

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILE 8672

1680 SCOMM 66: HOUSE SPEC. COMM. ON TOURISM, 1989-1990

1248



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Jim Butler

Signature of Camera Operator

12/16/85

Date

SCOMM 66: HOUSE SPECIAL COMMITTEE ON TOURISM, 1989-1990

MEMBERSHIP:

REPRESENTATIVE DAVID FINKELSTEIN, CHAIR
REPRESENTATIVE JOHNNY ELLIS
REPRESENTATIVE RICHARD FOSTER
REPRESENTATIVE CURT MENARD
REPRESENTATIVE DICK SHULTZ
REPRESENTATIVE FRAN ULMER
REPRESENTATIVE JIM ZAWACKI

Established by HR 4, 1989 (HR 6).

Contents: 3 files. 7 tapes and minutes are also available of meetings 1/17/90 - 3/19/90.

LIST OF FILES (PAGE 1)

MICROFICHE #

1. HB 388
2. HB 442
3. HB 551

SCOMM

66:1

Original sponsor(s): REP. FINKELSTEIN, Ulmer

1 IN THE HOUSE BY THE HOUSE SPECIAL COMMITTEE ON TOURISM
2 CS FOR HOUSE BILL NO. 388 (Tour)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 SIXTEENTH LEGISLATURE - SECOND SESSION
5 A BILL

6 For an Act entitled: "An Act relating to the tourism revolving fund, and
7 deleting a prohibition against making loans from that
8 fund; and providing for an effective date."

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

10 * Section 1. AS 45.90.030(a) is amended to read:

11 (a) State participation in a loan to a business may not be more
12 than \$50,000 [\$3,000,000].

13 * Sec. 2. AS 45.90.030(b) is amended to read:

14 (b) The loan shall be secured by acceptable collateral and may
15 not exceed 90 [75] percent of the appraised value of the collateral
16 offered as security.

17 * Sec. 3. AS 45.90.030(c) is repealed and reenacted to read:

18 (c) [For a loan bearing a fixed rate of interest,] the rate of
19 interest charged by the department on a loan that is participated in
20 under this chapter may not exceed a rate that is two percent higher
21 than the prime rate of interest charged by the participating financial
22 institution on other loans made at the time when the loan was made.

23 * Sec. 4. AS 45.90.030(d) is repealed and reenacted to read:

24 (d) A loan in which the department participates under this
25 chapter must be participated in by a financial institution in an
26 amount of not less than 25 percent of the amount of the loan.

27 * Sec. 5. AS 45.90 is amended by adding a new section to read:

28 Sec. 45.90.035. RESTRUCTURING OF DEBT. With the concurrence of
29 the participating financial institution, the commissioner may

1 restructure a loan made under this chapter. The restructuring may
2 only include an extension of the term of the loan. The maximum term
3 of a loan modified under this section is _____ years from the date
4 of restructuring.

5 * Sec. 6. AS 45.90 is amended by adding a new section to read:

6 Sec. 45.90.900. DEFINITIONS. In this chapter

7 (1) "commissioner" means the commissioner of commerce and
8 economic development;

9 (2) "department" means the Department of Commerce and
10 Economic Development;

11 (3) "fund" means the tourism revolving fund established by
12 AS 45.90.010;

13 (4) "loan" means a loan to a person from the tourism re-
14 volving fund.

15 * Sec. 7. Section 71, ch. 106, SLA 1980 is amended to read:

16 Sec. 71. After July 1, 1981,

17 (1) a loan [NO FURTHER LOANS] may not be made under AS 16.-
18 10.310 and 16.10.320(a) except for a loan [LOANS] authorized under
19 AS 16.10.333 in accordance with [pursuant to] AS 16.10.310 and 16.-
20 10.320(a); and

21 (2) a loan [NO FURTHER LOANS] may not be made under
22 [AS 45.90.020,] AS 45.95.020 or [, AND] AS 26.15.040(3).

23 * Sec. 8. This Act takes effect July 1, 1990.
24
25
26
27
28
29

payments were out

STATE OF ALASKA THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

January 29, 1990

SUBJECT: Draft CSHB 388 (Tourism)

TO: Representative David Finkelstein, Chair
House Special Committee on Tourism
ATTN: Anne Garrett

FROM: Jack Chenoweth
Legislative Counsel 

A revised committee substitute is attached. In the matter of debt restructuring, I think it wiser to treat the matter as I have rather than as Mr. Winegar suggested. I have related in the provision that a debt may only be extended. This would omit other possible alternatives including, significantly, interest rate adjustments (though, perhaps the department would claim some "wiggle room" under existing AS 45.90.020(a)(4) with its reference to "amortization plans.") If you think, as I do, that it is important to include a maximum repayment extension period, please fill in the blank (page 2, line 3).

Look carefully at the first section of the draft. Given the ten percent mandatory minimum bank participation and that bill section 1 is drafted as a limitation on state participation, under the program revision a borrower could request a total loan equal to as much as \$55,555, with 90% to come from the state (\$50,000) and the balance from the participating financial institution. In other words, as this committee substitute is drafted, \$50,000 is not the effective loan ceiling.

not a problem for state

JBC:lmb
L9/078

Enclosure



SPECIAL COMMITTEE ON TOURISM

House of Representatives
Alaska State Legislature

P.O. Box V, Juneau, Alaska 99811
465-2435 • FAX (907) 465-2718

Rep. David Finkelstein, Chair
Rep. Johnny Ellis
Rep. Richard Foster
Rep. Curt Menard
Rep. Richard Shultz
Rep. Fran Ulmer
Rep. Jim Zawacki

January 31, 1990

To: Members of the Tourism Committee

From: David Finkelstein *DF*

Re: CS for HB 388 Relating to the Tourism Revolving Fund

This bill revives the Tourism Revolving Fund, and makes the following changes to the program:

- a. the state is authorized to make loans to businesses that directly provide goods or services, including tours, accommodations, transportation, and gifts, to tourists visiting the state
- b. bank participation in the loan is required in an amount of not less than 25 percent of the amount of the loan
- c. state participation in each loan may not exceed \$50,000
- d. the loan shall be secured by acceptable collateral and may not exceed 90 percent of the appraised value of the collateral offered as security
- e. the interest rate for the state's portion of the loan may not exceed the prime interest rate plus two percent
- f. the loan must be repaid within a maximum period of 20 years

DURING INTERIM:

3111 C Street, Anchorage, Alaska 99503
(907) 561-7626 • FAX (907) 562-4376

STATE OF ALASKA THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 2800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

January 19, 1990

SUBJECT: House Bill 388 - tourism loan amendments:
comparison to AHFC loan practices

TO: Representative David Finkelstein
ATTN: Anne Garrett

FROM: Jack Chenoweth
Legislative Counsel 

The critical and significant differences in approach between the revised tourism loan fund and the current loan practices of the Alaska Housing Finance Corporation appear to be as follows:

I

House Bill 388 authorizes the commissioner of commerce and economic development to purchase tourism-related loans made by commercial lending institutions. The legislation would require the initiating lender to retain at least 10 percent of the loan in its portfolio: the loan program would purchase the balance. The borrower's payments of principal and interest would be proportionally split. Loan collection and servicing would presumably remain with the lending institution originating the loan.

Alaska Housing Finance Corporation purchases residence-related loans made by commercial lending institutions. There is nothing to require the lending institution to retain a percentage of the loan in its portfolio, so my understanding is that AHFC may purchase the entire loan. Loan collection and servicing may be assigned.

II

The revised tourism loan program sheds the "revolving fund" language. Money repaid to the department to retire tourism-related loans would be deposited into the general fund.

Representative David Finkelstein
Page 2
January 19, 1990

Payments to AHFC are typically used to retire the revenue bonds initially issued to support the lending activity. Money surplus to the needs of the debt retirement obligations and not required for AHFC's reserves is presumably retained by the corporation in the housing finance revolving fund (AS 18.56.082) for other uses of the corporation.

JC;lmb
L9/063

Meeting with Pete Jeans on Tourism Revolving Loan Fund
(TRLF) on November 22, 1989

The most important question to decide is who will the
program serve?

one of the problems with the TRLF was that it
was set up to help people who had a good idea
but needed a little extra help financially;

after a few years TRLF mainly helped
people like Sheffield and Hickel expand their
business: we need to set the amount of the loan and the
purpose maybe, so that we help smaller people
instead of major companies who can expand w/o
state help

we discussed programs at \$100k max. loan amt. and
at \$25k max.; the clients would be very
different at each amount and I'm not sure where
the real need is; we might want to start smaller
than larger since it's easier to sell a smaller
program and easier to increase a program than reduce it

TRLF started out at \$100k and ended up at \$3 million;
it existed for 8 years and according to Pete would
still exist if they had wanted it to (despite what
others say about AIDA and recreational loans)

--this is one way to go with a new program--

loans applied for, serviced and administered through any
bank (Tom Pargeter at NBA may be another useful contact
since Pete used to work closely with him)

loan guidelines, financial criteria and other eligibility
factors would be assessed at the bank and then forwarded to
the state for final determination and overview; state would
purchase loan at closing

state could staff program with one staff person who
Pete felt would logically be within the Div. of
Investments since their function is to administer loan
programs

interest rate tied to current rate

this staff person would report to a 3-member board
composed of the Director of the Division of
Investments, the Director of the Division of
Tourism, and perhaps a member of the ATMC

this 3-member board would review applications to make sure all statutory guidelines were met, to make regulations as necessary, and to remove any pressure from staff regarding who receives and who doesn't receive loans (this was a major problem for TRLF since legislators whose friends were turned down got the staff and the program's life and budget in hot water)

Pete strongly felt that state should set a minimum level of bank participation in the loan (say 10, 20 or 25 percent)

banks should participate in the loan so that banks make only good loans (don't loan to friends, poor risks, etc.)

since the majority of the money loaned would be state money it would however be easier to qualify for loans

The program would be funded by an annual appropriation from the Legislature

loans would be granted on a first-come, first-serve basis and when money runs out, if it does, then applicants would have to wait until next year

there needs to be a limit on the amount of money that is loanable; Pete said he could have loaned the state Treasury if he wanted to; an annual appropriation would be such a limit (of course this makes the program vulnerable to politics)

SCOMM

66:2

JAN 22 '90 16:45 ATMC

P.1/4

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MEMORANDUM

To: Jeffrey W. Bush
Assistant Attorney General

From: Bob Miller *Bob Miller*
Executive Director

Date: January 22, 1990

Subject: FOI Request for Names Generated By
Alaska's Cooperative Marketing Program

Today Mr. Don Smith delivered to my office a formal request for all the names, addresses and demographic information resulting from Alaska's cooperative tourism marketing program. A copy of his letter is attached.

The request poses a bit of a quandary for me, which I am writing to explain.

The Alaska Tourism Marketing Council (ATMC) is aware of the informal opinion you rendered in this matter in your January 10, 1990, response to Rep. H. A. "Red" Boucher, but at its last meeting in Juneau on January 18, 1990, the Council clearly disagreed with your findings and unanimously passed the following resolution:

"The ATMC urges the Administration and the Legislature to proceed expeditiously with revisions to the ATMC enabling statute which will declare that:

1. All information collected by the ATMC is a product of the cooperative marketing program;
2. All products of the cooperative marketing program are the property of the Council; and
3. Granting distribution rights to all products of the cooperative marketing program is the exclusive right of the Council."

In view of the Council's opinion that the rames constitute a product that is the result of considerable investment, and if there were not the opinion of January 10, 1990, I would be comfortable in denying the request, but under the circumstances, I thought I should bring it to your attention.

I should also point out that Mr. Smith is a subcontractor to AKA Media Services in Portland, which holds the ATMC's fulfillment contract. Mr. Smith's firm in Anchorage is responsible for data entry on all the BRCs generated by ATMC advertisements. In turn, he sends the tapes to Portland where labels are produced and the mailings are prepared. I doubt if this arrangement poses a problem, but I thought you should be aware of it in case his role as a subcontractor poses a conflict in any way.

We have 10 working days in which to respond to Mr. Smith's request.

Attachment

cc: Douglas Baily, Attorney General
Dana Brockway
Members, ATMC Planning Committee

JAN 22 '90 16:46 ATMC

P.3/4

Smith Enterprises, Inc.

Donald L. Smith
President

Kollette Schroeder
Secretary/Treasurer

The Printin' Place
Impressions
Smith Computer Services
The Old Anchorage Salmon Bake

January 22, 1990

Mr. Robert Miller
Executive Director
Alaska Tourism Marketing Council
3601 C Street
Anchorage, Alaska 99503

Dear Bob,

I would like to purchase from your agency all of the names, addresses and demographic information resulting from the Alaska Tourism Advertising campaign.

Specifically, I would like a computer tape with all of the records from batch C0001 thru C2204, T0001 thru T0330 and all of the names generated from the special fish BRC.

I have purchased State of Alaska public records in the past and the Alaska Voter Registration names sells for approximately 59 cents per thousand. This request for the Alaska Tourism names should produce about 320,000 names and I would assume would cost under \$200.00 to copy.

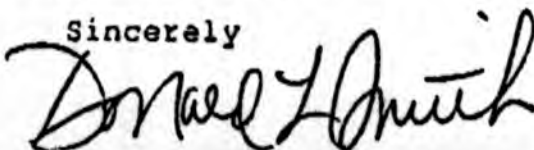
I have several of my Tourism Co-op Mailers waiting to be mailed and need these names as soon as possible.

I am ordering these names based on an Attorney General's opinion dated January 10, 1990 and numbered 663-90-0214.

I realize that there are some individuals who may try and stop citizens from requesting this public information. I sincerely believe that the opinion released by the Attorney General is a correct one and that these names must be made available to me as soon as practicable, but not later than the 10th working day after the date your office receives this request.

I'll be looking forward to hearing when I can pick up the tapes and how much the copy charges will be.

Sincerely



STATE OF ALASKA
DEPARTMENT OF COMMERCE
& ECONOMIC DEVELOPMENT

JAN 22 1990

TOURISM
COUNCIL

A

T



C

January 22, 1990

The Honorable Sam Cotten
Speaker of the House
P. O. Box V
Juneau, Alaska 99811

Dear Speaker Cotten:

The Alaska Tourism Marketing Council unanimously passed two resolutions at its January 18, 1990, meeting in Juneau, and asked that I bring them to your attention.

The first addresses the names generated by the cooperative tourism marketing program, and asks that the ATMC enabling statute be revised to exempt the names from the terms of the Freedom of Information Act. The Council considers the names to be the product of considerable investment, and urges that they be considered the property of the Council.

The second addresses infrastructure development in Alaska, specifically the proposed Seibu development at Alyeska Ski Resort.

Copies of both resolutions are attached for your information. Please call me if you have questions or would like additional information.

Sincerely,

Bob Miller
Executive Director

Attachments

cc: House of Representatives

ALASKA TOURISM MARKETING COUNCIL
Frontier Building
3601 C Street, Suite 700
Anchorage, Alaska 99503
(907) 563-2289
(907) 563-3575 (FAX)



ATMC RESOLUTION IN FAVOR OF INFRASTRUCTURE DEVELOPMENT

The Alaska Tourism Marketing Council encourages the Governor and the Legislature to include \$6.1 million in the 1991 capital budget to meet the growing infrastructure needs of Southcentral Alaska and for the support of Alaska tourism in general.

Passed unanimously January 18, 1990, Juneau, Alaska.

ALASKA TOURISM MARKETING COUNCIL
Frontier Building
3601 C Street, Suite 700
Anchorage, Alaska 99503
(907) 563-2289
(907) 563-3575 (FAX)

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ATMC RESOLUTION TO PROTECT NAMES AND OTHER PRODUCTS
OF COOPERATIVE TOURISM MARKETING PROGRAM

The Alaska Tourism Marketing Council urges the Administration and the Legislature to proceed expeditiously with revisions to the ATMC enabling statute which will declare that

1. All information collected by the ATMC is a product of the cooperative marketing program;
2. All products of the cooperative marketing program are the property of the Council; and
3. Granting distribution rights to all products of the cooperative marketing program is the exclusive right of the Council.

Passed unanimously January 18, 1990, Juneau, Alaska.

ALASKA TOURISM MARKETING COUNCIL
Frontier Building
3601 C Street, Suite 700
Anchorage, Alaska 99503
(907) 563-2289
(907) 563-3575 (FAX)



Southeast Alaska Tourism Council

"representing Southeast Alaska and our Canadian neighbors"

P.O. Box 20710 Juneau, Alaska 99802-0710 (907) 586-4777 FAX: (907) 463-4961

January 25, 1990

The Honorable David Finkelstein
Chairman, House Special Committee on Tourism
Rm. 607, Court
PO Box V
Juneau, AK 99811

Dear Representative Finkelstein,

The Southeast Alaska Tourism Council supports the Alaska Tourism Marketing Council's resolution to protect names and other products of the Cooperative Tourism Marketing Program, just introduced. We further urge the administration and the legislature to proceed expeditiously with revisions as indicated by the resolution:

ATMC RESOLUTION TO PROTECT NAMES AND OTHER PRODUCTS OF COOPERATIVE TOURISM MARKETING PROGRAM

1. All information collected by the ATMC is a product of the cooperative marketing program:
2. All products of the cooperative marketing program are the property of the Council; and
3. Granting distribution rights to all products of the cooperative marketing program is the exclusive right of the Council.

This was passed unanimously January 24, 1990 in Juneau by the SATC Board Members. Your action on this matter would be most appreciated.

Sincerely,

Chip Waterbury
President



HOUSE COMMITTEE REPORT

(7)

Date Referred: January 24, 1990

FURTHER REFERRALS:

LABOR & COMMERCE

Date of Committee Action: _____

The House Special Committee on Tourism considered:

HB 442

HOUSE BILL NO. 442

ALASKA TOURISM MARKETING COUNCIL

"An Act relating to the Alaska Tourism Marketing Council; and providing for an effective date."

RECOMMENDATIONS:

☒ be replaced with CS HB 442

☒ the same title
☐ a new title

☐ have attached amendment(s)

☐ do pass

☐ do not pass

☐ no recommendation

☐ individual recommendations

☐ additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(s):
(Dept)

APPROVES PREVIOUS:

(Date/Dept)

☐ fiscal impact _____

☐ fiscal note(s) _____

☐ zero fiscal note _____

☐ zero fiscal note(s) _____

☐ zero with analysis _____

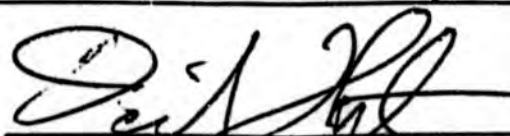
☐ zero fn/analysis _____

SIGNING DO PASS:

SIGNING:

(Check approp. column)

Do Not
Pass
No Rec
Amend


Chairman's Signature

STATE LEGISLATURE

ture 2nd ..Session

..... NO. ...442

PECIAL COMMITTEE
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ing to the Alaska
ting Council; and
ar effective date."

HISTORY IN THE HOUSE

19 90

Jan 24

Read first time and referred
to Committee on

TOURISM, L&C,

Reported back with
recommendation that

Read second time and

Read third time and

PASSED

Yeas

Nays

Excused

Absent

Effective Date

Yeas

Nays

Excused

Absent

Reconsideration

Reconsideration not taken up

PASSED

Yeas

Nays

Excused

Absent

Effective Date

Yeas

Nays

Excused

Absent

Reported correctly engrossed

Signed by Speaker

Sent to Senate

HISTORY IN THE SENATE

19

Read first time and referred
to Committee on

Reported back with
recommendation that

Read second time and

Read third time and

PASSED

Yeas

Nays

Excused

Absent

Effective Date

Yeas

Nays

Excused

Absent

Reconsideration

Reconsideration not taken up

PASSED

Yeas

Nays

Excused

Absent

Effective Date

Yeas

Nays

Excused

Absent

Reported correctly engrossed

Signed by President

Returned to House

HISTORY IN THE SENATE

19

Receive

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FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Relating to the Alaska Tourism
Marketing Council; and providing an effective date.
Sponsor: House Spec. Comm. on Tourism
Requestor: House Spec. Comm. on Tourism

Agency Affected: Commerce & Economic Dev.
BRU: Alaska Tourism Marketing Council
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Passage will not increase FY90 expenses.

Prepared by: Robert Miller, Executive Director
Division: Alaska Tourism Marketing Council

Phone: 563-2239
Date: January 26, 1990

Approved by Commissioner: [Signature]
Agency: Department of Commerce & Economic Development

Date: 1/26/90

Distribution (by preparer):

Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

1-29-90

CS for HB 442 Relating to the Alaska Tourism Marketing Council

The purpose of this legislation is to clarify provisions in the statutes relating to the Alaska Tourism Marketing Council and the cooperative marketing program.

- 1) The bill makes it clear that the members of the qualified trade association (the Alaska Visitors Association is currently the qualified trade association) are not barred from voting on matters that might benefit the trade association. Many members of the ATMC are actively involved in some tourism or tourism-related industry, they are also members of AVA. Ethics statutes are not violated and denying these members of the ATMC the ability to vote on matters benefitting AVA would cripple the cooperative marketing program.
- 2) The bill clarifies the original intent of the legislature to grant exclusive rights to distribute tourism mailing lists developed by the ATMC to the qualified trade association.
- 3) The bill further clarifies the original intent of the legislature that marketing information and data generated by the ATMC, including tourism mailing lists containing consumer names, addresses, and demographic information are not public writings or records under public records statutes.
- 4) The bill requires that funds obtained by the qualified trade association from the sale of space in publications and promotional materials and from the sale of mailing labels be transferred to the ATMC for deposit in the General Fund. The trade association may use this General Fund deposit as part of its contribution to the marketing program.

SECTIONAL ANALYSIS OF AN ACT RELATING
TO THE ALASKA TOURISM MARKETING COUNCIL
GROSS & BURKE DRAFT - 1/22/90

The purpose of this legislation is to clarify provisions in the statutes relating to the Alaska Tourism Marketing Council (ATMC) and the cooperative tourism marketing program. While the original intent of the legislature that enacted these statutes in 1988 is clear to many, a number of questions have nonetheless arisen concerning the proper interpretation of several provisions. These questions concern matters that are critical to the continued successful functioning of the cooperative marketing program. The clarifying amendments are as follows:

Section 1 of the bill would make it clear that the provisions of the ethics statutes (AS 39.52) do not bar those members of the ATMC who are also members of the Alaska Visitors Association -- the "qualified trade association" that currently contracts with the Department of Commerce for joint management of the ATMC -- from voting on matters that might benefit the qualified trade association. For instance, the ATMC might vote to provide space to the AVA in publications or promotional material, which is something that the statutes clearly contemplate. Yet a strict reading of the provisions of AS 39.52 might suggest that members of AVA could not vote on the issue, since it would "benefit"

AVA. Since many members of the ATMC are actively involved in some tourism or tourism-related industry, they are also members of AVA. Denying these members of the ATMC the ability to vote on matters "benefitting" AVA would cripple the ATMC's ability to effectively pursue the cooperative marketing program.

Section 2 of the bill would delete the language from AS 44.33.715(a)(2) that relates to tourism mailing lists. Subparagraph (2) is primarily concerned with granting the ATMC the power to adopt bylaws, and the reference to the granting of rights to tourism mailing lists in this subparagraph is inappropriate. A new provision has been drafted to deal with these mailing lists. (See Section 3 of the bill).

Section 3 of the bill adds a subparagraph to AS 44.33.715(a). This new subparagraph 14 clearly grants to the ATMC the power to grant exclusive rights to distribute tourism mailing lists developed by the council to the qualified trade association that is under contract for joint management of the ATMC. Questions have been raised as to whether the ATMC currently has the authority under the public records act to grant "exclusive" rights to distribute the mailing lists.

Section 4 of the bill would add two new subsections to AS 44.33.715. Subsection (c) would make it clear that

marketing information and data generated by the ATMC, including tourism mailing lists containing consumer names, addresses, and demographic information are not public writings or records under the public records statutes. Questions have recently been raised concerning general public access to the mailing lists. Historically, as part the cooperative marketing program (both under the ATMC as well as under prior law governing that program), the AVA has been able to sell the mailing lists to Alaska tourism businesses and to use the proceeds of those sales as part of its contribution to the overall marketing effort. Making it clear that the tourism mailing lists and other sensitive marketing information are not public records will merely preserve the status quo. Similarly, the new subsection (d) contained in Section 4 of the bill would make it clear that proceeds from the sale of mailing labels and from the sale of advertising space in ATMC publications may be used by AVA as part of its contribution to the marketing program [excluding, of course, the pro rata share of production costs that AVA is responsible for under the provisions of AS 44.33.715(a)(13)]. While these matters are currently covered in the contract between AVA and the Department of Commerce for joint management of the ATMC, they are so critical to the continued functioning of the cooperative

LAW OFFICES
GROSS & BURKE
A PROFESSIONAL CORPORATION
424 NORTH FRANKLIN STREET
JUNEAU, ALASKA 99801

AVRUM M. GROSS
SUSAN A. BURKE

907) 586-2777

January 16, 1990

Mr. Robert Dindinger, President
Alaska Visitors Association
501 W. Northern Lights Blvd., Suite 201
Anchorage, Alaska 99503

Re: Informal Attorney General's Opinion of
January 10, 1990; File No. 663-90-0214

Dear Mr. Dindinger:

You have asked us to review the above referenced informal Attorney General's opinion, which addresses the issue of whether tourism mailing lists developed by the Alaska Tourism Marketing Council (ATMC) are public records under Alaska's public records statute. 1/ Specifically, the opinion concludes that these mailing lists are public records and must be made available at cost to any person who requests them. The opinion goes on to advise that the ATMC's prior practice of granting to the Alaska Visitors Association (AVA) the exclusive right to distribute these

1/ AS 09.25.110 provides:

Unless specifically provided otherwise, the books, records, papers, files, accounts, writings, and transactions of all agencies and departments are public records and are open to inspection by the public under reasonable rules during regular office hours. The public officer having the custody of public records shall give on request and payment of costs a certified copy of the public record.

mailing lists does not comport with the requirements of the public records statute.

We have reviewed this opinion, and with all due respect to its author, we have concluded that the tourism mailing lists are not subject to the public records statute. That statute provides that all records are public "[u]nless specifically provided otherwise." In our view, the language of the 1988 legislation establishing the ATMC makes a clear exception to the public records law for tourism mailing lists. This view is strongly supported by the fact that the Department of Commerce and Economic Development made the same interpretation soon after the legislation was enacted. In addition, there are strong state policies favoring this interpretation.

AS 44.33.715(a)(2) provides that the ATMC board may

prescribe, adopt, amend, and repeal
bylaws relating to the internal
management and operations of the
council, including the granting of
distribution rights to tourism mailing
lists.

By allowing the ATMC to grant "rights" to distribute tourism mailing lists, the legislature obviously intended that the ATMC has discretion to grant these distribution rights to some and deny those same rights to others. This explicit provision, restricting general public access to the mailing lists, is irreconcilably in conflict with the provisions of the public records statute that confer on all members of the

public the right of access to "public records." Thus, by use of the phrase "granting of distribution rights" in connection with these mailing lists and restricting general public access to them, the legislature necessarily viewed these lists as being different from "public records. 2/

Equally important, if the legislature had intended that the mailing lists should be made available for general public access, then there would have been no purpose to be served by the language in the statute permitting the ATMC to grant rights to distribute the lists. The public records statute already grants to the general public the right to inspect, copy and even distribute "public records." Unless this language is interpreted as providing an exception to the general access provisions of the public records statutes, then the language is rendered totally superfluous. The Alaska Supreme Court has consistently ruled that

2/ There is one other indication in the statutes that the legislature intended to treat tourism mailing lists differently from "public records" under the public records statutes. AS 09.25.110 provides that "public records" are to be made available for copying "on . . . payment of costs." By contrast, AS 44.33.715(a)(12) specifically permits the ATMC to sell both advertising space and "promotional materials" at "fair market value." Since the tourism mailing lists are an integral part of the ATMC's "promotional materials," the legislature clearly gave the ATMC the authority to sell these lists at "fair market value" (assuming the ATMC did not grant distribution rights to the lists to some other entity). If the legislature had intended these lists to be "public records" it would not have expressly provided for different treatment from the treatment provided to "public records," which may not be "sold" at "fair market value."

statutes should be construed so that no provision is rendered superfluous or without purpose. Alascom v. North Slope Borough, 659 P.2d 1175, 1178 & n. 5 (Alaska 1983); City of Homer v. Gangl, 650 P.2d 396, 399 (Alaska 1982); City and Borough of Juneau v. Thibodeau, 595 P.2d 626, 634 (Alaska 1979); Christie v. State, 580 P.2d 310, 319 n. 29 (Alaska 1978); Isakson v. Rickey, 550 P.2d 359, 364 (Alaska 1976). Based on this authority, we conclude that the legislature intended that tourism mailing lists are an exception to the provisions of the public records statutes.

Courts also give weight to the "contemporaneous construction" given to a statute by the agency charged with its administration. 3/ Immediately after the enactment of the ATMC statutes, the Department of Commerce and Economic Development entered into a contract with AVA for joint management of the ATMC. 4/ Part of that contract concerns the manner in which AVA may raise money towards its required 15 percent contribution; Paragraph 4(h) of the contract permits AVA to raise such funds from the sale of mailing lists "for which the [ATMC] Council has granted AVA distribution rights . . ." Thus the Department of Commerce

3/ Sutherland, Statutory Construction, sec. 49.01, at 347-48.

4/ AS 44.33.705(b) provides that the Commissioner of Commerce may contract with a "single qualified trade association to jointly manage the council" if the trade association agrees to contribute at least 15 percent of the total operating of the council for each fiscal year.

Mr. Robert Dindiger
January 16, 1990
Page -5-

held the view that under AS 44.33.715(a)(2), the right of access to mailing lists could be restricted and that AVA could sell those mailing lists as one way to raise funds for its 15 percent contribution to the cooperative marketing program. The ATMC held a similar view, since it voted to grant the distribution rights to AVA. Moreover, while this interpretation has stood for only a year and a half, it is consistent with similar practice of long standing by the Division of Tourism. Prior to the enactment of the statutes establishing the ATMC, the Division of Tourism had for many years joined with the AVA in a less formal cooperative tourism marketing program. Under that program the AVA was given exclusive access to the mailing lists. Thus the Division of Tourism has long been of the view that these mailing lists are not public records -- even without the explicit statutory reference that is now contained in AS 44.33.715(a)(2). That specific statutory reference to "granting distribution rights to tourism mailing lists" serves only to reinforce the Division's previous interpretation of the public records law.

Faced with competing interpretations, courts will generally defer to prior agency interpretation and practice, particularly where the agency's interpretation is consistent with the overall purposes and policies of the entire statutory scheme. 5/ The policies favoring restricted

access to tourism mailing lists are perfectly consistent with the overall purpose of the ATMC -- to foster the promotion of Alaska as a tourism destination -- and far outweigh any competing policies favoring unlimited access. For instance, if the mailing lists are made available generally, it means that they will be available to those who wish to lure people to destinations other than Alaska. This includes the tourism agencies of other states and countries, as well as private business entities located outside Alaska. In addition, allowing unlimited access to the mailing lists would permit non-tourism businesses to use the mailing lists. People who respond to Alaska tourism advertisements will be flooded with unrelated "junk" mail, and Alaska's tourism image will be damaged in the minds of potential Alaska visitors. One might argue, of course, that making the lists available to everyone will only serve to increase the promotion of Alaska as a tourist destination. However, the cost of the mailing lists (and the pre-printed mailing labels that are currently prepared under contract with the ATMC) is only a small part of the overall cost of undertaking such a direct mail promotion. The cost of the mailing lists is vastly outstripped by design and printing costs, to say nothing of the actual postage costs. It is therefore unlikely that providing the mailing lists "at

5/ Sutherland, Statutory Construction, sec. 49.04, at 357.

cost" will have any substantial effect on increasing the number of Alaska promotional materials that are distributed. However, there is a real and substantial danger that providing access to the mailing lists "at cost" to major non-Alaska tourism promoters (most of whom have already prepared a large number of promotional materials) will increase the distribution of materials promoting destinations other than Alaska.

In conclusion, the issue to us is whether the legislature has "specifically provided" that tourism mailing lists are not public records. 6/ We think the language of AS 44.33.715(a)(2) providing for grants by the ATMC of "distribution rights to tourism mailing lists" accomplishes this purpose. There is no question that the legislature could have used more explicit language. Currently this is an issue that can make or break the cooperative tourism marketing program, in which case the state not only loses the 15 percent matching contribution from the tourism

6/ The informal Attorney General's opinion does not expressly address this issue. That opinion primarily focuses on the question of whether the mailing lists are public records even though they are generated by and are in the possession of a private business under contract with ATMC. In our view that is not the critical issue. We do not disagree with the opinion to the extent that it suggests that a state agency cannot circumvent the provisions of the public records statutes simply by contracting with a private business to perform some state function. However, the issue in this instance is whether these records were ever intended to be "public records" in the first place, regardless of whether they are in the hands of the ATMC or in the hands of a private contractor.

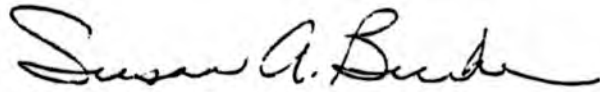
Mr. Robert Dindiger
January 16, 1990
Page -8-

industry, 7/ it also loses the marketing expertise provided by the members of the ATMC -- expertise that would cost a great deal of money to duplicate. If the legislature and the administration wish to lay this issue completely to rest, they may want to consider some clarifying amendments to the statute. 8/

Please let us know if we can provide any further information on this subject.

Very truly yours,

GROSS & BURKE


Susan A. Burke

SAB:ps

7/ The sale of mailing lists, both historically and currently, provides a significant portion of AVA's 15 percent contribution to the program. While alternative sources of funds could perhaps be developed, it would take a great deal of time and effort to do so. In the meantime, AVA would be unable to continue with the existing cooperative program.

8/ We also note that AS 44.33.715(a)(2) contemplates that the ATMC will adopt a bylaw relating to the granting of distribution rights to tourism mailing lists. If the ATMC has not already done so, we recommend that it adopt such a bylaw.

Testimony to the House Special Committee on Tourism

January 29, 1990

Good afternoon. My name is Tom Garrett. I am President of the Juneau Convention & Visitors Bureau and I am testifying today on behalf of the Southeast Alaska Tourism Council in support of HB 442.

Tourism is big business in Southeast Alaska. 70% of all Alaskan pleasure visitors spend part of their trip in Southeast and when they leave, they have left behind \$74 million dollars. SATC was formed to increase independent visitation to our region and to increase the economic impact of tourism. The organization is the state's oldest and largest regional tourism marketing organization and its membership includes seven southeast Alaskan cities, 38 private sector marketing partners and 101 member businesses.

Each year, SATC spends more than \$450,000 promoting our region. We purchase an ad in the Vacation Planner. We produce a four-color brochure which we mail to potential visitors and we buy large quantities of labels based on responses to the ATMC advertising campaign.

A few years ago we had two ways of generating names of potential visitors: we advertised in consumer magazines and we purchased labels from the vacation planner list. GMA Research recently concluded a conversion study which looked at the efficacy of each method and the results were clear: it is much more efficient for us to mail to the

Testimony to the House Special Committee on Tourism, page 3

-- We don't have to worry that our message will be lost in a mind-boggling deluge of junk mail and bogus sweepstakes special offers.

SATC believes that the legislature should take any and all actions necessary to preserve the cooperative marketing program. During the first eleven years of its existence, the cooperative marketing program made Alaska the envy of the tourism world. Even today, there is only one other state in the union with a program similar to ours -- Hawaii.

However, the past two years have seen an increasing amount of energy directed just at keeping the program together. Instead of being proactive about promoting Alaska, we are being reactive about defending the cooperative marketing program.

HB442 addresses all of the poltergeists that have been threatening the continued existence of this program and the legislation does so in a clear and direct fashion.

One issue in this legislation deserves special comment -- the question of access to the vacation planner list and the public's right to know.

We believe that the intent of public disclosure laws was to protect the people of Alaska from its government. The law guarantees citizens an open door, or at least a window, into the workings of state government so that at no time will the state take any action affecting its citizens without their knowledge.

However, it was not the intent of the public disclosure law to give away the farm.

Testimony to the House Special Committee on Tourism, page 5

cooperative marketing program and have asked you to adopt legislation which will lay these questions to rest once and for all.

SATC believes strongly that the vacation planner respondent list is a product of the cooperative marketing program and cannot be separated from it without the destruction of the entire program and the loss of a valuable public/private partnership.

We urge you to take quick action on HB442 and to pass it out of committee with a "Do Pass" recommendation so that we can get on with the business of promoting Alaska as a visitor destination.

Thank you.

R E V E N U E S I D E O N L Y

FY 89 Alaska Tourism Marketing Council

General Fund	6,461,100.00
Postage	12,283.00 *
Labels (\$.30 ea.)	48,536.00
AVA (15%)	1,079,716.00
 Total	 7,601,635.00

* Div. of Tourism offered 1st class mail service for Vact. Planner return mail if applicant sent \$2.00. \$12K was generated this way. FY 90 budget does not show this revenue since program was discontinued. Program was revenue neutral but a lot of extra work for staff to manually pull the 1st class mailers out of the system.

FY 90 Alaska Tourism Marketing Council/BUDGETED ONLY

General Fund	6,549,600.00 *
Labels (\$.15 ea.)	17,400.00 **
AVA (15%)	1,155,800.00
Pro-rata portion from Vact Plan	81,248.00 ***
 Total	 7,804,048.00

* This figure does not include \$406,000.00, which was part of GF appropriation but was RSA'd to Div. of Tourism for research.

** This figure is lower due to a change in the pricing structure for labels & ads. For FY 90, advertisers got more free labels with each ad they purchased and ad prices went up. This is not a loss but a shift from label to ad revenue. This figure is only budgeted and does not reflect reduction in price per label.

*** FY 90 was the first year that AVA handled the sale of ads in the Vacation Planner. The state still pays for the printing and all other costs of producing the Planner but AVA receives revenue from ad sales. This \$81k is a payment from AVA to the state for each page where AVA has sold an ad since the state has paid all printing, etc. costs for the production of the Planner.

(Information provided by Kim Andrews of the Division of Tourism, who does the books for ATMC and Tom Garrett, ATMC Board member)

ATMC budget for FY 89

E x p e n s e s

Admin.	243,000	
Misc. (start up, etc.)	119,000	
Media	5,319,058	
PR (Bradley)	288,247	
Fullfillment (respond to Vact plan. inquiry)	675,000	
Research (conversion study)	180,000	
Collateral (Print/produce VP)	764,612	
Total	7,601,737	(smaller than total for revenue since \$11,000 lapsed)



ALASKA VISITORS ASSOCIATION

501 West Northern Lights, Suite 201 • Anchorage, Alaska 99503

Tel: (907) 276-6663 • Fax: (907) 258-4036

1989-90

Executive Officers

President

Robert Dindinger

Alaska Travel Adventures
Juneau, Alaska

1st Vice-President

Ray Pedersen

Princess Tours
Seattle, Washington

2nd Vice-President

Bob Berto

Southeast Stevedoring
Ketchikan, Alaska

Vice-President/
Government Relations

Robert Jacobsen

Wings of Alaska
Juneau, Alaska

Secretary

Terry Underwood

Holland America
Line-Westours
Seattle, Washington

Treasurer

Cheri McGuire

Quinnat Landing Hotel
King Salmon, Alaska

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MarkAir

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Alaska Riverboat
Discovery

Dennis Brandon

Westmark Hotels

Tom Dow

NANA/Tour Arctic

Bill Elander

Anchorage Convention
& Visitors Bureau

Bob Engelbrecht

TEMSCO Helicopters

Janet Halvarson

Fairbanks Convention
& Visitors Bureau

Tim Kirschbaum

Kirschbaum Corporate
Marketing

Len Laurance

Salmon Falls Resort

Lynn Leary

Frontier Flying Service

Alan LeMaster

Gakona Junction Village

John Litten

Sitka Tours

Linda McLaughlin

Delta Airlines

Ralph Nestor

Travel Industry
Management, UAF

David Palmer

Alaska Airlines

Brad Phillips

Phillips Cruises & Tours

Tom Watson

Kodiak Island Convention
& Visitors Bureau

Richard West

Alaska Sightseeing

Karen Cowart

Executive Director

February 22, 1990

The Honorable David Finkelstein

Alaska State Legislature

P.O. Box V (MS 3100)

Juneau, Alaska 99801

Dear Representative *David* Finkelstein:

The Alaska tourism industry recognizes the dedication and energy you put forth by sponsoring and successfully passing HB 422 which dealt with the sale and distribution rights to the tourism mailing list generated by the Alaska Tourism Marketing Council program.

You addressed each concern brought forth, educating your fellow legislators the value of the tourism mailing lists and their overall importance to the continuation of the marketing program.

We sincerely thank you for your successful efforts and look forward to working with you in the future.

Should you need information and assistance on any tourism matter, don't hesitate to contact me or the staff at the Alaska Visitors Association.

Sincerely,

Bob
Robert Dindinger
President

cc: AVA Board of Directors



SPECIAL COMMITTEE ON TOURISM

House of Representatives
Alaska State Legislature

P.O. Box V, Juneau, Alaska 99811
465-2435 • FAX (907) 465-2718

Rep. David Finkelstein, Chair
Rep. Johnny Ellis
Rep. Richard Foster
Rep. Curt Menard
Rep. Richard Shultz
Rep. Fran Ulmer
Rep. Jim Zawacki

March 20, 1990

To: Senate Labor and Commerce Committee members
From: David Finkelstein *DF*
Re: CS HB 442 (L & C) am, relating to the Alaska Tourism Marketing Council

The House version of HB 442 addresses three issues that surfaced recently with regard to provisions in ATMC's enabling law. This legislation will allow the ATMC to continue operating under their current policies.

1) Should ATMC board members, whose businesses are also members of the "qualified trade association," be barred from active participation on matters that might benefit the association?

The House version of HB 442 makes it clear that such activity is not prohibited under the ethics law (AS 39.52). The law allows ATMC to take action (such as providing space to the qualified trade association in publications and promotional material) which might be construed to be of benefit to the association. Denying members of the association the ability to vote on matters "benefitting" the association would cripple the ATMC's ability to effectively pursue the state's cooperative marketing program. HB 442 does require that any potential conflict be made part of the public record.

2) Should the ATMC be able to grant exclusive distribution rights for marketing information produced by the program?

Current law (AS 44.33.715 (a) (2)) provides that the ATMC board may:

"prescribe, adopt, amend, and repeal bylaws relating to the internal management and operations of the council, including the granting of distribution rights to tourism mailing lists."

DURING INTERIM:

3111 C Street, Anchorage, Alaska 99503
(907) 561-7626 • FAX (907) 562-4376

The House version of HB 442 clarifies the original intent of the Legislature by making it more explicit that the distribution rights for tourism mailing lists granted by ATMC are exclusive.

3) How should monies raised through the cooperative marketing program be handled by the trade association?

The exact procedure for the management of funds raised by the qualified trade association from their participation in the cooperative marketing program is not dealt with in the law. HB 442 provides that funds obtained by the qualified trade association from the sale of space in publications and promotional materials and from the sale of mailing labels will be transferred to the ATMC for deposit in the General Fund. The trade association receives credit for this deposit towards the satisfaction of its required contribution to the cooperative marketing program.

The continuation of Alaska's cooperative tourism marketing program depends on these amendments. Thank you for your consideration.

Smith Enterprises, Inc.

Donald L. Smith
President

Kellette Schroeder
Secretary/Treasurer

March 20, 1990

The Pavilion Place
Impressions
Smith Computer Services
The Old Anchorage Salmon Bake

TO: Senate Labor & Commerce Committee
RE: House Bill 442

I would strongly urge you to vote against HB 442.

The reason HB 442 is before you is because on January 10th of this year the Attorney General issued an opinion which indicated that the Visitor Mailing List is a public record and as such must be made available to the public at cost.

I realize that millions of State dollars are spent each year to develop these names. No different I might add than the millions spent to maintain and up-date voter files, business licenses mailing lists and other State data bases which by law are made available to the public at cost.

HB 442 is being fast tracked through the Legislature so that the MONOPOLY held by a handful of outside travel companies for the past several years can be maintained!

The losers are the THOUSANDS of small Alaskan Tourism businesses who cannot afford to make use of the lists because of their costs. The smoke screen being used that Hawaii would use these names is phoney. This is just a basic list of responses to the State Ad campaign and simply are names of people who have indicated an interest in possibly visiting Alaska.

How ironic that a FEW outside travel firms can exercise such influence!

These massive companies with their ships, hotels, railroad cars and buses can tie up ALL the Alaska Tourism business and then parcel it out to the local Alaskan Tourism firms IF they are willing to pay a 20% FINDER FEE.

Up until November of last year the AVA sold the visitor lists for \$300.00 per thousand - that's 30 cents per name! How would you like to pay 30 cents per name so you could mail out a newsletter to voters in your district?

Page Two

In October last year I raised Hell and they (the AVA Board) agreed to lower the rate to \$150.00 per thousand. They feared a challenge under Freedom of Information. \$150.00 per thousand is really still too high but a lot better than \$300.00 per thousand. I might add that \$150.00 per thousand is still one of the most expensive lists in the United States. You wouldn't pay that much for a list of names of the Presidents of the Fortune 500 companies.

The Alaska Travel Planner should have a stand alone advertising rate that reflects the value of what the an ad is worth. Today the large outside travel companies pay \$174,000 for a two page ad in the planner. Over 700,000 planners are distributed each year and I would guess that each has a readership of 3 or 4 people. This means that a two page ad costs between 4 cents and 8 cents per person looking at the planner. I'll bet that's not considered a bad ratio in the industry.

The gimmick being used to limit access to the visitor names is that advertisers are being given a label for each dollar of advertising placed in the planner. This lets the large outside travel companies have access to the best names and through prohibitive pricing keeps the small Alaskan tourism firms from utilizing or only mailing to a very small number of names.

Imagine what would happen if several hundred Alaskan firms were able to afford to mail out their promotional literature to the visitor names. My guess is that we would see a lot more people coming up here as well as seeing more independent travelers.

Independent travelers spend more money and generally would stay in the state longer. These people would be coming up to stay in Lodges, Bed & Breakfasts and other Alaskan facilities. These Alaskan tourism attractions would not have to be paying 20% of their gross to the handful of outside travel companies.

I have a list of over 2,400 Alaskan owned and operated tourism businesses. There are HUNDREDS in each of your districts. These are the people you will be voting against if you pass this bill.

I would also bring to your attention the fact that conversions are down from previous years. Conversions are lower because our potential visitors who respond to the state tourism advertising campaign are receiving only a few letters and brochures. Those that are sent are basically from the large tour operators and thus the interest in visiting Alaska is not as high as it should be.

Page Three

Please do not allow yourself to be rushed into passing this illegal act. You cannot make an unconstitutional document legal by simply voting to call the visitor names something they are not.

I realize that many of you have received contributions from the AVA Pac and from various tourism companies. I also realize that the AVA Lobbying team of Gruening and Kito are very powerful. Think about the thousands of small Alaskan tourism firms who are going to be cut out of using this state resource.

I personally have plans which would utilize the tourism names to promote Alaskan manufactured products as well as to assist many small Alaskan tourism firms in reaching their potential customers through cooperative advertising. Many other Alaskan tourism firms would use these lists if they were available and were cost effective.

The solution to the problem would be for the Legislature to change the financial matching formula in the Statutes that created the Alaska Tourism Marketing Council. Make the dollar match 8% or 10% rather than 15%. Force the Alaska Travel Planner to stand alone on its advertising revenues. Let the mailing labels be sold for \$25.00 to \$30.00 per thousand. You might be surprised how many Alaskan firms would buy the lists and REALLY promote Alaska.

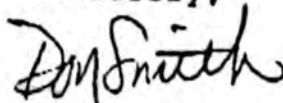
Tourism is Alaska's best hope for the future. Let it open up to Alaskans rather than continue the Monopoly currently enjoyed by the major Seattle tour companies.

If you look closely at the make up of the AVA Board of Directors, you will see the heavy influence of the Seattle based companies. Many of the directors rely on the major companies for much of their business.

Please do not violate Alaska's Freedom of Information law! These lists are a public record of the State and no bill can change that fact. I'm convinced that the Judicial System would clearly find that these names are a State public record and as such, like the business license lists and other, must be made available to anyone at cost.

Thank you very much for reading this memo.

Sincerely,



Don Smith

Appendix A

Re: Proposed Amendment by Lobbyist Gruening

I am not an Attorney so I'm not quite sure what is being attempted by this amendment.

I've never heard of anyone "leasing" a mailing list. Normally a mailing list house will clearly state in their sale documents that the list can only be used one time.

Any names generated by the use of a list, ie a person buying an advertised product, would become the property of the person or company who sent out the mailing. I am enclosing a copy of my Alaska Visitor's Brochure. I fully expect to sell my products as well as receive a sizeable response to my Visitor Survey. These names will belong to my company and I can use them in any way I wish.

I might add that the Alaska Tourism Advertising Campaign each year buys mailing lists from List Houses. Many of the people that appear in the Alaska Tourism Mailing list were generated from the purchased lists. The names are then sold as part of the State list. *They Paid \$50⁰⁰ per M to \$80⁰⁰ per M.*

As I mentioned in my memo, you should change the Statutes that govern the ATMC. For all the money the State of Alaska spends, the tiny amount put into Tourism is probably the best investment we can make. Lower the match required by the Tourism Industry. Make all parts of the Tourism Advertising Campaign stand on their own. The Ads in the Travel Planner should NOT be tied to the label program. Insist that the Visitor Labels be made available to Alaska Tourism businesses at COST!

Thank you very much.

Jim Smith

This is a
Sample of
Eleven (11)
Names from
the State
Tourism mailing
List -

can you really
believe that
This list is
worth \$150⁰⁰ per M
or 15¢ EACH!

JOHN D. CASINUS
6000 ZACHARY LANS
00000

MN 55369

KAREN D. MOTZKO
118 RIVERVIEW
ROCKFORD

MN 55373

CLYDE VELDHUIZEN
13580 LYNN AVE S
SAVAGE

MN 55378

JOHN P. HAGEN
4748 WEST ARM RD
SPRING PARK

MN 55384

JAMES B. PETTEY
12385 FREMONT LN
ZIMMERMAN

MN 55398

CLARENCE SARKIS
3500 12 AVE SO
MINNEAPOLIS

MN 55407

DEWEY WALLACE
3024 GRAND AVE S
MINNEAPOLIS

MN 55408

JIM STRICKLAND
1609 N DUPONT AVE
MINNEAPOLIS

MN 55411

THERESA CESAFSKY
1426 WASHINGTON ST
MINNEAPOLIS

NE MN 55413

NICOLE KRUEGER
2123 FRANK AVE S
MINNEAPOLIS

MN 55416

JOHN DAHMEN
2403 CENTRAL NE #1
MINNEAPOLIS

MN 55418

FREE

Begin your Alaska adventure right now by sending for your free 1990 Official Alaska Vacation Planner. This colorful 124 page book has all the facts, information and travel tips you need to plan the perfect Alaska vacation.



Alaska Vacation Planner - 124 pages of beautiful color photographs, maps, travel tips and listings of restaurants, hotels, campgrounds and things to do.

Please allow 4 to 6 weeks.

Please make address corrections here.

Ms. Virginia L. Acton
130 Church Street
Jackson, California 95642

Phone number: (209) 223-1574

622

A L A S K A

Send for your free Vacation Planner.

You've dreamed about discovering for yourself Alaska's timeless beauty. Now begin the adventure by sending for your free 1990 Official Alaska Vacation Planner.



So we can help you plan your Alaska vacation, please answer these questions.

- Have you already decided to visit Alaska?
a. Yes ☒ b. No
- When are you likely to visit Alaska?
a. 1990 ☒ b. 1991 ☐
c. Likely, but don't know when ☐ d. Not likely ☐
- When are you likely to travel?
a. Jan-Mar ☐ b. April-May ☒
c. June-Sept ☐ d. Oct-Dec ☐
- What regions of Alaska will you be visiting?
a. Interior/Far North ☒ b. Southeast ☐
c. Southcentral ☐ d. Southwest ☐ e. Undecided ☐
- Have you taken a vacation at a destination 2,000 miles or more from your home in the last five years?
a. Yes ☒ b. No ☐
- Have you previously visited Alaska?
a. Yes, plan to go again ☐ b. Yes, but not planning to go again ☐ c. No ☒
- Educational background
a. High School ☐ b. Attended College ☐ c. Graduated College ☐ d. Post Graduate ☒
- What is your age? 60
- Also, I'm interested in:
- Travel to Alaska
a. By Cruise/ship ☒ b. By Air ☐
c. By Car or RV/Camper ☐ d. By Ferry/liner ☐ e. Packaged Tour ☐
- Accommodations
a. Lodges, Resorts & Cabins ☐ b. Hotels & Motels ☐
c. Camping ☒ d. Facilities ☐ e. Bed & Breakfast ☐
- Activities in Alaska
a. Trips/Excursions ☐ b. Sport Fishing ☐ c. Charter Boats ☐ d. Guided Hiking, Canoeing and Raft Trips ☐ e. Guided Bird-watching, Wildlife and Photo Trips ☐

(Offer good while supply lasts. Expires 8/31/91)

This mailer came back as a part of a list bought by the state of this name will be used by the state as part of its marketing list.

THE UPPER 1%

With Phone Numbers

Quantity Price Per M

900,000 \$85.00M
364,000 \$115.00M

THE UPPER 5%, 3% & 1% Will Generally Vary Geographically Across The United States:

1 E The UPPER 1% In A State Such As Arkansas Will Generally Be Lower Than The UPPER 1% In A State Such As Connecticut

NOTE: A GOVERNMENT SURVEY OF CONSUMER FINANCES & WEALTH DISTRIBUTION, CONDUCTED BY FEDERAL AGENCIES, REVEALS THE FOLLOWING:

- The Top 5% Of American Families Hold Approximately 28% Of The Nation's Wealth
- The Wealthiest 5% Owned 71% Of All Tax Exempt Municipal Bonds, 38% Of All Taxable Bonds, 22% Of The Individual Checking Accounts, 19% Of The Money Market Accounts, 29% Of Certificates Of Deposit & 10% Of The Money In Savings Accounts. They Also Owned 62% Of All Stocks In Private Hands & 42% Of All The Real Estate Purchased As An Investment
- The Top 5% Of American Families Reported AVERAGE Financial Holdings Of \$123,000
- More Than 15% Of All American Households Had A Net Worth Of Over \$100,000
- They Are Estimated To Give An Average Of \$2,000 Per Household, To Various Charitable Causes.
- In A Survey Conducted By Cigna Insurance Company, It Was Shown That The Vast Majority Are Products Of The Work Ethic, With The Entrepreneurial Urge Coming Later In Life. They Continue To Add To Their Nest Egg.

THE BASIC TREND OF THE SURVEY INDICATES A GROWING CONCENTRATION OF WEALTH IN THE COFFERS OF A SMALL NUMBER OF FAMILIES, WITH HIGH ANNUAL INCOMES

"YUPPIE," HIGH INCOME EXECUTIVES & PROFESSIONALS (MOSTLY UNDER THE AGE OF FORTY), WHO GENERALLY EARN WELL OVER \$65,000 PER YEAR, AT HOME ADDRESSES, WHO INVEST EITHER THEIR OWN OR THEIR COMPANY'S MONEY IN STOCKS, BONDS, TREASURY BILLS, C.D.'s, MONEY MARKET FUNDS, COMMODITIES OR REAL ESTATE

With Phone Numbers

2,932,000 \$75.00M
2,242,000 \$95.00M

WOMEN INVESTORS

At Home
At Home, With Phone Numbers
At Large Corporations
At Large Corporations, With Phone Numbers

543,000 \$75.00M
383,000 \$75.00M
155,000 \$95.00M
60,000 \$75.00M
45,000 \$95.00M

WOMEN SMALL BUSINESS OWNERS & ENTREPRENEURS, MOSTLY IN SMALL BUSINESSES, WITH UNDER EIGHT EMPLOYEES, WHO INVEST IN STOCKS, BONDS, TREASURY BILLS, C.D.'s, MONEY MARKET FUNDS, PRECIOUS METALS OR REAL ESTATE

With Phone Numbers

379,000 \$75.00M
324,000 \$95.00M

I.R.A. LISTS

IRA HOLDERS/INQUIRERS & PROSPECTS-Individuals, Who Previously Inquired, Have Been Prospected Or Held & Have Indicated A Willingness To Still Continue Investing In IRA's, Despite Losing The Tax Advantage

With Phone Numbers

3,718,000 \$75.00M
3,484,000 \$95.00M

IRA HOLDERS/INQUIRERS & PROSPECTS-Individuals, Who Previously Inquired, Have Been Prospected Or Held & Should Still Be Qualified To Take The IRA Deduction, Under The New Tax Laws

With Phone Numbers

2,216,000 \$75.00M
1,964,000 \$95.00M

CONSERVATIVE TYPE INVESTORS LISTS

Quantity Price Per M

AFFLUENT OLDER INVESTORS Above Fifty Years Of Age-Net Worth Of \$500,000 & Over Names Above Sixty Years of Age May Be Selected

Above Fifty
Above Sixty
With Phone Numbers

3,962,000 \$75.00M
1,701,000 \$85.00M
1,903,000 \$95.00M

CONTROLLING STOCKHOLDERS, AT HOME ADDRESSES, IN PUBLIC & PRIVATE CORPORATIONS

With Phone Numbers

71,000 \$75.00M
27,000 \$95.00M

COUNTRY CLUB MEMBERS, WHO INVEST IN STOCKS, BONDS, C.D.'s, TREASURY BILLS, MONEY MARKET FUNDS OR REAL ESTATE

432,000 \$75.00M

DENTISTS, AT OFFICE, WHO ARE HEAVY INVESTORS

With Phone Numbers

1,28,000 \$75.00M
56,000 \$95.00M

DENTISTS, MOSTLY AT HOME ADDRESSES, WHO ARE HEAVY INVESTORS

15,000 \$75.00M

DISCOUNT STOCK SERVICE BUYERS/INQUIRERS & PROSPECTS

With Phone Numbers

3,211,000 \$75.00M
2,413,000 \$95.00M

DOCTORS, AT HOME ADDRESSES, WHO ARE HEAVY INVESTORS

With Phone Numbers

108,000 \$75.00M
94,000 \$95.00M

DOCTORS, AT OFFICE, WHO ARE HEAVY INVESTORS

With Phone Numbers

412,000 \$75.00M
199,000 \$95.00M

ENTERTAINMENT & SPORTS FIGURES, WHO INVEST IN STOCKS, BONDS, C.D.'s, MONEY MARKET FUNDS, COMMODITIES OR REAL ESTATE

TOP WEALTHIEST OF THE GROUP

5,600 \$85.00M
2,400 \$289.60
ENTIRE LIST

FORBES TOP LARGEST "PUBLICLY HELD" CORPORATIONS, WITH THE CHIEF EXECUTIVE OFFICER, AT BUSINESS ADDRESSES-These Ratings Were Established By Combining Assets, Sales & Market Value-Total Sales Exceed Two & One Half Trillion Dollars & These Companies Are Responsible For Approximately 17% Of All The Jobs In The United States-This List Is Alphabetized & Zip Coded, But Not In Sequence

With Phone Numbers

798 \$149.60
ENTIRE LIST
\$169.60
ENTIRE LIST

FORTUNE'S TOP 3,000 LARGEST CORPORATIONS, WITH THE PRESIDENT, CHAIRMAN OF THE BOARD & CHIEF FINANCIAL OFFICER, AT BUSINESS ADDRESSES-They Would Be Responsible For Mergers Or Other High Level Stock Transactions, If Any Should Occur

All Per Company
Two Per Company
One Per Company
With Phone Numbers

9,000 \$75.00M
6,000 \$75.00M
3,000 \$75.00M
9,000 \$95.00M

GNMA BUYERS/INQUIRERS & PROSPECTS

639,000 \$75.00M

GROWTH MUTUAL FUND (NO LOAD) BUYERS/INQUIRERS & PROSPECTS

572,000 \$75.00M

These would be considered "Hot" names

Anchorage Daily News

Gerald E. Grilly
Publisher

Howard Weaver
Managing Editor



Michael Carey, Editorial Page Editor

Katherine Fanning, Editor and Publisher 1971 to 1983

Lawrence Fanning, Editor and Publisher 1967 to 1971

Founded in 1946 by Norman C. Brown

Sell 'em cheap

Visitor lists should be offered at a token price. The state of Alaska does many things to promote tourism. It spends millions of dollars to run the ever-popular state ferries. It spends millions more to convince the world Alaska is not a wasteland of glaciers and igloos. It spends thousands of dollars to help compile names of people who are interested in visiting Alaska. But one thing the state doesn't do is allow cheap, easy access to those names. That list is a tourist marketer's dream. It can be broken down by where in Alaska visitors might come, when, and what they'd like to do. It's invaluable to any Alaska tourist business, but especially those that can't afford to develop their own lists.

But the state allows the list to be treated as a hot commodity. Buyers must pay \$150 per 1,000 names, or 15 cents each. (Big advertisers in the state travel planner qualify for discounts.) And that price, high as it is, was only recently cut by 50 percent. By comparison, other non-proprietary state lists, such as registered voters, can be purchased for a few cents a name from commercial vendors.

In other words, the state acts more like a business jealously guarding trade secrets than a friendly partner willing to share valuable data.

The visitor list needn't be treated as public information, available to any corner. The state can properly decide to sell the list only to firms promoting Alaska tourism — as the House of Representatives recently voted to do.

But the House measure says nothing about what buyers must pay for the list. Lawmakers should consider the visitor list an investment in "information infrastructure." Selling the list at nominal cost is one concrete way the state can help almost any tourist business, big or small.

THE

Alaska

TRAVEL SWEEPSTAKES

BY TOURISM
MAILER -

you were sent an actual
copy yesterday!

Yes! You can win 2 free round trip tickets to Alaska simply by filling out our Visitor Survey.* No purchase required. What a deal!



You can earn extra chances in our airline ticket giveaway ordering any of the 4 Alaska travel guides described inside this brochure. Help us get ready for our summer visitors by replying promptly. Surveys mailed back within 10 days will get an extra entry in our Alaska Travel Sweepstakes. Don't delay!

* Survey respondents must be at least 18 years old to win. Tickets not transferable. Travel to Alaska must begin by December 31st, 1990. The winner will be drawn in our raffle June 30, 1990 in Anchorage, Alaska. The winner will be notified immediately. Once again, no purchase is needed to win. Just fill out and return the Visitor Survey form to us. Do it right away and earn your extra chance.

VISITOR SURVEY

1. Have you made travel arrangements to visit Alaska this summer? yes _____ no _____
- 2.a. If your answer is yes, when are you traveling? leave _____ return _____
- b. How many will be traveling in your party? Number _____
3. Tell us in a few words why you chose to visit Alaska: _____

4. Which of the following best describes your mode of travel?
 - ☐ A pre-paid package including transportation, lodging or sightseeing.
 - ☐ Completely on your own WITHOUT any sightseeing purchases in Alaska.
 - ☐ Completely on your own WITH a purchase of some sightseeing trips while in Alaska.

5. How are you traveling to Alaska?
 - ☐ Cruise ship ☐ Airline ☐ Car or Camper (Private vehicle)
 - ☐ Ferry ☐ Other: _____

6. Have you made reservations for accommodations yet? yes _____ no _____

7. If yes, what kind of accommodations?
 - ☐ Hotels and motels ☐ Camping facilities
 - ☐ Bed & breakfasts ☐ Lodges, resorts, and cabins

8. If not would you like someone to contact you? yes _____ no _____

9. Have you made arrangements for optional tours? yes _____ no _____

10. If you have NOT made plans to visit Alaska this summer, are you still thinking about visiting? yes _____ no _____

11. If your answer was yes, would you like someone to contact you about planning your trip? yes _____ no _____

12. How many different brochures have you received from Alaskan tourism firms? Number _____

13. Were these mailers helpful to you? yes _____ no _____

14. If not, why: _____

15. Did you receive a copy of the Alaska Travel Planner? ☐ yes ☐ no ☐ not sure

16. If your answer was yes, on a scale of 1-7, with 7 meaning "very useful" and 1 meaning "not useful at all," how would you rate the Alaska Travel Planner (Circle the appropriate number).

OLD ANCHORAGE SALMON BAKE



Over 200 years ago, Captain James Cook surveyed the bluff where the Old Anchorage Salmon Bake now nestles, just steps away from Anchorage's historic downtown.

Savor succulent salmon or halibut in a rustic setting reminiscent of the brawling tent city of yesteryear. Enjoy lunch or dinner at the Salmon Bake, which overlooks Ship Creek and Cook Inlet.

Stop by! The Old Anchorage Salmon Bake is a must see for visitors to Alaska's largest city.

ALASKA

the last frontier

1990

Dear Visitor

Please allow me to introduce myself. My name is Don Smith. I'm a third generation Alaskan and 50 year resident.

I've put together a package of 4 Alaska travel guides that I hope you will find both interesting and useful in planning your Alaska vacation.

My videotape, "Alaska A Video Experience," gives you a 32 minute view of our spectacular state from the perspective of a visitor. This video is a must see for anyone who wants to know and see what a tour of Alaska is all about.

My two directories are handy tools for the visitor who wants an out-of-the-ordinary, bed & breakfast experience or to get out and see outdoor Alaska.

My staff and I have listed all the exciting things to do while in the state plus we include discount coupons worth many times the price of the directories.

Our third publication is a booklet called, "How to Visit Alaska... On a Limited Budget." This is probably the best investment you could make in putting together your dream vacation to Alaska.

I've tried it all: Roads, camping and RV parks, hunting and fishing, wilderness experiences, cruise ship and ferry schedules, calendars of special events as well as guides to prices and accommodations.

I also own and operate the popular Old Anchorage Salmon Bake. Stop by and say "Hi!" when you get to town.

Don't forget to fill out and return the Visitor Survey, which makes you eligible to win 2 free, round trip airline tickets to Alaska.

Good luck. I hope to see you here in the Last Frontier.

Sincerely,

Don Smith

P.S. All of my travel guides come with my pledge of satisfaction, or your money back.

Also, if you would like help in planning your adventure to Alaska, check the box on the order form.



DIRECTORIES

The **Outdoor Alaska Director** by Don Smith, is THE reference book for those who want to see the real Alaska.

Including hundreds of adventure possibilities and exciting places to visit, it is a listing of resorts and cabins.

The "Outdoor Directory" gives you a hand where to go in Alaska - in one convenient place.

The directory, which lists all establishments in a region as well as by category of activity.

While Alaska's outdoor tourism business advertises in our directory, advertising is not a thing is listed.

As a part of "Outdoor Alaska Directory," coupons, each worth \$5 off participating attractions.

Price includes \$2.00 for shipping and handling.

ORDER FORM



For each item purchase you earn an extra sweepstakes entry. Buy all 4 items and get 5 sweepstakes entries. This brochure is designed to be mailed back. Fold over and staple or tape shut. If you are enclosing a check, please staple or tape it to the order form.

LASKA... A VIDEO EXPERIENCE

Minutes of Alaska's breathtakingly beautiful wilderness.



Starting in Southeastern Alaska with stunning shots of calving glaciers and shy wildlife, the camera follows an ideal tour, from Ketchikan, Juneau and Sitka to Skagway, the gateway to Klondike gold, then on through to Fairbanks, McKinley Park, Anchorage, the Arctic, and Prince William Sound.

It's all here! Sweeping vistas of towering mountains, high meadows alive with wildflowers, berries and bears, endless grassy plains teeming with wild animals, salmon-choked streams and much, much more.

Don Smith, a third-generation Alaskan, produced "Alaska... A Video Experience" and is pleased to offer you this glimpse of his state, America's last frontier.

"Alaska... A Video Experience" will show you what a trip to Alaska can be like. It's a great tool to help plan your trip.

Price includes \$3.50 for shipping and handling.

Only \$23.95



The Alaska Bed and Breakfast Directory

by Don Smith lists over 300 bed and breakfasts in 40 communities across the state. Bed and Breakfast travel can provide you with a comfy way to see the real Alaska - and meet real Alaskans!

Staying in Alaska's bed and breakfast accommodations can not only save you money, but gives you an introduction to some of the state's most interesting people. You will find that Alaska's B & B hosts can guide you in finding places to go and see while filling you in on local history and the best places to eat and be entertained.

The "Alaska Bed and Breakfast Directory" lists ALL establishments and each Alaskan community is listed separately.

As a bonus, we include 10 discount coupons, each worth \$2.50 toward a night's stay in participating bed & breakfasts.

price includes \$1.50 for shipping and handling

Only \$11.45

HOW TO VISIT ALASKA... ON A LIMITED BUDGET



Planning a trip to Alaska can be a major undertaking.

Few travel agents know where to go and what to see around the state. About all they can do is sell you a package tour that hustles you past the sights you'd rather linger over, at a price that could break the bank. We've compiled a booklet that can save you time and money in planning your trip. We tell you when you should travel, discuss the different modes of transportation, help you find economical lodgings and offer suggestions on what to see and do.

With our guide, you can shave hundreds of dollars from the price of a package tour and see Alaska at your own leisurely pace.

Don Smith has lived in Alaska for 50 years and knows his home state. If you are planning a trip or are thinking about visiting Alaska, his guide could be the wisest investment you make.

Sold only through this mailer. Price includes \$1.00 for shipping and handling

Only \$8.95

ested in seeing
reds of unique
aska's lodges,
hat to do and
oken down by
encouraged to
ement. Every-
er 10 discount

Only \$14.95

Satisfaction Guaranteed or Your Money Back

Please Print Clearly

Address _____
State _____ Zip _____

Many	Description	Item Price	Total Cost
	How to Visit Alaska on a Limited Budget	8.95	
	Alaska — A Video Experience	23.45	
	Outdoor Alaska Directory	14.95	
	Alaska Bed & Breakfast Directory	11.45	
	All 4 Items for "Only"	49.95	
		Total Order Amount	

Please call — I'd like some help in planning my trip to Alaska.

Phone Number _____

Date _____

☐ Check enclosed (Sorry No C O D)

☐ Visa ☐ Mastercard ☐ American Express

Credit Card Number

Expiration Date _____

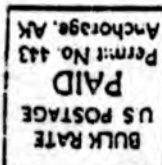
Name of Bank _____

X
Signature for Credit Card Orders

Thank you for your order

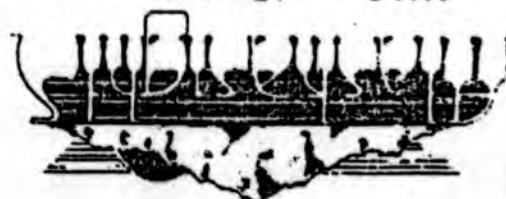
(Free and no purchase required)

2 ROUND TRIP TICKETS TO ALASKA



Wm

3002 Spenard Road, Suite One
Anchorage, Alaska 99503



There is NO QUESTION....



MORRIS
AIR SERVICE

Morris Air Service has changed the Alaskan Marketplace and will continue to do so.

When Morris Air Service entered the Alaska Marketplace with regularly scheduled flights in December 1988, the response was immediate and overwhelming. Alaskans were ready for lower air fares and fewer travel restrictions.

Morris Air Service, based in Salt Lake City, is part of one of the largest travel companies in the United States. What began as an air charter for tour groups to Mexico and Hawaii eventually evolved into additional daily service between Salt Lake City, Los Angeles and San Francisco, and most recently with chartered Continental aircraft and crew between Anchorage and Seattle.

Since Morris Air Service has been operating scheduled flights, travelers now have affordable travel choices not only to Seattle but also to over 120 cities in the lower 48 states.

The benefits of flying the Morris Shuttle include not only low fares

to Seattle, which begin at \$198.00 OW to \$298.00 RT, but also the no-advance purchase requirements and up to 48 hours prior to flight departure for cancellation or change of itinerary. A \$20 change fee is issued for either contingency.

Also available for travel to and from Alaska are low "through fares" to over 120 cities. These airfares are for travel through Seattle with connections to other carriers. For example, a passenger can fly the Morris charter to Seattle then board a connecting flight to Boston for a one way fare of \$349.00.

1 (800) 444-5660

* All flights to Seattle are via charter. All charter flights are via Continental Airlines and are subject to the terms of the Operator/Participant contract. Flights from Seattle to cities other than Anchorage are via U.S. Air. Please call \$30-\$50 per peak area. Prices are subject to change without notice. Restrictions apply. Please call for complete details.

STAMP



3002 Spenard Road, Suite One
Anchorage, Alaska 99503

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

STEVE COWPER, GOVERNOR

REPLY TO:

☐ 1031 W 4th AVENUE SUITE 200
ANCHORAGE, ALASKA 99501-1994
PHONE: (907) 276-3550
FAX: (907) 276-3697

☐ 1st NATIONAL CENTER
100 CUSHMAN ST. SUITE 400
FAIRBANKS, ALASKA 99701-4679
PHONE: (907) 452-1568
FAX: (907) 456-1317

☒ P.O. BOX K—STATE CAPITOL
JUNEAU, ALASKA 99811-0300
PHONE: (907) 465-3600
FAX: (907) 463-5295

January 10, 1990

Hon. H. A. "Red" Boucher
House of Representatives
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Re: Tourism mailing lists
Our file: 663-90-0214

Dear Representative Boucher:

You have asked for our comments on certain practices of the Alaska Tourism Marketing Council (ATMC) and the Alaska Visitors Association (AVA) related to the distribution of mailing lists, or labels, generated through the ATMC's cooperative marketing program. We conclude that the lists are public records and must be produced to those who request them, for cost. //

Pursuant to AS 44.33.705(b), the commissioner of the Department of Commerce and Economic Development (DCED) has entered into a contract with the AVA to jointly manage the ATMC. As required under AS 44.33.705(b) and the contract, the AVA contributes to the state 15 percent of the total operating expenses of the ATMC. These contributions are received by the state, deposited in the general fund, and then appropriated back each year by the legislature to the ATMC for operations. See AS 44.33.730 and secs. 27 & 29, ch. 116, SLA 1989, at 49, 108.

The primary responsibility of the ATMC is to manage the state's multi-million dollar cooperative tourism marketing program. AS 44.33.720. As part of this program, the ATMC places advertisements in various magazines and newspapers and on television. With respect to the print media ads, business reply cards (BRCs) are also placed in the ads, and a potential tourist may then clip out the BRC and mail it back to the state. A respondent also can provide certain information and demographic data on the BRC, such as age, probable mode of travel (RV, cruise ship, etc.), and interests (sport fishing, hiking, photography, etc.).

The ATMC has entered into a contract with a private company to handle BRC responses. When a BRC or a general request for tourism information is received by the state, it is forwarded

to the contractor. The contractor first inputs onto computer tape all the information provided by the person who sent in the BRC or information request -- name, address, interests, and demographic information. The contractor sends to the person a copy of the ATMC's principal publication, the official state Vacation Planner. The computer tape is then used to produce mailing labels identifying potential tourists by demography or stated areas of interest.

The Vacation Planner is produced by the ATMC. The ATMC sells space in the Planner to the AVA at cost, which in turn the AVA sells to its marketing partners at a premium in order to raise money for its required 15 percent contribution to the program. As a further incentive to encourage marketing partners to participate in the program, the AVA offers each partner a certain number of "free" mailing labels based upon the size of the ad purchased. 1/ With the contractor's ability to sort labels based upon the potential tourists' stated interests, a purchaser may request and receive labels for potential tourists who have expressed an interest in the purchaser's particular business (i.e., a lodge owner may request 1000 labels of persons who expressed an interest in fishing or hunting), or profile (i.e., a cruise ship operator may request persons over age 50). If a purchaser wants more labels than the "free" number offered as part of its ad purchase, or if a nonpurchaser wants labels, these may be bought for a fee significantly more expensive than the actual cost of producing the labels. 2/ All funds generated from these label sales are sent

1/ The ATMC has voted to purportedly grant to the AVA the exclusive distribution rights for these mailing lists. See AS 44.33.715(a)(2). This distribution, however, is provided and paid for pursuant to the ATMC's contract with the private contractor. For a number of reasons not relevant to this discussion, we do not believe this grant is binding on the state.

2/ In general, we have held that distribution of state records to private parties that wish to use the information to produce mailing lists may violate the privacy rights of the persons whose names and addresses are released. 1979 Inf. Op. Att'y Gen. (April 17; J66-642-79); 1987 Inf. Op. Att'y Gen. (663-87-0598). In this case, however, where those submitting the information do so for the purpose of obtaining tourism information, and where the use of these records for mailing lists is well-established and will benefit the public through increased tourism, we do not believe that there is an expectation of privacy sufficient to protect the information.

Hon. H. A. "Red" Boucher
House of Representatives
Our file: 663-90-0214

January 10, 1990
Page 3

to the AVA and are also used by the AVA to make up part of its required 15 percent contribution to the program.

You have asked whether these practices with respect to the mailing lists comport with Alaska law. Specifically, you have asked whether it is permissible for the AVA to sell these mailing labels at a premium, or if the information must be treated as public records and distributed to whomever requests it at cost.

As indicated above, the data used to compile the computer tapes, and the actual labels themselves, are in the possession and control of the ATMC's private contractor. These tapes and labels are not directly controlled by any state agency.

Not all records in the possession of a private contractor are public records. For example, the general business records of a corporation do not become subject to the same rules as a state agency's records merely because the corporation is a successful bidder on a state contract.

We conclude, however, that where a contractor is essentially performing a state function, all records produced as a result of that performance are public documents. 3/ Although we are aware of no Alaska cases discussing this issue, other jurisdictions that have looked at the question have held that, when a state contracts with a corporation to perform a public function, records related to that particular contract or function are treated as public records. Fox v. News-Press Publishing Co., 545 So. 2d 941 (Fla. App. 1989); Fritz v. Norflor Construction Co., 386 So. 2d 899 (Fla. App. 1980); Westchester Rockland Newspapers v. Kimball, 408 N.E.2d 904 (N.Y. 1980). This is also consistent with language contained in the state's standard contract form, which was used by the parties in this case. Article 10 of the standard contract provides, in relevant part:

All designs, drawings, specifications, notes, artwork, and other work developed in the performance of this agreement are produced for hire and remain the sole property of the State of Alaska and may be used by the State for any other purpose without additional compensation to the Contractor. The Contractor agrees not to assert any rights and not to

3/ To the extent that this conclusion is inconsistent with our earlier advice, contained in 1988 Inf. Op. Atty. Gen (Aug. 8; 663-88-0464), we overrule that opinion at this time.

establish any claim under the design patent or copyright laws.

Thus, we conclude that the data tapes, mailing labels and other documents created as a result of the state's contract for handling BRC responses are subject to the state's public disclosure laws, AS 09.25.110--09.25.120 and 6 AAC 95. 4/

Because the computer tapes are public documents, they must be produced at cost for anyone who requests them (6 AAC 95.130). Since these records are presently kept in computer tape form, they must be produced in that form. Szikszay v. Buelow, 436 N.Y.S.2d 558, 563 (N.Y. Super. 1981); State v. Harder, 641 P.2d 366, 374 (Kan. 1982). Also, to the extent that the agency chooses to make available these records in some other form, such as hard copy or sorted mailing labels, it must do so for all members of the public. We presume that the ATMC will want to continue making mailing labels available to tourism businesses, and if so, such labels must be available for all.

Further, because these are state records, any costs recovered from the distribution of these records by the ATMC through label sales are state program receipts and should be deposited directly into the general fund. These cost recovery receipts should not be credited to the AVA as part of its required contribution to the cooperative marketing program. See 1987 Inf. Op. Att'y Gen. (Sept. 15; 663-88-0080).

We caution that this opinion is based solely on our analysis of the applicable law in this area. We know there are significant arguments that can be made that distribution of these labels to the general public at cost may be detrimental to either the cooperative marketing effort (since these lists will now be available to competitor destinations) or the contractual arrangement between DCED and the AVA that created the ATMC (because the AVA may find it more difficult to raise its required contribution to the program). On the other side are arguments that the easy, wide-spread distribution and availability of these labels can only enhance Alaska's overall tourism efforts, by allowing more businesses to distribute their tourism fliers. It will be up to the legislature and the governor to weigh these competing arguments and decide if a statutory exception to the general open-records policy and laws is appropriate for these public records.

4/ These records are also subject, of course, to otherwise generally recognized exceptions to those laws.

Hon. H. A. "Red" Boucher
House of Representatives
Our file: 663-90-0214

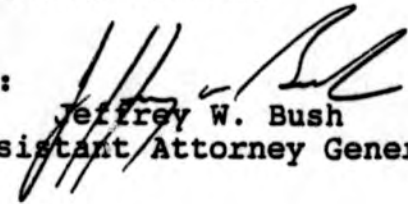
January 10, 1990
Page 5

We hope this answers your questions. If this office can be of further assistance in this matter, please do not hesitate to contact us.

Sincerely yours,

DOUGLAS B. BAILY
ATTORNEY GENERAL

By:


Jeffrey W. Bush
Assistant Attorney General

JWB:jf

cc: Larry Mercurieff, Commissioner, DCED
Jane Angvik,, Assistant Commissioner, DCED
Dana Brockway, Director, Division of Tourism and Chair, ATMC
Bob Miller, Executive Director, ATMC
Bob Dindinger, President, AVA

Smith Enterprises, Inc.

Donald L. Smith
President

Kollette Schroeder
Secretary/Treasurer

February 18, 1990

*Distributed by
request as backup
by Rep. Terry
Martin*

TO: State House of Representatives
RE: House Bill 442

I would strongly urge you to vote against HB 442.

You are being asked to pass a bill which is unconstitutional. I understand that the letter attached to this bill from the lawyer in Legislative Affairs that drafted the bill clearly indicates that the bill is unconstitutional.

The reason HB 442 is before you is because on January 18th of this year the Attorney General issued an opinion which indicated that the Visitor Mailing List is a public record and as such must be made available to the public at cost.

I realize that millions of State dollars are spent each year to develop these names. No different I might add than the millions spent to maintain and up-date voter files, business licenses mailing lists and other State data bases which by law are made available to the public at cost.

HB 442 is being fast tracked through the Legislature so that the MONOPOLY held by a handful of outside travel companies for the past several years can be maintained!

The losers are the THOUSANDS of small Alaskan Tourism businesses who cannot afford to make use of the lists because of their costs. The smoke screen being used that Hawaii would use these names is phoney. This is just a basic list of responses to the State Ad campaign and simply are names of people who have indicated an interest in possibly visiting Alaska.

How ironic that a FEW outside travel firms can exercise such influence!

These massive companies with their ships, hotels, railroad cars and buses can tie up ALL the business and then parcel it out to the local Alaskan Tourism firms IF they are willing to pay a 20% FINDER FEE.

Up until November of last year the AVA sold the visitor lists for \$300.00 per thousand - that's 30 cents per name! How would you like to pay 30 cents per name so you could mail out a newsletter to voters in your district?

Page Two

In October last year I raised Hell and they (the AVA Board) agreed to lower the rate to \$150.00 per thousand. They feared a challenge under Freedom of Information. \$150.00 per thousand is really still too high but a lot better than \$300.00 per thousand. I might add that \$150.00 per thousand is still one of the most expensive lists in the United States. You wouldn't pay that much for a list of names of the Presidents of the Fortune 500 companies.

The Alaska Travel Planner should have a stand alone advertising rate that reflects the value of what the an ad is worth. Today the large outside travel companies pay \$174,000 for a two page ad in the planner. Over 700,000 planners are distributed each year and I would guess that each has a readership of 3 or 4 people. This means that a two page ad costs between 4 cents and 8 cents per person looking at the planner. I'll bet that's not considered a bad ratio in the industry.

The gimmick being used to limit access to the visitor names is that advertisers are being given a label for each dollar of advertising placed in the planner. This lets the large outside travel companies have access to the best names and through prohibitive pricing keeps the small Alaskan tourism firms from utilizing or only mailing to a very small number of names.

Imagine what would happen if several hundred Alaskan firms were able to afford to mail out their promotional literature to the visitor names. My guess is that we would see a lot more people coming up here as well as seeing more independent travelers.

Independent travelers spend more money and generally would stay in the state longer. These people would be coming up to stay in Lodges, Bed & Breakfasts and other Alaskan facilities. These Alaskan tourism attractions would not have to be paying 20% of their gross to the handful of outside travel companies.

I have a list of over 2,400 Alaskan owned and operated tourism businesses. There are HUNDREDS in each of your districts. These are the people you will be voting against if you pass this bill.

I would also bring to your attention the fact that conversions are down from previous years. Conversions are lower because our potential visitors who respond to the state tourism advertising campaign are receiving only a few letters and brochures. Those that are sent are basically from the large tour operators and thus the interest in visiting Alaska is not as high as it should be.

Page Three

Please do not allow yourself to be rushed into passing this illegal act. You cannot make an unconstitutional document legal by simply voting to call the visitor names something they are not.

I realize that many of you have received contributions from the AVA Pac and from various tourism companies. I also realize that the AVA Lobbying team of Gruening and Kito are very powerful. Think about the thousands of small Alaskan tourism firms who are going to be cut out of using this state resource.

I personally have plans which would utilize the tourism names to promote Alaskan manufactured products as well as to assist many small Alaskan tourism firms in reaching their potential customers through cooperative advertising. Many other Alaskan tourism firms would use these lists if they were available and were cost effective.

Please do not violate Alaska's Freedom of Information Law!

Thank you very much for reading this memo.

Sincerely, .



Don Smith

Feb. 21, 1990

Anchorage Daily News

Gerald E. Grilly
Publisher



Howard Weaver
Managing Editor

Michael Carey, Editorial Page Editor

Katherine Fanning, Editor and Publisher 1971 to 1983
Lawrence Fanning, Editor and Publisher 1967 to 1971

Founded in 1946 by Norman C. Brown

Sell 'em cheap

Visitor lists should be offered at a token price. The state of Alaska does many things to promote tourism. It spends millions of dollars to run the ever-popular state ferries. It spends millions more to convince the world Alaska is not a wasteland of glaciers and igloos. It spends thousands of dollars to help compile names of people who are interested in visiting Alaska. But one thing the state doesn't do is allow cheap, easy access to those names.

That list is a tourist marketer's dream. It can be broken down by where in Alaska visitors might come, when, and what they'd like to do. It's invaluable to any Alaska tourist business, but especially those that can't afford to develop their own lists.

But the state allows the list to be treated as a hot commodity. Buyers must pay \$150 per 1,000 names, or 15 cents each. (Big advertisers in the state travel planner qualify for discounts.) And that price, high as it is, was only recently cut by 50 percent. By comparison, other non-proprietary state lists, such as registered voters, can be purchased for a few cents a name from commercial vendors.

In other words, the state acts more like a business jealously guarding trade secrets than a friendly partner willing to share valuable data.

The visitor list needn't be treated as public information, available to any comer. The state can properly decide to sell the list only to firms promoting Alaska tourism — as the House of Representatives recently voted to do.

But the House measure says nothing about what buyers must pay for the list. Lawmakers should consider the visitor list an investment in "information infrastructure." Selling the list at nominal cost is one concrete way the state can help almost any tourist business, big or small.

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SCOMM

66:3



Anne

Representative Jim Zawacki

Alaska State Legislature

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WHILE IN JUNEAU
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MEMBER
STATE AFFAIRS COMMITTEE
LEGISLATIVE COUNCIL
FINANCE SUBCOMMITTEE
PUBLIC SAFETY
ANCHORAGE CAUCUS
CO-CHAIRMAN

MEMORANDUM

TO: ALL REPRESENTATIVES

FROM: Representative Jim Zawacki *JZ*

DATE: January 12, 1990

RE: Co-sponsorship:
Proposed legislation regarding tourism and funding for
tourism programs

Attached please find a bill I intend to introduce Monday,
February 12, 1990.

This legislation addresses the need for Alaska to place
tourism as a top priority in our establishment of sound,
renewable, environmentally friendly economic development
ensuring diversification of Alaska's economy.

I am introducing this bill because I strongly believe that
investment in tourism programs and the promotion of Alaska as
a vacation and adventure destination is our strongest and most
attractive economic development tool.

If you would like to co-sponsor this bill, please call Portia
at 465-2719.

HOUSE COMMITTEE REPORT

(7)

Date Referred: February 12, 1990

FURTHER REFERRALS:

LABOR & COMMERCE
FINANCE

Date of Committee Action: _____

The SPECIAL COMMITTEE ON TOURISM considered:

HB 551

HOUSE BILL NO. 551

APPROP: TOURISM PROGRAMS

"An Act making appropriations to the Department of Commerce and Economic Development, division of tourism and Alaska Tourism Marketing Council, for operating expenses and tourism marketing programs; and providing for an effective date."

RECOMMENDATIONS:

- [] be replaced with _____ [] the same title
[] have attached amendment(s) [] a new title
[] do pass
[] do not pass
[] no recommendation
[] individual recommendations
[] additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(s):
(Dept)

APPROVES PREVIOUS:

(Date/Dept)

- [] fiscal impact _____
[] zero fiscal note _____
[] zero with analysis _____

- [] fiscal note(s) _____
[] zero fiscal note(s) _____
[] zero fn/analysis _____

SIGNING DO PASS:

SIGNING:

(Check approp. column)

Do Not
Pass
No Rec
Amend

[Handwritten signatures]

[Handwritten signature]
Chairman's Signature



Representative Jim Zawacki

Alaska State Legislature

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MEMBER

STATE AFFAIRS COMMITTEE
LEGISLATIVE COUNCIL
FINANCE SUBCOMMITTEE
PUBLIC SAFETY

ANCHORAGE CAUCUS
CO-CHAIRMAN

M E M O R A N D U M

TO: Representative David Finkelstein, Chair
Special Committee on Tourism

FROM: Representative Jim Zawacki *B*

DATE: February 15, 1990

RE: House Bill 551, An Act Making Appropriations to The
Division of Tourism And The Tourism Marketing Council

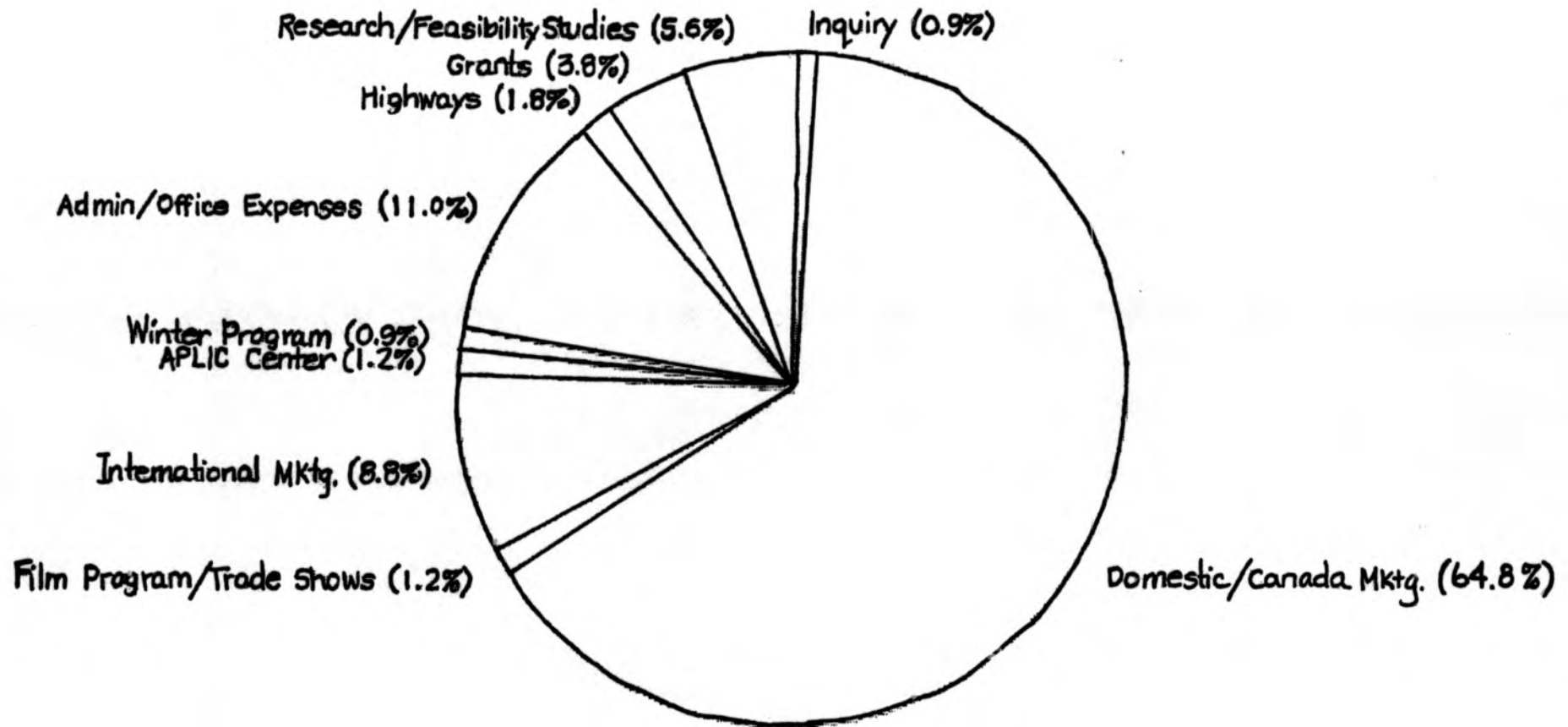
I would like to respectfully request that the House Special Committee on Tourism hold a hearing on House Bill 551 at the earliest convenience of the chair.

Thank you for your time and consideration.

*Schedule
his & my bill
for the week
after
capital projects
beg*

Tourism/ATMC FY 90

Budget Categories



Tourism/ATMC FY 90
Budget Categories

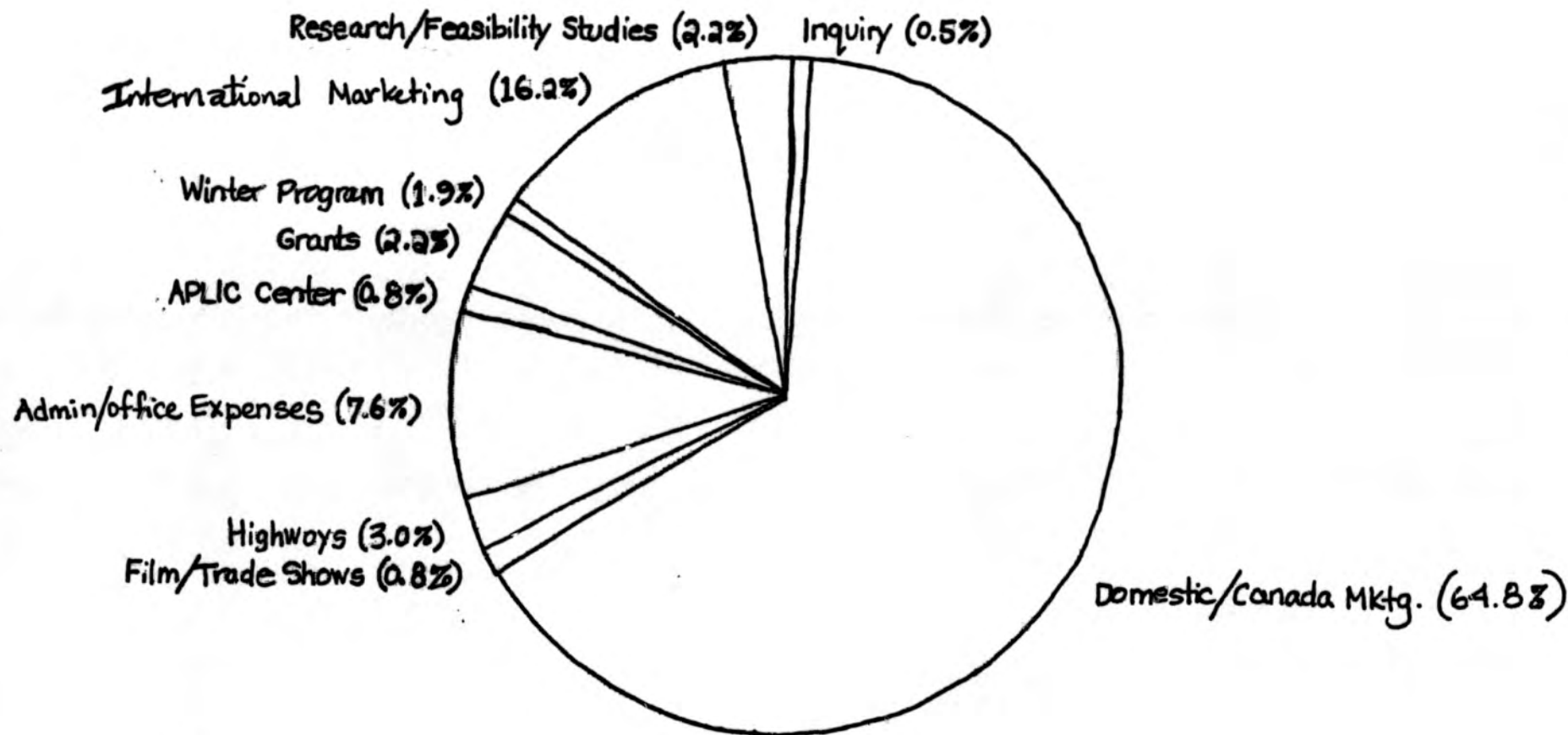
Inquiry	\$100.0
Domestic/Canada Mktg	\$7,399.6
Film Program/Trade Shows	\$135.0
International Mktg	\$1,000.0
APLIC Center	\$140.0
Winter Program	\$100.0
Admin/Office Expenses	\$1,257.2
Highways	\$200.0
Grants	\$435.1
Research/FeasibilityStudies	\$642.2

Chart 1/Pie 1

11,409.1

HB 551

Tourism/ATMC FY 91 Base
Budget Categories



TOURISM/ATMC FY91
Budget Categories

		<u>FY90</u>
Research/Feasibility Studies	\$ 400,000	(642,200)
Grants	400,000	(435,000)
APLIC Center	150,000	(140,000)
Highway tourism program	550,000	(200,000)
Film/trade shows	150,000	(135,000)
Inquiry	100,000	(same)
Administration/office Expenses	1,100,000	(1,257.2)
International tourism marketing program	3,000,000	(1,000,000)
Administrative/office expenses (ATMC)	300,000	(1,257.2)
Domestic tourism marketing program	12,000,000	(7,399,600)
Winter tourism marketing program	350,000	(100,000)
TOTAL:	\$18,500,000	(11,409,100)