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HJ: RELEVANT INFORMATION ON BILLS

Memo from

DR. M. C. FALCONER

DR. J. C. FALCONER

OPTOMETRISTS

Helea:

Move to come - having some difficulty
in obtaining information on contact lenses
but have written for it.

The opticians law is more along
those lines recommend by most
states. Since no new optician laws
have been passed since 1957 &
only 19 states have such laws - up
to date recommendations are not
available. The present thinking
is having the optician come under
the optometry law or with optometrists
and optician-physicians on their own.

Moynard

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"An act relating to the licensing of opticians."

The educational requirements for the examination, as outlined in this bill, are:

Page 2, Sec. 03.23.110 OPTICIAN EXAMINATION. (1) Any person who is eligible for examination who

- (1) is at least 18 years of age;
- (2) has graduated from a school of opticianry;

- (3) is a resident of this State;
- (4) is a graduate of a school of opticianry which is located in this State and is approved by the State Board of Opticianry;
- (5) has paid a fee of \$10.00.

(6) has been employed as an optician for at least 6,000 hours during the preceding 12 months.

(7) has been employed as an optician for at least 12 months in the State of Illinois, or in any other State, and

(8) has been employed as an optician for at least 12 months in the State of Illinois, or in any other State, and

Part 2 of the bill, which provides for the creation of the Board of Opticianry, is also objectionable. The bill provides for the appointment of a board of opticians, which will have the authority to issue licenses to opticians. The bill also provides for the creation of a fund to be used for the purposes of the board.

A "bill to amend the act relating to the licensing of opticians" is also objectionable. The bill provides for the amendment of the act relating to the licensing of opticians. The bill also provides for the creation of a fund to be used for the purposes of the board.

It is recommended that the bill be rejected.

1. The first part of the document discusses the general principles of the project. It outlines the objectives and the scope of the work. The second part of the document describes the methodology used in the study. It details the data collection methods and the analysis techniques. The third part of the document presents the results of the study. It includes a table of results and a discussion of the findings. The fourth part of the document concludes the study and provides recommendations for future research.

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buying a business license and putting up your sign.

We should require the same quality of education and knowlege for licensing of those presently working as dispensing opticians as for those who wish to acquire licenses in the future. This will serve to guarantee the public of quality in ophthalmic care today as well as in the future. We cannot accept every person who has set himself up as a dispensing Optician for the period of six month, regardless of knowlege or depth of experience. This gives no assurance of quality in Ophthalmic care. And isn't this what this bill is all about?

Two places in this bill there is made mention of Dispensing Opticians fitting and adjusting contact lenses.

Page 2. sec. 08.73.090. CONTENT OF EXAMINATION. The examination for dispensing opticians shall be oral, written and practical in nature and shall cover the following subjects: ophthalmic material and technical laboratory, elements of optics, ophthalmic dispensing, contact lenses, technical math and physics, anatomy and physiology of the eye, dispensing business concepts, communications skills and other subjects the board considers advisable.

Page 7. sec. 08.73.210. DEFINITIONS "dispensing optician"..... contact lenses may be fitted with a written prescription in conjunction with and under the supervision of a physician or an optometrist.

Contact lenses can cause corneal insult and require professional judgment prior to and during the course of lens wear. That is to say that patient fitted to contact lenses should be seen routinely by an Optometrist or Ophthalmologist.

Words like "in conjunction with" and "under the supervision of" are not specific enough here. Supervision could be considered anywhere from looking over the shoulder to talking it over at lunch. Unfortunately the latter would be a more convenient interpretation in most cases.

Here are the reasons that contact lenses should only be fit "in the same office" as an Optometrist or Ophthalmologist.

(1) Corneal Physiology - The majority of the oxygen used by the cornea (the front of the eye) in its metabolism is taken from the air through the tear layer. This is the same tear layer upon which a contact lens rests. An improper fitting contact lens can alter the physiology of the cornea by restricting this oxygen up-take and cause injury to the eye.

(2) Physical Insult - an improper fitting contact lens can cause injury to the cornea and eye by physical irritation that eye (such as by bumping or rubbing the eye).

(3) Biomicroscope (Slit lamp) - the use of a biomicroscope is essential before and during contact lens fitting to insure the health of the eye upon which it is placed. The biomicroscope magnifies the front of the eye many times and enables you to microscopically inspect the eye in 3D(depth). By using various methods of illumination and focus, different aspects of the cornea can be examined. Its use takes much practice and experience. That which we are looking for may be very minute and visible under only one combination of illumination and focus.

Most early signs and many advanced stages of corneal injury cannot be seen with the naked eye, making the biomicroscope indispensable in the fitting of contact lenses.

The biomicroscope is often used with dyes such as sodium fluorescein and Rose Bengal to stain damaged or devitalized cells on the cornea. I will show you several slides using some of these dyes to help show eye insult.

An Optometrist before graduation with his degree has 18 semester credit hours of biomicroscopy and contact lens instruction.² To use the biomicroscope effectively takes many hours of practice and a knowledge of what you are looking for. This means an in depth knowledge of eye physiology, eye anatomy and eye pathology. The Ophthalmologist and Optometrists are the only two professions sufficiently trained in these areas to use the biomicroscope with proficiency.

Slides of corneal and eye problems photographed using a biomicroscope

(A) Difficulties that should be caught before fitting contact lenses:

1. Mucous in the cornea
2. Endothelial dystrophy
3. Corneal vascularization
4. Keratitis -
5. Lid closure staining
6. 9-9 o'clock staining

(B) Difficulties that can occur while wearing contact lenses (hard)

1. Foreign body scar
2. Transition zone stain - poor lens design
3. Insertion stain - poor placing and removing technique
4. Foreign body stain -

- 5. Embedded foreign body
- 6. Tear film break up - film not wetting properly
- 7. 3 - 9 o'clock staining - improper lens, lens too thick
- 8. Corneal staining - mechanical insult
- 9. Microcystic edema - lens affecting metabolism of cornea
- 10. Beginning of physiological staining - cell damage
- 11. Corneal edema
- 12. Corneal opacity
- 13. Corneal ulcer - possible due to prolonged irritation.

(c) Difficulties that can arise in contact lens diseases (soft)

- 1. Arcuate keratitis
- 2. Diffuse keratitis
- 3. Corneal opacities

Without the use of the bionics contact lens fitting is limited to an arbitrary interpretation of contact lens prints or varying until the "artist" can produce a contact lens that will fit and be comfortable. Any use of the bionics approach is a step beyond the profession of education.

The fitting of contact lenses should only be done by a professional knowledgeable in the contact lens industry and the use of the professional use of the bionics approach. This is the role of an optometrist or ophthalmologist.

SUMMARY

- (1) Licensing of Dispensing Opticians should require higher educational standards than outlined in 15111.
- (2) Contact lens fitting should be permitted only by qualified professionals: Optometrists and Optometrist, or in their offices, in their presence.

[1]

TEXT
of
SAMPLE DISPENSING BILL

Wide variations in State statutes and laws make it impossible to write a bill that would be acceptable in all respects, to all State legislative bodies.

Thus, the bill presented in the following pages should be accepted only for what it is, namely, the "working model" of a State Ophthalmic Dispensing statute. It is simply, and of necessity, a "point of departure" which gives you a working outline of the desired provisions to assist you in the development of your own bill.

Nonetheless, it has specifically been our endeavor in this text to provide, in acceptable legal phraseology, the essential provisions for Ophthalmic Dispensing Licensing Legislation, for it is of the utmost importance in promulgating licensing legislation in the several states that basic homogeneity should prevail in provisions and definitions, in order to avoid utter confusion in ensuing years.

Further, unification in the use of the term "Ophthalmic Dispensing", the definitions in the act, years required for exemption, training standards, educational standards, exemption for technicians, and other such provisions, tends to raise the prestige and the objectives of our endeavors, and is of genuine importance.

The material furnished you is only for your assistance, and that of your Council.

Cordially yours,

EUGENE J. ANSPACH, JR.

Chairman
Legislation Committee
Guild of Prescription Opticians
of America, Inc.

January 15, 1954

Text Of Sample Dispensing Bill

ARTICLE --

PRACTICE OF OPHTHALMIC DISPENSING

- SECTION 1. Factual background and statement of public policy.
- SECTION 2. Definitions.
- SECTION 3. State board of examiners in ophthalmic dispensing.
- SECTION 4. Powers and duties of board.
- SECTION 5. Qualifications, examinations, exemptions and fees.
- SECTION 6. Registration of license; duties of county clerk.
- SECTION 7. Biennial registration.
- SECTION 8. Revocation of license.
- SECTION 9. Violations; prosecution; penalties.
- SECTION 10. Advertising of eyeglasses, spectacles or lenses.
- SECTION 11. Construction of article.
- SECTION 12. Department supervision.
- SECTION 13. Validity.

§1. *Factual background and statement of public policy.* Ophthalmic dispensing is at present unregulated. Prescriptions of physicians or optometrists for lenses, spectacles, eyeglasses or other optical appliances intended to be used for the human eye may be and in many cases are being compounded, filled, fitted, adapted, and adjusted by incompetent, incapable, ignorant persons. This has endangered, impaired and imperiled and threatens to endanger and imperil the health of the public, has defeated and defeats public policy, and has been and will be subversive to and has caused and will cause irreparable injury to the health, safety and welfare of the people of the state. Errors in refraction result from the improper compounding, filling, fitting or adapting of prescriptions of physicians or optometrists for lenses, spectacles, eyeglasses, or other optical appliances intended to be used for the human eyes. This causes eye strain, headaches, digestive disorders, nausea, neuralgia or pronounced vertigo and can give rise to remote nervous disturbances of a most profound character. It is necessary in the interest of the public health, safety and welfare of the people of the state that those engaged in the practice of optical dispensing possess the education, special knowledge of the science, and ability to apply such knowledge, so as to properly fill and compound prescriptions of physicians or optometrists for lenses, spectacles, eyeglasses or other optical appliances for the human eyes, and to properly adapt, fit and adjust the same. To insure this protection to the public, it is hereby declared the public policy of the

state of that those engaged in the practice of ophthalmic dispensing as hereinafter defined must be licensed pursuant to the provisions of this article to engage in such practice.

§2. *Definitions.* As used in this article:

1. "Board" means the board of examiners in ophthalmic dispensing of the state of
2. "Examiner" means a member of the board of examiners in ophthalmic dispensing.
3. "Dispensing optician" means a practitioner of ophthalmic dispensing.
4. The practice of "ophthalmic dispensing" is defined as follows:

A person practices ophthalmic dispensing within the meaning of this article who engages (a) in the filling or compounding of prescriptions of physicians or optometrists for lenses, spectacles, eyeglasses, optical devices or other optical appliances and intended to be used for eyewear or for the aid, correction, relief or treatment of visual or ocular anomalies of the human eye; and (b) in the surveying and measuring of the external features of the face and head of human beings for the proper designing and fitting of such lenses, spectacles, eyeglasses, optical devices or other optical appliances as required by such prescriptions; and (c) in the

Legislation Manual: TEXT OF SAMPLE BILL.

adapting, fitting, servicing and adjusting of such lenses, spectacles, eyeglasses, optical devices or other optical appliances in accordance with such prescriptions for the intended wearer or user thereof; and (d) in the dispensing, furnishing or supplying to such intended wearer or user of any such lenses, spectacles, eyeglasses, optical devices or such other optical appliances in accordance with such prescriptions.

§3. *State board of examiners in ophthalmic dispensing.* There is hereby created a state board of examiners in ophthalmic dispensing within the education department of the state of Such board shall consist of five examiners who shall be appointed by within sixty days after this act becomes effective. Each of said examiners shall have been actually engaged principally in the practice of ophthalmic dispensing for a period of not less than ten years preceding the date of his appointment, and shall have been a citizen of the United States and a resident of the state of for at least five years prior to the date of his appointment. The members of the first board appointed hereunder shall each receive from the department a license to practice ophthalmic dispensing and they shall be appointed to serve for the following terms respectively: one for one year; one for two years; one for three years; one for four years; and one for five years. On the expiration of each of said terms a successor shall be appointed by The term of office of each newly appointed or reappointed examiner shall be for a period of five years. Each examiner shall hold over after the expiration of his term until his successor shall have been duly appointed and shall have qualified. Vacancies on the board shall be filled by appointment by for the unexpired term. Before assuming the duties of his office, each examiner shall file with the secretary of state the constitutional oath of office. Each examiner shall receive a compensation to be determined by for the time spent in the performance of his official duties and necessary travel and shall be reimbursed for all proper traveling and incidental expenses incurred in carrying out the provisions of this article. The may remove any examiner from office for misconduct, incapacity or neglect of duty.

§4. *Powers and duties of board.* The board shall annually prior to elect from among its members a chairman and a secretary and shall hold meetings during the year as it may determine to be necessary or as may be required by the department, one of which shall be the annual meeting. The board may, subject to approval by, make such rules not inconsistent with law as may be necessary in the performance of its duties. The board or any

committee thereof shall be entitled to the services of the attorney-general and shall have the power to compel the attendance of witnesses, to administer oaths, and to take testimony and proofs concerning all matters within its jurisdiction pursuant to section of the public officers law.

§5. *Qualifications, examinations, exemptions and fees.* After ... (the effective date of the law) ... , no person shall engage in the practice of ophthalmic dispensing unless he shall be licensed and registered as herein provided; this provision shall be enforceable by action for injunction brought in the name of the people by the attorney-general. Every person desiring to enter or to continue in the practice of ophthalmic dispensing after said date, except as hereinafter provided, shall pass an examination to determine his qualifications and fitness therefor.

1. *Qualifications.* The department shall admit to examination any applicant who pays a fee of twenty-five dollars and submits evidence verified by oath and satisfactory to the department that he (a) is more than twenty-one years of age; (b) is a citizen of the United States or has declared his intention of becoming such citizen in accordance with law; (c) is of good moral character; (d) has satisfactorily completed a four-year course of study in a secondary school registered by the department as maintaining a satisfactory standard or the equivalent thereof as determined by the department; and (e) either (1) has satisfactorily completed a two-year course of study in a school of ophthalmic dispensing approved by the department as maintaining a satisfactory standard and subsequent thereto has had practical training and experience under the supervision of a dispensing optician, oculist or optometrist of a grade and character satisfactory to the board for not less than three years; or (2) has had practical training and experience under the supervision of a dispensing optician, oculist or optometrist of a grade and character satisfactory to the board for not less than five years, but the department prior to ... (a date five years after the effective date of the law) ... upon recommendation of the board, may accept a like period of actual engagement in the practice of ophthalmic dispensing prior to ... (January 1 of the year of the effective date of the law) ... in lieu of all or any part of said five years of such training and experience. Every person who is employed by an ophthalmic dispenser, oculist or optometrist with the intention of becoming an ophthalmic dispenser shall apply to the department for a trainee permit prior to entry upon such training. Trainees shall complete at least 600 hours of supervised experience in the fitting and adjusting of ophthalmic lenses, 300 hours in the verification and interpretation of prescriptions and 300 hours in other aspects of the practice and theory of

Legislation Manual: TEXT OF SAMPLE BILL

ophthalmic dispensing, including laboratory preparation.

2. Examinations.

a The subjects of examinations and their scope, content and character, which in any examination shall be the same for all candidates, shall be determined by the department upon recommendation of the board, except that on and after . . . (insert month and year) . . . all examinations in ophthalmic dispensing shall include, but not be limited to, the following subjects: mathematics and physics, ophthalmic materials and laboratory, ophthalmic optics, ophthalmic dispensing and a practical examination.

b The ophthalmic dispensing examinations shall be held at such times and places as shall be determined by

c Applications shall be filed with the department at least 30 days before the examination.

d Each application must be accompanied by a recent photograph approximately two by three inches in size and by the statutory fee, which fee shall entitle the candidate to two complete examinations. Examinations in two or more subjects are considered a "complete" examination. No fee is required of a candidate who is scheduled by the department for a single subject only. A candidate who passes the practical examination shall not be re-examined in that subject.

e The passing mark in the practical ophthalmic dispensing examination shall be 75 per cent. The passing mark for the written examination shall be an average of 75 per cent. However, in order to determine this average no theoretical paper shall be accepted with a grade less than 65 per cent and only one paper with a grade less than 75 per cent.

f Any false or misleading information in connection with any application may be cause for exclusion from the examinations on the ground of lack of good moral character. If the department finds that the application is complete and that all the requirements of the statute and of the regulations have been met, it shall issue to the applicant an admission card which shall advise him of the time, date and place of the examination. When the candidate submits each examination paper he shall exhibit his admission card to the examiner. At the conclusion of the final examination the examiner shall retain the card.

g Licensing examinations shall be conducted in accordance with the following procedure, and any candidate violating such procedure may be dismissed from the examination room or otherwise disciplined.

(1) No candidate shall enter the examination more than 45 minutes after the question

papers have been distributed nor shall any candidate leave the examination until 45 minutes have elapsed.

(2) During the examination no candidate shall communicate with any other candidate in any way.

(3) A candidate shall not bring books or other help of any kind into the examination room unless directed to do so by the department because of the character of the examination.

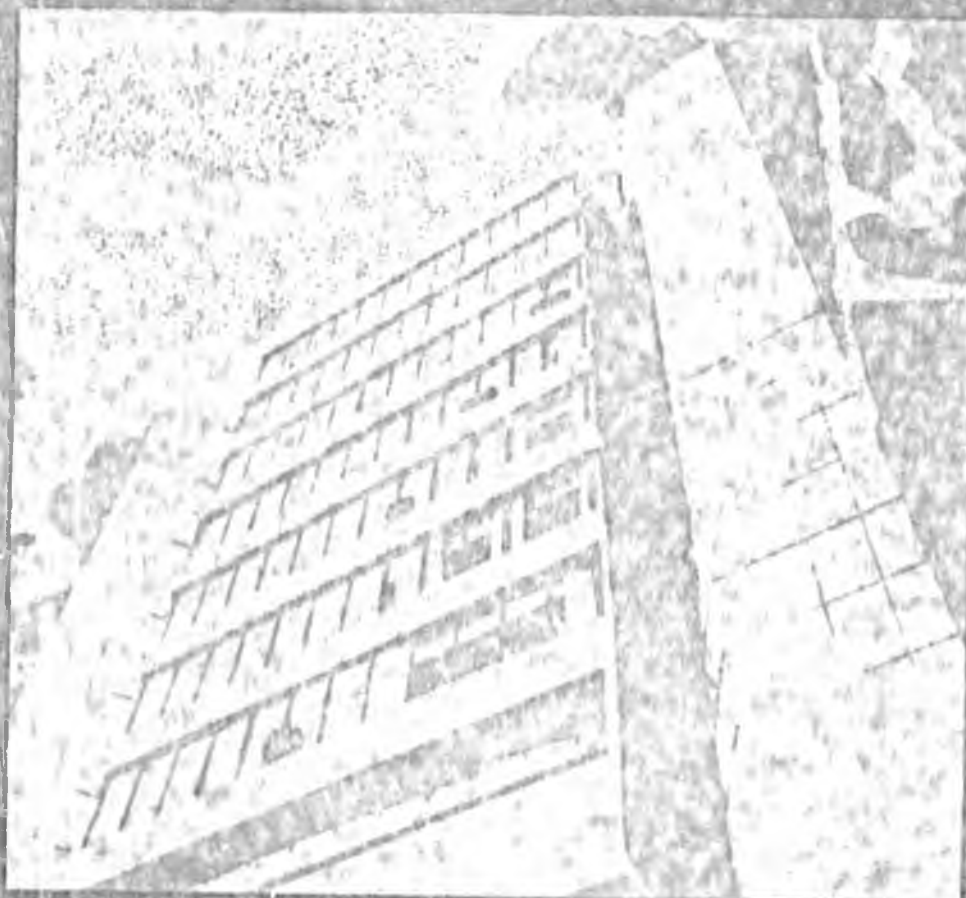
(4) After landing in his last paper in any examination each candidate shall make and subscribe to a statement to the effect that he has neither given nor received aid during the examination.

h At the close of each examination the answer papers shall be examined, rated and reported as required by the department. On receiving from the board an official report that an applicant has successfully passed the examination, the department shall issue to said applicant a license to practice ophthalmic dispensing in keeping with the definition thereof provided in this article; provided that a license to practice optical dispensing issued to any person who has declared his intention of becoming a citizen of the United States shall become void at the expiration of eight years from the date of the declaration of the intention of such applicant to become a citizen unless prior to the expiration of said eight years evidence is furnished to the department that the applicant has become a citizen of the United States.

3. Exemptions and fees. The department upon recommendation of the board shall issue a license without examination to any person who makes application therefor prior to, and pays a fee of twenty-five dollars and submits evidence verified by oath and satisfactory to the department as to his character, competency and qualifications, and that he has been actually principally engaged in the practice of ophthalmic dispensing, as herein defined, for a period of not less than five years, and that he was actually so engaged in such practice at the time of the taking effect of this article. The department shall issue to such applicant a license without examination, which license shall be registered and entitle him to practice ophthalmic dispensing under the provisions of this article. The department shall issue a license to practice ophthalmic dispensing to any duly licensed physician or optometrist who pays a fee of twenty-five dollars providing the applicant's record fully meets the requirements of this article in all respects other than examination. Upon the recommendation of the board, the department may issue a license to practice ophthalmic dispensing to any applicant who pays a fee

[2]

1972-73
CATALOG
SOUTHERN COLLEGE
OF OPTOMETRY



PHYSICS (12 QTR. or 8 SEM. HRS.)

This requirement will be satisfied by completion of college level courses, with accompanying laboratories, which adequately cover mechanics, heat, light, sound, magnetism and electricity.

PSYCHOLOGY (3 QTR.)

This requirement will be satisfied by completion of a college level course of general or abnormal psychology.

ELECTIVES to total

No preprofessional student may complete this requirement at a college or junior college unless he is in good standing and eligible for admission to the college.

In selecting elective courses, the student should be guided by the following criteria: advanced physics, chemistry, biology, and other sciences; mathematics; foreign languages; and other courses which are of general interest and which will help the student to become a more well-rounded individual.

Students who are admitted to the College of Optometry must complete a minimum of 15 credit hours of general education courses. These courses must be completed in the admission year or the year immediately following. The student should consult with his advisor to select courses which will fulfill these requirements.

All candidates for admission to the College of Optometry must complete the Optometry College Admission Test (OCAT) and file the resulting scores with the College in support of their application for admission. Applications will be considered complete until receipt of the OCAT scores. Information concerning the Optometry College Admission Test is published separately.

PRIORITIES IN SELECTING THE ENTERING CLASS. In those years when the number of qualified applicants appreciably exceeds the limited number of openings for the entering class, a system of priorities for acceptance must necessarily be applied. Applicants should

therefore be aware of the general guidelines below. All other things being equal, an applicant:

- (1) Who has completed or most nearly completed all general admissions requirements would be selected over one whose application is less complete.
- (2) Who resides in a state for which the quota of places in the entering class remains unfilled would be selected over one from a state the quota of which was filled.
- (3) With a higher scholastic standing (grade point average) in either prerequisite courses or all courses or both would be selected over one with lower standing.

SAMPLE PREPROFESSIONAL PROGRAM. The following sample program is intended as a guide for prospective optometry students. The sequence of courses as well as the amount of credit assigned to each course may vary at different schools. The student should adjust his preprofessional program to conform to the requirements of the school he is attending while fulfilling the admission requirements of this college.

FRESHMAN YEAR

First Semester	Hours	Second Semester	Hours
English	3	English	3
Biology	4	Biology	4
Algebra	3	Trigonometry	3
Chemistry	4	Chemistry	4
Electives	1 to 4	Electives	1 to 4
Total Hours	15 to 18	Total Hours	15 to 18

SOPHMORE YEAR

First Semester	Hours	Second Semester	Hours
Physics	4	Physics	4
Microbiology	3	Psychology	3
Electives	8 to 11	Electives	8 to 11
Total Hours	15 to 18	Total Hours	15 to 18

PREPROFESSIONAL GUIDANCE. The College is prepared to assist preprofessional guidance counselors and committees in advising preoptometry students. The request for assistance should be originated by the guidance counselor or committee, and it should be accompanied by a copy of that school's current catalog.

SUBMISSION OF APPLICATION. No application for admission to the College can be considered until receipt by the College of the completed application form, application fee (non-returnable),

It is rare that a student is admitted into the Optometry professional program with less than 4 years pre opt. or pre med college work. This is a minimum requirement.

enrolled in a college of optometry, or who has been accepted to the next class commencing at that college, may be given a 2-S classification by his local board.

Due to the fact that the College enrolls only one class of new students each year, in September, there may be an unavoidable delay of several months following the completion of preoptometric requirements before the student can actually commence his professional education. Nevertheless, the student is still eligible for consideration for deferment if such situation exists.

When a student has completed all admission requirements, paid the advance deposit, and has been given final acceptance, the SSS Form No. 103 can be submitted to the student's local board to substantiate his own written request for deferment (2-S classification). The number and address of the student's local board together with his selective service number should be furnished to the College when requesting that the Form No. 103 be submitted in his behalf. Specific policies governing the granting of the student deferment vary among local boards; the student is urged to familiarize himself with the policies of his own board.

Graduates of the O. D. Degree program may enter the Armed Forces or the Public Health Service as Commissioned Officers. In addition, the Army, Navy and Air Force offer early commissioning programs, whereby qualified students may receive appointments as Optometry Officers at least one year before they graduate.

CURRICULUM

FIRST PROFESSIONAL YEAR

FALL QUARTER

			HOURS CREDIT
Bioptics	110	Functional Anatomy (5 HRS LEC, 2 HRS LAB)	6
Bioptics	111	Physical Optics (4 HRS LEC, 2 HRS LAB)	5
Bioptics	112	Statistical Methods (3 HRS LEC)	3
Optometry	110	Introduction to Optometry (4 HRS LEC, 2 HRS LAB)	5
*Optometry	114	Clinic Orientation (2 HRS LAB)	1
	Total		20

WINTER QUARTER

Bioptics	120	Functional Anatomy (5 HRS LEC, 2 HRS LAB)	6
Bioptics	121	Geometrical Optics (3 HRS LEC, 2 HRS LAB)	4
Bioptics	122	Research Methodology (3 HRS LEC)	3
*(Optometry	114	Clinic Orientation (2 HRS LAB)	
Optometry	120	Basic Optometry (4 HRS LEC, 2 HRS LAB)	5
Optometry	123	History of Optometry (2 HRS LEC)	2
	Total		20

SPRING QUARTER

			HOURS CREDIT
Bioptics	130	Functional Anatomy (5 HRS LEC, 2 HRS LAB)	6
Bioptics	131	Geometrical Optics (3 HRS LEC, 2 HRS LAB)	4
Bioptics	132	Psychological Optics (5 HRS LEC, 2 HRS LAB)	6
*(Optometry	114	Clinic Orientation (2 HRS LAB)	
Optometry	130	Basic Optometry (4 HRS LEC, 2 HRS LAB)	5
	Total		21

*Note: One quarter hour credit is awarded upon completion of this course in the Spring Quarter.

SECOND PROFESSIONAL YEAR

FALL QUARTER

Bioptics	211	Physiological Optics (4 HRS LEC, 2 HRS LAB)	5
Bioptics	213	Neuroanatomy (3 HRS LEC, 2 HRS LAB)	4

Optometry	210	Advanced Optometry (3 HRS LEC, 2 HRS LAB)	4
Optometry	211	General Pathology (4 HRS LEC, 2 HRS LAB)	5
Optometry	212	Ophthalmic Optics (3 HRS LEC)	3
*Optometry	214	Clinical Procedures (2 HRS LAB)	1
Total			<u>13</u>

WINTER QUARTER

Bioptics	221	Physiological Optics (4 HRS LEC, 2 HRS LAB)	5
*Optometry	214	Clinical Procedures (2 HRS LAB)	2
Optometry	220	Advanced Optometry (4 HRS LEC, 2 HRS LAB)	5
Optometry	221	Ocular Pathology (5 HRS LEC, 2 HRS LAB)	6
Optometry	222	Ophthalmic Optics (2 HRS LEC, 2 HRS LAB)	3
Total			<u>19</u>

SPRING QUARTER

Bioptics	231	Physiological Optics (3 HRS LEC, 2 HRS LAB)	4
Bioptics	233	Organo-Biochemistry (3 HRS LEC)	3
*Optometry	214	Clinical Procedures (2 HRS LAB)	2
Optometry	230	Advanced Optometry (4 HRS LEC, 2 HRS LAB)	5
Optometry	231	Ocular Pathology (5 HRS LEC, 2 HRS LAB)	6
Optometry	232	Ophthalmic Optics (2 HRS LEC, 2 HRS LAB)	3
Total			<u>21</u>

*Note: One quarter hour credit is awarded upon completion of this course in the Spring Quarter

THIRD PROFESSIONAL YEAR

FALL QUARTER

Bioptics	312	Neurophysiology (3 HRS LEC, 2 HRS LAB)	4
Optometry	310	<u>Basic Contact Lens Practice</u> (4 HRS LEC, 2 HRS LAB)	5
Optometry	311	Vision Training (3 HRS LEC, 2 HRS LAB)	4
Optometry	315	Clinical Practice (1 HR LEC, 12 HRS LAB)	4
Optometry	316	General Pharmacology (3 HRS LEC)	3
Total			<u>20</u>

WINTER QUARTER

Bioptics	320X	Vision Science Laboratory (2 HRS LEC, 2 HRS LAB)	3
Optometry	320	<u>Advanced Contact Lens Practice</u> (2 HRS LEC, 2 HRS LAB)	3
Optometry	321	Vision Training (5 HRS LEC, 2 HRS LAB)	6
Optometry	323	Ophthalmic Optics Laboratory (non-required elective, 2 HRS LAB)	(1)
Optometry	325	Clinical Practice (1 HR LEC, 12 HRS LAB)	4
Optometry	326	Ocular Pharmacology (3 HRS LEC)	3
Total			<u>19 (20)</u>

SPRING QUARTER

Bioptics	330X	Vision Science Seminar (3 HRS LEC)	3
Optometry	330	Limited Vision and Aniseikonia (3 HRS LEC, 2 HRS LAB)	4
Optometry	331	Vision Training (4 HRS LEC)	4
Optometry	333	Ophthalmic Optics Laboratory (non-required elective, 2 HRS LAB)	(1)

Optometry	334	Optometric Dispensing (2 HRS LAB)	1
Optometry	335	Clinical Practice (1 HR LEC, 12 HRS LAB)	4
Total			16 (17)

SUMMER QUARTER

Optometry	345	Clinical Practice (1 HR LEC, 12 HRS LAB)	4
Optometry	346	Contact Lens Clinic (4 HRS LAB)	1
Optometry	347	Vision Training Clinic (4 HRS LAB)	1
Total			6

FOURTH PROFESSIONAL YEAR

FALL QUARTER

Bioptics	411	Vision Science Survey (2 HRS LEC)	2
Optometry	410	Environmental Vision (5 HRS LEC)	5
Optometry	413X	Optometry Seminar (3 HRS LEC)	3
Optometry	415	Clinical Practice (1 HR LEC, 12 HRS LAB)	4
Optometry	416	Contact Lens Clinic (4 HRS LAB)	1
Optometry	417	Vision Training Clinic (4 HRS LAB)	1
Total			16

WINTER QUARTER

Bioptics	421	Vision Science Survey (2 HRS LEC)	2
Optometry	420	Practice Management (3 HRS LEC)	3
Optometry	422	Public Health (2 HRS LEC)	2

Optometry	423X	Optometry Seminar (3 HRS LEC)	3
Optometry	425	Clinical Practice (1 HR LEC, 12 HRS LAB)	4
Optometry	426	Contact Lens Clinic (4 HRS LAB)	1
Optometry	427	Vision Training Clinic (4 HRS LAB)	1
Total			16

SPRING QUARTER

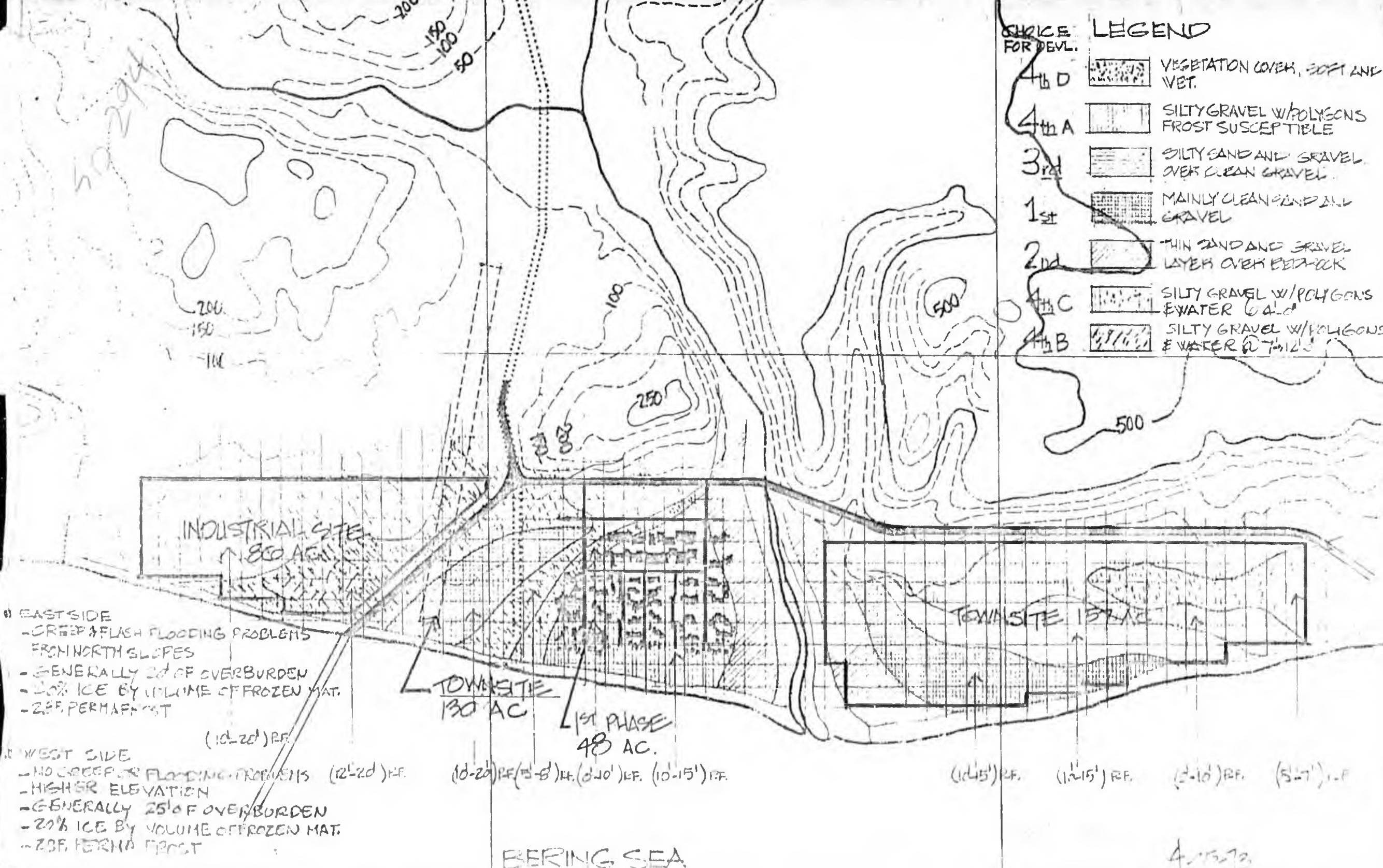
			HOURS CREDIT
Bioptics	431	Vision Science Survey (2 HRS LEC)	2
Optometry	430	Practice Management (3 HRS LEC)	3
Optometry	432	Jurisprudence (2 HRS LEC)	2
Optometry	433X	Optometry Seminar (3 HRS LEC)	3
Optometry	435	Clinical Practice (1 HR LEC, 12 HRS LAB)	4
Optometry	436	Contact Lens Clinic (4 HRS LAB)	1
Optometry	437	Vision Training Clinic (4 HRS LAB)	1
Total			16

COURSES OF INSTRUCTION

Courses numbered in the 100 series are for first professional year students, 200 for second professional year students, 300 for third professional year students, and 400 for fourth professional year students. The letter E following a course number indicates that the course is offered through the External Studies Program. The four-year program provides more than 4000 clock hours of instruction in optometric science and clinical optometry and carries 232 quarter hours of credit.

The curriculum is organized for administrative purposes into two departments: Bioptics and Optometry. The Bioptics Department is an

CHOICE FOR DEVL.	LEGEND
4th D	VEGETATION COVER, SOFT AND VET.
4th A	SILTY GRAVEL W/ POLYGONS FROST SUSCEPTIBLE
3rd	SILTY SAND AND GRAVEL OVER CLEAN GRAVEL
1st	MAINLY CLEAN SAND AND GRAVEL
2nd	THIN SAND AND GRAVEL LAYER OVER BEDROCK
4th C	SILTY GRAVEL W/ POLYGONS & WATER @ 4'-0"
4th B	SILTY GRAVEL W/ POLYGONS & WATER @ 7'-0"



EAST SIDE

- CREEP & FLASH FLOODING PROBLEMS FROM NORTH SLOPES
- GENERALLY 30' OF OVERBURDEN
- 20% ICE BY VOLUME OF FROZEN MAT.
- 25% PERMAFROST

WEST SIDE

- NO CREEP OR FLOODING PROBLEMS
- HIGHER ELEVATION
- GENERALLY 25' OF OVERBURDEN
- 20% ICE BY VOLUME OF FROZEN MAT.
- 25% PERMA FROST

INDUSTRIAL SITE
180 AC

TOWN SITE
130 AC

1st PHASE
48 AC

TOWN SITE
137 AC

BERING SEA

(10-20') RF

(10-20') RF (5-8') RF (0-10') RF (10-15') RF

(10-15') RF (12-15') RF (5-10') RF (5-7') RF

4-15-72

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99801

LEGISLATIVE AFFAIRS AGENCY

March 23, 1974

MEMORANDUM

TO: Legislative Council

FROM: Randolph Berry, Revisor of Statutes

SUBJECT: "An Act making corrective amendments in the Alaska Statutes as recommended by the revisor of statutes."

This bill was prepared by the Revisor of Statutes under AS 01.05.--036. The proposed amendments are designed to accomplish the following purposes: (1) correction of citations; (2) correction or change in language due to court decisions; (3) cleanup to make provisions consistent with other law or to recognize more recently enacted law; and (4) miscellaneous clarification and correction.

It is suggested that this explanatory memorandum accompany the bill through its legislative course.

SECTIONAL ANALYSIS

Section 1 adds language intended to simplify citations and make it clear that unless a citation specifically refers to a statute or Act as it existed on a particular date, the citation includes amendments or reenactments of the statute cited.

Section 2 seeks to make the terminology of AS 04.10.139 consistent with that in the Alaska municipal law (AS 29).

Sections 3, 4, 10, 16 and 17 attempt to repeal or amend the qualification requirements for occupational licensing based on citizenship or intention to become a citizen for various businesses and professions to conform to the decision by the United States Supreme Court in In Re Griffiths, 413 U.S. 717, 37 L.ed 2d 910, ___ S.Ct. ___ (1973). In that case the court held that a Connecticut statute which denied admission to the state bar to a resident alien who had not declared an intention to become a citizen violated the equal protection clause of the Fourteenth Amendment by discriminating against resident aliens.

Section 5 deletes the date reference in the short title of AS 08.04 because date references of this nature are unnecessary and tend to cause confusion in later years, particularly if amendments have been subsequently enacted.

Sections 6 and 7 rewrite the admission requirements of the Alaska Bar, both for persons applying to take the regular bar examination and attorney applicants applying to take the attorney examination, to conform to the new Alaska Bar Rule on eligibility for admission (Part 1, Rule II of the Alaska Bar Rules) promulgated by the Alaska Supreme Court on June 8, 1973 and the holding of the court in In re Stephenson, 511 F. 2d 136 (Alaska 1973) that the court has inherent and final power and authority to determine the standards for admission to the practice of law in Alaska. The reference to the requirement that a resident alien intend to become a citizen of the United States has been removed from AS 08.08.130 to conform to my interpretation of In Re Griffiths, (supra), although the requirement remains in Part I, Rule 2, Section 1(e) of the Alaska Bar Rules.

Section 8 adds additional language to AS 08.08.180 to bring that section into conformity with the decision of the Alaska Supreme Court in In re Petition of Crosty, 495 F. 2d 1270 (1972) which held that if the non-payment of dues involved a question of or challenge to the board's authority to compel the payment of the dues sought, then a hearing was necessary to comply with procedural due process.

Section 9 seeks to remedy a practical problem resulting from contradictory requirements as to service between AS 08.18.081(a) and AS 21.09.180 - 21.09.190. AS 21.09.180 - 21.09.190 make the director of the division of insurance agent for the service of process on insurers, and the exclusive agent for service in the case of foreign insurers, and require the payment of a \$5 fee. AS 08.18.081 provides that persons bringing an action against a contractor on his bond shall serve the commissioner of commerce, who shall transmit the complaint to the insurer. (In the case of foreign insurers, the complaint would be transmitted to the director of the division of insurance, in accordance with AS 21.09.180, but the \$5 required by AS 21.09.190 would not have been collected.)

Section 11. The definition of "mines" cited in AS 08.52.070 was repealed in 1963. The terminology of that definition was carried over in substantially the same form as a definition of "mining operations". (See ch. 75 SLA 1963.)

Section 12 inserts a word which was apparently omitted in this section in the original version of the bill (HB 1) which became ch. 17 SLA 1973. The word is necessary to make the terminology of AS 08.54.190(b) consistent with the remainder of AS 08.54.

Section 13 repeals a provision relating to physicians providing care by authority of permits for isolated areas. The section

providing for the issuance of permits for isolated areas (AS 08.-64.368) was repealed in 1970 (see sec. 27 ch. 148 SLA 1970).

Sections 14 and 15 insert additional language in AS 08.71.080 and 08.71.090 (relating to the licensing of dispensing opticians) to remove a conflict with AS 08.71.150 which provides for issuance of licenses without examination to applicants who have been licensed and practicing or a dispensing optician in another state.

Sections 18, 19, and 20 change the terminology of AS 12.25.150, 12.25.180 and 12.25.190 to avoid a potential conflict through the use of the term "arrest" with Rule 5 of the Rules of Criminal Procedure, which provides specific procedures and time limits for appearance before a magistrate after arrest.

Section 21 changes the terminology of AS 14.25.220(5) to conform with current terminology found in AS 14.12 and in Alaska municipal law (AS 29).

Section 22 updates an archaic reference to state police.

Section 23 corrects the reference to the department responsible for the issuance of vouchers from Revenue to Administration to conform to AS 37.

Section 24 deletes language describing the initial terms of members appointed to the Board of Fish and Game, as this language is no longer necessary.

Section 25 repeals a penalty provision (AS 16.05.700) which is duplicated by a general penalty provision (AS 16.05.720) appearing in the same article of the Fish and Game Code (AS 16.05).

Section 26 changes the time period for establishment of residency (for purposes of the Fish and Game Code, AS 16.05) by aliens maintaining a permanent place of abode in the state to make it consistent with the one year required of other persons residing in the state. This change appears to be necessary to conform to the decisions of the Supreme Court in Takahashi v. Fish and Game Commission, 334 U.S. 410, 92 L.ed 1478, 68 S.Ct. 1138 (1948) and Graham v. Richardson, 403 U.S. 365, 29 L.ed 2d 910, 91 S.Ct. 1841 (1971). In Takahashi the court restricted the "special public interest" doctrine in the area of fish and game laws which discriminated against aliens, and in Graham v. Richardson the court invalidated statutes which established a differential residency requirement for aliens as being a violation of the equal protection clause of the Fourteenth Amendment.

Section 27 deletes a provision (AS 16.10.060, prohibiting the use of fish traps) which is unnecessary since the passage of ch. 17 SLA 1959, as amended by ch. 95 SLA 1959 (AS 16.10.070 - 16.10.110, prohibiting and establishing penalties for the use of fish traps).

Section 28 changes the date for the submission of the report of the Alaska Commercial Fisheries Entry Commission. This change seems necessary in view of ch. 8 SLA 1973 changing the date of the convening of the legislature to the third rather than the second Monday of January.

Section 29 deletes the reference to specific states in AS 16.45.010 (governor's power to enter into the Pacific Marine Fisheries Compact) as this reference seems unnecessary in view of the language of the compact itself (AS 16.45.020). Article XII of the compact provides for other states in addition to those listed in AS 16.45.010 to become compacting states.

Section 30 makes a change in the language and punctuation of the provision (AS 18.07.030(b), membership of the Comprehensive Health Advisory Council) to correct an apparent internal conflict in the language of the provision, which states that there are three governmental members and lists four persons. The change is intended to make it clear that the representative of the health care service and delivery agencies of the armed forces sitting in an advisory capacity is not counted as one of the governmental members.

Section 31 changes the terminology of a provision of AS 18.07.080 (functions and duties of the Comprehensive Health Advisory Council) to clarify an ambiguity. Reading AS 18.07.080(1) in conjunction with AS 18.07.090 seems to require this interpretation.

Section 32 updates the terminology of the provision describing the terms of office of board members of the Alaska State Housing Authority, as the reference to the year of initial appointment of each member is no longer necessary.

Section 33 deletes the reference to "writ of mandamus" as writs of mandamus are abolished by Rule 91(b) of the Rules of Civil Procedure.

Section 34. This section repeals a provision exempting persons employed as outside salesmen or in an executive, administrative or professional capacity from the coverage of AS 23.10.060 (payment for overtime) as the categories of persons are exempted under AS 23.10.055(9) from the entire Wage and Hour Act (AS 23.10.050 - 23.10.150).

Section 35 deletes unnecessary language in order to simplify and clarify the definition of occupation.

Section 36 removes a conflict between AS 28.15.285(b) and AS 28.15-288 as to the time the decision of the Department of Public Safety following a driver improvement interview becomes effective. AS 28.15.285(b) generally provides that the decision is effective upon receipt of the notice; AS 28.15.288 specifically provides that a decision by the department suspending or revoking a person's driving privilege does not take effect pending a hearing or subsequent appeal.

Section 37. Ch. 81 SLA 1973 enacted AS 28.31 (abandoned motor vehicles), which replaces AS 28.30. The repealer of AS 28.30 was apparently inadvertently omitted when the bill which enacted AS 28.31 was introduced.

Section 38 deletes a provision requiring municipalities to file reports relating to long-term debt as provided in AS 44.19.205. AS 44.19.205 (powers and duties of the Local Affairs Agency) was repealed by ch. 200 SLA 1972, which created the Department of Community and Regional Affairs. No provision comparable to AS 44.-19.205(1) (requiring reports of local government debt) is found in AS 44.47 (Department of Community and Regional Affairs).

Section 39 deletes a citation. AS 38.35.120(7) was repealed when AS 38.35.120 was repealed and re-enacted by ch. 3 FSSLA 1973. No comparable provision appears in the new version of AS 38.35.120.

Section 40 updates a citation to include a later enacted provision of the same category as those cited.

Section 41 updates citations to provisions relating to the state geologist.

Section 42 deletes the date reference in the short title of AS 38.-05.181 for the same reason as sec. 5.

Section 43 adds "commissioners and employees of the Alaska Commercial Fisheries Entry Commission" to the list of positions in the exempt service. These positions were established as exempt by AS 16.43.-060 and 16.43.080, and this section is intended merely to keep the listing in AS 39.25.110 current.

Section 44 corrects the reference to the "section of weights and measures" as there is not a division of weights and measures.

Section 45 removes the unnecessary "organized" from in front of "municipality".

Sections 46 and 47. These sections make the citations to the provisions dealing with state aid to local governments for miscellaneous municipal purposes more specific so as to avoid conflict with other sections in AS 43.18.

Section 48. This section returns the definition of "costs of school construction" to its original language prior to ch. 28 SLA 1973. Apparently the changes made by that enactment were inadvertent clerical errors.

Section 49. This section removes the reference to the costs of prosecution in the penalties for violation of the Alaska Net Income Tax Act (AS 43.20), as those references conflict with AS 12.80.030, which provides that costs may not be taxed to the defendant in a criminal action unless otherwise ordered by supreme court rule.

March 23, 1974

Section 50. This provision (AS 44.62.150, dealing with the price and sale of the Alaska Administrative Register and Alaska Administrative Code by the lieutenant governor) is no longer necessary due to the publication and sale of the register and code by a private publisher under the certificate of the lieutenant governor.

Section 51 corrects the reference in AS 44.68.020 to the department responsible for rules regarding the use of state-owned vehicles. Executive Order No. 18 (1962) and AS 47.44.020, enacted in 1963 (ch. 49 SLA 1963), transferred this responsibility to the Department of Highways.

Sections 52 and 53 make changes in provisions under the food stamp program (AS 47.25.975 - 47.25.990) to bring those provisions into conformity with changes in the federal food stamp program enacted by Congress in 1973 (P.L. 93-86).

RB/sin



Court Seals
HB-811

Alaska Court System

State of Alaska

303 "K" STREET

ANCHORAGE, ALASKA
99501

ARTHUR H. SNOWDEN II
ADMINISTRATIVE DIRECTOR

907 274-8611

March 13, 1974

Honorable Representative Clem V. Tillion
Chairman, House Judiciary Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99801

Dear Representative Tillion:

Enclosed is draft amendatory legislation concerning seals of court, which the court system would like to have introduced during the current legislative session, if possible.

As you are aware, the trial courts in Anchorage and in the Bethel Judicial Service Area have been consolidated for administrative purposes. This means, among other things, that all pleadings and documents filed with both the Superior and District Courts are filed in the same office and with the same clerks. It would be more efficient and less confusing if the consolidated trial courts had a single seal and a single time stamp for the filing of pleadings and documents in both courts. Since at the present time only the Anchorage and Bethel trial courts have been consolidated for administrative purposes, it would be unwieldy to attempt to solve a problem that is now confined to Anchorage and Bethel by amending AS 22.10.070 and AS 22.15.130, which prescribe respectively the forms for Superior and District Court seals throughout the state. Requiring the Supreme Court to prescribe the forms of court seals for Superior and District Courts would provide flexibility within the court system to meet the problem as it now exists and as it may arise in future consolidations elsewhere in the state.

Honorable Representative Clem V. Tillion
Page two
March 13, 1974

Your assistance in having this bill introduced is greatly appreciated.

Very truly yours,



Arthur H. Snowden, II
Administrative Director

AHS:mp

IN THE HOUSE

HOUSE BILL NO. ____

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to seals of court; and providing for an effective date."

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

* Section 1. AS 22.05.060 is amended to read:

Sec. 22.05.060. SEALS OF COURT. The seal of the Supreme Court is a vignette of the official flag of the State with the words "Seal of the Supreme Court of the State of Alaska" surrounding the vignette. The Supreme Court shall prescribe by rule the seals of court for the Superior and District Courts.

* Sec. 2. AS 22.10.070 and AS 22.15.130 are repealed.

* Sec. 3. This Act takes effect on the day after its passage and approval or on the day it becomes law without approval.

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

HB-794
POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99801

March 13, 1974

M E M O R A N D U M

TO : Rep. Clem Tillion
FROM : Joel Bennett, Legislative Counsel
SUBJECT: Attached bill "relating to the crime of
extortion"

I have re-worked the draft version rather extensively (the changes are shown on the xeroxed draft). Some of the California revised Penal Code language on extortion (which followed the Model Penal Code also) is incorporated (also enclosed). Finally, the Model Penal Code background material is enclosed.

JB:rl
Enclosures

HB-794

February 6, 1974

The Honorable Clem Tillion
House Judiciary Chairman
Pouch V
Juneau, Alaska 99801



Dear Mr. Tillion,

In considering the new or expanding forms of crime that might be expected to accompany the construction of the Trans-Alaskan Pipeline and the attendant rapid economic growth none is more needful of prompt legislative attention than the crime of extortion.

Extortion is the grandfather of racketeering crimes. The veiled threat of harm is the glue that holds together organized crime and, in the form of shakedown, characterizes the effect of its extension into the area of legitimate business.

The rendering of illicit services such as the commerce in illegal drugs, prostitution, loansharking and gambling is often referred to as victimless crime. Unfortunately, this is far from true. The principal victimization arises not so much from the transfer of goods and services but the accompanying extortion racket.

In prostitution, the girl who unwillingly plys her trade or pays over her earnings out of fear of getting her face sliced up is a victim. The "john" who pays a blackmail price to avoid having his indiscretion exposed through the circulation of movies illicitly taken in the massage parlor or motel room is an extortion victim. The pusher of drugs who must push "or else" is an extortion victim. The gambling addict who is beaten up by collection agents is an extortion victim. Where racketeering enters legitimate business, extortion frequently accompanies its activities. The proprietor of a legitimate business who must pay arson "insurance" is an extortion victim. The businessman who must sell his business or walk in fear is an extortion victim. The list is practically endless. This is why I characterize extortion as the grandfather of racketeering crimes.

Feb. 6, 1974

Until recently, extensive concern regarding this crime in Alaska has not been justified. Vice in Alaska has been casual and relatively unorganized. Unorganized crime or crime organized as small business is considerably less harmful to the general welfare of the community than crime as big business, centrally controlled, with tentacles reaching out into all facets of community life. One need not join the debate concerning the extent to which organized crime has already infiltrated the community to note that as big legitimate business comes to Alaska, big illegitimate business is undoubtedly more attracted.

Alaska's criminal statutes, which have not seen a major updating since their adoption, are not well designed to protect the public from this kind of crime. In my opinion a workable, far-reaching extortion statute is far and away the most valuable tool we could give to Alaskan law enforcement at this time.

I have prepared for your consideration a draft addition to the criminal code establishing the crime of extortion. It is adapted from the recommended provisions of the Model Penal Code. The crime is only inferentially referred to under AS11.30.230 which relates to nonfeasance of public officers.

Under my proposed version, the crime does not require proof of a direct threat. This is seldom the mode of operation of the gangster. He is more likely to suggest that harm will come from some other source and offer his protection. It is easy to see how paper protection services could arise selling, in reality, protection from fear of the seller's underworld connections.

The adoption of new laws is no panacea in the war against crime. Nor is it a substitute for public support for well paid and well trained law enforcement, prosecution and corrections officers. However, in the absence of a well articulated law of extortion, I think I have identified a major gap in the arsenal of defenses from crime available to the public and recommend it to you for adoption.

Sincerely,


John Havelock

JH:af

cc: Honorable Tom Fink
Honorable Terry Miller

Statement of former Attorney General Havelock on HB 794. An Act relating to the crime of extortion. Before the House Judiciary Committee April 1, 1974, 3:00 P.M.

Mr. Chairman:

In considering the new or expanding forms of crime that might be expected to accompany the construction of the Trans-Alaskan Pipeline and the attendant rapid economic growth none is more needful of prompt legislative attention than the crime of extortion.

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HB-794

(Draft Cal. Revised Penal Code)

ECT

h if the thief believes
People v. Earle, 222
63).
Code Section 492.
of amounts in deter-
d thefts.

ndred dollars recognizes the
limit in Penal Code Section
nt has been retained for the
their use in the commission
ft from the person has been
on of the bovine animal, all
nal Code are omitted; these
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ne immediate use of

nd degree when:
cipal present at the
h deadly weapon; or
cipal present at the
pon a person other

of the third degree.

ons 211 through 214. It
ng the requirement of
the victim's person or
a person may be guilty
bank by means of an
manager's wife who is
vated for all principals,
cene of the robbery, it
s himself with a deadly
on any innocent person

§ 1018. *Extortion*

1018. (a) A person is guilty of extortion when he obtains property of another by means of a threat to:

- (1) Cause bodily injury to anyone, except under circumstances constituting robbery; or
- (2) Cause damage to property; or
- (3) Engage in other conduct constituting a crime; or
- (4) Accuse anyone of a crime or cause criminal charges to be instituted against him; or
- (5) Expose a secret or an asserted fact, whether true or false, tending to subject anyone to hatred, contempt, or ridicule, or to impair his credit or business repute; or
- (6) Take or withhold action as a public servant or cause a public servant to take or withhold action; or
- (7) Bring about or continue a strike, boycott, or other collective unofficial action, if the property is not demanded or received for the benefit of the group in whose interest the defendant purports to act; or
- (8) Testify or provide information or withhold testimony or information with respect to another's legal claim or defense; or
- (9) Inflict any harm which would not benefit the defendant.

(b) Extortion, as defined in paragraph (1) of subdivision (a) of this section, is a felony of the fourth degree. Otherwise, it is a felony of the fifth degree.

Comment

Section 1018 replaces a portion of Penal Code Section 518 and Sections 519 through 524. It expands the coverage of extortion to include general threats to inflict harm, but it does not proscribe legitimate economic bargaining.

§ 1020. *Unauthorized use of a vehicle*

1020. (a) A person is guilty of unauthorized use of a vehicle when he takes or operates a vehicle without the consent of the owner or of a person authorized by the owner to give consent.

(b) In a prosecution under this section, it is a defense that the person did not know that he was acting without the consent of the owner or of a person authorized to give

(original draft you sent me)

1 For an Act entitled: "An Act relating to the crime of extortion;
2 and providing for an effective date."

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

4 * Section 1. AS 11.20 is amended by adding a new section to
5 read:

6 ARTICLE ~~7~~⁴A. EXTORTION.

7 Sec. 11.20.³⁴⁵ ~~THEFT BY~~ EXTORTION. (a) A person is
8 guilty of ~~theft~~^{extortion} if he obtains ^{the} property of ^{a person} another by
9 threatening to or suggesting that ^{another person} another may

10 (1) inflict bodily injury on anyone, or commit any
11 other criminal offense; or

12 (2) accuse anyone of a criminal offense; or

13 (3) expose ^{confidential information} ~~a secret~~ tending to subject a person
14 to hatred, contempt or ridicule, or to impair his credit or
15 business repute; or

16 (4) take or withhold action as an ^{a public} official, or
17 cause an official to take or withhold action; or

18 (5) bring about or continue a strike, boycott or
19 other collective unofficial action, if the property is not
20 demanded or received for the benefit of the group in whose
21 interest the ^{person uttering the threat or suggestion} actor purports to act; or

22 (6) testify or provide information or withhold
23 testimony or information with respect to ^{a person's} ~~another's~~ legal
24 claim or defense; or

25 (7) inflict any other harm which would not benefit
26 the ^{person uttering the threat or suggestion.} actor.

(or suggestion)

4 (b) A threat^a to perform any of the harmful acts described
5 in ~~sub. (a)~~ (a) of this section includes an offer to protect
6 another from any harmful act when the offeror has no
7 apparent means to provide the protection or where the price
8 asked for rendering the protection service is grossly dis-
9 proportionate to its cost to the offeror.

10 (c) It is^a ~~an affirmative~~ defense to prosecution based
11 on (a) (2) (3) or (4) of this section that the property
12 obtained by threat of accusation, exposure, lawsuit or other
13 invocation of official action was honestly claimed as res-
14 titution or indemnification for harm done in the circumstances
15 to which the accusation, exposure, lawsuit or other official
16 action relates, or as compensation for property or lawful
17 services.

* Section 2. This Act takes effect on the day after its
passage and approval or on the day it becomes law without
approval.

Model Penal Code provision
that suggested draft came from
- Note background material -

to exclude from the possibility of theft prosecution cases such as those in which a salesman misrepresents his political or lodge affiliations. It may be desirable on other grounds to punish such falsehoods, but they are too remote from the basic concern of Article 206, which is to protect property interests. By hypothesis in the cases covered by subsection (4) the deceived person received everything that he bargained for in the way of property.

Section 206.3. Theft by Intimidation.

A person commits theft if he obtains property of another by means of a threat to:

- (1) inflict physical harm on the person threatened or any other person or on property; or
- (2) subject any person to physical confinement or restraint; or
- (3) commit any criminal offense; or
- (4) accuse any person of a criminal offense; or
- (5) expose any person to hatred, contempt or ridicule; or
- (6) harm the credit or business repute of any person; or
- (7) reveal any secret; or
- (8) take action as an official against anyone or anything, or withhold official action, or cause such action or withholding; or
- (9) bring about or continue a strike, boycott or other collective unofficial action, if the property is not demanded

or received for the benefit of the group which he purports to represent; or

(10) testify or provide information or withhold testimony or information with respect to another's legal claim or defense; or

(11) inflict any other harm which would not benefit the actor.

COMMENT

1. *General Scope.*

This section of the comprehensive definition of theft deals with situations where coercion rather than deception is the method employed to make the victim transfer his property. Related offenses in present law are designated as extortion, blackmail, demanding by menaces and robbery (excluding robberies effected by actual forceful deprivation rather than threat of force).

A threat need not be express. It is sufficient, for example, that the actor asks for money in exchange for his promise not to inflict physical harm, or in exchange for "protection" from harms where the actor intends to convey the impression that he will in some fashion instigate the harm from which he proposes to "protect" the victim. The threat may be implicit from the situation, as where a policeman while effecting an arrest asks for money and releases the prisoner from custody on receiving it. The draft covers oral as well as written threats in accordance with most current legislation in this field.

Although many jurisdictions require that the threat must be to harm the person from whom property is demanded, or members of his family, Section 206.3 covers threats to injure *anyone*, on the theory that if the threat is in fact the effective means of compelling another to give up property, the character of the relationship between the victim and the person whom he chooses to protect is im-

material. Whether related to the victim effective for that other trier of fact as a matter of law and no defendant intimidation on the chosen victim would

Section 206.3

relative pattern in must be threatened extortion. A law purpose of obtaining of accepted which ought not to persuade others to patent or trade mark to change a will, the business, to sue, to most part these an economy must toll as an incident to be adequate to deal with economic bargaining trust laws, labor would be quite in

The threatened actor may be prevent harm which he the harm to coerce the he clearly below should be applied a duty to make to arrest unless extortionate although he did not arrest

2. *Physical Harm to Person or Property.*

The restriction of subsection (1) to physical harms is to avoid application of this subsection to strikes, boycotts, threats to compete or to infringe a trade-mark, and other economic coercions which require to be dealt with specially.

3. *Physical Confinement.*

Confinement is separately specified in subsection (2) to eliminate the possibility that "physical harm" in subsection (1) might not be held to cover kidnapping or confinement in a jail or mental institution.

4. *Any Criminal Offense.*

Although this category in subsection (3) largely overlaps the preceding two subsections, it has an additional application in a situation like this: A racketeer obtains property from another racketeer by threatening to operate houses of prostitution or illegal gambling enterprises in competition with him. Threat to compete would not ordinarily come within Section 206.3 because the right to compete is one which, under some circumstances in our society, may be bargained away. However, where the competition itself would be criminal activity, there is no need to immunize a threat to engage in that activity, used for the purpose of extortion.

5. *Threat to Accuse of Crime.*

The threat to accuse another of any crime is expressly included in nearly every American extortion statute. The only source of dispute is the question of the relevance of the fact that the victim has in fact committed the crime. In a few of the jurisdictions in which the question has been raised, it has been held that actual commission is relevant, not as a complete defense, but as tending to rebut an "intent to extort" where the crime committed has damaged the

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8. *Secrets.*

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(3) largely over- has an additional racketeer obtains menacing to operate ng enterprises in te would not or- use the right to umstances in our r, where the com- there is no need activity, used for

crime is expressly on statute. The the relevance of ed the crime. In uestion has been sion is relevant, to rebut an "in- has damaged the

defendant and the property extorted appears to be reasonable reparation for the damage done. Thus, even in this minority of states, there is no question of requiring that the threat be to lodge an "unlawful" charge of crime. The actual commission of the crime to be charged bears rather on defendant's good faith claim of right to the property extorted.

6. *Threat to Defame.*

There is widespread legislative precedent for subsection (5) covering threats to expose anyone to hatred, contempt or ridicule. There is considerable variation in the wording of existing formulations, common variants being cast in terms of "exposing or publishing any infirmities or failings" and "exposing or impating any deformity or disgrace." These provisions are generalized in the Model Code in terms of the public reaction which the defendant threatens to evoke rather than the nature of the unpleasant things he threatens to say. Although the prescribed behavior is closely related to defamation, it is much broader in scope. Whereas the publication of defamation is often privileged, "selling" forbearance from defamation can never be.

7. *Threat to Credit or Business Repute.*

This class of threats, covered by subsection (6), is akin to the threat of personal defamation covered by subsection (5), but would not be reached under that subsection's formula related to "hatred, contempt or ridicule". Threats to harm credit are specifically included in a few extortion statutes.

8. *Secrets.*

Most secrets would be of the character covered by other subsections, particularly subsection (5) relating to

defamation. However, more than a quarter of the state extortion statutes include special provision for secrets, and the Model Code adopts this practice to reach non-defamation situations like the following: (1) A discloses to B in confidence that A plans to build a factory at X, requiring a large-scale land acquisition program. B threatens to reveal the information and so cause land prices to rise; (2) C, having worked in D's factory, threatens to reveal D's secret unpatented processes to D's competitors; (3) E threatens to make public disclosure that F is the adoptive rather than natural son of G and H.

9. Official Action.

The typical case covered by subsection (8) is extortion under color of office, as where an elevator inspector or tax collector threatens to report violations which might lead to large non-criminal penalties. The offense lies close to that of bribery, and the same transaction may constitute both crimes, but if the element of intimidation be present, the present section will apply. The element of intimidation also serves to distinguish this crime from provisions found among "crimes against the government" prohibiting the acceptance of gifts in connection with official conduct. A threat to bring about adverse official action may, of course, be made by one who is not himself an official.

10. Strikes; Boycotts.

Subsection (9) reaches the threat of collective unofficial sanctions where an official of a trade association or union, for example, is lining his own pocket by employing coercive power which he is supposed to wield on behalf of his organization. Where the demand is on behalf of the organization, the section does not apply even though the demand may go beyond any honest claim of right. This is because it would be unwise to subject these bargaining

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Section 206.4. Theft b
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8. Wisconsin Leg. Coun
9. Cf. the kickback stat
Sec. 96.2.

processes to serious risk of criminal sanctions, where guilt may turn on nice questions of what is a "lawful objective" of a strike.

11. *Giving or Refusing Testimony.*

A provision comparable to subsection (10) but limited to testimony in criminal cases appears in the proposed Revision of the Wisconsin Criminal Code.⁸

12. *Other Threats.*

Any particularization of criminal threats is bound to be incomplete. Subsection (11) states the general principle on which other threats are to be included within "intimidation". Examples of situations which might occur and not be covered in other subsections of Section 206.3 are: (a) the foreman in a manufacturing plant requires the workers to pay him a percentage of their wages on pain of dismissal or other employment discrimination;⁹ (b) a close friend of the purchasing agent of a great corporation obtains money from an important supplier by threatening to influence the purchasing agent to divert his business elsewhere; (c) a professor obtains property from a student by threatening to give him a failing grade.

Section 206.4. Theft by Failure to Make Required Disposition of Funds Received.

(1) In General. A person who obtains property upon agreement, or subject to a known legal obligation, to make specified payment or other disposition, whether from such property or its proceeds or from his own property in equivalent amount, commits theft if he deals with the property obtained as his own and fails to make the required payment or disposition, unless the actor proves that his

⁸ Wisconsin Leg. Council (1953 Report, Vol. V) Sec. 343.26.

⁹ Cf. the kickback statutes. 18 U.S. Code Sec. 874; N.Y. Penal Law

Alaska Retail Association

Box 1727 Anchorage, Alaska 99510

Phone: 337-2915

HB-781

March 20, 1974

President:

Doug Heiken
J. C. Penney Co., Inc.
Anchorage, Alaska

Representative Clem Tillion, Chairman
House Judiciary Committee
Assembly Annex
Juneau, Alaska 99801

Vice-President:

Dean Ehrlich
Anchorage Businessmen's
Association
Anchorage, Alaska

Re: HB 781

Dear Mr. Chairman;

Executive Director:

Donald R. Magnusson
Anchorage, Alaska

House Bill 781 introduced by the Commerce Committee is basically a rewrite of HB 95 which was passed by the House and Senate in 1973 and then vetoed by the Governor.

BOARD OF DIRECTORS

Anchorage:

John W. Walls
Barb's Florists

Representatives of the Alaska Retail Association have since been in contact with the Governor and others in the Administration in order to arrive at a solution satisfactory to all concerned.

Jack Baker
Sears, Roebuck & Co.

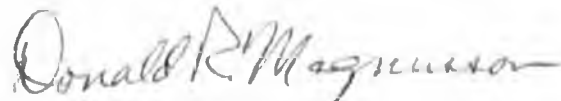
Robert Stevenson
Montgomery Ward & Co.

Vern Hitchcock
Mac's Foto Service

Howard Trombley
Safeway Stores, Inc.

On March 19, 1974, Stan Fisher, Assistant Attorney General, stated that the Administration position on HB 781 is that the Governor will allow this bill to become law if the bill is passed by the House of Representatives and the Senate without reduction of the criminal penalties as they appear in the present bill.

Sincerely,


Donald R. Magnusson
Executive Director

Fairbanks:

Paul J. Wagner
Regional V. Pres.
Borealis Book & Gift

Melba Rhody
Tip Top Chevrolet

Juneau:

Rae Stevens Hoopes
Regional V. Pres.
Stevens of Juneau

Howie Rider
Lyle's Hdwe. & Furn

Nome:

Frank A. Couch
Regional V. Pres.
Northern Commercial Co.

Homer:

Richard Inglima
Regional V. Pres.
Inglima's Supermarket

Representing the Industry in Food & Drug - Graphic Arts - Hardware & Sporting - Home Furnishings - Fashions - Jewelry, Gifts & Furriers - Fuel Dealers - Automotive - Utilities & other Related Service Industries & Professions

TESTIMONY RE: HB 576

08.68.200, 251, and 260 all indicate that the board MAY issue a license by endorsement, reinstatement or renewal IF in the opinion of the board the applicant is professionally competent.

The absence of any such provision in 08.68.270, "Grounds for denial," creates a problem for the board. They feel that they need a specific provision in 270 to support any action they may deem necessary in the denial of a license on the grounds of incompetency.

By the inclusions in 08.68.200, 251 and 260, the intent of the law is quite clear and as a housekeeping measure the proposed change would clarify the grounds for denial, suspension or revocation in section 08.68.270.



J RAY ROADY, DIRECTOR

Sec. 08.68.140. Applicability of Administrative Procedure Act. The board shall comply with the Administrative Procedure Act (AS 44.62).

Sec. 08.68.150. Expenses. Members of the board are entitled to the per diem and travel expenses allowed by law. (sec 7 ch 90 SLA 1957)

Article 2. Examination and Licensing

Section	Section
160. License required	230. Use of title and abbreviation
170. Qualifications of professional nurse applicants	240. Nurses licensed or holding temporary permits under previous law
180. Qualifications of practical nurse applicants	250. (Repealed)
190. License by examination	251. Lapsed licenses
200. License by endorsement	260. Inactive nurses
210. Temporary permits	
220. Fees	

Sec. 08.68.160. License required. A person practicing or offering to practice professional or practical nursing in the state shall submit evidence that he is qualified to practice, and shall be licensed under this chapter. (sec 1 ch 90 SLA 1957)

Sec. 08.68.170. Qualifications of professional nurse applicants. An applicant for a license to practice professional nursing shall submit to the board on forms and in the manner prescribed by the board, written evidence, verified by oath, that the applicant is of good moral character, has completed an approved four year high school course of study or the equivalent as determined by the appropriate educational agency, and has successfully completed (1) a professional nursing education program accredited by the board or; (2) a professional nursing education program outside the state which, in the opinion of the board, meets the minimum requirements of the board for an accredited program of study in this state at the time the applicant graduated; or (3) a professional nursing education program accredited by the National League for Nursing at the time the applicant graduated. (sec 8 ch 90 SLA 1957)

Sec. 08.68.180. Qualifications of practical nurse applicants. (a) An applicant for a license to practice practical nursing shall submit to the board on forms prescribed by the board written evidence, verified by oath, that the applicant is of good moral character, has completed the tenth grade or its equivalent as determined by the appropriate educational agency, is not less than 18 years of age, and has successfully completed (1) a practical nursing education program accredited by the board; or (2) a practical nursing education program outside the state which, in the opinion of the board, meets the minimum requirements of the board for an accredited program of study in this state.

(b) A qualified student of the Mt. Edgcombe School of Practical Nursing who was graduated before January 1, 1959, and had eighth grade pretraining is eligible for a license. (sec 9 ch 90 SLA 1957)

Sec. 08.68.190. License by examination. The applicant shall pass a written examination in the subjects which the board prescribes. The board shall issue a license to an applicant who passes the examination to practice professional nursing or practical nursing provided the other qualifications outlined in sections 170 and 180 of this chapter are also met. The board shall conduct examinations annually and as often as it considers necessary. (sec 10 ch 90 SLA 1957)

Sec. 08.68.200. License by endorsement. The board may issue a license by endorsement to practice professional nursing or to practice practical nursing, whichever is appropriate, to an applicant who is licensed as either a professional nurse or a practical nurse under the laws of another state, territory, or foreign country, if in the opinion of the board the applicant meets the qualifications required for licensing in the state, and meets the requirements of either section 170 or section 180 of this chapter, whichever is applicable. (sec 11 ch 90 SLA 1957; am sec 1 ch 37 SLA 1970)

Effect of amendment.-The 1970 amendment inserted "by endorsement," "to practice," and "whichever is appropriate." The amendment also inserted "either" preceding "a professional nurse," inserted "a" preceding "practical nurse," and substituted "either section 170 or section 180 of this chapter, whichever is applicable" for "sections 170 and 180 of this chapter."

Sec. 08.68.210. Temporary permits. (a) The board may issue a temporary permit, nonrenewable and valid for a period not exceeding four months, to an applicant for a license by endorsement if he

- (1) submits proof satisfactory to the board that he is currently licensed in another state, territory, or foreign country,
- (2) meets the requirements of either section 170 or section 180 of this chapter, whichever is applicable, and
- (3) pays the required fee.

(b) The board may issue a nonrenewable permit to an applicant for license by examination if he meets the qualifications of section 170 or section 180 of this chapter, whichever is applicable, and pays the required fee. The permit will be valid for a period not extending beyond the time when the results are published of the first examination the applicant is eligible to take after the permit is issued. (sec 11 ch 90 SLA 1957; am sec 2 ch 37 SLA 1970)

Effect of amendment.-The 1970 amendment inserted "by endorsement," "to practice," and "whichever is appropriate." The amendment also inserted "either" preceding "a professional nurse," inserted "a" preceding "practical nurse," and substituted "either section 170 or section 180 of this chapter, whichever is applicable" for "sections 170 and 180 of this chapter."

Sec. 08.68.220. Fees. The following fees shall be imposed under this chapter when applicable:

- (1) for professional or registered nursing

- (A) application fee.....\$20
 (B) license by examination fee..... 20
 (C) license by endorsement fee..... 20
 (D) biennial license renewal fee..... 15

(2) for practical or vocational nursing

- (A) application fee.....\$15
 (B) license by examination fee..... 15
 (C) license by endorsement fee..... 15
 (D) biennial license renewal fee..... 15

(sec 13 ch 90 SLA 1957; am sec 1 ch 80 SLA 1960; am sec 5 ch 94 SLA 1968; am sec 2 ch 81 SLA 1969; am secs 3, 4 ch 37 SLA 1970)

Effect of amendments.-The 1969 amendment rewrote this section.

The 1970 amendment substituted "endorsement" for "reciprocity" in (C) of paragraph (1) and in (C) of paragraph (2).

Sec. 08.68.230. Use of title and abbreviation. (a) A person licensed to practice professional nursing in the state may use the title "licensed professional nurse," "registered nurse," and the abbreviation "R.N."

(b) A person licensed to practice practical nursing in the state may use the title "licensed practical nurse," or "licensed vocational nurse," and the abbreviation "L.P.N." or "L.V.N." (sec 14 ch 90 SLA 1957)

Sec. 08.68.240. Nurses licensed or holding temporary permits under previous law. A person holding a license to practice professional or practical nursing in the state under prior law is considered licensed as a professional or practical nurse. (sec 15 ch 90 SLA 1957)

Sec. 08.68.250. Renewal of license.
 Repealed by sec 3 ch 81 SLA 1969.

Sec. 08.68.251. Lapsed licenses. A lapsed license may be reinstated if it has not remained lapsed for more than five years. If the license is lapsed for more than five years and the board has reason to believe that the person applying for reinstatement of his license no longer has sufficient knowledge to carry out the duties of a licensed nurse, the board may require the applicant to take and pass the examination given under section 190 of this chapter. (sec 3 ch 81 SLA 1969)

Reviser's note (1969).-
 In ch 81 SLA 1969 this section was numbered AS 08.68.250.

Sec. 08.68.260. Inactive nurses. A licensed nurse may

apply to the board of nursing to engage in the practice of nursing by submitting an application for renewal and the current biennial renewal fee to the board. If the board has reason to believe that the applicant for a renewal certificate no longer has sufficient knowledge to carry out the duties of a licensed nurse, the board may require the applicant to take and pass the examination given under section 190 of this chapter. (sec 16 ch 90 SLA 1957; am sec 2 ch 80 SLA 1960; am sec 4 ch 81 SLA 1969)

Effect of amendment.-The 1969 amendment rewrote this section.

Sec. 08.68.270. Grounds for denial, suspension or revocation. The board, after compliance with the Administrative Procedure Act (AS 44.62), may deny, suspend or revoke the license of a person who

(1) has obtained or attempted to obtain a license to practice nursing by fraud or deceit;

(2) has been convicted of a felony;

(3) has been convicted of a crime involving moral turpitude;

(4) is habitually intoxicated or is addicted to the use of narcotics;

(5) has impersonated a professional or practical nurse;

(6) is guilty, in the opinion of the board, of negligence which has resulted in serious injury to a patient;

(7) is mentally ill or mentally incompetent;

(8) is guilty of unprofessional conduct;

(9) has willfully or repeatedly violated any of the provisions of this chapter. (sec 20 ch 90 SLA 1957)

Cited in *Looge v. Martin*, C.J.S. references.-53 C.J.S. Sup. Ct. Op. No. 131 (File No. Licenses section 44; 70 C.J.S. 256), 379 P.2d 447 (1963). Physicians and Surgeons sec 16.

Article 3. Nursing Education Programs

Section	Section
280. Nursing education program prohibited unless accredited	310. Accreditation
290. Application for accreditation	320. Denial of accreditation
300. Survey and accreditation by the board	330. List of accredited programs

Sec. 08.68.280. Nursing education program prohibited un-

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

HB-511

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99801

February 6, 1974

MEMORANDUM

TO: Representative Helen M. Fischer
FROM: Stuart C. Hall, Legislative Counsel
SUBJECT: Release on Parole (HB 511)

It has come to my attention that to be effective, your bill requiring that at least one third of a sentence be served before a prisoner may be released on parole would be more effective if two other sections of AS 33.15 were amended. To amend sec. 80 and to fail to amend secs. 180 and 230(1) would result in a conflict in the statute. Accordingly, I am submitting to you for your consideration a Sponsor Substitute for HB 511 which amends these latter two sections in question to conform with the amendment to sec. 80 suggested by Judge Lewis and should resolve questions that might otherwise arise during the course of a hearing on the bill.

SCH:cb

*Same as note on
first one.*

HE-445

Legal Issues

There are two major legal issues regarding mandatory dedication of land or fees-in-lieu of land for schools and parks as a prerequisite to subdivision plat approval: (1) whether the conceived purpose of the regulation comes within the constitutional limits of the police power--the protection of health, safety and morals, or the general welfare. And, (2) whether the specific requirements are "reasonable," that is, whether they exceed the limitations on the exercise of regulatory power.³

The Constitutionality of Subdivision Exactions

Subdivision regulations requiring the mandatory dedication of land or fees-in-lieu of land as a precedent to plat approval must generally be authorized by state legislation. Several states have passed dedication and fees-in-lieu provisions statutes.⁴ One indication of the increasing interest in such legislation is the ACIR State Legislative Program for 1970⁵ in which a bill (reproduced in Appendix A) is proposed for mandatory dedication of park and school sites. In its introduction to the model draft bill, ACIR states that it is now generally recognized that land for open space, park and recreation areas, and school sites is a vital feature of sound subdivision design. Providing land is as necessary as is providing common physical facilities, such as streets and sewers.

California has one of the finest examples of state enabling legislation in the Quimby Act (AB 1150 of Chapter 1809). This section reads as follows:

Section 1. Section 11510 of the Business and Professions Code is amended to read:

11510. "Design." Refers to street alignment, grades and widths, alignments and widths of easements and rights-of-way for drain-

³Ibid., p. 1122.

⁴A Kansas -- Ark. Stat. Ann. 19-2829 (Supp. 1959); Washington -- Wash. Rev. Code 58. 16.120 (1951); Minnesota -- Minn. Stat. Secs. 462. 351-462.363 (1955); California -- Business and Professions Code section 11546, Ab 1150, chapter 1809 (1955); New York -- Section 277, Town Law, Section 179-1, Village Law, Section 33, General City Law; Hawaii (proposed) S.B. No. 282 (1966). ASPO did not survey states concerning enabling legislation for subdivision dedication and/or fees-in-lieu requirements and does not contend that this list is complete.

⁵Advisory Commission on Intergovernmental Relations, ACIR State Legislative Program: New Proposals for 1970. (Washington, D.C.: Advisory Commission on Intergovernmental Relations, 1969) p. 31-37-69, 1.

In New York and Wisconsin, where enabling legislation neither specifically authorizes nor forbids a municipality to require park land and school site dedication or fees-in-lieu, such provisions have been upheld in principle in the courts.⁷ It is when enabling legislation neither expressly permits nor prohibits the requirements for dedication or fees-in-lieu of dedication of land as a precedent to plat approval that there is a problem for municipalities that desire to use such requirements.

The courts are far from a consensus on the constitutionality of requiring dedications as a condition to subdivision approval. Also, few courts have been very precise in identifying the constitutional principles that underlie their decisions. Because the courts have depended far more on the general welfare aim of the police power doctrine than strictly on the nuisance doctrine,⁸ the weight of court opinion recently has shifted to express approval of subdivision exactions.

Common subdivision exactions, such as the dedication of streets, are designed to minimize the impact of the subdivision on the municipality and are supported by the general welfare aim of police power. The arguments used to support these requirements, such as access for fire and police protection and the need for rational street plans, have been uniformly accepted by the courts in upholding these requirements.⁹ In the two leading cases on the question, Ayres v. City Council of Los Angeles and Brous v. Smith, one judgment is clearly identifiable. A landowner or developer can be required to pay for improvements which are generated by his use of the land whether or not the community is also benefited by the expenditure.¹⁰ It is the obligation of the subdivider to "comply with reasonable conditions for design, dedication, improvement, and restrictive use of the land so as to conform to the safety and general welfare of the lot owners in the subdivision and of the public."¹¹

⁷Jenad, Inc. v. Village of Scarsdale, 18 N.Y.2d 73, 721 N.Y.S.2d 955 (1956), reversing 256 N.Y.S.2d 777 (S.Y. 1955); Jordan v. Village of Menomonee Falls, 137 N.W.2d 442 (Wis. 1965).

⁸Heyman and Gilhool, "The Constitutionality of Imposing Increased Community Costs," p. 1123.

⁹Ibid., p. 1130.

¹⁰Ibid., p. 1132.

¹¹Although the Ayres case actually ruled against the dedication requirements, the court's broad ruling has been interpreted to uphold such a requirement when the enabling legislation did not directly provide for such dedication. See S. Roy Woodall, Jr. "Mandatory Dedication of Playgrounds and Parks in Residential Subdivision," Kentucky Law Journal, Vol. 50 (1962), 614.

PARK DEDICATION ACT - HB 475

Purpose:

Permits local governments to enact ordinances to require dedication of park land or make payments in lieu of dedications in connection with subdivision approvals. Does not require local governments to adopt ordinances on subject.

Precedent:

Developers are now required to dedicate streets, sidewalks and utility rights of way as a condition to plat approval.

Application:

Primarily in more dense urbanizing areas such as ~~Manly Valley~~ ^{General Woods} in Anchorage and Island Homes in Fairbanks. A park dedication policy in Fairbanks in the 1950's would have probably resulted in one or two lots being set aside as a neighborhood playground or park in Island Homes, Fairbanks.

Usual Ordinance Format:

Most California local governments (counties and cities) have adopted park dedication ordinances since enactment of 1967 Act authorizing them to do so. Walnut Creek in the San Francisco Bay Area has a particularly good program having saved many creeks (as linear parks and green belts) from destruction and having created numerous small neighborhood parks and playgrounds in newly developing subdivisions. General policy is to require little or no dedications or payments for large lot (one acre and larger) subdivisions and greater dedications per dwelling unit for more dense subdivisions, e.g. townhouse-condominium projects with density over 10 units to an acre. However, this must be left to

local governments as there may be a clear cut need for neighborhood parks and playgrounds in an area such as O'Malley Road and Birch Road in Anchorage (strong local demand for a neighborhood park in an area now used by children next to O'Malley School) .

There may be no land suitable for development as parkland in a proposed subdivision in which case in-lieu fees would be paid to develop parks nearby .

Benefits:

More attractive and livable subdivisions. Subdivisions with no provision for play areas and parks are hostile to children. Sometimes creeks, swales, hills and other attractive but hard to develop areas are dedicated to the benefit of the developer and the homeowner alike. Trails can be built along creeks for recreation and to get children to school without using roads. This has been done throughout Fremont, California, a rapidly growing blue collar community in the San Francisco Bay Area (population of about 100,000) .

Cost:

The costs are negligible to a responsible developer as he will make provision for parks and playgrounds in any event, just as he will comply with building codes. In practice a park dedication ordinance does not appreciably increase costs of housing per unit.

Judiciary Committee Report

on

HOUSE BILL NO. 175 and HOUSE BILL NO. 176

The House Judiciary Committee has had before it House Bill No. 175, which establishes a narcotics and dangerous drugs enforcement unit in the division of state troopers, and House Bill No. 176, which appropriates \$500,000 to the Department of Public Safety to fund the new unit for the fiscal year ending June 30, 1974. The committee has adopted committee substitutes for both bills. CSHB 175 changes the unit established in the division of state troopers to the narcotic drugs enforcement unit and CSHB 176 lowers the appropriation for the unit to \$350,000.

The committee has heard testimony on both bills from the Department of Public Safety. From this testimony and other committee discussion, it is the understanding of the committee that the intent of these two bills is to provide manpower and funding to curtail the traffic in narcotic drugs by cutting off the shipment and sale of narcotic drugs in the state.

From this testimony and committee discussions, it was concluded that creation of a narcotic drugs enforcement unit is in the public interest and would provide needed assistance in halting the wholesale importation and distribution of narcotic drugs. Creation of the new unit would not curtail or interfere with the routine policing of the use of dangerous drugs, but would give the Commissioner of Public Safety an additional tool to prohibit the flow of narcotic drugs to, from, and through the state.

The intent of the committee is to restrict the use of these funds to prevent the introduction of narcotic drugs into Alaska. The words "dangerous drugs" are omitted to insure that the funds are not to be used in the routine enforcement of dangerous drugs laws, such as those pertaining to marijuana, amphetamines, and others.

The Judiciary Committee is also sponsoring a bill which addresses itself to the areas of drug use prevention and rehabilitation. If the law enforcement program as proposed in CSHB No. 175 is successful, a significant number of addicts will be apprehended and in need of maintenance and rehabilitation programs. This will be an additional number to those who are already known to be in need of these services. The introduction of this measure will assure a more comprehensive approach to crime prevention.

Clem Tillion
Clem Tillion, Chairman
House Judiciary Committee

HB-175 + 176

STATE
of ALASKA

HB 1-39
130

MEMORANDUM

Bob HARTIG

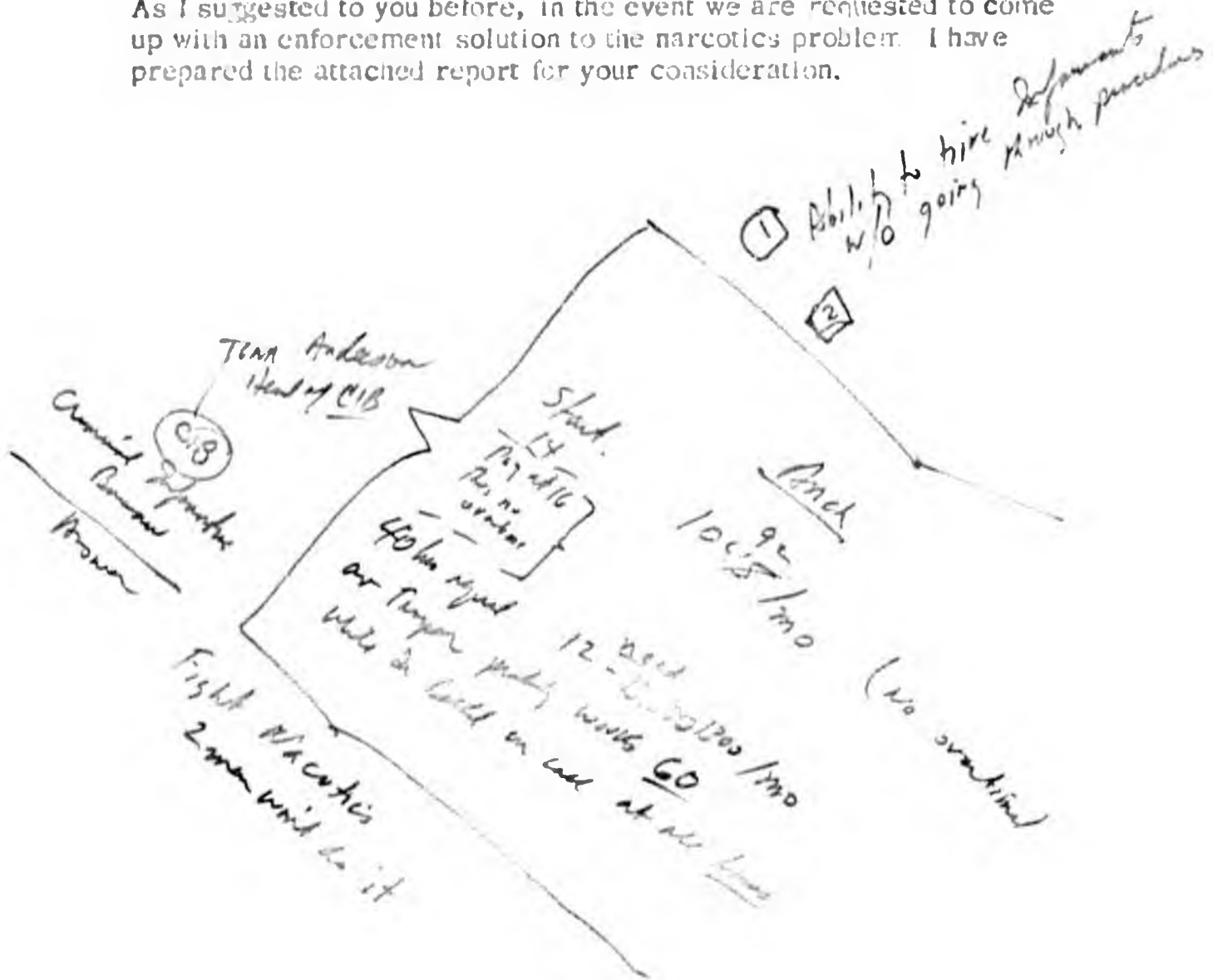
TO: Commissioner E. W. Chaple, Jr.
Department of Public Safety
Juneau

DATE: November 1, 1972

FROM: Colonel M. E. Dankworth
Director
Division of State Troopers

SUBJECT: Drug Enforcement Program
Proposal

As I suggested to you before, in the event we are requested to come up with an enforcement solution to the narcotics problem. I have prepared the attached report for your consideration.



STATE
of ALASKA

MEMORANDUM

TO:

Commissioner E. W. Chapple, Jr.
Department of Public Safety
Juneau

DATE: October 25, 1972

FROM:

Colonel M. E. Dankworth *MD*
Director
Alaska State Troopers

SUBJECT: Drug Enforcement Program Proposal

Pursuant to my discussion with you concerning what I think would be an effective program in combating narcotics in the State, I submit the attached. I am probably a little bit excessive in my estimates on lab services and buy money, however we could not afford to implement a program and then run out of funds for these two essential elements.

This program is designed to be compatible with an LEAA project if opportunity arises. It is, in my judgment, essential that we come up with a satisfactory program (as the one I am submitting) rather than doing nothing or making any proposal just because the City of Anchorage could eliminate our participation in LEAA funds by refusing to participate.

I am completely confident that with the attached program we could be very effective in curtailing drugs in the State.

DRUG ENFORCEMENT PROGRAM

Statement of Problem

Illegal drugs are coming into Alaska every day by means of vehicle, airplane, boat and on the person of individuals. These drugs are being distributed to every city and village in Alaska where levels of law enforcement vary from fair to no enforcement at all. The State Troopers have statewide jurisdiction but lack "buy money", undercover operatives and drug abuse investigators. The local jurisdictions have the same problem, along with jurisdictional problems and communication problems between agencies. In the major cities, particularly Anchorage and Fairbanks, there are numerous addicts and though records of arrests do not give a total drug abuse picture, they indicate the problem is severe.

Enforcement efforts throughout the state are spotty at best. From time to time a good undercover operative will be developed by one jurisdiction but due to a lack of exchange policy, personnel rules and lack of funds this undercover operative is generally used only in one area. The fact is, if the agencies were coordinated and staffed and funded to handle this operative, he could be utilized statewide to great advantage.

The problem is greater and more far reaching than just drug abuse violations themselves. Other crimes such as robbery, larceny, burglary are on the upswing and a great percentage of these crimes can be traced directly to drug motivations. It has been estimated that approximately two million dollars worth of property is stolen annually in Alaska by persons attempting to support their drug habits.

Studies in the Anchorage area indicate there has been a definite increase in the use of opiates in the school system. It is strongly felt that this increase in Anchorage represents a parallel increase throughout the state. The increase of cost of illegal drugs also compounds the problem. Approximately two years ago the cost of a kilo of marijuana was between \$150 - \$180.00. At the present time the street value is \$200.00+/pound, \$40.00/kilo. Corresponding the price of cocaine and heroin has risen to the point that the smallest amount one can purchase on the streets at the present time is a \$25.00 balloon and generally speaking \$50.00 is a small purchase. The normal slip at this time is going for approximately \$100.00. Along with this is the experience we have had in past drug cases in court where the defense brings up the fact that if a suspect is arrested with small amounts, or even if the suspect sells a sample amount to an undercover officer, this is indicative of a user rather than a pusher. The fact is, to make a good

sound case on a narcotic pusher, it is necessary to purchase large quantities to convince the court and override the defense that the pusher is in fact a pusher. This of course makes drug enforcement a very expensive business.

A successful drug enforcement program in Alaska must have a statewide emphasis and direction. The drug violator must feel equal amounts of enforcement pressure in whatever location of the state he is in, and all agencies both state and local must have adequate support in funding and information sharing.

Objective of the Program

To form a statewide drug enforcement unit within the Criminal Investigation Bureau is the prime objective. This unit would be composed of a supervisor, six investigators and five undercover operatives. Following is the breakdown of assigned locations and responsibilities of these individuals on a proposed basis.

1. The supervisor, in conjunction with the CIB commander, would coordinate the hiring and movement of undercover operatives, the movement of statewide drug intelligence and the everyday supervision of the enforcement effort. Specific attention would be paid to coordination with the various local agencies throughout the state to make sure that a joint enforcement effort is applied throughout the state.
2. Three investigators, one of which would be the marijuana dog handler, would be assigned in Anchorage, along with two undercover operatives. It would be the primary responsibility of these investigators to work with the City of Anchorage and the federal Bureau of Narcotics and Dangerous Drugs to suppress drugs in the Anchorage area. The primary point of emphasis would be the Anchorage International Airport.
3. One investigator and one undercover operative would be assigned to the Fairbanks area. The responsibility would be to work closely with the Fairbanks Police Department to suppress drug abuse violations in the Fairbanks area.
4. Two investigators and two undercover operatives would be assigned to Anchorage with a statewide responsibility. As the need should arise they would set up an undercover operation in detachment areas or upon request in small communities throughout the state. The continuous

movement of these investigators and undercover operatives will keep the enforcement pressure on the criminal in all corners of the state.

(It is important that on all undercover operations the undercover officer be covered by a drug abuse investigator. This cover officer will coordinate, corroborate and substantiate those statements of the undercover officer, along with providing cover and support for the operative. The cover officer will assist in the identification of persons with whom the operative does business, keeping in daily contact and making the necessary reports that make a successful case.)

The objective would be to increase the enforcement pressure at all points of entry into Alaska, to make available investigator and undercover operatives to all areas of the state in a coordinated effort. This will equalize enforcement pressure and centralize drug intelligence statewide.

The overall objective will be to reduce and control illegal drugs within the state.

(See attached "Projected Expense (Budget)")

Description of Implementation and Expected Results

This enforcement program will give the support needed to promote and operate a statewide enforcement effort within the framework of the CIB. Presently the CIB has drug investigators; but, due to the aforementioned problems, does not have a really effective and coordinated drug enforcement program.

To be effective on a statewide basis, agencies must cooperate fully and quite frankly at the present time most agencies do not. With this proposed program, the State would be in a position to offer assistance to local agencies both in manpower and money. This would force cooperation in a unified enforcement effort.

One specific problem will have to be resolved, and that is the personnel rules in hiring undercover operatives. The budgeted expense in the attached projected expense section catalogs the position as a trooper in "A" step. This is for pay purposes only, due to the fact that a good undercover operative does not generally meet trooper job requirements. Additionally it is impossible to comply with existing personnel rules if a truly

Drug Enforcemei. Program
10-19-72

Page 4

professional undercover operative is to be hired and if the necessary confidentiality is to be maintained.

The overall accomplishment of the program is expected to be a strong, equalized enforcement effort throughout the state, which in turn should reduce substantially drug violations within the State of Alaska.

PROJECTED EXPENSE (BUDGET)

A. Salaries and Wages (Object Code - 100)

<u>Position</u>	<u>Monthly</u>	<u>Annual</u>
(1) Supervisor (Anch - Range 18 step C)	\$1362.00	\$16,344.00
(1) Trooper (Fbx - Range 16 step C)	1313.00	15,756.00
* (5) Trooper (Anch - Range 16 step C)	1176.00	70,560.00
(5) Trooper (Anch - Range 16 step A)	1092.00	65,520.00
Undercover Officers		
(1) Clerk Typist III (Anch - Range 8 step C)	652.00	7,824.00

* NOTE: Three trooper positions presently are in CIB assigned to drugs investigations.

Sub Total \$176,004.00

B. Travel and Per Diem (Object Code - 200)

\$30.00 per day per diem for 2 investigators and 2 undercover officers for 180 days per person, plus 13 days per diem for supervisor... \$21,990.00

Travel for supervisor, investigators, and undercover officers within state (average \$200 per trip) 16 trips... 3,200.00

Travel for supervisor to lower 48 for coordination and intelligence with other law enforcement agencies - 2 trips... 600.00

Sub Total \$ 25,790.00

C. Consultants and Contractual Services (Object Code 300)

Car Rental - 2 cars Anch @ \$200/month, 12¢/mile (500 miles/month)
1 car Fbx @ \$225/month, 14¢/mile (500 miles/month) 1 car
statewide @ \$225.00/month, 14¢/mile... \$14,120.00

Lab Service, 1000 tests @ \$28.00 per test... \$28,000.00

Test Kits @ \$28.00 per refill (20 kits, 2 refills per year for CIB and local Departments test kits).... \$ 1,120.00

Sub Total \$ 43,240.00

D. Supplies and Operating Expenses (Object Code 400)

* Buy money for drugs for 13 undercover officers for twelve months.... \$30,000.00

Communications (telephone).... \$ 600.00

Marijuana Dog Expense 600.00

Sub Total \$ 31,200.00

* NOTE: Existing budget has x amount set aside in this area.

GRAND TOTAL \$276,334.00

STATE OF ALASKA

HB-157

WILLIAM A. EGAN, GOVERNOR

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

POUCH B — JUNEAU 99801

March 12, 1973

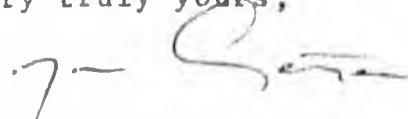
The Honorable Charles Degnan
Alaska State House of Representatives
Pouch V - State Capitol Building
Juneau, Alaska 99801

Dear Representative Degnan:

In accordance with your request of March 7, 1973, please find enclosed a completed fiscal analysis for House Bill 157.

As requested, we have based our analysis on Fiscal Year 1973 total approved entitlements determined under the present provisions of AS 43.18.010. We have also not attempted to project the cost of this amendment into Fiscal Year 1974 or beyond.

Very truly yours,



Don Argetsinger, Director
Administrative Services

DA:pat

Enclosure

EFFECT OF HOUSE BILL 157

ELECTION DISTRICTS

FY 73 ENTITLEMENT

(1) 1, 7 or 8 - 100.0

(8)	Anchorage Borough	\$2,120,242		
(1)	Ketchikan Borough	123,568		
(7)	Matanuska-Susitna Borough	98,492		
(8)	Anchorage (City of)	1,596,165		
(1)	Craig	13,398		
(8)	Girdwood	6,990		
(8)	Glen Alps	11,475		
(7)	Houston	375		
(1)	Hydaburg	11,630		
(1)	Ketchikan (City of)	201,025		
(1)	Klawock	3,632		
(7)	Palmer	51,195		
(1)	Saxman	1,710		
		<u>\$4,239,897</u>	HB 157 COST-OF-LIVING DIFFERENTIAL	COST of HB 157
			<u>\$4,239,897</u>	<u>-0-</u>

(2) 2 or 9 - 103.8

(?)	Kake	\$ 14,432		
(2)	Petersburg	86,075		
(9)	Seward	68,150		
(2)	Wrangell	79,210		
		<u>\$ 247,867</u>	HB 157 COST-OF-LIVING DIFFERENTIAL	COST of HB 157
			<u>\$ 257,286</u>	<u>\$ 9,419</u>

ELECTION DISTRICTSFY 73 ENTITLEMENT(3) 3, 4, 5E or 16S - 107.5

(16S) Fairbanks Borough	\$ 680,886		
(4) Juneau Borough	577,958		
(3) Sitka Borough	179,528		
(3) Angoon	16,000		
(16S) Delta Junction	19,290		
(16S) Eagle	3,405		
(16S) Fairbanks (City of)	529,420		
(5E) Haines (City of)	41,341		
(5E) Hoonah	11,220		
(16S) North Pole	12,746		
(5E) Pelican	6,300		
(5E) Skagway	33,175		
(3) Tenakee Springs	3,304		
	<u>\$2,114,573</u>	HB 157 COST-OF-LIVING DIFFERENTIAL	COST of HB 157
		<u>\$2,273,166</u>	<u>\$ 158,593</u>

(4) 10 or 11 - 111.5

(10) Kenai Borough	\$ 248,844		
(11) Kodiak Borough	49,014		
(10) Homer	41,961		
(10) Kenai (City of)	136,545		
(11) Kodiak (City of)	116,125		
(11) Old Harbor	11,575		
(11) Ouzinkie	3,126		
(11) Port Lions	14,290		
(10) Seldovia	18,890		
(10) Soldotna	56,619		
	<u>\$ 696,989</u>	HB 157 COST-OF-LIVING DIFFERENTIAL	COST of HB 157
		<u>\$ 777,143</u>	<u>\$ 80,154</u>

ELECTION DISTRICTSFY 73 ENTITLEMENT(5) 6 or 15 (Nenana only) - 115.8

(6)	Cordova	75,899		
(15)	Nenana	21,135		
(6)	Valdez	38,142		
(6)	Whittier	18,382		
		<u>\$ 153,558</u>	HB 157 COST-OF-LIVING DIFFERENTIAL	COST of HB 157
			<u>\$ 177,820</u>	<u>\$ 24,262</u>

(6) 5W or 12 - 120.0

(12)	Aleut Comm. of St. Paul	\$ 7,000		
(12)	King Cove	8,811		
(12)	Sand Point	17,350		
(12)	Unalaska	71,830		
(5W)	Yakutat	454		
		<u>\$ 105,445</u>	HB 157 COST-OF-LIVING DIFFERENTIAL	COST of HB 157
			<u>\$ 126,534</u>	<u>\$ 21,089</u>

(7) 18 - 124.7

(18)	Brevig Mission	\$ 4,000
(18)	Diomedede	450
(18)	Elim	1,690
(18)	Gambell	12,800
(18)	Golovin	1,730
(18)	Koyuk	5,830
(18)	Nome	114,618
(18)	Saint Michael	6,170
(18)	Savoonga	10,200
(18)	Shaktoolik	7,650
(18)	Shismaref	4,235
(18)	Stebbins	5,505

ELECTION DISTRICTSFY 73 ENTITLEMENT(7) 18 - 124.7 (cont.)

(18) Teller	\$	7,315		
(18) Wales		1,725	HB 157	COST
(18) White Mountain		3,000	COST-OF-LIVING	of
			DIFFERENTIAL	HB 157
	\$	<u>186,918</u>	\$ 233,087	\$ <u>46,169</u>

(8) 13 or 15 (except Nenana) - 129.4

(13) Bristol Bay Borough	\$	19,499		
(15) Aniak		3,075		
(15) Anderson		15,980		
(15) Anvik		1,915		
(13) Dillingham		29,250		
(15) Galena		8,470		
(15) Grayling		2,505		
(15) Holy Cross		14,532		
(15) Huslia		20,100		
(15) Kaltag		2,170		
(15) Lower Kalskag		1,950		
(13) Manokotak		9,060		
(13) Nondalton		7,672		
(15) Nulato		7,665		
(15) Shageluk		7,605		
(15) Tanana		10,950	HB 157	COST
(13) Togiak		3,830	COST-OF-LIVING	of
	\$	<u>166,228</u>	DIFFERENTIAL	HB 157
			\$ 215,099	\$ <u>48,871</u>

(9) 17 - 134.2

(17) Ambler	\$	11,099		
(17) Anaktuvuk Pass		625		

ELECTION DISTRICTSFY 73 ENTITLEMENT(9) 17 - 134.2 (cont.)

(17) Barrow	\$ 50,754		
(17) Buckland	1,875		
(17) Deering	2,125		
(17) Kiana	9,840		
(17) Kivalina	2,910		
(17) Kotzebue	69,325		
(17) Noorvik	9,480		
(17) Point Hope	9,700		
(17) Selawik	6,915		
(17) Shungnak	1,650		
(17) Wainwright	5,460		
	<u>\$ 181,758</u>	HB 157 COST-OF-LIVING DIFFERENTIAL	COST of HB 157
		<u>\$ 243,919</u>	<u>\$ 62,161</u>

(10) 14, 16N or 19 - 139.3

(14) Akiak	\$ 5,970
(14) Akolmiut	14,520
(19) Alakanuk	16,350
(14) Bethel	104,982
(19) Chevak	4,470
(14) Eek	6,820
(19) Emmonak	11,860
(19) Fortuna Ledge	15,125
(16N) Fort Yukon	23,615
(14) Goodnews Bay	9,700
(19) Hooper Bay	11,340
(16N) Kaktovik	3,020

ELECTION DISTRICTSFY 73 ENTITLEMENT(10) 14, 16N or 19 - 139.3 (cont.)

(19) Kotlik	\$ 7,915		
(14) Mekoryuk	10,916		
(19) Mountain Village	19,534		
(14) Napakiak	7,185		
(19) Pilot Station	10,617		
(19) Russian Mission	7,465		
(19) Saint Mary's	29,863		
(19) Scammon Bay	1,660		
(14) Toksook Bay	8,350		
(14) Tuluksak	8,270		
	<u>\$ 339,547</u>	HB 157 COST-OF-LIVING DIFFERENTIAL <u>\$ 472,989</u>	COST of HB 157 <u>\$ 133,442</u>

TOTALSELECTION DISTRICTSFY 73 ENTITLEMENTHB 157
COST-OF-LIVING
DIFFERENTIALCOST
of
HB 157

1, 7 or 8 - 100.0	\$4,239,897	\$4,239,897	\$ -0-
2 or 9 - 103.8	247,867	257,286	9,419
3, 4, 5E or 16S - 107.5	2,114,573	2,273,166	158,593
10 or 11 - 111.5	696,989	777,143	80,154
6 or 15 (Nenana only) - 115.8	153,558	177,820	24,262
5W or 12 - 120.0	105,445	126,534	21,089
18 - 124.7	186,918	233,087	46,169
13 or 15 (except Nenana) - 129.4	166,228	215,099	48,871
17 - 134.2	181,758	243,919	62,161
14, 16N or 19 - 139.3	339,547	472,989	133,442
	<u>\$8,432,780</u>	<u>\$9,016,940</u>	<u>\$ 584,160</u>

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

HB-335

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99801

March 12, 1974

MEMORANDUM

TO: Members of the House Judiciary Committee
FROM: Randolph Berry, Legislative Counsel
SUBJECT: Validity of Alien Land Ownership Restrictions

The original common law rule with regard to alien ownership of real property was that an alien could acquire land by grant or devise (e.g., purchase), but land would not pass to an alien by inheritance or descent. In 1880, the United States Supreme Court stated that the right of aliens to own real property within a state was determined by the law of that state, and that the state was free to change the common law rule so long as it did not conflict with federal law or a treaty between the United States and a foreign nation. (Hauenstein v. Lynham, 100 U.S. 628)

In 1913, California enacted its Alien Land Law which permitted aliens eligible for citizenship to acquire, own, possess, transmit and inherit real property in the same manner and to the same extent as citizens of the United States, but prohibited aliens ineligible for citizenship from acquiring ownership of or other rights in real property except as prescribed by treaty between the United States and the nation or country of which the alien was a citizen or subject. (Under the 1913 version of the law ineligible aliens were permitted to lease land for agricultural purposes, but this provision was deleted in 1920.) The California law was directed particularly at Japanese and other Orientals, since at that time the only aliens eligible to become U. S. citizens were free white persons and persons of African nativity or descent. The law provided that property acquired in violation of the law or through a transaction intended to evade the law was subject to escheat to the state, and that persons conspiring to violate the provisions of the law were subject to criminal liability. The law also created certain presumptions of intent to evade the restrictions where real property was paid for by an alien and the ownership granted to a citizen.

Members of the House Judiciary Committee
March 12, 1974
Page 2

Other Pacific Coast states enacted similar alien land laws patterned closely after the California act. Since the treaty between the United States and Japan only provided for the ownership of land by Japanese nationals for purposes of trade and commerce, and not agriculture, these laws uniformly prohibited Japanese from owning or leasing land for agricultural purposes.

In a series of decisions in 1923, the Supreme Court upheld the alien land laws and the states' power, in the absence of contrary treaty provisions, to prohibit the ownership of land by aliens who have not declared their intention to become citizens. The court indicated that it considered that a state has a sufficient special interest in the ownership of land within its borders to justify classification on the basis of alienage in this instance and satisfy the equal protection clause of the Fourteenth Amendment. (Terrace v. Thompson, 263 U.S. 197; Porterfield v. Webb, 263 U.S. 225; Webb v. O'Brien, 263 U. S. 313; Frick v. Webb, 263 U.S. 326.)

The most recent decision by the Supreme Court involving the alien land laws was in 1948 in Oyama v. California, 332 U.S. 633. In that case, the court held unconstitutional, as a violation of the equal protection clause, the presumption against validity of real estate transfers paid for by an alien, where that presumption was applied to invalidate ownership by a citizen child of land paid for by his alien father. (The court stated that the discrimination against a citizen child based solely on the basis of his alien parentage which resulted in depriving the citizen of his property could not be justified under the equal protection clause when there was no actual evidence of intent or conspiracy on the part of the child to evade the law.) The majority decision did not reach the question of the constitutionality of the California alien land law itself; however, in two separate concurring opinions four justices indicated their view that the alien land law violated the equal protection clause and should be invalidated.

Although I found no further U. S. Supreme Court cases since Oyama, supra specifically dealing with alien land ownership restrictions, there have been several cases involving other restrictions by states on the rights of aliens. (Takahashi v. Fish & Game Commission, 334 U.S. 410 (1948); Graham v. Richardson, 403 U.S. 365 (1971); Sugarman v. Dougall, 413 U.S. 634 (1973); Application of Griffiths, 413 U.S. 717 (1973)) In these cases the court has expanded the protection of aliens under the equal protection clause and narrowed the scope of the special public interest doctrine which was the basis for its decisions in the alien land ownership cases.

Members of the House Judiciary Committee
March 12, 1974
Page 3

In Graham v. Richardson, a case dealing with restrictions on alien eligibility for welfare and public assistance, the court stated:

"Under traditional equal protection principles, a State retains broad discretion to classify as long as its classification has a reasonable basis.... But the court's decisions have established that classifications based on alienage, like those based on nationality or race, are inherently suspect and subject to close judicial scrutiny. Aliens as a class are a prime example of a 'discrete and insular' minority. . . for whom such heightened judicial solicitude is appropriate. Accordingly, it was said in Takahashi that, . . . 'the power of a state to apply its laws exclusively to its alien inhabitants as a class is confined within narrow limits.' " [citations omitted]

By inherence, the court cast doubt on its willingness to any longer uphold the special public interest doctrine:

". . . the special public interest doctrine was heavily grounded on the notion that '[w]hatever is a privilege rather than a right, may be made dependent upon citizenship.' . . . But this Court now has rejected the concept that constitutional rights turn upon whether a governmental benefit is characterized as a 'right' or as a 'privilege.' "

So for the constitutionality of HB No. 335, although the U. S. Supreme Court has not to date overruled its earlier decisions that legislation restricting ownership of real property by aliens is within the legitimate bounds of state authority, in my opinion the court is moving steadily in that direction and would likely do so if it is again presented with the question. In the period since the Oyama and Takahashi decisions, there have been several state court decisions in other states invalidating alien land laws, and there has been a general movement away from alien land ownership restrictions.

One distinction between HB No. 335 and the alien land laws considered in the above-discussed decisions is that HB No. 335 is directed at nonresident aliens, while the California and other similar legislation applied to resident aliens. The decisions under the equal protection clause generally speak to resident or "lawfully admitted" aliens. It is possible that a court would be persuaded that a state has a greater special public interest in seeing land within the state owned by citizens and resident aliens who would be subject to jurisdiction of U. S. courts and consequently HB No. 335 may have a greater chance of survival than restrictions aimed at resident aliens.

Members of the House Judiciary Committee
March 12, 1974
Page 4

However, it seems likely that contact with the state through the ownership of land in the state and presence or submission by aliens to the jurisdiction of court for purposes of challenging the act would be sufficient to bring him within the coverage of the equal protection clause.

It should also be noted that sec. 1, art. I of the Constitution of the State of Alaska, which contains the state's version of the equal protection clause, applies to "all persons", making no distinctions between citizens, aliens, residents or non-residents.

RB:cb

HB 328

2/18/74

It is an unfortunate fact of American governmental life that we have come to believe that "reorganization" will bring the solution to all of our ~~urban~~ problems. The exact opposite is frequently the case ... in addition to the same woes we are trying to cure, we find ourselves with a ~~mountain~~ piece of clanking bureaucracy that sets up an entirely new hierarchy of political and functional difficulties that must be addressed by legislative ^{and} administrative agencies as well as the long-suffering public.

No one would deny that we have transportation problems in Alaska, nor that they are serious and vexing issues. Anchorage, Fairbanks and Juneau honestly need improved urban, suburban and commuter public transportation facilities. Bethel, Dillingham, Nome, Kotzebue and Barrow need improved air service as well as a viable system linking them more conveniently with the bush communities that they serve. The Seward Peninsula needs an internal surface transport system and a deep-draft port if the people of that area are to reap the benefits of the vast storehouse.

of mineral and energy resources with which that remote region has been so richly blessed. I could go on at length regarding the needs of the several regions of our vast state, but I am sure that I am not telling you anything that is new or startling to you.

Nor ~~am~~ I revealing anything extraordinary when I cite some of the constraints that have traditionally made conventional transportation planning techniques inapplicable in Alaska ... ~~these~~ matters like rugged topography, swamps, permafrost, heavy snowfall, high winds and so on and so forth.

Transportation is inextricably linked with land use, which, in turn, is dependent on a number of ~~interrelated~~ factors which are particularly fluid in Alaska at this time. The Native Claims Settlement Act with its many ramifications of "deficiency" selections, Village withdrawals, and the controversial (d)(2) or National Interest lands has precluded ~~the~~ logical land use planning, and has ~~substantially~~ made land status ~~the~~ critical as a prime determinant of future land use. The social and cultural mores of many of the

(3)

Native people ~~had~~ as well as the economic need to harvest fish & game resources on a subsistence basis have ~~had~~ generated opposition to certain surface routes... notably those that could connect remote areas to urban centers, ~~had~~ thereby generating traffic and sports hunters competing for scarce game and fish. Yet, failure to reserve transportation corridors (particularly through federally ~~withdrawn~~ withdrawals) may forever foreclose the provision of needed transportation routes, and thus seriously limit the options available to the Natives as new and extensive landowners.

Quotes from (d)(2) testimony X

TP/R Gov's "Rep" to N.T.N.S - '72

" " " " N.T.S. - '74

Coordinate the planning efforts of H'ways, Div. Aviation, Div. Marine Trans, and the Planning agencies of Ale. Pop, Inu. & Ketch. into a multi-modal comp'n's' presentation of Alaska's transportation picture to the US DOT.

2. strong cabinet-level "advocates"... no advantage, perhaps many disadvantages in

④

setting up a super-agency and a
super-commissioner

Mr. Eppanbach

HR-253

investment is insured by the federal government or an agency of the federal government; (6) deposits with state and national banks in Alaska to the extent that the investment is insured by the federal government or an agency of the federal government; (7) loans guaranteed by the division of veterans' affairs under AS 26.15.040(b); (8) (deleted) (AND) (9) the guaranteed portion of Small Business Administration loans; (10) first lien real estate mortgages guaranteed by the federal Veterans Administration; (11) notes secured by mortgages of commercial or residential real estate or other security if the mortgages are insured by a corporation which is authorized to do business in Alaska and has combined capital, surplus and reserves aggregating at least \$20,000,000; (12) conventional residential mortgages if the originating financial institution retains at least 25 per cent of the mortgage for a minimum of two years; (13) notes secured by mortgages of commercial real estate if the originating financial institution retains at least 25 per cent of the mortgage; (14) FIA guaranteed portion of business and industrial loans made under the Rural Development Act of 1972; (15) guaranteed portion of loans made under the Federal Ship Financing Act of 1972. No more than 25 per cent of the surplus may be invested in mortgage securities of the Department of Commerce, and the state shall appropriate sufficient money from the general fund to reimburse the teachers' retirement system for any losses incurred as a result of failure of the obligors to pay on the notes. No more than \$400,000 of the surplus may be invested annually in the mortgage securities of the Department of Natural Resources, and the state shall appropriate sufficient money from the general fund to reimburse the teachers' retirement system for any losses incurred as a result of failure of the obligors to pay

STATE OF ALASKA

DEPARTMENT OF REVENUE

HB-253
WILLIAM A. EGAN, GOVERNOR

TREASURY DIVISION
POUCH SB-JUNEAU 99801
February 1, 1974

The Honorable Clem V. Tillion
Chairman, House Judiciary Committee
Assembly Apartments
Juneau, Alaska 99801

Dear Representative Tillion:

The Committee Substitute to House Bill 253 increases the eligible investments for the Public Employees and Teachers Retirement systems to include Federal Veterans Administration guaranteed mortgages, commercial and residential mortgages insured by private mortgage insurance companies, conventional residential mortgages made in Alaska when originating financial institution retains at least 25 per cent of the mortgage for a minimum of two years, commercial mortgages secured by real estate if original financial institution retains 25 per cent of the mortgage, FHA guaranteed business and industrial loans, and guaranteed loans made under the Federal Ship Financing Act of 1972.

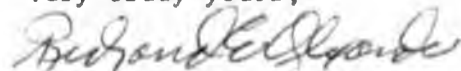
At the present time, the retirement funds can purchase FHA mortgages, State Veterans mortgages, and guaranteed portions of Small Business Administration loans. The new permission will round out the types of mortgages that will qualify for purchase, increase the likelihood that there will always be mortgages available for purchase, create needed secondary markets within the State for some of these mortgages, and provide a high rate of return for the retirement funds. For example, we have purchased over \$12 million of SBA loans since adding them as permissible investments a little over a year ago. Very few SBA loans were being made by the banks prior to our entering the market. Interest rates on these loans range from 8 per cent to 11 per cent, providing an excellent return for the retirement funds.

All of the requested additions are either guaranteed or insured with the exception of conventional residential and commercial real estate loans with bank participation. However, in both of these cases we require that the loans be closed after the effective date of this Act, and that the financial institutions retain a minimum of 25 per cent of the loan for two years in the case of residential and permanently in the case of commercial. As an added protection, no loan is eligible for purchase that is held by the institution for a period greater than 90 days.

By assuming this slight additional risk the funds will receive at least 1/2 to 1 per cent greater return depending on market conditions. For example, the present yield available on FHA and VA is around 8.40%, conventional residential rates are averaging 9.50%, and commercial 10% to 11%.

Each retirement fund has over \$1 million available for investment each month. A great portion of these funds can be placed in long term investments without concern for having to generate cash for drawdowns. Alaska mortgages are ideal investments for these funds and with this added authority can be purchased in increasing numbers.

Very truly yours,



Richard E. Alexander
State Investment Officer

STATE OF ALASKA
THE LEGISLATURE

11B-253
POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99801

LEGISLATIVE AFFAIRS AGENCY

February 4, 1974

M E M O R A N D U M

TO: House Judiciary Committee members

FROM: Randolph Berry

SUBJECT: CS for House Bill No. 253 (Judiciary) relating to the investment of surplus retirement fund money.

House Bill No. 253 added two additional types securities to the list of those in which the commissioner of revenue could invest the funds of the teacher retirement system and the public employee's retirement system. These additional types of securities were;

- (1) real estate mortgages guaranteed by the Federal Veterans Administration; and
- (2) notes secured by real estate mortgages guaranteed by a qualifying private mortgage insurer.

CS for House Bill No. 253 by the State Affairs Committee added one more type of security to the list: conventional residential mortgages if the originating financial institution retained 25 per cent of the mortgage. In order for a conventional residential mortgage to qualify, it would have to have as a mortgagor an Alaskan resident, be made after the effective date of the act and be a new mortgage (no more than 90 days old) when purchased by the commissioner of revenue.

CS for House Bill No. 253 (Judiciary) adds three further categories of qualifying securities;

- (1) notes secured by commercial real estate mortgages if the originating financial institution retains 25 per cent of the mortgage.
- (2) The FHA guaranteed position of business and industrial loans made under the Rural Development Act of 1972, and
- (3) the guaranteed position of loans made under the Federal Ship Financing Act of 1972.

The Judiciary Committee substitute reduces the time period during which the originating financial institution is required to retain