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SB 80

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF LANDS

323 E. 4TH AVENUE - ANCHORAGE 99501

February 14, 1977

Representative Lisa Rudd
Pouch V
Juneau, AK 99811

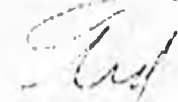
Dear Lisa:

I've just reviewed a copy of House Bill 116, which you sponsored entitled "An Act Relating to the Classification of State Land and Providing for an Effective Date". I understand from Gary Thurlow that this was an attempt to bring pressure on municipalities to accomplish recreational trail designation within their boundaries. I believe that the authority to classify State land already exists and that the purpose of the legislation would not be met by this bill, since it pertains to classification of State Lands only. I suggest that if this purpose really is to accelerate municipal action it might be better to look to AS41.20.355 which authorizes grants for the establishment of trails and footpaths. There is a requirement there for a comprehensive plan for the establishment of the trails. It might be appropriate to include some language that requires dedication by the municipality prior to the grant being made.

As a matter of information, the statutory authority for classifying lands is found in AS38.05.300 and regulations adopted thereunder.

Give me a call if you have any questions about this or any other matter I may be able to assist you with.

Yours truly,



TED SMITH
Director

cc: Guy Martin
Russ Cahill

*could I have copies of under-
lined statutes pls?*

SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

Senator Joe Orsini
Chairman

Senate Bill No. 80

Croft
Prime Sponsor

Resolution No. _____

This Bill is currently in the Senate Community and Regional Affairs Committee for consideration. Your response, as prime sponsor, to the following questions will serve to hasten Committee action on this Bill.

1. What is the need for your proposed legislation; what is the goal you are trying to accomplish?

To provide a system of trails - that do not parallel existing transportation routes - in the Anchorage area. The bill would merely provide that the state should designate trails across its land within the borders of a municipality in conformity with the plan instituted by the municipality.

2. Are there any other viable ways of accomplishing this same goal?

Maybe, but I can't think of any.

3. Persons or groups you know of who are supporting the legislation.

Ron Crenshaw
Anchorage Trails Council, 1553 H St., Anchorage, AK 99501

4. Persons or groups you know of who are opposing the legislation.

None that I know of.

5. Can you foresee any new problems that might be caused as a result of enactment of your bill?

None of much significance.

6. What is the earliest time you would like the Senate Community and Regional Affairs Committee to consider your bill?

Since the bill has a subsequent referral, I would appreciate it being considered the week of February 21, which is approximately one month after the bill was introduced.

TELEGRAM

HGA ALASKA COMMUNICATIONS, INC.

PHONE: 586-6440

BUREAU, ALASKA 99801

1977 FEB 21 PM 8 45

02042 N ANCHORAGE ALASKA 50 02-21 0605P AST

PMS SEN JOE ORSINI

1400

JUN

THE ANCHORAGE TRAILS COUNCIL SUPPORTS SENATE BILL 80

THIS BILL COINCIDES WITH THE INTRODUCTION OF AN ORDINANCE

ESTABLISHING WATERFRONT AND STREAMSIDE GREENBELTS WITHIN

ANCHORAGE AND THE COMPREHENSIVE TRAILS PLAN. IT WILL PROVIDE

FOR CONTINUITY BETWEEN THE STATE AND MUNICIPALITY

IN THE ESTABLISHMENT OF RECREATION TRAILS LAND.

RON CRENSHAW CHAIRMAN

ANCHORAGE TRAILS COUNCIL

SB

84

In fiscal year '77, the state spent between \$3.5 and \$4.0 million on the non-Federal Highway System maintenance outside of municipalities. This is the type of maintenance that is done on local roads and paid for by municipal taxpayer when those roads are within municipalities.

Since state motor fuel tax pays about half of maintenance costs, this amounts to an annual state subsidy of almost \$2 million to those areas outside of municipalities. Why should municipal residents pay for a service that non-municipal residents receive free?

There are over 4000 registered motor vehicles outside of municipalities. Assuming that these are taxed at an average rate equal to a 3 year old auto, this amendment would raise approximately \$160,000; certainly not enough to completely pay for the subsidy, but at least it will help.

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

MEMORANDUM

February 23, 1977

SUBJECT: CSSB 84, relating to the registration tax on
motor vehicles

TO: Senator Orsini, Chairman
Senate Community and Regional Affairs

FROM: John B. Chenoweth
Legislative Council

To assure a return of a portion of the proceeds of the tax
levied by AS 28.10 to a second class city within an organized
borough, the following amendment should be considered:

Page 3, lines 6 and 7: amend to read

a city which levies property taxes under AS 29.53.400
or AS 29.53.410;

Though you have not asked, I question whether the redistribution
provisions of AS 28.10.255(f), repealed and re-enacted in
the legislation, are applicable to unified municipalities
such as Anchorage and Juneau. The operative words (page 2,
line 19) are "organized borough." Municipal officials may
argue that, had the legislature intended the distribution
provisions to operate within a unified municipality, the
word "municipality" or the term "unified municipality" would
have been used, the definition of the word "municipality"
appearing elsewhere in the section.

JBC:hjd

2/28/77

Ted Berns called
+ said the amended
change in the formula
re: CSSB 84 won't work.

(i.e. changing organized
borough to municipality).

Sam Cohen is coming in
tomorrow to explain the
whole situation to us.

Paul

Municipality of Anchorage

MEMORANDUM

DATE: February 7, 1977

TO: Ted Berns, Attorney's Office

FROM: Director, Property Appraisal Division

SUBJECT: Motor Vehicle Registration Tax, Mr. Klug's Letter


As we mentioned in our telephone conversation, there are two addresses on the registration certificate, one is the registered owner's mailing address and the other is the residence address. If the residence address is the same as the mailing address only one shows on the registration.

In the Act itself, Section 28.10.255(e), it states: "The department shall refund money collected under this section less five percent as collection costs, to a municipality for which the money was collected, as determined by (1) the address of residence of an individual required to pay the tax, or (2) the situs of the vehicle if the vehicle is not owned by an individual; the tax situs is the location at which the motor vehicle is usually, normally, or regularly kept or used."

I would suggest that Mr. Klug in all cases use his Anchorage address as the mailing address and the residence address would be the area in which those automobiles are normally or regularly kept, i.e. Cordova, Fairbanks, etc. By doing this he will not have to pay the tax on those vehicles not normally kept here. They will be subject to tax in the other areas.

As I told you on the phone, I did talk with Mr. Klug last year, and this was covered. He has evidently forgotten our conversation.

I really don't think he will have any problem at all, as long as he prepares in advance. We will certainly be available to help him.



Glenn M. McKee
Director

GMM:ma

THE FOLLOWING DOCUMENT(S) MAY NOT FILM
LEGIBLY BECAUSE OF POOR QUALITY OF THE
ORIGINAL.

DEADLINE FOR MAILING, MAY 1, 1972

RES. MAILING APP. ADDRESS

LICENSE NO.	FEAR REPLACED	TAX REPLACED	REGISTRATION FEE	WEIGHT FEE	TOTAL FEE
PLATE NO.	CLASSIFICATION	UNLACED	COLOR	MAKE	REG. FEE
PRINT CHANGE OF MAILING ADDRESS AND ZIP CODE HERE				FEE NO.	
PRINT CHANGE OF RESIDENCE ADDRESS AND ZIP CODE HERE					
DATE	TRANSFER FROM	TAX TO	LICENSE NO.	CODE	FEE PAID

MV-15 (1-70) (P)

INV 572 10.75 PAS 30.00

ANCHORAGE - AK
 LEASOR NAME AND ADDRESS
Moff

1972 ALASKA REGISTRATION CERTIFICATE
 PLEASE CORRECT ADDRESS AND SIGN MAIL ALL COPIES WITH CHECK OR MONEY ORDER TO
 DEPT. OF REVENUE, BOX 960 ANCHORAGE 9950

REGISTRATION EXPIRES 5-31-73

* *E. Ruth...*
 SIGNATURE OF REGISTRAR OR OWNER (IN INK)

THE PRECEDING DOCUMENT(S) MAY NOT FILM
LEGIBLY BECAUSE OF POOR QUALITY OF THE
ORIGINAL.

Avis Rent-A-Car System
Rolf A. Klug
4900 Aircraft Dr.
Anchorage, Alaska 99502

01/28/77 Inquiring about Senate Bill 600. Referred
to Attorney General, Avrum Gross. Waiting
for response. Contacted both.

AVIS

LICENSEE

JANUARY 24, 1977

THE HONORABLE JOSEPH ORSINI
ALASKA STATE SENATE
POUCH "V"
JUNEAU, ALASKA 99811

DEAR SENATOR ORSINI:

DURING THE LAST LEGISLATIVE SESSION SENATE BILL 600 WAS PASSED. HOWEVER, UNDER SECTION 1, PARAGRAPH 1, IT PROVIDES THAT EACH MUNICIPALITY HAS TO ELECT TO HAVE THE STATE COLLECT THE MOTOR VEHICLE REGISTRATION TAX IN LIEU OF LOCAL AD VALOREM TAXES. WE THEREFORE, WOULD LIKE TO POINT OUT SOME OF THE SERIOUS SHORTCOMINGS IN THIS BILL AND ASK FOR YOUR ASSISTANCE.

1. SOME CORPORATIONS HAVE MANY VEHICLES LOCATED ALL OVER THE STATE. THESE VEHICLES DO NOT FALL UNDER THE TAX LEVY BECAUSE THE BOROUGH EITHER DID NOT HAVE THE TAX STRUCTURE BEFORE OR CHOSE NOT TO ACCEPT SENATE BILL 600. HOWEVER, IT COULD BE POSSIBLE THAT A VEHICLE WILL END UP OPERATING IN A BOROUGH WHICH SELECTED TO HAVE THE STATE COLLECT ITS TAXES. SINCE THE REGISTRATION WILL SHOW A DIFFERENT COST THAN THOSE LOCALLY COLLECTED, WILL WE AS THE OWNER BE HELD RESPONSIBLE TO PAY THE ADDITIONAL COST.
2. SINCE MOST LARGE CORPORATIONS CARRY AN ANCHORAGE ADDRESS ON THE VEHICLE REGISTRATION, HOW CAN THE STATE PROVIDE FOR ALLOCATING THE TAX TO THE DIFFERENT COMMUNITIES, WHO WOULD NORMALLY, BEFORE ACCEPTING SENATE BILL 600, GET THE TAX FOR THOSE VEHICLES OPERATED IN THAT COMMUNITY.

ALL CORPORATIONS OR PERSONS OPERATING FLEETS WILL HAVE THIS PROBLEM. WE FIND IT IS IMPERATIVE TO REGISTER ALL VEHICLES IN ONE LOCATION WHERE THE HEAD OFFICE IS AND ALL FINANCIAL AND ADMINISTRATIVE CONTROL CAN BE CENTERED. ON TAKING A DECEMBER 31ST INVENTORY STATEWIDE, WE FIND THAT EACH COMMUNITY RECEIVES ITS SHARE OF THE TAX. THIS WILL NOT BE POSSIBLE UNDER THE NEW SYSTEM. WE WOULD APPRECIATE IF YOU WOULD CONSIDER THESE COMMENTS AND RECONSIDER THE MERITS OF SENATE BILL 600.

YOURS VERY TRULY,


ROLF A. KLUG
VICE PRESIDENT/GENERAL MANAGER

RAK/MH

Alaska State Legislature

SENATOR
JOE ORSINI
2912 ALDER DRIVE
ANCHORAGE, ALASKA 99504

WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA
99811



COMMITTEES

RESOURCES

COMMERCE

COMMUNITY & REGIONAL AFFAIRS

Senate

January 28, 1977

Avis Rent-A-Car System
Rolf A. Klug
4900 Aircraft Dr.
Anchorage, Alaska 99502

Dear Mr. Klug:

I can certainly appreciate your questions and concerns in regards to Senate Bill 600. Enclosed you will find a copy of my letter to the Attorney General asking that he research this matter. I will advise you of his answer as soon as I receive it.

If I can be of further assistance, please let me know.

Sincerely,

JOE ORSINI
Senator

JO/VZC:gd

Enc.

Alaska State Legislature

SENATOR
JOE ORSINI
2912 ALDER DRIVE
ANCHORAGE, ALASKA 99504

WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA
99811



COMMITTEES
—
RESOURCES
COMMERCE
COMMUNITY & REGIONAL AFFAIRS

Senate

January 28, 1977

Avrum M. Gross
Attorney General
Pouch K
Juneau, Alaska 99811

Dear Avrum:

Enclosed you will find a letter from one of my constituents regarding Senate Bill 600. I would appreciate it if you would have your staff research this matter and then advise me back on it.

Thank you for your expedience in this matter.

Sincerely,

JOE ORSINI
Senator

JO/VZC:gd

Enc.

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

MEMORANDUM

February 23, 1977

SUBJECT: CSSB 84, relating to the registration tax on
motor vehicles

TO: Senator Orsini, Chairman
Senate Community and Regional Affairs

FROM: John B. Chenoweth
Legislative Counsel

To assure a return of a portion of the proceeds of the tax
levied by AS 28.10 to a second class city within an organized
borough, the following amendment should be considered:

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have been used, the definition of the word "municipality"
appearing elsewhere in the section.

JBC:hjd

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MAYOR'S OFFICE
EXT. 211

ADMINISTRATION AND FINANCE
EXT. 210

PUBLIC WORKS DEPARTMENT
EXT. 249

PLANNING DEPARTMENT
EXT. 245

ACCOUNTING
EXT. 239

NORTH SLOPE BOROUGH

P. O. BOX 69
BARROW, ALASKA 99723
(907) 852-2611

ASSESSING
EXT. 263

TREASURY
EXT. 237

HOUSING AGENCY
EXT. 243

HEALTH AGENCY
EXT. 255

February 8, 1977

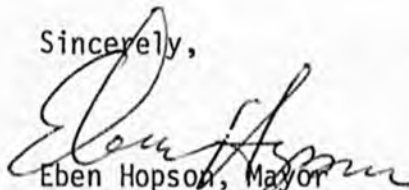
Hon. Joe Orsini, Chairman
Community & Regional Affairs Committee
Alaska State Senate
Pouch V
Juneau, Alaska 9981.

Dear Senator Orsini:

I have just examined Senate Bill 86 which changes the senior citizen real property tax exemption to a flat \$100,000.00.

I understand from the borough's Assessing Department that the predicted senior citizens' exemption limit for this year will be between \$40,000.00 and \$45,000.00. Thus, Senate Bill 86, if passed, would go far to ease the tax burden of many of our senior citizen taxpayers. You are no doubt aware that the cost of living in Alaska, and especially the Arctic, is extremely high. Senior citizens who have spent many years here building a family and home retire and must then live on relatively low fixed incomes. The net result is that in order to make ends meet many are forced to sell their homes in which they have invested so much of their lives. It is toward the prevention of such a dilemma that the senior citizen tax exemption is directed. I support the increase of the exemption as provided for in Senate Bill 86 and urge its passage in your committee and the full Senate.

Sincerely,


Eben Hopson, Mayor
NORTH SLOPE BOROUGH

cc: Hon. Lisa Rudd, Chairman
House Community & Regional Affairs Committee

STATE OF ALASKA
Inter-Department Route Slip

TO:
MAIL STATION NUMBER 3100
DEPARTMENT Legislature
ATTENTION Paul Conyers

- | | |
|--|--|
| <input type="checkbox"/> Approval | <input type="checkbox"/> Note & Return |
| <input type="checkbox"/> Signature | <input type="checkbox"/> Initial & Return |
| <input type="checkbox"/> Comment | <input type="checkbox"/> Return As Requested |
| <input type="checkbox"/> Contact Me | <input type="checkbox"/> Return For Approval |
| <input type="checkbox"/> Prepare Reply | <input type="checkbox"/> Necessary Action |
| <input type="checkbox"/> For Your File | <input type="checkbox"/> Your Information |

Remarks:

ORSINI

FROM:
MAIL STATION NUMBER 3100
DEPARTMENT C&RA
BY TCH DATE 2-3-77

THE LEGISLATURE OF THE STATE OF ALASKA
TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB No. 86

Title An act relating to real property tax exemptions for senior citizens

Requested by Senate C&RA

Date 1/24/77

II. FISCAL DETAIL

Agency Affected Community & Regional Affairs

Program Category Affected Social Services

Budget Request Unit(s) Affected State Assessor 21 22-3-08-00-00

EXPENDITURES (Thousands of Dollars)

	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.			216.8	275.3	349.6	
TOTAL			216.8	275.3	349.6	

FUNDING (Thousands of Dollars)

GENERAL FUND			216.8	275.3	349.6	
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

Grant General Fund

Number of applicants FY 78 - 2817 = 8% increase over FY 77 - 2608

Full Exemption: FY 78 Grant 1,570.1 = 0 senior citizens required to pay 0.0

100,000 limitation: FY 78 Grant 1,546.5 = 48 senior citizens required to pay 23.5

40,000 limitation: FY 78 Grant 1,375.0 = 650 senior citizens required to pay 195.1

SB No. 86 additional FY 79 Grant 216.8 = Total funding FY 79 1964.0

Administrative Costs

No additional funding required.

Bill Analysis attached: The figures used above reflect a 5% BRU Grant increase over the historic trend factor used in the attached analysis.

IV. DATE 2/2/77

PREPARED BY *S. Robert Lopez*, State Assessor

AGENCY Community & Regional Affairs

PHONE 465-4730

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

February 2, 1977

Senior Citizen Property Tax Exemption

SB 86, 100,000 Assessed Value Limit

The attached analysis was prepared to illustrate the citizen impact of SB 86 which proposes raising the current formula limitation to a 100,000 assessed value limit.

Table I

Illustrates a comparison of alternative program totals:

The total reimbursement for the FY 77 unlimited program is approximately \$1,171,227 for 2,608 applicants, stipulating an 8% increase in applicants and a 27% increase in total property tax, a FY 78 unlimited reimbursement would be about \$1,487,458 for 2,817 applicants.

From Table II, the 100,000 limit would reduce an unlimited program by about \$25,000, for a total reimbursement of \$1,462,950 in FY 78.

The formula assessed value limit has been established to be 40,000 in FY 78 and it is estimated to require a \$1,292,349 reimbursement, therefore, raising the assessed value limit from 40,000 to 100,000 will require about \$170,500 in additional funds.

The FY 78 BRU grant for the formula limitation program is \$1,375,000, SB 86 would increase the total grant requirement to \$1,545,500.

Table II

Table II is a list of the 26, FY 77 applications showing a value over 100,000 and the corresponding total tax levy on those properties of \$56,532.81. Also, a list of 22 applications showing a FY 77 value of over 85,000 has been compiled with a total tax levy on those properties of \$28,355.09. These 22 properties are projected to reach or exceed 100,000 in FY 78. Stipulation of a 27% increase in total tax levy projects a total FY 78 tax of \$107,807.63 on the 48 properties listed. At an average rate of 17 mills, \$83,300 of the total value would be exempt under SB 86. This leaves approximately \$25,000 that would not be eligible for reimbursement.

SENIOR CITIZEN PROPERTY TAX EXEMPTION
SB 86; 100,000 ASSESSED VALUE LIMIT

TABLE I
TOTAL PROGRAM SUMMARY

	Number of Applications	Assessed Value	Tax Levy
Total Senior Citizens Property			
FY 77	2608	76,737,060	\$1,171,227
Projected increase	[@ 8%]	[@ 27%]	[@ 27%]
FY 78 projected	2817	97,456,066	1,487,458
Per 100,000 values analysis below		(1,946,234)	(24,568)
100,000 Value Limit Program Total	2817	95,509,832	\$1,462,950
*Formula limit program	2817		(1,292,349)
FY 78 Additional Grant Required for SB 86			\$ 170,601

* FY 78 PRU Grant	\$1,375,000
SB 86	170,500
Total FY 78 Grant Requirement - SB 86	\$1,545,500

TABLE II
ANALYSIS OF SENIOR CITIZEN PROPERTIES VALUED AT OVER 100,000

	Number of Applications	FY 77 Values Over 100,000	FY 77 Tax	Number of Applications	Values Projected To Exceed 100,000 in FY 78	FY 77 Tax
Juneau, City & Borough of		127,000	\$ 1,950.72		94,200	\$ 1,446.91
		142,400	2,004.99		86,900	1,334.78
		137,300	1,933.18		86,400	1,327.10
		115,500	1,675.91		92,400	1,300.99
		118,700	1,722.34		87,600	1,283.34
					97,700	1,500.67
FY 77	5	640,900	\$ 9,287.14	6	545,200	\$ 8,193.79
Anchorage, Municipality of		234,500	\$ 4,793.18		84,925	\$ 1,735.86
		106,325	2,173.28		92,900	1,898.88
		105,040	2,147.02		86,200	1,227.48
		144,225	2,933.54		93,975	1,920.84
		113,725	2,324.54		85,000	1,737.40
		105,250	2,151.30		93,000	1,900.92
		141,550	2,893.28		89,625	1,851.94
		136,025	2,780.34		93,300	1,479.74
		262,300	5,361.40		85,150	1,740.46
		152,150	3,109.94			
		107,075	1,524.74			
		111,400	2,277.02			
		105,300	2,152.31			
		139,348	2,848.27			
		109,350	1,557.14			
		110,800	1,577.78			
		112,675	2,303.08			
FY 77	17	2,297,038	\$ 44,908.16	9	804,075	\$15,473.52
Sitka, City & Borough of		122,030	\$ 610.15		98,700	\$ 493.50
		101,790	508.95		98,080	490.40
		106,310	531.55		86,080	430.40
					99,260	496.30
FY 77	3	330,130	\$ 1,650.65	4	382,120	\$ 1,910.60
Fairbanks North Star Borough		109,025	\$ 686.86		99,900	\$ 1,628.37
					94,700	596.61
					87,650	552.20
FY 77	1	109,025	\$ 686.86	3	282,250	\$ 2,777.18
Total FY 77	26	3,377,093	\$ 56,532.81	22	2,013,645	\$28,355.09
Projected increase		[@ 27%]	[@ 27%]		[@ 27%]	[@ 27%]
FY 78 projected	26	4,288,908	71,796.67		2,557,329	36,010.96
Total FY 78	22	2,557,329	36,010.96			
Total FY 78	48	6,846,234	\$107,807.63			
Average Mill Rate .017						
49 applications @100,000 each		4,900,000	\$ 83,300			
Not reimbursed per SB 86		1,946,234	\$ 24,507.63			

S B

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STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF REVENUE

STATE OFFICE BUILDING

POUCH SA - JUNEAU 99811

February 15, 1977

The Honorable Joseph L. Orsini
Chairman
Senate Community & Regional
Affairs Committee
Room 100 Assembly Apartments
Juneau, Alaska


Re: Senate Bill No. 111

Dear Senator Orsini:

Senate Bill No. 111, an Act repealing the Alaska Net Income Tax Act and the Alaska Business License Act was introduced in the Senate on February 1, 1977 and was referred to the Senate Community & Regional Affairs and Finance Committees.

For the consideration of the Senate Community & Regional Affairs Committee, I am enclosing Fiscal Notes prepared by Mr. Gary L. Jenkins, Director, Audit Division and Mr. P. A. Wall, Director, Administrative Services Division of the Department of Revenue concerning the proposed legislation.

Very truly yours,


R. D. Stevenson
Special Assistant

Enclosures

cc: The Honorable John C. Sackett
Chairman
Senate Finance Committee
Alaska State Legislature
State Capitol Building
Juneau, Alaska

Gary L. Jenkins, Director
Audit Division
Department of Revenue

P. A. Wall, Director
Administrative Services Division
Department of Revenue

THE LEGISLATURE OF THE STATE OF ALASKA
TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. Senate Bill No. 111
 Title An Act repealing the Alaska Net Income Tax Act and the Alaska Business License Act.
 Requested by Senate Community and Regional Affairs Committee Date 2-10-77

II. FISCAL DETAIL

Agency Affected Revenue
 Program Category Affected Fiscal Services
 Budget Request Unit(s) Affected Audit and Enforcement

EXPENDITURES (Thousands of Dollars)

	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
100 PERSONAL SERVICES					(1,736.8)	(1,736.8)
200 TRAVEL					(87.0)	(87.0)
300 CONTRACTUAL					(263.2)	(263.2)
400 COMMODITIES					(22.3)	(22.3)
500 EQUIPMENT					(7.5)	(7.5)
600 LAND & STRUCTURES					(108.2)	(108.2)
700 GRANTS, CLAIMS, ETC.						
TOTAL					(2,225.0)	(2,225.0)

FUNDING (Thousands of Dollars)

GENERAL FUND					(2,225.0)	(2,225.0)
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME					(75)	(75)
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III) This bill, when fully effective, would reduce the staffing in Audit and Enforcement Divisions by about 80 percent. The reduction would be gradual as the workload declined.

This bill would also mean a loss of revenue to the State General Fund of a minimum of the following amounts:

Individual Income Tax	\$ 100 million
Fiduciary " "	60 "
Corporate " "	96 "
Business License " "	9 "
Total	<u>\$ 265 million</u>

It should be noted that this bill would go into effect when budgeted State revenues exceed appropriations by \$100 million. However, the effect of the bill when enacted would be to reduce actual revenues to the General Fund from the particular tax type involved by a minimum of \$265 million.

IV. DATE 2-10-77

PREPARED BY *George A. ...*
 AGENCY Department of Revenue, Audit Division
 PHONE 465-2320

Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

THE LEGISLATURE OF THE STATE OF ALASKA
TENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 111

Title Act repealing the Alaska Net Income Tax & Alaska Business Acts

Requested by Senate Community & Regional Affairs Comm. Date 2/2/77

II. FISCAL DETAIL

Agency Affected Revenue

Program Category Affected General Government

Budget Request Unit(s) Affected Administration and Support

EXPENDITURES (Thousands of Dollars)

	FY 77	FY 78	FY 79	FY 80	FY 81	FY 82
100 PERSONAL SERVICES						(594.1)
200 TRAVEL						(3.4)
300 CONTRACTUAL						(121.5)
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL						*(722.0)

FUNDING (Thousands of Dollars)

GENERAL FUND						(722.0)
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

FULL TIME						(26)
PART TIME						(7)
TEMPORARY						(7)

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

*FY 82 is used to show the effects of the Bill as the actual effective date is not known. These savings are based upon the actual FY 77 authorization for Alaska Net Income and Business License Tax processing.

\$53,000 of the contractual savings is space occupied in the SOB by the deleted positions.

This Fiscal Note does not show the effect upon the Audit or Enforcement BRU's. The revenue effect is shown on the Audit Fiscal Note.

AS 43.45 (school tax) should be repealed or amended to delete in AS 43.45.010(c) the following: after "commissioner of revenue" [AT THE SAME TIME THE QUARTERLY STATE NET INCOME TAX WITHHOLDING RETURN IS FILED]

IV. DATE February 12, 1977 PREPARED BY P. A. Wall

AGENCY Revenue

PHONE 465-2313

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

Introduced: 2/1/77
Referred: Community & Regional
Affairs and Finance

1 IN THE SENATE

BY KERTTULA

2 SENATE BILL NO. 111

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act repealing the Alaska Net Income Tax Act and the
7 Alaska Business Act; and providing for an effective
8 date."

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

10 * Section 1. AS 43.20 and AS 43.70 are repealed.

11 * Sec. 2. This Act takes effect January 1 of the calendar year next
12 following the end of the fiscal year in which state revenues exceed appropri-
13 ations under the annual budget Act by not less than \$100,000,000.

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S B

11 2

Sen. Orsini



Alaska State Legislature

POUCH Y, STATE CAPITOL
JUNEAU, ALASKA 99811
907 465-3800

3/7/77

Joe:

Could you please let me
know when it would be
convenient for your committee
to schedule SB112?

(Municipal Inflation - Finance)

Thanks. —

Joe

ANALYSIS OF SEC. 10 S.B. 112

Estimated Net Income

Net Income with Permanent Fund Contribution at 25%

	1979	1980	1981	1982	1983
Property Tax	170600.0	170600.0	173700.0	176900.0	180100.0
Oil & Gas Production Tax	153700.0	192200.0	296600.0	471500.0	593300.0
Sale of State Minerals	800.0	800.0	800.0	800.0	800.0
Coal Royalties	5.0	5.0	5.0	5.0	5.0
Oil & Gas Royalties	<u>519300.0</u>	<u>664900.0</u>	<u>788300.0</u>	<u>915100.0</u>	<u>1173700.0</u>
Total Gross Income	844405.0	1028505.0	1259405.0	1564305.0	1947905.0
Less:					
Native Land Claims	72500.0	97900.0	119100.0	139600.0	30000.0
Perm. Fund Contb. @ 25%	<u>129800.0</u>	<u>166200.0</u>	<u>197100.0</u>	<u>228800.0</u>	<u>293400.0</u>
Total Net Income	642105.0	764405.0	943205.0	1195905.0	1624505.0

Net Income with Permanent Fund Contribution at 50%

Total Gross Income	844405.0	1028505.0	1259405.0	1564305.0	1947905.0
Less:					
Native Land Claims	72500.0	97900.0	119100.0	139600.0	30000.0
Perm. Fund Contb. @ 50%	<u>259650.0</u>	<u>332450.0</u>	<u>394150.0</u>	<u>457550.0</u>	<u>586850.0</u>
Total Net Income	512255.0	598155.0	746155.0	967155.0	1331055.0

Oil revenues are based on world oil prices as of January, 1977.

FROM REVENUE



Matanuska-Susitna Borough, Inc.

BOX B, PALMER, ALASKA 99645 • PHONE 745-3246

BOROUGH ASSEMBLY

Borough Mayor

March 16, 1977

Honorable Jalmar Kerttula
State Senate
Pouch V
Juneau, Alaska

Re: SB 112

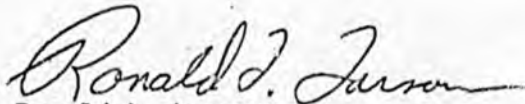
Dear Jay,

To confirm a phone call to you today, the Borough Assembly wishes to go on record in opposition to SB 112. A copy of Mr. Howe's memo giving reasons for opposition is enclosed. With the growth in this area, you can well understand the problem that this bill would create.

We would appreciate any assistance you can give in opposing this bill in the Senate and/or House and, as always, we are sure we can rely on you to work on our behalf.

By copy of this letter, we are advising Mr. Ose and the Chairman of both the House and Senate Finance and Community and Regional Affairs Committees of our stand on this bill.

Yours respectfully,


Ronald L. Larson
Borough Mayor

/et
Enc.



Matanuska-Susitna Borough, Inc.

BOX B, PALMER, ALASKA 99645 • PHONE 745-3246

DEPARTMENT OF ADMINISTRATION

March 2, 1977

MEMORANDUM

To: Mayor and Borough Assembly
From: Wesley M. Howe, Borough Manager
Subject: SB 112 An Act Relating to Municipal Taxation and Finance

This bill has several undesirable aspects:

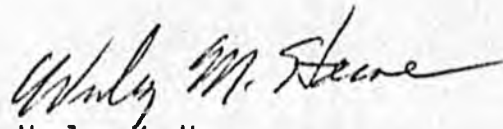
1. In our Borough it would require that two values be placed on practically every parcel of property, since property values are increasing at more than 5% per year. We cannot estimate the administrative cost of this, but it would be substantial. There would also be administrative costs at the state level. Administrative regulations and court decisions would be needed creating red tape and confusion.

2. The Borough would not be fully reimbursed for revenues lost since we levy a property tax amounting to more than 10 mills. (See Section 43.18.070.)

3. Inequities would be created. Starting from a base of 100, property increasing in value at a slow rate, say 5%, would be appraised at 129 after five years and this would also be the "limited assessed value" for tax purposes.

Property in another part of the Borough increasing more rapidly, say 10%, would have a value of 161 after five years, but would only be taxed at the "limited assessed value" of 129 for tax purposes. Undoubtedly many unforeseen problems would arise. If this process were to go on for say 50 years the result would be ridiculous.

I recommend that the Assembly oppose SB 112.


Wesley M. Howe
Borough Manager

WMH:er

to:

Senator Arsin^{*}^{*}

Jay Kerttula

21-650A Apricot Street
Elmendorf Air Force Base, Alaska
March 4, 1977

Mr. Jalmar Kerttula
Senate Majority Leader
Alaska State Legislature
Juneau, Alaska 99811

Dear Mr. Kerttula:

I am writing you in support of SB 112. We have just (this week) completed closing on our new home here in Anchorage. It was really shocking to us to discover the taxes were half again what they were last year on this same house. I had been aware of your legislation, but before becoming a home owner had not felt affected by it one way or the other. Now, needless to say, I am very much in support of this bill.

Sincerely

Dera C. Doris
Dera C. Doris

(3)

Abbey's Amendment } \$ 142K admin
1-2 M first rev

CITY OF SKAGWAY

GATEWAY TO THE GOLD RUSH OF "98"

P. O. BOX 415 SKAGWAY, ALASKA 99840

February 7, 1977

Senator Joe Orsini, Chairman
Community & Regional Affairs Committee
Pouch V
Juneau, Alaska 99811

Dear Senator Orsini:

Please reference your letter of 3 February inviting comments on several proposed Senate Bills pending consideration by your committee. The City of Skagway has no objection to proposed Senate Bills Nos. 80 and 114; however, Bill No. 112 "An Act relating to municipal taxation and finance-----" is viewed with grave misgivings. There are several bases upon which to question the wisdom and practicability of this Bill:

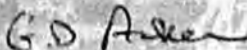
Sec. 25.53.050 (a) The limitation of property tax to no more than one per cent of assessed valuation is unrealistic.

Sec. 25.53.050 (b) The limitation of annual increase in assessed valuation to five percent is unrealistic. For S.E. Alaska the annual average rate of appreciation of property values has been in the range of 8 to 10 per cent for the past three years. Adherence to this restriction could in a period of ten years produce a limited assessed value from 30 to 70 per cent under the full and true value of a property -e.g. in comparison to the base value of comparable property just coming on the tax rolls in the tenth year.

Sec. 43.18.070 Computation and Payment of State Assistance. This section is ambiguous.

Pending clarification of these questions, the City of Skagway is to be noted as opposing Senate Bill 112.

Sincerely,



G.D. Acker
City Manager

cc: City Attorney - Ruddy

GDA: p

SB

114

SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

Senator Joe Orsini
Chairman

Senate Bill No. 114

Croft
Prime Sponsor

Resolution No. _____

This Bill is currently in the Senate Community and Regional Affairs Committee for consideration. Your response, as prime sponsor, to the following questions will serve to hasten Committee action on this Bill.

1. What is the need for your proposed legislation; what is the goal you are trying to accomplish?

Correct a technical defect which exists in legislation passed in 1975.

2. Are there any other viable ways of accomplishing this same goal?

No.

3. Persons or groups you know of who are supporting the legislation.

The Municipality of Anchorage - see attached .

4. Persons or groups you know of who are opposing the legislation.

None that I know of.

5. Can you foresee any new problems that might be caused as a result of enactment of your bill?

No.

6. What is the earliest time you would like the Senate Community and Regional Affairs Committee to consider your bill?

Week of March 7.

PUBLIC WORKS/HIGHWAY PROJECTS--PLANNING

Current Law

AS 35.10.020, as amended by the Ninth Legislature, requires that the construction of a "public works" be commenced only after consultation with municipal planning and zoning authorities and compliance with local planning and zoning ordinances. However, this statute is ambiguous in terms of its affect on highway construction projects and the Department of Highways. The construction or modification of a state highway often poses serious problems for municipal planning programs and should therefore be commenced only after consultation with local planning authorities. Of course, if an overriding state interest in a highway project is demonstrated, a state agency should possess the ability to override local planning and zoning ordinances. This, however, does not detract from the need to incorporate local planning and zoning review into the design and construction of state highway projects.

Proposed Bill

The proposed legislation would clarify the scope of AS 35.10.020 to require consultation with municipal planning authorities and compliance with local planning and zoning ordinances prior to the construction of "any building,

Municipality of Anchorage

MEMORANDUM

DATE: February 7, 1977

TO: Ted Berns, Legal

FROM: Tom Nelson, Planning *TN*

SUBJECT: House Bill No. 147 *4 SB 114*

This is just a brief outline of our concern over actions taken by the Alaska State Highway Department that do not comply with Municipal land use regulations such as the Zoning Ordinance and Subdivision Regulations which everyone else must and do comply with. Specific cases of Highway Department actions that have created problems and conflicts will be presented at a later date when more time is available to gather the information together.

The primary cause of most land use problems created by the Highway Department is the creation of non-conforming lots following land acquisition for additional right-of-way. In several instances the Highway Department acquired a portion of a lot or tract and left the owner with a relatively useless parcel. In doing so, resulting land use patterns are ignored. Thus, access problems develop; either normal access is shut off on the front of the lot and thence, alleys become thoroughfares, or every little non-conforming lot remaining has its own access onto the arterial being up-graded. The end result is additional traffic circulation and safety problems.

In several instances the Highway Department has split lots, but filed no plat, thus leaving no record after land was taken. Land is subdivided without filing a plat. The Highway Department may know better, but as long as they can ignore local land use regulations they'll try to get by with it.

These types of actions present problems to land owners and developers. Tax inequities result when owners are taxed for useless land, and Municipal government loses tax revenue when relief is given to the owner because of the non-conformity-- all or most of which could have been prevented through adherence to local regulations. In addition, developers are severely limited by problems with access and setbacks for structures.

Another problem that has arisen in regard to highway projects is the Highway Department's source of gravel materials. They have had a practice to buy gravel from private landholders. The private landholder in that case is responsible for getting a Special Exception to extract gravel. However, the Highway Department may not always inform the landholder of that when entering an agreement for the gravel. If the Highway Department decides to extract gravel itself, it can presently do so, without any regulations on such operations. This may be a possibility in the Eagle River/Chugiak area where the Highway Department plans to utilize gravel resources for the construction of Minnesota Drive Extension. In such an instance there is no way the neighboring residents could be protected from noise, dust, traffic, or hazards from such activity.

Memo re House Bill No. 147
page 2

The purpose of having Special Exceptions, platting procedures, along with all the other land use regulations is to "protect the health, safety and welfare of the public." This responsibility is entailed to the Anchorage Municipality, yet little protection can be offered from actions taken by the Highway Department.

These problems also create unnecessary and costly administration problems with requests for zone changes and variances, not to mention the litigation that has been leveled against the Municipality.

These problems will continue until the Highway Department is forced to abide by the same rules as everyone else. It is this department's firm belief that the Highway Department does not deserve to have any privilege status in regard to local land use regulations. As with other State agencies, if there is a clearly demonstrated over-riding State interest, a waiver from the local compliance requirements may be granted by the governor.

Dave Doris, a member of the Platting Board, is quite familiar with the practices of the Highway Department here in Alaska and similar problems in other states. I would suggest having him testify on this Bill. He would strongly support our stand and has indicated a willingness to help.

to 114

Check with some of the
PVE ~~member~~ Comm.
members in Anch, Fks,
June to see if they have
had problems w/ the municipalities
in muni. const. not complying
with local regs, etc.

for

I talked to the planning
people reference the above
request + all the planning
officials said the cities
are very diligent about
complying with local
regulations.

Paul

TO: Senator Orsini

DATE: February 28, 1977

FROM: Paul Conger

RE: SB 114

I spoke with Rick Sobodney, Department of Law, Highways Section, to ascertain if Highways had any opposition to the above referenced Bill. He stated that he had discussed this Bill with Mr. Scougal, Commissioner, Department of Highways, and they "did not see any problems with the Bill".

PC/js

Municipality of Anchorage

MEMORANDUM

DATE: February 7, 1977

TO: Ted Berns, Legal

FROM: Tom Nelson, Planning *TN*

SUBJECT: House Bill No. 147

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Dave Doris, a member of the Platting Board, is quite familiar with the practices of the Highway Department here in Alaska and similar problems in other states. I would suggest having him testify on this Bill. He would strongly support our stand and has indicated a willingness to help.

SB

125

CITY OF SOLDOTNA

Resolution 77-7

SB 125

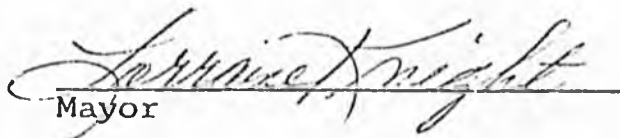
WHEREAS, the cost of conducting a runoff election represents a significant burden on municipalities, and

WHEREAS, the candidate who received the largest number of votes in the first election has almost invariably been the winner in the runoff elections, therefore be it

RESOLVED, by the City Council of Soldotna, Alaska, that it be recommended that HB9 and SB125 be enacted into law, and be it further

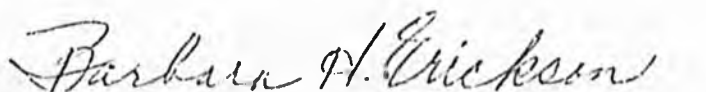
RESOLVED, by the City Council of Soldotna, Alaska, that it be recommended that SB126 not be enacted into law.

Adopted this 17th day of February, 1977.



Mayor

ATTEST:



City Clerk



Alaska Conservation Society

Incorporated in 1960

P.O. Box 80192

College Branch, Fairbanks, Alaska 99708

March 18, 1978

Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Senator Orsini:

Hucksters from Alaska Petrochemical Company made their pitch in Fairbanks this past Thursday. They would have us believe a number of interesting things.

For one, they tried to explain why new refineries around the world are being built farther and farther from the traditional refining centers close to markets. "The reason is that more and more of the underdeveloped producing countries want to gain the value added by processing the crude oil at home," they said. "That's awfully nice of the companies to agree to do so," I thought. Then it came out that people who live in refining regions have had enough. The West Coast is so hostile to new refineries that firms don't even want to try to expand there despite projections that the West Coast glut will turn to a shortage in five to ten years. AlPetCo would have us believe that 30 million West Coast folks are foolish and that we can really put one over on them by approving the royalty oil contract fast.

For another, they did a fascinating dance on the question of employment. They wanted desperately to tell businessmen and the out-of-work boomers that a nice peak in construction employment would be followed by non-cycling refinery employment and a build up of satellite chemical plants, and that the multiplier effect (the economist's version of loaves and fishes) would cap everything with a juicy service-sector job picture. On the other hand they know a lot of Alaskans are none too happy with the idea of making room for 15-20,000 more people for one project-swarm, so they tried to say that

Alaska State Legislature
March 18, 1978
Page Two

petrochemical industries are neat because it takes hardly anyone to push those little computer buttons. Somebody had better start giving some full and straight answers. Especially with the Governor saying that right now every newcomer costs twice as much in government services as he or she pays in taxes. And especially since the much-touted local hire provisions merely mean - at best - that a Texan has to wait a month before becoming a local hire.

Then there was the question how long AlPetCo expected to be around and where they would get their oil. Prudhoe Bay is supposed to last another 25 years or so. Production will peak in ten years or so, however, at about 200,000 barrels of royalty oil per day. AlPetCo can only get 85 per cent of the royalty amount, and it won't start using the oil until the field is 20 percent exhausted. Where else will it get oil? Not Pet 4 (NPRA). Not upper Cook Inlet, which is already on the decline. Are they staking everything on the unoffered leases in the unexplored Beaufort Sea?

And suppose they do get 150,000 barrels a day for 20 to 30 years? Suppose natural gas liquids, coal, and other goodies can be put together on our only - somewhat - crowded Kenai Peninsula to build a world scale everything complex? It sounds like building sand-castles in the top half of an hourglass. What will our children have left besides bills for empty schools and dirty rivers?

The problem with the royalty oil contract is that everybody is looking at the fine print.

We hope that as an Alaskan representing Alaskans you can look first at the screaming headlines: Is the petrochemical industry really what the North is all about?

It isn't as though we were going to be poor if we just took the royalty in value.

Sincerely yours,

ALASKA CONSERVATION SOCIETY

for *Tina Stinson*
Robert B. Weeden
President

RBW/ts

SB

126

CITY OF SOLDOTNA

Resolution 77-7

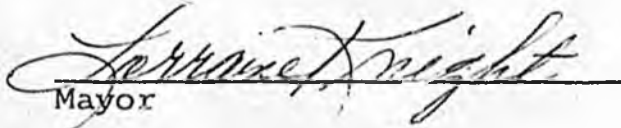
WHEREAS, the cost of conducting a runoff election represents a significant burden on municipalities, and

WHEREAS, the candidate who received the largest number of votes in the first election has almost invariably been the winner in the runoff elections, therefore be it

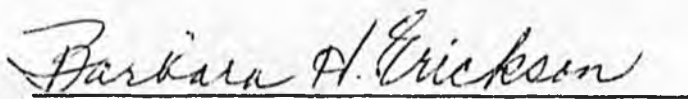
RESOLVED, by the City Council of Soldotna, Alaska, that it be recommended that HB9 and SB125 be enacted into law, and be it further

RESOLVED, by the City Council of Soldotna, Alaska, that it be recommended that SB126 not be enacted into law.

Adopted this 17th day of February, 1977.


Mayor

ATTEST:


City Clerk

SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

Senator Joe Orsini
Chairman

Senate Bill No. 126

Rodey
Prime Sponsor

Resolution No. _____

This Bill is currently in the Senate Community and Regional Affairs Committee for consideration. Your response, as prime sponsor, to the following questions will serve to hasten Committee action on this Bill.

1. What is the need for your proposed legislation; what is the goal you are trying to accomplish?

LOCAL CONTROL OF ELECTIONS.

2. Are there any other viable ways of accomplishing this same goal?

NONE.

3. Persons or groups you know of who are supporting the legislation.

MOST MUNICIPALITIES AND PROBABLY MUN. LEAGUE

4. Persons or groups you know of who are opposing the legislation.

NONE TO MY KNOWLEDGE

5. Can you foresee any new problems that might be caused as a result of enactment of your bill?

6. What is the earliest time you would like the Senate Community and Regional Affairs Committee to consider your bill?

IMMEDIATELY

SB

152

SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

Senator Joe Orsini
Chairman

Senate Bill No. 152

Croft

Prime Sponsor

Resolution No. _____

This Bill is currently in the Senate Community and Regional Affairs Committee for consideration. Your response, as prime sponsor, to the following questions will serve to hasten Committee action on this Bill.

1. What is the need for your proposed legislation; what is the goal you are trying to accomplish?

Last year's budget appropriated money for this road. However, the only appropriation was Federal money, and Federal money is unavailable without a state match. This bill corrects that defect.

2. Are there any other viable ways of accomplishing this same goal?

We could insist on the municipality coming up with the money, but this provides access to a state park and it seems to be a state responsibility.

3. Persons or groups you know of who are supporting the legislation.

The Municipality of Anchorage.

4. Persons or groups you know of who are opposing the legislation.

None that I know of, even though the owner of the property to be condemned, Bertha Mae Tabbytite, might be opposed.

5. Can you foresee any new problems that might be caused as a result of enactment of your bill?

None of any substance.

6. What is the earliest time you would like the Senate Community and Regional Affairs Committee to consider your bill?

I would be happy for the Committee to consider it at any time, but I would like for the Committee to pass it out next week since (over)

the bill also has a Finance referral and the C & RA Chairman is also a member of that Committee.

To: Senator Orsini

DATE: Feb. 18, 1977

FROM: Paul Conger

RE: SB 152

I spoke to Ted Berns this morning regarding SB 152. Ted commented that he was quite suprised that this bill had been introduced and requested that this Committee delay any action on this bill until he gets back to us.

The circumstances behind this bill are as follows: Ted stated that the road in question is an old road that leads up to the community called Glen Alps which is composed of approximately 15-20 families. In addition, this road feeds into Chugach Park and is used extensively by backpackers. There is another feature of this road which has stimulated the request by the city to condemn this road. The road runs across an Indian lady's property and the lady has initiated a trespass action against the city. The litigation is currently in Federal Court and the Federal Judge has not rendered a decision in this case. However, the judge has stated that whatever the outcome is, the City will have to condemn the property.

Ted states that the entire cost for facilitating the condemnation of the property will be around \$80,000. He stated that what they are attempting to do is to get the Feds to provide matching funds in this case, therefore each level of government will share in the burden of the expense.

Ted states that an attempt was made last year to appropriate money for this condemnation procedure and it passed, both houses. However, the money was to be appropriated from "other funds" (which apparently meant Federal money) and for one reason or another the money never became available. So they are making another stab at getting the money.

Ted emphasized that he wants to request that action on this Bill be DELAYED because it has taken him completely by surprise and he did not realize that it was going to be introduced.

PC/js

**Municipality
of
Anchorage**



POUCH 6-650
ANCHORAGE, ALASKA 99502
(907) 274-2525

GEORGE M. SULLIVAN,
MAYOR

OFFICE OF THE MUNICIPAL ATTORNEY

March 29, 1977

The Honorable Joseph Orsini
Chairman, Senate Committee on Community & Regional Affairs
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Re: \$40,000 Appropriation to Reimburse the Municipality of
Anchorage for Acquisition of Road Right-of-Way to the
Glen Alps Entrance of Chugach State Park

Dear Joe:

The Municipality urgently requests that an appropriation in the amount of \$40,000 be made to reimburse it for acquiring road right-of-way necessary to provide public access to the Glen Alps entrance to the Chugach State Park and to the former City of Glen Alps. According to statistics provided by the Division of Parks, the Glen Alps entrance is the most heavily used access point to Chugach State Park in the Anchorage hillside area. In addition, approximately twelve families live year-round in the area immediately south of the State Park entrance, in what is known as Glen Alps.

Since February, 1976, the right of the public to use the road to the park entrance and to Glen Alps has been in jeopardy as a consequence of a decision by the Ninth Circuit Court of Appeals in United States and Tabbytite v. Clark, an action which has been in litigation in the U.S. District Court in Anchorage since 1969. The Ninth Circuit ruled that no legal access existed for the road across Mrs. Tabbytite's land enroute to the park entrance. The history of the dispute is set forth fully in the letter of agreement which was signed on May 7, 1976, between Russ Cahill, Director of the Division of Parks, and me.

Since February, a year ago, I have been engaged in strenuous litigation to keep the United States Government and Mrs. Tabbytite from securing an injunction which would prohibit the Glen Alps road from being used. However, the Municipality and Division of Parks agree that it would be inequitable to require the twelve families who live in Glen Alps to bear the entire cost of right-of-way acquisition considering the extensive use which the Glen



Alps entrance to the park attracts. We sought an appropriation from the last Legislature in the amount of \$40,000 to cover the cost of right-of-way acquisition and believed that such an appropriation had been made until we learned otherwise in December. Apparently, someone in the free conference committee goofed and made an appropriation for \$40,000 of Federal matching highway funds; however, no state funds were provided.

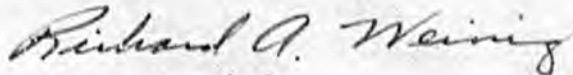
The Municipality is a party to the lawsuit because, upon unification, it succeeded to all interests and liabilities of the former City of Glen Alps, which had been a party. The suit is rapidly evolving into one inverse condemnation and, if I am to prevent the road from being closed by Federal injunction, I will probably have to make a deposit in court of the estimated just compensation for the right-of-way. Between May, 1975, and February, 1976, more than 39,000 people used the hillside entrance to Chugach State Park. Over 44% of these used the Glen Alps entrance. Because of this heavy public use, it would be grossly unfair to require the twelve year-round residents in the service area of Glen Alps to bear the cost of procuring this right of way.

Therefore, I request that your committee recommend appropriation of \$40,000 to reimburse the Municipality for whatever action may be necessary to procure a legal right-of-way from the switch backs on upper Huffman to the State Park entrance and Glen Alps. I believe that \$40,000 should be adequate to do the job.

If you have any questions, Ted Berns of our office should be helpful. Also, feel free to call me at 264-4320. Many thanks for your help in this endeavor.

Would you have time to do some kayaking this summer?

RICHARD W. GARNETT III
Municipal Attorney



Richard A. Weinig
Assistant Municipal Attorney

RAW:ljc
Enclosure

Municipality
of
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GEORGE M. SULLIVAN,
MAYOR

OFFICE OF THE MUNICIPAL ATTORNEY

May 7, 1976

The Honorable Helen Bierne
Alaska State House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Representative Bierne:

On February 4, 1976, the Ninth Circuit Court of Appeals rendered a decision in United States and Tabbytite vs. Clark, No. 74-1659 which endangers all legal access to the former City of Glen Alps and to Glen Alps entrance to Chugach State Park. Several families live in the Glen Alps area year round. According to statistics of the State Division of Parks, more than 39,000 people used the hillside entrances to Chugach State Park between May, 1975 and February 1976. The Glen Alps entrance is the most heavily used entrance of the park in the hillside area around Anchorage. The use pattern is as follows:

Glen Alps - 44%
Prospect Heights - 30%
Upper O'Malley - 15%
Upper Huffman - 11%

The Ninth Circuit held that the only road providing access to the Glen Alps community and Glen Alps Park entrance illegally crosses certain Indian allotment lands held in trust by the United States for Bertha Mae Tabbytite. It remanded the case to the United States District Court in Alaska for issuance of an injunction against use of the road.

Undoubtedly, an injunction will be issued prohibiting any use of the road across Mrs. Tabbytite's land unless the Municipality of Anchorage, successor in interest to the former City of Glen Alps, or the State acquires right-of-way for the road through negotiation or condemnation.

The suit arose out of a dispute between two homesteaders, Mr. Clark and Mrs. Tabbytite. The Ninth Circuit described



the history of this dispute as follows:

Tabbytite's 160 acres of land are located in the Chugach Mountains southeast of Anchorage, Alaska. In November, 1956, she filed a homestead application for the land with the Department of the Interior. A year and a half later, in June, 1958, Glen Clarke, the principal named defendant, applied for a homestead on an adjoining 80-acre parcel. To secure access to a public highway, Clark constructed a road across Tabbytite's land in the late summer of 1958. The district court held that his doing so and using the road was a continuing trespass, for which it awarded damages. It is undisputed that Clarke never obtained a grant of an easement from anyone.

After securing his patent in 1961, Clarke subdivided his property into 40 parcels, most of which he sold before this suit commenced. Tabbytite was not as fortunate. Between 1958 and 1966, Clarke and his former wife filed three separate contests to Tabbytite's patent application. Clarke admitted at trial that he was aware of 23 U.S.C. § 125 which gives a successful contestant a preference to the cancelled homestead. Although Tabbytite prevailed in these contests, she could not get her patent while the contests were pending. Apparently despairing of ever securing the land via the homestead route, she elected to abandon her homestead application and take the land as an Indian trust allotment. However, there was no break in her possession.

During this same period Tabbytite made several attempts to bar those whom she considered trespassers from crossing her property. She posted "no trespassing" signs, and once, in 1967, sought to block the road physically. On this occasion, Clarke told her that Alaska law prohibited the blocking of a public highway and warned that she would be arrested if she persisted. She did not, choosing instead to notify the Bureau of Indian Affairs in Anchorage of her problem. On the advice of the Bureau, the United States, which holds legal title to Tabbytite's trust allotment, filed this action in 1969.

The suit was brought against a class of defendants which included anyone using the road. The plaintiffs sought a permanent injunction against use of the road and damages for trespass. Judge von der Heydt of the District Court denied the injunction, finding that the defendants had an easement by necessity across Mrs. Tabbytite's land but awarded the plaintiffs \$3,500 in compensatory damages -

\$2,000 for past trespasses and \$1,500 for future trespasses. The Ninth Circuit reversed, finding that no easement of necessity existed across Mrs. Tabbytite's land. It remanded the case to the District Court, strongly suggesting that the injunction be issued.

ALTERNATIVES

Acquisition of public right-of-ways over Indian allotment lands is allowed in either of two ways:

1. Through negotiations by either the Municipality or State and the Secretary of the Interior. (25 U.S.C.A. 311)
2. By exercise of eminent domain by the State or the Municipality. (25 U.S.C.A. 357)

Both the State and the Municipality, which succeeded to all interests of the former second class City of Glen Alps as a consequence of unification, can exercise the power of eminent domain. It would probably be more economical for the Municipality to do so since it has become a defendant in the existing suit as a consequence of unification. A key issue is who should bear the cost of acquiring right-of-way for the road and road maintenance: 12 families who live year round in the Glen Alps area as residents of a Municipal service area or the State, which attracts thousands to the area with Chugach State Park?

The area encompassed in the existing roadway is between one and two acres in size. Probably the highest valuation for land in that area is \$20,000 per acre. \$40,000 would probably acquire the right-of-way necessary to provide legal access to Glen Alps and the State park entrance. Since the Tabbytite case was brought in Federal Court, the just compensation is determined by subtracting the value of the land with the road crossing it from the value of the land without the road crossing it.

AGREEMENT BETWEEN THE MUNICIPALITY OF ANCHORAGE AND
THE STATE DIVISION OF PARKS
STATE OF ALASKA

The Municipality and State Division of Parks agree that it is desirable to maintain legal access to the Glen Alps entrance to Chugach State Park and for the 12 families who reside in Glen Alps to go from and return to their homes. The twelve families who reside in Glen Alps are willing to pay for part of the cost of acquiring right-of-way across Mrs. Tabbytite's land as residents of a Municipal service area, but the service area's financial base is limited because there are only 12 or so families within it. Therefore, the Municipality and State Division of Parks requests that the

legislature appropriate \$40,000 to cover the cost of acquiring legal road right-of-way across Mrs. Tabbytite's land. If the acquisition of costs is less than \$40,000, the appropriated funds will not be spent.

The Division of Parks recognizes that the Glen Alps park entrance is the most heavily used entrance in the hillside portion of the park above Anchorage. It would like to have the right-of-way procured so that legal access is possible, but is unable to do so without an appropriation from the legislature.

The parties further recognize that the road in question is used daily by residents of Glen Alps and primarily on weekends by visitors to the State Park. For this reason, both the Municipality and the Division of Parks feel it equitable to divide the cost of routine road maintenance and snow removal.

If the property interest is acquired as proposed above the Municipality and the Division of Parks will enter into bonafide, good faith, negotiations to establish the portion of the cost of routine road maintenance and snow removal based upon present use of the road by residents of the service area of Glen Alps and non-residents of the service area. This amount will be requested as a specific priority item in future parks budgets. The Division of Parks agrees that it will use its best professional efforts to urge the legislature to appropriate this amount. If appropriated, this amount will be paid to the Municipality on a contractual basis to do this work. Maintenance shall be by the Municipality. If the road is relocated the Division of Parks shall not be responsible for any costs caused in such relocation.

The Municipality and Division of Parks further agree to renegotiate the share of routine road maintenance and snow removal costs which each is to bear if the proportionate use of the road between residents of Glen Alps service area and users of the Glen Alps entrance to the State park changes significantly from that which presently exists. A bona fide good faith effort to effect such renegotiations shall occur at least every 5 years.

MUNICIPALITY OF ANCHORAGE

DIVISION OF PARKS

BY Richard A. Weinig
Richard A. Weinig
Assistant Municipal Attorney

BY Russell W. Cahill
Russell W. Cahill
Director
Department of Natural Resources
State of Alaska