1077 HLM HB 705 - HB 859

No. 1935, 1979). In all but minor cases this is essentially a 10% fee. Under the current Board practice the minimum fee is usually awarded.

This allows the claimant to receive his full compensation and not have to pay for an attorney out of his pocket. If the Board denies the claim of the injured employee, it awards no attorney's fee to the claimant's attorney. The principal benefit of the 10% fee is that it provides a measure of predictability of the fee he will receive if he is successful on behalf of the claimant. Even with this "guaranteed" fee, few lawyers are attracted to workmen's compensation.

The proposed amendment to section 145(a) would require the Board in each case to make an award of attorney's fees taking into consideration the nature, length and complexity of the services performed, etc. One main problem with this proposed amendment is that it does not account for cases in which contingent fee attorneys may lose. In order to attract qualified attorneys to the workmen's compensation area, they must be able to make a living commensurate with the practice of law in other areas. If they are only going to get what their services are worth in the cases that they win and they are not going to get anything in the cases that they lose, then one of two things will happen. Either attorneys will drop out of the system or they will begin charging claimants directly and claimants will be paying attorney's fees out of their own pocket.

Whichever happens, in many arguable cases, claimants with a bona fide need for and right to compensation will be left unrepresented. Neither of us is so naive as to believe that the claimants can represent themselves adequately against trained insurance adjusters and the attorneys who invariably appear on behalf of the carriers. I currently read virtually all decisions written by the Alaska Workmen's Compensation Board, I am aware of a number of cases which I felt could have and should have been won had the claimant been represented by an attorney.

Also, the contingent fee allows most attorneys to talk to injured employees without charging for the time. This is the practice in our office. I estimate that in the past I have counseled at least 500 people for whom I eventually did not take a workmen's compensation case. However, I was able to take an hour or an hour and a half and explain to them how the workmen's compensation system works and what they can expect.

This has a substantial benefit to the Workmen's Compensation Division in that it does not have to counsel these people. It also eliminates numerous unjustified claims which otherwise would have at least been initiated with the Board.

By providing cost free initial consultations, we consider we are performing a service to workmen's compensation claimants generally. The cost of that

service is borne to a certain extent by claimants whom we eventually represent and for whom we are successful. This is justified by the fact that many of those would never get legal advice if it were not available without cost.

Based upon the above, I respectfully request that you vote in favor of the amendment to 23.30.095(a) [medical] and against the amendment to section AS 23.30.145(a) [attorney's fees]. I have talked to almost every lawyer in the Fairbanks area who practices workmen's compensation from the claimant's side. I believe all of them agree with the thoughts I've expressed above. By voting in favor of the amendment to §95(a) the Board's procedure regarding medical will be streamlined. By voting against the amendment to §145(a), the already difficult task for a claimant in finding representation will not become hopeless.

Sincerely,

Lance C. Parrish

LCP:mgs

ALASKA STATE LEGISLATURE HOUSE OF REPRESENTATIVES

REPRESENTATIVE SALLY SMITH • 321 CHURCH STREET • FAIRBANKS, ALASKA 99701 • IN JUNEAU POUCH V • JUNEAU, ALASKA 99811

March 20, 1980

Mr. Lance C. Parrish, Esq.
Parrish Law Office
536 4th Avenue
Fairbanks, Alaska 99701

Dear Lance:

Thank you for your thoughtful letter about House Bill 705 which proposes changes to the Worker's Compensation law.

I've taken the liberty of sending a copy of your letter to Representative Vern Hurlbert who chairs the Labor and Management Committee, since his committee is hearing this legislation and will be doing the primary work on it. Labor and Management has not yet scheduled hearings and cannot say whether the bill will come up this session. In any case your letter is valuable testimony.

We've noted your concerns in our fi and will have this before us if the bill comes out of committee. Lance, thanks for taking the time to write such a detailed letter. Concern such as yours helps us toward good legislation.

Sincerely,

Sally

Sally Smith
Alaska State Representative

cc: Rep. Vern Hurlbert

save
workman's comp.

PARRISH LAW OFFICE
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
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O. NELSON PARRISH
JAMES A. PARRISH
LANCE C. PARRISH
ROBERT A. PARRISH
OF COUNSEL

TELEPHONE
(907) 456-4070

March 11, 1980

The Honorable Clem V. Tillion
Alaska State Senate
Pouch V
Juneau, Alaska 99811

RE: House Bill #705

Dear Senator Tillion:

I am writing to you concerning the proposed House Bill Number 705 which was introduced by the Rules Committee at the request of the Governor.

There are a number of comments I would like to make with respect to this bill. Before doing so, I will briefly explain to you my background in workmen's compensation so that you may better evaluate my comments.

The firm of which I am a member has practiced workmen's compensation law for many years. Prior to myself and my brothers graduating from law school, my father practiced law, including workmen's compensation law, in the Interior. He handled many cases in the territorial days and many under State Law. Now myself and my brothers practice together with dad as a semi-retired associate.

Since graduating from law school and starting practice in Alaska in 1975, I have handled well over a hundred workmen's compensation claims. I have handled these claims only from the claimant's side. In addition, I estimate that I have spoken with in excess of 750 people who have workmen's compensation claims in the last 5 years.

There are two provisions in House Bill 705 which concern me more than any others. One change I am in favor of; the other I am opposed to.

The proposed amendments of 23.30.095(a) eliminate the necessity to obtain board approval for medical care after two years. This change is long overdue. By removing the language which is proposed to be removed, the entire process of providing medical care is streamlined.

Under both the present section 23.30.095(a) and the proposed amendment, the single issue is whether or not the nature of the injury or the process of recovery requires medical treatment. However, under the current enactment of 23.30.095(a), an injured workman is entitled to such medical treatment, automatically, only for two years from the date of injury. Subsequent

to the two-year period, he must obtain Board authorization for that continued treatment or care. This usually requires a hearing.

By eliminating the two-year period, it will be up to the carrier, initially, to determine whether the process of recovery requires treatment, and, I believe in most instances it will pay medical bills. There are instances now where an employee, who suffered a serious industrial injury and obviously requires treatment, has to make application to the Board even though the requirement for treatment is unarguable. Under the amendment, the number of hearings required before the Board will be reduced; yet, the standard by which treatment is awarded would not be changed. This amendment should be adopted.

I would next like to address the proposed amendment to 23.30.145(a). That amendment would eliminate the present provision for minimum attorney's fees.

The vast majority of injured workmen do not have the funds to pay for attorneys. As a result, the majority of attorneys with which I am familiar work on a contingent fee basis of between 10% and 20%. Thus, if the attorney is able to obtain additional compensation for the injured employee, the attorney gets paid. In the event the attorney is not able to obtain additional compensation, the attorney does not get paid.

The contingent fee system has very substantial benefits in the workmen's compensation field. Most importantly, it allows claimants who could not otherwise pay attorneys to obtain representation. By the nature of the system, claimants do not seek representation until payments are withheld. At that point they rarely can afford to pay by the hour. Also, since the attorneys are working on a percentage of recovery, they are less likely to take cases which are not meritorious. If attorneys were required to work by the hour, and were paid by the hour, some would be more inclined to take cases that had more marginal chances of recovery.

It is important to point out that under both the current and proposed statute, all fees for legal services rendered with respect to a claim are not valid unless approved by the Board. In addition, it is a misdemeanor to collect fees from a workmen's compensation claimant unless that fee has been approved by the Board. Therefore, the fee an attorney earns in a particular case is only that amount which is approved by the Board.

Under the current attorney's fee provision, the Alaska Supreme Court has ruled that when an injured workman successfully prosecutes a claim, which has been disputed and controverted by the workmen's compensation carrier, then, in addition to compensation, the Board awards a fee of not less than 25% of the first $1,000.00 of compensation or part of the first $1,000.00 of compensation and 10% of all sums in excess of $1,000.00 of compensation. Alaska Interstate v. Houston, 586 P.2d 618 (AK 1978), Wien v. Arant, 592 P.2d 352 (AK 1979) and State of Alaska v. Charles Brown, (Sup. Ct. Op.

No. 1935, 1979). In all but minor cases this is essentially a 10% fee. Under the current Board practice the minimum fee is usually awarded.

This allows the claimant to receive his full compensation and not have to pay for an attorney out of his pocket. If the Board denies the claim of the injured employee, it awards no attorney's fee to the claimant's attorney. The principal benefit of the 10% fee is that it provides a measure of predictability of the fee he will receive if he is successful on behalf of the claimant. Even with this "guaranteed" fee, few lawyers are attracted to workmen's compensation.

The proposed amendment to section 145(a) would require the Board in each case to make an award of attorney's fees taking into consideration the nature, length and complexity of the services performed, etc. One main problem with this proposed amendment is that it does not account for cases in which contingent fee attorneys may lose. In order to attract qualified attorneys to the workmen's compensation area, they must be able to make a living commensurate with the practice of law in other areas. If they are only going to get what their services are worth in the cases that they win and they are not going to get anything in the cases that they lose, then one of two things will happen. Either attorneys will drop out of the system or they will begin charging claimants directly and claimants will be paying attorney's fees out of their own pocket.

Whichever happens, in many arguable cases, claimants with a bona fide need for and right to compensation will be left unrepresented. Neither of us is so naive as to believe that the claimants can represent themselves adequately against trained insurance adjusters and the attorneys who invariably appear on behalf of the carriers. I currently read virtually all decisions written by the Alaska Workmen's Compensation Board, I am aware of a number of cases which I felt could have and should have been won had the claimant been represented by an attorney.

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service is borne to a certain extent by claimants whom we eventually represent and for whom we are successful. This is justified by the fact that many of those would never get legal advice if it were not available without cost.

Based upon the above, I respectfully request that you vote in favor of the amendment to 23.30.095(a) [medical] and against the amendment to section AS 23.30.145(a) [attorney's fees]. I have talked to almost every lawyer in the Fairbanks area who practices workmen's compensation from the claimant's side. I believe all of them agree with the thoughts I've expressed above. By voting in favor of the amendment to §95(a) the Board's procedure regarding medical will be streamlined. By voting against the amendment to §145(a), the already difficult task for a claimant in finding representation will not become hopeless.

Sincerely,

Lance C. Parrish

LCP:mgs

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JOHN ANTHONY (TONY) SMITH
CLARK S. GRUENING
CHARLES G. EVANS
ROBERT S. SPITZFADEN

14 March 1980

Alaska State Legislature
House of Representatives
Committee on Labor and Management
Pouch "V"
Juneau, Alaska 99811

Re: House Bill No. 705

Dear Representatives Hulbert, Rogers, McKinnon, Miller Bettisworth, Branson and Hayes:

House Bill No. 705 relating to workmen's compensation has been referred to the Labor and Management Committee. Although parts of the proposed bill are commendable and should be acted upon, other sections of the bill are highly objectionable. As an example, Section 4 of the Act amends A.S. 23.30.095(c) to permit an employer or carrier to suspend medical payments, and in practice compensation payments, to injured employees because, without any fault of the employee, his physician fails to file a report within 20 days following each visit. Lost mail, understaffing, or any number of other Catch 22s could deny an injured employee his statutory benefits without a hearing or due process safeguards. For these or other reasons the committee should not act upon House Bill 705 without public hearings held preferably in Anchorage where the great majority of workmen's compensation cases arise and are decided and where the committee would be most accessible to employees. Again, I strongly urge you that parts of House Bill No. 705 represent an unwarranted retreat from the position of Alaska as a leading state protecting the rights of injured employees. Publicity of the bill and public hearings accessible to workmen's compensation claimants are a must.

With best regards,

Charles G. Evans

Charles G. Evans

CGE/m
cc: Jackie McCintock
Chairman
Alaska Workmen's Compensation Board

LAW OFFICES

JOSEPHSON, TRICKEY & LORENSEN, INC.

425 "G" STREET
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JOE P JOSEPHSON
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RONALD W LORENSEN*
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JAN HART DeYOUNG

*Juneau

March 12,1980

JUNEAU
210 NORTH FRANKLIN STREET
JUNEAU, ALASKA 99801
907 586-6994, 586-6997

Honorable Vernon Hurlbert
Chairman
Committee of Labor and Management
Pouch V
Juneau, AK 99811

SUBJECT: House Bill No. 705

Dear Representative Hurlbert:

As our law firm handles many workers' compensation cases, we were interested to receive a copy of HB 705, which proposes certain amendments to the Workmen's Compensation Act. On reviewing the bill, however, we became disturbed because in our view the amendments would further tend to tip the balance in favor of insurance companies at the expense of injured workers. Our objections follow.

AS 23.30.095(a) would be amended to delete language allowing workers to change physicians for any reason during the period when medical care is required. We believe that all people are entitled to medical treatment by a physician of their own choosing. A person should not be deprived of the physician or treatment of choice merely because he or she was injured on the job site. To preserve the right to a physician of choice, it is important that a worker be permitted to change physicians any time during the period when medical treatment is required. The first physician seen by a worker is frequently a company doctor or a physician recommended or selected by the employer. When the injured worker learns that extended treatment may become necessary, he or she may wish to be attended by his or her family physician or someone who has been recommended. It is our position that the language which allows an employee to change physicians for any reason during the period when medical treatment is required should be retained in AS 23.30.095(a).

The bill proposes to amend AS 23.30.095(c) to require a physician to report to the employer and the Board within twenty (20) days following each visit for treatment. If the physician or hospital facility is delinquent, the claim for medical or surgical treatment would be invalid or unenforceable. First,

we believe that twenty (20) days is an unreasonably short period of time in which to allow these reports to be filed. But more important, the change would penalize an injured worker for the delinquency of a physician or medical facility. It is unconscionable to deny a worker injured on the job site legitimate and necessary medical expenses because of the tardy filing of reports.

Also affecting the worker's right to a physician of choice is the proposed amendment to AS 23.30.095(e). The proposed amendment would delete the employee's right at a medical examination requested by an insurance carrier or ordered by the Board to have his personal treating physician present at the insurance carrier's expense. The current law is necessary because it is a vehicle for a witness at the examination and it operates as a deterrant to the all to common practice of insurance companies to send claimants to doctor after doctor until the carrier receives a report favorable to its interest.

The proposed amendment to AS 23.30.110(c) would extend the time of notice for hearing from ten (10) to twenty (20) days. This revision is inoffensive on its face, but in operation it will prejudice injured workers. As a practical matter, hearings are almost always requested by the employee. The carrier as the source of funds is in the position of control. It frequently acts unilaterally without initial Board approval, and the worker must file a complaint with the Board if the worker is dissatisfied. Often, a worker faces reduced or terminated compensation or limitations on his medical benefits. Time is usually of the essence in these cases and the worker cannot tolerate any delay. On the other hand, the carrier has no need of a twenty-day notice. It already will have a complete file on the worker and will have received a copy of the application for adjustment of claim, which is filed prior to the request for hearing and which notifies the carrier of the controversy. In addition, the Board's time to issue a decision is extended from twenty (20) days to thirty (30) days. The amendments would allow twenty (20) additional days to the present procedure. For injured workers without compensation or medical benefits, such a delay cannot be tolerated.

Section 7 of HB 705 would repeal provisions in existing law that establish minimum attorney fees for legal services rendered in respect to a compensation claim.

First, it is noted that the existing statutory minimum is not generous. AS 23.30.145, at present, allows 25% of the first $1,000 awarded and 10% of amounts awarded in excess of $1,000 as the attorney's minimum entitlement. In contrast, in a normal tort case (or if the employer could be sued by the worker), the normal contingent fee recovery would be 33% of the total damages awarded.

Second, the existing minimums serve a valuable public purpose. They permit injured workers, especially in the important but non-catostrophic injury cases, to obtain counsel willing to assist in the presentation of their claims. The effect of deleting the existing minimums would be to deny attorneys of any assurance of even the present minimum percentage fee if the injured worker prevails in the case. Without such assurance, competent attorneys will per force be increasingly reluctant to serve as counsel in these cases. Ultimately, the penalty for this must be borne by injured workers, whose claims will have to be presented without legal counsel, or presented much less adequately than are the defenses of insurance carriers appearing before the Workmen's Compensation Board. Hearings before the Board are essentially adversary in nature; it is imperative, even in the ordinary and non-catostrophic case, that each side be represented by competent counsel thoroughly prepared. Otherwise, the Board as the adjudicator, cannot be expected to reach fair and impartial judgments.

The proposed revision to AS 23.30.155(c) would also operate to limit a worker's right to the physician of choice. Under current law, if a worker is outside of Alaska to receive medical or rehabilitation services, the rebuttable presumption of non-resident status does not apply. The proposed amendment would require that those medical or rehabilitation services not reasonably be available in Alaska. In other words, a worker desirous of medical treatment outside of Alaska is subject to the risk of having his compensation reduced, even if he or she fully intends to return to the state.

The proposed repeal of AS 23.30.095(g) would also have an impact on the worker's physician of choice. The proposed repeal would delete the assurance in that section that a worker is entitled to provide at his or her own expense any consulting physician, chiropractor or osteopath.

In summary, HB 705, if enacted, would be detrimental to injured workers. First, the proposed amendments would severely undermine the right of workers to select their treating physicians. We believe the bill's passage would reduce the quality of medical treatment now received by injured workers in Alaska by limiting the employee's choice of those services. Second, the amendments may jeopardise the right to representation by counsel before the Board. Third, they will prolong the time in which a worker can obtain a Board hearing and decision. Fourth, the amendments will penalize the worker if the physician or medical facility is delinquent in filing reports. The bill erects technical procedures which must be followed at the expense of losing benefits while at the same time making it more difficult to obtain counsel who can advise of these technical rules and the need for compliance.

We are doubtful that the Legislature will wish to take the step backwards which HB 705 represents. A consequence of enactment would be to increase the reliance of injured workers and their dependents on public assistance, through public welfare and related programs, at taxpayers' expense. We believe that the compensation insurance mechanism should bear the primary responsiblity for the plight of the injured worker and those who rely on the worker for support and care. We respectfully urge the defeat or tabling of HB 705.

Sincerely,

JOSEPHSON, TRICKEY & LORENSEN

By:
Joe P. Josephson

By: Jan Hart DeYoung
Jan Hart DeYoung

JPJ:JHDeY:bm

HB 705

WILLIAM M. ERWIN
ATTORNEY AT LAW
632 CHRISTENSEN DRIVE
ANCHORAGE, ALASKA 99501
907/279-8405

February 22, 1980

State of Alaska
Department of Labor
Box 1149
Juneau, AK 99811

Attn: Jacquelyn L. McClintock, Director
Workmen's Compensation Division

Re: House Bill No. 705

Dear Ms. McClintock:

I have today reviewed the bill. Several practical problems with the amendments have come to my mind. (1) The amendment as to A.S. 23.30.095 (a) is long overdue and should make medical service agreements in front of the Board simple. Insurance companies tell the claimants that medical treatment terminates at two years and many are under the impression that they cannot get treatment at all. This amendment will make medical treatment lifelong without the necessity to file for another hearing since the Board approaches it that way anyway. This amendment is consistent with the present practices. The extra harrassment of seeking a Board hearing after two years is simply unjustifiable in reality. It should have been removed years ago.

Section 6 - A.S. 23.30.110(c) seeks to clarify a portion of the act that no one uses or pays attention to. The extra notice provision makes its tougher to get a fast hearing. Recent improvements in the Fairbanks and Anchorage area with local boards and hearing officers have allowed monthly calendars with weekly hearings. This longer service time should therefore not affect the speed up of hearings. Should the agency return to the two month calendar system, this provision will substantially increase the time for notice and slow the procedure. I would not favor it in that event.

One Superior Court ruling in 1969 that a failure to order a hearing or make a ruling after hearing within the time limits set mandated a dismissal of the case. This decision prevented the adjudication of the claim and claimant started over again. This section doesn't mean that, but it is confusing and has never been used in the press of the Board's litigation. Such requirements invite litigation and provide ammunition for lawsuits to force action on a case. Because these requirements have been impossible they have been ignored. Rather than lengthen the time, all matters after the comma on line two should be stricken. No one knows how to use the limits set herein, and they serve only as guides to the agency and Board. No claimant would insist upon the limit if his case needed longer and no carrier or employer would want any adjudication. This amendment perpetuates confusion and is largely superfulous all should be stricken.

Section 7 - A.S. 23.30.145(a) is amended to broaden the discretion of the Board on granting fees. No explanation of the agency policy or intent on this section explains why the minimum fee requirements are stricken. Either the agency believes that the fees charged are too high and unconciousable and need to be lowered, or they believe the minimum approval guidelines are too restrictive and low and they need to be upgraded. Recent Supreme Court decisions have recently and finally given full interpretation to this section. An attempt is made to incorporate those decisions' language into the Act, but at the expense of taking out minimum fee guidelines. This guideline provides the practioner with some idea of his minimum and protects the Board from claims of arbitrary awards. This section should remain intact and if the Board and legislature believe fees are inadequate, the minimum floor may be raised. To remove it and replace it with discretion is to cause uncertainty in a field that is not now over-populated with lawyers. Fees are partly the reason for such problems.

Section 9 - A.S. 23.30.155(c) is a needed reporting incentive to control the arbitrary action of the carriers and employer and long over-due. These are especially necessary for those companies outside of Alaska who adjust by mail and telephone and have no contact here at all. Penalities may wake them up.

Sections 11 and 12 - Seem technical and merely broadens the authority of sections of labor and makes the determination of average weekly wage easier and less technical.

A.S. 23.30.191 is needed to prevent reduction below $65.00 a week. This is consistent with the present TTD minimums. The minimum here is, however, unrealistic and makes retraining impossible in most areas except Central America where it would provide a bare living. This section should read that the TTD rate shall prevail during retraining attendance at the rate proper for the locale in which the retraining is given. The minimum and

the one-half provision should be stricken and after the line on 22, should read "at the temporary total disability rate determined under A.S. 23.30.185.' Rehabilitation and the claimant's failure to participate in it to minimize the amounts paid to him is being used as a defense to paying the compensation ordered. If the claimant has a duty to participate in rehabilitation to lessen his damages and the carrier's liability then he must be given an allowance with full maintenance to him. Cutting it to one-half is neither fair nor rational. TTD is already level for most injured claimants, and the unrealistic cut to one-half to retrain him is unsupportable. It merely forces the claimant to go back to work and provides the employer and carrier with the non-cooperative defense. Economics should not defeat the purpose of this section.

Section A.S. 23.30.215(h) is the interpretation needed to give pro-rata benefits to the children. In the case I appealed the granting of the child support benefits according to the Court order forced a reduction in the benefits available to the widow. The children got the lion's share by virtue of a court order which never envisioned a death or other dependents. All benefits should be pro-rated so that all beneficiaries are equally and equitably treated according to the statute. No one should be inequitably treated. This amendment should be retroactive to the previous enactment to correct the inequities already in the system.

Sincerely,

William M. Erwin

WME:lkw
cc: file
President of the Senate
Chairman of the Committee of Labor/ House and Senate
Speaker of the House

DEPARTMENT OF LABOR

COMMITTEE SUBSTITUTE

Pr oosed Amendment to House Bill 705, ADD as Section 1 and renumber subsequent sections as necessary:

Sec. 23.30.005. Alaska Workmen's Compensation Board. (a) The Alaska Workmen's Compensation Board shall consist of seven members, and six alternates, including a southern panel of three members and two alternates sitting for the first judicial district, a northern panel of three membes and two alternates sitting for the second and fourth judicial districts, and southcentral panel of three members and two alternates sitting for the third judicial district. Each panel shall include the commissioner of labor or his designated representative, a representative of industry and a representative of labor. The latter two members and the two alternates of each panel shall be appointed by the governor. All panel members and alternates are subject to confirmation by a majority of the members of the legislature in joint session.

(b) The commissioner shall act as chairman and executive officer of the board and chairman of each panel. If he designates a representative to act for him his representative shall serve in the capacity on the board and on each panel.

(c) The governor shall appoint the members and alternates of the panels. Each member and alternate, except the commissioner of labor, serves a term of three years. The term of a management member and a management alternate and the term of a labor member and a labor alternate of each panel may not expire in the same year. The management and labor members and alternates are entitled to compensation in the amount of $50 a day for each day or portion of a day spent in actual meeting or on authorized business incidental to their duties and to all other transportation and per diem as provided by law.

ADD the following: Sec. 23.30.040(b)(1), line 23, after "disability". The liability of an employer or an insurance carrier for payments to the fund is determined by provisions of 23.30.040 in effect on the date of injury, including the percentage in effect on the date of injury as determined by 23.30.040(d).

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ADD the following: Sec. 23.30.040(b)(1), line 23, after "disability". The liability of an employer or an insurance carrier for payments to the fund is determined by provisions of 23.30.040 in effect on the date of injury, including the percentage in effect on the date of injury as determined by 23.30.040(d).

THE SUPREME COURT OF THE STATE OF ALASKA

WIEN AIR ALASKA and UNDERWRITERS ADJUSTING COMPANY, Appellants, v. JOYCE ARANT, Surviving Wife, and JACK and JAY ARANT, Minor Children of WILLIAM ARANT, (deceased), Appellees.	)	File No. 3620
JOYCE ARANT, Surviving Wife, and JACK and JAY ARANT, Minor Children of WILLIAM ARANT, (deceased), Cross-Appellants, v. WIEN AIR ALASKA and UNDERWRITERS ADJUSTING COMPANY, Cross-Appellees.	)	File No. 3717

592 P.2d 352 (Alaska 1979)

OPINION

[No. 1796 - February 9, 1979]

Appeal from the Superior Court of the State of Alaska, Third Judicial District, Anchorage, S. J. Buckalew, Jr., Judge.

Appearances: Alan Sherry, Merdes, Schaible, Staley & DeLisio, Inc., Anchorage, for Appellants and Cross-Appellees. Arden E. Page, Burr, Pease & Kurtz, Inc., Anchorage, for Appellees and Cross-Appellants. Randall J. Weddle, Faulkner, Banfield, Doogan & Holmes, Juneau, for Amicus Curiae, Alaska Trucking Association, Inc.

Before: Boochever, Chief Justice, Rabinowitz, Connor, Burke and Matthews, Justices.

BOOCHEVER, Chief Justice.

II. ATTORNEY'S FEES

We will consider in turn the fee award for the Board proceeding and for the Superior Court appeal.

AS 23.30.145 provides for award of attorney's fees in workers' compensation cases. AS 23.30.145(a) specifies a formula:

> Fees for legal services rendered in respect to a claim are not valid unless approved by the board, and the fees may not be less than 25 per cent on the first $1,000 of compensation or part of the first $1,000 of compensation, and 10 per cent of all sums in excess of $1,000 of compensation. When the board advises that a claim has been controverted, in whole or in part, the board may direct that the fees for legal services be paid by the employer or carrier in addition to compensation awarded; the fees may be allowed only on the amount of compensation controverted and awarded. [emphasis added]

AS 23.30.145(b) grants a reasonable attorney fee:

> If an employer fails to file timely notice of controversy or fails to pay compensation or medical and related benefits within 15 days after it becomes due or otherwise resists the payment of compensation . . ., the board shall make an award to reimburse the claimant for his costs in the proceedings, including a reasonable attorney fee. [emphasis added]

In Haile v. Pan American World Airways, Inc., 505 P.2d 838 (Alaska 1973), we held that the section 145(a) formula only applies to "controverted" claims and the section 145(b) grant of reasonable attorney fees applies to an

employer who otherwise fails to make payment of compensation.[49] The Arants maintain that Wien controverted the claim. Wien maintains that while it "resisted" payment of the increased amount, it did not "controvert" the claim.

The Board's decision makes no mention of the controversion issue. It simply concludes:

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49 Four justices participated in Haile. The plurality opinion of the court found that the employer's delay in making payments due to circumstances beyond the employer's control did not constitute "controversion of the claim" and therefore a fee award under AS 23.30.145(a) was not proper. 505 P.2d at 839-41. Chief Justice Rabinowitz would have held that AS 23.30.145(a) prescribes a minimum fee award applicable to all compensation cases, regardless of whether the claim is controverted; the fact of controversion permits the Workmen's Compensation Board to require the employer to pay attorney's fees. Id. at 841-42 (concurring and dissenting opinion). Justice Erwin agreed that AS 23.30.145(a) required a finding of controversion by the employer but would have found it on the facts in Haile. Id. at 842-44 (concurring and dissenting opinion). See note 52 infra.

> We find that the defendant resisted payment of compensation in excess of $198.40 a week, and applicant retained an attorney in the successful prosecution of this case. Attorney fees in the amount of $500 are awarded to applicant's attorney to be paid by the defendant.[50]

We hold that Wien controverted the Arants' claim and remand the case to the Board to compute attorney's fees according to the statutory formula in AS 23.30.145(a).

Wien's reliance on Haile is misplaced. There, the employer never denied its obligation to pay compensation,

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50 It is not clear whether the Arants raised this issue in the proceeding before the Board. The sole reference at the Board hearing to attorney's fe s was at the beginning of the hearing by Wien's attorney:

> Mr. Page: There are two questions that are raised aside from the question of penalties and attorney fees which will be taken care of normally(?). [as in the original]

The last word could be "orally." In any event, Wien does not argue tha the Arants' request for attorney's fees was not timely raised in the proceedings below.

If reasonable attorney's fees under AS 23.30.145(b) were proper in this case, the Board still should have conducted a hearing on the question, requested evidence from the parties, or at least indicated in its order how it arrived at the $500.00 determination. See Haile v. Pan American World Airways, Inc., 505 P.2d 838, 841 (Alaska 1973) (remanding for a hearing on attorney's fees and costs). The court in Reeves v. Sierra Homes, 563 P.2d 1242, 1242 (Or. App. 1977), remanded a case where the record simply revealed the dollar amount granted by the Workmen's Compensation Board: "Without evidence or a stipulation there is no way we can measure the discretion exercised."

it simply delayed payments, and prior to the hearing, the employer informed the Board that it was not contesting the claims. We held that the delay in payments did not constitute a controversion.[51] Wien, however, has consistently denied and litigated its obligation to pay the increase sought, and eventually received by, the Arants.[52]

Wien's failure to file a notice of controversion is not dispositive on the question of attorney's fees. AS 23.30.145(a) requires a finding by the Board of whether there has been controversion in fact. If failure to file a notice of controversion made the employer liable for lower attorney's fees, the employer would benefit from non-compliance with the statute and few notices would be filed. This backward incentive contrasts with the working of AS

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51 In Haile, the Workmen's Compensation Board found as a matter of fact that the employer's delay was due to conditions over which it had no control; the employee did not appeal that ruling and so the court did not examine the Board's conclusion that the delay was involuntary. 505 P.2d at 840-41. Justice Erwin would have found that the employer's delay, due to a six-month investigation of the worker's legal right to compensation, constituted controversion as a matter of law. 505 P.2d at 842-43 (concurring and dissenting opinion).

52 The fact that Wien agreed to pay compensation and only disputed the amount does not preclude a finding of controversion and an award of attorney's fees under AS 23.30.145(a). Alaska Interstate v. Houston, 586 P.2d 618, 620 (Alaska 1978). See J. B. Warrack Co. v. Roan, 418 P.2d 986, 990 (Alaska 1966); AS 23.30.145(a) (referring to controverting a claim "in whole or in part").

23.30.155, which requires the employer to file a notice of controversion and penalizes the employer who does not comply.[53] To hold that there is no controversion due solely

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53 AS 23.30.155, "Payment of Compensation," provides, in part:

> (a) Compensation under this chapter shall be paid periodically, promptly, and directly to the person entitled to it, without an award, except where liability to pay compensation is controverted by the employer.
>
> (b) The first installment of compensation becomes due on the 14th day after the employer has knowledge of the injury or death. On this date all compensation then due shall be paid.
>
> . . .
>
> . . . .
>
> (d) If the employer controverts the right to compensation he shall file with the board on or before the 14th day after he has knowledge of the alleged injury or death, a notice . . . stating that the right to compensation is controverted . . . .
>
> (e) If any installment of compensation payable without an award is not paid within 14 days after it becomes due, as provided in (b) of this section, there shall be added to the unpaid installment an amount equal to 20 per cent of it, which shall be paid at the same time as, and in addition to, the installment, unless notice is filed under (d) of this section or unless the nonpayment is excused by the board after a showing by the employer that owing to conditions over which he had no control the installment could not be paid within the period prescribed for the payment. [emphasis added]

to the failure to file the notice would be to place form above substance. We hold that a notice of controversion by the employer is not required for an award of attorney's fees under AS 23.30.145(a).[54]

AS 23.30.145 seeks to insure that attorney's fee awards in compensation cases are sufficient to compensate counsel for work performed. Otherwise, workers will have difficulty finding counsel willing to argue their claims.[55] Also, high awards for successful claims may be necessary for an adequate overall rate of compensation, when counsel's work on unsuccessful claims is considered. Taking into

---

53 (Continued)

Thus an employer must start compensation payments within 14 days of injury; a notice of controversion permits the employer, legally and without late penalty, not to begin payments. Although the opinion in Haile is somewhat unclear on this point, the reference to the employer's failure to file a notice of controversion was discussed in the context of AS 23.30.155(d). 505 P.2d at 839. In Haile, the Board did not levy the late penalty because it found the employer's delay "owing to conditions over which he had no control." AS 23.30.155(e). See note 51 supra.

54 Alaska Interstate v. Houston, 586 P.2d 618, 620 (Alaska 1978). The difficulty with interpreting AS 23.30.145(a) may arise from the somewhat awkward language, "When the board advises that a claim has been controverted . . ." (emphasis added). Our opinion in Alaska Interstate is to the effect that the word "advises" can be read as "finds."

55 Haile v. Pan American World Airways, Inc., 505 P.2d 838, 844 (Alaska 1973) (Erwin, J., concurring and dissenting).

account these factors, however, we are still concerned that, in some cases, application of AS 23.30.145(a) results in a fee award that is "out of all proportion to the services performed." Haile v. Pan American World Airways, Inc., 505 P.2d 838, 840 (Alaska 1973). The remedy for this is statutory change by the legislature, not "interpretation" by the courts. The legislature may wish to examine whether the formula in AS 23.030.145(a) sometimes results in excessive fee awards, awards higher than are necessary to attract counsel into the compensation area.

For the appeal of the Board's decision, the Superior Court granted the Arants $750.00 in attorney's fees. Before making this award, the court received a motion for $6,033.75 in attorney's fees from the Arants and a supporting memorandum, stating that counsel had worked 80 plus hours at an hourly billing rate of $75.00. The Arants appeal the $750.00 award as an abuse of discretion.

An award of attorney's fees is subject to the broad discretion of the trial court.[56] "An abuse of discretion is established where it appears that the trial

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56 State v. Alaska Int'l Air, Inc., 562 P.2d 1064, 1067 (Alaska 1977); City of Valdez v. Valdez Dev. Co., 523 P.2d 177, 184 (Alaska 1974); Cooper v. Carlson, 511 P.2d 1305, 1309 (Alaska 1973); State v. Abbott, 498 P.2d 712, 731 (Alaska 1972); Palfy v. Rice, 473 P.2d 606, 613 (Alaska 1970).

court's determination as to attorney's fees was manifestly unreasonable." Palfy v. Rice, 473 P.2d 606, 613 (Alaska 1970). The Superior Court's fee award for the appeal should provide for realistic compensation, taking into account the same factors that the Workmen's Compensation Board considers when it grants attorney's fees for non-controverted claims: "the nature, length and complexity of the services performed, transportation charges, and the benefits resulting from the services to the compensation beneficiaries."[57] Additionally, though, the Superior Court should consider the Board's fee award. This is relevant where application of the formula in AS 23.30.145(a) has produced a disproportionately large award for the Board proceeding.[58]

We remand to the Superior Court with directions that it remand to the Board for a determination of attorney's fees. The Superior Court shall make its determination of the fees to be granted because of the appeal after the Workmen's Compensation Board makes its fee award.

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57 AS 23.30.145(a). The Board takes these factors into account when "a claim has not been controverted, but . . . bona fide legal services have been rendered in respect to the claim . . . ." Id. In these circumstances, the Board directs "payment of the fees out of the compensation awarded." Id.

58 AS 23.30.145(a) provides for a minimum fee. If application of the minimum fee formula yields a fee inadequate to compensate the attorneys, there is the right to appeal to the Superior Court.

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TELEPHONE
(907) 456-4070

March 5, 1980

Mr. Fred Brown
600 3rd St., Suite 2, Graehl
Fairbanks, Alaska 99701

Dear Mr. Brown,

I am enclosing a copy of House Bill Number 705 which I recently received a copy of. I would appreciate it if you would take a look at the proposed amendments to section 145 concerning attorney's fees and see if you agree with the proposed changes.

I practice workmen's compensation solely from the claimant's side. I do not believe that the amendments would be conducive to finding adequate representation for claimants. The way I read the amendments contingent fee contract would be virtually out the window. If you have some comments I would appreciate knowing them, and, if you oppose the change, I would appreciate your efforts in contacting members of the legislature and the Governor's staff and expressing them. Please do not hesitate to contact me on this.

Sincerely,

Lance C. Parrish

LCP:mak

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K—STATE CAPITOL
JUNEAU, ALASKA 99811

February 27, 1980

Hon. Vernon Hurlbert
Chairman
House Labor & Management Committee
Pouch V
Juneau, Alaska 99811

Re: J-77-004-80

Dear Mr. Hurlbert:

Regarding HB 705, "an Act relating to Workmen's Compensation; and providing for an effective date," we have discovered that a short phrase was inadvertently omitted. This bill was introduced February 11, 1980 by the Rules Committee at the request of the Governor and presently resides in your committee.

On page 1, line 27, the words " ... each employer or insurance carrier shall pay to the fund $10,000 " was omitted. The addition of this phrase to the statute § 23.30.040(b)(2) would require that the period after "AS 23.30.215." be changed to a comma.

I apologize for this oversight.

Sincerely,

AVRUM M. GROSS
ATTORNEY GENERAL

By: Kathryn Kolkhorst
Kathryn Kolkhorst
Assistant Attorney General

KK:cb

cc: Commissioner Orbeck

03-C6LH

As an integral part of the Workmen's Compensation Act the Second Injury Fund has the responsibility of providing the means to rehabilitate and retrain disabled workers who as the result of an occupational injury are in need of new skills whereby they may return to gainful employment within the limitations of their disabilities and continue to function as productive members of society. From offices located in Juneau and Anchorage, this BRU provides not only financial assistance for retraining but support and encouragement to the disabled worker and his family by personal contact during the crucial period of physical and emotional readjustment.

The Second Injury Fund is also responsible for payment of compensation and reimbursement to employer/carriers in cases where the employee has a pre-existing disability from any cause and incurs a second injury which causes greater disability because of the combined effects of the two. The fund encourages employers to hire the disabled worker by relieving them of some of the financial burden that could develop should he suffer further injury as a result of his disability.

Historically each year according to Division records, one out of every 25 persons employed in Alaska will experience work injury that will cause over three days lose of work. Due to the severity of injury approximately 3 percent of these cases will result in permanent partial disability which will cause a hinderance or obstacle to employment. The Second Injury Fund's goal addresses the problem of returning these disabled workers to a productive roll in society.

The values of retraining and rehabilitation in terms of economics are both tangible and identifible. Restoration of an individual to gainful employment then is not only beneficial to the worker, but to all society, for rehabilitated persons pay on taxes many times more than cost of the necessary training services. Also enormous sums in welfare payments and social security benefits, which otherwise would be necessary for their maintenance, are saved.

In FY 79 over 20,000 work related injuries were reported to the Workmen's Compensation Division. Approximately 750 of them resulted in permanent partial disability and were advised of benefits available from the Fund. Two-hundred and forty-one of the injured workers received services from the Fund and one-hundred and fifteen were returned to gainful employment with newly acquired skills. Twenty new claims for compensation payments to employees and reimbursement to employer/carriers was awarded by the Workmen's Compensation Board in FY 79 making a total of sixty-one claims currently being paid.

Based on the number of industrial injuries reported in FY 78-79, only a small increase in the number of individuals eligible for vocational retraining benefits is anticipated, however, costs of tuition, books, supplies and transportation is expected to rise by at least 10 percent by FY 81. We estimate that the number of claims for compensation and reimbursement will increase to 75.

Projections for the Second Injury Fund indicate that a serious fund balance problem will exist at the end of FY 80. As the result of amendments made to the Workmen's Compensation Act over the past five years, the cost of compensation payments to injured workers and reimbursement to employer/carriers has increased by approximately 400 percent. Cost of vocational retraining has also doubled over this same period, primarily due to inflation. (see attached)

The general trend has been to increase benefits, thus expenditures, with no provisions for an increase in revenue. The present method of obtaining revenue for this BRU has not been updated since 1970 and does not generate adequate funding to meet current expenditures. A proposal outlining an alternate method of generating revenue has been prepared for the 1980 Legislative Session. The proposed method will provide sufficient funding for this BRU to meet current and future statutory obligations.

	CODE	EXPENDITURE CLASSIFICATION	PRIOR YEAR FY 79 ACTUAL	CURRENT YEAR FY 80 AUTHORIZED	BUDGET YEAR – FY 81			
					AGENCY			GOVERNOR'S BUDGET
					CONTINUATION	ADDITION	REQUEST	
	1	2	3	4	5	6	7	8
1	600	LAND, BUILDING, NON STRUCTURAL IMPROVEMENTS						
2	600	LAND, BUILDING, ETC. (EXCLUDING ASHA PAY)						
3	628	ASHA PAYMENT						
4	960	INTER-AGENCY TRANSFERS (NON-ADD)						
5	700	ASSISTANCE GRANTS AND BENEFITS	256.1	905.9	969.3	120.2	1089.5	
6	720	LOCAL ASSISTANCE, STATE SOURCES						
7	730	BENEFITS TO INDIVIDUALS	233.4	312.9	334.8	44.7	379.5	
8	740	GRANTS AND AWARDS TO INDIVIDUALS	517.7	503.0	538.2	75.5	613.7	
9	750	GRANTS, OTHER AGENCIES	105.0	90.0	96.3		96.3	
10	970	INTER-AGENCY TRANSFERS (NON-ADD)						
11	970	INTER-AGENCY TRANSFERS (NON-ADD)	105.0	90.0	96.3		96.3	
12	800	MISCELLANEOUS						
13	810	DEBT SERVICE						
14								

15. EXPLANATION	CONTINUATION $	ADDITION $	FOR B&M USE
730 Benefits to Individuals. A.S. 23.30.040 provides vocational retraining and rehabilitation costs for the injured worker not to exceed $5,000. Costs of maintaining retraining programs for an estimated one hundred and thirty claimants	334.8	44.7	
740 Grants and Awards: A.S. 23.30.205 provides for compensation payments and reimbursement to employee/agencies under certain	538.12	75.5	

AGENCY DEPARTMENT OF LABOR PROGRAM AREA WORKER PROTECTION

BRU SECOND INJURY FUND

COMPONENT SAME

FY 81

18. LANDS, GRANTS AND MISCELLANEOUS

REVISED DATE

1-10 Cont prescribed medicare. Costs of maintaining an estimated 75 claims with monthly payments ranging between $2,145 and $4,430 =

613.700

750: Grants, Other agencies Cooperative agreement between Workmen's Compensation Division and Division of Vocational Rehabilitation To cover costs of providing vocational retraining to approximately 60 injured workers

96,300 Cont

AGENCY DEPARTMENT OF LABOR PROGRAM AREA LICENSE PROTECTION

BRU SECOND INJURY FUND

FY 81

23 18 CONTINUED

COMPONENT SAME

Page 2 of 2

REVISED DATE

02 1023 (Rev. 7/79)

SECOND INJURY FUND

COMPARISON OF FUND BALANCES, RECEIPTS AND DISBURSEMENTS

Fiscal Year	July 1 Beginning Balance	Adjustments	Receipts	Disbursements	June 30 Ending Balance
1974	54,376	163,448	184,608	236,842	165,589
1975	165,589	(17,050)	239,481	271,550	116,469
1976	116,469		430,318	329,010	217,777
1977	217,777		445,410	334,133	329,054
1978	329,054		652,998	785,200	196,852
1979	196,852		1,085,600	990,500	291,952
1980	291,952		900,000*	1,236,300	(44,348)**

* Estimated revenue 1980

** Estimated balance for June 30, 1980

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Dennis Patrick James
Attorney at Law

March 7, 1980

State of Alaska
Department of Labor
PO Box 1149
Juneau, AK 99811

Attention: Jacquelyn L. McClintock, Director
Workman's Compensation Division
RE: House Bill No. 705

Dear Ms. McClintock:

I have had an opportunity to review House Bill No. 705 and would submit the following comments to that bill for your information.

A.S. 23.30.215. The ceiling for monthly and total payments should be raised higher than the currently proposed Two Hundred Dollars per month, with a Ten Thousand Dollar total expenditure. The reasoning for this is that it is highly unrealistic that a claimant in vocational rehabilitaion would be able to survive by paying him Two Hundred Dollars a month plus his 191 funds, while he is in vocational rehabilitation.

A.S. 23.30.095(a) The removal of the two year barrier as far as continuing medical treatment is logical and just. The deletion of the right of the employee to change physicians is going to cause additional litigation. The insurance carriers resist payment for chiropractic care at this time, even though A.S. 23.30.095 (a), allows a change of physicians, (See A.S. 23.30.265). The deletion of this clause will provide the carriers with the right to litigate an employee's right to seek chiropractic help, after having been seen by a doctor of medicine.

A.S. 23.30.095(c) The requirement of submitting an ADL 210, or equivalent form will fall directly on the claimant by the insertion of "each visit for" and deletion of "the first" visit. Currently some adjustors are stopping compensation benefits to the employee when they don't receive the treating physician's reports. This is true whether the treating physician is a doctor of medicine, or a chiropractor. While it might be agreed that the responsibility ultimately rests with the employee to insure medical reports are timely submitted, the act should not provide a vehicle, allowing carriers to harrass employees by playing games with the employees compensation, under the guise of "the treating physician has failed to timely submit his/her medical report". Overcoming psychological trauma, relating to a work-related injury, is an important part of recovery. Allowing the carrier this psychological tool will act to the detriment of the injured employee.

A.S. 23.30.095(e) The independent medical examination by the employer/carrier is not an effort to ascertain whether an employee has been injured, but is used, hopefully to decrease the permanent-partial disability rating or to discredit chiropractic treatment. The right of the injured employee to have his physician present, should not be deleted, thus allowing the injured employee to be at the mercy of the carrier. It should be remembered that most claimants have not had prior exposure to the compensation system, nor do they seek legal counsel until problems between the claimant and carrier develop. The adjustor is intimately familiar with the workings of the system. Thus, I believe the right of the claimant to have his or her physician present, paid for by the employer, acts as a balancing force in behalf of the employee. The employer must address this fact when it wants to convince the employee that a free trip outside to visit an "impartial" doctor, would be a nice vacation.

A.S. 23.30.110(c) The increased time requirement for notice of a hearing appears to work to the benefit of the carrier. As a rule, the claimant requests a hearing because the carrier has controverted the employee's claim or stopped the claimant's compensation payments. The proposed change allows the carrier to use the technical defense of lack of twenty day notice to avoid a hearing.

Increasing the time allowed the Board to render a decision is equally unfair to the claimant. Some cases have been pending written decisions for months after the hearing. The carrier is not required to pay interest, much less principle, on an award until due. It is not due until a written decision has been rendered by the Board. The claimant suffers economic hardship during this period, in some cases, having to seek help from Welfare. If the Board denies a claim, then quick notice of that denial, is equally important. The issue is put to rest, or appealed, while the facts are still fresh.

The twenty day requirement theoretically forces the Board to take some action, once the hearing is requested. Deletion of this requirement will require court action on the part of the moving party, to force the Board to act. This seems to be an unreasonable requirement on the moving party, who is generally the claimant.

Consequently, I would suggest that the current ten day hearing notice and twenty day decision requirements remain intact.

A.S.23.30.145(a) The removal of the minimum fee schedule will create a pandoria's box situation. It allows the Board to set any standard as to what the attorney can recover as attorney fees. Claimant's counsel do not recover on every case. Consequently, the attorney must recover sufficient fees on successful cases to offset the unsuccessful cases. Contingent fees should also be allowed, since some claimants prefer this arrangement. To allow the Board to reject this type of fee arrangement, will create uncertainty within the claimant bar. This will work to the advantage of the carrier,

since, if the claimant cannot secure qualified legal counsel, the claimant will be left to the mercy of the carrier.

It should be pointed out that the carriers are in direct violation of this section, since they do not submit attorneys fees for approval by the Board. Equally relevant is the fact that the carriers attorneys get paid, whether or not they prevail on a particular case.

A.S.23.30.145(b) The proposed changes, coupled with the proposed A.S.23.30.145(a) will allow the carrier to litigate what is "reasonable" with out a minimum fee base. Be assured the carriers will litigate this issue since they are going to have to pay the fees.

The deletion of the minimum fee schedule appears to be in direct response to Alaska Interstate v Houston 586p.2d 618, (Alaska, 1978). It would have been preferrable that the Supreme Court have granted Mr. Houston Civil Rule 82 attorney fees. It must be remembered that not every claimant is successful. The nonsuccessful claimant is generally destitute, so the claimant's attorney receives nothing for his time and efforts. The attorney must rely upon the successful cases to finance the unsuccessful cases. Very few attorneys represent claimants in workman compensation cases. Recovery of adequate fees may well be the reason for this lack of interest. Further reduction of fees and/or having to litigate "reasonable attorney fees" on every successful case may cause attorneys presently practicing in this field to withdraw from this specialized area of the law. I would suggest that the Board be required to honor contractual arrangements between claimants and counsel. Further that the carriers counsel be required to submit legal fees for Board approval, pursuant to A.S.23.30.145(a). Additonally, in controverted cases, that Civil Rule 82 attorney fees plus costs, be applicable.

A.S.23.30.175(b) I fail to see what is wrong with the method currently being utilized to calculate the rate of compensation.

A.S.23.30.175(c) The reasoning behind this section does not seem to be valid anymore. The "snowbird" worker must address similar cost of living through-out the United States. I would suggest repeal of this section, without substitution.

A.S.23.30.191 The cost of living, during vocational rehabilitation, does not decrease, consequently, a claimant's compensation rate should not decrease.

Final comments: A reading of the proposed legislation leaves me with the impression that it was written by a

representative of the insurance industry. There is very little increased protection to the claimant. Almost all proposed changes to the act will be of benefit to the employer/carrier. I would suggest that the entire Act be repealed and allow claimants to sue under a tort theory. This would preclude some claimant's recovery, but would benefit the vast majority of claimants. Alternatively, the entire Act should be redone to bring it current to 1980, thus paying claimants realiztic sums for work injuries. The current ceilings on scheduled and nonscheduled injuries, as well as unreasonably limiting the class of individuals. covered by death benefits is unjust.

Thank you for giving me the opportunity to express my concerns regarding this proposed legislation.

Sincerely yours,

Dennis P. James

DPJ:CJ
cc: Govenor Hammond
President of the Senate
Chairman of the Committee of Labor/House and Senate
Speaker of the House
Members of the Labor Committee

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March 11, 1980

The Honorable Charles H. Parr
Alaska House of Representatives
Pouch V
Juneau, Alaska 99811

RE: House Bill #705

Dear Representative Parr:

I am writing to you concerning the proposed House Bill Number 705 which was introduced by the Rules Committee at the request of the Governor.

There are a number of comments I would like to make with respect to this bill. Before doing so, I will briefly explain to you my background in workmen's compensation so that you may better evaluate my comments.

The firm of which I am a member has practiced workmen's compensation law for many years. Prior to myself and my brothers graduating from law school, my father practiced law, including workmen's compensation law, in the Interior. He handled many cases in the territorial days and many under State Law. Now myself and my brothers practice together with dad as a semi-retired associate.

Since graduating from law school and starting practice in Alaska in 1975, I have handled well over a hundred workmen's compensation claims. I have handled these claims only from the claimant's side. In addition, I estimate that I have spoken with in excess of 750 people who have workmen's compensation claims in the last 5 years.

There are two provisions in House Bill 705 which concern me more than any others. One change I am in favor of; the other I am opposed to.

The proposed amendments of 23.30.095(a) eliminate the necessity to obtain board approval for medical care after two years. This change is long overdue. By removing the language which is proposed to be removed, the entire process of providing medical care is streamlined.

Under both the present section 23.30.095(a) and the proposed amendment, the single issue is whether or not the nature of the injury or the process of recovery requires medical treatment. However, under the current enactment of 23.30.095(a), an injured workman is entitled to such medical treatment, automatically, only for two years from the date of injury. Subsequent

to the two-year period, he must obtain Board authorization for that continued treatment or care. This usually requires a hearing.

By eliminating the two-year period, it will be up to the carrier, initially, to determine whether the process of recovery requires treatment, and, I believe in most instances it will pay medical bills. There are instances now where an employee, who suffered a serious industrial injury and obviously requires treatment, has to make application to the Board even though the requirement for treatment is unarguable. Under the amendment, the number of hearings required before the Board will be reduced; yet, the standard by which treatment is awarded would not be changed. This amendment should be adopted.

I would next like to address the proposed amendment to 23.30.145(a). That amendment would eliminate the present provision for minimum attorney's fees.

The vast majority of injured workmen do not have the funds to pay for attorneys. As a result, the majority of attorneys with which I am familiar work on a contingent fee basis of between 10% and 20%. Thus, if the attorney is able to obtain additional compensation for the injured employee, the attorney gets paid. In the event the attorney is not able to obtain additional compensation, the attorney does not get paid.

The contingent fee system has very substantial benefits in the workmen's compensation field. Most importantly, it allows claimants who could not otherwise pay attorneys to obtain representation. By the nature of the system, claimants do not seek representation until payments are withheld. At that point they rarely can afford to pay by the hour. Also, since the attorneys are working on a percentage of recovery, they are less likely to take cases which are not meritorious. If attorneys were required to work by the hour, and were paid by the hour, some would be more inclined to take cases that had more marginal chances of recovery.

It is important to point out that under both the current and proposed statute, all fees for legal services rendered with respect to a claim are not valid unless approved by the Board. In addition, it is a misdemeanor to collect fees from a workmen's compensation claimant unless that fee has been approved by the Board. Therefore, the fee an attorney earns in a particular case is only that amount which is approved by the Board.

Under the current attorney's fee provision, the Alaska Supreme Court has ruled that when an injured workman successfully prosecutes a claim, which has been disputed and controverted by the workmen's compensation carrier, then, in addition to compensation, the Board awards a fee of not less than 25% of the first $1,000.00 of compensation or part of the first $1,000 00 of compensation and 10% of all sums in excess of $1,000.00 of compensation. Alaska Interstate v. Houston, 586 P.2d 618 (AK 1978), Wien v. Arant, 592 P.2d 352 (AK 1979) and State of Alaska v. Charles Brown, (Sup. Ct. Op.

No. 1935, 1979). In all but minor cases this is essentially a 10% fee. Under the current Board practice the minimum fee is usually awarded.

This allows the claimant to receive his full compensation and not have to pay for an attorney out of his pocket. If the Board denies the claim of the injured employee, it awards no attorney's fee to the claimant's attorney. The principal benefit of the 10% fee is that it provides a measure of predictability of the fee he will receive if he is successful on behalf of the claimant. Even with this "guaranteed" fee, few lawyers are attracted to workmen's compensation.

The proposed amendment to section 14[illegible]) would require the Board in each case to make an award of attorney's fees taking into consideration the nature, length and complexity of the services performed, etc. One main problem with this proposed amendment is that it does not account for cases in which contingent fee attorneys may lose. In order to attract qualified attorneys to the workmen's compensation area, they must be able to make a living commensurate with the practice of law in other areas. If they are only going to get what their services are worth in the cases that they win and they are not going to get anything in the cases that they lose, then one of two things will happen. Either attorneys will drop out of the system or they will begin charging claimants directly and claimants will be paying attorney's fees out of their own pocket.

Whichever happens, in many arguable cases, claimants with a bona fide need for and right to compensation will be left unrepresented. Neither of us is so naive as to believe that the claimants can represent themselves adequately against trained insurance adjusters and the attorneys who invariably appear on behalf of the carriers. I currently read virtually all decisions written by the Alaska Workmen's Compensation Board, I am aware of a number of cases which I felt could have and should have been won had the claimant been represented by an attorney.

Also, the contingent fee allows most attorneys to talk to injured employees without charging for the time. This is the practice in our office. I estimate that in the past I have counseled at least 500 people for whom I eventually did not take a workmen's compensation case. However, I was able to take an hour or an hour and a half and explain to them how the workmen's compensation system works and what they can expect.

This has a substantial benefit to the Workmen's Compensation Division in that it does not have to counsel these people. It also eliminates numerous unjustified claims which otherwise would have at least been initiated with the Board.

By providing cost free initial consultations, we consider we are performing a service to workmen's compensation claimants generally. The cost of that

service is borne to a certair extent by claimants whom we eventually represent and for whom we are successful. This is justified by the fact that many of those would never get legal advice if it were not available without cost.

Based upon the above, I respectfully request that you vote in favor of the amendment to 23.30.095(a) [medical] and against the amendment to section AS 23.30.145(a) [attorney's fees]. I have talked to almost every lawyer in the Fairbanks area who practices workmen's compensation from the claimant's side. I believe all of them agree with the thoughts I've expressed above. By voting in favor of the amendment to §95(a) the Board's procedure regarding medical will be streamlined. By voting against the amendment to §145(a), the already difficult task for a claimant in finding representation will not become hopeless.

Sincerely,

Lance C. Parrish

LCP:mgs

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March 21, 1980

Honorable Vernon Hurlbert
Chairman, Labor and Management
Committee
House of Representatives
Alaska State Legislature
Pouch V
Juneau, Alaska 99811
(Mail Stop 3100)

RE: House Bill No. 705

Dear Representative Hurlbert:

This letter is directed to you as Chairman of the Labor and Management Committee and to the other members of this Committee in general concerning consideration of the above-referenced House Bill No. 705 relating to amendment of the Alaska Workmen's Compensation Act. Although efforts to amend the Alaska Workmen's Compensation Act through this Bill in order to clarify portions of the Act and to achieve the Act's underlying policy are certainly commendable, there are several sections of the Bill which I find objectionable. I have submitted under separate cover a letter to the Committee outlining and specifying several of the points which I find objectionable in proposed House Bill 705.

However, most importantly, before any Bill such as HB 705 is acted upon, it is incumbent that the legislature, and in this case the Labor and Management Committee, obtain as much public input as possible. Of primary concern, of course, would be the individuals and organizations who are most directly impacted by the Act and who must deal on a regular basis with the provisions of the Act and the Alaska Workmen's Compensation Board. Consequently, I think it is incumbent upon the Committee to hold public hearings particularly in Anchorage, Alaska, at which time any present claimants under the Act can add their input, as well as any attorneys representating claimants, such as myself and our organization, the Claimants Counsel Association; the insurance carriers and their attorneys; employers, unions and other interested parties.

Insofar as the bulk of the claims filed with the Workmen's Compensation Board are filed in Anchorage, Alaska and insofar as the greatest cross-section of population who would be interested in testifying likely resides in Anchorage, Alaska, I would strongly urge the committee to proceed with public hearings on this Bill or any other Bills considered by the Committee relating to the Alaska Workmen's Compensation Act here in Anchorage, Alaska.

I commend this matter to your attention and studied consideration. If I can assist in any way or if I can provide any further information with regard to such hearings, please do not hesitate to contact me at your convenience.

Very truly yours,

JERMAIN, DUNNAGAN & OWENS

Bradley D. Owens

Bradley D. Owens

BDO:cg
cc: Representatives Brian Rogers,
Joe McKinnon, Mike Miller,
Robert Bettisworth, Margaret Branson
and Joe Hayes
Senators Frank Ferguson,
Bill Ray, Brad Bradley,
Mike Colletta and Jay Kerttula
Jackie McClintock, Director
Alaska Workmen's Compensation Board
Kathy Kolkhorst, Attorney General
Juneau, Alaska

G. A Cover's Copy

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JOHN ANTHONY (TONY) SMITH
CLARK S. GRUENING
CHARLES G. EVANS
ROBERT S. SPITZFADEN

14 March 1980

Alaska State Legislature
House of Representatives
Committee on Labor and Management
Pouch "V"
Juneau, Alaska 99811

Re: House Bill No. 705

Dear Representatives Hulbert, Rogers, McKinnon, Miller Bettisworth, Branson and Hayes:

House Bill No. 705 relating to workmen's compensation has been referred to the Labor and Management Committee. Although parts of the proposed bill are commendable and should be acted upon, other sections of the bill are highly objectionable. As an example, Section 4 of the Act amends A.S. 23.30.095(c) to permit an employer or carrier to suspend medical payments, and in practice compensation payments, to injured employees because, without any fault of the employee, his physician fails to file a report within 20 days following each visit. Lost mail, understaffing, or any number of other Catch 22s could deny an injured employee his statutory benefits without a hearing or due process safeguards. For these or other reasons the committee should not act upon House Bill 705 without public hearings held preferably in Anchorage where the great majority of workmen's compensation cases arise and are decided and where the committee would be most accessible to employees. Again, I strongly urge you that parts of House Bill No. 705 represent an unwarranted retreat from the position of Alaska as a leading state protecting the rights of injured employees. Publicity of the bill and public hearings accessible to workmen's compensation claimants are a must.

With best regards,

Charles G. Evans

Charles G. Evans

CGE/m
cc: Jackie McCintock
Chairman
Alaska Workmen's Compensation Board

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Governor's Copy

March 12,1980

Honorable Vernon Hurlbert
Chairman
Committee of Labor and Management
Pouch V
Juneau, AK 99811

SUBJECT: House Bill No. 705

Dear Representative Hurlbert:

As our law firm handles many workers' compensation cases, we were interested to receive a copy of HB 705, which proposes certain amendments to the Workmen's Compensation Act. On reviewing the bill, however, we became disturbed because in our view the amendments would further tend to tip the balance in favor of insurance companies at the expense of injured workers. Our objections follow.

AS 23.30.095(a) would be amended to delete language allowing workers to change physicians for any reason during the period when medical care is required. We believe that all people are entitled to medical treatment by a physician of their own choosing. A person should not be deprived of the physician or treatment of choice merely because he or she was injured on the job site. To preserve the right to a physician of choice, it is important that a worker be permitted to change physicians any time during the period when medical treatment is required. The first physician seen by a worker is frequently a company doctor or a physician recommended or selected by the employer. When the injured worker learns that extended treatment may become necessary, he or she may wish to be attended by his or her family physician or someone who has been recommended. It is our position that the language which allows an employee to change physicians for any reason during the period when medical treatment is required should be retained in AS 23.30.095(a).

The bill proposes to amend AS 23.30.095(c) to require a physician to report to the employer and the Board within twenty (20) days following each visit for treatment. If the physician or hospital facility is delinquent, the claim for medical or surgical treatment would be invalid or unenforceable. First,

we believe that twenty (20) days is an unreasonably short period of time in which to allow these reports to be filed. But more important, the change would penalize an injured worker for the delinquency of a physician or medical facility. It is unconscionable to deny a worker injured on the job site legitimate and necessary medical expenses because of the tardy filing of reports.

Also affecting the worker's right to a physician of choice is the proposed amendment to AS 23.30.095(e). The proposed amendment would delete the employee's right at a medical examination requested by an insurance carrier or ordered by the Board to have his personal treating physician present at the insurance carrier's expense. The current law is necessary because it is a vehicle for a witness at the examination and it operates as a deterrant to the all to common practice of insurance companies to send claimants to doctor after doctor until the carrier receives a report favorable to its interest.

The proposed amendment to AS 23.30.110(c) would extend the time of notice for hearing from ten (10) to twenty (20) days. This revision is inoffensive on its face, but in operation it will prejudice injured workers. As a practical matter, hearings are almost always requested by the employee. The carrier as the source of funds is in the position of control. It frequently acts unilaterally without initial Board approval, and the worker must file a complaint with the Board if the worker is dissatisfied. Often, a worker faces reduced or terminated compensation or limitations on his medical benefits. Time is usually of the essence in these cases and the worker cannot tolerate any delay. On the other hand, the carrier has no need of a twenty-day notice. It already will have a complete file on the worker and will have received a copy of the application for adjustment of claim, which is filed prior to the request for hearing and which notifies the carrier of the controversy. In addition, the Board's time to issue a decision is extended from twenty (20) days to thirty (30) days. The amendments would allow twenty (20) additional days to the present procedure. For injured workers without compensation or medical benefits, such a delay cannot be tolerated.

Section 7 of HB 705 would repeal provisions in existing law that establish minimum attorney fees for legal services rendered in respect to a compensation claim.

First, it is noted that the existing statutory minimum is not generous. AS 23.30.145, at present, allows 25% of the first $1,000 awarded and 10% of amounts awarded in excess of $1,000 as the attorney's minimum entitlement. In contrast, in a normal tort case (or if the employer could be sued by the worker), the normal contingent fee recovery would be 33% of the total damages awarded.

Second, the existing minimums serve a valuable public purpose. They permit injured workers, especially in the important but non-catostrophic injury cases, to obtain counsel willing to assist in the presentation of their claims. The effect of deleting the existing minimums would be to deny attorneys of any assurance of even the present minimum percentage fee if the injured worker prevails in the case. Without such assurance, competent attorneys will per force be increasingly reluctant to serve as counsel in these cases. Ultimately, the penalty for this must be borne by injured workers, whose claims will have to be presented without legal counsel, or presented much less adequately than are the defenses of insurance carriers appearing before the Workmen's Compensation Board. Hearings before the Board are essentially adversary in nature; it is imperative, even in the ordinary and non-catostrophic case, that each side be represented by competent counsel thoroughly prepared. Otherwise, the Board as the adjudicator, cannot be expected to reach fair and impartial judgments.

The proposed revision to AS 23.30.155(c) would also operate to limit a worker's right to the physician of choice. Under current law, if a worker is outside of Alaska to receive medical or rehabilitation services, the rebuttable presumption of non-resident status does not apply. The proposed amendment would require that those medical or rehabilitation services not reasonably be available in Alaska. In other words, a worker desirous of medical treatment outside of Alaska is subject to the risk of having his compensation reduced, even if he or she fully intends to return to the state.

The proposed repeal of AS 23.30.095(g) would also have an impact on the worker's physician of choice. The proposed repeal would delete the assurance in that section that a worker is entitled to provide at his or her own expense any consulting physician, chiropractor or osteopath.

In summary, HB 705, if enacted, would be detrimental to injured workers. First, the proposed amendments would severely undermine the right of workers to select their treating physicians. We believe the bill's passage would reduce the quality of medical treatment now received by injured workers in Alaska by limiting the employee's choice of those services. Second, the amendments may jeopardise the right to representation by counsel before the Board. Third, they will prolong the time in which a worker can obtain a Board hearing and decision. Fourth, the amendments will penalize the worker if the physician or medical facility is delinquent in filing reports. The bill erects technical procedures which must be followed at the expense of losing benefits while at the same time making it more difficult to obtain counsel who can advise of these technical rules and the need for compliance.

We are doubtful that the Legislature will wish to take the step backwards which HB 705 represents. A consequence of enactment would be to increase the reliance of injured workers and their dependents on public assistance, through public welfare and related programs, at taxpayers' expense. We believe that the compensation insurance mechanism should bear the primary responsiblity for the plight of the injured worker and thos who rely on the worker for support and care. We respectfully urge the defeat or tabling of HB 705.

Sincerely,

JOSEPHSON, TRICKEY & LORENSEN

By:
Joe P. Josephson

By: Jan Hart DeYoung
Jan Hart DeYoung

JPJ:JHDeY:bm

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HB 891

INTRODUCTION:
Native American Gardening in Alaska

Gardening was introduced into Alaska over a century ago by the Russians, the Hudson Bay Company people, gold seekers, traders, missionaries, and homesteaders. It was not practiced traditionally by the aboriginal people before the coming of Europeans. Some Native people adopted this culture trait and practiced it from the time of its introduction. However, those who did were few in numbers and widely scattered. Some locations became centers of intensive garden production, such as the Jesuit mission at Holy Cross.

In the past two decades, gardening has waxed and waned as villagers sought ways to ensure a dependable food supply. Today, however, a number of independent factors have combined to create an interest in village gardening which is likely to be enduring. Since the passage of the Alaska Native Claims Settlement Act, the villages are much more permanent than ever before. The traditionally mobile Athabascans now own land and have a strong desire to remain in the villages to earn their livelihoods. Due to rapidly growing population pressures and the encroachments of urban society, the subsistence hunting and gathering life-style is becoming less and less viable. Without an indigenous economic base, jobs are virtually nonexistent. Above all, the era of inexpensive energy (and therefore inexpensive food imported to the villages) has ended for the foreseeable future.

Recent increases in petroleum prices have impacted these remote villages in an alarming way. (See chart, next page.) Since the villages are at the end of a precarious supply line, prices have risen dramatically and supplies are short for both fuels and food. Interruptions in a widespread supply network are frequent. Energy shortages are an annual occurrence and years of emergency measures have not provided a solution.

Much fuel is wasted in hauling food these long distances - food that for the most part can be produced, preserved, and stored locally. This is a national problem, but one that is particularly penurious when its consequences impact remote regions and low income groups. The villagers' current high level of interest in gardening stems directly from his awareness of the indissoluble ties between high energy costs and exorbitant food prices. The small adaptation of tending a garden spot and preserving its produce will prevent the more drastic disruption of having to leave the village and seek a job in order to buy groceries.

The Alaskan Natives in the areas of the state where it is possible to garden have asked for help to relieve these intolerable conditions. Up to this point, the help they have received has been minimal, with this provided under the Snyder Act of 1921 and administered by the Bureau of Indian Affairs. There has been some support from the Community Services Administration, the Cooperative Extension Service and some nongovernment agency help. The Tanana Chiefs Conference will continue to make use of this available funding to further its Agriculture Program, even while we seek support from the Legislature of the State of Alaska to produce the needed training materials.

BACKGROUND:

Agriculture Program

Of The

Tanana Chiefs Conference

The Tanana Chiefs Conference has an agricultural program in which local food production rather than large-scale commercial production is the main thrust. It is a comprehensive program involving all facets of garden vegetable production and preservation.

This Agricultural Program evolved from a mandate of the Executive Board in 1972. It was identified, along with Forestry, as one of the options available to villages that could relate quickly to the basic needs and result in an economic advantage. Local food production was recognized as an aid in reducing food bills and more importantly in making available better foods. The result is not only reduced costs, but also better nutrition.

Gardening has existed in many rural Native villages for well over a century. However, it has been practiced by only a few and with some notable exceptions, gardening and local food production have not contributed appreciably to diets until recently.

In the past few years, there has evolved at the village level a strong interest in local food production. This interest indicates the validity of the concern of the Tanana Chiefs Executive Board as indicated in the mandate mentioned earlier.

Any successful food production program for the remote communities of Interior Alaska must address the full range of cultural as well as technical factors in order to insure success. The short growing season and ephemeral harvest of fresh vegetables are not by themselves important enough to make the program become a part of the annual cycle of budgeted time, and any efforts to "sell" the program on that attenuated blessing

are bound to fail. Nor would it be fair to evaluate it on that short season's fresh produce.

The Agricultural Program that can succeed, and which is needed, is a comprehensive plan based on 1) food production in sufficient quantities, 2) food preservation for long-term use, and 3) food preparation consistent with the most nutritional methods of cooking. We have formulated a training program that will address all phases of the these steps above. Ideally, the three components would evolve in parallel, but from our past experience, we have seen that the order in which we have listed them above is the sequence in which they evolve in most villages. We are now at the point where "surplus" produce - vegetables in large enough amounts to be preserved - are being produced, and we are receiving many requests for food preservation training. We have prioritized our needs from the requests of rural people and from the apparent progression of the program.

Our regional agricultural efforts up to this time have been primarily in food production. We have made available to the villages: seeds, fertilizer, and basic gardening tools, including rototillers and irrigation pumps. During this past summer's growing season, seven agricultural assistants worked in the various Tanana Chiefs subregions to coordinate the Agriculture Program's activities. Their efforts were directed primarily toward providing technical assistance and acting as conduits of gardening information on everything from seedbed preparation to root crop storage. Due to the generally enthusiastic response their work elicited, the Tanana Chiefs intends to continue this aspect of the program next summer.

(Chevak)

HOUSEHOLD	TOTAL FAMILY INCOME		KWH COST		OIL DRUMS USED		GAS DRUMS USED		COSTS		% OF INCOME	
	1975	1979	1975	1979	1975	1979	1975	1979	1975	1979	1975	1979
1.	$2,450	$5,400	$249	$735	18	21	4	6	$1,292	$2,997	52.7	55.5
2.	$3,000	$4,560	$130	$340	20	18	6	7	$1,426	$2,446	47.5	53.6
3.	$3,650	$4,860	$160	$420	19	18	4	5	$1,296	$2,346	35.5	48.8
4.	$2,560	$3,100	$180	$260	16	18	4	7	$1,172	$1,366	45.8	44.1
5.	$4,060	$4,600	$210	$310	15	17	5	8	$1,210	$2,424	29.8	52.6
6.	$2,760	$3,800	$130	$380	16	18	4	4	$1,120	$2,216	40.6	58.3
7.	$2,800	$4,200	$130	$680	14	14	5	3	$1,082	$2,098	38.6	49.9
8.	$3,340	$5,670	$130	$540	20	20	5	9	$1,370	$2,990	41.0	52.9
9.	$2,800	$4,600	$145	$400	14	16	4	5	$1,041	$2,162	37.2	47.0
10.	$2,360	$6,840	$130	$620	11	17	2	6	$ 770	$2,554	32.6	37.3
11.	$4,000	$6,300	$210	$530	19	22	6	6	$1,458	$2,874	36.5	45.6
12.	$3,560	$4,600	$180	$380	17	20	4	5	$1,220	$2,490	34.2	53.7
13.	$3,110	$5,180	$180	$450	10	14	3	4	$ 828	$1,958	26.6	37.8
14.	$2,760	$8,210	$130	$610	12	16	4	8	$ 930	$2,642	33.7	32.2
15.	$3,340	$5,600	$130	$620	16	18	5	7	$1,178	$2,726	35.3	48.7
16.	$2,380	$4,800	$230	$600	14	17	5	7	$1,182	$2,524	50.0	52.6
17.	$2,900	$5,850	$200	$440	15	19	6	9	$1,256	$2,808	43.3	48.0
18.	$2,460	$5,660	$130	$520	14	17	4	8	$1,042	$2,388	42.4	42.2
19.	$3,500	$6,020	$160	$800	18	18	5	8	$1,304	$3,096	37.2	51.4
20.	$2,670	$6,960	$130	$640	18	16	6	10	$1,330	$2,852	49.8	41.0

Added fuel costs are also reflected in higher food prices at the village stores.

PROJECT NARRATIVE:

Community Food Processing Center

At this stage in the program's evolution, we feel it is critical to promote the preservation of the garden vegetables now being produced. We are in the process of developing educational aids to assist in disseminating techniques for food preservation. Yet, a certain amount of fairly expensive equipment is required, whether for canning, freezing, dehydration or cold storage. In addition, the space required for such equipment is generally scarce in rural communities. Particularly, for the holding of instructional workshops and in order to promote the sharing of food preservation skills between members of the community, a central structure designed specifically for preservation activities would be a substantial asset to the village. Here a single set of equipment could be made available to everyone, preventing the need for extensive duplication of purchases. At the same time, the structure would serve during the winter months as a storage facility for the substantial investment made by various funding sources in gardening equipment, which otherwise might sit outside all winter.

Low energy use and maintenance costs are integral to the design of the building. All too often in the past, rural communities have been saddled with expensive structures and municipal facilities, the maintenance of which requires a much greater tax base than the villages have. As oil prices continue their steep climb, both fuel oil for heat and the electricity produced by diesel generators are becoming prohibitively expensive in the villages.

This building is designed to operate with neither heating oil nor electricity. Heat for the building will be provided by a combination of the wood furnace in the basement and the solar connection provided by the greenhouse/solarium on the structure's south wall. The greenhouse/solarium will also provide a place both to start early plants for transplanting to the gardens and to grow greenhouse crops, (such as tomatoes, peppers, melons, and cucumbers) throughout the summer and fall. The dehydrators will utilize hot air from the building's wood heat stove. Separate wood stoves will be used for canning, as well as for blanching

during the freezing process. The freezer itself will employ a unique eutonic salt solution system, which requires no electricity, but draws on winter cold stored in an underground brine tank. Also located underground will be a root cellar where canned goods can be stored, as well as potatoes, carrots, turnips, and other popular root crops can be kept fresh for use throughout the winter.

By providing facilities for the diverse methods of preserving garden produce under a single roof, the community food preservation center can tremendously facilitate the move toward economic self-sufficiency inherent in producing the entire year's supply of vegetables locally. The building which we are proposing here for this purpose will be small, efficiently designed, relatively inexpensive in materials to operate and maintain.

While gardening enthusiasm and activity is sufficient in several villages within the Tanana Chiefs Conference region to justify the construction of several of these centers, we will this summer be building one prototype in a selected village with funds appropriated by the Legislature last session. Here we can closely analyze use patterns and determine possible improvements in the design before constructing additional structures. We are, therefore, requesting of the Legislature of the State of Alaska funds to construct four such Community Food Processing Centers as described in more detail in the following pages.

TECHNICAL DESCRIPTION

This energy efficient Community Food Processing Center was designed to be heated primarily with solar heat through the attached solar greenhouse. This is accomplished through: 1) orientation of the structure along an east-west axis so that the greenhouse is facing south; 2) heavy insulation of the north wall; 3) use of double clear fiberglas panels for glazing; 4) placement of ventilation at bottom and top of greenhouse to stimulate natural convection flow around building; and 5) use of double wall, envelope-style building construction to take fullest advantage of the heat generated. During the colder winter months or when needed, this system will be augmented with heat from the wood stove in the basement.

The Community Food Processing Center is a 26' x 28' wood frame structure built over a 13' x 18' root cellar and an 11' x 26' partial basement. Four feet of dirt fill will be left between the root cellar and the basement to help maintain an evenly cool temperature in the root cellar. The structure is supported by nine 10" x 10" x 13' treated wood columns with 6" x 14" x 14' girders. The building is heavily insulated with three layers of 2" rigid foam insulation in the walls maintaining an (R) value of 45+ and two layers of 2" rigid foam insulation in the ceiling, maintaining an (R) value of 30+. This design utilizes an attached 12' x 18' eutectic salt solution freezer, and a wood heat food dehydrator.

Greenhouse

The 7½' x 28' greenhouse area is to be built using double clear fiberglas panels for glazing, supported by wood framing. Bedding plant trays line the greenhouse on three sides, with additional shelving continuing up the north wall. Five windows between the greenhouse and main structure emit light into the kitchen, storage room, and loft without losing heat to the outside.

Rainwater Collector

A shallow washing vat, 2' x 5½' x 8" is positioned outside the building and is fed by rainwater from a roof collector. This vat is to be used for washing large amounts of soil from vegetables prior to taking them indoors. The collection drum supported over the vat is made from two 55 gallon drums welded end to end.

Food Preparation Island

Final preparation for canning, freezing, or dehydrating, takes place indoors, utilizing the food preparation island. The food preparation island consists of a 2' x 10' x 3' shelving unit on casters, covered by a chopping block top. Since the kitchen is designed to be used as both a food preparation center and a training center, the food preparation island is portable to enable it to be moved aside for slide shows and instruction. The use of two large wood ranges in the kitchen is intended to enable several people to can and/or blanch vegetables at once.

Dehydration

The food dehydrator is located on the west side of the building under a hip roof. The dehydrator measures 2' x 9' x 8' and consists of six sections of 18" x 24" racks spaced 3" apart. Heat for drying the vegetables is funneled from the wood stove in the basement through a removable hood, and enters at the bottom rear of the dehydrator unit.

Root Cellar

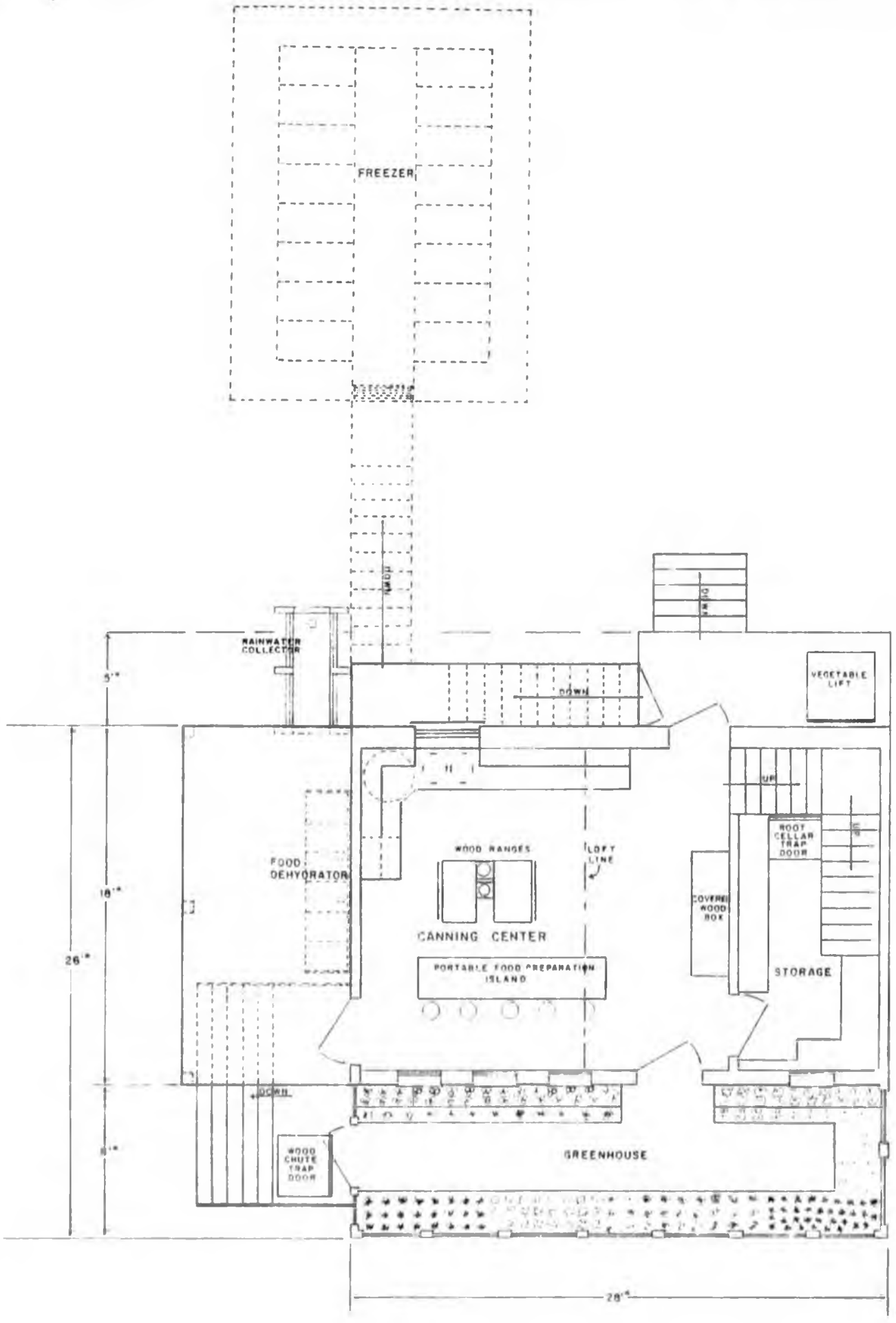
The root cellar measures 13' x 18' and is eight feet deep, with 6 inches of rigid foam insulation in the ceiling and west wall. The three outer walls contain 6 inches of rigid foam insulation on the upper 4 feet of the wall only. The walls are of exterior plywood with a dirt or sand floor overlaid with duckboards. There are three rows of 2' deep bins and shelving for storage of vegetables and canned goods. A pulley-actuated vegetable lift from the back porch down to the root cellar facilitates the transfer of numerous heavy vegetables and canned goods into the root cellar.

Freezer

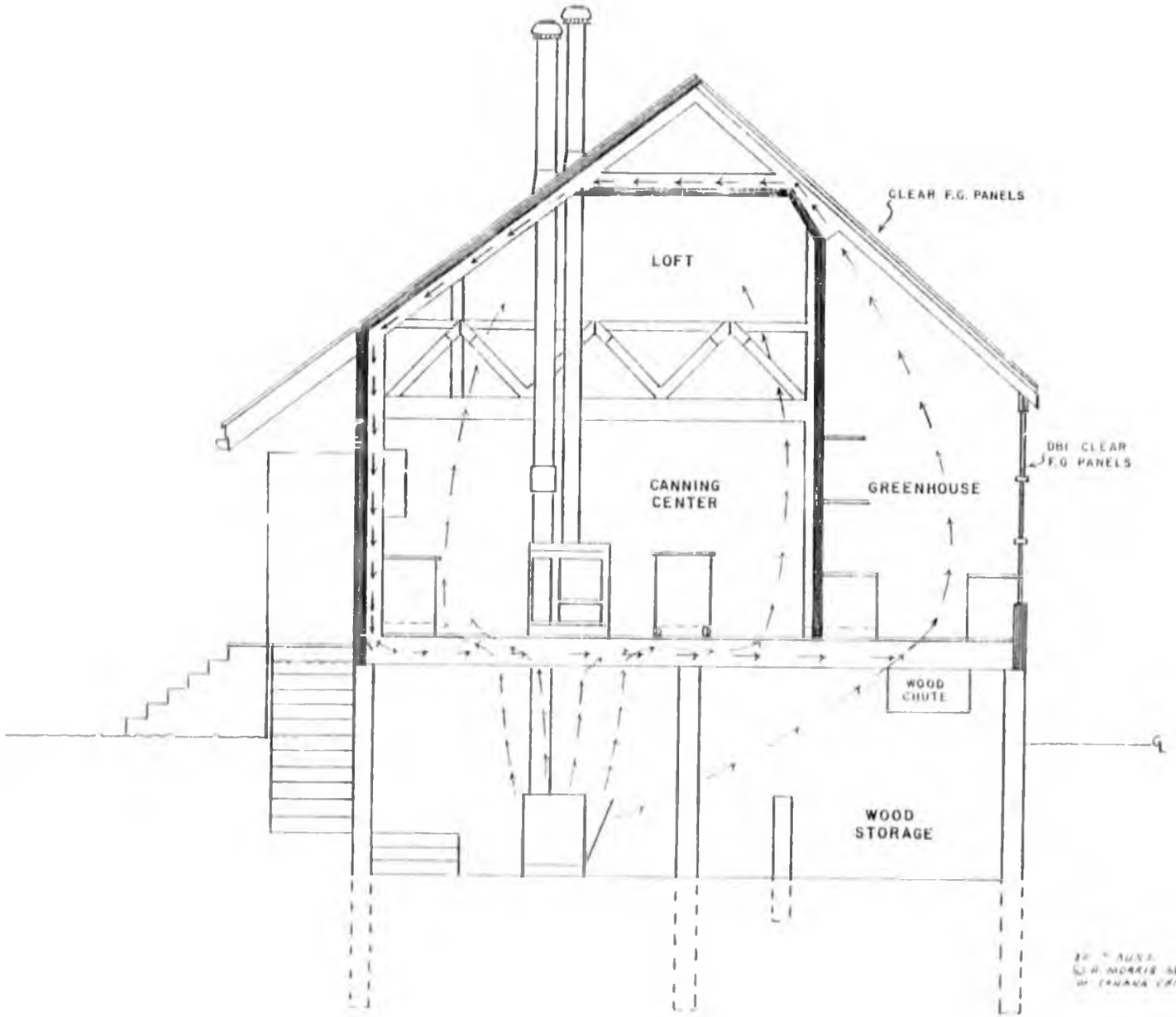
The freezer, which is underground on the north side of the building, is a eutectic salt-brine solution freezer. The frozen food storage room is encircled by the brine tank. The brine is of sufficient mass and is sufficiently well-insulated to maintain temperatures appropriate for frozen food throughout the summer and fall. During the winter, heat is pumped out of the brine solution by thermopile radiators, of a design similar to those utilized on the pipeline's permafrost footings.

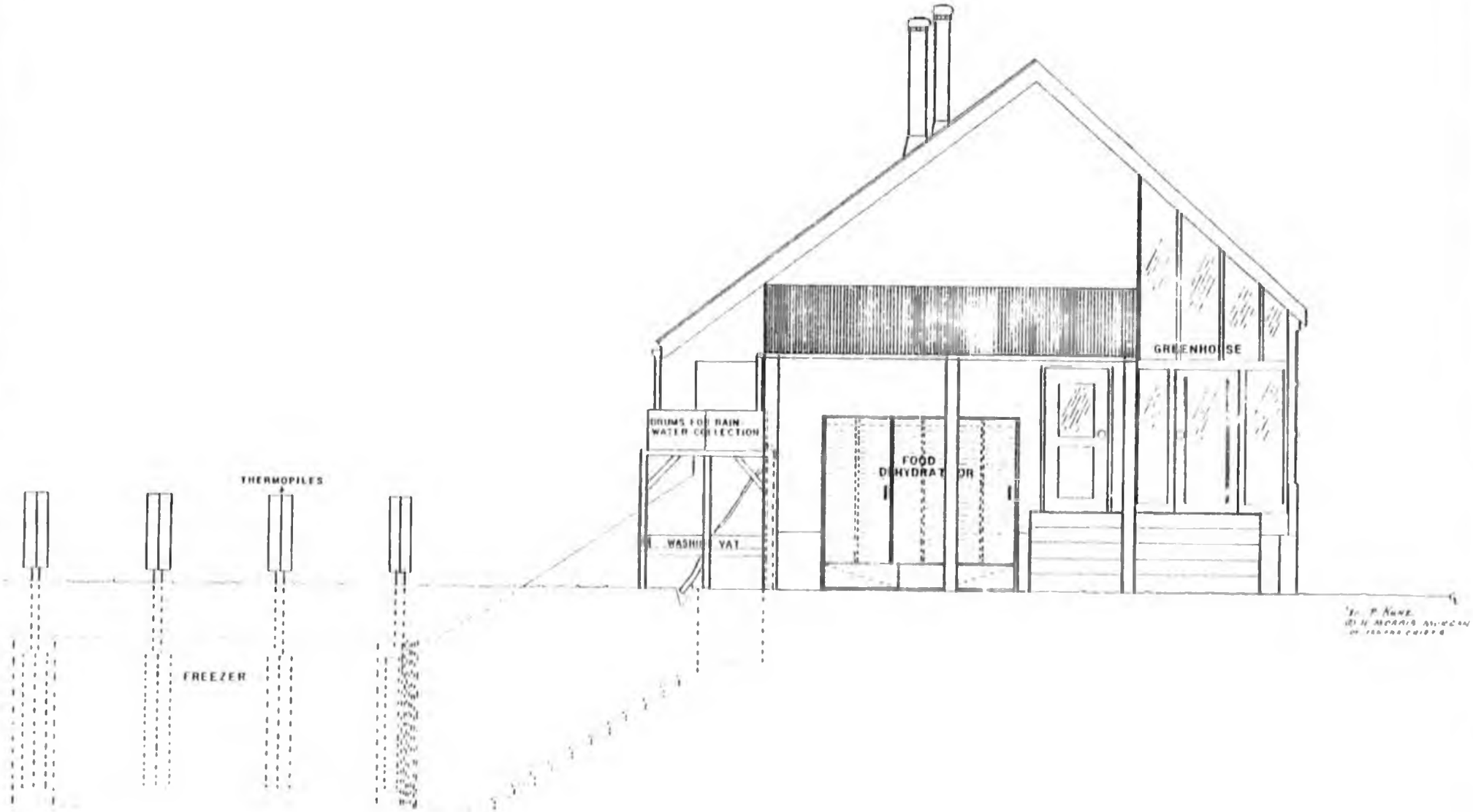
Inside the thermopile, a liquid with a very low boiling point vaporizes within the brine tank, rises, and then recondenses in the upper segment of the thermopile exposed to ambient winter air temperatures. During warm weather, the liquid does not circulate, since no condensation takes place in the upper end of the thermopile. The entire system operates without any pumps or electricity, and maintenance is nil.

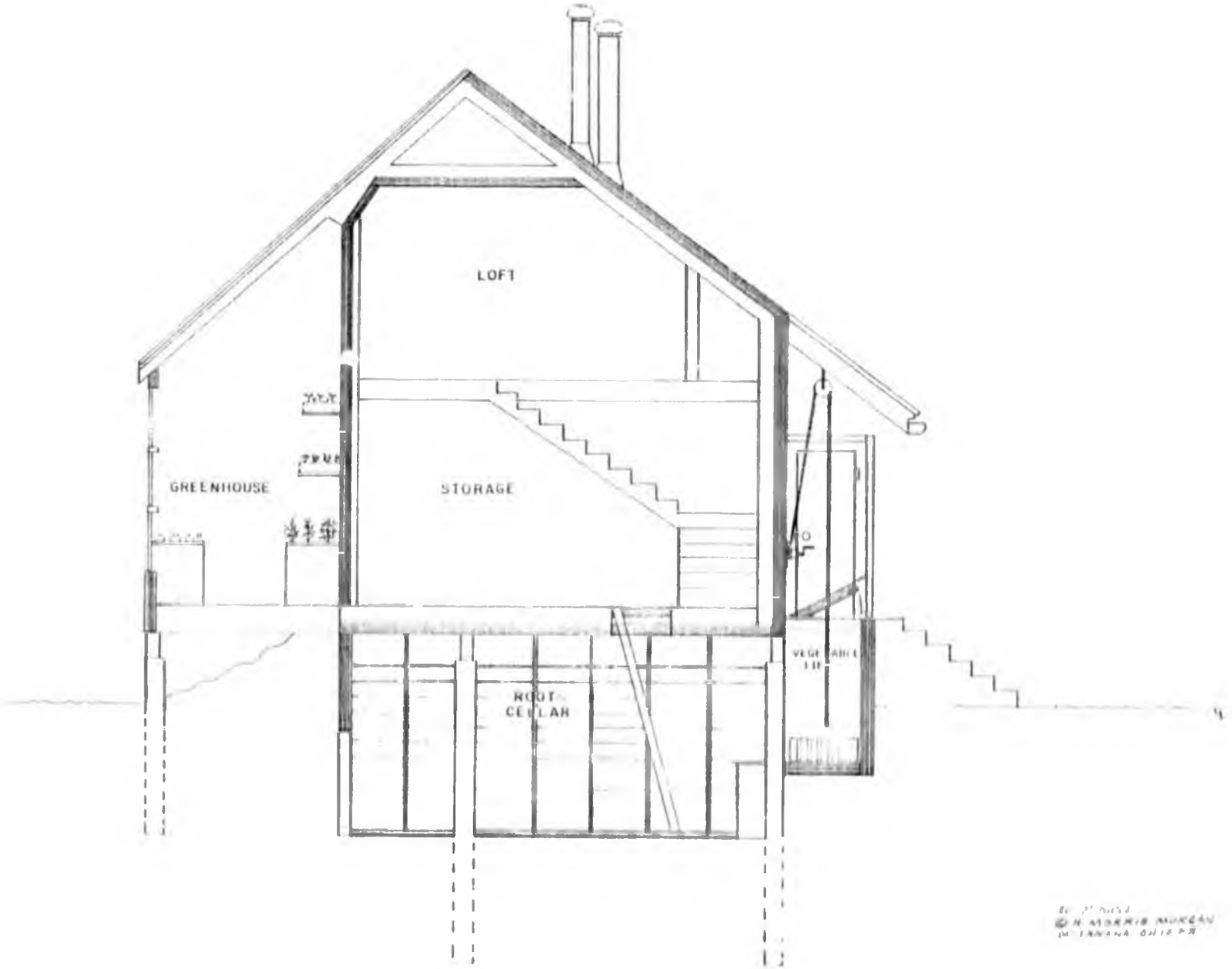
Since the freezer is underground, the brine tank is extremely well-insulated by the surrounding earth. The top of the tank and storage room are insulated with foam insulation to R45, and then covered with earth. The tank itself will be constructed from welded sheet metal with a corrosion-resistant liner. The supports are 8" x 8" x 12' treated wood. Lockable storage compartments line the walls.

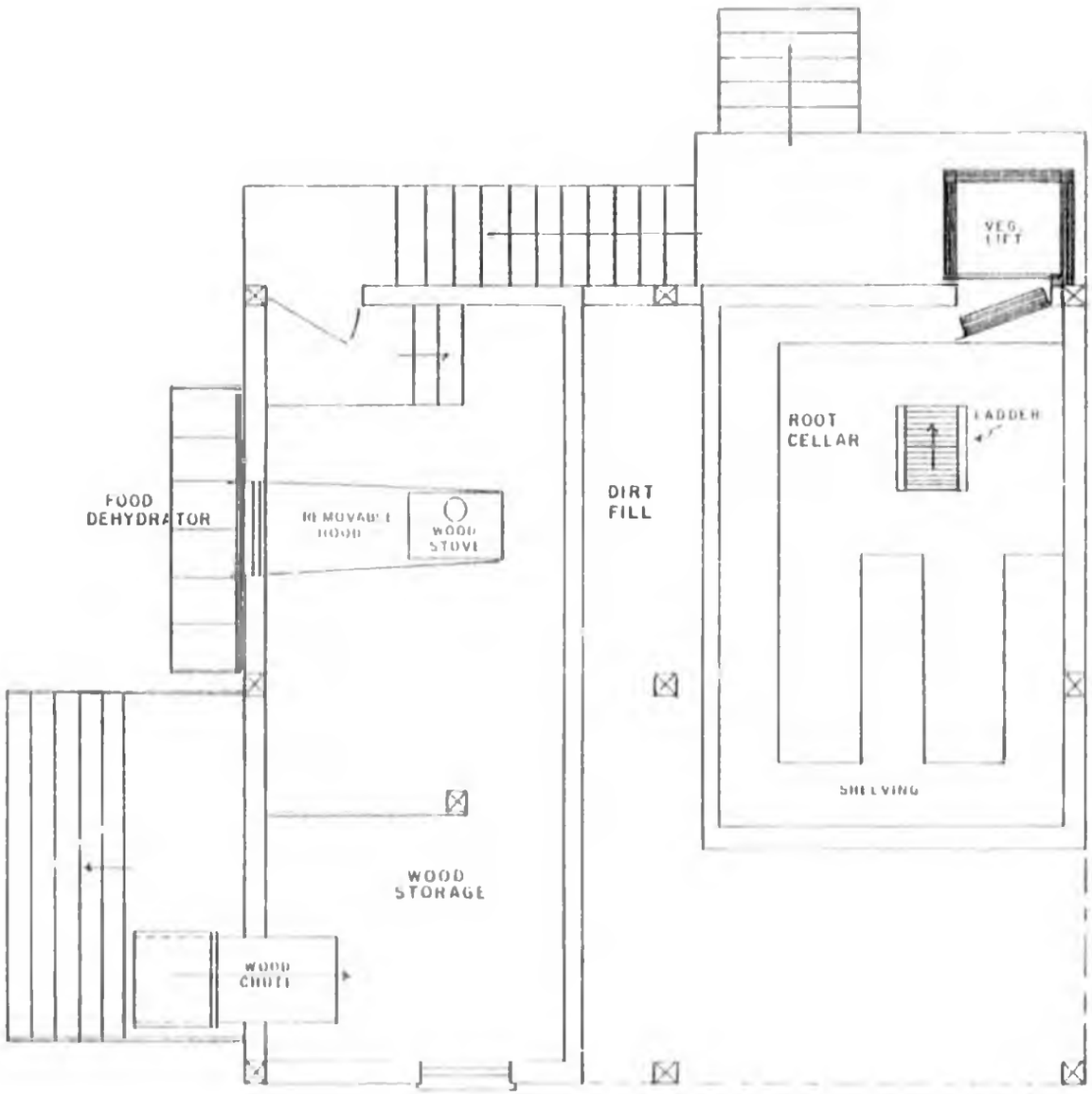


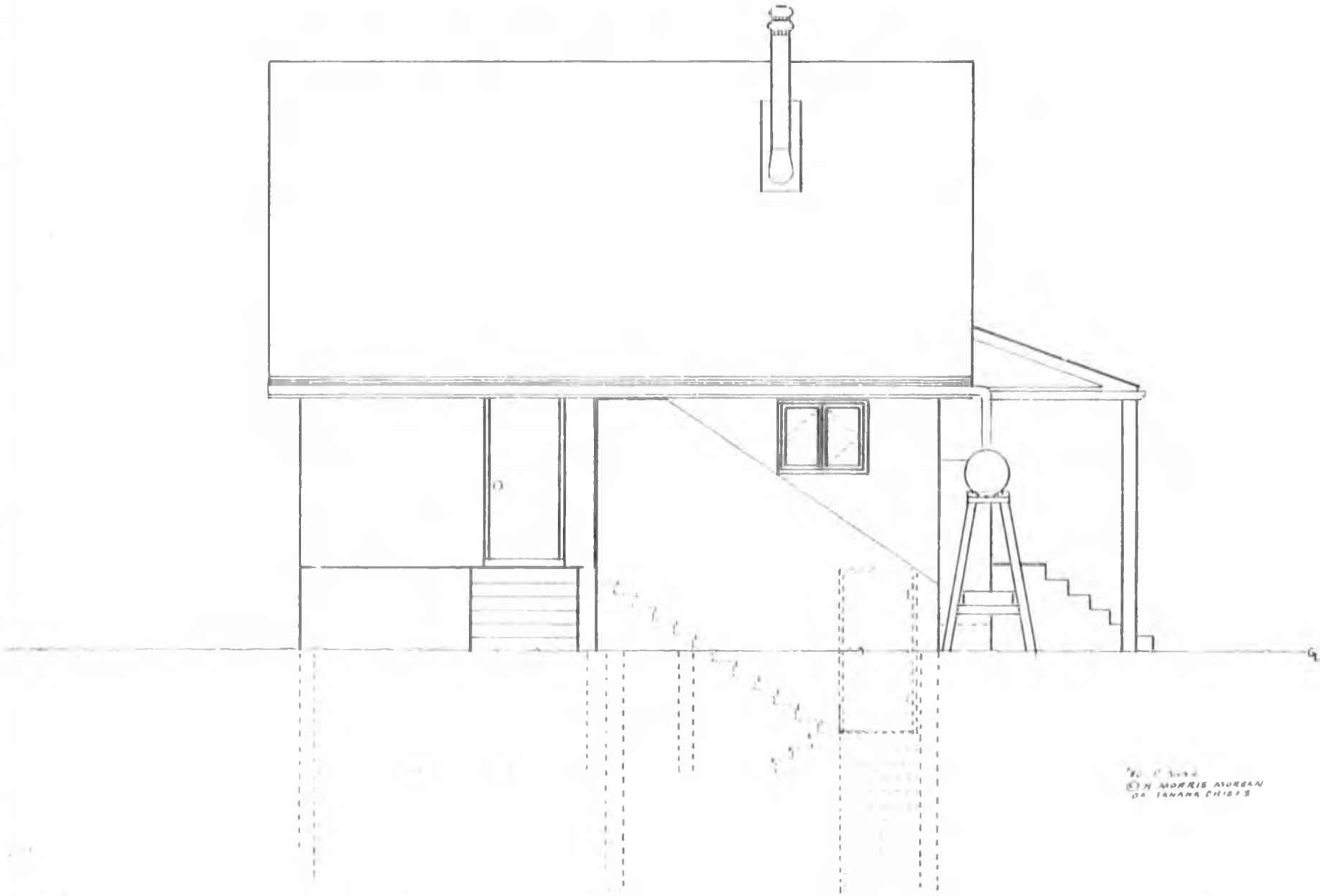
D. P. Hunt
© H. M. Morgan
of Tahana Chiefs

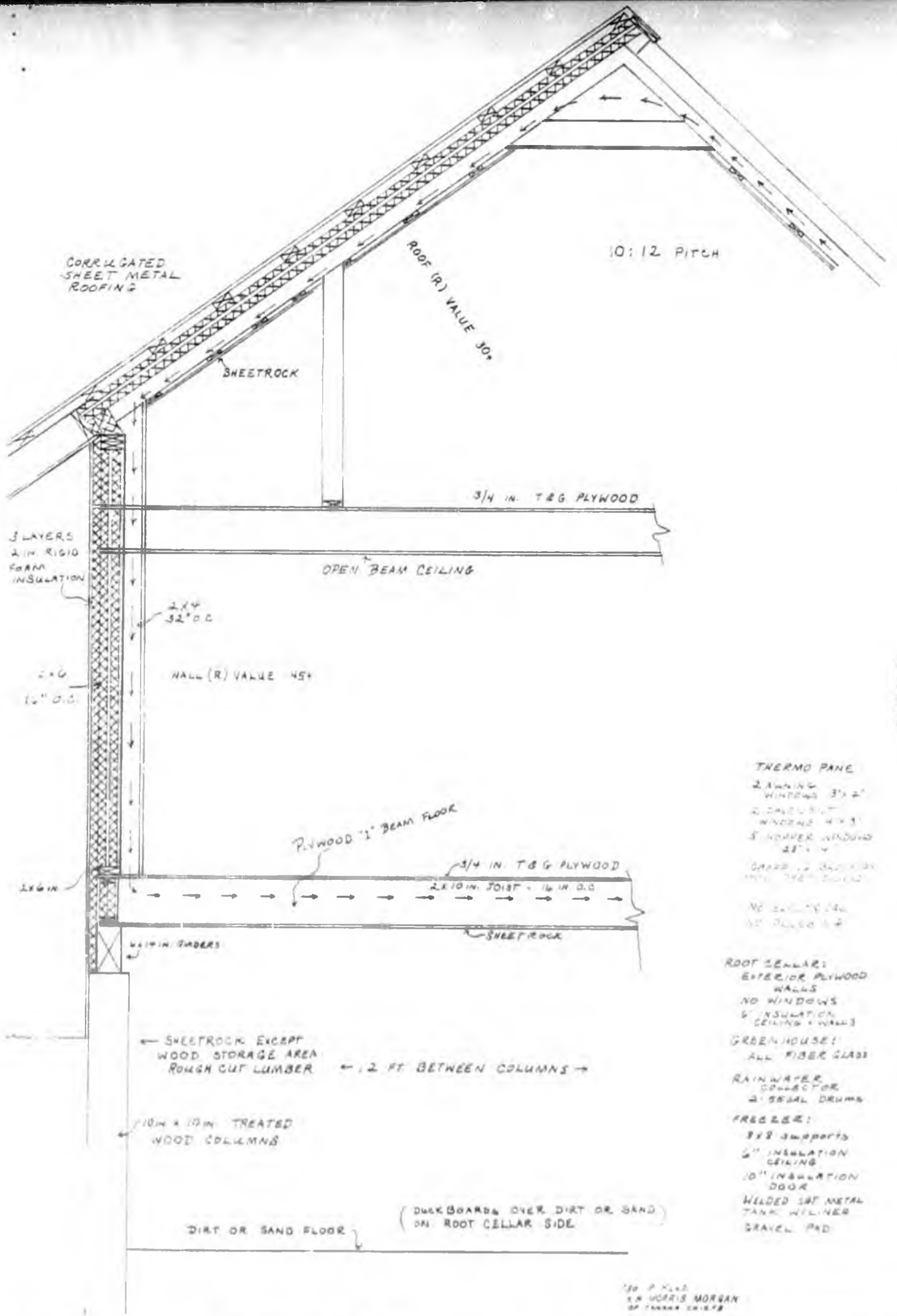

CLEAR F.G. PANELS
LOFT
CANNING CENTER
GREENHOUSE
DBI CLEAR F.G PANELS
WOOD CHUTE
WOOD STORAGE


GREENHOUSE
DRUMS FOR RAIN WATER COLLECTION
FOOD DEHYDRATOR
WASHING VAT
THERMOPILES
FREEZER




VEG. LIFT
ROOT CELLAR
LADDER
FOOD DEHYDRATOR
REMOVABLE HOOD
WOOD STOVE
DIRT FILL
SHELVING
WOOD STORAGE
WOOD CHUTE




CORRUGATED SHEET METAL ROOFING
ROOF (R) VALUE 30+
10:12 PITCH
SHEETROCK
3/4 IN. T&G PLYWOOD
OPEN BEAM CEILING
3 LAYERS 2 IN. RIGID FOAM INSULATION
2X4 32" O.C.
2X6 16" O.C.
WALL (R) VALUE 45+
PLYWOOD "I" BEAM FLOOR
3/4 IN. T&G PLYWOOD
2X10 IN. JOIST - 16 IN. O.C.
SHEETROCK
2X6 IN
4X4 IN. RAFTERS
← SHEETROCK EXCEPT WOOD STORAGE AREA ROUGH CUT LUMBER ← 12 FT. BETWEEN COLUMNS →
10 IN X 10 IN TREATED WOOD COLUMNS
DIRT OR SAND FLOOR
(DUCK BOARDS OVER DIRT OR SAND ON ROOT CELLAR SIDE)
THERMO PANE
2 AWNING WINDOWS 3' x 2'
2 CASEMENT WINDOWS 4' x 3'
3 HOPPER WINDOWS 2' x 4'
GLASS DOOR
NO WINDOWS
ROOT CELLAR:
EXTERIOR PLYWOOD WALLS
NO WINDOWS
6" INSULATION CEILING + WALLS
GREENHOUSE:
ALL FIBER GLASS
RAINWATER COLLECTOR
2 55GAL DRUMS
FREEZER:
8x8 supports
6" INSULATION CEILING
10" INSULATION DOOR
WELDED SHT METAL TANK LINER
GRAVEL PAD
LEAD EDGE

BUDGET:

Food Preservation Center

I.	Labor Costs:	
	1 Supervisor Carpenter @ $20/hr for 480 hrs	9,600
	2 Carpenter helpers @ $14/hr for 480 hrs	13,440
	2 Laborers @ $10/hr for 160 hrs	3,200
	Carpenter helpers and Laborers -- local hire Per diem for supervisor carpenter @ $50/day	3,000
II.	Building Materials: Includes: Building foundation, locally-purchased logs, windows, doors, loft, etc.	26,000
	Building accessories: Includes: 2 cook stoves & 1 heating stove, cabinets, portable food preparation island (chopping block), canning equipment, freezer, food dehydrator, root-cellar, vegetable lift, greenhouse, solar collectors (pipes etc), wood chute, rain water storage tank, etc.	8,500
III.	Contractual Services: 5 days @ $100/day	500
	Contractual Direct Costs	64,240
IV.	Administrative Indirect @ 4.7%	3,019
	Contractual Total	67,259
Program		
V.	Equipment lease: Carpenter tools, heavy duty equip. (back hoe), cement mixer, electric generator, chain saw, etc.	1,200
VI.	Shipping: Shipping building materials to village (by barge or air) Transportation from dock to building site.	4,000
VII.	Training workshop: To explain the functions of the canning center to the village people. Also frequent inspection of construction by TCC staff. Travel & Per diem.	3,000
VIII.	Visual Aid Materials: Film and printing costs.	200
	Program Direct Costs	8,400
IX.	Administrative Indirect @ 34%	2,856
	Total Per Building	78,515
4 Buildings:	TOTAL FUNDS REQUESTED	$314,060

UNIVERSITY OF ALASKA
FAIRBANKS, ALASKA 99701

To: Bart Watson, Tanana Chiefs

From: John P. Zarling Ph.D.,P.E.
Assoc. Professor of Mechinacal Engineering
University of Alaska
Fairbanks, Alaska

Subject: Passive Freezer Concept

The passive refrigeration system as a means of providing a low cost long term food storage facility is a valid concept. As you know, we have performed some preliminary calculations that demonstrate the workability of the passive freezer. Optimum design of the system depends on insulation thickness, tank volume, brine concentration, and number of heat tubes. If your project is funded we would certainly be interested in assisting you with the design of the freezer system.

PLEASE REPLY BY AIRMAIL

HB
859

COMMITTEE REPORT

HOUSE

/80

FURTHER:

Date: 1/10/80

Mr. Speaker:

The Committee on LABOR & MANAGEMENT has had HB 359

"An Act extending certain benefits to the permanently and totally disabled."

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 _____ [ ] same title [ ] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [ ] a New Fiscal Note

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

_____ CHAIRMAN

H 60 (Rev. 12/78)

HOUSE LABOR & MANAGEMENT
COMMITTEE MEETING

TAPE: _____

DATE: 4/10/80

TIME CONVENED: 8:30

SUBJECT: HB 859 - continued

MEMBERS PRESENT: Branson
Hayes
McInnis
Miller
Roger - chaired meeting

MEMBERS ABSENT: Hurlbert - excused

TESTIFYING: None

BILLS PASSED OUT: HB 859 - omitting section 10 & 11
as
AS

TIME OF ADJOURNMENT: 9:00 am

HOUSE LABOR & MANAGEMENT
COMMITTEE MEETING

TAPE: ______

DATE: 3/13/80

TIME CONVENED: 9:00

SUBJECT: H 859 – Continued

MEMBERS PRESENT: ~~Munson~~ Branson
Hayes
McKinnon
Miller
Rogers

Gordon Landes – 3347

MEMBERS ABSENT:

TESTIFYING: Munson
Alfred White – Anchorage [illegible]
Danny Plotnick – Co. Alaska Office on Aging
Gordon Landes Program – [illegible]

BILLS PASSED OUT:

TIME OF ADJOURNMENT: 9:30 am

4/10/80

Munson -
Concern - longevity bonus.

remove Sec. 10 & 11 - Hayes.

Hayes - moves bill - committee Sub. (- Finance Referred)
miller ? Property tax.

Conformations -
Bill miller

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

POUCH S – JUNEAU 99811

March 19, 1980

The Honorable Vernon Hurlbert
Chairman
House Labor and Management Committee
Room 306 - Assembly Building
Juneau, Alaska 99811

Dear Mr. Hurlbert:

Re: House Bill No. 859

House Bill No. 859, an Act extending certain benefits to the permanently and totally disabled, was introduced in the House on February 18, 1980 and was referred to the House Labor and Management Committee.

For the consideration of the House Labor and Management Committee, I am enclosing copies of Fiscal Notes prepared by Gary Jenkins, Director, Audit Division and Barbara Sorensen, Research Section of the Department of Revenue concerning the proposed legislation.

Sincerely,

R. D. Stevenson
Special Assistant

cc: Joseph K. Donohue
Deputy Commissioner
Department of Revenue

Gary Jenkins, Director
Audit Division
Department of Revenue

Vincent Wright
Research Section
Department of Revenue

04-D2LH

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No House Bill No. 859

Title An Act extending certain benefits to the permanently and totally

Requested by House Labor & Management Committee Date 3/19/80 (disabled.

II. FISCAL DETAIL

Agency Affected Revenue

Program Category Affected Fiscal Services

BRU, Program, or Subprogram(s) Affected Audit Division

(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 79	FY 80	FY 81	FY 82	FY 83	FY 84
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL		-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

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

POSITIONS None

FULL TIME						
PART TIME						
TEMPORARY						

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

See attached memorandum to R. D. Stevenson dated 3/19/80.

IV. DATE 3/19/80 PREPARED BY

AGENCY Department of Revenue, Audit Division

PHONE 465-2320

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

33-001 (Rev. 12/78)

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB 859
Title Act extending certain benefits to the permanently and totally disabled
Requested by _____ Date _____

II. FISCAL DETAIL
Agency Affected _____
Program Category Affected _____
BRU, Program, or Subprogram(s) Affected _____
(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 79	FY 80	FY 81	FY 82	FY 83	FY 84
100	PERSONAL SERVICES						
200	TRAVEL						
300	CONTRACTUAL						
400	COMMODITIES						
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
	TOTAL						

FUNDING (Thousands of Dollars)

GENERAL FUND	-0-	------ unknown but very minor ------				
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

Among other proposed benefits, the bill would extend the benefits of non-recognition of gain on the sale or exchange of a personal residence regardless of location to persons who have been certified as permanently and totally disabled.

Due to the lack of data we are unable to determine the potential revenue impact of theis measure, but it is likely to be very minor.

IV. DATE: 2/25/80 PREPARED BY Barbara Snow
AGENCY Revenue
PHONE 18 2174

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

33-001 (Rev. 12/78)

BILL ANALYSIS

ASSIGNMENT DATE_____

UNASSIGNED_____

DEPARTMENT	SPONSOR (PRINCIPAL)	BILL NO.
Public Safety		HB 859

DEPARTMENT POSITION

Neutral

DIVISION DIRECTOR	DATE	COMMISSIONER	DATE
Robert Rowan	3/13/80	William R. Nix	3/13/80

GOVERNOR'S OFFICE USE

☐ POSITION NOTED ☐ POSITION APPROVED ☐ 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: ☒ NONE ☐ FISCAL ANALYSIS ATTACHED

(5) AMENDMENTS PROPOSED:

(6) COMMENTS:

Handicapped or disabled persons of any age are already given free plates under AS 28.10.181 (d).

STATE OF ALASKA

Inter-Department Route Slip

TO:
MAIL STATION NUMBER _____

DEPARTMENT _____

ATTENTION _____

☐ Approval	☐ Note & Return
☐ Signature	☐ Initial & Return
☐ Comment	☐ Return As Requested
☐ Contact Me	☐ Return For Approval
☐ Prepare Reply	☐ Necessary Action
☐ For Your File	☐ Your Information

Remarks:

Labor & Mgt.
#413

FROM:
MAIL STATION NUMBER 1200

DEPARTMENT Public Safety

BY _____ DATE 3-13-80

02-002 (REV.10/73)

BILL ANALYSIS

ASSIGNMENT DATE_____

UNASSIGNED_____

DEPARTMENT	SPONSOR (PRINCIPAL)	BILL NO.
Public Safety		HB 859

DEPARTMENT POSITION

Neutral

DIVISION DIRECTOR	DATE	COMMISSIONER	DATE
Robert Rowan	3/13/80	William R. Nix	3/13/80

GOVERNOR'S OFFICE USE

☐ POSITION NOTED ☐ POSITION APPROVED ☐ 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: ☒ NONE ☐ FISCAL ANALYSIS ATTACHED

(5) AMENDMENTS PROPOSED:

(6) COMMENTS:

Handicapped or disabled persons of any age are already given free plates under AS 28.10.181 (d).

POSITION PAPER/Department of Health & Social Services

POSITION PAPER

ON

HOUSE BILL NO. 859

"An act extending certain benefits to the permanently and totally disabled."

A. Section 1 of this measure would amend the Aid to the Disabled (AD) statutes by adding to the Department's duties a new task: that of determining and certifying that applicants who are not financially needy by AD standards are permanently and totally disabled. Certifications of disability would be used by the persons 50 to 65 years of age who are disabled to qualify for various benefits previously available only to certain persons over 65.

Because of the range and value of these potential benefits, the department feels any such certifications would have to be done in a timely fashion, with a high degree of accuracy. The Department's experience with both its own disability determinations and with those of similar systems, such as those done for the Social Security Administration programs, shows that to reach even a minimally reasonable degree of accuracy is a time-consuming process, involving a determination by highly-trained staff applying very complex measurements to laboriously-gathered medical, social, and psychological data.

Currently, approximately 85% of all Aid to the Disabled disability determinations are being done by a special unit within the Department of Education, Division of Vocational Rehabilitation. This unit operates under exclusive contract with the Social Security Administration; it determines disability for both Social Security disability insurance applicants and disabled applicants for federal welfare payments under the Supplemental Security Income (SSI) program. The Department follows this unit's determination in qualifying its clients for the AD Program.

We believe that the logical way to accomplish the new determinations required by HB 859 would be to expand the existing disability operation within Vocational Rehabilitation, utilizing one new Health and Social Service employee to gather and prescreen applications and to provide certificates and notices of denial. This would assure accuracy, consistancy, and a reasonable level of client service.

However, this expansion would be possible only with approval from the Social Service Administration. Approval would not be likely to be granted, in which case we would recommend establishing a totally separate unit within Vocational Rehabilitation, to which existing Health and Social Services employees would simply refer potential applicants.

We recommend this second alternative, which would logically require amending Section 1 to assign all certification duties directly to Vocational Rehabilitation. However, there are other operational alternatives which would become available if more consideration were given to amending existing statutes to provide for a definition of "permanently and totally disabled" which would require less detailed determination methods.

There is no definition of permanently and totally disabled in existing Alaska AD statutes. AS 47.25.960 only defines a "permanently and totally disabled person" as one who is a "needy resident of the state who is not eligible for assistance from another public agency or department providing similar services in the state". Lacking clearer statutory guidance, the Department employs the definition of disability used by the Social Security Administration from Titles II and XVI of the Social Security Act.

This Social Security definition may not be satisfactory to meet the intent of the new program proposed by HB 859, either in definitional duration of "permanent" or in the number, types. and degrees of qualifying physical or mental conditions. We recommend consideration be given to changing HB 859 to provide a more complete definition of "permanently and totally disabled". We further recommend that this consideration be done with a view toward making disability determinations for this new class of persons both simple and inexpensive.

B. Sections 2 through 10 of HB 859 would provide certain tax and other benefits to the disabled between 50 and 65. The Department does not oppose the concept behind this expansion of benefits previously provided only to qualified elderly persons. However, it wishes to note that measures which decrease the amounts paid for housing may have a negative effect on some Aid to the Disabled recipients, whose maximum payment level is based in part on their shelter costs. Changing the applicable provision of the AD program to protect current payment levels for persons negatively affected by HB 859 would require additional AD program funding.

C. Section B would amend AS 47.25.170 to add certain disabled persons between 50 and 65 years of age to those who are eligible to receive Alaska Longevity Bonus (ALB) monthly payments. The Department neither supports nor opposes this amendment. However, it does wish to note that this amendment, if passed, may not result in any increase in the total monthly income available to needy older disabled persons who might be qualified for many public assistance programs, and it might render some of them ineligible for various types of public assistance.

Alaska's congressional delegation successfully obtained an exemption of Longevity Bonus income from consideration as income in the federal Supplemental Security Income program. This Alaska-specific amendment to the federal Social Security Act is limited to those persons receiving payments based "solely on attainment of age 65 and duration of residence...". We do not believe Alaska could successfully attain a second such amendment of the Act to expand the Longevity Bonus exemption to include persons between 50 and 65.