

74

HLG;

HB

675

-

HB

785

CITY OF ANCHORAGE
ALASKA BUSINESS LICENSE REVENUES AND POPULATION
Percentage Increases (Decreases)

	Alaska Business License Revenues	% Increase (Decrease)	Population *Official Census	% Increase (Decrease)
1971	\$929,952	31.05	\$ 50,556	5.26
1970	709,619	21.15	48,029*	.69
1969	585,713	(6.99)	47,700	5.82
1968	629,728	(0.28)	45,076*	.23
1967	631,470	42.16	44,968	.23
1966	444,196	(11.61)	44,864	.23
1965	502,556	24.06	44,759	.23
1964	405,088	6.54	44,655	.24
1963	380,212	3.81	44,550	.23
1962	366,232	(3.65)	44,446	.23
1961	380,111	30.44	44,341	.23
1960	291,383		44,237*	

PERCENTAGE INCREASE OF CITY OF ANCHORAGE
BUSINESS LICENSE REVENUES AND POPULATION
From Base Year 1960

	<u>Revenue Increase</u>	<u>Population Increase</u>
1968	116.11	1.90
1970	143.53	8.57
1971	219.14	14.28

POPULATION PERCENTAGES

	<u>City of Anchorage</u>	<u>Balance of Anchorage Area</u>	<u>Balance of State</u>
1960	19.56	17.07	63.37
1968	15.87	24.10	60.03
1970	15.89	25.32	58.79

ASSESSED VALUATION OF BUSINESS PERSONAL PROPERTY TAX

	<u>Amount</u>	<u>% Yearly Increase</u>	<u>% Yearly Business License Increase</u>
1971	\$111,257,420	17.37	31.05
1970	94,788,770	29.19	21.15
1969	73,371,580	6.20	(6.99)
1968	69,082,026	1.93	(0.28)
1967	67,767,709		

Hilbrand - HB 401

↳ was increased due in the bush.

↳ was actually increased tax ^{amount} in early 90's

↳ Case HB 615 1990 oil usage for each property
 since oil usage will be maximized
for oil usage

HB 615 - 1990 - 5% increase in revenue for oil property

Since the usage will be maximized
 $\rightarrow \frac{1}{1.05}$

VB. EBK total usage
for oil usage will be maximized
for oil usage

STATE OF ALASKA

WILLIAM A. EGAN, GOVERNOR

DEPARTMENT OF REVENUE

POUCH SA — JUNEAU 99801

February 23, 1972

Representative Mike Miller
Local Government Committee
House of Representatives
Juneau, Alaska 99801

Subject: HB 615 - An Act suspending collection of the Alaska Business License Tax.

Section 1 provides that AS 43.70 shall not be operative commencing January 1, 1977 and continuing so long as the Legislature annually appropriates to the Department of Administration for distribution to the organized boroughs and cities an amount equal to the total tax collected under the Act for the calendar year 1976.

If the intent of HB 615 is to distribute collections made during 1976, an estimated reduction to the Treasury would amount to \$8,049,000 based on present estimates. As the bill is now written "all monies" are to be distributed; a substantial increase over the present 60% - 40% distribution, which projection would share approximately \$3,700,100 in 1977. We suggest we be allowed to collect 1976 gross receipts tax due February 28, 1977 as a basis for the per capita sharing; further that the Local Affairs Agency be designated as the sharing authority as they are responsible for other per capita revenue sharing.

Administrative Problems: The possibility that the Business License Act may again become effective makes it necessary that the Department of Revenue maintain a current roster of active businesses. This could be accomplished by requiring all firms to obtain the annual \$25.00 business license. The authority for which should be incorporated in HB 615, such fee not subject to any sharing formula. The business growth of the State, providing economic statistics necessary to many governmental agencies and others, cannot be provided without some form of annual reporting.

The law should provide that all license returns and taxes due for the years prior to the effective date of the legislation are valid and that the Department of Revenue is empowered to collect all delinquent accounts including any that may be disclosed as a result of audit investigation. It is estimated that the full audit staff would have to be maintained for at least a two year period to complete the audit examination of business license returns through 1976 and conduct audit examinations for prior year deficiencies prior to closing out the gross receipts tax portion of the Alaska Business License Act.

Following this two year period it is estimated that a 40% reduction in the existing staff could be implemented and the remaining staff could maintain the census of the business community which would be necessary should the Act again become operative.

A more complete fiscal note will be prepared for the Committee, when it is known what, if any, of these measures are incorporated in the legislation.

The writer remains at your disposal should any further question arise.

Respectfully yours,

A handwritten signature in cursive script, appearing to read "L. P. Carroll".

L. P. Carroll, Chief
Business License Division

LPC: fd

ALASKA BUSINESS LICENSE TAX

REVIEW AND ANALYSIS

I. INTRODUCTION

The basis for the levy and assessment of the Alaska Business License Tax is cited in A.S. 43.70.010 through 43.70.120. These statutes outline the gross receipts which are exempt from the tax, describe the procedures to be followed for application for a business license, explain the steps involved in the levy and computation of the license fee, provide for a review and determination of the license tax, establish the framework for appeals, penalties, security, disposal of money received, rules and regulations, penal provisions, as well as offering a definition of the terminology used in the Act and establishing a short title. Of particular interest are the provisions outlined in Section 43.70.030 (Levy and Computation of License Fees) and Section 43.70.080 (Disposal of Money). The first section cited above establishes the rates to be charged on gross receipts covered by the Act; a synopsis of this section is offered in Schedule I below. The second section reads as follows:

"All money collected by the department (of Revenue) under this chapter shall be deposited in the general fund. The Department of Revenue shall refund to an organized borough, city of any class, incorporated or independent school district, or public utility districts, 60% of the money collected in the local government." (Quotations ours)

SCHEDULE I

ALASKA BUSINESS LICENSE TAX RATES

The initial license fee for businesses is \$25.00 per year. Additional rates on gross receipts are:

\$20,000 to \$100,000	½ of 1 percent
\$100,000 and over	¾ of 1 percent

A 2% rate is levied on the net income of banks, trust companies and savings and loan associations.

II. HISTORICAL BACKGROUND (1)

In 1899 Congress established a system of Federal license taxes upon specified lines of business in Alaska. Subsequent to the passage of the Organic Act of Alaska, in 1912, by which such laws were retained, the Territorial Legislature passed an Act imposing a license tax on certain other lines of business. The amount of the license varied with the type of business. On some it was a flat rate, while on others it was based on gross receipts. In 1949 the Legislature established an entirely new business license system whereby a uniform tax was imposed. The new business tax became effective following the repeal by Congress of the special Federal taxes on business in Alaska.

In 1955 the Act was amended to extend the time for paying the tax from January 31, to the last day of February; permitted extensions for payment from March 31, to April 30; and added a provision to penalize taxpayers who have willfully neglected to file a return or pay the tax due. This penalty is computed at the rate of 5 percent per month of the tax due with a maximum of 25% plus the legal rate of interest.

In 1957 the Act was amended by redefining and clarifying the definition of gross receipts and expressly exempted the gross receipts of companies paying the oil and gas properties production tax and provided that although certain undertakings are exempt from the tax, they are nevertheless required to pay the initial fee of \$25.

In 1959, although not as an amendment to the business license act, non-profit electric and telephone membership cooperatives were required to obtain a business license and pay a gross revenue tax.

In 1960 the Act was amended to specify more clearly the return which National and State banks are required to file under the Act.

(1) Source: "Review of the Alaska Tax Structure" by Peat, Marwick, Mitchell & Co.

III. ECONOMIC IMPACT

In order to objectively assess the fiscal impact generated by the Alaska Business license tax upon its recipients, namely the State of Alaska and its political subdivisions, it is advisable to analyze the effects of

these receipts as they apply individually to each of these two bodies:

A. State of Alaska.

For F.Y. 1969-70 gross receipts prior to distribution accrued to the State from the Alaska Business License Tax totalled \$5,060,522. This amount represents 6.81% of total revenues from taxes and 3.03% of total state revenues exclusive of the income received from the North Slope lease sale. The significance of these percentages, however, decreases considerably if only the net proceeds from the tax are taken into consideration. Of the \$5,060,522 received, \$1,177,710.62 (23.23%) were applied toward costs incurred in handling, processing, and distributing the receipts, and \$2,342,739.45 (46.29%) were returned on a pro-rata basis to the various political subdivisions, leaving a balance of \$1,540,072 (30.48%) which was ultimately deposited as revenue in the State general fund. If this latter figure of \$1,540,072 is brought into consideration and is related to total tax receipts and total state revenues, the percentages then decrease to 2.07% (from 6.81%) and .92% (from 3.03%) respectively. It can then be stated that, in effect, the Alaska Business License Tax presently accounts for less than one percent of total state revenues.

B. Political Subdivisions.

Since the enactment of the State Aid to Municipalities, the impact of the rebate of the Business License Tax receipts upon the finances of political subdivisions has lost much of its significance. At one time, proceeds from this tax accounted for a relevant portion of local resources. However, in light of the much more comprehensive and expanded plan of support to local governments adopted by the Sixth State Legislature, the role of the Business License Tax has been relegated to that of a nuisance tax which is becoming increasingly cumbersome and expensive to administer. The impact of this tax, expressed as a percentage of total estimated operating revenues for three selected boroughs and cities within the State, is shown in Schedule II below. This schedule also indicates the amount of State support received pursuant to the implementation of the State Aid to Municipalities Act.

SCHEDULE II	Tot. Est.	Bus. License	State Aid		
	<u>Revenues</u>	<u>Tax Receipts</u>	<u>%</u>	<u>Receipts</u>	<u>%</u>
				(2)	
Greater Anch. Borough ⁽¹⁾	13,794,288	414,425	3.0	1,213,942	8.8
North Star Borough	16,955,737	135,472	.8	203,734	1.2
Kenai Pen. Borough	3,440,000	176,641	5.1	78,700	2.3
City of Anchorage	12,335,455	725,801	5.9	1,552,680	12.6
City of Fairbanks	5,989,820	264,500	4.4	547,400	9.1
City of Kenai	574,610	52,909	9.2	160,650	27.9

(1) Includes all service areas.

(2) Exclusive of Business License tax receipts.

As it can be readily seen from an analysis of the percentages shown above, in all but one instance receipts from State Aid to Municipalities could more than adequately replace, rather than supplement, proceeds from Business License Tax, thus providing an extent of relief to local taxpayers. This, incidentally, is one of the purposes which motivated enactment of the State Aid to Municipalities legislation.

IV. GENERAL OBSERVATIONS

Generally, whenever the repeal of an existing tax is suggested, the automatic question is: "What can then be done to replace this source of revenue?" There are three approaches that can be offered as answers to this question:

- (1) Reduce the level of spending.
- (2) Levy a tax of a different nature.
- (3) Seek new sources of income within the governmental framework.

Obviously, in light of the expanding economy within the State of Alaska, the first suggestion offered above does not appear to be reasonable. Nor would it be palatable to many legislators to shift the tax burden from one category of taxpayers to another by enacting a new tax in order to replace an existing one, regardless of how unfair or impractical the existing one may be. Therefore, only the third suggestion becomes worthy of consideration. In the past year, earnings on investment funds generated by the September 1969 North Slope Oil Lease Sale totalled \$38,115,501 through June 30, 1970. This wealth was not available or envisioned when the Alaska Business License Tax was originally enacted; the very nature of the investment program assures a continuous flow of revenues which could very readily replace the rather marginal income which accrues to the State from the Business License Tax.

Obviously, it can be argued that governments, historically, have always had the ability to spend up to their ultimate sources of revenues, but the logic of this argument, in light of sound fiscal practices, leaves much to be desired. Another alternative worthy of consideration is the repeal of the existing State tax and the enactment of a law to empower political subdivisions to levy a similar tax within their boundaries subject to voters' approval. The advantages of this approach over the existing one would be:

- (1) All revenues derived from such a tax would accrue in their entirety back to the political subdivision levying the tax without any split of revenues with the State.
- (2) This tax would be more responsive to the needs of the local communities since it would be enacted only when the need arose.
- (3) The cost of administering such a tax on a percentage basis would not be nearly as high as the cost of administering a State-wide tax, since tax channels are already available in each of the political subdivisions.

The validity and propriety of the Alaska Business License Tax are, in themselves, questionable. Since the tax is levied on gross receipts rather than net profits, it becomes an added burden for the business which shows a loss at the end of the year. The tax rates, because of their regressive nature, discriminate against the small businesses and favor larger enterprises. Banks and similar financial institutions receive preferential treatment over all other business by having the tax applied against net profits rather than gross income. Although, in the case of bank and other financial institutions, the rate is higher, no tax liability is incurred if the institution is faced with a loss. As indicated above, the tax is not easy to administer and a substantial share of its proceeds (23.23%) are applied to defray administrative costs, notwithstanding the fact that provisions for cost recoveries are not specified in the Act. As indicated in Section I above, the Department of Revenue is required to refund to organized boroughs, cities of any class, incorporated or independent school districts, or public utility districts, 60% of the money collected in the local government. In F.Y. 1970-71, only 46.29% of total receipts were returned to those areas where the taxes were levied.

STATE OF ALASKA

WILLIAM A. EGAN, GOVERNOR

DEPARTMENT OF REVENUE

POUCH SA — JUNEAU 99801

February 23, 1972

Representative Mike Miller
Local Government Committee
House of Representatives
Juneau, Alaska 99801

Subject: HB 615 - An Act suspending collection of the Alaska Business License Tax.

Section 1 provides that AS 43.70 shall not be operative commencing January 1, 1977 and continuing so long as the Legislature annually appropriates to the Department of Administration for distribution to the organized boroughs and cities an amount equal to the total tax collected under the Act for the calendar year 1976.

If the intent of HB 615 is to distribute collections made during 1976, an estimated reduction to the Treasury would amount to \$8,049,000 based on present estimates. As the bill is now written, "all monies" are to be distributed; a substantial increase over the present 60% - 40% distribution, which projection would share approximately \$3,700,100 in 1977. We suggest we be allowed to collect 1976 gross receipts tax due February 28, 1977 as a basis for the per capita sharing; further that the Local Affairs Agency be designated as the sharing authority as they are responsible for other per capita revenue sharing.

Administrative Problems: The possibility that the Business License Act may again become effective makes it necessary that the Department of Revenue maintain a current roster of active businesses. This could be accomplished by requiring all firms to obtain the annual \$25.00 business license. The authority for which should be incorporated in HB 615, such fee not subject to any sharing formula. The business growth of the State, providing economic statistics necessary to many governmental agencies and others, cannot be provided without some form of annual reporting.

The law should provide that all license returns and taxes due for the years prior to the effective date of the legislation are valid and that the Department of Revenue is empowered to collect all delinquent accounts including any that may be disclosed as a result of audit investigation. It is estimated that the full audit staff would have to be maintained for at least a two year period to complete the audit examination of business license returns through 1976 and conduct audit examinations for prior year deficiencies prior to closing out the gross receipts tax portion of the Alaska Business License Act.

Following this two year period it is estimated that a 40% reduction in the existing staff could be implemented and the remaining staff could maintain the census of the business community which would be necessary should the Act again become operative.

A more complete fiscal note will be prepared for the Committee, when it is known what, if any, of these measures are incorporated in the legislation.

The writer remains at your disposal should any further question arise.

Respectfully yours,



L. P. Carroll, Chief
Business License Division

LPC:fd

ALASKA RETAIL ASSOCIATION, INC.

POSITION STATEMENT
on
ALASKA BUSINESS LICENSE ACT

THE GENERAL PRINCIPAL OF TAXATION MEASURED BY GROSS RECEIPTS OF A BUSINESS OR PROFESSION HAS ONE BASIC ADVANTAGE IN THAT RELATIVELY LOW RATES WILL PRODUCE SUBSTANTIALLY HIGH YIELDS TO THE GOVERNMENTAL ENTITY IMPOSING THE TAX. ALSO, AS A GENERAL RULE, THE LOW RATES MINIMIZE THE INCENTIVE ON THE PART OF THE TAXPAYER TO RESIST OR EVADE THE TAX.

THE ALASKA GROSS BUSINESS LICENSE TAX, AS IT IS PRESENTLY ASSESSED, HOWEVER, HAS CERTAIN BUILT-IN INEQUITIES. OUR METHOD UNIFORMLY APPLIES THE TAX TO ALL TYPES OF BUSINESS WITHOUT REGARD TO NORMAL RATIOS OF PROFITS TO GROSS RECEIPTS. AS AN EXAMPLE -- A HIGH VOLUME GROCERY STORE, WHICH ALWAYS HAS A VERY LOW PERCENTAGE OF PROFIT, IS TAXED AT THE SAME RATE AS A JEWELRY STORE WHICH USUALLY HAS A MUCH HIGHER PROFIT PERCENTAGE IN RELATION TO GROSS SALES. JUST WITHIN THE RETAIL INDUSTRY, MANY SIMILAR EXAMPLES MAY BE FOUND. WHEN WE CONSIDER ALL THE OTHER VARYING AREAS OF THE BUSINESS COMMUNITY, SUCH AS AGRICULTURE, CONSTRUCTION, MANUFACTURING, FINANCE, AND PROFESSIONAL SERVICES, WE CAN SEE THAT APPLYING AN OVER-ALL RATE ON ALL TYPES OF GROSS RECEIPTS WILL RESULT IN MANY UNFAIR SITUATIONS.

THERE ARE SEVERAL POSSIBLE SOLUTIONS WHICH COULD GO QUITE FAR IN ELIMINATING THE INEQUITIES INVOLVED IN OUR GROSS LICENSE TAX SYSTEM.

1. IF THE STATE IS TO RETAIN A GROSS BUSINESS LICENSE TAX SYSTEM, IT MAY BE THAT A RATE STRUCTURE COULD BE DESIGNED TO TAKE INTO CONSIDERATION THE VARIOUS DIFFERENCES IN RATIOS OF NORMAL PROFITS TO GROSS RECEIPTS. IN OTHER WORDS, A HIGH VOLUME BUSINESS LIKE A GROCERY STORE COULD BE TAXED AT A LOWER RATE THAN A BUSINESS WHICH PRODUCES A RELATIVELY LOW VOLUME BUT MAINTAINS A RELATIVELY HIGH RATE OF PROFIT.

2. ANOTHER POSSIBILITY, WHICH COULD REPLACE OUR PRESENT SYSTEM, WOULD BE THE "GROSS MARGIN" OR "VALUE ADDED" TAX. THE BASE OF THE "GROSS MARGIN - VALUE ADDED" TAX IS THE GROSS VOLUME OF SALES MINUS ALL EXPENDITURES FOR GOODS AND SERVICES PURCHASED FROM OTHER FIRMS (SUCH AS THE WHOLESALE PROCUREMENT COST OF INVENTORY, ETC.). THUS, THE TAX WOULD BE COMPUTED ON THE GROSS PROFIT OF A BUSINESS. THIS WOULD BE MORE FAIR THAN OUR PRESENT SYSTEM IN THAT THERE WOULD BE AN AUTOMATIC DIFFERENTIAL AMONG THE VARIOUS TYPES OF BUSINESSES IN ARRIVING AT A TAX BASE. (EXAMPLES: A GROCERY STORE MIGHT HAVE A "GROSS MARGIN" OF 15%; A DEPARTMENT STORE, 30%; A JEWELRY STORE, 50%, ETC.)

3. MY FINAL SUGGESTED POSSIBILITY WOULD BE A TAX BASED ON THE NET PROFITS OF A BUSINESS. IN SOME RESPECTS, THIS MAY BE THE MOST FAIR AS IT WOULD RELATE DIRECTLY TO THE PROFITABILITY OF EACH INDIVIDUAL BUSINESS BEING TAXED.

AS YOU KNOW, THE RETAIL INDUSTRY AND, INDEED, THE GENERAL BUSINESS COMMUNITY FAVORS THE REPEAL OF THE ALASKA GROSS BUSINESS LICENSE TAX AT ANY TIME SUCH

REPEAL WOULD NOT CAUSE DRASTIC HARDSHIP TO THE STATE OR THE LOCAL GOVERNMENTS RECEIVING THE REVENUES. WE ALSO RECOGNIZE, HOWEVER, THAT WE SHOULD BE PAYING OUR FAIR SHARE FOR THE VARIOUS SERVICES PROVIDED BY THESE GOVERNMENTS. IN THIS CONNECTION, THE OPERATING WORD IS "FAIR." IF IT APPEARS THAT THESE REVENUES ARE NEEDED, WE WOULD SUPPORT ANY SOLUTION WHICH WOULD ADJUST THE TAX BASE SO THAT EACH BUSINESS IS PAYING ONLY ITS FAIR PORTION.

WE RECENTLY OBTAINED A REVIEW AND ANALYSIS OF THE ALASKA BUSINESS LICENSE TAX WHICH WAS COMPILED BY THE FIRM OF MARTINI & ASSOCIATES, MANAGEMENT CONSULTANTS IN ANCHORAGE. THIS REPORT COVERS THE GENERAL HISTORY OF OUR TAX AND MAKES A FEW GENERAL OBSERVATIONS WHICH MIGHT BE OF VALUE TO THE COMMITTEES IN THEIR DELIBERATIONS. I WILL ONLY COMMENT HERE ON ONE PORTION WHICH PERTAINS TO THE DISTRIBUTION OF THE TAX REVENUES AFTER COLLECTION BY THE STATE: ACCORDING TO THIS REPORT, FISCAL YEAR 1969-1970 REVENUES WERE \$5,060,522. OF THIS TOTAL, \$1,177,710.62 WERE APPLIED TOWARD ADMINISTRATIVE COSTS. THIS AMOUNTS TO (23.23%) OF THE REVENUES, WHICH APPEARS TO BE AN EXTRAORDINARILY LARGE PERCENTAGE JUST FOR HANDLING THE COLLECTION AND REDISTRIBUTION OF THE \$5,060,000. WE FIND IT DIFFICULT TO UNDERSTAND WHY IT SHOULD COST \$1,177,710 TO ADMINISTER THIS RELATIVELY SMALL AMOUNT OF REVENUE. FURTHER, IT APPEARS THAT, WHILE THE LAW APPARENTLY DOES NOT MAKE PROVISIONS FOR COST RECOVERIES BY THE STATE, THIS \$1,177,710 IS TAKEN RIGHT OFF THE TOP BEFORE DISTRIBUTION OF THE 60% BACK TO LOCAL GOVERNMENTS.

WE SUGGEST THAT THE ACTUAL COSTS TO THE STATE IN HANDLING THIS TAX BE DETERMINED. AFTER THIS IS DONE, IT MAY BE THAT, ALONG WITH SETTING UP A

MORE FAIR BASE FOR THE TAX, THAT LOWER EFFECTIVE RATES CAN BE ASSESSED,
WITH LITTLE OR NO LOSS TO LOCAL GOVERNMENTS.

IN SUMMARY, THE RETAIL INDUSTRY WOULD, QUITE UNDERSTANDABLY, PREFER TO
SEE THIS OR ANY OTHER TAX REDUCED OR ELIMINATED. HOWEVER, WE ALSO
RECOGNIZE OUR RESPONSIBILITIES AND ARE MORE THAN WILLING TO ACCEPT OUR
FAIR SHARE OF THE BURDEN. WE DO STRONGLY FEEL THAT SOME ADJUSTMENT IN
WHAT HAS BEEN A BASICALLY UNFAIR TAX IS NOW DUE. WE WOULD BE GLAD TO
COOPERATE WITH THE LEGISLATURE IN ANY EFFORT TO SOLVE THIS PROBLEM.

X X X X

ALASKA BUSINESS LICENSE TAX

REVIEW AND ANALYSIS

I. INTRODUCTION

The basis for the levy and assessment of the Alaska Business License Tax is cited in A.S. 43.70.010 through 43.70.120. These statutes outline the gross receipts which are exempt from the tax, describe the procedures to be followed for application for a business license, explain the steps involved in the levy and computation of the license fee, provide for a review and determination of the license tax, establish the framework for appeals, penalties, security, disposal of money received, rules and regulations, penal provisions, as well as offering a definition of the terminology used in the Act and establishing a short title. Of particular interest are the provisions outlined in Section 43.70.050 (Levy and Computation of License Fees) and Section 43.70.080 (Disposal of Money). The first section cited above establishes the rates to be charged on gross receipts covered by the Act; a synopsis of this section is offered in Schedule I below. The second section reads as follows:

"All money collected by the department (of Revenue) under this chapter shall be deposited in the general fund. The Department of Revenue shall refund to an organized borough, city or any class, incorporated or independent school district, or public utility districts, 60% of the money collected in the local government." (Quotations ours)

SCHEDULE I

ALASKA BUSINESS LICENSE TAX RATES

The initial license fee for businesses is \$25.00 per year. Additional rates on gross receipts are:

\$20,000 to \$100,000	$\frac{1}{2}$ of 1 percent
\$100,000 and over	$\frac{3}{4}$ of 1 percent

A 2% rate is levied on the net income of banks, trust companies and savings and loan associations.

II. HISTORICAL BACKGROUND (1)

In 1899 Congress established a system of Federal license taxes upon specified lines of business in Alaska. Subsequent to the passage of the Organic Act of Alaska, in 1912, by which such laws were retained, the Territorial Legislature passed an Act imposing a license tax on certain other lines of business. The amount of the license varied with the type of business. On some it was a flat rate, while on others it was based on gross receipts. In 1949 the Legislature established an entirely new business license system whereby a uniform tax was imposed. The new business tax became effective following the repeal by Congress of the special Federal taxes on business in Alaska.

In 1955 the Act was amended to extend the time for paying the tax from January 31, to the last day of February; permitted extensions for payment from March 31, to April 30; and added a provision to penalize taxpayers who have willfully neglected to file a return or pay the tax due. This penalty is computed at the rate of 5 percent per month of the tax due with a maximum of 25% plus the legal rate of interest.

In 1957 the Act was amended by redefining and clarifying the definition of gross receipts and expressly exempted the gross receipts of companies paying the oil and gas properties production tax and provided that although certain undertakings are exempt from the tax, they are nevertheless required to pay the initial fee of \$25.

In 1959, although not as an amendment to the business license act, non-profit electric and telephone membership cooperatives were required to obtain a business license and pay a gross revenue tax.

In 1960 the Act was amended to specify more clearly the return which National and State banks are required to file under the Act.

(1) Source: "A View of the Alaska Tax Structure" by Peat, Marwick, Mitchell & Co.

III. ECONOMIC IMPACT

In order to objectively assess the fiscal impact generated by the Alaska business license tax upon its recipients, namely the State of Alaska and its political subdivisions, it is advisable to analyze the effects of

these receipts as they apply individually to each of these two bodies:

A. State of Alaska.

For F.Y. 1969-70 gross receipts prior to distribution accrued to the State from the Alaska Business License Tax totalled \$5,060,522. This amount represents 6.81% of total revenues from taxes and 3.03% of total state revenues exclusive of the income received from the North Slope lease sale. The significance of these percentages, however, decreases considerably if only the net proceeds from the tax are taken into consideration. Of the \$5,060,522 received, \$1,177,710.62 (23.23%) were applied toward costs incurred in handling, processing, and distributing the receipts, and \$2,342,739.45 (46.29%) were returned on a pro-rata basis to the various political subdivisions, leaving a balance of \$1,540,072 (30.48%) which was ultimately deposited as revenue in the State general fund. If this latter figure of \$1,540,072 is brought into consideration and is related to total tax receipts and total state revenues, the percentages then decrease to 2.07% (from 6.81%) and .92% (from 3.03%) respectively. It can then be stated that, in effect, the Alaska Business License Tax presently accounts for less than one percent of total state revenues.

B. Political Subdivisions.

Since the enactment of the State Aid to Municipalities, the impact of the rebate of the Business License Tax receipts upon the finances of political subdivisions has lost much of its significance. At one time, proceeds from this tax accounted for a relevant portion of local resources. However, in light of the much more comprehensive and expanded plan of support to local governments adopted by the Sixth State Legislature, the role of the Business License Tax has been relegated to that of a nuisance tax which is becoming increasingly cumbersome and expensive to administer. The impact of this tax, expressed as a percentage of total estimated operating revenues for three selected boroughs and cities within the State, is shown in Schedule II below. This schedule also indicates the amount of State support received pursuant to the implementation of the State Aid to Municipalities Act.

SCHEDULE II	Tot. Est.	Bus. License	State Aid		
	<u>Revenues</u>	<u>Tax Receipts</u>	%	<u>Receipts</u>	
				(2)	
Greater Anch. Borough (1)	13,794,288	414,425	3.0	213,942	8.8
North Star Borough	16,955,737	135,472	.8	203,734	1.2
Kenai Pen. Borough	3,440,000	175,641	5.1	78,700	2.3
City of Anchorage	12,335,455	725,801	5.9	1,552,680	12.6
City of Fairbanks	5,989,820	264,500	4.4	547,400	9.1
City of Kenai	574,610	52,909	9.2	160,650	27.9

(1) Includes all service areas.

(2) Exclusive of Business License tax receipts.

As it can be readily seen from an analysis of the percentages shown above, in all but one instance receipts from State Aid to Municipalities could more than adequately replace, rather than supplement, proceeds from Business License Tax, thus providing an extent of relief to local taxpayers. This, incidentally, is one of the purposes which motivated enactment of the State Aid to Municipalities legislation.

IV. GENERAL OBSERVATIONS

Generally, whenever the repeal of an existing tax is suggested, the automatic question is: "What can then be done to replace this source of revenue?" There are three approaches that can be offered as answers to this question:

- (1) Reduce the level of spending.
- (2) Levy a tax of a different nature.
- (3) Seek new sources of income within the governmental framework.

Obviously, in light of the expanding economy within the State of Alaska, the first suggestion offered above does not appear to be reasonable. Nor would it be palatable to many legislators to shift the tax burden from one category of taxpayers to another by enacting a new tax in order to replace an existing one, regardless of how unfair or impractical the existing one may be. Therefore, only the third suggestion becomes worthy of consideration. In the past year, earnings on invested funds generated by the September 1969 North Slope Oil Lease Sale totalled \$38,115,501 through June 30, 1970. This wealth was not available or envisioned when the Alaska Business License Tax was originally enacted; the very nature of the investment program assures a continuous flow of revenues which could very readily replace the rather marginal income which accrues to the State from the Business License Tax.

Obviously, it can be argued that governments, historically, have always had the ability to spend up to their ultimate sources of revenues, but the logic of this argument, in light of sound fiscal practices, leaves much to be desired. Another alternative worthy of consideration is the repeal of the existing State tax and the enactment of a law to empower political subdivisions to levy a similar tax within their boundaries subject to voters' approval. The advantages of this approach over the existing one would be:

- (1) All revenues derived from such a tax would accrue in their entirety back to the political subdivision levying the tax without any split of revenues with the State.
- (2) This tax would be more responsive to the needs of the local communities since it would be enacted only when the need arose.
- (3) The cost of administering such a tax on a percentage basis would not be nearly as high as the cost of administering a State-wide tax, since tax channels are already available in each of the political subdivisions.

The validity and propriety of the Alaska Business License Tax are, in themselves, questionable. Since the tax is levied on gross receipts rather than net profits, it becomes an added burden for the business which shows a loss at the end of the year. The tax rates, because of their regressive nature, discriminate against the small businesses and favor larger enterprises. Banks and similar financial institutions receive preferential treatment over all other business by having the tax applied against net profits rather than gross income. Although, in the case of bank and other financial institutions, the rate is higher, no tax liability is incurred if the institution is faced with a loss. As indicated above, the tax is not easy to administer and a substantial share of its proceeds (23.23%) are applied to defray administrative costs, notwithstanding the fact that provisions for cost recoveries are not specified in the Act. As indicated in Section I above, the Department of Revenue is required to refund to organized boroughs, cities of any class, incorporated or independent school districts, or public utility districts, 60% of the money collected in the local government. In F.Y. 1970-71, only 46.29% of total receipts were returned to those areas where the taxes were levied.

ALASKA STATE LEGISLATURE

PUBLIC HEARING

DOCUMENT TO BE CONSIDERED: HB 20, HB 31, HB 46, HB 85, HB 401
HB 615, HCR 3

SPONSOR OF DOCUMENT:

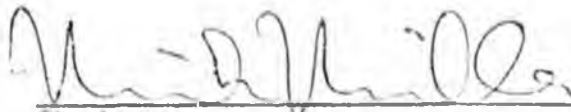
SPONSOR OF HEARING: House Local Government Committee

TIME: 7:30 P.M.

DATE: February 23, 1972

PLACE: State Capitol Building, House Conference Room

SUBJECT MATTER OF DOCUMENT: Gross Business Tax



Chairman

Press room copy delivered by _____ Date _____

Introduced: 2/10/72
Referred: Local Government
and Finance

1 IN THE HOUSE

BY THE LOCAL GOVERNMENT
COMMITTEE

2 HOUSE BILL NO. 615

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SEVENTH LEGISLATURE -- SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act suspending collection of the Alaska Business
7 License Tax."

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

9 * Section 1. The provisions of the Alaska Business License Act (AS 43.70)
10 shall not be operative during the period commencing January 1, 1977 and
11 continuing for so long as the legislature annually appropriates to the
12 Department of Administration for payment to the organized boroughs and cities
13 an amount equal to the total tax collected by the Department of Revenue
14 under the Alaska Business License Act for the calendar year 1976. This
15 total amount is to be paid by the Department of Administration to the organ-
16 ized boroughs and cities in that proportion of the total amount as the
17 population within the boundary of each organized borough and each city
18 bears to the total population of all organized boroughs and cities in the
19 state. Population within the boundary of a city within an organized borough
20 shall be counted only for the purpose of computing the share for the city
21 and not in computing the share for the borough. If the legislature fails
22 in a calendar year to make the appropriation described in this section,
23 the provisions of the Alaska Business License Act shall again be operative,
24 for that calendar year, except that the Department of Revenue shall by
25 regulation set a date within 90 day of final adjournment of the legislature
26 for applications for licenses, renewals of licenses, and payment of the
27 initial fee provided in AS 43.70.020(b) for that calendar year.

28
29

✓ Leave in \$25 per biz fee

25
2000

12500

H

B

6

4

3

2086
 181
467
 2734

per.
 ex. or partially ex.
 probationary

Total (does not include Teacher, Temporarys, marine Highway
 or retired employees)

15,600
2734
 6,2400
 46800
 10 a
~~97200~~
 31200
41,150,400
~~41,650,700~~
 21.
 2734
12000
 5468000
2734
 32,808,000

median Salary

2734
15600
 1640400
 13670
 2734
42650400
 1

2734
12000
 5468000
 2734
32808000
 1 1

STATE
of ALASKA

MEMORANDUM

TO: The Honorable Mike Miller
Alaska House of Representatives
Pouch V
Juneau, Alaska

DATE : February 17, 1972

FROM: *W. Easley for*
George W. Easley, Commissioner
Department of Public Works

SUBJECT: Building's General
DB 131-4-01

Following is a summary of square foot areas of State owned buildings and square foot areas of State leased buildings in the cities of Anchorage, Fairbanks and Juneau:

<u>City</u>	<u>No. of Bldgs. Owned</u>	<u>Sq. Ft. Areas</u>	<u>No. of Bldgs. Leased</u>	<u>Sq. Ft. Areas</u>
Anchorage	46	786,649	35	254,462
Fairbanks	42	373,310	10	17,135
Juneau-Douglas	19	405,535	27	136,756

For your use we are enclosing a copy of the 1972 Building Index of State-Owned and State-Operated Buildings.

Enclosure

Alaska State Employees--Number of positions on record as of January 11, 1972; although not necessarily filled.

<u>Departments</u>	<u>Juneau</u>	<u>Anchorage</u>	<u>Fairbanks</u>
Governor's Office	95	38	13
Administration	213	51	37
Law	38	47	13
Revenue	115	54	16
Education	152	61	6
Health and Welfare	284	544	121
Labor	237	112	42
Commerce	55	58	8
Military Affairs	6	39	1
Natural Resources	19	159	13
Fish and Game	119	85	44
Public Safety	90	101	63
Public Works	202	489	80
Highways	571	413	377
Economic Development	39	2	0
Environmental Conservation	26	1	3
State Operated Schools	0	134 [#]	53 ^{**}
Alaska Court System	20	120	36
<u>Total</u>	<u>2281</u>	<u>2508</u>	<u>926</u>

*Includes Elmendorf Air Base and Fort Richardson

**Includes Eilson Air Base and Fort Wainwright

HB

644

File

The Legislature of the State of Alaska
FISCAL NOTE
Second Session - Seventh State Legislature

I. REQUEST

Bill Identification: House Bill No. 644
Title: An Act increasing the so-called "School Tax"
Requested by: Legislative Finance Date: 2-16-72
Return Date Requested: 2-29-72
Agency: Revenue Program: Fiscal Services

II. FISCAL DETAIL

Budget Request Unit(s) Affected: _____
A. EXPENDITURES: (Thousands of dollars)

OBJECT	FY 72	FY 73	FY 74	FY 75	FY 76	FY 77
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	-0-					

B. FUNDING: (Thousands of dollars)

GENERAL FUND	-0-					
FEDERAL FUNDS	-0-					
OTHER	-0-					

C. POSITIONS:

PERMANENT/TEMPORARY	-0- /	/	/	/	/	/
MAN MONTHS (P./T.)	-0- /	/	/	/	/	/

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

See attached detailed memorandum from Fred Boetsch, Director, Audit Division, Department of Revenue describing adverse effect on Treasury, after considering gross gain by doubling School Tax rate.

IV. ATTACHMENTS

MEMORANDUM

TO: R. D. Stevenson
Deputy Commissioner

DATE: February 28, 1972

FILE NO:

FROM: Fred Boetsch, Director
Audit Division

SUBJECT: HB No. 644

There are two administrative problems connected with this bill. The first is that the bill would require additional auditing of part-year resident returns in order to verify the school tax credit. The more important problem, however, is the lack of an effective date. All tax bills should become effective on January 1 in order to avoid the problems of allocation by the taxpayer and the State. We would therefore recommend that the effective date should be either January 1 of 1972 or 1973.

The effect on State treasury is outlined below. In summary, the net effect would be to decrease tax revenues by between \$1 million and \$1.3 million during the period 1973 through 1977. The details are shown in the tables below.

The first table indicates the effects on the school tax itself, which is Revenue Code 118. The effect would be to double the current projection:

	1973	1974	1975	1976	1977
HB 644	\$2,910.6	\$3,085.2	\$3,270.2	\$3,401.0	\$3,435.0
Current	1,455.3	1,542.6	1,635.1	1,700.5	1,717.5
Gain	<u>\$1,455.3</u>	<u>\$1,542.6</u>	<u>\$1,635.1</u>	<u>\$1,700.5</u>	<u>\$1,717.5</u>

According to Section 2 of the bill, the amount of school tax would be applied as a refund to the extent an individual was present in the State during the year. All residents would, therefore, be eligible for the full credit. In effect, then, they would not pay a school tax. Part-year residents would qualify for a portion of the tax as credit. We estimate that about 18 per cent of our taxpayers are part-year residents and that they spend an average of five months in the State. Therefore, there would be no credit to the extent of seven-twelfths times 18 per cent, or in 10.5 per cent of the cases. The table below shows the decrease in individual income taxes (Code 106) that would result from allowing 39.5 per cent of the above school tax as a credit against the individual income tax (since 10.5 per cent of the tax would be retained then 89.5 per cent would be allowed as a credit).

	1973	1974	1975	1976	1977
HB 644	\$40,357.7	\$50,719.7	\$52,285.5	\$48,719.2	\$47,258.5
Current	42,962.7	53,481.0	55,212.3	51,763.1	50,332.8
Loss	<u>\$(2,605.0)</u>	<u>\$(2,761.3)</u>	<u>\$(2,926.8)</u>	<u>\$(3,043.9)</u>	<u>\$(3,074.3)</u>

The following table, then, shows the net effect of the tax spent indicating the gain from the increased school tax less the loss sustained in individual income tax collections by allowing the credit.

R. D. Stevenson
Deputy Commissioner
Re: HB 644

-2-

February 28, 1972

	<u>1973</u>	<u>1974</u>	<u>1975</u>	<u>1976</u>	<u>1977</u>
Gain (from above)	\$ 1,455.3	\$ 1,542.6	\$ 1,635.1	\$ 1,700.5	\$ 1,717.5
Loss (from above)	(2,605.0)	(2,761.3)	(2,926.8)	(3,043.9)	(3,074.3)
Net Loss	<u><u>\$ (1,149.7)</u></u>	<u><u>\$ (1,218.7)</u></u>	<u><u>\$ (1,291.7)</u></u>	<u><u>\$ (1,343.4)</u></u>	<u><u>\$ (1,356.8)</u></u>

FPB:mbc

HB

664

March 13, 1972

Mary Lou Mieners
President, JEA
1250 Glacier Avenue
Juneau, Alaska 99801

Dear Mary Lou:

As I am sure you realize, I am happy to endorse the recommendations contained in your letter of March 7. As a co-sponsor of HB 664, I join you in hoping for a speedy enactment.

Sincerely,

Mike Miller, Representative
District Four (Juneau)

Greater Juneau Education Association

1250 GLACIER AVENUE
JUNEAU, ALASKA 99801

March 7, 1972

Representative Mike Miller
House of Representatives
Juneau, Alaska

Dear Representative Miller,

The Juneau Education Association would like to recommend a speedy enactment of House Bill 664, regarding grievance procedure for Public School teachers.

Sincerely yours,



Mary Lou Mieners
President JEA

MLM/vg

HB

716

A M E N D M E N T

IN THE HOUSE

BY THE LOCAL GOVERNMENT COMMITTEE

TO: HOUSE BILL NO. 716

Page 1, between lines 13 and 14: add the following:

* Sec. 2. AS 43.18.010(c) is amended to read:

(c) For purposes of this section, population shall be determined by the latest figures of the United States Bureau of the Census or other reliable population data. Military on-base population of a city or organized borough may not be used in determining the amount of money to be paid to that city or organized borough under this section.

Page 1, line 14: change the present "Sec. 2" to "Sec. 3"

STATE OF ALASKA

WILLIAM A. EGAN, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K — STATE CAPITOL
JUNEAU 99801

April 6, 1972

Mike Miller, Chairman
Local Government Committee
Alaska State House of Representatives
Juneau, Alaska 99801

Dear Chairman Miller:

HB 716, presently before your committee, was introduced at the request of the Local Affairs Agency to aid in administering the local government revenue sharing program in AS 43.18.

Presently being prepared is a bill providing for annexation to the City of Anchorage of Fort Richardson and Elmendorf AFB. The City of Anchorage contends that it will be entitled to state revenue sharing funds for base personnel because of their impact on city operations.

Admitting some impact, the Agency believes it appropriate that the program have some flexibility as to the amount of funds payable where less than full services are supplied, as in the case of military reservations. To achieve this result, we suggest an addition to HB 716 along the following lines:

With respect to residents of a military reservation or other classes of population to whom less than full municipal services are rendered by a city or borough, ~~such~~ regulations may provide for per capita payments of less than the full amount otherwise payable under this chapter.

Thank you for your attention to this matter.

Yours very truly,

JOHN E. HAVELOCK
ATTORNEY GENERAL

By:

Richard W. Garnett III

Richard W. Garnett III
Assistant Attorney General

STATE
of ALASKA

MEMORANDUM

OFFICE OF THE GOVERNOR

TO: [The Honorable Mike Miller
Chairman
Local Government Committee

DATE : April 6, 1972

FROM: *BAM*
Byron I. Mallott
Director
Local Affairs Agency

SUBJECT: HB No. 716

The Agency has further reviewed the regulatory requirements for operation of the State Aid to Local Governments (Revenue Sharing) program in light of potential annexation of Military Bases to organized boroughs and Cities. We have determined that the following amendment to House Bill No. 716 will be needed in order to properly account for the addition of military base population in the computation of allocations to eligible units of local government.

Sec. 43.18.040 Regulations. The Local Affairs Agency may adopt regulations necessary or desirable for carrying out the purposes of this Chapter (.) including regulations establishing methods for determining the computation of revenue sharing allocations in accordance with the services directly rendered to annexed military reservations.

The fundamental purpose of this proposed amendment is to recognize the impact which military bases have on adjacent civilian population centers in terms of municipal services and facilities and at the same time permit establishment of criteria by which this impact may be assessed in relation to individual services for which per capita state aid is extended. Both logic and overall program equity considerations demand that per capita revenue sharing aid be distributed to eligible local governments within whose boundaries exist military reservations, on the basis that these bases are, for the most part self-sufficient federal enclaves, but that the "open" nature of these bases exposes adjacent incorporated areas to problems of gearing local government service levels and facilities to accommodate additional demands wrought by military personnel and dependents.

Legislation is being introduced by Governor Egan to repeal Section 3 (d) of Chapter 52, SLA 1963 which currently precludes annexation of "base proper" military reservation areas to certain organized boroughs. Companion legislation proposed by the Governor will prohibit organized boroughs from exercising education powers on military reservations until such time as the military reservation status is terminated or permission is granted by the Department of Education for the organized borough to operate on-base schools. The legislation will also change the Greater Anchorage Area Borough and City of Anchorage boundaries to include the "base proper" areas of Elmendorf Air Force Base and Fort Richardson Military Reservations.

Hon. Mike Miller

-2-

April 6, 1972

I am available at any time to discuss the above with you and your Committee members.

BIM:sld

cc: Governor William A. Egan
John E. Havelock, Attorney General

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

WILLIAM A. EGAN, GOVERNOR

POUCH K — STATE CAPITOL
JUNEAU 99801

April 6, 1972

Mike Miller, Chairman
Local Government Committee
Alaska State House of Representatives
Juneau, Alaska 99801

Dear Chairman Miller:

HB 716, presently before your committee, was introduced at the request of the Local Affairs Agency to aid in administering the local government revenue sharing program in AS 43.18.

Presently being prepared is a bill providing for annexation to the City of Anchorage or Fort Richardson and Elmendorf AFB. The City of Anchorage contends that it will be entitled to state revenue sharing funds for base personnel because of their impact on city operations.

Admitting some impact, the Agency believes it appropriate that the program have some flexibility as to the amount of funds payable where less than full services are supplied, as in the case of military reservations. To achieve this result, we suggest an addition to HB 716 along the following lines:

With respect to residents of a military reservation or other classes of population to whom less than full municipal services are rendered by a city or borough, such regulations may provide for per capita payments of less than the full amount otherwise payable under this chapter.

Thank you for your attention to this matter.

Yours very truly,

JOHN E. HAVELOCK
ATTORNEY GENERAL

By: *Richard W. Garnett III*
Richard W. Garnett III
Assistant Attorney General

HB

761

STATE OF ALASKA

WILLIAM A. EGAN, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

POUCH M — JUNEAU 99801

April 10, 1972

Honorable Mike Miller
Alaska State House
Juneau, Alaska 99801

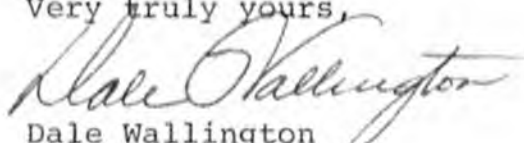
Dear Representative Miller:

As I stated Friday before your Committee, we feel that HB 761 is a piece of special interest legislation and has no benefit for the State of Alaska. It has been our experience that special interest legislation results in a cost of thousands of dollars to the State in adjudicating supposedly legitimate cases which do not qualify under such laws.

In the case of the "hypothetical case" as outlined by the proponent of this legislation, the present laws allow us to rectify situations in which the State has made an error. If the State made an error in issuing a lease instead of a preference right, as in the "hypothetical case", then we can apply Sec. 38.05.035(b)(2) and satisfy the claimant. It will be necessary, of course, for this individual to present his situation for our adjudication.

Since the limitations on preference rights expired in 1959, it would require a considerable expense to the State to search the files for cases which have been adjudicated since that date adversely to the claimant. Rather than for your Committee to use your time in consideration of this bill, I would like to suggest that you advise the proponent of HB 761 to adjudicate his claim under present law.

Very truly yours,


Dale Wallington
Deputy Commissioner

H B

7 8 5

In the SENATE

In the HOUSE

No.	INDEX SENATE BILLS Author and Title	In the SENATE						In the HOUSE					SLA Chapter No.		
		First reading	Committee reports	Second reading	Third reading	Reconsideration; Sent to HOUSE	Other action	Action by governor	First reading	Committee reports	Second reading	Third reading		Reconsideration; Returned to SENATE	Other action
397.	Local Government Committee by request: Appropriating to the Department of Public Works; effective date.	571													
398.	Local Government Committee by request: Relating to the publication of an Alaska Blue Book.	571	886	937	937	938 954	933	1120 1369	1232	1398	1428	1428	1428 1457		135
399.	Rules Committee by request of the Legislative Council: Relating to the issuance of hunting, trapping and sport fishing licenses.	577													
400.	Rules Committee by request of the Governor: Creating an Advisory Board on Drug Abuse; effective date.	582	634 749	779	780	802	780	1359 1280 1287 1315	957	1043 1506	1630 1642	1631 1641 1643	1632 1657 1773	1485 1661 1685	198
401.	Commerce Committee: Relating to the licensing of dispensing opticians.	593													
402.	Resources Committee by request: Relating to the protection of fish and game.	593	646	739	739	745			872						

403.	Rules Committee by request: Relating to the modification, suspension or revocation of certificates to engage in air commerce.	593													
404.	Rules Committee by request of the Joint Pipeline Impact Committee: Relating to the oil and gas properties production tax.	600													
405.	Local Government Committee by request: Relating to development cities.	600	1/21/72 716 841 6/3/72	856											
405.	Substitute: Resources Committee: Same title.			856	856			979 1164	1132	1185	1240	1240	1241 1261		106
406.	Local Government Committee by request: Incorporating the development city of Lost River; effective date.	600	1/21/72 715 841	856				715							
406.	Substitute: Resources Committee: Same title.		6/3/72	857	858	872	858	1020 871 985	1133	1186	1239	1240	1241 1261 1291		110
407.	Judiciary Committee by request: Creating the Alaska Law Center Corporation; effective date.	621		702											
408.	Local Government Committee by request: Clarifying inheritance rights of adopted children; effective date.	621													
409.	Local Government Committee by request: Implementing the Alaska Native Claims Settlement Act; effective date.	621													
410.	Resources Committee by request: Relating to ballast water discharge.	636													

am. in flow 6/4/72 - Senate

*1 Resources 9/12/72
2 Local Gov.*

*1 Res. - C 5/12/72
2 L. Gov.*

Wes Coover
Executive Assistant
- Office of the Governor

DATE: September 8, 1971

FROM: John E. Havelock
Attorney General

SUBJECT: Review of Canadian
"Municipal Government Act"
and "New Towns Act"

By: Richard W. Carnett, III
Assistant Attorney General

You asked for our comments on certain Canadian laws relating to local government.

1. The New Towns Act

It appears that a "new town" is designed as a transitional form of local government. In terms of actual power it is hardly "local" but is subject to close provincial control until it qualifies for reconstitution as a standard village, town or city.

The first step in formation of a new town is application to the Provincial Planning Board. The act does not specify the party or parties qualified to make application. However, since the Board may require the applicant to submit detailed surveys, maps and planning studies, it seems that an applicant would in most cases be a responsible body representing a substantial number of the people to be included in the new town. The Board may, if it wishes, hold a public hearing on the application. The Board may also seek advice on finances from a Local Authorities Board. The Planning Board then recommends as to whether or not the new town should be formed.

Where the Planning Board's recommendation is favorable (but apparently not otherwise) the Lieutenant Governor in Council (presumably, a high ranking executive officer of the Province) may order formation of the new town, including its boundaries, name, and date of effectiveness.

In keeping with its provisional status, the new town has relatively little independent governmental power. The governing body is a Board of Administrators. The administrators may all be appointed by the Minister of Municipal Affairs, or the Minister may provide for election of some or all of its members. If elected, the Minister specifies the term, and, if appointed, members of the board serve at the Minister's pleasure.

As the next step in the new town's development, the Board of Administrators submits to the Planning Board concrete and comprehensive plans for the town. The Planning Board may employ expert consultants and refer for advice to regional and provincial planning authorities. The plans may be cancelled or amended at any time by order of the Planning Board or the Board of Administrators with the approval of the Planning Board.

Also with the approval of the Planning Board, the Board of Administrators is empowered to acquire additional land for any municipal purpose and to require private land owners within the new town to enter into agreements with the new town relating to subdivision of lands, location of streets and sale price of land within the new town.

It appears that, in all phases of its early operations, the new town is entirely subject to the direction of the Provincial Planning Board with respect to planning and development and the Local Authorities Board with respect to financing.

The Act provides for payments to the Board of Administrators by the Lieutenant Governor in Council to meet all authorized current and capital expenditures. The money so advanced is a debt owed by the new town to the government with the terms of repayment specified by the Lieutenant Governor in Council. When the new town has made satisfactory arrangements for repaying all special loans and advances by the government, the Lieutenant Governor in Council may provide for transformation of the new town into a standard city, town or village or for dissolution of the new town and inclusion of the area in some other municipality.

The final provision of the Act gives the Lieutenant Governor in Council extremely broad authority to provide by regulation for any matter not adequately covered by the Act. He may also exclude any act from application to a new town.

In sum, it appears that the effect of the Act is to lodge in the Lieutenant Governor in Council and in several province level authorities almost complete discretion as to the form and direction of the first stages of development of a municipality. For our purposes, an initial question is the extent to which American and Alaskan mores would permit this degree of central control over the formation of a local government body. Alaska, with its relatively clean slate and its constitutional leaning in favor of extensive executive power probably could come closer to the Canadian model than would be

possible in other states. Presumably, the advantage of the new town approach is avoidance of factional strife and assurance that the groundwork is laid according to sound planning principles. Against these advantages must be weighed the possible losses in terms of citizen participation at the earliest stages of formation of a new community. It would seem that impetus toward creating a community would in almost every case come from a group of concerned citizens living in the area itself. A system which could deny to those people a significant political role in working out the pattern of government for the community might prove unacceptable in Alaska. In practice, it seems likely that this problem is minimized by wise use of appointive powers on the part of the Minister of Municipal Affairs. That is, the Minister probably would recognize the advantage of appointing to the Board of Administrators those members of the community who had already emerged as its natural leaders. However, such a development could not be insured in every case. In any event, the power of the Minister to remove his appointees at will would seem inevitably to curtail somewhat the motivation of the board toward independent thinking and innovations. Nevertheless, the Act may deserve more study for the light it can shed on the proper role of the state in insuring that certain standards are met by the local governments prior to actual exercise of government powers. To some extent the Local Affairs Agency and the Boundary Commission perform this function in Alaska presently. However, these agencies do not have the same powers as Canadian authorities to govern during the first stages of the town's life. They must grant or withhold powers on the basis of what seems likely to happen after governmental powers are bestowed.

2. Municipal Government Act

The Municipal Government Act in a sense takes up where the New Towns Act leaves off. The New Towns Act states that a new town may be formed into a standard village, town or city in accordance with the terms set out in the Municipal Government Act. The latter is a very comprehensive enactment dealing with virtually all phases of municipal operations. It is divided into eight parts, interpretation, formation, alteration and dissolution, the council, officers and employees, powers and duties, public utilities, finance, and legal proceedings. Part 5, on powers and duties, is the most extensive. This part of the Act sets forth in great detail the powers which may be exercised by a local government. There does not seem to be provision for home rule charters.

under which a municipality may exercise general police powers where not expressly limited. The power to create new municipalities lies with the Lieutenant Governor in Council. The types of municipalities which may be formed include "summer villages", villages, towns and cities.

To start the formation procedure, at least 50% of the "proprietary electors" in the proposed municipality petition the Minister of Municipal Affairs. The petition must be accompanied by plans showing the boundaries of the proposed unit.

Certain population standards must be met. A summer village must have no less than 50 buildings occupied at some time during the six months prior to the petition. A village must have 75 separate buildings occupied in the same manner. A town needs 1,000 inhabitants and a request for change in status from the council of the village. A city requires at least 10,000 inhabitants and a similar request from the council of the town. Municipalities may also be downgraded for such reasons as loss in population, popular vote in favor of the change, or failure of the municipality to carry out required municipal functions.

Municipalities are governed by a council whose members are elected in accordance with a Municipal Election Act.

As noted above, the Act sets forth in great detail power exercisable by the municipal government. Of particular interest are the provisions relating to annexation set forth in part 2, § 20. This section provides for annexation upon petition to the province level Local Authorities Board. A petition may be submitted either by a majority of the property owners in an area adjoining a municipality or by the council of the municipality with respect to adjoining territory, or by the Minister of Municipal Affairs with respect to any area forming part of an "improvement district" or "special" area which he thinks should be annexed. The Board may order annexation without any further proceedings. In addition the Board may, on its own motion, shift territory from among adjoining municipalities, improvement districts or special districts. The order of annexation may include conditions, including exemption of the annexed territory from liability for debts previously incurred by the annexing municipality.

In many ways the function of the local authorities board with respect to annexation seems to parallel that which should be performed by the Local Boundary Commission in Alaska. Assuming that annexation by board action has

functioned smoothly in Canada, it may be desirable to investigate the Canadian system further with a view to strengthening the Local Boundary Commission in performance of its annexation role. Again the relatively strong tradition of local autonomy and sectionalism in Alaska may bar adoption of the Canadian model.

Another interesting section of the Municipal Government Act concerns conflict of interest of city government officers. At least one borough assembly in Alaska is engaged in drafting a conflict of interest provision and might wish to review the Canadian provision. Part 3, section 29 sets out in some detail the cases where a person is not qualified to serve at all. Generally those cases relate to the officer's character (e.g., conviction of serious offense) and matters involving such financial instability that the officer would be exposed to undue temptations (e.g., indebted for taxes, undischarged bankrupt).

Part 3, section 30 sets forth instances where a council member should refrain from voting. These include several specific conflict situations such as matters affecting a corporation in which the council member is an officer or shareholder, and a catch-all barring vote in any matter in which the member has a "direct or indirect pecuniary interest."

As stated, the Act is quite detailed and extensive. I have only attempted to generalize briefly on selected areas of interest to Alaska. If you wish a more detailed analysis on any particular point, please let me know.

RWG:agn

G5 (Canada)

v.17

Supplied by Price
Queen's Printer 25¢
Edmonton



THE NEW TOWNS ACT

CHAPTER 258

- Short title** 1. This Act may be cited as *The New Towns Act*.
[1969, c. 81, s. 1]
- Definitions** 2. In this Act,
- (a) "board of administrators" means the board of administrators of a new town;
 - (b) "elector" means a person qualified to vote at an election or at the taking of a vote, as the case may be;
 - (c) "Minister" means the Minister of Municipal Affairs;
 - (d) "new town" means a new town constituted pursuant to this Act;
 - (e) "town" means a town within the meaning of *The Municipal Government Act*. [1969, c. 81, s. 2]
- Establishment of new town** 3. (1) Application for the formation of a new town shall be made to the Provincial Planning Board.
- (2) The applicant shall file with the Provincial Planning Board such information as it may require to determine whether establishment of a new town is necessary, practical and in the public interest, and to assist in that determination the Board may require
- (a) such facts as may prove the necessity for establishment and development of a new town,
 - (b) surveys, plans, maps and aerial photographs indicating the physical and topographical features of the proposed new town and its relationship to adjoining and nearby areas,
 - (c) economic planning studies of the proposed new town including costs of land acquisition, utilities and other services, and
 - (d) estimated selling prices of developed lots for industrial, commercial and residential uses.
[1969, c. 81, s. 3]
- Functions of Provincial Planning Board** 4. (1) On receipt of an application for the formation of a new town, the Provincial Planning Board may
- (a) give such notice as it considers necessary of the application,

NEW TOWNS

- (b) cause a public hearing to be held at which any person may make representation with regard to the application,
 - (c) refer the application to the Local Authorities Board for its recommendations on the financial aspects thereof and that Board may require the applicant to file with it certain material and may hold a hearing thereon, and
 - (d) engage consultants or technical experts to report to it on any phase of the development of the proposed new town.
- (2) After making such enquiries as it considers necessary, the Provincial Planning Board shall make such recommendations as it believes proper and necessary in each case.
[1969, c. 81, s. 4]

Order estab-
lishing new
town

5. (1) Where the Provincial Planning Board recommends the formation of a new town, the Lieutenant Governor in Council may, by order, form the new town.
- (2) The order forming a new town
- (a) shall describe the boundaries of the new town,
 - (b) shall give a name to the new town in the following form: "The New Town of", and
 - (c) shall state the date upon which the order becomes effective.
[1969, c. 81, s. 5]

Transfer of
rights and
liabilities

6. (1) When a new town has been established, the rights, debts, liabilities, taxes and all other assets including property of the former municipality in and of the area of the new town pass to the new town and section 23 of *The Municipal Government Act* applies *mutatis mutandis* thereto.
- (2) Where a new town is established in the place of an existing town or village, the council of the town or village shall act as the board of administrators of the new town and shall continue in office until such time as the board of administrators has been appointed under this Act.
- (3) All by-laws and resolutions in force and effect in a town or village that has been established as a new town continue in force and effect in the new town until amended or repealed by the board of administrators.
- (4) All suits and rights of action by or against a town or village at the date of its being established a new town may be continued or maintained by or against the new town.
[1969, c. 81, s. 6]

Board of
adminis-
trators

7. (1) A new town shall have a board of administrators.
Chap. 258

NEW TOWNS

(2) The board of administrators and the electors of every new town are a corporation with the name given the new town in the order forming it.

(3) A board of administrators has and shall exercise all the rights, duties, privileges and powers conferred on a council of a town including, without restricting the generality of the foregoing, the power to levy and collect taxes. [1969, c. 81, s. 7]

Membership of board of administrators

8. (1) A board of administrators shall consist of one or more members, not exceeding seven in number, and may be composed of any or all of the following:

- (a) employees of the Government;
- (b) residents within the area of the new town;
- (c) representatives of agencies, organizations, companies or municipalities operating in or having jurisdiction near the new town.

(2) The members of a board of administrators shall be appointed by the Minister, except for such number of members as the Minister may decide shall be elected by the electors of the new town.

(3) An elected member shall serve for the term specified in the Minister's order and an appointed member shall serve during the pleasure of the Minister.

(4) When the office of an elected member becomes vacant before the expiry of his term, the Minister may appoint a person to the board of administrators to complete the term of the office that is vacant.

(5) When the Minister has by order provided that one or more of the members shall be elected, the appointed members shall act as the board of administrators until the election has taken place.

(6) An election ordered by the Minister under this section shall be conducted under *The Municipal Election Act*, which applies *mutatis mutandis* thereto. [1969, c. 81, s. 8]

Chairman of board of administrators

9. (1) The Minister shall appoint one of the members of a board of administrators to be chairman thereof.

(2) The chairman of a board of administrators is the chief executive officer of a new town and is vested with all rights, duties, privileges and powers of the mayor of a town, except as otherwise provided in this Act. [1969, c. 81, s. 9]

Fees and allowances

10. (1) A board of administrators may provide for the payment to its members of fees and allowances for attendance at board meetings and committees thereof or performing additional duties.

NEW TOWNS

(2) A board of administrators may provide for the payment to its members of reasonable allowances for travelling, subsistence and out-of-pocket expenses incurred in attending meetings affecting the new town.

(3) The salaries, expenses and travelling allowances of employees of the Government serving on a board of administrators shall be paid by the department of which he is an employee. [1969, c. 81, s. 10]

Employees

11. (1) A board of administrators shall, pursuant to *The Municipal Government Act*, appoint

- (a) a municipal secretary, or
- (b) a municipal treasurer, or
- (c) a municipal secretary-treasurer.

(2) A person appointed under this section is hereby vested with all the rights, duties, privileges and powers of a secretary, treasurer or secretary-treasurer of a town.

(3) A board of administrators may provide for the appointment of such other officials as it considers necessary for the efficient operation of the new town. [1969, c. 81, s. 11]

Planning
and develop-
ment

12. (1) As soon as possible after its appointment, a board of administrators shall submit to the Provincial Planning Board for its approval comprehensive plans and proposals for the planning and development of the new town.

(2) The proposals shall be in the nature and form of the proposals that a council of a town may make by means of a general plan under *The Planning Act*.

(3) To assist a board of administrators in the preparation of proposals for the planning and orderly development of a new town and to ensure that its planning and development will be consistent and co-ordinated with the planning of adjacent areas, the Provincial Planning Board may require the proposals be prepared on behalf of the board of administrators by

- (a) a regional planning commission having jurisdiction in the area, or
- (b) professional planning consultants engaged by the board of administrators, or
- (c) the staff of the Provincial Planning Director.

(4) The proposals for the planning and orderly development of a new town may from time to time be added to, amended or rescinded by

Addi-
power
board
of ad-
istrat

Appr
of
iture

Appr
of
proc

Ver
requ

NEW TOWNS

- (a) order of the Provincial Planning Board, or
- (b) the board of administrators with the approval of the Provincial Planning Board. [1969, c. 81, s. 12]

Additional powers of board of administrators

13. A board of administrators may, with the consent of the Provincial Planning Board,

- (a) acquire by expropriation or otherwise, and for any municipal purpose, land either within or outside the new town,
- (b) enter into agreements with private land owners or proposed developers of land within the new town, with regard to the subdivision of land, the provision of utilities, streets, sidewalks and other services, the selling price of lots and the method by which lots will be offered for sale,
- (c) prohibit any owner or developer of land from subdividing, selling or developing land until such an agreement as mentioned in clause (b) is entered into, and
- (d) provide, by the construction and operation of trailer camps, camp grounds and like facilities, for the temporary housing and shelter of residents of the new town. [1969, c. 81, s. 13]

Approval of expenditures

14. Except for the immediate and urgent needs of a new town, a board of administrators shall not expend any moneys, undertake any works, make any agreements with land owners or developers or do any other matter or thing until its proposal for the planning and development of the new town has been approved by the Provincial Planning Board. [1969, c. 81, s. 14]

Approval of financial program

15. Except for the immediate and urgent needs of a new town, the board of administrators of a new town shall not obtain any loans or advances, expend any moneys, pass any money by-law or issue any debenture until the financial program of that year has been approved by an order of the Local Authorities Board. [1969, c. 81, s. 15]

Vote not required

16. Notwithstanding anything in this or any other Act, no vote of the proprietary electors on any by-law for the expenditure of money, the issuance of debentures or for any other matter or thing shall take place or be required except in the case of an election of members of the board of administrators. [1969, c. 81, s. 16]

NEW TOWNS

Local
improve-
ments

17. Notwithstanding anything in any other Act, a board of administrators, without petition and without advertising its intention to do so, may undertake any local improvement described in *The Municipal Taxation Act* and may impose therefor a special frontage or special local benefit assessment. [1969, c. 81, s. 17]

Responsi-
bility of
board of
admin-
istrators

18. A board of administrators is responsible

- (a) to the Provincial Planning Board with regard to all matters relating to the planning and development of the new town, and
- (b) to the Local Authorities Board with regard to all matters relating to the financing of the new town's development and operation,

and shall carry out any instructions with regard to these matters that either of those Boards issue from time to time. [1969, c. 81, s. 18]

Current
and capital
expend-
itures

19. (1) The Lieutenant Governor in Council may, upon the establishment of a new town and from time to time thereafter, pay to the board of administrators of any new town out of the General Revenue Fund and without any further or other appropriation than is provided by this section, such sums as will enable the board of administrators to meet all authorized current and capital expenditures that may be required for development and operation of the new town.

(2) The sums paid under subsection (1) may be

- (a) by grant, or
- (b) by advance or loan, or
- (c) by the purchase of debentures of the new town.

(3) Any sum advanced or loaned by the Government is a debt due by the new town to the Government and shall be repaid by the new town.

(4) The Lieutenant Governor in Council may specify the terms of repayment or retirement of moneys advanced or loaned under this section. [1969, c. 81, s. 19]

Finan-
cial
program

20. As soon as possible in each year the board of administrators of a new town shall submit to the Local Authorities Board a financial program for that year which shall include particulars of its estimates of

- (a) general revenues and expenditures,
- (b) capital revenues and expenditures,
- (c) utilities revenues and expenditures,

NEW TOWNS

- (d) population growth, and
- (2) the amount of its taxable assessment. [1969, c. 81, s. 20]

Other Acts **21.** Except where inconsistent with this Act, a new town shall be deemed to be a town for the purpose of any other Act. [1969, c. 81, s. 21]

Change in status **22.** (1) Upon arrangements being made for the repayment or retirement of all special loans and advances made to a new town by the Government under this Act, the Lieutenant Governor in Council may provide

- (a) for the formation of the new town into a city, town or village, or
- (b) for the dissolution of the new town and the inclusion of the area thereof in some other municipality.

(2) The formation of a new town into a city, town or village shall take place in accordance with the requirements of population or the number of occupied dwellings, as the case may be, as are specified in *The Municipal Government Act*.

(3) Dissolution of a new town shall take place in accordance with the requirements of *The Municipal Government Act*. [1969, c. 81, s. 22]

Regulations **23.** (1) The Lieutenant Governor in Council may make regulations to provide for any matter not provided for or insufficiently provided for in this Act.

(2) The Lieutenant Governor in Council may exclude any Act or provision thereof from application to a new town. [1969, c. 81, s. 23]

SUGGESTIONS MADE DURING OUR CONVERSATION WITH OTHERS WHICH APPEAR REASONABLE:

Sec. 29.76.090. DEVELOPMENT CITY COUNCIL. The City Council of the Development City has five members consisting of the Director of the Local Affairs Agency, one public member designated by the Governor and three members designated by the major developer corporation providing the industrial base of the City as measured by employment and capital investment. The designated Councilmen need not be residents of the City during its development stage.

Sec. 29.76.100. TRANSITION. (a) When a Development City has 400 permanent residents, elections shall take place according to the following schedule:

(1) in the first year two additional Councilmen are elected for three-year terms;

(2) in the second year two Councilmen are elected for three-year terms to replace one of the Councilmen designated by the industrial developer and the public member designated by the Governor;

(3) in the third year two Councilmen are elected for three-year terms to replace the Local Affairs Director and one of the Councilmen designated by the industrial developer;

(4) in the fourth year a Mayor is elected for a three-year term to replace the remaining Councilman designated by the industrial developer; the two Council seats up for re-election per (1) above; and an election is held on a proposed City charter which may be amended as provided by law or the charter.

Sec. 29.76.120 FILLING A VACANCY. If a vacancy occurs in the original designated City Council, other than the Director of the Local Affairs Agency, the applicable appointing authority, be it the Governor or the major developer corporation, shall designate the replacement during the five-year development stage of the City.

Possible Technical Changes:

Sec. 29.76.020. INCORPORATION. An area not served by an existing municipality which is not reasonably practicable (feasible) to be served by an existing municipality may be incorporated as a Development City by

AFTER RECESSCONSIDERATION OF THE CALENDARSECOND READING OF SENATE BILLS

SB SENATE BILL NO. 405 (development cities) was read the
405 second time.

Senator Palmer moved and asked unanimous consent for adoption of the Resources Committee report, thus adopting COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 405 (Resources) offered on pages 841 and 842. There being no objection, the Committee Substitute was adopted.

CS COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 405 (Resources)
SB was read the second time.
405
(Res)

There being no amendments, Senator Miller moved and asked unanimous consent that COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 405 (Resources) be considered engrossed, advanced to third reading and placed on final passage. Without objection, it was so ordered.

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 405 (Resources) was read the third time.

The question being: "Shall COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 405 (Resources) (development cities) pass the Senate?" The roll was taken with the following result:

Yeas:	19	Butrovich, Christiansen, Croft, Groh, Henaley, Josephson, Koslowsky, Lewis, Meland, Merdes, Miller, Palmer, Poland, Rader, Ray, Thomas, Young, Ziegler, Hammond
Nays:	0	
Absent:	1	Rettig

And so, COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 405 (Resources) passed the Senate.

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 405 (Resources) was referred to the Secretary for engrossment.

SB SENATE BILL NO. 406 (development city of Lost River)
406 was read the second time.

CONSIDERATION OF THE CALENDAR cont'd

Senator Palmer moved and asked unanimous consent for adoption of the Resources Committee report, thus adopting COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 406 offered on page 841. Without objection, the Committee Substitute was adopted. SD 406

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 406 was read the second time. CS SB 406

Senators Hensley and Groh offered the following amendment:
Amendment No. 1

Page 1, line 11: Replace section 2 with the following:

*Sec. 2. The initial boundaries of Lost River are as follows: Beginning at the SW corner of Unsurveyed T1N, R42W, Kateel River Meridian, Alaska; thence W along the S boundary of T1N, R43W, to the point of intersection with the mean high water of the Bering Sea; thence S a distance of three miles, which point lies in the Bering Sea; thence in an easterly direction paralleling the mean high water of the Bering Sea and always at a distance of three miles S of the mean high water of the Bering Sea to the point where this line intersects the E boundary of T2S, R40W; thence N to the NE corner of T1S, R40W; thence W to the SE corner of T1N, R40W; thence N to the NE corner of T1N, R40W; thence W to the NW corner of T1N, R42W; thence S to the point of beginning, containing 248 square miles more or less.

Senator Hensley moved and asked unanimous consent for adoption of the above amendment. There being no objection, the amendment was adopted.

Senators Hensley and Merdes offered the following amendments:

CS
SB
406
am

Pages 1 and 2:

Renumber Sec. 3 and 4 as Sec. 5 and 6.

Amendment No. 2: Add new Sec. 3 as follows:

"Sec. 3. Subject to reclassification under Sec. 29.76.140(c), Lost River's governing body during the development stage by unanimous vote may adopt a home rule charter."

Amendment No. 3: Add new Sec. 4 as follows:

"Sec. 4. Lost River may act as its own housing authority and its own housing finance agency through an enterprise fund."

CONSIDERATION OF THE CALENDAR cont'd

CS Senator Hensley moved and asked unanimous consent for
 SB adoption of amendment No. 3. Senator Palmer objected.
 406 On voice vote, the Chair was in doubt. A roll call was
 am requested and appears as follows:

Yeas:	12	Butrovich, Christiansen, Croft, Groh, Hensley, Josephson, Meland, Merdes, Miller, Rader, Young, Ziegler
Nays:	7	Koslosky, Lewis, Palmer, Poland, Ray, Thomas, Hammond
Absent:	1	Rettig

And so, amendment No. 2 was adopted.

Senator Hensley moved and asked unanimous consent for adoption of amendment No. 3. There being no objection, amendment No. 3 was adopted.

There being no further amendments, Senator Miller moved and asked unanimous consent that COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 406 am; be considered engrossed, advanced to third reading and placed on final passage. Without objection, it was so ordered.

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 406 am, was read the third time.

The question being: "Shall COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 406 am, (development city of Lost River) pass the Senate?" The roll was taken with the following result:

Yeas:	19	Butrovich, Christiansen, Croft, Groh, Hensley, Josephson, Koslosky, Lewis, Meland, Merdes, Miller, Palmer, Poland, Rader, Ray, Thomas, Young, Ziegler, Hammond.
Nays:	0	
Absent:	1	Rettig

And so, COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 406 am, passed the Senate.

Senator Miller moved and asked unanimous consent that the roll call on the passage of COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 406 am, be considered the roll call on the effective date clause. Without objection, it was so ordered.

Senator Palmer gave notice of reconsideration of the vote on COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 406 am. The Secretary was requested to make note of the reconsideration.

Development Cities



REFER TO FILE NO.

97

GOVERNMENT OF THE PROVINCE OF ALBERTA

DEPARTMENT OF MUNICIPAL AFFAIRS

ADDRESS REPLY
THE DEPUTY MINISTER OF MUNICIPAL AFFAIRS
EDMONTON, ALBERTA

MUNICIPAL AFFAIRS BUILDING
10363 - 108 STREET
EDMONTON, ALBERTA

April 24, 1972.

Mr. Terry Gardiner
Administrative Assistant,
House Local Government Committee,
Alaska State Legislature,
Juneau, Alaska.

Dear Sir:

I refer to your letter of April 11th, 1972, regarding new towns in Alberta.

In general, The New Towns Act establishes the procedural machinery and planning to provide for rapid growth in isolated or underdeveloped areas. The Act, which was passed in 1956, provides for the establishment of administration and financing of new towns where they are required. An application to develop a new town may come from a company, an existing hamlet, an existing municipality or even an individual.

The person or persons applying, give as much information as possible. This is forwarded to the Provincial Planning Board, a multi-departmental board that generally speaking, administers The Planning Act and advises the Minister of Municipal Affairs and the Executive Council on planning matters.

The Board, according to the Act, may hold public hearings, may ask for additional data, or it may engage consultants to carry out a whole series of studies of its own. If the Provincial Planning Board is satisfied the need for a new town exists, it recommends to the Lieutenant Governor in Council (which is the Provincial Cabinet) that they establish a new town. If the Cabinet concurs with the Planning Board's recommendation, an Order-in-Council is issued establishing the new town and defining its boundaries.

....2

A Board of Administrators (municipal council) is created including a staff member of the Department of Municipal Affairs. This Board of Administrators may consist of only Government employees or may include residents of the area, depending upon the location of the new town and the availability of local persons.

An example of a new town that had no local representation on the original Board of Administrators is Grande Cache. Grande Cache was established as the result of a major coal mining development in an undeveloped area where there were no local representatives to place on the board therefore the original board consisted of two members of the Department of Municipal Affairs. Fort McMurray on the other hand, had a Board of Administrators that included local representatives as Fort McMurray existed as a town prior to its establishment as a new town. The reason for changing the status of Fort McMurray from an ordinary town to a new town was to accommodate the rapid development that took place upon construction of the Great Canadian Oil Sands plant in the tar sands. Fort McMurray had a population of approximately 1,000 in 1964 and only limited services, however, by 1967 the new town had close to 1,000 homes, and fully modern subdivisions including paved streets. It has a present population of just over 7,000.

The board becomes the official new town council with powers to borrow money up to the limit set in its budget that is based on a program of development to which it must have prior approval of the Provincial Planning Board. To carry out that program it can enter into contracts, and buy, sell, subdivide and service lots with water, sewer, roads, etc. -- in fact, to create a town. I should add that its financial program requires the approval of the Local Authorities Board, a Provincial agency charged with the responsibility to approve municipal debentures and long-term loans.

Companies and individuals are encouraged to invest their money in providing commercial and industrial developments as well as housing for sale and rent. Various Government departments such as Education, Health, Welfare and Highways are also involved to provide the services needed.

In Alberta, new town status has been applied eleven times since 1956 with the establishment of such new towns as Drayton Valley, Hinton, Whitecourt, Fort McMurray and Grande Cache.


April 24, 1972.

While The New Towns Act does allow for financial assistance by way of grants from the Provincial Government, this provision is not often used. The major advantage of new town status is two-fold, one being the fact that the capital funds necessary to develop the town are loaned to the new town by the Provincial Government, by way of an advance at the going interest rate. This money is not repayable until the new town is financially able to make these payments, however, normally the new town does pay the interest due on the advances annually. In effect a new town has to have available to it, substantial capital before it has developed any tax base or population and therefore any ability to borrow under conventional financing arrangements.

The other major advantage is the ability to appoint to the Board of Administrators, capable and experienced administrators from the Provincial civil service to provide direction and leadership required, bearing in mind also that local residents if any, are often so deeply involved at that point in building their own businesses and homes they cannot afford much time to local government duties.

We are of the opinion that the new towns legislation has been very successful as it is doubtful if the high level of services that are so necessary in remote areas, could have been provided in the various new towns without the provisions of The New Towns Act, unless they, the new towns, were developed as company towns by the various companies involved.

Yours truly,



W.D. Isbister
Assistant Deputy Minister

cc: Mr. L.D. Mabbott,
Director,
Department of Federal and Intergovernmental Affairs,
506. 10025 - 108 Street,
Edmonton, Alberta.

NEW TOWNS ACT - PROVINCE OF ALBERTA

The New Towns Act of the Province of Alberta provides for the organization of "new towns" resembling in some ways HB 786, relating to "development cities". The Alberta Statute for "new towns" is fairly consistent with the general structure of Canadian local government. A great amount of control and responsibility is vested in the provincial government. In the case of "new towns", the Provincial Planning Board and the Local Authorities Board dominate the development of the "new towns". The Alberta Statute emphasizes control by the Provincial government to insure the orderly and responsible development of "new towns".

Applications for "new towns" are made to the Provincial Planning Board. Information, such as economic planning studies, must be provided to determine if a new town is necessary, practical and in the public interest.

The PPB investigation of the application may include public hearings, a financial review by the local authorities board, and hiring of special consultants to enable the board to render a recommendation. Provisions are made in the act for the transfer of rights and liabilities if a municipality exists within the confines of the new town.

The Board of Administrators, which has all the powers of a city council including taxation, is the governing body of the new town. The Minister of Municipal Affairs appoints the Board of Administrators, except that he may provide for the election of board members. The members serve at the Minister's pleasure. The Minister also appoints the Chairman of the Board who is the Chief Executive Officer of the new town with all the powers and duties of a Mayor.

The B of A must submit to the PPB for its approval a comprehensive plan of development and planning. The PPB may require a regional planning board, a professional planner, or the Provincial Planning Director to exercise this function. The development plan is altered only by the PPB or with its permission.

The B of A, with the permission of the PPB, may acquire land, enter agreements or expenditures with land developers, regulate land development and provide temporary accommodations for new residents. The B of A is responsible to the Local Authorities Board concerning financing of the new town. The Board must approve yearly the financial program of the new town before expenditures or loans can be promulgated.

The Lieutenant Governor in Council is authorized to make grants and loans or to purchase debentures from a new town. The Lt. Governor may form a municipality or dissolve the new town after making the necessary financial arrangements.

HB 786 (Development Cities) emphasizes the state government's responsibility in developing the resources of the state. A large percentage of this reference is to a financial responsibility. The Alberta Statute recognizes provincial funding is necessary, but concerns itself with provincial regulation of "new towns" to insure orderly and responsible development.

File

STATE OF ALASKA

WILLIAM A. EGAN, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

POUCH M — JUNEAU 99801

April 17, 1972

Honorable Mike Miller
Alaska State Legislature
Juneau, Alaska 99801

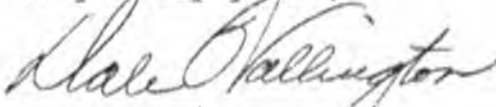
Dear Representative Miller:

House Bill 785 provides for incorporation of a development city at Lost River. Although we favor this legislation, in order to provide for the development of the Lost River Mine and enhance the economic development of the State of Alaska, we would like to suggest the following change in House Bill 785.

In lines 13 and 14 of the bill, the descriptions of the boundaries of the Lost River community include the following: ". . . to the point of intersection with the mean low water of the Bering Sea . . ." Since the tidelands under the ownership of the State of Alaska are measured for three miles seaward from the mean high tide, to extend the boundaries of the proposed city site would change the original concept of tideland ownership and, perhaps, set a precedent not intended. Therefore, we would recommend, in order to protect the integrity of the tidelands as has been the custom throughout statehood, that the words "mean low water" be deleted and the words "mean high water" be substituted.

Thank you for your interest in this piece of legislation, and we appreciate your requesting our input.

Very truly yours,



Dale Wallington
Deputy Commissioner

WILLIAM A. EGAN
GOVERNOR

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 24, 1972

Mr. Murray Watts, President
Lost River Mining Corporation, Ltd.
159 Bay Street, Suite 420
Toronto 1, Ontario
Canada

Dear Mr. Watts:

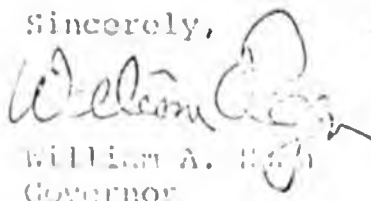
As you know, we have followed with deep interest your company's substantial exploration and evaluation programs for the past three years. The State of Alaska welcomes this type of effort; particularly, as your development is located in the underdeveloped northwest depressed area of the State.

The State of Alaska wants to do everything within its means to encourage and foster such mineral developments and to assist in obtaining full Federal participation in enhancing the success of ventures such as yours. The State has particular interest in aiding in the process of planning for the establishment of viable communities near the sites of producing mineral areas. We have long recognized the regional human resource and other state-wide benefits that will accrue from such successful ventures.

I am sure you realize from the meetings you and your representatives have had with me and other State of Alaska officials that the State will be helpful in any way that it is possible for us to cooperate with your company and all others who are moving ahead in development of Alaska's natural resources.

Warmest personal regards and good wishes to you.

Sincerely,


WILLIAM A. EGAN
Governor

✓bcc: Mr. Pearce Walsh

Lost River Mining Corp. Ltd.

SUITE 420 - 159 BAY STREET

TORONTO 1, ONTARIO

P.O. BOX 503 • NOME, ALASKA 99762

362-2493

PRESENTATION TO LOCAL GOVERNMENT COMMITTEE ON DEVELOPMENT CITY LEGISLATION

INTRODUCTION

The frustration of a new industry such as mining development in an area totally isolated from any other community cannot be overemphasized at this point of time in the State's history. There are virtually no tools available, legislative and otherwise, to assist in providing the infrastructure necessary to sustain a community. While there are elaborate financial and other administrative support programs for existing communities, cities, and boroughs, and a vehicle to gain support for both capital and operating needs, none of these tools exists for a community that is yet to be developed.

Proposed legislation is based, to a degree, on the Lost River Mining Corporation officials' past experiences, observation and expertise in developing mines in isolated areas.

New town development legislation will enable the developer to do his job; i.e., creating the industrial infrastructure and present an element of local government to do government's job in providing the support facilities needed for the employees of the new industry.

This legislation picks out the best features of existing municipal legislation, administrative procedures of the State and incorporates them into a corporate entity which is essentially in a trust status pending the arrival of permanent citizens to a new town. Again, pending arrival of these permanent citizens, comprehensive planning, zoning, and orderly development of the community would have taken place; State support for schools, water, sewer, harbor facilities, hospitals, etc. have been appropriated and paid funds used as leverage to gain additional Federal agency support where indicated. Thus, we may avoid building a disjointed, unplanned and problem community from the onset.

This approach attacks the impact on the ecology before it becomes a problem as witnessed in the existing communities constructed with little or no planning.

ALTERNATES TO INDUSTRY

With the passage of the Development City legislation and the implementing incorporation we shall plan towards implementing:

Alternate A An Independent Free Standing Regional City

This community would be planned not only to serve this one industry but also to make a contribution toward reducing the cost of transportation to Northwest Alaska. It would also provide the initial investment in transportation facilities that should spur the development of other mineral-based jobs which are not now feasible. This community could be the catalytic investment for a more healthy economy in an area which is

job poor. The approach is to provide a sound, long-term economic and local tax base.

The recommended approach towards this free standing, transportation-oriented community, will be city development and ownership of all the facilities partially financed by Federal aid, State programs and the major industry. Thus, if the basic reserves are depleted the industry will have contributed to the region with a properly planned city with functioning water and sewer systems; schools; roads; etc. upon which less valuable mineral deposits or limited profit potential industries may be supported.

This approach makes the maximum contribution of government and private industry towards starting a new economic undertaking, and allows each to perform its assigned functions in our society. This is a tool which contributes towards the State's ability to preserve its ecology and encourage economic development.

Alternate B A Company-Owned Mining Town

The company will own all facilities lock, stock and barrel. Plans will be made only to serve the minimum needs of the one basic industry -- the mine and mill.

Some time in the future the residents may desire to incorporate. While this may be their option, it is an uneconomical approach to acquiring public facilities and expanding the infrastructure. The Federal assistance, through the New Community program of the Federal government, if used, would be in the hands of the private developer -- either the mining corporation or a subsidiary. No specific effort will be made to

consider the social and economic effects of the region as a whole. While efforts will be made to include assistance for the State and Federal agencies -- the time schedule attached for construction of the mine will dictate possibly a further alternate. The job base in this area is expected to be less than Alternate A but will generally be a year-around community.

Alternate C Seasonal Operation

The mine can be developed with a minimum milling operation and all the ore shipped to Japan or Canada for processing.

The operation may thus be six months a year with the camp functioning with only the individual workers being brought in under contract. A small standby crew would maintain the facilities in the off season.

A good portion of the processing effort would be outside Alaska; the seasonal jobs to be filled by the contractor to the mine owner. The transportation vessel need not be an American ship as would be the case for Alternate A and possibly B.

TIME SCHEDULE

Attached is an outline of our schedule of activities. IT IS IMPERATIVE THE STATE POSITION BE STATED VIA LEGISLATION THIS YEAR -- the earlier the better.

CONCLUSION

We have a mine -- the extent of its beneficial factors to Alaska depends upon Alaska -- its Legislators. We are asking for working tools

with which industry and government can orderly develop a living and working environment in now barren areas.

ACTIVITY SCHEDULE

February 15, 1972 -- Finalize Preliminary Feasibility. Must include declarations of intent from Federal and State agencies that certain areas which fall within the public purview are eligible for assistance and that such applications will be favorably received.

March 15, 1972 -- Detailed Work Program and Budget. All computations for this year's field program must be completed with such items included as drilling, deposits, water flows, foundations, etc. (Special townsite considerations should be built into this schedule, i.e. a contract for soils analysis (drilling) and ground water studies).

September 15, 1972 -- Completion of all On-Site Data Accumulation. This data will be used in the final feasibility report and it must include tentative financial considerations for townsite development.

October 15, 1972 -- Role of all State and Federal Agencies in the Development. Ideally this should be firm commitments from State and Federal agencies. In the absence of firm commitments, alternatives will have to be developed.

December 31, 1972 -- Final Feasibility Report. All townsite factors regarding capital expenditures must be included in this report. This should include a program where such items as shipping can be included since there may be economies in joint shipping of materials, etc.

March 1, 1973 -- Design and Procurement. Must be completed at this date so that the 1973 shipping season can be utilized. The following construction period will involve the preliminary dock, a construction camp for 500 to 1,000 persons, construction power facilities, construction shop, access roads to borrow pit areas, assessment of inventories and basic foundations. Contracts will be issued during this 1973-74 period for construction as the plans come off the drawing boards. Supplies will also be delivered for the Winter and Spring of 1974.

Early 1974 -- Construction of Structures. The structures will hopefully be up and enclosed before significant boat shipments in 1974.

Into 1975 -- Construction of all Mining Facilities.

1975 or Early 1976 -- Operating Facility Turned over to Lost River Mining.

Early 1976 -- First Shipment of Product from Lost River.

URBAN GROWTH AND NEW COMMUNITY DEVELOPMENT ACT OF 1970
PUBLIC LAW 91-609

Type of Assistance	Comparison of Company as Developer or City		
	Company	HUD	Development City
Sec. 713 (a) Land Development Guarantees bonds up to \$50 million	10%	90%	100%
Sec. 715 Public Service Grants (3-year period for essential public services -- i.e., education, health, safety)	None	Operating City Budget (Agreed %)	Balance %
Sec. 718 (a) Supplemental Grants for Public Facilities for:	None	20%	Balance or through State and/or Federal Grants but combined Federal aid cannot exceed 80%; thus 20% Local or State
(1) Sec. 3--Urban Mass Trans. Act 1954			
(2) Sec. 121(a) Title 23, U.S. Code			
(3) Sec. 19 Airport and Airways Development Act 1970			
(4) Title VI of the Public Health Service Act Library Services & Construction Act			
(5) Sec. 5 - Land and Water Conservation Fund Act-1965			
(6) Title VII of the Housing Act of 1961			
(7) Section 702 or 703 Housing and Urban Development Act			
(8) Federal Water Pollution Control Act			
(9) Sec. 306(a) (s) of the Consolidated Farmers Home Adm.			
(10) Sec. 103 or 104 of the Higher Ed. Facilities Act-1963			
(11) Sec. 101(a)(1) Public Works & Economic Dev. Act-1965			
Sec. 719 Technical Assistance; directly or by contract to assist in connection with planning and carrying out New Community Development Program		As determined by Secretary	
Sec. 720 Special Planning Assistance	1/3%	2/3%	1/3%

Introduced: 4/7/72
Referred: Local Government

1 IN THE HOUSE BY THE RULES COMMITTEE BY REQUEST
2 HOUSE BILL NO. 786
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 SEVENTH LEGISLATURE - SECOND SESSION
5 A BILL

6 For an Act entitled: "An Act relating to development cities."

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

8 * Section 1. LEGISLATIVE FINDINGS. The legislature finds that the
9 development of natural resources in isolated and relatively unpopulated areas
10 requires state policy which encourages well-planned, diversified and economi-
11 cally sound new communities. It is the further finding of the legislature
12 that if private enterprise is to develop the resources of the state it should
13 not be burdened with the development of new cities and thereby diverting
14 activities and resources best utilized for the private sector. A policy and
15 a procedure are required which will provide financial and other assistance
16 necessary for encouraging orderly development of well-planned, diversified
17 and economically sound new cities necessary to support industry. It is the
18 purpose of this Act to provide that each development city created under the
19 Act will be the result of the private and public sectors recognizing their
20 mutual responsibilities to the orderly development of the state.

21 * Sec. 2. AS 29 is amended by adding a new chapter to read:

22 CHAPTER 76. DEVELOPMENT CITIES.

23 Sec. 29.76.010. DEVELOPMENT CITIES. A development city is a
24 municipal corporation with home rule powers. It has all legislative
25 powers not prohibited by law or charter.

26 Sec. 29.76.020. INCORPORATION. An area not served by an existing
27 municipality and which is not feasible to be served by an existing
28 municipality may be incorporated as a development city by

29 (1) petition of the industrial developer to the Local Affairs

1 Agency; or

2 (2) act of the legislature.

3 Sec. 29.76.030. PETITION FOR INCORPORATION. A development city
4 incorporation petition proposed by an industrial developer shall
5 include the following information about the proposed city:

6 (1) class;

7 (2) name;

8 (3) boundaries;

9 (4) composition of the council;

10 (5) maps, documents, preliminary economic development pro-
11 jections, preliminary population projections, outline of the industrial
12 developer's investigative and development expenditures and its proposed
13 capital program, and other information required by the Local Affairs
14 Agency to show that the proposed city meets the standards for incorpora-
15 tion.

16 Sec. 29.76.040. REVIEW. The Local Affairs Agency shall review
17 the petition for content and shall return deficient petitions for
18 correction and completion.

19 Sec. 29.76.050. INVESTIGATION. If the petition contains the
20 required information, the Local Affairs Agency shall investigate the
21 proposal to determine if the development expenditures and proposed
22 capital program by the developer demonstrate a probability of being
23 carried forward to a successful conclusion.

24 Sec. 29.76.060. REPORT. (a) The Local Affairs Agency shall
25 report its findings to the Local Boundary Commission with its recom-
26 mendations regarding the incorporation within 60 days of receipt of
27 the petition for incorporation.

28 (b) The Local Boundary Commission shall review the petition and
29 the findings and recommendations of the Local Affairs Agency within

1 60 days of receiving them.

2 Sec. 29.76.070. DECISION ON DEVELOPMENT CITY INCORPORATION. (a)
3 The Local Boundary Commission may reject a petition for incorporation
4 only if it finds that it is improbable that the proposed development
5 will take place.

6 (b) A commission decision under this section may be appealed
7 under the Administrative Procedure Act (AS 44.62).

8 Sec. 29.76.080. LAND SELECTION. (a) The Department of Natural
9 Resources shall assist in transferring all the available federally
10 owned land located within the boundaries of a development city into
11 state ownership. After the transfer, a development city may select
12 50 per cent of the vacant, unappropriated, unreserved state land located
13 within its boundaries. Nothing in this section affects a valid exist-
14 ing claim, location, or entry under the laws of the state or the United
15 States whether for homestead, mineral, right-of-way or other purposes
16 or affects the rights of an owner, claimant, locator, or entryman to
17 the full use and enjoyment of the land so occupied.

18 (b) If land desired by the development city is unsurveyed at the
19 time of its selection, the Department of Natural Resources shall survey
20 or approve a survey by the city of the exterior boundaries of the area
21 requested without interior subdivision and shall issue a patent for the
22 selected area in terms of the exterior boundary survey. The cost of
23 the survey is borne by the city. If land desired by the city has been
24 surveyed at the time of its selection, the boundaries of the areas
25 requested must conform to the public land subdivisions established by
26 the approval of the survey. Land selected by the city under this
27 section is patented to the city by the Department of Natural Resources.

28 (c) After the selection of the land by the development city but
29 before the issuance of final patent, the city may execute conditional