

1070 SJ - HB 548

# OVERKILL

OR

HAVE WE ARRIVED AT THE POINT WHERE IT IS NO LONGER  
POSSIBLE TO GET THERE FROM HERE?



Part of the life blood of any logging operation in Southeast Alaska is the ability to establish logging camps and the facilities to put logs into the water and boom and raft them preparatory to towing them to a mill site or shipping point. Because these facilities involve uplands, tidelands and navigable waters, an applicant must clear the activity necessary for construction with an upland owner (if other than his own private property), the Alaska Department of Natural Resources (DNR) because they are custodians of the State's tidelands and the Corps of Engineers, Department of the Army (Corps) as the agency responsible for issuing permits for facilities in navigable waters.

To illustrate the total "overkill" of procedures and duplication one must struggle through in obtaining the necessary permits and approvals, it is necessary to track the procedure. Neets Bay 10 and 12 are a good example of such facilities and their record.

Neets Bay is within the Ketchikan Pulp Company (KPC) (KPC is a wholly-owned subsidiary of Louisiana-Pacific Corporation) long term timber sale and the original need for camp, log transfer and boom and rafting facilities was recognized and reviewed by the Forest Service (FS) multi-discipline team when designating areas for the 1974-79 five-year operating area for which an environmental impact statement (EIS) was written. Therefore, as the upland owners, the Forest Service reviewed and approved the site for these facilities and included them in the EIS prior to commencing logging operations on the five-year period beginning July 1, 1974.

On April 26, 1977 (Exhibit A) a letter was sent to the Corps together with application for permit described as "proposed standing log boom retained in position by 5 ton anchors, log transfer facility using approximately 1,000 cubic yards of upland shot rock and employing an A-frame lift-off device, an offloading ramp consisting of a lashed log crib filled with shot rock from an upland source, a small boat dock and ramp to aid in construction of roads and facilities".

On June 15, 1977 we were sent a letter by the Corps notifying us of their receipt of our application, the assignation of Reference No. 071-OYD-2-770123 and the notification of assessment of a \$100.00 processing fee should approval be granted. (Exhibit B)



On July 19, 1977 we received from the Corps (Exhibit C) a copy of a letter from the U. S. Environmental Protection Agency (EPA) requesting the permit, if issued, contain the following special conditions:

1. The permittee shall implement, once per year for a period of three years, a bottom sampling program to determine whether lost solids have accumulated in the project waters associated with the log transfer site. Each such sampling shall be completed not later than September 1 of each sampling year.
2. The permittee shall submit a brief report of the findings of each sampling effort and a sketch showing location of sampling sites, to the Corps of Engineers, the Alaska Department of Environmental Conservation and the U.S. Environmental Protection Agency not later than October 15, of each sampling year.
3. The permittee shall remove all significant accumulations of lost wood solids, if any, and dispose of them in an upland fill approved by the U.S. Forest Service and/or the Alaska Department of Environmental Conservation and concurred in by the Environmental Protection Agency. The permittee shall modify log transfer procedures, including possibly the relocation of the transfer site if significant accumulations of lost wood solids are found as a consequence of any sampling program conducted by the permittee or the Environmental Protection Agency.

Although EPA saw fit to copy the Alaska Department of Environmental Conservation (DEC), the U.S. National Marine Fisheries Service (NMFS), the U.S. Fish & Wildlife Service (USF&WS) and the Forest Service with their letter, they did not see fit to send it to the applicant thus requiring a copy of the letter to come from the Corps with their notice to us and our return agreement July 29, 1977 to the Corps (Exhibit D) with copy to EPA.

On August 29, 1977 and after advertisement of request for public comment, the Corps sent a letter (Exhibit E) informing us to submit our processing fee and we would receive our permit. On September 15, 1977 having submitted the required fee we received a cover letter and our permit from the Corps (Exhibit F). This permit contained standard Corps conditions a-x (24 in number) plus the three additional conditions of EPA. Included in the 24 Corps conditions are the conditions for applicant

to "at all times be consistent with applicable water quality standards, effluent limitations and standards of performance, prohibitions, and pretreatment standards established pursuant to Sections 301, 302, 306 and 307 of the Federal Water Pollution Control Act of 1972 (P.L. 92-500; 86 Stat. 816), or pursuant to applicable State and local law".

Another subsequent section also adds, "...if applicable water quality standards are revised or modified during the term of this permit the permit will be modified if necessary to conform with such revised standards within 6 months of the revision..."

On September 30, 1977 we applied to the Department of Natural Resources for a tideland permit for this same area. However, due to market changes affecting our need for logs, scheduling our logging operations, together with the need to recover blown down timber in other areas, it became apparent we would not be moving into this area as planned.

It is difficult to be precise in these schedules when we must get our Corps permits started a minimum of six months prior to construction and construction must precede logging by at least one year. This means we are estimating our logging needs one and one-half to as much as three years in advance in relation to needing permits, and we are working with the Forest Service preparatory to writing environmental impact statements as far as eight years in advance of construction for some of these facilities.

In any event, we did not start the work applied for in either the DNR tidelands permit or the Corps permit as expected. On April 16, 1979 we received notice from DNR (Exhibit G) to notify them of our intentions on the tidelands permit or they would close the file. We advised DNR by letter of April 20, 1979 (Exhibit H) of our new estimated dates of construction schedule starting on March 1, 1980 and completion on August 1, 1980.

It was now apparent our logging activities in this area would not be completed during the 1974-79 five-year period but would now fall within the 1979-84 period. This necessitated the FS multi-discipline team review and the inclusion of this area and its facilities in yet another EIS.

We also wrote the Corps on August 8, 1979 (Exhibit I) requesting extension of our permit to cover our new schedule. On October 4, 1979 (after a period of almost two months) we received word from the Corps (Exhibit J) stating they could not extend our permit because we had not commenced work by April 26, 1978 or a year after our original application and must reapply.



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On October 16, 1979 we sent a cover letter and application to the Corps (Exhibit K). The letter, application and drawing were basically the identical ones used for our original application of April 26, 1977. On or about October 23, 1979 we received from the Corps a letter (undated) (Exhibit L) designating our application NPACO-RF-P Neets Bay 12 with the reference number 071-OYD-2-790398. We were further informed by the Corps that further action on our permit was suspended because the permit area was within the Alaska coastal zone and we must provide a certification that our activity would comply with the Alaska Coastal Management Program. Also, they advised us that a permit cannot be issued until we have obtained a Certificate of Reasonable Assurance or Waiver of Certification as required by Section 401(a)(1) of the Clean Water Act. This certification or waiver is to be issued by the DEC.

We next received a letter dated November 30, 1979 from DNR (Exhibit M) informing us that our tideland permit ADL 100073 for Neets Bay was to be advertised as shown on the attached notice. We then received a copy of the Corps public notice dated December 7, 1979 (Exhibit N) and attached was a copy of the public notice from the Office of the Governor, Division of Policy Development & Planning (DPDP) for Application for Certification of Consistency with the Alaska Coastal Management Program and also attached was the DEC public notice of Application for Water Quality Certification. This latter certification is assurance that any discharge to waters of the United States resulting from the project described in the Corps permit will comply with the Clean Water Act and applicable state laws, even though the applicant must agree to abide by these laws as a condition of obtaining the permit from the Corps and the permit itself so stipulates (see Corps permit General Conditions part b).

A letter dated December 12, 1979 was sent to the Corps from DPDP (Exhibit O) advising them they had received the application, were reviewing it for Alaska Coastal Management Program Consistency Determination and had distributed the material to the appropriate governmental agencies for a review which they were scheduled to close on January 10, 1980, soon after which they would send the review decision to the Corps. Also, the State Clearinghouse has now assigned State ID No. FD280-79121111FP.

On December 28, 1979 we had a telephone call from the NMFS questioning whether there was enough water under the transfer site to float the log bundles at all tides. We directed him to the plat submitted with our application indicating 50 to 60 feet and pointed out that the site would be of no use for our purposes if the bundles did not float. We agreed to make ourselves available to travel to the site with them. However, we later found they had visited the site without contact with us.

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On January 4, 1980 we were copied on a letter sent from the Alaska Department of Fish & Game (ADF&G) (Exhibit P) requesting a one month extension to permit a more thorough evaluation and assessment of the impacts of this development. ADF&G sent copies of this letter to USF&WS, NMFS, EPA, two recipients (Juneau and Anchorage) at DNR, two recipients (both Juneau) at DEC, one other recipient at ADF&G and the State Clearinghouse.

Also, on January 4, 1980 the DPDP wrote the Corps (Exhibit Q) notifying them the Alaska State Clearinghouse was extending the closing date for review from their original January 10, 1980 by fifteen days which they calculated would be a closing date of February 2, 1980. (Actually, 15 days from January 10, 1980 is January 25, 1980).

On January 17, 1980 we received a copy of a letter from EPA to the Corps (Exhibit R) advising them the proposal may have adverse impacts on water quality and/or the aquatic resources and accordingly, coordination with appropriate State and Federal resource agencies was needed and they would expect to provide additional comments within 30 days. The EPA copied USF&WS, ADF&G, DEC and NMFS.

On January 18, 1980 we received a copy of a letter from the Corps to NMFS (Exhibit S) agreeing to extend the review period to February 7, 1980.

On January 29 we received notice and billing from DNR (Exhibit T) for the advertisement for our State Tideland Permit.

On February 8, 1980 we received a copy of a letter from EPA to the Corps (Exhibit U) informing them of no objection to issuance of this permit "provided the applicant complies with all State & Federal resource agency conditions that may be needed to protect the aquatic resources". A copy of this letter went to USF&WS, NMFS, ADF&G, and DEC. Had EPA read the requirements written into a Standard Corps Permit they would have noted the applicant must not only agree to comply with all State and Federal conditions but must also agree to currently comply if rules or regulations are added or modified and we would not now at this late date have to agree with what we must agree with to obtain the valid permit.

On February 15, 1980 we received a letter from the Corps (Exhibit V) enclosing a copy of a letter they received from the ADF&G saying they had reviewed the application and "find this project consistent with those Coastal Zone Management standards we have responsibility for reviewing and have no objections to issuance of a permit, provided the following special stipulations are included:

1. A non violent log transfer facility is employed.

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2. The permit is limited to a five year period".

Copies of this letter dated February 1, 1980 were sent to NMFS, USF&WS, EPA, 2 recipients at DNR, 2 recipients at DEC, ADF&G, Clearinghouse and to the Applicant.

It is interesting to note that at this late date there is a requirement for a non violent dump when both the original and subsequent applications for permit detailed in the drawings of the facilities as well as in the verbal description a lift-off, non violent type of equipment to be used. Also, the insistence of a five year limitation with no explanation whatsoever of why they think this is necessary or investigation as to whether this limitation is consistent with the applicant's requirements.

We next heard directly from DPDP on February 19, 1980 (Exhibit W). They informed us that, "As currently planned, we have found the proposal to be inconsistent with ACMP. It will be consistent with the ACMP provided the attached stipulations are met.

#### INCONSISTENT DETERMINATION ATTACHMENT

Conditions related to South Neets Bay Timber Project  
(State I.D. # FD 280-79121111 FP):

1. The Department of Environmental Conservation must first issue a Certificate of Reasonable Assurance stating that the proposed activity will comply with the requirements of Section 401 of the Federal Water Pollution Control Act Amendments of 1972 as modified by the Clean Water Act of 1977.
2. A non-violent log transfer facility must be employed.

Copies of this letter were sent to Office of Coastal Management (OCM), Department of Law, COE(Corps) and DEC. Again, we have the requirement for a non violent log transfer in the permit application.

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At this point we seem to be in the position of not being able to get approval from DPDP until DEC goes to public notice and issues a Certificate of Reasonable Assurance that the project will be in compliance with Section 401 of the Federal Water Pollution Control Act even though this is stipulated by the Corps as a general condition of the permit.

We next received a letter from the Corps dated February 21, 1980 (Exhibit X) and relaying to us a letter they received from NMFS and indicating they had made two on-site inspections of the area to be covered by this application. They state, "As a result of these investigations, we believe that the proposed action will not significantly harm marine, estuarine, or anadromous fisheries resources if the following stipulations are incorporated into the permit:

1. Log transfer methods should be non violent. This will reduce the amount of bark debris knocked off in the transfer process.
2. This permit shall expire in five years.
3. A sufficient amount of clean shot rock shall be placed over all fill material so that erosion and leaching of fill material will not occur".

We were not copied on this letter, necessitating the Corps send us a copy and request our comments to NMFS who must then contact the Corps of our agreement. Also, had this agency read either the original or second application for this facility they, too, would have noted it was specifically for a lift-off (non violent) type and was to be filled entirely by shot rock. They also deemed a five year limitation on the permit without any explanation of the necessity or inquiry of the applicant.

Also on February 21, 1980 we wrote DPDP (Exhibit Y) agreeing to a non violent dump, even though this was the intention from the original application for this permit on April 26, 1977.

On March 3, 1980 we received from the DEC by Certified Mail, Return Receipt Requested (Exhibit Z) a cover letter transmitting to us a State of Alaska Department of Environmental Conservation Certificate of Reasonable Assurance. This document states the log transfer facility consisting of 1,000 cubic yards of shot rock fill and an A-frame lift-off device will be constructed along with other facilities. It then stipulates the following provisions:

1. A spill prevention control and counter measures plan in accordance with 40 CFR 112.4(c)\*has been prepared by the applicant and submitted to ADEC.



2. A non-violent log transfer facility is employed.
3. A clean shot rock cap is placed over all fill material to prevent surface erosion.
4. ADEC 401 certification expires in five (5) years.

Copies of this letter were sent to Corps, EPA, ADL(DNR), ADF&G, NMFS, USF&WS, SERO(?), OCM and State Clearinghouse.

Although we do not understand why a spill prevention control and countermeasure plan is needed for approval of this permit we will submit one to DEC because to argue it would be time consuming and it will be required by the Coast Guard, FS and EPA prior to fuel being stored in the area. We will agree to a non violent log transfer as stipulated on both plans and description of our permits since April 26, 1977 and we will agree to a clean shot rock cap because all of the fill material will be clean shot rock as stated in application. We are still curious as to why so many agencies (or is it really one agency with a lot of shadows?) insist on a five-year limit without inquiring of us how long we will need the facility. In this case, we will most likely agree to the five year stipulation, only so we can commence the project and hope for an extension if we need the facility longer.

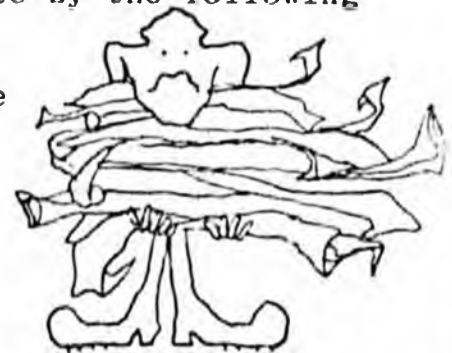
On March 3, 1980 we also received a copy of a letter from DPDP to the Corps (Exhibit AA) informing them they had received a Certificate of Reasonable Assurance from DEC stating that the subject project will comply with the requirements of Section 401 of the Federal Water Pollution Control Act. They further state they have now completed their ACMP review of the subject proposal and find it consistent with ACMP. Copies of this letter were sent to OCM, two recipients at ADF&G, DEC and Commissioner McAnerney of Regional Affairs (CRA).

As of this writing, on March 10, 1980, we do not have our permit and we do not have a DNR tideland permit. Our construction season has started and our construction people are on the ground constructing the road and developing quarry sites and are badly in need of this permit to properly schedule their work.

Neets Bay 12, NPACO-RF-P, No. 071-OYD-2-790398, State I. D. No. FD280-79121111FP and ADL No. 100073 has been reviewed by two FS multi-discipline team reviews including participants from other State and Federal agencies, been included within two Environmental Impact Reports in which all agencies could (and most did) make comments, as well as any private citizen and has now been reviewed by, or copied with, some correspondence by the following agencies in relation to this application:

FS

U.S. Forest Service



Corps	Corps of Engineers, Dept. of Army
EPA	U.S. Environmental Protection Agency
DNR	Alaska Department of Natural Resources
DPDP	Office of the Governor, Division of Policy Development and Planning
ADF&G	Alaska Department of Fish & Game
DEC	Alaska Department of Environmental Conservation
ADL	Alaska Department of Law
CRA	Commissioner of Regional Affairs State Clearinghouse
OCM	Alaska Department of Coastal Management
SERO	Unable to identify
NMFS	National Marine Fisheries Service
USF&WS	U.S. Fish & Wildlife Service

The question needing an answer is, why so much duplication, delay and totally unnecessary paperwork is required for a routine non-controversial permit such as this? Is it really necessary for nine State Departments or Agencies and probably twice that number of State employees along with five Federal Agencies and their employees to review, make comments and shuffle the paper? This chronology illustrates how rapidly the bureaucracy has come upon us when one reviews the rather direct route to the permit received in 1977 as compared to the frightening growth and duplication that has sprung up by 1979, even when applied to an area for which there had been a previous permit issued.

We do not fault the Corps, as their practice is to be helpful in notifying the applicants of agency input, but their regulations force them to respond to each and every comment, no matter how duplicative, until all participants are satisfied. We also think that if all agencies would read and analyze the General Conditions an applicant must consent to in order to get a permit they would realize many of their concerns are already well protected and much of their review and comments unnecessary. Attached is a current copy of the Corps General Conditions for a permit, for your information.

We sincerely feel this process is non productive, wasteful, inflationary and in need of review, particularly in respect to the State's duplicative reviews. It is only for this purpose this review has been written and circulated. If it accomplishes some reduction in what we consider a decided OVERKILL the effort will have been worthwhile.

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## I. General Conditions:

a. That all activities identified and authorized herein shall be consistent with the terms and conditions of this permit; and that any activities not specifically identified and authorized herein shall constitute a violation of the terms and conditions of this permit which may result in the modification, suspension or revocation of this permit, in whole or in part, as set forth more specifically in General Conditions j or k hereto, and in the institution of such legal proceedings as the United States Government may consider appropriate, whether or not this permit has been previously modified, suspended or revoked in whole or in part.

b. That all activities authorized herein shall, if they involve, during their construction or operation, any discharge of pollutants into waters of the United States or ocean waters, be at all times consistent with applicable water quality standards, effluent limitations and standards of performance, prohibitions, pretreatment standards and management practices established pursuant to the Federal Water Pollution Control Act of 1972 (P.L. 92-500, 86 Stat. 816), the Marine Protection, Research and Sanctuaries Act of 1972 (P.L. 92-532, 86 Stat. 1052), or pursuant to applicable State and local law.

c. That when the activity authorized herein involves a discharge during its construction or operation, of any pollutant (including dredged or fill material), into waters of the United States, the authorized activity shall, if applicable water quality standards are revised or modified during the term of this permit, be modified, if necessary, to conform with such revised or modified water quality standards within 6 months of the effective date of any revision or modification of water quality standards, or as directed by an implementation plan contained in such revised or modified standards, or within such longer period of time as the District Engineer, in consultation with the Regional Administrator of the Environmental Protection Agency, may determine to be reasonable under the circumstances.

d. That the discharge will not destroy a threatened or endangered species as identified under the Endangered Species Act, or endanger the critical habitat of such species.

e. That the permittee agrees to make every reasonable effort to prosecute the construction or operation of the work authorized herein in a manner so as to minimize any adverse impact on fish, wildlife, and natural environmental values.

f. That the permittee agrees that he will prosecute the construction or work authorized herein in a manner so as to minimize any degradation of water quality.

g. That the permittee shall permit the District Engineer or his authorized representative(s) or designee(s) to make periodic inspections at any time deemed necessary in order to assure that the activity being performed under authority of this permit is in accordance with the terms and conditions prescribed herein.

h. That the permittee shall maintain the structure or work authorized herein in good condition and in accordance with the plans and drawings attached hereto.

i. That this permit does not convey any property rights, either in real estate or material, or any exclusive privileges; and that it does not authorize any injury to property or invasion of rights or any infringement of Federal, State, or local laws or regulations nor does it obviate the requirement to obtain State or local assent required by law for the activity authorized herein.

j. That this permit may be summarily suspended, in whole or in part, upon a finding by the District Engineer that immediate suspension of the activity authorized herein would be in the general public interest. Such suspension shall be effective upon receipt by the permittee of a written notice thereof which shall indicate (1) the extent of the suspension, (2) the reasons for this action, and (3) any corrective or preventative measures to be taken by the permittee which are deemed necessary by the District Engineer to abate imminent hazards to the general public interest. The permittee shall take immediate action to comply with the provisions of this notice. Within ten days following receipt of this notice of suspension, the permittee may request a hearing in order to present information relevant to a decision as to whether his permit should be reinstated, modified or revoked. If a hearing is requested, it shall be conducted pursuant to procedures prescribed by the Chief of Engineers. After completion of the hearing, or within a reasonable time after issuance of the suspension notice to the permittee if no hearing is requested, the permit will either be reinstated, modified or revoked.

k. That this permit may be either modified, suspended or revoked in whole or in part if the Secretary of the Army or his authorized representative determines that there has been a violation of any of the terms or conditions of this permit or that such action would otherwise be in the public interest. Any such modification, suspension, or revocation shall become effective 30 days after receipt by the permittee of written notice of such action which shall specify the facts or conduct warranting same unless (1) within the 30 day period the permittee is able to satisfactorily demonstrate that (a) the alleged violation of the terms and the conditions of this permit did not, in fact, occur or (b) the alleged violation was accidental, and the permittee has been operating in compliance with the terms and conditions of the permit and is able to provide satisfactory assurances that future operations shall be in full compliance with the terms and conditions of this permit; or (2) within the aforesaid 30-day period, the permittee requests that a public hearing be held to present oral and written evidence concerning the proposed modification, suspension or revocation. The conduct of this hearing and the procedures for making a final decision either to modify, suspend or revoke this permit in whole or in part shall be pursuant to procedures prescribed by the Chief of Engineers.

l. That in issuing this permit, the Government has relied on the information and data which the permittee has provided in connection with his permit application. If, subsequent to the issuance of this permit, such information and data prove to be false, incomplete or inaccurate, this permit may be modified, suspended or revoked, in whole or in part, and/or the Government may, in addition, institute appropriate legal proceedings.

m. That any modification, suspension, or revocation of this permit shall not be the basis for any claim for damages against the United States.

n. That the permittee shall notify the District Engineer at what time the activity authorized herein will be commenced, as far in advance of the time of commencement as the District Engineer may specify, and of any suspension of work, if for a period of more than one week, resumption of work and its completion.

o. That if the activity authorized herein is not started on or before \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, (three years from the date of issuance of this permit unless otherwise specified) and is not completed on or before \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, (three years from the date of issuance of this permit unless otherwise specified) this permit, if not previously revoked or specifically extended, shall automatically expire.

p. That this permit does not authorize or approve the construction of particular structures, the authorization or approval of which may require authorization by the Congress or other agencies of the Federal Government.

q. That if and when the permittee desires to abandon the activity authorized herein, unless such abandonment is part of a transfer procedure by which the permittee is transferring his interests herein to a third party pursuant to General Condition t hereof, he must restore the area to a condition satisfactory to the District Engineer.

r. That if the recording of this permit is possible under applicable State or local law, the permittee shall take such action as may be necessary to record this permit with the Register of Deeds or other appropriate official charged with the responsibility for maintaining records of title to and interests in real property.

s. That there shall be no unreasonable interference with navigation by the existence or use of the activity authorized herein.

t. That this permit may not be transferred to a third party without prior written notice to the District Engineer, either by the transferee's written agreement to comply with all terms and conditions of this permit or by the transferee subscribing to this permit in the space provided below and thereby agreeing to comply with all terms and conditions of this permit. In addition, if the permittee transfers the interests authorized herein by conveyance of realty, the deed shall reference this permit and the terms and conditions specified herein and this permit shall be recorded along with the deed with the Register of Deeds or other appropriate official.

ii. Special Conditions: (Here list conditions relating specifically to the proposed structure or work authorized by this permit):

The following Special Conditions will be applicable when appropriate:

#### STRUCTURES IN OR AFFECTING NAVIGABLE WATERS OF THE UNITED STATES

a. That this permit does not authorize the interference with any existing or proposed Federal project and that the permittee shall not be entitled to compensation for damage or injury to the structures or work authorized herein which may be caused by or result from existing or future operations undertaken by the United States in the public interest.

b. That no attempt shall be made by the permittee to prevent the full and free use by the public of all navigable waters at or adjacent to the activity authorized by this permit.

c. That if the display of lights and signals on any structure or work authorized herein is not otherwise provided for by law, such lights and signals as may be prescribed by the United States Coast Guard shall be installed and maintained by and at the expense of the permittee.

d. That the permittee, upon receipt of a notice of revocation of this permit or upon its expiration before completion of the authorized structure or work, shall, without expense to the United States and in such time and manner as the Secretary of the Army or his authorized representative may direct, restore the waterway to its former conditions. If the permittee fails to comply with the direction of the Secretary of the Army or his authorized representative, the Secretary or his designee may restore the waterway to its former condition, by contract or otherwise, and recover the cost thereof from the permittee.

e. Structures for Small Boats. That permittee hereby recognizes the possibility that the structure permitted herein may be subject to damage by wave wash from passing vessels. The issuance of this permit does not relieve the permittee from taking all proper steps to insure the integrity of the structure permitted herein and the safety of boats moored thereto from damage by wave wash and the permittee shall not hold the United States liable for any such damage.

#### MAINTENANCE DREDGING

a. That when the work authorized herein includes periodic maintenance dredging, it may be performed under this permit for \_\_\_\_\_ years from the date of issuance of this permit (ten years unless otherwise indicated).

b. That the permittee will advise the District Engineer in writing at least two weeks before he intends to undertake any maintenance dredging.

#### DISCHARGES OF DREDGED OR FILL MATERIAL INTO WATERS OF THE UNITED STATES

a. That the discharge will be carried out in conformity with the goals and objectives of the EPA Guidelines established pursuant to Section 404(b) of the FWPCA and published in 40 CFR 230.

b. That the discharge will consist of suitable material free from toxic pollutants in other than trace quantities;

c. That the fill created by the discharge will be properly maintained to prevent erosion and other non point sources of pollution; and

d. That the discharge will not occur in a component of the National Wild and Scenic River System or in a component of a State wild and scenic river system.

#### DUMPING OF DREDGED MATERIAL INTO OCEAN WATERS

a. That the dumping will be carried out in conformity with the goals, objectives, and requirements of the EPA criteria established pursuant to Section 102 of the Marine Protection, Research and Sanctuaries Act of 1972, published in 40 CFR 220.228.

b. That the permittee shall place a copy of this permit in a conspicuous place in the vessel to be used for the transportation and/or dumping of the dredged material as authorized herein.

This permit shall become effective on the date of the District Engineer's signature.

Permittee hereby accepts and agrees to comply with the terms and conditions of this permit.

EXHIBITS INCLUDED

Exhibit A	Application to Corps	4/26/77
Exhibit B	Corps letter	6/15/77
Exhibit C	Corps letter w, EPA letter	7/19/77
Exhibit D	KPC to Corps & EPA	7/29/77
Exhibit E	Corps to KPC	8/29/77
Exhibit F	Corps permit	9/15/77
Exhibit G	DNR letter	4/16/79
Exhibit H	LP to DNR	4/20/79
Exhibit I	LP to Corps	8/8/79
Exhibit J	Corps denying extension	10/4/79
Exhibit K	Letter & application to Corps	10/16/79
Exhibit L	Letter from Corps recognizing application	Undated
Exhibit M	Notice of DNR tideland ad.	11/30/79
Exhibit N	Corps Public Notice + DPDP and DEC	12/7/79
Exhibit O	DPDP to Corps	12/12/79
Exhibit P	AD & G to Corps	1/2/80
Exhibit Q	DPDP to Corps	1/4/80
Exhibit R	EPA to Corps	1/14/80
Exhibit S	Corps to NMFS	1/18/80
Exhibit T	DNR to LP	1/25/80
Exhibit U	EPA to Corps	2/5/80
Exhibit V	Corps to KPC (ADF&G)	2/15/80
Exhibit W	DPDP to KPC	2/19/80
Exhibit X	Corps to KPC (on NMFS)	2/21/80
Exhibit Y	KPC to DPDP	2/21/80
Exhibit Z	DEC to KPC	3/3/80
Exhibit AA	DPDP to Corps	3/3/80

# Alaska



## STATE CHAMBER of COMMERCE

310 Second Street  
Juneau, Alaska 99801  
Phone 586-2323

PLEASE REPLY TO:  
Pouch 6 - 612  
Anchorage, Alaska 99502

April 11, 1980

Senator Robert H. Ziegler, Sr.  
Chairman, Senate Judiciary Committee  
Alaska State Senate, Pouch V  
State Capitol Building  
Juneau, Alaska 99811

Dear Senator Ziegler:


The purpose of this letter is to reflect the total support of the Alaska State Chamber of Commerce for SB 548 which I understand will be the subject of a hearing before your Committee next week.

Included in the State Chamber legislative goals which were prepared last November was the matter of regulatory review and reform. SB 548 reflects very accurately one of our hopes in regulatory reform.

I am certain that you and your committee are also aware of a problem of equal magnitude, i.e., conflicting and overlapping regulations among the various State departments. In respect to this problem I sent to Senator Bennett on April 8 a package of specific problems in this area of conflict. I am sure Senator Bennett will be glad to share this information with you.

In the meantime I would like to say again that SB 548 is a good bill and solves some major problems for businesses of all sizes operating in Alaska.

Yours very truly,



Charlie Elder  
Chairman

CRE:bc

cc: Senator E. Dankworth, Vice Chairman  
Senator H. D. "Pete" Meland  
Senator D. Bennett  
Senator B. Ray

April 16, 1980

Mr. Charlie Elder,  
Chairman  
Alaska State Chamber  
of Commerce  
310 Second Street  
Juneau, Alaska 99801

Der Charlie:

We had a hearing on SB 548 on April 15th, as a result of which a committee substitute is in the process of being prepared. I have no doubt but what a majority of my Senate Judiciary Committee members will sign "Do pass", and that thereafter a majority of the Senate will approve the committee substitute.

However, there are some technical problems which will have to be resolved as the bill goes through the legislative process.

At least we have start. the ball rolling.

Regards,

Robert H. Ziegler, Sr.

RHZ:lk

# Alaska



## STATE CHAMBER of COMMERCE

510 Second Street  
Juneau, Alaska 99801  
Phone 586-2323

PLEASE REPLY TO:  
Pouch 6 - 612  
Anchorage, Alaska 99502

April 11, 1980

Senator Robert H. Ziegler, Sr.  
Chairman, Senate Judiciary Committee  
Alaska State Senate, Pouch V  
State Capitol Building  
Juneau, Alaska 99811

Dear Senator Ziegler:

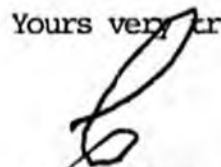
The purpose of this letter is to reflect the total support of the Alaska State Chamber of Commerce for SB 548 which I understand will be the subject of a hearing before your Committee next week.

Included in the State Chamber legislative goals which were prepared last November was the matter of regulatory review and reform. SB 548 reflects very accurately one of our hopes in regulatory reform.

I am certain that you and your committee are also aware of a problem of equal magnitude, i.e., conflicting and overlapping regulations among the various State departments. In respect to this problem I sent to Senator Bennett on April 8 a package of specific problems in this area of conflict. I am sure Senator Bennett will be glad to share this information with you.

In the meantime I would like to say again that SB 548 is a good bill and solves some major problems for businesses of all sizes operating in Alaska.

Yours very truly,

  
Charlie Elder  
Chairman

CRE:bc

cc: Senator E. Dankworth, Vice Chairman  
Senator H. D. "Pete" Meland  
Senator D. Bennett  
Senator B. Ray



**Louisiana-Pacific Corporation**

Ketchikan Division

Post Office Box 5500  
Ketchikan, Alaska 99901 U.S.A.  
Telephone 907-335-2151  
Telex 010-55-251  
Answer Back KAYPUL DO KET

April 1, 1980

Mr. James E. Caruth, Chief  
Regulatory Functions Branch  
Department of the Army  
Alaska District, Corps of Engineers  
P.O. Box 7002  
Anchorage, Alaska 99510

Re: NPACO-RF-P, Ward Cove 23  
071-OYD-2-790391

Dear Mr. Caruth:

Enclosed is a self-explanatory letter we have sent to the Division of Parks of the Alaska Department of Natural Resources. We hope we are able to convince the ADP there is a better way and trust our letter will permit continued processing of our application.

Sincerely,

A handwritten signature in dark ink, appearing to read 'D. L. Finney'.

D. L. Finney, Manager  
Forestry & Government Affairs

hr  
Enclosure



**Louisiana-Pacific Corporation**

Keyport, Alaska 99501

Post Office # 4900  
Keyport, Alaska 99501, U.S.A.  
Telephone: (907) 225-2151  
Telex: 039-58-251  
Answer back: KAYPULFCO-KET

April 1, 1980

Mr. Chip Dennerlein, Director  
Division of Parks, State of Alaska  
Department of Natural Resources  
619 Warehouse Drive, Suite 210  
Anchorage, Alaska 99501

Re: Ward Cove 23

Dear Chip:

Our first reaction to your comment on our Corps permit is that you have read the "Overkill" paper and felt left out by not having your agency mentioned. If this is the case, please accept our apologies as we had no intention of slighting you or your department. Just in case you haven't seen the "Overkill" paper, one is enclosed, so you can see how we have come to develop a prejudice toward any agency feeling it necessary to comment on Corps permits.

There are several things about your request for assurance on which we would like to comment. First, by writing the Corps without copying us, you necessitate the Corps writing to us (copy enclosed), us writing you and giving you assurance, then you writing the Corps and telling them it's all right, then the Corps writing us and telling us it's all right, before the processing of our permit can continue. If you really feel you must continue to be involved, please have the courtesy of sending us a copy of your request. Or, if you really intend to join the ranks of the "overkillers", you could let us know you intend to so respond to all permits and we can head off a lot of nonsense by notifying the Corps we will abide by your every wish at the time we apply. This would save you, us and the Corps a lot of letter writing, postage and, most importantly to us, valuable time.

*Louisiana-Pacific Corporation*

Mr. Chip Dennerlein

-2-

April 1, 1980

Another observation we have is that the cultural resources you wish to protect are already covered by the American Antiquities Act of 1906 (16 USC 431-433), National Historic Preservation Act of 1966 (16 USC 470) and Executive Order 11593(1971). Provisions of a Corps permit require an applicant to be in compliance with all Federal, State and Municipal laws. Also, our long term timber sale with the Forest Service has been recently modified to include an obligation for us to report any historic cultural resources immediately. Your added request for assurance does seem to be an "overkill".

One last observation is, if you have read the permit application we submitted, you will have noted it is for placing fill material and setting piling. It strikes us that there is not even the remotest possibility of discovering cultural resources with these activities.

Chip, as you can probably tell, you rattled our chain. We have decided to take head-on all unnecessary State Agency involvement in Corps permits because it really is coming to the point where we can no longer get there from here. Your agency just happens to be the first new customer since we wrote our exposé. Hopefully, our efforts will be rewarded by getting some logic in to the system and if such is the case, it will be well worth the time spent.

Now, so our application for NPACO-RF-P Ward Cove 23 Reference No. 071-0YD-790391 to Construct Berm and Place Piling in Ward Cove, Ketchikan, Alaska may proceed, we hereby notify you we agree, if any cultural resources are uncovered during the period of construction, our project engineer will halt all work that may disturb such resources and contact the Division of Parks (and probably the Guinness Book of Records) at once.

We shall, by copy of this letter, notify the Corps of our agreement but respectfully request that you also contact the Corps at the soonest possible time, informing them you have our assurance and have no objection to the further processing of our permit.





DEPARTMENT OF THE ARMY

ALASKA DISTRICT, CORPS OF ENGINEERS

P.O. BOX 7002

ANCHORAGE, ALASKA 99510

REPLY TO  
ATTENTION OF:

NPACD-RF-P  
Ward Cove 23

REC'D LFK

MAR 11 1980

MAR 11 1980

Ketchikan Pulp Company  
P.O. Box 6600  
Ketchikan, Alaska 99901

Reference: 071-OYD-2-790391  
Construct Berm & Piling  
Ward Cove  
Ketchikan, Alaska

Gentlemen:

Inclosed is a copy of a letter dated 12 March 1980 concerning your application for a Department of the Army permit for the referenced work.

It is the policy of the Department of the Army to provide an applicant the opportunity for a resolution or rebuttal to all objections and/or recommendations received on a proposed project. In this regard, the Alaska Division of Parks (ADP) has reviewed your proposal and requested that if any cultural resources are uncovered during the period of construction, your project engineer halt all work that may disturb such resources and contact them at once.

I would appreciate receiving any comments that you may have on the request by ADP. If you intend to comment, please give your immediate attention to this matter so processing of your permit application can be expedited.

Sincerely,

*Larry L. Keeder*  
for JAMES E. CARUTH  
Chief, Regulatory Functions Branch

1 Incl  
As stated

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF PARKS

619 Warehouse Dr., Suite 210  
Anchorage, Alaska 99501

March 12, 1980

File No.: 1130-2-1

Subject: Ward Cove 23

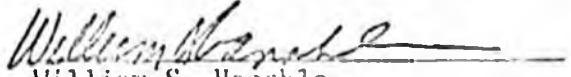
Mr. D. L. Robbins, Chief  
Construction/Operations Division  
Corps of Engineers  
Box 7002  
Anchorage, AK 99510

Dear Mr. Robbins:

We have reviewed the subject proposal and would like to offer the following comments:

STATE HISTORIC PRESERVATION OFFICER

No probable impacts. Should cultural resources be found during the construction, we request that the project engineer halt all work which may disturb such resources and contact us immediately.

  
William S. Hanable  
State Historic Preservation Officer


STATE PARK PLANNING

Consistent with ACMP.

LWCF

No comment.

Sincerely,

  
for Chip Dennerlein  
Director

CD/cw



**Louisiana-Pacific Corporation**

Ketchikan Division

Post Office Box 6700  
Ketchikan, Alaska 99901 U.S.A.  
Telephone: 907-225-2151  
Telex: 029-55-251  
Answer Back: KAYPULPCO KET

April 1, 1980

Mr. James E. Caruth, Chief  
Regulatory Functions Branch  
Department of the Army  
Alaska District, Corps of Engineers  
P.O. Box 7002  
Anchorage, Alaska 99510

Re: NPACO-RF-P, Ward Cove 23  
071-OYD-2-790391

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Sincerely,

D. L. Finney, Manager  
Forestry & Government Affairs

hr  
Enclosure



**Louisiana-Pacific Corporation**

Ketchikan, Alaska

Post Office # 76000

Ketchikan, Alaska 99901, U.S.A.

Telephone 907-225-2151

Telex 029-55-251

Answer back: KAYPULPOG KET

April 1, 1980

Mr. Chip Dennerlein, Director  
Division of Parks, State of Alaska  
Department of Natural Resources  
619 Warehouse Drive, Suite 210  
Anchorage, Alaska 99501

Re: Ward Cove '3

Dear Chip:

Our first reaction to your comment on our Corps permit is that you have read the "Overkill" paper and felt left out by not having your agency mentioned. If this is the case, please accept our apologies as we had no intention of slighting you or your department. Just in case you haven't seen the "Overkill" paper, one is enclosed, so you can see how we have come to develop a prejudice toward any agency feeling it necessary to comment on Corps permits.

There are several things about your request for assurance on which we would like to comment. First, by writing the Corps without copying us, you necessitate the Corps writing to us (copy enclosed), us writing you and giving you assurance, then you writing the Corps and telling them it's all right, then the Corps writing us and telling us it's all right, before the processing of our permit can continue. If you really feel you must continue to be involved, please have the courtesy of sending us a copy of your request. Or, if you really intend to join the ranks of the "overkillers", you could let us know you intend to so respond to all permits and we can head off a lot of nonsense by notifying the Corps we will abide by your every wish at the time we apply. This would save you, us and the Corps a lot of letter writing, postage and, most importantly to us, valuable time.



Louisiana-Pacific Corporation

Mr. Chip Dennerlein

-2-

April 1, 1980

Another observation we have is that the cultural resources you wish to protect are already covered by the American Antiquities Act of 1906 (16 USC 431-433), National Historic Preservation Act of 1966 (16 USC 470) and Executive Order 11593(1971). Provisions of a Corps permit require an applicant to be in compliance with all Federal, State and Municipal laws. Also, our long term timber sale with the Forest Service has been recently modified to include an obligation for us to report any historic cultural resources immediately. Your added request for assurance does seem to be an "overkill".

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Chip, as you can probably tell, you rattled our chain. We have decided to take head-on all unnecessary State Agency involvement in Corps permits because it really is coming to the point where we can no longer get there from here. Your agency just happens to be the first new customer since we wrote our exposé. Hopefully, our efforts will be rewarded by getting some logic in to the system and if such is the case, it will be well worth the time spent.

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We shall, by copy of this letter, notify the Corps of our agreement but respectfully request that you also contact the Corps at the soonest possible time, informing them you have our assurance and have no objection to the further processing of our permit.



Louisiana-Pacific Corporation

Mr. Chip Dennerlein

-3-

April 1, 1980

We would be most interested in any comments you might have concerning your continued involvement in Corps permits.

Sincerely,

  
D. L. Finney, Manager  
Forestry & Government Affairs

hr  
Enclosure

cc: J. Hammond - w/cc of Corps & Parks letters  
T. Miller                   "  
J. Reinwand               "  
R. LeResche               "  
W. McConkey              "  
& a host of others



DEPARTMENT OF THE ARMY  
ALASKA DISTRICT, CORPS OF ENGINEERS  
P.O. BOX 7002  
ANCHORAGE, ALASKA 98510

REPLY TO  
ATTENTION OF:  
NPACO-RF-P  
Ward Cove 23

REC'D LFK

MAR 11 1980

MAR 27 1980

Ketchikan Pulp Company  
P.O. Box 6600  
Ketchikan, Alaska 99901

Reference: 071-0YD-2-790391  
Construct Berm & Piling  
Ward Cove  
Ketchikan, Alaska

Gentlemen:

Inclosed is a copy of a letter dated 12 March 1980 concerning your application for a Department of the Army permit for the referenced work.

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I would appreciate receiving any comments that you may have on the request by ADP. If you intend to comment, please give your immediate attention to this matter so processing of your permit application can be expedited.

Sincerely,

*Larry L. Reeder*  
for JAMES E. CARUTH  
Chief, Regulatory Functions Branch

1 Incl  
As stated

# STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

## DEPARTMENT OF NATURAL RESOURCES

DIVISION OF PARKS

619 Warehouse Dr., Suite 210  
Anchorage, Alaska 99501

March 12, 1980

File No.: 1130-2-1

Subject: Ward Cove 23

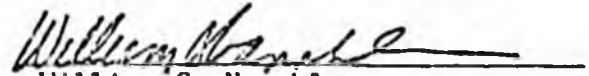
Mr. D. L. Robbins, Chief  
Construction/Operations Division  
Corps of Engineers  
Box 7002  
Anchorage, AK 99510

Dear Mr. Robbins:

We have reviewed the subject proposal and would like to offer the following comments:

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William S. Hanable  
State Historic Preservation Officer


### STATE PARK PLANNING

Consistent with ACMP.

LWCF

No comment.

Sincerely,



for Chip Dennerlein  
Director

CD/cw

Please review for possible C.S. for  
captioned bill.

Hey

TESTIMONY OF ALASKA LUMBER AND PULP CO., INC.

On Senate Bill 548

Before the Senate Judiciary Committee

April 15, 1980

By Elizabeth Cuadra

Alaska Lumber and Pulp Co., Inc. (ALP) supports enactment of S. B. 548 into law.

ALP requests, however, an amendment to make it very clear that state reviews of applications for federal agency permits are also to be included within the applicability of the time limits placed upon state agency processing.

Examples would be state agency Section 401 certification of applications for Corps of Engineers Clean Water Act Section 404 "dredge and fill" permits, Section 401 certification of applications for EPA Clean Water Act Section 402 (NPDES) permits, and "federal consistency" determinations which the Alaska Office of Coastal Management makes regarding applications for federal permits for projects within the coastal zone.

Suggested text for the amendment we request is attached.

Thank you for the opportunity to present ALP's views.

RECOMMENDED BY ALASKA LUMBER AND PULP CO., INC.

Amend S. B. 548 in Section 2 beginning at p. 1,  
line 25:

"Sec. 44.62.632. TIME LIMIT ON THE PROCESSING OF PERMITS. (a) Upon receipt of a permit application or receipt of a federal agency request for state review of an application for a federal permit, the responsible state agency shall issue a final decision granting, denying or conditioning the issuance of the permit, or issue a final response to the federal agency's request for state review, within 30 days from date of receipt of the application, unless the person filing the application has designated the application as a master application under AS 46.35.030 or unless another statute provides a specific time period in which the agency must act with respect to the subject matter of the permit application or federal agency request for review."

If there is doubt as to whether functions in the Office of the Governor are included within the phrase "department, commission, board or other agency of the state," then also amend the definition of "state agency" [in

AS 44.62.640, proposed new subsection (c), item (6)] by amending bill Sec. 3, at page 4 line 26 through page 5 line 2, as follows:

"(6) 'state agency' means a state department, commission, board or other agency of the state including the Office of Coastal Management; for the purposes of AS 44.62.632 - 44.62.636, "state agency" also means a local or regional air pollution control authority established under AS 46.03.210, and a coastal resource district and a coastal resource service board established under AS 46.40.010 - 46.40.210."

STATE OF ALASKA  
Inter-Department Route Slip

TO:  
MAIL STATION NUMBER \_\_\_\_\_  
DEPARTMENT Senate-Judiciary  
ATTENTION Robert Berglund

- |  |  |
|--|--|
| <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:

Room # 107-Cape


FROM:  
MAIL STATION NUMBER \_\_\_\_\_  
DEPARTMENT Public Safety  
BY W. Hansen DATE 5-6-80

02-002 (REV.10/73)

BILL ANALYSIS

ASSIGNMENT DATE \_\_\_\_\_

UNASSIGNED \_\_\_\_\_

DEPARTMENT	SPONSOR (PRINCIPAL)		BILL NO.
Public Safety	Rules Committee		CS SB 548
DEPARTMENT POSITION			
Neutral			
DIVISION DIRECTOR	DATE	COMMISSIONER	DATE
Ronald Hendrie, State Fire Marshal	5/5/80	<i>W</i> William R. Nix	5/5/80
GOVERNOR'S OFFICE USE			
<input type="checkbox"/> POSITION NOTED	<input type="checkbox"/> POSITION APPROVED	<input type="checkbox"/> POSITION DISAPPROVED	
BY:	DATE:		
SUMMARY			
(1) RELATED BILLS (SIMILAR OR CONFLICTING)			
(2) OTHER AGENCIES AFFECTED BY BILL			
(2) a. ORGANIZATIONAL SUPPORT FOR BILL			(2) b. ORGANIZATIONAL OPPOSITION TO BILL
(3) PROGRAM EFFECTS OF BILL			
(4) FISCAL IMPACT: <input type="checkbox"/> NONE <input type="checkbox"/> FISCAL ANALYSIS ATTACHED			
(5) AMENDMENTS PROPOSED:			
(6) COMMENTS:			

The concerns outlined in the attached bill analysis for SB 548 also apply to CSSB 548.

**BILL ANALYSIS**

ASSIGNMENT DATE 4-8-80

UNASSIGNED \_\_\_\_\_

DEPARTMENT Public Safety	SPONSOR (PRINCIPAL) By the Rules Committee by request of the Administrative Regulations Review Committee	BILL NO. SB 548
DEPARTMENT POSITION Neutral (support concept)		
DIVISION DIRECTOR <i>Ronald A. Hendrie</i> Ronald A. Hendrie	DATE 4-14-80	COMMISSIONER <i>William R. Nix</i> William R. Nix
		DATE 4/15/80
GOVERNOR'S OFFICE USE		
<input type="checkbox"/> POSITION NOTED <input type="checkbox"/> POSITION APPROVED <input type="checkbox"/> POSITION DISAPPROVED		
BY: _____ DATE: _____		
SUMMARY		
(1) RELATED BILLS (SIMILAR OR CONFLICTING) (1) Unknown		
(2) OTHER AGENCIES AFFECTED BY BILL (2) Various state agencies		
(2) a. ORGANIZATIONAL SUPPORT FOR BILL	/	(2) b. ORGANIZATIONAL OPPOSITION TO BILL
Unknown		Unknown
(3) PROGRAM EFFECTS OF BILL		
<p>The 30 day time limit for issuance of a final decision concerning a permit application, under sec. 2 of the bill, will necessitate increased personal services and operating support funds.</p> <p>The major programs affected would be (a) 'life and fire safety surveys (inspections) that we conduct <u>at the request</u> of other local, state and federal agencies to meet their permit, licensing or certification fire safety regulations and/or requirements and (b) construction plan checks and approvals. Modification and/or waiver request applications processed under these programs would also be affected.</p>		
(4) FISCAL IMPACT: <input type="checkbox"/> NONE <input type="checkbox"/> FISCAL ANALYSIS ATTACHED		
(5) AMENDMENTS PROPOSED:		

(6) COMMENTS: (3-continued)

The primary impact will be in program (a). CY and FY81 staffing requires this Division to maintain and more rigidly adhere to its current policy of limiting the survey program to current active files needing action, requests for surveys from licensing agencies which are accomplished subject to a time, manpower and travel funds available basis and to surveys necessitated by receipt of a formal complaint.

To work within the constraints that would be imposed by sec. 2 we will need to increase our professional field staff and operating support funds.

As for program (b) our average "turn around" time for a plan check, from receipt of the plans and specifications through review and the processing of our approval letter or letter stipulating additional life and fire safety design features necessary for incorporation is:

(continued on attached page)

# MEMORANDUM


State of Alaska

TO: Wilson L. Condon  
Deputy Attorney General  
Dept. of Law

DATE: April 15, 1980

FILE NO.

TELEPHONE NO. 465-4321

FROM:  Michael J. Clemens  
Acting Director  
Div. of Administrative Services  
Dept. of Public Safety

SUBJECT: SB 548

The attached bill analysis on SB 548 was prepared by the Assistant State Fire Marshal, Gary Crouse. Because testimony today revealed that a Committee Substitute would be prepared by your office, the attached bill analysis is forwarded for use in preparing the Committee Substitute instead of being sent out in the normal manner. You can reach Mr. Crouse at #465-4331 if you have questions on his bill analysis or the regulatory provisions requiring life and safety inspections or building plan reviews.

cc: Gary Crouse, Ass't. State Fire Marshal  
with attachment

a project, is approximately seven (7) to ten (10) work days. Sec. 2 of the bill may not present a problem in program (b), depending on legislative intent. During the course of a plan check, from start to final approval, we are often dealing with design professional firms (architects, engineers etc.) who are not physically located in one of the three cities where we maintain offices (Anchorage, Fairbanks, Juneau) or are out-of-state firms. This necessitates the use of the mails and requires written communications both ways in order to conclude a project check. Plans and specifications often need revision.

Because of the above operating constraints projects requiring modification and/or incorporation of changed or additional fire safety features, in order to meet state fire safety regulations, may present a problem in so far as our ability to comply in all respects with sec. 2 of the bill, i.e. issuance of a final decision granting, denying or conditioning the issuance of a plan approval.

Other programs affected but probably only requiring permit application or permit or license form modifications and possibly a revision of our operating procedures would include: fire extinguisher servicing permits, fireworks wholesalers license, fireworks retailers permits, use of dangerous fireworks permits and applications for exemption from plan reviews (plan checks).

Note: The personal services and associated operational support costs for survey services of this Division, requested by other local, state or federal agencies to meet their regulatory (licensing) and/or certification programs, should be reimbursed by the requesting (user) agency.

EMPIRE 4/10/80

## Briefly

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### Alaska

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#### Mine regs 'hit high point'

FAIRBANKS (AP) — J.P. Tangen, the Juneau lawyer representing the Alaska Miners Association, said regulations hampering mining in Alaska may have hit their high point.

Speaking at the second annual Placer Mining Conference, Tangen said permits and regulations have created a heavy burden for miners.

"The administrative burden is so heavy it's difficult for major operations to bear it. And it's almost impossible for one, two or even five-man operations to try to respond."

He said in the past, small miners have feared compliance with regulations would draw attention to their operations, and that such scrutiny would hamper mining.

SB

582

COMMITTEE REPORT  
SENATE

FURTHER: Finance

5/1/80

Date: 5/12/80

Mr. President:

The Committee on JUDICIARY has had SB 582  
assessment, levy and collection of property taxes on transient aircraft

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass  do not pass
- do pass with attached amendments(s)
- replace with CS for CS 11-95  same title  
 new title
- and recommends CS 11-95
- AND attaches a "Letter of Intent"  New Fiscal Note
- reports it back without recommendation
- referred to the \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

MEMBERS HAVING  
OTHER RECOMMENDATIONS:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

3-1-80  
CHAIRMAN

Introduced: 5/1/80  
Referred: Judiciary and  
Finance

BY THE RULES COMMITTEE  
BY REQUEST

1 IN THE SENATE

2 SENATE BILL NO. 582

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the assessment, levy and collection  
7 of property taxes on transient aircraft; and providing  
8 for an effective date."

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

10 \* Section 1. AS 44.25.020 is amended by adding a new paragraph to read:

11 (5) assess the value of transient aircraft in accordance with  
12 AS 29.53.038.

13 \* Sec. 2. AS 29.53 is amended by adding a new section to read:

14 Sec. 29.53.038. TRANSIENT AIRCRAFT. (a) The Department of Revenue  
15 shall assess the value of transient aircraft. The Department of Revenue  
16 shall determine the value of aircraft assessed under this section at its  
17 full and true value and shall determine the value of the aircraft as of  
18 January 1 annually.

19 (b) The Department of Revenue may require by notice each person  
20 having ownership or control of an interest in aircraft assessed under  
21 this section to submit a return in the form prescribed by the Department  
22 of Revenue, based on values existing on January 1 of each year. The  
23 Department of Revenue by written notice may require a person to provide  
24 additional information within 30 days of the notice.

25 (c) The Department of Revenue may investigate aircraft on which a  
26 return has been filed or on which no return has been filed. In either  
27 case, the department may make its own valuation of the aircraft, which  
28 is prima facie evidence of full and true value. An employee or agent of  
29 the Department of Revenue may enter an aircraft as necessary for the in-

1 investigation during reasonable hours and may examine appropriate records.  
2 When requested by an employee or agent of the Department of Revenue, the  
3 owner of the aircraft shall furnish to the employee or agent reasonable  
4 assistance required for the investigation. If refused entry, the Depart-  
5 ment of Revenue may seek a court order to compel entry. For the purpose  
6 of the investigation, the owner of the aircraft or his representative  
7 may be required to present himself for examination under oath by the  
8 Department of Revenue.

9 (d) The Department of Revenue shall prepare annually the assess-  
10 ment roll for taxation of transient aircraft by municipalities. The  
11 assessment roll shall contain

- 12 (1) a description of all aircraft assessed under this section;
- 13 (2) the assessed value of the aircraft;
- 14 (3) the names and addresses of persons owning aircraft

15 assessed under this section.

16 (e) On or before March 1 of each year, the Department of Revenue  
17 shall send to each owner of aircraft named in the assessment roll a  
18 notice of assessment, showing the assessed value of the aircraft.  
19 Notice of assessment is effective on the date of mailing.

20 (f) The Department of Revenue shall send to each municipality  
21 levying a real property tax a copy of the notice of assessment on air-  
22 craft which is assessed under this section.

23 (g) An owner of aircraft or a municipality receiving an assessment  
24 notice may object to the assessment by advising the Department of Revenue  
25 in writing of the objections to the assessment within 20 days of the  
26 effective date of the notice.

27 (h) The Department of Revenue shall provide by regulation for  
28 notices of appeals to interested persons and municipalities.

29 (i) Following an objection, the Department of Revenue may adjust

1 the assessment and the assessment roll. An adjustment based on an  
2 objection from an owner of aircraft or a municipality shall be made  
3 within 30 days of the effective date of the notice of assessment.

4 (j) After a ruling by the Department of Revenue on an appeal made  
5 under (g) of this section, the owner of aircraft or a municipality may  
6 appeal to the State Assessment Review Board. The appeal must be filed  
7 in writing within 20 days of the effective date of the notice of assess-  
8 ment. The State Assessment Review Board shall provide by regulation for  
9 notices of appeals to interested persons and municipalities.

10 (k) The State Assessment Review Board shall hear appeals filed  
11 under (i) of this section. A majority of the State Assessment Review  
12 Board constitutes a quorum required to transact business under this  
13 section. The State Assessment Review Board shall provide by regulation  
14 for notices of hearings to interested persons and municipalities. If an  
15 appellant fails to appear at the hearing, the State Assessment Review  
16 Board may proceed with the hearing in his absence. The appellant bears  
17 the burden of proof at a hearing under this subsection.

18 (l) The only grounds for adjustment of assessed value is proof of  
19 unequal, excessive or improper valuation or valuation not determined in  
20 accordance with the standards set out in this section, based on facts  
21 stated in a written appeal timely filed or proved at the hearing.

22 (m) The State Assessment Review Board shall certify its determina-  
23 tion of an appeal to the Department of Revenue within seven days of the  
24 hearing.

25 ~~(n) An owner of aircraft or a municipality may appeal to the~~  
26 superior court for, and is entitled to, trial de novo of the action of  
27 the State Assessment Review Board.

28 (o) No later than June 1 of each year, the Department of Revenue  
29 shall certify the final assessment roll.

1 (p) The Department of Revenue shall include aircraft omitted from  
2 the assessment roll or a supplementary assessment roll, using the proce-  
3 dures set out in this section for the original assessment roll.

4 (q) In this section, "transient aircraft" means

5 (1) aircraft used in commerce by an air carrier to furnish  
6 transportation to the public for compensation, hire or lease;

7 (2) equipment included in aircraft described in (1) of this  
8 subsection; and

9 (3) ground cargo handling and containerization equipment  
10 which can be transported in aircraft described in (1) of this subsection  
11 and which is so transported.

12 \* Sec. 3. AS 29.53 is amended by adding a new section to read:

13 Sec. 29.53.162. LEVY AND COLLECTION OF PROPERTY TAX ON TRANSIENT  
14 AIRCRAFT. (a) A municipality may levy and collect property tax on  
15 transient aircraft only under this section.

16 (b) A municipality may levy a property tax on transient aircraft  
17 by applying the rate of levy, determined under AS 29.53.170(b), to a  
18 value for all transient aircraft under the same ownership determined by

19 (1) adding the value of all transient aircraft owned by the  
20 same taxpayer; and

21 (2) multiplying the value determined under (1) of this sub-  
22 section by the ratio of the number of landings of transient aircraft  
23 owned by the taxpayer in the municipality levying the tax during the  
24 year preceding the assessment year to the total number of landings of  
25 all transient aircraft owned by the taxpayer.

26 (c) In this section, "transient aircraft" means

27 (1) aircraft used in commerce by an air carrier to furnish  
28 transportation to the public for compensation, hire or lease;

29 (2) equipment included in aircraft described in (1) of this

1 subsection; and

2 (3) ground cargo handling and containerization equipment  
3 which can be transported in aircraft described in (1) of this subsection  
4 and which is so transported.

5 \* Sec. 4. Notwithstanding any other provision of AS 29.53, an assessment  
6 return filed by the owner of transient aircraft under AS 29.53.070 for a  
7 municipality for [the 1980] <sup>all previous assessment years</sup> assessment year is valid for determining the tax  
8 due for that assessment year. If two or more municipalities levy a property  
9 tax on transient aircraft under AS 29.53 for the 1980 assessment year, the  
10 owner of the aircraft may ask the commissioner of revenue to determine the  
11 tax due to each municipality. Upon receipt of the request of the taxpayer,  
12 the commissioner of revenue shall apportion the tax due by applying to the  
13 assessment of transient aircraft reported to a municipality under AS 29.53.070  
14 the amount determined under AS 29.53.162, added by sec. 3 of this Act.

15 \* Sec. 5. Sections 1 - 3 of this Act take effect January 1, 1981.

16 \* Sec. 6. Sections 4 - 6 of this Act take effect immediately in accord-  
17 ance with AS 01.10.070(c).

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A M E N D M E N T

OFFERED IN THE SENATE:

By: The Judiciary Committee

To: \_\_\_\_\_ SENATE BILL No. SB 582

HOUSE BILL No. \_\_\_\_\_

PAGE: 2 and 3

21 and 23 on Page 2  
LINE: 25 on page 3

Line 21, After the word "a" delete "real".

Line 23, Delete "An owner of aircraft or a municipality".  
Insert "A municipality or an owner of aircraft".

Line 25, Delete "An owner of an aircraft or a municipality".  
Insert "A municipality or an owner of aircraft".



April 18, 1980

The Honorable Mike Colletta  
Pouch V, Mail Stop 3100  
Juneau, AK 99811

Dear Senator Colletta:

I am writing to bring an urgent matter to your attention that can only get worse if not dealt with in a timely fashion. The matter is the multiple taxation of transient aircraft by the several boroughs.

Multiple taxation of transient aircraft occurs for two simple reasons. First, there is no agreed upon formula by which to allocate a fair portion of the aircraft fleet to each of the boroughs. Presently each borough decides for itself how many aircraft are within its jurisdiction. If a single allocation formula were adopted, then the entire aircraft fleet could be spread over the various boroughs by assigning a portion to each (e.g., 7 aircraft to one borough, 3.3 aircraft to another, etc.). The second way in which multiple taxation creeps into property taxation is through valuation because, once again, each borough decides for itself the value of the transient aircraft. These two concepts, of course, work together in property taxation. For example, it is very possible for a jurisdiction to decide that its portion of the fleet is small but then ascribe a huge valuation to that portion.

In order to rectify multiple taxation of transient aircraft, the legislature needs to address these two issues. A single fleet valuation needs to be accepted by all the boroughs, such as is done with valuation of the Trans Alaska Pipeline. I suggest that this valuation task be given to the Department of Revenue and that its determination be accepted by the boroughs. Finally, a single allocation formula needs to be decided upon that will allocate the fleet among the boroughs. Any rational method is acceptable. I suggest that landings be considered because that data is objective and is relatively easy to retrieve.

I am enclosing a draft bill which addresses these matters. It also provides that previous property returns, if not fraudulent, be accepted as already filed with the various boroughs.

It should be emphasized that we are not seeking to avoid or reduce our share of property taxes. We are simply requesting that we not be subject to multiple taxation merely because we happen to own transient property.

02/14  
The Honorable Mike Colletta  
Page 2

Our legislative liaison, Rick Urion, is available to answer any specific questions you may have. I am also available to discuss the matter with you.

Very truly yours,

WIEN AIR ALASKA, INC.

*James J. Flood*  
James J. Flood  
Chairman of the Board,  
President, & Chief  
Executive Officer

cc: Rick Urion

JJF/mls

Enclosure

STATE OF ALASKA  
THE LEGISLATURE

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

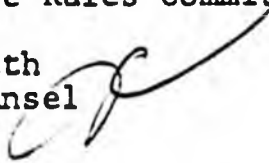
LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 30, 1980

SUBJECT: Municipal taxation of transient aircraft  
(Work Order Number 8529)

TO: Senator Mike Colletta  
Chairman, Senate Rules Committee

FROM: John B. Chenoweth  
Legislative Counsel 

In its draft form, this bill is somewhat more complex than the one-page proposal offered as an attachment to the letter directed to you which pointed out the problems involving multiple assessment, levy and collection of a property tax on aircraft. This bill is made longer by the fact that, while the municipal code contains extensive procedures relative to assessment, levy and collection of general property taxes, and AS 43.56 contains extended provisions relating to state assessment, levy and collection of property subject to the tax jointly laid on oil exploration, production and pipeline transportation properties, the suggested mechanism for taxation of aircraft required preparation of a "hybrid" approach, allowing the commissioner of revenue to assess while leaving to municipalities the right to levy, subject to specific limitations.

This is a property tax levied for municipal purposes. The bill draft, therefore, adds sections to AS 29. I think the first three sections are fairly self-explanatory, though I would advise you to assure yourself that the definition of "transient aircraft" meets all aircraft you would intend to reach.

Section 4 speaks only to assessment year 1980 and would apply the formula offered in an earlier section to the assessment reported by the taxpayer under the law as it currently reads.

Senator Mike Colletta

Page 2

April 30, 1980

The permanent law portions of the bill are made effective January 1, 1981. The bill could have been given retroactive effect to January 1, 1980, (in which case section 4 would be deleted as unnecessary) but, because the principal provisions of the permanent law sections require the Department of Revenue to complete an assessment within a time frame of a few months at the outset of a calendar year, and because that time period has passed for 1980, it seemed preferable to delay the effective date and to provide an interim solution to problems posed by multiple claims of municipalities for just this one year based on the assessments which the taxpayers themselves reported. In other words, while the legislature could provide a complete term of relief in subsequent years, the "status quo" would be only marginally disturbed in the current assessment year. I do not know whether this approach would have an effect on litigation which may now be pending to resolve the legal questions presented, and cannot assure you that proposed sec. 4 of the bill would preclude litigation over issues presented. It is, at best, an effort at an interim, partial solution.

JBC:ljb

Enclosure

# STATE OF ALASKA

## DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

POUCH 5  
JUNEAU, ALASKA 99811

May 8, 1980

The Honorable Robert H. Ziegler, Sr.  
Chairman  
Senate Judiciary Committee  
Room 107 - Capitol Building  
Juneau, AK 99802

Dear Senator Ziegler:

SENATE BILL NO. 582

Senate Bill No. 582, an Act relating to the assessment, levy and collection of property taxes on transient aircraft, was introduced in the Senate on May 1, 1980 and was referred to the Senate Judiciary and Finance Committees.

For the consideration of the Senate Judiciary Committee, I am enclosing copies of two Fiscal Notes prepared by Robert M. Johnson, Director Petroleum Revenue Division, Department of Revenue.

Sincerely,



R. D. Stevenson  
Special Assistant  
Phone (907) 465-2397

cc: The Honorable John Sackett  
Chairman  
Senate Finance Committee

Joseph K. Donohue  
Deputy Commissioner  
Department of Revenue

Robert M. Johnson, Director  
Petroleum Revenue Division  
Department of Revenue

THE LEGISLATURE OF THE STATE OF ALASKA  
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST  
 Bill/Resolution No. SB 582  
 Title Assessment and Levy on transient aircraft  
 Requested by \_\_\_\_\_ Date \_\_\_\_\_

II. FISCAL DETAIL  
 Agency Affected \_\_\_\_\_ Revenue  
 Program Category Affected General Government  
 BRU, Program, or Subprogram(s) Affected Petroleum Revenue  
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
100 PERSONAL SERVICES	-0-	-0-	-0-	-0-	-0-	-0-
200 TRAVEL	6	7	7	7	7	7
300 CONTRACTUAL	2	1	1	1	1	1
400 COMMODITIES	-0-	-0-	-0-	-0-	-0-	-0-
500 EQUIPMENT	-0-	-0-	-0-	-0-	-0-	-0-
600 LAND & STRUCTURES	-0-	-0-	-0-	-0-	-0-	-0-
700 GRANTS, CLAIMS, ETC.	-0-	-0-	-0-	-0-	-0-	-0-
<b>TOTAL</b>	<b>8</b>	<b>8</b>	<b>8</b>	<b>8</b>	<b>8</b>	<b>8</b>

FUNDING (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS	-0-	-0-	-0-	-0-	-0-	-0-
OTHER (Specify Fund Source)	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS

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

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

Assuming the responsibilities under SB 582 are assigned to Pet Rev, no new positions are needed. However, additional travel expenses of \$5000 for each year are requested in order to cover such field audit trips as are needed in the assessment of aircraft, and an additional \$3000 would be required to fund additional per diem and travel expenses incurred by the Assessment Review Board through appeals based on the bill.

IV. DATE 5/6/82 PREPARED BY Robert M. Johnson  
 AGENCY Revenue  
 PHONE 276-1363  
 Original: Legislative Finance  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named)

# MEMORANDUM

TO:  Joseph K. Donohue, Deputy Commissioner  
Department of Revenue

DATE: May 6, 1980

FILE NO

TELEPHONE NO

FROM: Robert M. Johnson, Director *RMJ*  
Petroleum Revenue Division

SUBJECT: SB 582  
(Aircraft Assessments)

To meet some of the problems perceived in this bill, I would suggest the following amendments:

Page 1, sec. 2, lines 14-15. Sec. 29.53.038. TRANSIENT AIRCRAFT. The Department of Revenue shall assess the value of transient aircraft, when the value of such transient aircraft is relevant for purposes of levying a tax under AS 29.53.162. The Department. . . .

Page 3, sec. 2, line 7. "20 days" should be "50 days."

Page 4, sec. 2, line 5 and sec. 3, line 27. ". . . In this section, 'transient aircraft' means (1) aircraft with a gross operating weight in excess of 12,500 lbs. used. . . ."

The foregoing provisions reduce the total number of assessments the Department must make to those which are relevant. Thus, if Anchorage does not tax internationally-based carriers like Japan Airlines, the Department does not have the duty to assess. Also, the weight limitation on "transient aircraft" would avoid the assessment of hundreds of bush planes. (An FAA list of certified air taxi operations is being sent by pouch mail. It shows the volume of aircraft covered.) Those planes under the weight limit would continue to be taxed by municipalities as under present law and ordinance--that is, full assessment and tax if the plane has nexus in the municipality. It is my understanding that SB 582 was designed to cover large aircraft and their taxpaying owners, not bush aircraft. The 12,500 lbs. limit is an FAA break-point. Finally, the 20 to 50 day amendment is designed to insure consistent procedure before the Assessment Review Board.

RMJ/rdm

THE LEGISLATURE OF THE STATE OF ALASKA  
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST  
 Bill/Resolution No. SB 582  
 Title Assessment and Levy on transient aircraft  
 Requested by \_\_\_\_\_ Date \_\_\_\_\_

II. FISCAL DETAIL  
 Agency Affected \_\_\_\_\_ Revenue  
 Program Category Affected General Government  
 PRU, Program, or Subprogram(s) Affected Petroleum Revenue  
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EXPENDITURES (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
100 PERSONAL SERVICES	-0-	-0-	-0-	-0-	-0-	-0-
200 TRAVEL	6	7	7	7	7	7
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400 COMMODITIES	-0-	-0-	-0-	-0-	-0-	-0-
500 EQUIPMENT	-0-	-0-	-0-	-0-	-0-	-0-
600 LAND & STRUCTURES	-0-	-0-	-0-	-0-	-0-	-0-
700 GRANTS, CLAIMS, ETC.	-0-	-0-	-0-	-0-	-0-	-0-
<b>TOTAL</b>	<b>8</b>	<b>8</b>	<b>8</b>	<b>8</b>	<b>8</b>	<b>8</b>

FUNDING (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS	-0-	-0-	-0-	-0-	-0-	-0-
OTHER (Specify Fund Source)	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS

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

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)  
 The bill imposes the duty of assessing aircraft without the addition of taxes to the State for that effort. The burden of determining the value of aircraft is potentially onerous if the bill in fact requires the valuation of all aircraft of even international carriers such as Japan Airlines and the like. The proposed valuation formula works like this:

$$\frac{\text{landings}_{\text{municipality}}}{\text{landings}_{\text{worldwide}}} \times \text{assessed value}_{\text{worldwide}}$$

I am not sure how the "worldwide" scope can be reduced and still result in a realistic apportionment formula. However, Anchorage does not presently assess a tax on internationally-based carriers, such that there is no actual need to assess those aircraft. Nevertheless, the bill does not exempt such carriers from the mandatory duty to assess, but simply leaves the option of levying a tax to the

IV. DATE 5/1/82 PREPARED BY Robert M. Johnson  
 AGENCY Revenue  
 PHONE 276-1363  
 Original: Legislative Finance  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named)

Page 2

municipality. Whether these internationally-based aircraft can in fact be taxed is a question for the Attorney General's Office.

WIEN AIR ALASKA, INC.  
PERSONAL PROPERTY TAX EXAMPLE

5.100  
71.2

ASSUMPTIONS

1. ASSESSED VALUE PER AIRCRAFT \$ 1,000,000  
FLEET \$ 4,000,000
2. ASSUME 2 JURISDICTIONS ONLY FOR SIMPLICITY
3. ASSUME #1 JURISDICTION ASSESSES BASED ON ONE AIRCRAFT'S TIME OVER IT, CALCULATED TO BE 30%
4. ASSUME #2 JURISDICTION IS THE SITUS OF THE FLEET. ALSO ASSUME THAT #2 ASSESSES BASED ON THE FULL TRUE VALUE OF THE FLEET, WITH CREDIT GIVEN ON ASSESSED VALUE BASED ON THE FOLLOWING:  
$$** \text{Value per landing} \times \left( \frac{\text{Avg. Daily Landings}}{\text{in #1 Jurisdiction}} \right) = \text{Assessment Credit}$$
5. ASSUME THAT AN AIRCRAFT WILL SPEND 30 minutes ON THE GROUND PER LANDING. THEREFORE  
 $1,000,000 \times .48 = \$20,800$  OF VALUE PER LANDING \*\*  
(there being 48 (1/2) hour periods in 1 day)
6. ASSUME THAT THE NUMBER OF LANDINGS BY FLEET IN PRIOR YEAR IN TOTAL WERE 20,129 AND THE NUMBER IN JURISDICTION #1 WERE 1838. THEREFORE,  
 $1838 \div 365 = 5.03$  AVE. DAILY \* LANDINGS

WIEN AIR ALASKA, INC.  
Personal Property TAX EXAMPLE

5-1-00  
 med

JURISDICTION # 1

PRESENT METHOD

Ave. AIRCRAFT VALUE 1,000,000

TIME OVER BOROUGH X .30

Assessed VALUE #1 300,000

PROPOSED METHOD

FLEET VALUE 4,000,000

PROPORTIONATE X 1538  
 LANDINGS 20,729

ASSESSED VALUE #1 355,000

JURISDICTION # 2

VALUE OF FLEET 4,000,000

\*\* 20,800  
 X \* 5.03  
 ASSESSED CREDIT <104,624>

ASSESSED VALUE #2 3895,376

FLEET VALUE 4,000,000

Proportionate X 18,811  
 LANDINGS 20,729

ASSESSED VALUE #2 3,645,000

TOTAL FLEET ASSESSED VALUE 4,195,376

ACTUAL FLEET VALUE 4,000,000

OVER ASSESSED 195,376  
 1974 INC. MILL RATE .01444  
 OVERTAXED 2,800

TOTAL FLEET ASSESSED VALUE 4,000,000

1838 LANDINGS IN #1  
 % 365 DAYS

= \* 5.03 LANDINGS / DAY

1,000,000  
 % .18 (30 minutes of 24 HOURS)  
 \*\* 20,800 VALUE PER LANDING

# STATE OF ALASKA THE LEGISLATURE

POUCH Y STATE CAPITOL  
JUNEAU ALASKA 99811  
907 465 3800


## LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 30, 1980

SUBJECT: Municipal taxation of transient aircraft  
(Work Order Number 8529)

TO: Senator Mike Colletta  
Chairman, Senate Rules Committee

FROM: John B. Chenoweth  
Legislative Counsel 

In its draft form, this bill is somewhat more complex than the one-page proposal offered as an attachment to the letter directed to you which pointed out the problems involving multiple assessment, levy and collection of a property tax on aircraft. This bill is made longer by the fact that, while the municipal code contains extensive procedures relative to assessment, levy and collection of general property taxes, and AS 43.56 contains extended provisions relating to state assessment, levy and collection of property subject to the tax jointly laid on oil exploration, production and pipeline transportation properties, the suggested mechanism for taxation of aircraft required preparation of a "hybrid" approach, allowing the commissioner of revenue to assess while leaving to municipalities the right to levy, subject to specific limitations.

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Senator Mike Colletta

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April 30, 1980

The permanent law portions of the bill are made effective January 1, 1981. The bill could have been given retroactive effect to January 1, 1980, (in which case section 4 would be deleted as unnecessary) but, because the principal provisions of the permanent law sections require the Department of Revenue to complete an assessment within a time frame of a few months at the outset of a calendar year, and because that time period has passed for 1980, it seemed preferable to delay the effective date and to provide an interim solution to problems posed by multiple claims of municipalities for just this one year based on the assessments which the taxpayers themselves reported. In other words, while the legislature could provide a complete form of relief in subsequent years, the "status quo" would be only marginally disturbed in the current assessment year. I do not know whether this approach would have an effect on litigation which may now be pending to resolve the legal questions presented, and cannot assure you that proposed sec. 4 of the bill would preclude litigation over issues presented. It is, at best, an effort at an interim, partial solution.

JBC:ljb

Enclosure

SJR

52

# COMMITTEE REPORT

## SENATE

FURTHER: Finance

4/11/89

Date: 4/24/89

Mr. President:

The Committee on JUDICIARY has had SSSJR 52

Proposing an amendment to the Constitution of the State of Alaska relating to limiting increases in expenditures

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass  do not pass
- do pass with attached amendments(s)  same title
- replace with CS for \_\_\_\_\_  new title
- and recommends \_\_\_\_\_
- AND attaches a "Letter of Intent"  New Fiscal Note
- reports it back without recommendation
- referred to the \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

MEMBERS HAVING  
OTHER RECOMMENDATIONS:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Bill King No Rec  
Sen. ...  
Sen. ...  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Joseph B. ...  
CHAIRMAN

May 12, 1980

Anchorage Women's Club  
FREE Committee  
1539 West Ninth Avenue  
Anchorage, Alaska 99501

Dear Ladies:

It was a pleasure to have had your group appear before the Senate Judiciary Committee on SJR 52 on April 24th.

I was the only "Do pass" in my committee; I suggest you now individually get in touch with your respective Anchorage Legislators.

The resolution is in the Senate Finance Committee, which is chaired by Senator John Sackett.

Very truly yours,

Robert H. Ziegler, Sr.

RHZ:lk



# FREE

## Federation's Role in our Enterprise Economy

May 2, 1980

Senator Robert Ziegler  
Pouch V  
Juneau, Alaska 99811

Dear Senator Ziegler,

Thank you for giving a member of our committee the opportunity to testify regarding limiting government growth before the Senate Judiciary Committee on Thursday, April 24.

The FREE Committee is dedicated to the preservation and propagation of the American way of life through private enterprise. Limiting the growth of government is an excellent step toward our goals.

We appreciate very much the efforts of those senators who sponsored Senate Resolution 52.

Sincerely,

Anchorage Women's Club  
FREE Committee

*Barry McLean*  
*Jimmie Bonnie Holley*  
*Teddy Cartwright*  
*Jane White*

April 25, 1980

I was the only "Do pass" in the Senate Judiciary Committee on April 24th. I suggest you write to your Senator.

Regards,

3

# 02658 POM TDA KENAI ALASKA 15 04-23 2301

PMS SENATOR ROBERT ZIEGLER

JUNEAU AK

WE SUPPORT THE PASSAGE OF THE BILL SSSJR52

HAROLD DALE

PO BOX 1360

KENAI AK 99611

TELEGRAM

ALASKA INC.

PHONE: 336-442

PO BOX 33802

APR 23 10 26 AM '80

April 25, 1980

I was the only "Do pass" in the Senate Judiciary Committee on April 24th. I suggest you write to your Senator.

Regards,

#

02629 POM TDA KENAI ALASKA 15 04-23 153

PMS SENATOR ROBERT ZIEGLER

JUNEAU AK

PLEASE REPORT SSSJR52 OUT OF COMMITTEE.

ALASKANS SHOULD BE ABLE TO VOTE ON ISSUE.

C R BALDWIN BOX 4210 KENAI AK 99661

80 APR 23

TELEGRAM  
ALASCOM, INC.  
PHONE: 586-6412  
JUNEAU, AK 99802

April 25, 1980

I was the only "Do pass" in the Senate Judiciary Committee on April 24th. I suggest you write to your Senator.

Regards,

3

02653 POM TDA KENAI ALASKA 15 04-23 230P

PMS SENATOR ROBERT ZIEGLER

JUNEAU AK

WE SUPPORT THE PASSAGE OF THE BILL SSSJR52

LEO OBERTS

PO BOX 1360

KENAI AK 99611

TELEGRAM

ALASKA INC.

330005 5-3042

JUNEAU, AK 99802

80 APR 26 PM 10 26



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

April 22, 1980

*Please read before  
today's meeting,  
3-*

The Honorable Mike Colletta  
Alaska State Senate  
Alaska State Legislature  
Pouch V  
Juneau, Alaska 99811

Dear Senator Colletta:

I would like to take this opportunity to express my qualified support for the concept of a constitutional amendment to limit increases in State spending. My staff has expended considerable effort in researching this question in previous years. Due to the technical difficulties in implementing constitutional spending limits, I decided that increased contributions to the Permanent Fund provide a superior alternative for absorbing State revenue surpluses and putting them to good use. Nevertheless, I remain interested in constitutional spending controls and am prepared to work with you in developing your proposal as contained in SSSJR 52.

My support is qualified due to the following considerations. First, I would not exclude appropriations for capital improvements, because the vast majority of capital improvements require future expenditures for operating expenses. Thus if you feel that expenditures need to be limited, you must confront the reality of capital projects and their long-term costs.

Second, real problems exist in selecting and utilizing indicators for "the estimated rate of growth of the economy of the State as determined by law." I would like to discuss this question with you and reach some consensus on the specifics of this mechanism before fully endorsing SSSJR 52.

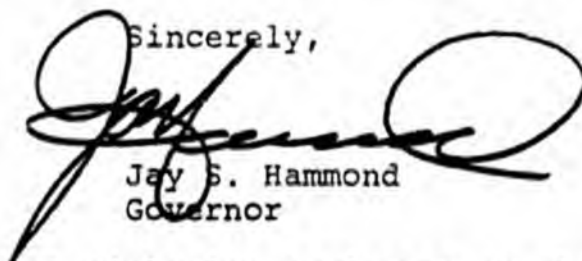
Finally, while I fully endorse excepting appropriations to the Permanent Fund from the spending limit, I do not agree that all remaining surplus revenues should be distributed to State residents. Surplus revenues today represent the "cashing-out" of Alaska's one-time oil resources and as such these revenues

April 22, 1980

belong to future as well as present generations of Alaskans. I would prefer a requirement that all revenues in excess of expenditures under the allowed limits be placed in the Permanent Fund, and that residents continue to receive dividends based on the earnings of the Fund. In this manner the principal is retained collectively by all residents over time, while individual residents receive their portion of the on-going income stream. I would also consider an allocation of surplus revenues to my proposed PACE program as an acceptable alternative to direct distribution of the principal amounts of our oil wealth.

In closing, I wish to emphasize that our objectives here are one and the same, i.e., to prevent the irresponsible expenditure of our extraordinary one-time oil wealth as it accrues. While I continue to support the \$900 million appropriation to the Permanent Fund as a means to save a significant portion of this year's oil reserves, I feel there is merit in pursuing adoption of a constitutional amendment to limit State spending. I have introduced legislation of similar intent, SJR 26, which is a proposed constitutional amendment to increase Permanent Fund contributions from twenty-five to seventy-five percent. I look forward to discussing this matter with you soon.

Sincerely,



Jay S. Hammond  
Governor

cc: Keith Specking, Legislative Assistant to the Governor  
Commissioner Williams, Department of Revenue  
Ron Lehr, Director, Budget and Management  
Fran Ulmer, Director, Policy Development and Planning

SR

4



# ZIEGLER

## Alaska State Senate

2/26  
11/21  
11/20

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**Letter: On the Taiwan Treaty**

*New York Times Feb 8, 1979*

## Has the President Broken the Law?

To the Editor:

Your Jan. 20 editorial "Unmaking a Treaty" frankly does not get to the point. You state that the Constitution is "silent" on how treaties can be undone and then suggest that "constitutional ambiguity has its own value."

The question I have raised by my lawsuit is too fundamental to be left up for grabs, depending on what party holds the White House or controls the Congress at any given moment of history. The real question is not "What does policy dictate?" but "Does the President have the power by law or under the Constitution to unilaterally abrogate treaties of mutual defense?"

There is absolutely no precedent for Presidential termination of defense treaties, and my suit wants to establish whether he has broken the law or

not. If he has that power, then I say look out, because that is heading down the road to a dictatorship.

For your information, courts have ruled against Presidential power in at least three major areas in the last five years. If the courts had accepted your present line of reasoning, they would not have settled as they did the issues of executive privilege, pocket veto and impoundment, each of which raised questions of policy as well as law.

Yet the Supreme Court ruled against President Nixon in the subpoenaed tapes case in 1974, and in 1975 it ruled for the first time on the power of the President to impound funds appropriated by Congress by holding unanimously that President Nixon had exceeded his authority in refusing to allocate to the states \$9 billion in water

pollution funds. The U.S. Court of Appeals for the District of Columbia ruled against the practice of the Presidential pocket veto during intrasession adjournments of Congress in 1974. It is worth noting that in each of these cases the executive branch claimed the existence of a long line of practice, but the courts made clear that those precedents "cannot create" an executive power.

Rather, the courts insisted that "it is emphatically the province and duty of the judicial department to say what the law is." All my case does is ask the court what the law is. I believe you are wrong in mixing policy with law, when it is obvious the latter is best resolved by the courts.

BARRY GOLDWATER  
U.S. Senator from Arizona  
Washington, Jan. 24, 1979

*To: Sen Ziegler*

*From Jay K.*

HB

45





JUNEAU ALASKA

Alaska State Legislature

647  
45

M E M O R A N D U M

TO: Senator Bob Mulcahy, Chairman  
Senate State Affairs Committee

FROM: J. H. Hogan, Director  
Legislative Finance Division

SUBJECT: HB 45 - Arguments in Favor

At your request I have prepared the following arguments in support of HB 45. HB 45 grants the Legislative Council and the Legislative Budget & Audit Committee statutory authority to bring suit in the name of the Legislature during the interim. As the bill came to your committee, it was the same bill approved by the Legislature last year and vetoed by the Governor (SB 432 - since SB 432 was enacted by the last legislature this legislature could not override the veto this January, and a new bill had to be introduced, i.e., HB 45).

In the veto message for SB 432 the Governor stressed that the Legislature could always file an amicus brief in suits brought by others. The problem with this of course is that if "others" don't file suit against some executive action/inaction, then the Legislature has no case in which to file an amicus brief. Using the Budget & Audit Committee's Kelley v. Hammond case as an example, the 1976 legislature enacted Ch. 26, SLA 1976 which prohibited transfers between appropriations. Then in the General Appropriations Act (Ch. 279, SLA 1976) the Legislature modified the prohibition to allow transfers when approved by the Governor and the Legislative Budget & Audit Committee. The Attorney General advised the Governor to proceed with transfers but not to submit them to the Budget & Audit Committee for their approval. A list of transfers so approved is contained in LR 67, SLA 1977, attached.

Putting yourself in the place of the then Budget & Audit Chairman, the time is August 1976, the beginning of the 1977 fiscal year, and the Governor is transferring between appropriations against the expressed will of the Legislature. The Budget & Audit Committee votes to bring suit to stop the transfers, but has to search for four months to find a "private citizen" to file the suit. By the time the suit is

filed in January, the fiscal year is one-half over, and \$2,637,385 has been transferred outside the approval mechanism set up by the Legislature. In brief, the real argument in favor of this bill is as follows:

If the Legislature creates interim committees, as the Constitution allows, to look after its interests during the interim, then it must grant those committees the power to act--in this case bring suit--against the executive branch when the expressed interests of the Legislature are ignored. Otherwise, the irterim committees can only anguish, publicly and/or privately,

The amendment added by your committee would authorize the presiding officer of each house to appoint one alternate member to the Budget & Audit Committee. The sole purpose of this amendment is to make it easier to obtain the necessary six-member quorum to accomplish Budget & Audit Committee interim business (normally a full day's agenda at least once a month). The extreme travel distances and divergent interests of our legislators has made it very difficult to obtain a comfortable quorum throughout the history of the Budget & Audit Committee's existence (established 1971).

JHH:pw  
Attachment

cc: Jim Duncan, Chairman  
Budget & Audit Committee

# STATE OF ALASKA

## THE LEGISLATURE

1977

Source

SCR. 19

Legislative  
Resolve No.

67



Relating to transfers of funds.

### BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

WHEREAS Revised Program 77-83 transferred \$598,000 from the Department of Health and Social Services, Alaska Methodist University nursing home program appropriation, to the University of Alaska to continue nursing education in Alaska; and

WHEREAS Revised Program 77-39 transferred \$90,000 in the Department of Military Affairs from the Alaska National Guard minor construction fund (\$40,000) and the Juneau armory roof repair (\$50,000) capital appropriations to provide the general fund match for federal construction of maintenance shops at Juneau, Nome and Bethel; and

WHEREAS Revised Program 77-106 transferred \$33,000 and one position in the Department of Natural Resources from the Commissioner's Office appropriation to fund the newly organized division of Mineral and Energy Management; and

WHEREAS Revised Program 77-121 transferred \$19,700 and one position in the Department of Natural Resources from the Division of Lands appropriation to fund the newly organized Division of Mineral and Energy Management; and

WHEREAS Revised Program 77-122 transferred \$16,500 in the Department of Health and Social Services from the Harborview facility appropriation to the Mental Health Administration to fund a medical auditor position; and

WHEREAS Revised Program 77-126 transferred \$466,900 and five positions in the Department of Community and Regional Affairs from the Local Government Assistance, Senior Citizens Tax Exemption, Juneau Indemnification, and Agricultural Lands

Exemption appropriations to the newly established State Assessor budget request unit, Administration components; and

WHEREAS Revised Program 77-134 transferred \$51,700 and one position in the Department of Education from the Boarding Home Program appropriation to the Administration and Support appropriation, Field Services allocation, to assist 21 new rural school districts in school financing; and

WHEREAS Revised Program 77-135 transferred \$195,034 in the Office of the Governor from the Executive Office to the Alaska Fisheries Council for additional funding; and

WHEREAS Revised Program 77-143 transferred \$7,600 in the Department of Revenue from the Audit and Treasury Management appropriations to the Administrative Services Division to establish an Information Officer position; and

WHEREAS Revised Program 77-168 transferred \$20,400 and one position in the Department of Health and Social Services from the Public Assistance Administration and Support appropriation to Eligibility Determination; and

WHEREAS Revised Program 77-169 transferred \$113,400 in the Department of Education from the CETA Administration (\$63,400) and Vocational Education grants (\$50,000) appropriations to Adult Vocational Education to restructure the Adult and Continuing Education section; and

WHEREAS Revised Program 77-171 transferred \$10,000 in the Department of Administration from the salary increase appropriation to the Division of Personnel, Employee Relations component, to fund the Salary Commission; and

WHEREAS Revised Program 77-183 transferred \$320,000 in the Department of Health and Social Services from Assistance Payments, AFDC, to Contract Institutions for a contract with Hope Cottage for patient care "if a supplemental is denied by the Legislature"; and

WHEREAS Revised Program 77-184 transferred \$129,800 from the Department of Health and Social Services, Program Services Day Care appropriation to the Department of Community and Regional Affairs, Child Assistance Day Care appropriation; and

WHEREAS Revised Program 77-186 transferred \$8,100 in the Department of Commerce and Economic Development from the Tourism appropriation to the Economic Enterprise appropriation to provide additional funds for a tourism study; and

WHEREAS Revised Program 77-187 transferred \$60,000 from the Office of the Governor, Contingency Fund appropriation, to the Department of Community and Regional Affairs to provide the matching grant for a prematernal home in Bethel; and

WHEREAS Revised Program 77-194 transferred \$40,000 in the Department of Environmental Conservation from Waters Programs (\$6,000), Terrestrial Programs (\$26,000), Program Coordination (\$5,000), Regional Offices (\$1,000) and Administration and Support Technical Services (\$2,000) appropriations to the Office of the Commissioner to implement Senate Bill 406 (relating to oil terminal facilities and the marine transportation

LR 67

of crude oil, refined petroleum products or their by-products), and

WHEREAS Revised Program 77-195 transferred \$31,500 and one position in the Department of Public Works from the Division of Buildings appropriation to the Facilities Procurement Office to develop an overall project budgeting system; and

WHEREAS Revised Program 77-196 transferred \$10,300 in the Department of Public Works from the Trunk and Secondary Airport appropriation to the Division of Aviation, Administration and Support appropriation, to fund a Leasing Officer position; and

WHEREAS Revised Program 77-197 transferred \$100,000 from the Office of the Governor, Contingency Fund appropriation, to the Department of Commerce and Economic Development for a management audit of the Alaska Pipeline Services Company by the Alaska Pipeline Commission; and

WHEREAS Revised Program 77-200 transferred \$20,000 from the Office of the Governor, Contingency Fund appropriation, to the Department of Law, Legal Services Administration appropriation, for legal representation at ICC pipeline rate hearings; and

WHEREAS Revised Program 77-201 transferred \$3,000 in the Department of Education from the Education Program Support, Federal Program Administration appropriation, to the Boards and Commissions budget request unit for special education unit travel; and

WHEREAS Revised Program 77-206 transferred \$90,751 in the Department of Education from the Rural and Military Tuition appropriation to the Supplemental Programs appropriation to pay the State's share of excess operations and maintenance for Home-Peltz Regional High School; and

WHEREAS Revised Program 77-219 transferred \$97,700 and one position from the Department of Health and Social Services, Alcantra Budget request unit, to the Department of Military Affairs, Alaska National Guard State Armories, to operate and maintain the Alcantra facility as a national guard armory; and

WHEREAS Revised Program 77-221 transferred \$100,000 in the Office of the Governor from the Lieutenant Governor (\$50,000) and Elections (\$50,000) appropriations to the Executive Office for the Governor's Management and Efficiency Office and the Alaska Fish and Game Council; and

WHEREAS Revised Program 77-230 transferred \$100,000 in the Office of the Governor from the Alaska Pipeline Commission to the Governor's Contingency Fund to negate Revised Program 77-197 which transferred \$100,000 from the Governor's Contingency Fund to the Alaska Pipeline Commission to pay for the first stages of a management audit of the Alyeska Pipeline Service Company; and

WHEREAS Revised Program 77-242 transferred \$14,100 and two positions in the Department of Administration from Archives and Records to the Office of the Commissioner to effect the transfer of the Uniform Commercial Code function; and

WHEREAS the aforementioned revised programs were approved solely by the governor, using as a basis of authority, sec. 13(3), ch. 279 SIA 1976, as interpreted by the attorney general in his opinion dated July 22, 1976; and

WHEREAS the aforementioned revised programs have transferred a total of \$2,637,305; and

WHEREAS sec. 13(3), ch. 279 SIA 1976 provides that "transfers may be made between appropriation items on approval by the governor and the Legislative Budget and Audit Committee";

BE IT RESOLVED by the Alaska State Legislature that it directs the Legislative Budget and Audit Committee to take all steps it considers advisable to assure compliance with the entire mandate adopted by the legislature as sec. 13(3) of ch. 279 SIA 1976 including proceeding with its suit Kelley v. Hammond, Civil Action No. 77-4, Superior Court of the State of Alaska, First Judicial District, and other court action it considers advisable.



# LAWS OF ALASKA

1977

Source

HCSSB 204

Chapter No.

74

## AN ACT

Relating to revisions of appropriations; and providing for an effective date.

Appropriations to the extent permitted in AS 37.07.080(h) is intended to provide a degree of flexibility in administration of the budget provided both required approvals are obtained. It is not intended that these revisions may be made with the sole approval of the governor. If a court of competent jurisdiction invalidates the requirement of approval by the Legislative Budget and Audit Committee for revision as authorized in AS 37.07.080(h)(1), (2) or (3), the entire paragraph or paragraphs for which that requirement was invalidated shall be totally void and of no effect whatsoever. If that requirement is invalidated for the entire subsection AS 37.07.080(h), that entire subsection shall be totally void and of no effect whatsoever.

\* Sec. 5. Executive Order No. 20 dated June, 1962 is repealed.

\* Sec. 6. This Act taken effect July 1, 1977.

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

\* Section 1. AS 24.20.201(a)(5) is amended to read:

(5) review and approve proposed changes to agency authorized budgets as provided in the Executive Budget Act (AS 37.07);

\* Sec. 2. AS 37.07.080(e) is amended to read:

(e) Transfers or changes between objects of expenditure or between allocations may be made by the head of a state agency upon approval of the division. No transfers may be made between appropriations except as provided in (h) of this section.

\* Sec. 3. AS 37.07.080 is amended by adding a new subsection to read:

(h) Appropriations may be revised on approval by the governor and the Legislative Budget and Audit Committee to allow for

(1) increase of an appropriation item based on additional federal or other program receipts;

(2) establishment of a new, permanent position not authorized in the appropriated operating budget; or

(3) reallocation between appropriation items.

\* Sec. 4. The requirement of approval by both the governor and the Legislative Budget and Audit Committee of revision of

Vetted; veto over-riden on May 27, 1977  
Actual Effective Date: July 1, 1977

JAY S. HAMMOND  
GOVERNOR

STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

May 27, 1977

The Honorable John L. Rader  
President of the Senate  
Alaska State Legislature  
Juneau, Alaska 99811

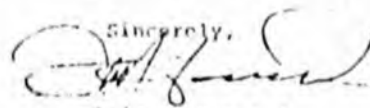
Dear Mr. President:

I have today vetoed HCSSA 204, (An Act relating to revision of appropriations under the Executive Budget Act). I have done so because I believe it to be clearly unconstitutional. The courts have consistently ruled that delegating the right to make modifications in a state's budget to a legislative committee is impermissible under our Constitution.

If you feel that the Constitution should be changed to confer that power to a legislative committee, then the matter should be placed directly before the people as a constitutional amendment. I hope that you will agree, sustain my veto and approve a resolution to submit to the electorate a constitutional amendment authorizing what the Constitution now prohibits.

If an amendment is adopted, I hope that a procedure will be established to require the interim committee to disapprove transfers and expenditure of federal or program receipts within a specific period of time. If the committee does not take action to refuse the request, by majority vote of the committee, the revisions would be effective and approved. The current system of approval permits veto by one member of the Budget and Audit Committee. If only a quorum is in attendance at the meeting (which has often been the case), a request can be defeated by the no vote of one member of the committee. Currently one member of the Legislature can veto not only the Governor and the rest of the committee, but the Legislature as well.

Sincerely,



Jay S. Hammond  
Governor

# Alaska State Legislature

## House of Representatives



MEMBER  
FINANCE COMMITTEE


REPRESENTATIVE JIM DUNCAN  
CHAIRMAN  
BUDGET & AUDIT COMMITTEE

STATE CAPITOL  
FOURTH FLOOR  
JUNEAU, ALASKA 99811  
465-3018

HOME ADDRESS  
RR 4 BOX 4315  
JUNEAU, ALASKA 99803  
789-9792

### M E M O R A N D U M

TO: Senator Bob Mulcahy  
Chairman, State Affairs Committee

FROM:  Rep. Jim Duncan  
Chairman, Budget & Audit Committee

SUBJECT: House Bill No. 45

DATE: March 27, 1979

Attached is a copy of a proposed amendment to House Bill No. 45.

The amendment would allow for the appointment of alternate members to the Legislative Budget & Audit Committee. Often during the interim, the Legislative Budget & Audit Committee has difficulty establishing a quorum. The appointment of alternate members would allow the committee the flexibility to establish a quorum on a regular basis.

I do strongly support the amendment. Jay Hogan of Legislative Finance will be in attendance at your meeting to testify on the amendment.

If I can provide further information, please feel free to contact me.

JD:jp

District 4

HAINES

JUNEAU DOUGLAS

KLUKWAN

SKAGWAY