

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILES 186/2

186 SCOMM 9: HOUSE SPEC. COMM. ON PERMANENT FUND 1977-78

d'une entreprise manufacturière qui s'est engagé préalablement à les acheter ou à les louer à ces conditions.

Acquisition d'actions, etc.

Elle peut aussi prendre la forme de l'acquisition par la Société des actions d'une entreprise visée à l'article 2, pourvu qu'elle ne détienne en aucun temps la majorité du capital social de cette entreprise; de plus, la Société ne peut détenir des titres qui portent son investissement total en actions de telles entreprises à plus de 30 pour cent de son actif total. 1971, c.64, a.7; 1974, c.56, a.4.

Autres formes d'aide.

8. Dans le cas d'une entreprise visée aux paragraphes *a* ou *b* de l'article 2 ou au deuxième alinéa dudit article, l'aide financière peut, en outre des autres modalités prévues par la présente loi, être consentie sous les formes suivantes:

*a*) prise à charge par la Société d'une partie du coût des emprunts que fait l'entreprise;

*b*) exemption en faveur de l'entreprise du remboursement de toute partie d'un emprunt qu'elle a contracté auprès de la Société lorsque cette entreprise établit que son rendement s'est amélioré depuis la date de l'emprunt dans la mesure déterminée par les règlements, et qu'à la faveur de l'aide financière elle a créé et créera de nombreux emplois suivant les critères fixés par les règlements. 1971, c.64, a.8; 1974, c.56, a.5.

Signature de garantie.

9. Une garantie accordée par la Société en vertu du deuxième alinéa de l'article 5 n'est valide que si le ministre des finances déclare sous sa signature, sur le document constatant cette garantie, qu'il en a pris connaissance.

Construction d'immeubles, etc.

10. La Société peut, avec l'approbation du lieutenant-gouverneur en conseil, construire des immeubles pour des fins manufacturières, pour les vendre ou les louer aux conditions jugées appropriées par le lieutenant-gouverneur en conseil.

Vente ou location.

Avec l'approbation prévue à l'alinéa précédent, la Société peut vendre ou louer ces immeubles à des entreprises commerciales à défaut de pouvoir le faire à des entreprises manufacturières.

of a manufacturing business who previously undertook to purchase or lease them upon such conditions.

It may also be in the form of the acquisition by the Corporation of shares in a business co. templated in section 2, provided that at no time it holds the majority of the capital stock of such business; moreover, the Corporation shall not hold securities which increase its total investment in shares of such businesses to more than 30% of its total assets.

1971, c.64, s.7; 1974, c.56, s.4.

Acquisition of shares, etc.

8. In the case of a business contemplated in paragraph *a* or *b* of section 2 or in the second paragraph of such section, financial assistance may be granted, in addition to the other terms and conditions provided by this act, under the following forms:

*(a)* assumption by the Corporation of part of the cost of loans contracted by the business;

*(b)* exemption of the business from repayment of any part of a loan which it has contracted from the Corporation when such business establishes that since the date of the loan its performance has improved to the extent determined by the regulations, and that with financial assistance it has created and will create numerous jobs in accordance with the criteria prescribed by the regulations. 1971, c.64, s.8; 1974, c.56, s.5.

Further forms of assistance.

9. No guarantee given by the Corporation under the second paragraph of section 5 shall be valid unless the Minister of Finance declares over his signature on the document evidencing such guarantee that he has taken cognizance of it.

Guarantee valid when signed.

10. The Corporation may, with the approval of the Lieutenant-Governor in Council, construct immoveables for purposes of manufacturing, in order to sell or lease them upon conditions considered appropriate by the Lieutenant-Governor in Council.

Construction of immoveables, etc., authorized.

With the approval contemplated in the preceding paragraph, the Corporation may sell or lease such immoveables to commercial businesses if it fails to sell or lease them to manufacturing businesses.

Sale or lease.

Mandat  
aux  
municipi-  
alités.

La Société peut confier à une municipalité et une municipalité peut accepter que la Société lui confie un mandat aux termes duquel la municipalité administrera et entretiendra ces immeubles situés dans son territoire et ce à ses frais s'ils sont vacants et aux frais de la Société s'ils sont loués. 1971, c.64, a.10; 1974, c.56, a.6.

The Corporation may entrust a municipality and a municipality may accept that the Corporation entrust it with a mandate under the terms of which the municipality shall administer and maintain such immovables situated in its territory and so do at its expense if they are vacant and at the expense of the Corporation if they are leased. 1971, c.64, s.10; 1974, c.56, s.6.

Mandate  
to  
municipi-  
alities.

### SECTION III

#### OCTROI DE L'AIDE FINANCIÈRE

Forme de  
la deman-  
de.

**11.** Toute personne qui désire bénéficier de l'aide financière doit en faire la demande à la Société dans la forme prescrite par les règlements; cette demande doit être accompagnée des documents et contenir les renseignements qui sont prévus par les règlements.

Enquête,  
etc.

**12.** Sur réception de la demande, la Société en transmet une copie au ministre et fait enquête afin de déterminer si l'octroi de l'aide financière demandée aurait pour effet de promouvoir la réalisation des objectifs visés aux paragraphes *a*, *b* ou *c* de l'article 2, ou au deuxième alinéa dudit article, suivant le cas, et si l'entreprise pour laquelle l'aide est demandée remplit les conditions exigées par la présente loi et les règlements. 1971, c.64, a.12; 1974, c.56, a.7.

Rapport  
au mi-  
nistre.

**13.** Dès qu'elle a terminé son enquête, la Société fait rapport au ministre et lui soumet ses recommandations.

Recom-  
menda-  
tions.

La Société peut recommander que la demande ne soit agréée que pour partie ou soit agréée pour une somme ou sous une forme autres que celles qui font l'objet de la demande. Elle peut aussi recommander que la demande soit refusée ou ne soit agréée qu'aux conditions que la Société indique.

Avis de  
refus.

Si la recommandation de la Société est à l'effet que l'aide demandée soit refusée et si le ministre est d'accord avec cette recommandation, il retourne la demande à la Société, qui notifie aussitôt le requérant du refus de sa demande.

### DIVISION III

#### GRANTS OF FINANCIAL ASSISTANCE

Form of  
applica-  
tion.

**11.** Every person who wishes to receive financial assistance must apply therefor to the Corporation in the form prescribed by the regulations; such application must be accompanied by the documents and contain the information prescribed by the regulations.

Investiga-  
tion, etc.

**12.** Upon receipt of the application, the Corporation shall send a copy of it to the Minister and shall investigate to determine whether the grant of the financial assistance applied for would have the effect of promoting the achievement of the purposes contemplated in paragraph *a*, *b* or *c* of section 2, or in the second paragraph of such section, as the case may be, and whether the business for which assistance is applied for fulfils the conditions required by this act and the regulations. 1971, c.64, s.12; 1974, c.56, s.7.

Report  
to Minis-  
ter.

**13.** Upon terminating its investigation, the Corporation shall report to the Minister and submit its recommendations to him.

Recom-  
menda-  
tion for  
approval,  
etc.

The Corporation may recommend that the application be approved in part only, or approved for an amount or in a form other than that applied for. It may also recommend that the application be refused, or be approved only upon the conditions which the Corporation indicates.

Procedure  
on refusal.

If the recommendation of the Corporation is that the assistance applied for be refused, and the Minister agrees with such recommendation, he shall return the application to the Corporation which shall immediately notify the applicant of the refusal of his application.

Autorisations requises.

**14.** L'aide financière ne peut être accordée qu'avec l'autorisation du lieutenant-gouverneur en conseil sur recommandation du ministre et aux conditions que le lieutenant-gouverneur en conseil détermine. Toutefois le ministre peut accorder cette aide sans cette autorisation dans les cas prévus par les règlements.

Société liée.

La Société est liée par l'autorisation du lieutenant-gouverneur en conseil ou, le cas échéant, par la décision du ministre.

Avis d'octroi, etc.

La Société doit aviser le requérant, sans délai, du fait que sa demande a été accordée ou refusée et, s'il y a lieu, des conditions qui ont été déterminées par le lieutenant-gouverneur en conseil.

**14.** Financial assistance shall be granted only with the authorization of the Lieutenant-Governor in Council on the recommendation of the Minister, and upon the conditions which the Lieutenant-Governor in Council determines. Nevertheless, in the cases provided for by the regulations, the Minister may grant such assistance without such authorization.

Authorization, etc., required.

The Corporation is bound by the authorization of the Lieutenant-Governor in Council or the decision of the Minister, as the case may be.

Corporation bound.

The Corporation must advise the applicant forthwith that his application has been granted or refused and of the conditions fixed by the Lieutenant-Governor in Council, if any.

Notice of grant, etc.

#### SECTION IV

##### CONSTITUTION DE LA SOCIÉTÉ DE DÉVELOPPEMENT INDUSTRIEL DU QUÉBEC

Constitution.

**15.** Un organisme est constitué sous le nom de « Société de développement industriel du Québec », en français, et de « Québec Industrial Development Corporation », en anglais.

Nom.

Pouvoirs d'une corporation.

**16.** La Société est une corporation au sens du Code civil et elle est investie des pouvoirs généraux d'une telle corporation et des pouvoirs particuliers que la présente loi lui confère.

En plus d'exercer les fonctions qui lui sont dévolues par la présente loi, la Société administre les autres programmes d'aide financière qui lui sont confiés par une autre loi. Dans ce dernier cas, la Société possède, en plus des pouvoirs et devoirs que lui confère cette autre loi, les pouvoirs et devoirs non incompatibles que lui confère la présente loi. 1971, c.64, s.16; 1975, P.L. 46, s.28.

Mandat.

**17.** La Société jouit des droits et privilèges d'un mandataire du gouvernement.

Biens partie du domaine public.

Les biens meubles et immeubles en possession de la Société font partie du domaine public, mais l'exécution des obligations de la Société peut être poursuivie sur ces biens.

#### DIVISION IV

##### INCORPORATION OF THE QUÉBEC INDUSTRIAL DEVELOPMENT CORPORATION

**15.** A body is incorporated under the name of "Québec Industrial Development Corporation" in English and "Société de développement industriel du Québec" in French.

Incorporation. Name.

**16.** The Corporation shall be a corporation within the meaning of the Civil Code and shall have the general powers of such a corporation and the special powers conferred upon it by this act.

Corporate powers.

In addition to exercising the functions devolved on it by this act, the Corporation shall administer the other programmes of financial assistance referred to it by another act. In the latter case, the Corporation shall have, in addition to the powers and duties conferred on it by such other act, the powers and duties not inconsistent therewith conferred on it by this act. 1971, c.64, s.16; 1975, Bill 46, s.28.

**17.** The Corporation shall have the rights and privileges of a mandatar of the government.

Mandatar.

The moveable and immoveable property in the possession of the Corporation shall form part of the public domain, but the performance of the obligations of the Corporation may be levied against such property.

Property part of public domain.

|                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                      |
|---------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------|
| Responsabilité.           | La Société n'engage qu'elle-même lorsqu'elle agit en son propre nom.                                                                                                                                                                                                                                                                                                                                                                                                                                                                | The Corporation binds none but itself when it acts in its own name.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Company bound.       |
| Siège social.             | <b>18.</b> La Société a son siège social dans la Communauté urbaine de Québec; elle peut toutefois le transporter dans une autre localité avec l'approbation du lieutenant-gouverneur en conseil; un tel changement entre en vigueur sur publication d'un avis à cet effet dans la <i>Gazette officielle du Québec</i> .                                                                                                                                                                                                            | <b>18.</b> The Corporation shall have its corporate seat within the Québec Urban Community, but may with the approval of the Lieutenant-Governor in Council transfer it to another locality; such a change shall come into force upon publication of a notice to that effect in the <i>Québec Official Gazette</i> .                                                                                                                                                                                                                                         | Corporate seat.      |
| Séances.                  | La Société peut tenir ses séances à tout endroit du Québec.                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | The Corporation may hold its sittings anywhere in the province of Québec.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Sittings.            |
| Conseil d'administration. | <b>19.</b> La Société est administrée par un conseil d'administration de treize membres, soit:<br>a) un président, qui est nommé par le lieutenant-gouverneur en conseil et qui peut cumuler la fonction de directeur général;<br>b) un directeur général, qui est nommé et rémunéré suivant la Loi de la fonction publique (1965, 1 <sup>re</sup> session, chapitre 14);<br>c) un vice-président et les autres membres, qui sont nommés pour trois ans par le lieutenant-gouverneur en conseil. 1971, c.64, a.19; 1974, c.56, a.8. | <b>19.</b> The Corporation shall be administered by a board of directors consisting of thirteen members, namely:<br>(a) a president, who shall be appointed by the Lieutenant-Governor in Council and who may hold the office of general manager;<br>(b) a general manager, who shall be appointed and remunerated in accordance with the Civil Service Act (1965, 1st session, chapter 14);<br>(c) a vice-president and the other members, who shall be appointed for three years by the Lieutenant-Governor in Council. 1971, c.64, s.19; 1974, c.56, s.8. | Board of directors.  |
| Mode de nomination.       | <b>20.</b> Au moins trois des membres visés au paragraphe c de l'article 19 sont nommés parmi les fonctionnaires du ministère de l'industrie et du commerce; trois des premiers membres de la Société visés audit paragraphe c de l'article 19 sont nommés pour un an et trois pour deux ans.                                                                                                                                                                                                                                       | <b>20.</b> At least three of the members contemplated in paragraph c of section 19 shall be appointed from among the officers of the Department of Industry and Commerce; three of the first members of the Corporation contemplated in the said paragraph c of section 19 shall be appointed for one year and three for two years.                                                                                                                                                                                                                          | Mode of appointment. |
| Qualité requise.          | <b>21.</b> Nul ne peut être membre de la Société s'il n'est domicilié au Québec.                                                                                                                                                                                                                                                                                                                                                                                                                                                    | <b>21.</b> No person shall be a member of the Corporation unless domiciled in the province of Québec.                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Qualification.       |
| Traitements, etc.         | <b>22.</b> Le lieutenant-gouverneur en conseil fixe le traitement, ou s'il y a lieu, le traitement additionnel, les allocations ou les honoraires des membres de la Société.                                                                                                                                                                                                                                                                                                                                                        | <b>22.</b> The Lieutenant-Governor in Council shall fix the salary or, if need be, the additional salary, allowances or fees of the members of the Corporation.                                                                                                                                                                                                                                                                                                                                                                                              | Salaries, etc.       |
| Fonctions continuées.     | <b>23.</b> Les membres de la Société restent en fonction, nonobstant l'expiration de leur mandat, jusqu'à ce qu'ils soient nommés de nouveau ou remplacés.                                                                                                                                                                                                                                                                                                                                                                          | <b>23.</b> The members of the Corporation shall remain in office, notwithstanding the expiry of their term, until reappointed or replaced.                                                                                                                                                                                                                                                                                                                                                                                                                   | Continuity of term.  |
| Vacances.                 | <b>24.</b> Toute vacance parmi les membres de la Société autres que le président et le directeur général est comblée seulement pour la durée non écoulée du mandat du membre à remplacer.                                                                                                                                                                                                                                                                                                                                           | <b>24.</b> Any vacancy among the members of the Corporation other than the president and the general manager shall be filled only for the unexpired portion of the term of the member to be replaced.                                                                                                                                                                                                                                                                                                                                                        | Vacancies.           |

Remplacement temporaire.

**25.** Au cas d'incapacité d'agir du président par suite d'absence ou de maladie, il est remplacé par le vice-président; lorsqu'un autre membre est ainsi incapable d'agir, il peut être remplacé par une personne nommée pour exercer ses fonctions pendant que dure son incapacité; cette personne est nommée par le lieutenant-gouverneur en conseil qui fixe ses honoraires, allocations, traitement ou traitement additionnel.

Secrétaire, etc.

**26.** Le secrétaire ainsi que les autres fonctionnaires et employés de la Société sont nommés et rémunérés suivant la Loi de la fonction publique (1965, 1<sup>re</sup> session, chapitre 14).

Pouvoirs d'un sous-chef.

Le directeur général exerce à leur égard les pouvoirs que ladite Loi de la fonction publique attribue au sous-chef d'un ministère.

Comité exécutif.

**27.** Le Conseil d'administration peut constituer un comité exécutif auquel il délègue une partie de ses pouvoirs.

Directeur général.

L'administration courante de la Société relève du directeur général qui exerce en outre les autres pouvoirs qui lui sont conférés par règlement de la Société. 1971, c.64, a.27; 1974, c.56, a.9.

Composition.

**28.** Le comité exécutif est composé du président, du directeur général et d'au moins trois autres personnes que la Société nomme parmi ses membres. 1971, c.64, a.28; 1974, c.56, a.9.

Immunités.

**29.** Les membres de la Société ne peuvent être poursuivis en justice en raison d'actes officiels accomplis de bonne foi dans l'exercice de leurs fonctions.

Authenticité des procès-verbaux.

**30.** Les procès-verbaux des séances approuvés par la Société sont authentiques; il en est de même des copies ou extraits certifiés par le président de la Société ou son secrétaire.

Signature.

**31.** Nul acte, document ou écrit n'engage la Société, ni ne peut être attribué à la Société, s'il n'est signé par le président,

**25.** If the president is unable to act by reason of absence or illness, he shall be replaced by the vice-president; if another member is unable to act for that reason, he may be replaced by a person appointed to perform his duties while he is unable to act; such person shall be appointed by the Lieutenant-Governor in Council who shall fix his fees, allowances, salary or additional salary.

Temporary replacement.

**26.** The secretary and the other officers and employees of the Corporation shall be appointed and remunerated in accordance with the Civil Service Act (1965, 1st session, chapter 14).

Secretary, etc.

The general manager shall exercise in their regard the powers conferred by such Civil Service Act on the deputy-head of a department.

General manager.

**27.** The board of directors may constitute an executive committee to which it shall delegate part of its powers.

Executive committee.

The day-to-day business of the Corporation shall be under the jurisdiction of the general manager who shall also exercise the other powers conferred upon him by by-law of the Corporation. 1971, c.64, s.27; 1974, c.56, s.9.

General manager.

**28.** The executive committee shall consist of the president, the general manager and at least three other persons appointed by the Corporation from among its members. 1971, c.64, s.28; 1974, c.56, s.9.

Composition.

**29.** The members of the Corporation cannot be sued by reason of official acts done in good faith in the performance of their duties.

Immunity.

**30.** Minutes of the sittings approved by the Corporation shall be authentic; the same shall apply to copies or extracts certified by the president or secretary of the Corporation.

Minutes, etc., authentic.

**31.** No deed, document or writing shall bind the Corporation or be attributed to it unless signed by the president, the

Signature binding.

le directeur général, le secrétaire ou par un fonctionnaire de la Société mais uniquement, dans le cas de ce dernier, dans la mesure déterminée par règlement de la Société.

general manager, the secretary or an officer of the Corporation but, in the case of such officer, only to the extent determined by by-law of the Corporation.

Année financière.

**32.** L'année financière de la Société se termine le 31 mars de chaque année.

**32.** The fiscal year of the Corporation shall end on the 31st of March each year. Fiscal year.

Rapport mensuel.

**33.** La Société doit faire au ministre, dans les vingt et un jours qui suivent l'expiration de chaque mois, un rapport détaillé de ses opérations pour ce mois. Ce rapport doit notamment mentionner tous les prêts, constructions, achats et ventes effectués par la Société, les garanties et les autres formes d'aide financière qu'elle a consenties, le montant de chacune de ces opérations, la nature et l'étendue des garanties exigées ou retenues, ainsi que tous les renseignements additionnels qui peuvent être requis par le ministre.

**33.** Within twenty-one days after the end of each month, the Corporation shall make a detailed report to the Minister of its operations for such month. Such report shall mention in particular all the loans, construction, purchases and sales effected by the Corporation, the guarantees and other forms of financial assistance which it has given or granted, the amount of each of such operations, the nature and extent of the guarantees required or retained, and any other information the Minister may require. Monthly report.

Rapport annuel.

**34.** La Société doit, au plus tard le 30 juin de chaque année, faire au ministre un rapport de ses activités pour son année financière précédente. Ce rapport doit aussi contenir tous les renseignements que le ministre peut prescrire. Il est déposé devant l'Assemblée nationale dans les trente jours si elle est en session ou, si elle ne l'est pas, dans les dix jours de l'ouverture de la session suivante.

**34.** The Corporation shall, not later than the 30th of June each year, make a report to the Minister of its activities for its previous fiscal year. Such report shall also contain all the information that the Minister may prescribe. It shall be laid before the National Assembly within thirty days if in session or, if not, within ten days after the opening of the next session. Annual report.

Renseignements.

La Société doit, en outre, fournir en tout temps au ministre tout renseignement qu'il requiert sur ses activités.

The Corporation shall also at all times give the Minister any information he requires on its activities. Information.

Lorsqu'elle administre un programme d'aide financière en vertu d'une autre loi, la Société fait rapport séparément sur ce programme. 1971, c.64, a.34; 1975, P.L. 46, a.29.

Where the Corporation administers a programme of financial assistance under the terms of another act, it shall make a separate report on such programme. 1971, c.64, s.34; 1975, Bill. 46, s.29.

Vérification des livres, etc.

**35.** Les livres et les comptes de la Société sont vérifiés par le vérificateur général chaque année et en outre chaque fois que le décrète le lieutenant-gouverneur en conseil; ses rapports doivent accompagner le rapport annuel de la Société.

**35.** The books and accounts of the Corporation shall be audited by the Auditor-General each year and also whenever it is ordered by the Lieutenant-Governor in Council; his reports shall accompany the annual report of the Corporation. Annual audit.

## SECTION V

## DIVISION V

## CONFLITS D'INTÉRÊT ET CONFIDENTIALITÉ

CONFLICT OF INTEREST AND PRIVILEGED  
INFORMATIONOpéra-  
tions in-  
terdites.

**36.** Il est interdit à la Société de faire une opération financière avec un de ses membres ou un de ses fonctionnaires ou avec le conjoint ou l'enfant de l'un d'eux.

**36.** The Corporation shall not make any financial transaction with any of its members or officers or with the spouse or child of any of them.

Transac-  
tions pro-  
hibited.Opéra-  
tions in-  
terdites.

**37.** Il est interdit à la Société de faire une opération financière avec une compagnie dont un administrateur est député à l'Assemblée nationale et de prendre en garantie des titres émis par une telle compagnie sauf s'il s'agit d'actions d'une compagnie dont les actions sont inscrites à une bourse reconnue par le lieutenant-gouverneur en conseil sur la recommandation de la Commission des valeurs mobilières du Québec.

**37.** The Corporation shall not make any financial transaction with a company a director of which is a member of the National Assembly, or take as security any securities issued by such a company, except shares of a company whose shares are listed on a stock exchange recognized by the Lieutenant-Governor in Council on the recommendation of the Québec Securities Commission.

Transac-  
tions pro-  
hibited.

Idem.

**38.** Il est interdit à la Société de faire une opération financière avec une entreprise à laquelle est lié un de ses fonctionnaires ou employés, un de ses membres ou un député à l'Assemblée nationale.

**38.** The Corporation shall not make any financial transaction with a business to which any of its officers, employees or members, or any member of the National Assembly, is related.

Idem.

Person-  
nes liées.

**39.** 1. Aux fins de l'article 38, sont des personnes liées:

a) des particuliers unis par les liens du sang, du mariage ou de l'adoption;

b) une société et une personne qui en fait partie ou à laquelle un ou plusieurs associés sont ainsi unis ou par laquelle ont été avancés plus de la moitié des biens dont elle dispose;

c) une compagnie et une personne sous la dépendance directe ou indirecte de laquelle elle est ou dont celle-ci possède plus de la moitié du capital-actions ou à laquelle celle-ci a fourni par prêt ou autrement plus de la moitié des biens dont elle dispose pour ses affaires;

d) les compagnies sous la dépendance directe ou indirecte d'une même personne ou d'un même groupe de personnes;

e) une compagnie et une personne faisant partie d'un groupe de personnes liées ayant cette compagnie sous leur dépendance directe ou indirecte.

**39.** (1) For the purposes of section 38, the following are related persons:

(a) individuals connected by blood relationship, marriage or adoption;

(b) a partnership and a person who is a member thereof or with whom one or more partners are so connected or by whom more than one-half of its assets has been advanced;

(c) a company and a person who directly or indirectly controls it or who holds more than one-half of its capital stock or who has provided it, by loan or otherwise, with more than one-half of its business assets;

(d) companies directly or indirectly controlled by the same person or group of persons;

(e) a company and a person who is one of several related persons by whom such company is directly or indirectly controlled.

Related  
persons.

Personnes unies.

## 2. Aux fins du présent article:

a) des personnes sont unies par les liens du sang si l'une descend de l'autre ou est son frère ou sa sœur;

b) des personnes sont unies par les liens du mariage si l'une est mariée à l'autre ou à une personne qui est unie à l'autre par les liens du sang;

c) des personnes sont unies par les liens de l'adoption si l'une a été adoptée, en droit ou de fait, comme enfant d'une personne unie à l'autre par les liens du sang autrement qu'à titre de frère ou sœur.

## (2) For the purposes of this section:

(a) persons are connected by blood relationship if one is the descendant of the other or is his brother or sister;

(b) persons are connected by marriage if one is married to the other or to a person connected with the other by blood relationship;

(c) persons are connected by adoption if one has been adopted legally or *de facto* as the child of a person connected with the other by blood relationship otherwise than as brother or sister.

Connected persons.

Renseignements confidentiels.

**40.** Il est interdit à un fonctionnaire ou employé de la Société, à un de ses membres ou à une personne qui lui rend des services ou qui est associée à ses activités d'utiliser, pour faire une autre opération financière pour son propre compte, un renseignement obtenu sur les opérations de la Société.

Mesures de contrôle.

La Société peut, par règlement, prescrire des dispositions accessoires ou des mesures de contrôle pour assurer l'observance du présent article et, en général, le caractère confidentiel des renseignements relatifs à une entreprise qui bénéficie de la présente loi. 1971, c.64, a.40; 1974, c.56, a.10.

**40.** No officer, employee or member of the Corporation, or person who performs services for it or is associated with its activities, shall use, for carrying out any other financial transaction on his own account, any information obtained respecting the operations of the Corporation.

Privileged information.

The Corporation may, by by-law, prescribe accessory provisions or means of verification to ensure compliance with this section, and generally the privileged nature of information respecting a business benefiting by this act. 1971, c.64, s.40; 1974, c.56, s.10.

Verification.

Liste des intérêts des membres.

**41.** Chaque membre de la Société doit, lors de son entrée en fonction et annuellement par la suite, communiquer au ministre de l'industrie et du commerce et à la Société la liste des intérêts qu'il détient dans des compagnies de même que la liste de tels intérêts que détient son conjoint avec un relevé de toutes opérations ayant modifié ces listes dans le cours de l'année.

Id., des fonctionnaires.

Tout fonctionnaire de la Société est assujéti au présent article dans les cas prévus par règlement de la Société ou sur demande écrite du directeur général.

Renseignements confidentiels.

Les renseignements fournis en vertu du présent article sont confidentiels et il est interdit de les communiquer ou de permettre qu'ils soient communiqués à une personne qui n'y a pas légalement droit.

**41.** Each member of the Corporation shall, upon assuming his duties and every year thereafter, forward to the Minister of Industry and Commerce and to the Corporation a list of his interests in any companies and a list of such interests as his spouse may have together with a statement of all transactions which have changed such lists during the year.

List required from members.

Every officer of the Corporation shall be subject to this section in the cases provided for by by-law of the Corporation or at the written request of the general manager.

Id., from officers.

Information furnished under this section shall be privileged and no one shall communicate such information or allow it to be communicated to any person not legally entitled thereto.

Privileged information.

## SECTION VI

### FINANCEMENT DE LA SOCIÉTÉ

Emprunts.

**42.** La Société peut, avec l'autorisation préalable du lieutenant-gouverneur

## DIVISION VI

### FINANCING OF THE CORPORATION

**42.** With the previous authorization of the Lieutenant-Governor in Council,

Loans.

en conseil, contracter des emprunts par billet, obligations ou autres titres, à un taux d'intérêt et aux autres conditions que détermine le lieutenant-gouverneur en conseil.

Obligations industrielles.

Elle peut aussi, avec la même autorisation, émettre des obligations dites industrielles auxquelles sont attachés les privilèges fiscaux prévus à l'article 43.

the Corporation may contract loans by notes, bonds or other securities, at such rate of interest and on such other conditions as the Lieutenant-Governor in Council determines.

It may also, with the same authorization, issue bonds called industrial bonds to which the fiscal privileges contemplated in section 43 shall be attached.

Industrial bonds.

Deduction autorisée.

**43.** Une succession ou un particulier autre qu'une fiducie, qui est tenu d'inclure dans le calcul de son revenu pour une année d'imposition, aux fins d'application de la Loi sur les impôts (1972, chapitre 23), un montant à titre d'intérêt provenant d'une obligation industrielle peut déduire dans le calcul de son revenu pour cette année d'imposition, aux fins d'application de ladite loi, un montant égal au montant de cet intérêt, selon les modalités et les maximums prévus par les règlements adoptés en vertu de ladite loi. 1971, c.64, a.43; 1974, c.56, a.11.

**43.** An estate or an individual, other than a trust, which or who is bound to include in computing its or his income for a taxation year, for the purposes of the application of the Taxation Act (1972, chapter 23), an amount as interest from any industrial bond, may, in computing its or his income for that taxation year for the purposes of the application of the said act, deduct an amount equal to the amount of such interest, in accordance with the terms and conditions and maximum amounts prescribed by the regulations made under the said act. 1971, c.64, s.43; 1974, c.56, s.11.

Deduction authorized.

Date d'échéance.

**44.** La date d'échéance d'une obligation industrielle ne doit pas dépasser de plus de dix ans la date de son émission.

**44.** The date of maturity of an industrial bond must not be more than ten years from the date of its issue.

Date of maturity.

Immatriculation.

Toute telle obligation est nominative; elle doit être immatriculée quant au principal et aux intérêts et elle peut être transférée, transmise, échangée ou rachetée conformément aux règlements.

Every such bond shall be registered; it must be registered as to principal and interest and may be transferred, transmitted, exchanged or redeemed in accordance with the regulations.

Registration.

Garantie de paiement, etc.

**45.** Le lieutenant-gouverneur en conseil peut, aux conditions qu'il détermine:

**45.** The Lieutenant-Governor in Council, on such conditions as he determines, may:

Guarantee of payment, etc.

a) garantir le paiement en capital et intérêts de tout emprunt de la Société, ainsi que l'exécution de toute obligation de cette dernière;

(a) guarantee the payment in principal and interest of any loan of the Corporation, and the performance of any of its obligations;

b) autoriser le ministre des finances à avancer à la Société tout montant jugé nécessaire pour l'exécution de la présente loi, à un taux d'intérêt, pour le laps de temps et aux autres conditions que détermine le lieutenant-gouverneur en conseil.

(b) authorize the Minister of Finance to advance to the Corporation any amount considered necessary for the carrying out of this act, at such rate of interest, for such time and on such other conditions as the Lieutenant-Governor in Council determines.

Paiement sur fonds consolidé.

Les sommes que le gouvernement peut être appelé à payer en vertu de ces garanties ou à avancer à la Société sont prises à même le fonds consolidé du revenu. 1971, c. 64, a. 45; 1974, c. 56, a. 12.

The sums which the government may be called upon to pay under such guarantees or to advance to the Corporation revenue fund. 1971, c.64, s.45; 1974, c.56, s.12.

Payments by government.

Verse-  
ments par  
le minis-  
tre.

**16.** Le ministre des finances verse à la Société, à sa demande, les deniers requis pour l'application du deuxième alinéa de l'article 2, du deuxième alinéa de l'article 6, des paragraphes *a* et *b* de l'article 8 ainsi que, lorsqu'il en résulte une perte pour la Société, pour l'application de l'article 10.

Il lui verse ainsi, à sa demande, les deniers requis par l'application du deuxième alinéa de l'article 16, jusqu'à concurrence des limites des programmes y visés. 1971, c.64, a.46; 1974, c.56, a.13; 1975, P.L. 46, a.30.

Sommes  
requises.

**17.** Les sommes requises pour les versements prévus à l'article 46 sont prises, pour l'année financière 1971/1972, sur le fonds consolidé du revenu et pour les années subséquentes, à même les deniers accordés à cette fin par la Législature.

#### SECTION VII RÈGLEMENTS

Réglemen-  
tation.

**18.** Le lieutenant-gouverneur en conseil peut faire des règlements pour:

*a)* déterminer les catégories d'entreprises et les régions du Québec à l'égard desquelles l'aide financière doit être accordée de préférence et les facteurs économiques et sociaux qui doivent servir de guides dans le choix des entreprises auxquelles cette aide peut être accordée;

*b)* établir des critères applicables aux entreprises afin de déterminer si elles sont sujettes à l'application des paragraphes *a*, *b* ou *c* de l'article 2, ou à celle du deuxième alinéa dudit article, suivant le cas, en tenant compte notamment de la catégorie d'entreprises à laquelle elles appartiennent, des biens qu'elles produisent et des régions où elles sont établies;

*c)* déterminer les modes de regroupement d'entreprises manufacturières qui les rendent éligibles à l'aide financière;

*d)* établir le montant au-dessous duquel l'aide financière peut être accordée par le ministre en vertu du premier alinéa de l'article 5 ou du paragraphe *a* de l'article 8, notwithstanding l'article 14, sans que ne soit nécessaire l'autorisation du lieutenant-gouverneur en conseil;

**16.** The Minister of Finance shall pay to the Corporation, at its request, the moneys required for the application of the second paragraph of section 2, of the second paragraph of section 6, of paragraphs *a* and *b* of section 8, and when there is a loss for the Corporation, for the application of section 10.

Payment  
of moneys  
by Mi-  
nister.

He shall thus pay to it, at its request, the moneys required for the application of the second paragraph of section 16, up to the limits of the programmes contemplated therein. 1971, c.64, s.46; 1974, c.56, s.13; 1975, Bill. 46, s.30.

**17.** The sums required for the payments provided for in section 46 shall be taken, for the fiscal year 1971/1972, out of the consolidated revenue fund and for subsequent years out of the moneys appropriated for such purpose by the Legislature.

#### DIVISION VII REGULATIONS

**18.** The Lieutenant-Governor in Council may make regulations to:

Regula-  
tions.

*(a)* determine the classes of businesses and the regions of the province of Québec with respect to which financial assistance must be granted by priority and the economic and social factors which must serve as guidelines in the selection of the businesses to which such assistance may be granted;

*(b)* establish the criteria applicable to businesses to determine whether they are subject to the application of paragraph *a*, *b* or *c* of section 2, or to that of the second paragraph of the said section, as the case may be, having regard particularly to the class to which such businesses belong, the products they produce and the regions in which they are established;

*(c)* determine the methods of regrouping manufacturing businesses which qualify them for financial assistance;

*(d)* determine the amount below which financial assistance may be granted by the Minister under the first paragraph of section 5 or paragraph *a* of section 8, notwithstanding section 14, without the authorization of the Lieutenant-Governor in Council being necessary;

e) déterminer la forme et la teneur des demandes d'aide financière, les renseignements qu'elles doivent contenir et les documents qui doivent les accompagner;

f) déterminer la nature et l'étendue des sûretés qui doivent être exigées ou retenues par la Société lorsque l'aide financière est accordée à une entreprise manufacturière;

g) déterminer les méthodes qui doivent être employées pour établir le taux d'intérêt qui a cours sur le marché et qui est visé à l'article 6;

h) déterminer les taux d'intérêt auxquels des prêts peuvent être accordés à des entreprises visées aux paragraphes *a* et *b* de l'article 2, ou au deuxième alinéa dudit article, suivant les catégories d'entreprises auxquelles ces prêts sont accordés, les biens qu'elles produisent et les régions où elles sont établies;

i) déterminer les conditions auxquelles une partie du coût des emprunts faits par une entreprise peut être prise en charge par la Société en vertu du paragraphe *a* de l'article 8, la durée maximale de ces emprunts, les normes auxquelles ils doivent être conformes et les catégories d'institutions financières auprès desquelles ils peuvent être contractés;

j) pourvoir à l'immatriculation, au transfert, à la transmission, à l'échange et au rachat de toute obligation industrielle;

k) pourvoir au remplacement d'obligations industrielles endommagées, perdues, volées ou détruites, au versement d'intérêts ou de capital à leurs détenteurs et aux garanties qu'ils doivent fournir;

l) pourvoir à la correction d'erreurs relatives à l'immatriculation d'obligations industrielles;

m) déterminer dans quelle mesure une entreprise peut être dispensée de rembourser une partie d'emprunt en vertu du paragraphe *b* de l'article 8 suivant le degré d'amélioration de son rendement, la catégorie d'entreprises à laquelle elle appartient, les biens qu'elle produit, la région où elle est établie et le nombre d'emplois qu'elle crée;

(e) determine the form and tenor of applications for financial assistance, the information they must contain and the documents that must accompany them;

(f) determine the nature and extent of the security which must be required or retained by the Corporation when financial assistance is granted to a manufacturing business;

(g) determine the methods which must be used to fix the current rate of interest contemplated in section 6;

(h) determine the rates of interest at which loans may be granted to businesses contemplated in paragraphs *a* and *b* of section 2, or in the second paragraph of the said section, according to the classes of businesses to which such loans are granted, the products they manufacture and the regions in which they are established;

(i) determine the conditions upon which part of the cost of the loans contracted by a business may be assumed by the Corporation under paragraph *a* of section 8, the maximum term of such loans, the standards with which they must comply and the classes of financial institutions with which they may be contracted;

(j) provide for the registration, transfer, transmission, exchange and redemption of any industrial bond;

(k) provide for the replacement of industrial bonds which have been damaged, lost, stolen or destroyed, the payment of interest or capital to their holders and the guarantees they must give;

(l) provide for the correction of errors respecting the registration of industrial bonds;

(m) determine the extent to which a business may be exempted from repaying part of a loan under paragraph *b* of section 8 according to the extent to which its performance improves, the class of businesses to which it belongs, the products it produces, the region in which it is established and the number of jobs which it creates;

n) déterminer, pour les fins du deuxième alinéa de l'article 2, les entreprises manufacturières et commerciales qui peuvent être considérées comme exportant des biens manufacturés au Québec et les conditions qu'elles doivent remplir pour avoir droit de recevoir l'aide financière;

o) déterminer les conditions auxquelles la Société administre les programmes d'aide financière qui lui sont confiés aux termes du deuxième alinéa de l'article 16.

Entrée en vigueur. Les règlements prévus au présent article entrent en vigueur à la date de leur publication dans la *Gazette officielle du Québec*, ou à toute date ultérieure qui y est fixée. 1971, c.64, a.48; 1974, c.56, a.14; 1975, P.L. 46, a.31.

Règlements de régie interne. 19. La Société peut, sous réserve des dispositions de la présente loi et des règlements adoptés par le lieutenant-gouverneur en conseil en vertu de l'article 48, faire des règlements pour sa régie interne, y compris le quorum aux assemblées de ses membres, la délégation d'une partie des pouvoirs de la Société au comité exécutif établi en vertu de l'article 27, ainsi que pour l'exécution de la présente loi.

Appro- bation. Les règlements de la Société n'entrent en vigueur qu'après avoir été approuvés par le lieutenant-gouverneur en conseil.

(n) determine, for the purposes of the second paragraph of section 2, the manufacturing and commercial businesses which may be considered as businesses exporting products manufactured in the province of Québec and the conditions they must fulfil to be entitled to receive financial assistance:

(o) determine the conditions on which the Corporation is to administer the programmes of financial assistance referred to it by virtue of the second paragraph of section 16.

The regulations provided for in this section shall come into force on the date of their publication in the *Québec Official Gazette* or on any later date fixed therein. 1971, c.64, s.48; 1974, c.56, s.14; 1975, Bill 46, s.31.

19. The Corporation may, subject to this act and the regulations made by the Lieutenant-Governor in Council under section 48, make by-laws for its internal management, including the quorum at meetings of its members, the delegation of part of the powers of the Corporation to the executive committee set up under section 27, and the carrying out of this act.

The by-laws of the Corporation shall come into force only after approval by the Lieutenant-Governor in Council.

## SECTION VIII

### DISPOSITIONS DIVERSES, TRANSITOIRES ET FINALES

Sanctions au cas de fraude, etc. 50. Lorsqu'une personne a obtenu l'aide financière prévue par la présente loi au moyen de fausses déclarations ou de fraude ou lorsqu'elle a employé toute partie de cette assistance financière à d'autres fins que celles pour lesquelles elle lui a été consentie, la Société peut la déclarer déchue du bénéfice du terme accordé et réclamer le remboursement du

## DIVISION VIII

### MISCELLANEOUS, TRANSITIONAL AND FINAL PROVISIONS

50. When a person obtains the financial assistance provided for by this act by false declarations or fraud or uses any part of such financial assistance for purposes other than those for which it was granted to him, the Corporation may declare that he has forfeited the benefit of the term granted and claim repayment of the loan made to such person

Penalty for fraud, etc.

prêt qui a été consenti à cette personne ou résilier toute garantie qui lui a été accordée, sans préjudice aux autres recours civils. Ces sanctions ne peuvent toutefois être imposées que si avis a été donné à la personne, sous pli recommandé expédié à sa dernière adresse connue de la Société, du défaut qui lui est reproché et si cette personne n'a pas remédié à tout défaut autre que des fausses déclarations ou la fraude dans les soixante jours qui suivent la date à laquelle elle a reçu cet avis.

or rescind any guarantee given to him, without prejudice to any other civil recourses. Such penalties cannot however be imposed unless notice is given to the person, by registered mail sent to his last address known to the Corporation, of the default attributed to him and unless such person does not remedy every default other than false declarations or fraud within sixty days from the date on which he receives such notice.

Soumissions publiques, etc.

**51.** La Société ne peut, à moins d'avoir demandé des soumissions publiques ou d'avoir obtenu l'autorisation du Conseil du trésor, disposer des biens dont elle prend possession par suite du défaut de leur propriétaire de remplir ses obligations.

**51.** The Corporation shall not dispose of property of which it takes possession following the default of its owner to fulfil his obligations, unless it has called for public tenders or obtained the authorization of the Treasury Board.

Public tenders, etc.

Renseignements confidentiels.

**52.** Sont confidentiels tous renseignements obtenus dans l'application de la présente loi. Il est interdit à tout membre, fonctionnaire ou employé de la Société de communiquer ou de permettre que soit communiqué à une personne qui n'y a pas légalement droit un tel renseignement ou de permettre à une telle personne de prendre connaissance d'un document contenant un tel renseignement ou d'y avoir accès.

**52.** All information obtained in the application of this act is privileged. No member, officer or employee of the Corporation shall communicate such information or allow it to be communicated to any person not legally entitled thereto or allow such person to examine a document containing such information or have access thereto.

Information privileged.

Exception.

Toutefois un tel renseignement peut, à la demande écrite de l'intéressé ou de son représentant autorisé, être communiqué à une personne désignée dans la demande.

Nevertheless such information may, upon the written application of the interested person or his authorized representative, be communicated to a person designated in the application.

Exception.

Infraction et peine.

Quiconque contre-ient au présent article commet une infraction et est passible, sur poursuite sommaire, en outre du paiement des frais, d'une amende n'excédant pas mille dollars.

Whoever contravenes this section is guilty of an offence and liable, upon summary proceeding, in addition to payment of the costs, to a fine not exceeding one thousand dollars.

Offence and penalty.

Succesion.

**53.** La Société succède à l'Office du crédit industriel du Québec institué par le chapitre 56 des lois de 1966/1967, en acquiert les droits et les biens et en assume les obligations, sans être tenue de se conformer, à cet égard, à l'article 33 de la Loi de l'Office du crédit industriel du Québec abrogée par la présente loi.

**53.** The Corporation succeeds the Québec Industrial Credit Bureau established by chapter 56 of the statutes of 1966/1967, acquires its rights and property and assumes its obligations, without being bound to comply in this respect with section 33 of the Québec Industrial Credit Bureau Act repealed by this act.

Corporation to succeed Bureau.

Procédures continuées.

Les procédures instituées par cet Office ou contre lui peuvent être continuées par la Société ou contre elle sans reprise d'instance.

Proceedings instituted by or against such Bureau may be continued by or against the Corporation without proceedings in continuance of suit.

Pending proceedings.

Interprétation.

Dans toute loi ou proclamation ainsi que dans tout arrêté en conseil, contrat ou document, toute expression employée pour désigner cet Office désigne la Société.

In any act, proclamation, order in council, contract or document, every expression used to designate such Bureau designates the Corporation.

Interprétation.

Transfert du personnel.

**54.** Le directeur général ainsi que les autres fonctionnaires et employés de l'Office du crédit industriel du Québec, en fonction lors de l'entrée en vigueur de la présente loi, deviennent respectivement, sans autre formalité, le directeur général et des fonctionnaires et employés de la Société et demeurent assujettis à la Loi de la fonction publique (1965, 1<sup>re</sup> session, chapitre 14).

**54.** The general manager and the other officers and employees of the Québec Industrial Credit Bureau, in office at the coming into force of this act, become, without any other formality, the general manager, officers and employees of the Corporation respectively and remain subject to the Civil Service Act (1965, 1st session, chapter 14).

Transfer of officers.

Transfert des crédits.

**55.** Les crédits appropriés aux fins de l'Office du crédit industriel du Québec sont transférés à la Société.

**55.** The appropriations voted for the purposes of the Québec Industrial Credit Bureau are transferred to the Corporation.

Transfer of appropriations.

1966/67, c. 56, ab.

**56.** La Loi de l'Office du crédit industriel du Québec (1966/1967, chapitre 56) est abrogée.

**56.** The Québec Industrial Credit Bureau Act (1966/1967, chapter 56) is repealed.

1966/67, c. 56, repealed.

1968, c. 27, a. 2, mod.

**57.** L'article 2 de la Loi de l'aide au développement industriel régional (1968, chapitre 27) est modifié en ajoutant l'alinéa suivant:

**57.** Section 2 of the Regional Industrial Development Assistance Act (1968, chapter 27) is amended by adding the following paragraph:

1968, c. 27, s. 2, am.

Primes autorisées.

« Toutefois le ministre peut, avec la même autorisation, accorder de telles primes après le 1<sup>er</sup> avril 1971 aux compagnies visées au premier alinéa qui en ont fait la demande avant cette date. »

“However, the Minister, with the same authorization, may grant such premiums after the 1st of April 1971 to the companies contemplated in the first paragraph which have applied for them before that date.”

Premiums authorized.

Application de la loi.

**58.** Le ministre de l'industrie et du commerce est chargé de l'application de la présente loi.

**58.** The Minister of Industry and Commerce shall have charge of the carrying out of this act.

Carrying out of act.

Entrée en vigueur (1<sup>er</sup> juin 1971, G.O. p. 4488).

**59.** La présente loi entrera en vigueur à la date qui sera fixée par proclamation du lieutenant-gouverneur en conseil.

**59.** This act shall come into force on a date to be fixed by proclamation of the Lieutenant-Governor in Council.

Coming into force (June 1, 1971, G.O. p. 4488).

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SOCIÉTÉ DE DÉVELOPPEMENT INDUSTRIEL DU QUÉBEC  
QUÉBEC INDUSTRIAL DEVELOPMENT CORPORATION

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Règlements concernant l'aide au développement industriel du Québec  
Regulations respecting assistance to the industrial development of Québec

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Arrêté en conseil no 1955, 1er juillet 1971  
Modifié par:

arrêté en conseil no 4110, 8 décembre 1971  
arrêté en conseil no 1594-73, 2 mai 1973  
arrêté en conseil no 2824-73, 1er août 1973  
arrêté en conseil no 2167-74, 12 juin 1974  
arrêté en conseil no 373-75, 29 janvier 1975  
arrêté en conseil no 1207-75, 26 mars 1975

Order in Council no 1955, July 1, 1971  
Amended by:

Order in Council no 4110, December 8, 1971  
Order in Council no 1594-73, May 2, 1973  
Order in Council no 2824-73, August 1, 1973  
Order in Council no 2167-74, June 12, 1974  
Order in Council no 373-75, January 29, 1975  
Order in Council no 1207-75, March 26, 1975

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#### REMARQUE

Cette codification a été préparée  
seulement dans le but d'en faciliter  
la consultation. Lorsqu'il s'agit  
d'interpréter et d'appliquer les  
règlements, c'est aux arrêtés en  
conseil eux-mêmes qu'il faut se  
reporter.

Arrêté en conseil  
Chambre du Conseil Exécutif  
Numéro 1955

Amendé par:

arrêté en conseil no 4110, 8 décembre 1971  
arrêté en conseil no 1594-73, 2 mai 1973  
arrêté en conseil no 2824-73, 1<sup>er</sup> août 1973  
arrêté en conseil no 2167-74, 12 juin 1974  
arrêté en conseil no 373-75, 29 janvier 1975  
arrêté en conseil no 1207-75, 26 mars 1975

Québec, le 1 juin 1971.

Présent: Le Lieutenant-gouverneur en conseil.

CONCERNANT les règlements sur l'aide au développement industriel du Québec.

ATTENDU qu'en vertu de la Loi de l'aide au développement industriel du Québec (1971, bill 20), le lieutenant-gouverneur en conseil peut faire des règlements touchant certains sujets ayant trait à l'application de ladite loi;

ATTENDU qu'il y a lieu d'adopter de tels règlements.

IL EST ORDONNÉ sur la proposition du ministre de l'industrie et du commerce:

QUE, sous l'autorité de la Loi de l'aide au développement industriel du Québec (1971, bill 20) les Règlements concernant l'aide au développement industriel du Québec, dont le texte est joint au présent arrêté en conseil, soient adoptés et entrent en vigueur à compter de la date de leur publication dans la *Gazette officielle du Québec*.

Copie conforme.

Le greffier suppléant du Conseil exécutif,  
JEAN-PIERRE VAILLANCOURT.

Règlements concernant l'aide au développement industriel du Québec.

SECTION I

Définitions

1.01 Dans les présents règlements, les expressions suivantes signifient:

a) « loi »: la Loi de l'aide au développement industriel du Québec (1971, bill 20);

b) « entreprise manufacturière »: l'unité économique et juridique dans laquelle sont groupés et coordonnés les facteurs de production qui concourent à la transformation d'une matière quelconque, que ce soit une matière première ou une matière qui a déjà subi une ou plusieurs transformations, pour en obtenir un produit, si elle fait partie du groupe des industries de fabrication identifiées comme telles dans la classification-type des industries du Bureau de la statistique du Québec;

Order in Council  
Executive Council Chamber  
Number 1955

Amended by:

Order in Council No. 4110, December 8, 1971  
Order in Council No. 1594-73, May 2, 1973  
Order in Council No. 2824-73, August 1, 1973  
Order in Council No. 2167-74, June 12, 1974  
Order in Council No. 373-75, January 29, 1975  
Order in Council No. 1207-75, March 26, 1975

Québec, June 1, 1971.

Present: The Lieutenant-Governor in Council.

CONCERNING the regulations respecting assistance to the industrial development of Québec.

WHEREAS under the Québec Industrial Development Act (1971, Bill 20) the Lieutenant-Governor in Council may make regulations concerning certain matters relative to the application of the said Act.

WHEREAS it is expedient to adopt such regulations.

It is ORDERED therefore, upon the recommendation of the Minister of Industry and Commerce:

THAT, under the authority of the Québec Industrial Development Assistance Act (1971, Bill 20), the regulations respecting assistance to the industrial development of Québec, the text of which is attached to this Order in Council, be approved and come into force on the date of their publication in the *Québec Official Gazette*.

True copy.

JEAN-PIERRE VAILLANCOURT,  
Assistant Clerk of the Executive Council.

Regulations respecting assistance to the industrial development of Québec.

PART I

Definitions

1.01 In these regulations, the following expressions mean:

(a) "Act": the Québec Industrial Development Assistance Act (1971, Bill 20);

(b) "Manufacturing business": any economic and juridical unit in which are grouped and co-ordinated productive factors which combine to transform a material, whether it be a raw material or one which has been transformed once or many times, to obtain a product, if it forms part of the group of manufacturing industries identified as such in the Standard Industrial Classification of the Québec Bureau of Statistics;

c) « investissement »: toute immobilisation en terrain, bâtiment, machinerie ou équipement, de même que l'acquisition de brevets d'invention;

d) « aide financière globale »: la somme des montants représentant la partie non remboursée de l'aide financière déjà accordée par la Société à une entreprise manufacturière ainsi que l'aide financière envisagée;

e) « coût des emprunts »: l'intérêt payable sur les emprunts visés à l'article 8 a de la loi.

## SECTION II

### Recevabilité des demandes

2.01 Toute personne qui désire bénéficier de l'aide financière doit en faire la demande à la Société au moyen d'une requête dont la forme et la teneur doivent être conformes, autant que possible, à la formule reproduite en annexe; elle doit fournir tous les renseignements appropriés en ce qui concerne l'organisation de l'entreprise manufacturière pour laquelle l'aide financière est demandée, ses propriétaires, son domaine d'activités, le déroulement de ses opérations passées, présentes et prévues de même que les raisons qui justifient la demande et les moyens que l'entreprise est capable de mettre en oeuvre pour les atteindre.

« Une demande d'aide financière, pour les fins mentionnées au paragraphe a de l'article 2 de la Loi, n'est pas recevable après le début de la réalisation du projet. »

arrêté en conseil no 173-75, 29 janvier 1975  
arrêté en conseil no 1207-75, 26 mars 1975

2.02 L'aide financière peut être accordée à une entreprise manufacturière existante ou en voie de formation.

2.03 L'aide financière ne doit servir qu'au développement des opérations manufacturières conduites au Québec.

2.04 Une entreprise manufacturière peut demander l'aide financière même si une partie seulement de son activité est de nature manufacturière. L'aide financière fournie doit alors servir exclusivement à la partie manufacturière de l'entreprise.

2.05 L'aide financière ne peut être accordée lorsque l'entreprise manufacturière a fait cession de ses biens ou est sous le coup d'une ordonnance de séquestre en vertu de la Loi de faillite, a fait une proposition à ses créanciers ou a commis un acte de faillite en vertu de ladite loi, est sous le coup d'une ordonnance de liquidation en vertu d'une loi de liquidation, est insolvable ou est sur le point de le devenir.

« Toutefois, l'aide financière peut être accordée lorsque l'état d'insolvabilité découle de la destruction partielle ou complète de l'entreprise manufacturière par un incendie ou autre cas fortuit entraînant la cessation de ses opérations et lui faisant subir une perte capitale qui, ajoutée à son passif, la rend insolvable. »

Amendé A.C. 4110, 8 déc. 1971. Publié, 18 déc. 1971.

2.06 Pour obtenir une aide financière, l'entreprise manufacturière doit notamment établir:

a) que les mises de fonds des actionnaires ou propriétaires sont suffisantes;

(c) "Investment": All capital expenditures pertaining to land, building, machinery or equipment, plus expenditures pertaining to the acquisition of patents;

(d) "Total financial assistance": the sum of the balance owing on the financial assistance already granted by the Corporation to a manufacturing business, and any financial assistance being considered;

(e) "Cost of loans": the interest payable on the loans referred to in section 8 a of the Act.

## PART II

### Admissibility of Applications

2.01 Any person wishing to receive financial assistance must apply for it to the Corporation on a form the contents of which, as far as possible, shall be the same as those of that reproduced in the schedule; the applicant must supply all pertinent information concerning the organization of the manufacturing business for which financial assistance is requested, its owners, its field of activities, the evolution of its past, present and projected operations and any purposes which justify the application and the means which the enterprise can put forth to attain them.

"An application for financial assistance for the purposes mentioned in subparagraph a of section 2 of the Act shall not be considered after the commencement of the carrying out of the project."

Gazette Officielle, 12 février 1975  
Gazette Officielle, 23 avril 1975

2.02 Financial assistance may be granted to any manufacturing business, whether already existing or in the process of being formed.

2.03 Financial assistance shall be used exclusively for the development of manufacturing operations conducted in Québec.

2.04 A manufacturing business may apply for financial assistance even if only part of its activities are of a manufacturing nature. The financial assistance granted must then serve exclusively for the manufacturing section of the business.

2.05 Financial assistance cannot be granted when the manufacturing business has assigned its assets or falls under a receiving order pursuant to the Bankruptcy Act, has made a proposal to its creditors or has committed an act of bankruptcy pursuant to the said act, falls under a winding-up order pursuant to a winding-up act or is insolvent or about to become so.

"However, financial assistance may be granted when insolvency arises from partial or complete destruction of the manufacturing business by fire or another fortuitous event causing a cessation of operations and a capital loss which, added to its liabilities, renders it insolvent."

Amended by Order in Council No. 4110, Dec. 8, 1971.

2.06 To obtain financial assistance, the manufacturing business must establish, among other things:

(a) that the investment by shareholders or owners is sufficient;

b) que sa direction possède la compétence requise pour la réalisation des fins de l'entreprise;

c) que ses perspectives financières sont adéquates pour permettre le remboursement de l'assistance financière dans un délai raisonnable;

d) que les garanties offertes assurent une protection valable;

e) qu'elle possède des possibilités de croissance qui puissent contribuer à l'essor économique d'une région du Québec.

2.07 L'entreprise manufacturière doit au surplus fournir à la Société les renseignements requis pour déterminer si cette entreprise et la demande qu'elle formule sont visées par les paragraphes « a », « b » ou « c » de l'article 2 de la loi.

### SECTION III

#### Classification des demandes

3.01 Toute entreprise manufacturière qui demande que lui soit accordée l'aide financière que peut réclamer une entreprise visée au paragraphe « a » de l'article 2 de la loi doit remplir, en outre des autres conditions déterminées par le présent règlement, celles que prévoient les articles 3.02, 3.03, 3.04 et 3.05 de la présente section.

arrêté en conseil 373-75, 29 janvier 1975

« 3.02 Dans le cas d'une entreprise déjà établie au Québec, l'investissement ne doit pas viser à remplacer les immobilisations existantes mais à accroître la capacité de production de l'entreprise. »

Abrogé le 12 juin 1974 arrêté en conseil no. 2167-74

Remplacé - arrêté en conseil no 373-75, 29 janvier 1975

« 3.03 Les biens dont la production est envisagée par l'entreprise manufacturière doivent avoir des marchés offrant des perspectives de croissance importante et continue ainsi que d'exportation hors du Québec d'au moins 20% de la production de l'entreprise après 3 années d'opération. »

arrêté en conseil no 373-75, 29 janvier 1975

3.04 Les biens visés à l'article précédent ne doivent pas être des biens:

a) qui sont le simple résultat d'une première transformation de richesses naturelles;

b) dont les marchés sont protégés au Canada par des tarifs douaniers ou des contingents dont la réduction ou la disparition prévues entraîneraient des difficultés sérieuses pour les entreprises en cause.

3.05 La technologie utilisée pour la production de ces biens doit être une technologie moderne dont la mise en oeuvre:

(b) that its management has the competence required to achieve the aims of the business;

(c) that its financial outlook is sufficient to permit reimbursement of the financial assistance within a reasonable period of time

(d) that the security offered assures valid protection;

(e) that it has growth potential which can contribute to the economic development of a region in Québec.

2.07 The manufacturing business shall also supply the Corporation any information required to determine whether the said business and the application submitted are covered by paragraph "a", "b" or "c" of section 2 of the Act.

### PART III

#### Classification of applications

3.01 Any manufacturing business applying for financial assistance which a business may apply for under paragraph "a" of section 2 of the Act, must fulfil, in addition to the other conditions set forth in these regulations, those provided for under sections 3.02, 3.03, 3.04 and 3.05 of this division."

Gazette Officielle, 12 février 1975

"3.02 In the case of a business already established in Québec, the investment must not be intended to replace the existing capital assets but to increase the production capacity of the business."

Abrogé le 12 juin 1974

Gazette Officielle, 12 février 1975

"3.03 The products to be produced by a manufacturing business must have markets offering the prospect of continuous, significant growth and exports of at least 20% of the business's production outside Québec at the end of 3 years operation"

Gazette Officielle, 12 février 1975

3.04 The products referred to in the preceding article must not be products:

(a) resulting simply from a first processing of natural resources;

(b) having markets protected in Canada by tariffs or quotas whose eventual reduction or disappearance could entail serious difficulties for the businesses concerned.

3.05 The technology used in the manufacture of such goods must be modern and applied to

a) assure la meilleure productivité possible à l'entreprise manufacturière afin qu'elle soit compétitive et entraîne, s'il s'agit d'une entreprise existante, une augmentation de production pour satisfaire des marchés en expansion;

b) amène l'entreprise à embaucher des diplômés des collèges et universités du Québec;

c) implique, pour l'ensemble de la main-d'œuvre, une rémunération qui soit au moins égale au salaire moyen versé par les entreprises manufacturières de la région».

arrêté en conseil no 373-75, 29 janvier 1975

«3.06 Toute entreprise manufacturière qui demande que lui soit accordée l'aide financière que peut réclamer une entreprise visée au paragraphe b de l'article 2 de la Loi doit remplir, en outre des autres conditions déterminées par le présent règlement, celles que prévoit l'article 3.07 de la présente section.»

arrêté en conseil no 373-75, 29 janvier 1975

«3.07 Un projet de regroupement visé au paragraphe b de l'article 2 de la Loi, à l'égard duquel l'aide financière est sollicitée, doit:

a) être soumis à la Société avant l'engagement à tout engagement contractuel entre les parties à cet effet;

b) impliquer des entreprises qui ne sont pas la propriété d'individus, d'actionnaires ou de groupes financiers différents, et qui ne sont pas financièrement dépendantes l'une de l'autre au moment où la Société est saisie du projet;

c) viser des entreprises manufacturières concurrentes ou complémentaires au plan des produits;

d) être, pendant toute la durée de l'aide, sous contrôle de résidents du Québec, à plus de 50%, une fois le regroupement réalisé.

arrêté en conseil no 373-75, 29 janvier 1975

#### SECTION IV

##### Formes de l'aide financière

4.01 Le taux d'intérêt qui a cours sur le marché est déterminé par la Société et doit être révisé chaque fois que l'évolution des marchés financiers le requiert. Le taux d'intérêt exigé pour un prêt doit se rapprocher du taux qui serait retenu par les institutions financières privées dans des circonstances semblables.

4.02 « Dans les cas visés au paragraphe a ou b de l'article 2 de la loi, le taux d'intérêt réduit auquel des prêts peuvent être accordés ne peut être inférieur à la moitié du taux du marché et est fixé pour chaque entreprise manufacturière par le lieutenant-gouverneur en conseil pour assurer la rentabilité normale des investissements requis pour la réalisation du projet envisagé et eu égard à ses effets d'entraînement au Québec et à la situation du chômage pour la région » A.C. 2824-73, 1 août 1973 *Gazette officielle du Québec*, 22 août 1973.

(a) ensure optimum productivity for the manufacturing business so as to make it competitive and, in the case of an existing business, lead to a production increase to supply expanding markets;

(b) cause the enterprise to hire graduates from Québec colleges and universities;

(c) provide for the whole work force salaries at least equal to the average prevailing by the manufacturing businesses of the region».

Gazette officielle, 12 février 1975

«3.06 Every manufacturing business which applies for the financial assistance which a business contemplated in subparagraph b of section 2 of the Act may claim or, must meet, in addition to the other conditions determined by this Regulation, those provided under section 3.07 of this division

Gazette officielle, 12 février 1975

«3.07 A pool project contemplated in subparagraph b of section 2 of the Act, in respect of which financial assistance is solicited, must:

(a) be submitted to the Corporation prior to any contractual obligation between the parties to that effect;

(b) involve businesses which are the property of individuals, shareholders or different financial groups, and which are not financially dependent upon one another at the time where the project is referred to the Corporation;

(c) contemplate manufacturing businesses contributing to or complementary to the products plan;

(d) be, during the entire period of assistance, more than 50% controlled by residents of Québec once the pooling has been carried out.

Gazette officielle, 12 février 1975

#### PART IV

##### Forms of Financial Assistance

4.01 The current rate of interest is determined by the Corporation and must be revised as and when financial market developments require. The interest rate required for a loan must be close to that applied by private financial institutions under similar circumstances.

4.02 In cases referred to in paragraph a or b of section 2 of the Act, the reduced rate of interest at which loans may be granted must not be lower than half the market rate and shall be determined for each manufacturing industry by the Lieutenant-Governor in Council so as to ensure reasonable profitability of the investments required for carrying out its project, and with regard to its training outlays in Québec and to the unemployment situation in the region. O.C. 2824-73, August 1, 1973 *Québec Official Gazette*, August 22, 1973.

4.03 Avant de pouvoir obtenir une exemption conformément au paragraphe « b » de l'article 8 de la loi, l'entreprise manufacturière doit démontrer qu'elle a remarquablement augmenté son chiffre d'affaires au cours des cinq ans qui ont suivi le premier déboursé fait par la Société et qu'elle a significativement augmenté le nombre de ses employés pendant cette période.

4.04 Une entreprise manufacturière peut être exemptée de rembourser jusqu'à 70% du montant de son emprunt ou un million de dollars selon le moindre de ces deux montants, à la condition que le total du montant non remboursé en vertu du paragraphe « b » de l'article 8 de la Loi et des montants d'intérêts épargnés par l'entreprise conformément au deuxième alinéa de l'article 6 de la Loi ou au paragraphe « a » de l'article 8 de la Loi ne dépasse pas 50% du montant de l'investissement ou de la dépense pour lesquels un prêt a été consenti par la Société.

4.05 Une entreprise manufacturière ne peut obtenir l'exemption prévue ci-haut si elle est admissible aux avantages prévus par la Loi sur les subventions au développement régional (Statuts du Canada, 1969, 17-18 Elizabeth II, chapitre 56), ou par toute loi subséquente du Parlement du Canada qui offrirait des avantages similaires, à moins d'avoir adressé en temps opportun une demande *bona fide* en vertu de ladite loi pour obtenir ces avantages, et à moins que ces avantages ne lui aient été ou bien refusés ou bien accordés que pour une part qui n'est pas jugée raisonnable et suffisante par la Société.

4.06 La Société doit exiger un intérêt minimum de un pour cent par année lorsqu'elle accorde la garantie prévue au deuxième alinéa de l'article 5 de la loi; cet intérêt est basé sur le montant total garanti par la Société.

4.07 - abrogé, arrêté en conseil no 373-75  
29 janvier 1975 - C.O. 12 février 1975

#### SECTION V

##### Conditions relatives à l'octroi de l'aide financière

5.01 La Société peut exiger, détenir et acquérir toute garantie mobilière ou immobilière pour l'acquittement régulier des obligations découlant de toute aide financière qu'elle a accordée, ou pour l'exécution de toute convention conclue par elle aux termes de la loi ou des présents règlements.

« 5.02 Les prêts accordés par la Société doivent être garantis, sur des biens meubles ou immeubles ou par toute autre sûreté jugée nécessaire pour constituer une protection adéquate ». Arrêté en Conseil 1591-73, 2 mai 1973 — Publié 23 mai 1973.

5.03 Lorsque la Société ou son fiduciaire dispose de biens dont elle a pris possession par suite du défaut d'un débiteur, la Société doit rendre compte du produit de la vente desdits biens au débiteur et lui remettre tout surplus après acquittement complet de la dette en capital, intérêts, frais et accessoires conformément aux stipulations du contrat intervenu entre la Société et le débiteur. Cette reddition de compte est faite par la Société dans les six mois qui suivent la date de la réalisation finale de tous les biens donnés en garantie.

4.03 Before an exemption can be obtained in conformity with paragraph "b" of section 8 of the Act, the manufacturing business must establish that it has notably increased its volume of business during the five year period following the first disbursement made by the Corporation, and that the number of its employees has significantly increased during that period.

4.04 A manufacturing business may be exempted from repaying up to 70% of the amount of the loan or one million dollars, whichever is lower, providing that the total sum of the amount not repaid in accordance with paragraph "b" of section 8 of the Act and of the amounts of interest saved by the firm under the second paragraph of section 6 of the Act or under paragraph "a" of section 8 of the Act does not exceed 50% of the amount of the investment or expenditure for which a loan has been granted by the Corporation.

4.05 No manufacturing business may receive the above-mentioned exemption if it qualifies for the benefits of the Regional Development Incentives Act (Statutes of Canada, 1969, 17-18 Elizabeth II, chap. 56), or of any subsequent Federal Government Act offering similar benefits, unless it has filed at the appropriate time a *bona fide* application under the said Act, and benefits of the said Act have been refused or granted only for a portion not deemed reasonable and sufficient by the Corporation.

4.06 The Corporation must require minimum interest of one percent per annum when it grants the guarantee provided for in the second paragraph of section 5 of the Act; this interest is based on the total amount guaranteed by the Corporation.

4.07 - revoked O.C. No. 373-75, January 29, 1975  
O.G. February 12, 1975

#### PART V

##### Conditions pertaining to the granting of financial assistance

5.01 The Corporation may require, hold and acquire any guarantee of a movable or immovable nature for the regular discharge of obligations resulting from any financial assistance which it grants, or to carry out any agreement which it makes under the terms of the Act or of these regulations.

"5.02 The loans granted by the Corporation must be guaranteed on movable or immovable property or by any other guarantee deemed necessary to constitute adequate protection". Order in Council 1591-73, May 2, 1973 — Published on May 23, 1973.

5.03 When the Corporation or its trustee disposes of property which it took into its possession following default of a debtor, the Corporation must render an account of the proceeds of the sale of the said property to the debtor and remit any excess to him after complete discharge of the debt including principal, interest, costs and accessories pursuant to the terms of the contract entered into by the Corporation and the debtor. This rendering of account shall be made by the Corporation within six months following the date of the final disposition of all the property given as a guarantee.

5.04 La Société peut, aux fins de protéger les garanties qu'elle détient ou les biens qu'elle possède, rembourser toutes créances garanties par hypothèque, privilège ou autres charges ayant un rang supérieur à sa propre créance et payer les frais encourus pour les services d'experts ainsi que les primes d'assurance, taxes, services de gardiens et autres frais de même nature.

5.05 La Société peut, pour prévenir ou empêcher la diminution de ses garanties:

- a) exiger la prorogation de certaines créances;
- b) limiter le montant des salaires des officiers ou des administrateurs de l'entreprise manufacturière;
- c) limiter le montant des dividendes qu'une entreprise manufacturière peut verser;
- d) limiter les immobilisations qu'une entreprise manufacturière peut effectuer;
- e) limiter le rachat des actions privilégiées d'une entreprise manufacturière;
- f) prendre toute autre mesure destinée à favoriser le maintien d'une saine situation financière de l'entreprise manufacturière.

5.06 La date ultime de remboursement d'un prêt ne doit pas excéder la quinzième année qui suit la date de ce prêt; cette date est établie en tenant compte de la capacité de remboursement de l'emprunteur et de la nature des garanties offertes.

5.07 La Société ne peut refuser le remboursement d'un prêt avant l'arrivée du terme. Cependant, la Société peut exiger une indemnité n'excédant pas six pour cent du capital remboursé par anticipation durant les trois premières années du prêt.

5.08 La Société peut, lorsqu'elle le juge à propos, exiger des frais pour procéder à l'étude d'une demande d'aide financière.

5.09 La Société doit exiger que les frais légaux se rapportant à la préparation, l'exécution et l'enregistrement des garanties soient payés par le bénéficiaire de l'aide financière.

## SECTION VI

### *Approbaton des demandes*

6.01 Le ministre peut, sans l'autorisation du lieutenant-gouverneur en conseil, accorder une aide financière globale jusqu'à un montant de \$500,000 en vertu des articles 5 et 6 de la loi ou autoriser la prise en charge par la Société d'une partie du coût d'un emprunt de \$500,000 ou moins, conformément au paragraphe a de l'article 8 de la loi.

Dans tous les autres cas, l'autorisation du lieutenant-gouverneur en conseil est requise.

5.04 The Corporation may, in order to protect its guarantees or its assets, retire any debts guaranteed by mortgage, privilege or other encumbrances ranking ahead of its own claim and pay the expenses incurred for the services of experts and for insurance premiums, taxes, the services of care-takers and other expenses of a similar nature.

5.05 The Corporation may, in order to prevent or hinder the reduction of its guarantees:

- (a) require the postponement of certain debts;
- (b) limit the amount of the salaries of the officers or directors of the manufacturing business;
- (c) limit the amount of the dividends which a manufacturing business may pay;
- (d) limit the capital expenditures which a manufacturing business may undertake;
- (e) limit the redemption of preferred shares of a manufacturing business;
- (f) take any other measure intended to promote the maintenance of a sound financial position for the business.

5.06 The final date for reimbursement of a loan shall not be later than the fifteenth year following the date of that loan; this date is established taking into consideration the borrower's capacity for reimbursement and the nature of the guarantees offered.

5.07 The Corporation shall not refuse the reimbursement of a loan before maturity. However, the Corporation may require an indemnity not exceeding six percent of the principal prepaid during the first three years of the loan.

5.08 The Corporation, when it deems it necessary, may require payment of fees in order to undertake the study of an application for financial assistance.

5.09 The Corporation must require that the legal expenses pertaining to the preparation, execution and registration of guarantees be paid by the beneficiary of the financial assistance.

## PART VI

### *Approval of applications*

6.01 The Minister may, without the authorization of the Lieutenant-Governor in Council, grant total financial assistance up to an amount of \$500,000 in accordance with sections 5 and 6 of the Act or authorize the assumption by the Corporation of part of the cost of loans of \$500,000 or less, in accordance with paragraph "a" of section 8 of the Act.

In all other cases, the authorization of the Lieutenant-Governor in Council is required.

## ANNEXE

## SOCIÉTÉ DE DÉVELOPPEMENT INDUSTRIEL DU QUÉBEC

*Formule de demande d'aide financière*  
(à soumettre en deux exemplaires)

1. NOM DU REQUÉRANT (raison sociale exacte et complète): .....

Adresse (siège social): .....

(numéro et rue)

(ville ou village)

(comté)

(no de téléphone)

2. MODE DE CONSTITUTION du requérant (veuillez remplir à l'endroit approprié).

a) Société par actions constituée selon les lois du .....  
le (date) ..... dont les principaux dirigeants sont les suivants:

| Nom                    | Lieu de résidence | Âge   | Durée des services |
|------------------------|-------------------|-------|--------------------|
| Président.....         | .....             | ..... | .....              |
| Vice-président.....    | .....             | ..... | .....              |
| Secrétaire.....        | .....             | ..... | .....              |
| Trésorier.....         | .....             | ..... | .....              |
| Directeur général..... | .....             | ..... | .....              |

S'il s'agit d'une filiale, veuillez fournir le nom de la compagnie-mère:

b) Société en nom collectif fondée le ..... et dont les associés sont les suivants:

| Nom   | Lieu de résidence | Âge   | Proportion du capital<br>Détenu dans la société |
|-------|-------------------|-------|-------------------------------------------------|
| ..... | .....             | ..... | .....                                           |
| ..... | .....             | ..... | .....                                           |
| ..... | .....             | ..... | .....                                           |
| ..... | .....             | ..... | .....                                           |

c) Entreprise à propriétaire unique fondée le .....  
(nom du propriétaire) ..... (adresse) ..... (âge) .....

d) Coopérative fondée le .....  
(nom du directeur général) ..... (adresse) ..... (âge) .....

Veuillez annexer le nom des membres

3. GENRE D'INDUSTRIE (énumérez les principaux produits fabriqués ou transformés): .....

4. NATURE DE L'AIDE FINANCIÈRE SOLLICITÉE:

Prêt à terme ☐ Participation au capital-actions ☐

Garantie d'un prêt sollicité ailleurs ☐

Preise à charge d'une partie du coût des emprunts ☐

Acquisition ou location de biens immobiliers ☐

5. PROJET FAISANT L'OBJET DE LA PRÉSENTE DEMANDE D'AIDE ET FINANCEMENT PRÉVU:

Projet:

|                                                   |         |
|---------------------------------------------------|---------|
| Achat de terrain.....                             | \$..... |
| Nouvelle bâtisse ou agrandissement.....           | .....   |
| Achat de machinerie, équipement ou outillage..... | .....   |
| Achat d'actions d'une autre entreprise.....       | .....   |
| Fonds de roulement.....                           | .....   |
| Autre (spécifiez).....                            | .....   |

Total: (doit être égal au total de la section « financement prévu » apparaissant ci-dessous) .. \$ .....

*Financement prévu:*

Montant de l'aide financière sollicitée de la Société de Développement Industriel du Québec. \$.....

Autres emprunts.....

Subvention gouvernementale.....

Fonds de roulement.....

Nouveaux investissements de la part des propriétaires.....

Autre (spécifiez).....

Total: (doit être égal au total de la section « projet » apparaissant ci-haut)..... \$.....

6. DÉCLARATION DE REQUÉRANT:

- a) Le propriétaire, les associés ou les actionnaires de l'entreprise qui soumet la présente demande d'emprunt ne sont pas députés à l'Assemblée Nationale, membres ou fonctionnaires de la Société de Développement Industriel du Québec, ni liés à de telles personnes, sauf comme suit:
- b) Le requérant n'a pu obtenir l'aide financière qu'il sollicite ailleurs à des taux et conditions raisonnables.
- c) Le requérant n'a contracté aucun nouvel emprunt, autre que pour financement normal de ses opérations, et il ne s'est produit aucun changement défavorable dans sa situation financière depuis la date des derniers états financiers au (.....) qu'il a soumis à la Société de Développement Industriel du Québec, à l'exception de:
- d) Le requérant n'est impliqué dans aucun litige, aucune poursuite judiciaire, aucune enquête du gouvernement qui n'aurait pas été déclaré dans les derniers états financiers soumis à la Société de Développement Industriel du Québec, à l'exception de:

7. Le requérant effectue ses opérations bancaires avec:

Nom (banque ou caisse populaire):.....

Adresse:.....

Marge de crédit actuellement en vigueur: \$.....

Montant actuellement dû à cette institution: \$.....

Garanties fournies à l'appui de cet emprunt:.....

Par la présente, le requérant autorise ce prêteur à fournir à la Société de Développement Industriel du Québec tous les renseignements requis concernant sa situation financière et ses opérations.

8. Le requérant accepte de fournir à la Société de Développement Industriel du Québec tous les renseignements ou documents que celle-ci exigera pour faire l'étude de cette demande.

9. Par qui ou comment avez-vous entendu parler de la Société de Développement Industriel du Québec? (veuillez donner le nom de la publication s'il y a lieu)

10. Le requérant déclare que les renseignements soumis ci-contre sont exacts et véridiques en tous points.

Date.....

Nom du requérant.....

Signataires autorisés.....

SCHEDULE  
QUÉBEC INDUSTRIAL DEVELOPMENT CORPORATION

*Request for financial assistance*  
(two copies of this form shall be submitted)

1. FULL AND EXACT NAME OF APPLICANT: .....

Address (head office):

(number and street) (town or city) (county) (telephone No.)

2. THE APPLICANT IS (complete the appropriate undernoted section):

(a) A company incorporated under the laws of .....  
on (date) ..... whose principal officers are the following:

| Name                  | Residence | Age   | Years with company |
|-----------------------|-----------|-------|--------------------|
| President .....       | .....     | ..... | .....              |
| Vice president .....  | .....     | ..... | .....              |
| Secretary .....       | .....     | ..... | .....              |
| Treasurer .....       | .....     | ..... | .....              |
| General Manager ..... | .....     | ..... | .....              |

If the company is a subsidiary, give the name of the parent company:

(b) A partnership established on (date) ..... in which the partners are the following:

| Name  | Residence | Age   | % of capital held |
|-------|-----------|-------|-------------------|
| ..... | .....     | ..... | .....             |
| ..... | .....     | ..... | .....             |
| ..... | .....     | ..... | .....             |

(c) A sole proprietorship established on .....  
(name of owner) (address) (age)

(d) A cooperative established on .....  
(name of general manager) (address) (age)

Please attach list of members

3. TYPE OF INDUSTRY (state the principal products manufactured or transformed):

4. NATURE OF FINANCIAL ASSISTANCE REQUESTED:

Term loan ☐ Equity participation ☐  
Guarantee of a loan applied for elsewhere ☐  
Assumption of part of the cost of loans ☐  
Acquisition or leasing of fixed assets ☐

5. PROJECT FOR WHICH THIS APPLICATION FOR FINANCIAL ASSISTANCE IS SUBMITTED AND PROPOSED FINANCING:

Project:

|                                                 |          |
|-------------------------------------------------|----------|
| Purchase land .....                             | \$ ..... |
| New building or enlargement .....               | .....    |
| Purchase of machinery, equipment or tools ..... | .....    |
| Acquisition of shares in another firm .....     | .....    |
| Working capital .....                           | .....    |
| Other (specify) .....                           | .....    |

Total: (must be equal to the total of "proposed financing" section below) ..... \$ .....

Date.....

Name of applicant .....

Authorized signing officers .....

Si le requérant est une société par actions, le sceau devra être apposé ci-bas.

If applicant is a company affix seal here.

LISTE DES DOCUMENTS ET RENSEIGNEMENTS QUI DOIVENT ÊTRE SOUMIS EN MÊME TEMPS QUE LA PRÉSENTE FORMULE D'AIDE FINANCIÈRE:

DOCUMENTS AND INFORMATION WHICH MUST BE SUBMITTED WITH THIS APPLICATION FOR FINANCIAL ASSISTANCE:

1. Un bref historique de l'entreprise, une description sommaire de son activité et des renseignements sur ses dirigeants.

1. Historical notes on the enterprise, description of its operations and background information on the principals.

2. Une description détaillée du projet faisant l'objet de la demande et du mode de financement prévu; les avantages que la réalisation de ce projet devraient apporter tant pour ce qui est des profits que des emplois qui pourront être créés.

2. Detailed description of the project to be financed and details of the proposed financing, benefits expected from the project in the way of profits and new jobs to be created.

3. S'il s'agit d'une entreprise déjà établie, les états financiers annuels vérifiés des quatre derniers exercices, si possible, en plus des états intermédiaires récents dont on dispose. S'il s'agit d'une nouvelle entreprise, un bilan d'ouverture et le budget du premier exercice.

3. Audited annual financial statements for the last four fiscal years if possible as well as recent interim statements available in the case of an existing business. In the case of a new business, the opening balance sheet and a budget for the first year.

4. Une description sommaire des immobilisations de l'entreprise avec le détail des dettes qui les grèvent.

4. Brief description of the fixed assets owned by the business, with details of all encumbrances.

5. S'il s'agit d'une société par actions, la liste des actionnaires ordinaires et privilégiés avec le pourcentage d'actions détenues par chacun.

5. In the case of a corporation, list of common and preferred shareholders with the percentage of shares held by each.

SCOMM

#9:76

# REALTOR®

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Publication of the ANCHORAGE BOARD OF REALTORS®, INCORPORATED,  
1818 W. Northern Lights Blvd., Anchorage, Alaska November 1977, Volume 2, Number 11



Photo by John Erskine

The REALTORS® you elected to the Board of Directors for 1978, from left to right: George Oliver, Chuck Booher, Judi Gastrock, Mark Korting, Shirley Dewhurst, Barbara Hill, Grayce Oakley, David O'Bannon, Joan Sheppard, Al Courtney, and Bob Baer.

## Message from 1978 President-Elect:

*It is with pleasure and gratitude, as well as an awesome sense of responsibility to our organization, that I address this letter to you. A story related by Don Wiedmann at our State Convention last month in Fairbanks sets the tone for what I want to convey.*

"With his thumb, a hitch-hiker says, 'You furnish me the car, supply the gas, attend to the repairs and upkeep, pay for the insurance, and I will ride with you - but if

you have an accident, I will sue you for the damages.' Sound reasonable? But what about organizational hitch-hikers? The members who seem to say, 'You go to the meetings, study the issues, contact the legislators, and anything else that needs doing and let me know what's going on and I will go along for the ride. If things don't suite me, I will complain, criticize, and probably get out and hitch-hike with another group.'"

Incidentally, did you know that all of us received a free ride, and a very beneficial one, this past year when the lobbying efforts of the NATIONAL ASSOCIATION OF REALTORS® killed a bill which would have required a Federal Inspection prior to closing on every residential sale?

To me, that more than compensates for the total year's dues in the Local, State and National organizations. But much more important are the proposed uses for local funds. The results produced by the Public Relations and Publications Committees this year have been outstanding. We certainly want to continue those projects. The educational programs and mini-courses need to be revitalized, and I hope to make them a mem-

ber benefit to you as a part of our second Wednesday breakfast meeting each month. Additional emphasis is anticipated on our legislative and lobbying efforts.

Another project which has received a great deal of consideration this past year and should be ready for implementation early in '78 is a series of Rap Sessions which should be beneficial to all REALTORS® in helping to define uniform standards of practice applicable to and endorsed by our Board. You will be hearing more about this.

Two major additional things to be considered are the establishment of our own legal defense fund and the addition of an Executive Officer to coordinate Board activities and member services. While these are not imminent, they are realistic probabilities in the next few years. This due increase now would make them feasible when necessary, and in the interim, the funds would be added to our reserve in the building fund for the acquisition of our own "real property."

Sound exciting? I think so. Can we count on you to help drive, navigate and refuel as needed? Or are you merely hitch-hiking?

— Grayce Oakley

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Milt Rambaud

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# Director's Report

## Highlights of the Convention (and Board update)



The Fairbanks Board did an excellent job coordinating our Alaska convention. For those arriving by air, it was a most pleasant surprise to be welcomed by smiling REALTORS®, who met every plane. Each morning Alaskan State Farm Insurance agents hosted a continental breakfast, while Alaskan banks did their usual to making it a great convention. The speakers were excellent. Tony Motley was whisked from the airport to a delayed meeting as he gave the latest news on the D-2 issue direct from D.C.; while Morris Thompson, the banquet speaker, stayed and enjoyed the party, thereby missing the last nightly plane out of Fairbanks. Anna Groff, former state president, and Bob, hosted a moose dinner for convention goers in their huge log home.

Carol Maser appeared at the banquet sporting a well-bandaged smashed index finger, spending her time between the end of the business meeting and the banquet in the emergency room at the hospital. Alaska's 1976 REALTOR® of the Year Candy Walker presented the award to 1977's Kenneth Gain. And Bob Barbutti of Juneau was given a special award for his effort in getting all licensed salespeople in Southeastern except two members. REALTORS® learned some of the things that National is doing for us. One of our programs next year will be to let us know what's going on outside for your benefit. It takes an organization to get good legislation promoted and bad laws defeated. David Keating, 1978 Alaska RPAC chairman, collected almost \$1,000 at the convention for next year's fund.

The By-laws revision will not get done until after the first of the year. They are recommending increasing the number serving on the Professional Standards and Grievance committees,

who share the privilege of hearing evidence and reaching decisions. While one party does not prevail, it is your peer group who are making the judgments. There are still a few changes to be recommended in the procedures in these matters.

REALTORS® Blooming Park is off to a good start, and the more donations—the more trees, for the first five year plan. Why not, in community spirit, help put another tree in the ground next spring. Make your checks out to ABR marked for the Tree Fund. If each person would accept the attitude of one office—time or money, we'd make a lot more progress. What suggestions do you have for your incoming directors to involve more people as they consider next year's projects?

With David O'Bannon's leadership our NEWSLETTER blossomed also, and you should be proud of what it has become. Although subsidized by your dues, it should eventually pay its own way, but with growth come problems that need to be solved through the process of experience. This committee also would appreciate constructive ideas for betterment, and certainly would be gratified to hear those sweet words of praise, if you members feel it to be justified.

The directors and officers are to be complimented for their weekly time commitments of two to four hours, to come up with a reasonable answer for whatever may be before them. Remember when we bought the building on Spenard Road? The directors were criticized for taking that action, and it was a pleasure to answer Ray Hill's question (president that year) that the building had served us well, and that we have money in the Building Fund. We made a couple moves since (and they didn't come free of problems); but our space requirements are being met adequately until we can buy another building. Thank your outgoing people, and let the incoming directors know what you'd like to see happen. But most of all, the Board interest may be, as it involves you, your family, clients, customers and friends. The greatest clients, customers and friends. The greatest words your directors like to hear are—What can I do, or I would like to serve on a committee. AND DO IT!

—Helen Butcher

## GRI CLASSES SCHEDULED

The REALTOR® Institute will hold a week-long class from Jan. 9-13 in Anchorage. The class is being sponsored by the Alaska Association of REALTORS® and will feature studies at all three levels necessary for attaining GRI certification.

Classes will be held Mon-Fri, eight-hours per day, with REALTORS® registering before Dec. 1 paying only \$60 registration fee. Those who register after Dec. 1 will be charged \$85. Non-REALTORS® may attend the classes for \$125 per month. For more information, call the Alaska Association of REALTORS® at 272-8016.

## REALTOR® NEWS

Official Publication  
of the  
ANCHORAGE BOARD  
of  
REALTORS®, INCORPORATED

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# You and D-2

The following speech by Dr. William R. Wood was heard by those who attended the recent annual convention of the Alaska Association of REALTORS® in Fairbanks.

Dr. Wood, former president of the University of Alaska, is now executive director of the Fairbanks Industrial Development Corps, an organization active in promoting development for the Fairbanks area.

It has been suggested by numerous pressure groups, many of them representing extreme positions, that Alaska be partitioned: divided into areas of restricted use; its land and resources largely denied to its residents. The case for such partition has not been made. Even the discussion



Dr. William Woods



Dr. Hayden Green, left, professor of real estate and marketing at the University of Alaska, Anchorage, accepts a check which will be used to purchase real estate books from two representatives from the Arctic Circle Exchangers. Carol Griel, acting treasurer, and Alden Haugen, secretary, are two members of the group which consists of people from various real estate firms in the Anchorage area. Dr. Green was able to select the books most needed in the field of real estate for the UAA School of Business and Public Administration.

of "managing Alaska's lands in the public interest" cannot wisely be undertaken until the resources of the land are properly inventoried and assessed in terms of the needs of people in the land.

This has not been done, although in general terms a rough estimate of Alaska's renewable resource lands is available: 20 million acres suitable for agriculture; 28 million acres of commercial timber lands (of which 22.5 million acres are in the interior); 10 million suitable for domestic grazing, and 100 million acres of rangeland suitable for wild herd grazing.

The total, 158 million renewable resource acres, is 43.3 per cent of the Alaska land mass of 365 million acres. To this add 10 million acres of lakes and streams which shelter other renewable resources such as fish and aquatic fur-bearing animals. How long can a nation of free people hold idle millions of acres of productive lands?

Timely access to nonrenewable resource reserves is equally important but much more difficult, perhaps, to resolve. Even now some of Alaska's store of nonrenewables is of critical significance

continued on page 12



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# The President's Podium

David

O'Bannon



What percentage of the total cost of a home in the Anchorage area is directly attributable to governmental regulations? This could be a difficult question and be even more difficult to ascertain the exact dollar figure.

On October 5rd 1977 your National Association of REALTORS® released a news item covering this subject. It read as follows:

*Overly restrictive governmental regulations are playing a major role in the escalation of prices of new and existing single-family homes, perhaps accounting for 20% of the total cost, the National Association of REALTORS® has learned.*

*The dollar figure should be familiar to most: The median price of a new single-family home rose from \$25,200 in 1971 to nearly \$44,200 last*

*We must help shape  
our community*

*year, while the rise in the price of existing homes went from \$24,800 in 1971 to \$38,100 in 1976.*

*"What isn't as well known is the effect that excessively restrictive governmental regulations—regulations at all levels—have had upon those price rises," said H. Jackson Pontius, executive vice president of the National Association.*

*"We've been aware for some time that the dollar cost of these governmental controls is significant, and recent studies confirm this fact," he added. Pontius noted particularly findings by George Sternlieb, director of the center for Urban Policy Research at Rutgers University, who reported on the relationship between excessive governmental regulations and the price of new homes.*

*First, Sternlieb defined excessive governmental regulations as those that "exceed minimum health, safety and welfare considerations in the provision of housing."*

*Best estimates are that such excessive regulations on the average new home priced at \$50,000 (three bedrooms on a half-acre lot) cost the buyer \$9,844, or nearly 20% of the total, Sternlieb noted. The effect of these excess costs is to put these homes out of the reach of five million families, he added.*

*When you adjust these figures to the Anchorage real estate market, you can see that government regulations could be pricing homes out of the market of the average buyer. The real question is if, in fact, this type of governmental regulation, to this extent, exists in Anchorage today. Mr. Sternlieb's explanation of governmental excesses that lead to unnecessary price hikes cover subjects*

such as restrictive zoning, no growth, subdivision requirements, building codes and minimum building size requirements.

This information should be of concern to each and every REALTOR® in the Anchorage area. If you believe this type of situation exists today in Anchorage, then your job becomes one of eliminating it or at least stopping it from occurring any further. If you believe this type of situation does not exist in Anchorage, then your job is one of preventing an occurrence in the future.

How do we as concerned citizens of the community handle this situation? One of the benefits of membership in our organization is that of industry representation at the local, state and national levels. It is important that we work very closely with legislators at all levels. We can do this most effectively through input to and participation on the Planning and Zoning committee or the Legislative committee of the Anchorage Board of REALTORS®. It is our responsibility to assist in the shaping of our community's future. Do your part today so your children and grand-children will not suffer tomorrow.

—David O'Bannon

## New REALTORS®

Have you received your certificate and pin from the National Association of REALTORS® yet? If not, please call the Board office at 272-3833. The National packet is now being received here within six weeks of installation, and yours may be waiting to be picked up.

## Referral Information Needed by Board

The Board office receives numerous calls from "Outside" REALTORS® requesting various services of the membership of the Anchorage Board of REALTORS®.

One frequent request is for offices which handle referrals. The Board would like to be of assistance by furnishing not only offices but a particular person or persons to contact.

Similar questions include offices specializing in commercial property and/or land. Again, we need office name and an individual's name.

Another question asked is if any of our offices are involved in selling or buying small businesses.

This type of information would be most helpful in answering inquiries. If you are interested, please write or phone the Board office. We will be compiling lists covering the above categories to be mailed to those "Outside" firms requesting information. Your cooperation in furnishing information would be appreciated and could result in future business for you.

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# TAKING CARE OF BUSINESS...

Photopage by John Erskine



**New REALTOR® initiates pose** during a recent general membership meeting at the **Ramada Inn**. They are (front row, left to right), Rick Rapp, Kathleen Jaynes, Patsy Byrd, Betty Walters, Patricia Carnahan, Susan Gallion, Jean VonDohrmann, Pam Stanton. (Back Row, left to right) David Taplin, Jerry Dewhurst, Jackie Hinson, Lorna Little, Charlotte Johnson, Shirley Sage, Linda MacSwain, Don Divens, and Steve Nelson. Not pictured are: James Brees, Robert Broadhead, Ben Collins, Kay England, John Erskine, Bob Olson, Warren Sanders, David Vaughn, and Al Zubkus.



Anchorage Board of REALTORS® President, David O'Bannon, receives a plaque from Alaska Association of REALTORS® President, Carol Maser.



Morton Hoppenfield explains details of moving the State Capitol.



Helen Butcher, a past president of the Board of REALTORS®, addresses the gathering.



Board of Directors member, Shirley Dewhurst, explains the Hands Up effort to fight crime in the community.



A packed house of active REALTORS® looks over another month's line of new professionals.

# Commission Report



Jim Magowan

## STATE TAX OBLIGATIONS FOR BROKERS AND AGENTS EXPLAINED



Gross receipts for real estate salesman are taxed twice by the state. They are taxed first when the broker collects them, and they are taxed again when the real estate salesman collects them. While this may not seem fair or equitable for some people, this is the law.

It appears that there is a great deal of misunderstanding of the gross receipts tax law in Alaska, as it applies to real estate salesmen and brokers. From conversations with real estate brokers, it seems that some brokers are violating the rules and regulations of the State Department of Revenue in the practices they use to pay salesmen their commissions. While payment or non-payment of gross receipts tax by brokers and salesmen is not not a direct concern of the real estate commission, confusion over the gross receipts tax did become evident when the real estate commission was reviewing, composing and adopting trust account regulations. For this reason, the commission requested that the Director of the Audit Division of the Department of Revenue clarify the gross receipts tax regulations with respect to real estate brokers. The following paragraphs quote in its entirety a memorandum that the real estate commission received, dated August 10, 1977, from Gary L. Jenkins, Director of the Audit Division, State Department of Revenue:

*The Alaska business license tax, i.e., gross receipts tax, is levied on all individuals and businesses who are by law required to obtain a business license. With regard to salesmen or associate*

*brokers who are treated as independent contractors, their gross receipts from commissions are subject to the gross receipts tax provisions. Further, the broker with whom they are associated must report his total commissions as taxable gross receipts prior to any commissions being paid to the agent or associate broker. While this does result in part of the gross receipts being taxed twice, it is no different than many other situations where there are transactions between taxable entities. For example, a prime contractor is taxable on the total amount of the contract awarded; any subcontractors are taxable on the amount of their subcontract as are any contractors who have a contract with a subcontractor.*

*Any individual who is an employee of a broker and who is paid from the gross receipts of sales transactions would not have to obtain a business license or file the gross receipts tax return. However, the broker must treat him as an employee and pay all appropriate employment taxes.*

**SPLIT COMMISSION BETWEEN TWO BROKERS:** *In this case, each broker would report only his share of the commission earned on the transaction. The gross fee would merely be held in trust for the second broker by the one handling the actual sale. Please understand that this position would apply only where the two brokers were actually in fact totally independent of one another. It would never apply in the situation where an individual was working as an agent or associate broker for the one individual who had the broker's license.*

This memorandum is clarification of 15AAC.05.180, Real Estate and Rentals, which is the specific revenue regulation dealing with real estate licensees. It would be wise for all persons, both licensed and unlicensed, to check this particular paragraph to determine what their obligations are under the revenue regulations.

An additional item of interest: in conversations with the Audit Division of the Department of Revenue, it was pointed out that the Revenue

Department is stepping up its enforcement of these regulations with respect to real estate licensees as well as others. In the past there has been widespread noncompliance with these regulations. The Department of Revenue is aware that this has been the case but has not been able until recently to enact very strong enforcement of these regulations. I have been informed that the enforcement of these regulations has increased many fold this year and the increase is expected to continue. With this in mind, it would behoove all of us to take a look at what we are doing and be certain that we are in compliance with the revenue regulations.

If you have questions regarding your obligations with respect to Department of Revenue regulations and statutes, it is recommended that you contact the Department of Revenue at either its Anchorage or Juneau office.

A few items of note: During the month of September two hearings were held regarding the issuance or revocation or suspension of real estate licenses. The results of those hearings have not yet been handed down. The number and frequency of hearings being held under the auspices of the commission is definitely increasing.

The real estate commission is currently in the process of reviewing 12AAC 64., which is the real estate regulations section of the administrative code. If you have suggestions or recommendations that you would like to make regarding regulations that should be enacted or regulations that should be deleted, or changed or modified, please contact the real estate commission office.

The next regular meeting of the real estate commission will be held November 28th and 29th at the International House in Soldotna. Any persons wishing to address the real estate commission are requested to contact the real estate commission office so they may be scheduled on the agenda. Those wishing to be heard by the commission are scheduled first thing on the agenda the first day of the meeting.



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# \$Commercial Sales\$\$\$

*Over the next several months the REALTOR® News will feature a series on the glamour world of commercial real estate*

## The Commercial Lease—A Cornerstone of Value

The successful completion of a commercial real estate transaction is usually professionally gratifying. Those of us having experienced such good fortune have probably been exposed to a

complex and lengthy document called the "lease agreement".

On the surface, the language and "theme" of a commercial lease agreement may fail to gener-



Mick Rosenberg

ate a high degree of reader interest and enthusiasm. But, upon reflection, it could become quite interesting when one considers the value, use, and even the total character of a property today was created by owner (lessor) and tenant (lessee) months, or even years, ago when these parties first entered into their lease agreement. This truth will remain evident as we help others today shape the value of their real commercial property for tomorrow.

Indeed, leasing is a highly specialized field within our increasingly sophisticated real estate brokerage business. But it should also be apparent that the quality of existing leases must be carefully considered in brokering a commercial sale. Whether such a sale involves a small warehouse or a major office building, those of us involved in commercial brokerage should, at least, be familiar with these leases. If engaged in securing tenants and negotiating leases, we would thoroughly understand leasing fundamentals.

The purpose of this article will be to examine briefly a few leasing fundamentals. They have been proven in our market and will emerge through (1) marketing a property for lease and (2) negotiating a lease.

### Marketing a property for lease

In any form of real estate brokerage, we must clearly understand and sincerely appreciate the needs of our client, let us say for this article, the lessor. (The lessor could be an individual investor or a multi-national corporation). With this understanding and appreciation always in mind, we are better qualified to assist in the preparation of a competitive lease offering ("space package"), and the development of an effective marketing program.

A working knowledge of the physical and geographical characteristics of the property is essential during the preparation of the space package. This is not to say that we must dwell on "concrete and mortar," but we should assemble adequate information on those features that will assist us in identifying the probable nature of prospective lessees, and recommending, where appropriate, certain improvements and alterations that will assure our leasing success.

With a firm grasp of these characteristics, we may proceed with the space package. In developing our package, we will certainly consider the positive and negative features of the represented property as they relate to competitive properties, competitive rent structure and lessee improvement allowances, general terms and conditions of the lease and an overall marketing strategy.

At this point we should be aware of the physical and geographical strengths and weaknesses of our offering, and we should learn of our competition. ("Yes, sir, we realize that our office building lacks the visibility and central location of the attractive Royal Alaskan Building, but we believe

*continued on page 11*

## Were you there?

*Parties are opportunities for active REALTORS® to meet others in the business...*



Ruth Ann Stephenson pats on Don Hoff's nametag while Don Keuler eyes the action. Both are from ALPINE ASSOCIATES.



Bob Wilkinson of ATLANTIC RICHFIELD CO. and Jim Dryen of BANNER HOMES takes to the bar.



Vice President Bob Sullivan, of ALASKA MUTUAL lays it on the line to Jim and Jo Davis of EXECUTIVE REALTY.



Alaska Mutual Bank President, Ron Rettig.



Alaska Mutual Assistant Vice President Gregg Walker and Lynn Marshall, of Marshall Associates.

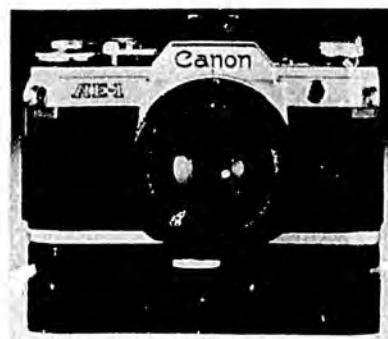
Susan Dutchler of AREA drops her card in.



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# R People

\*\*\*\*\*  
Has something special happened to someone at your office? Then tell Carol Bangs, our People Editor. She'll do the rest! Her number is: 276-0909. \*\*\*\*\*

Congratulations to the PALMER - WASILLA ALL-STARS, who won the youth softball tournament. Gary Waldner of PROFESSIONAL REALTY told me that all 25 players gave it their best and, by golly, they won. Keep up the good work Gary I know you must be proud of your team.

Gina Youngblood has left SAFECO TITLE and is now with ABM ESCROW learning to be an escrow closer. Good Luck on your new job.

Wedding Bells rang for Anne Marie Staudenmaier, mortgage loan closer with ALASKA NATIONAL BANK, she recently married Jim Picard, Senior Loan Officer, Loan Administration, ALASKA USA FEDERAL CREDIT UNION.

ANCHORAGE PROFESSIONAL MORTGAGE WOMEN held their monthly meeting at the ANCHORAGE WESTWARD HILTON HOTEL. The guest speaker for the evening was LYNN ALTON, executive officer of the ALASKA HOME BUILDERS ASSOCIATION, and HOMEOWNERS WARRANTY COUNCIL OF ALASKA. Lynn spoke on the HOW program and was very informative. Dick Pahl of CONTINENTAL MORTGAGE INSURANCE, INC. provided wine for the evening.

LAWYERS TITLE has a new employee, Larry Moss formerly with ATG, is Lawyers Manager of Title Operations. Larry has been in the Title business for 9 years and originates from California. Good luck to you in your new position.

Lawyers also received the \$20,000,000.00 refinance order for the Anchorage Hilton. With a few more deals like that you guys should be able to retire... There were 1821 Deeds of Trust recorded in Anchorage, with a dollar amount of \$76,387,481.61 for the month of September. It's just amazing how it keeps going up and up.

Matt Casey, of LOMAS AND NETTLETON has informed me that they have a man up from Seattle who specialized in reviewing commercial property and he is very much impressed with Alaska! LOMAS AND NETTLETON will now start reviewing commercial packages. Call Matt at 274-7661 for more details.

We would like to make a correction on last month's issue. Rick Froemling was promoted to Vice-President and Title Unit Officer for BROKERS TITLE COMPANY, sorry for the error Rick. Hope this makes up for it CANNON BALL!

Juanita Hall with SECURITY TITLE has been promoted to Plant Manager. Juanita sure seems to enjoy her new job and invites you to give her a call if you need Customer Service.

There was a total of 277 Deeds of Trusts recorded in Palmer with a dollar amount of \$10,970,512.95, for the month of September. That's about 2,000,000.00 more than last month.

And for those who still wonder about the answer to the hat quiz in September's People column, we're sorry that it didn't appear last month but there just wasn't room for it. So give me a call at 276-0909 and I'll explain...

CB

The following are Anchorage Building Permit Values as reported by the Municipality of Anchorage:

|        | Millions of Dollars |                 |       |
|--------|---------------------|-----------------|-------|
|        | Residential         | Non-Residential | total |
| 1974   | 95                  | 71              | 166   |
| 1975   | 127                 | 119             | 246   |
| 1976   | 104                 | 113             | 217   |
| 1977 J | 1                   | 1               | 2     |
| F      | 2                   | 3               | 5     |
| M      | 7                   | 7               | 14    |
| A      | 9                   | 25              | 34    |
| M      | 22                  | 5               | 27    |
| J      | 20                  | 3*              | 23*   |
| J      | 27                  | 19              | 46    |
| A      | 24                  | 31              | 55    |
| S      | 31                  | 12              | 43    |

\*Excludes \$53 million for Anchorage Federal Building Complex.

This chart supplied by Alaska Pacific Bank, Economic Research Associate, Mary Lou Couch.



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39th and Seward Highway  
Diamond and Jewel Lake Road

## HBA Ball Set

The Home Builders Association of Alaska will hold their annual Ball and Banquet on Saturday, November 26 at the Captain Cook Hotel.

Comedian Robert Klein, frequent guest and sometime host of the Johnny Carson Show, will be featured entertainer at the event. No host cocktails will begin at 6:00, and dinner will be served at 8:00. Master of Ceremonies for the evening will be Don Dikey of the Alaska Chamber of Commerce.

Music for the affair will be provided by Mr. Whitekeys, and a 1978 Ford Bronco truck will be given away in a drawing. For ticket reservations and more information, call 277-4319 or 274-9243.

## Board projects entered in NAR competition

The Anchorage Board of REALTORS® is entering two of its 1977 projects in the National Association of REALTORS® Make America Better contest.

Operation Blooming Park, in which the Board is planting trees in Smith Memorial Park, is being entered in the Let's Green America category. The Board's participation in Anchorage's HANDS UP program is being submitted in the Vandalism Prevention category.

Our entries have been sent to Alice Lyczkowski, 1977 chairperson for the NAR program. Outstanding entrants will be honored at the annual convention at Miami Beach in November. Finalists of the NAR competition will be sent to the Freedoms Foundation in Valley Forge to be considered in its award program.

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# ●COMMERCIAL

*continued from page 7*

you'll agree that the access to our site is substantially more convenient, and our ratio of designated parking to net leaseable space is considerably higher than any building in its class." Or, "Yes, m'am, compared to the Shopper's Delight Mall, our parking lot does get congested during certain times of the day, and we have plans to eventually alleviate the situation. However, because of this high density of customer traffic, nearly all of the merchants in our shopping plaza are exceeding their gross annual sales projections.") Most properties, if reasonably conceived or modernized, will offer virtuous qualities; rarely, however, will a property be devoid of some fault. We must squarely face this reality and be prepared to offer sound recommendations to our lessor should we detect an "Achilles heel" in our offering.

Establishing a rent structure and an allowance for leases improvements should be accomplished after a careful examination of the marketplace and the costs for new construction and improvements. Presumably, a reasonable margin of profit

**"Once interested prospects have been contacted, we should be well prepared to present the property in a clear and understandable fashion. Careful listening and comprehending the nature of a prospect's needs at the outset are critically important."**

will remain after deducting construction and improvement allowances. (This may be reason enough to obtain the services of a broker prior to constructing a new project). What are rents and allowances in similar properties? What does our space offer that is not available in competing offerings? What do other offerings have that we are unable to meet or exceed? What is the financial character of tenants that may be attracted to our space? These are a few questions that we must answer objectively as we attempt to define the "numbers."

Having studied the property and its competition and established a competitive rent structure and lessee improvement allowance, it is appropriate to define the terms and conditions of the lease. It is helpful, if not essential, to possess a comfortable familiarity with leasing customs in our community. At this stage of space packaging, the lessor may properly look to the broker for his input in creating a model lease document and expect him to work closely with his attorney in constructing this legal instrument. Some terms and conditions to be decided at this time may include: rules and regulations governing the use of the property, initial and option renewal lease terms, security deposit, escalation, alterations, utilities, repairs and maintenance, assignment and subletting, taxes and insurance, default and remedies, condemnation, subordination and a variety of miscellaneous provisions. In the arena of "boiler plate," the leasing broker should be capable of accurately translating technical jargon into meaningful understandings. (As in any brokerage situation, legal interpretations and recommendations should remain in the domains of the legal counsels for lessee and lessor.)

Equipped with a comprehensive knowledge of our offering and the marketplace, we are prepared to develop a marketing strategy. This strategy will embrace a marketing program that will, most desirably, produce leases with fully qualified lessees in the shortest possible period of time. Briefly, we will search for prospective

lessees who may have a need for our space. Depending on the nature of the offering, our strategy may suggest "rifle" or "shotgun" approaches or a variation of both styles. Once interested prospects have been contacted, we should be well prepared to present the property in a clear and understandable fashion. Careful listening and comprehending the nature of a prospect's needs at the outset are critically important. The competence of a lease broker will be quickly evident through an ability to apply space needs easily and creatively to the property he is representing. Once a "fit" has been recognized by the prospective lessee, negotiations are ready to begin.

## Negotiating a lease

Typically, formal lease negotiations begin with the creation of a letter of intent to lease. The purpose of this letter, prepared by the prospective lessee with the assistance of his agent, is to clearly articulate, in "plain English," a proposal to lease space. It is not intended to be a formal lease document.

The letter will provide a "source document" for drafting the final lease document. (Remember, we drafted our model lease earlier.) It may

contain such information as address and legal description, precise location of the space to be leased within the property, use of the space, commencement date, lease term, utility and maintenance responsibilities, lease rate, tenant improvements (including sketches), and any other item that is significant to the proposal. Customarily, a "good faith" deposit placed in trust will support the letter.

If the space has been effectively packaged and adroitly presented to a prospect, the letter of intent will usually conform to guidelines established by the lessor, and the lessor should acknowledge the letter in writing. (For our purposes, we will assume that the letter of intent is acceptable to the lessor.) At this time, the letter will be submitted to the lessor's attorney, who will incorporate its contents with the lease document.

A legal review of the lease will normally be undertaken by the prospective lessee's attorney. (This may be the time when the lease broker's comfortable familiarity with leasing customs in our community is appreciated by all parties to the transaction.) Questions raised by this review may require further negotiation. Finally, however, a sincerely motivated prospective lessee and lessor will reach agreement, and both will execute the lease document. Advance rentals, if any, will be paid by the lessee (now no longer a prospect) and disbursed to the lessor.

The "wedding ceremony" between Lessor and Lessee has been completed and a "marriage" has been created.

In summary, commercial leasing should properly be regarded as a specialized field within commercial real estate brokerage. It is not unique, however, with respect to the rewards and frustrations shared among all of us in the commercial real estate business.

As mentioned earlier, the purpose of this article has been to examine a few leasing fundamentals and not to serve as a training paper for aspiring lease brokers. Some of these fundamentals, which are not necessarily in the exclusive domain of the

lease broker, include an understanding of:

1. The absolute necessity to acquire a clear understanding and sincere appreciation of the needs of both lessee and lessor.

2. The marketing effectiveness of "packaged space," which embraces: (a) physical and geographical characteristics of the property; (b) the marketplace and competing properties; (c) the rent structure and lessee improvement allowances; (d) leasing customs in our community; and (e) marketing strategy.

3. The model lease document that establishes a framework for negotiating the lease.

A familiarity with commercial leasing may simplify the analysis of sale of the next commercial offering. It will certainly provide a key to understanding the quality of the offering. This understanding is a responsibility to our principals and ourselves.

**"Inflation is like sin; every government denounces it and every government practices it."**

**Sir Frederic Leith-Ross**

## Super Bucks from Fannie Mae!

*Fannie Mae has announced the availability of mortgage money at higher levels than ever before in Alaska. The program is now available for up to \$90,000 at 95 per cent loan rate and up to \$112,500 at 90 per cent.*

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## ● D-2 and YOU

*continued from page 3*

nationally. The nature of the problem is not likely to change, nor the world situation improve in respect to mineral shortages.

It will take many years and a truly major reconnaissance and exploration effort to assemble a comprehensive inventory of Alaska's mineral reserves. Both for Alaska and for the nation is it not an urgent necessity that the task be accomplished?

Would partitioning Alaska for any known purpose make any sense at all? If not, why persist in attempting to consummate the proposed "d-2 lands" folly? Why divide Alaska into national parks, wildlife refuges, wild and scenic river areas, with the remaining odds and ends isolated and virtually inaccessible to the ordinary folk, including subsistence users, trying to make a living and a state from them?

Would such action solve, or would it instead add fuel to the bitter struggle waged endlessly among government agencies and departments for prestige, influence, and control at the expense of others?

The gut question before the Congress is not: How can government retain control and management of Alaska lands? It is: How can Alaska lands best be used to meet the needs of people in Alaska, in America, and elsewhere?

Apart from the land people have little identity. They have no physical existence away from the land, the waters, and the surrounding atmospheric envelope that encases the planet earth. A handful of astronauts, by taking a tiny portion of earth's environment with them, have been able to venture into space beyond and return. The rest of us are earthbound.

In human history the land is a very personal matter. It is too precious a part of the individual's existence to be wholly and minutely controlled, and centrally planned by whatever form of government.

Asky, what is my need in the land?

Food? Yes.

Fiber for clothing and shelter? Yes.

Fuel for heating, cooling and energy? Yes.

Tools, whether from wood, stone, metal, synthetic fiber, or plastics? Yes.

Recreation, as a physical and an emotional outlet? Yes.

Spiritual fulfillment from awareness of one's relationships with all else in the created universe? Yes.

These are my basic needs in the land. Are they not yours, too?

Together they are the essentials of subsistence as well as the creative and productive outlets for the energy, enthusiasm, and expertise of each of us that brings us slightly above, yet responsible for all else comprising the planet earth.

What is the public interest in the lands of Alaska? Until each member of Congress ponders and comprehends his basic human needs in the land, a personal yet universal concern, no constructive decision can be made on a comprehensive program that would work toward the wise utilization of Alaska lands for Alaskans and for all Americans — as well as for the nation's total well-being.

Are the special-interest reservations proposed in various bills pending before Congress for the common good? Are they in the best interest of the producers and consumers of this nation?

It must be remembered that when the land and its natural resources, both renewables and non-renewables, are totally controlled and regulated by government, then that government totally con-

trols and regulates the human resources. In that direction lies feudalism and totalitarianism.

Witness the impact of the proposed management systems for Alaska lands upon the subsistence users, whose ancestors have enjoyed freedom of movement here for thousands of years. Does any statesman in our Congress wish to be a part of a back-to-feudalism or on-to-totalitarianism movement?

In the light of two centuries of experiences as a nation of free people, shall Congress now deny the citizens of any state the right of self-determination in respect to the selection and use of the lands to which they became entitled when they voluntarily accepted membership in the federal union?

Are the d-2 land proposals currently before the Congress a foretaste of what may be expected from the much-publicized quest for the "just society?" In managing the land, is the intent of government to manage the people or to free the people to make wise use of the land?

The national public interest in the lands of Alaska is something quite different from the partitioning-of-Alaska proposals pending before the Congress.

Statesmen genuinely concerned with the full range of the public's need in the land will take the time and the patience required to weigh and consider these diverse interests as a whole and in balance perspective.

On the Alaska lands issue, Alaskans pray that members of Congress will not act hastily, capriciously nor carelessly in response to the ceaseless pressures from special interests with extreme points of view.

Prescription for a healthy and self-reliant Alaska:

*continued on page 14*



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Milt H. Rambaud is a former acting chief of real estate for the Dept. of Housing and Urban Development in the regional office, San Francisco, and Deputy Chief, Redevelopment & Land Marketing Branch, Housing Assistance Administration, DHUD, Washington, D.C. He has been a "turn-key" developer of over 6,000 housing units since leaving HUD.

For years the lowest rents for low and middle income tenants were to be found only in homes or apartments paid for and managed by HUD-funded Public Housing Authorities, such as Alaska State Housing Authority (ASHA) and, of late, by Native Housing Authorities. This resulted in larger projects such as Willow located on 9th Ave. & near Gambell in Anchorage and various other projects throughout Alaska.

Like most government run programs it cost considerably more to build public housing units than a comparable unit on the open market. The reasons and examples are numerous. One prime example cited in the hearings before Congress was the fact that a two bedroom, one bath wood-frame constructed apartment cost the San Francisco Housing Authority \$51,000 per unit. The same exact size two bedroom, one bath wood-frame apartment cost a private owner-developer only \$33,000 per unit only two blocks away. Additionally the private developer-owner paid \$3,775 per unit for the land while the housing authority got their land at \$500 per unit from the San Francisco Urban Renewal Agency at a so called "land write-down." This meant that the land was in fact, also worth \$3,775 per unit, but HUD allowed the Urban Renewal Agency to sell at a \$3,525 per unit loss since \$51,000 was, at that time, the maximum allowable for land and building. Needless to say, the Housing Authority had bids including building cost, planning, architectural design, inspection and builders profit in \$50,500.

Question: how can a private owner-developer design, plan and build a comparable unit \$21,275 cheaper than a Housing Authority? Each area has different answers. Some are that the knowledgeable private developer does not give the architect a totally free hand in design latitude. The prudent developer knows the economics of the rental market and requires good design within a very narrow range of costs. This, therefore, results in a lower cost unit and, unfortunately for the architect, a lower fee in spite of the fact that they may both work on a 4.5% fee schedule. One is based on costs of \$29,225 the other on costs of \$50,500. Since the reviewing and approving bureaucrats aren't spending their own monies,

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● D - 2

*continued from page 12*

- Settle the Native Claims entitlement.
- Settle the Alaska statehood entitlement.
- Then address the disposition of the rest of Alaska's lands in terms of the basic needs of people in the land: food, fiber, fuel, tools, recreation, and spiritual fulfillment. Establish and vigorously pursue a comprehensive, thorough, and responsible search for non-renewable assets. Provide access to reserves discovered on a timely but gradual basis, a "resource reserve bank" concept. Surely the total procedure can be an orderly one avoiding extremes of "superregulation" and "superexploitation."

- Patiently, sensibly, seek a solution to the Alaska lands through negotiation, not dictation. One is reminded that the wisest government action is taken with the consent of the governed.

The Alaska Statehood Act was ratified by a vote of the residents of Alaska. Faces with so drastic a revision of the content and intent of the basic contract of the "d-2 lands" proposals pending before the Congress, Alaskans now should be treated with comparable courtesy. Provide the residents of Alaska an opportunity for a referendum on the issue of how Alaska's lands might best be used in the national interest—after the Native Claims Acts entitlements and the Statehood Act entitlements have been fulfilled.

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## ● PUBLIC HOUSING

*continued from page 13*

they tend to approve the first design rather than seek other cost saving designs. Architects by human nature, would rather design for higher costs as their fee is higher for the same work. Contract builders also prefer 10-15% of \$50,500 rather than \$29,225.

It becomes obvious why housing in the public sector continues to cost more than in the private sector.

What does this mean to the average Alaska REALTOR®, developer, builder? Congress became aware of the huge private vs public sector costs differences and decided to enable each individual REALTOR®, investor, developer, builder, packager or any combination thereof to be able to receive the rental monies that were only paid to public housing authorities. This in essence is the difference between what would be the market value of a rental unit in Anchorage, say \$400 per month for a two bedroom unit and 20% of a tenant's income. Example: young couple just married and laid off the pipeline and working for \$475 per month. He pays \$95 rent per month, and the U.S. Government pays \$380 per month. The private Anchorage developer will quickly see a zero vacancy factor at \$95 rent for a \$400 per month apartment unit.

While this program is available to all, very little private interest is being shown in Alaska. This program, known as Section 8 of the National Housing Act of 1974, does not, contrary to popular belief, require that you should have also gotten a Section 8 from the Army.

The feeling of many on the House Banking and Currency Committee in Washington, D.C. was that this would put many housing authorities out of business and get public housing back into the private sector. It can do that only if we in the industry do something. Inquire at HUD-FHA offices, develop proposals, seek assistance from the Governor's office, initiate your own projects. The rental subsidies are comparable to a post office lease and, in fact, will even continue for three months after the tenant has moved out or has been evicted. The program takes a little more management expense than the average, but tenant counseling is available from other HUD-funded sources.

The program will work ONLY IF REALTORS® and the real estate industry make it work. If no one does anything, then we once again defer to Big Government.



*In the next issue: Want to retire to Trinidad, Fiji or some other Caribbean or South Pacific Island? Why not develop a major subdivision there using 100% U.S. Government insured loans up to a total of \$20,000,000? How does it work? Where do the hard dollars come from? How do you do it?*



## Dates of Note

*Do you know of an upcoming event or opportunity that would be of interest to REALTORS®? Then please get in touch with Susan Dutcher at AREA, 278-2525. This column is an effort to provide all REALTORS® and affiliate members with a calendar of happenings in the industry. Susan would appreciate your assistance.*

- Nov. 2 • Board of Directors Meeting, REALTOR® Conference Room, 8:14 a.m.\*
- Nov. 9 • REALTOR® General Membership Meeting, RESERVATIONS REQUIRED, 272-3833, Ramada Inn 8:15 a.m.\*  
• Anchorage Association of Professional Mortgage Women — monthly meeting at Anchorage Westward-Hilton Hotel. For reservations call Betty High at 279-5641 ext. 355.
- Nov. 10-17 • REALTOR® National Convention in Miami, Fla.
- Nov. 16 • Board of Directors Meeting, REALTOR® Conference Room, 8:15 a.m.
- Nov. 23 • NO GENERAL MEMBERSHIP MEETING.
- Nov. 24 • HAPPY THANKSGIVING!
- Nov. 26 • Homebuilder's Association Annual Ball and Banquet, RESERVATIONS REQUIRED, call 277-4319.
- Nov. 30 • Board of Directors Meeting, REALTOR® Conference Room, 8:15 a.m.\*
- Dec. 6 • Indoctrination, REALTOR® Conference Room, 6:30 p.m.
- Dec. 7 • Board of Directors Meeting, REALTOR® Conference Room, 8:15 a.m.\*
- Dec. 8 • Indoctrination, REALTOR® Conference Room, 6:30 p.m.
- Dec. 14 • REALTOR® General Membership Meeting, RESERVATIONS REQUIRED, 272-3833, Ramada Inn 8:15 a.m.  
• Anchorage Association of Professional Mortgage Women monthly meeting, RESERVATIONS REQUIRED, call Betty High at 279-5641 ext. 355.
- Dec. 15 • No Homebuilder's Association meeting this month. See you next year!
- Dec. 21 • Board of Directors Meeting, REALTOR® Conference Room, 8:15 a.m.\*
- Dec. 25 • MERRY CHRISTMAS!
- Dec. 28 • No REALTOR® General Membership Meeting. Enjoy the Holidays.
- Dec. 31 • HAPPY NEW YEAR! \*Any REALTOR® who is interested in attending a meeting of the Board of Directors is welcome to attend.

## We're Growing!

The REALTOR® NEWS started nearly a year ago as a one-page newsletter for the Anchorage Board of REALTORS®. Now it is quickly becoming an industry-wide publication for the rapidly expanding real estate, title and banking businesses.

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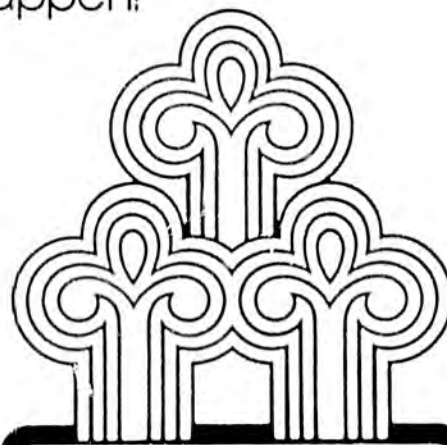
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#9:77

"I am convinced that non-renewable resources need not necessarily be the sole basis of the northern economy in the future. We should not place absolute faith in any model of development requiring large-scale technology. The development of the whole renewable resource sector -- including the strengthening of the native economy -- would enable native people to enter the industrial system without becoming completely dependent on it.

An economy based on modernization of hunting, fishing and trapping, on efficient game and fisheries management, on small-scale enterprise, and on the orderly development of gas and oil resources over a period of years -- this is no retreat into the past; rather, it is a rational program for northern development based on the ideals and aspirations of northern native peoples.

To develop a diversified economy will take time. It will be tedious, not glamorous, work. No quick and easy fortunes will be made. There will be failures. The economy will not necessarily attract the interest of the multinational corporations. It will be regarded by many as a step backward. But the evidence I have heard has led me to the conclusion that such a program is the only one that makes sense."

--Justice Thomas R. Berger  
NORTHERN FRONTIER, NORTHERN HOMELAND  
The Report of the Mackenzie Valley  
Pipeline Inquiry: Volume One  
April 15, 1977

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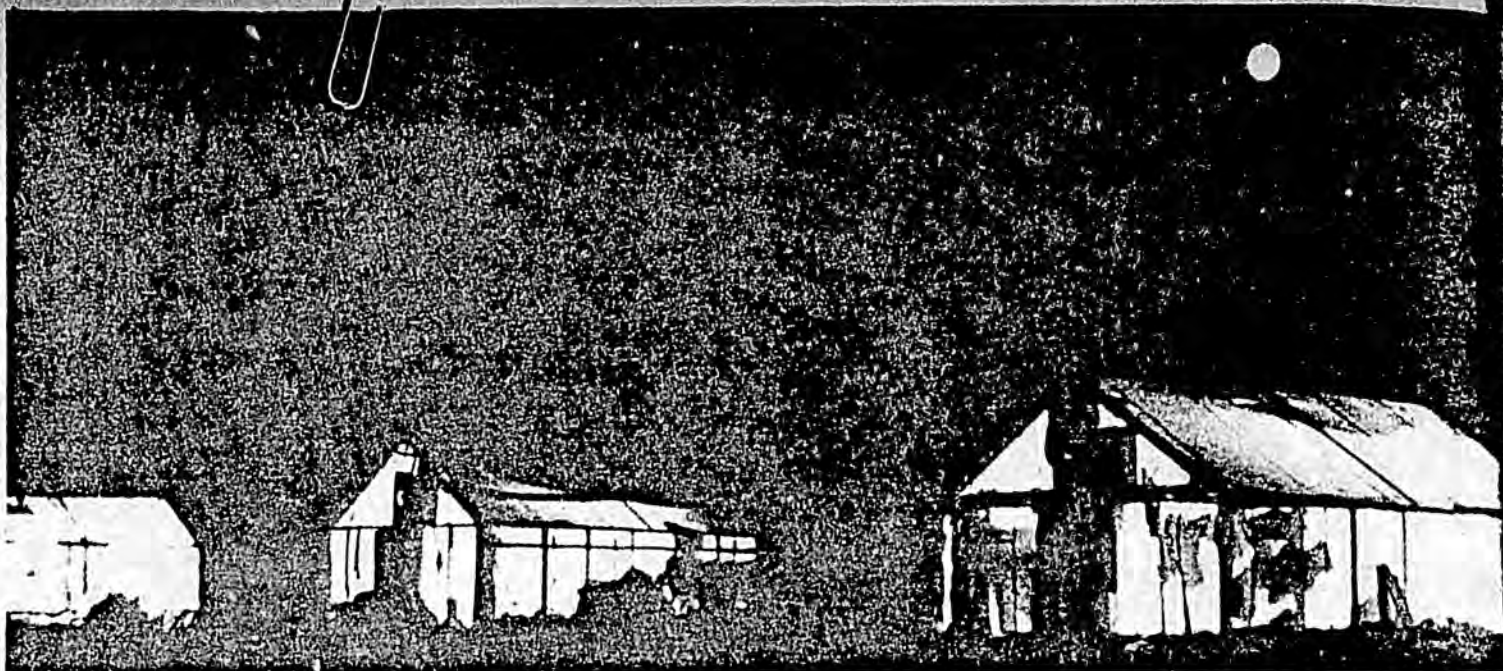
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great excerpts from Beyer.*

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Hunting camp near Fort Resolution. (R. Fumelleau)

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### Postponement of the Pipeline

In my judgment, we must settle native claims before we build a Mackenzie Valley pipeline. Such a settlement will not be simply the signing of an agreement, after which pipeline construction can then immediately proceed. Intrinsic to the settlement of native land claims is the establishment of new institutions and programs that will form the basis for native self-determination.

The native people of the North reject the model of the James Bay Agreement. They seek new institutions of local, regional and indeed territorial government. John Ciaccia, speaking to the Parliamentary Committee convened to examine the James Bay Agreement, said that the Government of Quebec was "taking the opportunity to extend its administration, its laws, its services, its governmental structures through the entirety of Québec." [The James Bay and Northern Québec Agreement, p. xvi] The Dene and the Inuit seek a very different kind of settlement.

They also reject the Alaskan model. The Alaskan settlement was designed to provide the native people with land, capital and corporate structures to enable them to participate in what has become the dominant mode of economic development in Alaska, the non-renewable resource sector. This model is only relevant if we decide against the strengthening of the renewable resource sector in the Canadian North.

The Alaskan settlement also rejects the idea that there should be any special status for native people. That is a policy quite different from the policy formulated by the Government of Canada. In Alaska the settlement was designed to do away with special status by 1991 and to assimilate Alaskan

natives. The Government of Canada faced that issue between 1969 and 1976 and decided against it.

The issue comes down to this: will native claims be rendered more difficult or even impossible of achievement if we build a pipeline without first settling those claims? Must we establish the political, social and economic institutions and programs embodied in the settlement before building a pipeline? Unless we do, will the progress of the native people toward realization of their goals be irremediably retarded? I think the answer clearly is yes. The progress of events, once a pipeline is under construction, will place the native people at a grave disadvantage, and will place the government itself in an increasingly difficult position.

In my opinion a period of ten years will be required in the Mackenzie Valley and Western Arctic to settle native claims, and to establish the new institutions and new programs that a settlement will entail. No pipeline should be built until these things have been achieved.

It might be possible to make a settlement within the year with the Metis, and perhaps to force a settlement upon the Inuit. It would, however, be impossible, I think, to coerce the Dene to agree to such a settlement. It would have to be an imposed settlement.

You can sign an agreement or you can impose one; you can proceed with land selection; you can promise the native people that no encroachments will be made upon their lands. Yet you will discover before long that such encroachments are necessary. You can, in an agreement, promise the native people the right to rebuild the native economy. The influx of whites, the divisions created among the native people, the preoccupations of the federal and territorial

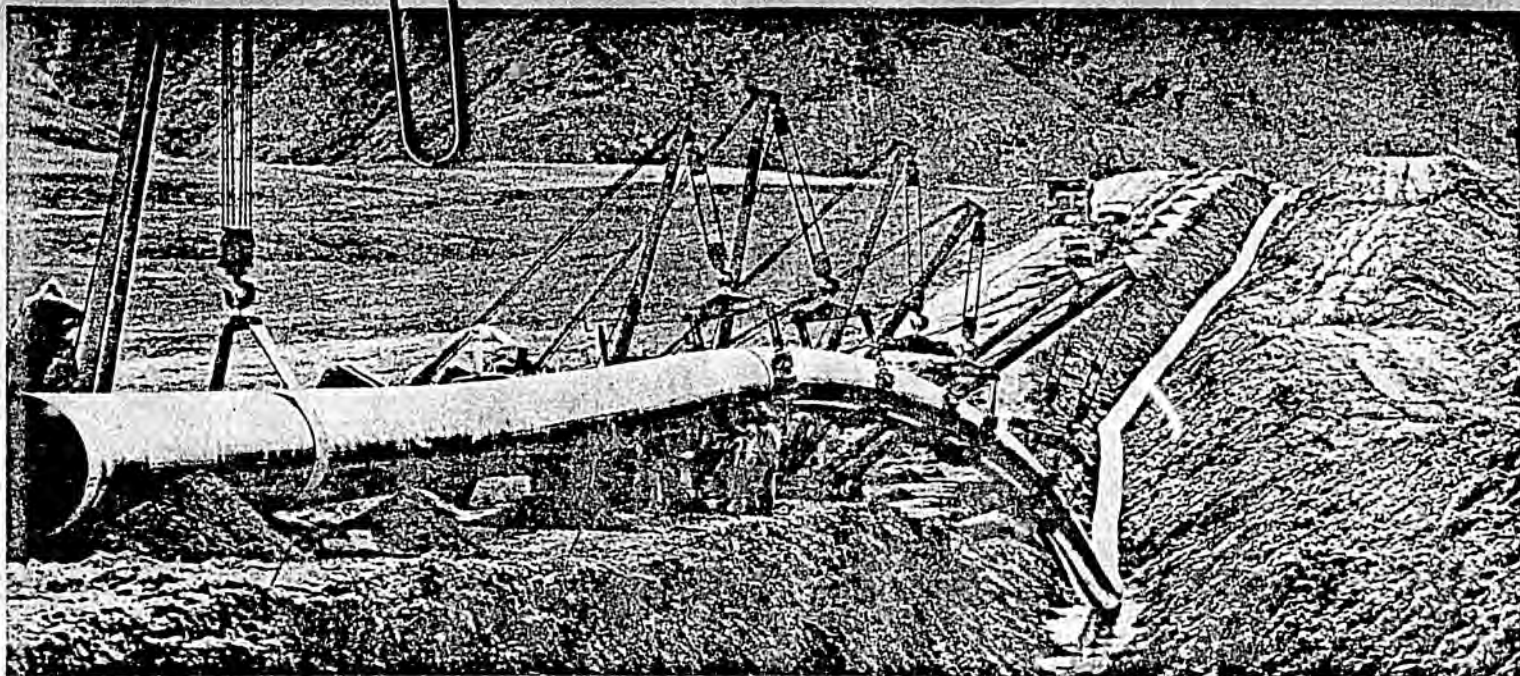
governments, faced with the problems of pipeline construction and the development of the corridor, would make fulfilment of such a promise impossible. That is why the pipeline should be postponed for 10 years.

A decision to build the pipeline now would imply a decision to bring to production now the gas and oil resources of the Mackenzie Delta and the Beaufort Sea. The industrial activity that would follow this decision would be on a scale such as to require the full attention of the government, and entrench its commitment to non-renewable resource development in the North. The drive to bring the native people into the industrial system would intensify, and there would be little likelihood of the native people receiving any support in their desire to expand the renewable resource sector.

If we believe that the industrial system must advance now into the Mackenzie Valley and the Western Arctic, then we must not delude ourselves or the native people about what a settlement of their claims will mean in such circumstances.

It would be dishonest to impose a settlement that we know now — and that the native people will know before the ink is dry on it — will not achieve their goals. They will soon realize — just as the native people on the prairies realized a century ago as the settlers poured in — that the actual course of events on the ground will deny the promises that appear on paper. The advance of the industrial system would determine the course of events, no matter what Parliament, the courts, this Inquiry or anyone else may say.

If we think back to the days when the treaties were signed on the prairies, we can predict what will happen in the North if a settlement is forced upon the native people. We shall soon see that we cannot keep the promises we have made.



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cubic yards. It would be foolish to consider the impact of the borrow requirements of a gas pipeline without taking into account the gravel requirements of an oil pipeline, as well as those of other regional and local projects. Substantial amounts of borrow materials will be required for gas plants and gas-gathering systems in the Mackenzie Delta, for the completion of the Mackenzie Highway and the Dempster Highway, and for airports, not to mention the needs of communities along the route. Gravel provides a quite straightforward example of cumulative impact. There are many other examples, some of them by no means as straightforward, that I shall be dealing with in this report.

### The Northern Yukon Corridor and the Mackenzie Valley Corridor

It should be borne in mind that there are two proposed corridors: one across the Northern Yukon and another along the Mackenzie Valley. The following passage from the Pipeline Guidelines makes this plain:

The Government of Canada is prepared to receive and review applications to construct one trunk oil pipeline and/or one trunk gas pipeline within the following broad "corridors":

- i) Along the Mackenzie Valley region (in a broad sense) from the Arctic coast to the provincial [Alberta] boundary;
- ii) Across the northern part of the Yukon Territory either adjacent to the Arctic coast or through the northern interior region from the boundary of Alaska to the general vicinity of Fort McPherson, and thus to join the Mackenzie "corridor"; ... [p. 9]

Arctic Gas propose to build a pipeline from Alaska that would use the corridor across the Northern Yukon as well as the corridor along the Mackenzie Valley. Foothills propose to build a pipeline that would use only the corridor along the Mackenzie Valley.

Arctic Gas propose to transport only Alaskan gas in the corridor across the Northern Yukon, and to transport both Alaskan and Canadian gas in the Mackenzie Valley corridor. Under the Foothills proposal, the Mackenzie Valley corridor would be used to carry only Canadian gas.

Since 1972, as mentioned above, the Government of Canada has assumed that a gas pipeline along either of these corridors would probably be followed by an oil pipeline. That assumption is a sound one: once a gas pipeline is built across the Northern Yukon, there will be every reason for an oil pipeline carrying American oil to follow the same route. You may ask, is not the trans-Alaska pipeline to carry American oil to the Lower 48? The Alyeska pipeline was built to deliver oil to the western states, but the United States still has severe shortages of oil in the midwest and the east. And there are great petroleum reserves in northern Alaska, especially in Naval Petroleum Reserve No. 4 lying to the west of Prudhoe Bay. The urgency of bringing oil from northern Alaska to the markets in the Lower 48 that need it most is obvious. If a gas pipeline and energy corridor were already in place across the Northern Yukon and along the Mackenzie Valley, it is quite likely this corridor would be the route of choice.

Once a gas pipeline is built along the Mackenzie Valley, it is likely that in the future an oil pipeline will follow. Oil has in fact been found in the Mackenzie Delta region. It is said that discoveries of oil in the

Mackenzie Delta and the Beaufort Sea do not justify an oil pipeline today. Nonetheless, while the proven reserves of oil in the Mackenzie Delta region have not yet reached threshold levels, they may do so in time. In any event, it is obvious that if present or future exploration programs reveal large reserves of oil under the Beaufort Sea, the call for an oil pipeline from the Delta to the mid-continent will be made once again.

I think all of this demonstrates the wisdom of the Pipeline Guidelines, which insist that there should be an examination of the impact of an oil pipeline along with the gas pipeline. Any attempt to dismember the policy and to assess the impacts piecemeal, along either the Northern Yukon corridor or the Mackenzie Valley corridor, should be resisted.

### The United States' Interest in the Corridor

The Arctic Gas pipeline, if it is built, would provide a land bridge for the delivery of Alaskan gas across Canada to the Lower 48. The implications of this prospect, from the point of view of Canadian policy in the North, should be borne in mind.

The corridor across the Northern Yukon will be an exclusively American energy corridor. The Mackenzie Valley corridor, under the Arctic Gas proposal, will be an American energy corridor as much as it is a Canadian energy corridor. The United States will have an interest in the scheduling of pipeline construction in Canada and, when the pipeline is built, in seeing that it remains safe and secure, because it will be carrying Alaskan gas in bond to the Lower 48. It will be an energy lifeline for the United States,

Trans-Alaska pipeline and gravel haul road.  
Sideboom tractors lower pipe into ditch. (Alyeska)

Stockpile of drill pipe. (NFB-McNeill)

Drill rig in the Delta. (Arctic Gas)

Mackenzie Highway right-of-way beside  
Mackenzie River. (J. Inglis)



## The Corridor Concept

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extending across the Northern Yukon, across the Mackenzie Delta, along the Mackenzie Valley, and then through Alberta, Saskatchewan and British Columbia to the Lower 48. It will supply gas to a complex of industries and urban centres in the United States. The Americans will be dependent on the continuous supply of gas, and the gas being transported from Alaska will be their own gas. Moreover, the United States wants the pipeline to begin to deliver that gas as soon as possible.

There are, of course, pipelines that cross United States territory and carry oil and gas to Canadian markets: the Interprovincial pipeline, which delivers western oil to Ontario; the Portland-Montreal pipeline, which delivers offshore oil to Quebec; and the Great Lakes Transmission Company pipeline, which delivers gas to Ontario. All of them pass through the United States. But these connections cannot be compared in magnitude or impact to the Arctic Gas proposal. They are not pipelines reaching some 2,000 miles from a distant frontier.

The consequences of such American interest in the pipeline are of special concern to the Inquiry. The impact of the pipeline, so far as northern peoples and the northern environment is concerned, will be largely within Canada (the line from Prudhoe Bay to the Alaska-Yukon border is only 200 miles long, whereas the line from the Alaska-Yukon boundary to the Northwest

Territories-Alberta border is 1,000 miles long). The native people's concern over when a pipeline is built, the environmental concern over where it should be built, and the stipulations for protecting the people and the environment apply largely in Canada. The United States cannot be expected to be as concerned as Canada with the seriousness of the social and environmental impact of the pipeline along its route. This difference, coupled with the Americans' rather more urgent need of gas, might result in pressure to complete the pipeline without due regard to the social and environmental concerns in Canada. The risk is in Canada. The urgency is in the United States.

A pipeline 2,200 miles long (in Canada) is a highly vulnerable artery. What measures might have to be taken to forestall an interruption of delivery — an interruption that would affect vital Canadian interests, but even more tellingly, vital American interests? There may be real possibilities for misunderstanding and tension between our two countries, notwithstanding our long history of good relations. These considerations deserve the attention of the Government of the United States as well as of the Government of Canada. It may be that they are not at all daunting. But they should still not be overlooked.

A treaty between Canada and the United States will not cover all possibilities. It will, of course, define the rights of our two

governments with regard to the pipeline and to the gas being transported in that pipeline. And it will establish the ground rules for the transportation of Alaskan gas across Canada to the United States. It cannot do more. I say this because a treaty, although it will regulate the conduct of our two governments, will not necessarily regulate the conduct of the two countries' citizens.

The implications for our relations with the United States of the building and maintenance of the proposed gas transmission system deserve careful consideration by all Canadians. We are not simply considering a proposal to build a pipeline on an isolated frontier. We are considering, in the Arctic Gas proposal, the establishment of an international energy corridor that will cross some 2,200 miles of Canadian territory, opening up wilderness areas that are among the most important wildlife habitat in North America. It will cross lands that are claimed by Canada's native people, a region where the struggle for a new social and economic order and political responsibility is taking place.

It seems to me the question of whether or not there should be a corridor to carry vital energy supplies from Alaska through the heartland of Canada to the Lower 48, is at the threshold of the decision-making process. If Canadians decide that there is to be such a corridor, then we must also consider when it should be established and what route it should follow. These are questions Canadians must decide on their own.



## Wilderness

Wilderness is a non-renewable resource. If we are to preserve wilderness areas in the North, we must do so now. The available areas will diminish with each new industrial development on the frontier. We have not yet in Canada developed a legislative framework for the protection of wilderness, but a model exists in the United States.

A century ago, for the first time in history, a tract of land in its natural state was set aside for its own sake, for its intrinsic values, not for the resources it might later provide. That was Yellowstone National Park, and it marked the beginning of the national park system. This idea of preserving unexploited and superb examples of nature was adopted within 15 years in Canada, and it rapidly spread to other nations.

Initially, Canadian and American parks seemed to be designated to preserve natural geological features found in magnificent settings, such as geysers (Yellowstone, 1872) and hot springs (Banff, 1885). In a few years, concern for the giant trees of the Sierra Nevada led to the establishment of Sequoia National Park, and plant life came to be regarded as a valuable component of land in its natural state. Then wildlife was accorded recognition. The idea of preserving wilderness itself continued to develop, culminating in the passage by the United States in 1964 of the Wilderness Act. This Act, in defining wilderness, called it a place:

where the earth and its community of life are untrammelled by man, where man himself is a visitor who does not remain. [p. 1]

I rely here on American experience because I see no difference between the United States and Canada in the perception

of environmental values. I have heard witnesses from Alaska and the Lower 48. What they said about wildlife and wilderness did not distinguish them from Canadians, but rather reinforced my impressions of the values that Canadian society now embraces.

Let me be clear about the importance that is hereby accorded to wilderness. No one seeks to turn back the clock, to return in some way to nature, or even to deplore, in a high-minded and sentimental manner, the real achievements of modern-day life. Rather, the suggestion here is that wilderness constitutes an important — perhaps an invaluable — part of modern-day life; its preservation is a contribution to, not a repudiation of, the civilization upon which we depend.

Wallace Stegner wrote in 1960:

Without any remaining wilderness we are committed ... to a headlong drive into our technological termite-life, the Brave New World of a completely man-controlled environment. ... We simply need that wild country ... [as] part of the geography of hope. [cited in W. Schwartz, *Voices for the Wilderness*, p. 284ff.]

The difficulty in describing the importance of wilderness is that you cannot attach a dollar value to it or to its use and enjoyment, any more than you can to the rare and endangered species, or to archaeological finds. The value of wilderness cannot be weighed in the scale of market values. It is a national heritage. Many who sense change everywhere, recognize that our northern wilderness is irreplaceable.

Sigurd F. Olson, an American naturalist, writing of the Canadian North in *The Lonely Land*, said:

There are few places left on the North American continent where men can still see the country as it was before Europeans came and know some of the challenges and freedoms of

those who saw it first, but in the Canadian Northwest it can still be done. [p. 5]

Wilderness implies to all of us a remote landscape and the presence of wildlife. I think there are three kinds of wilderness species. The first are species that, because of their intolerance of man or their need for large areas of land, can survive only in the wilderness. Such are caribou, wolf and grizzly bear. These species require large areas of wilderness to protect the integrity of their populations and preserve their habitat. Second are the species that conjure up visions of wilderness for every Canadian, although they are often seen in other areas, too. I do not believe there can be a Canadian anywhere who does not think of wilderness on hearing the call of a loon or of migrating geese. Third are the rare and endangered species that do not inherently require a wilderness habitat, but, because they are tolerant of man, have been driven close to extinction. The peregrine falcon, trumpeter swan and whooping crane are well-known examples of species that are abundant (if abundant at all) only in wilderness areas. Our concern is that the process of adaptation and evolution through millennia of each of these species should not be ended. We cannot allow the extinction of these species, if it can be prevented. These species, like wilderness itself, need protection in the North today.

Wilderness is a resource that can be used by both public and private interests, in both a consuming and a non-consuming way. A consuming use of the wilderness destroys or degrades it, and so decreases its value for other users. Industrial and commercial interests are almost invariably consumers; they do not use the wilderness itself, but some aspect of it. Non-consuming use is represented by the traditional pursuits of the

Whistling swans in the Delta. (C. & M. Hampson)

Arctic tern on nest. (C. & M. Hampson)

Ermine. (NFB-Cesar)

Red-throated loon on nest. (W. Campbell)



## The Northern Environment

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native people, and by certain recreational activities.

To some people, the notion of preserving a wilderness area inviolate from industry is anathema — as though we were on the brink of starvation and could not survive without exploiting the resources of every last piece of ground in our country. They would argue that the urge to develop, to build, to consume, is fundamental to man's very nature and that this urge ought not to be checked; even if, were we to follow this urge, it would produce no more than a marginal — perhaps even an illusory — increment to our material well-being. But this argument would apply to northern wilderness areas only if there were no other way in which, and no other area where, man could satisfy this urge. This manifestly is not the case.

## Wilderness and Northern Land Use

If we decide to preserve the wilderness, then we must withdraw from industrial use the land designated as wilderness. This decision would have certain implications in respect of land use and land use regulations in the North.

Wilderness parks in the North would be a logical extension of our national park system. In fact, some of the provinces have already established wilderness areas. There have been many intrusions into the great national parks along the Alberta-British Columbia boundary. Two national railways

run through these parks (although both were there when the parks were created). The Trans-Mountain oil pipeline from Edmonton to Vancouver and the Trans-Canada Highway cross Jasper National Park. But these national parks are not — and were never intended to be — wilderness parks. In the North, certain ecosystems and certain migratory populations can be protected and preserved only by recognizing the inviolability of wilderness. Our national parks legislation, as it now stands, is not adequate to preserve northern wilderness areas, which, if they are to be preserved, must be withdrawn from any form of industrial development. That principle must not be compromised. It is essential to the concept of wilderness itself as an area untrammelled by industrial man.

Virtually any northern development must involve land, and in areas such as the Mackenzie Delta there has been, during recent years, a dramatic increase in the number of competing uses to which the land is put. The potential for chaotic development, degradation of environmentally important areas, the overwhelming of native people's interests, or even a stalemate in the conflict of interests, is great.

The Mackenzie Valley and the Western Arctic are still at an early stage of industrial development, and the latitude of choice that can be exercised for the future of these areas is still considerable — at least in comparison with most parts of Canada. Nevertheless, with each passing season, and with each decision by the public and private sectors concerning townsite development, transportation facilities, municipal or industrial use

of land, or resource development, the number of options is decreased.

We should recognize that in the North, land use regulations, based on the concept of multiple use, will not always protect environmental values, and they will never fully protect wilderness values. Withdrawal of land from any industrial use will be necessary in some instances to preserve wilderness, wildlife species and critical habitat. Parliament contemplated that withdrawals of land in the North would be made. The Territorial Lands Act provides for lands to be reserved for special purposes such as recreation sites and public parks (under Section 19[b]), for the general good of native people (Section 19[d]), and for use as national forests or game preserves (Section 19[e]). Despite these provisions, no attempt has yet been made to preclude industrial development in any part of the Territories; instead the policy of multiple use has been followed.

In two recently prepared studies on land management North of 60, *Land Management in the Canadian North* by Kenneth Beauchamp and *Land Use and Public Policy in Northern Canada* by John Naysmith the authors argue that we must confront the question of land withdrawal versus its regulation for multiple use. I think they are right.

We should include in our National Parks Act a provision for a new statutory creation: a wilderness park. It would consist of land to be preserved in its natural state for future generations. In chapter 5, I shall recommend that such a wilderness park be established in the Northern Yukon.

Phillips Bay, Yukon coast; breeding and staging area for waterfowl. (I. MacNeil)

Porcupine River. (ISL—G. Calef)

Alaska North Slope. (ISL—G. Calef)



## The Northern Yukon

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and the Northern Yukon biota, can be consistent with and complementary to these principles.

We have already some experience in the establishment and management of parks (although not wilderness parks) in the North and have seen their effects on the interests of the native people. At Nahanni Butte the Inquiry was told that the Dene play no part in the management of the South Nahanni National Park. This experience must not be repeated in the wilderness park for the Northern Yukon that I am urging upon the Government of Canada. The conditions I have outlined will, in my judgment, avoid such a repetition and will avoid prejudice to native claims.

In *Runes of the North*, Sigurd Olson, an American naturalist, wrote:

It may well be that with [the help of the native people] the Canadian north, with its vast expanses of primeval country, can restore to modern man a semblance of balance and completeness. In the long run, these last wild regions of the continent might be worth far more to North Americans from a recreational and spiritual standpoint than through industrial exploitation. [p. 156]

It may be said that no one will visit the park because it is too remote. Only the wealthy, it may be argued, will have the opportunity to see the caribou and to enjoy the solitude and the scenery. But Canadians of ordinary means and less are there now, enjoying these wonders of nature. I speak, of course, of the native people. Is that not enough? Canadians from the provinces do not have to visit the wilderness or see the herd of caribou to confirm its existence or to justify its retention. The point I am making here is that the preservation of the wilderness and its wildlife can be justified on the grounds of its importance to the native people. But the preservation of wilderness

can also be justified because it is there, an Arctic ecosystem, in which life forms are limited in number, and where, if we exterminate them, we impoverish the frontier, our knowledge of the frontier, and the variety and beauty of the earth's creatures.

## An Alternative Route Across the Yukon

I have recommended that no pipeline be built and no energy corridor be established across the Northern Yukon along either of the routes proposed by Arctic Gas. This means that, if gas from Prudhoe Bay and, subsequently, gas and oil from other sources in Alaska must pass overland to the Lower 48, the pipeline will have to be routed through the southern part of the Yukon Territory. The only overland route that has been seriously advanced as an alternative to the routes proposed by Arctic Gas is the Alaska Highway Route (also known as the Fairbanks Route) which is the route proposed for the Alcan Pipeline. This route would follow the trans-Alaska pipeline from Prudhoe Bay to Fairbanks, the Alaska Highway to the eastern border of Alaska and then cross the Southern Yukon into British Columbia and Alberta.

At Whitehorse, I heard evidence from Arctic Gas and from other participants in the Inquiry, comparing this route with the Coastal and Interior Routes. On the basis of that evidence, many of the concerns that led me to reject the pipeline routes across the Northern Yukon do not appear to apply to the Alaska Highway Route.

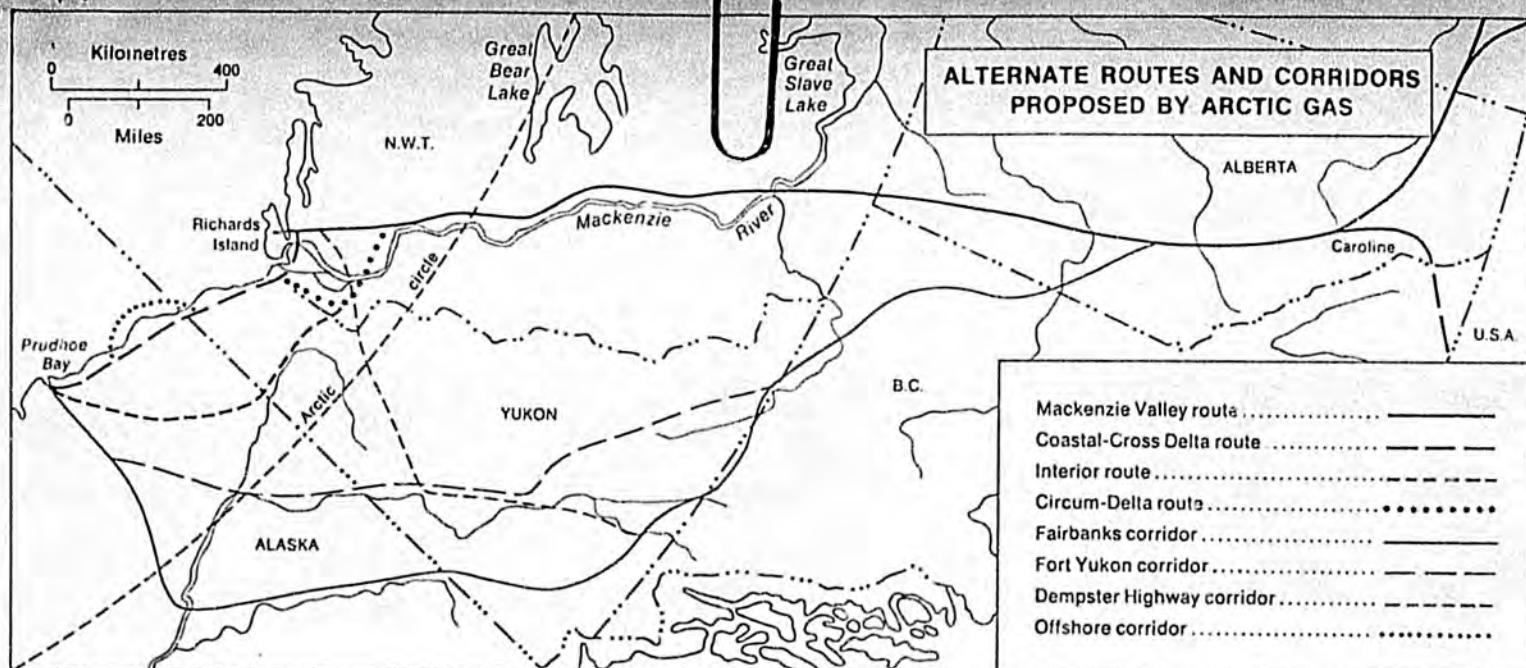
No major populations of any wildlife species appear to be threatened by the construction of a pipeline paralleling the

Alaska Highway, either in the Yukon or in Alaska. The route follows an existing corridor along the trans-Alaska pipeline north of Fairbanks and along the Alaska Highway south and east of Fairbanks. Like the trans-Alaska pipeline, this route would come into contact with only small numbers of caribou south of Prudhoe Bay. Elsewhere, although there are important wildlife populations in the area traversed by the proposed route, they apparently would not have major contact with the corridor.

The concerns that I have expressed about the scheduling and logistics of building a pipeline across the Northern Yukon would not apply (or would be much less important) if a pipeline were built along the Alaska Highway Route. The Arctic Gas pipeline would have to be built in the cold and darkness of winter north of the Arctic Circle, from a snow working surface. It would depend upon a limited shipping season, and a whole infrastructure would have to be established to bring in material, equipment and supplies. In contrast, a pipeline following the Alaska Highway Route in Canada could probably be built in either winter or summer, and it would cross an area with less extreme winter weather, and follow a main highway that has a short connection to the Pacific coast.

Within Canada, only short sections of the Alaska Highway Route would encounter permafrost, and the problems of pipeline construction and operation across permafrost and of controlling frost heave would be of little concern. Of course, permafrost does exist throughout most of the Alaska portion of this proposed route.

I have not examined the social and economic impact of a pipeline along the Alaska Highway Route. Neither have I considered the question of native claims in the Southern



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Yukon. The Council of Yukon Indians have advised that native claims must be settled in the Southern Yukon before any pipeline is built. These matters would be of fundamental importance in any decision to build a pipeline across the Southern Yukon and they must be assessed carefully before any recommendation is made for a pipeline along the Alaska Highway. Certainly, I am in no position to make such a recommendation.

If a decision should be made in favour of a pipeline along the Alaska Highway Route, or over any other southerly route across the Yukon Territory, I recommend that any agreement in this regard between Canada and the United States should include provisions to protect the Porcupine caribou herd and the wilderness of the Northern Yukon and Northeastern Alaska. By this agreement,

Canada should undertake to establish a wilderness park in the Northern Yukon and the United States should agree to accord wilderness status to its Arctic National Wildlife Range, thus creating a unique international wilderness park in the Arctic. It would be an important symbol of the dedication of our two countries to environmental as well as industrial goals.



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the sense of medication. So at least in its initial stages, southern psychiatry is appropriate. However, many of the problems seen are so closely interwoven with the life-style of the native people in the North, which in turn is closely bound to such problems as economics, housing, self-esteem and cultural identity, that to label them as psychiatric disorders is frankly fraudulent and of no value whatsoever, as the treatment must eventually be the treatment of the whole community rather than [of] the individual. [F28437]

### *Social Impact and the Pipeline*

Some advocates of the pipeline say that the wage employment it would provide, even though temporary, would ameliorate the social problems that underlie the psychological symptoms that Kehoe, Abbott and others have described. In the light of all of the evidence and our experience, this attitude must be regarded as wrong. We cannot ignore the truly frightening increases in crime, abuse of alcohol, diet-related illness, venereal disease rates and mental illness that have occurred during the past ten years in the North.

At the same time, we should acknowledge some encouraging trends: violent deaths of native people in the Northwest Territories fell from 28.4 percent of all deaths in 1974 to 22.5 percent in 1975. There was a reduction in the number of cases of venereal disease reported in 1976. I have described some local reactions against alcohol abuse that have led to measures of local prohibition. Why have these indicators of crime and social disease, which for years have gone from bad to worse, broken their upward trend? Perhaps it has been a result of heightened native consciousness, the determination of the native people to be true to themselves, that is responsible. But let us make no mistake: these improvements, although welcome, are

small, and they may prove to be merely an interruption of longer-term trends. In communities into which the industrial economy has only recently penetrated, the situation is deeply alarming.

The question we face is, will construction of the pipeline hamper social improvements? The answer must be yes. If pipeline construction goes ahead now, can we ensure that its effects will not halt these social improvements? The answer must be no. Although some ameliorative measures can be taken to lessen the social impact of pipeline construction and related activity on the northern people, no one should think that these measures will prevent the further and serious deterioration of social and personal well-being in the native communities.

The process of rebuilding a strong, self-confident society in the Mackenzie Valley has begun. Major industrial development now may well have a disastrous effect on that process. With the pipeline, I should expect the high rate of alcohol consumption to persist and worsen. I should expect further erosion of native culture, further demoralization of the native people, and degradation and violence beyond anything previously seen in the Mackenzie Valley and the Western Arctic.

The presence of a huge migrant labour force and the impact of construction over the years will mean that alcohol and drugs will become more serious problems. It is fanciful to think that greater opportunities for wage employment on a pipeline will stop or reverse the effects of past economic development.

Let me cite what Dr. Wheeler said of the Dene, because this statement applies to all the native peoples of the Mackenzie Valley

and the Western Arctic. His views exemplify those of every doctor and nurse spoke to the Inquiry.

The Dene have great strength as a people. Part of this strength lies in their extended families which they have been able to maintain in close-knit communities. We white people know the value of these kinds of ties, as we are now feeling the loss of them in terms of the depersonalization and dehumanization of southern urban living. How long will the Dene family survive the loss of its young men and the degradation of its women?

We want to hear what plans the territorial and federal governments have or are developing for these kinds of social problems. But perhaps the answer lies not with increasing government bureaucracy, with all its control. The solution to these problems, and with it the survival of the Dene, lies within the Dene. They must be allowed to develop these solutions within a time frame of their own choosing before we get stampeded into a social disaster from which the North may never recover. The people need time and freedom in order to survive. [C3402]

### *The Limits to Planning*

I have been asked to predict the impact of the pipeline and energy corridor and to recommend terms and conditions that might mitigate their impact. Some impacts are easier to predict than others: there is a vast difference between the effects that are likely to occur in the first year and those that will be important in ten years. And there are difficulties in prediction that involve more than time or scale, for even short-term causal chains can be intricately connected. Moreover, some consequences of the pipeline will be controllable, but others will not. Just as there are limits to predicting, so also are there limits to planning.

Arctic Red River. (M. Jackson)

Café and bar in Fort Providence. (Native Press)

Elizabeth Mackenzie, activist against liquor abuse, being sworn in as a Justice of the Peace, Rae-Edzo. (Native Press)

People visiting outside the Bay, Fort Norman. (N. Cooper)



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I can recommend terms and conditions that will to some extent mitigate the social impact of the pipeline and energy corridor, but some of the consequences I have predicted will occur no matter what controls we impose. Other consequences can be predicted only in a vague and general way: we can anticipate their scale, but cannot adequately plan for them. There is a gulf, therefore, between the nature of the predictions and the nature of the terms and conditions I am asked to propose. The one is imprecise and often speculative; the other, if the terms and conditions are to be effective, must be very precise. We must never forget their limitations; it is all too easy to be overconfident of our ability to act as social engineers and to suppose — quite wrongly — that all problems can be foreseen and resolved. The nature of human affairs often defies the planners. In the case of a vast undertaking like the Mackenzie Valley pipeline, overconfidence in our ability to anticipate and to manage social problems would be foolish and dangerous.

I am prepared to accept that the oil and gas industry, the pipeline company, and the contractors will be able to exercise a measure

of control over the movement and behaviour of their personnel. I am prepared to accept that government will expand its services and infrastructure in major communities to serve the requirements of pipeline construction in the Mackenzie Valley and of gas plant development in the Delta. Where actual numbers of people can be predicted, planning is possible and orderly procedures and cost-sharing arrangements can be worked out. However, there are obvious limitations to planning of this sort. The cost of the project or the number of workers required may be so far in excess of the figures we have now that it will seem as though we had planned one project but had built another. There is the question of how many people will be involved in secondary employment: their number will be large, no matter what measures are taken to discourage them, and the costs associated with their presence in the North will be very high.

There are also political limits to planning. The impacts that lead to social costs vary in the degree to which they can be treated. There are matters over which government and industry can exercise some control; there are other matters over which control would

not be in keeping with the principles of a democratic society. And there are social impacts over which no control could be exercised even under the most authoritarian regime.

Finally, I am not prepared to accept that, in the case of an enormous project like the pipeline, there can be any real control over how much people will drink and over what the abuse of alcohol will do to their lives. There can be no control over how many families will break up, how many children will become delinquent and have criminal records, how many communities will see their young people drifting towards the larger urban centres, and how many people may be driven from a way of life they know to one they do not understand and in which they have no real place. Such problems are beyond anyone's power to control, but they will generate enormous social costs. Because these costs are, by and large, neither measurable nor assignable, we tend to forget them or to pretend they do not exist. But with construction of a pipeline, they would occur, and the native people of the North would then have to pay the price.

# The Corridor Concept

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## The Corridor Concept and Cumulative Impact

The concept of a pipeline corridor from the North was first enunciated by the Government of Canada in the 1970 Pipeline Guidelines. In 1972, these Guidelines were expanded. The Expanded Guidelines for Northern Pipelines (to which I shall refer as the "Pipeline Guidelines") were tabled in the House of Commons in June 1972, and they form the cornerstone of Canadian policy with regard to the construction of northern pipelines. The Inquiry is bound by Order-in-Council, P.C. 1974-641 March 21, 1974, under which it was established, to consider the proposals made by the pipeline companies to meet the specific environmental and social concerns set out in the Pipeline Guidelines.

The significance of the corridor concept to this Inquiry relates to the consideration of impact and cumulative impact. The Pipeline Guidelines assume that, if a gas pipeline is built, an oil pipeline will probably follow it, and they call for examination of the proposed gas pipeline from the point of view of cumulative impact. We must consider then, not only the impact of a gas pipeline, but also the impact of an oil pipeline — in sum, the impact of a transportation corridor for two energy systems.

The government's corridor policy is plainly spelled out in the Pipeline Guidelines:

In view of the influence of the first trunk pipeline in shaping the transportation corridor system and in moulding the environmental and social future of the region, any applicant to build a first trunk pipeline within any segment of the corridor system outlined in 1. above must provide with [its] application:

- i) assessment of the suitability of the applicant's route for nearby routing of the other pipeline, in terms of the environmental-social and terrain-engineering consequences of the other pipeline and the combined effect of the two pipelines;...
- ii) assessment of the environmental-social impact of both pipelines on nearby settlements or nearby existing or proposed transportation systems... [p. 10]

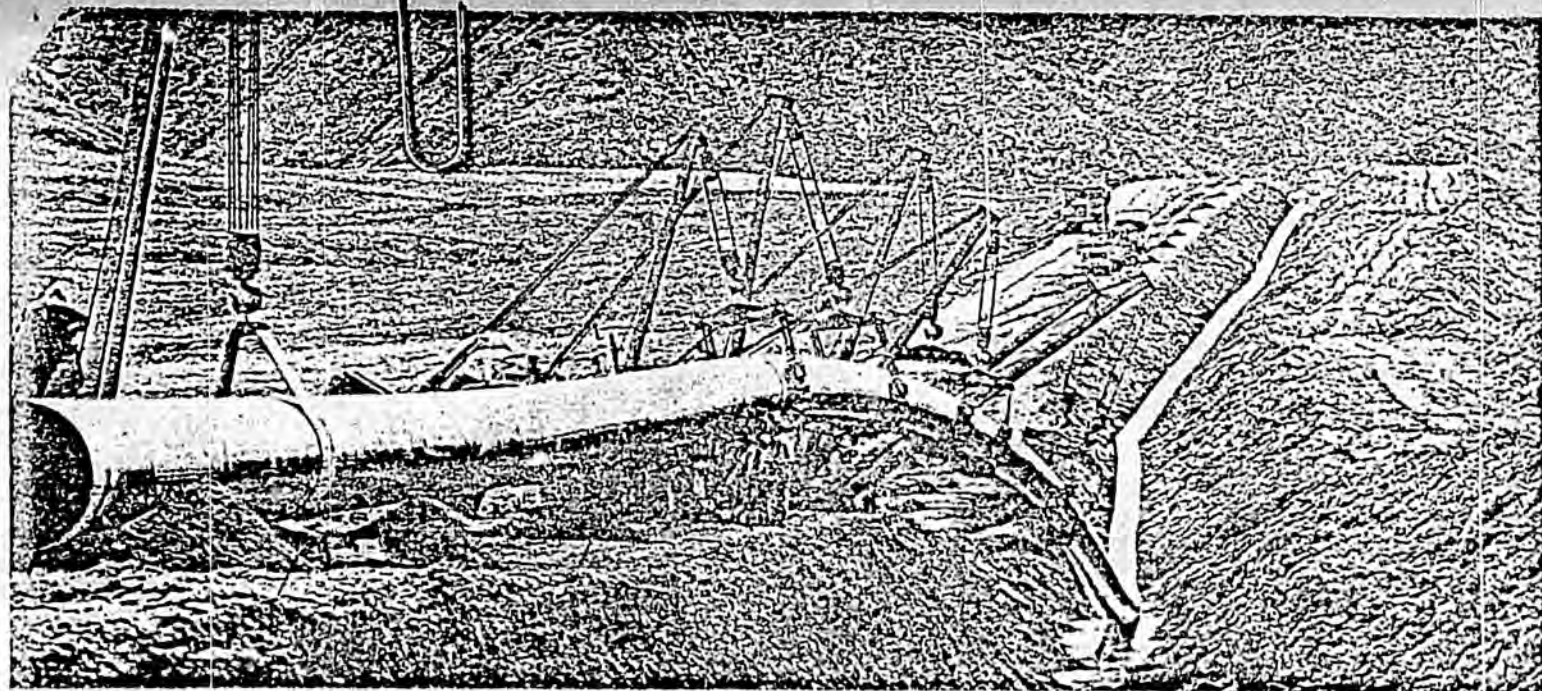
The assumption in 1970 was that an oil pipeline would be built first, and a gas pipeline would be likely to follow it; ever since the Pipeline Guidelines were issued in 1972, the assumption has been that a gas pipeline would come first and that an oil pipeline would be likely to follow it. Now we have before us proposals by Arctic Gas and Foothill to build a gas pipeline. The influence of a gas pipeline on the development of an energy corridor and in moulding the social, economic and environmental future of the North will be enormous. The Pipeline Guidelines call for a consideration of the environmental and social impact of a gas pipeline and an oil pipeline, as well as of the combined impact of the construction of both pipelines along the corridor. That policy ramifies throughout the Inquiry's consideration of the environmental and social issues that arise along the whole route. However, the corridor will not be simply a corridor for gas and oil pipelines. The Pipeline Guidelines envisage that the corridor may eventually include roads, a railroad, hydro-electric transmission lines and telecommunications facilities.

There are real limits to our capacity to forecast the impact of such a corridor. The Pipeline Guidelines are principally concerned with the impact that gas and oil pipelines will have in the North. The Inquiry has, therefore, largely limited itself to a consideration of the impact of these energy

transportation systems. But sometimes it has been necessary to consider the impact of pipelines in relation to other transportation systems. For instance, what if a haul road had to be built along the Arctic Coastal Plain of the Northern Yukon? Or to what extent will the capacity of the existing fleet of tugs and barges on the Mackenzie River have to be augmented? Or to what extent will hunting from the Dempster Highway have to be restricted to enable the recommendations of this Inquiry to be carried out? We cannot make an intelligent assessment of the impact of a gas pipeline unless we do so in the light of the cumulative impact of the corridor.

Of course, the gas pipeline itself will be a multi-stage project involving considerations of cumulative impact. The gas pipelines proposed by Arctic Gas and by Foothills can be expected to be looped. Looping is the process of progressively increasing the amount of gas that can be transported by the pipeline system; a second (or third) pipeline is built beside the first in sections or loops from one compressor station to the next. This means that construction along the gas pipeline right-of-way can be an ongoing or repetitive process and can involve cumulative impacts over and above those resulting from the project that was originally proposed.

The importance of considering the impact of a gas pipeline in the light of cumulative impact along the corridor is obvious. This importance can be illustrated by reference to gravel, which is in short supply in the North. Arctic Gas estimate that the gas pipeline will require 30 million cubic yards of gravel and other borrow materials within Canada and North of 60. Mackenzie Valley Pipeline Research Limited estimated the gravel requirements for an oil pipeline at 42 million



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cubic yards. It would be foolish to consider the impact of the borrow requirements of a gas pipeline without taking into account the gravel requirements of an oil pipeline, as well as those of other regional and local projects. Substantial amounts of borrow materials will be required for gas plants and gas-gathering systems in the Mackenzie Delta, for the completion of the Mackenzie Highway and the Dempster Highway, and for airports, not to mention the needs of communities along the route. Gravel provides a quite straightforward example of cumulative impact. There are many other examples, some of them by no means as straightforward, that I shall be dealing with in this report.

### The Northern Yukon Corridor and the Mackenzie Valley Corridor

It should be borne in mind that there are two proposed corridors: one across the Northern Yukon and another along the Mackenzie Valley. The following passage from the Pipeline Guidelines makes this plain:

The Government of Canada is prepared to receive and review applications to construct one trunk oil pipeline and/or one trunk gas pipeline within the following broad "corridors":

- i) Along the Mackenzie Valley region (in a broad sense) from the Arctic coast to the provincial [Alberta] boundary;
- ii) Across the northern part of the Yukon Territory either adjacent to the Arctic coast or through the northern interior region from the boundary of Alaska to the general vicinity of Fort McPherson, and thus to join the Mackenzie "corridor"; ...

[p. 9]

Arctic Gas propose to build a pipeline from Alaska that would use the corridor across the Northern Yukon as well as the corridor along the Mackenzie Valley. Foothills propose to build a pipeline that would use only the corridor along the Mackenzie Valley.

Arctic Gas propose to transport only Alaskan gas in the corridor across the Northern Yukon, and to transport both Alaskan and Canadian gas in the Mackenzie Valley corridor. Under the Foothills proposal, the Mackenzie Valley corridor would be used to carry only Canadian gas.

Since 1972, as mentioned above, the Government of Canada has assumed that a gas pipeline along either of these corridors would probably be followed by an oil pipeline. That assumption is a sound one: once a gas pipeline is built across the Northern Yukon, there will be every reason for an oil pipeline carrying American oil to follow the same route. You may ask, is not the trans-Alaska pipeline to carry American oil to the Lower 48? The Alyeska pipeline was built to deliver oil to the western states, but the United States still has severe shortages of oil in the midwest and the east. And there are great petroleum reserves in northern Alaska, especially in Naval Petroleum Reserve No. 4 lying to the west of Prudhoe Bay. The urgency of bringing oil from northern Alaska to the markets in the Lower 48 that need it most is obvious. If a gas pipeline and energy corridor were already in place across the Northern Yukon and along the Mackenzie Valley, it is quite likely this corridor would be the route of choice.

Once a gas pipeline is built along the Mackenzie Valley, it is likely that in the future an oil pipeline will follow. Oil has in fact been found in the Mackenzie Delta region. It is said that the discovery of oil in

Mackenzie Delta and the Beaufort Sea do not justify an oil pipeline today. Nonetheless, while the proven reserves of oil in the Mackenzie Delta region have not yet reached threshold levels, they may do so in time. In any event, it is obvious that if present or future exploration programs reveal large reserves of oil under the Beaufort Sea, the call for an oil pipeline from the Delta to the mid-continent will be made once again.

I think all of this demonstrates the wisdom of the Pipeline Guidelines, which insist that there should be an examination of the impact of an oil pipeline along with the gas pipeline. Any attempt to dismember the policy and to assess the impacts piecemeal, along either the Northern Yukon corridor or the Mackenzie Valley corridor, should be resisted.

### The United States' Interest in the Corridor

The Arctic Gas pipeline, if it is built, would provide a land bridge for the delivery of Alaskan gas across Canada to the Lower 48. The implications of this prospect, from the point of view of Canadian policy in the North, should be borne in mind.

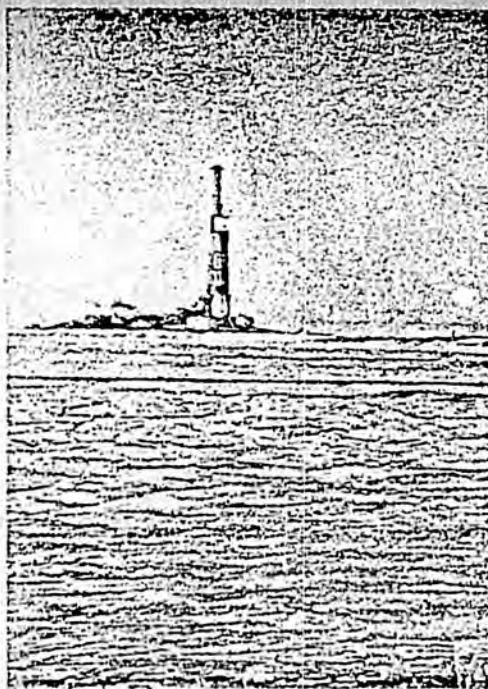
The corridor across the Northern Yukon will be an exclusively American energy corridor. The Mackenzie Valley corridor, under the Arctic Gas proposal, will be an American energy corridor as much as it is a Canadian energy corridor. The United States will have an interest in the scheduling of pipeline construction in Canada and, when the pipeline is built, in seeing that it remains safe and secure, because it will be carrying Alaskan gas in bond to the Lower 48. It will

ans-Alaska pipeline and gravel haul road.  
sideboom tractors lower pipe into ditch. (Alyeska)

Stockpile of drill pipe. (NFB-McNeill)

Drill rig in the Delta. (Arctic Gas)

Mackenzie Highway right-of-way beside  
Mackenzie River. (J. Inglis)



## The Corridor Concept

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extending across the Northern Yukon, across the Mackenzie Delta, along the Mackenzie Valley, and then through Alberta, Saskatchewan and British Columbia to the Lower 48. It will supply gas to a complex of industries and urban centres in the United States. The Americans will be dependent on the continuous supply of gas, and the gas being transported from Alaska will be their own gas. Moreover, the United States wants the pipeline to begin to deliver that gas as soon as possible.

There are, of course, pipelines that cross United States territory and carry oil and gas to Canadian markets: the Interprovincial pipeline, which delivers western oil to Ontario; the Portland-Montreal pipeline, which delivers offshore oil to Quebec; and the Great Lakes Transmission Company pipeline, which delivers gas to Ontario. All of them pass through the United States. But these connections cannot be compared in magnitude or impact to the Arctic Gas proposal. They are not pipelines reaching some 2,000 miles from a distant frontier.

The consequences of such American interest in the pipeline are of special concern to the inquiry. The impact of the pipeline, so far as northern peoples and the northern environment is concerned, will be largely within Canada (the line from Prudhoe Bay to the Alaska-Yukon border is only 200 miles long, whereas the line from the Alaska-Yukon boundary to the Northwest

Territories-Alberta border is 1,000 miles long). The native people's concern over when a pipeline is built, the environmental concern over where it should be built, and the stipulations for protecting the people and the environment apply largely in Canada. The United States cannot be expected to be as concerned as Canada with the seriousness of the social and environmental impact of the pipeline along its route. This difference, coupled with the Americans' rather more urgent need of gas, might result in pressure to complete the pipeline without due regard to the social and environmental concerns in Canada. The risk is in Canada. The urgency is in the United States.

A pipeline 2,200 miles long (in Canada) is a highly vulnerable artery. What measures might have to be taken to forestall an interruption of delivery — an interruption that would affect vital Canadian interests, but even more tellingly, vital American interests? There may be real possibilities for misunderstanding and tension between our two countries, notwithstanding our long history of good relations. These considerations deserve the attention of the Government of the United States as well as of the Government of Canada. It may be that they are not at all daunting. But they should still not be overlooked.

A treaty between Canada and the United States will not cover all possibilities. It will, of course, define the rights of our two

governments with regard to the pipeline and to the gas being transported in that pipeline. And it will establish the ground rules for the transportation of Alaskan gas across Canada to the United States. It cannot do more. I say this because a treaty, although it will regulate the conduct of our two governments, will not necessarily regulate the conduct of the two countries' citizens.

The implications for our relations with the United States of the building and maintenance of the proposed gas transmission system deserve careful consideration by all Canadians. We are not simply considering a proposal to build a pipeline on an isolated frontier. We are considering, in the Arctic Gas proposal, the establishment of an international energy corridor that will cross some 2,200 miles of Canadian territory, opening up wilderness areas that are among the most important wildlife habitat in North America. It will cross lands that are claimed by Canada's native people, a region where the struggle for a new social and economic order and political responsibility is taking place.

It seems to me the question of whether or not there should be a corridor to carry vital energy supplies from Alaska through the heartland of Canada to the Lower 48, is at the threshold of the decision-making process. If Canadians decide that there is to be such a corridor, then we must also consider when it should be established and what route it should follow. These are questions Canadians must decide for themselves.

SCOMM

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**293.630 Date for closing accounts by persons who must make annual accounts.** All officers and persons required to render annual accounts to the Secretary of State or State Treasurer shall close these accounts on June 30 of each year.  
[Formerly 291.568]

293.635 [Formerly 291.570; repealed by 1967 c.454 s.119]

**293.640 Period covered by biennial reports.** The biennial report of any state officer or agency required to be submitted to the Legislative Assembly or the Governor shall cover the biennial period closing on June 30 next preceding the regular session of the Legislative Assembly.  
[Formerly 291.572; 1967 c.454 s.77]

293.644 [1967 c.454 s.74; repealed by 1975 c.605 s.33]

293.645 [Formerly 291.574; repealed by 1967 c.454 s.119]

293.648 [1967 c.454 s.75; repealed by 1975 c.605 s.33]

293.650 [Formerly 291.575; 1967 c.335 s.31; repealed by 1967 c.454 s.119]

293.652 [1967 c.454 s.76; 1971 c.267 s.3; repealed by 1975 c.605 s.33]

**293.655 Filing and making public, information concerning current and anticipated financial condition of state.** Twenty days prior to any election at which any legislative or constitutional measure involving the raising or expenditure of funds by the state is to be submitted to the people of the state by initiative or referendum, and in any event, 20 days prior to each regular general biennial election, there shall be filed in the office of the Secretary of State and made public, a condensed, understandable and impartial statement showing the anticipated state General Fund requirements, revenues and balances under existing laws for the whole of the fiscal biennium then current. There shall be attached to any such statement an exhibit containing a brief, understandable and impartial written explanation of:

(1) The statement for the biennium then current.

(2) The fiscal changes anticipated for the following biennium.

(3) Other matters deemed desirable to advise the public of the current and anticipated condition of the finances of the state. Each statement and exhibit shall be prepared and certified by the Executive Department

and the Department of Revenue and approved by the Governor.  
[Formerly 291.576]

**293.660 Determining date of filing or receipt of reports, claims, tax returns or remittances.** Any report, tax return, remittance to cover a payment or claim for credit or refund required by law to be filed with or made to the state or to a state agency, which is:

(1) Transmitted through the United States mail, shall be deemed filed or received on the date shown by the post-office cancellation mark stamped upon the envelope containing it, or on the date it was mailed if proof satisfactory to the state or state agency establishes that the actual mailing occurred on an earlier date.

(2) Lost in transmission through the United States mail, shall be deemed filed and received on the date it was mailed if the sender:

(a) Can establish by competent evidence satisfactory to the state or state agency that the report, tax return, remittance or claim for credit or refund was deposited on the date due for filing in the United States mail and addressed correctly to the state or state agency; and

(b) Files with the state or state agency a duplicate of the lost report, return, remittance or claim within 30 days after written notification is given by the state or state agency of its failure to receive such document or remittance.

[Formerly 291.578]

### INVESTING STATE FUNDS

**293.701 Definitions for ORS 293.701 to 293.776.** As used in ORS 293.701 to 293.776, unless the context requires otherwise:

(1) "Council" means the Oregon Investment Council.

(2) "Investment funds" means:

(a) Public Employees' Retirement Fund referred to in ORS 237.271;

(b) Industrial Accident Fund referred to in ORS 656.632;

(c) Administrative Fund referred to in ORS 656.612;

(d) Civil Defense Injury Fund referred to in ORS 401.865;

(e) Special Injury Fund referred to in ORS 655.445;

(f) Inmate Injury Fund referred to in ORS 655.540;

(g) Employment Division Special Administrative Fund referred to in ORS 657.822;

(h) Restoration Fund referred to in ORS 278.040;

(i) Funds under the control and administration of the Division of State Lands;

(j) Common School Fund Guaranty Fund referred to in ORS 327.482;

(k) State Scholarship Commission Fund referred to in ORS 348.570;

(L) Moneys made available to the Commission for the Blind under ORS 346.270 and 346.540 or rules adopted thereunder;

(m) Forest rehabilitation bonds sinking fund referred to in ORS 530.280;

(n) Oregon War Veterans' Fund referred to in ORS 407.160;

(o) Oregon War Veterans' Bond Sinking Fund referred to in ORS 407.170;

(p) World War II Veterans' Compensation Fund referred to in ORS 407.370;

(q) World War II Veterans' Bond Sinking Fund referred to in ORS 407.380;

(r) Savings and loan association funds in the hands of the Corporation Commissioner;

(s) Funds in the hands of the State Treasurer that are not required to meet current demands;

(t) State funds that are not subject to the control and administration of officers or bodies specifically designated by law;

(u) Funds derived from the sale of state bonds;

(v) Social Security Revolving Account referred to in ORS 237.490; and

(w) Investment funds of the State Board of Higher Education lawfully available for investment or reinvestment.

(3) "Investment officer" means the State Treasurer in his capacity as investment officer for the council.

[1967 c.335 s.1; 1967 c.399 s.5; 1971 c.408 s.1; 1975 c.363 s.1a; 1975 c.471 s.1a]

293.705[Formerly 291.604; 1965 c.285 s.63; 1967 c.399 s.1; repealed by 1967 c.335 s.60 and 1967 c.399 s.4]

**293.706 Oregon Investment Council; appointment; term; vacancies.** (1) There is created the Oregon Investment Council, consisting of five members.

(2) Two members of the council shall be appointed by the Public Employees' Retirement Board, and either or both may be members of the board. Two members, who shall be qualified by training and experience in the field of investment or finance and who may not hold any other public office or employment, shall be appointed by the Governor. One member shall be the State Treasurer.

(3) The term of office of each appointed member of the council is four years, but each appointed member serves at the pleasure of the appointing authority. A vacancy in the appointed membership occurring other than by expiration of term shall be filled in the same manner as the original appointment, but for the unexpired term only.

(4) Notwithstanding the term of office specified in subsection (3) of this section:

(a) Of the members of the council first appointed by the Public Employees' Retirement Board, one shall serve for a term of two years and one shall serve for a term of four years.

(b) Of the members of the council first appointed by the Governor, one shall serve for a term of two years and one shall serve for a term of four years.

[1967 c.335 s.2]

293.707[1965 c.359 s.9; repealed by 1967 c.335 s.60]

293.710[Formerly 291.606; repealed by 1967 c.335 s.60]

**293.711 Compensation and expenses of council members; chairman.** (1) A member of the council is entitled to compensation and expenses as provided in ORS 292.495.

(2) The council shall select one of its members as chairman, for a term and with powers and duties necessary for the performance of the functions of the office as the council shall determine.

[1967 c.335 ss.3, 4; 1969 c.314 s.19]

293.715[Formerly 291.607; repealed by 1967 c.335 s.60]

**293.716 State Treasurer is investment officer for council; subordinate personnel; bonds.** (1) The State Treasurer is the investment officer for the council, and shall perform functions in that capacity as authorized or required by law and, consistent with law, by the council.

(2) The bond of the State Treasurer required from him by law shall be deemed to extend to the faithful performance of all functions of the office of investment officer.

(3) The investment officer may:

(a) Subject to any applicable provision of the State Merit System Law, employ, prescribe the functions and fix the compensation of personnel necessary to facilitate and assist in carrying out the functions of the council and investment officer.

(b) Require a fidelity bond of any person employed by him who has charge of, handles or has access to any investment funds, state money or property. The amounts of the

bonds shall be fixed by the investment officer, except as otherwise provided by law, and the sureties shall be approved by him. The premiums on the bonds shall be an expense of the State Treasurer.  
[1967 c.335 s.5]

**293.718 Reimbursement of expenses of State Treasurer.** As reimbursement for his expenses incurred as investment officer, the State Treasurer may deduct three-tenths of one percent of the amount of income received by each of the investment funds from such earnings. Amounts so deducted shall be deposited in the miscellaneous receipts account established in the General Fund for the State Treasurer, and are appropriated for payment of the expenses of the office of State Treasurer, incurred as investment officer.  
[1969 c.466 s.2]

293.720[Formerly 291.608; repealed by 1967 c.335 s.60]

**293.721 General objective of investments.** Moneys in the investment funds shall be invested and reinvested to achieve the investment objective of the investment funds, which is to make the moneys as productive as possible, subject to the standard set forth in ORS 293.726.  
[1967 c.335 s.6]

**293.726 Standard of judgment and care in investments; investment in corporate stock limited.** (1) In investing and reinvesting moneys in the investment funds and in acquiring, retaining, managing and disposing of investments of the investment funds there shall be exercised the judgment and care under the circumstances then prevailing, which men of prudence, discretion and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital. Within the limitations of the foregoing standard and subject to subsection (2) of this section, there may be acquired, retained, managed and disposed of as investments of the investment funds every kind of investment which men of prudence, discretion and intelligence acquire, retain, manage and dispose of for their own account.

(2) Notwithstanding subsection (1) of this section, only moneys in the Public Employees' Retirement Fund and Industrial Accident Fund may be invested in the stock of any company, association or corporation,

and not more than 35 percent of the moneys in each of those funds may be invested in common stock.

[1967 c.335 s.7; 1971 c.53 s.1; 1973 c.385 s.1]

**293.731 Council to formulate and review investment policies.** Subject to the objective set forth in ORS 293.721 and the standards set forth in ORS 293.726, the council shall formulate policies for the investment and reinvestment of moneys in the investment funds and the acquisition, retention, management and disposition of investments of the investment funds. The council, from time to time, shall review those policies and make changes therein as it considers necessary or desirable. The council may formulate separate policies for any fund included in the investment funds.  
[1967 c.335 s.8]

293.735[Formerly 291.610; repealed by 1967 c.335 s.60]

**293.736 Duties of investment officer; not to invest in common stock.** (1) Except as provided in subsection (2) of this section and in ORS 293.741, in amounts available for investment purposes and subject to the policies formulated by the council, the investment officer shall invest and reinvest moneys in the investment funds and acquire, retain, manage, including exercise of any voting rights, and dispose of investments of the investment funds.

(2) The investment officer may not perform functions specified in subsection (1) of this section with respect to investment in common stock of moneys in the Public Employees' Retirement Fund or Industrial Accident Fund. Those functions with respect to that investment may be performed only by persons contracted with by the council as provided in ORS 293.741.  
[1967 c.335 s.9]

293.740[Formerly 291.611; repealed by 1967 c.335 s.60]

**293.741 Council may contract with others to perform investment officer functions; compensation; bond.** The council may enter into contracts with one or more persons whom the council determines to be qualified, whereby the persons undertake, in lieu of the investment officer, to perform the functions specified in ORS 293.736 to the extent provided in the contract. Performance of functions under contract so entered into shall be paid for out of the gross interest or other income of the investments with respect to which the func-

tions are performed, and the net interest or other income of the investments after that payment shall be considered income of the investment funds. The council may require a person contracted with to give to the state a fidelity bond in a penal sum as may be fixed by law or, if not so fixed, as may be fixed by the council, with corporate surety authorized to do business in this state. Contracts so entered into and functions performed thereunder are not subject to the State Merit System Law or ORS 279.710 to 279.746. [1967 c.335 s.10]

293.745[Formerly 291.612; repealed by 1967 c.335 s.60]

**293.746 Opinion of bond attorney or Attorney General, investment counseling and mortgage services.** (1) In the acquisition or disposition of bonds with which approving legal opinions ordinarily are furnished, the investment officer may require an original or certified copy of the written opinion of a reputable bond attorney or attorneys, or the written opinion of the Attorney General, certifying to the legality of the bonds.

(2) The council may arrange for the furnishing to the investment officer of investment counseling services. The furnishing and acquisition of those services are not subject to the State Merit System Law or ORS 279.710 to 279.746.

(3) The investment officer, with the approval of the council, may arrange for services with respect to mortgages in which moneys in the investment funds are invested. Those services shall be paid for out of the gross interest of the mortgages with respect to which the services are furnished, and the net interest of the mortgages after that payment shall be considered income of the investment funds. The furnishing and acquisition of those services are not subject to the State Merit System Law or ORS 279.710 to 279.746. [1967 c.335 s.11]

293.750[Formerly 291.613; repealed by 1967 c.335 s.60]

**293.751 Custody of title instruments; collection and disposition of principal and interest from investments; default proceedings.** (1) Except as provided in ORS 293.741 and this subsection, all instruments of title of all investments of the investment funds shall remain in the custody of the investment officer. The investment officer may deposit with the fiscal agency in the City and State of New York or with one or

more banks in Portland, Oregon, or both, with the consent of the agency or banks, those instruments of title he considers advisable, to be held in safekeeping by the agency or banks for collection of the principal and interest or other income, or of the proceeds of sale.

(2) Except as provided in ORS 293.741 and subsection (3) of ORS 293.746 and subsections (1) and (3) of this section, the investment officer shall collect the principal and interest or other income of investments of the investment funds, instruments of title of which are in his custody, when due and payable, and shall pay the principal and interest or other income, when so collected, into the appropriate fund. Interest or other income of investments of funds in the hands of the State Treasurer that are not required to meet current demands shall be paid into the General Fund to be available for the payment of general governmental expenses.

(3) In the event of default in the payment of principal or interest or other income of any investment of the investment funds, the investment officer, with the approval of the council, may:

(a) Institute the proper proceedings to collect the matured principal or interest or other income.

(b) Accept for exchange purposes refunding bonds or other evidences of indebtedness at interest rates to be agreed upon by the investment officer and obligor.

(c) Make compromises, adjustments or disposition of the matured principal or interest or other income as the investment officer considers advisable for the purpose of protecting the moneys invested.

(d) Make compromises or adjustments as to future payments of principal or interest or other income as the investment officer considers advisable for the purposes of protecting the moneys invested. [1967 c.335 s.12]

293.755[Formerly 291.614; repealed by 1967 c.335 s.60]

**293.756 Separate accounting for funds.** The investment officer shall keep, for each fund included in the investment funds for which investments are made, a separate account, which shall record the individual amounts and the totals of all investments of moneys in the fund. [1967 c.335 s.13]

293.760[Formerly 291.616; repealed by 1967 c.335 s.60]

**293.761 Monthly reports by investment officer with respect to funds.** The investment officer shall report monthly to the officer or body having control and administration of each fund included in the investment funds the changes in investments made during the preceding month for the fund. If requested by the officer or body, the investment officer shall furnish to the officer or body the details on the investment transactions for any fund.  
[1967 c.335 s.14]

293.765[Formerly 291.618; repealed by 1967 c.335 s.60]

**293.766 Monthly reports by investment officer to council.** Not later than 15 days after the last day of each month, the investment officer shall submit to the council a report of the investments made during the preceding month. The report shall include a detailed summary of investment, reinvestment, purchase, sale and exchange transactions, setting forth, among other matters, the investments bought, sold and exchanged, the dates thereof, the prices paid and obtained, the names of the dealers involved and a statement of the accounts referred to in ORS 293.756. The investment officer may send copies of the report to investment bankers and brokers recommended by the council.  
[1967 c.335 s.15]

293.770[Formerly 291.620; repealed by 1967 c.335 s.60]

**293.771 Reports by council to Governor and Legislative Assembly.** The council shall report to the Governor and Legislative Assembly on the investment funds investment program at each regular session of the Legislative Assembly and at other times as the council considers in the public interest.  
[1967 c.335 s.16]

293.775[1963 c.520 s.3; repealed by 1967 c.335 s.60]

**293.776 Examination and audit of investment program; report.** The council shall provide for an examination and audit of the investment funds investment program, and for submission to the council of a report based on the examination and audit, at least once every four years and at other times as the council may require. The examination and audit, and the report based thereon, shall include an evaluation of current investment funds investment policies and practices and of specific investments of the investment funds in relation to the objective set forth in ORS 293.721, the standard set forth in ORS

293.726 and other criteria as may be appropriate, and recommendations relating to the investment funds investment policies and practices and to specific investments of the investment funds as are considered necessary or desirable. The council shall make copies of the report or a summary thereof available for distribution to interested persons.  
[1967 c.335 s.17]

**293.780 Group annuity contracts with insurers on behalf of Public Employees' Retirement System and Board.** The Oregon Investment Council, for and on behalf of the Public Employees' Retirement System and Public Employees' Retirement Board, may enter into group annuity contracts with one or more insurance companies authorized to do business in this state. In lieu of any investment of moneys in the Public Employees' Retirement Fund as provided in ORS 293.701 to 293.776, the council may pay, from time to time under contracts so entered into, any moneys in that fund available for investment purposes. Contracts so entered into are not subject to ORS 279.710 to 279.746.  
[1967 c.335 s.18]

**293.790 Holding, investing and disposing of corporate stock.** (1) Under authority of section 6, Article XI of the Oregon Constitution, the state, subject to subsection (2) of this section, may hold and dispose of the stock of any company, association or corporation, including stock already received, that is donated or bequeathed and the state, acting by and through the State Board of Higher Education, subject to subsection (2) of this section, may invest and reinvest in the stock of any company, association or corporation, any funds or moneys of the State Board of Higher Education that:

(a) Are or have been donated or bequeathed for higher education purposes; or

(b) Are the proceeds from the disposition of stock that is donated or bequeathed for higher education purposes, including stock already received; or

(c) Are dividends paid with respect to stock that is donated or bequeathed for higher education purposes, including stock already received.

(2) The state, including any of its agencies having control of, or authority to invest and reinvest in, any stock described in subsection (1) of this section, in holding, disposing of or investing and reinvesting in such stock, shall be governed by ORS 128.020 to 128.050, notwithstanding the date

of acquisition of such stock. Moneys received from the disposition of such stock, including dividends, hereby are appropriated continuously for the purposes of the donation or bequest and of the investments and reinvestments authorized by subsection (1) of this section and by ORS 351.130. Except as specifically authorized by law, the state or any of its agencies may not purchase stock.

(3) This section does not apply to investment and reinvestment of moneys in the Public Employees' Retirement Fund and Industrial Accident Fund or to acquisition, retention, management and disposition of investments of those funds as provided in ORS 293.701 to 293.776.

[Formerly 291.630; 1967 c.335 s.32; 1971 c.339 s.1]

293.805 [1971 c.339 s.2; repealed by 1975 c.363 s.2]

## PENALTIES

**293.990 Penalties.** (1) Any person, official or state agent violating ORS 293.265 to 293.280 or failing to comply with any of the requirements of those sections within the time provided shall be liable on his official bond and shall, upon conviction thereof, be punished by a fine not exceeding \$1,000 or by imprisonment in the county jail for a period not exceeding one year, or both.

(2) In addition to civil liability, violation of ORS 293.620 is punishable, upon conviction, by a fine of not less than \$25 nor more than \$500 and the costs of the prosecution in accordance with ORS 161.665.

[Formerly 291.990 (2), (3); 1971 c.743 s.353]

## CERTIFICATE OF LEGISLATIVE COUNSEL

Pursuant to ORS 173.170, I, Thomas G. Clifford, Legislative Counsel, do hereby certify that I have compared each section printed in this chapter with the original section in the enrolled bill, and that the sections in this chapter are correct copies of the enrolled sections, with the exception of the changes in form permitted by ORS 173.160 and other changes specifically authorized by law.  
Done at Salem, Oregon,  
October 1, 1975.

Thomas G. Clifford  
Legislative Counsel



TREASURY DEPARTMENT  
SALEM, OREGON

James A. Redden  
STATE TREASURER

ROUGH DRAFT OF "CODE OF ETHICS STATEMENT" FOR OREGON INVESTMENT  
COUNCIL. (For consideration at July 18, 1974 meeting) <sup>Approved</sup>

The Oregon Investment Council hereby adopts the following guidelines to avoid individual conflicts of interest, or any appearance thereof:

1. "Conflict of interest" means the conflict of a private, pecuniary interest of a member with the official obligation or duty of that member, as a member of the Oregon Investment Council.

2. "Business entity" means a business or commercial establishment.

3. "Financial support" means a loan or guarantee thereof to a business entity, commonly known as a private placement.

4. Members of the Oregon Investment Council have and shall continue to avoid a conflict of interest or appearance thereof and recognize that a divergence of opinion exists as to what constitutes a conflict of interest. In the event a situation arises, or might arise, which in the opinion of a member would constitute a conflict of interest or an appearance thereof, the member will notify the Council at a regular meeting and the Council shall decide and rule thereon. Discussion and resolution shall be recorded in the minutes of the meeting.

5. On certain specific matters, members agree that a conflict of interest or the appearance thereof does exist and, hence, agree that in the future no member shall:

a. Personally invest in a business entity to which the State of Oregon, by and through the Oregon Investment Council, has provided financial support.

b. No member shall suggest or vote upon providing financial support to a business entity in which that member has a financial interest.

c. No member shall become a member of the Board of Directors of any business entity to which the State of Oregon, by and through the Oregon Investment Council, has provided financial support.

Any current member of the Oregon Investment Council, who with prior approval of said Council has acquired a financial interest in a business entity to which financial support has been given, shall not be required to divest himself of such interest, nor shall any member of the Board of Directors of such an entity be required to resign from such directorship.

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# San Francisco Examiner



777-2424

SUNDAY, FEBRUARY 27, 1977



Sunday 50c

PREVIEW EDITION

## Drafting a state bank

By Nancy Dooley and Carl Irving

A new state senate select committee will prepare plans for a powerful state bank, which would use surplus funds to create jobs and economically boost sagging segments of the population.

The committee also will investigate investments totaling \$18 billion by the University of California and state, county and city retirement systems, seeking to encourage proxy votes against corporate holdings in "the white-supremacist regime in South Africa."

Plans for a state bank have special significance at this time, with an \$890 million surplus expected in the state general fund in the fiscal year ending June 30.

The state expects an additional \$1.4 billion surplus next fiscal year.

The new State Senate Select Committee on Investment Priorities and Objectives was formed last week in a 3-2 vote by the Senate Rules Committee. The three Democrats who voted for the committee named Sen. John Dunlap, D-Napa, chairman.

Those voting for the committee were Sens. James Mills of San Diego, Jerry Smith of San Jose and

North Dakota's  
public bank: The  
only one around

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Nicholas Petre of Oakland, all Democrats. Opposing the committee were Sens. John Stull of Escondido and William Campbell of Hacienda Heights, Republicans.

Dunlap, in a statement prepared for the Examiner, said a state bank "could utilize surplus state funds to finance highly desirable private enterprise, housing and community development loans."

It could produce "labor intensive industry and more adequate housing" and aid both small business and "the small farmer, who in this time of drought may be threatened with extinction . . ."

Gov. Brown has proposed holding nearly two-thirds of next year's anticipated surplus in "reserve"

for possible property tax relief, education funding, building additional prison facilities or other contingencies.

The Dunlap proposal is modeled after the nation's only state bank, the 55-year-old Bank of North Dakota. Herbert Thorndal, its president, said in a phone interview that balances last week totaled \$520 million, a considerable sum for a state with a population of only 840,000.

Thorndal said inquiries had been received from California, Oregon, Washington, Vermont and New York.

The North Dakota bank has received bipartisan support and is 11th nationally among banks in dollar volume.

"Every bank in the state voluntarily maintains an account with us," Thorndal said. "That's 169 banks. We're rapidly becoming the central depository."

He said the state bank was heavily involved in student loans and has become the sixth largest lender nationally in that field.

—Turn to Page 12, Col. 1

*John: Brian  
wants to see  
this article  
re: state bank.*

*Law*

# Social issues as a factor in investment

—From Page 1

The bank — located in Bismarck, the state capital — also has been active in housing loans. But Thorndal said proposals to allow the bank to make emergency loans to farmers caught in drought and price squeezes failed in legislative committee.

Dunlap suggested that a state bank here could lend or invest from a fund created from surplus money or through an excess profits tax.

"Such funds could be targeted to create jobs in particularly depressed geographic areas or even to create the type of job needed to fit the type of skill of people in need of employment," Dunlap said.

The senator said he intended to develop "a responsible investment process" involving endowment and retirement funds at UC and pension funds held for state employees and teachers and county and city employees.

Dunlap said he had become concerned when reading a report prepared by an aide, John Harrington, entitled "The State of California and Southern African Racism." Harrington will become his chief committee staff member.

"It made me realize that state government, which had on countless occasions adopted policies of equality of opportunity regardless of race, creed or color, was not acting consistently in its investment policies.

"Both the University of California and the state public employees and teachers retirement systems have heavily invested in corporations that not only have holdings in, but give aid and support to, the white-supremacist regime in South Africa."

The senator is a graduate of UC-Berkeley and Hastings College of the Law, which is affiliated with the UC system. He has long been critical of UC investment policies.

The UC regents are responsible for \$1.7 billion in retirement and endowment funds (including \$762 million in common stocks.) They have steadfastly refused even to pay a \$4,000 annual fee for research into corporation policies.

Last year the regents' investment committee voted with corporate management on all 37 social issues involving UC stocks. These included requests for information from MCA, American Cyanamid, Ford and General Electric about their policies toward the Arab boycott of Israel and from Goodyear and IBM about business done in South Africa.

Six of UC's seven chief common stock holdings in its endowment portfolio, according to the most recent public report, have holdings in South Africa. The six are Caterpillar Tractor, IBM, Eastman Kodak, Dow Chemical, Bank of America and General Electric.

Reaction to the new select committee was subdued. UC President David Saxon had little to say: "As far as investments are concerned, I have no special knowledge. I do attend investment meetings, but non-regularly."

Charles Field, a UC regent who is an investment committee member, explained that the board goal is to bring in the highest yield.

"Voting in a way that would impair the market value or the value of a company in terms of economics would create a very difficult legal position for members of the committee." If the regents could not support management, Field said, they would be more likely to sell the stock rather than "vote a proxy that would impair the value of the stock."

Field said he doubted that the legislature would use its control over UC purse strings to force the regents to vote proxies in a socially responsible way. "I'm sure they'll bring some pressure to bear, but I doubt they would attempt to punish us for a dispute over a proxy."

Last May the regents voted down a proposal to change its investment policies and refused to set up an advisory committee.

UC Treasurer Owsley Hammond asked the regents last year, "Who is to decide what is the socially responsible way to vote? ... Clearly, it is impossible to vote in such a manner as to satisfy all viewpoints. The regents, by virtue of their qualifications and position, are best equipped to take a balanced position relative to all attitudes."

Carl Blechinger, executive officer of the State Public Employees Retirement System, which has 570,000 members, said he felt the directors "would have a problem with mandatory voting requirements because of the thrust of their responsibility."

"They have the responsibility," he said, "to earn the maximum amount of return on their investments. The board feels very strongly that if they have this responsibility and are being held accountable for this investment policy, they should have maximum freedom."

Blechinger said it's proper for a legislative committee to look at the system's investment practices. Its portfolio totals \$8.2 billion, of which \$1.9 billion is in stock.

Michael Thome, chief executive officer of the State Teachers Retirement System, said, "It is the attitude of the board to invest funds to produce the highest yield possible, consistent with safety."

Thome added, "It is not the purpose of the board to determine international issues." His organization's portfolio totals \$4.3 billion, with \$193 million in stock.

Mel Petersen, chief of investments for both systems, said they subscribe to Investors Responsibility Research Center, which provides background on social issues. The regents refused to join last year.

"We are interested in our companies being socially responsible, but we have disagreements with some proponents of proxy issues," Petersen said. "Some want to force U. S. companies to withdraw from South Africa. We don't want to be put in a position where we're asked to inflict economic chaos on a foreign country."

This contrasted with Dunlap's view that, "as corporate owners, we at the very least should participate in stockholder elections in a responsible manner. We can also invest in business enterprises that carry on the most desirable socially and environmentally advantageous activities.

"Today most business decisions are made on the basis of a combination of profit motive and customer convenience. Government enters into the picture only in a negative capacity, through 'no no' regulations. It's time to look to positive forces."

State  
bank

Creation of state-owned banks may be  
a first step toward coping with urban fiscal needs

## Public Control of Public Money

JAMES ROWEN

George Starr, a pleasant, gray-haired retired railroad conductor from Portland, has thoroughly spooked Dow Jones & Company's respected financial weekly, *Barron's*. Why would this financial Goliath be troubled by such an unlikely David? The reason is that George Starr is also an Oregon state legislator who has introduced a bill to create the State Public Bank of Oregon, with the aim of "promoting agriculture, commerce, or socially desirable projects."

George Starr's bill, and similar initiatives in eight states and the District of Columbia, are among the most substantive proposals in a growing movement of local, state, and Federal activists to place more control of capital in public financial enterprises and thus give the public more power to direct urban development. Such a fundamental change in the way America would conduct its business signals a belief that a new banking system is needed to finance a new social order.

*Barron's*, spotting the public capital movement on its early-warning radar, printed a two-part series last August, alerting its readers to these machinations of the "New Left," real or imagined. The series identified the Washington-based Institute for Policy Studies as the sinister force behind the movement, and nervously pointed to many former antiwar activists who are "going respectable" and targeting the country's banking and financing system for a substantial overhaul. "This change in strategy, however," David Kelley wrote in *Barron's*, "tends to obscure an underlying continuity in purpose, which is still to bring about a socialist society, with community ownership and control of all resources. It also obscures the kind of power which the Left can now deploy inside the system, to achieve its goal."

*Barron's*, despite its somewhat paranoid tone, is

definitely on to something real, and so is George Starr. So is Sam Brown, the former antiwar activist who is now state treasurer of Colorado, and Beldon Daniels, head of the new Commonwealth of Massachusetts Community Development Finance Corporation. So are a host of local organizers who are establishing community development corporations and pushing for more detailed bank financial disclosure, and progressive state and Federal bank regulators who are trying to require neighborhood reinvestment plans as a condition of a bank's operating charter. The basic goal of these activists, who themselves have begun to organize an informal network for communication and mutual assistance, is to allocate money, credit, and technical assistance to cash-starved American cities and to such businesses as co-ops, minority enterprises, small businesses, worker-controlled companies, and other projects which the private banking sector has refused to support.

The *Barron's* writer, running up the warning flag for its banking and financial readership, correctly analyzed the heart of public capital movement: "Of these approaches, the most important for the long run is public allocation of capital, which has become a key objective of the New Left. The focus is understandable. Despite a myriad of government regulations, the driving forces of the economy are still private decisions on the investment of privately owned capital."

The world of private banking is a vast landscape of historical and purposeful mystification. Its image as a restricted, complex, secretive, and specialized profession, capable of management and understanding by only a few self-selected financiers, dates back four centuries to the days of the Medici. In the system of private enterprise which has evolved since, banking is *the most* private enterprise, and it resorts to powerful imagery to protect its own position as the dominant force in the U.S. economy.

The Main Street bank in a medium-sized, movie-set Midwestern Republican town, for example, stands for stability and security, while today's towering glass-and-

James Rowen, administrative assistant to the mayor of Madison, Wisconsin, has written for *The Progressive*, *The Nation*, and other publications.

poured-concrete monoliths, rising like space-age totems out of the urban skyline, starkly illustrate the power of modern banks. With more than 14,000 Federally chartered banks, and another 7,000 savings and loan associations, the banking system itself is so large and complex that it seems to defy understanding, let alone challenge. So any organized movement to change the control and activities of American banking is extraordinarily ambitious, and certainly deserves study.

Proposals for state-owned banks are under official review in Oregon, Florida, Massachusetts, California, Washington, the District of Columbia, Colorado, New Jersey, and New York. For the most part, they have been proposed as pragmatic first steps toward solving the urban fiscal crisis, which has left many municipalities perilously short of cash and inner-city communities short of developmental capital. Since nearly all cities and states routinely deposit their funds in private banks, public capital proponents propose to take those funds and use them to start and operate a public bank. With guaranteed deposits from public treasuries, such public banks could make a beginning in the rebuilding of U.S. cities and make developmental capital available to non-traditional customers. Many of the state bank proposals have been modeled after the one existing public bank in the United States, the Bank of North Dakota.

North Dakota's public bank has become something of a media celebrity. It has been the subject of recent articles in *The Washington Post*, *Barron's*, *Forbes* ("Living with Sin and Liking It"), *The New York Times*, *The Wall Street Journal*, and other publications. Its financial success and political survival led *Parade* magazine writer Derek Norcross to wonder whether "the modest Bank of North Dakota, which has been good to the rock-ribbed Republican farmers of Middle America, may become a model for its big city cousins."

And this is precisely what is happening. The Bank of North Dakota is becoming known as a useful and profitable anomaly — profitable to the North Dakota State Treasury, useful to its citizens, and beneficial to students of public capital who seek an American public capital model to emulate. Since its formulation in 1919 as a device to rescue North Dakota farmers from usurious out-of-state bankers, the bank has returned \$91 million in profits to the state, while helping thousands of North Dakota farmers and students. It has become not only the biggest bank in the state, with 1976 resources of \$400 million, but is bigger than any bank between Minneapolis and Spokane. "Even the most optimistic booster of the idea of a state-owned bank would be surprised by the magnitude of its success today," said its president, H. L. Thorndal, in remarks at the second annual National Conference on Alternative State and Local Public Policies in Austin, Texas, last June.

The bank relies on the deposit of all state money for most of its resources. It also accepts private accounts, which now number more than 4,000. The bank is

prohibited from making traditional commercial or personal loans, since it was designed, from the start, to cooperate with, not replace, private banks. But it does lend millions of dollars to farmers, students (making more student loans than any other bank in the country), and VA and FHA mortgage customers whose loans are guaranteed by the Federal Government. A three-member board of elected officials — the Governor, Attorney General, and Commissioner of Agriculture — runs the bank.

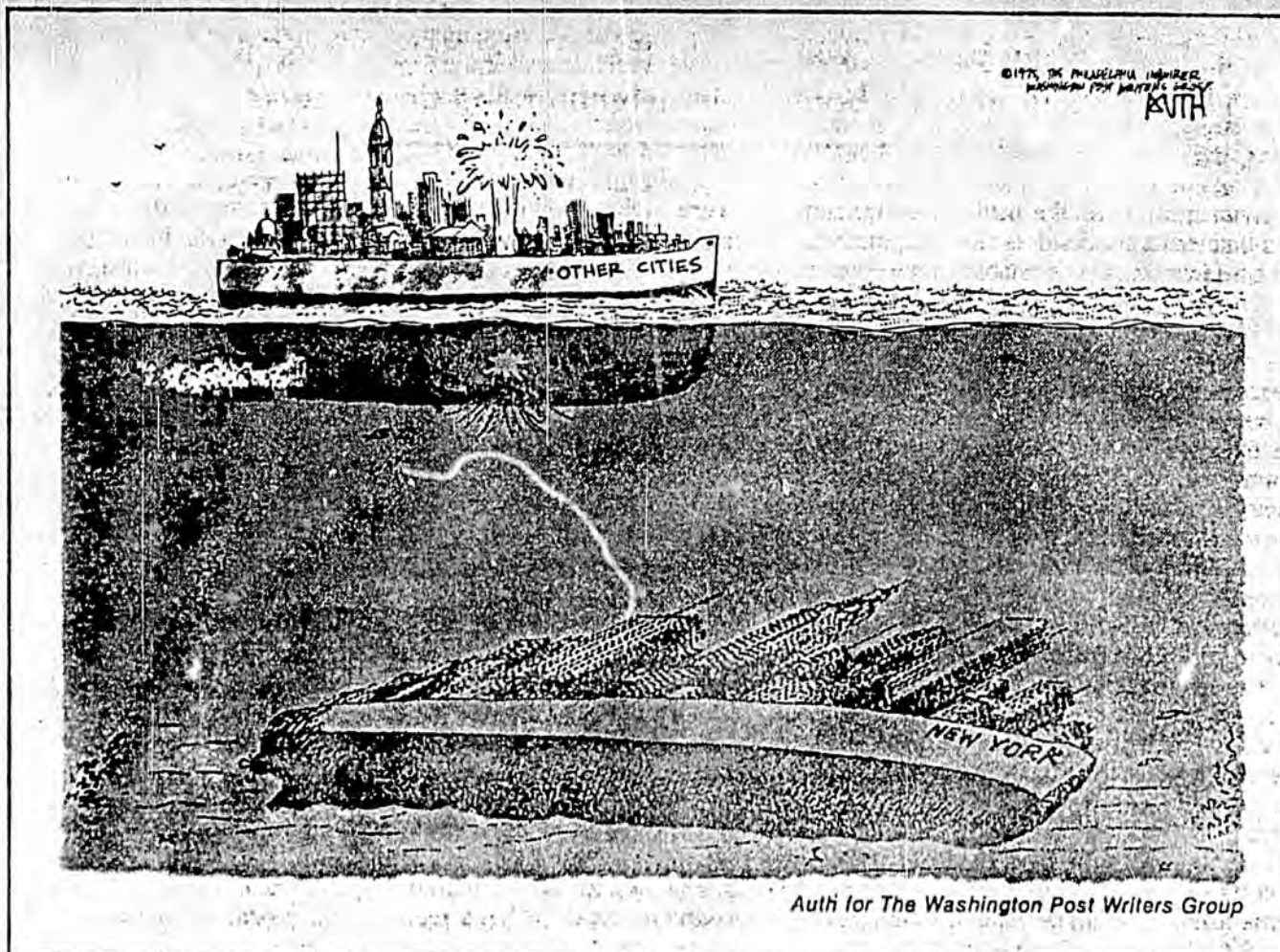
This administrative holdover from the progressive movement which swept North Dakota and much of the Great Plains in the 1920s guarantees the bank a unique degree of public control. Thorndal, the Bank's president, believes in that democratic process: "In order to make sure the bank responds to public needs, it should be controlled by elected officials."

Such democratic control makes the state Bank of North Dakota a tantalizing model to activists around the country who are looking for financial and political means to implement new fiscal policies. New York State Assembly Speaker Stanley Steingut, who has proposed a New York public bank, emphasizes that "the state bank concept originated in a discussion of how to link state deposits to public needs — how to make public money work for the public good." George Starr's Oregon bill declares that the bank "be a government agency established for the public benefit." Similar "public-money-for-public-needs" definitions are repeated in all the pending public bank proposals.

The New York proposal, spurred by the recession and the calamitous financial condition of New York City, passed the Assembly in the spring of 1975, but was killed in the Senate by strong-arm opposition from the state's banking lobby. The private bankers clearly feared the transfer of the state's \$6 billion in deposits to the new public bank, creating immediate competition from a bank which would have instantly become one of the largest in the country. Steingut plans to re-introduce his proposal, which was endorsed by Ralph Nader, economist Eliot Janeway, and Bank of North Dakota President Thorndal, and its chance of passage is linked to the level of seriousness of the city and state's financial condition. It thus appears to have the best chance of becoming the country's second public state bank.

"A bank owned, operated by, and for the people of a state will not be a panacea for all of a state's economic and social problems," warns North Dakota's Thorndal. "However, it can be a great help in alleviating many of these problems and can give leadership and financial input in isolated and special areas. I believe a state-owned bank would be a good asset for any state, and particularly, to the smaller states."

Another approach attracting as much attention as public banking is the creation of public development funds such as the Massachusetts Community Development Finance Corporation (CDFC). With initial seed money of \$10 million approved by the voters last October, the CDFC will now begin to provide equity and venture capital to create new jobs in Massachusetts businesses. The money,



Auth for The Washington Post Writers Group

raised from the sale of bonds, is to be transferred to and invested by community development corporations (CDCs) in locally controlled enterprises.

Another proposed state agency will provide technical aid, as a supplement to the CDFC's investments. This process will create employment, assist new management, stabilize neighborhoods, strengthen local CDCs, and, it is hoped, provide a continuing boost to a depressed state-wide economy. Areas of high joblessness have the highest priority for allocation of CDFC funds. The CDFC program will operate, therefore, as a state development bank, and is thus more comprehensive and far-reaching than such traditional government programs as tax incentives, land write-downs, or one-shot grants.

The Massachusetts CDFC is a new agency that will be watched for strengths and weaknesses as closely as the Bank of North Dakota. And other specialized public financial programs are in operation in several states which put public money into job development schemes, and thus provide working models for study. Kansas, for instance, has a Development Credit Corporation which lends public money and resells Small Business Administration (SBA) loans to other institutions, thus extending the SBA's lending capacity, all to create industry in Kansas.

Pennsylvania has an Industrial Development Authority which is also designed to create jobs. The state participates in loans for business development in areas of high unemployment. It raises its share of the loan from the sale of tax-exempt, low-cost bonds. To date, the Pennsylvania program has lent more than \$325 million to businesses in the state.

Connecticut has an innovative public job development tool, the Connecticut Product Development Corporation, funded by \$10 million from public bond sales. It makes loans to in-state companies that are working on new products or concepts which, if successfully implemented, will provide jobs for state residents. If the state-supported research pays off with actual production, Connecticut receives a royalty on the company's sales.

The state development bank concept, of course, has some limitations which must be recognized by public capital advocates. Public development banks are not a cure-all for the urban fiscal crisis. They will probably be capitalized with only modest sums, and thus will probably never challenge directly the power of the large established private banks.

Furthermore, public banks can slip into ineffectuality, or become co-opted, unless their grass-roots supporters, and the alternative institutions through which they work,

## 'How many bankers will look to their cities' deteriorated housing and become born-again neighborhood developers?'

continually monitor the banks' management, structure, and financial activities. It is also clear that whatever political battles are fought to establish state development banks or funds in the face of traditional private sector resistance will also have to be fought over and over again to prevent the public entity from being hamstrung or terminated once operations have begun.

Public banks of any kind should be promoted as one developmental approach to meeting some specific economic conditions in depressed urban areas, and as a method of assuring democratic control over a limited degree of financial resources. If the application of public funds proves to be a productive experience, then that experience can be used as a base upon which to make more far-reaching proposals for greater credit allocation and public control over capital.

While most public capital programs operate directly at the local and state levels, where urban decay is the daily reality, a number of additional proposals with similar goals are being pushed at the Federal level, too. The recent emergency meeting of the U.S. Conference of Mayors in Chicago, called to put an urban agenda before the incoming Carter Administration, made its major recommendation the creation of a national "Urban Development Bank" to lend Federal funds to local governments and private businesses. Another proposal along similar lines came from a November meeting of the governors of seven Northeastern states, who called for initial Federal funding of \$16 billion as a first step in a public capital solution to the region's financial problems. "We either restore the economies of the Northeast, Mid-Atlantic, and Upper Midwest States," declared Pennsylvania Governor Milton Shapp, "or the cancer of Appalachia will spread from Maine to Minnesota and south to the nation's capital."

These mayors and governors, primarily from the industrial northeastern-Great Lakes corridor, are giving the public development bank concept a degree of legitimacy that would have been unthinkable five or ten years ago. A confidential report prepared for the mayors' Chicago meeting outlined the stark realities of the major eastern states' financial crisis. According to the report, not only New York City but Buffalo, Newark, Detroit, Boston, St. Louis, Cleveland, and Philadelphia are approaching fiscal collapse. The states of the West, Southwest, and South, meanwhile, absorb billions in capital "exported" from the states whose major cities are in peril, because private bankers with non-public priorities see a greater guaranteed profit in the Sunbelt.

The Federal Government is a party to this intra-American exercise in neo-colonialism. Federal tax incentives which encourage runaway plants and overseas investment, plus a record level of private bank loans to foreign nations, exacerbate the depressed northern corridor's

plight. When the Shah of Iran becomes a more favored customer for U.S. bankers' credit than the mayor of New York City, radical changes in the system of capital allocation become imperative.

Private organizations, too, are now urging the use of Federal development funds or public banks to meet critical urban needs. The recent convention of the National Association of Housing and Redevelopment Officials passed a resolution urging Congress to set up a "national development bank" to provide funds for housing and urban reinvestment. Predictably, the proposal was condemned by *Business Week*, which voiced the private banks' major fear — credit allocation. "Plans such as the bank proposed by the housing officials are, at the bottom, either disguised subsidies or a disguised form of credit allocation, with yet another special agency competing for the limited volume of savings," the magazine editorialized.

Proposals for local, state, and Federal banks are, as the private sector's publications have correctly noted, efforts to achieve publicly directed credit allocation or, more properly, credit re-allocation. Credit allocation is already controlled by private financiers. "We already have credit allocation," remarked Beldon Daniels of the Massachusetts CDFC at a recent public capital conference in Colorado. "It gives all the advantages to the *Fortune* 500, and everyone else is at the bottom." Daniels's observation is borne out by a recent report from economist Henry Kaufman of Salomon Brothers, who determined that of \$25 billion in straight public bonds sold by industrial corporations in 1974, 96 per cent went to companies on the *Fortune* list of the 500 largest corporations. So a more objection debate would focus not on whether there should be credit allocation, but on what kind of credit allocation the nation should have, for what purposes, and under whose control — the banking industry's or the public's.

Several other related developments at the Federal and state levels indicate the nation may be close to fundamental changes which ultimately will get the public into the banking business. One such development was Congressional passage in 1975 of the Home Mortgage Disclosure Act, which gives citizens information they can use to combat "redlining" in their communities. Redlining is the practice of lending institutions — savings and loan associations and banks — which marks off certain neighborhoods in their service areas as ineligible for home mortgages, small business loans, and other investments. This arbitrary disinvestment by lenders in older urban areas is a death sentence for many neighborhoods.

The new Federal law requires lending institutions with assets of more than \$10 million to make available an accounting of where their home mortgage money is going. Those institutions shown to be engaging in redlining can then be put under pressure to follow more neighborhood-

oriented loan policies. Furthermore, the disclosed information can create a political climate in which anti-redlining legislation can be adopted locally, and in which such alternative lending institutions as CDCs, credit unions, or public banks can flourish.

A week after the Federal Disclosure Act went into effect, *The Washington Post* featured on its front page a city-wide review of lending patterns. The paper found that the total amount of conventional mortgages for the District of Columbia had increased in 1975, but that more than 50 per cent of the total had gone to predominantly white and wealthy northwest neighborhoods. The dissemination of such data is of great value to activists in D.C. central city areas and on the City Council who are promoting the creation of a public bank which would equitably distribute home mortgage money.

Anti-redlining laws have been passed as a result of local pressure in communities which have suffered from private sector disinvestment in certain neighborhoods. In Cleveland, Mayor Ralph Perk signed a city ordinance last May which would make any Cleveland lending institution practicing redlining ineligible to receive city deposits. Cleveland currently places \$300 million of public funds in five local banks, and the law's chief sponsor predicted that some Cleveland banks would have to increase their local mortgages by 40 per cent to qualify for those city deposits. This is one method of *coercing* credit allocation at the local level.

In June 1976, the Los Angeles Board of County Supervisors passed a similar measure, prohibiting county deposits in institutions which practiced redlining. And last April California Governor Jerry Brown signed into law a bill requiring the state's eighty-eight state-chartered savings and loan institutions to disclose loan approval data, implement affirmative action loan-making practices, and answer to public boards of inquiry when applications are denied. The State Savings and Loan Commission can deny branch applications and mergers to offending savings and loan associations and, in extreme cases, revoke an institution's operating charter. Brown called the new rules the strictest anti-redlining measures in the country, and the legislature is drafting a second set of similar rules which would apply to state-chartered banks.

Other public capital proposals have been introduced in Congress. A "National Consumer Cooperative Bank" proposed by Senator Thomas McIntyre, New Hampshire Democrat, has more than 100 co-sponsors on Senate and House versions. The bank would lend Federal money to existing or proposed cooperatives which provide community-controlled services in the areas of housing, health, food, preschool education, and other businesses. It would also pay for technical assistance to these ventures. The proposal is patterned on the highly successful, decades-old Cooperative Farm Credit System.

The anti-redlining policies in California and Ohio provide an example of the use of "carrots and sticks" to bring about socially desired goals through credit allocation. Other incentives can put public funds to work according to publicly defined criteria. Illinois has for some years had a policy of "linked deposits," created by then-

State Treasurer Adlai Stevenson III, which provides for the deposit of state funds in Illinois banks according to a formula which includes the interest rate paid to the state, plus the levels of loans for small businesses, housing renovations, minority enterprises, and the like.

Colorado State Treasurer Sam Brown has instituted a similar program for the placement of state time deposits in Colorado banks and, more recently, savings and loan associations. Brown was elected in November 1974 on a platform which included using the deposit of state funds as a lever to bring about constructive social change, and demystifying monetary policy by bringing the public into the state's financial decision making.

After taking office, Brown appointed a thirty-five member advisory board which drew up a new set of rules and procedures for banks seeking to acquire state deposits. For the first time, banks would, by region, competitively bid for the funds. The interest rate to be paid to the state accounted for about 60 per cent of the weighting of the bids, and the intent to meet certain criteria by making traditionally low-priority loans accounted for 40 per cent of the bid weight. These categories included loans for women and minorities, small businesses, students, farmers, and low and moderate-income housing. The more "socially responsible" banks therefore had the best chance of submitting winning bids.

In the first round of bid awards announced in December 1975, \$128,000,000 of state funds was allocated to 170 banks in time deposits of 90 to 360 days. Thirty-five other banks which bid were not awarded any deposits. The bid procedure is repeated every ninety days, and Brown's office reports that more and more state money is being deposited according to the new competitive formula. As of November 1976, a total of \$159,765,000 was placed, with more than \$9,000,000 of the total going to savings and loan associations. With the program now a year old, the results are being computerized to determine precisely what effect the system is having on economic development in the state.

Brown, however, can point to some clear initial success. In the first round of bidding, he reported, "the state will earn \$345,000 more on an annualized basis" than under the old method, whereby all banks paid a set percentage of interest rates established in the New York money markets. "Those funds which are placed at lower rates," he said, "are in banks which loan more of their deposits in their community and state... Consequently, the state will earn additional revenue through taxes on the economic activity generated by these loans."

This is yet another route to credit allocation — the "good-guy" bankers get public deposits; the "bad guys" lose the deposits and the profits they earn. The state gets a favorable interest rate and the knowledge that public funds are being spread around to non-traditional borrowers.

The carrot-and-stick approach has also been endorsed by one of the nation's more innovative private bankers,

Ronald Grzywinski, the young chairman of the South Shore National Bank of Chicago, which is experimenting with the idea of operating a neighborhood bank like an economic development corporation. "Because the South Shore National Bank is owned by a group of investors willing to defer their return on equity capital as the bank pursues its development goals," Grzywinski explained in testimony before the U.S. Senate Banking Committee, "and because we are able to attract deposits from outside the neighborhood, we expect to succeed without relying on new legislation."

But how many bankers will embark upon neighborhood development voluntarily? How many bankers will look toward their cities' burned out ghettos, deteriorated housing, and fledgling economic development corporations and suddenly become born-again neighborhood developers? Grzywinski believes a meaningful effort to utilize existing private banks, and especially bank holding company-owned CDCs, as vehicles for neighborhood reinvestment will be made only if legislative changes at the Federal level require private banks to perform such developmental activities. The steps he outlined to the Senate Banking Committee would include:

- ¶ A Federal Congressional declaration that the primary function of the nation's banks is to promote "balanced domestic development."

- ¶ A uniform system "to measure and examine periodically the extent" to which the banks are applying their resources to neighborhood renewal. A social-performance audit, therefore, would be applied to bank activity. Rewards and punishments could then be applied to the banks by the Government.

- ¶ Carrots, in the forms of Federally approved increases in interest rates on savings accounts, and other incentives, to those banks meeting the established social goals.

- ¶ Sticks, such as the power of the Federal Government to break up banks or their holding companies if they fail or obstruct the social criteria, and the taking of a portion of the "deposits, loans, and personnel from the non-conforming" banks to "create new, privately owned institutions which would be dedicated to neighborhood preservation."

- ¶ Federal grants to banks to help offset "the initial costs of development projects and to train personnel in neighborhood development skills."

- ¶ Finally, a program to allow states and cities to sell tax-exempt bonds, the proceeds to be lent at lower-than-market rates to commercial banks, which would in turn lend the money at lower-than-market rates to neighborhood customers.

Grzywinski's experience has shown that at least one neighborhood-based bank can put together a pragmatic, privately managed development program. Whether or not the major banks will follow South Shore National's lead is open to question, especially when it is more profitable to build office buildings in Houston, condominiums in Miami, and industrial parks in OPEC countries.

Some staff members of the House and Senate banking committees are trying, nonetheless, to rewrite bank charter laws and operating rules to implement the sort of program Grzywinski has put into practice on the South Side of Chicago. One Senate aide recently referred to a bank's operating charter as "the handle to require accountability." Since the charter restricts competition within a bank's service area, he reasoned, "the charter should require a quid pro quo." Among the charter-requirement possibilities he mentioned were Federally defined standards which would require loans to economic development corporations, small businesses, neighborhood job-creating projects, and other socially desirable programs which currently sit at the bottom of a typical private banker's list of priorities.

Last October, Colorado State Treasurer Brown invited about sixty of the nation's most involved capital activists to Estes Park for a two-day working conference to examine the various strands of the public capital movement. Most of the existing and proposed programs were discussed in detail. Bank of North Dakota President Thornal described the state bank's performance and structure; Beldon Daniels outlined the Massachusetts CDFC program; and other state bank ideas, redlining fights, specialized fund creation, the National Co-op Bank, and political strategies were all reviewed.

What emerged from the Estes Park meeting was not a cosmic master plan, but an organizational beginning for a long, difficult political struggle. The activists will stay in touch with each other, through the National Conference on Alternative State and Local Public Policies, which co-sponsored the Colorado meeting. Some of the conferees more involved with national activities developed a strategy to apply traditional political pressure on the Carter Administration. It was generally agreed that Carter's election would at least create an atmosphere in which innovative legislative and regulatory proposals might be reviewed by the White House without the certain, immediate rejection which characterized the Nixon-Ford years.

The entire banking system will continue to undergo intense analysis by some seasoned and sophisticated activists who view it not as a vehicle for private profit but as a potential system of meeting public needs, just as they view municipalities and state governments not as mere providers of basic safety and welfare services, but as the ultimate public development corporations.

With the urban crisis forcing mayors and governors to endorse national banks; with local organizers pushing for publicly controlled development corporations; and with the overwhelming problems posed by bankrupt cities, housing shortages, systemic unemployment, spiraling energy costs, and general urban decay, the movement toward greater public control over the vast wealth and development potential in American banks will inevitably progress. So long as that movement remains committed to public control and accountability, the push for public control of capital holds out genuine hope that we may gradually make our urban centers not merely habitable once again, but perhaps even transform them into desirable places for people to live. □

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# 9:79

# State-Local Cooperation: The Local Government Investment Pool

by James E. Jarrett and Torn A. Landgraf\*

IN RECENT YEARS state and local government officials have increased their cooperation in financial management. Municipal bond banks, in which municipalities may voluntarily market their debt to quasi-state agencies, have been established in Vermont, Maine, Alaska, and Puerto Rico. North Carolina's Local Government Commission provides an array of financial services to localities, and municipal debt advisory commissions have been created in several States.

A promising innovation in intergovernmental fiscal cooperation is investment of localities' idle reserves by state investment officials. Mechanisms for state investment of municipal funds, initiated by officials in Oregon in late 1974, were subsequently adopted in Wisconsin and Illinois, and in September 1976 became law in California.

These state-local cooperative efforts represent a major advance over other types of cooperation: direct economic benefits may accrue to state government in addition to the indirect benefits of having more fiscally sound

local governments. The Wisconsin program, one of two examined here, has already enabled state officials to avert a temporary state cash flow predicament through use of municipalities' surplus funds. Investment of municipalities' reserves may also engender a higher investment return on the State's short-term investments.

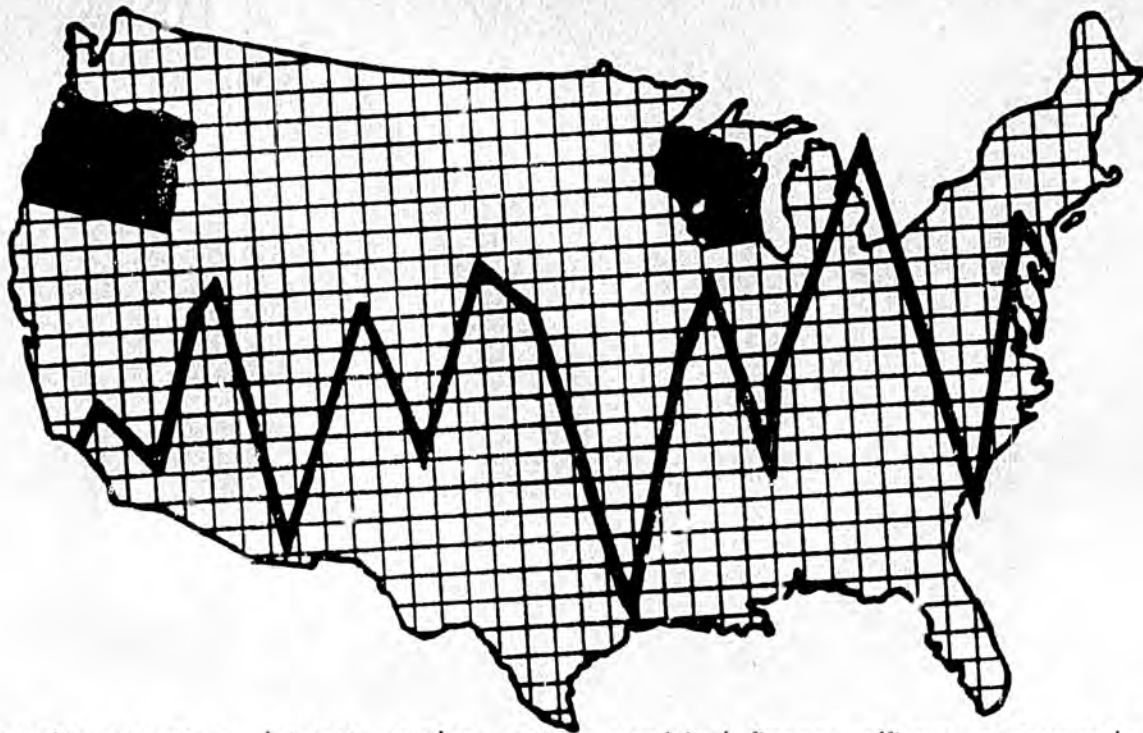
## OPERATION OF A POOLED INVESTMENT FUND

In February 1976 a bill was enacted in Wisconsin which created two local government investment funds to be managed by the State's investment board: a trust fund and a pooled investment fund.<sup>1</sup> The local government pooled investment fund is a vehicle for short-term investments by localities. It is a completely voluntary arrangement by which counties, cities, towns and villages may deposit with the State Treasurer any state-shared taxes, local revenues, or idle reserves for investment by the investment board. A municipality's funds, while credited to an individual account for accounting purposes, are pooled with other municipalities' funds and with the State's short-term funds.

A municipality's interest earnings are equivalent to the average rate of return, determined quarterly, for all short-term investments of the board.<sup>2</sup> Each locality's earnings are based on its average daily balance as determined by

\*Dr. Jarrett is a member of the Innovations Transfer Project, supported by the National Science Foundation, at the Council of State Governments. Mr. Landgraf is Director of State Budget Operations, Wisconsin Department of Administration. The authors wish to thank Richard A. Barnett, Senior Investment Officer of the Oregon Treasury Department, for providing materials about the Oregon pool and for reviewing a draft version of this article.

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computer programs. Interest earnings not withdrawn are added to each town's original principal for investment during the next quarter.

Operationally, the deposit and withdrawal system is simple. If a local unit of government is depositing money in the pooled fund from its state-shared taxes, that government provides the State Treasurer written instructions as to the amount which the State should retain. If a locality deposits idle cash from its own treasury, the local treasurer asks the local government's commercial bank to transfer funds to the State Treasurer. A municipality's funds are then added to the State's short-term cash balances, and the board is informed daily of the total amount available for short-term investments.

For withdrawals, a similar process is used. If notice of a partial or total withdrawal is made by 10 a.m., the State Treasurer's office will issue a check that same day to the local government. The check will be dated for the next day which allows the government unit to receive interest earnings from the pool for the next day. (If the local government deposits the treasurer's check by 2 p.m. the next day in its local bank, it would receive interest from the bank as well.)

Conceptually, the Oregon local investment pool is similar to Wisconsin's, but differences do exist. In Oregon, only municipal funds are pooled, and a Local Government Investment Board advises the State Treasurer and Investment Council regarding management of the pool. This five-member board includes three

municipal finance officers recommended by municipal organizations. Interest earnings are computed monthly instead of quarterly as in Wisconsin. Finally, correspondent banks are involved in transferring funds, all deposits are made by telephone and later confirmed by mail, and withdrawals of amounts in excess of \$1 million require one day's notice.

#### ADVANTAGES TO LOCAL GOVERNMENTS

Because of inadequate financial expertise or insufficient monetary balances, many local governments cannot enter short-term money markets. Often, a locality's funds earn little or no interest as they have been deposited in noninterest-bearing demand accounts in local banks.<sup>3</sup> State management of local funds resolves both problems.

In Wisconsin the investment board invests in high-yielding, short-term investments such as bankers' acceptances, commercial paper, treasury bills, repurchase agreements, and reverse repurchase agreements.<sup>4</sup> Very few communities possess expertise for such activity, and others are prohibited legally: Oregon localities may invest only in collateralized certificates of deposit of Oregon banks, in municipal securities of adjoining States, and in U.S. Treasury and agency debt.

An investment pool allows local governments to contribute uneven, small surpluses, thereby encouraging even the smallest villages to invest. Moreover, because all local

governments receive an identical rate of return regardless of whether they invest \$2,000 or \$200,000 (there is dollar averaging across units), smaller government units achieve a higher interest than if their accounts were invested separately. In addition, investment risks are reduced since each municipality has a share in many different short-term instruments.

The flexibility of pooled investment funds in both Oregon and Wisconsin permits an integration of local governments' investment programs with their cash flow systems. Municipal funds can be withdrawn almost on demand and transfer of funds is rapid; no municipality will be caught in a cash flow emergency because of nonliquid investments. The pooled investment fund, in short, operates as a checking account which pays a high rate of return on low-risk investment instruments.

#### ADVANTAGES TO STATES

A constant flow of new short-term capital from Wisconsin local governments has enabled investment in those fiscal instruments providing the best current rates of return. While it is very difficult to calculate the precise impact of these better investments on the overall rate returned on the State's short-term investments, these yields normally will be superior. Furthermore, economies of scale in short-term investment costs may be realized: larger purchases and proportionately lower dealer fees.

Establishment of a local government pooled fund proved enormously beneficial in another respect. A temporary provision, which will expire 30 days after the enactment of the 1977-79 biennial budget, provided Wisconsin state officials the authority to use, with localities' permission, local government funds to alleviate a short-term cash flow problem. This temporary cash flow difficulty resulted from large payments to local governments which were legally mandated and not from problems in normal operation expenditures. Nineteen local units of government left \$61.5 million of their state-shared taxes in the pooled fund for 10 days and received a 7.44 percent average annual rate of return. In other States which prohibit interfund transfers and borrowing for current obligations (Wisconsin is limited to \$100,000), temporary use of localities' funds in a pooled investment fund might prove beneficial as well—provided (1) local governments voluntarily loan money, and (2) corrective action is initiated to integrate cash

flow considerations with policy decisions through better scheduling of state expenditures, especially state aid to municipalities.

In States such as Oregon, in which municipalities' funds are not commingled with short-term state investments and which have not utilized the pooled fund for a cash flow emergency, benefits are more indirect. Increasing the financial stability and wealth of local governments and furthering trust among state and local officials are long-term endeavors. Nevertheless, these benefits should not be discounted because when municipal fiscal problems become acute, state governments may become involved.

#### RESULTS

The primary indication of success for any voluntary program is participation. During the first year of the pool's operation in Oregon, local governments maintained an average of approximately \$100 million in the fund. By November 1975, this amount ballooned to nearly \$350 million, and the pool's minimum balance during 1976 was \$230 million. Oregon treasury officials projected a balance of approximately \$450 million by January 1977. Two hundred separate local government units, including 50 cities, 26 counties, and 86 school districts, are participating.

In Wisconsin, the pooled investment fund became effective on March 1, 1976. By December, localities had contributed approximately \$56 million of their funds. Sixty-one local units of government maintained accounts.

Participation in local government pooled funds can be attributed to two causes: improved liquidity, and a superior rate of return over returns from commercial institutions. Local governments in Wisconsin earned 7.44 percent during March and 6.57 percent during April, May, and June. During the period April to June, local governments in the pool earned at least 23 percent more than they could have received from commercial institutions. During the July 1-September 1 quarter, the rate of return was even more remarkable: 7.89 percent. This outstanding return is expected to evoke a major increase in both the amount of municipal assets and the number of municipalities participating in the pool.

The Oregon local pool returned 6.28 percent during the first three months of 1976 and 6.18 percent during the second quarter. This was 20

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percent more than commercial institutions were providing in short-term investments. Oregon officials have calculated that for the first eight months of 1976, local governments earned \$2.2 million more by participation in the pool than if normal commercial institutions had been utilized. Direct deposit in the pool account of certain taxes (highway tax, and liquor and cigarette taxes) which are collected by the State but shared with municipalities adds four days' worth of interest by quicker investment. This direct deposit feature alone has provided localities over \$100,000 more in revenues during the first year's operation.

Superior interest earnings are due to higher-yielding short-term investments and minimal costs. In Wisconsin, local governments incur only miniscule costs in transferring funds to the State Treasurer. As stipulated in the legislation, the investment board may deduct a maximum of one quarter of one percent of earned interest for administrative expenses. Officials anticipate actual administrative expenses will be significantly less since no additional personnel were hired. In Oregon the management fees have recently been reduced from 1 percent to one half of 1 percent of earnings. Therefore, if the gross interest earned is 6 percent, localities receive 5.97 percent (.06-.003 which is the product of .06x.005).

### IMPLICATIONS

The pooled investment fund benefits both state and local treasuries in Wisconsin. In Oregon there are immediate economic benefits to localities while long-term benefits accrue to the State. Administratively, the pool possesses two attributes: personnel additions may be unnecessary and results are easily evaluated. Therefore, if the program proves unsuccessful, it can be rapidly terminated.

Not all state governments may desire to provide these additional financial services. Given an appropriate investment framework and expertise in short-term investments, however, the pooled investment fund has been a mutually beneficial intergovernmental program.

A program which generates additional revenues for state and local governments without extracting these resources from taxpayers cannot be easily dismissed.

Creation and operation of a pooled investment fund suggest two additional conclusions. First, government investment procedures are definitely amenable to improvement by analysis of private sector investment strategies. Some government activities have no counterparts in private industry, and attempts to install private sector procedures prove counterproductive. Not so with money management.

There are other implications arising from pooled investment funds. Some government activities can be accomplished better at particular levels of government because specialization or economies of scale are available at those levels. The pooled investment fund is one such example. It is significant also because a realignment of functions and duties among American governmental levels might prove most successful if undertaken on a voluntary basis.

When state and local officials seek improvements in government programs, they must not overlook the possibility of their being achieved more effectively on another level. Intergovernmental fiscal cooperation is well under way. State and local cooperation in other fields should prove equally fruitful.

### Footnotes

1. The trust fund, conceived primarily for long-term investments, permits localities to establish their own investment accounts and have their funds placed in designated investments for specific periods of time by the investment board. This fund will not be discussed because guidelines have not yet been set by the board.

2. Municipalities also receive interest on state funds; a daily check float averaging about \$3.5 million is invested by the board and investment earning are distributed to all participants in the short-term investment fund.

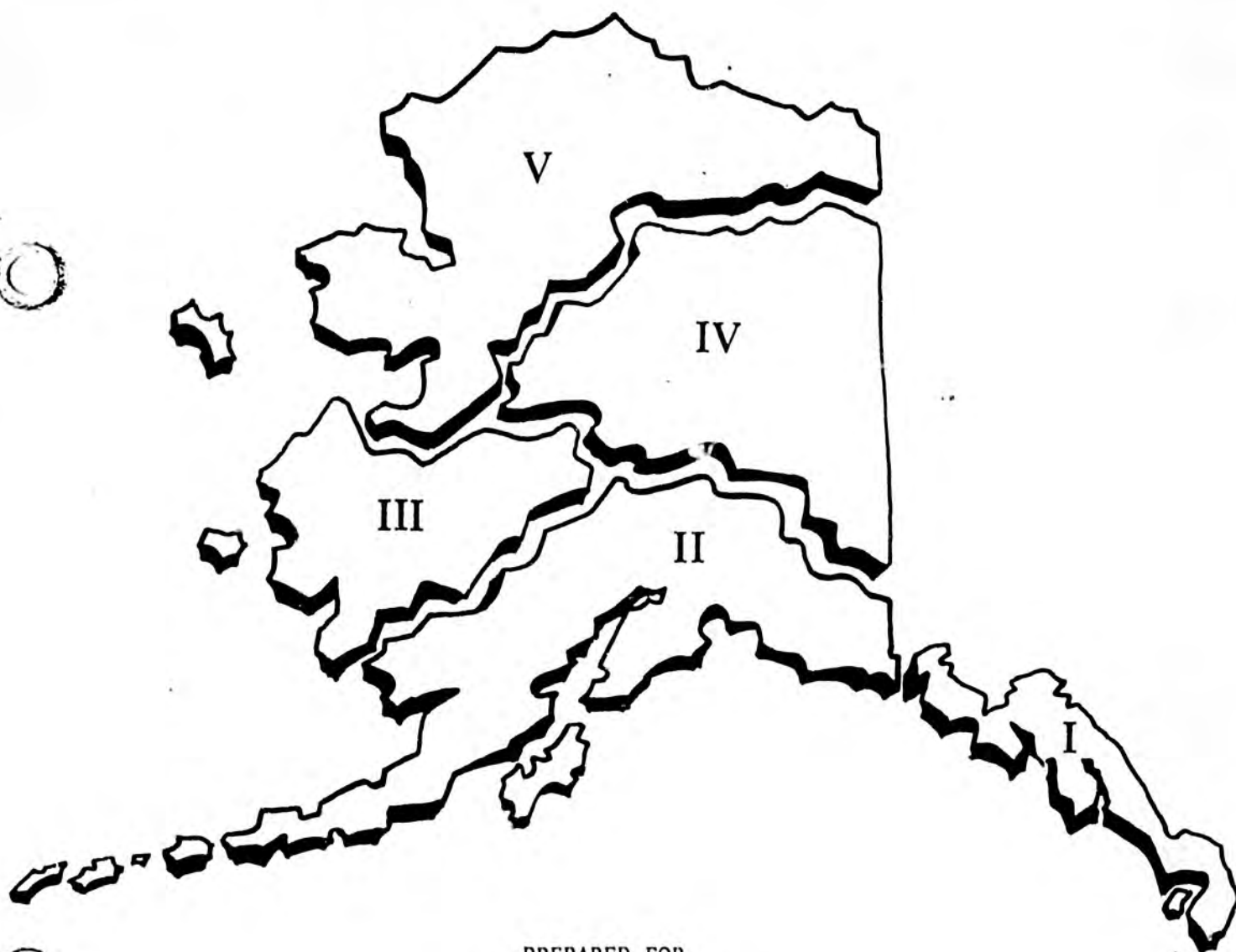
3. Officials in Wisconsin's Department of Administration discovered that 81 cities and 67 percent of the State's town and village governments received no interest income in calendar year 1974. Oregon officials, in a very rough estimate of uninvested idle funds, thought there may have been nearly \$100 million sitting idle prior to inception of the pool.

4. Oregon officials have placed some of the pool's funds in negotiable certificates of deposit and corporate bonds. The Wisconsin Investment Board has not. Neither invests funds of their pools in common stocks.

SCOMM

#9:80

# **A SUBREGIONAL ECONOMIC ANALYSIS OF ALASKA**



PREPARED FOR  
THE FEDERAL FIELD COMMITTEE  
FOR DEVELOPMENT PLANNING IN ALASKA  
1968

E R R A T A  
for  
A SUBREGIONAL ECONOMIC ANALYSIS OF ALASKA

These lines replace the last 2 paragraphs on p. 28 and the 1st line on p. 29:

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An amendment which was introduced by Senator Morse, and passed by the Congress, to the last foreign aid appropriation bill placed a maximum limit on the export of round logs harvested from federal lands in the western states. The legislation would not affect the Forest Service's current requirement for primary manufacturing of timber harvested from National Forest lands in Alaska. The legislation does require that proposals for the export of round logs harvested from other federal lands in Alaska be evaluated within the context of the amendment.

The limitation on round log export is effective for three years; the relative economic benefits of unrestricted round log export and the primary manufacturing requirement will be subject to further study and debate. The merits of each approach will receive attention particularly in relation to the more marginal, remote, forests in Alaska

In the principal development in the Southeastern forest products industry, U. S. Plywood-Champion Papers, Inc., has signed a contract with the Forest Service (USDA) for the long-term harvest of 8.75 billion board feet of timber in the Juneau and Yakutat Working Circles. The contract call for the construction of a third pulp mill in southeast Alaska, but the exact location of the mill has yet to be announced by the company. It can be presumed that the manufacturing facilities will eventually be an integrated complex producing pulp, lumber, green veneer, and perhaps plywood. In the long run, more than 1,000 jobs may be created in this manufacturing complex and its supporting logging activities.<sup>9</sup>

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These lines replace the 3rd paragraph on p. 300:

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A transport mode that could be of significance for interior Alaska in selective cases in the future is the military pipeline from Haines used to supply aviation fuel and petroleum products to bases in the Fairbanks area. A report by the Federal Field Committee recommends that consideration be given to sharing this line with commercial interests if the normal utilization rate experienced and anticipated for this pipeline is low and the demand for and price of aviation fuels and other petroleum products in the civilian market continue to be high. The DOD policy generally favors commercial use of the pipeline when this usage does not interfere with military requirements.<sup>13</sup>

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