

ALASKA LEGISLATURE COMMITTEE FILES 1901-1902 8072

1667 SJ SB 65 - SB 77

VILLAGE ENERGY WORKSHOP

The Village Energy Workshop was a welcome addition to the energy section of the Citizens Participation Conference. It was an opportunity for village residents from across the state to share ideas and resources in identifying and defining important energy issues from the village perspective. It was also an introduction to the legislative process, state and federal energy programs, and workings of various energy systems. The workshop participants worked closely with Rural CAP staff, who served as resource people, and with delegates of the Alaska Regional Energy Association (AREA).

The Village Workshop delegates elected a chairman and independently identified issues, met with legislators, and developed specific recommendations on pending legislation as well as resolutions addressing broader issues.

The recommendations and resolutions follow.

<u>BILL # or SUBJECT</u>	<u>DESCRIPTION</u>	<u>ACTION</u>
HB 9	Residential Energy Conservation	Do pass, high priority
HB 20	Loans to develop electrical services in rural areas	Do pass, high priority, with the following amendments: that village cooperatives be given preference for loans, that appointed board members be limited to rural residents
HB 21	Special appropriation for HB 20 (above)	Do pass, high priority.
HB 173	Special appropriation Housing Loan Program/ Residential Audits	Do pass, with the following amendments: increase \$300 grants to include additional grant amount for transportation and labor cost differential according to region, additional training and availability of auditors in villages.

<u>BILL # or SUBJECT</u>	<u>DESCRIPTION</u>	<u>ACTION</u>
VERC	Proposed Energy Recon- naissance & Conserva- tion Program	Support wholeheartedly the RurAL CAP Board of Directors' Resolution #81-2, entitled "In Support of the Village Energy Reconnaissance & Conservation Program."
SB 25	Power Project Develop- ment Fund	Do pass, high priority, with the following amendments: that the four directors ap- pointed to the Authority be rural residents, provide fund- ing for wind, geothermal, solar, coal and other approp- riate energy sources as well as hydro projects, that non- regulated utilities and village cooperatives be given priority, that rural areas with high electrical costs be given pre- ference in project selection, that per capita funding should be scaled to cost-of-living.
SB 26	Appropriation for SB 25 (above)	Do pass, high priority, with the following amendments: Sec. 2, increase funding for rural projects above \$10 million for non Senate district designated funds.
SB 26 (CSSB 26)	Section 5 - \$4,800,000 Power Production Cost Assistance	Do pass, with recommendation that Section 5 receive full funding.

Rural Alaska Community Action Program, Inc.

CPC RESOLUTION #81-13

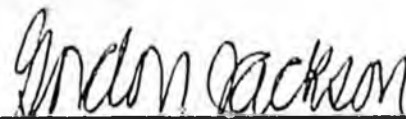
ENTITLED: "In Support of Energy Efficient Building Standards for Rural Alaska"

WHEREAS, Government funded housing in rural Alaska is notoriously energy inefficient and inappropriate to rural Alaskan needs and conditions, and

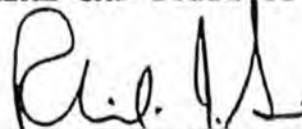
WHEREAS, Energy conservation and efficiency is critical to the continued existence of rural Alaska, now, therefore be it

RESOLVED, That the Village Energy Delegates of the 1981 Citizens Participation Conference recommend that energy-efficient building standards be adopted for all State funded structures by the Alaska State Legislature.

Adopted by the Delegates to the Citizens Participation Conference, March 19, 1981 in Juneau, Alaska.



Gordon Jackson, President
Rural CAP Board of Directors



Philip J. Smith, Executive
Director, Rural CAP

Rural Alaska Community Action Program, Inc.

CPC RESOLUTION #81-14

ENTITLED: "Delivery of Energy Related State Programs to Villages"

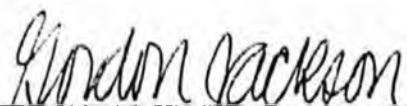
WHEREAS, There is a need for more local government assistance personnel in the villages and rural areas, and

WHEREAS, There is a need for administrative expertise and grant writing skills at the village and regional levels, and

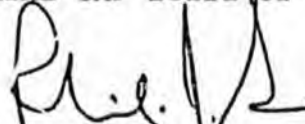
WHEREAS, There is a need for more information on agencies and processes for development of energy programs to village residents; now, therefore be it

RESOLVED, That the Village Energy Delegates of the 1981 Citizens Participation Conference request that the State of Alaska provide personnel, technical assistance and expertise to local village residents through the establishment of more offices and personnel at the regional levels, especially for the Department of Community and Regional Affairs and the Division of Energy and Power Development.

Adopted by the Delegates to the Citizens Participation Conference, March 19, 1981 in Juneau, Alaska.



Gordon Jackson, President
Rural CAP Board of Directors



Philip J. Smith, Executive Director
Rural CAP

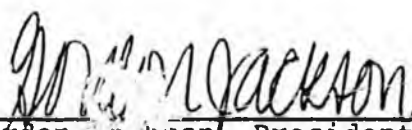
Rural Alaska Community Action Program, Inc.

CPC RESOLUTION #81-15

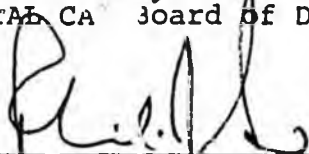
- ENTITLED: "Relating to High Fuel Costs and Energy Assistance Program Funding and Outreach to Rural Residents"
- WHEREAS, The Energy Assistance Program is a federally funded program that provides up to a maximum of \$650 annually to low-income residents in Alaska to help meet their costs for home heating fuel, and
- WHEREAS, The price of fuel in rural Alaska is exorbitant and unaffordable by most residents in the villages, and
- WHEREAS, Rural residents have to pay a much higher percentage of their income for home heating fuel, and
- WHEREAS, Many rural people that may be eligible for the Energy Assistance Program are not informed of the program, and
- WHEREAS, The State offices for the administration of the program are located in Juneau which creates long delays and red tape in the delivery of the Program to rural Alaskans, and
- WHEREAS, Some rural residents are disqualified by the strict and unreasonable federal guidelines because they live in government-subsidized housing, and
- WHEREAS, The income guideline for the program keep many low-income rural residents from qualifying for the program, and
- WHEREAS, Continued funding of this program from federal sources is in jeopardy; now, therefore be it
- RESOLVED, That the Village Energy Delegates of the 1981 Citizens Participation Conference urge the Legislature of the State of Alaska and the Energy Assistance Program administration to provide field offices in the various regional centers throughout the State to assure more adequate outreach and timely processing of applications, and, be it further

- RESOLVED, That State funds be appropriated to supplement the federal program so that income guidelines for the program can be raised and guidelines can be changed sufficiently so more rural residents can qualify for the program; and be it further
- RESOLVED, That the State provide continuing funding for the program if federal money is no longer available.

Adopted by the Delegates to the Citizens Participation Conference, March 19, 1981 in Juneau, Alaska.



Gordon Jackson, President
Rural CAP Board of Directors



Philip J. Smith, Executive Director
Rural CAP

Rural Alaska Community Action Program, Inc.

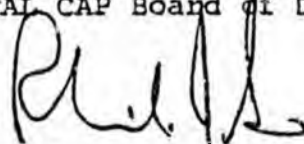
CPC RESOLUTION #81- 16

- ENTITLED:** "Provision for Support Services and Training for Energy-related Projects in Rural Alaska"
- WHEREAS,** Most energy-related projects in rural Alaska are planned and built by federal and State agencies and maintained by agency personnel at great expense to the villages, and
- WHEREAS,** Village residents are capable of performing construction, maintenance and operating functions with the proper training, and
- WHEREAS,** Such functions would create additional jobs in villages for local residents, and
- WHEREAS,** Village residents wish to have more control over services and capital improvements in their villages; now, therefore be it
- RESOLVED,** That the Village Energy Delegates of the 1981 Citizens Participation Conference urge the Legislature and State and Federal agencies to require, as a matter of policy and appropriation, the provision of support services and training for local village residents whenever there are major energy projects conducted at the village and regional level.

Adopted by the Delegates to the Citizens Participation Conference, March 19, 1981 in Juneau, Alaska.



Gordon Jackson, President
Rural CAP Board of Directors




Philip J. Smith, Executive Director
Rural CAP

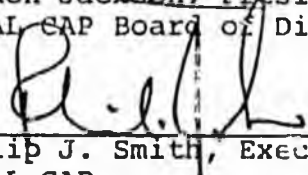
Rural Alaska Community Action Program, Inc.

CPC RESOLUTION #81-17

- ENTITLED: "Representation by Rural Residents on Boards, Commissions and Other Decision-Making Bodies"
- WHEREAS, Village residents are not represented on the various energy boards, commissions, and other decision-making bodies, and
- WHEREAS, village residents' views are not asked for or represented on these boards, commissions and decision-making bodies, and
- WHEREAS, the rural energy delegates of the Citizens' Participation Conference recognize this deficiency in the policy-making bodies as their number one priority, and
- WHEREAS, House Bill 20 includes the appointment of a board that does not now include village resident representation, and
- WHEREAS, Senate Bill 25 includes the appointment of an Authority that does not now include village resident representation; now, therefore be it
- RESOLVED: That the village energy delegates of the 1981 Citizens' Participation Conference request that the Governor and the Legislature of the State of Alaska be urged to select rural village residents for representation on energy-related boards, commissions and other decision-making bodies.

Adopted by the Delegates to the Citizens Participation Conference, March 19, 1981, in Juneau, Alaska.


Gordon Jackson, President
Rural CAP Board of Directors


Philip J. Smith, Executive Director
Rural CAP

Rural Alaska Community Action Program, Inc.

CPC RESOLUTION #81-18

ENTITLED: Energy Curriculum Development in Schools

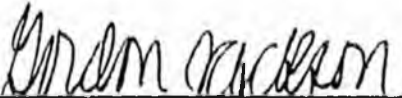
WHEREAS, Energy conservation is critical to the continued existence of rural Alaskans, and

WHEREAS, the price of homeheating fuel has become so exorbitant that rural Alaskans are not able to pay for it, and

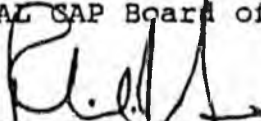
WHEREAS, it is important for students to learn the necessity of energy resources and how to take care of them; now, therefore be it

RESOLVED: That the village energy delegates of the 1981 Citizens Participation Conference recommend that curriculum be developed in Junior and Senior high schools that helps young adults learn about energy conservation, alternative energy sources, and general concepts.

Adopted by the Delegates to the Citizens Participation Conference, March 19, 1981, in Juneau, Alaska.



 Gordon Jackson, President
 Rural CAP Board of Directors



 Phillip J. Smith, Executive Director
 Rural CAP

VILLAGE ENERGY WORKSHOP
CITIZENS PARTICIPATION CONFERENCE

DELEGATES

Thomas H. Abel
Walter Meganack
David Willard
Gordon Newlin
Josie Jones
Lucille A. Lincoln
P. J. Galaktionoff
Charles David Jr.
John Heyano
Janis Carney
Ernestine Mokiuk
Karl T. Ashenfelter
Dorothy M. Pestrikoff
Nick Peterson Sr.

REPRESENTING

Craig
Port Graham
Angoon/Juneau
Noorvik
Koyukuk
Copper Center
Unalaska
Tok
Dillingham
Manley Hot Springs
Nome
White Mountain
Old Harbor
Akhiok

GUESTS

Rudy Mack

King Cove

ENERGY DEPARTMENT STAFF

Ron Olsen
Elaine Hultengren
Steve Smiley
Erika Tritremmel

HEAD START WORKSHOP

STATEMENT OF THE ISSUE

Alaska needs to plan how services to children are to be delivered. As Alaska's most precious resource, children deserve the best Alaska can offer.

METHOD

Parents representing Head Start programs from all regions of Alaska discussed concerns and identified issues which are affecting their children and families.

Secondly, learning the process of writing resolutions, the legislative process, the impact of parents on the Alaska Head Start Director's Association, culminated in the attached resolutions that reflect the issues and concerns of Head Start parents in Alaska.

Each parent got an opportunity to communicate with their legislators.

BILLS/RESOLUTIONS ACTED ON:

HB 50	"An Act appropriating for the operating and capital expenses of the state government; and provide for an effective date." As requested by the Governor.	Resolved that the Head Start Line Item be changed from \$1,226,900 to \$3,984,384.
Not Assigned	"An Act establishing a Comprehensive Alaska Community Services Program."	Resolved that Article XIII "Community Services For Children" be endorsed.

Additional Resolutions were adopted for the following issues:

"Alaska Head Start Association" It is the desire of Head Start Parents that the Head Start Director's Association be extended.

"In support of local control" The Head Start Parents strongly urge the Governor and State Legislators to consider the importance of parents and local control."

"In support of the proposed Academic Career Ladder in Early Childhood" The Head Start parents recommend support for the adoption of this Career Ladder by colleges throughout Alaska.

Rural Alaska Community Action Program, Inc.

(CPC RESOLUTION #81-19

ENTITLED: "Requesting the State of Alaska to appropriate the sum of \$3,984,384 to Alaska Head Start programs in fiscal year 1982"

WHEREAS, it has been proven* that children participating in comprehensive child development programs with close parental interaction:

- perform better in school
- are held back less often
- are less likely to need remedial programs; and

WHEREAS, Head Start is the recognized model for comprehensive child development programs throughout the nation; and

WHEREAS, Alaska Head Start programs coordinate and provide parent involvement, parent education, career development, education, medical, dental, mental health, nutrition and social services for more than 1,000 children in 48 urban and rural Alaskan communities each year; and

WHEREAS, Alaska Head Start programs provide more than 250 jobs within these communities; and

WHEREAS, The Alaska Head Start Directors' Association has established a cost-per-child formula that will provide adequate funding for all Alaska Head Start programs to maintain, improve and expand the current level of services to children and families; and

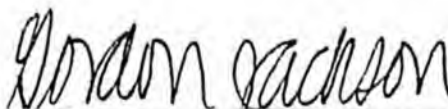
WHEREAS, the anticipated level of Federal funding and local in-kind support falls \$3,984,384 short of this goal; and

WHEREAS, our children are Alaska's most valuable resource; now, therefore be it

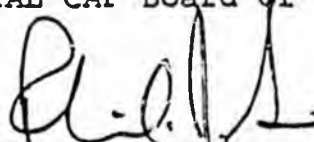
RESOLVED,

That the Citizen's Participation Conference does hereby endorse the Alaska Head Start Directors' Association and Head Start parents' request for the Alaska State Legislature to appropriate \$3,984,384 through the State Fiscal Year 82 Department of Community and Regional Affairs budget for the support of Head Start during FY82.

Adopted by the Delegates to the Citizen's Participation Conference, March 19, 1981 in Juneau, Alaska



Gordon Jackson, President
RURAL CAP Board of Directors



Philip J. Smith, Executive Director
RURAL CAP

* Report to Congress, February 6, 1977, from the Comptroller General of the United States.

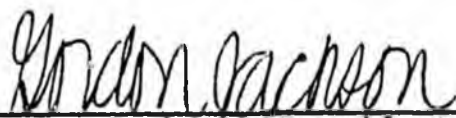
Rural Alaska Community Action Program, Inc.

CPC RESOLUTION #81-20


- ENTITLED: "In support of Article XIII, 'Community Services for Children' section of the proposed Act establishing a Comprehensive Alaska Community Services Program."
- WHEREAS, Through this Act, it is proposed to establish in the Department of Community and Regional Affairs the Community Services for Children Program; and
- WHEREAS, Head Start is a Comprehensive Community Service for children; and
- WHEREAS, Head Start in Alaska is presently serving 1,199 children and their families; and
- WHEREAS, Head Start would like to enhance the quality of services presently provided in the areas of Parent Involvement, Education/Special Needs, Social Services, Health/Nutrition, Career Development; and
- WHEREAS, Many children are not receiving comprehensive community services; and
- WHEREAS, There is a need to identify and provide services for children in areas not presently receiving comprehensive community services; and
- WHEREAS, Many communities have requested Head Start to provide such assistance; and
- WHEREAS, The State of Alaska needs a comprehensive plan for the provision of community-based programs to children and families; and
- WHEREAS, There is a need to continue to provide information and referral system for parents of young children; now, therefore be it

RESOLVED: That the Citizen's Participation Conference wholeheartedly endorse the passage of Article XIII, "Community Services for Children" section of the proposed Act establishing a Comprehensive Alaska Community Services Program.

Adopted by the Delegates to the Citizen's Participation Conference, March 19, 1981, in Juneau, Alaska.



Gordon Jackson, President
Rural CAP Board of Directors



Philip J. Smith, Executive Director
Rural CAP

Rural Alaska Community Action Program, Inc.


CPC RESOLUTION #31-21

- ENTITLED: "An extension to the Alaska Head Start Directors' Association to include Head Start parents and staff and to change the name of the organization to Alaska Head Start Association."
- WHEREAS, The formation of a state-wide Association will increase communication, involvement and knowledge for all members; and
- WHEREAS, One Association would be more cost effective; and
- WHEREAS, Parents can give direct input to directors and staff on issues, concerns and goals which is an essential component of Head Start; and
- WHEREAS, The Association could provide information on the availability of various training opportunities; and
- WHEREAS, This Association could provide greater opportunities for sharing innovative ideas to promote parental involvement in Head Start; and
- WHEREAS, One Association could provide a strong united voice to the Legislature; and
- WHEREAS, One Association would allow directors, staff and parents to work together to develop an effective public relations network; and
- WHEREAS, This Association could give support for all Head Start components and delegate agencies; and
- WHEREAS, This Association could disseminate information on other issues children and families in Head Start (i.e. alcoholism, subsistence, energy, etc.) through the delegation of members and formation of committees; now, therefore, be it

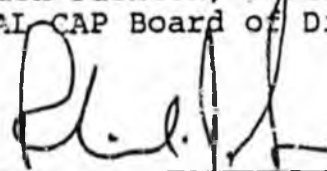
RESOLVED:

That the Citizen's Participation Conference strongly support an extension to the Alaska Head Start Director's Association to include Head Start parents and staff and to change the name of the organization to Alaska Head Start Organization.

Adopted by the Delegates to the Citizen's Participation Conference, March 19, 1981, in Juneau, Alaska.



Gordon Jackson, President
Rural CAP Board of Directors



Philip J. Smith, Executive Director
Rural CAP

Rural Alaska Community Action Program, Inc.

CPC RESOLUTION #81-22

ENTITLED: "In support of local contro' legislation."

WHEREAS, There are decisions being made that effect the lives of children; and

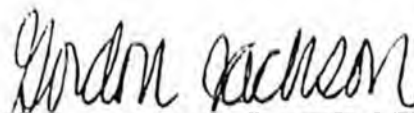
WHEREAS, The parents are the primary educators of their children; and

WHEREAS, Parents are responsible for the well-being of their children; and

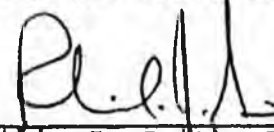
WHEREAS, Local control ensures the opportunity for parents to have input into the decision making processes that effect the lives of children; now, therefore, be it

RESOLVED: That the Citizen's Participation Conference strongly urge the Governor and the State Legislature to consider the importance of parents and local control.

Adopted by the Delegates to the Citizen's Participation Conference, March 19, 1981, in Juneau, Alaska.



Gordon Jackson, President
Rural CAP Board of Directors



Philip J. Smith, Executive Director
Rural CAP

Rural Alaska Community Action Program, Inc.

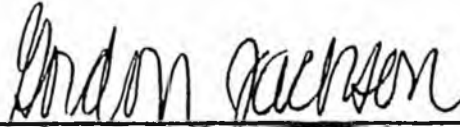
CPC RESOLUTION #81-23

- ENTITLED: "In support of the proposed Academic Career Ladder in Early Childhood."
- WHEREAS, Early Childhood is a recognized field of expertise; and
- WHEREAS, The educational opportunities in the field of Early Childhood are presently limited in the State of Alaska; and
- WHEREAS, Children are Alaska's most valuable resource; and
- WHEREAS, Children are being cared for in child care facilities by staff and parents who need and have requested training; and
- WHEREAS, Head Start parents and staff recognize the need to develop practical skill levels through on-the-job training; and
- WHEREAS, On-the-job training opportunities in Early Childhood are limited in the State of Alaska; and
- WHEREAS, The Child Development Associate (CDA) is a nationally recognized certificate that is awarded for demonstrated on-the-job competence with young children; and
- WHEREAS, There is a need to balance academic and on-the-job skill training; and
- WHEREAS, There is a need to coordinate the content and methods of such balanced courses throughout the various colleges of Alaska; and
- WHEREAS, There is a need for statewide uniformity in Early Childhood career ladder steps; now, therefore, be it

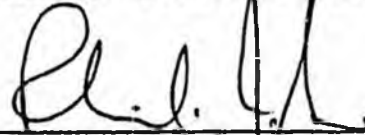
RESOLVED:

That the Citizen's Participation Conference urgently support the adoption of an academic career ladder in Early Childhood throughout the colleges of Alaska.

Adopted by the Delegates to the Citizen's Participation Conference, March 19, 1981, in Juneau, Alaska.



Gordon Jackson, President
Rural CAP Board of Directors



Philip J. Smith, Executive Director
Rural CAP

HEAD START WORKSHOP

CITIZEN'S PARTICIPATION CONFERENCE

HEAD START DELEGATES

Celia Melak
 Celia Stewart
 Darla Fraijo
 Carol Card
 Margaret Bolton
 Carline Anderson
 Sylvia Penetac
 Mabeline Wongittilin
 Joyce Sam
 Joyce Pilger
 Doris Bergeron
 Willa Counce
 Mary Ann Porter
 Charmi Kowchee
 Michael Archambault
 Betty Olanna
 Dora David
 Maggie Wasuli
 Cecilia Fairbanks
 Kalen Saxton
 Anthony Ulak
 Louisa Hisamoto
 Robert Hisamoto
 Judy Gales
 Lare'
 Jo Putman
 Joann Contini
 Maralyn Akiyama
 Mary Dalton
 Karen Katzeek
 Nancy Beckstrom
 Jennifer Evans
 Evelyn Mullan
 Elaine Loomis
 Tom Abel

COMMUNITY REPRESENTED

Anchorage
 Tok
 Tok
 Ketchikan
 Metlakatla
 Metlakatla
 Nome
 Savoonga
 Huslia
 Chugiak
 Anchorage
 Chugiak
 Yakutat
 Nome
 Anchorage
 Nome
 Bethel
 Kotlik
 Bethel
 Anchorage
 Scammon Bay
 Fairbanks
 Fairbanks
 Anchorage
 Anchorage
 Nome
 Anchorage
 Juneau
 Anchorage
 Juneau
 Chugiak
 Anchorage
 Ouzinkie
 Kodiak
 Craig

HEAD START STAFF

Eligio White	RurAL CAP Head Start
Myrna Orme	RurAL CAP Head Start
Sharon Hodgins	RurAL CAP Parent/Child Program
Martie Beile	RurAL CAP Head Start

STATEMENT OF THE ISSUE

Although the State of Alaska is collectively very wealthy, thousands of Alaskans, residing in both urban and rural areas, are poor. This poverty manifests itself not only in income determination, but also in such areas as access to the decision-making process, opportunity for self-sufficiency, and opportunity to achieve true self-determination.

For years, the primary support for community-based organizations serving the poor and disadvantaged in the state has come from the federal government. However, in recent times those organizations have turned more and more to the State for assistance. This trend is also evident in the federal government's new directions.

Further, support for local programs through direct legislative appropriations is a rather risky approach to funding. The State Attorney General's opinion regarding such appropriations has thrown into doubt whether or not the Legislature can legally provide direct funding. Last year, Governor Hammond vetoed virtually all the legislative intent in HB 60.

THE WORKSHOP

For two days, more than 25 representatives of Alaskan Native and other non-profit corporations met to discuss the problem and to propose a solution.

The result of their work is attached, in the form of two proposed legislative initiatives:

1 -- COMPREHENSIVE COMMUNITY SERVICES ACT

Which provides formal state authority within the Department of Community and Regional Affairs for a variety of programs. Also included in the bill is the establishment of special funds within the Department of Administration for indirect costs and contract advances.

2 -- UNIFORM ADMINISTRATIVE PROCEDURES ACT

Which requires the Administration to establish uniform procedures for the administration of grants and contracts with non-profit organizations.

Workshop participants unanimously endorsed the philosophy and content of the proposed legislation.

(for a more complete explanation of the "Community Services for Children" section of the CCSA, please read on . . .)

Alaska is facing serious issues concerning its wealth and resources. Major efforts are being undertaken that will utilize the wealth of the state to develop such resources as energy, fishing and timber.

In the midst of this, Alaska cannot overlook a most valuable and definitely renewable resource -- our children.

Alaska has a higher proportion of children under the age of five than any other state.

According to 1980 census projections, over 9% of the Alaskan population is between the ages of birth and four years.

Experiences in these early years have lasting impact on the social, emotional, cognitive and physical development of a child. This effect, and its impact on society as a whole, has been researched and accepted as a known factor.

The involvement of parents and families with their children and the involvement of communities with families is vital to the positive growth and development of young children.

High rates of unemployment, increasing substance abuse, and increasing violence within and against families are affecting the entire nation, including Alaska.

Mobile population and changes in traditional lifestyles have removed families from the basic internal and external support systems of community and society.

For the majority of Alaskan communities there is a lack of access to comprehensive medical, dental and social services caused by geographic isolation.

Proposed legislation would establish a Community Services for Children Program. The purpose of this program is three fold:

To continue to maintain quality programs such as Head Start.

To stimulate present programs toward an increase in quality.

To respond to requests for programs in areas not presently being served.

The Community Services for Children Program would include the following elements:

To enable the full benefits of available federal funds for community services for children, to be received by the state of Alaska. This will not supplant current federal programs, it may result in fuller utilization of federal funds.

To provide a central channel for the flow-through of state funds for community services to children. This would allow the services to be operated and delivered by community-based organizations and entities.

To provide a system for comprehensive planning and coordination of services to children. This would allow the planning and needs assessment to be done on the local level.

To foster the ability of local communities to operate community service programs for children.

To establish information and referral systems. This would allow both providers and parents to share delivery systems, designs, solutions to local issues, placement resources and talent bank information for community services to children.

To provide a consumer perspective of service delivery. This would provide top state administration with grass roots input concerning community services to children issues.

Funds appropriated for the Community Services to Children would be administered by the Department of Community and Regional Affairs under contract with appropriate community based organizations and entities for the purpose of program implementation and service delivery.

This would allow community involvement in program design, delivery and evaluation, thereby enhancing community self-reliance and self-sufficiency.

March 19, 1981

IN THE HOUSE

BY:

HOUSE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE -- FIRST SESSION

A BILL

For an Act entitled: "An Act establishing a Comprehensive Alaska Community Services Program; and providing for an effective date."

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

*Section 1. FINDINGS AND DECLARATION OF PURPOSE. The Legislature finds that, although the prosperity of the State of Alaska has reached per capita proportions greater than in any other state in America, and although the benefits of this collective wealth are being distributed in a variety of programs to benefit the citizens, there is a disturbing pervasiveness of poverty, alienation, disaffection, and discontent among the citizenry. The Legislature further finds that Federal assistance to such community-based organizations as Associations of Alaska Natives, anti-poverty programs, and other not-for-profit entities which are broadly representative of identifiable Alaskan constituencies is inadequate to provide for the flexible degree of participatory control that is desirable. It is therefore the purpose of this Act to establish a Comprehensive Program of Community Services, using existing organizations within the state for the planning and

Page 2

delivery of services designed to enhance individual and community self-reliance and self-sufficiency.

*Section 2. AS 44.47 is amended by adding new language to read:

ARTICLE I. ORGANIZATION AND PURPOSE

Sec . 44.47.010. Commissioner of Community and Regional Affairs. The principal executive officer of the Department of Community and Regional Affairs is the Commissioner (of Community and Regional Affairs). He/She shall be assisted in his/her duties by a Deputy Commissioner for Local Government and a Deputy Commissioner for Community Services.

Sec. 44.47.020. Purpose of the Department. The purpose of the Department is to render maximum state assistance to government and to community-based not-for-profit organizations identified in AS 44.47.720 delivering community services at the community and regional level.

Sec . 44.47.050(14) administer state, and, as appropriate, federal programs for revenue sharing, grants, and other forms of federal financial assistance to community and regional governments and to community-based not-for-profit organizations identified in AS 44.47.720.

*Section 3, AS 44.47 is amended by adding new sections to read:

ARTICLE XI STATE TRAINING AND EMPLOYMENT PROGRAM

Sec. 44.47.610 ESTABLISHMENT. The state training and employment program is established in the Department of Community and Regional Affairs.

The purpose of this paragraph is to establish a training and employment program which will increase the employment opportunities and enhance the employability and work skills of Alaskans already in the labor force and of those who want to join the labor force but who lack vocational preparation or face other employment barriers. The program authorized by this part is intended to broaden and support existing federal programs but is not intended to duplicate such programs. The goal of the state training and employment program is to provide employment and training opportunities relevant to Alaskans and the Alaskan work experience.

Sec. 44.47.620. POWERS AND DUTIES. To administer the state training and employment program the department may

(1) administer state money appropriated to the state training and employment program;

(2) develop and implement program activities such as

(A) private sector development and employment, through occupational training and apprenticeship programs;

(B) youth programs which stress vocational exploration, career planning, and specific job skills;

(C) municipal training and assistance to cities and village governments in developing and upgrading administrative and service skills;

(D) public service employment positions, emphasizing the transition of welfare recipients and potential recipients into employment;

(E) other services and training needed to enable

individuals to secure and retain upgraded employment in the state;

(3) receive and evaluate training and employment program proposals from organizations providing or intending to provide training or employment services in the state, including existing federally recognized employment services delivery agencies.

(4) coordinate the program established under AS 44.47.620 - 44.47.650 with economic development, entrepreneurship, and related activities such as community, village and city socio-economic plans, public assistance, training, and social services programs being administered by the state; and

(5) set priorities for delivery of services under the state training and employment program among persons who are unemployed or underemployed residents, based on analysis of local needs as determined by local individuals, organizations, and governments.

Sec. 44.47.630. ALLOCATION.

(1) at least 30 percent of the available funds under the state training and employment program shall be allocated by the department to municipalities with more than 100,000 people.

(2) at least 40% of the available funds under the state training and employment program shall be allocated by the department to Native American organizations providing or intending to provide training or employment services in the state, including existing federally recognized employment services

Page 5

delivery agencies.

(3) Notwithstanding the provisions of AS 44.47.630(1) and (2) above, within one year following the effective date of this Act, the Commissioner shall devise an appropriate formula for the distribution of funds appropriated under the state training and employment program. Factors to be included in said formula shall minimally consist of the following considerations:

(A) the relative number of unemployed or underemployed individuals residing within the exterior boundaries of areas served by Native American organizations or municipal governments identified in AS 44.47.630(1) and (2);

(B) relative cost of living and cost of conducting programs within and between geographic areas of the state;

(C) other local and regional resources which may be available for employment and training services; and

(D) other relevant data.

Sec. 44.47.640. REGULATIONS. The department shall adopt regulations which:

(1) enable it to carry out its duties under AS 44.47.620 - 44.47.6

(2) administer the expenditure of money for contracts authorized under AS 44.47.620(4) through existing federal manpower planning councils, when applicable.

(3) provide that the Department shall administer and not operate programs authorized by this part.

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*Section 4. AS 44.47 is amended by adding a new article to read:

ARTICLE XII. ASSISTANCE TO COMMUNITY-BASED, NOT-FOR-PROFIT ORGANIZATIONS

Sec. 44.47.710. There is established a program of assistance to community-based, not-for-profit organizations engaged in the planning and delivery of community services at the community and regional level. Such program is established with the Department of Community and Regional Affairs.

Sec. 44.47.720. ELIGIBILITY. Any organization authorized to provide services under the federal Economic Opportunity Act of 1964 as amended (P.L. 93-644) and formally operating with such authority as of January 1, 1981, delegate agencies of such organizations; organizations providing services to Alaska Natives under the Indian Self-Determination and Education Assistance Act of 1974 (P.L. 93-638) and formally operating with such authority on January 1, 1981; and such other organizations as the Commissioner may, by regulation, recognize and authorize are eligible to apply to the Department for a grant under AS 44.47.710.

Sec. 44.47.730. USE OF GRANTS. Grants provided to community-based organizations under AS 44.47.720 may be used for one or more of the following purposes;

(1) research and planning on social and economic concerns related to the well-being of Alaskans represented by such organizations;

(2) delivery of specific services to populations represented by such organizations;

(3) programs at the local, regional, or statewide level which enhance the ability of citizens to participate effectively in public decisions affecting their individual and community well-being; and

(4) administration and audit.

Sec. 44.47.740. REGULATIONS. The Department shall adopt Regulations for the conduct and administration of assistance programs provided for by AS 44.47.710 - AS 44.47.730 which shall provide, at a minimum, that

(1) existing organizations identified in AS 44.47.720 shall receive priority consideration in the allocation of grant funds authorized by this Act;

(2) eligibility for services under this Act shall be minimally established as equivalent to the lower budget family-of-four index created by the U.S. Bureau of Labor Statistics and regionally adjusted to reflect the varying costs of living throughout the state;

(3) a formula for the allocation of grant funds authorized by this Act is established which fairly reflects the needs of citizens in geographic areas represented by grantees and which includes such factors as populations, cost-of-living and cost-of-conducting programs, local and regional resources available for similar programs and other relevant data.

*Section 5. AS 44.47 is amended by adding a new article to read:

ARTICLE XIII. COMMUNITY SERVICES FOR CHILDREN

Sec. 44.47.810 ESTABLISHMENT. There is established in the Department of Community and Regional Affairs the Community Services for Children Program.

Sec. 44.47.820. The Community Services for Children Program is intended to supplement and not supplant the federal Head Start Program.

Sec. 44.47.830. Grants provided to eligible program operators under this part may be used for one or more of the following purposes:

(1) the provision of quality programs to continue existing services to children and families.

(2) to supplement programs that propose to enhance the quality of services presently provided.

(3) to initiate programs in areas not presently being served.

Sec. 44.47.840. POWERS AND DUTIES. To promote the effective and efficient delivery of Community-based services to children and their families in the state, the Department is authorized to:

(1) coordinate and initiate the seeking of federal funds as needed and available.

(2) administer state funds which may be appropriated for community-based childrens services.

(3) develop a comprehensive plan for the provision of community-based programs to children and families in the state.

(A) review and coordinate public and private programs which affect children and the needs of families.

(B) provide training and technical assistance opportunities for program staff and participants including

parents and other consumers.

(4) implement an information and referral system for providers and consumers of community-based childrens programs.

(5) expand the Department's Community Profiles to include indicators of need for childrens services.

(6) sponsor and coordinate an annual evaluation of activities authorized by this part by representative consumers, the results of which shall be transmitted to the Office of the Governor.

(7) contract with appropriate organization(s) for the activities described in AS 44.47.820-840.

Section 6. AS 44.21 is amended by adding a new Section to read:

Sec. 44.21.210. ESTABLISHMENT OF INDIRECT FUND. There is established, in the Department of Administration, a fund for the payment of indirect costs to organizations listed in AS 44.47.720. The Commissioner shall make payments from the fund when:

(1) the State of Alaska is contracting for services with any such organization using federal funds which have been granted or contracted to the State; and

(2) such contractor has negotiated with a federal cognizant agency a rate for indirect costs; and

(3) federal statute or regulation limits are imposed so that insufficient federal funds are available to permit full payment to the contractor of allowable indirect costs.

Sec. 44.21.220. NEGOTIATION. In the event any organization listed in AS 44.47.720 has not negotiated an indirect cost rate with a cognizant federal agency and wishes to do so

with the State of Alaska, the Commissioner shall enter into negotiations for that purpose, using cost principles established by the federal Office of Management and Budget, Circular #A-122.

Sec . 44.21.230. ESTABLISHMENT OF REVOLVING ADVANCE FUND. There is established in the Department of Administration a Revolving Advance Fund for the purpose of providing a negotiated advance payment to State contractors listed in AS 44.47.720. Payments from the fund shall be made when such contractors enter into cost-reimbursable contracts with the State.

Sec. 44.21.240. CERTIFICATION. The Department shall annually certify the administrative systems of organizations eligible to receive state grants under AS 44.47.720. Such certification shall be deemed adequate for all purposes for which the state may enter into contracts with such organizations.

Sec. 44.21.250. REGULATIONS. The Department shall adopt regulations for the implementation of AS 44.21.21 - AS 44.21.250.

*Section 7. EFFECTIVE DATE. This Act takes effect on July 1, 1981 in accordance with AS 01.10.

March 19, 1981

60

IN THE HOUSE

BY:

HOUSE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE -- FIRST SESSION

A BILL

For an Act entitled: "An Act establishing uniform administrative procedures for grants and contracts to Alaskan not-for-profit organizations; and providing for an effective date."

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

*Section 1. INTENT. The Legislature determines that not-for-profit organizations which are the recipients of grant or contract funds from the State of Alaska, for programs to benefit the residents of Alaska, are required to have sound administrative structures inclusive of: (1) a governing board, (2) a personnel system, (3) an accounting system, and (4) the appropriate administrative personnel. Furthermore, the costs of these required components must be borne by the State as a legitimate part of the total costs of the delivery of services, just as if such services were to be delivered directly by the State of Alaska. Failure to provide sufficiently for the administrative costs incurred by the not-for-profit organizations will jeopardize the availability of this most cost-effective and efficient avenue for the delivery of services to meet prescribed state objectives. The Legislature further determines that there is a need for consistency and uniformity in both inter and intra-

Page 2

departmental administration of grants and contracts to not-for-profit organizations.

*Section 2. AS 44.21 is amended by adding a new section to read: Sec. 44.21.035.

UNIFORM ADMINISTRATIVE PROCEDURES FOR GRANTS AND CONTRACTS
WITH ALASKAN NOT-FOR-PROFIT ORGANIZATIONS.

The Department of Administration shall:

- (1) Develop a set of uniform procedures for grants and contracts to Alaskan not-for-profit organizations that will include:
 - (a) uniform proposal application procedures
 - (b) uniform application review requirements
 - (c) a consistent application of cost principles for not-for-profit organizations
 - (d) provisions for a consistent acceptance and payment of federally negotiated indirect cost rates (if applicable) or a state negotiated rate
 - (e) provisions for advances of grant and/or contract funds
- (2) Annually certify the administrative systems of organizations eligible to receive state contracts and/or grants. Such certification shall be deemed adequate for all purposes for which the State may enter into contracts with such organizations.

(3) Insure that each state agency provides sufficient funds to pay the negotiated indirect costs on all grants or contracts with not-for-profit organizations financed by State or federal pass-through monies.

*Section 3. EFFECTIVE DATE. This Act takes effect immediately in accordance with AS 01.10.

STATE COMPREHENSIVE HUMAN SERVICES ACTPARTICIPANTS

Corinne Reeve
 Beatrice Halkett
 Joann Contini
 Richard Rolland
 Susan Maddox
 David Jackson
 Carl Lake
 Karen Perdue
 Marilyn Stowell
 Mary Dalton
 Maxim Dolchok
 Sharon Sobocienski
 Tom Craig
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 Robert Leach
 Roland Shanks
 Jim Farmer
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 Arlene L. Patton
 Ken Isaak
 Gordon Jackson
 Pauline T. Valha
 Donald L. Shaw
 Brenda Knapp

 Eli Reyes

 Mary L. McClinton

 Gregg Brelsford
 Roger Lang
 Phil Smith

REPRESENTING

Metlakatla Indian Community
 Alaska Native Foundation
 Early Childhood Coordination Project
 The North Pacific Rim
 Bristol Bay Native Association
 Bristol Bay Native Association
 RurAL CAP
 Lieutenant Governor's Office
 Fairbanks Native Association
 Cook Inlet Native Association
 Cook Inlet Native Association
 Cook Inlet Native Association
 Copper River Native Association
 Alaska Native Foundation
 Fairbanks Native Association
 Alaska Environmental Lobby
 RurAL CAP
 The North Pacific Rim
 The North Pacific Rim
 Cook Inlet Native Association
 Alaska Legislature/Rep. Meekins
 Dept. of Community & Regional Affairs
 Kodiak Area Native Association
 Central Council, Tlingit & Haida
 Indian Tribes of Alaska
 Central Council, Tlingit & Haida
 Indian Tribes of Alaska
 Central Council, Tlingit & Haida
 Indian Tribes of Alaska
 Aleutian/Pribilof Islands Association
 Alaska Native Foundation
 RurAL CAP

Rural Alaska Community Action Program, Inc.

MEMORANDUM

TO: All Members of the Plenary Session of the Citizens
Participation Conference

FROM: CPC Subsistence Workshop

DATE: March 19, 1981

The Citizens Participation Conference Workshop convened March 16, 1981 and ended its session March 18, 1981. In the course of these three days the Subsistence Workshop considered many topics vital to the well-being of rural Alaskans. As a result of this work, the members of the Subsistence Workshop were able to reach a consensus on many issues that are of concern.

We present for your attention a list of the resolutions we passed at the Subsistence Workshop and now recommend and pray that you will concur with us in our consensus and PASS favorably on our resolutions:

"In Support of Alaska Native Cultures and Traditions"

"In Support of the State of Alaska Retaining the Existing Subsistence Law and Rejecting Any Proposition That Will Dilute or Repeal the Existing Law"

"In Support of Maximum Protection of Surface Resources and Wildlife Values in the Arctic Wildlife Refuge Oil and Gas Exploration"

"Citizens Participation Conference Affirmation of the Validity of the Tyonek Village Peoples' Court Action Against the Alaska Board of Fisheries"

"In Support of Subsistence Uses of Tyonek, English Bay and Port Graham."

"Support for Retention of the Alaska Coastal Management Act"

We have also addressed, discussed and supported the following concerns:

- 1) That village elders be shown honor and respect for having the valuable knowledge vital to subsistence users and be frequently

consulted for this knowledge. From the Subsistence Workshop we would like to recognize: Mark Jacobs, Walter Charley, Franklin Madros, Sr., and Arnold Melsheimer.

- 2) That the Governor appoint more subsistence using Alaska Natives to the Alaska Department of Fish and Game, Board of Fisheries and Board of Game.
- 3) That per diem and travel expenses be provided for local Fisheries and Game Advisory Committee members traveling in pursuit of their responsibilities as committee members.
- 4) That the Alaska Coastal Management Program be retained.
- 5) That the responsibility for the removal and care of loss of life or property shall not be a burden to those defending their life and property and that they should be compensated for their work as a result of such defense.
- 6) That the Subsistence Section of the Alaska Department of Fish and Game adopt realistic employment standards and that their employees be locally hired and be stationed in subsistence villages not the major villages.
- 7) That we strongly support the Eskimo Whaling Commission in its efforts to obtain realistic quotas and management of the whale resource.
- 8) That the regulations be retained that allow for one fish or game advisory committee to legally declare an emergency closure.
- 9) That a strong message be sent to the appropriate parties that the Marine Mammal Protection Act Native exemption be retained and that the Act itself be extended at least two years.
- 10) That Outer Continental Shelf hearings on proposed oil leases be held in the small villages located in the areas to be impacted by such leasing.
- 11) That we support House Bill #142 which prohibits the export from the State of moose and caribou antlers unless they are the antlers of an animal taken by a resident Alaska hunter.
- 12) That the Alaska Game Board allocate 300 permits to subsistence users of the Nelchina and Mentasta caribou herd.
- 13) That a strong message be sent to the Bureau of Indian Affairs that they get active on our rights protection of subsistence which is a trust responsibility. Adequate funding and assistance should be offered to Alaska Tribal Governing Bodies or Tribal Organizations.

- 14) That the State should get involved in securing freezers in all remote villages, to help eliminate spoilage, assist the health and welfare of the community and so that from season to season they may help meet nutritional needs.
- 15) That the State cease and desist in its imposition of severe fines, jail sentences, and confiscation of vital gear used for subsistence needs when the State is prosecuting alleged minor infractions.
- 16) That the Alaska Department of Fish and Game biologists be responsible for biological work only and not for enforcement work.
- 17) That the Subsistence Section of the Alaska Department of Fish and Game be elevated to a Division status.

Thank you very much,

Matthew Iya,
Chairman,
Subsistence Workshop CPC

*The Subsistence Workshop also made recommendations on the following legislation:

<u>BILL #</u>	<u>DESCRIPTION</u>	<u>ACTION</u>
HB 142	Prohibit Transfer of Moose and Caribou Antlers Out of State	Do Pass, high priority
SB 216	Repeal of Coastal Management Program	Do not pass, high priority
HB 343	Repeal of Subsistence Law	Do not pass, high priority

Rural Alaska Community Action Program, Inc.

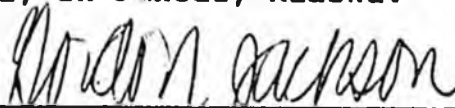
CPC RESOLUTION #81- 24

- ENTITLED: "In Support of Alaska Native Cultures and Traditions"
- WHEREAS, Under existing Alaska State laws, statutes and/or regulations, and related Federal laws, statutes and/or regulations the term subsistence is not adequately addressed to adequately protect the Alaska Natives in their traditional use of fish and game and other plant, animal, mineral and water resources used for food, sustenance, fuel, shelter, tools and/or ceremonial and religious purposes, and,
- WHEREAS, Certain proposals and interpretations of existing State and Federal laws, statutes, and/or regulations threaten to diminish, suppress, intimidate or completely deprive the Alaska Natives of their inherent rights, and,
- WHEREAS, The original intent of Federal policy is not to destroy or to severely suppress or deny the aboriginal people of Alaska their inherent rights to subsist, and
- WHEREAS, Certain interpretations of the terms subsistence, traditional, and customary tend to extend to those who do not possess the inherent rights of the aboriginal Alaska Natives, and
- WHEREAS, The inherent rights of the various aboriginal Alaskans are an ancestral culture; now, therefore be it
- RESOLVED: That regardless of social or economic status, Alaska Native peoples retain and cherish a right to their own established cultures peculiar to their own groups of ethnic origin, and be it further
- RESOLVED: That this right cannot be legislated or regulated out of existence, nor can it suddenly disappear by assimilation or changes in social status, and be it further
- RESOLVED: That the use or taking of any animal, plant, mineral or water resource by any modern technology does not lessen or destroy these inherent rights, and be it further
- RESOLVED: That these inherent rights are paramount before any legislation, Federal, State, or of other origin, and be it further

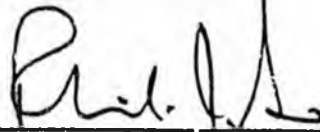
RESOLVED:

That copies of this Resolution shall be directed to the Governor, Speaker of the House, President of the Senate, Commissioner of Fish and Game, the Chairman of the Board of Fisheries and concerned Native corporations and Native organizations.

Adopted by the Delegates to the Citizens Participation Conference, March 19, 1981, in Juneau, Alaska.



Gordon Jackson, President
Rural CAP Board of Directors



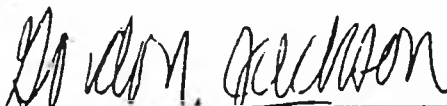
Philip J. Smith, Executive Director
Rural CAP

Rural Alaska Community Action Program, Inc.

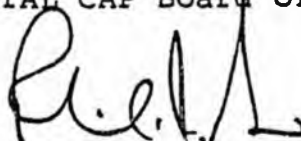
CPC RESOLUTION #81-25

- ENTITLED: "In Support of the State of Alaska Retaining the Existing Subsistence Law and Rejecting Any Proposition That Will Dilute or Repeal the Existing Law"
- WHEREAS, To its great credit, the 1978 Alaska Legislature recognized in its wisdom the importance of indigenous plants and animals to the subsistence users in Alaska, and,
- WHEREAS, The subsistence use of the resources of Alaska is imperative to the culture, tradition, diet and economy of these users, and,
- WHEREAS, Essentially, rural Alaska residents continue to live as an integral part of the ecosystem as they have for centuries, and,
- WHEREAS, The necessity of rural people to continue to use subsistence resources mandates the allocation of the resources among user groups, and,
- WHEREAS, In the past, statutes and regulations in the State (and formerly in the Territory) did not adequately accommodate the needs of subsistence users, and,
- WHEREAS, The State of Alaska has the right to make allocation decisions; now, therefore be it
- RESOLVED: That the Citizens Participation Conference recognizes subsistence use as the primary concern of rural Alaskans and is integral to the existence of the rural lifestyle, and be it further
- RESOLVED: That the State retain the existing Alaska State Subsistence Law Statute, and be it further
- RESOLVED: That in strongest terms, the Citizens Participation Conference rejects any and all legislation or initiative that will in any manner weaken, dilute, or repeal the existing Alaska State Subsistence Law.

Adopted by the Delegates to the Citizens Participation
Conference, March 19, 1981, in Juneau, Alaska.



Gordon Jackson, President
Rural CAP Board of Directors



Philip J. Smith, Executive Director
Rural CAP

Rural Alaska Community Action Program, Inc.

CPC RESOLUTION #81-26

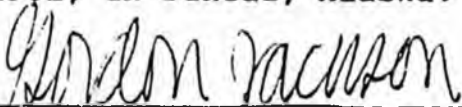
- ENTITLED: "In Support of Maximum Protection of Surface Resources and Wildlife Values in the Arctic Wildlife Refuge Oil and Gas Exploration"
- WHEREAS, The coastal plain of the Arctic National Wildlife refuge (ANWR) is the calving ground of the Porcupine caribou herd and the habitat of other internationally important fish and wildlife populations which are critical subsistence resources to the people of Northeast Alaska and Northwest Canada, and,
- WHEREAS, PL 96-487 (Alaska Lands Act) provides for a comprehensive and continuing inventory and assessment of the fish and wildlife resources of the coastal plain of the ANWR, an analysis of the impacts of oil and gas exploration, development and production, and authorizes seismic and surface geological exploration for oil and gas within the coastal plain in a manner that avoids significant adverse effects on the fish and wildlife and other resources, and,
- WHEREAS, Senator Jackson clearly expressed Congress' intent on the floor of the Senate, that "any exploration activities within the (Arctic National Wildlife Refuge) shall be conducted in a manner which will assure the maximum protection of surface resource and wildlife values as is consistent with the requirements of this act for exploration of the range", and,
- WHEREAS, Secretary of the Interior Watt directed on March 12, 1981 that the avoidance of significant adverse effects on fish and wildlife resulting from seismic and surface geological exploration will be done in the "most cost-efficient manner", and,
- WHEREAS, This standard implies a weaker level of protection than Congress intended, and does not address the need to protect surface resources as Congress directed, and,

WHEREAS, A weaker standard of protection for subsistence resources and their habitats would endanger the livelihood of local peoples while only benefitting the oil and gas industries; now, therefore be it

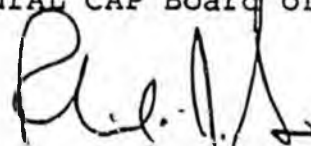
RESOLVED: That exploration assumptions and analysis of potential impacts of seismic and surface geological exploration within the ANWR must address any and all techniques and means of access which might benefit fish and wildlife or surface resources, and be it further

RESOLVED: That exploratory regulations, guidelines and stipulations must assure that exploratory activities provide for "the maximum protection of surface resources and wildlife values", and maximum protection for the subsistence economies of local communities.

Adopted by the Delegates to the Citizens Participation Conference, March 19, 1981, in Juneau, Alaska.



Gordon Jackson, President
Rural CAP Board of Directors



Philip J. Smith, Executive Director
Rural CAP

Rural Alaska Community Action Program, Inc.

CPC RESOLUTION #81-27

ENTITLED: "Citizens Participation Conference Affirmation of the Validity of the Tyonek Village Peoples' Court Action Against the Alaska Board of Fisheries"

WHEREAS, Subsistence is the way of life for thousands of rural Alaskans including those who reside near urban centers such as Anchorage, and,

WHEREAS, The village of Tyonek was denied subsistence fishing rights by the Alaska Board of Fish at their meeting held in December of 1979, and,

WHEREAS, The village leaders decided to file suit against this action, claiming that it was in violation of HB 960 (ch. 151, SLA 1978) which provides that subsistence is the highest priority use of Alaska's renewable resources, and,

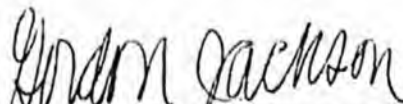
WHEREAS, Both Rural CAP and AFN were requested by Tyonek to provide legal assistance to their concerns, and both organizations responded, and,

WHEREAS, The subsequent lawsuit was successful; now, therefore be it

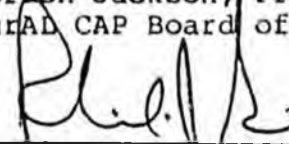
RESOLVED: That delegates to the 1981 CPC do hereby formally support the people of Tyonek in their efforts to protect their subsistence lifestyle, and be it further

RESOLVED: That the CPC Delegates affirm that the need for the lawsuit was identified by the Tyonek people and that the Tyonek people took the initiative to defend their rights.

Adopted by the Delegates to the Citizens Participation Conference, March 19, 1981, in Juneau, Alaska.



Gordon Jackson, President
Rural CAP Board of Directors



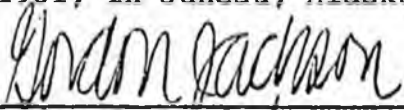
Philip J. Smith, Executive Director
Rural CAP

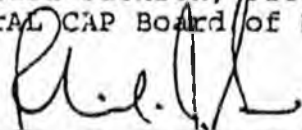
Rural Alaska Community Action Program, Inc.

CPC RESOLUTION #81-28

- ENTITLED: Support for Retention of the Alaska Coastal Management Act
- WHEREAS, The State of Alaska recognized the importance for the planned use of its coastal resources with the adoption of the State Coastal Management Act in 1977, and
- WHEREAS, the State Coastal Management Act contains provisions that enable rural regional areas in the unorganized borough and incorporated municipalities to develop District Coastal Management Programs, and
- WHEREAS, District Coastal Management Programs have established the authority for local areas to conduct planning and establish recommendations for the use of local resources, and
- WHEREAS, this local planning authority is of primary importance to the concept of maximizing local control for the use of local resources; now, therefore be it
- RESOLVED: That the delegates to the 1981 Citizens Participation Conference support the retention of the Alaska Coastal Management Act, and be it further
- RESOLVED: That the delegates to the 1981 Citizens Participation Conference recommend that the Alaska State Legislature pursue all efforts to ensure maximum local control through the District Coastal Management Programs that are adopted and implemented.

Adopted by the Delegates to the Citizens Participation Conference, March 19, 1981, in Juneau, Alaska.


 Gordon Jackson, President
 Rural CAP Board of Directors

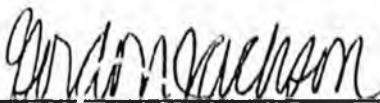

 Philip J. Smith, Executive Director
 Rural CAP

Rural Alaska Community Action Program, Inc.

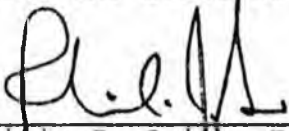
CPC RESOLUTION #81-29

- ENTITLED: "In Support of Subsistence Uses of Tyonek, English Bay and Port Graham"
- WHEREAS, The Board of Fisheries has appropriately recognized ten important characteristics of subsistence use of Cook Inlet Salmon in its Findings and Policy #80-79-FB, and,
- WHEREAS, The Board of Fisheries provided for subsistence uses in the three non-road-connected communities of Tyonek, English Bay and Port Graham in its December 1980 actions, and,
- WHEREAS, This subsistence use of salmon is essential to the lifestyle, culture and economy of these villages; now, therefore be it
- RESOLVED: That the Citizens Participation Conference commends the Board of Fisheries for passing Findings and Policy #80-79-FB, and be it further
- RESOLVED: That the Board of Fisheries protect the customary and traditional subsistence uses of Tyonek, English Bay and Port Graham.

Adopted by the Delegates to the Citizens Participation Conference, March 19, 1981, in Juneau, Alaska.



 Gordon Jackson, President
 Rural CAP Board of Directors



 Philip J. Smith, Executive Director
 Rural CAP

SUBSISTENCE WORKSHOPRURAL ALASKA RESOURCES
ASSOCIATION DELEGATES

Walter Charley
Michael David
Bert Greist
Matthew Iya
Mark Jacobs, Jr.

Arnold Melsheimer
Wayne Marshall
Christine Pitka
Don Standifer
Yako Tinker

REPRESENTING

Copper River Native Association
Tanana Chiefs Conference
Mauneluk Association
Kawerak, Inc.
Central Council, Tlingit-Haida
Indians of Alaska
The North Pacific Rim
Kodiak Area Native Association
Koyukon Development Corporation
Cook Inlet Native Association
Nunam Kitlutsisti

LOCAL DELEGATES

Duke Delgado
Bartz Englishoe
Keith Gordaoff
Carole Huntington
Ronny Lind
Franklin Madros, Sr.
Jake Miller
Ray Penetac
Michael Patkotak
Frank Standifer
Lee Stratton
Jonathon Solomon
Tim Troll
Jonah Tokienna

REPRESENTING

Kodiak Area Native Association
Gwitchyaaazhee
Native Village of Eyak
Koyukon Development Corporation
Kodiak Area Native Association
Koyukon Development Corporation
Copper River Native Association
Kawerak, Inc.
Barrow, Alaska
Tyonek IRA Council
The North Pacific Rim
3-G
City of St. Mary's
Eskimo Walrus Commission

RESOURCE PERSONS

Ramona Barnes
Bob Brean
Lynn Castle
Norman Cohen
Bill Demmert

Dennis Kelso

Roger Lang
Keith Johnson
Mark Jensen
Don Mitchell
Roland Shanks
Ed Shavings, Sr.

REPRESENTING

Alaska State Legislature
Upper Tanana Development Corporation
Professional Guide
Legislative Aide
Deputy Commissioner, Alaska
Department of Fish and Game
Chief, Subsistence Section, Alaska
Department of Fish and Game
President, Alaska Native Foundation
Professional Guide
Professional Guide
Alaska Federation of Natives
Lobbyist
Nunivak Island

GUESTS

Dave Benton
Lou Keller
Hank Ostrosky
Frank Woods

STAFF

Jude Henzier
Faith Welsh

REPRESENTING

Friends of the Earth
Kodiak Area Native Association
Himself
Bristol Bay

REPRESENTING

RurAL CAP
RurAL CAP

People to testify on SB 65

Carol Bailey, Alaska Legal Service Corp.
Patrick Phillips, Mayor, Alakanuk
Jim Messick, Alaska State Troopers

Carol Bailey was to call Sen. Roddy
with more names today. She also
stated she was ~~bringing~~ bringing testimonies
from many villages. Alot of things
on page 1 of the attached report.

S

B

6

9

COMMITTEE REPORT

SENATE

4/20/81

FURTHER: None

Date: April 21, 1981

Mr. President:

The Committee on JUDICIARY has had SSSB 69

Making a driver improvement course mandatory for certain drivers who receive driving demerit points

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

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

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

April 17, 1981

465-4322

The Honorable Torry Stimson
Alaska State Senate
Pouch V
Juneau, AK 99811

Dear Senator Stimson:

The purpose of this letter is to express my position on Senate Bill 69 and corresponding substitutes to date.

I respectfully submit that the Bill in its present substitute form (SCCS 69, H&SS) is discriminatory in that it places requirements on some errant Alaskan drivers while others are exempt.

To administer the requirements or non requirements defined in the aforementioned substitute would be cumbersome at best without the end result justifying the means.

As the driver improvement course now stands, it is a voluntary one unless ordered by the Court as part of the sentence process. If individuals with points assessed against them wish to reduce those points, the prerogative to do so is with them when the availability of such a course is present. The voluntary method appears to be effective within the parameter of a driver/accident ratio which is the intent of the course in the first place.

To place additional regulations on all Alaskans that in part or in whole do not materially effect the state-wide driver/accident ratio is not fully warranted.

Admittedly Senator, I do have some concerns about over-regulating the public and will make myself available as spokesman for this Department to testify on the Bill if you or any of your colleagues so desire.

Sincerely,

William R. Nix
Commissioner

cc: Senator Bill Ray
Keith Specking, Legislative Aide, Governor's Office
Walter Lawson, Administrative Services, DPS
Ron Lehr, Budget & Management

... department, at the time of
... medical certificate approved
... of the United States
... transportation. The medical
... has been issued within the two
... state of application for Class
... license and must be renewed
... The applicant shall file each
... medical certificate with the

... Class A-3, and Class A-4 licenses
... Class A-2, A-3, and A-4
... only so long as a currently
... approved medical certificate is on
... department as prescribed in (a) of

... for a medical examination
... precedent to obtaining an
... or school bus driver's permit is
... applicant is the holder of a
... first or second-class medical
... under the federal aviation
... if the applicant is seeking a
... permits the operation of a bus, has
... of the Department of
... to tests for tuberculosis. (Eff.

Authority: AS 28.05.030
AS 28.15.070

ARTICLE 4.
TRAFFIC VIOLATIONS DEMERIT
POINT SYSTEM

- 1. Demerit point schedule
- 2. Point accumulation - Application to driver record, coverage
- 3. Suspension or revocation of driving license - Duration
- 4. Driver improvement interview
- 5. Driver improvement recommendations
- 6. Suspension by department
- 7. Suspension for failure to appear for driver improvement interview or failure to comply with recommendations made at driver improvement interview
- 8. Point accumulation for suspension for point accumulation
- 9. Coverage

- 285. Administrative review of suspension for point accumulation
- 290. Definitions

13 AAC 08.210. DEMERIT POINT SCHEDULE. For purposes of administratively identifying habitually reckless or negligent drivers and habitual or frequent violators of traffic laws and in order to identify problem drivers, the following violations will be accorded these corresponding numerical weights upon conviction:

Violation or Type of Violations	Point Value
(1) driving while license cancelled, suspended or revoked, or in violation of license limitation	12
(2) driving while under the influence of intoxicating liquor or drugs	10
(3) reckless driving	10
(4) speed contest-racing	10
(5) fleeing or attempting to elude a police officer	10
(6) leaving scene of accident	9
(7) negligent driving	6
(8) failure to yield right-of-way to authorized emergency vehicle	6
(9) failure to stop for school bus while bus is loading or unloading	6
(10) failure to obey official traffic control device in school zone, playground crosswalk, or park	6
(11) speeding:	
in school zone or playground	
crosswalk	6
3 to 9 miles per hour over limit	2
10 to 19 miles per hour over limit	4
20 or more miles per hour over limit	6
(12) violation of oversize or overweight permit pertaining to restriction on speed:	
3 to 9 miles per hour over limit	2
10 to 19 miles per hour over limit	4
20 or more miles per hour over limit	6
on hours of operation	3
(13) careless driving	4
(14) following too closely	4
(15) failure to stop or yield	4
(16) all others	2

(Eff. 11/4/74, Reg. 52; am 3/29/75, Reg. 53; am 12/1/78, Reg. 68)

Authority: AS 28.15.221

13 AAC 08.220. POINT ACCUMULATION - APPLICATION TO DRIVER RECORD; COVERAGE. (a) Repealed. (12/1/78, Reg. 68)

14. PUBLIC WORKS
15. REVENUE

department, at the time of
with a medical certificate approved
of the United States
transportation. The medical
has been issued within the two
date of application for Class
A-3 license and must be renewed
The applicant shall file each
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Class A-3, and Class A-4 licenses
operating Class A-2, A-3, and A-4
only so long as a currently
approved medical certificate is on
department as prescribed in (a) of

requirement for a medical examination
precedent to obtaining an
or school bus driver's permit is
the applicant is the holder of a
valid first or second-class medical
under the federal aviation
and if the applicant is seeking a
permits the operation of a bus, has
of the Department of
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Authority: AS 28.05.030
AS 28.15.070

ARTICLE 4.
TRAFFIC VIOLATIONS DEMERIT
POINT SYSTEM

- 1. demerit point schedule
- 2. point accumulation Application to
duration and coverage
- 3. suspension or revocation of driving
license Duration
- 4. driver improvement interview
- 5. driver improvement recommendations
by department
- 6. exceptions
- 7. application for failure to appear for
driver improvement interview or failure
to comply with recommendations made
at driver improvement interview
- 8. penalties
- 9. penalties for suspension for point
accumulation
- 10. penalties

- 285. Administrative review of suspension
for point accumulation
- 290. Definitions

13 AAC 08.210. DEMERIT POINT
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3 to 9 miles per hour over limit	2
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20 or more miles per hour over limit	6
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10 to 19 miles per hour over limit	4
20 or more miles per hour over limit on hours of operation	6
(13) careless driving	4
(14) following too closely	4
(15) failure to stop or yield	4
(16) all others	2

(Eff. 11/4/74, Reg. 52; am 3/29/75, Reg. 53; am
12/1/78, Reg. 68)

Authority: AS 28.15.221

13 AAC 08.220. POINT ACCUMULATION -
APPLICATION TO DRIVER RECORD;
COVERAGE. (a) Repealed. (12/1/78, Reg. 68)

14 FUELING WORKS
15 REVENUE

April 17, 1981

465-4322

The Honorable Terry Stimson
Alaska State Senate
Pouch V
Juneau, AK 99811

Dear Senator Stimson:

The purpose of this letter is to express my position on Senate Bill 69 and corresponding substitutes to date.

I respectfully submit that the Bill in its present substitute form (SCCCS 69, HSS) is discriminatory in that it places requirements on some errant Alaskan drivers while others are exempt.

To administer the requirements or non requirements defined in the aforementioned substitute would be cumbersome at best without the end result justifying the means.

As the driver improvement course now stands, it is a voluntary one unless ordered by the Court as part of the sentence process. If individuals with points assessed against them wish to reduce those points, the prerogative to do so is with them when the availability of such a course is present. The voluntary method appears to be effective within the parameter of a driver/accident ratio which is the intent of the course in the first place.

To place additional regulations on all Alaskans that in part or in whole do not materially affect the state-wide driver/accident ratio is not fully warranted.

Admittedly Senator, I do have some concerns about over-regulating the public and will make myself available as spokesman for this Department to testify on the Bill if you or any of your colleagues so desire.

Sincerely,

William R. Nix
Commissioner

cc: Senator Bill Ray
Keith Specking, Legislative Aide, Governor's Office
Walter Lawson, Administrative Services, DPS
Ron Lehr, Budget & Management

Senate criticizes driving law, then delays action

By The Associated Press

Senators mumbled complaints today about the point system used to penalize drivers who get tickets, then delayed action on a bill which would require drivers who tally a certain number of violations to take a defensive driving class.

Senate President Jalmar Kerttula, D-Palmer, said "this whole point system is a lousy law." Others made similar assessments.

Under the law, drivers accumulate points for traffic violations. The program is designed to help the Department of Motor Vehicles identify habitual or frequent violators, and revoke or suspend a license for up to one year if necessary.

Sen. Terry Stimson, D-Anchorage, has introduced a bill (CSSSSB69 HESS) to require drivers who accumulate six or more points in 12 months, or nine or more points in 24

months to complete a defensive driving course.

If the course is not completed within 45 days from the date the points are assessed, then the driver's license would be suspended or revoked.

While Stimson's bill became mired in debate, the Senate voted 18-2 to approve technical amendments (HB53) to the point system to clarify that drivers would accumulate good points for each 12 months.

S

B

7

7

COMMITTEE REPORT
SENATE

FURTHER: None

2/19/81

Date:

~~2/19/81~~ April 6, 1981

Mr. President:

The Committee on JUDICIARY has had SB 77
commercial transactions

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

- do pass *order 100* do not pass
- do pass with attached amendments(s)
- replace with CS for _____ same title
 new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Sen. Kenneth C. Rice
Sen. [unclear]

CHAIRMAN

CODE REVISION COMMISSION



COMMISSIONERS
JOHN W. ABBOTT, CHAIRMAN
SUSAN A. BURKE, VICE CHAIRMAN
PATRICK M. RODEY
FRED E. BROWN
L.S. KURTZ, JR.
WM. GRANT CALLOW

ALASKA STATE LEGISLATURE
POUCH V, STATE CAPITOL
JUNEAU, ALASKA 99811
(907) 465-4878

EXECUTIVE SECRETARY
BILLY G. BERRIER

January 19, 1981

The Honorable Bob Mulcahy
Chairman, Labor and Commerce Committee
Alaska State Senate
Pouch V, State Capitol
Juneau, Alaska 99811

✓ The Honorable Patrick M. Rodey
Chairman, Judiciary Committee
Alaska State Senate
Pouch V, State Capitol
Juneau, Alaska 99811

Re: SB 77--Articles 8 and 9 of the
Uniform Commercial Code

Dear Chairmen Mulcahy and Rodey:

The Alaska Code Revision Commission has submitted SB 77 regarding Articles 8 and 9 of the Uniform Commercial Code. The commission is extremely interested in securing passage of the bill during this legislative session, if possible. Further, a member of the commission will be available to present testimony on behalf of the bill upon notification.

In an effort to be of assistance, I am enclosing a copy of the commission's transmittal memorandum which briefly sets out the need for this revision along with a copy of the memoranda prepared by the Division of Legal Services outlining the differences between existing law and proposed changes.

Commission secretary, Catherine Walsh, can be contacted at extension 4878 in order to coordinate testimony in the event hearings are shortly forthcoming.

We appreciate your attention to this matter and any assistance you can provide in securing SB 77's passage.

Very truly yours,

John W. Abbott, Chairman
Alaska Code Revision Commission

JWA:chw

Enclosures

WOLFE
CRANE
CUMMINGS
IN OREGON

LAW OFFICES OF
KEANE, HARPER, PEARLMAN AND COPELAND
420 L STREET
SUITE 303
ANCHORAGE, ALASKA 99501

REGISTRY OFFICE
3500 FIRST NATIONAL TOWER
PORTLAND, OREGON 97201
TELEPHONE (503) 224-4100

TELEPHONE 807 378-5333

March 4, 1981

J. DAVID BENNETT
DAVID W. HARPER
ROBERT E. O'NEALS
GORDON W. KEANE
THOMAS M. LANGE
DONALD W. PEARLMAN
RICHARD L. SADLER

RANDALL E. DUNN
DAVID N. GOULDER

RECEIVED

MAR 09 1981

Hon. Robert Mulcahy
Chairman, Senate Labor and
Commerce Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Re: Senate Bill 77

Dear Senator Mulcahy:

The Legislature is to be commended for considering amendments to the state Uniform Commercial Code which will make the UCC more understandable and effective. I have reviewed Senate Bill 77 and find that, on the whole, it incorporates many worthwhile changes to the UCC. I have only one minor suggestion. Section 23 of the bill, which amends AS 45.09.105, could state expressly that mortgages are limited to real property security interests. This could be easily done by modifying the definition of "mortgage", contained in subsection (a)(12) at page 13, line 14 of SB 77, to the following: "'Mortgage' means a consensual security interest in real estate created by a real estate mortgage, a trust deed on real estate, or the like;". This supplemental definition clearly excludes various consensual interests which are not primarily security devices, such as leasehold rights, from the definition of "mortgage".

Sincerely,

KEANE, HARPER, PEARLMAN
and COPELAND

Robert Hume

Robert H. Hume, Jr.

RHH:kh

*Mike - Copy Sen. Rod. y with
this letter
THM
RBL*

ALASKA CODE REVISION COMMISSION



COMMISSIONERS
JOHN W. ABBOTT - CHAIRMAN
WM. GRANT CALLOW - VICE CHAIRMAN
PATRICK M. RODEY
FRED E. BROWN
L. S. KURTZ JR.
JAMES L. BARDWIN

ALASKA STATE LEGISLATURE
POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
(907) 465-4878

EXECUTIVE SECRETARY
BILLY G. BERRIER

MEMORANDUM

TO: The Honorable Patrick M. Rodey
Chairman, Senate Judiciary Committee

FROM: John W. Abbott, Chairman
Alaska Code Revision Commission *John W. Abbott*

DATE: March 23, 1981

RE: Commentary to SB 77--Uniform Amendments to the
Uniform Commercial Code, Articles 8 & 9

The attached two memoranda were prepared for the Alaska Code Revision Commission in July and August of 1978 by Kenneth E. Vassar when he was legislative counsel for the Legislative Affairs Agency. The references in his original memoranda are now revised to conform to the current section numbering in Alaska Statutes and SB 77.

JWA:chw

Attachments


STATE OF ALASKA THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

July 27, 1978

SUBJECT: Uniform Commercial Code--Article 8
TO: Alaska Code Revision Commission
FROM: Kenneth E. Vassar, Legislative Counsel 

This memorandum will explain points of difference between Article 8 of the Uniform Commercial Code (UCC) and AS 45.05.612 - 45.05.688.

UCC Article 8 and AS 45.05.612 - 45.05.688 relate to investment securities. Each body of law contains parallel sections; therefore, to as great an extent as possible, the following discussion will proceed in numerical sequence through those sections of Alaska law which have deviated from the uniform act.

AS 45.05.614 and its counterpart, UCC sec. 8-102, provide definitions for terms used in their respective articles; however, section 614 includes a definition which is not in the UCC section and modifies a definition which is in the UCC section.

The definition in sec. 614 which is not in 8-102 is for the term "proper form." Prior to 1962, the UCC included such a definition, but in that year 8-102 was amended to delete the definition. At the same time UCC sec. 8-208 was amended to delete the term for which the definition in 8-102 had been supplied. Since it was the amendment to 8-208 which formed the basis for the decision to delete the definition of "proper form" in 8-102, this discussion will continue now out of numerical sequence to examine the difference between UCC sec. 8-208 and the corresponding Alaska law, AS 45.05.638.

AS 45.05.638 and UCC sec. 8-208 enumerate the warranties made to a bona fide purchaser (that is, a purchaser for value without notice of the particular defect in the security) by a person who places his signature upon a security as authenticating trustee, registrar, transfer agent, or the like. AS 45.05.638 includes a warranty that "the security is genuine and in proper form." Hence, the need for a definition of "proper form." Since 1962, the UCC has replaced the warranty quoted above with the following:

(a) the security is genuine; and ...

(c) he (the person signing the security) has reasonable grounds to believe that the security is in the form and within the amount the issuer is authorized to issue.

The Permanent Editorial Board of the National Conference of Commissioners on Uniform State Laws noted the following reason for the change:

As enacted in New York [prior to amendment by L.1963, c.1003] Section 8-208 reduced the warranty as to form to a warranty that the security is in the form which the authenticating trustee, registrar, or transfer agent was authorized to sign or countersign. Under the case law, the responsibility of such party appears to go somewhat further. The Editorial Board believes that its recommended amendment correctly reflects the responsibility indicated by the case law while also reducing the warranty as to form appearing in the 1958 Text [Alaska's version]. In actual practice authenticating trustees, registrars and transfer agents usually rely upon counsel as to matters of form. Among other things, the amendment takes into account such practice.

In terms of burden placed upon an authenticating trustee, registrar, transfer agent, or the like, the Alaska version of this section places a greater burden by imposing an absolute warranty that the form is proper, whereas the UCC version requires only reasonable grounds to believe that the security is in the form the issuer is authorized to issue. Three states have melded the two versions together to achieve a third version which is more burdensome still. In Indiana, Missouri and Montana the effect of the signature of an authenticating trustee, registrar, transfer agent or the like is to warrant that the security is in proper form and that there are reasonable grounds to believe that it is in the form the issuer is authorized to issue.

Returning now to AS 45.05.614 and UC^T sec. 8-102, it was noted earlier that section 614 modifies a definition in section 8-102. The definition in question is for "clearing corporation." Under section 8-102(3), a clearing corporation is defined as a corporation

(a) at least ninety per cent of the capital stock of which is held by or for one or more persons (other than individuals) each of whom

(i) is subject to supervision or regulation pursuant to the provisions of federal or state banking laws or state insurance laws, or

(ii) is a broker or dealer or investment company registered under the Securities Exchange Act of 1934 or the Investment Company Act of 1940, or

(iii) is a national securities exchange or association registered under a statute of the United States such as the Securities Exchange Act of 1934, and none of whom, other than a national securities exchange or association, holds in excess of twenty per cent of the capital stock of such corporation; and

(b) any remaining capital stock of which is held by individuals who have purchased such capital stock at or prior to the time of their taking office as directors of such corporation and who have purchased only so much of such capital stock as may be necessary to permit them to qualify as such directors. (emphasis added)

The emphasized portion of the definition is deleted in AS 45.05.614. The effect of this deletion is to increase the number of corporations which may fall into the class of clearing corporations.

UCC sec. 8-320, which corresponds to AS 45.05.677, establishes the role a clearing corporation plays in the transfer or pledge of a security or of any interest in a security. A transfer or pledge under these sections "has the effect of a delivery of a security in bearer form or duly endorsed in blank." The official UCC comment to this section states:

Consistent with the underlying purposes and policies of this Act "to permit the continued expansion of commercial practices through custom, usage, and agreement of the parties" -- subsection (2)(b) of Section 1-102 -- this Section expressly authorizes a newly developing and commercially useful method of transferring or pledging securities on the organized securities markets, particularly among brokers and banks but not necessarily so limited.

A 1973 amendment to 8-102 changed the definition of "clearing corporation." Previously, it had defined such a corporation as

a corporation all of the capital stock of which is held by or for a national securities exchange or association registered under a statute of the United States such as the Securities Exchange Act of 1934.

The UCC official comment to the current definition, which replaced the definition above, provides:

This section also defines a "clearing corporation" in a manner which permits not only national securities exchanges, but also banks, insurance companies, and similar organizations to participate in the control and management of such a corporation through ownership of shares, in order to facilitate the making of transfers of securities and lessen the delays and errors which have caused difficulty in the past during periods of high activity in the securities markets.

Alaska's version of the definition might include an official comment paraphrased from that given above as follows:

This section also defines a "clearing corporation" in a manner which permits not only national securities exchanges, banks, insurance companies and similar organizations, but also individuals to participate in the control and management of such a corporation through ownership of shares.

The next point of departure between the Alaska statutes and the UCC is the absence in the Alaska statutes of any section which corresponds to UCC sec. 8-107, which provides:

(1) Unless otherwise agreed and subject to any applicable law or regulation respecting short sales, a person obligated to deliver securities may deliver any security of the specified issue in bearer form or registered in the name of the transferee or indorsed to him or in blank.

(2) When the buyer fails to pay the price as it comes due under a contract of sale the seller may recover the price

(a) of securities accepted by the buyer; and

(b) of other securities if efforts at their resale would be unduly burdensome or if there is no readily available market for their resale.

This sections reflects the treatment of securities of a particular issue as "fungibles." that is, goods of which any unit is, by nature or usage of trade, the equivalent of any other like unit. Thus, a person obligated to deliver securities need not deliver any specific instrument, but may select any security of the proper issue, in bearer form or appropriately registered or indorsed. While the Alaska statutes do not contain the specific section quoted above, the treatment of securities as fungible goods may be supported with similar effect by reference to other Alaska statutes. AS 45.05.020(17) defines "fungible" as follows:

(17) "fungible" with respect to goods or securities means goods or securities of which any unit is, by nature or usage of trade, the equivalent of any other like unit.

And AS 45.05.028(c) allows for usage of trade by providing:

(c) a course of dealing between parties and a usage of trade in the vocation or trade in which they are engaged or of which they are or should be aware give particular meaning to and supplement or qualify terms of an agreement.

Since usage of trade in investment securities most likely would include the treatment of securities as fungibles, it would probably be permissible for a person in Alaska obligated to deliver securities to deliver any security of the specified issue. This conclusion is reinforced by the inclusion of the term "or securities" in the definition of "fungible."

However, the second subsection of 8-107, while basically restating a common law rule of recovery of damages, is not susceptible to the same type of reasoning which allows the first subsection to be read into Alaska law, and there are two reasons why this is so. First, there is no Alaska statute of general applicability which contains substantially similar terms, and, second, the verbatim adoption by the state of almost every other section of this article of the UCC, combined with the total exclusion in the Alaska statutes of this section, leads to a strong inference that the terms of this section were not intended to apply in Alaska.

UCC sec. 8-107 was intended to follow the common law rule enunciated, but not followed, in Agar v. Orda, 190 N.E. 479 (1934). In Agar, the court ruled that the adoption in New York of the Sales Act preempted the common law action for the price. The Sales Act provided a recovery of damages remedy. Alaska's Sales Act, AS 45.05.036 - 45.05.242, provides for an action to recover the contract price of goods sold but refused by the buyer; however, under the express terms of AS 45.05.038, that section is applicable only to the sections of the Sales Act.

It might be argued that AS 01.10.010 should allow the common law rule to apply. That section provides:

So much of the common law not inconsistent with the Constitution of the State of Alaska or the Constitution of the United States or with any law passed by the legislature of the State of Alaska is the rule of decision in this state.

Nevertheless, the section must be considered in light of the recent federal district court decision of Aleut Corp. v. Arctic Slope Regional Corp., 424 F. Supp. 397, (D. Alaska 1976) in which the court considered the applicability in Alaska of sequestration, a provisional contract remedy available at common law. The court noted:

Given the harsh nature of the remedy of sequestration and the fact that the Alaska legislature has spelled out in some detail the procedure for obtaining other similar remedies while it has not enacted a sequestration statute, the implication is clear that Alaska has decided that sequestration of the nature sought in an action to require a regional corporation organized under the Alaska Native Claims Settlement Act to place certain funds in secure and liquid investments pending litigation is not available and has preempted the common law with a complex statutory scheme. (at p. 400

In Hockley v. Hargett, 510 P.2d 1123 (1973), the Washington court, faced with an identical issue, reached the opposition conclusion, that sequestration was available despite legislative silence on the question. Legislative silence in Alaska, at least until our Supreme Court has an opportunity to address the issue, leaves the question of the availability of an action for the price unanswered.

AS 45.05.650(c) and (e) provide:

(c) If a security is delivered by an intermediary known to be entrusted with delivery of the security on behalf of another or with collection of a draft or other claim against the delivery, the intermediary by the delivery warrants only his own good faith and authority even though he has purchased or made advances against the claim to be collected against the delivery. A broker is not an intermediary within the meaning of this subsection.

(e) A broker gives to his customers and to the issuer and a purchaser the warranties provided in this section and has the rights and privileges of a purchaser under this section. The warranties of and in favor of the broker acting as an agent are in addition of applicable warranties given by and in favor of his customer.

The corresponding UCC section, 8-306, eliminates the last sentence of (c) above. The following paragraphs from the official comment explain the distinction:

(3) Subsections (3) and (4) are designed to eliminate all substantive warranties in the case of deliveries by intermediaries and pledgees. Such parties deal primarily with the draft or other claim, and, having no access to direct knowledge about the security, they cannot be held to warrant its genuineness or validity.

Further, following Appenzellar v. McCall, 150 Misc. 897, 270 N.Y.S. 748 (1934), although the so-called "stock-broker" normally functions as a broker (see definition of "broker", Section 8-303) (the identical definition is provided in AS 45.05.644) and on a few occasions another institution such as a bank may function as a broker, e.g. for a standard broker's commission or similar compensation, nevertheless both the so-called "stock-broker" and the bank can qualify for the protection given by subsections (3) and (4) to an "intermediary" where in the particular transaction it does not function as a broker, e.g. delivering securities on a customer's instructions, either without charge or for a nominal handling charge.

Under Alaska's version of the section, the broker would not be qualified for the protection of (c) even if he were acting merely as an intermediary.

AS 45.05.654 and UCC sec. 8-308 list the people who may endorse a security for transfer. UCC sec. 8-308(3)(b) includes as an "appropriate person"

where the person so specified [by the security or by special indorsement to be entitled to the security] is described as a fiduciary but is no longer serving in a described capacity, -- either that person or his successor.

AS 45.05.654(c)(2) contains the same language except that the phrase "either that person or" is deleted. The reason that the phrase is included in the UCC version was explained by the editorial board as follows:

The amendment is recommended as clarification to avoid any risk that the general requirement of indorsement by "an appropriate person" in any way militates against the clear intention of subsection (3)(a) of Section 8-403 [also found at AS 45.05.682(c)(1)] to permit the issuer to rely on the continued power to act of a fiduciary named in a security until receipt of written notice to the contrary.

KEV:hjd

CODE REVISION COMMISSION



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EXECUTIVE SECRETARY
BILLY G. BERRIER

MEMORANDUM

TO: Chairman, Alaska Legislative Council

FROM: John W. Abbott, Chairman *John W. Abbott*
Alaska Code Revision Commission

DATE: January 9, 1981

RE: Articles 8 and 9 of the Uniform
Commercial Code

Pursuant to the authority in AS 24.20.075(c), on December 5, 1978, the Alaska Code Revision Commission transmitted to the Alaska Legislative Council a draft bill that became SB 55 in the Eleventh Legislature. It was not enacted. Had it been enacted, the bill would have amended Articles 8 and 9 of Alaska's Uniform Commercial Code (UCC) to include uniform amendments adopted by the National Conference of Commissions on Uniform State Laws.

The bill is being resubmitted with the request that it be introduced for consideration by the Twelfth Legislature.

One reason for forming a code revision commission was for study of and recommendations on uniform state laws. It was recognized that future problems can be avoided if uniform legislation is carefully considered by a body that has time and expertise to devote to it and can give the legislature informed recommendations about it.

This bill deals with investment securities (Article 8) and secured transactions (Article 9), areas of commercial law where uniformity among the states is particularly important. The merits of the amendments and the goal of continued uniformity among the states warrants reintroduction of the bill.

An analysis of these uniform amendments prepared by Kenneth E. Vassar of the staff of the Legislative Affairs Agency is also enclosed. It remains equally as pertinent as it was

MEMORANDUM REGARDING UNIFORM AMENDMENTS TO
THE UNIFORM COMMERCIAL CODE (UCC)--ARTICLE 8
ON INVESTMENT SECURITIES (Sections 1-14 and 72 in SB 77)

MARCH 1981

This memorandum will explain points of difference between Article 8 of the Uniform Commercial Code (UCC) and AS 45.08.101 - 45.08.406.

UCC Article 8 and AS 45.08.101 - 45.08.406 relate to investment securities. Each body of law contains parallel sections; therefore, to as great an extent as possible, the following discussion will proceed in numerical sequence through those sections of Alaska law which have deviated from the uniform act.

AS 45.08.102 and its counterpart, UCC sec. 8-102, provide definitions for terms used in their respective articles; however, section 102 includes a definition which is not in the UCC section and modifies a definition which is in the UCC section.

The definition in sec. 102 which is not in 8-102 is for the term "proper form." Prior to 1962, the UCC included such a definition, but in that year 8-102 was amended to delete the definition. At the same time UCC sec. 8-208 was amended to delete the term for which the definition in 8-102 had been supplied. Since it was the amendment to 8-208 which formed the basis for the decision to delete the definition of "proper form" in 8-102, this discussion will continue now out of numerical sequence to examine the difference between UCC sec. 8-208 and the corresponding Alaska law, AS 45.08.208.

AS 45.08.208 and UCC sec. 8-208 enumerate the warranties made to a bona fide purchaser (that is, a purchaser for value without notice of the particular defect in the security) by a person who places his signature upon a security as authenticating trustee, registrar, transfer agent, or the like. AS 45.08.208 includes a warranty that "the security is genuine and in proper form." Hence, the need for a definition of "proper form." Since 1962, the UCC has replaced the warranty quoted above with the following:

(a) the security is genuine; and . . .

(c) he (the person signing the security) has reasonable grounds to believe that the security is in the form and within the amount the issuer is authorized to issue.

The Permanent Editorial Board of the National Conference of Commissioners on Uniform State Laws noted the following reason for the change:

As enacted in New York [prior to amendment by L.1963, c.1003] Section 8-208 reduced the warranty as to form to a warranty that the security is in the form which the authenticating trustee, registrar, or transfer agent was authorized to sign or countersign. Under the case law, the responsibility of such party appears to go somewhat further. The Editorial Board believes that its recommended amendment correctly reflects the responsibility indicated by the case law while also reducing the warranty as to form appearing in the 1958 Text [Alaska's version]. In actual practice authenticating trustees, registrars and transfer agents usually rely upon counsel as to matters of form. Among other things, the amendment takes into account such practice.

In terms of burden placed upon an authenticating trustee, registrar, transfer agent, or the like, the Alaska version of this section places a greater burden by imposing an absolute warranty that the form is proper, whereas the UCC version requires only reasonable grounds to believe that the security is in the form the issuer is authorized to issue. Three states have melded the two versions together to achieve a third version which is more burdensome still. In Indiana, Missouri and Montana the effect of the signature of an authenticating trustee, registrar, transfer agent or the like is to warrant that the security is in proper form and that there are reasonable grounds to believe that it is in the form the issuer is authorized to issue.

Returning now to AS 45.08.102 and UCC sec. 8-102, it was noted earlier that section 102 modifies a definition in section 8-102. The definition in question is for "clearing corporation." Under section 8-102(3), a clearing corporation is defined as a corporation

(a) at least ninety per cent of the capital stock of which is held by or for one or more persons (other than individuals) each of whom

(i) is subject to supervision or regulation pursuant to the provisions of federal or state banking laws or state insurance laws, or

(ii) is a broker or dealer or investment company registered under the Securities Exchange Act of 1934 or the Investment Company Act of 1940, or

(iii) is a national securities exchange or association registered under a statute of the United States such as the Securities Exchange Act of 1934, and none of whom, other than a national securities exchange or association, holds in excess of twenty per cent of the capital stock of such corporation; and

(b) any remaining capital stock of which is held by individuals who have purchased such capital stock at or prior to the time of their taking office as directors of such corporation and who have purchased only so much of such capital stock as may be necessary to permit them to qualify as such directors. (emphasis added)

The emphasized portion of the definition is deleted in AS 45.-08.102. The effect of this deletion is to increase the number of corporations which may fall into the class of clearing corporations.

UCC sec. 8-320, which corresponds to AS 45.08.320, establishes the role a clearing corporation plays in the transfer or pledge of a security or of any interest in a security. A transfer or pledge under these sections "has the effect of a delivery of a security in bearer form or duly endorsed in blank." The official UCC comment to this section states:

Consistent with the underlying purposes and policies of this Act 'to permit the continued expansion of commercial practices through custom, usage, and agreement of the parties' -- subsection (2)(b) of Section 1-102 -- this Section expressly authorizes a newly developing and commercially useful method of transferring or pledging securities on the organized securities markets, particularly among brokers and banks but not necessarily so limited.

A 1973 amendment to 8-102 changed the definition of "clearing corporation." Previously, it had defined such corporation as

a corporation all of the capital stock of which is held by or for a national securities exchange or association registered under a statute of the United States such as the Securities Exchange Act of 1934.

The UCC official comment to the current definition, which replaced the definition above, provides:

This section also defines a 'clearing corporation' in a manner which permits not only national securities exchanges, but also banks, insurance companies, and similar organizations to participate in the control and management of such a corporation through ownership of shares, in order to facilitate the making of transfers of securities and lessen the delays and errors which have caused difficulty in the past during periods of high activity in the securities markets.

Alaska's version of the definition might include an official comment paraphrased from that given above as follows:

This section also defines a 'clearing corporation' in a manner which permits not only national securities exchanges, banks, insurance companies and similar organizations, but also individuals to participate in the control and management of such a corporation through ownership of shares.

The next point of departure between the Alaska statutes and the UCC is the absence in the Alaska statutes of any section which corresponds to UCC sec. 8-107, which provides:

(1) Unless otherwise agreed and subject to any applicable law or regulation respecting short sales, a person obligated to deliver securities may deliver any security of the specified issue in bearer form or registered in the name of the transferee or indorsed to him or in blank.

(2) When the buyer fails to pay the price as it comes due under a contract of sale the seller may recover the price

(a) of securities accepted by the buyer; and

(b) of other securities if efforts at their resale would be unduly burdensome or if there is no readily available market for their resale.

This section reflects the treatment of securities of a particular issue as "fungibles," that is, goods of which any unit is, by nature or usage of trade, the equivalent of any other like unit. Thus, a person obligated to deliver securities need not deliver any specific instrument, but may select any

security of the proper issue, in bearer form or appropriately registered or indorsed. While the Alaska statutes do not contain the specific section quoted above, the treatment of securities as fungible goods may be supported with similar effect by reference to other Alaska statutes. AS 45.01.201(17) defines "fungible" as follows:

(17) "fungible" with respect to goods or securities means goods or securities of which any unit is, by nature or usage of trade, the equivalent of any other like unit.

And AS 45.01.205(c) allows for usage of trade by providing:

(c) a course of dealing between parties and a usage of trade in the vocation or trade in which they are engaged or of which they are or should be aware give particular meaning to and supplement or qualify terms of an agreement.

Since usage of trade in investment securities most likely would include the treatment of securities as fungibles, it would probably be permissible for a person in Alaska obligated to deliver securities to deliver any security of the specified issue. This conclusion is reinforced by the inclusion of the term "or securities" in the definition of "fungible."

However, the second subsection of 8-107, while basically restating a common law rule of recovery of damages, is not susceptible to the same type of reasoning which allows the first subsection to be read into Alaska law, and there are two reasons why this is so. First, there is no Alaska statute of general applicability which contains substantially similar terms, and, second, the verbatim adoption by the state of almost every other section of this article of the UCC, combined with the total exclusion in the Alaska statutes of this section, leads to a strong inference that the terms of this section were not intended to apply in Alaska.

UCC sec. 8-107 was intended to follow the common law rule enunciated, but not followed, in Agar v. Orda, 190 N.E. 479 (1934). In Agar, the court ruled that the adoption in New York of the Sales Act preempted the common law action for the price. The Sales Act provided a recovery of damages remedy. Alaska's Sales Act, AS 45.02.101 - 45.02.725, provides for an action to recover the contract price of goods sold but refused by the buyer; however, under the express terms of AS 45.02.102, that section is applicable only to the sections of the Sales Act.

It might be argued that AS 09.10.010 should allow the common law rule to apply. That section provides:

So much of the common law not inconsistent with the Constitution of the State of Alaska or the Constitution of the United States or with any law passed by the legislature of the State of Alaska is the rule of decision in this state.

Nevertheless, the section must be considered in light of the recent federal district court decision of Aleut Corp. v. Arctic Slope Regional Corp., 424 F. Supp. 397 (D. Alaska 1976), in which the court considered the applicability in Alaska of sequestration, a provisional contract remedy available at common law. The court noted:

Given the harsh nature of the remedy of sequestration and the fact that the Alaska legislature has spelled out in some detail the procedure for obtaining other similar remedies while it has not enacted a sequestration statute, the implication is clear that Alaska has decided that sequestration of the nature sought in an action to require a regional corporation organized under the Alaska Native Claims Settlement Act to place certain funds in secure and liquid investments pending litigation is not available and has preempted the common law with a complex statutory scheme. (at p. 400)

In Hockley v. Hargett, 510 P.2d 1123 (1973), the Washington court, faced with an identical issue, reached the opposite conclusion, that sequestration was available despite legislative silence on the question. Legislative silence in Alaska, at least until our Supreme Court has an opportunity to address the issue, leaves the question of the availability of an action for the price unanswered.

AS 45.08.306(c) and (e) provide:

(c) If a security is delivered by an intermediary known to be entrusted with delivery of the security on behalf of another or with collection of a draft or other claim against the delivery, the intermediary by the delivery warrants only his own good faith and authority even though he has purchased or made advances against the claim to be collected against the delivery. A broker is not an intermediary within the meaning of this subsection.

(e) A broker gives to his customers and to the issuer and a purchaser the warranties provided in this section and has the rights and privileges of a purchaser under this section. The warranties of and in favor of the broker acting as an agent are in addition of applicable warranties given by and in favor of his customer.

The corresponding UCC section, 8-306, eliminates the last sentence of (c) above. The following paragraphs from the official comment explain the distinction:

(3) Subsections (3) and (4) are designed to eliminate all substantive warranties in the case of deliveries by intermediaries and pledgees. Such parties deal primarily with the draft or other claim, and, having no access to direct knowledge about the security, they cannot be held to warrant its genuineness or validity.

Further, following Appenzellar v. McCall, 150 Misc. 897, 270 N.Y.S. 748 (1934), although the so-called 'stock-broker' normally functions as a broker (see definition of "broker", Section 8-303) (the identical definition is provided in AS 45.08.303) and on a few occasions another institution such as a bank may function as a broker, e.g. for a standard broker's commission or similar compensation, nevertheless both the so-called 'stock-broker' and the bank can qualify for the protection given by subsections (3) and (4) to an 'intermediary' where in the particular transaction it does not function as a broker, e.g. delivering securities on a customer's instructions, either without charge or for a nominal handling charge.

Under Alaska's version of the section, the broker would not be qualified for the protection of (c) even if he were acting merely as an intermediary.

AS 45.08.308 and UCC sec. 8-308 list the people who may endorse a security for transfer. UCC sec. 8-308(3)(b) includes as an "appropriate person"

where the person so specified [by the security or by special indorsement to be entitled to the security] is described as a fiduciary but is not longer serving in a described capacity, -- either that person or his successor.

AS 45.08.308(c)(2) contains the same language except that the phrase "either that person or" is deleted. The reason that the phrase is included in the UCC version was explained by the editorial board as follows:

The amendment is recommended as clarification to avoid any risk that the general requirement of indorsement by "an appropriate person" in any way militates against the clear intention of subsection (3)(a) of Section 8-403 [also found at AS 45.08.-403(c)(1)] to permit the issuer to rely on the continued power to act of a fiduciary named in a security until receipt of written notice to the contrary.

ALASKA CODE REVISION COMMISSION



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EXECUTIVE SECRETARY
BILLY G. BERRIER

MEMORANDUM

TO: The Honorable Patrick M. Rodey
Chairman, Senate Judiciary Committee

FROM: John W. Abbott, Chairman
Alaska Code Revision Commission *John W. Abbott*

DATE: March 23, 1981

RE: Commentary to SB 77--Uniform Amendments to the
Uniform Commercial Code, Articles 8 & 9

The attached two memoranda were prepared for the Alaska Code Revision Commission in July and August of 1978 by Kenneth E. Vassar when he was legislative counsel for the Legislative Affairs Agency. The references in his original memoranda are now revised to conform to the current section numbering in Alaska Statutes and SB 77.

JWA:chw

Attachments


STATE OF ALASKA
THE LEGISLATURE

POUCH STATE CAPITOL
BUREAU ALASKA 99511
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

July 27, 1978

SUBJECT: Uniform Commercial Code--Article 8
TO: Alaska Code Revision Commission
FROM: Kenneth E. Vassar, Legislative Counsel 

This memorandum will explain points of difference between Article 8 of the Uniform Commercial Code (UCC) and AS 45.05.612 - 45.05.688.

UCC Article 8 and AS 45.05.612 - 45.05.688 relate to investment securities. Each body of law contains parallel sections; therefore, to as great an extent as possible, the following discussion will proceed in numerical sequence through those sections of Alaska law which have deviated from the uniform act.

AS 45.05.614 and its counterpart, UCC sec. 8-102, provide definitions for terms used in their respective articles; however, section 614 includes a definition which is not in the UCC section and modifies a definition which is in the UCC section.

The definition in sec. 614 which is not in 8-102 is for the term "proper form." Prior to 1962, the UCC included such a definition, but in that year 8-102 was amended to delete the definition. At the same time UCC sec. 8-208 was amended to delete the term for which the definition in 8-102 had been supplied. Since it was the amendment to 8-208 which formed the basis for the decision to delete the definition of "proper form" in 8-102, this discussion will continue now out of numerical sequence to examine the difference between UCC sec. 8-208 and the corresponding Alaska law, AS 45.05.638.

AS 45.05.638 and UCC sec. 9-208 enumerate the warranties made to a bona fide purchaser (that is, a purchaser for value without notice of the particular defect in the security) by a person who places his signature upon a security as authenticating trustee, registrar, transfer agent, or the like. AS 45.05.638 includes a warranty that "the security is genuine and in proper form." Hence, the need for a definition of "proper form." Since 1962, the UCC has replaced the warranty quoted above with the following:

(a) the security is genuine; and ...

(c) he (the person signing the security) has reasonable grounds to believe that the security is in the form and within the amount the issuer is authorized to issue.

The Permanent Editorial Board of the National Conference of Commissioners on Uniform State Laws noted the following reason for the change

As enacted in New York [prior to amendment by L.1963, c.1003] Section 8-208 reduced the warranty as to form to a warranty that the security is in the form which the authenticating trustee, registrar, or transfer agent was authorized to sign or countersign. Under the case law, the responsibility of such party appears to go somewhat further. The Editorial Board believes that its recommended amendment correctly reflects the responsibility indicated by the case law while also reducing the warranty as to form appearing in the 1958 Text [Alaska's version]. In actual practice authenticating trustees, registrars and transfer agents usually rely upon counsel as to matters of form. Among other things, the amendment takes into account such practice.

In terms of burden placed upon an authenticating trustee, registrar, transfer agent, or the like, the Alaska version of this section places a greater burden by imposing an absolute warranty that the form is proper, whereas the UCC version requires only reasonable grounds to believe that the security is in the form the issuer is authorized to issue. Three states have melded the two versions together to achieve a third version which is more burdensome still. In Indiana, Missouri and Montana the effect of the signature of an authenticating trustee, registrar, transfer agent or the like is to warrant that the security is in proper form and that there are reasonable grounds to believe that it is in the form the issuer is authorized to issue.

Returning now to AS 45.05.614 and UCC sec. 8-102, it was noted earlier that section 614 modifies a definition in section 8-102. The definition in question is for "clearing corporation." Under section 8-102(3), a clearing corporation is defined as a corporation

(a) at least ninety per cent of the capital stock of which is held by or for one or more persons (other than individuals) each of whom

(i) is subject to supervision or regulation pursuant to the provisions of federal or state banking laws or state insurance laws, or

(ii) is a broker or dealer or investment company registered under the Securities Exchange Act of 1934 or the Investment Company Act of 1940, or

(iii) is a national securities exchange or association registered under a statute of the United States such as the Securities Exchange Act of 1934, and none of whom, other than a national securities exchange or association, holds in excess of twenty per cent of the capital stock of such corporation; and

(b) any remaining capital stock of which is held by individuals who have purchased such capital stock at or prior to the time of their taking office as directors of such corporation and who have purchased only so much of such capital stock as may be necessary to permit them to qualify as such directors. (emphasis added)

The emphasized portion of the definition is deleted in AS 45.05.614. The effect of this deletion is to increase the number of corporations which may fall into the class of clearing corporations.

UCC sec. 8-320, which corresponds to AS 45.05.677, establishes the role a clearing corporation plays in the transfer or pledge of a security or of any interest in a security. A transfer or pledge under these sections "has the effect of a delivery of a security in bearer form or duly endorsed in blank." The official UCC comment to this section states:

Consistent with the underlying purposes and policies of this Act "to permit the continued expansion of commercial practices through custom, usage, and agreement of the parties" -- subsection (2)(b) of Section 1-102 -- this Section expressly authorizes a newly developing and commercially useful method of transferring or pledging securities on the organized securities markets, particularly among brokers and banks but not necessarily so limited.

A 1973 amendment to 8-102 changed the definition of "clearing corporation." Previously, it had defined such a corporation as

a corporation all of the capital stock of which is held by or for a national securities exchange or association registered under a statute of the United States such as the Securities Exchange Act of 1934.

The UCC official comment to the current definition, which replaced the definition above, provides:

This section also defines a "clearing corporation" in a manner which permits not only national securities exchanges, but also banks, insurance companies, and similar organizations to participate in the control and management of such a corporation through ownership of shares, in order to facilitate the making of transfers of securities and lessen the delays and errors which have caused difficulty in the past during periods of high activity in the securities markets.