around talking about the things that have happened to us. But we're talking -- you know, who am I talking to now? A bunch of women, right, who have been -- who have experienced the same things that I have. And they know, and they can sit and nod; but, you know, if they're not telling someone else like their business agent look, I'm not going to put up with this at all. If you can't handle it here within the union, I'll see you in court. I think that's the only way that we can maybe stop some of the problems. And as Neil was saying, when you have -- when they know that you have the right you can't change their minds specifically, but at least then you do have something to hold up to them and say, well look, this says that you can't do that. You know, and I think that's partly our responsibility to make sure that that happens.

MS. SCHUHMANN: Yes, Herb.

MR. BERKOWITZ: I don't quite share Neil's philosophy analogizing equal employment opportunity to paying your taxes; because I think that living up to your responsibilities in the equal employment opportunity area is something that a person ought to believe in and consider a moral obligation. I don't think a person ever need feel happy about paying their taxes.

MS. AIKEN: But -- excuse me, do you feel happier about driving on paved streets?

MR. BERKOWITZ: Well, I -- my problem in

the testimony I've heard this morning was looking for some connection between all of the words that we were hearing and real human beings. And I'm still not sure that that connection was made. And as I'm sure you heard, there was an awful lot of saying that it's somebody else's responsibility to take charge.

MS. AIKEN: Right.

MR. BERKOWITZ: And I think what we're trying to do is be an obstacle to business as usual in that regard and demand positive commitments for somebody to be responsible and be answerable and to do something.

MS. AIKEN: Sure. That wasn't directed to me, was it?

UNIDENTIFIED VOICE: Was that a question?

MS. SCHUHMANN: Did you actually work out in a camp or were you working in Fairbanks?

MS. AIKEN: No, I worked for awhile as a security guard, the only black female north of the Yukon. And after having gone back to school for awhile, I then was dispatched as a laborer, the only black female -- and the only female at all -- in a 60 person crew -- 60 man crew.

MS. SCHUHMANN: Were the living conditions -- privacy, was that a problem where you were?

MS. AIKEN: Well, no, not the living conditions. We were the road crew so it was difficult to

find a place to use the bathroom while you were working because you were out away from camp, you know; and you could either deal with the four-legged bears or the two-legged animals, you know, so... But, to me it wasn't that big of a problem, I guess, because I grew up with 8 brothers, and I, you know, just dealt with it. I just dealt with it. I made sure that -- because it was such a large crew, we also had kind of little core crews, also. And I made sure that I channeled myself to be in the crew -- at least by the crew that was really kind of doing the most work. And they liked me for that because I refused to, you know, just kind of kick back and let them do my work for me. I think they would have really hated me if I did something like that. Or probably just kind of started to find reasons to get rid of me or to bother me, I guess.

MS. SLAUGHTER: Were you hired out of this local here in town?

MS. AIKEN: Yes; Laborer's, yes.

MS. SLAUGHTER: Okay.

MS. AIKEN: Was, not anymore.

MS. SLAUGHTER: Was that right out of the Hall or was it a request?

MS. AIKEN: It was out of the Hall.

MS. SCHUHMANN: Do you have any recommendations either for construction contractors or for the labor unions

or for us to follow up on to try to avoid any problems that you had to face when you were working in those positions?

MS. AIKEN: I think the main problem is making each entity responsible for number one, dealing with females and/or minorities. And when I say dealing with them, I mean have some person,or some agency, or some kind of internal process for that person to go to and make a complaint; you know, other than on a state or federal level, you know -- or than to wait 6 years and say well, gee, what happened, you know. I think that immediate response and immediate action is very necessary if only for the other people who are around to see that -- for the contractors and the unions to see that it won't be tolerated. And for the person who happens to be disadvantaged, or who may have been disadvantaged but scared to say anything; for them to see that they are going to actually do something; because that's the main reason why people don't say anything, you know. Because they figure well, gee, you know, I'm making a couple of grand a week, you know, I can kind of deal with it. Well, that may very well be true, but you shouldn't have to I don't think. But I think the main thing is to making each entity responsible and to have it spelled out in all these project labor agreements penalties for harassment, and to make sure that this is filtered down to the general labor pool; you know, like the general foreman and the individual craft foremen that may be from

Tennessee or wherever, you know. A lot of them can't even read, so how are they going to know what's in the agreement. No, I'm just being facetious. But I think that they need to -- I think that people like the head of Northwest, Fluor-Northwest, or whoever, and all those guys, they know what things are against the law. But as he said well, gee, you know, I really don't know anything about the unions. Well, that sounds kind of weird to me, you know. This is your company; and you're dealing with the union; you don't know how they dispatch. Well, maybe you should, you know. So I think that each person needs to be -- each particular little segment needs to be responsible and that there needs to be some facility to deal with that, some responsive facility.

MS. SCHUHMANN: Mr. Berkowitz? Oh, Karen?

MS. PERDUE: I'd like to testify.

MS. SCHUHMANN: Oh, okay. (To Ms. Aiken) Thank you.

MS. AIKEN: Thank you.

MS. PERDUE: I'm Karen Perdue, P-e-r-d-u-e. And I live in Juneau now, and I hadn't planned to testify, but listening to Annette and some of these other ladies I thought I might do so. I worked on the oil line from -- I started in April of '75. I was a Teamster dispatched out of the 959 hall here. And I worked there for 2 -- I guess 2 construction seasons and started out as -- I guess April, '75 was pretty

early. At the camp I was at on the Yukon River, there were really no other Teamsters or union women there when I got there. There were some bullcooks -- I guess there were some bullcooks, but there were no other Teamsters or Laborers, or so on.

I guess the point I want to make is in your dealings with the unions is that I really felt that in my personal experience that the union really protected me and other women I know that were in the Teamster craft. The abuse I saw was in the women who were not in the unions and who worked for management on the Alyeska project. The women who worked in the office who were getting paid $5 an hour to work on our paychecks, which I thought was a terrible job; and the women who were, you know, typing and everything. They were really subject to lots of abuse from men in terms of asking for extra special favors or so on and so forth. And if they didn't comply, I saw many of them that were gone; they were fired. But the stewards in my union more than once protected women that I know from problems. I know one particular case where a woman was attacked by a guy from -- literally attacked by a guy one evening. And the stewards from the 2 unions got together, and the guy was gone the next day from camp. So that, you know, the unions really did serve a good purpose in the sense that they protected us.

MS. SCHUHMANN: Yes, Herb?

MR. BERKOWITZ: There was one particular union local that was mentioned by number about a hundred times before; but I think our record ought to reflect its name, which I am not sure I want to be technical.

MS. HURLEY: 798.

MS. SCHUHMANN: Is that the pipefitters or the welders?

MR. BERKOWITZ: It's the pipeliner's union based in Tulsa, Oklahoma, if I remember.

MR. THOMAS: Officially it's called Pipeliners 798 United Association.

MR. BERKOWITZ: From Tulsa?

MR. THOMAS: It's based in Tulsa. They did maintain an office in Fairbanks for some period during the pipeline. But it really wasn't a dispatching office.

MS. PERDUE: They were a different union. The Team -- I really only talking, I guess, about the Teamsters because that was the only union I worked in. So I wouldn't -- The 798ers were a different breed of union.

MR. BERKOWITZ: My understanding is that 798, for some reason or another, has worldwide jurisdiction over all pipelines built anywhere that involved American contractors, which is extraordinary when you think about it. So Tulsa, Oklahoma, in that sense, rules the world.

MS. SLAUGHTER: There's a frightening

thought. It is.

MS. PERDUE: Yeah, it is. And another thing I would just add as a suggestion. I don't know by law how this is governed or jurisdicted or whatever, but some unions had different kinds of hiring procedures than others, and that often created a barrier. For instance, I know that in the Teamsters Union it's all -- most of the hiring, except by request, is done by out of work date so that there are calls at the hall, and it's a fairly open process. With some unions to go up to a window and you ask the dispatcher what have you got today. Well, if the dispatcher doesn't care for you or if, you know, something's gone wrong or something he can say, you know -- he or she can say I'm sorry, but we don't have anything in that particular area for you today. So I think some unions were -- because probably of their size and their volume were more open in that sense than others.

MS. DALE: Open for discrimination or to be able to discriminate?

MS. PERDUE: Yeah, right; right.

MS. SCHUHMANN: Yes, Herb?

MR. BERKOWITZ: If I hear what you're saying, what you're saying is that there are unions and unions; and you can't paint them all with the same brush. Where do you think we ought to turn to get good information concerning, you know, where problems exist and where they don't exist in

terms of the various unions that are likely to be involved?

MS. PERDUE: I don't know. I have no idea. I guess everyone has their own personal experience, that makes it kind of tough to compile a record. I don't know if anyone has ever really taken the time to really try to publicize a large -- get together a large group of people who worked in various unions throughout the State during the line and ask them -- kind of compile a sense of their history and then get a sense of how a union has operated. You know, some unions there are a lot of complaints against; and some unions there may not be so many complaints against. I don't know. I guess I don't have an answer.

MS. SCHUHMANN: Thank you. Rebecca, were you going to respond?

MS. MILLER: I just wanted to suggest, Madame Chairman -- oh, I don't like the hotseat (indiscernible). I just wanted to suggest, Madame Chairman, that there is a considerable amount of information available locally about unions, and the unions that are looking at trying to get females and minorities into their programs. And I would suggest that you deal with people like the CETA Division. And I think there's a lot of information with dealings that we had during the oil line on pipeline impact money. We have had a lot of dealings with them in the past few years on pre-apprenticeship programs. I think that there's a lot of homework that you as a Commission

need to address yourself to before you even approach a union about why are certain tests required and why are they valid as opposed to other unions' practices. But I would suggest that there is a wealth of information available through apprenticeship outreach, which is now housed under HREI in Achorage. I believe Pat Smutz (ph) is the person in charge of that, Madame Chairman. And I know that your Executive Director is very (inaudible) with Lois Lind (ph) the Director of the CETA Division, who I'm sure will be very happy to provide that information to you.

MS. SCHUHMANN: Thank you. That was Rebecca Miller, for the record. She's Operations Manager, CETA Division here in Fairbanks, Department of Community and Regional Affairs.

MS. SLAUGHTER: Before you get too comfortable again, can you do some explaining about the Step Program and this hopefully soon-to-be-introduced piece of legislation regarding training programs?

COURT REPORTER: Excuse me, would you step up to the microphone.

MS. MILLER: Carla, I think that issue is a lengthy issue, and I would be pleased to address it tomorrow if I may. I am running late for an appointment that I have at 4:45 that I put off so that I could attend the meetings today. If you would like, I would make it a point to be here

to answer any of those concerns you may have tomorrow; or I would be happy to address a meeting with you later this evening or early in the morning.

MS. HURLEY: Do you have to leave right now?

MS. MILLER: I have a meeting at 4:45, and it takes me about 5 minutes. I can just cover it very lightly if you wish, but I wouldn't have time to entertain a lot of questions. And I'm sure you're going to have them.

MS. HURLEY: I think that would -- that's about what we need, I think.

MS. SLAUGHTER: Well, I don't know if it'd be okay because I've never heard of it.

MS. MILLER: Okay, a quick and dirty (ph) analysis. The Department of Community and Regional Affairs has been contacted by several legislators on a draft bill. And as I know, Carla, it has not been introduced. There was talk it would be introduced today. I have later heard that it's not going to be introduced until Monday. The intent behind that program is a local hire economic development package. I think you heard that alluded to earlier today. The gentleman who drafted the residency requirements for that bill is a gentleman who argued the residency before the Supreme Court under the Zobel Case. It is an attempt to employ native Alaskans, and I do not want that interpreted as Alaska natives, but native Alaskans and residents of Alaska in private

enterprise wherever possible. It's a complimentary package to the Comprehensive Employment and Training Act, which has been primarily during the past few years, publicly oriented. It is not designed to take away anything from the CETA Act. It is designed primarily to serve a segment of the population that we feel is under-represented.

MS. SLAUGHTER: And that would be in the private sector, then, as opposed to public employment, I see.

MS. MILLER: It is geared towards the private sector, as I understand it.

MS. SLAUGHTER: Okay.

MS. MILLER: The last draft I saw was a third draft and that was last month. So the Lord only knows how many times it's changed, Carla.

MS. SLAUGHTER: Okay.

MS. MILLER: My understanding was it was clearly the intent of the drafters of the bill to aim that at the private profit sector wherever possible. And if, in fact, it was felt that a public sector bill was needed that the funds would be restricted to no more than 25 percent in the public nonprofit sector. That's at least my understanding. I don't know what you have in front of you.

MS. SLAUGHTER: Okay. Thanks.

MS. MILLER: Dirty enough?

MS. SLAUGHTER: I think so.

MS. HURLEY: Thank you.

MS. SCHUHMANN: Thank you.

MR. WOODS: My name is Jerry Woods. I'm with the Alaska State Commission for Human Rights in Anchorage. I am the Assistant Director of Rural Programs. And I think that's basically what I want to emphasize to your Commission is that through my travels during the last 3 months I've had the opportunity at firsthand to go through and assess and identify some of the major concerns and needs of individuals in rural Alaska, including those that are being faced by women.

I have two examples that I would like to bring to your attention; and I'm sure that you're aware of. This is in Dillingham and then in Bethel during the oil -- construction of the oil line. There were, if any, hardly anyone there represented during the construction doing the actual work. And even today, when you travel to those different localities, you will note that there aren't any union representation there. And that is a major problem that people out in the bush are concerned with and are making efforts to try to get representation so that when the actual construction of the gas line occurs that they will have an opportunity to also enjoy some of the benefits of the gas line. So I think because some of these people are not able to come into Fairbanks to make this testimony, I would like to at least make that -- emphasize that. And if there are any questions that maybe I might be

able to answer concerning that. I know in Dillingham, through the Bristol Bay Native Association, they've had several people from Dillingham and the surrounding villages come in to complain, basically, that although there is construction work going on in those localities, most of that work is union. And, therefore, although they may be qualified, because they are not members of a union, they cannot obtain jobs.

In Bethel, another example is there is a lot of different federal and state contracts being awarded there for different serves. And at one point there could have been maybe 700 workers during the peak of construction and no female representation. So I think that in your role to contact the unions that if there's any information or any assistance that perhaps the people from rural communities can give in support of your attempt, that through my program and also those individuals that are located out there who are working on the same thing, if there's some type of coordination on this I think that would be extremely helpful.

MS. SCHUHMANN: Any questions?

MR. WOODS: That's all I wanted to mention.

MS. SLAUGHTER: Thank you.

MS. SCHUHMANN: Thank you, very much. Oh, did you have one?

MS. SOCKPEALUK: I don't have a question, but the type of situation you just gave, it was going to happen

in Shaktoolik, but the -- our mayor told the contractor that he had to hire a certain amount of the village people. And it was okay, he did have union people working.

MR. WOODS: Sometimes it is successful. Other times, though, you'll find that it isn't. And, you know, again like in communities like Bethel and Dillingham I know that they've had a terrible time getting qualified females to work in the construction trade. And I found that very surprising because prior to the rural program and traveling over there, I hadn't been really aware of the fact that there was hardly any representation from the Dillingham or the Bethel region when it came to the construction of the oil pipeline. And even at this time now, there isn't any union representation over there. But I think at this time there's some planning being taken here to work toward getting that type of concern resolved.

MS. SCHUHMANN: Thank you.

MR. WOODS: Thank you.

MS. SCHUHMANN: Yes.

MS. McNEIL: My name is Pat McNeil, M-c-N-e-i-l.

MS. SLAUGHTER: You have an awfully soft voice.

MS. McNEIL: My mailing address is 3805 Indianna, Anchorage. I worked on the pipeline during '76-'77

at Pump Station 8, and I got my training through the Teamsters; and we were sponsored by Cook Inlet Native Association. And I worked at Pump Station 8, right down the road here. And the only -- it was generally a positive experience all around. I didn't really have any problems, you know, other than adjusting to working with 600 men in a construction yard every day.

MS. SLAUGHTER: That's a fair adjustment.

MS. McNEIL: I just hadn't experienced that before. It took a little while to get used to working with men all the time. But generally they were pretty good guys; all those red necks aren't that bad. I learned about out there. I learned a lot about construction in general. I worked as a tech engineer in the Teamsters. We did the layout for all the other crews. We told them where to put things, you know, how high to put the pipe and center line and things like that. And the only thing that I see wrong with the unions is their hiring hall procedure in that when there's not too many jobs available, usually it goes by name request, which means that no one can bid on it. You can't -- even if you have an A card and you're at the top of the list you won't necessarily get a job because of the way they request it. I talked to the business agent about it and he said well, actually the only thing -- the only way you could get a job during the slack season is if you know someone who owns the company, and

then they can request you; or if your parents own a company then they have, in the hiring hall agreement, they have provisions whereby people can be requested if they're nephews or somehow related to someone who owns the company. This is just with the Teamsters, so I'm not really sure about how the other unions operate.

Most of the women that I worked with were native. There were 7 women in the yard and 5 of us were native women. I was hired by a special provision whereby 1 out of 4 calls out of the Teamsters were native to make up for a disparity where -- because there was an out of court settlement between the Teamsters and an individual who had filed a suit against them because of their procedures; natives weren't given the opportunity to get jobs. Otherwise, I probably would have gotten a job on the pipeline. But once I did start working and adjusted to, they pretty much accept you if you do the job, they really-- if you perform everyday and show up. But there's really not much, you know, they can do about taking a job away. And I was laid off when we just ran out of work. There was just no more work for us to do. But I enjoyed construction. It's good work.

MS. SLAUGHTER: Do you know if there's a provision in the hiring hall agreement that a certain percentage of the calls have to be open calls; there can't be a preponderance of request calls?

MS. McNEIL: Not that I'm aware of. Sometimes all they are is requests.

MS. SCHUHMANN: Herb?

MR. BERKOWITZ: How did you find out about the job in the first place?

MS. McNEIL: Cook Inlet Native Association was training natives in different areas in construction. And I was just looking into what was available and a surveying program was started. And so I just signed up for it. And we were going to the University of Alaska; we had 4 party chiefs who actually conducted the class. And we got credit through the University, also.

MS. SCHUHMANN: Are you still on the -- are you still enrolled with the union or did you drop out?

MS. McNEIL: No, I'm not working with them now. They're just -- after a certain period of time you just lose your A card if you don't work over -- you have to have so many hundred hours in to maintain your A card. And I think that's the problem that a lot of people have with the unions, you know, why keep paying your dues if there's no jobs. So subsequently a lot of people, you know, drop out. Especially if you don't have that much money to begin with.

MS. SLAUGHTER: Did you say this statistic-- I'm sorry, the statistic was 1 out of every 4?

MS. McNEIL: Yeah, it was a special agreement

during the pipeline.

MS. SLAUGHTER: Okay. Was there any agreement that those people had to be one -- that they had to be male or female, or just --

MS. McNEIL: Just native.

MS. SLAUGHTER: -- Alaska Native, okay.

MS. McNEIL: It was administered through the Alaska Federal of Natives.

MS. SCHUHMANN: Thank you very much. Is there anyone else that -- yes, please come forward.

MS. DEAN: My name is Shirley Dean, and I'm currently an A card holder at the Laborer's 942. And I worked on the pipeline during 1975-'76. And it was basically a negative experience for me. I came up from Ketchikan, I was born in Ketchikan, with high hopes of working on the pipeline. So I moved to Fairbanks which was where they said you could get a job. It took me about a year and a half to get out. And during the course of that, I saw women who had to sleep with the dispatcher so they could get out. Certain people that weren't citizens, even American citizens, that would pay the dispatcher anywhere from a thousand to two thousand, they could get out. And so a group of us from southeast started getting excited about that and we complained and got threatened to get thrown out of the union; so we didn't complain anymore. We all finally got out. And I don't know. I had a real hard

time up there. And the only thing I see as a suggestion -- 798ers were terrible up there. They were violent. I was at Happy Valley and they were so bad that 798ers had to eat at a separate time. They weren't allowed with the regular people because of all of the violent situations. And it was real hard. I know of 2 people that worked as laborers for 798ers, and it was -- and they were both males, and they couldn't stick it out.

I guess the main suggestion I would have is for next time to see a task force possibly appointed by your Commission that would be nonunion, nonconstruction person where you could feel safe to go make a complaint, where you wouldn't get thrown out of the union, and the construction company couldn't come down on you in some fashion. That was the problem we had where I was, the union job steward who was supposed to be responsible for that, when you would complain to him if you were a woman, you had to do a sexual favor before it would come to town, your complaint. And when you're first hired, you have to put in -- I forget what it is, it's several thousand hours, which makes you stay up there 12 weeks without coming back to town. And if you don't stay up there, you won't get on the A list so you'll never get another job again. So it's kind of like being in jail for 12 weeks. And I would really like to see a task force up there, because there was lots of violence. Lots of it was never reported. There's still people running around

with scars, I being one just from the experience up there. And I think that would help.

I think the other thing that would help is to deal with the unions, and to let the unions know that there's a lot of corruption. I think people would testify if they would feel safe about that, and that this time around Alaska won't tolerate it.

MS. SCHUHMANN: Shirley, could you spell your last name for the record and give us some mailing address?

MS. DEAN: D-e-a-n, and it's Box 2541, Fairbanks.

MS. SCHUHMANN: Yes, Dorothy?

MS. JONES: We would welcome anonymous statements from people who had experience--

MS. DEAN: You would? I was going to ask you about that. I've been talking -- I'm on -- I'm an A list holder right now. And I've been trying to get out -- I'm responsible for 2 children. One of the main problems with that union is if you have any children the -- especially if you're a women, they want you to go out in the camps. And local jobs have been available,and I've never been able to get them because they give preference to males who they say have a family and should stay in town. And I don't know how to stop that, you know, but I think it should be stopped. And the other thing is I worked for Ken Brady Insurance -- I mean Ken Brady (ph)

Construction Company last year on a short call to get my hours in. And when I went there, they told me that I was the second woman that had been on that job, it's the new bank building downtown. And the only reason they hired me -- they made it sound like it was a full time job, and I lasted 4 days to meet the EEOC requirement, then they let you go. And then on the stats it says yeah, there were 2 women weren't there. In reality, there were 2 women that worked a total of 8 days on a local project.

MS. JONES: Well, I'd like to understand that point, that it is difficult if you're a card holder to -- you jeopardize your job if you speak out, but that if we received a sufficient number of anonymous --

MS. DEAN: Yeah, well see, there's never been a safe outlet that I know of. And I've talked to lots of people at the union with similar problems, both male and female, both minorities and white, that -- you know, especially if it's your life line, if that's your support system, it's real hard for people to come forward and say things against the union. The union's a real powerful thing, and they can do terrorizing mind trips as well as physical abuse. And I think people are scared.

MS. JONES: Could you -- when you mentioned the violence, is that primarily -- I would assume it's primarily violence between men because so many of the workers

are men, or is there a considerable violence against women, too?

MS. DEAN: Men and women. The camp I was at, one incident that I can testify to was there was a woman who was brutally gang raped by 4 798ers at our camp. And what they did is they called the police, but those 4 were never taken to court. All they did was switch then to another camp, which, you know -- that woman will never be the same. And there was 16 people, 798ers, in there eating dinner when it happened, and not one person tried to stop them. You know, but there were only 4 of them transferred. The rest of those 16 stayed at the camp. That was one of the reasons they separated the meal times is because there was a lot of outrage about that.

But, I don't know, it was ugly. And I don't want to see it happen again. I think it ruined a lot of lives. And there was gambling, you were -- especially if you were a woman, if you didn't go to their dances, their social dances, and you didn't participate in their social activities that the Alyeska Recreation Director had set up, then they sort of thought you were wierd and harass you. The other thing they did to the women in the camp I was at is they would have the women live in the barracks with the supervisors. You didn't live with the other workers. They had an A camp and a B camp, and the women lived with the supervisors, all the men crew

foremen, which put a lot of pressure -- because then you'd have to see them after hours; and you know, they would threaten you with their your job, or you would have to do a tacky job if you didn't go to the dance or whatever. You know, I don't think it's proper that the women have to live in the same dorm with the supervisors. You know, it was like the supervisor's gratuity or something, I don't know.

MS. SLAUGHTER: Was there a problem in the housing in that there really wasn't much privacy afforded? When you locked your room door -- well, first of all, could you lock your room door?

MS. DEAN: You could lock it, but all the... what were they called, with the Culinary Union?

MR. BERKOWITZ: Bullcooks.

MS. DEAN: Yeah, the bullcooks, they had a key.

MS. SLAUGHTER: Were they men for the most part, or female?

MS. DEAN: Men and women. But, I mean, several times my room was opened up by the bullcook. I worked night shift, so he would come in on day shift and decide he wanted to socialize, and it was real hard to throw him out and make much complaint. He did stop doing it just because he turned out to be a human. But, I mean, it could have went the other way.

MS. SLAUGHTER: Were the security people in the camp employed by whom? By the construction company?

MS. DEAN: The camp I was at the security was done by Wackenhut. Some of the camps, the security was done by Nenana (sic).

MS. SLAUGHTER: Did they seem reluctant to respond to things? I mean -- in other words, did they have the same kind of problem that Laborers and Teamster employees in the camp had, that if they reported problems; they created trouble; that they might lose their positions?

MS. DEAN: Um-hm, and if they reported certain things on certain people, like when they would wreck vehicles -- when the supervisor would get drunk and wreck a vehicle, and they would send someone out to bury it with a Cat. If the security guard tried to report an incident like that, the security guard would get sent back to town, not the guy who wrecked the truck or the guy who buried it with the Cat.

MS. SCHUHMANN: Why didn't the State Troopers get involved in --

MS. DEAN: The State Troopers would come, but by the time they would get there, people already had their stories. And basically, the 2 women I know who were raped, the guys were never charged and all that happened was they were transferred camps and never allowed to come to the camp

again.

MS. JONES: Did the women file complaints?

MS. DEAN: I don't know if they did or not. They were in so much trauma at that time... I think they felt helpless, too, because there was no safe place to go. I mean, nothing felt safe. And you're so many miles away from everybody. And like I, myself, you know, you've given up a lot to get up there and just the determination to stay your 12 weeks to make the A list gets you crazy after awhile and you sort of lose perspective. The Troopers were there, but I think there needs to be official law enforcement, not just security next time. Private sector police can get too corrupt, and I think they did. And I think the union perpetrates that. The union -- Laborer's union hires the security guards. And I went through an experience myself, because that's my background and my original -- what I originally wanted to do on the pipeline was be a security guard, and that's hired through the Laborers. And they're real tied together. And I don't think it's a proper policing.

MS. SCHUHMANN: Herb?

MR. BERKOWITZ: Based on your experience, do you think that we should pay special attention to 798 in terms of its role in the pipeline?

MS. DEAN: Definitely.

MS. JONES: What should we do?

MS. DEAN: I don't know. I don't know what you can do other than have a -- I think there needs to be a safe place for all people to be able to report ugly incidents where they know that action will happen, where they know that if a 798er does something like that that, you know, there will be criminal action without repercussion of them losing their job or whatever. And they did keep them in a separate dorm, that's essential. They would only allow them out during times when we weren't out. I mean, it was a real separatist thing.

MS. SLAUGHTER: But, you know, it was also preferential, and it's completely inequitable and unfair --

MS. DEAN: Exactly, they got the food first --

UNIDENTIFIED VOICE: That's why they did it.

MS. DEAN: Yeah, they got the food first.

MS. SLAUGHTER: Like naughty children.

MS. DEAN: You know, and they got to dance; they would have private dances. It was awful, it really was. And for the most part, most of them were pretty ugly humans, you know. I can't say all of them were, but the ones I saw it was terrible.

MS. ANDER: The young ones. The older men were real nice.

MS. DEAN: Some of them. But I don't know, I think the other condition for women is somehow that the living condition, that you don't have to live with the

supervisors. That's a real hard thing. And the men never had to do that. And it was --

MS. SLAUGHTER: Did that happen because they didn't have --

MS. DEAN: I don't know. I was at Happy Valley. I don't know if every camp was like that, but I know it was like that there.

MS. SLAUGHTER: Well, what I mean was was there no other place for the women to live, so they put them in with the supervisors?

MS. DEAN: Oh no, there were lots of dorms. I think it was like a treat for the supervisors because they got to watch the women go to the shower; and they were always hanging out in the hall; and, you know, they would be next door to you so you could --

MS. SLAUGHTER: Yeah, bonuses.

MS. DEAN: Yeah. And I think also there should be nonunion people up there to head count the camps to insure of EEOC compliance. And the other thing is the unions with their training programs, right now they have an age limit which is 26 with most of the unions; and I'm too old right now. I mean, most people are too old to get in. And the other reality -- I listened to the testimony this morning, and he said the peak -- or the gas line, the peak was going to be 2,000 laborers; and right now there's 2,480 laborers

on the A list in Fairbanks. So, you know, I think it's real grim for anyone to think that they can get out on this line if it's all going to be union; because they're telling our B list members that they're not going to get out. And I don't know how to change that other than possibly -- I would like to see if they can't comply within the membership that nonunion people, nonunion minorities and women be allowed to get the training and go up and join the union after they get up there. Otherwise, I don't see how they're ever going to get up there.

MS. SLAUGHTER: What kind of calls come out of the Laborer's hall? When was the last...

MS. DEAN: Lately it depends -- I haven't been to call in 3 or 4 months, but I go in and check in once in a while. They're mostly request calls like that one testimony. Laborer's operates the same way, and I've been trying for 2 years to get a local job because of kids. And -- well, they said one day that no -- women have to go to the camps, we prefer the women in the camps and the men in town. And I asked what I could do about that, and there's really nothing you can do about that because it's preferential. If they want to request you they can. Union rules say you could be requested.

MS. SCHUHMANN: They meaning...?

MS. DEAN: The company.

MS. SLAUGHTER: Contractor.

MS. DEAN: Contractor.

MS. SCHUHMANN: The companies like the women out in the camps rather than in town?

MS. DEAN: Yes. Well, yeah, for obvious reasons. And that's what I was told. You know, they really don't want you to have a family life and be a union person and work in town. They try to discourage that. I don't know, I just -- I guess I'm sort of prejudiced, anyway, because I see the unions as getting so corrupt and I don't know of a way to stop them. And I see them getting huge billion dollar contracts like this, and I just think it's going to get worse before it gets better unless people take a hard core stand, you know, to stop the corruptness. Because there were lots of people that couldn't even speak English on laborer crews from Yugoslavia and all over. And they got out there because they had enough cash to give the dispatcher. And they would tell you about it not knowing that, you know, that there was something wrong with that when they first went there.

MS. SCHUHMANN: Yes, Dorothy?

MS. JONES: I don't understand the role of the State Pipeline Coordinator or the Federal Pipeline Coordinator, but do they have any responsibility -- I'm asking this question to anyone how knows -- for looking into some of the issues that you've raised, the violence, the crime, and the discrimination?

MS. DEAN: I don't know.

MS. JONES: I mean, what are they coordinating?

MS. DEAN: The only one I know is when there's 2 investigators -- if you remember a few years ago when the Teamsters -- those 2 guys were killed, 2 investigators that I know of tried to solve that and have disappeared. I mean, it's heavy. And nobody's really looking at it seriously, and nobody that knows enough about unions is going to do that unless they're assured some sort of safety into stopping corruption in unions. And I don't know, I don't think Northwest takes it that serious. So I don't know what the solution is, but I hope it gets better next time.

MS. JONES: But you know what the problems are.

MS. DEAN: Yeah.

MS. SCHUHMANN: Okay, thank you.

MS. DEAN: Sure.

UNIDENTIFIED VOICE: When you said what you did about those people watching you go to the shower, were you saying that you didn't have private washroom facilities?

MS. DEAN: Oh no, you do have private washrooms, but there's like a little curtain there. (Inaudible, away from microphone).

MS. HURLEY: She can't get that.

MS. SCHUHMANN: Oh, could you...

MS. HURLEY: Come back to answer that, and the question, too. She couldn't get that.

MS. DEAN: There's 3 different bathrooms; in the camp I was at, there were 3 different bathrooms. Two of them were for men and women, and all there was was a shower curtain. And that was for the couples that lived together. I don't know, for the supervisor's benefit. But if you got stuck in that shower, you were subject to having the curtain ripped open at any time unless you had a friend standing there while you took a shower. The other ones, they had doors on them, but one was women only, which was -- and that was the only bathroom people tried to use. But on both sides of that bathroom, there was the head supervisor on one side, and the other supervisor on the other side playing loud music and sticking their speakers around by the doors, you know, trying to get the women to come to parties.

MS. SCHUHMANN: Any other testimony? Yes.

MS. LANGAN: My name is Mary Langan (ph), and I worked on the pipeline between '76 and '78. I went out 5 times to 5 different camps, and I worked a total of just about 3 months. So I think I have kind of an overview. I went out in -- I tried to get out for a year and a half, the 3 unions. I finally got out with the Laborer's, who I felt were the fairest to women. I had a chance to go out

through the Culinary if I had paid the guy a few hundred dollars, and I would have but I didn't know that's what he wanted. That was explained to me later. And I worked with the National Organization for Women a year as chairman of our employment task force in '74 trying to help women get better jobs in construction, being one of them.

I'm a freelance writer, and I'm working on a book about my pipeline experience, which I finally got a chapter finished recently. And I know there were a lot of women up there, and a lot of women were writing, but I have yet to see a report written of the woman's viewpoint, and I want to hopefully be the first to get it done.

What I came here to say today, first I think your Commision -- it would be more helpful to the public if you could have your meetings at a time when more people could come. I had to ask to get off work a half hour early, and I wouldn't have been able to do it except we had a very slow day. To stop at 5 o'clock, if you really want to reach the public, it's not realistic to reach working women.

The main thing I wanted to say, I found on the pipeline going out there -- 41 years old, never having done heavy work before, I worked in my camp with a woman in her 60's. She was doing Culinary in the kitchen. Another time there was a woman in her 70's, and a lot of younger women. And I didn't see any problem in doing the work for any of us. The work

in construction today is mainly handling tools. The heavy work is done by machine. There is no reason the average woman couldn't do any job out there, or a majority of the jobs. There are still a few guys that like to lift a hundred, two hundred pounds to show off, but that's not required and most of them don't do it. And I think the main problem in helping women get these better paying jobs is in recruiting them and making them, in their own heads, want the jobs, making them realize they can do it, that it isn't a disgrace to do a man's work. A lot of the women I talked to and ladies I've talked to, there was a Teamster organizer, the problem is in their own heads. I think the job of the Commission -- what you might -- could do to help women is to do public relations work to show more women doing this work, so it becomes public accepted in the minds of the women who most need these better jobs.

And the second thing, what was it; two items... Well, sitting here listening to the other ladies' testimony, I was also at Happy Valley for 6 weeks in '77. The job was winding down there, but there were still quite a few pipeliners, 798ers. I didn't have at all the impression that she had. I'm not saying those things didn't happen. Oh, I know the second thing I wanted to say, yeah, what women have to learn -- this is my personal opinion, I may be wrong, but I think part of the problem some of the ladies had up there, and I know there were

some, but I didn't see any personally -- the problem that women have to overcome is acting, and thinking, and dressing feminine as geishas. And I think we were all taught that since we were young. I learned previously to the pipeline working with men that it was to my advantage to act very unfeminine, to dress unfeminine, to blend in and look and act as much like a man as I could. And I think it helped me, because I never had any problems with men anymore than I'd have here in town.

I was in barracks half the time where we shared the bathrooms, we had just the curtain over the shower. Nobody ever bothered me, and I never saw another woman bothered. I worked in billeting one job up there, and I think the reason they put the women in with the supervisors is because they were men of more education and background that would more likely accept a woman in these traditionally male roles. And I never saw anybody enjoying the women going to the shower any more than they enjoy women walking down the isle at church. Men like to look at women. And I really didn't get that impression. It was the best opportunity I ever had to work and make money on a short term without a lot of training. And the union was good to me. And it was corrupt, yeah, but everything's corrupt, what isn't. I've seen corruption in government, private industry, and everywhere. But I do think women need to be educated and taught in these kind of jobs to dress like

men do. Men could dress sexy, too. Men have dressed in history sexy and with tights and satin and showing themselves off, but they don't on those jobs. They wear dark clothes, they cut their hair. The Roundheads did that in England against the Cavaliers, who were fancy and frilly and liked to sit around drinking and writing poetry. If you want to go to the construction world, I think you'll have to dress and act like a man. Otherwise, you insult them and you tease them and they get angry, and then they lash back, which is what is happening. A lot of this lashback, anyway, even under the best of circumstances, the men are confused and don't understand what's happening, and the world is changing; and they hate women for it. So that a double effort to educate the women to want to have these better jobs, and then how to fit into them; that you can't fit in there and be feminine and be accepted. You have to -- when I came back, I was so into this trip of being masculine and tough a lot of my friends didn't recognize me. It took me almost a year to get back into being a little feminine so I could enjoy some of the social benefits. But I think it was very important and protected me from having any problem. And I think a lot of girls did have a problem, especially the younger ones, which would be natural. But I think a lot of it they could have prevented had they -- and I talked to some of them about it. And they said I'm not going to change and not wear a t-shirt just

because I've got breasts, that's not my fault; and you know, they could have worn a jacket, but they wouldn't. And I think it's important that they have to realize -- I think psychologically a lot of these rape problems are caused by the type of personality of the woman who gets raped. She's helpless, and seductive, and she gets it. And if you're independent, and they know you're going to maybe kill them before they rape you, they don't want to attempt it. And I've found all over the world I've never been bothered, New York City, in Italy. I've had some good times and enjoy meeting men, but no one has ever threatened me.

MS. SLAUGHTER: Mary, are you talking more about projecting and attitude?

MS. LANGAN: A projection of -- I think women have to change their whole personalities, change in their heads. And I think it's very important, and nothing will progress unless it first happens in the women's heads. And I've worked in this thing for 10 years thinking very seriously about feminism and having experience working with men, and having problems in filing discrimination suits, and working NOW and WIC. And I think that's where the Commission-- I've seen Commissions come and go, and people come and go, and nothing changes, and we all know that. And it's infuriating. Until we start saying like the blacks started saying, black is beautiful and standing up in their Afros --

and I remember when that happened in 1969 the first Afro I saw, I was amazed. And the little girl that wore it, the young lady, they started standing up and being proud of themselves and knowing what they could do. And they wouldn't step off the sidewalk for anyone anymore. And since then I think they've made a lot of gains. And until women start saying hey, I am woman, I can do anything; nothing's going to change. Until the Commission can help them do that, somehow promote those things, promote the public relation, promote the education, the little young girls, the ones on the pipeline, set up a hotline to call -- to be reported, anonymous reports of situations. I think that would help.

MS. SCHUHMANN: Thank you very much. I might say as to the time of the meeting that we had discussed trying to have it on a Saturday. And we discovered that to try to get the governmental people that were here this morning, that it would have practically been impossible to have this type of meeting over a weekend. And so we knew--you know, we always try to have at least one day of our meeting on a weekend, which we're going to do tomorrow, to try to get people that work to, you know, at least have an opportunity to be at our meetings.

I might also add that I don't think that the Commission totally shares your view particularly on rapte and the causes of rape. And I want the record to be clear on that. But we

do appreciate your comments.

MS. LANGAN: One of the ladies -- did you want to ask a question?

MS. JONES: I think Barbara just said it. You used an analogy about when blacks got some pride in who they were that it produced some changes. One of the things I as a woman is prideful about is my body. And I don't believe that if I feel like revealing my body in a t-shirt that that excuses any man from treating me like a sex object. And I have very strong feelings about that, that the onus is on the male; not on the women because she happens to have breasts. I mean, it's like saying men are animals and if they see a breast they go crazy.

MS. LANGAN: Well, I'm talking about a situation like that lady on the pipeline camp that was gang raped by 4 men. I'm sure that happened, and I don't know the situation, but I'm suspecting that having seen those guys and talked to them, and had similar experiences myself, not to the degree of rape, but just knowing the mentality. I agree with how your -- where you're at. But all I'm saying is when you're going into construction, there are a lot of uneducated men. As was said to me one time when a whole bunch of guys got up and walked away from a table I was sitting at because I said some feminist thing I thought was perfectly innocent. And I couldn't understand. And one of the girls said to me, Mary,

you're not on the frontiers of social development here. These guys haven't even heard of the things you're talking about, see. When you're going to be working in construction, you have to see where they're at just to protect yourself. And you can come back and come out of your cocoon and be your real self when you get into town where you're not going to be gang raped because you're isolated; that's all I was saying. And until women realize that, it's fine to be -- but the realities of how it is with a certain type of person when you're isolated, until they realize that, they're going to be gang raped. And once it happens to you, then you might change your mind and the next time not wear a t-shirt; or you drop out of construction completely, which is too bad because it doesn't have to be if you play by their rules because it's their game. And enough women get out there -- that's what I'm saying about the recruitment. I saw a lot of improvements. I heard the Alyeska men report they didn't have the problems they expected and they had a lot of benefits from the women in the camps, better morale, cleanliness, probably less fighting than there was before. But get more women out there, I think it will change and it will help in construction. It will the safety, it will the injury. Women are more demanding of the safety standards. But until you get them out there--the biggest problem in the pipeline that I found in talking to the unions, the women didn't come in. They didn't want to go. If enough

of them had stood, they would have had to take them. It's hard to recruit them; they didn't want to. And then we could play by our rules, not their rules. That's all I was saying.

MS. SCHUHMANN: Thank you.

MS. ANDER: Could I just say one more thing?

MS. SCHUHMANN: Yes. Could you come up and identify yourself again, so that we have it on the record.

MS. ANDER: I'm Karen Ander from Homer, Alaska. And in regards to the union policy of making -- of dispatching people by request, it's my understanding that they only do so if that person who is requested has worked for that particular contractor before. And I've -- I know personally of an instance where a friend of mine was -- he'd worked for a contractor for one particular -- let's see, what am I trying to say. One guy was an engineer on a project with one contractor. This engineer went to another contractor. And they needed qualified surveyors, and he knew of my friend. And he tried to get him requested onto the job. But because my friend had not worked for that contractor before, the union would not dispatch him on request. And so they had to put it open call, and the call went to somebody else.

MS. SLAUGHTER: That was my concern. I know some of the women who go to the Labor hall here fairly regularly. And the problem lately has been an incredible preponderance of request calls. And what I was trying to get

at was if jobs are so scarce, if opportunities are almost nil, why can't the unions tell the contractors no, we're going to put it through as an open call; not a request call so people have an opportunity to bid on a job, depending on what their number is.

MS. ANDER: Um-hm. They will defend the right of the contractor to rehire people that they felt were good workers. And that's generally when they will request somebody back, is if they've been -- if they had to take a layoff for a couple of weeks or a month, and then the work picked up again. They'll want to hire those people back so that they have their former crews if they know that it was a good crew. And that's what the union would tell you, you know, and me. And that's all I know about it, and that one incident. That's all. I'm just saying how the Teamsters run that.

MS. SCHUHMANN: Thank you. Is there anyone else that would like to testify?

MS. WIKE: I have a question.

MS. SCHUHMANN: Yes.

MS. WIKE: Do you want me to come up there, it's just a quick one. It seems to me like there's been a lot of psychological mixups that have been going on in projects of that size. I know that when I discussed it with lots of people that had worked on the oil line in the pre-construction

and afterwards, that there were a lot of families split up; a lot of people from just the isolation of being in camps and that got goosey, you know, just from not being in with civilization. Is there any provision in camps or is there any testing being done -- you know, they test conservation of the soil, and the animals (indiscernible) but I mean, as to human beings, is there any testing done or results or research done on what happens to human beings? What's going on? I mean, there has been just enormous upheaval and it doesn't stop with the one project. It goes through broken families on down, you know.

MS. JONES: If I can answer that.

MS. SCHUHMAN: Um-hm, Dorothy.

MS. JONES: I can't recall the name of the organization, but there is an organization that was set up by the pipeline companies in Anchorage to deal with the emotional problems that resulted from stress from pipeline jobs. Does that.... ?

UNIDENTIFIED VOICE: Is there a study?

MS. SCHUHMANN: Is there a study, Dorothy, or was it just more of a service organization.

MS. JONES: I wrote a proposal, but they didn't fund it.

MS. DALE: What's the guy -- Behlke --

MS. SCHUHMANN: Chuck Behlke.

MS. DALE: -- Chuck Behlke, who was here today, the State Pipeline Coordinator, was talking about and I was asking him, talking about the socio-economic impact plan that's being negotiated right now. And after it's negotiated, then they'll get public input. So be on the lookout for that so that you can -- you know, you can go in and -- and apparently they were talking about impact centers that would be where people could go if they had been impacted.

MS. SCHUHMAN: Yes, sir

MR. FINEBERG: I don't want to take up much of your time. My name is Richard Fineberg. I've been a freelance reporter, and had a chance to watch the oil pipeline at great length. And I think that as a Commission, I was -- I think that you should be aware of the size of the audience and the makeup. When the first female testimony from the camps came at about 3:10, Cathy Carr-Lundfeldts -- I think I have my notes of who had already departed--Behlke, Alexander, and Kuhn I think heard a part of Neil Thomas. But they did not hear Cathy Carr-Lundfeldt. From there -- well, I think that you see the composition.

MS. SLAUGHTER: Um-hm.

MS. SCHUHMANN: Thank you.

MS. DALE: Thank you very much. That's important to have on the record.

UNIDENTIFIED VOICE: We all noticed.

MS. SCHUHMANN: I would like to end this portion of the meeting so that we can have Margaret end the tape. There's no further testimony so we can go off that record.

(END OF PROCEEDINGS)

* * *

C E R T I F I C A T E

STATE OF ALASKA)
)
FOURTH JUDICIAL DISTRICT)

I, Margaret Johnson, Notary Public in and for the State of Alaska, residing at Fairbanks, Alaska, and electronic reporter for Fairbanks Court Reporting, Inc., do hereby certify:

That the annexed and foregoing transcript of proceedings was taken before me on the 20th day of March, 1981, at the Fairbanks North Star Borough Library auditorium, Fairbanks, Alaska, pursuant to notice to take the hearing on behalf of the Alaska Commission on the Status of Women

That this transcript of proceedings as heretofore annexed is a true and correct transcription of the testimony given at the hearing, taken by me electronically and thereafter transcribed by me;

That the original of the transcript has been given to Ak. Commission on the Status of Women as requested.

I am not a relative, employee, attorney, or counsel of any of the parties, nor am I financially interested in this action.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal this 10th day of April, 1981.

Margaret Johnson
Notary Public in and for Alaska
My Commission expires: 10/4/84

REPORT
TO
Joint Special Committee on Legislative Salaries

Consultant:Frank Bickford
Date: October 29, 1985

INTRODUCTION

As consultant to the Joint Special Committee on Legislative Salaries, I researched and analyzed all methods of legislative salaries, per diem and allowances. I as consultant also provided recommendations for selection of public members to the committee as well as serving as counsel to committee meetings.

The State of Alaska through the Legislative Affairs Agency, the Division of Legal Services, the Alaska State Legislature (House of Representatives) Research Agency, the Council of State Governments, and the State of Alaska Library System provided me with information concerning legislative salaries, per diem, and allowances in Alaska and the other 49 states.

The recommendations of this report were based on the research and analyses of all the data acquired in regards to legislative pay.

Conclusion

After researching and analyzing the methods of legislative salaries, per diem, and allowances in Alaska and in the other 49 states I recommend the following proposal.

Alaska legislators should be paid $24,000 a year plus a $6,000 a year expense budget, and per diem should be re-instated at $109 a day with each presiding officer receiving an extra $7,000 per year; the majority leader of each house receiving $5,000 a year on top of their salaries and the chairs of each standing committee receiving an extra $3,000 per year; and House and Senate minority leaders receiving $2,500 extra a year.

The examples of the above findings are used in many other states. Lawmakers in leadership positions are given special alllowances and legislators with additional duties are

paid extra as well.

Basically my recommendations would cut legislative pay approxiamately $20,000 a year, but they would be granted extra allowances for leadership responsibilities. The base salary of legislators would be cut from $46,800 per year to $24,000 a year.

I believe that the Alaskan public will look at the recommendations provided with a better understanding than the present system of paying legislators. Legislative pay would be broken down by actual tasks performed rather than a lump sum that does'nt clearly define compensation.

TABLE OF CONTENTS - LEGISLATIVE SALARY REPORT

* Legislative Compensation - Nationwide

* Legislative Compensation - Alaska 1964 - 1985

* 1985 Special Session Costs - Alaska

* Summaries of Legislative Salary Proposals - Alaska

* Alaska Legal Services - Opinions

* Summary - Billy Berrier Memo

* Legislative Audit Report

* House Research Report

* Periodicals - State and Local Government Review
  Congressional Quarterly
  University of California Review

Table 6
LEGISLATIVE COMPENSATION: REGULAR AND SPECIAL SESSIONS

State	Salaries: Regular sessions: Per diem salary	Salaries: Regular sessions: Limit on days	Salaries: Annual salaries	Salaries: Special sessions: Per diem salary	Salaries: Special sessions: Limit on days	Travel allowance: Cents per mile	Travel allowance: Round trips home to capital during session	Per diem living expenses
Alabama	...	...	$4,800	...	...	20	One	$65 for 105C of regular session and 30C of special session
Alaska	...	...	$48,000	...	...	0	One(a)	None
Arizona	...	...	$15,000	...	...	20.5	Unlimited	$40 ($20 for those living inside Maricopa County) for first 120C of regular and all of special session; $20 ($10 for those living inside county) after 120C of regular session. (U)
Arkansas	(b)	(b)	$7,500(b)	...	...	23	Weekly	Up to $308/w. (V)
California	...	...	$28,110	...	...	(c)	One(d)	$62
Colorado	...	...	$14,000	...	...	20 (24/4-wheel drive)	Weekly(e)	$40 for those who do not live in Denver metro area. (U)
Connecticut	...	...	$10,500	...	...	20	Unlimited	None
Delaware	...	...	$12,255	...	...	15	Unlimited	None
Florida	...	...	$12,000	...	...	20	Weekly	$50 for 60C of regular session and all of special session. (U)
Georgia	...	...	$7,200	...	...	20	Weekly	$59, limited to 40L of regular session and 40L of special session(f)
Hawaii	...	...	$13,650	...	...	(g)	Unlimited	$20 for neighbor island legislators. (U)
Idaho	...	...	$4,200(h)	...	...	18	Five	$44 out-of-town members, $25 Boise members. (U)
Illinois	...	...	$28,000	...	...	20	Weekly	$36 (U)
Indiana	...	...	$9,600	...	...	24	Weekly	$65 (U)
Iowa	...	...	$13,700(i)	(i)	(i)	22	Weekly	$30 for 120C in odd-numbered years and 100C in even-numbered years
Kansas	$47	None	...	$47	None	22	Weekly	$50 (U)
Kentucky(j)	$100	(k)	...	$100	(l)	20.5	Weekly	$75/C (U)
Louisiana	$75(m)	85C	(m)	$75(m)	None	21 or coach air fare if lives more than 100 miles away from capitol.	Weekly	(m)
Maine	...	...	(n)	$35	None	22	One(o)	$45 for meals and lodging or $21 for meals only. (U)
Maryland	...	...	$21,000	...	...	19	One per diem if no lodging expense was incurred that day	$68 for lodging and meals. (V)
Massachusetts	...	...	$30,000	...	...	Included in living expense allowance	See living expense allowance	Amount covering mileage, meals and lodging ranges from $5 to $50, depending on distance legislator's district is from Boston.
Michigan	...	...	$33,200	...	...	29.5	Unlimited	$6,700/y. (V)
Minnesota	...	...	$18,500	...	...	26(p)	Weekly	$36 outstate; $23 metro. (U)
Mississippi	...	...	$8,100	$50	None	20	Weekly	$44 actual daily attendance. (U)
Missouri	...	...	$15,000	...	...	17	Weekly	$35
Montana	$49.21	90L	...	$49.21	None	20.5	Four	$45 (U)
Nebraska	...	...	$4,800	...	...	21	One	None
Nevada	$104	(q)	...	$104	(q)	20	(r)	$56 (V)
New Hampshire	...	...	$100(s)	(s)	(s)	38/first 45 miles; 19 thereafter	Unlimited	None
New Jersey	...	...	$25,000	...	...	0	...	None
New Mexico	$75	60C (odd) 30C (even)	...	$75	30C	25	One	None
New York	...	...	$32,960	...	...	0	...	$55 (V)
North Carolina	...	...	$6,936(t)	...	...	25	Weekly	$50/C (U)
North Dakota	(u)	(v)	...	(u)	None	20	Weekly	(u)
Ohio	...	...	$22,500	...	...	20	Weekly	None
Oklahoma	...	...	$20,000	...	...	22	Weekly(w)	$35 for each night away from home on state business during regular and special sessions. Legislators are only compensated for 90L during regular session, and as per governor's call order for special session.(w)

New Jersey	...	...	$25,000	$75	30C	0 25	...	None None
New Mexico	$75	60C (odd) 30C (even)	...				...	$55 (V)
New York	...	...	$32,960	...	...	0	Weekly	$50/C (U)
North Carolina	...	...	$6,936(t)	...	...	25	Weekly	(u)
North Dakota	(u)	(v)	...	(u)	None	20		
Ohio	...	...	$22,500	...	...	20	Weekly	None
Oklahoma	...	...	$20,000	...	...	22	Weekly(w)	$35 for each night away from home on state business during regular and special sessions. Legislators are only compensated for 90L during regular session, and as per governor's call order for special session.(w)
Oregon	...	...	$8,400	...	...	0	...	$44/C (U)
Pennsylvania	...	...	$35,000(x)	...	...	20	Weekly	Up to $75/d (U)
Rhode Island	$5	60L	...	...	...	8	Unlimited	None
South Carolina	...	...	$10,000(y)	...	...	23	Weekly	$50/L (V)
South Dakota	...	...	$3,200/odd(z) $2,800/even(z)	...	...	21	Each weekend legislature is in session	$50 (U) for up to 35L in even-numbered years and up to 40L in odd-numbered years. After Jan. 1, 1985, $75 for the same.
Tennessee	...	...	$8,308.08	...	...	19.96	Weekly	$66.47 (U)
Texas	(aa)	(aa)	$7,200(aa)	(aa)	(aa)	(bb)	(cc)	None
Utah 1984	$25	60C(odd) 20C(even)	...	$25	30C	23	One	$25 subsistence. Everyone who lives outside of Salt Lake or Davis receives $35 or mileage but not both.
1985	$65	60C(odd) 20C(even)	...	$65	25(dd)			
Vermont	$55/L(ee)	(ee)	...	$55/L (ee)	(ee)	20.5	Weekly if room rented in Montpelier or vicinity; otherwise per diem	$27.50 for room and $22.50 for meals if renting room in Montpelier or vicinity; $18.75 if living in Montpelier or vicinity. (U)
Virginia	...	...	$11,000	...	...	20.5	Weekly	$75/C (U)
Washington	...	...	$13,750	...	...	10	One	$44 (U)
West Virginia	...	...	$5,136(ff)	(ff)	(ff)	17	Weekly	$20/d for meals. (U); $30/d lodging. (V)
Wisconsin	...	...	$22,631.04	...	...	21.5(gg)	Weekly	$41.63/L when legislator must establish temporary residence at state capital. Otherwise, $20.81. (U)
Wyoming	$30	40L(odd) 20L(even)	...	$30	None	20	One	$60 (U)

Note: In many states, legislators who receive an annual salary or per diem salary also receive an additional per diem amount for living expenses. Consult appropriate columns for a more complete picture of legislative compensation during sessions. For information on interim compensation and other direct payments and services to legislators, see table on Legislative Compensation: Interim Compensation and Other Direct Payments.

Key:
. . .—Not applicable
C—Calendar day
L—Legislative day
U—Unvouchered
V—Vouchered
d—day
m—month
y—year
w—week

OMPENSATION

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LEGISLATIVE SALARIES AND RETIREMENT SYSTEMS

State or other jurisdiction	Regular sessions: Per diem: Amount per day	Regular sessions: Per diem: Limit on days	Regular sessions: Salary (biennial total)	Other salaried compensation: Special sessions: Amount per day	Other salaried compensation: Special sessions: Limit on days	Other salaried compensation: Committee business, amount per day	Retirement: Retirement system—type	Retirement: Membership—type
Alabama	$10	105C	...	$10	30C	$50	None	...
Alaska	...	...	$23,500	...	...	...	PE	OP
Arizona	...	...	12,000(a)	...	...	...	PE	CM
Arkansas	20	None	15,000	20L	None	45	PE(h)	CM
California	...	...	46,464(c)	...	...	...	SL	OP
Colorado	...	...	24,000	...	...	50(d)	PE	OP
Connecticut	...	...	11,000(c)	...	...	...	SL	OP
Delaware	...	...	18,000	...	...	...	PE	CM
Florida	...	...	24,000	...	...	...	(e)	(e)
Georgia	...	...	14,400	...	...	...	PE	CM
Hawaii	...	...	24,000	...	...	...	PE	CM
Idaho	...	...	6,000	...	...	25	PE	CM
Illinois	...	...	40,000	...	...	...	SL	OP
Indiana	...	...	12,000	35	30L	...	PE	OP
Iowa	...	...	16,000(c)	40	None	40	PE(q)	OP(q)
Kansas	35	None(f)	...	35	None	35	PE	OP
Kentucky	50	60L(g)	...	50	None	50	PE	CM
Louisiana	50	85C	...	50	30C	50	PE	OP
Maine	...	...	7,000	25	None	25	PE	OP
Maryland	...	...	25,000(c)	...	...	...	SL	OP
Massachusetts	...	...	29,879(h)	...	...	...	PE	OP
Michigan	...	...	46,500	...	...	...	SL	OP
Minnesota	...	...	16,800(c)	...	...	...	SL	CM
Mississippi	...	...	16,200	50	...	22.50	PE	CM(i)
Missouri	...	...	16,800(c)	...	...	...	SL	CM
Montana	33.22(h)	90L	...	...	None	33.22(h)	PE	OP
Nebraska	...	...	9,600	...	...	...	None	...
Nevada	60(c)	60L	...	60(c)	20L	40(j)	SL	CM
New Hampshire	...	...	200	3	15L	...	None	...
New Jersey	...	...	20,000(c)	...	...	...	PE;SL	CM
New Mexico	40	60C(f)	...	40	30C	40	PE(b)	OP
New York	...	...	47,000	...	...	...	PE	OP(k)
North Carolina	...	...	9,600	...	...	...	None	...
North Dakota	5	80N	...	5	None	45	PE(b)	OP
Ohio	...	...	35,000	...	...	...	PE	OP
Oklahoma	...	...	25,896	...	...	25(l)	PE	CM
Oregon	...	...	15,696	...	...	...	PE	OP
Pennsylvania	...	...	37,440(m)	...	...	...	PE	OP
Rhode Island	5	60L	...	...	...	...	PE(b)	OP
South Carolina	175	40L	...	175	40L	25	SL	CM
South Dakota	...	...	5,000	67.67	None	25	None	...
Tennessee	...	...	15,602(n)	...	...	...	PE	OP
Texas	30	140C	...	30	30C	...	SL	OP
Utah	25	60C(f)	...	25	30C	25	SL	OP
Vermont	40(c)	(o)	...	...	...	45C	None	...
Virginia	...	...	16,000	...	...	50	PE	CM
Washington	...	...	14,400	...	...	...	PE	OP
West Virginia	...	...	9,600	35	None	35(j)	PE	OP
Wisconsin	...	...	35,688(c)	...	...	...	PE	CM
Wyoming	30	(p)	...	30	None	30	None	...
American Samoa	...	...	18,000	...	...	...	PE	OP
Guam	...	...	36,000	...	...	...	PE	OP
Puerto Rico	...	...	19,200	...	...	...	PE	CM
Virgin Islands	...	...	30,000	...	...	...	PE	CM

Key:
PE—Statewide public employee
SL—Special legislative
OP—Optional
CM—Compulsory
C—Calendar day
L—Legislative day
N—Natural day (24 hours)

(a) A November 1978 referendum, if approved by voters, will raise legislative salaries to $22,000 for the biennium.

(b) Special provisions for legislators.

(c) Effective after 1978 election: California—$51,110; Connecticut—$15,000; Iowa—$24,000; Maryland—$32,750 (if approved by legislature); Minnesota—$35,000; Missouri—$30,000; Nevada—$80; New Jersey—$36,000 (effective 1980); Vermont—$45 (effective July 1978); Wisconsin—$39,534.

(d) $50 per day for committee attendance up to $2,500 maximum. Joint Budget Committee and Legislative Audit Committee members have a $5,000 maximum at $50 per day for such committee attendance in addition to $2,500 maximum.

(e) Legislators may choose to join the compulsory statewide public employee pension system or the optional (elected officers class) special legislative retirement system.

(f) Limit on first session; second session limitation: Kansas 90C unless extended by 2/3 vote of all members; New Mexico 30C; Utah 20C.

(g) Legislators are paid for Sundays and holidays during sessions; thus, compensation period usually is 72 to 74 days.

(h) Legislative salaries are tied to the salary of classified state employees (Massachusetts: Group 19). Any salary increases obtained through the collective bargaining process accrue to state legislators (Montana: Grade 8, Step 1); salaries are adjusted annually on July 1 to reflect cost-of-living changes (1978—$34,98).

(i) Unless over age 64.

(j) Nevada: paid during interim on official business only by approval of Legislative Commission. West Virginia: payable only to members of Joint Committee on Government and Finance and Commission on Interstate Cooperation to a limit of $1,050 per year.

(k) CM for members elected after July 1, 1976.

(l) For 20 days, unless authorized by the Executive Committee of the Legislative Council.

(m) Senators elected in 1974 will continue to receive $31,200 salary; see the table on pages 24-27 for additional allowances.

(n) Income will be adjusted annually on July 1 to correspond with the percentage of change in the per capita personal income in the state for the preceding fiscal year.

(o) Effective July 1978: paid $225 per week during session for a maximum of $6,750 during odd-numbered years and $1,800 during even-numbered years.

(p) The legislature is limited to meeting no more than 40L in the odd year out of 80L during the biennium. The legislators are paid on a calendar-day basis.

(q) Effective January 1979.

Nebraska	...	...	$4,800	...	...	16¢ if at state's convenience; 12 at employee's convenience	One	...
Nevada	$80	60L	...	$80	20L	17¢	One	$44/C day [unvouchered]
New Hampshire	...	...	$100	$3	15L	30¢ 1st 45 mi.; 15¢ in excess of 45 mi. to max. 40C days (f)	Unlimited	...
New Jersey	...	...	$10,000(1979) $18,000(1980)	...	...	Railroad pass for interstate travel	...	...
New Mexico	$40	60C(odd) 30C(even)	...	$40	30C	10¢	One	...
New York	...	...	$23,500	...	...	16¢	Weekly	$25/day on business part of day outside NYC; $40/day on business overnight outside NYC; $50/day on business overnight in NYC or out of state [vouchered]
North Carolina	...	...	$6,000	...	...	17¢	Weekly	$44/7-day wk. [unvouchered]
North Dakota	$5	80N	...	$5	None	10¢	Weekly	$70/7-day wk. [unvouchered]
Ohio	...	...	$22,500	...	...	15¢	Weekly	...
Oklahoma	...	...	$12,948	...	...	12¢	Weekly	$35/4-day wk. paid only to legislators spending the night [unvouchered]
Oregon	...	...	$7,848	...	...	...	...	$44/7-day wk. [unvouchered]
Pennsylvania	...	...	$25,000	...	...	15¢	Weekly	$7,500 max. [vouchered]
Rhode Island	$5	60L	...	...	...	8¢	Each day of attendance	...
South Carolina	$250	40L	...	$250	None	18¢	Weekly	$35 [vouchered]
South Dakota	...	...	$3,600(1979) $2,400(1980)	$80	None	18¢(1979) 19¢(1980)	Weekly	$50/5-day wk. [unvouchered]
Tennessee	...	...	$8,308	...	...	19.96¢	Weekly	$66.47/90L days plus up to 15 organization days [unvouchered]
Texas	...	...	$7,200	...	...	20¢/car 25¢/air	Weekly	$30/7-day wk. [unvouchered]
Utah	$25	60C(odd) 20C(even)	...	$25	30C	18¢	Unlimited	$15/7-day wk. [unvouchered]
Vermont	...	...	$7,500(1979)(g) $2,000(1980)(g)	...	...	17¢	Weekly	$17.50 if lives at home; $37.50 if housed in capital [unvouchered]
Virginia	...	...	$8,000(1980)	...	...	15¢	Weekly	Up to $50 but no more than is allowed as a nonvouchered expense by the federal Internal Revenue Service ($44) [unvouchered]
Washington	...	...	$9,800	...	...	10¢	One	$44/L day [unvouchered]
West Virginia	...	...	$5,136	$35	None	17¢	Weekly	$30/7-day wk. lodging or up to $30 travel expenses if commuting [vouchered]; legislators living in Charleston, $20 for meals but may not receive travel and lodging expenses [unvouchered]
Wisconsin	...	...	$19,767	...	...	18¢	Weekly	$30 outside Madison; $15 inside Madison [unvouchered]
Wyoming	$30	40L(odd) 20L(even)	...	$30	None	12¢	One	$36/7-day wk. [unvouchered]
Guam	...	...	$18,000	...	...	...	...	...
Puerto Rico	...	...	$9,600	...	...	30¢/km. and no less than $20	Weekly	$35 if in residence within 50 km. of capital; $45 if over 50 km. [unvouchered]
Virgin Islands	...	...	$15,000	...	...	Legislative cars	Unlimited	$30 for senators who must engage in interstate travel to attend sessions [vouchered]

Key:
C-- Calendar day
L-- Legislative day
N-- Natural day (24 hours)

(a) Members are furnished a leased car up to $220/month, including gasoline and maintenance. Actual and necessary expenses for commercial air fare.

(b) Salary will be adjusted to the nearest dollar by the average percent increase of salary adjustment provided by state civil service pay plan.
(c) Paid on calendar day basis.
(d) Within an 85C day period.
(e) Effective 1981: $35 meals & housing or $17/day meals; mileage up to $20/day [vouchered].
(f) Effective December 1980: 38¢ 1st 45 miles; 19¢ in excess of 45 miles.
(g) Up to this amount depending on length of session.

Table 7
LEGISLATIVE COMPENSATION: REGULAR AND SPECIAL SESSIONS

State or other jurisdiction	Salaries: Regular sessions: Amount per day	Salaries: Regular sessions: Limit on days	Salaries: Annual salaries	Salaries: Special sessions: Amount per day	Salaries: Special sessions: Limit on days	Travel allowance: Per mile	Travel allowance: Round trips home to capital	Living expenses per day
Alabama	$10	105C	...	$10	30C	10¢	One	$65 up to 105C [unvouchered]
Alaska	...	...	$11,750	...	...	25¢	One	$55 [unvouchered]
Arizona	...	...	$6,000	...	...	17¢ by car; 25¢ by air	Unlimited	$40 ($20 for legislators from Maricopa County) for first 120 days of regular session; after that, $20 and $10 respectively [vouchered]
Arkansas	$20	None	$7,500	$20	None	18¢	Weekly	$308/wk. [vouchered]
California	...	...	$25,555 $28,110 (1981)	...	...	15¢(a)	One	$46/7-day wk. except when in recess 4 or more days [unvouchered]
Colorado	...	...	$12,000	...	...	14¢	Weekly	$20 ($10 for legislators from Denver metro area) [unvouchered]
Connecticut	...	...	$8,500 (1979) $6,500 (1980)	...	...	15¢	Unlimited	...
Delaware	...	...	$9,630	...	...	15¢	Unlimited	...
Florida	...	...	$12,000	...	...	14¢	Weekly	$35/7-day wk. [unvouchered]
Georgia	...	...	$7,200	...	...	15¢	Weekly	$44/7-day wk. [unvouchered]
Hawaii	...	...	$12,000	.M.	...	20¢	Unlimited	$20 for legislators from outside Oahu [unvouchered]
Idaho	...	...	$4,200	...	...	15¢	Five	$44 each calendar day of session if residence in capital ($25 if lives at home) [unvouchered]
Illinois	...	...	$25,000 (1979) $28,000 (1980)	...	...	20¢	Weekly	$36/L day [unvouchered]
Indiana	...	...	$6,000	$35	30L	16¢	Weekly	$44/7-day wk. [unvouchered]
Iowa	...	...	$12,000 (1980) $12,800 (1981) $13,700 (1982)	$40	None	15¢ 20¢(1981)	Weekly	$30/7-day wk. for 120 days in odd years & for 100 days in even years [unvouchered]
Kansas	$35 (1980) $40 (1981)(b)	None (odd) 90C (even)	...	$35	None	17¢	Weekly	$44 ($50 in 1981)/7-day wk. [unvouchered]
Kentucky	$50	60L(c)	...	$50	None	16¢	11	$75/7-day wk. [unvouchered]
Louisiana	$50	60L(d)	...	$50	30C	19¢	Weekly	...
Maine	...	...	$4,500(1979) $2,500(1980)	...	...	18¢	Weekly	$25 meals & housing or $12/day meals; mileage up to $13/day [vouchered] (e)
Maryland	...	...	$16,000(1979) $16,750(1980) $17,600(1981) $18,500(1982)	...	...	14¢	Daily if not lodging; weekly if lodging	$50 max. meals & lodging ($20 max. for meals); out of state: $75/diem max. lodging & meals actual & necessary for travel [vouchered]
Massachusetts	...	...	$17,840(1979) $20,334(1980) $21,050(1981) $21,764(1982)	...	...	Varies	Unlimited	Each member, depending on residence, receives per diem allowance for mileage, meals & lodging from $2 to $32 per L day [unvouchered]
Michigan	...	...	$25,500(1979) $27,000(1980)	...	...	17¢	Weekly	$4,900 max. ($5,200 in 1981) [vouchered]
Minnesota	...	...	$16,500(1979) $18,500(1980)	...	...	19¢	Weekly	$17 metro; $27 out of state [unvouchered]
Mississippi	...	...	$8,100	$50	...	12¢	Weekly	$30 actual daily attendance [unvouchered]
Missouri	...	...	$15,000	...	...	17¢	Weekly	$35 actual daily attendance [unvouchered]
Montana	$35.50	90L	...	$35.50	None	17¢	Two	$40/7-day wk. [unvouchered]
Nebraska	...	...	$4,800	...	...	16¢ if at state's convenience; 12 at employee's convenience	One	...
Nevada	$80	60L	...	$80	20L	17¢	One	$44/C day [unvouchered]
New Hampshire	...	...	$100	$3	15L	30¢ 1st 45 mi.; 15¢ in excess of 45 mi. to max. 40C days (f)	Unlimited	...
New Jersey	...	...	$10,000(1979) $18,000(1980)	...	...	Railroad pass for interstate travel	...	...
New Mexico	$40	60C(odd) 30C(even)	...	$40	30C	10¢	One	...
New York	...	...	$23,500	...	...	16¢	Weekly	$25/day on business part of day outside NYC; $40/day on business overnight outside NYC; $50/day on business overnight in NYC or out of state [vouchered]
North Carolina			$6,000			17¢	Weekly	$44/7-day wk. [unvouchered]

New Hampshire	...	...	$100	$3	15L	38/1st 45 mi. $19/in excess of 45 miles $50 max.	Unlimited	...
New Jersey	...	...	$18,000	...	...	Intrastate railroad pass	...	...
New Mexico	$40	60C (odd) 30C (even)	...	$40	30C	10	One	...
New York	...	...	$30,804	...	...	23	Weekly	$55/day for actual & necessary expenses (V)
North Carolina	...	...	$6,936	...	...	25	Weekly	$50/7-day week (U); plus addtl. expense allowance of $172/mo.
North Dakota	$5	80L		$5	None	10	Weekly	$85/7-calendar days (U)
Ohio	...	...	$22,500	...	...	20	Weekly	...
Oklahoma	...	...	$18,000	...	...	22	Weekly	$35/4-day week paid only to legislators spending the night (U)
Oregon	...	...	$8,400	...	...	...	...	$44/7-day week (U)
Pennsylvania	...	...	$25,000	...	...	17	Weekly	$10,000 max. (V)
Rhode Island	$5	60L	...	...	...	8	Each day of attendance	...
South Carolina	$250	40L	$10,000	$250	None	23	Weekly	$50 (V)
South Dakota	...	...	$3,200(b) $2,800(c)	$90	None	21	Weekly	$50/5-day week (U)
Tennessee	...	...	$8,308	...	...	$19.96(i)	Weekly	$66.47/90L plus up to 15 org. days (U)
Texas	...	...	$7,200	...	...	23/car; 30/single-engine aircraft; 40/twin-engine aircraft	Weekly	$30/7-day week (U)
Utah	$25	60C (odd) 20C (even)	...	$25	30C	23	Unlimited	$15/7-day week (U)
Vermont	...	...	$7,500(j) $2,000(j)	...	...	22	Daily for commuters, weekly for boarders	$17.50 for food if commuting; $25 for room and $20 for meals if boarding in capital (U)
Virginia	...	...	$8,000	...	...	20	Weekly	Up to $50 but no more than is allowed as a non-vouchered expense by the federal Internal Revenue Service (U)
Washington	...	...	$11,200 $9,800(k)	...	...	10	One	$44/L (U)
West Virginia	...	...	$5,136	$35	None	17	Weekly	$30/7-day week lodging, or up to $30 travel expenses if commuting (V); legislators living in Charleston, $20 meals but may not receive travel & lodging expenses (U)
Wisconsin	...	...	$22,638 $19,767(k)	...	...	20.5	Weekly	$30 outside Madison, $15 inside Madison (U)
Wyoming	$30(d)	40L (odd) 20L (even)	...	$30	None	12	One	$44/7-day week (U)
American Samoa	...	...	$12,000	...	...	(l)	...	(l)
Puerto Rico	...	...	$20,000	...	...	30/km. & no less than $20	Weekly	$35 if in residence within 50 km. of capitol; $45 if over 50 km. (U)

Key:
C—Calendar day
L—Legislative day
U—Unvouchered
V—Vouchered

(a) Members are furnished a leased car up to $265/month including gasoline and maintenance. Actual and necessary for commercial air fare.
(b) .983. Maryland: unless reduced or rejected by General Assembly.
(c) 1982.
(d) Paid on calendar day basis.
(e) 1984.
(f) Within an 85C period; paid for 85C.
(g) For travel exceeding 100 miles air travel may be paid in lieu of 21 cents per mile.
(h) Allowance up to $3,500 maximum per regular session and $1,000 per special session.
(i) Actual commercial travel expenses on out-of-state travel; however, not to exceed amount which would have been allowed for travel in a personal vehicle.
(j) Up to this amount during the biennium, to be paid at a rate of $250 weekly during regular sessions and $50 for each day of special session.
(k) For holdover senators only.
(l) Same as all other government employees.

Table 5
LEGISLATIVE COMPENSATION: REGULAR AND SPECIAL SESSIONS

State or other jurisdiction	Salaries: Regular sessions: Amount per day	Salaries: Regular sessions: Limit on days	Salaries: Annual salaries	Salaries: Special sessions: Amount per day	Salaries: Special sessions: Limit on days	Travel allowance: Per mile	Travel allowance: Round trips home to capital	Living expenses per day
Alabama	$10	105C	...	$10	30C	10	One	$65 up to 105C (U)
Alaska	...	...	$18,768	...	...	25	One	Depending on residence $50 to $67 (U)
Arizona	...	...	$15,000	...	...	22.5	Unlimited	$40 ($20 for legislators from Maricopa County) for first 120 days of regular sesion; after that, legislators receive $20 and $10 respectively (V)
Arkansas	$20	None	$7,500	$20	None	23	Weekly	$308/wk. (V)
California	...	...	$28,110	...	...	15(a)	One	$50/7-day week except when in recess four or more days (U)
Colorado	...	...	$14,000	...	...	20 (24/4-wheel drive)	Weekly	$40 ($20 for legislators from Denver metro area) (U)
Connecticut	...	...	$9,500(b) $7,500(c)	...	...	15	Unlimited	...
Delaware	...	...	$11,400	...	...	15	Unlimited	...
Florida	...	...	$12,000	...	...	20	Weekly	$50/7-day week (U)
Georgia	...	...	$7,200	...	...	18	Weekly	$44/7-day week (U)
Hawaii	...	...	$13,650	...	...	20	Unlimited	$20 for legislators from outside Oahu (U)
Idaho	...	...	$4,200	...	...	18	Five	$44 each calendar day of session if residence in capital ($25 if lives at home) (U)
Illinois	...	...	$28,000	...	...	20	Weekly	$36/L (U)
Indiana	...	...	$9,600	...	30L	22	Weekly	$50/7-day week (U)
Iowa	...	...	$13,700	$40	None	20	Weekly	$30/7-day week for 120 days in odd years and 100 days in even years (U)
Kansas	$42	None (odd) 90C (even)	...	$42	None	22	Weekly	$50/7-day week (U)
Kentucky	$50 $100(e)	60L(d)	...	$50	None	22.5	Eleven	$75/7-day week (U)
Louisiana	$75	60L(f)	$16,800	$75	30C	21(g)	Weekly	...
Maine	...	...	$4,500(b) $2,500(c)	$25	...	20	Weekly	$35/day before and each day of session, or $17/day meals; mileage up to $20/day (V)
Maryland	...	...	$18,500 $21,000(b)	...	...	18	Daily if not lodging; weekly if lodging	$50 max. meals & lodging ($20 max. for meals); out of state: $75/diem max. meals & lodging actual & necessary for travel (V)
Massachusetts	...	...	$19,125	...	...	Varies	Unlimited	Each member depending on residence receives a per diem allowance for mileage, meals and lodging from $5 to $45/L (U)
Michigan	...	...	$31,000	...	...	26.5	Weekly	$6,200 max. (V)
Minnesota	...	...	$18,500	...	...	24	Weekly	Up to $23 metro; up to $36 out of state (U)
Mississippi	...	...	$8,100	$50	...	20	Weekly	$44 actual daily attendance (U)
Missouri	...	...	$15,000	...	...	17	Weekly	$35 actual daily attendance (U)
Montana	$43.74(h)	90L	...	$43.74(h)	None	20(h)	Two (U) Two (V)	$45/7-day week (U)
Nebraska	...	...	$4,800	...	...	21	One	...
Nevada	$104	60C	...	$104	20C	20	Unlimited(h)	$44/C (U)
New Hampshire	...	...	$100	$3	15L	38/1st 45 mi. $19/in excess of 45 miles $50 max.	Unlimited	...
New Jersey	...	...	$18,000	...	...	Intrastate railroad pass	...	...
New Mexico	$40	60C (odd) 30C (even)	...	$40	30C	10	One	...
New York	...	...	$30,804	...	...	23	Weekly	$55/day for actual & necessary expenses (V)
North Carolina	...	...	$6,936	...	...	25	Weekly	$50/7-day week (U); plus addtl. expense allowance of $172/mo.
North Dakota	$5	80L	...	$5	None	10	Weekly	$85/7-calendar days (U)

TABLE 7

LEGISLATIVE SALARIES AND RETIREMENT SYSTEMS

As of late 1975

State or other jurisdiction	Constitutional provisions for salaries	Regular sessions: Per diem: Amount per day	Regular sessions: Per diem: Limit on days	Regular sessions: Salary (biennial total)	Other salaried compensation: Special sessions: Amount per day	Other salaried compensation: Special sessions: Limit on days	Other salaried compensation: Committee business: amount per day	Retirement: Retirement system—type	Retirement: Membership—type
Alabama	Cn	$10	30L	.....	$10	30L	$50	None	...
Alaska	Lg	..	...	$29,440	..	...	..	SL(a)	Cm
Arizona	CB;RF	..	...	12,000	..	...	..	PE	Cm
Arkansas	Cn	20	60C(b)	2,400	6	None(c)	45	PE(d)	Cm
California	Lg	..	...	42,240(e)	..	...	..	SL	Op
Colorado	Lg	..	...	15,200	..	...	35(f)	PE	Op
Connecticut	Lg	..	...	11,000	25(g)	None	..	SL	Op
Delaware	Lg	..	...	18,000	..	...	..	PE	Cm
Florida	Lg	..	...	24,000	..	...	..	(h)	(h)
Georgia	Lg	..	...	14,400	..	...	..	PE	Cm
Hawaii	Lg;CB	..	...	24,000	..	...	..	PE	Op
Idaho	Cn	10	60C	.....	10	20C	..	PE	Cm
Illinois	Lg	..	...	40,000	..	...	..	SL	Op
Indiana	Lg	..	...	12,000	35	30L	..	None	...
Iowa	Lg	..	...	16,000	40	None	40	None	...
Kansas	Lg	35	None(l)	.....	35	None	35	PE	Op
Kentucky	Lg	25	60L(j)	.....	25	None	25	PE	Cm
Louisiana	Lg	50	60L	.....	50	30C	50	PE	Op
Maine	Lg	..	...	3,850	25	None	25	PE	Op
Maryland	Lg;CB	..	...	25,000	..	...	..	SL	Op
Massachusetts	Lg	..	...	25,376	..	...	..	PE	Op
Michigan	Lg;CB	..	...	38,000	..	...	..	SL	Op
Minnesota	Lg	..	...	16,800	..	...	..	SL	Cm
Mississippi	Lg	..	...	16,200	..	...	..	PE	Cm(k)
Missouri	Lg	..	...	16,800	..	...	..	PE	Cm
Montana	Lg	20(e)	90L	.....	20	None	20	PE	Op
Nebraska	Cn	..	...	9,600	..	...	..	None	...
Nevada	Lg	60	60L	.....	60	20L	40(l)	SL	Cm
New Hampshire	Cn	..	...	200	3	15L	..	None	...
New Jersey	Lg	..	...	20,000	..	...	..	PE;SL	Cm
New Mexico	Cn	40	60C(l)	.....	40	30C	40	PE(d)	Op
New York	Lg	..	...	47,000	..	...	..	PE(m)	Op
North Carolina	Lg	..	...	9,600	..	...	..	None	...
North Dakota	Cn	5	60L	.....	5	None	30	PE(d)	Op
Ohio	Lg	..	...	35,000	..	...	..	PE	Op
Oklahoma	CB	..	...	19,920	..	...	25(n)	PE	Cm
Oregon	Lg	..	...	10,560(e)	..	...	..	PE	Op
Pennsylvania	Lg	..	...	31,200	..	...	..	PE	Op
Rhode Island	Cn	5	60L	.....	..	...	..	PE(d)	Op
South Carolina	Lg	175	40L	.....	175	40L	25	SL	Cm
South Dakota	Lg	..	...	5,000	67.67	None	25	None	...
Tennessee	Lg	..	...	12,481(o)	..	...	..	PE	Op
Texas	Cn	..	...	14,400	..	...	..	SL	Op
Utah	Cn	25	60C(l)	.....	25	30C	25	SL	Op
Vermont	Lg	30	(p)	.....	..	...	30	None	...
Virginia	Lg	..	...	10,950	..	...	..	PE	Cm
Washington	Lg	..	...	7,600	..	...	..	SL	Op
West Virginia	CB;Lg	..	...	9,600	35	None	35(l)	PE	Op
Wisconsin	(q)	..	...	31,356(e)	..	...	..	PE	Op
Wyoming	Lg	15	(r)	.....	15	None	15	None	...
American Samoa	Lg	..	...	12,000	..	...	..	PE	Op
Guam	Lg	..	...	48,000	..	...	..	PE	Op(h)
Puerto Rico	Lg	..	...	19,200	..	...	..	PE	Cm
Virgin Islands	Lg	..	...	30,000	..	...	..	PE	Op

Key: Cn—Constitution
Lg—Legislature
RF—Referendum
CB—Constitutional Board
PE—Statewide Public Employee
SL—Special Legislative
Op—Optional
Cm—Compulsory
C—Calendar days
L—Legislative days

(a) Elected Public Officers Retirement System.
(b) Daily pay continues if session extended by ⅔ vote in both houses.
(c) Legislature may not remain in session more than 15 days after disposing of matters in Governor's call.
(d) Special provisions for legislators.
(e) Effective December 1976: California, $46,464; effective January 1977: Montana, $31.60/day; Oregon, $11,616; Wisconsin, $35,686.
(f) $35 per day for committee attendance up to $1,050 maximum. Joint Budget Committee members have a $3,500 maximum for budget committee attendance in addition to $1,050 maximum.
(g) For each day beyond the ninth day.
(h) Legislators may choose to join the compulsory statewide public employee pension system or the optional (elected officers class) special legislative retirement system.
(i) Limit on first session; second session limitation: Kansas 90C days unless extended by ⅔ vote of all members; New Mexico 30C; Utah 20C.
(j) Legislators are paid for Sundays and holidays during sessions. Thus compensation period usually is 72 to 74 days.
(k) Unless over age 65.
(l) Applicable to members of certain committees only. West Virginia: payable only to members of Joint Committee on Government and Finance and Commission on Interstate Cooperation to a limit of $1,050 per year.
(m) Repealed for all legislators elected after July 1, 1973.
(n) For 20 days, unless authorized by the Executive Committee of the Legislative Council.
(o) Income will be adjusted annually on July 1 to correspond to the percentage of change in the per capita personal income in the State for the preceding fiscal year.
(p) Paid at $150 per week during session to a maximum of $4,500 for biennium.
(q) Beginning with the 1975 session, legislative salaries will be set according to salary ranges determined by the Bureau of Personnel.
(r) The Legislature is limited to meeting no more than 40L days in the odd year out of 60L days during the biennium. The legislators are paid on a calendar day basis.

TABLE 6
LEGISLATIVE SALARIES AND RETIREMENT SYSTEMS
As of late 1973

State or other jurisdiction	Compensation set by	Regular sessions: Per diem: Amount per day	Regular sessions: Per diem: Limit on days	Regular sessions: Salary (biennial total)	Other income: Special sessions: Amount per day	Other income: Special sessions: Limit on days	Other income: Committee business, amount per day	Retirement: Retirement system—type	Retirement: Membership—type
Alabama	C	$10	36L	.....	$10	36L	$25	None	...
Alaska	L	..	...	$18,000	..	...	..	PE	Op
Arizona	C;CC	..	...	12,000	..	...	..	PE	Cm
Arkansas	C	20	60C(a)	2,400	6	None(b)	25	PE(c)	Cm
California	L	..	...	38,400(d)	..	...	..	SL	Op
Colorado	L	..	...	15,200	30	20C	35(e)	PE	Op
Connecticut	L	..	...	13,000	25(f)	None	..	SL	Op
Delaware	C	..	...	12,000	..	...	..	PE	Cm
Florida	L	..	...	24,000	25	None	25	(g)	(g)
Georgia	L	..	...	14,400	..	...	..	PE	Cm
Hawaii	L;CC	..	...	24,000	..	...	..	PE	Op
Idaho	L;CC	10	60C	.....	10	20C	25	PE	Cm
Illinois	L	..	...	35,000	..	...	..	SL	Op
Indiana	L	..	...	12,000	25	30L	..	None	...
Iowa	L	..	...	11,000(h)	40	None	40	None	...
Kansas	L	10	None(i)	.....	10	None	10	PE	Op
Kentucky	L	25	60L(j)	.....	25	None	25	PE	Cm
Louisiana	L	50	60C(i)	.....	50	30C	50	PE	Op
Maine	L	..	...	3,500	25	None	25	PE	Op
Maryland	CC	..	...	22,000	..	...	25	SL	Op
Massachusetts	L	..	...	25,376	..	...	..	PE	Op
Michigan	CC	..	...	34,000	..	...	..	SL	Op
Minnesota	L	..	...	16,800	..	...	..	SL	Cm
Mississippi	L	..	...	10,000	22.50(k)	None	22.50	PE	Cm(l)
Missouri	L	..	...	16,800	..	...	..	PE	Cm
Montana	L;CC	20	60L	.....	20	None	20	PE	Op
Nebraska	C;L	..	...	9,600	..	...	..	None	...
Nevada	L	60	60L	.....	60	20L	25(m)	SL	Cm
New Hampshire	C	..	...	200	3	15L	..	None	...
New Jersey	C;L	..	...	20,000	..	...	..	PE;SL	Cm
New Mexico	C;L	36	60C(l)	.....	36	30C	36	PE(c)	Op
New York	C;L	..	...	30,000(h)	..	...	..	PE(n)	Op
North Carolina	L	..	...	4,800	..	...	..	SL	Cm
North Dakota	C	5	60L	.....	5	None	30	None	...
Ohio	L	..	...	28,000(h)	..	...	..	None	...
Oklahoma	CB	..	...	18,960	..	...	25(o)	PE	Cm
Oregon	L	..	...	9,600	..	...	..	None	...
Pennsylvania	L	..	...	31,200	..	...	..	PE	Op
Rhode Island	C	5	60L	.....	..	...	..	PE(c)	Op
South Carolina	L	100	40L	.....	100	40L	25	SL	Cm
South Dakota	L	..	...	5,000	67.67	None	25	None	...
Tennessee	L	..	...	11,030(p)	..	...	..	PE	Op
Texas	C	..	...	9,600	..	...	..	SL	Op
Utah	C;L	25	60C(l)	.....	25	30C	25	SL	Op
Vermont	L	30	(q)	.....	..	...	30	None	...
Virginia	L	..	...	10,950	..	...	..	PE	Cm
Washington	L	..	...	7,200(h)	..	...	..	SL	Op
West Virginia	CC;L	..	...	6,600	35	None	35(m)	SL	Op
Wisconsin	(r)	..	...	19,800(h)	..	...	..	PE	Op
Wyoming	L	15	(s)	.....	15	None	15	None	...
American Samoa	C;L	..	...	12,000	..	...	..	PE	Op
Guam	L	..	...	24,128	..	...	..	PE	Op
Puerto Rico	L	..	...	19,200	..	...	..	PE	Cm
Virgin Islands	L	..	...	18,000	..	...	..	PE	Op

Abbreviations: L—Legislative days; C—Calendar days.
(a) In lieu of air fare/common carrier.
(b) Each legislator is allowed the use of a car purchased and maintained by the State for use on legislative business. Each legislator is also reimbursed for the actual expense of any public transportation used.
(c) For legislators living outside the Denver metropolitan area only; daily round trip or one weekly round trip and $10 per diem, vouchered for lodging. Legislators from Denver receive no expense allowance. Effective January 1975: For legislators living outside the Denver metropolitan area only: daily round trip at 12¢ per mile and $10 per diem vouchered for meals, and lodging from $5 to $32 per day.
(d) Actual and necessary expenses incurred for attendance at official legislative functions.
(e) Each member depending on where he lives receives a per diem allowance for mileage, lodging and actual expenses, Legislators from Denver $10 per diem vouchered for actual expenses and travel. Mileage increase only effective for legislators elected in 1974.
(f) Effective January 1, 1975: New York $40 actual and necessary; Wyoming $36.
(g) Same as all other government employees.
(h) Use of legislative cars, travel vouchers.
(i) For each day beyond the ninth day.
(j) Legislators may choose to join the compulsory statewide public employee pension system or the optional (elected officers class) special legislative retirement system.
(k) Effective January 1975, Iowa: $16,000; New York: $47,000; Ohio: $35,000; Washington: $7,600 for members elected in 1974; Wisconsin: $31,362.
(l) Limit on first session; second session limitation: Kansas 60C days unless extended by ⅘ vote of all members; Louisiana 30C; New Mexico 30C; Utah 20C.
(m) Legislators are paid for Sundays and holidays during sessions. Thus compensation period usually is 72 to 74 days.
(n) Paid for seven days per week while in session.
(o) Unless over age 65.
(p) Applicable to members of certain committees only. West Virginia: payable only to members of Joint Committee on Government and Finance and Commission on Interstate Cooperation to a limit of $1,050 per year.
(q) Repealed for all legislators elected after July 1, 1973.
(r) For 20 days.
(s) Income will be adjusted annually on July 1 to correspond to the percentage of change in the per capita personal income in the State for the preceding fiscal year.
(t) Paid at $150 per week during session to a maximum of $4,500 for biennium.
(u) Beginning with the 1975 session, legislative salaries will be set according to salary ranges determined by the Bureau of Personnel.
(v) The Legislature is limited to meeting no more than 40L days in the odd year out of 60L days during the biennium. The legislators are paid on a calendar day basis.

Key: C—Constitution
L—Legislature
CC—Compensation Commission
CB—Constitutional Board
PE—Statewide Public Employee
SL—Special Legislative
Op—Optional
Cm—Compulsory

CAL. Eff. 12/6/74 SAL. yr 1975-1st ($21,125) to $23,231.

SALARIES AND COMPENSATION OF LEGISLATORS

State or other jurisdiction	Compensation set by	Salary and daily pay: Regular session: Amount per day	Limit on no. of days of pay: Annual session	Limit on no. of days of pay: Biennial session	Regular session: Annual salary	Regular session: Biennial salary	Special session: Amount per day	Special session: Limit on no. of days of pay	Travel and expense allowances: During session: Per mile	During session: Round trips home to capitol	During session: Expenses per day*	Between sessions: For expenses on committee business per day	Between sessions: Other per month
Alabama	Const.	$10	....	36 L	.....	.....	$10	36 L	10¢	One	$20; 300(a, b)	..	$ 300(a, b)
Alaska	Stat.	..	....	....	$ 9,000	.....	..	....	15	One	35; 4,000(c)	..	....
Arizona	Const.(d)	..	....	....	6,000	.....	..	....	10	Unlimited	20(e)	10¢ (f)	....
Arkansas	Const.	20	....	60 C(g)	.....	$ 2,400	6	....	5	One	....	.. ....	150(h, i)
California	Stat.	..	....	....	19,200	.....	..	....	(j)	(j)	30	(j) 30	....
Colorado	Stat.	..	....	....	7,600	.....	..	....	10	(k)	10(l)	10 35(m)	....
Connecticut	Stat.	..	....	....	2,000	.....	25(n)	....	10	Daily	1,500(b, o)	.. 25(p)	1,500(b, o)
Delaware	Const.	..	....	....	6,000	.....	..	....	15	Unlimited	25(c)	.. ....	....
Florida	Stat.	..	....	....	12,000	.....	..	....	10	Weekly	25	10 25	300(b)
Georgia	Stat.	..	....	....	4,200	.....	..	....	10	Weekly	25	10 25	....
Hawaii	Const./Stat.(q)	..	....	....	12,000	.....	..	....	..	Unlimited(r)	750(b, s); 20(t)	.. (u)	....
Idaho	Const. & Comp. Comm.	10	60 C	....	.....	.....	10	20 C	10	Five	35	(v) 25	3.50(a, b)
Illinois	Stat.	..	....	....	17,500	.....	..	....	15	Weekly	50(c); 3,600(w)	.. ....	3,600(w)
Indiana	Stat.	..	....	....	6,000	.....	..	....	10	Weekly	25	10 25	60(a, b)
Iowa	Stat.	..	....	....	5,500	.....	40	....	10	Weekly	15(x)	10 40(y)	....
Kansas	Stat.	10	90 C(z)	....	.....	.....	10	30 C	9	Weekly(aa)	25(ab)	.. ....	100(i, ac)
Kentucky	Stat.	25	....	60 L(ad)	.....	.....	25	....	15	One	25; 50(c)	8 25	300(b)
Louisiana	Stat.	50	60 C(z)	....	.....	.....	50	30 C	10	(ae)	500(a, b)	10 50	500(a, b)
Maine	Stat.	..	....	....	.....	2,500	20	....	10	Weekly	7; 9(af)	(v) (v)	....
Maryland	Comp. Comm.	..	....	....	11,000	.....	..	....	10	Unlimited(i)	25(i)	10 25(i)	2,500(i, ag); 5,000(i, ag)
Massachusetts	Stat.	..	....	....	11,400	.....	(ah)	....	..	Daily	(ai); 1,200(b, w)	.. ....	1,200(b, w)
Michigan	Comp. Comm.	..	....	....	17,000	.....	..	....	10	Weekly	20(aj)	.. (v)	....
Minnesota	Stat.	..	....	....	.....	9,600	..	....	10	One	24; 16(ak)	10 25	....
Mississippi	Stat.	..	....	....	5,000	.....	22.50	....	(al)	Weekly	12.50(am)	.. ....	100(b)
Missouri	Stat.	..	....	....	.....	16,800	..	....	10	Semi-monthly	10	.. ....	....
Montana	Stat.	20	....	60 C	.....	.....	20	60 C	9	Two	25	9 (v)	....
Nebraska	Const./Stat.	..	....	....	4,800	.....	..	....	10	One	160(c)	.. ....	....
Nevada	Stat.	40(an)	....	60 C	.....	.....	40(an)	20 C	12	(ao)	30; 60(c); 250(ap)	.. ....	(aq)
New Hampshire	Const.	..	....	....	.....	200	3	15 L	25(ar)	Daily	....	25(ar) (v)	....
New Jersey	Const./Stat.	..	....	....	10,000	.....	..	....	(as)	....	(at)	.. ....	....
New Mexico	Const./Stat.	36	60 C(z)	....	.....	.....	36	30 C	10	One	(au)	10 36	....
New York	Const./Stat.	..	....	....	15,000	.....	..	....	(v)	Weekly	5,000(b, w)	.. (v)	5,000(b, w)
North Carolina	Stat.	..	....	....	2,400	.....	..	....	10	Weekly	25; 50(a)	10 25	50(a, b)
North Dakota	Const.	5	....	60 L	.....	.....	5	....	10	Three	40; 50(a, b)	10 30(av)	50(a, b)
Ohio	Stat.	..	....	....	12,750	.....	..	....	10	Weekly	....	.. ....	....
Oklahoma	Const. Bd.	..	....	....	9,000	.....	..	....	10	Weekly	(c, aw)	9(ax) 25(ax)	....
Oregon	Stat.	..	....	....	.....	6,550	..	....	..	....	25	8 (au)	125(b)
Pennsylvania	Stat.	..	....	....	7,200	.....	..	....	10	Weekly	8,400(w)	.. ....	8,400(w)
Rhode Island	Const.	5	60 L	....	.....	.....	..	....	8	Unlimited	....	.. ....	....
South Carolina	Const./Stat.	..	....	....	4,000	.....	100	....	9	Weekly	25(ay); 15(c)	.. ....	....

South Dakota	Stat.	..	....	....	3,000(az)	.....	20	....	5	One	....	9	16	20	
Tennessee	Const./Stat.	..	....	....	3,600	.....	30	30 L	10	Weekly	30(am)	10	30	....	
Texas	Const.	..	....	....	4,800	.....	..	....	10	One	12(ba)	..	....	875(i, bb); 2,400(i, bb)	
Utah	Const./Stat.	25	60 C(z)	....	.....	.....	25	30 C	10	Weekly	15	..	....	....	
Vermont	Stat.	..	....	....	.....	150(bc)	..	....	8	Weekly	8; 12.50(bd)	8	8; 12.50(bd)	....	
Virginia	Stat.	..	....	....	5,475	.....	..	....	9	Weekly	31.25	9	35	....	
Washington	Stat.	..	....	....	.....	7,200	40	....	10	One	40	10	25	50	
West Virginia	Comp. Comm.	..	....	....	3,300	.....	35	....	10(be)	Weekly	15, 10(bf)	10(be)	15, 10(bf); 35(bg)	....	
Wisconsin	Jt. Finance Comm.	..	....	....	8,900	.....	..	....	10(bh)	(bh)	20(bi)	(v)	(v)	25; 40(bj)	
Wyoming	Stat.	15	....	40 C	.....	.....	15	....	10	One	26	..	....	....	
Guam	....	..	....	....	12,000	.....	..	....	..	....	....	..	....	....	
TTPI	Stat.	20	....	....	8,000	.....	20	....	..	....	....	..	....	....	

Abbreviations: L—Legislative days, C—Calendar days.

[1]Unless otherwise noted.

(a) Additional monthly expense allowance. Idaho: per day; Indiana: per week.

(b) Paid automatically.

(c) Total office allowance. Alaska: annual allowance for postage, stationery, stenographic services and other expenses; Delaware: supplies per year; Kentucky: supplies per biennium; Nebraska: postage per year; Nevada: postage, express, newspaper and stationery; Oklahoma: provided by resolution of each house, necessary expenses such as stationery, office supplies, stamps, telephone, etc.

(d) Creation of a compensation commission was approved by the voters at the November 1970 election. Recommendations which may subsequently be made by the commission for increase in legislative compensation are to be submitted at general elections.

(e) $10.00 for legislators from Maricopa County.

(f) Legislators attending legislative business outside their county of residence receive maximum subsistence pay of $20.00 per day. Legislators attending legislative business inside their county of residence receive subsistence pay of $10.00 per day. Legislators attending legislative business outside of the State receive maximum of $30.00 per day.

(g) Daily pay continues if session extended by ⅔ vote in both houses.

(h) $200 per month maximum in 1972–73 and a $250 per month maximum in 1973–74.

(i) Paid by voucher.

(j) Each legislator is allowed the use of a car purchased and maintained by the State for use on legislative business. Each legislator is also reimbursed for the actual expense of any public transportation used.

(k) One trip at 10¢ per mile. Those legislators living over 25 miles from Denver receive 10¢ per mile for a trip every weekend.

(l) Legislators living over 25 miles from Denver receive limit of $10.00 per night for lodging. Daily travel expense to $10.00 in lieu of lodging for nights not spent in Denver.

(m) $35.00 per day for committee attendance up to $1,050 maximum. Joint Budget Committee members have a $3,500 maximum for budget committee attendance in addition to $1,050 for other committee attendance.

(n) $25 a day for each day beyond the ninth day.

(o) Total biennial expense allowance payable in one or two lump sums.

(p) Or amount specified in act creating committee, whichever is more, plus necessary expenses.

(q) The 1968 revision of the Hawaii constitution required creation of an advisory compensation commission quadrennially starting in 1971.

(r) Travel allowance: legislators from Oahu away from Oahu, $30.00 per day; legislators from neighbor islands away from island of residence $20.00 per day.

(s) Total annual allowance for incidental expenses connected with legislative duties.

(t) Applies only to legislators outside of Oahu.

(u) On official business on island of residence, $10.00 per day; away from island of residence $30.00 per day; outside the State $45.00 per day.

(v) Actual and necessary expenses. Maine: mileage is paid at same rate received by state employees.

(w) Maximum annual expense allowance.

(x) For days actually in session, Polk Co., $7.50.

(y) Plus meals and travel allowance.

(z) Limitation on first session. Second session limitation; Kansas 60 C days, Louisiana 30 C days, New Mexico 30 C days, Utah 20 C days.

(aa) Mileage payable for one round trip for each full week of legislative session.

(ab) Limited to 90 days regular session, 30 days special session.

(ac) Monthly except January, February and March in odd years and January and February in even years.

(ad) Legislators are paid for Sundays and holidays during session. Thus compensation period usually is 72 to 74 days.

(ae) Eight during general session in even-numbered years; four during fiscal session in odd-numbered years.

(af) $7.00 per day for meals, $9.00 per day for lodgings or in lieu of reimbursement for actual lodging expense, a daily mileage allowance up to $9.00 per day, plus a small allowance for postage, telephone, etc.

(ag) Allowance for office, secretarial and traveling expenses: House $2,500, Senate $5,000.

(ah) Not provided in constitution and may be fixed by special act of the Legislature.

(ai) Each member depending on where he lives receives a per diem allowance for mileage, meals and lodging from $2.00 to $32.00 per day.

(aj) A maximum of $20.00 per day may be claimed. Total annual amount may not exceed $2,750.

(ak) $16.00 for legislators living at home during the session.

(al) Allowance for one month: 10¢ per mile up to 1,000 miles, 8¢ per mile next 500 miles, 7¢ per mile over 1,500 miles.

(am) Limited to 90 legislative days. Mississippi: paid for each day of attendance.

(an) $60.00 per day after November 7, 1972.

(ao) 12¢ per mile and $3.00 per diem allowance for one round trip. In addition, a supplemental travel allowance not to exceed $1,200 for a regular session and not to exceed $500 for a special session is provided.

(ap) Total telephone allowance. $100 for special sessions.

(aq) $60.00 printing allowance for period of session through third Wednesday in July of the following year.

(ar) 25¢ for first 45 miles, 8¢ per mile for next 25 miles, 6¢ for over 70 miles.

(as) State railroad pass is only type of travel allowance.

(at) Free stationery, postage and telegram privileges.

(au) Amount not stipulated. New Mexico: for stationery, postage, telephone and telegraph expenses; Oregon: for food and lodging.

(av) Additional allowance. $18.00 per day for meals and lodging and other actual and necessary expenses.

(aw) For travel outside the State, amount of first class air travel and $35.00 per diem.

(ax) Limited to 20 days in lieu of expenses for interim State Legislative Council meetings or its committee work in the State, plus travel and other expenses for council or its committee work outside the State.

(ay) Paid except when local uncontested matters are considered.

(az) $3,000 for 45-day session in odd-numbered years. $2,000 for 30-day session in even-numbered years.

(ba) For first 120 days of regular session and 30 days of each special session plus postage, stationery, supplies, telephone and secretarial assistance.

(bb) Allowance for supplies, telephone and secretarial help, not to exceed $2,400 in Senate, $875 in House.

(bc) Per week during session; salary and per diem limited to $4,500 for biennium.

(bd) $8.00 for meals, $12.50 per day or $50.00 per week, whichever is less, for rooms or travel expense.

(be) 10¢ per mile, if by private car; actual cost if traveled by common carrier.

(bf) $15.00 per day or $105.00 per week paid upon voucher for lodging; $10.00 per day or $70.00 per week for meals; $35.00 per day out of State.

(bg) Compensation payable only to members of the Joint Committee on Government and Finance and the Commission on Interstate Cooperation not to exceed $1,050 per year.

(bh) 10¢ per mile first 400 miles per month, 7¢ thereafter; full cost of weekly round trips by public carrier.

(bi) For legislators required to establish a temporary residence in Madison.

(bj) $25.00 for Assemblymen and $40.00 for Senators in districts of one county or less, plus $15.00 and $20.00 respectively for each additional county or part of county in the district.

SALARIES AND COMPENSATION OF LEGISLATORS

State or other jurisdiction	Compensation set by	Salary and daily pay plans: Regular session: Amount per day	Regular session: Limit on no. of days of pay: Annual session	Regular session: Limit on no. of days of pay: Biennial session	Regular session: Annual salary	Regular session: Biennial salary	Special session: Amount per day	Special session: Limit on no. of days of pay	Travel and expense allowances: During session: Per mile	During session: Round trips home to capital	During session: Expenses per day†	Between sessions: Per mile	Between sessions: For expenses on committee business per day	Between sessions: Other per month
Alabama	Const.	$10	....	36 L	.....	.....	$10	36 L	10¢	One	$20; 300(a)	..	....	$ 300(a)
Alaska	Stat.	..	....	....	$ 6,000	.....	..	....	15	One	35; 500(b); 300(c)	..	....	500(b)
Arizona	Const.	..	....	....	6,000	.....	..	....	10	Unlimited	20(d)	10¢	(e)	...
Arkansas	Const.	20	....	60 C(f)	.....	$ 2,400(g)	6	....	5	One	....	..	....	...
California	Stat.	..	....	....	16,000(h)	.....	..	....	(i)	(i)	25	(i)	25	...
Colorado	Stat.	..	....	....	.....	9,600(j)	..	....	8(k)	(k)	10(l)	8(k)	20(m)	...
Connecticut	Stat.	..	....	....	.....	3,250	..	....	10	Daily	750(n)	..	25(o)	...
Delaware	Const.	..	....	....	6,000	.....	..	....	15	Unlimited	25(c)	..	....	...
Florida	Stat.	..	....	....	12,000(g)	.....	..	....	10	Weekly	25	10	25	300(p)
Georgia	Stat.	..	....	....	4,200	.....	..	....	10	Weekly	25	10	25	...
Hawaii	Const./Stat.	..	....	....	12,000	.....	..	....	..	Unlimited(q)	750(c); 20(r)	..	(s)	...
Idaho	Const. & Comp. Comm.	10	60 C	....	.....	.....	10	20 C	10	One	35	(t)	25	200
Illinois	Stat.	..	....	....	12,000(g)	.....	..	....	15	Weekly	50(c); 3,600(u)	..	....	3,600(u)
Indiana	Stat.	..	....	....	1,800(v)	.....	..	....	8	Weekly	25; 30(w); (x)	8	25	10(y); (z)
Iowa	Stat.	40	....	(aa)	(ab)	.....	40	....	10	One(ac)	(ad)	10	40(ae)	...
Kansas	Stat.	10	90 C(af)	....	.....	.....	10	30 C	9	Weekly(ag)	25(ah)	..	....	100(ai)
Kentucky	Stat.	25	....	60 L(aj)	.....	.....	25	....	15	One	25; 50(c)	8	25	300
Louisiana	Stat.	50	60 C(af)	....	.....	.....	50	30 C	10	Eight(ak)	500(a)	10	50	500(a)
Maine	Stat.	..	....	....	.....	2,000(al)	20	....	9(am)	Weekly	7; 9(an)	..	(t)	...
Maryland	Const.	..	....	....	2,400(g)	.....	(ao)	30 C	10	Unlimited	25; 50(c)	10	35(ap)	2,000; 4,700(aq)
Massachusetts	Stat.	..	....	....	11,400(g)	.....	(ar)	....	..	Daily	(as); 1,200(u)	..	....	1,200(u)
Michigan	Comp. Comm.	..	....	....	15,000	.....	..	....	..	.....	3,000(u)	..	(t)	3,000(u)
Minnesota	Stat.	..	....	....	.....	9,600	..	....	15	One	24; 16(at)	..	(au)	...
Mississippi	Stat.	..	....	....	5,000	.....	22.50	....	7	Weekly(av)	12.50(aw)	..	....	100
Missouri	Stat.	..	....	....	.....	16,800	..	....	10	Semi-monthly	10	..	....	...
Montana	Stat.	20	....	60 C	.....	.....	20	60 C	9	One	15	..	20(t)	...
Nebraska	Const./Stat.	..	....	....	4,800	.....	..	....	10	One	100(c)	..	....	...
Nevada	Stat.	40	....	60 C	.....	.....	40	20 C	10	(ax)	25; 60(c); 250(ay)	..	....	...
New Hampshire	Const.	..	....	....	.....	200	3	15 L	25(az)	Daily	....	25(az)	(t)	...
New Jersey	Const./Stat.	..	....	....	10,000(g)	.....	..	....	(ba)	.....	(bb)	..	....	...
New Mexico	Const./Stat.	20	60 C(af)	....	.....	.....	20	30 C	10	One	(au)	10	20	...
New York	Const./Stat.	..	....	....	15,000	.....	..	....	(t)	Weekly	3,000(u)	..	(t)	3,000(u)
North Carolina	Stat.	..	....	....	2,400	.....	..	....	9	.....	25; 50(a)	..	(au)	50(a)
North Dakota	Const.	5	....	60 L	.....	.....	5	....	10	Three	35; 35(a)	9	30(ap)	35(a)
Ohio	Stat.	..	....	....	.....	25,500	..	....	10	Weekly	....	..	....	...
Oklahoma	Const. Bd.	..	....	....	8,400(g)	.....	..	....	10	Weekly	200(bc)	9(bd)	25(bd)	...
Oregon	Stat.	..	....	....	.....	6,000	..	....	..	.....	20	8	(au)	100
Pennsylvania	Stat.	..	....	....	7,200	.....	..	....	10	Weekly	4,800(u)	..	....	...
Rhode Island	Const.	5	60 L	....	.....	.....	..	....	8	Unlimited	....	..	....	...
South Carolina	Const./Stat.	..	....	....	4,000	.....	45	40 L	9	Weekly	25(be); 15(c)	..	....	...
South Dakota	Stat.	..	....	....	1,800(bf)	.....	10	....	5	One	....	..	....	...
Tennessee	Const./Stat.	..	....	....	1,800(bg)	.....	30	30 L	10	Weekly	30(aw)	10	30	...
Texas	Const.	..	....	....	.....	4,800	..	....	10	One	12(bh)	..	....	450; 1,000(bi)
Utah	Const./Stat.	25	60 C(af)	....	.....	.....	25	30 C	10	Weekly	15	..	....	...

					150(bj)	30	40	8	Weekly	5; 10(bk)	8	5; 10(bk)	...	
									One	1,200(u); (b)	..	....	1,200(u);	

Vermont	Stat.	..	....	....	.....	(bj)	30	40	8	Weekly	5; 10(bk)	8	5; 10(bk)	..	
Virginia	Stat.	35	60 C	....	.....	.....	35	30 C	7	One	1,200(u); (b)	..	....	1,200 (b)	
Washington	Stat.	..	....	....	.....	7,200	(ao); (bl)	....	10	One	25(bl)	10	25	50	
West Virginia	Const.	..	....	....	1,500	.....	..	....	10	One	5(w)	25 (au)		...	
Wisconsin	Jt. Finance Committee	..	....	....	.....	17,800	..	....	10(bm)	(bm)	15(bn)	(t)	(t)	25; 40(bo)	
Wyoming	Stat.	12(bp)	....	40 C	.....	.....	12(bp)	....	8(bq)	One	26	..	....	...	
Puerto Rico	Stat.	..	....	....	9,600(g)	.....	..	....	15	Weekly	20; 25(br)	15	20; 25(br)	...	
Virgin Islands	Stat.	..	....	....	9,000	.....	..	....	(au)	Weekly	30; 20(bs)	..	....	30; 20(bs)	

Abbreviations: L.—Legislative days, C—Calendar days, Const./Stat.—Constitution and Statute.

†Unless otherwise noted.

(a) Additional monthly expense allowance.

(b) Additional annual expense allowance for presiding officers. Virginia: President of Senate $6,000, Speaker of House $4,200.

(c) Total allowance for office supplies.

(d) $10.00 for legislators from Maricopa County.

(e) Legislators attending legislative business outside their county of residence receive subsistence pay of $20.00 per day. Legislators attending legislative business outside of the State receive $30.00.

(f) Per diem pay continues if session extended by ⅔ vote in both houses.

(g) Special compensation for legislative leaders. Arkansas: Speaker of House $2,700; Florida: President of Senate, Speaker of House $15,000; Illinois: President of Senate, Speaker of House $18,000, Majority leaders of Senate and House, Minority leader of House $17,000, 2 Assistant Majority leaders in Senate $16,500, Assistant Minority leader in Senate, Assistant Majority and Minority leaders in House $16,000 (Senate salaries effective January 1971); Maryland: President of Senate, Speaker of House $2,650; Massachusetts: President of Senate, Speaker of House $22,800; floor leaders of both parties in both houses, Chairmen, Senate and House Committee on Ways and Means $19,950, Vice Chairman, House Committee on Ways and Means, assistant floor leaders of each party in each house, 2nd assistant floor leader of the minority party in the House $17,100, Senate and House Chairmen of the Joint Committee on Taxation, the Judiciary and Counties $15,200; New Jersey: President of Senate, Speaker of the General Assembly $13,333; Oklahoma: President of Senate, Speaker of House $12,000; Puerto Rico: President of Senate, Speaker of House $22,500, Vice Presidents of both houses, floor leaders, and Presidents of the Finance Committee of both houses $12,000.

(h) Effective 1971: $19,200.

(i) Each legislator is allowed the use of a car purchased and maintained by the State for use on legislative business. Each legislator is also reimbursed for the actual expense of any public transportation used.

(j) Effective 1971: $10,200 per biennium at $200 per month plus $5,400 payable at $30.00 per day. Special sessions, $600 payable at $30.00 per day.

(k) Current mileage rate, 8¢ except one round trip during session at 15¢. Effective 1971: mileage rate will be 10¢.

(l) Legislators living over twenty-five miles from Denver receive limit of $10.00 per night for lodging. Effective 1971: daily travel expense to $10.00 in lieu of lodging for nights not spent in Denver.

(m) $20.00 per day, $25.00 for Speaker, limited to $600 per year plus travel expenses if legislators go out of Denver. Effective 1971: $30.00 per day limited to $900 per year for all committees except the joint budget committee whose limit is $3,000. The Speaker, the Majority and Minority leaders of both houses will receive an additional $720 each.

(n) Total session expense allowance.

(o) Or amount specified in act creating committee, whichever is more, plus necessary expenses.

(p) Payable upon voucher for reimbursement.

(q) Travel allowance: legislators from Oahu away from Oahu, $30.00 per day; legislators from neighbor islands away from island of residence $20.00 per day.

(r) Applies only to legislators outside of Oahu.

(s) On official business on island of residence, $10.00 per day; away from island of residence $30.00 per day; outside the State $45.00 per day.

(t) Actual and necessary expenses. Maine: mileage is paid at same rate received by state employees.

(u) Maximum annual expense allowance.

(v) Effective November 6, 1970: $4,000.

(w) For Speaker of the House and President of the Senate; West Virginia: President of Senate only.

(x) Effective November 6, 1970: Speaker, President of Senate and Majority leader of Senate $600 for each regular session, House Majority and Minority leaders and Senate Minority leader $300.

(y) Effective November 6, 1970: All members $100.

(z) Additional monthly expenses for legislative leaders: Speaker and Senate Majority leader $100, House Majority and Minority leaders and Senate Minority leader $50.00, House and Senate Majority and Minority caucus chairmen $25.00.

(aa) Unlimited.

(ab) Effective 1971: $5,500.

(ac) Effective 1971: weekly.

(ad) Effective 1971: $18.00 per day for days actually in session, Polk Co. $9.00.

(ae) Plus meals.

(af) Limitation on first session. Second session limitation: Kansas 60C days, Louisiana 30C days, New Mexico 30C days, Utah 20C days.

(ag) Mileage payable for one round trip for each full week of legislative session.

(ah) Limited to ninety days regular session, thirty days special session.

(ai) Monthly except January, February and March in odd years and January and February in even years.

(aj) Legislators are paid for Sundays and holidays during session, thus compensation period usually is seventy-two to seventy-four days.

(ak) Plus four round trips during budget session.

(al) Effective 1971: $2,500.

(am) Effective 1971: 10¢.

(an) $7.00 per day for meals, $9.00 per day for lodgings or in lieu of reimbursement for actual lodging expense, a daily mileage allowance up to $9.00 per day, plus a small allowance for postage, telephone, etc.

(ao) $25.00 per day expense allowance.

(ap) Additional allowance. Maryland: Overnight $12.00, dinner $3.00, lunch $2.00, breakfast $1.50. North Dakota: $15.00 per day for meals and lodging and other actual and necessary expenses.

(aq) Allowance for office, secretarial and traveling expenses paid by voucher only: House $2,000, Senate $4,700, President of Senate, Speaker of House $5,500.

(ar) Not provided in constitution and may be fixed by special act of Legislature.

(as) Each member depending on where he lives receives a per diem allowance for mileage, meals and lodging from $2.00 to $32.00 per day.

(at) $16.00 for legislators living at home during the session.

(au) Amount not stipulated. Minnesota: for mileage, meals and hotel; New Mexico: for stationery, postage, telephone and telegraph expenses; North Carolina: for reimbursement for subsistence and travel of President pro tem; Oregon: for food and lodging; West Virginia: for mileage; Virgin Islands: for full cost of travel.

(av) Plus one extra round trip weekly at 7¢ per mile.

(aw) Limited to ninety legislative days.

(ax) Limited to $700 per session and $250 per special session.

(ay) Total telephone allowance.

(az) 25¢ for first 45 miles, 8¢ per mile for next 25 miles, 6¢ for over 70 miles.

(ba) State railroad pass is only type of travel allowance.

(bb) Free stationery, postage and telegram privileges.

(bc) Additional payment for Majority and Minority floor leaders of each house for each calendar month during regular or special session.

(bd) Limited to twenty days in lieu of expenses for interim State Legislative Council meetings or its committee work in the State, plus travel and other expenses for council or its committee work outside the State.

(be) Limited to forty days per annual session.

(bf) $1,800 for 45 day session in odd numbered years. Effective 1971: $3,000. $1,200 for thirty day session in even numbered years. Effective 1971: $2,000.

(bg) Effective 1971: $3,600.

(bh) For first 120 days of regular session and thirty days of each special session plus postage, stationery, supplies, telephone and secretarial assistance.

(bi) Allowance for supplies, telephone and secretarial help, not to exceed $1,000 in Senate, $450 in House.

(bj) Per week during session. Salary and per diem limited to $4,500 for biennium.

(bk) $5.00 for meals, $10.00 per day or $40.00 per week, whichever is less, for rooms or travel expense.

(bl) Effective 1971: $40.00.

(bm) For first round trip; thereafter 7¢ per mile for one round trip per week during session. If mileage exceeds 2,000 miles per month, compensation is 6¢ per mile.

(bn) For legislators required to establish a temporary residence in Madison.

(bo) $25.00 for Assemblymen and $40.00 for Senators in districts of one county or less, plus $15.00 and $20.00 respectively for each additional county or part of county in the district.

(bp) Effective 1971: $15.00.

(bq) Effective 1971: 10¢.

(br) $20.00 for legislators residing less than 50 Kms. from the Capitol, $25.00 for those residing more than 50 Kms.

(bs) $30.00 per day December through April; $20.00 per day May through November.

SALARIES AND COMPENSATION OF LEGISLATORS

State or other jurisdiction	Compensation set by	Salary and Daily Pay Plans: Regular session: Amount per day	Regular session: Limit on no. of days of pay: Annual session	Regular session: Limit on no. of days of pay: Biennial session	Regular session: Annual salary	Regular session: Biennial salary	Special session: Amount per day	Special session: Limit on no. of days of pay	Travel and Expense Allowances: During session: Per mile	During session: Round trips home to capital	During session: Expenses per day†	Between sessions: Per mile	Between sessions: For expenses on committee business per day	Between sessions: Other per month
Alabama	Const.	$10	....	36 L	.....	.....	$10	36 L	10c	One	$20; 300(a)	..	....	$ 300(a)
Alaska	Stat.	..	....	....	$ 6,000	.....	..	....	15c	One	35; 500(b) 300(c)	..	....	...
Arizona	Const.	..	....	....	1,800	.....	20(d)	20	10c	Unlimited	12(e)	10c	$20(d); 12(e)	...
Arkansas	Const.	20	....	60 C(f)	.....	$ 2,400(f)	6	....	5c	One	....	..	....	...
California	Stat.	..	....	....	16,000	.....	..	....	15c	One	21	15c	25(g)	...
Colorado	Stat.	..	....	....	3,200(h)	.....	..	....	(i)	One	(j)	(i)	20(k)	...
Connecticut	Stat.	..	....	....	.....	3,250	..	....	10c	Daily	750(l)	..	25(m)	...
Delaware	Const.	..	....	....	6,000	.....	..	....	15c	Unlimited	25(n)	..	....	...
Florida	Const.	..	....	....	.....	2,400	..	....	10c	Weekly	25	..	....	300
Georgia	Stat.	..	....	....	4,200	.....	..	....	10c	Weekly	25	10c	25	...
Hawaii	Const. & Stat.	..	....	....	2,500(o)	.....	(o)	....	20c	One	32.50; 45(p)	20c	(q)	...
Idaho	Const.	10	....	60 C	.....	.....	10	20 C	10c	One	25	..	25	3.50(r)
Illinois	Stat.	..	....	....	.....	18,000	....	....	15c	Weekly	2,000(s); 50(c)	..	....	...
Indiana	Stat.	..	....	....	.....	3,600	..	....	8c	Weekly	25; 30(t)	8c	25	...
Iowa	Stat.	40	....	(u)	.....	.....	40	....	10c	One	....	10c	40(v)	....
Kansas	Stat.	10(w)	....	....	.....	.....	10	30 C	9c	Weekly(x)	25(y)	..	....	100(z)
Kentucky	Stat.	25	....	60 L(aa)	.....	.....	25	....	15c	One	25; 50(n)	..	....	150
Louisiana	Stat.	50	60 C(ab)	....	.....	.....	50	30 C	10c	Eight(ac)	....	..	....	250
Maine	Stat.	..	....	....	.....	2,000	20	....	9c	Weekly	5; 7(ad)	..	(i)	...
Maryland	Const.	..	....	....	2,400	.....	..	30 C	(q)	One	25; 50(c)	..	....	1,500(ae)
Massachusetts	Stat.	..	....	....	10,000	.....	(af)	....	8c(ag)	Daily	900(ah)	..	....	...
Michigan	Stat.	..	....	....	12,500	.....	..	....	10c	Semi-monthly	2,500(ai)	..	(i)	...
Minnesota	Stat.	..	....	....	.....	9,600	25	....	15c	One	21; 14(aj)	..	(q)	...
Mississippi	Stat.	..	....	....	.....	5,000	22.50	....	7c	Weekly(ak)	12.50(al)	..	....	100
Missouri	Stat.	..	....	....	.....	9,600(am)	..	....	10c	Semi-monthly	10	..	....	...
Montana	Stat.	20	....	60 C	.....	.....	20	60 C	8c	One	15	..	(q)	...
Nebraska	Const. & Stat.	..	....	....	.....	4,800	..	....	10c	One	100(c)	..	....	...
Nevada	Stat.	40	....	60 C	.....	.....	40	20 C	10c	(an)	25; 60(c); 250(ao)	..	....	...
New Hampshire	Const.	..	....	....	.....	200	3	15 L	25c(ap)	Daily	25	25c(ap)	(i)	...
New Jersey	Const. & Stat.	..	....	....	7,500	.....	..	....	(aq)	.....	(ar)	..	....	...
New Mexico	Const. & Stat.	20	60 C(as)	....	.....	.....	20	30 C	10c	One	(q)	10c	20	...
New York	Const. & Stat.	..	....	....	15,000	.....	..	....		Weekly	3,000(l)	..	(i)	...
North Carolina	Const.	15	....	120 C	.....	.....	15	25 C	8c	Weekly	20	..	(q)	...
North Dakota	Const.	5	....	60 L	.....	.....	5	....	10c	One	25; 35(a)	..	....	35(a)
Ohio	Stat.	..	....	....	.....	16,000	..	....	10c	Weekly	....	..	....	...
Oklahoma	Const.	15(at)	75 L	....	.....	6,400	15	75 L	10c	Weekly	100(au)	..	25(av); 100(au)	...
Oregon	Stat.	..	....	....	.....	6,000	..	....	..	.....	20	8c	(q)	...
Pennsylvania	Stat.	..	....	....	7,200	.....	..	....	10c	Weekly	4,800(aw)	..	....	...
Rhode Island	Const.	5	60 L	....	.....	.....	..	....	8c	Unlimited	.....	..	.....	...

South Carolina...	Const. & Stat.	..	....	....	4,000	.....	45	40 L	9c	Weekly	15(ax)	..	....	...
South Dakota....	Stat.	..	....	....	1,500	.....	10	....	5c	One	....	..	....	...
Tennessee.....	Const. & Stat.	..	....	....	.....	3,600	10	30 L	10c	Weekly	30(al)	..	....	...
Texas.....	Const.	..	....	...	.....	4,800	..	....	10c	One	12(ay)	..	....	200; 1,000(az)
Utah.....	Const. & Stat.	..	....	....	.....	1,000	..	....	10c	Weekly	5	..	....	...
Vermont.....	Stat.	..	....	....	.....	150(ba)	30	40	8c	Weekly	5; 10(bb)	8c	5; 10(bb)	...
Virginia.....	Stat.	..	....	....	.....	2,100	35	30 C	7c	One	600(aw)	..	....	..
Washington.....	Stat.	..	....	....	.....	7,200	25	....	10c	One	25	10c	25	50
West Virginia.....	Const.	..	....	....	1,500	.....	..	....	10c	One	5(bc)	(q)	25	...
Wisconsin.....	Jt. Finance Committee	..	....	....	[redacted]	18,000	..	....	10c(bd)	(bd)	15(be)	..	....	25; 40(bf)
Wyoming.....	Stat.	12	....	40 C	.....	.....	12	....	8c	One	23(bg)	..	....	...
Puerto Rico.....	Stat.	..	....	....	2,700(bh)	.....	..	....	15c	Weekly(bi)	10(bj); 200(ao); 200(c)	(q)	....	...
Virgin Islands....	Stat.	..	....	....	9,000	.....	..	....	(q)	Weekly	30; 20(bk)	..	....	30; 20(bk)

Abbreviations: L—Legislative days, C—Calendar days.
†Unless otherwise noted.
(a) Additional monthly expense allowance.
(b) Additional annual expense allowance for presiding officers.
(c) Total postage and stationery allowance.
(d) Limited to $1,800 total in one year for special session and interim committee work.
(e) Subsistence for legislators from outside capital city limits and for days required to attend interim committee meetings.
(f) Per diem pay continues if session extended by ⅔ vote in both houses; Speaker receives $2,700.
(g) Limited to 60 days.
(h) Effective in 1969 for legislators elected in 1968: $9,600 per biennium at $200 per month and $30 per day for 160 days.
(i) Actual and necessary expenses. Colorado, effective during session in 1969 for legislators elected in 1968: legislators living over 25 miles from Denver will receive expenses for one weekly round trip from home to Denver plus one round trip per session. Maine: mileage is paid at same rate received by state employees.
(j) Effective in 1969 for legislators elected in 1968: legislators living over 25 miles from Denver will receive limit of $10 per night for lodging.
(k) Effective in 1969 for legislators elected in 1968: $20 per day ($25 for Speaker) limited to $600 in one year plus travel expenses if legislators go out of Denver.
(l) Total session expense allowance.
(m) Or amount specified in act creating committee, whichever is more, plus necessary expenses.
(n) Total annual stationery and supplies allowance.
(o) $2,500 per general session; $1,500 per budget session; $750 per special session.
(p) $12.50 for legislators from Oahu; $15 for legislators from neighbor islands.
(q) Amount not provided. Minnesota: for travel, mileage and meals; Montana: for travel and other expenses; New Mexico: for stationery, postage, telephone and telegraph expenses; North Carolina: reimbursement for subsistence and travel of Speaker and President pro tem; Oregon: for food and lodging; West Virginia: for mileage; Puerto Rico: for trip expenses; Virgin Islands: for full cost of travel.
(r) Per day.
(s) For biennial secretarial, clerical, research and technical assistance.
(t) For Speaker of the House and President of the Senate.
(u) Unlimited.
(v) Plus meals.
(w) Limited to $900 in odd year by statute; in even year constitution limits per diem to 60 days.
(x) Mileage payable for 1 round trip for each full week of legislative session.
(y) Limited to $2,250 for regular session and $1,750 for special session.
(z) Monthly except January, February and March in odd years and January and February in even years.
(aa) Legislators are paid for Sundays and holidays during session, thus compensation period usually is 72 to 74 days.
(ab) Even years; 30 day budget session in odd years.
(ac) Plus 4 round trips during budget session.
(ad) $5 per day for meals; $7 limit per day for lodging plus a small allowance for postage, telephone and other expenses.
(ae) $1,500 total for Delegates; $2,500 for certain committee chairmen; $5,000 for Speaker; $4,200 for Senators; $4,500 for certain committee chairmen; $5,000 for Senate President.
(af) Not provided in constitution and may be fixed by special act of Legislature.
(ag) Within 40 miles, 8¢ per mile for 4 days to amount to minimum of $7 weekly; beyond 40 miles, 8¢ per mile for one weekly round trip.
(ah) Annually plus up to $60 living expenses per week for legislators living over 40 miles from Boston.
(ai) Total, plus postage, telephone and telegraph allowance.
(aj) $14 for legislators not needing to leave home to attend session.
(ak) Plus 1 extra round trip weekly at 6¢ per mile.
(al) Limited to 90 legislative days.
(am) Effective in 1969: $16,800 per biennium.
(an) Limited to $700 per session and $250 per special session.
(ao) Total telephone allowance. Nevada: limited to $100 per special session.
(ap) For first 45 miles; 8¢ per mile for next 25 miles; 6¢ over 70 miles.
(aq) State railroad pass is only type of travel allowance.
(ar) Free stationery, postage and telegram privileges.
(as) Plus 30 calendar days even-year session.
(at) Legislators receive $15 for first 75 legislative days including intervening nonlegislative days for regular or special session, then $100 per month.
(au) Per month for office in district and travel.
(av) Limited to 20 days in lieu of expenses for interim State Legislative Council meetings or its committee work in the State, plus expenses for Council or its committee work outside the State.
(aw) Total annual expense allowance.
(ax) Limited to 40 days per annual session.
(ay) For first 120 days of regular session and 30 days of each special session plus postage, stationery, supplies, telephone and secretarial assistance.
(az) $200 for Representatives; $1,000 for Senators for district office expenses.
(ba) Per week during session. Salary and per diem limited to $4,500 for biennium.
(bb) $5 for meals; $10 per day or $40 per week, whichever is less, for rooms or travel expense.
(bc) For President of Senate.
(bd) For first round trip; thereafter 7¢ per mile for first 2,000 miles per month; 6¢ per mile for each additional mile once a week.
(be) For legislators required to establish a temporary residence in Madison.
(bf) $25 for Assemblymen and $40 for Senators in districts of one county or less plus $15 and $20 for each additional county or part of county in district.
(bg) Effective January 1969: $26.
(bh) Presiding officers of both houses receive $11,250; Vice Presidents, floor leaders of parties and committee chairmen receive $3,300.
(bi) For minimum of $10.
(bj) $10 for legislators living within 25 kilometers of San Juan; $15 for legislators living 25 to 50 kilometers distant; $25 for legislators living beyond 50 kilometers.
(bk) $30 per day December through April; $20 per day May through November.

SALARIES AND COMPENSATION OF LEGISLATORS

State or other jurisdiction	SALARY AND DAILY PAY PLANS: Regular session: Daily pay plan: Amount per day	Limit on no. of days of pay	Salary plan: Amount of salary calculated for biennium	Special session: Amount of pay per day	Limit on no. of days of pay	Basic salary is fixed by	Date basic salary established	ADDITIONAL COMPENSATION FOR LEGISLATORS: Travel allowance: Amount per mile	Number of trips during session	Additional expense allowances during session
Alabama	$10	36 L(a)	.....	$10	36 L	Const.	1946	10c	One round trip	$20 per day(a)
Alaska	..	....	$ 5,000(b)	..	....	Stat.	1961	15c	One round trip(c)	$35 per day; $300 postage-stationery allowance; presiding officers receive an extra annual allowance of $500
Arizona	..	....	3,600(b,d)	..	....	Const.	1958	10c	.....	$12 per day subsistence for legislators from outside city limits of capital(d)
Arkansas	20	60 C	2,400(e,f)	6	....	Const.	1958	5c	One round trip	.....
California	..	....	12,000(b)	..	....	Const.	1954	5c(g)	One round trip	$19 per day(f)
Colorado	..	....	6,400(b,h)	(h)	....	Stat.	1963	(i)	One round trip	None during session(g)
Connecticut	..	....	3,250	..	....	Stat.	1965	10c	Each day	$750 expense allowance
Delaware	..	....	9,000	..	....	Const.	1965	15c	Unlimited mileage	$25 stationery and supplies
Florida	..	....	2,400	..	....	Const.	1954	10c	Round trip per week	$25 per day
Georgia	10	(b,j)	.....	10	70 C(k)	Const.	1945	10c	Four round trips	$40 per day
Hawaii	..	....	4,000(b,l)	(l)	....	Const. & Stat.	1959	20c	One round trip	$32.50 per day for members from Oahu; $45 for legislators from neighbor islands
Idaho	10	60 C	.....	10	20 C	Const.	1946	10c	One round trip	Additional $25 a day for committee members
Illinois	..	....	18,000	..	....	Stat.	1965	10c	Round trip per week	$50 for postage and stationery
Indiana	..	....	3,600	..	....	Stat.	1955	8c	Round trip per week	$20 per day
Iowa	30	....	.....	30	....	Stat.	1957	10c	One round trip	.....
Kansas	10	120 C(b,m)	.....	10	30 C	Stat.	1963	7c	Six actual round trips during regular and three actual round trips during special or budget session	$15 per day; not to exceed $1,350 during regular session nor $450 during special or budget session; $50 per month between sessions
Kentucky	25	60 L(n)	.....	25	....	Stat.	1950	15c	One round trip	$25 a day; $50 in lieu of stationery
Louisiana	50	90 C(b,o)	.....	50	30 C	Stat.	1956	10c	Eight round trips and four round trips during budget session	$250 per month while legislature not in regular session
Maine	..	....	2,000	20	....	Stat.	1965	9c	Round trip per week	Small allowance for postage, telephone, etc., plus $5 per day in attendance for meals and actual housing expenses not to exceed $7 per night
Maryland	..	....	4,800(b)	..	30 C	Const.	1964	(i)	One round trip	$25 per day plus $50 for postage per annual session
Massachusetts	..	....	15,000(b)	(q)	....	Stat.	1965	9c(p)	Each day(r)	$1,800 per biennium; weekly expense allowance according to distance from capital(q)
Michigan	..	....	20,000	..	....	Stat.	1964	10c	Two round trips per month(s)	$5,000 per biennium; plus allowance for postage, telephone and telegraph, etc.
Minnesota	..	....	9,600	25	....	Stat.	1965	15c	One round trip	In 1965, $21 per day, except $14 per day for legislators who did not have to leave their homes to attend session
Mississippi	..	....	3,000	22.50	....	Stat.	1956	10c	One round trip(t)	$100 per month between sessions
Missouri	..	....	9,600	..	....	Stat.	1961	10c	Twice per month	$10 per day
Montana	35	60 C	.....	20	60 C	Stat.	1955	8c	One round trip	$15 per day
Nebraska	..	....	4,800	..	....	Const. & Stat.	1961	8c	One round trip	$100 postage allowance
Nevada	40	60 C	.....	40	20 C	Stat.	1965	10c	Special trips(u)	$25 per day(u); $60 for postage, etc.
New Hampshire	..	....	200	3	15 L	Const.	1889	(v)	Daily round trip(v)	.....

New Jersey	..	....	10,000(b)	..	....	Const. & Stat.	1954	...	State railroad pass	.....
New Mexico	20	60 C	.....	20	30 C	Const. & Stat.	1953	10c	One round trip	Stationery, postage, telephone and telegraph allowance
New York	..	....	20,000(b)	..	....	Const. & Stat.	1961	(i)	Round trip per week	$2,500 expense allowance at 1963 annual sessions
North Carolina	15	120 C	.....	15	25 C	Const.	1956	8c	One round trip per week	$12 per day subsistence
North Dakota	5	60 L	.....	5	....	Const.	1889	10c	One round trip	$20 per day
Ohio	..	....	10,000	..	....	Stat.	1955	10c	Round trip per week	Postage and stationery
Oklahoma	15	75 L(v)	3,900(v)	15	75 L(v)	Const.	1948	10c	One round trip per week	Postage, stationery, telephone and telegraph allowance and shipping legislative supplies
Oregon	20(w)	120C	6,000	20	120C	Const.	1963	10c	.....	.....
Pennsylvania	..	....	12,000(b)	..	....	Stat.	1959	10c	Round trip per week	$6,000(b)
Rhode Island	5	60 L(b)	.....	..	....	Const.	1900	8c	.....	.....
South Carolina	..	....	3,600(b)	45	40 L	Stat. & Const.	1960	9c	Round trip per week	$15 per day for maximum of 40 days per annual session
South Dakota	..	....	3,000(b)	10	....	Stat.	1963	5c	One round trip	.....
Tennessee	10	75 C	.....	10	20 C	Stat.	1953	16c	One round trip	$5 per day
Texas	..	....	9,600(z)	..	....	Const.	1960	10c	One round trip	Per diem of $12 for first 120 days of regular session and for 30 days of each special session; postage, stationery, supplies, telephone and secretarial assistance
Utah	..	....	1,000	..	....	Const. & Stat.	1951	10c	One round trip per week, if incurred	$5 per day
Vermont	(y)	....	.....	..	....	Stat.	1955	20c	One round trip	.....
Virginia	..	....	1,080	30	30 C	Stat.	1948	7c	One round trip	$720 for regular session; $360 for special sessions
Washington	..	....	2,400	25	....	Stat.	1949	10c	One round trip	$25 per day
West Virginia	..	....	3,000(b)	..	....	Const.	1954	10c	One round trip	.....
Wisconsin	15	110 L	10,800	15	20 L	Stat.	1963	(z)	Rate-distance ratio(z)	(aa)
Wyoming	12	40 C	.....	12	....	Stat.	1941	8c	One round trip	$20 per day
Puerto Rico	..	....	5,400(b)	..	....	Act Stat.	1960	15c	Round trip per week (ab)	$10 per day(ac); $200 for telephone; $100 for postage; $100 for stationery

Abbreviations: L—Legislative days; C—Calendar days.

(a) In practice the legislature meets for 18 weeks. Legislators receive $210 a week in combined daily salary and expense allowance, a total of $3,780 for each regular biennial session.

(b) Annual sessions.

(c) Plus excess baggage allowance.

(d) Plus $20 per day salary (limited to $1,800 in a year) for special sessions and interim committee meetings; $12 per day subsistence for days required to attend interim committee meetings, plus 10c a mile or first class public carrier.

(e) Payable at rate of $100 each month. Speaker of the House receives $2,700.

(f) Legislators receive $100 a month for each of the 24 months in the biennium, plus a per diem of $20 a day for each of the 60 calendar days of the biennial legislative session.

(g) 12½c a mile for interim committee meetings and $25 a day for maximum of 60 days for interim committee meetings.

(h) Legislators receive $100 a month during biennium plus $4,000, paid at rate of $25 a day during regular and special sessions up to a total of 160 days each biennium with remainder paid as a lump sum. Legislators also receive $20 per day, not to exceed $600 in any calendar year, while not in session, for attendance at legislative meetings, plus actual and necessary traveling expenses.

(i) Actual and necessary expenses.

(j) Not to exceed 40 days in even years; 45 days in odd years.

(k) 70-day limit on special sessions called by Governor except for impeachment proceedings; 30-day limit on sessions convened by legislature except for impeachment proceedings.

(l) $2,500 per general session; $1,500 per budget session; $750 for each special session.

(m) 120 C-days biennial total; 90 C-day regular session; 30 C-day budget session. Legislators are paid additional allowance of $50 per calendar month, except for January, February and March in odd years, and January during even years to defray expenses incurred between sessions.

(n) Legislators are paid for Sundays and holidays during session, consequently compensation period usually is 72 to 74 days.

(o) 90 days biennial total: 60-day regular session, 30-day budget session.

(p) In terms of fixed amounts for each legislator.

(q) Determined at each session in Massachusetts.

(r) Within 40-mile radius, 8c a mile daily to amount to not less than $7 a week; outside 40-mile radius, $60 per week living expenses plus 8c a mile for one round trip per week.

(s) Plus one extra round trip each 7 days at 6c a mile.

(t) 10c a mile for daily commuting or $15 per day if living in capital.

(u) 25c per mile for first 25 miles, 20c for next 20 miles, 8c for next 25 miles, 6c for the next 25 miles, 5c over 95 miles.

(v) Figure shown is approximate for biennium in which no special session is held. In 1961-62 biennium, combined per diem and salary totaled $3,908.32. Legislators receive $15 for first 75 legislative days, including intervening nonlegislative days, for regular or special session; otherwise $100 a month.

(w) Expenses plus salary.

(x) Members receive an annual salary of $4,800.

(y) Members receive $85 for each week or portion thereof during regular session.

(z) 10c a mile for one round trip; thereafter, 7c a mile for first 2,000 miles per month, 6c a mile for each additional mile once a week during the session.

(aa) Interim expense allowance paid for each full calendar month when legislature not in session, as follows: for district of one county or less—Assemblyman, $25 per month; Senator, $40 per month. For each additional county or part of county in district—Assemblyman, $15 per month; Senator, $20 per month.

(ab) Minimum $10.

(ac) $15 per day within 25-50 kilometers radius; $25 per day beyond.

SALARIES AND COMPENSATION OF LEGISLATORS

State or other jurisdiction	SALARY AND DAILY PAY PLANS: Regular session: Daily pay plan: Amount per day	Regular session: Daily pay plan: Limit on no. of days of pay	Regular session: Salary plan: Amount of salary calculated for biennium	Special session: Amount of pay per day	Special session: Limit on no. of days of pay	Basic salary is fixed by	Date basic salary established	ADDITIONAL COMPENSATION FOR LEGISLATORS: Travel allowance: Amount per mile	Travel allowance: Number of trips during session	Additional expense allowances during session
Alabama	$10	36 L(a)	.....	$10	36 L	Const.	1946	10c	One round trip	$20 per day(a)
Alaska	..	....	$ 5,000(b)	..	....	Stat.	1961	15c	One round trip(c)	$35 per day; $300 postage-stationery allowance; presiding officers receive an extra annual allowance of $500
Arizona	..	....	3,600(b,d)	..	....	Const.	1958	10c	.....	$12 per day subsistence for legislators from outside city limits of capital(d)
Arkansas	20	60 C	2,400(e,f)	6	....	Const.	1958	5c	One round trip	.....
California	..	....	12,000(b)	..	....	Const.	1954	5c(g)	One round trip	$19 per day(f)
Colorado	..	....	6,400(b,h)	h	....	Stat.	1963	(i)	One round trip	None during session(g)
Connecticut	..	....	2,000	..	....	Stat.	1959	10c	Each day	$500 expense allowance
Delaware	..	....	6,000(b)	..	....	Const.	1959	15c	Unlimited mileage	$25 stationery and supplies
Florida	..	....	2,400	..	....	Const.	1954	10c	Round trip per week	$25 per day
Georgia	10	(b,j)	.....	10	70 C(k)	Const.	1945	10c	Four round trips	$40 per day
Hawaii	..	....	4,000(b,l)	(l)	....	Const. & Stat.	1959	20c	One round trip	$32.50 per day for members from Oahu; $45 for legislators from neighbor islands
Idaho	10	60 C	.....	10	20 C	Const.	1946	10c	One round trip	Additional $15 a day for committee members
Illinois	..	....	12,000	..	....	Stat.	1957	10c	Round trip per week	$50 for postage and stationery
Indiana	..	....	3,600	..	....	Stat.	1955	7c	Round trip per week	.....
Iowa	30	....	.....	30	....	Stat.	1957	7c	One round trip	.....
Kansas	10	120 C(b,m)	.....	10	30 C	Stat.	1963	7c	Six actual round trips during regular and three actual round trips during special or budget session	$15 per day; not to exceed $1,350 during regular session nor $450 during special or budget session; $50 per month between sessions
Kentucky	25	60 L(n)	.....	25	....	Stat.	1950	15c	One round trip	$25 a day; $50 in lieu of stationery
Louisiana	50	90 C(b,o)	.....	50	30 C	Stat.	1956	10c	Eight round trips and four round trips during budget session	$250 per month while legislature not in regular session
Maine	..	....	1,600	10	....	Stat.	1959	5c	Round trip per week	Small allowance for postage, telephone, etc.
Maryland	..	....	3,600(b)	..	....	Const.	1948	20c(p)	One round trip	$2,400 per biennium
Massachusetts	..	....	15,600(b)	(q)	....	Stat.	1963	8c(p)	Each day(r)	$1,200 per biennium; weekly expense allowance according to distance from capital(q)
Michigan	..	....	14,000(b)	..	....	Stat.	1962	10c	Two round trips per month	$2,500 per biennium; plus allowance for postage, telephone and telegraph
Minnesota	..	....	4,800	25	....	Stat.	1955	15c	One round trip	In 1963, $18 per day except that legislators who did not have to leave their homes to attend session received $12 per day
Mississippi	..	....	3,000	22.50	....	Stat.	1956	10c	One round trip(s)	$100 per month between sessions
Missouri	..	....	9,600	..	....	Stat.	1961	10c	Twice per month	$10 per day
Montana	20	60 C	.....	20	60 C	Stat.	1955	8c	One round trip	.....
Nebraska	..	....	4,800	..	....	Const. & Stat.	1961	8c	One round trip	$100 postage allowance
Nevada	25	60 C	.....	25	20 C	Stat.	1957	10c	Daily commuting(t)	$15 per day(t); $60 for postage, etc.
New Hampshire	..	....	200	3	15 L	Const.	1889	(u)	Daily round trip(u)	.....

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILE 8672

1383 SCOMM 51: BLUE RIBBON COMN. ON STATE PERSONNEL ACT 1978-1983

New Jersey	..	....	15,000(b)	..	....	Const. & Stat.	1954	...	State railroad pass	.....
New Mexico	20	(w)	.....	20	30 C	Const. & Stat.	1953	10c	One round trip	Stationery, postage, telephone and telegraph allowance; additional $25 a day and 10c per mile for service on interim committees.
New York	..	....	36,400 20,000(b)	..	....	Const. & Stat.	1961	(t)	Round trip per week	$2,000 expense allowance at 1965 annual sessions $3,000
North Carolina	15	120 C	.....	15	25 C	Const.	1956	8c	One round trip per week	$20 per day subsistence
North Dakota	5	60 L	.....	5	....	Const.	1889	10c	One round trip	$20 per day plus $35 per month expense allowance during biennium
Ohio	..	....	16,000	..	....	Stat.	1965	10c	Round trip per week	Postage and stationery
Oklahoma	15	75 L(x)	3,900(x)	15	75 L(x)	Const.	1948	10c	One round trip per week	Postage, stationery, telephone and telegraph allowance and shipping legislative supplies
Oregon	20(y)	120C	6,000	20	120C	Stat.	1963	8c	.....	Travel allowance paid during interim period only
Pennsylvania	..	....	14,400(b)	..	....	Stat.	1965	10c	Round trip per week	$4,800(b)
Rhode Island	5	60 L(b)	.....	..	....	Const.	1900	8c	.....	.....
South Carolina	..	....	3,600(b)	45	40 L	Stat. & Const.	1960	9c	Round trip per week	$15 per day for maximum of 40 days per annual session
South Dakota	..	....	3,000(b)	10	....	Stat.	1963	5c	One round trip	.....
Tennessee	10	75 C	.....	10	20 C	Stat. & Const.	1953	10c	One round trip	$5 per day
Texas	..	....	9,600(z)	..	....	Const.	1960	10c	One round trip	Per diem of $12 for first 120 days of regular session and for 30 days of each special session; postage, stationery, supplies, telephone and secretarial assistance
Utah	..	....	1,000	..	....	Const. & Stat.	1951	10c	One round trip per week, if incurred	$5 per day
Vermont	(aa)	....	.....	..	....	Stat.	1955	8c	One round trip per week	.....
Virginia	..	....	1,080	30	30 C	Stat.	1958	7c	One round trip	$720 for regular session; $360 for special sessions
Washington	..	....	2,400	25	....	Stat.	1965	10c	.....	$40 per day
West Virginia	..	....	3,000(h)	..	....	Const.	1954	10c	One round trip	.....
Wisconsin	..	....	10,800(ab)	..	....	Stat.	1965	(ac)	Rate-distance ratio(ac)	(ad)
Wyoming	12	40 C	.....	12	....	Stat. Act	1941	8c	One round trip	$20 per day
Puerto Rico	..	....	5,400(b)	..	....	Stat.	1960	15c	Round trip per week (ae)	$10 per day(af); $200 for telephone; $100 for postage; $100 for stationery

Abbreviations: L—Legislative days; C—Calendar days.

(a) The legislature meets for 18 weeks. Legislators receive $210 a week in combined daily salary and expense allowance, a total of $3,780 for each regular biennial session.

(b) Annual sessions.

(c) Plus excess baggage allowance.

(d) Plus $20 per day salary (limited to $1,800 in a year) for special sessions and interim committee meetings; $12 per day subsistence for days required to attend interim committee meetings, plus 10c a mile or first class public carrier.

(e) Payable at rate of $100 each month. Speaker of the House receives $2,700.

(f) Legislators receive $100 a month for each of the 24 months in the biennium, plus a per diem of $20 a day for each of the 60 calendar days of the biennial legislative session.

(g) 12½c a mile for interim committee meetings and $25 a day for maximum of 60 days for interim committee meetings.

(h) Legislators receive $100 a month during biennium plus $4,000, paid at rate of $25 a day during regular and special sessions up to a total of 160 days each biennium with remainder paid as a lump sum. Legislators also receive $20 per day, not to exceed $600 in any calendar year, while not in session, for attendance at legislative meetings, plus actual and necessary traveling expenses.

(i) Actual and necessary expenses.

(j) Not to exceed 40 days in even years; 45 days in odd years.

(k) 70-day limit on special sessions called by Governor except for impeachment proceedings; 30-day limit on sessions convened by legislature except for impeachment proceedings.

(l) $2,500 per general session; $1,500 per budget session; $750 for each special session.

(m) 120 C-days biennial total; 90 C-day regular session; 30 C-day budget session. Legislators are paid additional allowance of $50 per calendar month, except for January, February and March in odd years, and January during even years to defray expenses between sessions.

(n) Legislators are paid for Sundays and holidays during session, consequently compensation period usually is 72 to 74 days.

(o) 90 days biennial total; 60-day regular session, 30-day budget session.

(p) In terms of fixed amounts for each legislator.

(q) Determined at each session in Massachusetts.

(r) Within 40-mile radius, 8c a mile daily to amount to not less than $7 a week; outside 40-mile radius, $60 per week living expenses plus 8c a mile for one round trip per week.

(s) Unlimited for all committee work.

(t) Plus one extra round trip each 7 days at 6c a mile.

(u) 10c a mile for special trips not to exceed $350 per session.

(v) 25c per mile for first 45 miles; 8c per mile for next 25 miles; 6c over 70 miles.

(w) Not to exceed 30 calendar days in even years; 60 calendar days in odd years.

(x) Figure shown is approximation for biennium in which no special session is held. In 1963-64 biennium, combined per diem and salary totaled $3,907.50. Legislators receive $15 for first 75 legislative days, including intervening nonlegislative days for regular or special session, otherwise $100 a month.

(y) Expenses plus salary.

(z) Members receive an annual salary of $4,800.

(aa) Members receive $80 for each week or portion thereof during regular session.

(ab) $450 a month salary and $15 per day expenses for those who are required to establish a temporary residence in Madison.

(ac) 10c a mile for one round trip; thereafter, 7c a mile for first 2,000 miles per month; 6c a mile for each additional mile once a week during the session.

(ad) Interim expense allowance paid for each full calendar month when legislature is not in actual session, as follows: for district of one county or less—Assemblyman, $25 per month; Senator, $40 per month. For each additional county or part of county in district—Assemblyman, $15 per month; Senator, $20 per month.

(ae) Minimum $10.

(af) $15 per day within 25–50 kilometers radius; $25 per day beyond.

October 2, 1985

TO: Senator Mitch Abood
Anchorage Office

ATTN: Linda Firestone

FROM: Frank Bickford

Session Years	Legislator's Salary	Travel Allowance	Per Diem	Allowance-Postage/Stationary	Number of Days Per Session
'64-'65	$ 5,000/yr	0.15/mile 1 RTT*	$35/day	$ 30	'64 - 85 days 3 day S/S* '65 - 75 days No S/S
Presiding Officers received $500/year extra					
'66-'67	$10,495/yr (est. included travel, per diem, etc.)				'66 - 84 days No S/S '67 - 77 days 6 day S/S
Presiding Officers received $500/year extra					
'68-'69	$ 6,000/yr	0.15/mile 1 RTT	$35/day	$ 300	'68 - 86 days No S/S '69 - 95 days No S/S
Presiding Officers received $500/year extra					
'70-'71	$ 6,000/yr	0.15/mile 1 RTT	$35/day	$ 300	'70 - 146 days No S/S '71 - 120 days No S/S
Presiding Officers received $500/year extra					
'72-'73	$ 9,000/yr	0.15/mi 1 RTT	$35/day	$4,000	'72 - 166 days No S/S '73 - 90 days 27 day S/S
Presiding Officers received $500/year extra					
'74-'75	$18,000/yr	0.12/mi	$35/day	$4,000	'74 - 96 days 4 day S/S '75 - 139 days No S/S
Presiding Officers received $500/year extra					

*1 RTT (1 Round Trip Ticket

*S/S (Special Session)

Session Years	Legislator's Salary	Travel Allowance	Per Diem	Allowance-Postage/Stationary	Number of Days Per Session
'76-'77	$29,440	0.16/mi 1 RTT*	$48/day (overnight) $35/day (not overnight)	$4,000	'76 - 142 days No S/S* '77 - 141 days No S/S
		1 RTT			
Presiding Officers received $500/year extra					
'78-'79	$23,500	0.20/mi 1 RTT	$50/day	$4,000	'78 - 161 days No S/S '79 - 112 days 3 day S/S
Presiding Officers received $500/year extra					
'80-'81	$11,750	0.25/mi 1 RTT	$55/day	$4,000	'80 - 145 days 3 day S/S '81 - 165 days 3 day S/S
Presiding Officers received $500/year extra					
'82-'83	$18,768	0.25/mi 1 RTT	$60-67 per day (depending on residency)	$4,000	'82 - 144 days No S/S '83 - 162 days No S/S
Presiding Officers received $500/year extra					
'84-'85	$48,000	1 RTT	None	$4,000	'84 - 120 No S/S
Presiding Officers received $500/year extra					

This information provided by "The Book of States," published by the Council of State Governments.

*1 RTT (1 Round Trip Ticket

*S/S (Special Session)

To: Senator Mitch Abood, Chairman
From: Frank Bickford, Consultant - Joint Special Committee on Legislative Salaries
Re: Special Session-1985 Costs

1985 Special session costs averaged $3,262.82 *. Hotels, Rental car and meals were averaged in by researching costs of all hotels, rental car, and restaurants in the Juneau area.

Hotels - $1,513.82 - 22 days.
Meals - $1,100.00 - 22 days
Rental Car - $649.00 - 22 days
Total - $3,262.82

* Round Trip airfare was provided as well as 200 pounds of air freight allowance.

MEMORANDUM August 16, 1985

Subject: Brief Summaries of CS SCR # 19, CS SJR #15, SB #161, SS HJR #55, HB #513, and CSHCR # 28.

From: Frank Bickford
Legislative Salary Committee

CSSCR No. 19, establishing a Joint Special Committee on Legislative Salaries. To examine legislative salaries, per diem, and allowances. Three public members selected by the committee with three members of the Senate appointed by the President of the Senate and three members of the House of Representatives appointed by the Speaker of the House. The committee will compare the approach taken by other states and develop recommendations for reducing operating expenses. The committee will report it's recommendations and findings on the first day of the second session of the fourteenth legislature and is terminated on the first day of the second session of the fourteenth legislature.

CSSJR No. 15, proposing an amendment to the Constitution of the State of Alaska creating a commission on compensation of elected officials. Legislators will receive annual salaries. They may receive a per diem allowance for expenses while in session and are entitled to travel expenses going to and from sessions.Presiding officers may receive additional compensation. Compensation of legislators shall be set by the Commission on Compensation of Elected Officials. Article XII, Constitution of the State of Alaska under this legislation would be amended to read: Compensation Commission. There is etablished a Commission on Compensation of Elected Officials. The commision of five members appointed by the governor, subject to confirmation by a majority of the members of the legislature in joint session. Members serve for staggered terms of six years. The governor shall appoint members without regard to political affiliation. A member of the commission may not be employed by the state during the member's term and may not hold an elective state office during the term or within one year thereafter. An order setting the compensation of an elected official is not subject to veto by the governor. An order of the commission is subject to iniatiative and referendum in the same manner as act of the legislature. The amendments proposed by this resolution shall be placed before the voters of the state at the next general election.

SB No. 161, This Act takes effect on the effective date of CSSJR No. 15.

SSHJR No. 55, Proposing an amendment to the Constitution of the State of Alaska relating to legislators' remuneration. The amendment proposed by this resolution shall be placed before the voters of the state at the next general election. The resolution states that legislators shall receive annual salaries, per diem allowance, travel expenses, presiding officers to receive additional compensation, and that the remuneration of a laegislator shall not be increased during the legislator's term of office.

HB No. 513, An act relating to the compensation of legislators; and providing for an effective date. Salary of Legislators. Monthly salaries to be Step A, Range 10. The presiding officers of the Senate and House are entitled to an additional $500 a year during tenure of office and the rate of per diem instead of subsistence

shall be described in accordance with AS 39.23. Act was to take effect July 1, 1984.

CSHCR No. 28, is the same as CSSCR No. 19 with one exception. The exception is that in CSHCR No. 28 there are no public members on it's committee.

MEMORANDUM June 13, 1985

SUBJECT: Joint Special Committee on Legislative Salaries (CSSCR 19(Fin) am H)

TO: Senator Mitch Abood, Chair,
Joint Special Committee on
Legislative Salaries

FROM: Tamara Brandt Cook
Deputy Director
Division of Legal Services

The legislature established a Joint Special Committee on Legislative Salaries last session in CSSCR 19(Fin) am H. You have asked several questions regarding that committee.

1. The resolution provides that three public members are to be selected by the Joint Special Committee on Legislative Salaries and you have asked how these public members should be chosen. Rule 21 of the Uniform Rules under which the joint special committee was established does not address the possibility of people serving on a legislative committee who are not legislators. The selection process, therefore, is a matter for the appointed legislator members of the committee to decide and the process should be approved by a majority vote of a quorum of the committee. Since the resolution requires that the public members are to be selected by the joint special committee, individuals finally chosen should be approved by majority vote of the committee, rather than simply appointed by the chairman, for instance.

2. What is a public ex officio member? Black's Law Dictionary defines ex officio as follows:

> From office; by virtue of the office; without any other warrant or appointment than that resulting from the holding of a particular office.

The term "ex officio" clearly contradicts the notion of public membership which is not based upon the holding of a

particular office, but, instead, is based upon a need to represent the public at large. Since there is no indication in the resolution from which office an ex officio member would come, it seems clear that the intent is to include three public members rather than three ex officio members.

A public member of a body is generally considered to be an individual who is not a member of the group regulated and does not have a direct financial interest in the activity being regulated or considered by the body. (See AS 08.01.025). A public member of the joint special committee under this reasoning cannot be a member of the legislature, an employee of the legislature, or a person with a direct financial interest involving the legislature, for example, a person under contract to perform services for the legislature. However, a person from another branch of state government, such as a judge, would probably have so few direct ties to the legislature that the person could qualify as a public member of this committee.

3. Can the public members vote? Since the Uniform Rules do not address the question of public members on legislative committees no guidance is provided by the Rules on this. The resolution itself provides for public members and does not indicate that these are to be members with fewer rights than the other members, although the resolution could have done so. Therefore, the best interpretation appears to be that the public members have all the rights of other members, including the right to vote.

4. What is the quorum for the Joint Special Committee on Legislative Salaries? There are nine members on the committee: three senators, three representatives, and three public members. Mason's Legislative Manual, Sec. 500(2) provides

> The majority of the membership of a body constituted of a definite number of members, constitutes a quorum for the purpose of transacting business.

Sec. 502(3) provides further

> Where the number required by statute or other rule to constitute a quorum is fixed at a definite number the diminution of the members of the body will not change the number necessary for a quorum.

Therefore, a quorum for the committee is 5 members, even if public members have not yet been selected or if a vacancy should occur for another reason. A particular number of senator members and representative members is not required to constitute a quorum. Sec. 665 provides in part

> A quorum of a joint committee is a majority of its combined membership and when a quorum is present a majority of that quorum is capable of transacting business.

TBC:ojb
J15/034

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y · STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

MEMORANDUM August 12, 1985

SUBJECT: Relation of initiative petition and statute

TO: Frank Bickford
Legislative Salary Commission

FROM: Billy G. Berrier
Director
Division of Legal Services

You have asked whether a vote on an initiative may be precluded by enactment of legislation and if so what is required in the statute.

If before the election substantially the same measure has been enacted the initiative petition is void.

Section 4 of Art. XI of the Constitution of the State of Alaska provides:

> SECTION 4. INITIATIVE ELECTION. An initiative petition may be filed at any time. The lieutenant governor shall prepare a ballot title and proposition summarizing the proposed law, and shall place them on the ballot for the first statewide election held more than one hundred twenty days after adjournment of the legislative session following the filing. If, before the election, substantially the same measure has been enacted, the petition is void.

The determination of whether the enactment voids the petition is made by the lieutenant governor with formal concurrence of the attorney general under AS 15.45.210 which provides:

> Sec. 15.45.210. DETERMINATION OF VOID PETITION.
>
> If the lieutenant governor, with the formal concurrence of the attorney general, determines that an act of the

broader the reach of the subject matter, the more latitude must be allowed the legislature to vary from the particular features of the initiative.

The court in that case also held constitutional the delegation of the power to determine whether the petition was void to the lieutenant governor and the attorney general.

The case was decided on a 3 to 2 vote with the dissent taking the position that the act was not substantially the same measure.

A copy of the case is enclosed.

It is clear that an act need not be identical in order to void a petition. However, the degree of deviation allowed is a factual matter that must be determined by comparing the petition and the statute enacted.

BGB:ojb
J16/029

Enclosure

> legislature that is substantially the same as the proposed law was enacted after the petition had been filed, and before the date of the election, the petition is void and the lieutenant governor shall so notify the committee.

The question of what constitutes "substantially the same measure" has been before our Supreme Court in Warren v. Boucher, 543 P.2d 731 (Alaska 1975). In that case an initiative regarding campaign financing had been filed and an act was passed in the session following the filing on the same subject. The court held that the act, despite some differences, voided the petition saying:

> The words "substantial" or "substantially" are relative, inexact terms. Their meaning is quite elusive.
>
> Application of Scroggins, 103 Cal. App.2d 281, 229 P.2d 489 (1951). The meaning of such terms can be derived only be reference to all the circumstances surrounding the context in which they are used. Atcheson, T. & S.F. Ry. v. Kings county Water District, 47 Cal.2d 140, 302 P.2d 1, 3 (1956). So here, we believe that the term "substantially the same measure" must be viewed against the total structure contemplated in Art. XI of our constitution in the matter of direct legislation.
>
> . . .
>
> It is clear that the legislative act need not conform to the initiative in all respects, and that the framers intended that the legislature should have some discretion in deciding how far the legislative act should differ from the provisions of the initiative. The question, of course, is how great is the permitted variance before the legislative act becomes no longer substantially the same.
>
> Upon reflection we have concluded that the legislature's discretion in this matter is reasonably broad. If in the main the legislative act achieves the same general purpose as the initiative, if the legislative act accomplishes that purpose by means or systems which are fairly comparable, then substantial similarity exists. It is not necessary that the two measures correspond in minor particulars, or even as to all major features, if the subject matter is necessarily complex or if it requires comprehensive treatment. The

MEMORANDUM August 16, 1985

Subject: Summary of August 12, 1985 Billy Berrier Memo

From: Frank Bickford
Legislative Salary Committee

The determination of whether the enactment voids the petition is made by the lietutenant governor with formal concurrence of the attorney general under AS 15.45.210 which provides:

> Sec. 15.45.210 DETERMINATION OF VOID PETITION.
>
> If the lieutenant governor, with the formal concurrence of the attorney general, determines that an act of the legislature that is substanially the same as the proposed law was enacted after the petition had been filed, and before the date of the election, the petition is void and the lieutenant governor shall so notify the committee.

If in the main the legislative act achieves the same general purpose as the initiative, if the legislative act accomplishes that purpose by means or systems that are fairly comparable, then substantial similarity exists. It is not necessary that the two measures correspond in minor particulars, or even as to all major features, if the subject matter is necessarily complex or if it requires comprehensive treatment. The broader the reach of the subject matter, the more latitude must be allowed the legislature to vary from the particular features of the iniatiative.

It is clear that an act need not be identical in order to void a petition. However, the degree of deviation allowed is a factual matter that must be determined by comparing the petition and the statue enacted.

STATE OF ALASKA

AUDIT DIVISION
POUCH W
JUNEAU, ALASKA 99811

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

MEMORANDUM

DATE: December 19, 1984

TO: Don Fisher
Deputy Executive Director
Legislative Affairs Agency

FROM: Gerald L. Wilkerson
Legislative Auditor
Division of Legislative Audit

SUBJECT: Legislative Reimbursement

Per your memo dated December 17, 1984, the following summary of direct reimbursements made by this Division to legislators is for the calendar year 1984.

LEGISLATOR	TRANSPORTATION	HOTEL	MEALS	TOTAL
Sen. Janice O. Faiks	$ 14.60	$	$ 7.00	$ 21.60
Sen. Bettye Fahrenkamp		521.94	231.00	752.94 *
Rep. Robert H. Bettisworth		512.65	169.00	681.65 *
Rep. John J. Cowdery		470.73	169.00	639.73 *
Rep. Terry Martin	220.00			220.00
Rep. Michael W. Miller	6.00		40.00	46.00
Rep. Jim Duncan	33.00		56.00	89.00

All below

If I can be of further assistance to you, please don't hesitate to call.

cc: Pam Calhoon, Manager
Division of Administrative Services
Legislative Affairs Agency

Esther Adams, Administrative Assistant
Division of Legislative Audit

Frank, those totals with an * beside them are especially high because they include overseas trip to Japan & Korea.
Adams

fisher/E

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

February 5, 1985

MEMORANDUM

TO: Representative John Sund

FROM: Rob Waldman
Legislative Analyst

RE: Legislative Salaries and Expense Allowances
Research Request 85-145

You requested this agency to provide information on two issues:

- the adoption date of a $4,000 expense allowance for legislators; and
- the per diem limitations imposed by the proposed initiative on legislative salary and per diem.

Expense Allowance

Alaska Statute 24.15.030 states that each member of the legislature is entitled to receive an annual allowance for postage, stationary, stenographic services and other expenses. Allowances amounting to $4000 became effective in 1970. These allowances have not increased since that date. The following table provides the legislative history of expense allowances:

Session Law	Action
§3 ch 193 SLA 1961	Established AS 24.15.030 (Additional Allowances) and prescribed $300 as the annual allocation.
§1 ch 8 SLA 1970	Increased the allowance to $1,000.
§10 ch 193 SLA 1970	Increased the allowance to $4,000.
§8 ch 263 SLA 1976	Substituted "prescribed in accordance with AS 39.23" for the specific figure of $4,000.
§37 ch SLA 1980	Repealed AS 39.23, thereby eliminating the commission responsible for determining the allowance.

With the repeal of AS 39.23 in 1980, the legislature eliminated the Alaska Salary Commission. Among other duties, the commission was responsible for prescribing the amount of the expense allowances mentioned in AS 24.15.030. According to Bill Berrier, Director of the Legal Services Division of the Legislative Affairs Agency, the repeal of AS 39.23 did not repeal the allowances or prevent the distribution of the allowances. Although the commission no longer functions, the $4,000 allowance will stand until the legislature either specifically sets a new dollar figure or develops a new method to prescribe allowances.

Legislative Per Diem

The initiative "An act relating to the compensation for State legislators" will reestablish legislative per diem (legislative per diem was repealed by 7 ch SLA 1983) and amend AS 24.15.020 to decrease the salary of legislators. This initiative does not breach the topic of changing the methodology for determining per diem levels for State workers. Under regulatory authority set out in AS 39.20.160 (as amended), per diem for State officials and employees of State agencies is prescribed and determined by the Commissioner of Administration in consultation with the heads of agencies concerned.

Per diem levels can be raised following enactment of this initiative.[1] Per diem rates can be raised by the Commissioner of Administration at any time if the commissioner determines that increases are justified. In addition, methods for prescribing per diem rates can be modified by amending the initiative or by session law reinstating or amending statutes addressing legislative per diem.

I hope that this review is useful. If you need additional analysis or would like to discuss the initiative or HB 48 and its effects, please call.

RW

---

[1]Enactment of HB 48 (or similar legislation reinstating legislative per diem) would make the initiative void (Article XI, Sec. 4, Alaska Constution). The discussion also applies to the enactment of HB 48.

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Compensation and Turnover in State Legislative Lower Chambers

James R. Oxendale, Jr.*

Abstract

It has long been assumed by students of U.S. state legislatures that there is a strong relationship between levels of compensation and rates of turnover in those bodies. This paper analyzes the relationship between compensation and turnover in forty-one state legislative lower chambers in 1976. No correlation between salary levels and turnover rates existed in these states in 1976. Given the possibility that a bias may arise from using a single year's data, data from 1968 are used to test the hypothesis. The data from the states used in this study failed to support a general hypothesis that increasing compensation will lower voluntary retirement from state legislatures.

High rates of turnover among legislators have long troubled writers and reformers concerned with state government in the United States [1, pp. 8-10; 3, p. 40; 5, pp. 21-31; 6; 7, pp. 13-24; 8; 11]. Average turnover per session in state lower houses between 1963 and 1971 was 30.4 percent. From Charles Hyneman's writings in the late 1930s to William Keefe and Morris Ogul's speculations of the 1970s, a recurring suggestion for reducing voluntary retirement from the state legislature has been to increase legislative compensation. Keefe and Ogul put the thesis persuasively:

> The best short-run answer for breaking the turnover cycle lies, we believe, in what is by now a part of the "conventional wisdom" of political scientists. The tenet holds that a seat in the legislature may become a fulltime career for members if they are given a salary that is more in line with those available in business and professions [6, p. 130].

Hyneman made essentially the same point in 1938. He wrote, "I am of the opinion that the chief reason why legislators find one or more terms enough is a financial one; their experience proves . . . that it is money out of the pocket to serve in the legislature" [5, p. 30]. Hyneman, Keefe and Ogul, and numerous others assume that a relationship exists between low compensation and voluntary turnover. Voluntary turnover means a decision to terminate one's career in the legislature; involuntary turnover means that caused by election loss or death.[1] It is assumed that if compensation were to rise, then turnover would decrease.

This paper looks at voluntary turnover and compensation in forty-one state lower chambers during the 1975-76 session and attempts to discover whether a relationship exists between these two variables. If indeed states with higher levels of compensation have lower turnover rates than do states with lower compensation, then one could conclude that compensation rates appear to influence turnover. Data on this issue is presented in Table 1 and summarized in Table 2.

Tables 1 and 2 do not support an assertion that higher compensation will result in lowered turnover. Using Spearman's coefficient of rank correlation, the correlation between turnover and compensation is +0.24. Statistically there is no correlation between compensation and turnover for the states for which data are available in 1976.

California and New Hampshire have the same rates of turnover, yet California pays over $65,000 more bi-

*Assistant Professor of Political Science, West Virginia Institute of Technology, Montgomery

[1] When the word turnover is used by itself in this paper, it applies only to voluntary turnover.

ennially than does New Hampshire. Indeed, five of the top ten states in compensation are among the states listed in the lower half of Table 1.

TABLE 1

Voluntary Turnover and Compensation for Lower House Legislators 1975-1976 Session

State	Percentage Voluntary Turnover	Biennial Compensation*
Hawaii	4	$30,000
Nevada	8	7,680
Arizona	9	19,170
Michigan	9.1	38,000
Ohio	10	35,000
Virginia**	10	10,950
Iowa	11	21,580
Kentucky**	11	12,350
Mississippi	11	25,400
New Mexico	11	3,600
Georgia	11	16,640
North Carolina	12	18,300
Delaware	12	19,500
Oklahoma	12	22,620
Wisconsin	12	38,181
North Dakota	12	5,700
Oregon	13	20,010
Minnesota	14	23,855
South Dakota	14	6,575
Nebraska	14	10,000
Colorado	15	15,200
Indiana	16	23,565
Missouri	16	16,800
New York	16	47,000
Rhode Island	16	600
Connecticut	17	13,000
Pennsylvania	17	31,200
Alabama	18	8,100
Kansas	18	14,400
Texas	18	18,600
Illinois	19	45,976
Maine	19	7,825
California	20	66,300
Florida	20	24,000
New Hampshire	20	200
Tennessee	20	19,400
Idaho	21	7,800
Utah	23	3,200
West Virginia	23	12,900
Louisiana	24	16,500
Montana	27	6,954

*Compensation is computed as it generally is in the *Book of the States,* that is, compensation scales are taken from those offered during the 1975-76 session. In those states which pay per diem, the current rates are multiplied by the number of days in the 1973-74 session, since the total days of the session are not yet available. Compensation figures are derived from salary, per diem, and unvouchered compensation paid during or between sessions. Compensation for special sessions or vouchered expenses is not included.

**Turnover rates are taken from 1975.

High levels of compensation may have helped lower turnover in states like Hawaii which is eighth in salary and lowest in turnover or Michigan which is fifth in salary and fourth in turnover. At the same time, low compensation may have caused high levels of turnover in states like Montana or Utah which have extremely low levels of compensation and very high rates of turnover.

The above data could be criticized on the grounds that turnover patterns from a single year might vary from traditional norms. In order to adequately understand the impact of a compensation policy on lowering turnover, it is necessary to compare a given state's current turnover at a higher compensation with past turnover at a lower compensation.

TABLE 2

Annual Compensation and Voluntary Turnover for Lower House Legislators, 1975-1976

		Less than $15,000	$15,000 or more
Percentage Voluntary Turnover	Less than 15%	16	4
	15% or more	17	4

Unfortunately, few studies are available which distinguish between voluntary and involuntary turnover on a longitudinal basis. The present research is based on voluntary turnover data from the twenty-two states for which the 1976 data were available. The year 1968 was chosen because it provides an essentially tranquil election after the uncertainty created by *Reynolds v. Sims*, 377 U.S. 533, 12 L. ed. 2d. 506, 84 S.Ct. 1362. Forty states[2] reapportioned their legislatures between 1964 and 1966. Obviously such major shifts in legislative districts could have artificially created high numbers of voluntary turnover because of fear of running in new districts. Therefore, the 1968 election was chosen because it, like the 1976 election, had legislators seeking reelection from the same district in which they were elected. If the traditional hypothesis concerning the impact of compensation on turnover were to be supported, then those states which had the greatest increases in compensation between 1968 and 1976 should have had the greatest decreases in turnover.

Table 3 compares compensation and turnover between 1968 and 1976. The results are mixed. Using percentage changes in compensation and turnover, the rank correlation, r = +0.42, indicates a slightly positive relation-

[2]Reapportionment figures are taken from *Book of the States*, 1968-69, p. 67.

TABLE 3

Relationship between Voluntary Turnover and Compensation for Legislators Who Retired in 1968 and 1976

State	Percentage Voluntary Turnover	1967-68 Biennial Compensation	Percentage Voluntary Turnover	1975-76 Biennial Compensation
California	3.0	$37,922	20.0	$66,300
Connecticut	16.4	4,750	17.0	13,000
Florida	23.5	6,100	20.0	24,000
Georgia	18.0	10,525	11.1	17,640
Hawaii	15.7	8,220 or 9,185	4.0	30,000
Idaho	18.5	4,341	21.4	7,800
Illinois	12.0	18,000	19.2	45,976
Iowa	38.0	3,560	11.0	21,580
Kansas	19.2	7,150	18.4	14,400
Maine	39.0	2,224	19.1	7,825
Minnesota	9.0	11,042 or 11,763	14.0	23,855
Missouri	6.0	11,500	16.0	16,800
Nevada	12.5	3,900	8.0	7,680
New Mexico	54.3	1,800	11.0	3,600
New York	9.3	36,000	16.0	47,000
Oklahoma	11.0	10,220	12.0	22,620
Oregon	23.3	11,760	13.3	20,010
Pennsylvania	12.4	14,800	17.2	31,200
Tennessee	34.0	6,300	20.8	19,400
Virginia	16.0	3,300	10.0	10,950
West Virginia	29.0	3,000	23.0	12,900
Wisconsin	14.0	18,600 or 20,490	12.0	38,181

ship between the two variables. However, using absolute changes in compensation and turnover percent, the rank correlation, r = -0.43, indicates a slightly negative relationship. All twenty-two states had changes in compensation. Increases varied from about $2,000 to about $30,000 per biennium; however, not all states had corresponding turnover reductions. Indeed, some of the results appear to be rather confusing if it is assumed that the major cause for turnover is insufficient compensation. For example, between 1968 and 1976 New Mexico increased legislative compensation from $1,800 to $3,600 biennially. This was accompanied by a turnover drop of 43 percent. It seems unlikely that an $1,800 compensation increase over an eight-year period is sufficient inducement to result in a 43 percent decline in turnover. In these situations, nonmonetary factors must be examined in attempting to understand the causes for legislative retirement.

While compensation may not have affected turnover in all states, in Hawaii, Tennessee, and particularly Iowa, salary increases may be the major causes for reduced turnover because major reductions in turnover occurred concomitantly with major increases in compensation. However, there are no clear patterns for the entire group. California and Illinois had major increments in compensation with simultaneous increases in voluntary turnover. Indeed, the five states which had the greatest increases in compensation also had increased turnover. The data from the above states offer no support to a general hypothesis that if compensation rises, even at quite impressive rates, turnover will decline. Turnover may very well lessen, but there is no clear evidence to indicate that it will, or that, if it does, it does so because of a compensation policy.

A Speculative Overview of Turnover and Salary Questions

When considering the problem of legislative turnover at the state level, several factors should be taken into account. Some of these have been detailed elsewhere [3, 4, 6, 8] and will not be considered in this brief summary.

Two important variables which influence turnover have not been given the attention they deserve:

1. For most new members of the state legislature, especially the lower chamber, this is their entry into politics [13]. Invariably there is the problem of adjustment. For some the psychological adaptation is difficult, and this frequently results in voluntary retirement. According to Barber, some legislators are too rigid to adapt; others cannot accept a beginner's place in the system; and still others cannot adjust to the hectic schedule or the instrumental rather than consummatory social relations in the legislature [1, pp. 151-154; 8]. For these legislators salary is of little or no importance and rarely inhibits their decision to retire.

2. Many potential politicians find the lower house of the state legislature a good place to experiment with politics. Most state legislatures have limited sessions, and this allows a potential politician to minimize the interruption from a full-time occupation when experimenting with politics. Additionally, a legislative district of the lower house is frequently small enough for a newcomer to conduct a campaign without necessarily incurring the major expenses needed for other state, or even state senatorial, positions. Thus, the lower house of the state legislature is frequently well-suited for young and ambitious legislators to experiment with politics without seriously jeopardizing their full-time careers or incurring major debts when running for office. If they find legislative politics rewarding, they will probably remain in the lower chamber only temporarily, since they seek to move up politically. As they see it, the lower chamber is their initiation into politics and not their final destination [1, pp. 67-115; 8, pp. 147-200]. Thus, these legisla-

tors also rank compensation of slight importance when they consider leaving the lower chamber.

Conclusion

This research offers no general support to the belief that a close relationship exists between compensation and turnover. Generally speaking, states with higher levels of compensation do not have lower voluntary turnover than do states with lower levels of compensation; nor do the results indicate that states which increase compensation will ipso facto reduce their rates of turnover. In the states for which comparison data were available, compensation levels increased in all of them, but turnover both increased and decreased. In some states, compensation increases may possibly have helped to lower turnover, but in others, despite major increases in compensation, voluntary retirement increased. Turnover is a complex phenomenon induced by numerous factors of which compensation is only one, and to many considering retirement, it may be of relatively slight importance.

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Sept. 1, 1979 C.Q.

	House	Senate
Democrats	276	59*
Republicans	159	41
Vacancies	0	0

SENATE	FINAL
Passed 7/23	Signed 7/26 (PL 96-39)
Foreign Relations, Armed Services hearings continue in September	
Finance markup resumes 8/5	
Senate action 7/17 on NRC authorization bill	
Rules hearings postponed	
[illegible] markup [illegible] sometime in September	
Passed 8/30	
Foreign Relations hearings on ISA 9/19-21	
Passed 7/23	Signed 8/14 (PL 96-58)
Human Resources approved 5/16. Finance rejected 7/12	
Commerce hearings to resume 9/6	

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Financial Disclosure

Outside Earnings Swell Wealth of Congress

Senators think of themselves as members of the "upper chamber" of Congress. Their personal financial disclosures show that most senators are upper income as well.

The Senate clearly is a club of the wealthy. Possibly a third of the 100 senators can claim net worths of $1 million or more. Moreover, two-thirds of the senators count on outside incomes of $20,000 or more to supplement their $57,500 congressional salaries.

The House, too, has its share of wealthy members. Probably 30 or more House members are millionaires, and nearly 100 have outside incomes of more than $20,000. But the House is the lower chamber of Congress when it comes to personal finances, because the proportion of wealthy members is much lower in the House than in the Senate.

This year, for the first time ever under the 1978 Ethics in Government Act, all members of Congress were required to publicly disclose their sources and general amounts of income for the previous year — 1978.

Last year members of both houses of Congress disclosed all their financial holdings for the first time. Previously, only House members had been required to disclose some of their financial interests.

The new disclosures revealed, in detail never before available, that most members of Congress are financially much better off than most Americans. Their $57,500 congressional salaries alone put them far above the economic state of most workers. But the difference goes beyond this. Most members of Congress would be financially secure with other income and financial interests even without their government salaries.

Financial Interests

With few exceptions, members of Congress were successful lawyers or businessmen before coming to Washington. Most members kept and expanded their lucrative financial investments after election to Congress. Many of the wealthiest members of Congress, however, inherited their fortunes.

With few exceptions, members of Congress were successful lawyers or businessmen before coming to Washington. Most members kept and expanded their lucrative financial investments after election.

The personal financial interests of members of Congress span the world of business. But far and away the most prevalent are investments in real estate, banks and agriculture, and stocks in major businesses. Most popular among members are blue chip stocks such as IBM, General Electric, General Motors and American Telephone and Telegraph. Only three members reported stock holdings in the financially troubled Chrysler Corp. (Box, p. 1836)



All but a handful of members own at least a few stocks or bonds, in addition to bank savings accounts and personal residences. The heaviest financial burden for many members is maintaining two residences, one in the home state or district, and one in the Washington, D.C., area. Some members rent their residences back home and stay in hotels or with relatives when visiting constituents. In 1977, some members said that heavy expense helped justify the congressional pay raise from $44,600 to $57,500.

Outside Jobs

A dwindling number of members continues to receive sizable salaries for part-time jobs back home. But a new earned income limit in the House has forced most of those members to abandon their jobs, or at least to seek new ways to receive the same income. Several members apparently have tried to avoid the income limit by changing their income from "salaries" to "dividends" or some other unearned income. (*Income limit, p. 1841*)

Although more than half of all members of Congress are lawyers by training, most have given up their private practices. (*Lawyers in Congress, p. 1832*)

Senate rules virtually prohibit legal practices by senators. Only 23 House members who served in Congress during 1978 actively practiced law. The new earned income

The preparation of this report was directed by John Felton with principal research assistance from Andrea Yank and other assistance from Irwin B. Arieff, Iouani Crosby, Brigette Rouson, Bob Livernash and Dave Tarrant.

19 pages



Sen. John Heinz



Sen. John C. Danforth



Rep. Richardson Preyer



Rep. James T. Broyhill

Substantial Unearned Income

limit in the House will force most of them to quit, or substantially curtail, their legal work.

At least three dozen members of Congress are partners in real estate investment firms, and 26 House members serve as directors of banks or savings and loan associations.

Although few members devote significant amounts of time to their outside jobs, some received large salaries.

Jack Brooks, D-Texas, for example, received more than $46,000 in salary as director of two banks in which he is a major stockholder. House Minority Leader John J. Rhodes, R-Ariz., was paid $32,573 as vice president of an insurance company.

Cecil (Pete) Heftel, D-Hawaii, reported earned income of $870,987 and unearned income of over $180,000 from various business investments, including radio and television stations he owns.

Unearned Income

All but 75 House members and five senators supplement their congressional incomes with "unearned" income such as dividends on stocks or rent from investment real estate.

Senators, on the average, received about $53,000 in unearned income during 1978. The average was boosted by the enormous unearned incomes of the Senate's wealthiest members. Ketchup and pickle heir John Heinz, R-Pa., reported unearned income of $437,101 to over $836,000. John C. Danforth, R-Mo., of the Ralston Purina Co. family, had unearned income of $230,801 to over $385,000.

House members, by and large, received much smaller unearned incomes, but 29 of them have unearned incomes of at least $10,000. As in the Senate, members who inherited their wealth had the largest unearned incomes. For example, Tennessee heir James T. Broyhill, R-N.C., received over $1,000,000 from family investments and drug company heir Richardson Preyer, D-N.C., received over $127,000 from various holdings. (*House income chart, p. 1837, Senate income chart, p. 1840*)

Honoraria

Seventy-five senators and 249 House members accepted "honoraria" payments for speeches to outside groups, usually lobbies interested in legislation. Nineteen well-known members and senior committee members received the $25,000 maximum in honoraria permitted by federal law. Unlike campaign contributions, honoraria payments are personal income for members of Congress. (*Honoraria background, p. 1827*)

As in previous years, big lobbies such as the American Bankers Association, the Grocery Manufacturers of America and the Food Marketing Institute provided the bulk of honoraria. The bankers paid more than any other group, $28,000 to 16 members of Congress. The interest probably was spurred by congressional consideration and passage in 1978 of a major banking regulation bill. (*Box, p. 1829*)

Conflicts of Interest

By the very nature of their positions, members of Congress face frequent conflicts of interest between their personal lives and their responsibilities in Congress. They are as affected by taxes and most other legislation as all Americans.

But there are other, potentially more serious conflicts, that involve members' particular personal finances and their roles as public servants. A member with substantial holdings in oil company stocks, for example, may have to reconcile his own financial interests with a wider but divergent public interest, especially if he serves on a committee that writes energy legislation.

Congress has taken few steps to curtail conflicts, on the assumption that it is up to each member and his constituents to judge what is proper. Many members of Congress have said that the disclosure of possible conflicts is a sufficient deterrent. (*Conflict of interest background, 1978 Weekly Report, p. 2311*)

Many members have avoided direct conflicts of interest with their congressional committee assignments by declining to invest in businesses that might be affected by legislation before those committees.

But in a limited survey, Congressional Quarterly counted 54 senators and 105 House members who face possible conflicts between their own holdings and committee assignments.

In most cases, the potential conflicts involve members with limited holdings that are infrequently affected by legislation. But some of the most prominent members of Congress deal almost daily with legislation that could have a direct impact on their financial interests.

In the Senate, for example, Agriculture Committee Chairman Herman E. Talmadge, D-Ga., owns a 2,388-acre farm worth $1 million-$2 million. Other members of the committee with farm holdings are Richard G. Lugar, R-Ind., and John Melcher, D-Mont.

Talmadge is facing charges before the Senate Ethics Committee of improper financial dealings. But no conflict of interest charge has been raised against him. (*Talmadge case, Weekly Report, p. 1657*)

Senate Finance Committee [illegible]
D-La., whose committee votes [illegible]
own $1.2 million in oil and gas [illegible]
1978 topped $100,000. Other [illegible]
with oil holdings are Lloyd M. [illegible]
Byrd Jr., D-W.Va., Wallace F. [illegible]
and Heinz.

Danforth is an example of [illegible]
widespread financial interests [illegible]
every bill before Congress. His [illegible]
portfolio include stocks in defe[illegible]
nies, communications firms, ba[illegible]
nesses that are directly concer[illegible]
regulations. Danforth sits on t[illegible]
and Commerce, Science and T[illegible]
much of the legislation that af[illegible]

Some committees are heav[illegible]
who have personal interests [illegible]
committees.

In the House, for example, [illegible]
Agriculture Committee own far[illegible]
including: Berkley Bedell, D-I[illegible]
Miss.; Glenn English, D-Okl[illegible]
Charles E. Grassley, R-Iowa; [illegible]
Kent Hance, D-Texas; Jerry [illegible]
Johnson, R-Colo.; Ed Jones, D[illegible]
Fla.; Ron Marlenee, R-Mont.; [illegible]
Skelton, D-Mo.; Steven D. Sy[illegible]
Stenholm, D-Texas; James W[illegible]
Whitley, D-N.C.

One possible way of elimi[illegible]
ance of a conflict of interest [illegible]
completely controlled by ind[illegible]
members have taken that ste[illegible]

Only three senators have [illegible]
Kennedy, D-Mass.; Abraham [illegible]
M. Metzenbaum, D-Ohio; H[illegible]
Heckler, R-Mass., and Steven [illegible]
have part of their holdings [illegible]
Robert Dole, R-Kan., also ha[illegible]

Millionaires

Because the disclosure sys[illegible]
the House, it is impossible to [illegible]
millionaires serve in Congress[illegible]
general determination of which [illegible]
worths of $1 million or more.

The two wealthiest senat[illegible]
heir to the H. J. Heinz C[illegible]
Danforth, an heir to the Ralsto[illegible]

According to rough calcu[illegible]
sures, Heinz could be worth [illegible]
possibly more than $90 million; [illegible]
he is worth between $5 million [illegible]

One senator, Louisiana's [illegible]
$2.8 million.

Other senators who qualif[illegible]
L. Armstrong, R-Colo.; Bentse[illegible]
R-Minn.; Byrd of Virginia; [illegible]
John Glenn, D-Ohio; Barry G[illegible]
Hayakawa, R-Calif.; Nancy [illegible]
Kennedy of Massachusetts; H[illegible]
Ohio; Claiborne Pell, D-R.I.; [illegible]
Richard Stone, D-Fla.; Tall[illegible]
Wallop, R-Wyo.; John W. W[illegible]
Weicker Jr., R-Conn.

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Senate Finance Committee Chairman Russell B. Long (D-La.), whose committee writes key energy tax legislation, owns $1.2 million in oil and gas property. His oil earnings in 1978 topped $100,000. Other members of his committee with oil holdings are Lloyd M. Bentsen, D-Texas, Harry F. Byrd Jr., Ind.-Va., William V. Roth Jr., R-Del., Danforth and Heinz.

Danforth is an example of a wealthy member whose widespread financial interests are affected by virtually every bill before Congress. His personal and family trust portfolios include stocks in defense contractors, oil companies, communications firms, banks and several other businesses that are directly concerned with federal laws and regulations. Danforth sits on two committees — Finance and Commerce, Science and Transportation — that write much of the legislation that affects business.

Some committees are heavily weighted with members who have personal interests in legislation before those committees.

In the House, for example, 18 of the 43 members of the Agriculture Committee own farms or other farm interests, including: Berkley Bedell, D-Iowa; David R. Bowen, D-Miss.; Glenn English, D-Okla.; Floyd Fithian, D-Ind.; Charles E. Grassley, R-Iowa; Tom Hagedorn, R-Minn.; Kent Hance, D-Texas; Jerry Huckaby, D-La.; James P. Johnson, R-Colo.; Ed Jones, D-Tenn.; Richard Kelly, R-Fla.; Ron Marlenee, R-Mont.; Charlie Rose, D-N.C.; Ike Skelton, D-Mo.; Steven D. Symms, R-Idaho; Charles W. Stenholm, D-Texas; James Weaver, D-Ore.; and Charlie Whitley, D-N.C.

One possible way of eliminating at least the appearance of a conflict of interest is to establish a blind trust, completely controlled by independent trustees. But few members have taken that step.

Only three senators have blind trusts: Edward M. Kennedy, D-Mass.; Abraham Ribicoff, D-Conn.; Howard M. Metzenbaum, D-Ohio. In the House, Margaret M. Heckler, R-Mass., and Steven J. Solarz, D-N.Y., said they have part of their holdings in blind trusts. The wife of Robert Dole, R-Kan., also has a blind trust.

Millionaires

Because the disclosure system is so vague, especially in the House, it is impossible to determine exactly how many millionaires serve in Congress. But it is possible to make a general determination of which members probably have net worths of $1 million or more.

The two wealthiest senators are Pennsylvania's Heinz, heir to the H. J. Heinz Co. fortune, and Missouri's Danforth, an heir to the Ralston Purina Co. family fortune.

According to rough calculations based on their disclosures, Heinz could be worth at least $30 million and possibly more than $50 million. Danforth's net worth could be worth between $5 million and $17 million.

One senator, Louisiana's Long, revealed a net worth of $2.8 million.

Other senators who qualify as millionaires are: William L. Armstrong, R-Colo.; Bentsen of Texas; Rudy Boschwitz, R-Minn.; Byrd of Virginia; Dennis DeConcini, D-Ariz.; John Glenn, D-Ohio; Barry Goldwater, R-Ariz.; S. I. (Sam) Hayakawa, R-Calif.; Nancy Landon Kassebaum, R-Kan.; Kennedy of Massachusetts; Howard M. Metzenbaum, D-Ohio; Claiborne Pell, D-R.I.; Charles H. Percy, R-Ill.; Richard Stone, D-Fla.; Talmadge of Georgia; Malcolm Wallop, R-Wyo.; John W. Warner, R-Va.; and Lowell P. Weicker Jr., R-Conn.

Index to Special Report

For this special report, Congressional Quarterly examined the financial disclosure reports covering 1978 for all 535 members of Congress and the four non-voting House members.

This report is in two major parts: stories and charts on specific aspects of the disclosures, and lists of honoraria paid to representatives and senators, and financial interests of representatives and senators.

The following is a guide to the report:

- **The Wealth of Congress**, p. 1823, summarizes CQ's findings. Most members of Congress are financially much better off than most other Americans.
- **Honoraria Payments**, p. 1827, Hundreds of organizations, especially lobbies, pay members of Congress for making speeches. This story explains the practice.
- **The Richest Members**, p. 1834, contains brief profiles of the 30 members of Congress who may have had the highest incomes for 1978.
- **Draw of the Conventions**, p. 1835, shows how the U.S. Chamber of Commerce drew 10 members of Congress to its 1978 annual convention.
- **House's Top Honoraria Collectors**, p. 1827, lists the 25 House members who earned the most in honoraria in 1978.
- **Senate's Top Honoraria Collectors**, p. 1827, lists the 25 senators who earned the most in honoraria in 1978.
- **Top Honoraria Providers**, p. 1826, lists the 15 organizations that gave the most in honoraria to members of Congress in 1978.
- **Earned Income Evasion**, p. 1841. Starting this year House members are limited to $8,625 in outside earned income. This story shows how members are coping with the limit, and how some members are trying to get around it.
- **Lawyers in Congress**, p. 1832, lists all members of Congress who received legal fees in 1978. With each passing year, fewer members engage in part-time legal practices.
- **Chrysler Interests**, p. 1836, indicates that only three members of Congress reported financial interests in the troubled Chrysler Corp.
- **Outside Income Totals**, lists 1978 outside income for all members of Congress. The House chart is on p. 1837; the Senate chart starts on p. 1840.
- **Outside Jobs**, lists all outside business positions for all members of Congress. The Senate list starts on p. 1844; the House list starts on p. 1845.
- **Disclosure that Doesn't Disclose**, p. 1830, examines weaknesses of the financial disclosure system.
- **Disclosure Requirements**, p. 1828, lists the legal requirements of financial disclosure for members.
- **Honoraria**, lists all honoraria paid to all members of Congress, broken down by the types of organizations making the payments. The House list starts on p. 1849; the Senate list starts on p. 1862.
- **Financial Interests**, lists the financial interests of members of Congress in 14 categories, and shows which members have interests that might be affected by their committee responsibilities. The House list starts on p. 1871; the Senate list starts on p. 1884.

Top Honoraria Providers

Following is a list of the 15 organizations that gave the most in honoraria to members of Congress in 1978. The figures in parentheses indicate the number of senators and representatives who received honoraria from each group.

American Bankers Association (16)	$28,000
Grocery Manufacturers of America (18)	$20,750
Brookings Institution (57)	$16,900
Food Marketing Institute (13)	$16,000
General Electric Co. (11)	$15,494
U.S. Chamber of Commerce (26)	$14,945
Pfizer Inc. (18)	$14,200
Outdoor Advertising Association (12)	$14,250
AFL-CIO (9)	$12,500
United Jewish Appeal (8)	$12,000
Brown & Williamson Tobacco Co. (8)	$10,500
Mortgage Bankers Association (6)	$10,500
Washington Discussion Group (11)	$10,500
Distilled Spirits Council (10)	$10,285
American Mining Congress (12)	$10,000

Other senators who may qualify as millionaires include Howard H. Baker Jr., R-Tenn.; Henry L. Bellmon, R-Okla.; Bill Bradley, D-N.J.; Howard W. Cannon, D-Nev.; Lawton Chiles, D-Fla.; Thomas F. Eagleton, D-Mo.; Mark O. Hatfield, R-Ore.; Charles McC. Mathias, R-Md.; Sam Nunn, D-Ga.; Ribicoff of Connecticut, and Adlai Stevenson, D-Ill.

Two financially secure, but non-millionaire, senators listed their exact net worths. Daniel Patrick Moynihan, D-N.Y. ($450,000) and Ernest F. Hollings, D-S.C. ($437,163).

The richest House member probably is Fred Richmond, D-N.Y., who is the majority stockholder in Walco National Corp., a manufacturer of small machinery and electrical equipment. Richmond owns approximately 748,000 shares of Walco stock, valued at more than $10 million.

Other probable House millionaires are: Glenn M. Anderson, D-Calif.; Jonathan B. Bingham, D-N.Y.; Richard Bolling, D-Mo.; Brooks of Texas; Broyhill of North Carolina; Tim Lee Carter, R-Ky.; James C. Cleveland, R-N.H.; James M. Collins, R-Texas; Robert W. Daniel Jr., R-Va.; Millicent Fenwick, R-N.J.; Bill Green, R-N.Y.; Heftel of Hawaii; Robert J. Lagomarsino, R-Calif.; Jim Leach, R-Iowa; Stewart B. McKinney, R-Conn.; Richard L. Ottinger, D-N.Y.; Preyer of North Carolina; James H. (Jimmy) Quillen, R-Tenn.; William H. Rover, R-Calif.; Harold Runnels, D-N.M.; Harold S. Sawyer, R-Mich.; James H. Scheuer, D-N.Y.; and Fortney H. (Pete) Stark, D-Calif.

Other House members who may be millionaires include Bedell of Iowa; William E. Dannemeyer, R-Calif.; Robert H. Mollohan, D-W.Va.; Bill Nelson, D-Fla.; Ray Roberts, D-Texas; Gene Snyder, R-Ky.; James Weaver, D-Ore.

The Non-Wealthy

In contrast to the millionaires, a handful of members of Congress reported little or no outside income and virtually nothing in the way of financial assets.

Sen. Spark M. Matsunaga, D-Hawaii, for example, said he had no outside business earnings, aside from $7,000 in honoraria. His only financial interest was his home in Washington, D.C., purchased in 1965 for $46,000.

Lee Aspin, D-Wis., said he had no outside business earnings and no financial interests. He did accept $1,000 in honoraria payments.

Generally, the least wealthy members are young House members in their first or second terms. An example is David E. Bonior, D-Mich., a Vietnam veteran in his second term, who reported no outside income and no holdings.

Spouses

Congressional rules require members to disclose the financial interests of their spouses, unless they do not benefit from or maintain control over their spouses' holdings. Members also were required to reveal the sources, but not the amounts, of their spouses' incomes.

Although most members did disclose information about their spouses, a few refused to do so. Senators, but not House members, were asked to indicate if they withheld information about their spouses.

One senator who refused to disclose the financial assets of his spouse was John Tower, R-Texas. He said, "I have no knowledge whatever" of the estate of his reputedly wealthy wife Lilla Cummings Tower, whom he married in 1977.

Virginia's senator, Warner, said he has no control over the property of his wife, actress Elizabeth Taylor. Warner is a millionaire by virtue of a divorce settlement with his previous wife, heiress Catherine Mellon.

Other senators who did not report the holdings of their spouses were Wendell H. Ford, D-Ky. and Jacob K. Javits, R-N.Y.

The wives of at least five members are congressional staff aides. Four work directly for their husbands.

Elsie J. Hawkins, the wife of Rep. Augustus F. Hawkins, D-Calif., works for her husband in two paying jobs. As a clerk on his personal staff, she earned approximately $8,624 in 1978, according to clerk of the House records. She earned approximately $22,200 as a clerk for the House Administration Committee's printing subcommittee, which Hawkins chairs.

Martha A. Ford, the wife of Rep. William D. Ford, D-Mich., is an assistant clerk for the House Administration Committee. She earned $12,000 in that post in 1978, according to House records. Ford is not a member of the committee.

Yvonne Rousselot is executive secretary on the staff of her husband, Rep. John H. Rousselot, R-Calif. According to clerk of the House records, she was paid at the rate of $22,000 in 1978.

Jeanette S. Williams is a senior staff member on the Senate Labor and Human Resources Committee, chaired

Financial Disclosure in Congress



Top Honoraria Collectors in Senate and House

Senate

The 1976 Federal Election Campaign Act limited to $25,000 annually the amount a senator could earn in honoraria for speeches and articles. But it said a senator could earn over $25,000 if he used some of his earnings to defray out-of-pocket expenses or donated a portion to charity. In 1978, the top 25 earners of honoraria in the Senate were:

Richard G. Lugar, R-Ind.	$58,500*
Jake Garn, R-Utah	$27,814*
Howard H. Baker Jr., R-Tenn.	$27,750*
Daniel Patrick Moynihan, D-N.Y.	$27,388*
Robert Dole, R-Kan.	$27,000*
Jacob K. Javits, R-N.Y.	$26,085**
Robert C. Byrd, D-W.Va.	$25,000
Ernest F. Hollings, D-S.C.	$25,000
Henry M. Jackson, D-Wash.	$25,000*
Edmund S. Muskie, D-Maine	$25,000*
William Proxmire, D-Wis.	$25,000
Harrison A. Williams Jr., D-N.J.	$25,000
George McGovern, D-S.D.	$24,995
Frank Church, D-Idaho	$24,975
Alan Cranston, D-Calif.	$24,926
John C. Culver, D-Iowa	$24,924
Orrin G. Hatch, R-Utah	$24,875
Herman E. Talmadge, D-Ga.	$24,750
Richard S. Schweiker, R-Pa.	$24,749
Donald W. Riegle Jr., D-Mich.	$24,632
J. Bennett Johnston, D-La.	$24,350
Barry Goldwater, R-Ariz.	$24,250
Joseph R. Biden Jr., D-Del.	$24,000
Bob Packwood, R-Ore.	$24,000
Abraham Ribicoff, D-Conn.	$23,760**

* Senator donated all or a portion of his honoraria to charity.
** Senator used a portion of his honoraria to defray out-of-pocket expenses.

House

The 1976 Federal Election Campaign Act limited to $25,000 annually the amount a representative could earn by giving speeches or writing articles. In 1978, the top 25 House earners of honoraria were:

Thomas L. Ashley, D-Ohio	$25,000
James C. Corman, D-Calif.	$25,000
Ken Holland, D-S.C.	$25,000
John M. Murphy, D-N.Y.	$25,000
Dan Rostenkowski, D-Ill.	$25,000
Al Ullman, D-Ore.	$25,000
Guy Vander Jagt, R-Mich.	$25,000
Jack F. Kemp, R-N.Y.	$24,950
Henry S. Reuss, D-Wis.	$24,950
Jim Wright, D-Texas	$24,750
Philip M. Crane, R-Ill.	$24,450
John J. Rhodes, R-Ariz.	$24,220
Thomas P. O'Neill Jr., D-Mass.	$23,600
John D. Dingell, D-Mich.	$19,100
Shirley Chisholm, D-N.Y.	$18,983
Morris K. Udall, D-Ariz.	$18,022
Barry M. Goldwater Jr., R-Calif.	$16,900
Frank Thompson Jr., D-N.J.	$16,800
William D. Ford, D-Mich.	$16,450
Bob Eckhardt, D-Texas	$16,300
John Conyers Jr., D-Mich.	$15,566
Thomas S. Foley, D-Wash.	$15,000
John J. LaFalce, D-N.Y.	$14,900
Henry J. Hyde, R-Ill.	$14,828
Jim Santini, D-Nev.	$14,750

by her husband, Harrison A. Williams Jr., D-N.J. She earned $53,500 in 1978, according to Senate records.

Patricia B. Young is executive secretary on the staff of her husband, Sen. Milton R. Young, R-N.D. Young reported her 1978 earnings as $24,677.

Ford and Rousselot did not mention their wives on their financial disclosure forms.

The federal anti-nepotism law, adopted in 1967, prohibits federal officials, including members of Congress, from appointing, promoting or recommending for appointment or promotion, a relative to serve in the same agency or department. However, the law does not prohibit a member from marrying a staffer and keeping his spouse on his payroll. *(1967 Almanac p. 591)*

Compliance

Although most members generally complied with the letter and spirit of the disclosure rules, a few members in each house filed disclosure forms that were seriously incomplete, inaccurate or misleading.

Ethics committees in both houses attempted to correct the most serious errors, but committee aides admitted they did not have the time or staff to strictly enforce the rules.

The Senate voted in March to discontinue General Accounting Office spot audits of forms filed by senators and their top aides. *(Weekly Report p. 1746; disclosure that doesn't disclose, p. 1850)*

Some members voluntarily revealed much more than the rules required. Rep. Morris K. Udall, D-Ariz., revealed his entire 1978 federal income tax form. Rep. Paul Simon, D-Ill., continued his long-standing practice of disclosing in detail his finances and those of all his aides.

Honoraria Payments

Members of Congress were paid almost $2.3 million in 1978 by businesses, trade associations, educational and ideological groups, publications and other organizations eager to hear the members' insider views on issues facing the federal government.

Of the total honoraria payments, $1,086,451 went to 75 senators and about $1,180,000 to 245 representatives, according to financial disclosure forms filed by all 100 senators, all 435 voting representatives, the resident commissioner representing Puerto Rico, and the three non-voting

What Members of Congress Must Disclose

Representatives

• For members: The source and exact amount of earned income (including honoraria and date received) aggregating $100 or more during the 1978 calendar year. For spouses and dependents: The source of income of $1,000 or more; the exact amount wasn't required.

• The source and category of value of unearned income in excess of $100 for member, spouse and dependents. Included were interest, dividends, royalties, capital gains, trusts and other financial arrangements. The value categories for unearned income were: $101-$1,000; $1,001-$2,500; $2,501-$5,000; $5,001-$15,000; $15,001-$50,000; $50,001-$100,000; and over $100,000.

• The source and a brief description of gifts of transportation, food, lodging or entertainment aggregating $250 or more in value in calendar year 1978 for the member, spouse or dependent. Exempted were gifts from relatives, gifts of personal hospitality, and any gift received by spouse or dependents totally unrelated to their relationship to the reporting individual.

• The source and a brief description of gifts other than transportation, food, lodging or entertainment aggregating $100 or more from any source during 1978. Any individual gift valued at less than $35 did not have to be reported.

• The source and a brief description of reimbursements received from any source aggregating $250 or more in value during calendar year 1978 for a member, spouse or dependent. Excluded were reimbusements received by spouse or dependents totally unrelated to their relationship to the reporting individual.

• Real and personal property held, including trusts, with a fair market value exceeding $1,000 on Dec. 31. Property had to be identified by the category of value.

• Total liabilities owed to any creditor which exceeded $10,000 at any time during 1978. Liabilities must be identified by the appropriate category of value.

• The purchase, sale or exchange of real property, stocks, bonds, commodities futures or securities which exceeded $1,000 during 1978. Property must be identified by the category of value.

• The value categories for property, liabilities and transactions were: $1,001-$5,000; $5,001-$15,000; $15,001-$50,000; $50,001-$100,000; $100,001-$250,000; and over $250,000.

• Positions as an officer, director, trustee, partner, employee, consultant, etc. of any institution.

• Agreements and arrangements for future employment or continuation of benefits by a former employer.

Senators

• The source, amount, services rendered and date of each honorarium received during the calendar year 1978 and which, if any, were donated to charity.

• The exact amount and each source of earned income exceeding $100 during 1978 for self, spouse and dependents. Earned income includes wages, salaries and other fees for services.

• The source and a brief description of each reimbursement aggregating $250 or more during calendar year 1978. It was not necessary to report the exact amount of the reimbursement. Included were reimbursements to the senator's spouse where the reimbursement was not totally independent of the spouse's relationship to the senator.

• The source and category of value of each item of unearned income in excess of $100 for the senator, spouse and dependents. Included in this section were interest, dividends and royalties, capital gains, rental income, distributive shares of partnership income, and distributions from estates and trusts. The value categories for unearned income were: not more than $1,000; $1,001-$2,500; $2,501-$5,000; $5,001-$15,000; $15,001-$50,000; $50,001-$100,000; and over $100,000.

• The source, value and a brief description of all gifts, worth $100 or more, received by the senator, spouse or dependents from any one source during 1978. Individual gifts valued at less than $35 didn't have to be reported.

• The source, value and a brief description of all gifts of transportation, lodging, food or entertainment received by the senator, spouse and dependents during the calendar year aggregating $250 or more.

• Interest in real property held directly or indirectly at any time during the calendar year that had a fair market value in excess of $1,000. For each property, a brief description and location and the value category had to be provided.

• Personal property held directly or indirectly for the production of income and having a fair market value in excess of $1,000 at any time during the calendar year.

The categories for real and personal property values were: not more than $5,000; $5,001-$15,000; $15,001-$50,000; $50,001-$100,000; $100,001-$250,000; $250,001-$500,000; $500,001-$1 million; $1 million-$2 million; $2 million-$5 million; and over $5 million.

• Liabilities owed directly or indirectly by the senator, spouse or dependents which exceeded $2,500 at any time during the year, except obligations to relatives.

• Transactions in securities or commodities futures.

• The purchase, sale or exchange of real property by the senator, spouse or dependents where the value of the property exceeded $1,000. Also the date of the transaction and the property's category of value.

• Patent rights held by the senator, spouse or dependents at any time during the 1978 calendar year.

• Agreements for future employment or continuation of payments or benefits to the senator only.

Spouses and Dependents

Members of both houses had to report property holdings for spouses and dependents except for those holdings:

a) which the member certified represented the spouse's or dependent's sole financial reponsibility and which the member had no knowledge of;

b) which were not in any way, past or present, derived from the income, assets or activities of the member; or

c) from which the member neither derived, nor expected to derive, any economic benefit.

House delegates. (*House honoraria list, p. 1849; Senate honoraria list, p. 1862*)

Twenty-five senators and 130 House members reported receiving no honoraria for speaking engagements or writing fees in 1978.

The total paid senators in 1978 was not slightly less than the record for honoraria payments set in 1977. To that year, 81 senators earned $1,081,648 in honoraria, while 12 reported receiving none.

Senators have been required to disclose their earnings from honoraria since 1969.

The slight decrease in 1978 probably was due to 20 senators leaving office at the end of that year. Those senators were not required to file details of their 1978 finances with the Senate. But the 20 freshmen who took their seats at the beginning of 1979 were. As candidates during 1978, these individuals couldn't command the high speaking fees normally given incumbent senators.

Because 1978 was the first full year for which House members were required to disclose their honoraria payments, no figures for earlier years are available for comparison purposes.

Time-Honored Practice

The payment of honoraria is a time-honored way to entice representatives and senators to provide various groups with an "insider view" of Washington through speeches, personal appearances or published articles. In addition to the honoraria, members of Congress often receive expenses-paid trips to the sites where the speech are given, as well as lodging and meals.

Most of the honoraria payments are in return for speeches to conventions held by trade associations and other business groups. Others are for briefings or addresses to educational groups, ideological organizations, religious and ethnic groups and think tanks.

Some are for intimate meetings over dinner or lunch with a corporation's board of directors, or a small group of businessmen, lawyers and lobbyists such as the Washington Discussion Group. These small groups say a meal and a chat with a prominent senator or representative is worth the $1,000 or $2,000 payment because of the opportunity it provides for an off the record discussion of Washington goings on.

Honoraria are perfectly legal, but most of the groups that provide such payments also are interested in legislation before Congress. The most harsh critics of honoraria payments say the system is little more than legalized influence buying. Less harsh critics contend that the groups making the payments are more interested in gaining the friendship of elected officials and easy access to them in the future than in hearing the comments of the senators and representatives.

Organizations that give honoraria — and members of Congress who accept them — deny any impropriety.

Many freely admit, however, that sending a member of Congress to address a convention, a board of directors or a trade association's annual meeting — and paying him for his appearance — can have important benefits. It can give top management a better understanding of the Washington scene, provide an occasion to get to know an important member, or ensure better access to the member in the future. It also can be used to let the member know that he has a supporter on the "outside."

Groups Target Payments

An examination of the honoraria paid members of Congress in 1978 indicates that interest groups often concentrated their payments on members in a position to help them with their concerns. This is the pattern that has been present in other years, also. For example, the Outdoor Advertising Association gave a total of $7,000 in honoraria to five members of the Senate Environment and Public Works Committee which in 1978 rewrote the Highway Beautification Act of 1965, weakening key provisions regulating outdoor advertising. (*1978 Almanac p. 539*)

While the House Ways and Means Health Subcommittee considered hospital cost containment legislation, its chairman, Rep. Dan Rostenkowski, D-Ill., received $14,000 in honoraria from health groups. (*1978 Almanac p. 490*)

The American Bankers Association funneled five honoraria totaling $10,500 to five Democratic members of the House Banking Committee in 1978, while five state banking associations provided one senator alone — Jake Garn, R-Utah, ranking Republican on the Senate Banking Committee — with $8,000 in honoraria for five different speeches.

The banking committees worked on a number of major revisions in federal legislation regulating banking practices during 1978. (*1978 Almanac p. 300*)

Banking Industry Honoraria

Banking groups gave heavily in 1978. The American Bankers Association gave more honoraria to members of Congress than any other group during that year, paying out a total of $28,000 to 16 different senators and representatives. At the same time, various state banking associations paid out $20,100 to 17 different senators and representatives in the same period.

"We hold over 800 meetings a year," commented Edward E. Smith, a spokesman for the American Bankers Association, explaining why his group gives honoraria to members of Congress. "You can't get away with always using only [the trade association's] staff. You need a big name. And you can't ask them to take time off and not give them something."

Smith said the association seeks out members of the congressional banking and tax committees to address its meetings because those members are most familiar with the industry's legislative concerns. He added that the association was proud of its record on honoraria payments.

"We're not opposed to it [paying honoraria]," he said. "We're not like some trade associations who try to hide under a bushel. I'm glad we're on top. I'm only sorry we don't have more money to spend on this."



Sen. Spark M. Matsunaga



Rep. Les Aspin

The Unwealthy in Congress

Disclosure That Doesn't Disclose

The extensive disclosure requirements imposed on Congress in recent years have given voters more information than ever before about the financial dealings and personal wealth of elected representatives.

But, ironically, the methods of disclosure can distort the true picture of a member's wealth, moreover, the structure of the disclosure forms, in certain cases, presents an open invitation for members to obfuscate or to conceal information.

These problems make an exact calculation of a member's net worth impossible unless the individual voluntarily supplies additional information.

Several members have been doing this for years, most notably Rep. Paul Simon, D-Ill., who released his 24th annual public financial disclosure statement this year. It has been his practice since first taking public office in 1955 as a member of the Illinois state House. Rep. Philip M. Crane, R-Ill., a presidential hopeful, filed a statement over 100 pages in length. Sen. Claiborne Pell, D-R.I., released 67 pages of financial information, the most lengthy statement in the Senate.

Categories of Value

The financial disclosure rules require a member to reveal the "category of value" owned by him or his spouse and dependents. Each category represents a "range" of wealth and not an actual amount. Examples are "between $15,001-$50,000" and "between $100,001-$250,000." (*Box, p. 1528*)

The misleading nature of the categories can be shown in the disclosure of Sen. Russell B. Long, D-La., who listed all his income and holdings, and voluntarily showed a net worth of $2,817,731. Using the categories, however, Long's net worth could be anywhere between $2,127,000 and $4,760,000.

Walter (Dee) Huddleston, D-Ky., gave the exact amount of his unearned income as $14,901. Using the categories, his income could be $12,301 to $38,000.

For most members, the most serious distortion is in the $15,001-$50,000 category.

If a member had three holdings of about $16,000 each, the actual total would be $48,000. But under the category system, those would total $45,000-$150,000.

Another distortion inherent in the category system is the largest category value. In the House it is over $250,000; in the Senate it is over $5 million.

Rep. Fred Richmond, D-N.Y., reported his holdings in Walco National Corp. as "over $250,000," which is all that is required by law for House members. Richmond held 750,000 shares of stock in Walco National in 1977, and sold 2,000 shares in June 1978, leaving him with 748,000 shares. At current stock market value, his financial interest in Walco National should be about $16.5 million — $16.25 million more than he had to disclose.

Problems With the Forms

The structure of the disclosure forms also permitted errors.

By Andrea Yank

The House forms for 1978 were short on space for anything but the most minuscule of holdings for an individual member. The instructions were short on detail and briefly printed on the reverse side of each member's disclosure cover sheet. House Ethics Committee staffers were deluged with questions on procedures for filling out the forms.

On the other hand, the Senate Ethics Committee published a 43-page manual for senators and employees, and received far fewer procedural questions.

The different forms allowed the accuracy of information to vary, especially the value of financial interests.

The Ethics in Government Act requires members to disclose "the current value" of their real property holdings unless the current value "is not ascertainable without an appraisal." If the latter case is true, members could use different calculation methods to determine the value, providing the method used is explained.

Because of limited space on the House forms and the brevity of instructions, information about real property holdings was more likely to be reported at fair market value than through other methods.

The Senate forms provided a separate column for senators to list the method used to value their property. This appeared to invite senators not to report the current value. Hence, Sen. Long reporting an interest in "133 acres of timberland, Winn Parish, La." at a value of "not more than $5,000, purchase price in 1935."

The county assessor's office in Winn Parish, La., told a reporter that timberland there is valued between $500 and $750 per acre. This suggests that the current value of Long's timberland might be between $66,500 and $100,000. If the timber on the land is top quality southern pine, the value could be as high as $1,500 per acre, which means Long's holding could be worth as much as $200,000.

Long also reported 800 acres of timberland in Livingston, La., at a 1935 purchase price of $36,216. Based on the U.S. Forest Service assessment that virtually no timberland in the United States today is worth less than $500 per acre, 800 acres would be worth at least $240,000 and could be worth over $1 million.

Although this avenue of disclosing as loose as possible was open to all members, few took advantage of it. Only six senators listed most of their real estate holdings at acquisition cost.

Filling out the Forms

Some members simply filled out the forms incorrectly or incompletely.

Several, such as Rep. Harold Rennels, D-N.M., reported income from dividends but listed no stockholdings. Rep. Charles Wilson, D-Texas, reported rental income without listing an interest in real property.

The winner of the "most illegible handwriting award" this year goes to freshman Rep. Ron Paul, R-Texas, who filled out his form himself in longhand. Paul is a doctor.

V37/35 SE1 79 UMI

Informing Management

Two companies that only began in 1978 to pay members of Congress for speaking engagements told Congressional Quarterly they did so to keep their firms' managers informed of important Washington activities.

One firm, Rexnord Inc., a Milwaukee, Wis., manufacturing company, paid out $4,585 in 1978 to four members of Congress for addressing Washington seminars. The sessions were set up to educate management on "how the process works," according to company spokesman John Bartels. A fifth member of Congress was paid $1,000 plus travel expenses to address the firm's annual meeting.

Bartels said the company had been holding Washington seminars for at least five years, but before 1978 had brought company officials to the Capitol to meet with members. In 1978, the company decided to invite to dinner the members it wanted to meet. The dinner meetings were intended "to get to know them better," Bartels said. They were paid honoraria because to leave the Capitol in order to attend a dinner was "overtime," he explained.

The Dana Corp., a Toledo, Ohio, automotive parts manufacturing firm, also paid out honoraria to members of Congress for the first time in 1978. The firm paid $5,500 to eight members for the year. The members were paid to address a Washington seminar for Dana's middle management, according to the firm's Washington vice president, Howard Haugerud.

"Many people believe government workers are not the swiftest in the world," Haugerud explained. "It's important for our employees to see that, in the upper echelons, at least, this is not the case."

Honoraria Limitations

The 1976 Federal Election Campaign Act (PL 94-283) limited to $25,000 annually the amount of money a senator or representative could earn in honoraria in a year. The law also limited each individual honorarium payment to a maximum of $2,000. (*1976 Almanac p. 459*)

A stricter limitation on the amount of money a senator may earn in outside income was to have gone into effect in 1979, but the Senate voted in March to delay enforcement of that rule for four years. (*Weekly Report p. 585*)

A similar House rule was unaffected by the Senate action. The House rule placed a ceiling of 15 percent of a representative's annual salary on all outside earned income — including honoraria — and a ceiling of $1,000 on each individual honorarium, beginning Jan. 1, 1979.

The House approved the 15 percent cap and a ceiling of $750 on each honorarium as part of its ethics code adopted in 1977. However, the $750 limit was raised to $1,000 in January 1979 after the House Democratic Caucus recommended the increase at the end of the 95th Congress. (*1977 Almanac p. 786; 1978 Weekly Report p. 168*)

At the current annual salary of $57,500, the limitation means that, as of 1979, a representative can earn no more than $8,625 a year in outside income, including honoraria. In 1978, 45 representatives and 48 senators earned more than $8,625 in honoraria alone.

Lugar Is 1978 Champion

Sen. Richard G. Lugar, R-Ind., was the honoraria champion in both House and Senate in 1978, earning $38,500. He donated $13,500 of his honoraria earnings to charity in order to comply with the $25,000 limitation.

"We're aware that he was No. 1, but he's still here for every vote," commented Lugar spokesman Lou Gerig. He said Lugar ranked third in attendance in the Senate in 1978, and gave no outside speeches on Senate time.

The 1976 law permits members to deduct any funds donated to charity or used to pay for out-of-pocket expenses from their total honoraria earnings in order to comply with the $25,000 limitation.

In 1978, six senators — Lugar, Jake Garn, R-Utah, Howard H. Baker Jr., R-Tenn., Daniel Patrick Moynihan, D-N.Y., Robert Dole, R-Kan., and Jacob K. Javits, R-N.Y. — earned more than $25,000 in honoraria and either donated some of the money to charity or used some of it for expenses related to speech giving in order to comply with the $25,000 ceiling.

Javits stated in his financial disclosure report that, in order to comply with the $25,000 ceiling, he had deducted some money from his total speechmaking earnings to pay members of his staff who "in non-working hours helped me with the speeches and writings that earned the honoraria."

This deduction is not permitted by the 1976 law. Spokesmen for both the Senate Select Ethics Committee and the Federal Election Commission refused to discuss the matter.

Javits' executive assistant, Gregory G. Jones, told a reporter the senator's accountants felt the deduction was proper. He added, "If we are advised that it is improper by either the Ethics Committee or the Federal Election Commission, then we will do anything that is necessary to clean it up."

In all, 13 senators and six representatives donated all or a portion of their honorarium income to charity.

Members donating all their honoraria to charity were Sens. Henry M. Jackson, D-Wash. ($25,000), Howard M. Metzenbaum, D-Ohio ($500), Claiborne Pell, D-R.I. ($5,200), Strom Thurmond, R-S.C. ($5,550) and Reps. Carlos J. Moorhead, R-Calif. ($1,000), and Mary Rose Oakar, D-Ohio ($3,146).

No Limit on Number

Though members were limited by the 1976 election law to $2,000 for any one speaking engagement, some members managed to earn more than $2,000 from one source by making repeat appearances.

Javits, for example, was paid a total of $8,000 for four speeches to Touche Ross & Co., an accounting firm. Lugar was paid $4,000 for two speeches to the U.S. League of Savings Associations. Rep. Guy Vander Jagt, R-Mich., was paid $3,000 by Dow Chemical Co. for three speeches, while Rep. James J. Howard, D-N.J., was paid $3,000 for three speeches to the American Public Transit Association.

Overall, senators drew larger speaking fees than House members, probably because of greater national fame.

Financial Disclosure in Congress



Tougher Ethics Standards in Congress . . .

The part-time lawyer is now an endangered species in Congress.

Toughened ethics standards have all but eliminated the once widespread practice among members of accepting thousands of dollars for part-time legal work.

Financial disclosure reports show that only 23 House members who served in Congress during 1978 received fees from actively practicing law. And many of those members have withdrawn from their law practices because of the new House ethics code. Under that code, no member of the House can accept more than $8,625 per year in outside earned income, starting in 1979. The Senate postponed the effective date of a similar rule until 1983. Senate rules, however, effectively prevent senators from practicing law.

Twenty-one House freshmen and five freshman senators reported collecting legal fees in 1978, before entering Congress. All five senators and at least four of those House members have since withdrawn from their law practices.

The House earned income limit will force some members to take substantial cuts in legal fees. **Freshman** Frank J. Guarini, D-N.J., for example, reported $624,129 in legal fees for 1978. He has said he will continue to practice law, but will accept only the $8,625 allowed by the House rule. *(Earned income limit story: p. 1841)*

Five members of the House continued in 1978 to allow their names to be used by their law firms, even though they no longer actively practiced with the firm. The American Bar Association Code of Professional Conduct expressly forbids such "false front" law firms.

The code states that a lawyer who becomes a judge or public official "shall not permit his name to remain in the name of a law firm or to be used in professional notices of the firm during any significant period in which he is not actively and regularly practicing law as a member of the firm." An ABA opinion modifying the rule said a public official may allow the partnership to retain his name if he intends to remain in public office "only temporarily."

Although the ABA code does not say so, the intent of the rule is to prevent law firms from using the name of a prominent public official to attract clients.

House members who did not actively practice law in 1978, but who permitted their names to be used by law firms are Charles A. Vanik, D-Ohio; James C. Cleveland, R-N.H.; Robert C. McEwen, R-N.Y.; John W. Jenrette Jr., D-S.C.; and Claude Pepper, D-Fla.

House

The following list includes all House freshmen who are lawyers and other House members who reported income from practicing law or affiliations with law firms for 1978. Freshmen are designated by an asterisk (*).

Joseph P. Addabbo, D-N.Y.: $5,977 income as partner in Addabbo, DeSena and DeSena of New York City.

***Beryl Anthony Jr., D-Ark.**: $1,500 legal fees from private practice in El Dorado, Ark.

Adam Benjamin Jr., D-Ind.: $1,504 residual income from previous practice in Indianapolis.

***Don Bailey, D-Pa.**: $2,000 legal fees from private practice in Greensburg, Pa.

By John Felton

***Michael D. Barnes, D-Md.**: No legal income listed and not associated with any firm.

***Ed Bethune, R-Ark.**: $10,298 income from Ed Bethune Attorney at Law; $16,966 income from Bethune and Edwards of Searcy, Ark.

Mario Biaggi, D-N.Y.: $20,000-$100,000 income as partner in Biaggi, Ehrlich and Lang of New York City. Biaggi has since withdrawn from the partnership.

James Cleveland, R-N.H.: $1,750 trustee's fees, and partner, Cleveland, Waters and Bass of Concord, N.H.

***William Clinger Jr., R-Pa.**: $15,000 income, partner in Harper, Clinger, Eberly and Marts of Warren, Pa.

***Jim Courter, R-N.J.**: $39,750 salary from Courter, Kobert and Hare of Hackettstown, N.J.

***William E. Dannemeyer, R-Calif.**: $2,443 bonus as partner in Dannemeyer, Bean and Sunday of Fullerton, Calif.

Robert Duncan, R-Ore.: $10,502 liquidation of share partnership in Lindsey, Nahstoll, Hart, Neil and Weigler of Portland, Ore.

***Geraldine A. Ferraro, D-N.Y.**: $7,000 income from law practice in Queens, N.Y., and $9,000 income as Queens District Attorney, January-April, 1978.

***Martin Frost, D-Texas**: No legal fees listed from private practice in Dallas, Texas.

Robert N. Giaimo, D-Conn.: $5,200 income as "of counsel" from Sachs, Sachs and Sachs of Milford, Conn.

Sam Gibbons, D-Fla.: $12,000 salary from Gibbons, Tucker, McEwen, Smith, Cider and Taub of Tampa, Fla.

***Frank J. Guarini, D-N.J.**: $624,129 gross fees as partner in Guarini and Guarini of Jersey City, N.J.

Sam B. Hall Jr., D-Texas: $4,800 legal fees accrued prior to July 1976 from the former firm of Hall, Huffman and Palmer of Marshall, Texas.

***Kent Hance, D-Texas**: $39,800 income from Hance, Thompson, Thomas and Sawyer of Lubbock, Texas.

William H. Harsha, R-Ohio: $2,000 income from private practice in Portsmouth, Ohio.

William J. Hughes, D-N.J.: $13,154 salary from Loveland, Garrett and Russell of Ocean City, N.J.

Henry J. Hyde, R-Ill.: $7,508 legal fees from five clients.

James M. Jeffords, R-Vt.: $100-$1,000 residual income from law practice prior to 1973.

John W. Jenrette Jr., D-S.C.: $7,846 income for use of law practice by firm of Jenrette, Wheless and McInnis of North Myrtle Beach, S.C.

***Ken Kramer, R-Colo.**: $9,000 partnership distribution from Floyd, Kramer and Laughrecht of Colorado Springs, Colo.

***Claude (Buddy) Leach, D-La.**: $21,520 income from "drawing account" from Cabin, Leach and Tyler of Leesville, La.

Norman F. Lent, R-N.Y.: $3,561 salary from Hall, Lent and Troescher of Lynbrook, N.Y.

Robert L. Livingston, R-La.: $600 residual fee from Livingston and Powers of New Orleans, La. Livingston was a partner until "approximately May 1, 1978."

***Tom Loeffler, R-Texas**: $2,289 from contract legal services. Loeffler is not associated with any firm.

***Dan Lungren, R-Calif.**: $44,000 salary from Hall, Hunt, Hart, Brown and Baerwitz of Long Beach, Calif.

. . . Have Cut Into Part-time Legal Work

Marc L. Marks, R-Pa.: $25,500 income from Rogers, Marks and Puffilo of Sharon, Pa.

***Robert T. Matsui, D-Calif.**: $11,948 income from Matsui and Hansen of Sacramento, Calif. Under an agreement with the firm, Matsui will recieve $6,000 over 36 months for furniture, fixtures and equipment, one half of all accounts receivable due as of Sept. 1, 1979, one third of all fees from contingent fee cases held by the firm on Sept. 1, 1979, up to $2,500 for each case; and $9,000 per year for three years in exchange for an agreement not to compete within Sacramento County, Calif.

Jim Mattox, D-Texas: $20,314 return on equity and salary from Crowe and Mattox of Dallas, Texas.

Paul N. McCloskey Jr., R-Calif.: $7,904 in fees for legal services performed prior to Dec. 31, 1967.

Robert C. McEwen, R-N.Y.: $1,000 income as "of counsel" for O'Connell, McEwen and DuPré of Ogdensburg, N.Y.

Carlos J. Moorhead, R-Calif.: $11,879 probate fees.

Ronald M. Mottl, D-Ohio: $48,014 share of partnership earnings from Cassady and Co., and R. M. Mottl law partnership, and $1,474 net income from own practice. Under an agreement with Cassidy and Co., Mottl will get $8,000 per year from the firm plus payments earned by him prior to 1979, plus "ordinary business expenses."

Morgan F. Murphy, D-Ill.: $113,441 legal fees and real estate fees during 1978. The legal fees were from Murphy, Boyle and Banks of Chicago. Murphy terminated his partnership Dec. 31, 1978.

***Bill Nelson, D-Fla.**: No legal fees listed from Nelson, Normile and Dettmer of Melbourne, Fla. Nelson resigned from the firm Jan. 15, 1979. His one-third interest in the firm is listed at $15,000-$50,000.

George M. O'Brien, R-Ill.: $15,000-$50,000 income from O'Brien and Garrison of Joliet, Ill.

Claude Pepper, D-Fla.: $138,799 income from Pepper, Clements, Hopkins and Weaver of Miami Beach, Fla. The partnership was dissolved Dec. 31, 1978.

***Thomas E. Petri, R-Wis.**: $5,036 income from private practice in Fond du Lac, Wis.

***William R. Ratchford, D-Conn.**: $26,952 income share from Papazoglou, Ratchford and Garmella of Danbury, Conn. The partnership was dissolved Jan., 1977.

Fernand J. St Germain, D-R.I.: $667 legal fees from private practice in Providence, R.I.

Harold S. Sawyer, R-Mich.: $20,778 annual payment on accounts receivable from Warner, Norcross and Judd of Grand Rapids, Mich. Sawyer resigned from the firm in 1978.

***F. James Sensenbrenner Jr., R-Wis.**: No legal fees listed from private practice in Shorewood, Wis.

***James M. Shannon, D-Mass.**: $8,416 legal fees from own practice in Lawrence, Mass.

***Richard C. Shelby, D-Ala.**: $104,593 legal fees from private practice in Tuscaloosa, Ala.

***Norman D. Shumway, R-Calif.**: No fees listed. Agreed Dec. 31, 1978 to be listed as "of counsel" with Cavalero, Bray, Shumway and Geiger of Stockton, Calif.

Ike Skelton, D-Mo.: $55,617 legal fees from certain specified cases in practice with Hall, Anding and Bobbins of Lexington, Mo. Skelton no longer actively practices.

Neal Smith, D-Iowa: $424 income from private practice in Des Moines, Iowa.

Gene Snyder, R-Ky.: $2,000 fees from own practice in Louisville, Ky.

***Edward J. Stack, D-Fla.**: No legal fees listed. Stack was sheriff of Broward County, Fla.

***Tom Tauke, R-Iowa**: $1,111 "reimbursement for services" as partner of Curran, Fitzsimmons, Schilling and Tauke.

Frank Thompson Jr., D-N.Y.: $5,250 "miscellaneous law fees" from partner Harvey L. Stern of Trenton, N.J.

Charles A. Vanik, D-Ohio: $485 net income as "of counsel" from Vanik, Montor, Zucco, Klein and Scanlon of Cleveland, Ohio.

Harold L. Volkmer, D-Mo.: $1,246 legal fees from own law practice in Hannibal, Mo.

John W. Wydler, R-N.Y.: $40,173 income as partner of Wydler, Balin, Pares, Soloway, Seaton and Margon of New Hyde Park, N.Y.

Senate

The following list includes all freshmen senators who are lawyers and senators who reported income from the sale of law partnerships. Freshmen senators are designated by an asterisk(*).

***Max Baucus, D-Mont.**: Does not practice law.

Joseph E. Biden Jr., D-Del.: $2,000 proceeds from sale of partnership, Walsh, Monzack and Owens of Wilmington, Del.

***David L. Boren, D-Okla.**: Does not practice law.

***Thad Cochran, R-Miss.**: Does not practice law.

***William S. Cohen, R-Maine**: Does not practice law.

***David F. Durenberger, R-Minn.**: $48,500 income as counsel for community and legal affairs, H. B. Fuller Co., St. Paul, Minn.

***Howell Heflin, D-Ala.**: $65,434 income for legal services from Heflin, Rosser and Munsey of Tuscumbia, Ala. The partnership was terminated Dec. 31, 1978.

Jacob K. Javits, R-N.Y.: $3,762 trustee commissions for Aldo R. Balsam trust, New York.

J. Bennett Johnston, D-La.: $2,501-$5,000 income from sale of partnership, Johnston, Johnston and Thornton of Shreveport, La.

Paul Laxalt, R-Nev.: $15,001-$50,000 capital gain income from sale of law practice and office building to former firm.

***Carl Levin, D-Mich.**: $2,735 in legal fees and $7,500 in executor's fees. Levin is listed as "of counsel" with Jaffe, Snider, Raitt, Garret and Heuer of Detroit.

***Larry Pressler, R-S.D.**: Does not practice law.

***David Pryor, D-Ark.**: Does not practice law.

***Alan K. Simpson, R-Wyo.**: $30,999 income from Simpson, Kepler, Simpson and Cozzens of Cody, Wyo. Resigned from the firm Dec. 31, 1978, and will receive future payments on balances due on past legal fees.

***Donald Stewart, D-Ala.**: $14,146 income from Stewart and Morris of Anniston, Ala. Stewart sold his share of the partnership in Nov., 1978 for $5,001-$15,000.

***Paul E. Tsongas, D-Mass.**: Does not practice law.

***John W. Warner, R-Va.**: Does not practice law.

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Although the total paid all senators in honoraria was slightly less in 1978 than in 1977, the average amount earned by those senators accepting honoraria increased to about $14,000 in 1978 from about $13,400 in 1977. For House members, the average amount earned by those accepting honoraria was $4,700 in 1978.

Spouse or Aide Often Invited

A side benefit often provided members delivering speeches is an invitation to take along one's spouse or staff aide at no personal expense.

Sen. Paul Laxalt, R-Nev., for example, took his wife with him on trips to Albuquerque, Des Moines, Las Vegas, Los Angeles (twice), Phoenix and Reno (four times) in 1978, according to his financial disclosure form. In each case, her travel expenses were paid for by the groups he addressed. The Laxalts make their home in Reno.

Howard W. Cannon, D-Nev., reported accepting payment for his wife's travel expenses on four different speechmaking trips to Las Vegas in 1978. The Cannons' home is in Las Vegas.

S. I. (Sam) Hayakawa, R-Calif., reported taking along aides on speechmaking trips to Providence, Miami, Tuscaloosa, Los Angeles (twice), San Francisco (twice), Albuquerque, Columbus, Kansas City, Tuscon, Jacksonville, Fresno and Palm Springs in 1978. Most of the trips were to make campaign speeches for other Republican office seekers.

Speechmaking trips can lead a member and his spouse far from home, often to glamorous vacation spots. James McClure, R-Idaho, for example, was able to take his wife along with him on a speechmaking trip to Honolulu at the expense of the National Association of Realtors. Bob Packwood, R-Ore., had his wife's way paid to Te' Aviv by the American Jewish Committee in return for a speech by the senator.

Top Earners in Congress

This year, for the first time, all members of Congress were required to disclose the sources and general amounts of their outside incomes for the previous year. But because congressional disclosure requirements are so vague, it is impossible to determine exactly which members had the highest incomes.

Members were required to disclose the exact amounts of earned income, such as salaries, but were required to disclose unearned income, such as stock dividends, only in broad categories, such as $101-$1,000.

However, Congressional Quarterly compiled the following list of the 15 senators and 15 House members who had the highest minimum incomes for 1978. In compiling the list, CQ added the exact amounts of earned income and honoraria to the total minimum value for each member's unearned income.

At least half of the top 30 members inherited all or more of their wealth, and are able to count on $100,000 or more each year in dividends on stocks and bonds. Two senators are wealthy because of high visibility careers — former astronaut John Glenn and former professional basketball player Bill Bradley. Several members, who were successful lawyers or businessmen before joining Congress, continued to receive large incomes from their previous careers.

Senate

The following 15 senators topped the earnings list in the Senate during 1978.

John Heinz, R-Pa.: An heir to the H. J. Heinz Co. family fortune, Heinz reported unearned income of $427,101 to over $800,000 during 1978. He reported no earned income, and accepted no honoraria. At least $200,000 of the income was in the form of dividends on Heinz Co. stock, another $130,000 came from real estate partnerships, and the rest came from various oil royalties, rents and interest payments.

Edward M. Kennedy, D-Mass.: Kennedy reported unearned income of $288,401 to over $581,500. The bulk of that — over $200,000 — came in payments from five family trusts established by his father and mother, and a blind trust Kennedy established himself. Kennedy also received $50,000-$100,000 as his share of income from the family-owned Merchandise Mart office building in Chicago. He accepted $3,050 in honoraria, and donated all but $25 of it to charity.

John Glenn, D-Ohio: After his 1962 space flight, the former astronaut went to work for Royal Crown Cola and amassed a sizable personal fortune. His investments produced unearned income in 1978 of $288,000 to over $412,000. Among his investments are partnerships which own Holiday Inns and other real estate. Glenn received unearned income of more than $100,000 each from two partnerships — Interstate Resort Corp. and Friendship Management. Glenn also received $50,000-$100,000 from Lyanda Inc., which manages two Holiday Inns owned by Friendship Management. He reported no earned income.

Claiborne Pell, D-R.I.: A member of a wealthy East Coast family, Pell reported unearned income of $267,401 to over $524,000. He also earned $3,200 in honoraria, but donated all of it to charity. Most of Pell's personal fortune is managed by the U.S. Trust Co. and the Chemical Bank, which pay him dividends and interest on numerous stock holdings. Pell earned over $100,000 in capital gains on sales of securities during 1978. Pell also is a beneficiary of eight family trusts, from which he earned at least $19,500.

Sam Nunn, D-Ga.: Nunn reported a gross unearned income of $247,501 to over $371,000 for 1978 — nearly all of it from a 3,400-acre farm in Perry, Ga. He did not reveal his net income from the farm. Nunn also received small dividends from numerous stocks and profits from real estate investments. He accepted $4,400 in honoraria.

Mark O. Hatfield, R-Ore.: Perhaps more than any other member of Congress, Hatfield has taken advantage of the booming real estate market in Washington, D.C. At the end of 1978, he owned two apartment buildings, a commercial building and four townhouses as investments. His wife, Antoinette, is a realtor who reportedly sold more than $3 million worth of real estate in 1978. Hatfield himself reported unearned income of $229,001 to over $387,500. That included more than $250,000 in capital gains on the sale of real estate. He also accepted $22,400 in honoraria.

Charles H. Percy, R-Ill.: The son of a bank teller, Percy worked his way up to the presidency of Bell & Howell, and now enjoys a comfortable income from the fruits of a successful business career. He reported unearned income of $235,161 to $663,500 from dividends, interest and capital gains on numerous holdings. He reported no single source of income over $100,000, but did have a $50,000-$100,000 capital gain on the sale of stock in the Sullair

V37/35 SE1 79 UMI

Corp., which manufactures compressors and drilling equipment. Percy also earned $7,500 in honoraria.

John C. Danforth, R-Mo.: Next to Heinz, Danforth probably is the wealthiest member of the Senate. He inherited much of the Ralston Purina Co. family fortune. His unearned income for 1978 ranged from $240,901 to over $386,500. Over $100,000 of that came from a blind trust and another $181,000-$700,000 came from two family trusts. Danforth also received $15,001-$50,000 directly from Ralston Purina dividends. He accepted $6,500 in honoraria, but reported no earned income.

Wendell H. Ford, D-Ky.: Two family insurance firms paid Ford more than $200,000 in 1978, making up the bulk of his total $208,201 to $219,500 unearned income. Ford also accepted $12,000 in honoraria.

Howard H. Baker Jr., R-Tenn.: Nearly all of Baker's $187,100 to $328,000 unearned income came from installment payments and interest charges on the sale of his interest in a real estate and investment partnership. Baker also accepted $27,750 in honoraria.

Bill Bradley, D-N.J.: Bradley continues to receive substantial payments from his days as the star forward of the New York Nicks. In 1978 he received $144,876 in deferred compensation and other basketball income, and a $6,667 fee as consultant to Madison Square Garden in New York City. Bradley also received $5,000 from the Alfred P. Sloan Foundation for serving on a commission studying higher education. He also had interest and dividend income from various investments totaling $41,801 to $89,000.

Lloyd M. Bentsen, D-Texas: Helped by family money, Bentsen turned investments in real estate, banks and other businesses into a sizable fortune which produces substantial income each year. For 1978, Bentsen's unearned income was $162,600 to $441,000. His largest single source was a $50,000 to $100,000 dividend from Productive Properties of Edinburg, Texas.

William L. Armstrong, R-Colo.: Armstrong owns Armstrong Broadcasting Corp., which owns two radio stations in Colorado and which paid him an unearned income of over $100,001 in 1978. Armstrong received other interest and dividend income of $52,500 to $106,000.

Howard M. Metzenbaum, D-Ohio: Metzenbaum built an airport parking lot business into a nationwide chain that he sold to ITT for several million dollars. Dividends from ITT, real estate interests and other investments put his unearned income for 1978 between $147,100 to over $256,000.

Thomas F. Eagleton, D-Mo.: Eagleton inherited a sizable interest in Missouri Pipe Fittings Co., a family corporation that makes pipe fittings and nipples. He is vice president of the company, but draws no salary. Eagleton's unearned income from the firm, however, totaled more than $100,000 for 1978. His other unearned dividends and interest income from various businesses and municipal bonds brought $27,301 to $90,500. Eagleton also accepted $13,000 in honoraria payments.

House

The following 15 House members topped the House earnings list during 1978.

Cecil Heftel, D-Hawaii, a wealthy broadcasting executive, topped the House income list by a wide margin. He reported earned income of $878,967 from radio and television stations he owns, and unearned income of $189,800 to

Chamber of Commerce Honoraria

In an attempt to write a new agenda for "human progress" in three days in the spring of 1978, the U.S. Chamber of Commerce was able to call on 27 members of Congress to give it a hand.

The members' attendance at the Chamber's annual meeting in Washington April 30-May 2 cost the group $7,050 in honoraria, according to financial disclosure forms filed by the members who attended.

The Chamber paid honoraria to more members of Congress than any other group for a single meeting that year, the disclosure records revealed.

Here is what a Chamber publication, the *Washington Report*, said the members did at the meeting and what they were paid for their appearances:

Baker. Sen. Howard H. Baker Jr., R-Tenn., delivered the opening address of the 1978 meeting. He warned an audience of more than 2,500 of "the possibility that the U.S., like her ally Great Britain, might slip into state socialism," the *Washington Report* said. Baker was paid an honorarium of $2,000 for the speech.

Heckler and Allen. Rep. Margaret M. Heckler, R-Mass., and Sen. James B. Allen, D-Ala. (1969-78), spoke during a program entitled "America's Religious Principles." Heckler was paid $500. Allen, now deceased, did not file a financial disclosure form.

Goldwater. Rep. Barry M. Goldwater Jr., R-Calif., provided "an update on the status of privacy legislation" in Congress, according to the *Report*. He was paid an honorarium of $1,000.

Muskie. Sen. Edmund S. Muskie, D-Maine, told a meeting that congressional spending estimates for new federal programs ran as high as $416 billion over the next five years while estimates of new funds amounted to only about $90 billion. Muskie did not report an honorarium for his participation.

Shuster. Rep. Bud Shuster, R-Pa., was a panelist in a discussion of "Congress, business and elections '78." The *Washington Report* did not report Shuster's remarks. He was paid a $500 honorarium.

McCormack. Rep. Mike McCormack, D-Wash., told an energy panel that the administration was partially to blame for the nation's energy problems because of its weak leadership, "based on opinion polls rather than scientific facts and the realities of life." McCormack received no honorarium for his participation, according to his financial disclosure form.

Hatch and Williams. Sens. Orrin G. Hatch, R-Utah, and Harrison A. Williams Jr., D-N.J., participated in a panel discussion on labor "reform" legislation. Hatch argued that the "reform" bill would harm small businesses while Williams said the legislation would not. Each was paid $1,000.

McClure. Sen. James A. McClure, R-Idaho, in a speech on "organization leadership," called on business to "realize that a permanent solution to its problems requires the election of a congressional majority that believes in the workings of the free enterprise system." He added that business can affect the way even "entrenched liberals" vote on many issues by "supporting a strong conservative opponent" against them. He was paid $1,000 for his speech.

$[illegible]. Much of his [illegible] unearned income came from the sale of stock in various broadcasting and other enterprises. One major source was the congressman's interest in the Klix Corp., from which he received between $[illegible] and $[illegible] in dividends, interest and a capital gain. Heftel sold an Idaho television station to Klix several years ago.

Frank J. Guarini, D-N.J., reported gross income of $[illegible] in 1978 from his private law practice in Jersey City, N.J. Guarini did not report his net income from the firm. He also reported $15,[illegible]-$54,000 unearned income from assorted investments.

Harold S. Sawyer, R-Mich., reported unearned income of $525,149, and earned income of $29,[illegible]. Most of the unearned income came from a $505,071 capital gain from the sale of West Michigan Telecasters, Inc., which owns a radio station. Sawyer's dividend income came to more than $18,000, including $15,060 from Citation Companies, Inc., for which he was a director until his July 1978 resignation. Sawyer also received a $3,583 salary from Citation, $20,778 in past legal fees from the Grand Rapids, Mich., law firm of Warner, Norcross and Judd and a $5,206 salary from Kysor Industrial Corp., of which he was a director until July 1978.

S. William Green, R-N.Y., heir to the Grand Union Co. grocery chain fortune, took in at least $453,900 in unearned income for the year, none directly related to Grand Union. The income included several capital gains and a number of dividends. The most lucrative investments were in oil and real estate. Green reported earned income of $16,317, including $6,900 as a director of Grand Union.

James M. Collins, R-Texas, realized at least $304,000 for 1978, much of it in dividends from stock in companies that manufacture consumer products — B.F. Goodrich, Dennison, Woolworth, Simplicity Pattern, Singer. Other sources of wealth included income from a farm he owns and from silver futures. Before coming to Congress, Collins derived much of his wealth from insurance and other ventures. Collins reported no earned income.

Fred Richmond, D-N.Y., a wealthy businessman long before his 1974 election to the House, Richmond derived more than $100,000 in dividends from his own company, Walco National Corp., which produces machinery, some plastic products and burial supplies. Richmond earned $175,000 as board chairman of Walco in 1978, but resigned at the end of the year in order to comply with the new House earned income limit.

Bill Nelson, D-Fla., another member of a wealthy family, received $194,000 to $326,000 in unearned income, nearly all from real estate investments. Nelson owned several mortgage notes, which produced more than $150,000 of his total unearned income. Nelson also earned $10,233 in 1978 as a Florida state represenative.

Jack Brooks, D-Texas, realized at least $107,100 in unearned income last year. The main source was a capital gain from the sale of stock in the Guaranty National Bank. Brooks also received dividends from that and another bank, a holding corporation and the W. F. Brooks estate. Brooks also had $56,685 in earned income, primarily as director of two Texas banks of which he is a major stockholder.

Gene Snyder, R-Ky., earned $177,491 from three Louisville, Ky., enterprises in 1978: $120,[illegible] from his River City Coal Sales, $55,163 from his real estate business, and $2,069 from a part-time law practice. He also had $15,800 in unearned dividends and interest from various business investments and municipal bonds.

Congressional Chrysler Investors

Members of Congress will have to decide soon whether to back the financially troubled Chrysler Corp. with taxpayer money.

But the nation's lawmakers have already voted — with their own money — against the number three automaker.

According to their financial disclosure statements, only three of the 5[illegible] voting and non-voting members had personal investments in Chrysler as of the beginning of 1979. Twenty-five members had invested in General Motors and five had put money into the General Motors Acceptance Corp.

All three Chrysler investors are Republicans: Rep. Robert C. McEwen, of New York (who owns $1,000-$5,000) and freshmen senators Nancy Landon Kassebaum of Kansas (under $5,000) and Gordon J. Humphrey of New Hampshire ($30,000-$100,000 in the Chrysler Financing Co.). Both Kassebaum and Humphrey also own General Motors stock.

The Ford Motor Co. isn't much more popular than Chrysler among members of Congress — only eight members have invested in Ford.

Claude Pepper, D-Fla., no longer actively practices law, but the Miami Beach law firm he started paid him $138,790 in 1978 for advice and the use of his name on the front door. Pepper also earned $1,200 as director of Washington Federal Savings and Loan Assn., and $7,944 in other earnings, including $6,584 from Social Security. In addition, Pepper reported $16,700 to $54,500 in unearned income from banks, business investments and rent.

Sam B. Hall, D-Texas, earned $129,785 from various businesses during 1978. Most of that — $107,433 — was payment by Dorchester Gas Co. on a note. Hall also earned a $12,017 commission on the sale of cattle. His unearned income was in the $15,300 to $48,000 range.

Stewart B. McKinney, R-Conn., reported receiving $140,543.50 in unearned income for the past year. Most of the sum, $104,080, was income from a trust fund set up by the family of McKinney's wife, Lucie Cunningham. The congressman also derived $6,000 from rentals and $15,000 from another trust fund. He reported $3,000 in honoraria.

Fortney H. (Pete) Stark, D-Calif., a successful real estate investor, earned $134,838 during 1978. The major sources were $74,000 from his own Stark Investment Co., which owns real estate and gas wells and $49,000 from a partnership which owns a Columbus, Ohio, shopping center. Stark reported unearned income of only $300 to $3,000.

James T. Broyhill, R-N.C., made at least $133,200 in unearned income last year. Broyhill's major sources were furniture interests that bear his family name and related enterprises. For instance, he reported a capital gain of between $5,000 and $15,000 from timber sales during 1978, and dividends of between $1,000 and $2,500 from the Southern Furniture Exposition Building.

Robert J. Lagomarsino, R-Calif., took home a combined income of more than $129,000 from citrus and real estate holdings. Lagomarsino reported earned income of $57,865 from Lagomarsino's Citrus and L. & L. Citrus. Profits from those firms, and real estate investments, produced another $70,400 to $109,000 in unearned income. ■

V37/35 SEP 1979 UMI

Most Members Have Income Beyond Salaries

Members of Congress each year are paid $57,500 from the U.S. Treasury — and all but a handful have outside sources of income to help them meet expenses.

Congressional Quarterly compiled the following lists of the outside incomes members reported for 1978. Only two senators and 16 House members reported no income from outside businesses, speechmaking or investments. Another 19 House members reported outside incomes of less than $1,000.

The lists include freshmen members who were not serving in Congress in 1978.

Generally, the lists show:

- House members were more likely than senators to have earned income from outside jobs;
- Senators, many of whom are nationally known, take home substantially more money in honoraria from speechmaking than House members, and
- Virtually all members of Congress have at least a few thousand dollars in unearned income from stocks, savings or other investments.

The following charts show earned income from outside positions, honoraria and unearned income during 1978 for all House and Senate members. The list does not include House and Senate salaries of $57,500 each or income for spouses and dependents of members, except in those cases where spouse or dependent income could not be separated from that of the member.

Earned income includes salaries, wages, and other income received as the result of performing a service outside the House or Senate, for example, salaries from a family farm. Honoraria are payments received from outside groups, such as lobbies, in return for making a speech or appearance, or writing an article.

Unearned income includes rent, interest, dividends, profits, capital gains, and partnership distributions. In some cases, the unearned income was one-time income during 1978, for example, a capital gain from the sale of a house.

Members of Congress were required to report the exact amounts of honoraria and earned income, but were required to show unearned income only in broad categories such as "$101-$1,000." The top unearned income category is "over $100,000." Exact amounts for unearned income are shown when available.

An asterisk (*) next to honoraria income indicates that the member donated all or part of that income to charity.

House Income

Member	Earned Income	Honoraria	Unearned Income
Abdnor	$ 3,173	None	$1,200-34,500
Addabbo	5,978	None	15,700-47,000
Akaka	None	None	100-1,000
Albosta	None	None	60,000-130,000
Alexander	None	850	None
Ambro	None	1,400	2,600-6,000
G. Anderson	$ 27,083	None	$193,300
J. Anderson	None	12,680	15,100-51,000
Andrews	1,000	None	None
M. Andrews	1,201	3,750	1,100-3,500
Annunzio	None	3,250	18,100-51,000
Anthony	26,700	1,000	2,600-6,000
Applegate	None	None	400-4,000
Archer	None	None	27,500-80,000
Ashbrook	18,100-53,500	400-4,000	5,600-21,000
Ashley	1,781	25,600	25,900-81,900
Aspin	None	3,090	None
Atkinson	39,200	None	4,100-13,500
AuCoin	None	11,000	939-2,750
Badham	None	1,500	100-1,000
Bafalis	None	1,900	41,400-136,900
Bailey	2,000	None	1,000-2,500
Baldus	None	300	300-3,000
Barnard	None	4,300	100-1,000
Barnes	17,500	None	None
Bauman	None	3,800	None
C. Bennett	None	None	200-2,000
R. Bennett	None	12,726	200-2,000
Bedell	74,541	None	34,800-113,000
Beilenson	4,997	350	3,700-27,000
Benjamin	1,564	None	1,000-2,500
Bennett	None	None	7,703
Bereuter	16,490	None	200-2,000
Bethune	28,458	None	5,100-16,000
Bevill	None	None	None
Biaggi	None	None	72,000-165,000
Bingham	None	1,000	21,700-99,500
Blanchard	None	None	117
Blouin	30,639	700	68,500-155,000
Boland	3,761	None	2,600-6,000
Boiling	200	250	111,800-over 140,500
Bonior	10,251	300	None
Bonker	None	None	None
Borski	None	985	100-1,000
Bouquard	None	1,850	7,500-20,000
Bowen	None	4,200	200-2,000
Brademas	None	7,550	200-2,000
Breaux	3,000	5,300	None
Brinkley	None	850	6,595
Brodhead	None	1,750	2,500-5,000
Brooks	56,685	1,000	167,100-over 251,000
Broomfield	None	None	4,900-20,500
C. Brown	22,314	6,580	10,900-34,000
G. Brown	None	700	None
Broyhill	None	None	133,200-over 204,500
Buchanan	None	2,050	100-1,000
Burgener	12,000	None	10,100-31,000
Burleson	None	None	3,600-8,300
J. Burton	None	566	100-1,000
P. Burton	None	None	None
Butler	250	2,100	2,000-5,000
Byron	None	None	100,000-200,000
Campbell	7,000	None	21,000-62,500
Carney	27,249	None	None
Carr	None	1,475	5,000-15,000
Carter	None	4,950	29,200-94,500
Cavanaugh	None	None	None
Chappell	None	None	200-2,000
Cheney	17,625	* 700	1,100-3,500
Chisholm	None	18,983	None
Clausen	None	1,500	200-2,000

The tables in this report were prepared by John Felton, Imani Cosby, Brigette Knauss and Bob Livernash.

Financial Disclosure

Some Members Avoid Income Limit Rule

With a little imagination, a few House members are finding that they needn't make any financial sacrifice in order to comply with a new limit on their outside earnings that went into effect in January.

Many others, however, have taken substantial pay cuts in order to comply with the limit.

But an examination of financial disclosure reports for 1978 shows that even with the cuts in outside pay, a number of representatives in 1979 may be capitalizing on loopholes in the new House rule in order to comply with the letter but not the spirit of the new limitations. The rule was intended to limit members' outside business activities and potential conflicts of interest.

"I'm sure before it's all over we're going to be seeing some very imaginative situations," commented a staff aide to the House Committee on Standards of Official Conduct.

The Standards Committee is charged with enforcing the House rule.

A better idea of whether members are complying with the rule will not be possible until May 1980, when members file their disclosure reports covering 1979 financial activities. Even then, the Standards Committee will be hampered in its enforcement efforts because members are not required to provide the committee with copies of their tax returns. Moreover, members do not routinely provide the Standards Committee with copies of their returns voluntarily. In many cases, only an examination of a tax return could show whether a member was complying with the rule or not.

A Standards Committee aide said that panel had provided advice on how to comply with the rule to House members who requested it. But he declined to identify members who had sought advice, the details of the members' requests, or the advice actually given.

Origins of Rule

At the heart of the new House rule is a ceiling on outside earned income. The limit went into effect on Jan. 1, 1979, and thus did not affect the earnings reported in financial disclosure statements for 1978. The ceiling was approved as part of the House's new code of ethics in 1977. *(1977 Almanac p. 766)*

The ceiling was placed at 15 percent of a representative's annual salary. At the current annual salary of $57,500, this means that, as of 1979, a representative can earn no more than $8,625 a year in outside income, including honoraria.

In 1978, 167 representatives reported earning more than $8,625 in outside earned income. Of those, 45 representatives reported earning more than $8,625 in honoraria alone.

A similar ceiling for senators also was to have gone into effect in 1979. However, the Senate voted in March to delay enforcement of that limitation for four years. *(Weekly Report p. 583)*

This means that, in contrast to House members, senators can earn as much as they want in outside income other than honoraria. The 1976 Federal Election Campaign Act (PL 94-283) limits honoraria earnings of members of Congress to no more than $25,000 annually. *(1976 Almanac p. 469)*

Full-Time Attention to Congress

When it was adopted by the House in March 1977, the ceiling on outside earned income was the new ethics code's most controversial provision.

To its supporters, the income limit had two purposes:

- To ensure that members devote their full-time attention to their congressional duties rather than to any outside business activities.
- To minimize the potential for conflicts between a member's financial interests and legislative activities.

Acceptance of the limit also was seen as a trade-off for an increase in congressional pay, which in early 1977 went from $44,600 to $57,500.

Those opposing the ceiling noted that it would not affect unearned income such as dividends, interest, rent and capital gains.

In debate, these members argued that curbing earned income while leaving unearned income alone favored wealthy members and harmed those who depended more on

> *The new House limit on outside earned income has forced big pay cuts for some members. But with a little imagination, others are finding that they needn't make any financial sacrifice.*

such activities as speechmaking and the practice of law for their income.

"People who sit on boards of directors have their interests protected," commented Rep. Shirley Chisholm, D-N.Y., at the time.

Converting Earned Income

When the income limit rule was drafted, its supporters called it "clear-cut." But the official interpretation of the rule, published by the House Select Committee on Ethics in October 1978, left some room for members to make adjustments in their finances that apparently will enable them to continue to make substantial sums of outside income and to remain active in their outside businesses.

The Select Ethics Committee disbanded at the end of the 95th Congress, leaving further interpretation of the rule to the Standards Committee.

One way to evade the income limitation may be the ability to convert what a member formerly considered "earned income" into a return on investment.

—By Irwin B. Arieff

The Select Ethics Committee's interpretation stipulated that income may not be recharacterized in order to circumvent the rule. Income should be considered earned, the interpretation said, if it represented "compensation for personal services actually rendered."

If, however, the income were "essentially a return on equity, then it would generally not be considered to be earned income." The interpretation added that if a member were not active in a business yet had invested in that business, the member also could engage "in the general oversight and management or protection of his investment" without recording his earnings from that business as "earned income."

A handful of members seem to have seized on the qualifications in the interpretation in order to "recharacterize" their income and avoid the limitation on it. Others are in a position to do so, but may or may not actually do so.

Financial Disclosure in Congress



Hefner. Rep. W. G. (Bill) Hefner, D-N.C., for example, has in past years been taking the money from the two North Carolina radio stations he owns in the form of "salary" (in 1977) or "salary/compensation" (in 1978), according to the financial disclosure forms he filed with the House for those years. Hefner is president and owner of Hefner Radio Inc., which owns WRKB-AM and WRKB-FM in Kannapolis, N.C.

For 1979, however, "he'll now take it as dividends," explained press secretary James Lewis. Hefner later clarified this statement to explain that he would be awarding himself a dividend only "if there are any profits" from his radio firm in 1979.

Hefner said he decided to stop taking a salary from the firm because he was no longer actively involved in the company. In 1978, he explained, he "felt free" to participate in station affairs, while in 1979, "I'm not doing any work. I think I've only been to the station once this year."

However, C. W. Biggerstaff Jr., general manager of the two stations, said in a telephone interview in June that he has "detected no change in Hefner's management responsibilities in 1979. The congressman continues to "oversee" the stations' operations in the same manner as he did in earlier years, Biggerstaff said.

Mattox. In 1977, Rep. Jim Mattox, D-Texas, reported income from his law partnership of $37,542.72. In 1978, however, he reported $30,314.82 in "law firm return on equity and salary."

In an interview, Mattox said he did not know how much he was going to make in 1979. He added he did not expect to be as active in the firm in 1979 as he was in 1978, but that any money he was paid beyond $8,625 would not be in earned income.

"I don't know how much my return in equity will be this year," he commented. "But I will not earn more than $8,625 in earned income." He maintained a return on his equity had always been a part of his income from the firm. He put his equity in the firm at "around $80,000."

Shuster. Rep. Bud Shuster, R-Pa., reported "income" of $41,406 for the fourth quarter of 1977 and $29,570 for 1978 from BTI Investments Inc., the tire store and real estate business he founded. Shuster, however, maintained through spokesman Julian Barber that the money represented a return on the investment he had made in the firm before joining Congress. Barber added that the Standards Committee agreed with this interpretation. Shuster "has no active role in the management of BTI" except to oversee his investment, Barber said.

Gradison. Bill Gradison, R-Ohio, was paid a "salary" of $20,000 in 1977 and 1978 by Gradison & Co., a stock brokerage, according to his financial reports. He also reported 1977 and 1978 dividend income from the brokerage, of which he is vice president and a director.

In a January 1979 letter to the House Standards Committee, however, Gradison said the $20,000 payments were "in no way a payment for personal services on my part. I do not solicit clients, give opinions, make contacts or sell service that would generate income for Gradison & Co. The $20,000 was agreed upon as fair compensation for the substantial equity that I have with the company. That equity interest in Gradison and Company approaches $300,000. I do from time to time attend board of director meetings for the sole purpose of protecting my equity."

The Standards Committee informed Gradison in February that the payments were "not subject to the earned income limitation."

Quillen. Rep. James H. Quillen, R-Tenn., was paid $48,570 in "salary" in 1978 by five companies, according to his 1978 financial disclosure report. The report also noted that, of the five companies, he is board chairman of two and president of three.

"Since these companies were begun by the congressman," explained Rebecca C. Masters, Quillen's press secretary, "he has the ability to reduce the salaries to the level necessary to meet the earned income limitation." However, there is no limitation on unearned income, Masters noted. "You don't know what the earnings will be ye', so you can't say what the dividends will be." Quillen's positions with the companies are "honorary ones," Masters said. She added that the congressman is not active in their management at the present time.

Bedell. According to his 1978 financial report, Rep. Berkley Bedell, D-Iowa, received a salary of $70,000 from the fishing tackle and marine products firm of which he is chairman and majority stockholder. But much of this income actually was a "bonus," Bedell press secretary Stephen K. Cook told a reporter. Bedell also reported receiving a dividend from the firm in 1978.

In any case, Bedell will comply with the limit by cutting his salary, Cook said. Since he entered Congress in 1974, Bedell has had an "inactive" role in the firm, which he plans to continue, Cook said.

Active Company Role

A number of House members control or own their own companies. In order to comply with the earned income limit, they said they would reduce their salaries while maintaining the same level of activity with the firm.

Such total control gives a member increased authority in hiring employees, determining the company's dividend payments, and setting the salaries paid other company employees. This gives a member more opportunity to take income in the form of dividends instead of salaries, or to hire a spouse or dependent.

Brooks. Rep. Jack Brooks, D-Texas, was paid "salary and director fees" totaling $56,367 in 1978 by two Texas banks he owns, according to his disclosure report. Within the past two years, however, his wife was appointed to the banks' boards of directors, according to the *Dallas Times Herald*. In 1978, the banks began paying his wife salary and director fees, according to Brook's report. The exact amount she was paid, however, cannot be determined because House rules require only that the source and not the exact amount of the spouse's income be reported.

The *Times Herald* also noted that Brooks reported more than $22,000 in credit insurance commissions for the last quarter of 1977. In 1978, however, Brooks reported none. For the first time, though, his wife was reported as receiving a salary from the insurance company — of which Brooks is listed as a director — which sells the credit insurance for Brooks' banks.

Brooks and his staff aides declined to return numerous telephone inquiries concerning his plans for complying with the earned income limit and his wife's financial activities. One aide commented only that "his standard response has been that he will comply with the rule." The aide added that it was not the congressman himself but the boards of the two Brooks-owned banks which had appointed Brooks' wife a director and decided to pay her a salary and fees.

Guarini. One of the major losers in the House because of the income limit could be Rep. Frank J. Guarini, D-N.J., who reported $634,129 in "gross fees" in 1978 from the law firm of Guarini & Guarini. The congressman is the sole partner in the firm founded by his father, but has a staff of 11 attorneys working under him.

In order to comply with the earned income limit, he will take only up to $8,625 in salary in 1979, according to Daniel P. Dean, an aide. He will not change his workload, however. Anything Guarini earns over the income limit, Dean said, he will donate to charity.

Richmond. Another major loser in the House will be Fred Richmond, D-N.Y., who will do without an annual salary of $175,180 from the Waldo National Corp. in order to comply with the earned income limit. In addition to dropping his salary, Richmond resigned as chairman of the company at the end of 1978. He will continue to receive dividends and will remain active in the firm, however. "If you own 51 percent of the company, they can call you the janitor, but what's the difference," he commented in an interview. "I'm on the phone weekends and nights, spending the necessary time whether I get paid or not."

Heftel. Rep. Cecil Heftel, D-Hawaii, earned $78,250 from Heftel Broadcasting Corp. in 1978. In 1979, he will maintain the same level of activity in the firm but will donate any earnings over the limit to a scholarship fund he has established in Hawaii.

Brown. Clarence J. Brown, R-Ohio, was paid $27,014.56 in 1978 as chairman of the Brown Publishing Co. He said he would retain the same duties for the firm but cut his salary in order to comply with the income limit. The result: "I will not be paid for some of the things I do," he said in an interview.



Rep. Fred Richmond



Rep. Cecil Heftel

Face Big Salary Cuts

Edwards. "I'll just reduce the salary," Rep. Don Edwards, D-Calif., said of the $41,960 he paid himself in 1978 as founder and principal owner of Valley Title Co. He said he would retain the same duties with the firm in 1979 as he had in 1978.

Runnels. Rep. Harold Runnels, D-N.M., lowered his salary from the Runt'o Acidizing and Fracturing Co. in 1978 to $8,400 in order to comply with the 1979 limit. "a little bit early," Runnels said in an interview. He said he could not predict what he would pay himself in dividends in 1979 until the year was over. Runnels, who has had a series of cancer operations in the past year, said he would be reducing his activities with the firm in 1979.

Mollohan. Rep. Robert H. Mollohan, D-W. Va., reported a "salary plus bonus" of $72,901 in 1978 from Interstate Fabricators & Constructors, Inc., of which he is chairman and a stockholder. He declined to explain how he planned to comply with the earned income limit.

"The only statement he wants to make is that he is aware of the rule and he is making arrangements and he will be in compliance with it," explained spokesman Timothy L. McDonough.

Businesses and Law Practices Sold

A number of House members said they would sell their law practices or suspend the practice of law in order to comply with the income limit.

Among those who did so (followed in parentheses by the earnings they reported from their law practice in 1978) were Reps. Ed Bethune, R-Ark. ($36,448.01); Mario Biaggi, D-N.Y. (between $50,000 and $100,000); Marc L. Marks, R-Pa. ($27,500); Morgan F. Murphy, D-Ill. ($51,441, including some real estate fees); George M. O'Brien, R-Ill. (between $15,000 and $50,000); Ike Skelton, D-Mo. ($55,617); Gene Snyder, R-Ky. ($7,000 and John W. Wydler, R-N.Y. ($40,175).

Handling fewer cases in his law practice will be Rep. William E. Dannemeyer, R-Calif., who reported earning $9,443 in 1978. "He will take no new cases," an aide reported. He just doesn't have time.

Reps. Richard T. Schulze, R-Pa., and William Lehman, D-Fla., passed on family businesses to other family members in order to comply with the income limit. Schulze is selling a home appliance business to his brother, while Lehman has passed ownership of a Buick dealership to his son.

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One in Three Members Have Other Jobs

Although the House and Senate have widely differing regulations governing outside employment of their members, the proportion of members in each house actually holding positions outside Congress is remarkably similar.

Income disclosure reports for 1978 showed that 33 percent of the House's members held positions outside of Congress, 37 percent of the Senate's members held outside positions. In numbers this amounted to 143 representatives and 37 senators who were engaged in employment activities in addition to their duties as public officials. (These figures cover all outside employment reported by members except for law practices. *Members practicing law, p. 1528*)

Some of these positions are actually paying jobs; others are nonpaying relationships such as company directorships.

The average member engaging in outside employment held only one position. Sen. Herman Talmadge, D-Ga., held eight outside positions, the most among senators.

In the House, Rep. Jim Courter, R-N.J., held 12 positions, the largest number among House members.

Although no one activity dominated, the most prevalent appeared to be in real estate and agricultural ventures. In the House, bank directorships were numerous.

Differences between House and Senate outside employment activities may stem partly from demands inherent in the jobs of senators and representatives. But a more important reason probably is the different employment restrictions in the two houses.

Members of the House are bound by relatively few limitations on their outside private employment. Although there is no statutory provision or House rule to specifically prohibit a member from engaging in outside activity which could cause a possible conflict of interest, ethical standards serve to restrict members in certain aspects of outside employment.

House rules limit the amount of income a member can earn outside his official salary to 15 percent of the salary ($8,625 at the current annual salary level of $57,500). (*Story on outside income limits, p. 1841*)

In addition, there are these restrictions on outside employment for members of the House:

- The official position of a representative may not be used as a means for making personal gain.
- A member of the House may not receive compensation for services rendered before federal agencies or departments.
- Direct or indirect contracting with the federal government is prohibited.
- There is a prohibition against "self-dealings" with private foundations without incurring specific tax penalties.
- A House member may not receive emoluments or compensation of any kind from a foreign government.

Outside of these basic guidelines, members of the House have been generally free to decide whether or not they might be involved in conflicts of interest.

Senate rules, on the other hand, specifically prohibit senators from engaging in outside employment for compensation if the work creates a conflict with their official duties.

A 1977 Senate Ethics Committee report on the Senate's ethics code said the rules "should be read to prohibit any outside activities which could represent a conflict of interest or the appearance of a conflict of interest." These rules apply to all employees of the Senate. The Senate ethics code also bans members of the Senate from practicing professions for more than 90 days in a calendar year. Professional services included under this rule are "engineering, real estate, insurance, legal, medical, architectural, consulting and other services."

Members of the Senate also are restricted in serving as officers or members of the board of any publicly held or publicly regulated corporation, financial institution or business entity. (*1977 Almanac p. 778*)

Senate

Following is a list of senators who reported partnerships, directorships, or salary income from businesses other than law firms during 1978. Salary income had to be reported only be category — *explanation p. 1528* — but some members reported exact amounts.

Freshmen senators in 1979 are designated by an asterisk (*).



*William L. **Armstrong**, R-Colo.: president and director, Armstrong Broadcasting Corporation, Aurora, Colo.; salary, $34,000; dividends over $100,000.

Howard H. Baker Jr., R-Tenn.: president, Three Courthouse Square Corp., Huntsville, Tenn.; partner, North Gatlinburg Property, Sevierville, Tenn.; loss $1,001-$2,500.

Birch Bayh, D-Ind.: income from family farm, Sharkeyville, Ind.; $27,820.

Lloyd Bentsen, D-Texas: farm income, $15,001-$20,000.

*Rudy **Boschwitz**, R-Minn.: chairman, director, Plywood Minnesota, Inc., Minneapolis, Minn.; income over $100,000.

This report was prepared by Andrea Yank with assistance from Imani Crosby and Bob Livernash.

The Political Ambitions of Local Legislators: A Comparative Perspective*

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Professor Dutton compares San Francisco area data with data of his own on Buffalo area local legislators' political ambitions, on the assumption that desire to remain in elective politics constitutes a significant element in securing accountability (response) to the voting public. Statistical analysis of interview responses reveals that most councilmen do, in fact, want to continue in office, and Dutton spells out a number of distinctions among legislators that may be expected to affect their hopes for reelection or advancement.

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Electoral accountability theories[1] view elections as a method for controlling elected officials. Public officials respond to the demands and interests of the public, interest groups, and parties because they want their support in the next election. This linkage mechanism between the public and actions of public officials assumes that these elected officials: (1) want to remain in office or advance to a higher office; (2) believe that acting according to the preferences of constituents, interest groups, and parties will advance their office goals; and[2] (3) act rationally in the sense that they do those things which they believe will help achieve their office goals.[3] This paper focuses on the first assumption. Is it empirically correct to assume that elected public officials have political ambitions? If elected officials do not wish to remain in office, what of the electorate's capacity to restrain its officials?

This assumption is tested by comparing findings from two studies of the political ambitions of local legislators.[4] The political ambitions of nonsalaried nonpartisan legislators of the San Francisco Bay area are compared with those of the salaried partisan legislators of the Buffalo area. Three hypotheses are evaluated as explanations for the differences in political ambitions discovered between the two areas. These alternative explanations provide a set of conditions which relate to the empirical validity of the assumption that public officials want to be reelected and advanced.

* This study draws on data from my dissertation research. I would like to thank the members of my dissertation committee; Lester Milbrath, Roberta Sigel, and James Stimson, for their assistance. I am also grateful to the State University of New York for providing computer time and to the individuals I interviewed for their cooperation. An earlier version of this paper was delivered at the 1973 Annual meeting of the Midwest Political Science Association, Chicago.

1. For example, Robert A. Dahl, *Who Governs?* (New Haven: Yale University Press, 1961); and Lewis A. Froman, *Congressmen and Their Constituencies* (Chicago: Rand McNally, 1963).

2. The exact mechanism of linkage varies with different works. Norman R. Luttbeg, "Political Linkage in a Large Society," in Luttbeg, *Public Opinion and Public Policy* (Homewood, Illinois: The Dorsey Press, 1968), pp. 1–9, has described several models of the linkage process evident in the literature on representation, such as the "rational activist," "pressure groups," and "political parties" models. Each model is based upon somewhat different beliefs regarding who can advance the public official's office goals.

3. These do not exhaust the assumptions of linkage models. A test of other conditions of a specific linkage model is presented in John L. Sullivan and Robert E. O'Connor, "Electoral Choice and Popular Control of Public Policy," *American Political Science Review* (December, 1972), pp. 1256–68.

4. Published results of interviews with city councilmen of the San Francisco Bay area are compared with interview data collected by the author with the town and city councilmen of metropolitan Buffalo, New York.

The San Francisco area data were collected from January 1966 to June 1967 in over 400 cities ranging in population from 310 to 385,700 other than San Francisco. The study was conducted as the City Council Research Project, Institute of Political Studies, Stanford University. The principal published works utilized are: Kenneth Prewitt, *The Recruitment of Political Leaders* (Indianapolis: The Bobbs-Merrill Company, Inc. 1970); Prewitt, "Political Ambitions, Volunteerism, and Electoral Accountability," *American Political Science Review* (March, 1970), pp. 5–17; Gordon S. Black, "A Theory of Political Ambition," *American Political Science Review* (March, 1972), pp. 144–159, and Heinz Eulau and Kenneth Prewitt, *Labyrinths of Democracy* (Indianapolis: The Bobbs-Merrill Company, 1973).

The Buffalo area data were gathered from July to December of 1972 in the twelve cities and towns of Erie County, New York over 10,000 in population and over fifteen percent urban according to the 1970 census. This sample is basically Buffalo and its surrounding suburbs. Five councilmen were not interviewed, which resulted in a total sample of 64 councilmen.

I. The Distribution of Political Ambitions

Numerous theoretical formulations of electoral accountability assumed without empirical verification that elected officials desire reelection and/or advancement. It was considered a safe, realistic assumption. However, recent interviews with San Francisco Bay area city councilmen reported by Kenneth Prewitt[6] have thrown the generality of this assumption into question. Among the more than four hundred councilmen interviewed in eighty-two cities, Prewitt found: (1) a number of interview responses suggesting a lack of concern by councilmen over their reelection, (2) a high frequency of appointment to and voluntary retirement from elected office,[6] and (3) a sizeable proportion of councilmen (18 percent) who intended to retire from office.[7]

Prewitt summarized the consequences of his findings,

> If periodic elections make democracy a workable form of government by holding the officeholder accountable to the public, then it is indeed very important to determine how many officeholders plan on standing for reelection. The burden of the chapter thus far is that the city councilman in the San Francisco area who expects or hopes for long political tenure is in the minority. A clear one-fifth already are serving their last term; among the majority who will run again for the council but do not have ambitions for a higher post are many who anticipate voluntary retirement from office within a term or so. If political ambition or the desire for reelection is the key element serving as a restraint upon public officials, then the voters in our municipalities frequently are being denied the means of democratic control.[8]

Operationally, volunteerism refers to a high frequency of appointments to and voluntary retirements from public office. While many qualifications are made, the thrust of Prewitt's analysis is clear: "volunteerism" is prevalent because many councilmen have no political ambitions and, hence, the public lacks one theoretical means for controlling the behavior of its local officials.

Prewitt cited no comparable data on other local legislators. However, he suggested that probably "the rate of indifference to reelection (in the neighborhood of 50 percent) is higher in the communities studied here

5. Prewitt, "Political Ambitions, Volunteerism."
6. Ibid., pp. 8–10.
7. Prewitt, *Recruitment of Political Leaders*, p. 176.
8. Ibid., p. 200.

than in other parts of the United States and other levels of government."[9] He suggested that officials of partisan municipalities and higher levels of government would demonstrate less indifference over their public careers.

The Political Ambitions of Buffalo Area Councilmen: Interviews with town and city councilmen of the partisan municipalities of the Buffalo area tend to confirm this prediction.[10] Table I compares the ambitions of San Francisco area councilmen with those of the Buffalo area. In the Buffalo context those who wish to retire are few and the assumption of electoral accountability theories appears realistic. Buffalo area legislators desire reelection or advancement. In terms of Joseph Schlesinger's typology of political ambitions, "static," wanting reelection; and "progressive" ambitions, wanting to advance; are far more prevalent than "discrete" ambitions, wanting to retire.[11]

Table I. Proportion of Buffalo and San Francisco Bay Area Councilmen Having Different Political Ambitions.[a]

POLITICAL AMBITIONS[b]	SAN FRANCISCO AREA[c]	BUFFALO AREA
Want to retire	18%	6%
Want to be reelected	53	33
Want to advance	29	61
	100%	100%
	(N=433)	(N=64)

[a] The .12 difference of proportions in those who wish to retire is significant at the .01 level. Chi square for the table equals 26.3, which is significant at the .001 level.

[b] San Francisco Bay Area councilmen were asked, "Do you expect to continue to run for the city council?" and "Are there any other political or governmental positions—local, state or federal which you would like to seek?" Buffalo area councilmen were asked a slightly different version of the first question, "Would you like to continue to run for the council?" For both surveys, councilmen answering "no" to both questions were classified as "wanting to retire." Those not answering "no" to the first but answering "no" to the second were classified as "wanting to be reelected." Those answering "yes" or "perhaps" to the second question were classified as "wanting to advance."

[c] These figures were obtained from Prewitt, *The Recruitment of Political Leaders*, Table 8–1, p. 176.

9. Ibid., p. 201.
10. See note 4.
11. Joseph Schlesinger, *Ambition and Politics* (Chicago: Rand McNally, 1966), p. 10.

A look at the careers of the four Buffalo councilmen who say they would not like to run for reelection or seek another office does *not* show people who "treat council service as a 'citizen duty' in much the same manner as they treat service in the Chamber of Commerce, the PTA, the Library Board, and other such community service organizations." [12] One retiring councilman had served as a county legislator, a building code commissioner, district councilman, city council president, and congressman, beginning his career in 1941. The other councilmen will retire after 19, 18, and 8 years of service in the council. The careers of these men testify to the generalization that Buffalo area councilmen desire reelection or advancement.

Frequency of Appointments: Prewitt utilized frequency of appointment to the councils as an indicator of volunteerism. An appointment indicates that there has been a retirement for reasons other than electoral defeat and that a man has been placed in office without facing the electorate. Both factors detract from electoral accountability. In this respect also, Buffalo area councils appear less volunteeristic. While twenty-four percent of the San Francisco area councilmen were initially appointed to their office[13] only twelve percent of the Buffalo area councilmen were initially appointed.

Looking more closely at the appointed councilmen indicates that appointment rates may be a poor indicator of volunteerism in the Buffalo area. Six of the eight appointed councilmen filled a vacancy which arose from the incumbent advancing to a higher office. The remaining two vacancies were due to death or retirement after long tenure in office. Appointment rates supply little evidence of volunteerism in the Buffalo area councils. Nor does appointment circumvent the election process. One appointee in the Buffalo area faced a primary prior to appointment, and all faced general elections the first November following their appointment.

A generally known story was related by an incumbent councilwoman who had earlier been refused an appointment to a town board:

> My husband was a councilman. He died in an automobile accident two years through his four-year term. At his wake I could hear people talking about how they were going to try to take his place on the Board. I told a good friend of mine then that I'd be councilman. . . . I asked to be appointed to his seat and even promised to resign before the elections. But the Board was two Republicans and two Democrats then and they refused my request. Then I asked my

12. Prewitt, *Recruitment of Political Leaders*, p. 10.
13. Prewitt, "Political Ambitions, Volunteerism," p. 8.

> own party for the endorsement and said that if I didn't get it I'd run in the primary. They refused—so I ran in the primary against two men and won. I managed to get the Conservative party endorsement also and won the general election . . . I love it!

In general, appointments are difficult to receive, requiring a record of service to the party and/or public career experience. Only one appointed councilman in the Buffalo area did not serve as a committeeman. However, he was previously a village mayor and earlier a trustee. Only three of the eight appointees did not hold a public position prior to appointment.[14]

Frequency of Voluntary Departure: In the Buffalo area, as in the San Francisco area, voluntary departure from office is more common than defeat in the general election. Table II indicates that in only ten percent of all elections in the Buffalo area for city and town councilman since 1951 was the incumbent defeated in the general election. This is equivalent to defeat of the incumbent in 15 percent of the elections in which he ran. This rate is five percent lower than in the San Francisco area councils, but five percent higher than in Congress.[15] Election defeat in the San Francisco Bay area is *relatively* frequent although in absolute terms defeat is clearly the exception.[16]

The reasons for an incumbent not running in the general election are so varied, however, that this rate of voluntary departure carries no clear implications regarding the extent of volunteerism. Included in these figures are primary defeats, decisions to retire fearing defeat, running for other offices, retirement due to age or poor health, as well as more volunteeristic reasons, such as "having done one's duty." For example, *at least* twenty-seven percent of the nonincumbent races in the city of Buffalo

14. This evidence suggests that frequency of appointments would not be a valid indicator of volunteerism in the Buffalo area. However, the relationships discovered between "volunteerism" and dependent variables related to accountability theory provide some checks of construct validity in the San Francisco study. Construct validity suggests that "volunteerism" is adequately measured in that setting. See Ibid., Table 5, p. 11.

15. See Prewitt, "Political Ambitions and Volunteerism," p. 9. Time periods are different for each estimate. San Francisco data cover ten years, Buffalo data are since 1951 and the congressional data are from 1924–1956 taken from David Leuthold, *Electioneering In a Democracy* (New York: John Wiley and Sons, 1968), p. 127.

16. Better comparative data to that offered by Prewitt are not presented because it was not clear exactly how Prewitt's estimates were obtained. "Political Ambitions, Volunteerism," p. 10.

Table II. Percentage of Various Election Outcomes in Buffalo Area Local Legislative Races Since 1951.*

GENERAL ELECTION OUTCOME	PERCENTAGE OF ELECTIONS
Incumbent did not run—his party won	24%
Incumbent did not run—his party lost	11
Incumbent won	55
Incumbent lost	10
	100%
	(N=387)

* Calculated for all elections since 1951 to the twelve town and city councils from which members were interviewed.

resulted from the incumbent running for a higher office.[17] Also, in about one-third of all the nonincumbent races, the incumbent's party was defeated. This suggests that anticipation of defeat may account for a large number of decisions not to seek reelection.

In the Buffalo setting, the basic assumption of accountability theory appears realistic. Councilmen want to be reelected or advanced to a higher office. The "norm of volunteerism" is clearly less prevalent in the Buffalo area councils. However, an important fact remains. More than eighty percent of the San Francisco area councilmen planned to seek another term or a higher office. In any statistical sense, therefore, the Bay area councilmen also tend to desire reelection and advancement.

II. Explaining the Different Political Ambitions of Buffalo and San Francisco Area Councilmen

What accounts for the different political ambitions of councilmen in the two systems? Here, some of the major explanations are examined. On the basis of this analysis, speculations are made about the conditions associated with different political ambitions. Because political ambitions are central to accountability theory and most easily measured at the individual

17. The count is based on councilmen I knew had advanced. A complete check of all primary and general election data was not deemed necessary.

level, the analysis focuses on ambitions as the dependent variable.[18] Two measures of political ambitions are utilized. (See Appendix.) A static ambition scale taps the degree councilmen desire reelection. A progressive ambition scale measures the degree councilmen desire advancement to another office.

The most salient differences are those between the nonpartisan, nonsalaried, San Francisco area councilmen and the partisan, salaried councilmen in the Buffalo area. Also, in the Buffalo area, councilmen were not sampled from towns below 10,000 population, while the San Francisco sample includes cities with populations approaching 300.

Opportunity Structure Hypothesis: The "opportunity structure" refers to the chances for achieving different offices. Determination of opportunity structures is a question of defining the social and political career patterns of an office. According to Schlesinger, those individuals who enjoy relative political advantages, who have relatively greater chances of achieving a particular office, are also more likely to desire it.

> My basic inference, then should be clear: the ambitions of any politician flow from the expectations which are reasonable for a man in his position.[19]

In this respect, Prewitt found that about two-thirds of the city councilmen in cities with county seats (and relatively more political opportunities) "have political ambitions while only one-forth of the councilmen in other cities think in terms of moving to a higher level office." [20] There are no comparable within-system differences in the Buffalo area.[21]

A more salient factor relating to the opportunity structure is the nonpartisan nature of the San Francisco area councils. Partisan councils exist

18. An alternative would be the use of "volunteerism" indicators such as frequency of appointment to and voluntary retirement from each council. These indicators are based on the council as the unit of analysis.

19. *Ambition and Politics*, p. 9.

20. *Recruitment of Political Leaders*, p. 186.

21. Here, "within-system relationships" refer to relationships among the various properties of councilmen within each of the two metropolitan areas. The relationship between age and desire for reelection among Buffalo councilmen is a relationship within the Buffalo system utilizing individuals as the unit of analysis.

When this study utilizes the Buffalo area as a unit of analysis in comparison to the San Francisco area, we refer to "between-system relationships." Here we have only two objects, corresponding to each area or "system." For example, Buffalo area councilmen tend to be younger than Bay area councilmen.

These terms are more generally discussed by Adam Przeworski and Henry Teune, *The Logic of Comparative Social Inquiry* (New York: John Wiley and Sons, 1970).

in a context of horizontal and vertical links to other political units and politicians. According to Prewitt:

> From the viewpoint of the councillor, the structural picture is one in which the council is the natural terminus for his career. In this regard a councilman is unlike elected officials in partisan positions. . . . The organized political world in which ward committeemen or state legislators live clearly points them to the next level of officialdom. Generally, councilmen have no such clear lines to the next higher office; they are not on a career ladder for which the next rung is identified by an organizational chart.[22]

While the nonpartisan councils of San Francisco are a natural terminal point, the Buffalo area partisan councils are closely nested within reasonably clear career lines. As one partisan town councilman noted:

> Politics is being in the right place at the right time and you never really know what's ahead. I wouldn't be afraid to run for any office. If you study their careers you'll find that a number of congressmen served as local councilmen or in the State legislature prior to moving to Congress. There are many examples locally of that. . . .

Although objective opportunities for advancement from a local council are not excellent,[23] they are probably better than opportunities in a nonpartisan council. Therefore, while not always the case, one would expect the partisan office to be intrinsically more desirable to the politically ambitious and contribute to a higher probability of developing "progressive" ambitions (desiring advancement) than a nonpartisan

22. *Recruitment of Political leaders*, p. 187.

23. I have done an analysis of the structure of opportunities in New York State quite similar to Schlesinger's study at the national level, *Ambition and Politics*. If one simply looks at the percentage of various office-holders whose immediately prior office was local elective (councilman, supervisor, mayor, trustee) some indication of objective opportunities can be found. Following the careers of United States congressmen from 1968–1972 in all of New York State and from 1948–1972 in Erie County, New York; 14 percent of them had a local elective office immediately prior to their election to Congress. 22 percent of those serving in the New York State Senate or Assembly from 1968–1971 served in a local elective office immediately prior to the state position. A bleaker picture is gained from other careers. Only 2 percent of those officials serving in either state executive positions (governor, lt. governor, comptroller, or attorney general) 1948–1972 or judicial positions (Court of Appeals or Claims judges) 1970, or as state administrative department or commission heads 1970, served as local elective officials prior to their higher office. The sources for this information were volumes of the *New York State Red Book*, and *Congressional Directory*.

office. The opportunity structure hypothesis thus provides one plausible explanation for the San Francisco-Buffalo differences. The partisan councils of the Buffalo area provide relatively greater opportunities for advancement to other offices; hence, relatively more ambitious councilmen are found in the Buffalo area councils.

The opportunity structure hypothesis also leads to the expectation that a politician's age will relate to his ambitions.[24] As noted above, three of the four Buffalo councilmen with discrete ambitions had served long careers in public office. Each had reached that stage of his life cycle in which future opportunities were diminished and each had made plans for retirement. Prewitt discovered a negative relationship between age and political ambitions in the San Francisco area.[25] Table III presents the relationships between various life-cycle indicators and the two types of political ambitions in the Buffalo area.[26] Within-system findings for Buffalo match those for San Francisco. Age has a depressing effect on ambitions. Older and more tenured councilmen are less likely to desire reelection or advancement. Age seems to be the determining factor; the partial correlation between tenure in office and progressive ambitions when controlling for age is positive. Relatively young councilmen with longer tenures in the council want to move up.

Table IV compares age distributions for the two systems. The San Fran-

Table III. Pearson Product Moment Correlations Between Static and Progressive Ambitions and Life-Cycle Variables for Buffalo Area Councilmen[a]

LIFE-CYCLE VARIABLE	STATIC AMBITION SCALE	PROGRESSIVE AMBITION SCALE
Age of Councilman in Years	−.24	−.47
Tenure in Office Scale[b]	−.26	−.17
Tenure Scale Controlling Age	−.15	.14

[a] Correlations underlined are significant at or below the .05 level, one-tailed test. See the Appendix for a description of the ambition variables.

[b] The "Tenure Scale" was developed by summating the standard scores (mean of zero, standard deviation of 1) of two variables (number of years as councilman and number of terms in office) and then restandardizing this sum.

24. Schlesinger, *Ambition and Politics*, chapter 9, pp. 172–193.

25. *Recruitment of Political Leaders*, p. 188.

26. See the Appendix for a description of these measures.

Table IV. A Comparison of the Ages of Buffalo and San Francisco Area Councilmen.[a]

Age Group	PERCENTAGE OF COUNCILMEN	
	San Francisco Sample[b]	*Buffalo Sample*
Under 36	6%	11%
36–45	30	43
46–55	37	32
over 55	27	14
	100%	100%
	(N=360)	(N=64)

[a] As one basis for evaluating the differences between samples, the Chi square equals 8.06, which is significant at the .05 level, degrees of freedom equal to 3.
[b] Constructed from Prewitt, *Recruitment of Political Leaders*, Table 8–6, p. 188.

cisco area councilmen are significantly older as a group than Buffalo area councilmen. This age difference between the two samples could be an important explanation of the different distribution of political ambitions. Both factors, age and partisanship, suggested by the opportunity hypothesis fit theoretical expectations. The younger partisan councilmen have relatively more career opportunities and are more likely to desire reelection or advancement.

Cost Hypothesis: Gordon Black has used two surrogate measures of the risk sustained in seeking office (size of city and competition for office) to reflect the relative investment costs of San Francisco area councilmen. Black reasoned that the larger the city and greater the competition for the office the more the individual must invest in achieving the office. Hence only those people with real commitment to a political career would take the risks involved. Therefore, in the more competitive seats, in larger municipalities, the incumbents have probably made (and were willing to make) greater investments to reach their office and are thus less likely to give it up willingly. Black found these relationships to hold in the San Francisco area councils,[27] the incumbents in more competitive seats in larger cities being more likely to desire reelection or advancement.

To evaluate these relationships within the Buffalo setting, Table v pre-

27. Black, "A Theory of Political Ambition," pp. 867–68.

Table V. Pearson Product Moment Correlations and First Order Partial Correlations for Buffalo Area Between Cost and Ambition Variables with Controls for Age[a]

COST VARIABLE	STATIC AMBITION SCALE		PROGRESSIVE AMBITION SCALE	
Size	*r*	*Age controlled*	*r*	*Age controlled*
Town or City Size[b]	.13	.12	.37	.41
Percentage Urban[c]	.01	.02	.19	.25
Size of Council District[d]	−.03	.03	.17	.35
Competition				
Registration Advantage[e]	−.06	.00	−.06	.08
Cyclical Competition[f]	.09	.03	.09	−.03
Percent Vote Last Election[g]	.23	.22	.07	.04
Absolute Win Margin[h]	−.04	.02	.15	.31

[a] Zero-order and first-order partial correlations underlined are significant at the .05 level with a one-tailed test. Several relatively high coefficients are not significant because they are in the wrong direction. Ambition variables are described in the Appendix.
[b] Total population of city or town as reported in First Count 1970 Census Data.
[c] Percentage of persons in city or town living in urban areas according to 1970 First Count Census.
[d] Total number of registered voters in councilman's electoral district in 1972.
[e] Number of people in council district registered in the incumbent's party over number of major party registrants (Democratic plus Republican) in 1972.
[f] Percentage of all elections in district over past 20 years in which either the incumbent's party lost, or the incumbent lost.
[g] Incumbent's absolute vote in last election over his vote plus highest loser's vote.
[h] Incumbent's absolute vote in last election minus highest loser's vote.

sents the relationships between several measures of competition, constituency size, town or city size, and the dependent ambition variables. The zero-order relationships between the size-competition variables and the ambition scales are low, and several relationships between competition and ambitions are in the wrong direction. For example, the higher the incumbent's percentage of the vote the more (not less) likely he was to desire reelection. However, controlling for age, the partial correlations suggest that councilmen in larger, more urbanized towns and cities, with more voters in their district are more likely to desire advancement to a

higher office. This total pattern of relationships suggests that the cost hypothesis does *not* hold up. The more competitive districts do not spawn more officials with static and progressive ambitions. In contrast, the opportunity hypothesis is possibly more applicable. The councilmen in the larger more urban areas may have more opportunities. They are generally located in the seats of power within county party organizations. They are also likely to become better known, get more news coverage, and thus have a public image. This adds up to a somewhat better opportunity for advancement and greater likelihood of progressive ambitions.[28] While expectations based on the cost hypothesis do not appear, the observed pattern of relationships is reasonable in terms of the opportunity hypothesis.

Benefits Hypothesis: John Soule speculated that the greater willingness of Michigan state legislators to return to the legislature as opposed to Connecticut legislators (82 percent to 65 percent) was related to the relatively higher salaries, expense accounts, larger offices, greater secretarial help, and the full-time position of Michigan legislators.[29] Possibly, the difference between the Buffalo and Bay area samples is a function of greater benefits being provided Buffalo area councilmen. The nonpartisan councils of the San Francisco area are nonsalaried while all town and city councilmen of Buffalo are salaried, varying from $2,000 to $23,000 per year. The benefits hypothesis would predict some covariation between salary and ambitions within this range of salaries. Table VI presents the observed relationships. Surprisingly, there is no positive relationship between salary and desire for reelection. Controls for age and city size do not alter that finding. There is a positive relationship between salary and desire for advancement. But the benefits hypothesis does not lead to such a prediction. This finding reflects the higher salaries of councilmen in the larger cities and towns whom we have just discussed as having somewhat greater opportunities—hence, greater desire for advancement. Keep in mind that his relationship, as well as that for city size, has been examined within a limited range. Beyond this range the relationship may change.

28. While city size is positively related to political ambitions, the differences in political ambitions between the two samples can not be explained away on this basis. Comparing councilmen in both samples from cities and towns over 30,000 indicates that San Francisco area councilmen are still less ambitious. Fifteen percent more Bay area than Buffalo area councilmen in large cities answered "no" to the question: "Are there any other governmental positions—local, state, or federal which you would like to seek?" The responses of Bay area councilmen from large cities can be found in Black, "Ambition Theory," Table 7, p. 157.

29. John W. Soule, "Future Political Ambitions and the Behavior of Incumbent State Legislators," *Midwest Journal of Political Science* (August, 1969), pp. 439–54. Soule was comparing his findings with those of James David Barber, *The Lawmakers* (New Haven, Connecticut: Yale University Press, 1965).

Table VI. Pearson Product Moment Correlations and Partial Correlations Between Salary and Political Ambitions in the Buffalo Area.[a]

	STATIC AMBITION SCALE	PROGRESSIVE AMBITION SCALE
Salary[b]	−.00	.29
Salary controlling Age	.01	.37
Salary controlling City Size	−.24	−.07
Salary controlling Age and City Size	−.20	.03

[a] Underlined coefficients are significant at the .05 level by a one-tailed test.

[b] The range of salaries is from $2,000 to $23,000 per year depending on council and formal position. The average salary is around $8,200.

Table VII summarizes the predicted and observed relationships between independent variables discussed above and political ambitions. Only a few of the most plausible explanations of the between-system differences in political ambitions have been examined. Other explanations such as systematic differences in the authority and prestige of council office between the two systems could be entertained. However, the Buffalo data used in conjunction with published materials rising out of the San Francisco area study do not readily address other hypotheses.

Table VII indicates that the best explanation of the different distributions of political ambitions is the opportunity hypothesis. All observations tend to correspond to expectations derived from this hypothesis. Also, inconsistencies in testing the cost hypothesis can be explained by relating city size to opportunities for advancement. Thus added support is given opportunity theory, advanced by Schlesinger who attempted to speculate indirectly on ambitions by examining the structure of political opportunities.[30]

III. Conclusions.

Do elected public officials want to remain in office or advance to a higher office? On the basis of data presented here on local legislators in two different metropolitan areas, the answer is yes. Most councilmen in both systems desire to remain in office. Beyond this, there are conditions under

30. *Ambition and Politics.*

Table VII. Predicted and Observed Between and Within-System Relationships Between Political Ambitions and Selected Independent Variables.[a]

INDEPENDENT VARIABLE	PREDICTED RELATION		OBSERVED RELATIONSHIPS					
			Between Systems Relation		*Within Systems Relation*			
					San Francisco		*Buffalo*	
	STATIC	PROGRESSIVE	STATIC	PROGRESSIVE	STATIC	PROGRESSIVE	STATIC	PROGRESSIVE
Opportunity								
Partisanship	+	+	+	+	b	b	b	b
Age	−	−	−	−	c	−	−	−
Cost								
Size of City or District	+	+	+	+	+	+	0	+
Competitiveness	+	+	c	c	+	+	0	0
Benefits								
Salary	+	0	+	+	b	b	0	+

[a] Relationships are represented by the symbols "+" indicating a positive relationship, "−" indicating a negative relation, and "0" indicating no relationship.

[b] No covariation; the variable did not take on different values within this group of councilmen or between the two areas or systems.

[c] Relationship is unknown due to the reliance on published materials.

which this assumption of accountability theory is more likely to hold. Public officials are more likely to desire reelection or advancement if they have better career opportunities. The younger legislator in a heavily populated area of a partisan system is more likely to have political ambitions than his older counterpart in a less populated nonpartisan municipality. Data did not support hypotheses that councilmen investing more to achieve office or receiving greater benefits from office would be more likely to have political ambitions.

From the data presented here, "the norm of volunteerism" would possibly lead explanations of the linkage process between citizens and public officials in the wrong direction. If linkage fails, the reason is not likely to be that public officials do not work to gain their positions or wish to retain them. While voluntary retirement is the "norm" or most frequent method of retirement in Congress, as well as in the San Francisco and Buffalo area councils, accountability theory can not be rejected on that basis. "A desire to remain in public office" tends to be the norm in every public arena in which the ambitions of incumbents have been tapped.[31] There will be variations. These differences in the distribution of political ambitions have here been used to provide some guidelines for speculation as to when the desire for reelection or advancement will be more prevalent.

31. This desire is not a burning passion that consumes the thoughts and lives of politicians. Rather, most councilmen simply like their position, would be disappointed if defeated and would like to have a higher office if the opportunity arose.

Table VII. Predicted and Observed Between and Within-System Relationships Between Political Ambitions and Selected Independent Variables.[a]

INDEPENDENT VARIABLE	PREDICTED RELATION		OBSERVED RELATIONSHIPS			
			Between Systems Relation		*Within Systems Relation*	
					San Francisco	*Buffalo*
	STATIC	PROGRESSIVE	STATIC	PROGRESSIVE	STATIC PROGRESSIVE	STATIC PROGRESSIVE
Opportunity						
Partisanship	+	+	+	+	b b	b b
Age	−	−	−	−	c −	− −
Cost						
Size of City or District	+	+	+	+	+ +	0 +
Competitiveness	+	+	c	c	+ +	0 0
Benefits						
Salary	+	0	+	+	b b	0 +

[a] Relationships are represented by the symbols "+" indicating a positive relationship, "−" indicating a negative relation, and "0" indicating no relationship.

[b] No covariation; the variable did not take on different values within this group of councilmen or between the two areas or systems.

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Appendix

Description of Political Ambition Measures

Here, the construction and characteristics of the various measures of political ambitions are described. Below are listed the items, in the order appearing on the interview, which were used to develop the ambition scales. Only percentage distributions of the 64 respondents are cited.

ITEM	VALUES	PERCENTAGE DISTRIBUTION
(1) Would you like to continue to run for the council?	No	9
	Perhaps	20
	Yes	70
(2) About how many more terms would you be willing to serve as a councilman?	None	9
	One	31
	Other	59
(3) Are there any other political or governmental positions—local, state, or federal—which you would like to seek?	No	39
	Perhaps	25
	Yes	36
(4) Which ones? (Highest level mentioned)	None	39
	Other local or County	23
	State	27
	National	11
(5) If you had the opportunity, what is the highest political or governmental office you would like to achieve in your political career?	Council	14
	Other Local	33
	State	27
	National	27

Instructions: (For items 6 to 20): On this form are listed various types of offices. Please rate each office according to how desirable it would be to achieve that office.

ITEM	PERCENTAGE INDICATING *Not Desirable*	*Somewhat Desirable*	*Desirable*	*Very Desirable*
(6) Reelection to my present office	5	9	28	58
(7) County Legislator	48	28	17	6
(8) State Assemblyman	52	19	19	11
(9) State Senator	47	17	9	27
(10) U. S. Congressman	59	3	14	23
(11) Mayor or Town Supervisor	34	23	22	19
(12) County Executive	78	11	5	6
(13) City Judge	94	3	2	2
(14) Town Justice	94	2	5	0
(15) County Judicial Position	95	0	3	2
(17) State Judicial Position	95	0	2	3
(17) Town or District Party Chairman	88	9	3	0
(18) County Party Official	72	19	6	3
(19) City or Town Appointive Office	56	23	16	5
(20) County or State Appointive	53	19	23	5

ITEM	VALUES	PERCENTAGE DISTRIBUTION
(21) He wants to be reelected	False description of me	6
	Somewhat False	2
	?	5
	Somewhat True	19
	True description of me	66
(22) He's willing to serve another term	False description of me	6
	Somewhat False	0
	?	5
	Somewhat True	19
	True description of me	67

The above items were precombined to form the following variables and variables were combined to form the following scales by summating stan-

dardized scores, then restandardizing to a mean of 50 and standard deviation of 10.

ITEMS PRECOMBINED	VARIABLE	SCALES
1	Like to Continue	Static Ambition Scale
2	Willing to Continue	
6,21,22	Reelection Desirable	
3	Like to Advance	Progressive Ambition Scale
4	Level Like to Seek	
5	Level like to Achieve	
Average Desirability Rating of items (7 thru 20)	Desirability of Advancement	

It was determined that static ambitions, desiring to remain in office, and progressive ambitions, desiring to move to another office, were independent of each other and properly formed separate scales. Correlational analysis shows that the static and progressive variables clearly form identifiable clusters of interrelated variables. Factor analysis also supports the finding of two statistically independent types of political ambitions. Cronbach's alpha for the Static Ambition Scale equals .86, and for the Progressive Ambition Scale equals .93. The correlation between the two scales is .21.

Review-Articles

Can Deterrence be Left to the Deterrent?

Arthur D. Larson, National Security Affairs: A Guide to Information Sources (*Detroit: Gale Research Company, 1973*), *411 pp.*

James E. Dougherty, How to Think About Arms Control and Disarmament (*New York: Crane Russak and Company, 1973*), *202 pp.*

Robert M. Lawrence, Arms Control and Disarmament: Practice and Promise (*Minneapolis: Burgess Publishing Company, 1973*), *72 pp.*

Ralph Sanders, The Politics of Defense Analysis (*New York: Dunellen, 1973*), *361 pp.*

Alton H. Quanbeck and Barry M. Blechman, Strategic Forces: Issues for the Mid-Seventies (*Washington: The Brookings Institution, 1973*), *94 pp.*

Wynfred Joshua, Nuclear Weapons and the Atlantic Alliance (*New York: National Strategy Information Center, 1973*), *60 pp.*

Morton A. Kaplan, ed., Strategic Thinking and its Moral Implications (*Chicago: The University of Chicago Center for Policy Study, 1973*), *155 pp.*

George H. Quester, *Cornell University*

"War is too important to be left to the Generals." This much-quoted aphorism of Clemenceau obviously will require some alteration for the "era of peace" we now allegedly are entering, or the era of mutual deterrence or mutual assured destruction (MAD). If the threat of World War III is to be less and less obvious, can deterrence simply be left to the deterrent?

There is definite evidence that the academic, like the man on the street, is devoting less attention to strategic questions now than in the late 1950's and early 1960's. The number of journal articles about such topics is