

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILES 8672
1582 SCOMM 59: JNT. COMMITTEE ON ECONOMIC RECOVERY, 1988

1379

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**

MISSISSIPPI

REPORT OF CONFERENCE COMMITTEE

MR. PRESIDENT AND MR. SPEAKER:

We, the undersigned conferees, have had under consideration the amendments to the following entitled BILL:

S. B. No. 2839: Provide State Economic Development Plan.

We, therefore, respectfully submit the following report and recommendation:

1. That the House recede from its Amendment No. 1.

2. That the Senate and House adopt the following amendment:

Amend by striking all after the enacting clause and inserting the following in lieu thereof:

10. SECTION 1. This act may be cited as the "Statewide

11. Economic Development and Planning Act of 1987."

12. SECTION 2. (1) The Legislature finds that the

13. prospective well-being of the people of the State of Mississippi

14. requires that the economic development of the state should be

15. strategically, comprehensively and exhaustively planned and that

16. the plan be reviewed and continuously updated and systematically

17. implemented. The Legislature further finds that the state should

18. foster open communication between government and the private

19. sectors of our economy and that the state should provide a policy,

20. a vision and a framework to encourage an environment conducive to

21. entrepreneurship and rapid development in the State of

22. Mississippi.

23. (2) The Legislature hereby declares that the public policy

24. of this state requires an overall, comprehensive and coordinated

25. plan for maximum and accelerated economic development of the

26. state. It is the express intent of the Legislature that such plan

27. be developed and maintained with annual revisions as required.

28. SECTION 3. The Mississippi Board of Economic Development

29. is authorized to:

30. (a) Appoint special advisory and/or full-time task

31. forces on goals and innovative programs and pay travel expenses of
32. task force members performing their official duties;

33. (b) Contract with the Research and Development Center
34. which may utilize state agencies and institutions, local and
35. regional public agencies, and private organizations;

36. (c) Solicit and receive grants, contributions and funds
37. from appropriate sources for financing development of a statewide
38. economic development plan.

39. SECTION 4. (1) The Legislature directs that any funds
40. appropriated for the purpose of developing and maintaining the
41. economic development action plan may not be expended unless such
42. funds are matched by at least an equal amount of money from each
43. of the following sources:

44. (a) The Governor's Office of Federal-State Programs or
45. other appropriate agency in the executive branch of state
46. government, such matching funds to come preferably from federal or
47. other special funds available to the agency.

48. (b) Private agencies, organizations, businesses and/or
49. individuals.

50. (2) The Board of Economic Development, whether or not state
51. funds are appropriated for the purpose of developing and
52. maintaining an economic development plan, shall initiate action to
53. secure funding and in-kind contributions from outside sources to
54. support and finance expenses of the Special Development Task Force
55. and other necessary expenses of this act.

56. SECTION 5. It is the intent of the Legislature that the
57. efforts initiated by this act to achieve desired economic
58. development should be joint efforts of government and private
59. enterprise and also joint efforts between legislative and
60. executive branches of government and between state and local
61. government. It is the express intent of the Legislature that the

62. continuing and ongoing development efforts envisioned by this act
63. proceed with all deliberate speed and with the full cooperation of
64. all parties involved.

65. In an effort to facilitate continuing and future legislative
66. support for this economic development initiative, the Department
67. of Economic Development and the Research and Development Center
68. shall present status reports on their work, as it relates to the
69. purpose and requirements of this act, to the Joint Legislative,
70. Budget Committee, thereby having an opportunity to interact with
71. legislative leaders and maintain and foster communication and
72. cooperation between all parties. The Director of the Joint
73. Legislative Budget Committee shall coordinate the scheduling of
74. said reports and may specify selected topics for presentation by
75. the Department of Economic Development and the Research and
76. Development Center to the Joint Legislative Budget Committee.
77. Such reports shall begin with the month of July 1987; and there
78. shall be a minimum of four (4) reports to the Committee in each
79. fiscal year. The Director of the Joint Legislative Budget
80. Committee may require such reports to be made orally and/or in
81. writing to regular meetings of the Joint Legislative Budget
82. Committee.

83. SECTION 6. (1) The Special Task Force for Economic
84. Development Planning, to consist of not more than twenty (20)
85. members, is hereby created. The task force shall be composed of:

86. (a) Five (5) members from the state's public
87. universities and junior colleges. These members shall be selected
88. by the Board of Economic Development from nominees from the
89. universities and junior colleges.

90. (b) One (1) member representing the private colleges of
91. the state to be selected by the Board of Economic Development from
92. nominees made by the private colleges.

93. (c) One (1) member from the membership or staffs of
94. each of the following organizations: Mississippi Association of
95. Supervisors, Mississippi Municipal Association, Mississippi
96. Association of Planning and Development Districts, and the
97. Mississippi Industrial Development Council. These members will be
98. appointed to the task force by the Board of Economic Development
99. from recommendations made to the board by the respective
100. organizations.

101. (d) Two (2) members from federal agencies to be
102. recruited by the Board of Economic Development.

103. (e) Eight (8) members to be selected by the Board of
104. Economic Development upon recommendation of the executive
105. director, from nominations and applications made to the Board; six
106. (6) of these members shall be representatives of business and/or
107. professional enterprises in Mississippi; two (2) of the eight (8)
108. members may be representative of business or professional
109. enterprises residing outside Mississippi and may include foreign
110. nationals.

111. (2) It is the intent of the Legislature that the task force
112. will be organized, selected and constituted in such a way that it
113. represents the most talented individuals that could possibly be
114. assembled to address the economic development concerns and issues
115. of this state. Task Force members shall be appointed by July 1,
116. 1987, and the Task Force shall have its organizational meeting no
117. later than August 1, 1987.

118. SECTION 7. All persons selected for service on the task
119. force shall be creative, knowledgeable and accomplished people
120. with the capacity to contribute to the mission of the task force.
121. Task force members shall be selected by the Board of Economic
122. Development without regard for race, age or sex.

123. Members from state agencies and institutions shall serve on

124. assignment from their respective agencies and continue to receive
125. full salary and benefits from their respective agencies. All
126. other persons serving on the special task force will be sponsored
127. by their respective organizations. In unusual circumstances where
128. persons who could make notable contributions to the work of the
129. task force cannot be sponsored as hereinabove provided, the
130. Department of Economic Development will make efforts to assist in
131. gaining sponsorship for such persons. Vacancies on the task force
132. shall be filled by the Board of Economic Development from the
133. agency or organization from which the vacancy occurred.

134. The Executive Director of the Research and Development Center
135. shall organize and coordinate the work of the task force and may
136. designate subgroups of task force members to assigned or selected
137. areas of interest. The Executive Director of the Department of
138. Economic Development may make recommendations regarding the task
139. force and subgroup assignments.

140. SECTION 8. The Governor's Office of General Services
141. shall make available office space for the special task force to
142. include conference room facilities.

143. SECTION 9. The mission and role of the special task
144. force shall be to function as an independent research and
145. analytical group charged with assisting the Board of Economic
146. Development and the Research and Development Council in setting
147. measurable, achievable and significant state economic development
148. goals. The task force shall make recommendations regarding such
149. goals and present findings and detailed recommendations which will
150. enable the state to achieve the stated goals. Recommendations of
151. the task force shall be specific to the extent that actions needed
152. are explicitly set out and supported with in-depth analyses as to
153. the contributions such actions would have on the total development
154. effort. All such recommendations shall be accompanied by specific

155. recommendations with respect to allocation of resources, including
156. any additional funding necessary to fund all economic development
157. activities.

158. SECTION 10. The Board of Economic Development shall
159. contract with the Research and Development Center to prepare a
160. State Economic Development Action Plan (SDAP) which shall consist
161. of six (6) parts as provided in Sections 11 through 16 of this act
162. and which shall be revised and updated annually.

163. SECTION 11. Part I of the SDAP will identify specific,
164. quantifiable state economic development goals to be accomplished
165. by December 31, 1993, and by December 31, 1998. Prior to adopting
166. the goals required for Part I of the SDAP, one (1) public hearing
167. shall be held in each Planning and Development District (PDD) in
168. coordination with the Director of each PDD and the Department of
169. Economic Development to receive public input on the goal setting
170. process and deliberations pertaining thereto.

171. The goals adopted by the Board of Economic Development and
172. the Research and Development Council shall be reasonable,
173. challenging, achievable and shall be expressed in measures of
174. economic and educational achievement that would represent
175. measurable, comparative and significant economic progress for the
176. state.

177. SECTION 12. Part II of the SDAP shall include:

178. (a) An inventory and analysis of the state's
179. competitive advantages and an inventory and analysis of factors
180. which tend to retard economic development in Mississippi;

181. (b) Identification and analysis of state, national and
182. international economic trends affecting Mississippi's economic
183. development;

184. (c) An analysis and evaluation of the state's taxing
185. effort as it affects the state's economic development efforts and

186. an analysis of how economic development goals and objectives
187. relate to projected short and long-term state and local revenues
188. and to the possible and potential impact on the revenue structure;
189. (d) An identification and analysis of key factors
190. affecting economic development in the state;
191. (e) An identification and analysis of factors affecting
192. industrial location and decisions affecting expansion of existing
193. business and industry within the state;
194. (f) An analysis of the state's incentive programs and
195. economic development strategies and a comparison with other
196. states;
197. (g) An analysis of the state's work force and of the
198. economic conditions that work force will face in future years.
199. SECTION 13. Part III of the SDAP shall provide a
200. procedure for monitoring the implementation of the state's
201. economic development efforts. In formulating this procedure, the
202. Research and Development Center will survey, identify and analyze
203. every government program and private resource and activity that is
204. available to, that is being applied toward, or that contributes to
205. the accomplishment of the goals adopted by the Board of Economic
206. Development and the Research and Development Council. The
207. resources and economic development activities (programs) of state
208. government, local government, federal government and private
209. business shall be identified and analyzed to determine the
210. specific areas in which they contribute to achievement of the
211. overall goals.
212. The Research and Development Center shall also identify all
213. federal funds that flow into Mississippi for any and all purposes,
214. make comparisons with other states and prepare appropriate
215. analyses to identify sources of federal funds where potential
216. exists for attracting and obtaining larger amounts of federal

217. funds for the state.

218. The planning and development districts shall be utilized
219. fully in determining the goals established herein and shall be the
220. primary source of information and evaluation as to local and
221. regional economic priorities as well as the identification and
222. reporting of local governments and local and regional private
223. business resources available for the accomplishment of such goals.

224. Part III of the SDAP shall require each agency and
225. institution of state government involved in economic development,
226. including the Institute for Technology Development and the state
227. universities and junior colleges, to prepare and submit to the
228. Department of Economic Development, the Research and Development
229. Center and the Legislative Budget Committee work programs covering
230. their economic development activities. The Research and
231. Development Center shall specify a uniform format for agencies to
232. follow in preparing their work programs. These work programs
233. shall cover in general the next five (5) years of the SDAP and, in
234. significant detail, the upcoming fiscal year. With each annual
235. work program for the upcoming fiscal year, each agency shall make
236. a full report on accomplishments of its previous year's work
237. program. Work programs shall be submitted by August 15, 1987, for
238. fiscal year 1988 by those agencies identified by the Department of
239. Economic Development as being required to submit work programs in
240. accordance with this act. Work programs submitted August 15, 1987
241. shall report on accomplishments of the prior fiscal year's work in
242. economic development activities. The work program for fiscal year
243. 1989, and for succeeding years, shall be submitted on June 1 prior
244. to the beginning of the ensuing fiscal year.

245. The SDAP shall require copies of the overall economic
246. development plans from each of the ten (10) planning and
247. development districts to be submitted annually to the Research and

248. Development Center along with annual work programs and details of
249. accomplishments of the prior fiscal year's work program. These
250. materials shall be incorporated by reference in Part III of the
251. SDAP.

252. SECTION 14. Part IV of the SDAP shall be an analysis and
253. evaluation of materials in Parts II and III of the SDAP. This
254. phase of the plan shall also make an overall evaluation of the
255. relative contributions that the resources and efforts identified
256. in Part III are making toward achievement of the overall state
257. economic development goals. This phase of the plan shall contain
258. specific recommendations for inclusion in the state's overall
259. economic development efforts (among other things) (a) specific
260. programs for accelerating overall economic development through
261. greater results from the state's agricultural resources; (b)
262. specific programs for rural areas of the state and those areas
263. with the highest unemployment and lowest per capita incomes; (c)
264. specific programs for international trade and the attraction of
265. foreign investment through development of specialized,
266. university-based or other programs; (d) the specific niches that
267. Mississippi has and on which it should focus development efforts
268. and/or those niches the state should seek to develop; and (e) the
269. scope and role of each university and junior college with respect
270. to economic development efforts of each institution.

271. This phase of the plan shall also evaluate the organization
272. and structure of state economic development agencies and the
273. assignment of functions and responsibilities for economic
274. development among state agencies and institutions.

275. SECTION 15. (1) Part V of the SDAP shall consist of
276. recommendations of the Board of Economic Development and the
277. Research and Development Council. The recommendations shall be
278. made based on findings and conclusions of the special task force.

279. Such recommendations shall also be based on Part IV of the SDAP
280. and shall seek to improve in every possible and feasible manner
281. the coordination and implementation of all activities and programs
282. to be outlined and identified as required in Part III of the SDAP.

283. The recommendations in the first annual report shall address
284. but not be limited to the following matters pertaining to the
285. Department of Economic Development and the Research and
286. Development Center:

287. (a) A mission statement of the agencies to include
288. consideration for the role the agencies should have in
289. coordinating economic development activities across state agencies
290. and with local and regional governments and organizations;

291. (b) A mission statement for each division of each
292. agency;

293. (c) Any organizational, staffing and reporting
294. relationships regarding economic development programs and
295. activities.

296. Recommendations may also address organizational issues for
297. other economic development programs and activities of state
298. government.

299. (2) The Special Task Force on Economic Development shall
300. make recommendations for Part V of the SDAP regarding new
301. initiatives and new programs and the alteration or expansion of
302. existing programs as deemed necessary to achieve the goals
303. established by the Board of Economic Development and the Research
304. and Development Council. Such recommendations shall state
305. specifically what is to be done, who is to do it and how it is to
306. be done and shall also set out the cost-benefits of each
307. recommendation.

308. SECTION 16. As Part VI of the SDAP, the Research and
309. Development Center, in consultation with the Department of

310. Economic Development shall develop a legislative package
311. containing statutory actions required to implement the programs
312. and recommendations necessary to achieve the goals established by
313. the Board of Economic Development and the Research and Development
314. Council. The legislative package shall be prepared and presented
315. in bill format.

316. SECTION 17. The Executive Director of the Department of
317. Economic Development with the assistance of the Executive Director
318. of the Research and Development Center shall present the annual
319. revisions of the SDAP to the Joint Legislative Budget Committee
320. prior to the annual budget hearings and discuss with the joint
321. committee Parts III, IV and V. The presentation shall review the
322. established goals and report and assess progress for the current
323. reporting period of achieving official goals and make
324. recommendations for any program changes that might be needed.
325. Additional reports shall be made to the Joint Legislative Budget
326. Committee as requested and as required by Section 5 of this act.

327. SECTION 18. The Research and Development Center shall
328. annually request of the Mississippi Municipal Association and the
329. Mississippi Association of Supervisors a summary of development
330. efforts of local governments that relate to the SDAP and which
331. contribute to the accomplishment of the goals set by the Board of
332. Economic Development and the Research and Development Council for
333. the state.

334. SECTION 19. The first annual SDAP shall be completed no
335. later than September 1, 1988. The Department of Economic
336. Development with assistance of the Research and Development Center
337. shall present the first annual SDAP to the joint Legislative
338. Budget Committee and to the Legislature in joint assembly in
339. January 1989. A preliminary report on the status of the SDAP
340. shall be made to the Joint Legislative Budget Committee in

341. November 1987 and in May 1988. The Special Task Force for
342. Economic Development shall stand terminated by operation of law on
343. January 1, 1989.
344. SECTION 20. This act shall take effect and be in force from
345. and after passage.

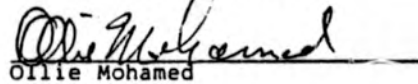
FURTHER, amend the title by striking it in its entirety and
inserting the following in lieu thereof:

1. AN ACT TO PROVIDE FOR A STATE ECONOMIC DEVELOPMENT PROCESS;
2. TO ESTABLISH ECONOMIC DEVELOPMENT GOALS; TO COORDINATE STATE
3. ECONOMIC DEVELOPMENT PLANNING; TO ESTABLISH A MONITORING,
4. EVALUATION, REPORTING AND ACCOUNTABILITY PROCESS; TO DIRECT THE
5. BOARD OF ECONOMIC DEVELOPMENT TO CONTRACT WITH THE RESEARCH AND
6. DEVELOPMENT CENTER TO PREPARE A COMPREHENSIVE ECONOMIC DEVELOPMENT
7. ACTION PLAN FOR THE STATE OF MISSISSIPPI; AND FOR RELATED
8. PURPOSES.

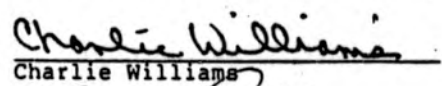
CONFEREES FOR THE SENATE:

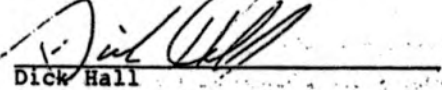

C. Robert Montgomery


Paul Richard Lambert


Ollie Mohamed

CONFEREES FOR THE HOUSE:


Charlie Williams


Dick Hall


Mack L. Wadkins

West Virginia

REGIONAL PLANNING AND DEVELOPMENT

An Act of the West Virginia Legislature
Second Extraordinary Session, 1971

(Com. Sub. for House Bill No. 3—Originating in the
House Committee on the Judiciary)

(Passed November 2, 1971; in effect from passage. Approved by the Governor,
November 17, 1971.)

AN ACT to amend and reenact article twenty-five, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to planning and development; the powers and duties of the governor with respect thereto; the delineation of regions and publication, hearing and certification requirements with respect thereto; the establishment of regional councils for planning and development purposes; the meetings, membership, organization, powers and duties of such regional councils; the receipt, expenditure and appropriation of funds by such regional councils; review functions; the establishment of executive committees of, advisory committees for, and citizens' participation in, such regional councils; preparation, submission and approval of the annual budget of such regional councils; effect on existing organizations and pending applications for funds or grants; and a rule of construction.

Be it enacted by the Legislature of West Virginia:

That article twenty-five, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 25. INTERGOVERNMENTAL RELATIONS-REGIONAL PLANNING AND DEVELOPMENT.

- §8-25-1. Legislative findings and purposes.
- §8-25-2. Definitions.
- §8-25-3. Powers and duties of governor.

- §8-25-4. Delineation of regions and recommendations of governor thereon; publication of statement fixing regional boundaries; public hearings; certification of regional boundaries; change in boundaries.
- §8-25-5. Regional councils; organization meetings; formation; receipt of funds and assistance; powers and duties; effect on existing organizations.
- §8-25-6. Same—Membership; organization; executive committee; officers and personnel.
- §8-25-7. Same—Contracts for services, materials, etc.; publication of notice for bids.
- §8-25-8. Same—Powers and duties generally.
- §8-25-9. Same—Review of applications for loans or grants.
- §8-25-10. Cooperation with other planning or development agencies, governmental units and officials.
- §8-25-11. Appointment of citizens' advisory committees.
- §8-25-12. Annual budget; contributions by governmental units; deposits and disbursements.
- §8-25-13. Annual report.
- §8-25-14. Effect of article upon pending projects and applications.
- §8-25-15. Construction of article.

§8-25-1. Legislative findings and purposes.

1 The Legislature hereby finds and declares that as a
 2 result of changes in the economy, population shifts, new
 3 transportation demands and increasing demands for
 4 public services, and as a result of increasing complexity
 5 in government programs and added demands on public
 6 revenues, there is a need to plan comprehensively for
 7 the future development of West Virginia and to provide
 8 for the efficient management of limited public revenues
 9 for the purpose of promoting the orderly development
 10 of the state and harmonizing the development of the
 11 state's governmental, social, economic, environmental
 12 and physical resources, while maintaining acceptable
 13 levels of public services and facilities toward the end of
 14 promoting the general health, safety and welfare of all
 15 its citizens. The Legislature further finds that the
 16 responsibility for planning and development rests with
 17 the governor of the state, as the state's chief planning
 18 officer. The Legislature hereby further finds and de-
 19 clares that problems of growth and development so
 20 transcend the boundary lines of governmental units that
 21 no single unit can plan for the solution of these problems
 22 without affecting other units of government; that inter-
 23 governmental cooperation on a regional basis is an effective
 24 method to approach common planning and develop-

25 ment problems and to seek more efficient and economic
 26 solutions to common problems of local government, and
 27 that assistance of the state is needed to make the most
 28 effective use of local, state, federal and private resources
 29 and funding in serving the citizens of all the state and
 30 of such regions; and the Legislature further finds that
 31 any assistance provided by the state for the purpose of
 32 this article is for the benefit of all its citizens and for a
 33 public purpose.

34 It is, therefore, the purpose of this article to delegate
 35 to the governor, the responsibility for planning and
 36 development in order to (1) achieve the objectives and
 37 policies necessary for the orderly growth and develop-
 38 ment of the state; (2) facilitate intergovernmental co-
 39 operation; and (3) designate regions and provide for the
 40 creation of regional planning and development councils;
 41 all being hereby declared to be public purposes.

§8-25-2. Definitions.

1 The following terms, wherever used or referred to in
 2 this article, shall have the following meanings unless
 3 a different meaning clearly appears from the con-
 4 text:

5 (a) "Comprehensive planning" shall mean the pro-
 6 cess of (1) assessing, within a geographic area, the needs
 7 and resources of the area; (2) formulating goals, ob-
 8 jectives, policies and standards to guide its long-range
 9 governmental, social, economic, environmental and
 10 physical development; and (3) preparing plans and pro-
 11 grams therefor which (a) identify alternative courses
 12 of action and the spatial and functional relationships
 13 among the activities to be carried out thereunder; (b)
 14 specify the appropriate ordering in time of such activi-
 15 ties; (c) take into account other relevant factors affecting
 16 the achievement of the desired development of the area;
 17 and (d) provide an overall framework and guide for
 18 the preparation of functional and project development
 19 plans.

20 (b) "Development" shall mean the process of imple-
 21 menting, carrying out, effectuating, administering or
 22 otherwise performing the activities, processes, steps or
 23 operations as necessary to meet the comprehensive plan-

24 ning goals, objectives, programs and plans formulated,
25 accepted, adopted or approved as a result of compre-
26 hensive planning

27 (c) "Region" shall mean a specific geographic area
28 consisting of at least one county or two or more contiguous
29 counties in which a regional council may exercise au-
30 thority and powers in accordance with the provisions
31 of this article.

32 (d) "Regional council" shall mean a regional plan-
33 ning and development council established pursuant to
34 the provisions of this article.

35-25-3. Powers and duties of governor.

1 The governor, as chief executive officer of the state,
2 shall be responsible for planning and development of
3 the state's governmental, social, health, economic, en-
4 vironmental and physical resources. In executing this
5 responsibility, the governor shall:

6 (1) Prepare, revise and update state development
7 plans which he shall, at least annually, submit to the
8 Legislature. Such plans shall identify and stress state-
9 wide goals, objectives and opportunities, giving appro-
10 priate consideration to regional council and local govern-
11 mental plans; and shall include, but not be limited to,
12 population and economic analysis; appraisals of the
13 state's natural resources; general land use policies; policies
14 for housing and urban development; transportation poli-
15 cies; policies for health services; manpower programs;
16 employment opportunities; education; law enforcement;
17 environmental protection and other programs; projection
18 of needs for public facilities, recreation and open space;
19 and policies for intergovernmental relations and govern-
20 mental organization: *Provided*, That once a regional plan
21 is submitted to the governor by a regional council for his
22 consideration in preparing, revising or updating a state
23 plan, the governor shall have a period of sixty days
24 from the date such regional plan is received by him
25 within which to specify in writing to the regional council
26 his objection or objections to such regional plan, and if
27 no such objection or objections are so specified, then
28 such regional plan shall become a part of the state plan
29 being prepared, revised or updated; and if any such

30 objection or objections are so specified, the regional
31 council shall have a period of sixty days from the date
32 of receipt of such specification within which to modify
33 its regional plan or otherwise respond to such objection
34 or objections, and, thereafter, the governor shall, in
35 preparing, revising or updating a state plan, give such
36 consideration to such original regional plan, modified
37 regional plan or other response of the regional council,
38 as the case may be, as he deems appropriate;

39 (2) Advise and consult with regional councils and
40 regional and local planning agencies in developing state
41 development plans and studies;

42 (3) Facilitate the coordination of planning and de-
43 velopment activities of all state departments, agencies
44 and institutions; local governments; regional councils;
45 and other public and private agencies within the
46 state;

47 (4) Review local, areawide and state applications for
48 planning and development assistance;

49 (5) Review and appraise the progress of state govern-
50 ment in achieving the goals and objectives set forth in the
51 state development plans;

52 (6) Monitor and coordinate the state's participation
53 in federal and state aid programs and be responsible
54 for liaison with the appropriate federal and state agen-
55 cies; and be responsible for all federal programs which
56 require the designation of responsible state agencies, if
57 no other state agency has heretofore been legally desig-
58 nated;

59 (7) Assist local governments, regional councils and
60 other public bodies in obtaining federal, state or other
61 available funds and services;

62 (8) Facilitate state and local capital improvement
63 projects to meet the requirements of industrial and socio-
64 economic development in various governmental units
65 within the state;

66 (9) Provide professional and technical assistance and
67 make information available to regional councils and
68 local governments within the state; and be responsible
69 for receiving and disseminating information regarding
70 federal grant assistance within the state; and

71 (10) Apply for and accept advances, grants, contri-
72 butions and other forms of assistance from the state
73 or federal government or from any private or public
74 agencies or foundations, to carry out the provisions of
75 this article.

28-25-4. Delineation of regions and recommendations of gov-
ernor thereon; publication of statement fixing
regional boundaries; public hearings; certification of
regional boundaries; change in boundaries.

1 (a) Within sixty days after the effective date of
2 this article, the governor shall define and recommend
3 for the purposes of this article regional boundaries em-
4 bracing each municipality and county within the
5 state.

6 (b) In delineating boundaries of the regions, the gov-
7 ernor shall consider such factors as the units of local
8 government shall express by proper resolution, including
9 community interest and homogeneity; geographic fea-
10 tures and natural boundaries; patterns of communication
11 and transportation; patterns of urban development; uni-
12 formity of social and economic problems; special prob-
13 lems, boundaries of existing metropolitan and other sub-
14 state planning and administrative areas; and utility of
15 the proposed boundaries for efficient provision of govern-
16 mental services. Municipalities shall not be divided when
17 forming a region, except insofar as it is necessary to
18 keep multi-county municipalities within a region.

19 (c) The governor shall, within six months after the
20 effective date of this article, certify to the secretary of
21 state the boundaries of each region.

22 (d) Not less than sixty days prior to the certification
23 of the boundaries of any region, the governor shall cause
24 a statement setting forth the counties to be included
25 within the boundary of the proposed region to be pub-
26 lished as a Class I-0 legal advertisement in compliance
27 with the provisions of article three, chapter fifty-nine of
28 this code, and the publication area for such publication
29 shall be the proposed region. The governor shall forward
30 a copy of the statement to the principal executive officer
31 or officers of each municipality and county located within
32 the proposed region.

33 (e) Prior to the time that the governor shall certify
34 the boundaries of a region, he or his designee shall con-
35 duct at least one public hearing at a convenient place
36 within the proposed region. The governor shall advertise
37 the meeting by means of a Class I-0 legal advertisement
38 in compliance with the provisions of said article three,
39 and the publication area for such advertisement shall
40 be the proposed region. All public and private organ-
41 izations located in, and all individuals residing in, mu-
42 nicipalities or counties within or adjacent to the proposed
43 region shall be permitted to appear and testify on matters
44 pertaining to its boundaries.

45 (f) At any time following the certification of the
46 boundaries of any region, the governor may change such
47 boundaries, pursuant to the criteria and procedures set
48 forth in subsections (b), (c), (d) and (e) of this section.

28-25-5. Regional councils; organization meetings; formation;
receipt of funds and assistance; powers and duties;
effect on existing organizations.

1 (a) The governor shall provide for an organizational
2 meeting of each of the regional councils within sixty days
3 after his certification pursuant to section four of this
4 article. He shall notify the president of each county court
5 and the mayor of each municipality of the region of the
6 time and place of such meeting. The official so noti-
7 fied shall attend this meeting or shall designate a repre-
8 sentative. In the case of the county court, another mem-
9 ber of the court shall be the designee or, in the case
10 of a municipality, a member of the governing body of
11 such municipality shall be the designee. Those present
12 shall constitute a quorum and shall select a temporary
13 chairman and secretary and shall provide for a sub-
14 sequent meeting or meetings at which time the members
15 provided for in section six of this article shall be nomi-
16 nated and elected and the permanent organization and
17 bylaws established.

18 (b) Each regional council formed pursuant to this
19 article shall fulfill the purposes of development regions
20 and shall be eligible to receive state funds and technical
21 assistance in accordance with the provisions of this
22 article.

23 (c) (1) Nothing herein contained shall in any way
24 limit or restrict the powers, duties and responsibilities of
25 planning bodies organized under article twenty-six of
26 this chapter relating to interstate planning commis-
27 sions.

28 (2) Interstate planning commissions in existence on
29 the effective date of this article are hereby designated
30 as the planning and development councils for the region,
31 insofar as the West Virginia member counties of such
32 interstate planning commissions are concerned, and such
33 commissions shall be empowered to act as the planning
34 and development councils for such regions insofar as
35 the West Virginia member counties are concerned.

36 (3) When additional West Virginia counties are added,
37 under the provisions of this article, to such interstate
38 planning commissions, their membership in such com-
39 missions shall comply, insofar as the West Virginia coun-
40 ties are concerned, with the council membership require-
41 ments of this article.

42 (4) Regional councils or commissions established
43 under this article and article twenty-six of this chapter
44 may, at the option of the county courts of the partici-
45 pating West Virginia counties, continue to have all the
46 powers, duties and responsibilities permitted and re-
47 quired under said article twenty-six, in addition to the
48 powers, duties and responsibilities provided herein for
49 regional councils.

50 (5) State regional councils or commissions and their
51 corresponding boundaries in existence on the effective
52 date of this article, which were established under the
53 former provisions of this article, and any nonprofit cor-
54 poration in existence on the effective date of this article,
55 which was established under chapter thirty-one of this
56 code and pursuant to section eighteen, article five, chap-
57 ter seven of this code and which has had in its employ
58 a full-time paid executive staff for a period of no less
59 than six months immediately prior to the effective date
60 of this article, may be designated by the governor as
61 planning and development regions and regional councils.
62 Such designation shall be made within sixty days after
63 the effective date of this article. Regional councils so

64 designated shall have a period of six months from the
65 date of designation to comply with the membership
66 structure required by this article. Nothing herein con-
67 tained shall be construed to deprive such existing state
68 regional councils of their legal authority prior to the
69 expiration of the aforementioned six-month period.

28-25-4. Same—Membership; organization; executive commit-
tee; officers and personnel.

1 (a) All municipalities and all counties within the
2 region shall be represented on the regional council. The
3 county representative shall be the president of the county
4 court or a member of the county court designated by
5 him. The municipal representative shall be the mayor
6 or a member of the governing body designated by him.
7 The number of members of the regional council by virtue
8 of this subsection shall comprise not less than fifty-one
9 percent of the total number of members.

10 (b) Regional council members serving by virtue of
11 subsection (a) of this section shall select additional
12 members to serve on the council to represent principal
13 community or regional interests, including, but not lim-
14 ited to, commerce, industry, labor, agriculture, educa-
15 tion, health and any such interests as may be required
16 by federal law or regulations. The selection of such
17 members shall also provide for reasonable representation
18 of geographic, economic and ethnic groups without ex-
19 clusion of significant minority groups. Subsequent
20 changes in the designation of representatives shall be
21 determined by the regional council. The number of
22 members serving by virtue of this subsection shall not
23 exceed forty-nine percent of the total number of mem-
24 bers.

25 (c) Each regional council shall select from its mem-
26 bership a chairman, who shall preside at each council
27 meeting, and an executive committee, which shall be
28 comprised of one representative from each county court
29 and one representative from the largest municipality
30 within each county in the region and such other mem-
31 bers as the aforesaid representatives may select, but
32 such other members so selected shall not constitute more
33 than forty-nine percent of the total membership of the

34 executive committee. The executive committee shall
35 perform such administrative duties as are prescribed by
36 the regional council in its bylaws and shall exercise the
37 review function provided for in section nine of this
38 article. Each regional council may further provide for
39 such other officers as it shall deem necessary and may
40 establish other committees which may include citizens
41 who are not regional council members.

42 (d) Each regional council shall establish personnel
43 rules and shall appoint a director who shall be qualified
44 by reason of training and experience. The director shall
45 be empowered to appoint and remove other employees
46 in accordance with the regional council's personnel rules.
47 He may, with the approval of the executive committee,
48 enter into agreements with governmental agencies within
49 the region for the use of personnel, equipment and
50 facilities.

§8-25-7. Same—Contracts for services, materials, etc.; publication of notice for bids.

1 Each regional council is empowered and authorized
2 to contract for services of consultants to perform planning,
3 development, engineering, legal or other services
4 of a professional, specialized or technical nature; and
5 such consultants shall be persons appropriately qualified
6 under state statutes dealing with the applicable profession
7 or occupation. Each such contract must have the express
8 approval of the regional council or the executive
9 committee. Such contracts shall not be subject to any
10 law relating to public bidding: Provided, That every
11 contract of the council for the purchase of merchandise,
12 materials or supplies in the amount of one thousand
13 dollars or more shall be let to the lowest responsible
14 bidder after notice requesting such bids has been published
15 as a Class I-0 legal advertisement in compliance
16 with the provisions of article three, chapter fifty-nine
17 of this code, and the publication area for this publication
18 shall be the region in question.

§8-25-8. Same—Powers and duties generally.

1 Each regional council may:

- 2 (a) Continuously engage in comprehensive planning
- 3 and development processes and prepare, and from time

4 to time revise, amend, extend or add to, a plan or plans
5 for the development of the region consistent with any
6 state comprehensive planning and development objectives
7 and reflecting plans and programs of the participating
8 governmental units. Any such plan or plans shall
9 be based on studies of governmental, social, economic,
10 environmental and physical conditions and trends, and
11 shall aim at the coordinated development of the region
12 in order to promote the general health, welfare, convenience
13 and prosperity of its people. Such plan or plans,
14 or parts thereof, shall be prepared by persons appropriately
15 qualified under state statutes dealing with the applicable
16 profession or occupation. Such plan or plans
17 shall be submitted for review to the appropriate agencies
18 in accordance with the provisions of this article. The
19 plan or plans shall embody the policy recommendations
20 of the regional council, and may include, but shall not
21 be limited to: (1) A statement of goals, objectives, standards
22 and principles sought to be expressed in the plan
23 or plans to guide economic, social, environmental and
24 human resource development; (2) recommendations for
25 transportation networks in the region, including land,
26 water and air transportation, and for communication
27 facilities; (3) recommendations concerning the need for
28 and proposed general location of public and private works
29 and facilities, which by reason of their function, size,
30 extent or for any other cause are of a regional, as distinguished
31 from a purely local concern; and (4) recommendations
32 for the long-range programming and financing
33 of capital projects and facilities.

34 (b) Prepare and from time to time revise, amend,
35 extend or add to a regional development program to
36 implement the policies contained in the comprehensive
37 development plan for the region. The program shall
38 contain a listing of development projects and programs,
39 priorities for the financing of these projects and programs
40 and recommended methods for project and program financing.

42 (c) Prepare and recommend ordinances, rules and
43 regulations which would implement regional and local
44 plans.

(d) Prepare and publish studies of the region's resources, both natural and human, with respect to existing and emerging problems of industry, commerce, transportation, population, housing, agriculture, environment, health, education, welfare, public service, local governments and any other matters which are relevant to regional planning.

(e) Collect, process and analyze the social and economic statistics for the region which are necessary to planning studies and make the results of such collection, processing and analysis available to the general public.

(f) Participate with other governmental agencies, educational institutions and private organizations in the coordination of the regional research and educational activities described in subdivisions (d), (e) and (h) of this section.

(g) Cooperate with, and provide, upon request, planning and technical assistance to municipalities, counties and planning and development agencies within the region, and coordinate regional planning with the planning activities and plans of the state and of the municipalities and counties within the region, as well as neighboring areas, including those in adjoining states, and the programs of federal departments and agencies.

(h) Provide information to officials, departments, agencies and instrumentalities of the federal, state and local governments and to the public at large, in order to foster public awareness and understanding of the objectives of the regional plans and the functions of the regional and local planning and development councils, and to stimulate public interest and participation in the orderly, integrated development of the region.

(i) Apply for, accept and expend funds and grants provided for the purposes hereof by the government of the United States or its departments or agencies; by departments and agencies of the state or any other state; by one or more municipalities, counties or other political subdivisions of this state or of any other state; or by any other agency, public or private; or from any individual whose interests are in harmony with the purposes hereof, including planning councils and commissions, all in

accordance with any federal requirements and subject to any conditions or limitations of the constitution or laws of this state.

(j) Perform development on a regional basis as necessary to undertake, complete or accomplish the goals and purposes of comprehensive planning in the region by intergovernmental contract or joint enterprises, or both, with local governmental units or combinations of such units pursuant to article twenty-three of this chapter.

(k) Exercise powers jointly or in cooperation with agencies or political subdivisions of the state of West Virginia or any other state, or with agencies of the United States, subject to constitutional and statutory provisions applicable to interjurisdictional agreements.

(l) Adopt bylaws and such other rules and regulations as may be necessary to effectuate the purposes of this article.

(m) Exercise all other powers and authority necessary and proper for the discharge of its duties.

§8-25-9. Same—Review of applications for loans or grants.

Each regional council shall review all applications of governmental units or independent agencies within the region for loans or grants from the federal government or any of its agencies or the state of West Virginia or any of its agencies. All recommendations and comments on applications for the aforementioned funding programs shall be forwarded to the governor. Each council shall establish and maintain a clearinghouse for the purpose of establishing required review procedures in compliance with the "Intergovernmental Cooperation Act of 1968 (Public Law 90-557)," and the "Demonstration Cities and Metropolitan Development Act of 1966 (Public Law 87-754)," and the rules and regulations pertaining thereto, as promulgated by the United States office of management and budget. The state review agency designated by the governor shall inform regional councils of state review findings relating to applications submitted from within the jurisdiction of each council.

§8-25-10. Cooperation with other planning or development agencies, governmental units and officials.

1 To effectuate the purposes of this article, regional
2 councils shall cooperate with planning agencies or devel-
3 opment agencies within the region or within other re-
4 gions, with the governing bodies and administrative offi-
5 cials of any municipality, county or any other political
6 subdivision, including those in other states, or with any
7 other entity, private or public, whose interests are in
8 harmony with the purposes of this article, in order to
9 coordinate and harmonize planning and development for
10 the cooperating units. All state departments and agencies
11 shall cooperate with regional councils established under
12 this article and shall make available for the studies con-
13 ducted by such councils, reports, data and other infor-
14 mational and technical assistance within financial and
15 personnel limitations. Each regional council may appoint
16 such committees and may adopt such rules and regula-
17 tions as may be proper to effect such coordination and
18 integration. The governing bodies and administrative
19 officials of municipalities, counties and other political
20 subdivisions within this state are hereby empowered and
21 authorized to cooperate with such planning and develop-
22 ment agencies and with the governing bodies and ad-
23 ministrative officials of political subdivisions and plan-
24 ning and development agencies in other states for the
25 purpose of such coordination and integration in accordance
26 with the provisions of this article.

§8-25-11. Appointment of citizens' advisory committees.

1 Each regional council may appoint advisory committees
2 of interested and affected citizens to assist in the review
3 of plans, programs and other purposes of this article re-
4 ferred for review by the regional council. Whenever a
5 special advisory committee is required by any federal or
6 state regional program, the regional council chairman
7 shall, with approval of the executive committee, appoint
8 such committees as advisory groups to the regional
9 council.

§8-25-12. Annual budget; contributions by governmental units; deposits and disbursements.

1 Each regional council shall adopt an annual budget, to
2 be submitted to the participating governmental units
3 which shall each contribute to the financing of the council
4 according to a formula adopted by the council and ap-
5 proved by a majority of the counties and a majority of
6 the municipalities participating in the regional council.
7 All such contributions shall be fair and equitable and shall
8 be based on the population of each participating govern-
9 mental unit as determined on the basis of the latest
10 decennial census, or such other criteria as may be deter-
11 mined by each respective regional council. Each partici-
12 pating county and municipality is hereby directed and
13 empowered to pay over and contribute to the operation
14 of said councils in accordance with the formula adopted
15 as hereinbefore provided. Such sums, as are appropriated
16 hereunder, may be transferred to the regional councils
17 for deposit and disbursement as the regional councils may
18 designate and direct. By such transfer, the governing body
19 designates the regional council as its disbursing agent.

§8-25-13. Annual report.

1 On or before July thirty-first of each year, each regional
2 council shall prepare an annual report. The regional
3 council shall submit copies of the report to the participat-
4 ing governmental units and to the governor. The report
5 shall include the following:
6 (a) A consolidated statement of the regional council's
7 receipts and expenditures by category since the preceding
8 report.
9 (b) A consolidated, detailed regional council budget
10 for the year in which the report is filed and the following
11 year including an outline of its program for such period.
12 (c) A description of any comprehensive plan adopted
13 in whole or in part for the region.
14 (d) Summaries of any studies and development pro-
15 gress and the recommendations resulting therefrom made
16 for the region.
17 (e) A listing of all applications for federal grants or
18 loans submitted by the governmental units within the

19 region together with the action taken by the regional
20 council in relation thereto.

21 (f) A listing of plans of local governmental units sub-
22 mitted to the region and actions taken in relation thereto.

23 (g) Recommendations of the regional council regard-
24 ing federal and state programs, cooperation, funding and
25 legislative needs.

**§8-25-14. Effect of article upon pending projects and appli-
cations.**

1 Any of the provisions of this article to the contrary not-
2 withstanding, no pending application for federal or state
3 grants, loans, mortgages or other types of funding nor any
4 application for grants, loans, mortgages or other types of
5 funding intended to supplement a pending project shall be
6 required to be approved by any such regional council nor
7 shall any such pending application be delayed or disap-
8 proved by reason of the provisions of this article.

§8-25-15. Construction of article.

1 The provisions of this article shall be liberally construed
2 to accomplish its objectives and purposes.



*I, A. James Manchin, Secretary of State of the
State of West Virginia, hereby certify that*

the following and hereto attached is a true and correct copy of
planning and development regions encompassing the counties and
municipalities of the State of West Virginia as filed in this office
on May 3, 1972 by Governor Arch A. Moore, Jr.



*Given under my hand and the
Great Seal of the said State at
the City of Charleston, this*

Seventh *day of*
October *1970*

A. James Manchin
Secretary of State



OFFICE OF THE GOVERNOR
CHARLESTON 25305

May 3, 1972

ARCH A. MOORE, JR.
GOVERNOR

To the Honorable
The Secretary of State
State Capitol
Charleston, West Virginia

Dear Mr. Secretary:

Pursuant to the provisions of Article Twenty-five, Chapter Eight of the Code of West Virginia, I do hereby certify the following as planning and development regions encompassing the counties and municipalities of the State of West Virginia:

- | | |
|--------------------------|--|
| <u>Region One (1),</u> | consisting of the counties of McDowell, Mercer, Monroe, Raleigh Summers and Wyoming. |
| <u>Region Two (2),</u> | consisting of the counties of Cabell, Lincoln, Logan, Mason, Mingo and Wayne. |
| <u>Region Three (3),</u> | consisting of the counties of Boone, Clay, Kanawha and Putnam. |
| <u>Region Four (4),</u> | consisting of the counties of Fayette, Greenbrier, Nicholas, Pocahontas and Webster. |
| <u>Region Five (5),</u> | consisting of the counties of Calhoun, Jackson, Pleasants, Ritchie, Roane, Tyler, Wirt and Wood. |
| <u>Region Six (6),</u> | consisting of the counties of Doddridge, Harrison, Marion, Monongalia, Preston and Taylor. |
| <u>Region Seven (7),</u> | consisting of the counties of Barbour, Braxton, Gilmer, Lewis, Randolph, Tucker and Upshur. |
| <u>Region Eight (8),</u> | consisting of the counties of Grant, Hampshire, Hardy, Mineral and Pendleton. |

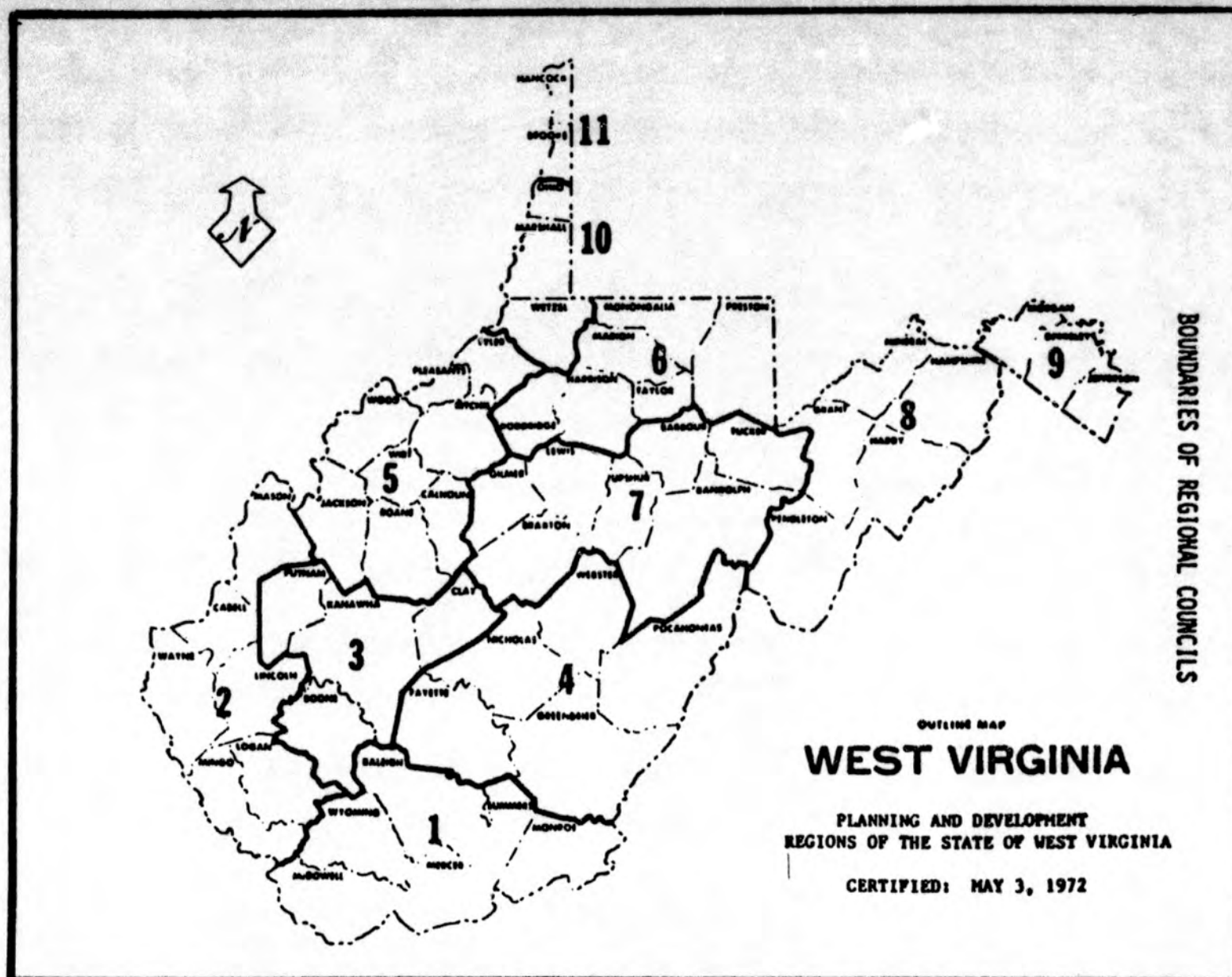
OFFICE OF THE GOVERNOR

To the Honorable
The Secretary of State
May 3, 1972
Page Two

<u>Region Nine (9),</u>	consisting of the counties of Berkeley, Jefferson and Morgan.
<u>Region Ten (10),</u>	consisting of the counties of Marshall, Ohio and Wetzel.
<u>Region Eleven (11),</u>	consisting of the counties of <u>Brooke</u> , and Hancock.

Submitted herewith is a map of the State of West Virginia outlining the regions as defined above.


ARCH A. MOORE, JR.
GOVERNOR



affect, impair or invalidate the remaining provisions thereof, but shall be confined in its operation to the specific provisions so held unconstitutional or invalid. Any provision of this chapter which is found to be in conflict with any other statute or charter shall be controlling and shall supersede such other statute or charter to the extent of such conflict. (1966, c. 651.)

§ 15.1-1391. Validation of creation of authorities, appointment of directors and proceedings; curative resolutions. — All proceedings heretofore taken with respect to the creation of authorities by any municipality pursuant to this chapter are hereby validated and confirmed and all such authorities are declared to be legally created. All incumbent directors of authorities are declared to be and are lawfully appointed directors of authorities, notwithstanding any failure to conform to the requirements of this chapter, and all such appointments are hereby ratified, validated and confirmed; provided, however, all terms of incumbent directors shall conform to the amendments to Code § 15.1-1377 respecting terms of office adopted by the 1980 Session of the General Assembly. The governing body of any municipality is hereby authorized to adopt such corrective resolutions as may be necessary to carry out the requirements of the immediately preceding sentence. All proceedings heretofore taken to provide for or with respect to the authorization, issuance, sale, execution or delivery of bonds by or on behalf of any authority are hereby validated, ratified, approved and confirmed, and any such bonds so issued shall be valid, legal, binding and enforceable obligations of such authority. (1980, c. 304.)

§§ 15.1-1392 to 15.1-1399: Reserved.

CHAPTER 34.

VIRGINIA AREA DEVELOPMENT ACT.

Article 1.

General Provisions.

Sec.

- 15.1-1400. Short title.
- 15.1-1401. Purpose of chapter.
- 15.1-1402. Definitions.

Article 2.

Planning Districts.

- 15.1-1403. Organization of planning district commission.
- 15.1-1404. Powers of commission generally.
- 15.1-1405. Purpose of commission; powers and duties of local planning commissions not affected; exceptions.
- 15.1-1406. (Effective until July 1, 1982) Preparation and adoption of comprehensive plan.
- 15.1-1406. (Effective July 1, 1982) Preparation and adoption of comprehensive plan.
- 15.1-1407. Commission and governmental subdivisions to act only in conformity with comprehensive plan.

Sec.

- 15.1-1408. Amendment of comprehensive plan.
- 15.1-1409. Review of comprehensive plan by commission.
- 15.1-1410. Commission to review applications for State or federal aid by local governing bodies.
- 15.1-1411. Cooperation and consultation with other agencies.
- 15.1-1412. State aid.
- 15.1-1413. Local governing bodies authorized to appropriate or lend funds.
- 15.1-1414. Procedure when governmental subdivisions included in planning district also participate in regional planning commission.
- 15.1-1415. Exemption of commission from taxation.
- 15.1-1416 to 15.1-1419. [Reserved.]

Article 3.

Service Districts.

- 15.1-1420. Creation authorized.
- 15.1-1421. Planning district commission authorized to prepare and promulgate plan for creation of service district.

Sec.

- 15.1-1422. Cont
- 15.1-1423. Cha
- 15.1-1424. Subr
- of
- De
- dis
- bot
- 15.1-1425. Refe
- ad
- 15.1-1426. Judg
- ele
- con
- 15.1-1427. Com
- 15.1-1428. Elec
- not
- ele
- 15.1-1429. Cha
- 15.1-1430. Effe
- tri
- 15.1-1431. Pow
- 15.1-1432. Mer
- sio
- div
- 15.1-1433. Stat
- 15.1-1434. Filit
- ord

§ 15.1-140
as the "Virg

Law Review
lation of Water
Wm. & Mary L
"Virginia Natu

§ 15.1-140
(a) To imp
for the soci
metropolitan
mental fram
growth and
(b) To pro
lems, and po
(c) To fost
effective reg
sional assist
(d) To ma
efficiently pe
the cost of w
(e) To deta
224.)

§ 15.1-140
(a) "Plan
established l

Sec.

- 15.1-1422. Contents of plan.
 15.1-1423. Charter of service district.
 15.1-1424. Submission of plan to Department of Housing and Community Development; approval or disapproval by local governing bodies.
 15.1-1425. Referendum on approval of plan and adoption of charter.
 15.1-1426. Judges to order election to choose elected members of service district commission.
 15.1-1427. Composition of commission.
 15.1-1428. Election districts; qualifications, nomination and election, etc., of elected members of commission.
 15.1-1429. Chairman of commission.
 15.1-1430. Effective date of organization of district; fiscal year.
 15.1-1431. Powers of district generally.
 15.1-1432. Merger of planning district commission into service district; planning division of service district.
 15.1-1433. State aid.
 15.1-1434. Filing copies of charter and ordinances.

Sec.

- 15.1-1435. Adoption of ordinances.
 15.1-1436. Annual assessment upon governmental subdivisions in district; tax levies by governmental subdivisions.
 15.1-1437. Fees, rents and charges for services provided by district; requiring connection with sewage disposal and water supply systems.
 15.1-1438. Bonds and other obligations of district; fees, rents and charges for use of projects; exemption from taxation.
 15.1-1439. Annexation by municipalities within district.
 15.1-1440. Exemption of district from taxation.
 15.1-1441. Amendment of service district plan.
 15.1-1442 to 15.1-1449. [Reserved.]

Article 4.

Miscellaneous Provisions.

- 15.1-1450. Construction of chapter.
 15.1-1451. [Not set out.]
 15.1-1452. Inconsistent laws inapplicable.
 15.1-1453 to 15.1-1499. [Reserved.]

ARTICLE 1.

General Provisions.

§ 15.1-1400. **Short title.** — This chapter shall be known and may be cited as the "Virginia Area Development Act." (1968, c. 224.)

Law Review. — For note on "Public Regulation of Water Quality in Virginia," see 13 Wm. & Mary L. Rev. 424 (1971). For article, "Virginia Natural Resources Law and the New

Virginia Wetlands Act," see 30 Wash. & Lee L. Rev. 19 (1973). For article entitled, "Special Purpose Taxation Districts: Coming or Going?" see 11 U. Rich. L. Rev. 87 (1976).

§ 15.1-1401. **Purpose of chapter.** — This chapter is enacted:

(a) To improve public health, safety, convenience and welfare, and to provide for the social, economic and physical development of communities and metropolitan areas of the State on a sound and orderly basis, within a governmental framework and economic environment which will foster constructive growth and efficient administration.

(b) To provide a means of coherent articulation for community needs, problems, and potential for service in relation to State government.

(c) To foster planning for such development by encouraging the creation of effective regional planning agencies and providing the financial and professional assistance of the State.

(d) To make provision for the creation of a unit of government capable of efficiently performing governmental functions and services on a regional basis, the cost of which can be borne equitably by those receiving the benefits thereof.

(e) To deter the fragmentation of governmental units and services. (1968, c. 224.)

§ 15.1-1402. **Definitions.** — For the purposes of this chapter:

(a) "Planning district" shall mean a contiguous area within the boundaries established by the Department of Planning and Budget.

(b) "Service district" shall mean a unit of government created as provided in this chapter.

(c) "Governmental subdivision" shall mean the counties, cities and towns of this State.

(d) "Political subdivisions" shall include the governmental subdivisions, sanitary, sanitation and transportation districts, authorities and other such public bodies created under the laws of this State.

(e) "Governing body" shall include the board of supervisors of a county, the council of a city or town, the board of commissioners or other board or body in which the powers of a political subdivision are vested by law.

(f) "Population," unless a different census is clearly set forth, shall mean the number of inhabitants according to the United States census latest preceding the time at which any provision dependent upon population is being applied, or the time as of which it is being construed, unless there is available an annual estimate of population prepared by the Tayloe Murphy Institute of the University of Virginia, which has been filed with the Department of Planning and Budget, in which event the estimate shall govern. (1968, c. 224; 1976, c. 760.)

ARTICLE 2.

Planning Districts.

§ 15.1-1403. **Organization of planning district commission.** — (a) At any time after the establishment of the geographic boundaries of a planning district, pursuant to § 2.1-63.5 of the Code, the governmental subdivisions embracing at least forty-five percent of the population within the district acting by the governing body may organize a planning district commission by written agreement among them. Any governmental subdivision not a party to such charter agreement shall continue as a part of the planning district but, until such time as such governmental subdivision elects to become a part of the planning district commission as hereinafter provided, shall not be represented in the composition of the membership of the planning district commission. Provided, however, whenever a planning district is created which contains only two counties, the governing body of either county may organize a planning district commission in accordance with the provisions of this chapter if the governing body of the other county does not agree to organize such a planning district commission.

(b) The charter agreement shall set forth:

(1) The name of the planning district.

(2) The governmental subdivision in which its principal office shall be situated.

(3) The effective date of the organization of the planning district commission.

(4) The composition of the membership of the planning district commission; provided, however, that at least a majority, but not substantially more than a majority, of its members shall be elected officials of the governing bodies of the governmental subdivisions within the district with each county, city and town of more than three thousand five hundred population having at least one representative, and the other members being qualified voters and residents of the district, who hold no office elected by the people; and provided further, however, should the charter agreement, as adopted, so provide, an alternate may serve in lieu of one of the elected officials of each of the governing bodies of the participating governmental subdivisions.

(5) The term of office of the members, their method of selection or removal and the method for the selection and the term of office of a chairman.

(6) The and may b vision rep members

(7) The visions wi charter agt mental sub

(c) The g of the plan by it for its of the subc exceed the 1970, cc. 3

Editor's nc in subsection Acts 1976, c.

§ 15.1-14 of a plannin a public bo the plannin power to pe

(b) With conferred b

(1) To ad

(2) To su

(3) To ad

business; pr its budget o affirmative district com

(4) To ma which are n execution of

(5) To ma materials or United Stat instrumenta

(6) To exe ing the righ or necessary

(7) To em experts and deemed nece pensation.

(8) To do through or b with any per

(9) To exe or things nec powers expre

§ 15.1-140 planning co

(6) The voting rights of members, and such voting rights need not be equal and may be weighed on the basis of the population of the governmental subdivision represented by the member, the aggregation of the voting rights of members representing one governmental subdivision, or otherwise.

(7) The procedure for amendment, for addition of other governmental subdivisions within the planning district which are not parties to the original charter agreement, and the withdrawal from the charter agreement by governmental subdivisions within the planning district electing to do so.

(c) The governing body of any governmental subdivision which is a member of the planning district commission may provide for compensation to be paid by it for its commission members, except for any full-time salaried employees of the subdivision; provided that the amount of such compensation shall not exceed the amount fixed by the planning district commission. (1968, c. 224; 1970, cc. 303, 703; 1972, c. 595; 1973, c. 176.)

Editor's note. — Section 2.1-63.5, referred to in subsection (a) of this section, was repealed by Acts 1976, c. 760.

§ 15.1-1404. Powers of commission generally. — (a) Upon organization of a planning district commission, pursuant to charter agreement, it shall be a public body corporate and politic, the purposes of which shall be to perform the planning and other functions provided by this chapter, and it shall have the power to perform such functions and all other powers incidental thereto.

(b) Without in any manner limiting or restricting the general powers conferred by this chapter, the planning district commission shall have power:

(1) To adopt and have a common seal and to alter the same at pleasure.

(2) To sue and be sued.

(3) To adopt bylaws and make rules and regulations for the conduct of its business; provided, however, a planning district commission shall not amend its budget once adopted during the applicable fiscal year except pursuant to an affirmative vote of the same number of the entire membership of the planning district commission required to adopt the budget.

(4) To make and enter into all contracts or agreements, as it may determine, which are necessary or incidental to the performance of its duties and to the execution of the powers granted under this chapter.

(5) To make application for and to accept loans and grants of money or materials or property at any time from any private or charitable source or the United States of America or the Commonwealth of Virginia, or any agency or instrumentality thereof.

(6) To exercise any power usually possessed by private corporations, including the right to expend such funds as may be considered by it to be advisable or necessary in the performance of its duties and functions.

(7) To employ engineers, attorneys, planners, such other professional experts and consultants and such general and clerical employees as may be deemed necessary, and to prescribe their powers and duties and fix their compensation.

(8) To do and perform any acts and things authorized by this chapter through or by means of its own officers, agents and employees, or by contracts with any persons, firms or corporations.

(9) To execute any and all instruments and do and perform any and all acts or things necessary, convenient or desirable for its purposes or to carry out the powers expressly given in this chapter. (1968, c. 224; 1975, c. 83.)

§ 15.1-1405. Purpose of commission; powers and duties of local planning commissions not affected; exceptions. — (a) It shall be the

purpose of the planning district commission to promote the orderly and efficient development of the physical, social and economic elements of the district by planning, and encouraging and assisting governmental subdivisions to plan for the future. It shall not be the duty of the commission to perform the functions necessary to implement the plans and policies established by it or to furnish governmental services to the district. No action of a planning district commission shall affect the powers and duties provided to local planning commissions by law, except as a special case recognized and approved as such by the General Assembly, two such special cases being the LENOWISCO (Lee, Norton, Wise, Scott, and Big Stone Gap) Planning District Commission of Southwest Virginia, and the Cumberland Plateau (Buchanan, Dickenson, Russell and Tazewell) Planning District Commission.

(b) The following functions may be assumed by the LENOWISCO (Lee, Norton, Wise, Scott, and Big Stone Gap) Planning District Commission.

The authority conferred by this subsection is contingent upon its ratification by resolution of the governing body of each member governmental subdivision of the planning district. This shall not apply to any function assumed prior to January one, nineteen hundred seventy-five.

1. To carry out a program of small stream maintenance for purposes of environmental improvement and minor flood control and to have the authority to own and operate equipment and own properties necessary to undertake such a program. Any and all such stream improvements and flood control measures shall be coordinated with the Commission of Game and Inland Fisheries, State Water Control Board, and Commission of Outdoor Recreation, as they relate to the quality or quantity of water and aquatic life in the streams affected, or related to land resources. Official agency views regarding improvement and control measures shall be drafted and provided to the LENOWISCO Planning District Commission.

2. To operate a solid waste disposal program, including: (i) the operation of an experimental rural solid waste collection system; (ii) a junk or abandoned car collection and disposal program; or (iii) a program to eliminate promiscuous dumps, and to have the authority to own and operate equipment and own properties necessary to undertake such a program.

(b1) The Cumberland Plateau Planning District Commission may assume the following functions, and shall have the authority to own and operate the equipment and properties necessary to carry out such functions:

1. To carry out a program of small stream maintenance for purposes of environmental improvement and minor flood control; any and all such stream improvements and flood control measures shall be coordinated with the Commission of Game and Inland Fisheries, State Water Control Board, and Commission of Outdoor Recreation, as they relate to the quality or quantity of water and aquatic life in the streams affected, or related to land resources. Official agency views regarding improvement and control measures shall be drafted and provided to the Cumberland Plateau Planning District Commission.

2. To operate a tanker truck water supply system to towns and communities in the Cumberland Plateau Planning District experiencing drought and water shortage.

3. To operate a program of assistance to local governments in site preparation of public land to accommodate public improvements, including site preparation for industry and recreation.

1. To aid public water and sewer development in taking pipelines underneath roadways, and to detect and correct sewer infiltration.

5. To operate programs for elimination of promiscuous dumps and other environmental clean-up activities as determined by local governments.

6. To engage in construction and repair work on roads and streets not in the State Highway System or the secondary system of highways.

The authority
by resolution of
of the planning

(c) The afore-
undertaken by
county, city or
adopted resolut
c. 224; 1972, c.

§ 15.1-1406. comprehensive undertake to development of of importance i district, as dist: hensive plan m sections as the the orderly and elements of the to time be adop

(b) Before the
shall be submit
local planning c
governmental s
days prior to a h
after notice as
shall make reco
to the effect of
on or before the

(c) Upon approval by the district commission, the governing body of the district shall not become effective with respect to any governmental activity until the governing body of the district has adopted a resolution of approval.

Cross reference
amended effective J
ing section, bearing
Law Review. —

§ 15.1-1406. comprehensive undertake to development of of importance in district, as disti hensive plan ma sections as the the orderly and elements of the to time be adop

The authority conferred by this subsection is contingent upon its ratification by resolution of the governing body of each member governmental subdivision of the planning district.

(c) The aforementioned programs in subsections (b) and (b1) shall not be undertaken by such planning district commission within the boundaries of any county, city or town in such district without the express consent by duly adopted resolution of the governing body of such county, city or town. (1968, c. 224; 1972, c. 814; 1975, c. 381.)

§ 15.1-1406. (Effective until July 1, 1982) Preparation and adoption of comprehensive plan. — (a) Each planning district commission shall undertake to prepare a comprehensive plan for the guidance of the development of the district. Such plan shall concern those elements which are of importance in more than one of the governmental subdivisions within the district, as distinguished from matters of only local importance. The comprehensive plan may concern such subjects and may be divided into such parts or sections as the planning district commission may deem desirable to promote the orderly and efficient development of the physical, social and economic elements of the district. Individual parts or sections of the plan may from time to time be adopted as they are ready.

(b) Before the comprehensive plan, or any part thereof, shall be adopted, it shall be submitted to the Department of Intergovernmental Affairs and to the local planning commission (or, if there be none, to the governing body) of each governmental subdivision within the district for a period of not less than thirty days prior to a hearing to be held by the planning district commission thereon, after notice as provided in § 15.1-431. Each such local planning commission shall make recommendations to the planning district commission with respect to the effect of the plan, or part thereof, within its governmental subdivision on or before the date of said hearing.

(c) Upon approval of the comprehensive plan, or part thereof, by a planning district commission after such public hearing, it shall be submitted to the governing body of each governmental subdivision (excluding towns of less than three thousand five hundred population) within the district for adoption and, upon adoption thereof by the governing bodies of a major of such governmental subdivisions, the comprehensive plan, or part thereof shall become effective with respect to all action of a planning district commission. The plan shall not become effective with respect to the action of the governing body of any governmental subdivision within the district until adopted by the governing body of such governmental subdivision. (1968, c. 224; 1976, c. 760.)

Cross reference. — For this section as amended effective July 1, 1982, see the following section, bearing the same number.

Law Review. — For article, "Virginia Nat-

ural Resources Law and the New Virginia Wetlands Act," see 30 Wash. & Lee L. Rev. 19 (1973).

§ 15.1-1406. (Effective July 1, 1982) Preparation and adoption of comprehensive plan. — (a) Each planning district commission shall undertake to prepare a comprehensive plan for the guidance of the development of the district. Such plan shall concern those elements which are of importance in more than one of the governmental subdivisions within the district, as distinguished from matters of only local importance. The comprehensive plan may concern such subjects and may be divided into such parts or sections as the planning district commission may deem desirable to promote the orderly and efficient development of the physical, social and economic elements of the district. Individual parts or sections of the plan may from time to time be adopted as they are ready.

(b) Before the comprehensive plan, or any part thereof, shall be adopted, it shall be submitted to the Department of Housing and Community Development and to the local planning commission (or, if there be none, to the governing body) of each governmental subdivision within the district for a period of not less than thirty days prior to a hearing to be held by the planning district commission thereon, after notice as provided in § 15.1-431. Each such local planning commission shall make recommendations to the planning district commission with respect to the effect of the plan, or part thereof, within its governmental subdivision on or before the date of said hearing.

(c) Upon approval of the comprehensive plan, or part thereof, by a planning district commission after such public hearing, it shall be submitted to the governing body of each governmental subdivision (excluding towns of less than three thousand five hundred population) within the district for adoption and, upon adoption thereof by the governing bodies of a majority of such governmental subdivisions, the comprehensive plan, or part thereof, shall become effective with respect to all action of a planning district commission. The plan shall not become effective with respect to the action of the governing body of any governmental subdivision within the district until adopted by the governing body of such governmental subdivision. (1968, c. 224; 1976, c. 760; 1981, c. 315.)

Cross reference. — For this section as in effect until July 1, 1982, see the preceding section, bearing the same number.

The 1981 amendment, in subsection (b),

substituted "Department of Housing and Community Development" for "Department of Intergovernmental Affairs" in the first sentence.

§ 15.1-1407. Commission and governmental subdivisions to act only in conformity with comprehensive plan. — When the comprehensive plan, or any completed part thereof, shall become effective as the district plan, the planning district commission shall not, except as provided in the plan, establish any policies or take any action which, in its opinion, is not in conformity therewith. When the comprehensive plan, or any completed part thereof, shall have become effective in any governmental subdivision, such governmental subdivision shall not proceed with the construction of any public improvement or public institution or with the acquisition of any land for public purposes or the disposition of any public lands, which construction, acquisition or disposition is in conflict with the district plan. (1968, c. 224.)

§ 15.1-1408. Amendment of comprehensive plan. — The comprehensive plan, or any completed part thereof, may be amended in the same manner as provided for the original approval and adoption of the plan and parts thereof, provided, however, that if the planning district commission determines that a proposed amendment has less than district-wide significance, such amendment may be submitted only to the local planning commissions and governing bodies of those governmental subdivisions which the planning district commission shall determine to be affected. (1968, c. 224.)

§ 15.1-1409. Review of comprehensive plan by commission. — At least once every five years the comprehensive plan, or completed parts of it, shall be reviewed by a planning district commission to determine whether it is advisable to amend the plan. (1968, c. 224.)

§ 15.1-1410. Commission to review applications for State or federal aid by local governing bodies. — (a) In each planning district in which a planning district commission has been organized, the governing body of each governmental subdivision shall submit to the planning district commission for

review
or grant

(b) T
vision
to wh
district
plannin
district
district
submis
plan or
the pro
project

§ 15.
plannin
mission
and offi
a distri
the pla
plannin
rules as
also coc
and use
State a
such off
pertine
togethe
mission
All ag
munity
require
760; 19

§ 15.
commis
carrying
of five t
governn
any eve
commis
commis
manner
tures du
with th
Develop
as will,
sion to c
sion sha

§ 15.1
funds.
planning
district

§ 15.1
plannin
(a) As p

review any application to agencies of the State or federal government for loans or grants-in-aid for projects before such application is made.

(b) The planning district commission shall advise the governmental subdivision, within ten days from the date of the submission of the application, as to whether or not the proposed project, for which funds are requested, has district-wide significance. If it does not have district-wide significance, the planning district commission shall certify that it is not in conflict with the district plan or policies. If it does have district-wide significance, the planning district commission shall determine, within forty days from the date of the submission of the application, whether or not it is in conflict with the district plan or policies. In making such determination, it may also consider whether the proposed project is properly coordinated with other existing or proposed projects within the district. (1968, c. 224; 1972, c. 599.)

- **§ 15.1-1411. Cooperation and consultation with other agencies.** — A planning district commission may cooperate with other planning district commissions, councils of governments, or the legislative and administrative bodies and officials of other districts or governmental subdivisions within or without a district, so as to coordinate the planning and development of a district with the plans of other districts and governmental subdivisions and the State. A planning district commission may appoint such committees and adopt such rules as needed to effect such cooperation. A planning district commission shall also cooperate with the Department of Housing and Community Development and use advice and information furnished by such Department and by other State and federal officials, departments and agencies. Such Department and such officials, departments and agencies having information, maps and data pertinent to the planning and development of a district may make the same, together with services and funds, available for use of a planning district commission.

All agencies of the State shall consult the Department of Housing and Community Development prior to engaging in planning activities which will require planning district commission participation. (1968, c. 224; 1976, cc. 488, 760; 1977, c. 613.)

§ 15.1-1412. State aid. — Upon the organization of a planning district commission, it shall be entitled to receive State financial support to assist it in carrying out its purposes. Such State aid shall be in an amount not in excess of five thousand dollars for each twenty-five thousand persons residing in the governmental subdivisions which are parties to the charter agreement, but, in any event, not less than ten thousand dollars for any such planning district commission. In order to be allocated such State aid, each planning district commission shall prepare and submit annually to the Governor, in such manner as he shall direct, a budget showing its estimated receipts and expenditures during the next fiscal year. After the review of such budget, the Governor with the assistance of the Department of Housing and Community Development shall, subject to the availability of funds, allocate such amount as will, in his judgment, be sufficient to enable the planning district commission to carry out its functions. The fiscal year of the planning district commission shall end June thirtieth. (1968, c. 224; 1977, c. 613.)

§ 15.1-1413. Local governing bodies authorized to appropriate or lend funds. — The governing bodies of the governmental subdivisions within a planning district are authorized to appropriate or lend funds to the planning district commission. (1968, c. 224.)

§ 15.1-1414. Procedure when governmental subdivisions included in planning district also participate in regional planning commission. —

- (a) As promptly as practicable and no later than six months after the organiza-

tion of a planning district commission, any of the governmental subdivisions of which participate in a regional planning commission organized pursuant to § 15.1-432, one of the following shall occur:

(1) If the population of the governmental subdivisions within the planning district participating in the regional planning commission exceeds two thirds of the population of all of the governmental subdivisions participating in the regional planning commission, those governmental subdivisions participating in the regional planning commission, but not within the planning district, shall withdraw and, thereupon, the regional planning commission shall merge into the planning district commission.

(2) If the population of the governmental subdivisions in the planning district participating in the regional planning commission is less than one third of the population of all of the governmental subdivisions participating in the regional planning commission, those governmental subdivisions participating in the regional planning commission and being within the planning district shall withdraw from the regional planning commission.

(3) If the population of the governmental subdivisions in the planning district participating in the regional planning commission is more than one third but less than two thirds of the population of all of the governmental subdivisions participating in the regional planning commission, the regional planning commission may merge into the planning district commission, with the concurrence of a majority of both commissions. After such concurrence but prior to such merger, the governmental subdivisions not within the planning district shall withdraw from the regional planning commission. If such merger is not consummated within six months from the date of the organization of the planning district commission, the governmental subdivisions within the planning district commission shall withdraw from the regional planning commission.

(b) Upon the withdrawal of a governmental subdivision from a regional planning commission, pursuant to the provisions of this section, all of its interest in the assets and responsibility for the liabilities of the regional planning commission shall cease and terminate as of the date of such withdrawal.

(c) Upon the merger of a regional planning commission into a planning district commission, the planning district commission shall be the surviving entity and be entitled to all of the assets and shall assume all of the liabilities of the regional planning commission, provided that the agreement between the participating governmental subdivisions establishing the regional planning commission shall not be effective after such merger. (1968, c. 224.)

Editor's note. — Section 15.1-432, referred to in this section, was repealed by Acts 1970, c. 332.

§ 15.1-1415. Exemption of commission from taxation. — The planning district commission shall not be required to pay any taxes or assessments upon any project or upon any property acquired or used by it or upon the income therefrom. For purposes of § 58-441.6 (p), a planning district commission shall be deemed a "political subdivision of this State" as the term is used in that section. (1968, c. 224.)

§§ 15.1-1416 to 15.1-1419: Reserved.

CODE OF VIRGINIA

1950

1986 Cumulative Supplement

ANNOTATED

Prepared under the Supervision of
The Virginia Code Commission
BY

The Editorial Staff of the Publishers

Under the Direction of

A. D. KOWALSKY, S. C. WILLARD, W. L. JACKSON,
P. R. ROANE, K. S. MAWYER, AND S. S. WEST



VOLUME 3A

1981 REPLACEMENT

*Annotated through South Eastern Reporter, 2d Series, through
Volume 339, page 703. For complete scope of annotations,
see preface in supplement to Volume 1.*

Place in Pocket of Corresponding Volume of Main Set.
This Supersedes Previous Supplement, Which
May Be Retained for Reference Purposes.

THE MICHIE COMPANY

Law Publishers

CHARLOTTESVILLE, VIRGINIA

allocations for carry forward from one calendar year to another. The objective shall be to ensure maximum utilization of the state ceiling. (1986, c. 504.)

§ 15.1-1399.9. **Changes to federal law.** — In the event that the Congress of the United States revises federal law controlling private activity bonds such that the provisions of this chapter are affected, the Governor is empowered to establish interim measures through Executive Order to allocate Virginia's total bond issuing authority until state law can be amended accordingly. (1986, c. 504.)

CHAPTER 34.

VIRGINIA AREA DEVELOPMENT ACT.

Article 1.

General Provisions.

Sec.
15.1-1402. Definitions.

Article 2.

Planning Districts.

15.1-1403. Organization of planning district commission.

Sec.

15.1-1404. Powers of commission generally.
15.1-1405. Purpose of commission; powers and duties of local planning commissions not affected; exceptions.
15.1-1412. State aid.
15.1-1416. Dual membership authorized.

ARTICLE 1.

General Provisions.

§ 15.1-1402. **Definitions.** — For the purposes of this chapter:

- (a) "Planning district" shall mean a contiguous area within the boundaries established by the Department of Planning and Budget.
- (b) "Service district" shall mean a unit of government created as provided in this chapter.
- (c) "Governmental subdivision" shall mean the counties, cities and towns of this Commonwealth.
- (d) "Political subdivisions" shall include the governmental subdivisions, sanitary, sanitation and transportation districts, authorities and other such public bodies created under the laws of this Commonwealth.
- (e) "Governing body" shall include the board of supervisors of a county, the council of a city or town, the board of commissioners or other board or body in which the powers of a political subdivision are vested by law.
- (f) "Population," unless a different census is clearly set forth, shall mean the number of inhabitants according to the United States census latest applied, or the time as of which it is being construed, unless there is available an annual estimate of population prepared by the Tayloe Murphy Institute of the University of Virginia, which has been filed with the Department of Planning and Budget, in which event the estimate shall govern.
- (g) "Commission" shall mean the planning district commission and is composed of the duly appointed representatives of the governmental subdivisions which are parties to the charter agreement. (1968, c. 224; 1976, c. 760; 1986, c. 164.)

The 1986 amendment added subdivision (g) and substituted "Commonwealth" for "State" at the end of subdivisions (c) and (d).

ART

Plannin

§ 15.1-1403. **Organization of pl**
any time after the establishment of district, the governmental subdivision of the population within the distr organize a planning district commis Any governmental subdivision not continue as a part of the plannin governmental subdivision elects to commission as hereinafter provided tion of the membership of the pla planning district is created which c body of either county may organ accordance with the provisions of t other county does not agree to orga
(b) The charter agreement shall s
(1) The name of the planning dist
(2) The governmental subdivision situated.

(3) The effective date of the orga sion.

(4) The composition of the memb At least a majority of its members bodies of the governmental subdivi city and town of more than 3,500 tive. In any planning district oth planning district number 20, a to the planning district commission district commission may, in its di by a majority vote of the members qualified voters and residents of t people. Should the charter agree may serve in lieu of one of the ele of the participating governmental

(5) The term of office of the me and the method for the selection a

(6) The voting rights of membe and may be weighed on the ba subdivision represented by the m of members representing one gove

(7) The procedure for amend subdivisions within the planning charter agreement, and the w governmental subdivisions within

(c) The governing body of any of the planning district commiss by it for its commission members of the subdivision. The amount amount fixed by the planning dis 703; 1972, c. 595; 1973, c. 176; 19

The 1986 amendment added subdivision (g) and substituted "Commonwealth" for "State" at the end of subdivisions (c) and (d).

ARTICLE 2.

Planning Districts.

§ 15.1-1403. **Organization of planning district commission.** — (a) At any time after the establishment of the geographic boundaries of a planning district, the governmental subdivisions embracing at least forty-five percent of the population within the district acting by the governing body may organize a planning district commission by written agreement among them. Any governmental subdivision not a party to such charter agreement shall continue as a part of the planning district but, until such time as such governmental subdivision elects to become a part of the planning district commission as hereinafter provided, shall not be represented in the composition of the membership of the planning district commission. Whenever a planning district is created which contains only two counties, the governing body of either county may organize a planning district commission in accordance with the provisions of this chapter if the governing body of the other county does not agree to organize such a planning district commission.

(b) The charter agreement shall set forth:

(1) The name of the planning district.

(2) The governmental subdivision in which its principal office shall be situated.

(3) The effective date of the organization of the planning district commission.

(4) The composition of the membership of the planning district commission. At least a majority of its members shall be elected officials of the governing bodies of the governmental subdivisions within the district, with each county, city and town of more than 3,500 population having at least one representative. In any planning district other than planning district number 8 and planning district number 20, a town of 3,500 or less population may petition the planning district commission to be represented thereon. The planning district commission may, in its discretion, grant representation to such town by a majority vote of the members of the commission. Other members shall be qualified voters and residents of the district who hold no office elected by the people. Should the charter agreement, as adopted, so provide, an alternate may serve in lieu of one of the elected officials of each of the governing bodies of the participating governmental subdivisions.

(5) The term of office of the members, their method of selection or removal and the method for the selection and the term of office of a chairman.

(6) The voting rights of members, and such voting rights need not be equal and may be weighed on the basis of the population of the governmental subdivision represented by the member, the aggregation of the voting rights of members representing one governmental subdivision, or otherwise.

(7) The procedure for amendment, for addition of other governmental subdivisions within the planning district which are not parties to the original charter agreement, and the withdrawal from the charter agreement by governmental subdivisions within the planning district electing to do so.

(c) The governing body of any governmental subdivision which is a member of the planning district commission may provide for compensation to be paid by it for its commission members, except for any full-time salaried employees of the subdivision. The amount of such compensation shall not exceed the amount fixed by the planning district commission. (1968, c. 224; 1970, cc. 303, 703; 1972, c. 595; 1973, c. 176; 1982, c. 660.)

The 1982 amendment deleted "pursuant to § 2.1-63.5 of the Code" following "geographic boundaries of a planning district" near the beginning of the first sentence of subsection (a), and divided subsection (4) of subsection (b), which formerly consisted of one sentence, into the present first, second, fourth and fifth

sentences and added the present third sentence. In the present second sentence of subdivision (b) (4) the amendment deleted "but not substantially more than a majority" following "at least a majority." The amendment also divided subsection (c), which formerly consisted of a single sentence, into two sentences.

§ 15.1-1404. Powers of commission generally. — (a) Upon organization of a planning district commission, pursuant to charter agreement, it shall be a public body corporate and politic, the purposes of which shall be to perform the planning and other functions provided by this chapter, and it shall have the power to perform such functions and all other powers incidental thereto.

(b) Without in any manner limiting or restricting the general powers conferred by this chapter, the planning district commission shall have power:

- (1) To adopt and have a common seal and to alter the same at pleasure.
- (2) To sue and be sued.

(3) To adopt bylaws and make rules and regulations for the conduct of its business; provided, however, a planning district commission shall not amend its budget once adopted during the applicable fiscal year except pursuant to an affirmative vote of the same number of the entire membership of the planning district commission required to adopt the budget.

(4) To make and enter into all contracts or agreements, as it may determine, which are necessary or incidental to the performance of its duties and to the execution of the powers granted under this chapter.

(5) To make application for and to accept, disburse and administer, for itself or for member governmental subdivisions so requesting, loans and grants of money or materials or property at any time from any private or charitable source or the United States of America or the Commonwealth of Virginia, or any agency or instrumentality thereof.

(6) To exercise any power usually possessed by private corporations, including the right to expend such funds as may be considered by it to be advisable or necessary in the performance of its duties and functions.

(7) To employ engineers, attorneys, planners, such other professional experts and consultants and such general and clerical employees as may be deemed necessary, and to prescribe their powers and duties and fix their compensation.

(8) To do and perform any acts and things authorized by this chapter through or by means of its own officers, agents and employees, or by contracts with any persons, firms or corporations.

(9) To execute any and all instruments and do and perform any and all acts or things necessary, convenient or desirable for its purposes or to carry out the powers expressly given in this chapter. (1968, c. 224; 1975, c. 83; 1986, c. 164.)

The 1986 amendment inserted "disburse and administer, for itself or for member governmental subdivisions so requesting" in subdivision (b)(5).

§ 15.1-1405. Purpose of commission; powers and duties of local planning commissions not affected; exceptions. — (a) It shall be the purpose of the planning district commission to promote the orderly and efficient development of the physical, social and economic elements of the district by planning, encouraging and assisting governmental subdivisions to plan for the future and, if requested by a member governmental subdivision or group of member governmental subdivisions and to the extent the commission

may elect to act, assisting the subdivisions by carrying out plans and programs for the improvement and utilization of said elements. The commission shall not, however, have a legal obligation to perform the functions necessary to implement the plans and policies established by it or to furnish governmental services to the district. The authority of the commission shall include the power, to the extent the commission may from time to time determine, to exercise such power when requested to do so by a member governmental subdivision or group of member governmental subdivisions, to participate in the creation or organization of nonprofit corporations to perform functions or operate programs in furtherance of the purposes of this chapter; to perform such functions and to operate such programs itself; to contract with nonprofit entities, including local governments, performing such functions or operating such programs to provide administrative, management, and staff support, accommodations in its offices, and financial assistance; and to provide financial assistance, including matching funds, to interdistrict entities which perform governmental or quasi-governmental functions directly benefiting the commission's district and which are organized under authority of the Commonwealth or of the federal government. Nothing herein shall be construed to permit the commission to perform functions, operate programs, or provide services within and for a governmental subdivision if the governing body of that jurisdiction opposes its doing so.

a) No action of a planning district commission shall affect the powers and duties provided to local planning commissions by law, except as a special case recognized and approved as such by the General Assembly, two such special cases being the LENOWISCO (Lee, Norton, Wise, Scott, and Big Stone Gap) Planning District Commission of Southwest Virginia, and the Cumberland Plateau (Buchanan, Dickenson, Russell and Tazewell) Planning District Commission.

b) The following functions may be assumed by the LENOWISCO (Lee, Norton, Wise, Scott, and Big Stone Gap) Planning District Commission.

The authority conferred by this subsection is contingent upon its ratification by resolution of the governing body of each member governmental subdivision of the planning district. This shall not apply to any function assumed prior to January 1, 1975.

1. To carry out a program of small stream maintenance for purposes of environmental improvement and minor flood control and to have the authority to own and operate equipment and own properties necessary to undertake such a program. Any and all such stream improvements and flood control measures shall be coordinated with the Commission of Game and Inland Fisheries, State Water Control Board, and Division of Parks and Recreation, as they relate to the quality or quantity of water and aquatic life in the streams affected, or related to land resources. Official agency views regarding improvement and control measures shall be drafted and provided to the LENOWISCO Planning District Commission.

2. To operate a solid waste disposal program, including: (i) the operation of an experimental rural solid waste collection system; (ii) a junk or abandoned car collection and disposal program; or (iii) a program to eliminate promiscuous dumps, and to have the authority to own and operate equipment and own properties necessary to undertake such a program.

c) The Cumberland Plateau Planning District Commission may assume the following functions, and shall have the authority to own and operate the equipment and properties necessary to carry out such functions:

1. To carry out a program of small stream maintenance for purposes of environmental improvement and minor flood control; any and all such stream improvements and flood control measures shall be coordinated with the Commission of Game and Inland Fisheries, State Water Control Board, and

Division of Parks and Recreation, as they relate to the quality or quantity of water and aquatic life in the streams affected, or related to land resources. Official agency views regarding improvement and control measures shall be drafted and provided to the Cumberland Plateau Planning District Commission.

2. To operate a tanker truck water supply system to towns and communities in the Cumberland Plateau Planning District experiencing drought and water shortage.

3. To operate a program of assistance to local governments in site preparation of public land to accommodate public improvements, including site preparation for industry and recreation.

4. To aid public water and sewer development in taking pipelines underneath roadways, and to detect and correct sewer infiltration.

5. To operate programs for elimination of promiscuous dumps and other environmental clean-up activities as determined by local governments.

6. To engage in construction and repair work on roads and streets not in the State Highway System or the secondary system of highways.

The authority conferred by this subsection is contingent upon its ratification by resolution of the governing body of each member governmental subdivision of the planning district.

(c) The aforementioned programs in subsections (b) and (b1) shall not be undertaken by the planning district commission within the boundaries of any county, city or town in the district without the express consent by duly adopted resolution of the governing body of the county, city or town. (1968, c. 224; 1972, c. 814; 1975, c. 381; 1984, c. 739; 1986, c. 164.)

The 1984 amendment in the second sentence of subdivision (b) 1 and in subdivision (b) 1 substituted "Division of Parks and Recreation" for "Commission of Outdoor Recreation" and in subsection (c) substituted "the planning" for "such planning," substituted "the

district" for "such district," and substituted "the county" for "such county."

The 1986 amendment divided former subsection (a) into present subsections (a) and (a1), and rewrote present subsection (a).

§ 15.1-1412. State aid. — Upon the organization of a planning district commission, it shall be entitled to receive state financial support to assist it in carrying out its purposes. Such state aid shall be in an amount as provided in the general appropriations act. In order to be allocated such state aid, each planning district commission shall prepare and submit annually to the Governor, in such manner as he shall direct, a budget showing its estimated receipts and expenditures during the next fiscal year. After the review of such budget, the Governor with the assistance of the Department of Housing and Community Development shall, subject to the availability of funds, allocate such amount as will, in his judgment, be sufficient to enable the planning district commission to carry out its functions. The fiscal year of the planning district commission shall end June 30. (1968, c. 224; 1977, c. 613; 1985, c. 127.)

Editor's note. — Acts 1984, c. 755, the appropriations act, in item 105 provides in part that: "Except as noted below, and notwithstanding any contrary provision of law, the amounts of State assistance for Financial Assistance for Substate Planning apportioned to planning district commissions shall not exceed six thousand two hundred fifty dollars (\$6,250)

for each 25,000 persons but, in any event, shall not be less than twenty thousand dollars (\$20,000) for any commission." Item 105 then lists the allocations made to the individual planning district commissions.

The 1985 amendment rewrote the second sentence.

§ 15.1-1416. **Dual membership authorized.** — Notwithstanding any contrary provision of law, Chesterfield County, a member of the Richmond Regional Planning District Commission, may also become a member of the Crater Regional Planning District upon such terms and conditions as may be mutually agreed to. No additional state financial support shall be paid due to Chesterfield County's becoming a member of the Crater Regional Planning District. (1985, c. 109.)

CHAPTER 36.

AGRICULTURAL AND FORESTAL DISTRICTS ACT.

Sec.	Sec.
15.1-1509. Power of local governing body to enact ordinances; application form and fees; maps; sample form.	15.1-1511. Creation of districts.
	15.1-1513. Discontinuance of association in district.

§ 15.1-1507. Declaration of policy findings and purpose.

Applicability of § 58.1-3229 et seq. — The machinery (§ 58.1-3299 et seq., relating to agricultural land-use assessments) specially provided for promotion of the policy defined in this section is as functional in a city as in a county. *County of Rockingham v. City of Harrisonburg*, 224 Va. 62, 294 S.E.2d 825 (1982).

§ 15.1-1509. **Power of local governing body to enact ordinances; application form and fees; maps; sample form.** — A. The local governing body shall have the authority to enact ordinances and to promulgate forms to effectuate this chapter. The local governing body may charge a reasonable fee for all applications submitted pursuant to this chapter, such fee not to exceed \$150 or the costs of processing and reviewing an application, whichever is less.

B. The local governing body shall prescribe application forms for agricultural and forestal districts that include but are not limited to the following information:

1. The general location and boundaries of the district;
2. A summary of the acreage in the district including (i) estimated total acreage in the district and (ii) acreage owned by persons proposing the district;
3. The name, address, and total acreage owned within the proposed district and signature of each landowner proposing the district; and
4. The date of application, date of final county or city action and whether approved, modified or rejected.

C. The application form shall be accompanied by a United States Geological Survey seven and one-half minute topographic map that clearly shows the boundaries of the proposed district and boundaries of properties within the proposed district owned by each applicant. A general county highway map showing the general location of the proposed district shall also accompany each application form.

D. A copy of the application with maps shall be submitted to the Commissioner of the State Department of Agriculture and Consumer Services by the local governing body together with a copy of the final approved plan. This shall be done only if the application is ultimately approved by the local governing body.

MEMORANDUM

Sen. Juvonen
State of Alaska

TO: See Distribution

DATE: March 7, 1988

FILE NO:

TELEPHONE NO:

THRU:

SUBJECT: Comments on Various
Economic Recovery
Proposals

FROM: 
J. Anthony Smith
Commissioner
Department of Commerce and
Economic Development

Due to the number of issues being discussed relative to legislative suggestions for possible actions to address our economic troubles, we are providing the following comments on a number of various issues/bills.

- C.E.R.
ENDORSED
SB 392
3/14/88
1. SB 392 & HB 402 -- AIDEA -- These bills address the issue of bank participation with AIDEA and the current statutory withholding of such participation because of the "2% rule." The Governor's bill, HB 402, also addresses a number of other issues which the Board of AIDEA has identified as limitations on AIDEA's ability to be responsive to the current economic conditions. The Department of Commerce and Economic Development supports both of these bills, and strongly supports passage of the entire package of proposals contained in HB 402.
 2. SB 471 -- AIDEA Loan Guarantees and Refinancing -- Both of these issues have been the subject of considerable discussion among the board members of AIDEA. There is not at this time a consensus of opinion on the board on the relative merits or structure of either proposal. All members of the board are most concerned about preserving AIDEA's current bonding ability and ratings. Hence, close scrutiny must be utilized when incorporating any new financial service into AIDEA's powers.
- C.E.R.
ENDORSED
CONCEPT
3/22/88

The Department of Commerce and Economic Development is conceptually supportive of both proposals. With respect to the guarantee program, we believe it is most appropriate to fund the reserve for such a program by new appropriation to AIDEA. For consideration, we suggest that a portion of the current unappropriated portfolio of DCED's Division of Investments be appropriated to fund a reserve for the insurance program. The funded reserve will be the only asset offered to insure against losses, e.g., neither AIDEA nor the state

pledge any additional assets or responsibility. There will be losses in the program irrespective of the quality of the underwriting standards, but these losses will appear at least a year or two in the future. We also recommend that there be a 1-to-4 ratio of reserves to program commitment at the start with the Board of AIDEA having the flexibility to adjust reserves to reflect actual experience. This means that there needs to be an appropriation of loans which will generate \$25 million if we are to do \$100 million in guarantees for the program to have the impact desired. We recommend a \$100 million program at the start.

NO ACTION

3. HB 422 -- Payment for Purchases by Various Public Entities -- DCED supports this expansion of current law.

NO ACTION

4. HB 429 -- Optional Exemption from Property Taxes on Vacated Land -- The Department is supportive of this concept and would suggest elimination of the limitation of its applications by removing the 30-year-old requirement on improvements currently included in the bill. So long as this proposal does not directly affect the revenues of the state, and is optimal for local governments, it should be considered.

NO ACTION

5. HB 430 - 431 -- Neighborhood Business Development Programs and Appropriation -- The Department is conceptually supportive of these bills. We understand the difficulties associated with balancing the state's budget and do not represent that this is an essential \$3 million item. Hence, a threshold question is identifying a source of funding.

In addition to HB 429, 430, and 431, it is our perception that an appropriate public sector response to the supply/demand problem is public acquisition of developments for purposes of parks, neighborhood upgrade and to eliminate obsolete or nonconforming properties. Thus, special appropriations to entities such as the Heritage Land Bank and local governments would allow local governments and the state to take advantage of present price levels to improve the quality of life while beneficially impacting the supply/demand problem.

ON AGENDA

6. HB 432 -- AHFC Trades -- We are conceptually supportive of this bill; although by this time the Labor and Commerce Committee is fully cognizant of the limitations on AHFC's ability to unilaterally achieve the ends sought in this bill. The approach currently undertaken by the Labor and Commerce Committee seems to reasonably address this issue.

There are other changes in AHFC which would allow the agency to manage its revenues to be part of the solution rather than part of the problem. For example, AS 18.56.098 needs to be altered so that the interest rate formula is more flexible. Some recommended changes are:

Financial Provisions Changes - Currently, many AHFC financial provisions are "hard-wired." For instance, the interest rate formula as specified in AS 18.56.098 permits no flexibility in interest rate calculation, even though at times adding some flexibility could significantly help the market at little or no additional cost to AHFC.

One way to add some flexibility would be to develop a mechanism whereby the maximum amount of assistance that AHFC can provide for any individual loan is set, but the specific way in which it was applied would be flexible. Another possible change would be to permit more flexibility in the amount of assistance if the whole market was in bad shape. For instance, if the delinquency rate in a particular market exceeded, say, 10%. Additional assistance would have to be targeted at certain groups to achieve specified outcomes, or very quickly AHFC could use up its available resources.

For instance, assume AHFC wanted to target the condo market, either for trade ups to mid-high range condos, or to encourage the purchase of some of the many low end condos. Many of the current condo loans were based on a loan amount of \$75-80,000, with an interest rate of 10-12%. Consider the following figures:

<u>Loan Amount</u>	<u>Interest Rate</u>	<u>Payment</u>
\$ 80,000	10%	\$702
125,000	6%	749
50,000	6%	300

In one case, a borrower can buy much more "house" for approximately the same payment, whereas in the other case, a borrower could buy a \$50,000 condo (which was likely originally an \$80,000 condo) for a payment of less than half of the original. Properly targeted this could help stabilize price and reduce the inventory of foreclosed properties. It is our belief that the "equity underwater" problem could be stabilized in targeted projects by offering financing opportunities for full prices sales.

Other changes would deal with AHFC's role in disposing of its real estate portfolio. For instance, if current plans are successful, AHFC could well own entire condo projects. These projects could eventually be sold as condos, but they might also be sold as apartment buildings. If AHFC were able to manage the building (via a contract) and perhaps provide financing to the ultimate buyer, the total loss might be much less. Possibly other types of nonowner-occupied financings to help in disposal of foreclosed properties should be added.

More flexibility would be most helpful in workout situations. HOAP will be sufficient for a great number of troubled borrowers, others will need far more assistance. AHFC, in conjunction with the applicable insurance companies, should be able to provide assistance to these borrowers in a variety of ways -- much lower interest rate, deferral of principal payments, etc. To hold down the ultimate cost of the program and to provide more assistance than is needed, AHFC should be able to design various approaches to recapturing some of this assistance if the property ever appreciates in value beyond its original loan amount.

We have discussed with various individuals the thought of establishing a subsidiary corporation of AHFC which would be granted broader powers to address critical issues in Alaska's current housing market. Such a subsidiary may be charged with acquisitions and/or eminent domain powers to achieve public purposes. Further, it could facilitate the consolidation of condominium owners to allow for the conversion of other condominium projects to other uses, including apartment complexes and public sector housing. We believe all such ideas should be explored in detail and are appropriate items to try to adopt this legislative session.

Lastly, AHFC should be given broader investment powers so that it could participate in acquisitions such as Hollywood Vista and Willow Park when it makes economic sense for the agency.

7. HB 433 -- Moratoriums on Judicial and Nonjudicial Foreclosures -- This is intended as a parochial attempt to preserve for Alaskans a greater opportunity to preserve their residence at the expense of lenders, a good portion of whom are nonresident. Similiar legislation was adopted in two mid-western states as responses to the farm crisis. Their experience should be studied in detail before passage of this legislation.

While the approach has appeal on its surface, it appears to also generate considerable technical questions, especially with respect to bonded indebtedness of various Alaska debt issuers. Further, as probably the largest financier of Alaska real estate, various state entities, including the retirement funds, may be injured by this approach. We are also concerned about the potential ramifications if "outside" lenders respond to passage of this legislation by further restricting access of Alaskans to secondary money markets.

We are also confused by the language which suggests that a non-judicial foreclosure entitles the mortgagor to a right of redemption. This appears to be antithetical to the main purpose of nonjudicial foreclosures.

NO ACTION

March 7, 1988

8. SCR xx -- Loan Approval Withheld for New Construction -- The Department has been asked to comment on a draft of this resolution. We do not agree with this approach. We do agree that financing agencies must be sensitive to the oversupply of several categories of real estate and should coordinate their financing policies to assure that they do not inadvertently exacerbate a serious problem. We also believe that the inventory of some classes of property may require additional construction to meet a growing demand in the near term. It would be much more appropriate, from our perspective, to allow market forces and coordinated state policy development, such as through the Alaska Housing Marketing Council, to address the concerns expressed in this draft resolution. For example, there are market segments which would be severely paralyzed by a generalized moratorium. It is more appropriate to add private sector representatives to the Housing Market Council.

NO ACTION

We feel any response of this nature should be in the manner in which municipalities issue building permits and carry out inspections. As Chairman of AHFC, it seems indisputable that many of AHFC's problem projects were not inspected.

Other

Bridge Bank and Hallwood Trust - we conceptually support these, as well as other initiatives to have assets held by the FDIC or banks managed to minimize the adverse impact on the economy. There needs to be consideration given to both the management difficulties and the carrying costs which will be incurred. In addition, we need to recognize that any state guarantee or stand-by letter of credit could most likely be used.

There are three possible options at this time. Any one, or a combination of these, may work. They are the Anchorage Economic Development Corp., the Sealaska REIT group, and the Hallwood Trust. Should the state choose to participate in one of these structures, it should be prepared to contribute cash as well as properties. Cash flows to fund such an entity will not likely, in the short run, be sufficient to meet expenses. Hence, initial capitalization will be important to help assure success -- understanding that success includes the avoidance of increases of property liquidations.

Distribution

Garrey Peska, Chief of Staff, Office of the Governor
Bob Evans, Legislative Liaison, Office of the Governor
The Honorable Jan Faiks
The Honorable Max Gruenberg
The Honorable David Donley
Gregg Erickson, Office of Management & Budget,

JAS/sh5144M
3488c

C.E.R.
CONCEPT
ENDORSED
S.B. 408
3/22/88

Minutes -

House Only

HEARING DATES AND TOPICS

- January 18 -- House members. House organizational meeting. Initial subcommittees established and three phase plan adopted.
- January 29 -- Joint meeting with Senate members. Economic overview of Alaska. Witnesses: 1) Commissioner Tony Smith, Department of Commerce and Economic Development, 2) Lee Gorsuch, Director of ISER, 3) Dave Rose, Executive Director, Alaska Permanent Fund Corporation.
- February 1 -- Joint meeting with Senate members. Economic overview of Alaska. Witness: Commissioner Tony Smith, Department of Commerce and Economic Development. Discussed the Real Estate Investment Trust and the HOAP program within the Department.
- February 8 -- House members. Economic overview of Alaska, Private Agencies. Witnesses: 1) Malcolm Roberts, Commonwealth North, 2) Mike Abbott, Resource Development Council, 3) Alex Kochkin, ASK* Information Search, 4) Peter McDowell, Alaska State Chamber of Commerce. Discussed ways to help economic recovery.
- February 9 -- Joint meeting with Senate members. FDIC housing issues. Witnesses: Jay Hone, Larry Schannault and Martha Hicks, Federal Deposit Insurance Corporation. Discussed possible remedies for dealing with the large number of loans held by the FDIC.
- February 10 -- House members. Committee activities. A timeline of Committee activities was established and the Housing and Banking subcommittee were requested to hold hearings and make a recommendation regarding the Anchorage Economic Development Corporation's (A.E.D.C.) proposal to assess the FDIC Alaska portfolio. (no tape or transcript)

- February 15 -- House members. Economic overview of Alaska, Regional perspectives. Witnesses: 1) Eric McDowell, McDowell Group -- Southeast perspective, 2) Bob Keller, Fairbanks Native Association -- Rural Perspective, 3) Leslye Korvola, Fairbanks North Star Borough -- Interior. Summaries of the economic activity and needs of the regions.
- February 22 -- House members. First report of the Housing and Banking Subcommittee specifically regarding the AEDC proposal to assess the FDIC portfolio. Collection of Disputed Assessments. Witnesses: 1) Commissioner Hugh Malone, Department of Revenue, 2) Senator Jan Faiks, 3) Steve Kettle, Department of Revenue, 4) William Floerchinger, Director, Division of Oil and Gas. Discussed various proposals and methods of expediting collection of disputed back tax assessments.
- February 29 -- House Members. Economic overview of Alaska, review of the Fischer Report. Witnesses: 1) Victor Fischer, 2) Gregg Ericson, Office of Management and Budget, Office of the Governor. Discussed Fischer's report to the Mayor of Anchorage on the economic condition of that community and possible ways to remedy the stricken economy. Also report from the Subcommittee on Housing and Banking.
- March 2 -- House members. Subcommittee reports. Reports of the Resource Development, Transportation, Employment and Industry and Small Business Subcommittees. Also discussion of Willow Park Resolution, Homeporting, and recyclable products. (Tape, but no transcript possible due to machine error)
- March 7 -- Joint meeting with Senate members. Economic overview. Witness: Dr. Ryan Amacher, Economist, Clemson University. Discussed general economic theory and its application to Alaska's economy. This meeting was followed by a meeting of the Senate members regarding the Hallwood Bridge Bank proposal and FDIC issues.
- March 8 -- House members. Subcommittee Reports. Reports of the Rural, Interior and Southeast subcommittees were presented to the committee members. (no transcript)
- March 9 -- House Members. Presentation by Commonwealth North: Using the Permanent Fund as a Positive

Counter-Cyclical Force in the Alaska Economy. Witnesses: Malcolm Roberts and Loren Lounsbury of Commonwealth North. Discussed the elements of this plan, specifically the proposal for an Alaska Economic Index.

- March 11 -- House members. Subcommittee reports. Continued action on reports, review of all subcommittees and draft reports. Witness: 1) Gail Gatton, Alaska Environmental Lobby. (no tape or transcript)
- March 16 -- House members. Subcommittee reports. Continued discussion of Resource Development etc., Small Business and Housing and Banking reports. "Southwest Plan", Residential real estate (HJR 72) and Alaska Economic Index (HCR 52) resolutions discussed. The last two were approved for introduction.
- March 18 -- House members. Consideration of Senate recommendations. Housing and Banking progress was discussed. Senate Bills were referred to subcommittees. Addendum of the Interior Report was adopted. "Southwest Plan" resolution was discussed.
- March 23 -- House members. Report on Senate actions, the Housing and Banking Subcommittee interim report and review and approval of the Executive Summary by the House members.
- March 25 -- House members. Subcommittee reports on Senate Legislative Recommendations. Presentation and approval of proposed legislation of Housing and Banking Subcommittee (HB 549, HB 550, HCR 54) and the "Southwest Plan" (HJR 73). Committee report is issued.
- March 30 -- House members. Review of Senate recommendations, status report of House members' legislation before Senate committee members and discussion of future committee activities.
- April 7 -- House members. Overview of multistate insurance antitrust suit. Witnesses: 1) Tom Dove, Assistant Attorney General, California Attorney General's Office, 2) Dick Monkman, Alaska Department of Law, Antitrust, 3) Paul Roller, Alaska Department of Commerce and Economic Development, Division of Insurance. Also discussion of Housing and Banking legislation (HB 555).

- April 8 -- House members. (Anchorage) Public testimony on activities of the Committee and long term plan. Witnesses: Jerry McCutcheon, Belle Dawson, Norman Rokeberg, Alan Fuller. Also discussed and approved for introduction AEDC proposal regarding tax exemptions and deferrals of economic development property (HB 557).
- April 9 -- House members. (Anchorage) Public testimony on activities of the Committee and long term plan. Witnesses: 1) Charles Konigsberg, 2) Jack Keane. Also Scott Hawkins of AEDC and Ted Moninski of the Alaska Public Utilities Commission (APUC) discussed the AEDC's utilities bill.
- April 11 -- House members. Continuation of the overview of the multistate insurance antitrust suit. Witnesses: 1) Paul Roller, Division of Insurance, 2) Craig Berrington, General Counsel to the American Insurance Association. Discussed the committee's and the state's role in the insurance dispute.
- April 15 -- House members. Continuation of the overview of the multistate insurance antitrust suit. Witnesses: 1) Doug Mertz, Department of Law, Environmental Conservation, 2) Harlan Knudson, Health Association of Alaska. Mertz discussed the threatened insurance company action towards Alaska vis-a-vis Department of Environmental Conservation. Knudson discussed cost of insurance to health industry. Proposed letter to the Governor submitted to members and language for resolutions.
- April 22 -- House members. Status of Committee introduced and supported legislation. This also included a discussion of HB 432 and HB 555. Update on the insurance issues and discussion of final report. Also some discussion of interim activity.
- April 28 -- Joint with the Senate members. Testimony of Dean Lester Thurow of the Massachusetts Institute of Technology. Discussed economic consequences of specific Alaska legislation and proposals. (House members were unable to attend as floor session carried over)
- April 29 -- House members. Final meeting. Status of Committee introduced and supported legislation. Resolution urging state involvement in the

multistate insurance antitrust suit is approved. HERC committee resolution is approved for introduction by Rules (HR 14). (no tape or transcripts due to machine error)

There were no more meetings of the House members of the Joint Committee on Economic Recovery held during the session. The House Economic Recovery Committee was created by House Resolution on May 7, to meet through the interim and continue the work of the House members.

Joint Committee on Economic Recovery

House

January 18, 1988

Present: Representative Max Gruenberg (chair)
Representative Red Boucher
Representative Steve Reiger
Representative Drue Pierce
Representative Mark Boyer
Representative Fran Ulmer

Rep. Gruenberg: We have a memo we have prepared for consideration. We have appointed tentatively the subcommittees, a list will be out.

Rep. Reiger: Banking
Rep. Boucher: Small Business
Rep. Koponen: Interior
Rep. Navarre: Natural Resources
Rep. Brown: Housing
Rep. Miller: Employment and Industry
Rep. Adams: Rural
Rep. Ulmer: S.E. Alaska

We plan to send out a memo to other House members, in the mailboxes today, asking them what subcommittees they want to be on. Then we will see who we want to participate. I want as broad a participation as possible on a bi-partisan basis, looking at the best ideas from around the state, specifically addressing the economic situation. Since this is a committee to address the economic situation, let's be flexible so you can each deal with your own areas of expertise. Next week we can start with general overview testimonies. First, we'll look at legislation already in, then working up our own, then as a long range solution, make recommendations for subsequent sessions. The subcommittees will make legislative recommendations to the full committee and they will go through the usual process.

Rep. Brown: Where would the commercial real estate issues fall?

Rep. Gruenberg: It could fit into many areas. Some things will not fall directly under one subcommittee, so you can work together on some issues.

Rep. Koponen: We shouldn't consider economic recovery as just getting back to where we were before, but that we also look at going on, urging people to take advantage of opportunities that have opened up; because we were not good enough before, not competitive enough.

Rep. Gruenberg: We're open to that idea, and are interested in the long term. The question was asked about the Senate participation here, it's up to the Senate leaders how they will organize their part of this

committee. These subcommittee subject matters seem to be comfortable for the Senate members.

Rep. Ulmer: Why isn't there a south central subcommittee?

Rep. Gruenberg: The Southcentral matters seems to fall into certain areas of subject matter already set up in the other subcommittee, i.e., housing, banking, etc.

Rep. Reiger: I think there's going to be a lot of overlap, even amongst the functional committees there'll be overlap. This is a way to see that areas of focus, get that focus, in defense of the Chair.

Details of scheduling were discussed.

Rep. Boucher had concerns about the further regionalization of the state, also getting ideas from all over the state on what people's successes are.

Rep. Miller recommended narrowing our focus as soon as possible and addressing issues we can do something about right now.

Rep. Gruenberg adjourned the meeting.

Tape # 1, 14

Joint Committee on Economic Reform 1/18/88
Organizational Meeting

4:18 PM, Meeting called to order.
All members present.

tape #'s

- 26 -- subcommittees discussed
- 80 - subcommittee membership, methods
- 110 -- proposed three phases of the committee process described
- 143 -- Rep. Brown: Wishes to focus on Commercial and residential real estate market.
- 168 -- Rep. Koponen: Discusses a need to go beyond just a return to "where we were". Take advantage of the decline of the dollar and realize the benefits to tourism.
- 215 -- Senate involvement discussed.
- 240 -- Rep. Ulmer: Asks why there is no Southcentral Regional Committee. General Discussion ensues regarding the committee structure.
- 275 -- Rep. Rieger: Describes the necessary overlaps that will occur with the subcommittees.
- 380 -- Boucher wishes to discuss successful small businesses as opposed to failures.
- General discussion of subcommittees, overlapping and merging. Rep. Rieger asks if there might be a deadline or date for the "passage" of legislation added to the list.
- Meeting is adjourned at 4:50 PM

Joint Committee on Economic Recovery
House
February 8, 1988

Present: Representative Max Gruenberg (chair)
Representative Niilo Koponen
Representative Mike Navarre
Representative Fran Ulmer
Representative John Sund
Senator Jalmari Lehtola

Several members are excused, or in other meetings.

Testifying: Malcolm Roberts, Commonwealth North Exec Dir.
Mike Abbott, Resource Development
Alex Kochkin, ASK
Peter McDowell, State Chamber of Commerce

Mr. Roberts: We look at issues facing the state and make recommendations on public policy. (Brief background of company)

We appreciate the invitation to be here. The crisis is statewide, not just Anchorage. The solutions we seek must address the long term weaknesses, not short term. The problems were not started by the real estate industry or greedy bankers. If oil had stayed at \$27, they would have been heroes. The impact of the drop of the price of oil affected all of us, but this is only one phase of the problem. A full 82% of the state revenues came from the north Slope. As we all know, Prudhoe Bay oil will soon see a decline. It was 14 years ago when the pipeline began, and 14 years from today with expected production drops, the pipeline will be running at $\frac{1}{4}$ what it is now, 502,000 barrels/day. We must find a new partnership to get things moving. We would urge the state to assist our municipalities with the money so designated to be utilized by putting to work idle businesses and contract labor, rather than expanding municipal public works departments. We recommend you use private companies whenever possible to do the work, the private sector can easily expand and easily contract, but once you enlarge the public payroll it is difficult to reduce it. We have a program to support our municipalities and local governments. We must put into motion the construction of roads, rail extensions, hydro-projects, water and waste water facilities, docks and ports, all of which can pay their own operating and maintenance expenses and generate revenues to pay the state for the initial investment. We urge you to take a statewide view, and look at long term solutions for an economy that's dangerously dependent on one source of revenue.

Rep. Navarre: What do we use as a money source with dwindling oil revenues?

Roberts: We will be publishing a text called the Alaska Development Board where we will make a number of specific recommendations on that,

but I would suggest AK is one of the more fortunate states in terms of not only resources in the till, but capacity to tackle other projects.

Mr. Kochkin reiterated the problem of dependency on oil. He outlined the purposes of marketing beyond just advertising, brochures, etc. and illustrated his point with the fisheries and tourism industries. He's talking with others about developing a plan to tie in various capital projects to help smaller industries or businesses work together with other businesses to offer helpful services to customers.

Rep. Gruenberg asked the necessity of a coordinated, state economic policy. Mr. Kochkin commented that it would be useful especially in coordinating information, but that it would be difficult. Rep. Gruenberg requested information on good ideas which other states are doing to improve economic recovery.

Questions for Mr. Kochkin continued.

END OF TAPE (Side B only)

Mr. Abbott: As you know the Resource Development Council has been working on economic development concerns and issues for more than 12 years now. These programs we would advocate would have similar benefit and application at any time, not just now. In the area of fisheries, I should also mention we have tried to maintain a non-budget impact so I won't be mentioning areas that might impact the budget process. The RDC strongly supports the development of mariculture programs. There's some doubt as to if it's legal, we like to see the legislature introduce a regulatory and management program that would alleviate any problems that might follow. We believe it would have a tremendous economic near term impact. In terms of Forestry, the RDC is strongly supportive of the state's development of it's own timber resources and the ability to allow for the development of non-state timber resources as well. We feel the Forest Management Agreement process is a likely candidate to allow the state to enhance it's forest management program, but we don't feel that's the only way. There is opportunities that can be taken advantage of without forest management agreement, similar to those developed in Canada, and we'd like to see the legislature take action to allow those to take place. In terms of tourism development, we're very eager to see the state enter into a program with the federal government in the Denali area. Although there is a near term impact in terms of matching federal funding, we think there's policy oriented questions the state could be looking at. We're very disappointed, for example with the process the Div. of Parks used to analyze the issue of helicopter landings in Chugach State Park. There proved to be a flaw in the park concession and management process. You're talking about a positive economic development impact with little or no environmental impact. We'd like to see the park management system through legislation be a little more responsive to the opportunities out there. These parks are not to be managed as federal parks, they do not have the same goals in mind. Our parks were created with an eye for using them to enable Alaskans to utilize the park in a manner consistent with the use for which they were created. In the area of mineral development, we've

proposed a number of changes to state statute in areas ranging from water quality assessment standards to coastal zone management review, etc. There are actions that can be taken at this point that can increase the industry development. In the area of oil and gas development, I feel compelled to mention we totally support the development of ANWR resolution. Getting off of that as quickly as possible, we've also proposed a program of incentives, including the removal of certain dis-incentives. In discussions we've had with members of the RDC council involved in oil and gas development, there is great support for removal of disincentives to areas of oil and gas as well as incentives. There's a great deal of interest in revenue-positive programs to take advantage of at this time. We're also working on a variety of other programs, land management oriented, that aren't generally associated with near term economic recovery, but in fact are likely to help the state's economy over the long term, and in fact likely to demonstrate some short term benefits as well.

Rep. Gruenberg asked about the need for a comprehensive state economic policy.

Mr. Abbott: We support the development of language and statute that's going to give state employees and the administration a bit of guidance in this area. There is a risk though, that might in fact distract them from looking at actual regulatory and statutory changes that can have direct impact on what we're doing. Many of you might remember the state, a few years ago, passed an economic development statute. Although we supported that statement at the time, and we still support the tenets it generated, I think you'll find very little use of that or very little reference to it. We support positive statements, we would hope that wouldn't reflect all the attention away from specific policy and statutory changes that need to be made.

Rep. Gruenberg asked if Mr. Abbott knows of specific suggestions from other states in terms of state policies, etc.

Mr. Abbott: It's difficult for Alaska to draw upon exact references from other states mostly because our situation is so different. We are not in a position similar to any other state, in terms of ownership of resources, land management, etc. To draw upon some other states' programs might turn out to be relatively unsuccessful, but we are looking for good ideas.

Rep. Gruenberg asked about providing positive incentives for development of highly expensive, risky, marginal oilfields.

Mr. Abbott: The 2 specific programs we have advocated that fall under that category, is the reinstitution of oilfields on state land, which would provide a royalty break of some percentage for operators that discover a new field, for some years. The other program we supported is a consistent use or mandatory use of exploration ? credits in the leasing program, we think both of these are product oriented and production oriented incentives that are likely to generate new activity. There are always going to be marginal fields in Alaska. We do not feel it is the responsibility of the state to make every incidence of oil

profitable for commercial extraction. We do feel, however, that this line of what's marginal and what's not is one the state should be prepared to be flexible in evaluating, depending on it's own economic circumstances. We hope our incentive program would allow the state that flexibility.

Rep. Sund wanted Rep. Gruenberg to reference the statute Mr. Abbott referenced as AS 44.99.100, the economic policy statute. Rep. Gruenberg clarified his question in reference to that statute.

Peter McDowell: One of my capacities as co-chairman of the AK. State Chamber of Commerce/Comm. on Strategic Planning for the 1990's. You have a copy of our report entitled Report to Alaska's Economic Leaders, recently reprinted in the form you have now. We invite you to exercise economic leadership collectively and individually. We recommend you study what the private sector has said about economic leadership, in particular, 5 documents included in this report you have here. We encourage you to begin and expand the education of Alaska's people, especially it's children about their economy, and recognize the importance of Alaska's political economy to other facets of life in the state. To become educated about the nature of economic change in the world and it's effect on Alaska. To insist on sound diagnosis as a basis for economic strategy. To require that economic programs be monitored and evaluated for sure public accountability and necessary adjustments. To participate in shaping a vision of Alaska's economic future. To identify actions compatable with that vision and motivate people to undertake them, and finally to join with us in the State Chamber of Commerce in a state-wide public-private and university partnership to provide the leadership for economic expansion and diversification. First I'll give you a framework for understanding the Alaska economy. Our first major conclusion during the 2 years we spent developing this report is that an export base model is the most appropriate framework for facilitating an evaluation of the Alaska economy, based on a very straight-forward premise that is that business sectors which bring cash into the economy are part of the export problem. Since long before contact with the Russians, we have been exporters, usually a very high grade of natural resources. We also export geo-political location to the U.S. military, public domain, federal-civilian agencies and scenic and recreational resource values to tourists. An export base analysis performed on a community, region, state or nation, divides the economy into 2 segments: the firms and individuals primarily serving export markets and those serving markets internal for the local economy. The goods and services which the community sells outside it's boundaries are considered exports. These include all sales made outside the community, not just trade with foreign nations. All remaining goods and services serve the local markets. In this division of markets there is a cause and effect relationship. Export markets are considered to be the prime movers of the local economy. If employment serving these markets rises or falls, employment serving the local market is presumed to move in the same direction. Thus, if a basic industry must lay off workers, the local retail merchant will feel the impact as the laid off workers have less to spend, or will leave that local economy. Because of this, export sector economic activity is basic. Employment which serves the local market is considered adaptive, and is called secondary.

The fundamental insight is no basic, no secondary. The basic export sectors that play the prime role in Alaska's economy are oil and gas, fishing, timber, minerals, coal, travel and tourism, national defense, federal-civilian services and the PFD. We see the biggest single portion of the export model is oil and gas, about 2/3 in 1986. In 1986, the lowest year we've had for oil in several years, oil was still 2/3 of the value of total exports, even after the drastic price drop. Another area is fishing, the value of fish caught by resident fishermen in AK waters in 1986 is estimated to be \$300 mil. Dollars generated from timber are estimated to be about \$200 mil. Coal at \$25 mil. primarily represented exports to Korea. Travel and tourism, estimated at over \$500 mil for 1986, excluding transportation to and from AK, and this only represents about 3 months worth of activity. Defense building in AK was about 1.6 bil. If you do have some basic economic activity, and even a low year, then you will have a secondary economy. We identify transportation, world markets and international trade, private retail and wholesale trade and services, state gov't. services, transportation and construction services, and local government services as the essential secondary sectors active in the AK economy. The jobs in these sectors are important, the more goods and services available in the state, the lower the leakage of purchasing power from the basic economy. Growth in support sector jobs is however severely constrained by growth in the export sector, the lower the exports, the lower the level of support required. In the recent past, AK has had a large export surplus mainly because of Prudhoe Bay. That has changed. Another insight about the export model is export and basic sector projects are the only ones that have a multiplier effect. They create more jobs in total than those related to the basic industry projects. We take the position that AK needs all the export projects it can get, that the size of the enterprise is also an issue and so is it's liability. We suggest the export model as the initial framework to analyze the economic projects, communities, and state as a whole. I would suggest if projects do not have a positive impact on the expansion of AK's import model shouldn't be undertaken. The commission also has suggested 6 statewide strategies for development and diversification:

1. Continuing support for existing basic sectors. We believe a fundamental strategy we all need to be aware of is that retention of our existing economy should take 1st place.
2. We encourage the consideration of starting up a software development sector. The compound growth rate for software has been second only to telecommunications.
3. We recommend increasing the national defense presence in AK, and aggressively marketing our geo-political location.
4. Expanding AK participation in the growth and Americanization of commercial fisheries.
5. Substituting for imports of insurance services and investment services.

(Brief examples.) These suggestions are documented in the report. We offer these opportunities to you in hopes that they may work to the enhancement of the AK economy through the leadership of it's public and private sectors.

Rep. Koponen mentioned the problem of software investment is the high cost of phone lines.

Rep. Gruenberg asked if controlling the supply of Alaska's resources would help create more wealth. Mr. McDowell didn't know. Rep. Gruenberg also asked him his view of setting up a comprehensive state economic policy.

Mr. McDowell: The commissions view has always been that there needs to be a consensus, among Alaska's economic leaders, about how it works and how to make it grow. If that's what you're talking about. To process education and understanding. We suggested earlier you put the export model up against any projects you're looking at.

Rep. Gruenberg: Aren't there certain kinds of things that will have a multiplier effect if done internally?

Mr. McDowell: Within limits, you can use the assumption, no exports, no multiplier. There's very little multiplication in this economy.

Rep. Gruenberg: What are your thoughts on the possibility of trade with Canada?

Mr. McDowell: I'm not convinced there's much demand in the Yukon. It's the same kind of resource-export economy.

Rep. Koponen asked what we could do to make internal investment more attractive.

Mr. McDowell: read from a paper he wrote. He said the infusement of management-technical assistance need to be incorporated into the investment project.

Rep. Sund feels the greatest restriction to development in the Alaskan economy is in the management of our resources. He wanted to know if the state should spend more than 6¢ of every dollar to manage resources. Mr. McDowell didn't have any idea, but he did agree that management of resources is a partnership. He mentioned the case of many types of crab that are harvested but we have no idea of how they reproduce, and soon there'll be no more to catch because we will have wiped them out from not understanding how to keep them going.

Sen. Kerttula made a brief remark of concurrence with the subject at hand.

Rep. Gruenberg adjourned the meeting at 10:22.

Joint Committee on Economic Recovery
House

February 15, 1988

Present: Rep. Max Gruenberg, Chair
Representative Cliff Davidson
Representative Mike Miller
Representative Fran Ulmer

Witnesses:

Eric McDowell
President, McDowell Group

Bob Keller
Fairbanks Native Association

Leslye Korvola
Fairbanks North Star Borough

TAPE ONE, SIDE ONE

Rep. Gruenberg calls the meeting to order and states the committee will consider the economies of the state on a regional basis.

Eric McDowell states the McDowell Group (Group) has done management consulting in Alaska for 16 years, including 200 to 300 studies of the state regional and local economies and other projects. McDowell states Southeast Alaska looks homogeneous, but it is not, and it is considered in three economic regions: (1) Juneau, (2) other urban communities, and (3) rural or villages. McDowell refers to material which has been distributed describing the proportion of the regional economy which is due to each of the major industries. State government is the largest industry, one-third of the economy, basically in Juneau; second is fisheries, including harvesting and processing, or one-fourth of the economy, and third is forest products. Federal government represents approximately 14% of the economy, and tourism is 7%, construction is 2% and mining is less than 1% at this time. Southeast compared to all of Alaska has lower than average employment in mining, finance, insurance, real estate and university as well as service and trade, but is heavier than other areas in manufacturing and government.

McDowell states Juneau constitutes 40% of Southeast in population and employment, with 2/3 being government. Juneau's growth and decline parallels the Railbelt area;

losing a slightly greater portion of its economy than Anchorage. Juneau's growth also parallels Anchorage.

Rep. Gruenberg states the budget for state government follows by a year or two the growth of the economy elsewhere because of oil royalties, and asks if Juneau is directly parallel or if there is a lag. McDowell responds there is a time lag in terms of government and activities; however Juneau is first to react to budget changes.

McDowell describes medium to small urban communities as Ketchikan, Sitka, Petersburg, Wrangell, Haines and Skagway and states they are not as severely effected by changes in state government as is Juneau. Primary changes in their economy are related to forest products and fisheries, and they have a cycle independent of the rest of the state, more closely resembling Kodiak, parts of the Kenai Peninsula and Prince William Sound. Forest products are the primary economy, together with fishing. McDowell points out that the forest products suffered a slump but has been recovering since 1985 and is currently strong. Long term growth is not considered; cycles are primary. McDowell states tourism has an impact on Ketchikan, Sitka, Haines and Skagway, as well as Juneau.

The rural or village Southeast Alaska includes Metlakatla, Klawock, Craig, Kake, Angoon, and several other small communities. They are subject to the cycles of fisheries and forest products, but because of their poorer economy they do not receive benefits of up cycles to the extent the small urban communities do as they do not have plant and equipment investments. Good fishing years do not mean a good economy for these areas. Although some benefits are derived from forest products, it does not ensure employment for the Native people in the area. Third, they are sensitive to changes in state and federal economic programs, and have suffered from the cutbacks in state programs. Subsistence is important to the lifestyle in the rural and village areas.

McDowell distinguishes differences between rural Alaska and Southeast and the very rural western regions -- all of the villages in Southeast have reasonable access to regional centers because of transportation systems connecting the communities, and because of timber and fishing they are slightly stronger than the most remote villages in Southeast. Income is significantly below the rest of the Southeast economy.

Rep. Gruenberg refers to the access to the Marine Highway System, asking if the poorness of the residents isolates them. McDowell responds the Marine Highway System is available as fares are reasonable when compared to air fares.

Rep. Davidson asks the average family income in a village. The figure is not available at this time.

McDowell refers to trends in industries -- state government is down; fisheries is presently strong and stable but nature and regulation, including limited entry, limits the growth potential, and forest products are also cyclical; the federal government has been stable, but has been reduced regionwide; tourism is stabilizing; construction will continue to be severely depressed; mining is insignificant but shows new development that is a positive factor.

Rep. Ulmer asks for comments on the housing industry in Southeast, stating most testimony taken by the committee has referred to the Railbelt area. McDowell responds that the Group has completed work for the Juneau Economic Commission, and states Juneau's real estate situation is comparable to Anchorage's, with at least 1,000 vacant units and poor market conditions. Rep. Ulmer asks if the ferry service cutback has had an impact on Southeast. McDowell is familiar with the situation, and points out that cost of transportation must be considered in cost of living. Transportation prior to the ferry system was extremely expensive, and the ferry system has reduced that expense. McDowell states that commercial fares are considered quite high by some individuals.

Rep. Davidson refers to the trends in fisheries and asks for comments on limited entry and the push in Southeast to become more involved in other species. McDowell clarifies that Davidson refers to limited entry's effect on non-limited entry. Limited entry has an enormous effect on non-limited entry -- everyone wishing to fish has no choice but to fish halibut, black cod, or whatever is unlimited; the effect of expanding the effort on unlimited species and thus contracting the seasons. McDowell points out this was necessary to rebuild the resource, and removal of the foreign fleet from the eastern gulf in the early 1980's was a major source of impact. Davidson asks how limited entry has affected youthful entry; is access denied to the only economic opportunity village youth might have? McDowell responds access is denied to those financially unable to buy in, but in any industry there is cost of entry. McDowell confirms that the system as it is denies access to less economically capable, especially in village Alaska, or those who do not have any other economic means to gain capital for investment. McDowell confirms that there is a trend where limited entry permits are leaving the villages, particularly seine permits.

Rep. Gruenberg asks for suggestions on what the legislature might do to assist in any of the three sub-regions. McDowell responds he is not familiar with pending legislation, and he believes two major problems should be addressed: (1) housing and real estate, which is debilitating to Juneau in particular, and (2) look at village Southeast to determine what programs that have been cut back have made the most significant impact, and perhaps restore them.

Rep. Gruenberg calls on Robert Keller and Leslie Korvola to testify, via teleconference. Ms. Korvola states she is with Community Services for North Star Borough. Korvola refers to a quarterly report recently distributed by the Borough to give a comprehensive view of employment, housing, cost of living and other factors. Rep. Gruenberg states the Committee has the document. Korvola states the data is not necessarily representative of the entire Interior region. Korvola focuses on the section entitled "Economic Inflight" because it focuses on the expectations of the community, and urges the Committee to review it carefully. Korvola states the article underscores the importance of revenue sharing.

Rep. Gruenberg asks Ms. Korvola to refer to figures by page number. Gruenberg states he has the "Fall 1987 Edition" and at page 78 is table 61. Korvola states that is not the most current edition. The correct document will be transmitted to Juneau for distribution. Korvola states the article deals with the dilemma in the local economy. Korvola states there are various ways to deal with the reduced income; and points out that when state moneys are no longer available at the same level, the Fairbanks economy cannot fully recover. The Committee has no questions. Regarding employment, Department of Labor statistics indicate that government is a significant part of the local employment picture. Korvola points out that nearly one-half of the local government employment is at the University.

TAPE ONE, SIDE TWO

Robert Keller testifies from Fairbanks via teleconference. Keller describes his role at Fairbanks Native Association, stating they have had an economic development program since 1982 to assist individuals starting in private businesses. Keller presently supervises a project attempting to identify ways to employ low-income people in the Fairbanks Borough area. The Native Business Center under Bureau of Indian Affairs funding works statewide for Native business enterprises, and the Small Business Center is a state Department of Commerce program serving the Interior and North Slope, not restricted to Native Alaskans. The Center is funded by the state at a level substantially below that of 1986. Keller discusses an address by Rep. Miller at the Chamber of Commerce when he pointed out that the first thing cut is economic development. Keller agrees. Referring to the Native Center, Keller describes plans to open a ski resort with cross country trails, and hiking trails for summer as a recreational and tourism facility. Community and Regional Affairs has assisted in the project. Keller points out that to be successful, good technical assistance must be provided.

Keller describes a project for fish processing in Fairbanks, pointing out the marketing and packaging procedure and the hope of developing a salmon sausage line for nationwide sales.

The final project is the Arctic Co-operative of Tanana Chiefs, serving villages in the interior social services system. Arctic Co-operative stands for Alaska Resources Commodities Trading and Investment Company, buying botanical products and packaging them for Christmas sales through mail order industry. Keller believes there is great potential, a willingness to work and seize the potential in the area, and there needs to be support at the State level, consisting of (1) marketing through a central source, and (2) reasonable levels of financial assistance. Keller urges that AIDEA be encouraged to reach out into the interior and small Native groups. Keller states small projects can be successful.

Keller met with a business analyst who studied interior villages and summed the experience, stating the state needs to take a positive action to assist miners, many of whom are about to lose everything they have worked many years for because the Administration does not take a positive view toward mining. It is suggested the State enter the court cases on the side of the miners. For agriculture it is suggested the state make land available on a fee simple basis by lottery or market price at terms for conversion to farmlands. Keller describes the failure of the Delta farm project. Keller urges the state return to lending for tourism oriented projects. Keller suggests tourism be promoted more, especially for winter months. Wilderness lodges should be promoted. Keller points out that financing is difficult for anyone in the rural area. Keller believes there is no shortage of "intelligent, hard working people who if given half the chance could operate profitable businesses." Keller urges orderly planning to avoid boom and bust cycles, and assistance for marketing and tourism.

Keller supports the Community and Regional Affairs' program known as Rural Economic Development Initiatives, which has \$3.2 million for rural communities, and describes the requirements for qualification.

Rep. Gruenberg thanks Mr. Keller for the many suggestions and asks that Keller send a follow-up letter for the Committee.

Mr. McDowell refers to program recommendations, and states with regard to development, he has seen many state and federal programs come and go, some successful, some not. McDowell encourages that Keller consider two, both involving generic marketing, one for tourism and one for fisheries, both of which yield excellent returns for the investment and receive support from the private sector. McDowell refers to Alaska Seafood Marketing Institute and Division of Tourism programs. Additionally, McDowell states the political influence of the legislature can be used to great advantage with regard to resources issues. McDowell states his firm has completed a two year study of the impact of tourism in Alaska, and economic information is available.

Rep. Gruenberg suggests copies of statistics and data be provided for the Committee.

Ms. Korvola agrees with Mr. McDowell in support of generic marketing, and also supports tourism development. Korvola urges that money be spent carefully to give a good return and have long term merit.

There being no further comments, the meeting adjourned at 9:55 a.m.

Joint Committee on Economic Recovery - HOUSE
February 22, 1988

Present: Rep. Max Gruenberg, Chair
Rep. Kay Brown
Rep. Steve Rieger
Rep. Niilo Koponen
Rep. Steve Frank
Rep. Fran Ulmer
Rep. Sam Cotten

Witnesses:

Hugh Malone, Commissioner
Department of Revenue
P. O. Box 5
Juneau, Alaska 99811

Sen. Jan Faiks
P. O. Box V
Juneau, Alaska 99811

Steve Kettel
Department of Revenue
P. O. Box S
Juneau, Alaska 99811

William E. Florerchinger, Director
Oil and Gas - Audit Division
550 West 7th, Suite 560
Anchorage, Alaska 99501

TAPE ONE, SIDE ONE

001

Rep. Gruenberg calls the meeting to order and asks Rep. Brown to report to the Committee.

Rep. Brown states the subcommittee on housing and banking met 12 hours over a week-long period to hear testimony and evaluate proposals. A written report has been distributed. Rep. Brown states the Anchorage Economic Development

Corporation proposal was reviewed. That proposal asks for \$250,000.00 to assess FDIC foreclosed loans and failing properties. The subcommittee recommends against the proposal at this time, although it has served as a catalyst, and the subcommittee will reconsider it after further work. The subcommittee will review "orphan" loans, those having difficulty and working without a bank. Brown states that 85% of the portfolio is business loans, and the balance is real estate loans. The other proposal studied was Real Estate Stabilization Trust, and this study is not yet completed. Brown states that proposal would set up an entity to receive foreclosed loans and the state would be asked to buy into the trust for \$150 million, and to loan additional sums in the future if needed for cash flow. Brown states the problem is a \$2 billion problem in real estate, and about one-half is involved with state agencies. The subcommittee considered whether state involvement would be effective, and much caution was urged from witnesses because of the effect on renters and non-property owners. The reduction in rent in Anchorage is estimated to be about \$72 million coming into the economy, or 14 new jobs. Brown states there are positive side effects -- stimulation of the economy through competition.

Brown states the subcommittee considered Federal Asset Deposit Disposition Association, set up to sell properties from failed savings and loan associations in the fall of 1985 with \$25 million. Brown states the Association is losing \$1 million per month and has asked the federal government for an additional \$10 million. Brown believes this indicates there are difficulties with this type of agency. Brown states the subcommittee will focus on residential properties in its study.

180

Motion by Rep. Koponen to accept the report of the subcommittee on housing and banking.

Rep. Rieger believes it is important that the committee look at other proposals. Rieger states the question is the recommendation to appropriate \$250,000 which is preparatory to the state becoming owners of a portfolio of loans. Rieger believes the proposals are seeking assurance that the market will act rationally.

There being no objection to accepting the subcommittee report, it is so ordered. Rep. Gruenberg states the report will be submitted to all members of the House and the Senate.

235

Rep. Gruenberg states the Committee will recess to 9:00 a.m., at which time the Commissioner of Revenue will address the

Committee, and that Senator Faiks will speak to the Committee at 9:45 a.m.

250

Rep. Gruenberg calls the meeting back to order. Present are Reps. Miller, Ulmer, Koponen, Navarre, Boyer and Davis.

255

Commissioner Hugh Malone of Department of Revenue states that staff members Bill Florerchinger, head of Oil and Gas Audit Division; Steve Kettel, head of Income Audit Division; Carl Meyer, head of Appeal Section, Deborah Vogt, head of Hearing Section, special assistant Royce Weller, and Bruce Botelho of Department are also present.

Malone states the department has in excess of \$2.5 billion in assessed but uncollected taxes, penalties and interest for oil and gas income or production taxes. Malone states the final assessment for royalties due has not been completed, but represents possibly billions of dollars. In addition, disputed tax cases are in the courts, with a motion to move from the state to federal courts.

Malone outlines the background of disputed tax amounts, which started in 1977 when Prudhoe Bay began. Malone states "the law defines the value of oil for tax and revenue purposes as at the point of production or field. We arrive at that value by a net-back approach, taking the value of oil in a market or at a sale and subtracting back the cost of production. It sounds like a simple procedure, but it is not." In the early years producers were struggling, and the world oil prices were \$12 to \$40 making value difficult to determine. Federal price controls in effect made it difficult to capture the real value of oil, and windfall profits tax made a confusing situation. Malone describes the process of oil going to different markets, with some producers setting value when the oil is produced, and others when it is sold. Also, some producers sell oil outright, some sell it to themselves, and others trade it. Transportation costs, except for the tariff, are also complicated. Malone states that without the ban on export, the process would be even more complicated.

380

Malone states "Oil producers think the confusion is on the part of the state -- the fluctuation in the price of oil and political manipulation of the price -- but there is another issue to be considered. There is no discussion of the damage we are doing to ourselves." Malone refers to the 1981 repeal of state separate accounting income tax law for oil and gas income, which was replaced by the apportionment income tax currently in effect. Malone states that income from oil and

gas property tax is eroding; that in 1978 the assessed value of the tax base was \$11 billion, and the state received \$173 million, or 78% -- in 1987 the assessed value was \$18 billion and the state received \$102 million, or 28% of the total revenues. Malone states ELF provides large tax breaks for high-production oil fields, while providing insufficient tax reduction for marginal fields. Additionally, the ELF loss is larger than was anticipated because (1) production in dollar levels are higher so the percentage decrease in severance tax is larger than it would be otherwise, and (2) the estimate is higher because of increased drilling. One factor in ELF's formula is the number of wells in production. Malone states that \$2 million is being lost in two fiscal years, and describes the situation as "self inflicted poverty."

465

Rep. Gruenberg asks that Commissioner Malone furnish a copy of statements for distribution to all members of the Legislature. Commissioner Malone agrees to do so.

Rep. Davis asks if anyone has run numbers of the impact of the change to apportionment rather than separate accounting. Commissioner Malone responds that the department is tracking it and was last updated a year ago. Rep. Davis confirms that since 1984, it becomes approximation.

510

Rep. Koponen asks if there is an impact from modified apportionment taxation in other industries. Commissioner Malone responds there is, and the administration is examining the issue. Malone states the oil companies are happy because apportionment reduces their income tax burden, but other industries have made public statements against modified apportionment because they do not like having "swarms of auditors going through their books all of the time." Malone states that Alaska has one of the most aggressive audit programs in existence, and companies do not like to have their operations exposed.

Rep. Koponen refers to businesses moving from Alaska because of the vulnerability they face by remaining in Alaska. Commissioner Malone states he does not have a response, and the question is where oil prices will settle if we keep the structure. Rep. Koponen asks if other states have modified apportionment or unitary tax. Steve Kettel states "many do; most states that have income tax use some sort of apportionment. Alaska uses a worldwide apportionment scheme. We are the last state to use that approach. Most other states have come to the water's edge approach, looking at the income on a domestic basis and many include dividends coming from foreign corporations."

590

Rep. Davis asks the effect on other multi-nationals considering locating in Alaska. Kettel states there are two considerations, (1) experts agree the actual incidence of the tax is a small factor in the decision of a business to locate in an area, and (2) internal company policies. State and local tax is a small determining factor. Kettel states the question is expectations of future profits, and he believes we should look at what will happen in the next 10 years. Kettel states the corporate sector will look at taxes to a lesser degree than the oil companies.

640

Rep. Davis refers to monies lost by reduction in fisheries taxes and asks if that money has been reinvested in Alaska. Kettel answers "basically, yes." There has been \$60 million invested around the state, but the question is whether that money would have been invested regardless of the tax reduction.

675

Rep. Gruenberg states he is not convinced that a general statement can be made concerning attractions to industry because it varies from one industry to another. Gruenberg asks if Alaska should look more carefully at specific industries. Kettel responds affirmatively and states that in establishing a tax program, you make certain you have revenue to provide services to the people who come with the industry, and it is important to not discourage industry through tax mechanisms. Rep. Gruenberg asks "do you think it is good public policy for us to look at what will attract somebody to develop a particular parcel of real estate?"

TAPE ONE, SIDE TWO

Commissioner Malone responds it is a very complex question of tax credits and tax breaks, and it is not recommended, but it is done.

050

Rep. Miller asks if a tax is 60-80% of profit, does it become a large part of the decision of where to do business. Commissioner Malone responds that there is no simple answer. With regard to oil, Malone states "we want to realize significant percentages of the value from our lands. The state's policy is to move those up to the margin. It is very difficult." Malone states oil is a product which has high value and profit potential, and it comes from state land. It is possible to push taxes up to where it discourages investment. That situation has to be monitored. ELF has not

worked very well, and needs to be revised. The concept is o.k."

115

Rep. Koponen comments that he believes modified apportionment discriminates against Alaska based corporations and targeting of a particular business is something a municipality might do, but targeting against a particular industry is something in which the general public can assist. Koponen refers to a study in Connecticut involving established industries and the wrapper tobacco industry. Koponen states "we can make that kind of decision in the kind of public expenditures we make and the tax policy we design."

170

Rep. Gruenberg states that Senator Faiks is present to address the Committee concerning SB 401, and asks that Commissioner Malone yield to the Senator at this time.

Senator Faiks states she represents the State of Alaska to develop a process to collect the maximum amount of revenue due the state in a timely manner so that the Legislature can develop budget and determine fiscal policy of the state in the easiest manner. Faiks states that since 1980 she has been a member of Common Sense for Alaska -- a fiscally conservative organization interested in the fiscal policy of Alaska. Common Sense as a volunteer project did an assessment of the Audit Division of Department of Natural Resources and several divisions in the Departments of Commerce and Transportation to determine the reason for the large number of disputed taxes. Referring to SB 401, Faiks states "this bill is a management bill -- it has nothing to do with the kind of taxes, what the taxes are, how they are managed. It spells out a procedure for the collection of taxes to the State of Alaska in the most efficient manner possible within the three year statute of limitations." Faiks states it is to assist the Commissioner of Department of Revenue collect the taxes due the State of Alaska, and adds "They can't pay if there is not a system in place to keep the process moving."

250

Sen. Faiks describes the current process regarding appeals, with the audit and assessment. Between the time of the audit and assessment there is no informal hearing between the taxpayer and the Department. This can go on for three years. There is no communication between the taxpayer and the Department. When the assessment is determined, the taxpayer has 30 days to appeal. The appeal process is informal, and adversarial, with each side preparing a record in support of its case. This is followed by a formal hearing, spelled out in the Administrative Procedures Code, and is court-like. At

the end of the hearing a formal decision is made, a findings of fact and conclusions of law. Then the taxpayer appeals to the Superior Court. This is a key factor because it is an appeal of the decision, not the facts of the case. The Superior Court makes a decision. Faiks notes the indefinite period of time for this process.

295

Again referring to charts, Senator Faiks describes the process under SB 401 as a definitive process with a time line for each step, and they can be extended with consent of both parties. Faiks describes the process as informal -- with dialogue. If the taxpayer agrees with the proposed assesement by the department, they get the assessment and it becomes final. It is unappealable. If the taxpayer does not agree with the proposed assesement, they request a policy review hearing to ascertain whether the correct policy has been used by the department. This results in a policy review decision, and the taxpayer gets the assessment and the current status. "He can go to court, and the trial is de novo, which means all of the facts are presented. The court is not assuming the facts set forth by the Department are correct. The is the important part of the bill." Currently the Superior Court does not rule on the facts; they rule on whether the taxpayer received due process. They assume the facts are correct. It is difficult for the taxpayer to say the Department of Revenue did something wrong.

350

Rep. Koponen states he is reminded that a model like this is a small immitation of the real thing. One thing that is left out in both cases is the staffing levels. Koponen asks if staff requirments have been determined. Senator Faiks responds "you are asking a chicken or egg question." They have the best staff, but they may need more. Faiks states "I want to maximize the amount of taxes collected in Alaska that is fair and equitable, that we have a good reputation in doing that, and we get our money. The answer to your question is no, I have not analyzed the staffing because to me that is not the problem. I believe the problem is the process and the time frames. The Commissioner will give staff requirements."

Rep. Koponen states "Our responsibility is to provide the best service at the least cost to the State of Alaska so one of the things we would be concerned with is the staffing levels."

375

Rep. Navarre asks, in the appeal process, from the time of appeal to the Superior Court, to the decision, what is the time, and how does it compare with the final steps in SB 401? Senator Faiks' response cannot be heard on tape. Rep. Navarre

confirms that "essentially we would go through the procedure again in court." Sen. Faiks states "Correct, the facts of the case are ruled by the Department and the Court accepts those as fact. The Department does not have to prove that they did it right." Sen. Faiks advises Rep. Navarre that SB 401 speeds up the process "because we get to court faster."

440

Rep. Brown asks for clarification of "policy review". Sen. Faiks responds that the Administrative Procedures Manual spells out policy. "It is were the regulations complied with correctly, were laws followed correctly, and the Department follow procedure and regulations of the Department fairly and equitably." Senator Faiks suggests asking Department of Law how many people they take to court.

455

Rep. Gruenberg asks if "clear weight of the evidence" standard is the same as "substantial evidence" standard. Senator Faiks responds affirmatively.

485

Rep. Boyer asks if the process could be moved along by having the taxpayer pay the assessment, and thereafter appeal, so that money is received and there is incentive for the taxpayer to move the process along. Senator Faiks responds that this could be one solution; she has come up with her solution, and there may be others. Rep. Boyer suggests looking at alternatives. Senator Faiks states there are procedural problems in the process because there is no dialogue between the taxpayer and the department. Faiks states "there are multi-million dollar oil tax assessments issued by the audit division without any discussion with the taxpayers, and without any review by the Commissioner. The present process is very difficult for the Commissioner when he has to be the judge making the final decision." Faiks points out that the hearing officer is an employee of the Department; thus the department is prosecutor, judge and jury under the present system. Faiks believes taxpayers view the process as a "fishing expedition"

580

Sen. Faiks cites a February 1987 report entitled "Review of the Selected Department of Revenue" by Common Sense which described the goal of the Department as to "maintain fair and equitable taxing system in the state and to achieve an acceptable level of oil and gas producer compliance." Common Sense concluded there are not clearly defined procedures to attain that goal. A 1984 report on the New York Tax Appeal System states the close relationship between the State Tax

Commission, which rules upon contested tax matters, and the Department of Taxation and Finance, which assesses and collects the taxes, violates the doctrine of separation of powers, fuels perceptions of unfairness and creates the risk of actual bias in the adjudication of tax disputes.

615

Rep. Davis asks the amount of the fiscal note on SB 401, and whether additional staff will be required in the Audit Division. Sen. Faiks states the Commissioner must answer that question. Rep. Davis asks, regarding early resolution of tax laws, if it might be contrary to the best interests of the oil industry because they may be making more money on the money in dispute. Sen. Faiks responds that is not her concern, she wants Alaska to have the money; her concern for the oil companies is that they have equitable treatment and that there is a fair process in place where all taxpayers are treated the same. Faikes believes "the oil industries are big boys and I want them to pay up. The system has to be in place to create that process."

650

Rep. Koponen refers to the chart outlining the proposed procedure and notes that it eliminates departmental appeals and goes directly to court, except that it is trial de novo, and asks if it is ascertained that all facts will be "on the table" at that time. Koponen asks if facts can be held back in the preliminary stage. Sen. Faiks states it is a very expensive process, and if there are no major disputes, "we get our money." Rep. Koponen believes there is no real incentive to come to an agreement under the proposal.

TAPE TWO, SIDE ONE

001

Rep. Gruenberg confirms that Sen. Faiks' presentation is completed, and Commissioner Malone again joins the Committee. The Commissioner states he will discuss disputed assessments, and acknowledges an area of the interest for the Committee is SB 401. Malone states the forum is difficult to discuss the Bill because the Committee does not have the Bill in its possession, and normal administrative steps of analyzing fiscal notes and related documents have not been done. The Commissioner will discuss the audit process and the issues raised by Senator Faiks, and then give a perspective on how the Department has addressed those questions. Commissioner Malone refers to the Common Sense report and believes the issues identified regarding the administrative process were correct, and that some serious administrative problems have occurred, but most of them are subject to correction by efficient administration of the program in existence. Malone

states the issue of royalties and taxes are priorities of the administration. Malone states the separate accounting system and the severance tax program have been addressed by re-establishing the Oil and Gas Audit Division and training of increased staff, including hearing officers, economists and computer specialists, and reorganization of Income and Excise Tax Audit Division.

The Commissioner describes the Department's plan to reduce the number of cases in appeals, including consolidation of audit cycles, setting priorities, and discussing the issues with the taxpayers. In addition, the Department is looking at ways to use the information and data base the state has developed in the Amerada Hess royalty case -- looking at and using the information to reduce the time and effort needed to complete the audit cycle. The Department is gathering tax data on a current basis, collecting it from the taxpayer immediately following the tax period, rather than retrieving it from taxpayer's archives as has been done in the past. Funding for this is included in the FY 89 request. Malone states there are political jurisdictions using this approach, including United Kingdom and Norway. The Department is studying the approach to incorporate it into our laws to give some certainty to the state and the industries.

157

Commissioner Malone believes a tax program must be accountable to the taxpayer and the public. A confidentiality law prevents that accountability to the legislature, and Malone would invite companies to waive their confidentiality rights under the law to discuss with the Committee the specifics of tax cases. Malone acknowledges not all fault is on the side of the taxpayer. Second, to be efficient, "we should collect what the law intends, and thirdly, they should be fair and timely."

Malone states Sen. Faiks touched a basic issue in the administrative hearing process; can an agency be the prosecutor, judge and jury, and do it fairly? Malone points out that the theory behind the administrative process does not apply just to taxes, but to anyone who has agreed to administrative decision of a government agency in the State of Alaska, and describes the process. Reasons for the process are that the Department knows what the issues are and is able to examine them to develop a factual record in an efficient manner, and there is a safety valve, the Courts. The Commissioner believes the current process can work. He states the informal conference is not a due process proceeding; it is a method of getting facts on the table. The Commissioner believes going to de novo review, especially one in which the agency's ability to raise issues is severely limited, would probably substantially reduce the ability of the Department to administer the tax laws and to achieve compliance.

Rep. Gruenberg welcomes William Floerchinger, and Rep. Cotton, who have joined the Committee. Rep. Gruenberg states the intent of the Committee was not to hear specifically SB 401 testimony -- the Committee is concerned about all aspects of economic recovery, and when a large amount of back taxes could provide an infusion of cash to the state, that is something to be cognizant of in a general way -- that was the purpose of the hearing today.

Commissioner Malone declares agreement, that the legislature must know where money will come from, and supports the idea of Rep. Boyer that taxpayers pay the tax, then proceed with the process.

Mr. Floerchinger comments on the direction of the Oil and Gas Audit Division at this time; an in depth study of all cases under audit and appeal has been made. Floerchinger states the staffing level is critical in this type of audit program. Initially the department had 6 to 8 auditors for 22 taxpayer cases, including multi-national corporations. It is critical that there be skilled staff to review records when obtained and analyze the materials. Currently there are 57 audit-cycle cases, some of which may be consolidated; and there are as many as 42 to 50 issues in each case. Attempts are being made through dialogue to gain informal agreement, and written agreement, as to the issues to go through the process. This is expected to streamline the procedure. Floerchinger believes this method is working and states his goal is that by the end of the calendar year at least 40% of the dollars outstanding will either be agreed to and paid or through the hearing process. Floerchinger believes by the end of 1989 the figure will be near 90%. Floerchinger states the Department is establishing positive audit planning in the new cycle.

Floerchinger refers to the proposed procedure, stating one issue not mentioned in the charts is the process for obtaining records and documents. Presently the Department is working with taxpayers to obtain records on an informal basis, and the average length of time is in excess of 6 months from request to receipt. This, states Floerchinger, is a problem in keeping the process within the 3 year statute of limitations. SB 401 provides for an appeal process in which appeal of the initial request for documents is allowed. Floerchinger estimates this step will take in excess of 300 days to get into Court to toll the statute of limitations; a loss of 300 days from the statute of limitations period. Floerchinger points out the statute of limitations is 1,095 days from the time the tax return is filed until the statute tolls and no

additional assessments can be made. Floerchinger states that the production tax is a monthly return, and there is not staff or buildings large enough to audit each monthly tax return separately. Currently the Division waits until 12 monthly returns have been filed; then the audit cycle commences. That takes 395 days from the first period. The proposed bill has 330 days in appeals process to obtain the records, followed by 300 days, or a total of 1,025 days lost from the statute of limitations period, leaving 70 days in which to audit a multi-national corporation. Floerchinger believes it puts the Division in a position in which it is impossible to protect the state's interest to arrive at a fair and equitable tax. Floerchinger states audits could not be accomplished in the timeframe of SB 401.

425

Rep. Gruenberg believes there are two basic, separate and distinct issues -- (1) the process takes too long, and (2) the process is unfair because of a bias in combination of functions. Floerchinger agrees. Rep. Gruenberg believes speeding up the process could be addressed separately from the other issue. Floerchinger believes they are intertwined because of the requirement that the steps be held within the Department. Under trial de novo, the Department loses the opportunity to view and assess what documents mean to the tax process. Gruenberg agrees, but asks, who decides; a judge or an employee or independent hearing officer, which is irrelevant to the process itself. Gruenberg suggests the issues be addressed separately. Commissioner Malone agrees, but has concerns, i.e., the taxpayer does not have to produce documents under SB 401. Malone points out the present law states the Department makes the final decision, giving the taxpayer the incentive to produce information to be used in argument. SB 401 removes the process in the current law which gives the Department the information.

475

Rep. Koponen asks if the tax collection process would be simpler under separate accounting. Commissioner Malone believes it would not, because the separate accounting law is difficult to administer. Commissioner Malone states many of the difficulties can be solved by applying proper administrative procedures.

485

Commissioner Malone states the fairness of the hearing process is a myth because it has not happened yet -- it is a "closeting the monster" situation and questions how much weight it should be given.

505

Rep. Koponen states that in Harvard classes management cases were never discussed without assessment of the resources available to carry out a given task and the appropriateness of the resources. Koponen states an outline is insufficient in his view to arrive at a meaningful solution of a problem.

At 10:55 a.m., the meeting is adjourned.

Joint Committee on Economic Recovery
House

February 29, 1988

Present: Representative Max Gruenberg
Representative Kay Brown
Representative Steve Rieger
Representative Fran Ulmer
Representative Mike Miller
Representative Mark Boyer
Representative Heinrich Springer
Senator Joe Josephson

Witnesses:

Senator Vic Fischer

Gregg Erickson
Office of Management and Budget

TAPE ONE, SIDE ONE

Meeting is called to order by Rep. Gruenberg at 8:35 a.m. A quorum is present. Rep. Gruenberg states the Housing & Banking Subcommittee will give a report, followed by former Senator Vic Fischer who will discuss the Anchorage economic review.

Rep. Rieger states the Subcommittee has had three meetings since the last Committee meeting, the first with Barry Hulin of First Federal Bank and Bert Wagnon of AIDEA; another with Willis Kirkpatrick of Division of Banking; and a work session to consider two proposals presented to the Committee and a draft resolution. Rieger states the Subcommittee reached a recommendation on one project, the Willow Park demolition project.

Rep. Rieger reads the committee recommendation: The subcommittee recognizes the value of the Willow Park demolition project and recognizes a responsibility for asbestos abatement of this state owned facility. The subcommittee supports efforts to obtain state, federal and local funds to complete this relocation and demolition project. The subcommittee recognizes the specific dollar amounts for demolition and asbestos abatement are still being refined. The subcommittee recommends that additional analysis be done to find appropriate sources of funds. The subcommittee further recommends that project costs be spelled out in a project agreement between the state, federal and local governments. A copy of that resolution is distributed,

together with a background of the project, proposed by the Alaska State Building Authority. Rieger states the federal government has nearly agreed to contribute \$9 million for relocation of tenants of Willow Park if state and local governments provide funds for asbestos abatement and demolition. Housing vouchers will be available for low income housing on a long term commitment worth an additional \$7.2 million. The subcommittee considered project costs and included wording regarding "further refinement of the project costs and a specific project agreement of who will pay what costs." The subcommittee recommends the state proceed on the project.

Following discussion, Rep. Gruenberg states the matter will be on the agenda for the meeting on Friday, March 4, and copies of a draft recommendation by the Subcommittee will be distributed 48 hours prior thereto.

Rep. Rieger states that the Subcommittee will meet again to receive further testimony and suggestions.

Rep. Gruenberg asks that the Subcommittees make recommendations on Bills already in process so that Committees may be advised, leadership can make certain the Bills are priorities.

Former Senator Vic Fischer, clarifies that he appears at the invitation of the Committee. Fischer states the report, which is his testimony, was commissioned by the Municipality of Anchorage, however the understanding was that he had total freedom to pursue the analysis of the effects of the economic recession on Anchorage, without constraints by the Municipality. Fischer states he believes suggestions that the legislature do nothing with regard to the economy and recovery are irresponsible and show lack of understanding of the impacts of the recession. Fischer sees impact of the recession on the real estate market, but more so on the housing market, and states the majority of the residents in the area have been effected as businesses close, bankruptcies occur, and banks fail. Fischer states the impact goes far beyond the real estate crisis and describes the situation as akin to cancer, being depressing, with an interrelationship of bankruptcies, lost jobs, lost homes, and a downward spiral of the economy. Fischer states the Anchorage situation requires a comprehensive, broad based approach for recovery. Fischer does not recommend a massive infusion of funds.

Rep. Boucher asks if Fischer is familiar with the Southwest Plan implemented in Texas, Oklahoma and surrounding states. Fischer is not. Boucher recommends that Fischer contact Robert Gillam of Home Savings for information on the plan. Boucher urges that statements be obtained from Alaska's

congressional delegation. Fischer responds that his report does not pretend to set forth a program; that his assignment was to document the problem so that plans might be derived from that information. Boucher asks for Fischer's recommendations. Fischer responds he would be happy to be retained as a consultant to do that.

Sen. Josephson refers to editorials stating rents are down, and are offset by lower wages; Josephson disagrees because his constituents tell him lower wages result in living in lower rent facilities. Fischer concurs and states there is a "silver flecked lining" related to housing and rents. Fischer points out that individuals are moving to better rental facilities at lower rents.

Fischer recites statistics on employment and population in Anchorage. Unemployment does not reflect the real situation in Anchorage because there is considerable underemployment and people have dropped out of the labor market. Fischer points out that since late 1987 families have left Alaska at a higher rate than previously, and that is continuing.

Fischer performed an analysis of homes built since 1980, and found that the average home is now valued at 20% less than when new; since 1985-86 homes have lost 30% of their value. Anyone building or buying a home since 1980 now has a negative equity, sometimes as high as 50%. Vacancies in apartments have risen from 4% in 1980 to 25% in 1987. Fischer states condo owners are in the most depressing situation because they have lost one-half of their values and vacancies exceed 50%. Fischer states the 70% owner-occupancy requirement contributed to the problem, and the situation is critical. Fischer points out that over 7,000 properties have been foreclosed and many more are delinquent.

Fischer discusses communications received by the Housing Market Council. Fischer states the average decrease in assessed value of Anchorage property is \$24,000.00, per capita. Lower income level homes have decreased more than the upper level homes. Construction has dropped by 92%.

Fischer points out that when current leases expire there will be a further drop in rentals, again having a spiraling effect.

Regarding foreclosures, Fischer states the number has doubled each year for the past four years, and continues to increase. Fischer emphasizes the critical situation with respect to failures of several banks; the wealthy Alaska banks are doing extremely well. However, those banks do not generally invest within Alaska, and small banks invest entirely in Alaska.

TAPE ONE, SIDE TWO

Fischer continues with statistics on bankruptcies, reorganizations and liquidations. Fischer states that as existing bankruptcies close, there will be a continuing downward spiral on the economy. Fisher's report contains an analysis of the economic forecast of the Institute of Social Economic and Government Research (ISER). Rep. Gruenberg proposes that Fischer respond to questions.

Rep. Boucher states he has many comments with regard to bank activities and the impossibility of obtaining loans. Boucher believes the banking community has a social responsibility to Alaska. Fischer responds that banks feel their primary responsibility is to their shareholders. Boucher asks if there is a panic mentality, especially with regard to consumer spending. Fischer responds he is uncertain if anyone has reviewed consumer spending; savings have not gone down in the past two years. Fischer believes "the worst thing we could do is believe those who say the cancer will cure itself."

Rep. Miller asks how Fischer would "stop the leak" in the market. Fischer states he would concentrate on jobs as the best means of building the economy, especially those for the unemployed and underemployed, spreading the money as far as possible rather than creating a limited number of high paying positions. Fischer recommends "CCC type programs" and points out that the Alaska Conservation Corps is on the books now and would not require legislation. These would serve both urban and rural areas and provide many benefits. Fischer would eliminate substandard housing, improve neighborhoods, and eliminate 1,000 mobile homes. Fischer points out that University and senior housing needs could be met. Fischer suggests using Mental Health Trust funds for housing for mentally ill. Fischer points out that ASHA has long lists of applicants for low-income housing. He encourages AHFC consolidate condo projects, and the legislature could establish programs to provide low-interest loans for housing. Fischer states there are numerous methods of taking action.

Fischer believes AIDEA can assist in the situation. Fischer suggests capital infusion into the Alaska banks which would help small businesses.

Rep. Miller comments concerning creation of temporary jobs. Miller asks if extra rental units being removed from the market will stabilize the rent market, creating a "double whammy" on renters. Fischer responds the housing and commercial markets are not close to being stabilized and cites examples of use of vacant units. Regarding temporary vs. full time jobs, Fischer states that will fill the gap, but will not retard recovery.

Rep. Ulmer states she is struck by the contrast between testimony from Lee Gorsuch and others and that of Senator Fischer. Ulmer asks how long it will be before permanent jobs would replace temporary jobs, and for which kind of workers. Ulmer believes part of what we are experiencing is a necessary shrinkage, however painful. Fischer responds he believes Lee Gorsuch would argue that you should spend \$100 million to create 1,000 jobs; Fischer believes if leakage at the bottom is not stopped, there will be a continuing loss. Fischer again urges use of the Conservation Corps, especially in rural Alaska.

Sen. Josephson notes some recommendations are not in his report. Josephson expresses concern that there might be loss of more businesses, thus less competition, and result in increase in Consumer Price Index (CPI). Fischer responds that CPI is biased by housing and is not accurate. Fischer believes taxes would increase on those remaining, and quality of community services would decrease, requiring many adjustments.

Rep. Boucher refers to regionalization and phrases used. Boucher asks if we should consider protecting the state's credit line, and if there is a positive approach to this. Fischer responds he believes it can be done.

Rep. Rieger refers to testimony heard by the Housing & Banking Subcommittee and states the problem cannot be solved until there is growth outside of government. He suggests more emphasis in that regard. Fischer responds it is necessary to expand the economic base; that the report is not an economic plan. Rieger states economic recovery should be stressed.

Rep. Springer believes that there must be money from the private sector. Fischer gives figures for jobs created by CCC, stating \$1 million will create 200 seasonal jobs. Springer questions how this would impact the housing market.

TAPE TWO, SIDE ONE

Rep. Gruenberg discusses differences in the opinions of Vic Fischer and the testimony of Gregg Erickson that the unemployment rate was a good indicator of the economy. Gregg Erickson is invited to join the Committee. Gruenberg clarifies that there was a fundamental difference, and from that difference they diverged in their conclusions. Erickson responds there is a difference in the analysis, but the unemployment rate is not the measure of the economy he used. Gruenberg asks if unemployment is the obverse of employment. Erickson responds negatively; that there can be rising employment and rising unemployment at the same time, which is often the situation in Alaska during a boom. Gruenberg asks

to explore the differences in the opinions of the two learned economists. Fischer states he believes the basic difference is the employment, describing ISER as an indicator and how it functions in studying employment. Fischer cites the problem as there being more in the economy than merely employment, including bankruptcies, foreclosures, etc., which are not considered. Fischer believes the ISER analysis is correct, but does not go deep.

Erickson states he read the Fischer report, and Gruenberg asks that he focus on areas of disagreement, of agreement, and then take questions. Erickson describes the report as summed up in the statement that the fabric of the economy is wearing thin so that individuals and businesses are losing their capacity to absorb further losses (p. 69, Fischer report). Erickson states the figures he has seen do not show the downward spiral occurring. Erickson cites demographer reports as not seeing a mass exodus. Also, there is always a decline in Alaska employment during certain seasons. Erickson states he does not see in the report an explanation of how the bank failures and financial distress creates the loss of jobs, or an analysis of what type of jobs are being lost, or the "leak in the bottom of the glass." Erickson does agree with many of the features of the report. Erickson concurs with Fischer that large sums of general fund money would not be necessary or desirable.

Rep. Gruenberg states a graph is being copied for the Committee, and offers Fischer an opportunity to comment on statements by Erickson. Fischer responds that many points raised are valid, i.e., documentation, and states the time constraints made information gathering very difficult. Fischer states the interrelationship between bankruptcies and business failures and job losses and housing are matters of logic. Fischer states the report is a result of actual communication, and that statistics are not the only factors for consideration.

Rep. Boucher refers to page 5 of the Commonwealth North Report: "Using the Permanent Fund as a positive counter-cyclical force in the Alaska Economy" and cites need to develop a yardstick or an Alaska Economic Index that reflects Alaska's economy. Boucher suggests the economists could accomplish that to enable the Legislature to determine the performance of the economy. Erickson states he is in favor of giving thought to the economic issues, and agrees with Rep. Boucher. Erickson states economists are inclined to consider primarily jobs and income. Erickson states any index would be a subjective way of analyzing the situation. He states that income drives consumption, pointing out difficulties in obtaining some information are the reason

Joint Committee on Economic Recovery
House

March 9, 1988

Present: Representative Max Gruenberg, Chair
Representative Niilo Koponen
Representative Mike Navarre
Representative Fran Ulmer
Representative Red Boucher
Representative Mike Miller

Witnesses:

Malcolm Roberts and Loren Lounsbury of
Commonwealth North

TAPE ONE, SIDE ONE

Rep. Gruenberg calls the meeting to order and states the committee will hear from Loren Lounsbury and Malcolm Roberts of Commonwealth North. Gruenberg states the subject of the meeting is using the permanent fund as a positive counter-cyclical force in the Alaska economy. Gruenberg points out that the Committee is considering legislation for recommendation to the full Committee.

Loren Lounsbury describes Commonwealth North (CN) which was formed 10 years ago to study issues affecting Alaska, the Nation and the world. CN was founded by former governors Hickie and Egan. The report presented was not intended to be a short term solution to the current financial problems and concerns, but rather as a long term situation to avert the present short term problems. Lounsbury states the report is not intended to convey that it is set in concrete and the only solution available; it is a means to set down ideas and thoughts on how earnings of the permanent fund might be used to benefit the entire state. Lounsbury is not aware of any other organized plan on how to use those earnings, although there have been numerous other proposals for portions of the funds. This report addresses the entire earnings without touching the corpus of the fund.

Malcolm Roberts refers to meeting with David Chatfield and the Anchorage Caucus on February 18 when some elements of the study were outlined, and reviews the recommendations. Roberts extends regrets of Mr. Chatfield that he is out of the city