705A-3 Exclusions from Company Price Calculations. Sales by producers of goods and services included in the following categories are excluded from the calculation of a company's average price change:

(a) Agricultural, fishing, forestry and mineral products included in the 1972 Standard Industrial Classification Manual, Major Groups 01, 02, 08 (except 085), 09, 10 (except 108), 11 (except 1112), 12 (except 1213), 13 (except 1321 and 138), and 14 (except 148).

(b) Recyclable scrap materials including, but not limited to, ferrous and nonferrous metal scrap, waste paper, textile waste, scrap rubber, scrap plastics, and glass cullet.

(c) Commodities whose historical and current price changes are closely tied to price movements on an organized open exchange market, either domestic or foreign.

(d) Exports of goods and services.

(e) Products delivered at prices determined by contracts existing before October 2, 1978. If the contract allows for seller discretion to adjust prices, the product is not excluded. Products delivered under preexisting contracts that do not specify delivery prices are not excluded.

(f) Products exchanged in other than open and arms-length transactions.

(g) New or discontinued products. For the purpose of this exclusion, new and discontinued products are those products that were introduced or discontinued during either the base period or the program year. That is, products that existed throughout the base period or that exist throughout the program year should be included in the calculations of the respective rates of price change for those periods. A product does not become new or discontinued merely because of altered specifications, style, packaging, or quality changes. Such changes should be reflected in price changes (for example, quality decreases should be reflected as price increases and quality increases should be reflected as price decreases).

(h) Custom or one-time product sales (products specially produced to particular-buyer specifications). Such products must have characteristics that are substantially different from any other products previously sold by the company. To qualify for the exclusion, custom products must meet the same criteria as those for new products. If the custom product is produced and delivered over the duration of the entire base period or program year, it does not qualify for exclusion.

(i) Interest rates.

705A-4 Six-month Standard for Price Increases. During the first half of the program year, the average rate of price change for a company should not exceed 50 percent of the allowable program-year rate of price change, as defined in Section 705A-2. However, a company need not comply with this six-month limit if it can demonstrate that the increases in excess of 50 percent of the allowable program-year change can be justified on grounds of seasonal variations in business operations, historical business practices, or unusual business conditions; and will not prevent compliance with the general price deceleration standard by the end of the program year. However, if a company exceeds the six-month price standard, a company must also be able to show that its pricing actions are consistent with adherence to the profit margin limitation (for the program year), defined in Section 705A-6(a).

705A-5 Insufficient Company Coverage.

(a) If adjusted revenues during the four quarters prior to the program year are less than 25 percent of the total company revenue, the company need not comply with the price standard or the profit margin limitation.

(b) If products excluded under 705A-3(f)-(i) account for one-third or more of a company's adjusted revenue for the program year, the company need not comply with the general price deceleration standard but should comply with the profit margin limitation described in section 705A-6(a).

For the purpose of this section, the adjusted revenues are defined as the company's revenues minus revenues from the sale of products identified in Section 705A-3(a)-(e).

705A-6 Exceptions

(a) Profit Margin Limitation. (1) If a company is unable to comply with the price deceleration standard because it is impossible to calculate its average price change or because of uncontrollable price increases in goods and services it buys, it should satisfy the following two-part profit limitation.

(i) The program-year profit margin should be no higher than the average profit margin for any two of the company's last three fiscal years prior to October 2, 1978.

(ii) Program-year profit should not exceed base-year profit by more than 6.5 percent plus any positive percentage growth in physical volume from the base year to the program year. Base-year profit can be either profit earned during the four complete fiscal or calendar quarters prior to the program year, or the average profit margin determined in (i) above multiplied by sales or revenues in the last four complete fiscal quarters prior to the program year.

(2) A company's profit margin is the ratio of profit to net sales and/or revenues.

(i) Profit is defined as the sum of item 14 and items 11 through 13 minus items 7 through 10 in 17 CFR Section 210.5-03. Briefly, profit is "income or loss before income tax expense" minus dividend income, interest or profit on securities, and miscellaneous other income, plus interest expense and amortization of debt discount and expense, losses on securities, and miscellaneous incore deductions.

(ii) Net sales and/or revenues consist of (1) net sales of tangible products (gross sales less discounts, returns, and allowances); (2) operating revenues of public utilities; and (3) other revenues such as royalties, rents, and the sale of services and intangible products (e.g., engineering, research and development, and other professional services). This definition is consistent with 17 CFR Section 210.5-03, items 1A, 1B, and 1C.

(b) Undue Hardship and Gross Inequity. The Council may except a company from the application of the price deceleration standard, make adjustments to the base-period rate of price change, or alter application of the profit margin limitation to avoid extreme situations of hardship or gross inequity. Procedures for such exceptions and adjustments are set forth in Part 706 of this Chapter.

705B Pay Standard

705B-1 Pay Standard. For each employee unit, the annual increase in average pay rates should be 7 percent or less.

705B-2 Employee Units. For the purpose of establishing compliance with the pay standard, a company must identify three types of employee units:

(a) Each group of the company's employees subject to a particular collective bargaining agreement to which the company is a party constitutes a separate employee unit.

(b) All management employees (not under a collective bargaining agreement) constitute an employee unit.

(c) All other employees constitute an employee unit.

A company need not identify separately collective bargaining units accounting for less than 5 percent of its employees. However, if a collective bargaining unit is not separately identified, the workers must be included in the "all other employees" category.

705B-3 Application of the Pay Standard to Collective Bargaining Agreements.

(a) A company complies with the pay standard if the annual rate of pay-rate change over the life of each collective bargaining agreement negotiated during the program year is 7 percent or less.

(b) In addition, the annual pay-rate increase may be no greater than 8 percent in any year of a multi-year agreement.

(c) For purposes of determining whether the annual rate of pay-rate change complies with the pay standard, formulas for cost-of-living adjustments should be computed on the assumption of a 6-percent annual rate of inflation in the Consumer Price Index over the life of the contract.

(d) The cost of private fringe benefit programs should be measured by employer contribution rates.

(e) Pay-rate increases dictated by agreements signed prior to October 25, 1978, are exempted from the pay standard.

(f) A contract that includes a provision for a future wage reopening will be assumed to be terminating on that date.

705B-4 <u>Application of the Pay Standard to Employees Not Under Collective Bargaining Agreements</u>.

(a) A company complies with the pay standard if, for each employee unit, the pay rate in the last quarter of the program year does not exceed the pay rate in the base quarter by more than 7 percent.

(b) Compliance may be determined by computing pay-rate changes for the fixed population of continuing employees employed in the beginning and end of the program year. In this case pay-rate increases may exclude the effects of legitimate promotions and qualification increases.

(c) If pay-rate increases for recognized employee groups are dictated by the continuation of a formal annual pay plan in operation as of October 1, 1978, and, solely due to the continuation of this plan, the dictated pay components for the employee group increase by more than 7 percent during the program year, then the dictated increase in these components above 7 percent may be excluded in determining compliance.

(d) If companies communicated to recipient employees prior to October 25, 1978, the details of a formal annual plan to take effect during the program year, the pay rate increases dictated by this plan will be treated as in (c). However, the company should be prepared to demonstrate that it is an established practice to announce pay-plan changes in this time period and should continue this practice by communicating a subsequent annual pay plan in compliance with the pay standard prior to October 25, 1979.

(e) In determining compliance, adjustments may be made for shifts in the composition of the work force among distinct functional employee subgroups within the employee unit.

705B-5 Pay Standard for Future Value Incentive Plans.

(a) A future value incentive plan is any long-term plan under which the compensation value of the units (such as shares, stock options, and awards) granted or issued will not be known until some future time.

(b) Any such units granted or issued prior to October 25, 1978 under such plans are not subject to the pay standard.

(c) The number of units granted or issued in the program year under any continuation of, or modification to, existing plans or creation of successor plans may not exceed 107 percent per recipient of the number granted or issued in the twelve-month period prior to the program year or the annual average of the units granted over the last five years.

(d) With respect to plans covered by (c), any spread between an option or purchase price and fair market value at the time of the grant is included as pay.

(e) For any new plans introduced during the program year for which there is no historical precedent, companies should place a value on units granted or issued in the program year consistent with generally accepted accounting practices and include these amounts in pay.

705B-6 Maintenance of Health Plan Benefits. In the program year or over the life of a new collective bargaining agreement, changes in the costs of maintaining existing health benefits should be charged against the pay standard up to a 7 percent annual increase in such costs; any increases above 7 percent are excluded from computations for purposes of measuring compliance with the standard. Any changes in costs due to changes in benefits should be fully included as pay-rate changes.

705B-7 Changes in Pension Funding Costs. For pension plans that pay specified benefits at retirement (qualified defined benefit plans), changes in employer costs due to (1) changes in funding methods, (2) changes in amortization periods, (3) changes in actuarial assumptions, and (4) plan experience (other than year-to-year wage or salary changes) are not included as pay-rate changes. Changes in employer costs due to plan amendments, changes in the benefit structure, or changes in benefit levels due to wage or salary changes are included as pay-rate changes.

705B-8 Low-Wage Exemption. Employees earning $4.00 or less per hour in straight-time hourly wages on October 1, 1978, must be excluded from each employee unit in making pay-rate computations.

705B-9 Tandem Pay Rate Changes. Pay-rate changes in one employee unit that have been regularly linked to pay rate changes in another employee unit in a leader-follower relationship can be excepted either where pay-rate increases in the leader unit were agreed to prior to October 25, 1978, or where pay-rate increases agreed to for the leader unit after October 24, 1978 are in compliance with the pay standard. Employee units need not be in the same company. In order to establish such a linkage, the parties must demonstrate that the past pay-rate increases of the two employee units have been equal in value and directly related in timing.

705B-10 Pay-Rate Increases Traded for Productivity-Improving Work-Rule Changes. In determining compliance, that part of a pay-rate change that is in return for changes in contractual work-rules and practices that alter productivity may be deducted from the total pay-rate change. In order to comply in this manner, it must be demonstrated that the cost reductions generated by the work-rule changes are equal to or greater than the excess of the pay-rate change over the pay standard.

705B-11 Pay-Rate Increases Attributable to Acute Labor Shortages. Where pay-rate increases in excess of the standard are necessary to attract or retain employees in a particular job category because of an acute labor shortage, the amount of such excess may be excepted if the following conditions for these job categories are met:

(a) the proportion of vacancies during the preceding quarter has increased abnormally over that experienced during the past two years;

(b) the time required to fill vacancies has increased abnormally over that required during the past two years, despite intensive recruiting;

(c) pay rates for entry-level employees in these categories have increased abnormally over the past two years; and

(d) the local Employment Service Agency has certified that such an acute labor shortage exists.

705B-12 Undue Hardship or Gross Inequities. The Council may grant an exception from the application of the pay standard or may make appropriate adjustments in the standard to avoid situations or undue hardship or gross inequity.

705C Alternatives to the Price Standard for Selected Industries

705C-1 General. This subpart provides alternatives to the price standard for industries that have special problems in meeting the general price standard. Companies that cannot comply with these alternatives are eligible for exceptions under the conditions specified in 705A-6.

705C-2 Margin Standards for Wholesale and Retail Trade and for Food Manufacturing and Processing.

(a) Eligibility. A percentage margin standard is available as an alternative to the price standard to the entire wholesale and retail trade sector, including food service operations (SIC 50-59). A separate margin standard is available as an alternative to the price standard for all firms in the food manufacturing and processing industries (SIC 20, excluding 2082, 2083, 2084 and 2085). This includes nonalcoholic but excludes alcoholic beverage industries. Any company or subsidiary or operating division of a company doing more than one-half of its business within one of the above industries may apply the appropriate margin standard for those operations. However, any company in these industries that is able to comply with the general price standard prescribed in 705A-2 is encouraged to do so.

(b) Definitions

(1) The gross margin is equal to net sales adjusted for discounts, returns, coupons, and other allowances, less the cost of food products purchased, and the cost of goods purchased for resale.

(2) The average percentage gross margin for a year is the total gross margin divided by net sales for the year.

(3) The base year is the four calendar or fiscal quarters ending prior to October 2, 1978.

(4) The program year is the year immediately following the base year.

(5) The margin trend is the compound annual rate of growth of the average percentage gross margin between the base year and the comparable year prior to October 2, 1976.

(c) Percentage Margin Standard for Wholesale and Retail Trade. A company satisfies the percentage margin standard if

(1) the growth in its average percentage gross margin between the base year and the program year is no greater than its margin trend minus 0.5 percentage points, or

(2) the average percentage gross margin for the program year does not exceed that of the base year.

(d) Margin Standard for Food Manufacturing and Processing Industries.

(1) A company satisfies the margin standard if the rate of increase in the company's dollar margins between the base quarter (the last complete calendar or fiscal quarter ending prior to October 2, 1978) and the corresponding quarter of 1979 does not exceed 6.5 percent plus any positive percentage growth in physical volume over the same period.

(2) The company may substitute for the base-quarter margin the base-quarter sales multiplied by the average percentage gross margin for the base year.

(3) Physical volume increases to be used in justifying increases in gross margins may be computed by deflation of revenues using a measure of price increases as the deflator, or by computing changes in units or tonnage sold when such units are price weighted by major product categories.

(e) Application of the Margin Standards. A company may compute its margin after adjustment for changes in the composition of sales at any reasonable level of aggregation, such as division, department, product category, or individual products, as long as such adjustments are consistently applied.

705C-3 Price Standards for Professional Fees

(a) Coverage. These standards apply to fees and charges for the services of physicians, dentists, lawyers, accountants, engineers, architects, and other professionals. They include all activities included in Major Groups 80 (except 805, 806, 808 and 809), 81, 891, and 893 of the 1972 Standard Industrial Classification Manual.

All companies that provide professional services on a fee-for-service basis, regardless of the proportion of total company revenue that is derived from professional services, are expected to comply with the professional fee standard. If a company is unable to comply with this professional fee standard, it should satisfy the profit margin limitation exception.

(b) Standards. A company complies if the following two-part price standard is met: (1) the program-year average rate of change in fees charged, weighted by sales and/or revenues, does not exceed 6.5 percent and (2) the increase in the fee for any single service does not exceed 9.5 percent. The period used to determine dollar volume weights should be based on a period of time that is representative of normal business operations.

705D Definitions

Base-period rate of price change. The base-period rate of price change is a sales-weighted or revenue-weighted average of the percentage price change over the two-year period, 1976-1977, expressed at an annual rate. If desired, it may be using the following formula:

$$BPRC = \left(\sqrt{\sum_i S_i \frac{P_i(77)}{P_i(75)}} - 1 \right) \times 100$$

where

BPRC =	the base-period rate of price change;
$P_i(77)$ =	price of the ith product in the last complete fiscal or calendar quarter in 1977;
$P_i(75)$ =	price of the ith product in the last complete fiscal or calendar quarter of 1975;
S_i =	ith-product sales or revenue share (i.e., the ith-product sales or revenue divided by total sales or revenue) in the last complete fiscal or calendar quarter in 1975; and
$\sum$ =	the summation operator, where the subscript i runs over all products not excluded by section 705A-3.

The choice of fiscal or calendar quarters must be consistent throughout the company's calculations. If seasonal factors are important, the weights, S_i, can be calculated using data for the entire base period.

Base quarter. The base quarter is either (1) the company's last complete fiscal quarter prior to October 1, 1978, or (2) the calendar quarter July 1, 1978, to September 30, 1978.

Company -- The term "company" is defined as any person, sole proprietorship, partnership, corporation, association, joint venture, estate, trust, or any other entity, however organized, including Federal, State, and local government entities. Entities that are consolidated should be consolidated in accordance with 17 CFR Section 210.4-01 to -09 prescribed by the Securities and Exchange Commission. The term "company" applies only to domestic business operations.

One or more parts contained within a consolidated company may be treated as a separate, single company, in which case the standards apply separately to each of those unconsolidated companies. However, this option is available only if:

(1) the unconsolidated companies maintain accounting records which permit the Council to ascertain whether the prices and profits of the unconsolidated companies accurately reflect the economic realities of their operations;

(2) allocation of overhead is made in a consistent and reasonable manner, as if the unconsolidated companies were not commonly owned;

(3) transfers between unconsolidated companies are valued as if they were arms-length transactions; and

(4) internal accounting procedures adhere to generally acceptable accounting principles and procedures, consistently and historically applied.

In situations involving acquisitions and divestitures, the following procedures should be used. If historical financial records exist for companies acquired after September 30, 1975, and prior to the base quarter, the data for the acquisition may be combined with data of the acquiring company or treated as a separate company. In either case, the acquisition should be treated as if it had been acquired on September 30, 1975.

Companies acquired between September 30, 1975, and prior to the base quarter, for which historical financial records do not exist should be included i the calculations for the program year. That is, products of the acquired company should be treated in much the same manner as a new product.

In the case of companies acquired during the base quarter or program year, they should be treated as a separate company for the entire program year for price and profit calculations.

For divestitures, the parent company should exclude the divested entity from all calculations made with respect to the price standard.

Company Pay Share. The company pay share is the pay for all employees in the base quarter divided by company net sales and/or revenues in the base quarter. For purposes of this calculation, pay and net sales and/or revenues should represent total domestic operations unless the company cannot determine pay for domestic operations, in which case total pay and total sales should be used.

Employee. An employee is any individual residing in the United States who is either an employee within the meaning of Section 3121(d) of the Internal Reve ue Code 26 U.S.C. or the National Labor Relations Act, as amended, 29 U.S.C. Sec. 151 et seq.

Future-Value Incentive Plans. Future-value incentive plans include any long-term plans under which nits (shares, stock options, awards, shares subject to optic or investment amounts) are granted or issued, the compensation value of which will not be known until some future time. Examples of these include qualified and nonqualified stock options, performance share plans, performance unit plans, stock appreciation r' hts, restricted stock or property plans, phantom stock plans, and book value plans.

Pay. Pay includes the following items:

(a) The straight-time wage and salary paid during the company's customary pay period, including, where applicable, payments for shift differentials, skill differentials, and cost-of-living adjustments.

(b) Incentive pay and other forms of income such as

(1) sales commissions and production incentive pay;

(2) bonuses and other annual incentive compensation charged when earned (that is, when the services ar performed that generate the compensation);

(3) compensation from long-term incentive plans (other than those covered under 705B-5), new future-value incentive plans, or other similar compensation arrangements when accrued;

(4) job perquisities and other forms of compensation not covered elsewhere in this definition but reported as income under the Internal Revenue Code and its interpretive regulations and rulings.

(c) Employer contributions or costs for the following fringe benefit items:

(1) pay for time not worked (e.g., paid vacations and holidays, sick leave and other paid leave);

(2) saving and thrift plans such as qualified stock bonus plans, qualified profit sharing plans, employee stock ownership plans, and other qualified defined contribution plans;

(3) qualified defined benefit retirement plans;

(4) health benefit plans;

(5) life insurance, accident insurance, legal assistance. educational assistance, and other plans resulting in benefits to employees but not treated as income until a later time.

Pay does not include overtime wages as long as the conditions of that pay are unchanged. Also, pay does not include employer contributions for legally mandated benefit programs.

Pay rate. An employee unit's pay rate in any quarter should be determined in a manner consistent with the employer's accounting practices. Pay rates should be constructed as pay per straight-time hour worked. Pay rates should be the average rates for the employee unit over the quarter or as of the last customary pay period within the quarter. When employer costs for certain pay elements are incurred irregularly (for example, bonus payments and vacation pay) these items should be included according to the pay programs in effect at the end of the quarter and should be included in pay-rate computations as though they were incurred evenly overtime. For employees not compensated on an hourly basis, an estimate of straight-time hours worked should be made and consistently applied.

The method used to compute pay rates should be consistently applied in all measurement periods.

Product. A product is any aggregation of goods (or services) established by the company for purposes of complying with the price deceleration standard, which reflects the company's customary pricing unit. In establishing the product grouping within a company, the price changes for each product group must reasonably reflect the changes in the prices of the products contained within the category. The method of establishing product groups must be consistently applied during the base period and the program year.

Product price. The price of a product during a quarter is computed by dividing the revenues from sale or lease of the product by the number sold or leased. Sampling of products may be used by a company provided that the methods used comply with sound statistical procedures. Changes in list prices may be used only if percentage changes in them are representative of percent changes in actual transaction prices. Furthermore, prices may be measured at the end of the calendar or fiscal quarter provided that prices do not fluctuate substantially during the quarter.

Program year. For a company, the program year is the twelve-month period immediately following the company's base quarter.

Program-Year Rate of Price Change. The program-year rate of price change is a sales-weighted or revenue-weighted average of percentage changes in prices of products. If desired it may be computed using the following formula:

$$PRPC = \left(\sum_i S_i \frac{P_i(79)}{P_i(78)} - 1 \right) \times 100$$

where

PRPC = the program-year rate of price change;

$P_i(79)$ = the price of the ith product in the 1979 quarter corresponding to the base quarter;

$P_i(78)$ = the price of the ith product in the base quarter;

S_i = ith product sales or revenue share in the base quarter; and

$\sum$ = the summation operator, where the subscript i runs over all products not excluded in 705A-6.

The choice of fiscal or calendar quarters must be consistent throughout the company's calculations. If seasonal factors are important, the weights, S_i, can be calculated using data for the entire base year. Alternatively, the same weights as used to calculate the base-period rate of change can be used.

Rate of pay deceleration. The rate of pay deceleration is the difference between the base rate of change of the company pay rate and the program-year rate of change of the company pay rate where

(a) the base rate of change of the company pay rate is the annual rate of change of the company pay rate over the two-year period starting in the last complete fiscal or calendar quarter of calendar 1975 and ending in the last complete fiscal or calendar quarter of calendar 1977,

(b) the program-year rate of change of the company pay rate is the percentage change in the company pay rate from the base quarter to the last quarter of the program year, and

(c) the company pay rate in any quarter is its employment cost per hour worked for all employees, including all legally mandated costs excluded from the definition of pay.

QUESTIONS AND ANSWERS

The following questions and answers are substantive interpretations of the price and wage standards as they apply to individual situations. They can be used as guidance for actions in similar situations that would be consistent with the intent of the program. But companies and employee units will need to examine their own situations in light of the program to determi e how they can best comply with its objectives. Since the burden of interpretation must lie with private parties, actions taken under a good faith interpretations of the wage and price standards will generally be considered in compliance.

I. THE PRICE STANDARD

A. Coverage of Standards

Q1. Are farmers' prices covered?

A. Prices of individual farm products are excluded from a company's price calculations. However, major farm commodity prices will be monitored jointly by the Department of Agriculture and the Council on Wage and Price Stability. Where sustained price increases for major commodities in excess of the overall inflation rate are not justified by changes in costs, administrative actions to expand supply and moderate price increases will be considered. The potential actions would depend upon the specific situation.

Q2. Are food middlemen -- meat packers, canners, supermarket chains, etc., -- covered?

A. Yes. Because these industries have special problems in meeting the general price standard, they may instead comply with a margin standard.

Q3. Are cooperatives covered?

A. Yes. They are expected to comply with pay and price standards.

Q4. Are U.S. operations of foreign companies included?

A. Yes. U.S. subsidiaries of foreign companies are covered.

Q5. Are foreign operations of U.S. companies included?

A. No. The standards apply only to domestic operations of these companies.

Q6. Do the standards apply to United States territories and possessions?

A. Yes. The standards apply to operations of domestic or foreign companies in Puerto Rico, Guam, American Samoa, and the Virgin Islands. They do not, however, apply to operations in United Nations Trust Territories administered by the United States.

Q7. Does the program apply to tuition and fees?

A. Yes. Schools, colleges, and other nonprofit organizations are expected to comply with the pay and price standards. Increases in tuition and fees are, however, averaged in with other charges, such as room and board.

Q8. Are utility rates and other regulated fees covered by the anti-inflation program?

A. Yes. Prices determined through a Federal, State, or local government regulatory process are covered by the program. The regulatory agencies are asked to assure compliance to the fullest extent possible.

Q9. How are joint ventures to be treated?

A. A joint venture may be aggregated only if a firm owns more than 50% of that venture's equity. If no one firm owns greater than 50% of a joint venture, then this joint venture should comply with the program as a separate company.

Q10. May a firm aggregate a nonconsolidated subsidiary?

A. No. The standards call for the aggregation only of entities which normally would be aggregated in accordance with SEC reporting requirements (17 CRF, Section 210.4-01 to 09). The Council wishes to avoid abnormal accounting practices.

Q11. Does the fact that the price standard applies to the average rate of price increase for all goods and services sold by a company mean that there is no constraint on individual product prices?

A. Price increases for individual products can exceed the price deceleration standard so long as these increases are offset by lower rates of price increase for other products. The Council, however, will monitor individual product prices and will investigate the causes of sustained increases in major categories of the price indexes that exceed an annual rate of 10 percent.

Q12. Are crude oil, natural gas, and coal included in the calculation of a company's average price change?

A. No. The prices of these products will be monitored by the Council at the overall market level.

Q13. Is it possible to be more precise about the exclusion of commodities "whose historical and current price changes can be shown to have been closely tied to price movements on an organized open exchange market, either domestic or foreign"?

A. This exclusion applies to any commodity for which there is an active organized spot market and the producer price moves closely with the exchange price. If a firm excludes a product in this category, it should be prepared to explain to CWPS the basis for that decision. The exclusion would not ordinarily apply to commodities for which there is only a futures market, nor where customer discounts are given.

Q14. How do custom products differ from new products in applying the price standards?

A. The main difference is that custom products are one-time sales of products built to the specifications of a particular buyer. Custom and new products are treated identically under the standards.

Q15. Are imports covered?

A. Goods sold to a domestic company by a foreign entity are not included in the program. Subsequent sales of imported goods by domestic companies are covered, regardless of where the goods are when title changes.

Q16. Export prices are excluded. What about goods intended for export that are first sold to a domestic firm --for example a broker?

A. As a company cannot know for sure whether a broker will resell a product abroad or domestically, these sales are included in the price calculations.

Q17. Are air fares U.S. citizens pay to foreign carriers covered?

A. As imports, they are excluded.

Q18. Is a public utility that distributes natural gas exempt?

A. No.

Q19. Does the program apply to utility rates?

A. Yes.

Q20. Does the program apply to taxes?

A. No. But government service fees and charges are included.

Q21. Does the program apply to rents?

A. Yes. The landlord's average rent increase for all of his units should be consistent with the price standards.

Q22. Does the program apply to companies that build and sell new houses.

A. Yes. But in most cases such firms will not be able to compute a measure of price change because of the customized nature of their products. Thus, they will be expected to comply with the profit limitation.

Q23. Does the program apply to insurance premiums?

A. Yes. But, because there are some difficulties in measuring prices in this sector, some special standards may need to be developed. These will be developed and issued in the near future.

Q24. Are interest rates covered by the program? Are banks covered?

A. Interest rates are excluded from the price calculation. But banks must meet the profit margin limitation and the pay standard. There are some special problems of computing the profit margin for financial institutions. These issues will be examined and an interpretation of the profit margin limitation as it applies to their situation will be issued in the near future.

B. Compliance

Q1. Suppose a company is forced to accept a union contract in excess of the standards. Must it still comply with the price standard?

A. Yes. If these higher labor costs preclude meeting the price deceleration standard, the firm should comply with the profit margin limitation. In any case, the company is out of compliance with the pay standard.

Q2. Does the exclusion of some product prices from the price calculations under 705A-3(a)-(e) cause problems for companies that use large amounts of these products as inputs?

A. If a company cannot comply with the price deceleration standard because of increases in the prices of these products, it may comply with the profit margin limitation.

Q3. If a company has just (after October 1) raised prices and is now not in compliance, must the company roll back prices to be in compliance?

A. Yes.

C. Computation of the Price Standard

Q1. When does the program year begin for price increases? What is the base quarter?

A. If the company's fiscal quarter corresponds to the calendar quarter, the "base quarter" is the third quarter of 1978 (July through September) and the program year runs through the third quarter of 1979.

If a company has fiscal quarters that do not correspond with calendar quarters it may use as a base quarter the most recent fiscal quarter which ended before October 2, 1978. The program year for the company then includes the next four fiscal quarters.

Q2. If business is done on a contract basis, in making price calculations, should prices be included when contracts are signed or when payment is received?

A. At the time of payment. However, delivery prices determined by contracts signed before October 2, 1978, are excluded unless the contract allows for seller discretion to adjust prices, thereby allowing the seller to meet the price standard.

Q3. Must a consolidated company, which decides to separate its entities, use the same separation for compliance with the pay and with price standards?

A. Yes.

Q4. One company has many operating subsidiaries and divisions. Another company is equally complex, but it is not divided into subsidiaries and divisions. Can both of these companies disaggregate units for compliance purposes?

A. Yes, but it would be easier for the first company. At the option of the company, but subject to review by the Council on Wage and Price Stability, one or more subsidiaries or divisions may be treated as a separate, single company. Such separate entities are allowed if an accounting basis exists for separating them from the parent firm. Two separate kinds of allowable cases should be distinguished. First, if a company has followed an historical practice of separate accounting treatments with regard to the entities it wants to treat separately, such practices may be continued for purposes of measuring compliance with the program. Second, if a firm has maintained records which allow it to disaggregate historical accounting data into separate entities, such data may be used as a basis for disaggregating its entities. Newly adopted accounting procedures cannot be used to rework accounting data into new formats for purposes of separating units.

Q5. Can a diversified company comply by meeting the price standard on some operations (separate subsidiaries of operating divisions) and the profit limitation on others?

A. Yes. If the company decides to treat subsidiaries or divisions as separate entities, those units unable to meet the price standard can comply by meeting the profit margin limitation.

Q6. Should I use list or transaction prices in making price deceleration calculations?

A. Transaction prices are preferred. If, however, list prices move closely with transaction prices, they may be used.

Q7. The price standard requires full pass through of pay deceleration in excess of 0.5 percentage points. How can a firm calculate its rate of pay deceleration or pay share before the end of the program year

A. The principle described in Section 705A-2(c) is that a company should pass through pay deceleration in excess of 0.5 percentage on the basis of expected changes or actual changes as they occur. If a company follows a reasonable and good-faith procedure, actual departure from the standard would not be treated as a failure to comply with the program.

D. Profit Margin Limitation

Q1. What recourse from the profit margin limitation is available if the best two out of the last three years is abnormally low?

A. No specific provisions have been made to cover this situation. You may have a basis for claiming undue hardship under 705A-6.

Q2. Can the profit margin limitation be applied to the domestic market only, or must it be applied to all operations, domestic and international?

A. Foreign operations should be excluded from calculations of prices, profits, and revenues.

Q3. Are revenues and costs from new and/or discontinued products included in the computation of profit margins for the profit margin limitation?

A. Yes.

Q4. How should a change in depreciation accounting methods affecting profits be treated?

A. If a company has changed methods between the last 3-year period and the program year, it should recompute its profits for the two periods on a consistent basis.

Q5. Are any firms selling goods and services in the United States exempt from both the price standard and the profit limitation?

A. Yes. If products excluded under 705A-3(a)-(e) account for more than 75 percent of the company's total revenues during the four quarters prior to the program year, the company need not comply with the price standard or the profit limitation. The company would, however, be expected to comply with the pay standard.

Q6. How does the profit margin limitation apply to non-profit organizations?

A. Instead of a profit margin limitation, a nonprofit organization would be expected to comply with an operating surplus limitation. Operating surplus is defined as operating funds less total costs and expenses including wages. The operating margin is operating surplus divided by operating funds.

II. THE PAY STANDARD

A. General Standard

Q1. Does the pay standard mean that the average pay rates of all employee units should rise by 7 percent?

A. No. The 7-percent standard represents a ceiling for pay-rate increases. It is not a suggested target. A firm which grants 7-percent increases or less is in compliance with the standard.

Q2. Does the standard mean no one can receive more than a 7-percent raise?

A. No. In general, the pay standard imposes no limit on individual employee pay rates. Instead the standard applies to average pay rates for employee units.

B. Employee Coverage

Q1. How do you distinguish the nonunion management group of employees from the nonunion nonmanagement group?

A. Companies can determine this in a fashion consistent with their past practices. In general, management employees should be those whose duties are primarily of a supervisory nature. For example, the Fair Labor Standards Act distinction between exempt and nonexempt employees could be used. Firms should not, however, alter or stretch previously used categories in order to permit pay increases above the standard for some workers at the expense of others. The intent of this provision is to ensure that nonmanagement personnel are not treated inequitably. If firms can provide alternative verification of equitable treatment of employees, they may combine these groups for purposes of determining their compliance.

Q2. Can a company define smaller employee units than management and nonmanagement?

A. Yes. Any further breakdown consistent with a company's accounting procedures is acceptable. To determine overall compliance, the firm may compute a weighted average of the pay-rate increases for these groups, using as weights the percentages of the total pay bill paid to each group.

Q3. Does the 7-percent limit on the pay increase apply to new employees?

A. The limit does not apply to individual workers, whether they are new or old employees. But the average rate paid by a firm should not rise by more than 7 percent during the year, regardless of turnovers or increases in its workforce.

Q4. In the case of mergers, can the parent company treat its newly acquired companies as separate entities for pay standard computations?

A. Yes, if this is the method applied to price computations as well.

C . Are U.S. employees assigned to work in other countries subject to the pay standard?

A. No, they should be excluded from the employee groups.

Q6. Does the pay standard apply to Federal, State, and local government workers?

A. Yes.

Q7. Are pay increases mandated by State and local government regulations exempt from the pay standard?

A. Public sector employees are covered by the pay standard. If legally mandated pay increases determined under regulations existing prior to October 25, 1978 exceed 7 percent, the amount above 7 percent is excluded from the pay calculations.

C. Pay and Pay Rates

Q1. Increased employer contribution costs for legally mandated employee benefits are not charged against the 7-percent pay standard. Which employer costs are excluded?

A. Excluded are costs of legally mandated payroll taxes such as Social Security, Worker's Compensation, and Unemployment Insurance. In addition, the increased costs during the program year of new legally required benefits, such as paid maternity leave, changes in benefits under the recently amended Age Discrimination Act, and remaining ERISA mandated pension plan amendments should not be charged against the 7-percent standard.

Q2. With respect to the exclusion of overtime pay, what does the language "as long as the conditions of that pay are unchanged" mean?

A. A change in the conditions of overtime pay occurs when the overtime premium pay rate is changed or when the timing requirements are altered (for example by defining overtime as work beyond 38 hours rather than 40 hours). When such a change occurs during the program year, an estimate of the increased pay due to the change must be included as a pay-rate increase.

Q3. Are cost-of-living differentials received if an employee is transferred to a higher cost-of-living area included as pay-rate increases?

A. Not if they represent continuation of an established practice to pay such differentials.

Q4. Should moving expense reimbursements be included as a component of pay?

A. No.

D. Collective Bargaining Units

Q1. If workers in one union in a company are out of compliance, is the company out of compliance?

A. Yes. Each collective bargaining contract should meet the pay standard; a firm is out of compliance if any of its collective bargaining agreements exceed the pay standard. However, if this group represents less than 5 percent of of the firm's work force, the group can (at the company's discretion) be included within the category of nonunion employees.

Q2. What about a small firm that is a party to a large collective bargaining agreement?

A. If the firm is a participant in the collective bargaining negotiations or a member of the employer association that negotiates the agreement and the agreement exceeds the standards, the firm is not in compliance.

Q3. Does the pay standard apply to collective bargaining settlements which were being negotiated prior to the President's announcement on October 24, but in which no formal agreement was signed?

A. The pay standard does not apply under any of the following circumstances:

(1) there was a written memorandum of agreement covering wages and benefits prior to October 25;

(2) there was a written management offer outstanding on October 24, and the contract is later signed with wage and benefit terms that are no higher; or

(3) there was evidence of an oral agreement covering wages and benefits prior to October 25.

Q4. Is there any power to invalidate contracts that exceed the standard?

A. No, the government has no authority or intention to invalidate labor contracts.

E. Nonunion Standard

Q1. When does the program year begin for wage increases?

A. For nonunion and supervisory workers, the program year is the same for wage increases as for price increases -- typically from the third quarter of 1978 through the third quarter of 1979. If a company uses a fiscal year other than the calendar year, it may use as a base quarter the last complete fiscal quarter prior to October 2, 1978.

Q2. The pay standard for nonunion employee groups compares the base-quarter pay rate with the pay rate in the last quarter of the program year. Does this mean the company is unconstrained over the first three quarters of the program year?

A. No. Having an annual compliance standard minimizes the administrative burden placed on firms and eliminates some compliance problems which might be caused by seasonal factors and the timing of pay-rate changes. However, at any time during the program year, companies should be prepared to demonstrate that their pay situation is consistent with the 7-percent annual standard.

Q3. If a pay plan is communicated to pay-plan supervisors prior to October 25, but it is not in operation prior to that date, are increases in excess of 7 percent under this plan excluded from the pay standard?

A. No. It must either be in operation or communicated to the employees.

Q4. Section 705B-5(e) says that companies may make adjustments for shifts in the composition of the work force among distinct functional employee subgroups. What does this mean?

A. Under this option, a separate pay-rate increase may be calculated for each functional employee subgroup. If a weighted average of the resulting pay-rate increases is 7 percent or less, the employee unit is in compliance. For purposes of computing this weighted average, the subgroups' base-quarter shares of total employee-unit pay may be used as weights.

Q5. What is the effect of these adjustments on the nonunion pay standard?

A. Under the general standard as applied to nonunion groups, changes in the composition of the work force toward higher-paid employee subgroups could carry the employee unit as a whole over 7 percent even though the 7-percent limitation is satisfied for each job category. This adjustment provides nonunion groups with treatment similar to that allowed for collective bargaining units by permitting companies to assume no changes in the composition of the work force during the program year.

Q6. What is a distinct functional employee subgroup?

A. Within an employee unit, a distinct functional subgroup would be identified by type of work (for example, engineers, accountants, secretaries, production workers, etc.). As a rule, these subgroups should be those regularly identified in the company's accounting practices and pay plans as separate employee groups.

Q7. Section 705B-4(b) says that compliance may be determined on the basis of the average pay rates for continuing employees. What is the implication of this option?

A. This option allows the company to follow pay rates for the fixed population of continuing employees employed throughout the program year. This approach may be especially useful to small businesses that have changes in the composition of the work force but do not typically perform the cost-accounting analyses needed to adjust for these compositional shifts.

When excluding promotion and qualification increases under this method, the company should be prepared to demonstrate that such increases granted during the program year are consistent with historical practices.

Q8. Are step-rate increases or longevity increases legitimate promotions?

A. No. In all cases, step-rate or other similar pay-rate increases that represent moves through a pay hierarchy for work that is not substantially changed are included as pay-rate increases.

Q9. What is a qualification increase, and is it included in determining compliance with the pay standard under 705B-4(b)?

A. Qualification increases include automatic progression increases from entry levels to job-rate levels and other increases associated with discrete improvements in an employee's job-related credentials, such as completion of an educational or vocational training program. Such increases are not included in determining compliance.

Q10. Can a company demonstrate compliance with the pay standard for nonunion employee groups on a prospective basis?

A. Yes. If a company bases its pay projections on its standard budgetary practices and assumes continuation of well-established historical relationships, then it can demonstrate compliance on a prospective basis for nonunion units.

Compliance must still be determined retrospectively by comparing the last quarter of the program year with the base quarter. However, failure to meet the 7-percent standard will not constitute noncompliance if there has been a good-faith effort to comply, but unforeseen events beyond the company's control have caused the failure.

Q11. Can a nonunion unit make multi-year agreements?

A. Yes, provided they are binding on both parties. The rules for multi-year collective bargaining agreements should be applied in evaluating compliance of such agreements with the standards.

F. Variable Compensation

Q1. How are sales commission and production incentive plans treated under the standard?

A. Employees operating under these plans are subject to the standard. If the unit's compensation exceeds the standard, companies must be able to demonstrate that they would have been in compliance had the unit's sales or production experience, based on physical volume, been the same as in the year prior to the program year.

Q2. Is compensation from annual incentive plans included as pay?

A. Yes. Pay from annual incentive plans, such as annual bonuses, is included as pay in the base quarter and during the program year.

Q3. How are annual incentive awards to be treated in computing pay rates?

A. This depends on whether the awards are made pursuant to a plan or on a discretionary basis. Annual bonuses or awards made according to a plan previously announced, consistently administered, and based on past practice, should be treated as pay over the period earned. For example, a bonus paid in early 1979 depending on performance over calendar-year 1978 should be treated as pay received evenly over 1978.

If the bonus payment is discretionary (not under a plan) and there is no demonstrable objective performance criterion, it should be treated as pay when payment is made (or when accrued if it is deferred). For example, all discretionary bonuses paid (or accrued) in the program year should be included as pay received evenly over the program year. Similarly, one-fourth of all bonuses paid (or accrued) in the preceding year should be treated as pay in the base quarter.

Q4. In determining the bonus amount to be included in the base rate of pay, must the company use the amortized bonus amount which was earned in the base quarter?

A. No. In determining the bonus amount to be included in the base rate of pay, the company may choose either the amortized bonus amount earned in the base quarter or the average of the corresponding amounts earned in any two of the five most recent years.

Q5. How is deferred compensation treated under the standard?

A. Deferred forms of compensation are treated as pay in the period earned regardless of when payment actually occurs. This applies to deferred compensation earned over, or averaged into, the base quarter as well as to compensation earned in the program year.

G. Future-Value Compensation

Q1. How are future-value incentive plans treated under the pay standard?

A. Future-value incentive plans are long-term plans under which units are granted whose value will not be known until some future time. The plans involve qualifications or contingencies which make their exact valuation uncertain, but increases in their value can be subjected to a rough 7-percent limit by limiting the number of units granted during the program year to a 7-percent increase per recipient.

During the program year, changes in the number of recipients eligible to receive units under these plans must be based on plans in existence prior to October 25, 1978 or on the continuation of well established past eligibility practices.

Q2. What constitutes a unit of future-value incentive compensation?

A. A unit includes shares, awards, shares subject to option, or investment amounts. In most cases, units under these plans are the number of shares under options or shares awarded. Where plans involve investment amounts, this means the number of shares times the share price at the time of award.

Q3. How do stock splits affect the limitation on the number of units to be issued under future-value plans?

A. The number of units should be adjusted to reflect stock splits and stock dividends.

Q4. Some long-term incentive plans do not run on an annual basis and have not been in place five years but do have a regular grant cycle -- for example, every other year. How should the percent-increase limitation be applied to continuation of these plans?

A. The percent-increase limitation should be applied to the number of units issued in the last regular grant period under the plan.

H. Health and Welfare Benefits

Q1. If, based on actual experience, the cost of maintaining existing health benefits increases by less than 7 percent, does this mean that more than a 7-percent increase in other pay components may be granted?

A. Yes.

Q2. If new health benefits are added, are these included in pay-rate computations?

A. Yes. For example, if the cost of maintaining the old benefit package increases by more than 7 percent and the new benefits add an additional 3 percent, the combination of the two should be treated as a 10-percent increase on the health-benefit cost base.

Q3. Is it necessary to separate health insurance costs from a general health and welfare benefit package in order to apply the 7-percent maintenance rule?

A. No. In this case, the 7-percent maintenance assumption may be applied to all benefit items in the health and welfare package.

Q4. Can individual items in a health benefit package be considered separately, counting some item increases at 7 percent and others at their actual increase?

A. No. The 7-percent maintenance exclusion must be applied to the health benefit package as a whole.

I. Pensions

Q1. What is a pay-related pension plan?

A. These include final-average pay plans, career-average earnings plans, and other similar plans in which the level of benefits provided by the plan is related to earnings or salaries over a specified period of employment.

Q2. What is a non pay-related pension plan?

A. These include plans where the benefit level is a flat dollar rate which is independent of earnings or salaries over the period employed.

Q3. For pay-related pension plans, how does one determine the employer costs attributable to increased benefits due to changes in salary levels during the program year or over the life of a new collective bargaining agreement?

A. Using standard company accounting procedures, calculate costs for the pension plan at the end of the program period at both the base-quarter and program-year salary rates; the difference between the two is the employer cost attributable to the change in pay levels and is included in the pay-rate change in determining compliance with the pay standard.

Q4. For pay-related pension plans, is it necessary to perform detailed calculations to sort out employer costs for increased benefits related to salary changes, as set forth in the preceding question?

A. No. In those cases where the pension plan is not amended during the program period and the benefit structure remains unchanged, it is consistent with the intent of the pay standard to exclude pension funding costs from all pay-rate calculations. This means that pension funding costs would not be included in the base pay rate nor in the program-year pay rate in determining compliance with the pay standard.

Q5. Why is an increase in benefit levels in a pay-related pension plan charged as a pay-rate increase when there has not been any amendment to the plan?

A. In order to treat pay-related and non pay-related pension plans equitably. For example, a non pay-related plan that provides a pension benefit of $10 per month per year of service would have to be amended in order to increase the pension benefit. In a pay-related plan, however, the amount of pension benefit automatically changes as salary levels change. If no distinction were made, this would generally result in benefit changes in the non pay-related plans being charged as pay-rate increases while the changes in the pay-related plans would not be charged as pay-rate increases.

Q6. For non pay-related plans, if the benefit level remains unchanged, does this mean that more than a 7-percent increase is allowable on the other components of pay?

A. Yes, since under these conditions the company may include the same dollar pension cost per hour in both the base-quarter pay rate and the program-year pay rate.

J. Low-Wage Exemption

Q1. Should employees with wage rates of $4.00 per hour or less at the beginning of the program year be removed completely from all employee units?

A. Yes. They are excluded from each employee unit for the entire program year, even if wage-rate increases carry them over the $4.00 limit during the program year. Further, employees hired during the program year at a wage rate of $4.00 per hour or less are also excluded.

Q2. Is there any ceiling on the pay-rate increases granted to employees exempted under the low-wage provision?

A. No.

Q3. Will employees whose straight-time wage rate is less than or equal to $4.00 an hour, but who earn more due to incentive pay, be excluded from pay-rate computations?

A. Determination of the employee's straight-time hourly wage is based on average straight-time earnings, including incentive pay.

Q4. Should employees exempted under the low-wage provision be included in their respective employee units for the purpose of calculating additional price deceleration required by pay deceleration in excess of 0.5 percentage points?

A. Yes.

K. Tandem Pay-Rate Exception

Q. In what circumstances can the tandem pay-rate exception apply?

A. In any of the following circumstances:

(i) to maintain historical supervisory differentials;

(ii) for union and nonunion groups of the same company;

(iii) for union and nonunion groups in a local labor market, irrespective of whether they belong to the same company; and

(iv) for two separate collective bargaining units.

However, in each of these circumstances, there must be a clear leader-follower relationship and the pay increases must be equal in value and directly related in timing.

L. Productivity Work-Rule Exception

Q1. Is the principle of trading newly negotiated work-rule changes for wage increases to be applied to contract changes that make work rules more restrictive as well as relaxations in work rules or manning requirements?

A. Yes; if such changes produce a demonstrable and measurable decline in productivity growth, they should be deducted from the allowable pay-rate increase.

Q2. Can the principle of productivity increases related to work-rule changes be applied to nonunion units?

A. No. The work-rule exception is intended to apply in those limited situations where companies have no alternative means of eliminating contractual work-rule restrictions that prevent improvements in productivity. This provision does unfairly discriminate against employee groups that have, in the past, cooperated with management to promote improvements in productivity. Yet, in some circumstances there are no practical alternatives to eliminating previously agreed-to restrictions except through an additional wage increase. In some cases, the unions may have previously foregone a wage increase to obtain the restriction.

Q3. Can wage increases exceed 7 percent for firms that achieve productivity gains in excess of the economy-wide average.

A. No.

III. Special Sectors

A. Food Manufacturers, Retailing and Wholesaling

Q1. Are retail food stores covered?

A. Yes. But, because such stores have severe data problems and may not be able to calculate an adequate measure of price change for the wide range of products that they sell, an alternative standard, based on controlling margins has been provided. However, a retail store is encouraged to comply with the general price standard, if able to do so.

Q2. Must food manufacturers comply with the gross margin limitation?

A. No. They may choose to comply with the general price deceleration standard. If they cannot meet either of these standards, they should, of course, comply with the profit margin limitation.

Q3. May a company elect to comply with the margin standards by controlling markups rather than margins themselves?

A. Yes. A company may choose any alternative method of compliance that is consistent with the manner in which it conducts its business, sets its prices, and keeps its records, as long as the end result yields margins that meet the standard.

Q4. How do food processors and food manufacturers meet their target dollar gross margins during the program year given the seasonal nature of the industry?

A. Food processors and food manufacturers should first calculate their base-quarter dollar gross margin. Next, they should estimate their expected average rate of increase in margin over the next 4 quarters (6.5 percent plus expected increase in physical volume). That overall increase may be divided among the 4 quarters in such a way that seasonality and normal trading patterns are observed. The targets set for each quarter are to be adjusted quarter-by-quarter after observing operating results for each quarter. If a company overshoots its target in one program quarter, it should compensate by undershooting in the next quarter or quarters, and so on, to achieve a rolling adjustment on a cumulative basis.

Q5. How do I compute the allowable percentage gross margin for a retail company?

A. Assume the percentage gross margin for the 4 quarters prior to October 2, 1978, was 44 percent, and 40 percent for the corresponding four quarters prior to October 2, 1976. The 2-year overall increase is 10 percent and the annual average rate of change is 4.88 percent. Subtract the 0.5 percentage point deceleration (4.88 - 0.5) to get the allowable percentage increase in the margin of 4.38 percent. The allowable percentage margin in the program year is 45.93 percent (44 × 1.0438)

B. Professional Fees

Q1: Does the program apply to doctors' fees, hospital charges and other medical care prices?

A. Yes. Physician, dentist and other health professional fees are covered under the professional fee standard. Drugs, pharmaceuticals, eyeglasses and other health care products are covered under the general price standards.

Hospital and nursing home care are covered under the program but standards for their services have not yet been completed. This is partly due to the more complex nature of payment mechanisms for these services and the need to coordinate the standards with Administration legislative proposals.

Health insurance is also covered under the program and price standards for health insurance as well as other types of insurance will be issued shortly.

Q2. How is the professional fee standard applied by firms which have sales of products for which the general price standard applies?

A. Companies that provide services for which the professional fee standard applies as well as goods or services for which the general price standard applies, should comply with the appropriate standard for each segment of their business separately.

Q3. Why is a 6.5 percent fixed price standard being used for professionals rather than the 0.5 percent deceleration standard applicable to firms in most other sectors?

A. Many professionals do not have the necessary information to calculate weighted average price increases to determine compliance with the general price standards.

For health professions, fee inflation has tended to be considerably higher during recent years than 6.5 percent so that the implementation of this standard should contribute to a more substantial deceleration in medical care costs.

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE (2d REVISION)

I. REQUEST
Bill/Resolution No. HOUSE CONCURRENT RESOLUTION NO. 2
Title Approving Certain Recommendations of the Salary Commission
Requested by State Affairs Date 4/19/79

II. FISCAL DETAIL
Agency Affected Legislative Affairs
Program Category Affected General Government
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	35.6	73.6	76.0			
200 TRAVEL	17.4	17.4	17.4			
300 CONTRACTUAL	19.2	19.2	19.2			
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	72.2	110.2	112.6			

FUNDING (Thousands of Dollars)

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
GENERAL FUND	72.2	110.2	112.6			
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
FULL TIME	-0-					
PART TIME						
TEMPORARY						

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

Recommendations (12)(A) - Personal Services (100) ------------ $ 35,532
Assumes 7% increase effective 1/1/80
(12)(C) - No change
(12)(D) - Contractual (300) ---------------- 19,200
(12)(F) - No change
(12)(G) - Travel (200) ---------------------- 17,400
Round-trip travel for 60 legislators to home districts

IV. DATE Revised 4/19/79 PREPARED BY Warren W. Endicott, Director
AGENCY Legislative Affairs Agency
PHONE 465-3850

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

33-001 (Rev. 12/78)

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE (REVISED)

I. REQUEST
Bill/Resolution No HOUSE CONCURRENT RESOLUTION NO. 2
Title Approving Certain Recommendations of the Salary Commission
Requested by State Affairs Date 3/21/79

II. FISCAL DETAIL
Agency Affected Legislative Affairs
Program Category Affected General Government
Budget Request Unit(s) Affected

EXPENDITURES (Thousands of Dollars)

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
100 PERSONAL SERVICES	35.6	73.6	76.0			
200 TRAVEL	11.4	11.4	11.4			
300 CONTRACTUAL	19.2	19.2	19.2			
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	66.2	104.2	106.6			

FUNDING (Thousands of Dollars)

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
GENERAL FUND	66.2	104.2	106.6			
FEDERAL FUNDS						
OTHER (Specify)						

POSITIONS

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
FULL TIME	-0-					
PART TIME						
TEMPORARY						

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

Recommendations (12)(A) - Personal Services (100) ------------ $ 35,532
Assumes 7% increase effective 1/1/80
(12)(B) - No change
(12)(D) - Contractual (300) ----------------- 19,200
(12)(F) - No change
(12)(G) - Travel (200) --------------------- 11,400

Warren W. Endicott

IV. DATE Revised 3/21/79 PREPARED BY Warren W. Endicott, Director
AGENCY Legislative Affairs Agency
PHONE 465-3850

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

33-001 (Rev. 10/78)

ALASKA SALARY COMMISSION

FINAL REPORT

1979

COMMISSION MEMBERS:

KATHLEEN DIEBELS, CHAIRMAN
WILLIAM FELL
CLIFFORD HARTMAN
KARL JOHNSTONE

January 23, 1979

President of the Senate of the State of Alaska

Speaker of the House of the State of Alaska

In accordance with AS 39.23, the Alaska Salary Commission is submitting this report to you. Copies may be otained from the Division of Personnel and Labor Relations, Department of Administration.

Sincerely,

Kathleen Diebels

Kathleen (Kay) Diebels
Chairman
Alaska Salary Commission

KD/mlh

PURPOSE OF THE SALARY COMMISSION

The written policy as expressed in House and Senate Committee Substitute for Senate Bill #499, "An Act relating to compensation, benefits and classifications of public officers and employees; creating the Alaska Salary Commission; and providing for an effective date" states that the Commission is to determine salary and retirement benefits for public officers based upon equitable relationships being maintained among various positions.

Employees covered by Salary Commission recommendations are the Governor, Lieutenant Governor, Department Commissioners, Deputy Commissioners, Directors, the Judiciary, Legislature and three of the four Regulatory Commissions (the Alaska Transportation Commission was removed from review by the Legislature in 1978.)

FOREWARD

The Act establishing the Salary Commission calls for a biennial report, with submission of a preliminary report by November 15, and the necessity for soliciting public comments prior to submission of final recommendations within 10 days of the opening of the Legislature.

The Salary Commission met in January and March 1978, to elect a Chairman and reach agreement on a schedule of meetings to develop salary and benefit recommendations for submission to the Legislature in January 1979. The agenda also included a policy question as to whether the Salary Commission should consider submission of 1978 amendments to its recommendations issued January 18, 1977, (as amended on March 2, 1977) in response to Administration and Court System requests for clarification of certain recommendations, and revision of others. By majority vote, the Salary Commission decided not to issue amendments, but limit itself to developing recommendations for 1979, which would include any clarification or revision of the 1977 recommendations deemed necessary.

During 1978, and 1979, the Commission met a total of 13 days.

As provided in AS 39.23, the Division of Personnel and Labor Relations, Department of Administration, provided staff assistance, and the Commission wishes to thank those men and women for their support. Also, as provided by the enabling legislation, the Commissioner of Administration did provide the Commission with recommendations regarding compensation and retirement benefits.

During its organizational meeting, the Commission immediately established:

1. An overall plan for achieving its objective;

2. A timetable consistent with provisions of the Act;

3. Staff liaison and support personnel and facilities;

4. A method of gathering data necessary to meet Commission requirements;

5. Meeting dates.

Again, as provided by the AS 39.23, the Commission called upon various State agencies for information, and the information was provided in a prompt manner. The Salary Commission, therefore, wishes to acknowledge the valuable assistance of numerous individuals and divisions within State government.

The Commission made time available for those who wished to present information to the Commission.

Some of the resource materials utilized include Department of Labor Cost of Living Statistics, comparative data from "The Book of the States," comparative data from the Council of State Governments, statistical data from the Department of Administration, comparative data from the "1975 Citizens' Conference on State Legislators," returns from research requested by the Commission of certain salaries and benefits from selected states, position paper and analysis provided by the Judicial System. The "Survey of Salaries and Benefits" compiled and published in December, 1977, by the Division of Personnel and Labor Relations also provided valuable aid for the Commission.

A combination of factors was considered in arriving at salary recommendations; among them were: inflation and its affect on cost-of-living, salaries and benefits paid in other states, salary relationships to other State employees and the fact that recommended salaries would prevail for two years without further review. Additionally, on October 13, 1978, President Carter's Council on Wage and Price Stability issued guidelines which established maximum wage levels allowable for both private and public sector employees.

The Commission made a conscious compromise decision in 1976 to bring salaries only to 1977 levels, even though they would be in effect for two (2) years. This was done because the significant raises voted in 1975 by the Legislature were nullified by the August, 1976 referendum and the mood of the taxpayer about those raises was perceived to continue to prevail after the referendum.

The Salary Commission also reviewed substantial public input on its prelimary recommendations received in the form of written comments addressed to the Commission.

Giving due regard to the public input, considering the factors outlined above, and following regulations established by the President's Council on Wage and Price Stability, the Commission recommends salary adjustments listed on the following pages of this report.

RECOMMENDATIONS

1) GOVERNOR

The Salary Commission recommends:

A. A salary of $57,231 annually for the Governor of Alaska.

B. Beginning January 1, 1980, the above salary of the Governor shall be increased in an amount equal to the increase, expressed in terms of percentage, in the United States Department of Labor Consumer Price Index (Urban and Clerical Workers) for Anchorage, Alaska from January, 1979, to January, 1980. Any salary adjustment shall be made in an amount calculated to the nearest tenth of a percentage point increase in the Consumer Price Index.

C. The Governor remain in the Public Employees Retirement System.

2) LIEUTENANT GOVERNOR

The Salary Commission recommends:

A. The salary of $51,088 annually for the Lieutenant Governor of Alaska.

B. Beginning January 1, 1980, the above salary of the Lieutenant Governor shall be increased in an amount equal to the increase, expressed in terms of percentage, in the United States Department of Labor Consumer Price Index (Urban and Clerical Workers) for Anchorage, Alaska from January, 1979, to January, 1980. Any salary adjument shall be made in an amount calculated to the nearest tenth of a percentage point increase in the Consumer Price Index.

C. The Lieutenant Governor remain in the Public Employees Retirement System.

3) DEPARTMENT COMMISSIONERS

The Salary Commission recommends:

A. A salary of $51,088 annually for Department Commissioners.

B. Beginning January 1, 1980, the above salary for Department Commissioners shall be increased in an amount equal to the increase, expressed in terms of percentage, in the United States Department of Labor Consumer Price Index (Urban and Clerical Workers) for Anchorage, Alaska from January, 1979, to January, 1980. Any salary adjustment shall be made in an amount calculated to the nearest tenth of a percentage point increase in the Consumer Price Index.

C. The Department Commissioners remain in the Public Employees Retirement System.

4) DEPUTY COMMISSIONERS

The Salary Commission recommends:

A. A salary of $45,762 annually except that those State employees who accept appointment as Deputy Commissioner whose annual salary exceeds $45,762 shall continue to receive that higher salary.

B. Beginning January 1, 1980, the above salary for Deputy Commissioners shall be increased in an amount equal to the increase, expressed in terms of percentage, in the United States Department of Labor Consumer Price Index (Urban and Clerical Workers) for Anchorage, Alaska from January, 1979, to January, 1980. Any salary adjustment shall be made in an amount calculated to the nearest tenth of a percentage point increase in the Consumer Price Index.

C. The Deputy Commissioners remain in the Public Employees Retirement System.

5) DIRECTORS

The Salary Commission recommends:

A. Directors remain on State pay plan (AS 39.27.011). We continue to recommend entry level of new Directors be in the 'A' step of the salary range at which they are hired. We recognize that promotions to Director may sometimes necessitate that those receiving the promotion move into a step other than 'A' in order to be assured a salary increase. In such cases, that person receiving the promotion should enter at the lowest step necessary to insure a salary increase.

B. Salary progression follow the steps outlined in the State salary schedule in AS 39.27.011 to a maximum of $50,000 annually. Directors whose salaries exceed $50,000 annually on December 31, 1978, remain at that salary without further increases.

C. All Division Directors who, as of December 31, 1978, are on frozen salary shall, as of January 1, 1979, be placed within the salary schedule at the appropriate range closest to but not less than their current salary and shall progress in step according to the schedule within that salary range, provided that their salary shall not exceed a maximum of $50,000/year.

D. Any State employee who, without a break in continuous service, is appointed to a position of Division Director after December 31, 1978, shall be placed at the time of appointment within the salary schedule at the appropriate range and step closest to but not less than his current salary, and s[illegible] ress in step according to schedule within that salary range, provided his salary shall not exceed $50,000/year.

E. Directors remain in the Public Employees Retirement System

F. These recommendations apply to base salaries, exclusive of geographic differential payments.

6) ALASKA PUBLIC UTILITIES COMMISSION

The Salary Commission recommends:

A. That members of the Commission be paid $44,353 annually.

B. The Chairman of the Commission be paid an additional $500 annually, prorated as part of the regular salary.

C. Beginning January 1, 1980, the above salary of each Alaska Public Utilities Commissioner shall be increased in an amount equal to the increase, expressed in terms of percentage, in the United States Department of Labor Consumer Price Index (Urban and Clerical Workers) for Anchorage, Alaska from January, 1979, to January, 1980. Any salary adjustment shall be made in an amount calculated to the nearest tenth of a percentage point increase in the Consumer Price Index.

D. Alaska Public Utilities Commission members remain in the Public Employees Retirement System.

7) ALASKA COMMERICAL FISHERIES ENTRY COMMISSION

The Salary Commission recommends:

A. A salary of $44,353 annually for members of the Alaska Commerical Fisheries Entry Commission.

B. The Chairman of the Commission be paid an additional $500 annually, prorated as part of the regular salary.

C. Beginning January 1, 1980, the above salary of each Alaska Commerical Fisheries Entry Commissioner shall be increased in an amount equal to the increase, expressed in terms of percentage, in the United States Department of Labor Consumer Price Index (Urban and Clerical Workers) for Anchorage, Alaska from January, 1979, to January, 1980. Any salary adjustment shall be made in an amount calculated to the nearest tenth of a percentage point increase in the Consumer Price Index.

D. Commissioners remain in the Public Employees Retirement System.

8) ALASKA PIPELINE COMMISSION

The Salary Commission recommends:

A. A salary of $44,353 annually for members of the Pipeline Commission.

B The Chairman of the Commission be paid an additional $500 annually, prorated as part of the regular salary.

C. Beginning January 1, 1980, the above salary of each Alaska Pipeline Commissioner shall be increased in an amount equal to the increase, expressed in terms of percentage, in the United States Department of Labor Consumer Price Index (Urban and Clerical Workers) for Anchorage, Alaska from January, 1979, to January, 1980. Any salary adjustment shall be made in an amount calculated to the nearest tenth of a percentage point increase in the Consumer Price Index.

D. Commissioners remain in the Public Employees Retirement System.

9) SUPREME COURT JUSTICES

The Salary Commission recommends:

A. Annual salary of $57,231 for Supreme Court Justices.

B. Beginning January 1, 1980, the above salary of each Supreme Court Justice shall be increased in an amount equal to the increase, expressed in terms of percentage, in the United States Department of Labor Consumer Price Index (Urban and Clerical Workers) for Anchorage, Alaska from January, 1979, to January, 1980. Any salary adjustment shall be made in an amount calculated to the nearest tenth of a percentage point increase in the Consumer Price Index.

C. No change in the retirement benefits now applicable to Supreme Court Justices.

10) SUPERIOR COURT JUDGES

The Salary Commission recommends:

A. Annual salary of $52,462 for Superior Court Judges.

B. Beginning January 1, 1980, the above salary of each Superior Court Judge shall be increased in an amount equal to the increase, expressed in terms of percentage, in the United States Department of Labor Consumer Price Index (Urban and Clerical Workers) for Anchorage, Alaska from January, 1979, to January, 1980. Any salary adjustment shall be made in an amount calculated to the nearest tenth of a percentage point increase in the Consumer Price Index.

C. No change in retirement benefits now applicable to Superior Court Judges.

11) DISTRICT COURT JUDGES

The Salary Commission recommends:

A. Annual salary of $44,353 for District Court Judges.

B. Beginning January 1, 1980, the above salary of each District Court Judge shall be increased in an amount equal to the increase, expressed in terms of percentage, in the United States Department of Labor Consumer Price Index (Urban and Clerical Workers) for Anchorage, Alaska from January, 1979, to January, 1980. Any salary adjustment shall be made in an amount calculated to the nearest tenth of a percentage point increase in the Consumer Price Index.

C. No change in retirement benefits now applicable to District Court Judges.

12) LEGISLATORS

The Salary Commission recommends:

A. A salary of $12,690 annually for State Legislators.

B. The Senate President and House Speaker each receive an additional $500 per year payable on the opening day of each regular session of the Legislature or upon confirmation by the House or Senate after the opening of a regular session of the Legislature.

C. Legislators receive an annual allowance to a maximum of $4.320.

D. Beginning January 1, 1980, the above salary of each Legislator shall be increased in an amount equal to the to the increase, expressed in terms of percentage, in the United States Department of Labor Consumer Price Index (Urban and Clerical Workers) for Anchorage, Alaska from January, 1979, to January, 1980. Any salary adjustment shall be made in an amount calculated to the nearest tenth of a percentage point increase in the Consumer Price Index.

E. Participation in the Public Employees Retirement System remain voluntary for Legislators.

F. Legislators receive per diem at the same rate as State employees, including regional variations where applicable. (See per diem rate schedule for administrative State employees. Appendix II.) Legislators who do not live in their city of residence during regular or special legislative sessions will receive per diem at the short-term rate; interim committee work should be paid at the short-term per diem rate; however, per diem is to be paid at the long-term (lower) rate if Legislators are able to stay in their city of residence while on legislative business.

G. We concur with action by 1978 legislative session adopting a 1977 Salary Commission recommendation that each Legislator shall be reimbursed at cost, and upon presentation of proof, for one round-trip to his home district during each regular session.

APPENDIX I

POSITION	SALARIES EFFECTIVE JANUARY 1, 1977	SALARIES RECOMMENDED FOR JANUARY 1, 1979
Governor	$52,992.00	$57,231.00
Lieutenant Governor	47,304.00	51,088.00
Chief Justice	52,992.00	57,231.00
Associate Justice	52,992.00	57,231.00
Superior Court Judge	48,576.00	52,462.00
District Court Judge	41,068.00	44,353.00
House Speaker	12,250.00	13,190.00
Representative	11,750.00	12,690.00
Senate President	12,250.00	13,190.00
Senator	11,750.00	12,690.00
Commissioner	47,304.00	51,088.00
Deputy Commissioner	42,372.00	45,762.00
Chairman, ACFEC	39,872.00	44,853.00
Commissioner, ACFEC	39,372.00	44,353.00
Chairman, APUC	39,872.00	44,853.00
Commissioner, APUC	39,372.00	44,353.00
Chairman, APC	39,872.00	44,853.00
Commissioner, APC	39,372.00	44,353.00
Division Director	38,868.00 (min.)	50,000.00 (max.)*

* Directors to remain on the State Pay Plan to a maximum of $50,000.00.

12,690 | 11,750.00

APPENDIX II

PER DIEM RATES

(In Effect November, 1978)

LOCATION	HOUSE ELECTION DISTRICT	SHORT-TERM PER DIEM RATE	LONG-TERM PER DIEM RATE
Outside Alaska - U.S. & Canada	0	$50.00	$35.00
Ketchikan - Prince of Wales	1	50.00	35.00
Wrangell - Petersburg	2	52.00	35.00
Sitka	3	52.00	35.00
Juneau	4	55.00	35.00
Lynn Canal - Icy Straits	5	54.00	35.00
Cordova - Valdez	6	58.00	35.00
Palmer - Wasilla - Talkeetna	7	52.00	35.00
Anchorage	8	55.00	35.00
Seward	9	54.00	35.00
Kenai - Cook Inlet	10	54.00	35.00
Kodiak	11	54.00	35.00
Aleutian Islands	12	63.00	38.00
Bristol Bay	13	63.00	38.00
Bethel	14	65.00	39.00
Yukon - Kuskokwim	15	67.00	40.00
Fairbanks - Fort Yukon (South of Arctic Circle)	16-S	58.00	35.00
Fairbanks - Fort Yukon (North of Arctic Circle)	16-N	67.00	40.00
Barrow - Kobuk	17	96.00	58.00
Kotzebue	17	84.00	50.00
Nome	18	82.00	49.00
Wade Hampton	19	65.00	39.00
*Pipeline Corridor (South of Arctic Circle)	PC-S	58.00	35.00
*Pipeline Corridor (North of Arctic Circle)	PC-N	67.00	40.00
City of New York	----	65.00	39.00
City of Washington, D.C.	----	65.00	39.00

* In all communities along the Pipeline Corridor from Valdez to Prudhoe Bay, except the communities of Valdez and Fairbanks, the State will pay either the established per diem or actual costs for lodging and meals. Actual costs must be supported by paid receipts or billings.

STATE
of ALASKA

MEMORANDUM

TO: The Honorable Mike Miller
Chairman
House State Affairs Committee
Alaska State Legislature

DATE: February 9, 1979

FILE NO:

TELEPHONE NO:

FROM: Commissioner B. B. Allen BA
Department of Administration

SUBJECT: HCR 2

Comparison of subject resolution with the text of the Salary Commission's final report to the Legislature shows some substantive differences in language. Although these changes may have been intentional, I am calling them to your attention on the chance they were not.

Language in HCR 2:

> "Whereas Recommendation Number (5)(A) proposes that there be no change in the salary level of division directors; the Salary Commission recognizes that promotions from deputy director of a division may sometimes necessitate that those receiving a promotion move into a step other than 'A' in order to be assured a salary increase; in such cases, that person receiving the promotion should enter at the lowest step necessary to receive a salary increase;"

Language in Salary Commission Recommendation (5)(A):

> "Directors remain on state pay plan (AS 39.27.011). We continue to recommend entry level of new Directors be in the 'A' step of the salary range at which they are hired. We recognize that promotions to Director may sometimes necessitate that those receiving the promotion move into a step other than 'A' in order to be assured a salary increase. In such cases, that person receiving the promotion should enter at the lowest step necessary to insure a salary increase."

It looks as if some lines may have been omitted when the Resolution was typed. Also, in the era of magnetic card typing capability, it appears some language from the 1977 Resolution was used in preparing HCR 2. For example, the 1977 Resolution listed promotions from "deputy director." After hearing about our problems in promoting anyone else to division director, the Salary Commission removed all reference to class titles in preparing its recommendations to the Legislature.

Language in HCR 2:

> "Whereas Recommendation Number (5)(C) proposes that directors who, as of December 31, 1978, have their salaries frozen [emphasis added] shall, as of January 1, 1979, be placed within the state salary schedule in AS 39.27.011 at the range

> closest to, but not less than, their current salary and their salary progression shall follow the steps outlined in the salary schedule to a maximum of $50,000 annually;"

Language in Salary Commission Recommendation (5)(C):

> "All Division Directors who, as of December 31, 1978, are on frozen salary [emphasis added] shall, as of January 1, 1979, be placed within the salary schedule at the appropriate range closest to but not less than their current salary and shall progress in step according to the schedule within that salary range, provided that their salary shall not exceed a maximum of $50,000/year."

This recommendation was designed to correct situations whereby non deputy directors who are promoted to director had their salaries frozen rather than cut to achieve step 'A' of the higher salary range. Recommendation (5)(B) provides that director salaries above $50,000 will be frozen without further increase. To substitute the words "have their salaries frozen" for "are on frozen salary" for Recommendation (5)(C) would contradict Recommendation (5)(B).

I am available at your convenience to discuss these topics.

BBA/bc
P2-N

HCR

12

(7)

COMMITTEE REPORT

HOUSE

FURTHER: FINANCE

March 14, 1979 Da 4/4/79

Mr. Speaker:

The Committee on STATE AFFAIRS has had HCR 12

Requesting the governor to give consideration to contract negotiations between the state and the Matanuska-Susitna Borough relating to the relocation of the capital.

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

[ ] do pass [X] do not pass

[ ] do pass with attached amendments(s)

[X] replace with CS for HCR 12 [ ] same title [X] new title

and recommends

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

[ ] reports it back without recommendation

[ ] referred to the ______ Committee

MEMBERS SIGNING DO PASS Not Pass

[signature]

[signature] Do Not Pass

Terry Gardiner Do Not Pass

[signature] " " "

MEMBERS HAVING OTHER RECOMMENDATIONS:

Terry Martin - Do pass

[signature] Do Pass

[signature]

CHAIRMAN

H 60 (Rev. 12/78)

Introduced: 3/14/79
Referred: State Affairs and Finance

BY CARNEY, BARNES, BEIRNE, BETTISWORTH, BUCHHOLDT, CHATTERTON, COTTEN, HALFORD, HAYES, MCKINNON, MALONE, MARTIN, MEEKINS, METCALFE, MILES, MONTGOMERY, MUNSON, O'CONNELL, PARR, PHILLIPS AND RANDLOPH

IN THE HOUSE

HOUSE CONCURRENT RESOLUTION NO. 12

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - FIRST SESSION

Requesting the governor to give consideration to contract negotiations between the state and the Matanuska-Susitna Borough relating to the relocation of the capital site

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

WHEREAS, in 1974, the people passed an initiative requiring the relocation of the capital site and requiring that the relocation begin no later than October 1, 1980; and

WHEREAS, in 1976, the people selected the Willow area as the site for the new capital; and

WHEREAS, in 1978, the people passed an initiative allowing the expenditure of state money for the relocation of the present functions of state government only after adoption by the voters of a bond issuance which includes all bondable costs of the relocation;

BE IT RESOLVED by the Alaska State Legislature that contractual negotiations between the state and the Matanuska-Susitna Borough, which would provide for the development of the new capital city by the borough at no expense to the state, are a practical ~~are the best~~ means of complying with the people's wish to relocate the capital site while, at the same time, complying with the 1978 initiative; and be it

FURTHER RESOLVED that the governor is respectfully requested to consider these contract negotiations at the earliest possible time in order to satisfy the October 1, 1980 target for beginning the relocation.

if it is found that:
1. the Matanuska-Susitna Borough has the powers and financial abilities to accomplish the development of a capital city in accordance with AS 44.06 and AS 44.07, and
2. no state funds will be expended for the development of a capital city in accordance with AS 44.06 and AS 44.07.

<u>STATEMENT BEFORE THE</u>
<u>STATE AFFAIRS COMMITTEE</u>
<u>ELEVENTH LEGISLATURE - FIRST SESSION</u>
<u>FRIDAY, APRIL 6, 1979 AT 1:30 O'CLOCK P.M.</u>

Our name is Carolyn Burg and we are a citizen of the United States and a resident of the City and Borough of Juneau, Alaska for approximately 26 years. With the exception of the 25th Amendment to the United States Constitution (which we are challenging as being unconstitutional and void upon its face) we believe in the Constitution of the United States and the portions of the Constitution of the State of Alaska that are constitutional according to the United States Constitution, and do not consider the United Nations Treaty or any other instrument excepting the <u>Declaration of Independence</u> to be the law of the land. <u>U.S. Constitution Declaration of Independence Contract Theory</u>

We do believe in <u>Sec. 3</u> of the <u>Alaska Statehood Act</u> which states:

> "...(Constitution.) The constitution of the State of Alaska shall always be republican in form and shall not be repugnant to the Constitution of the United States and the principles of the Declaration of Independence..."

We are appearing here involuntarily inasmuch as we have searched for a lawyer to help us, have been willing to pay for such help, but none can be found within the United States to help us on the various matters we are challenging, including the Capital Move Issue. So we have to continue on our own.

Our Capital in Juneau is property which cannot be reached by an initiative because it is PRIVATE PROPERTY.

Private property does not change with a change from territory to state. That's the gist of this whole case.

In other words, we are alleging that Juneau as the Capital is a private corporation under Federal Eminent Domain and the State of Alaska has no jurisdiction in it, because years ago Congress put this Capital under an interesting set of circumstances which cannot now be changed. Property Which Cannot be Reached by the Power of Eminent Domain for a Public Use or Purpose in the Pennsylvania Law Review, Vol. 28, No. 2, December, 1929 by Milton Colvin.

In this article on page 151 Mr. Justice Story states:

> "...Although the sovereign power in free government may appropriate all the property, public as well as private, for public use, making compensation therefore, yet it has never been understood, at least never in our Republic, that the sovereign power can take the private property of A and give it to B by the right of eminent domain..."

And still further on this article states:

> "...The 'due process' clause of the federal and state constitutions enunciates another principle in behalf of the individual property owner, and when it has come in conflict with the principle of the prerogative of sovereign eminent domain, the latter sometimes has to give way. It has been held that eminent domain power cannot be employed to take property by the kind of undue process of law whose description has found expression in the classical example of 'taking the property of A to convey it to B'. West River Bridge Co. v. Dix, 6 How. 507 (U.S. 1948). The fact that the taking has behind it the prestige and power of eminent domain, and that the property is to be paid for by ample compensation has not been allowed to impair the integrity and applicability of this ancient example..."

Your Speaker, Terry Gardiner, has a copy of our complaint which we issued to the United States District Court and about a dozen of these complaints were delivered by the Marshal around November 1, 1978, at which time the judge, James A. von der Heydt, dismissed the case. Knowing Judge von der Heydt to be a good judge, this is not normal behavior for him, so we are looking into the laws of Congress to see what legislation is taking away the power of this judge to act, however, we have not had time to research this matter properly, as we have been concerned about our daughter.

Our daughter, Nancy, has been experiencing trouble with her heart and has just recently come out of intensive care at the Bartlett Memorial Hospital. It was required to stabilize her condition before sending her south with a nurse, oxygen, etc. She has undergone open-heart surgery and is now recovering in Seattle, where her husband is with her. Meanwhile we have been taking care of their twins and their home.

Excepting for bringing this before the court the Capital Move Issue is all over. All of the initiatives that have ever been brought, and all of the laws associated with these initiatives are unconstitutional and void, because the police power of the state cannot act in this case.

It would be redundant to repeat all of our authorities which we have given you in in the past, but we will give you the Supreme Court Rule which puts the restriction on the taking of this Capital. Mr. Justice Field, in a very famous opinion which has never been reversed in Williams v. Arlington Hotel, 22 F 2d 669 (a hotel) and People v. Mouse, 265 P 945 (a soldier's home) states that there are three ways in which the United States may acquire and hold land within the confines of a state and Juneau as the Capital comes within the "second way" that this can be done or by the United States purchasing property from private individuals .

Even Governor Jay Hammond in his meeting before the Joint Senate and House in his State of the State message on January 16, 1979, page 14 said:

"...PRIVATE OWNERS SHOULD BE ABLE TO LOCK OTHERS OUT FROM ACCESS TO THEIR LANDS..."

If this precedent were allowed to stand - taking this Capital which is PRIVATE PROPERTY by the police power of the State, none of our homes would be safe from the police power in the Nation. Congress could take your home or ours and give it away to someone else without a deed.

Governor Jay Hammond would not be able to act at all in this situation, as he has to see that the laws are faithfully carried out - that is his function as the top executive of this State.

Therefore the Mat-Su's proposal for moving the capital is completely unconstitutional and void. What the State of Alaska cannot do, neither can a Borough who is under the State accomplish.

We have read the Attorney General's Opinion to The Honorable Samuel R. Cotten and The Honorable Patrick Carney for the State of Alaska, and in the case moving of this Capital would be valid, the Attorney General left out one very important point. We will now ask Mr. Ron Larson one question. In the case that this "move proposal" were constitutional, Mr. Larson, would the Mat=Su Borough also be willing to pay for Juneau's compensation BEFORE moving anything to your Borough? Under condemnation procedures this is what would have to be done. Would your Borough be willing to pay for all this too?

Juneau is controlled by Chapter 561 - An Act to Repeal Timber Culture Laws and for other purposes, 51st Cong. Sess. II, 1891 (March 3) page 1095, Sec. 11-14, 26 Stat (U.S. Comp. Stat. 1901, pp 1467, 1468 relating to Townsites in Alaska WHICH ARE RESERVED BY THE FEDERAL GOVERNMENT and we have a United States Deed in U.S. Survey No. 7 covering this Townsite.

Obtaining a patent for this townsite, possessory rights were immediately begun. Occupants exercise their possessory rights by applying for a deed, which these people did who owned theland underneath Block No. 19 (the Capitol) Excercising possessory rights from September 4, 1897 when this townsite was patented gives a long possessory right to the private property underneath this building.

Sec. 14 of this above law states:

> "That none of the provisions of the last two preceding sections of this act shall be so construed as to warrant the sale of any lands belonging to the United States which shall contain coal or the precious metals, or any townsite, or which shall be occupied by the United States for public purposes, or which shall be reserved for such purposes..."

The controlling statute for Juneau was made by Congress and placed into a trust relationship with the Secretary of the Interior, which we consider exclusive legislation by Congress.

As we stated to The Hon. Terry Miller when he questioned us at the Baranof Hotel in April of 1974 (the first committee set up on the Capital Move) "The Capital Move is completely unconstitutional and void. Even the vote on this issue was without due process because there was no chance to study it - it was brought off in a hurry." It was that night that we gave Frank Harris, who was present at the meeting public notice that we were looking into this issue further and challenging it. The Southeast Alaska Empire noted this fact approximately April 15 or 16, 1974.

After all the money spent on this issue, nothing has changed. No one can take private property by an initiative. This is property which cannot be reached by one.

We would like a hearing on this in a competent court with a ruling thereon by a competent judge, and we would like everything we do to be judicially noticed by the court.

We are now ready for any questions you may pose.

Respectfully submitted,

Carolyn Burg

(Mrs. Amos) Carolyn Burg

cc: The Hon. Mike Miller, Chairman, State Affairs Committee, Box 1494, Juneau, Alaska 99802
The Hon. John G. "Jack" Fuller, Vice-Chairman, State Affairs Committee, 11th State Legislature, Box 689, Nome, Alaska
The Hon. Terry Gardiner, Speaker of the House of Representatives, Box 6092, Ketchikan, Alaska 99901
The Hon. Richard I. Eliason, Box 143, Sitka, Alaska 99835
The Hon. Terry Martin, 3960 Reka Drive B-6, Anchorage, Alaska 9950[illegible]
The Hon. Ray H. Metcalfe, Box 4-2766, Anchorage, Alaska 99509
The Hon. Bill Parker, 200 Denali Street, Anchorage, Alaska 99501
The Hon. Solicitor General, Washington, D. C. 20000

State of Alaska)
Greater Juneau Borough) ss.
Juneau, Alaska)

Subscribed and sworn to before me on oath that all the above facts are true to the best of my knowledge and belief, and that these facts are from Carolyn Burg's personal research and study in bringing this before the court and that it has not been in any way for delay.

I am a Notary Public for the State of Alaska, Greater Juneau Borough, Juneau, Alaska, and the above-named Carolyn Burg is known by me to be the person named in this instrument.

Dated April 6, 1979.

Jean F. Boone
Notary Public
My Commission Expires January 21, 1982

My Commission Expires ____________________

Alaska State Legislature

House of Representatives

Committee on State Affairs

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

Thursday

March 29, 1979

Representative Pat Carney

~~Mr. Ron Larson~~

~~Mrs. Carolyn Burg~~

4 Mr. Bill Overstreet

Ms. Jan Erickson

2 Carolyn Bushey

1 Mary Nordale

3 CB Bettisworth

5 Carolyn Burg

THERE ARE OTHERS.

Some of the Juneau papers would like to have their readers and the entire country believe that city is the "whole thing." That it is the only place of importance in this vast country, and every town and mining camp in Alaska is tributary to it. The fact is that Juneau was never as dead as she is at the present time. Her business is rapidly decreasing, and many of her merchants are moving away, while others are opening up branch houses in Skagway with the intention of moving their entire business interests to that city. There facts were made voluntarily by one of the prominent business men of that city while here a few days ago. Nearly every person comeing to this place from Juneau or who has passed through that city, says the same thing, "Juneau is dead."

The Record of that city has on recent occasions informed its readers that the Bauer and Turner mines of this place are tributary to Juneau. Capt. Armstrong, the manager of the Turner mine, according to that paper is to reside with his family in Juneau and operate the mine from that place and will purchase his supplies there.

Such is not the case at all. These mines will be operated from Sitka and the supplies for them will be purchased from Sitka merchants. Capt. Armstrong and family will reside in this place, the garden spot of Alaska, and will not make daily trips from Juneau to Silver bay to operate his mine. The Bauer mine is spending $1500 a month here and has only spent $25 in Juneau.

Juneau is a nice city and there are nice people there. Fine business houses and we suppose good mines and we wish for her future success. She covets the capital we know, our fine climate and beautiful scenery, but don't take our mines for we have some good ones as this season's work will prove. Don't try to make the people think you are the "whole thing." There are other diggings just as rich as Juneau and you are not the only nugget in the sluice.

June 21, 1890

ON THE REMOVAL OF THE CAPITAL

From our Capital city, proud Sitka,
the Queen,
Jealous Juneau, low born of the hill
and the gale,
Unknown both to song and tradition,
Seeks to steal her high place;but it's
plain to be seen
That all capital, other than foreign,
must fail
To save the poor Jade from perdition.

J.S.B.

May 26, 1900

The Carter Bill, which passed the senate the first of this month, contained a clause, allowing the capital of Alaska to be temporarily located at Juneau, when the necessary buildings therefor are erected at that place.

Legislative bodies rarely incorporated irony into their enactments but all who are familiar with conditions at Juneau will not fail to "see the joke" in this case.

Compliments of
REP. TERRY MARTIN

Compliments of
REP. TERRY MARTIN

The Washington dispatch in yesterday's Post-Intelligencer to the effect that the senate committee on territories had decided to report fa.orably on the removal of the capital of Alaska from Sitka to Juneau is recognized as a defeat for Gov. Brady, and it is thought brings the fight on the Alaskan capital question almost to an end.

Gov. Brady lived in Sitka years before he became the chief executive. He ran a sawmill, raised potatoes, developed eloquence on prohibition, and identified himself with Rev. Sheldon Jackson and his missionary influence. The governor still runs the sawmill still has his potato patch, and has acquired in the slow passage of years consideralbe land that will be of great value if Sitka should ever shake off its rural semblance and grow to be a city.

The removal of the capital to Juneau means much for that town. It is at present really the central point of Southeastern Alaska. An appropriation of $45,000 has been hanging fire at Washington for a court house and jail at Juneau for nearly two years. The money has been available, but not a cent's worth of work has been done. Juneau people lay the delay at the door of the governor, and the alleged "missionary pull" at Washington, but this has amounted to little more than conjecture. If Juneau is made the capital, not only will the Federal building for which the appropriation has been so long available be elected, but a capital building will also have to be provided. The government now provides living quarters for the principal Alaskan officials, furnishing them with fuel, light, and all the necessaries except provisions

The main activity, support and dignity of Sitka came from the government officials and their families. With the capital removed to Juneau, Sitka will, it is claimed, become little more than a village of Indians and mixed descendants of the early Russian settlers.

The foregoing appeared in the Seattle P.-I. of the Jan. 26.

Seattle is a flourishing young city. It is favorably situated for handling trade and will no doubt become an important commercial center in the near future. Its business is conducted mostly by young men, bright, active, energetic and full of hope. Sitka is proud of the Queen city of the Sound and has none other than good wishes for its prosperity.

However the flavor of immaturity still pervades it. Its youth is manifest in its penchant for boasting. In that line it keeps well abreast of the band wagon, and for making the most out of little has no equal on the coast. But as that is a source of satisfactionto it, and does no injury to any one else we let it pass.

Notwithstanding all its brillant prospects, it realizes that it is not entirely out of the woods yet, and therefore is alert to detect possible rivals. In scanning the northern coast and studying its geography its evidently conceived it had discovered one in the historic city of Alaska, and with a promptness whichis an admirable characteristic of it, decided it must be destroyed.

Seattle has a piece of ordinance. It is used at long or short range as occasion may require. As to whether it is an effective piece of artillery or not we express no opinion; but its detonation is perhaps its most frightful quality. When the possible danger was noticed an attack on the historic city was ordered. Upon a reconnaissance it was found impossible to assail its location, consequently the gun was trained on the personne of the place. To be consistent the first assault was made on the most prominent of themand also the oldest inhabitant. In casting about for a weak point in his career at which to make the attack, it was discovered that during his long residence in the town he had kept in touch with the forces that make for righteousness, had the enterprise to manufacturer lumber, thrift to cultivate potatoes and foresight and prudence to accumulate some property. The offenses were rank, the gun belched forth, and the charge was made.

To be candid however the Alaskan believes the charges are true. It is not authorized to speak for the gentleman referred to, but is of the opinion he will not attempt to palliate or deny them, consequently it rests that part of the case.

But the fight on the Alaska capital question may not be so near an end as over esteemed contemporary imagines. We will gently remind it that there "is many a slip between the cup and the lip." When Congress hears all the facts touching the matter we believe it will hesitate long before taking such an unnecessary, ill advised and costly step. It will observe that Sitka is more centrally located than Juneau. It will learn that its surroundings are more, commodious, healthful and attractive, its climate more salubrious and genial. Also that the government owns a large amount of real estate in Sitka beautifully located and immediately available for use in the erection of public buildings. This property, if the claim set forth in the P.I. should prove correct, would be an almost total loss to the government, for what value has real estate in an Indian village. When the sum of this loss is added to the expense of procuring a site for the capital building in Juneau, and the cost of either leveling a mountain or filling a channel for the edifice to stand on Congress will find that the Salary of the extra clerk, which it is claimed will be necessary if the removal is not made, would be but a bagatelle in comparison.

Compliments of
REP. TERRY MARTIN

REMOVAL OF THE CAPITAL

In our last issue we published a press dispatch which stated, that the Senate committee on territories had decided to recommend the removal of the seat of government for Alaska from Sitka to Juneau. Another dispatch conveying this intelligence stated further that the Land Office located here would probably be moved also. This action of the committee is probably the result of representations made made by persons directly interested in Juneau and who were more anxious to promote their private interests than to advance the public welfare.

The Alaskan believes the step recommended by the Committee is a grave mistake. The reasons that can be urged in its favor, are few, ephemeral and local, while those against it are many, enduring and general.

1st. Sitka is more centrally located than Juneau or any other town east of it. If Lynn Canal and its cognate straits constituted Alaska this statement might not be warranted but it does not. The Alaskan does not want to be understood as disparaging that part of our territory. It is an important and properous section of it. It contains several thriving mining districts and its out put of bullion is considerable and will likely increase for many years to come. There are several fish canning establishments along the shores of its inlets and bays, and it is the artery through which flows the trade between Seattle and other cities on the Sound and the Klondike country. These conditions have caused some smart little towns to spring up along its shores and those of its connecting straits. These things have given it a temporary importance of which it is endeavoring to take advantage, to the detriment of other locations, important now and which promise to be more important than it, in the near future. Nearly all of the great mineral discoveries recently made are far west of it and of Sitka also. Most of the great fish canning plants are to the westward as well. The center of population is fast flowing that way and important mining towns are growing. Soon the route for traffic with and travel to and from these points will not be through the tortuous passages of the inside channels but on the open sea. Sitka will be a much more convenient point for those places to do business with than any inland town. Furthermore if mineral developements along the Yukon river and its tributaries continue, a railroad will probably be constructed at no distant day connecting Prince Wm.-Sound with that great river. This route to the gold bearing fields of the interior will be much shorter than the one from Skagway, will avoid foreign territory and for these reasons will largely supercede it.

2d. The harbor at Sitka is one of the finest in Alaska. It was selected by the Russian American Fur Company as the point for its headquarters, after a careful investigation of the coast. It is said to have the best holding ground for Anchorage of any harbor in Alaskan waters, it is well protected from storms and is an ideal place for vessels to coal and water. This serves to keep Sitka in touch with points to the westward.

3rd. The government owns much valuable property in Sitka which it acquired at the time of the transfer. It has a large warehouse, two large three story and one two story buildings for public offices and a house for the Governor's office and reception rooms. It also has quite an amount of real estate, beautifully situated , for other public edifices. The ground is comparatively level, cleared and immediately available for use. If the offices are removed to Juneau, rooms for them must be rented or buildings erected. The government owns no land there suitable for them. Nearly all of the available space in that naturally contracted townsite [for at Juneau the mountains crowd the channel] being occupied, a site for public buildings could not be obtained except at a heavy cost, and then places for them to stand would probably have to be cut out of a mountain or or filled up in the channel and in either case at great expense. Furthermore land titles in Juneau are not settled. Because of this the $45,000 appropriated by Congress two years ago for the purpose of building a Court house there has not been used yet. The government will not erect its buildings on land to which the title is not perfect.

4th. With a possible exception, the removal is not desired by the officials or is it demanded by the people, save only a few who hope to be personally profited thereby. The convenience of a great majority would not be promoted in the least while a great many would be incommoded.

5th. The cost of living in Juneau is greater than in Sitka, and the salaries of some of the officials would have to be increased in order for them to meet living expenses, which would make an additional drain on Uncle Sam's pocket. Many other reasons, why the removal should not be made, press for presentation but space forbids. We think when Congress carefully considers the matter, it will discover that as a business proposition it is indefensible, and that the public demand therefor is greatly insufficient to justify it.

That a crisis has come in the history of Sitka is a fact that can no longer be ignored. The dangers of her losing the seat of government with all the prestige it gives, is immenent. The forces that are antagonistic to her are gaining the ascendency. They are organized, active, alert and pulling altogether. They are leaving nothing undone to accomplish their purpose. They have a powerful lobby in Washington which is instant in reason and out of season, ever insistent and persistent for the removal of the Capital to Juneau. What is Sitka doing to counteract this baneful work? Echo answers what? If it hopes to hold its own it must arouse from its lethargy and bestir itself. It should not stand on the order of its doing. Not a moment can be safely lost. Time is precious. The citizens should hold a mass meeting without delay and set forth, in proper form the reasons why the capital and other public offices should not be removed to Juneau or any other town to the eastward. This should be done so that the manifesto might be forwarded to Washington by the next steamer. Who of our citizen will take the initiative in this matter which concerns us all so deeply? Sitka, "awake, arise or be forever fallen."

JUNEAU NOT THE PLACE FOR THE CAPITAL.

Compliments of
REP. TERRY MARTIN

Two Rousing Mass Meetings Held by the Citizens Of Sitka.

The Town Hall was crowded to its utmost capacity by enthusiatic citizens of Sitka who held two rousing mass meetings on Tuesday and Wednesday evenings in regard to the removing of the capital. The meeting was called to order by Dr. Wilbur, and Judge Kelly was ananimously elected as chairman, and W. P. Mills secretary, Judge Kelly then stated the object of the meeting and Dr. Wilbur made a motion that a committee be appointed to draft resolutions to protest against the removal of the capital; motion carried. Remarks were made by Wm. Millmore, W.R. Mills, Wm. Shergen, Capt. Apperson, Will Distin and others.

Juneau was ably represented by George Kyrage but the prevailing wind of Juneau was not sufficient to knock Sitka out of the capital.

The meeting was adjourned until Wednesday evening, when the commitee brought in the following resolutions which were read and adopted.

It having come to our knowledge that the Senate Committee on Territories has decided to recommend the removal of the Capital of Alaska from Sitka to Juneau, we the citizens of Sitka in mass meeting assembled respectfully beg to submit the following reasons why the proposed removal should not be made:-

First. Public convenience does not demand it. Sitka is more centrally located then Juneau or any other point in southeastern Alaska. It is in closer call for all lines of travel than any other. It is situated on a bay on the sea, has an excellent harbor and is the focal point for all water routes of Alaska excepting the one from Puget Sound to Skagway, and is therefore the natural point for concentrating military forces.

Second. The harbor at Sitka is fully protected and according to frequently repeated opinions of Naval and Revenue officers, has the best anchorage of any in Alaska and is absolutely free from ice at all times. Commanders of the Pinta, Perry, Wheeling and Marietta have stated in official reports that it is impossible for a vessel to lie continuously at Juneau.

Third. Economy dictates that the removal should not be made. The Government has buildings in Sitka for all offices and land on which to erect others as occasion may require. The buildings now occupied were provided at a large expense. They are and will continue to be adequate for the purposes for which they are used for some time. If the offices are vacated they will be unproductive for they are not adapted to the uses the business pursuits of the town requires, and therefore could not be leased or rented. Decay would follow disuse, resulting in a total loss to the Government of all that has been expended on them. The Government has no buildings at Juneau or land on which to build them. As available building space is very limited at that place rents are high; and if the offices are removed places must be provided for them either by the erection of buildings or leasing rooms from private individuals. The cost in either case would be heavy. Adding the loss of the public buildings in Sitka to that of providing places in Juneau for the various offices which would probably be involved in the removal makes a sum of no inconsiderable amount, and as the intrests of a vast majority of the citizens of Alaska would not be subserved thereby it would, it seems to us, be an unjustifiable waste of public funds.

Fourth. If it should ever be desirable to remove the Capital from its present location the time is not yet. Alaska is a vast territory and its development is scarcely begun and its possibilities practically unknown. It is impossible to know where the center of population will be a year hence. That it is west of Sitka and therefore of any point on Lynn canal and will continue to be there can be no doubt. The business world which reads the signs of the times so accurately, evidently thinks so, for all the great transportation lines which have been recently established have their objective points in western Alaska. These lines do not traverse the inside channels, and consequently will not touch at points east of Sitka. A vast flood of miners will pour into the Cape Nome country during the coming summer. The richness of these mines is beyond question, and it will no doubt be a prosperous mining camp for years to come. The routes of travel to that place will be mainly by the open sea. Furthermore if mineral discoveries continue to be made in the Yukon Valley in the future as in the recent past it will probably not be many years before a railroad connects Prince William Sound with that great river. Such road will be entirely on American soil and will largely supercede the Skagway-Dawson route. This road will be reached by the open sea routes also. There are also large mining interests on Copper river, Unga island and other points along the coast west of the 141st meridian. Nearly all of the great Fish canneries are also to the westward. These enterprises employ a large number of men. That the center of population is already west of Sitka as before stated is beyond question, and that it will continue, there can be no doubt.

In view of the foregoing we believe a proposition to locate permanently the Capital at this time is premature, and we most earnestly protest against its removal from Sitka, until a more settled condition of the country determines the most desirable point therefor.

COMMITTEE.

Wm. Shergen	W.P. Mills
J.L. Cogswell	J.S. McNair
Geo. Browell	J.A. Shields
A.J. Apperson	B. Hiser
W.O. Mendenbauer	L.A. Cox
B. K. Wilbur M.D.	John Hanlan
A. Anonamoulsky	W. Millmore

Compliments of
REP. TERRY MARTIN

WHAT WILL THEY DO NEXT?

The first page of the Alaskan Miner of the 17th inst., is almost filled with a report of a committee which was appointed by a mass meeting of the citizens of Juneau on the 8th of the same month to look for reasons why the capital should be removed from Sitka to that place. We judge the citizens selected wisely, so far as diligence is concerned for the committee was apparently composed of very diligent men. The mass of material it collected in such a short time is quite remarkable. The report makes interesting reading and some portions of it may be valuable as statistics, but other parts of it are not, because of their deviation from verities.

We apprehend however that the principal fault the intelligent citizens of that town will find with it, is that the greater part of it is not pertinent to the purpose it was designed to serve.

It is largely devoted to exploiting the commercial importance of the town. It is well known that, that of itself is no reason why the capital should be located there. It is not so considered elsewhere. In fact but few commercial cities are capitals. Call to mind the states, in which they are not and the greater number of them will have been named. The capitals of the Pacific Coast States are none of them commercial center, but towns as nearly centrally located as was practicable at the time the seat of government was definitely fixed.

We suppose it does not occur to New York city, that because it sells more goods, pays more taxes, loads more ships, is the headquarters of more corporations and has more white inhabitants than Albany it is therefore a more suitable place for the capital of the State.

The report is also weak in other respects, notably, in that it attempts to advance the claims of the town it advocates by disparaging another. This perhaps is not reprehensible if done on the lines of fairness. In this case however in order to do so it departs widely from facts. This is especially so in the matter of applications for the survey and entry of public lands. The report says, "Of public land applications more than nine tenths are filed from the vicinity of Juneau, while Sitka and vicinity show only one twentieth of the total." Upon an examination of the records in the U.S. Surveyor General office we find they tell quite a different story. They reveal that more than five fold of the applications for the survey of non-mineral land have been from points west of Sitka. It is true the greater number of applications for the survey of mining claims have been from points east of Sitka but not in the proportion set forth in the report. How the committee could have been so mislead as to make such a statement, or how they could have been prepared to make any report under that head is not understood, as it was impossible for them to visit the land office, the only place reliable information touching the matter is obtainable, between the time they were appointed and the time they reported.

In the matter of mineral applications we are informed that conditions are rapidly changing. A much larger proportion of applications are from the westward than formerly, nearly all of the deputy mineral surveyors that have been recently appointed are for districts in the interior or along the western coast, and the business is rapidly tending that way.

The report endeavors to make much of the fact that Juneau has better facilities for subduing fires than Sitka and therefore the records of the various federal offices would be safer there. Not to mention the fact that the Government buildings are more isolated here than would be possible in Juneau and that all of the offices are provided with fire proof vaults or safes where the more valuable records are kept, it is well known that where water, through hose, is used to check a conflagration, one is as liable to destroy them as the other. If the fire does not consume, the water will ruin them.

It must not be forgotten that Sitka has a very efficient fire Company, which allows no grass to grow under its feet when an alarm is sounded. It is provided with chemical extinguishers and a fire must be a lively one to get a head of it.

Further more, from present indications no considerable time will elapse before Sitka will be as well supplied with water for all purposes as any town in Alaska. We understand that a gentleman who represents abundant capital has applied for a right of way for mains through, and reservations for reservoirs on the public domain for the purpose of bringing water into the town. When this is done an electric light plant is sure to follow.

The inaccessibility of Sitka is also exploited. In this matter the committee indulges in misleading statements which are unworthy of them. It is true that for about three months during the winter Sitka has only a semi-monthly mail, but during the other seasons it is served much more frequently. In regard to the mail boat, that comes here, being only a small one as the report asserts, suffice it to say it is onethat pl'es, between Juneau and Seattle and is as large as the average that navigates the narrow and dangerous inside channels.

However arrangements will soon be consummated by which Sitka will be provided with a weekly mail during the entire year.

But space forbids any further review of this remarkable report. We assure our sister city, whose misfortune it is to be so near the boundary line, that we bear her no ill will. We sincerely hope to entertain many of her citizens when we celebrate our connection with the out side world by the ocean cable line.

AN INTERESTING LETTER.

In Regard to the Removal
Of The Capital

FROM SITKA TO JUNEAU.

The following letter was written by a gentleman who takes great interest in all matters pertaining to Alaska. It was prepared for the information of those to whom it is addressed; but as it contains much that, we think, will be of interest to our reader, in all parts of the territory, he kindly permitted it to appear in the columns of The Alaskan.

Sitka, Alaska, Feb24, 1900.
To our Senators and
Represenatives,
In Congress.
Sirs:

As there seems to be considerable discussion about removing the capital of Alaska from Sitka to Juneau, and believing as I do it is not for the best interests either of the Government or the people of Alaska that any changes be made now or until this District becomes more definitely and permanently settled; at present at least the population is too fluctuating for Congress to deal intelligently with this proposition.

I therefore inclose clippings taken from the Alaskan, a newspaper published at Sitka, giving some very good reasons why no change should be made at this time.

Looking at this from Governmental and point it will readily be seen the Government owns all the public buildings at Sitka now used and occupied by the various officials (exceptpossibly the Land Office and even that is on Government land) thereby the Government saves a large annual outlay for rents; and the government at considerable expense have not only kept these buildings in repairs but have built large fire proof vaults for the better protection of all public records, besides the Government owning sufficient ground around eac. and every one of these buildings they cannot, without the consent of the Govetnment be endangered by individuals erecting contiguous buildings, thus making them comparatively safe from fires.

And there is no necessity of the Government ever having to do so as she already has a beautiful tract of some ten or fifteen acres of land reserved expressly for other public buildings as occasion may hereafter require. To all such lands the Government holds unquestioned and undisputed titles.

In case of removal these buildings would be abandoned and go into disuse and possibly destroyed or jumped by some enterprising citizens as has been done else where.

It seems some of our so called miners have no respect for either Government reserve lands or burial grounds; for the ground reserved at Juneau for court house purposes is now claimed by such miners as mineral ground; hence the forty-five thousand dollars appropriated by Congress for the erection of a suitable court house and jail at Juneau some two years ago has and is being held up by some of those enterprising miners.

If the Government in two years cannot secure title to enough land in Juneau for the one building, how can it be expected that sufficient ground could ever be secured for the duplicationg of the buildings now owned and occupied at Sitka, unless it would be at fabulous prices for either the ground or rental.

In the early history of Juneau the Catholic and Greek churches, the Presbyterian Mission, the miners and the people of Juneau selected burial grounds near by and buried their dead theron; now application has already been filed on some, if not all of these burial grounds by mineral applicants.

Owing to the contracted location of Juneau all of the available ground seems to have already been improved and occupied, and the cost in either case would be five or six fold greater than it now costs or will cost the Government if the capital r mains at Sitka.

Why any official should favor or encourage the change, if any are doing so, would be most difficult to explain unless,perchance, they like some of the Lobby you now have in Washington working for this, either own or expect to own blocks of real estate or stock in electric lights water or other plant which they seek to dispose of to the Government before the boom is over.

Whatever tends to make it more expensive to the Government tends toincrease the cost of living to each and every official; therefore as rents and living at Juneau are much greater than at Sitka, (and it is clear enough here_ present salaries being insufficient, but few if any of the officials would be satisfied to remove until their salaries were sufficiently inceased to compensate for such change.

It is noticed that bills have already been introduced looking to an increase in the salaries of some of the official all should be included in such bills.

Now we come to consider some of the claims put forward by the Juneau people themselves.

They claim they are more nearly the center of population, this is not, never was,nor never will be true. By glancing at the map it can readily be seen that Juneau is located at almost the extreme Eastern boundary line along what is Known as the Inland or Eastern channel, which route was first established by the old Hudson bay company to supply the various forts and trading posts they had established in British Columbia. The initial point formerly was from Victoria to Fort Hope or Yale on Frazier river. As our prospectors and miners pushed on their forward and onward march of progress to the Stickeen, then this route was extended to Fort Wrangel which, for a long time, bid fair to out-rival any and all other inland towns along that route. When the prospectors and miners opened up the Atlin country the route was extended to Skagway and Dyea at the head of Lynn canal. Therefore Juneau's importance as a flourishing town is due largely, if not wholly, to the fact that it, for a time, was one of the many supply stations along that route for the miners across the line to British Columbia and some of the Islands near by. But, never having been the terminus of any route, she can never become the commercial metropolis, as Seattle and Victoria claim the distinction of being at the one end while Skagway and Dyea claim the distinction of being at the other end of that route.

Now as the bulk of the mining population was first along Frazier river, then the Stickeen, then Atlin, the Klond'ke and other places north and west of either Juneau, Skagway, Dyea or Sitka, it can readily be seen that either Fort Wrangle, Skagway, Dyea and Dawson land more and better claims than Juneau ever had of being nearer the center of population.

Circle city, at one time, bid fair to outrival either as a central mineral point; now Circle city is so nearly depopulated that it has already been recommended that the Land Office located there be abandoned.

If there is not sufficient business and population to support the Land Office why is it prudent to establish a Judicial branch there?

What is true of Circle city is to some extent, true of other inland and mining towns; either in the interior or along this eastern water route, they too are fast becoming depopulated as the people last spring and summer were rushing to the Copper river, Cape Nome and other new discoveries. It is ever thus in all mining countries, in order to keep pace with these fluctuations it would be necessary to have all public buildings on boats or wheels to follow the changing population.

Now as to comparison of these two water routes, the one we designate as the inland or eastern route, is at best a very hazardous, dangerous route, inaccessible to all sailing crafts, and requiring from three to five days longer time for a steamer to make the round trip from either San Francisco, Portland, or Seattle to any of the towns located as Sitka and many of the other towns all along the Pacific ocean by the all ocean route.

The one is open and safe alike to all vessels whether driven by steam or sails. It is the route leading alike to most all ports in central and western Alaska, Bering sea, the Orient and the Philipine Islands as well and when the Niearanga canal is constructed it will become the shortest, safest and best route for all our commercial nations.

It claimed that more mineral patents have been issued to lands in and around Juneau then from any and all other points in all Alaska. Granting this to be so, it was equally true in the early history of California, Oregon, Washington, Idaho, Colorado and Montana, and every other mineral country.

It only goes to prove that mineral applications are not made except when the lands have been first made valuable as real estate holdings independent of their mineral character, by reason of their location on some thoughfare or by their contiguity to some villiage or town; was it ever seriously urged by the states above named as a reason why the capital of those states should change with each and every new discovery, or change in the center of a mining population?

If not, why this effort to change Alaska's capital?

If it is better for the public good and service then there should be some fixed policy by which such changes could be more speedily met when the center of population does take effect . The facts are this looks too much like some interested parties were seeking to bolster up the waning fortunes of some transportation lines, some real estate or town boomers to be seriously considered by Congress. Admitting that Sitka and for that matter all other towns situated along the ocean beach, are and will be somewhat isolated so long as the people of all Alaska shall be confined to one songle water route, and that one along our extreme eastern boundary, and form foreign lands.

This will not and cannot much longer remain true, for the ocean and western route must supply equal facilities to all central and western Alaska, as the administration has already wisely appointed Brigadier General Randall and equipped him to build Military codes and Telegraph lines connecting all points in Alaska with the out side world.

The very fact of Sitka being so favorably located on the sea with the best and safest harbor in all Alaska, a climate from ten to forty degrees warmer then either Juneau or any other of the interior towns, with ample and availavle grounds for building a city, with fine roads for miles around, with good pure water near by, with excellent facilities for drainage goes to make Sitka the most healthful and desirable for residences in all Alaska.

She is surrounded by mountains of low grade ore that bids fair to out rival those of Juneau, Douglas. island or other points in south eastern Alaska; only waiting capital to develope these properties.

Who says Sitka has not a greater future before her than her rival along Lynn Canal. While Juneau boasts of having obtained or applied for more patents ot mineral lands, the records of the Sitka Land Office and those of the Interior Department show six to one more surveys and applications to non-mineral lands [illegible]st of Sitka than ever came form Juneau and all its tributaries And in due time when the western and ocean route is fairly establish[illegible] the great majority of mineral entries must and will come from the central and western portion of this District.

There is now every indication of more business coming form Prince Williams Sound, Valdes. Copper River, Kodiak, Yakutat, and other points to the westward than ever came from the placid discoveries made in the Klondike mineral belt.

These statements can and will be verified by the records in the various Land Offices throughout this District by the records of the Interior and other Departments in Washington as well as by every Senator or Member of the House of Represenatives tourists, or other persons who ever have visited Alaska save and except possibly the few whose personal investments and personal interests may conflict therewith. Very respectfully.