

ALASKA LEGISLATURE COMMITTEE FILES 1981-1982

1792 SLC SB 200 - SB 277

1792

pay or post a bond of twice the estimated tax. In addition, one or two bonds of \$10,000.00 will also have to be posted.

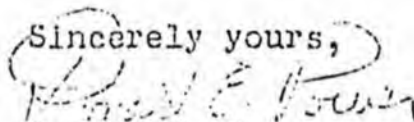
In contrast, by catching the same number of fish in the same places by the same methods but icing instead of freezing, the troller eliminates a huge beaurocratic morass, saves bonding fees and saves on the landing tax. In return the troller gets to land an inferior quality product for which he will get a lower price than if he landed a frozen product.

Considering the recent actions of the Board of Fisheries and the NPFMC that have resulted in the reduction of the troll season by 45 days in the past two years the economic impact of this tax ruling on the trollers that have invested in freezing equipment is going to be considerable.

In 1976 a Mr. Kirkland of the Alaska Department of Revenue ruled that trollers who freeze their own catch are not processors. In 1979 this ruling was changed but I wonder if the Department understood what it was doing. In December of 1980 two trollers talked to the present head of the Department of Revenue about this matter and had to spend the better part of an hour explaining to him the difference between trollers and trawlers!

I wish you would give this matter some serious thought and I hope you would remedy this situation by submitting legislation to exempt sea freeze trollers from the processor classification.

Sincerely yours,


Donald E. Power

STATE OF ALASKA

JAY S. HAMMOUD, GOVERNOR

DEPARTMENT OF REVENUE

STATE OFFICE BUILDING

POUCH SA - JUNEAU 99811

September 26, 1980

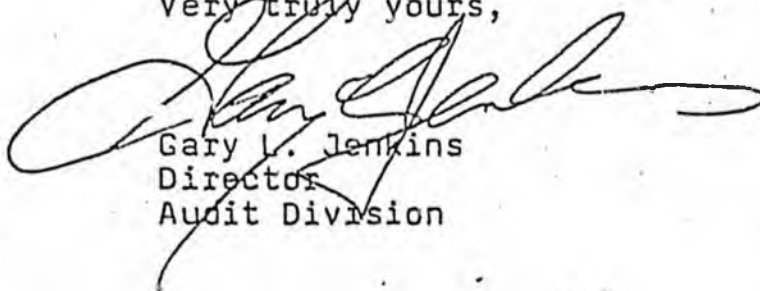
To Whom it May Concern:

Re: Cancellation of ALASKA TAX RULING #77-3
Dated 4/29/77.

During a recent review of our outstanding Revenue Rulings, it was determined that Ruling #77-3 is in error and should be canceled immediately. It is very clear in the statutes that any freezing operation is considered processing and the person performing that act will definitely be considered the processor for the purposes of the imposition of the tax. The statement in the Ruling that freezing which is necessary for the preservation of the product does not constitute processing, is clearly in error.

If you have any questions regarding this ruling, please feel free to contact me. In the very near future, the Department of Revenue will be holding hearings on regulations dealing with several aspects of the fisheries business tax, including defining who is a processor and what constitutes processing.

Very truly yours,



Gary L. Jenkins
Director
Audit Division

Attachment

STATE OF ALASKA

DEPARTMENT OF REVENUE

STATE OFFICE BUILDING

PLUCH SA - JUNEAU 99811

ALASKA TAX RULING #77-3

CANCELLED

DATE 9-26-80
JAY S. HAMMOND, GOVERNORREFERENCE Memorandum 9-26-80SUBJECT: Definition of Freezership under AS 43.75.SPECIFIC ISSUE:

Is a fishing vessel, equipped with freezing facilities, which freezes its catch, processes (filleting and packaging) and sells its catch, subject to the statutes applicable to freezerships and other floating cold storage facilities? No fish are purchased.

APPLICABLE LAW:

Alaska Statute 43.75.060 states in part:

"Sec. 43.75.060. Fisheries business licenses. A person engaging or attempting to engage in any of the following lines of business in connection with the state's commercial fisheries shall first obtain a license.

(2) Freezer ships and other floating cold storages shall pay an annual license tax equal to four per cent of the value of the raw halibut; halibut livers and viscera, salmon and bottom fish, shellfish or other fishing resource bought or obtained for processing through freezing, salting or other method or the taking of crab for export without such processing. The value of the raw material under §§ 60--90 of this chapter is the actual price paid for it including indirect considerations such as fuel or supplies furnished by the processor or offsets to the cash value for gear furnished. The value applies to the raw material procured in company-owned or subsidized boats operated by employees of the processor or under lease or other arrangements.

(3) In (1) of this section, "shore-based cold storages and other fish processors" mean those cold storages and processing plants which are permanently attached to the land or have remained in the same location for a period of not less than one calendar year. Any cold storage or processing plant removed from the state is a floating cold storage under (2) of this section from the day of removal.

(4) Cold storages and fish processing plants which are not shore-based under (3) of this section are "floating cold storages" under (2) of this section.

ALASKA

DISCUSSION:

The fact that a vessel, rigged for fishing, freezes its catch instead of icing does not subject the vessel or its operators and owners to the statutes applicable to freezer ships because the mere preservation of the catch until it can be processed does not constitute processing.

However, any activity that goes beyond the preservation of the quality of the catch until it can be processed begins to enter into the processing function. In the specific issue, where the fish are filleted and packaged, the process definitely is beyond the mere preservation of the catch and the activity of filleting and packaging would result in a finished product for sale and would, therefore, become taxable under the fish processing statutes.

POSITION:

The processing function beyond that normally associated with fishing, is a processing activity under AS 43.75.060. Any processing done aboard a mobile or floating vessel is taxable under the provisions of those statutes applicable to the 4% tax under AS 43.75.060(2) relating to mobile processing facilities.

Prepared by:

Eloise Herrick
Eloise Herrick
Tax Examiner

4-28-77
Date

Approved by:

Gary L. Jenkins
Gary L. Jenkins
Director
Audit Division

4-29-77
Date

MEMORANDUM

State of Alaska Jagw

TO: John Valentine
Department of Fish & Game
Ketchikan, Alaska

DATE: January 26, 1976

FILE NO:

101.3

TELEPHONE NO:

FROM: Richard Kirkland
Office Operations Supervisor
Audit Division
Department of Revenue

SUBJECT: Taxable status of fishing
vessels freezing fish

The question appears to be: Is a fishing vessel which carries freezing facilities aboard (and which freezes caught fish) subject to tax provisions applying to freezer ships?

The facts present are: 1) the vessels in question are of a size normally associated with salmon fishing in Southeast Alaska (40-60 feet), 2) the vessels are rigged for commercial fishing; carry proper gear license, and the skipper holds a valid Limited Entry Permit, 3) the only processing of the fish is that essential to preservation of quality (gutting), and 4) no buying of fish is done, and all fish carried in storage aboard were caught in fact by the vessel operator and crew.

On a vessel as described, the primary purpose of the vessel is fishing, and the fact that the caught fish are stored aboard in frozen condition, rather than packed in ice, appears to be incidental.

In the case of a freezer ship a different set of circumstances prevail, and the primary purpose of the vessel is processing.

Therefore, in my opinion, the fact that a fishing vessel preserves quality by freezing does not constitute freezer ship or floating cold storage operation, and the vessels described in the fact summary above would not be subject to the tax levied on freezer ships.

RK/lam

cc: Lou Nelson
Frank Blackwell
Eloise Merrick

907-465-2328

Return to: [Signature]

COMMITTEE REPORT
SENATE

FURTHER: Finance

2/23/81

Date: 23 MARCH 1981

Mr. President:

The Committee on LABOR & COMMERCE has had SB 200
fisheries business tax

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

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

MEMBERS SIGNING
DO PASS

Bob Mulvihill

John

Mark

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Do Not Pass with retroactive

date clause #2

Do Not Pass with retroactive

date clause Schenker

Bob Mulvihill

CHAIRMAN

AMENDMENT

OFFERED IN THE SENATE:

By: Senate Labor and Commerce

To: Labor and Commerce

SENATE BILL No. 200

HOUSE BILL No. _____

PAGE: 1

LINE: 28

Sec 43.75.017

(4) the salmon are sold to a fisheries business licensed
under AS 43.75



Official Business

Alaska State Legislature

Senate

Committee on Labor & Commerce

Pouch V
State Capitol
Juneau, Alaska 99811

March 23, 1981

COMMITTEE MEETING MINUTES

The meeting was called to order at 3:09 P.M. by Chairman Mulcahy. Those present were: Senators Hohman, Ziegler, Fahrenkamp and Rodey.

First on the agenda was SB 200 "An Act relating to the fisheries business tax (AS 43.75.015); and providing for an effective date."

Senator Dick Eliason addressed SB 200, explaining the background of the fisheries business tax, and that the tax is retroactive for two years. (tape reading 010 to 272)

Mr. Gary Jenkins, Director of the Audit Division, Department of Revenue testified on the problems with administering the bill; fish buyers are not always identifiable. Suggested language-salmon must be sold to a licensed processor; easier to administer. (tape reading 275 to 458)

Mr. Lewis Schnaper representing the Alaska Trollers Association testified in support of SB 200, stating that the class of fishermen who have made substantial investments, 50 to 75 trollers with freezing capacities would be impacted; less economical to freeze but the quality speaks to the need. The Canadians recognize the value of sea frozen salmon, and it is the most effective use of a fishermans fuel.

Senator Pat Rodey offered proposed language; frozen salmon must be transferred to a licensed buyer.

Chairman Mulcahy moved we accept Senator Rodeys amendment and move SB 200 as amended. (tape reading 570)

Next on the agenda was SB 81 "An Act increasing the number of directors of the Alaska Housing Finance Corporation."

This bill was brought up for discussion; Senator Ziegler questioned the need for the bill, Senator Mulcahy offered background on the bill, and it was decided to hold the bill for later. (tape reading 580 to 630)

page 2
Senate L & C minutes
March 23, 1981

Next on the agenda was SB 85 "An Act permitting a minor under the age of 18 to be employed in an occupation in which a strike or lockout is in progress."

Chairman Mulcahy offer background testimony, and addressed the constitutionality of the rights of minors to picket. Chairman Mulcahy proposed we move the bill and Senator Hohman recommended the bill move from Committee. (tape reading 634 to 653)

Next on the agenda was SB 282 "An Act relating to the legal rate of interest."

Mr. Fred Koken, First Vice-President of Foster and Marshall testified on SB 282, elaborating on the problems with SB 19 usury rates, and how the bill did not reflect the needs of his industry. The policy on interest at Foster & Marshall is dictated by competition in the industry. (tape reading 678 to 830)

~~Committee action on~~ ^{moved} SB 282 was ~~"Do Pass"~~

Next on the agenda was SB 172 "An Act relating to Uniform Commercial Code filings; and providing for an effective date."

There was no testimony and it was recommended that we hold the bill for further work. (tape reading 660 to 669)

The meeting was adjourned by Chairman Mulcahy at 3:50 P.M.

ALASKA STATE LEGISLATURE - SENATE



SENATOR RICHARD I. ELIASON

P.O. BOX 143

SITKA, ALASKA 99835

POUCH V

JUNEAU, ALASKA 99811

COMMITTEES

FINANCE

RESOURCES

STATE AFFAIRS

March 20, 1981

Mr. Thomas K. Williams, Commissioner
Department of Revenue
Pouch S
Juneau, Alaska 99811

Dear Commissioner Williams,

I have received your letter of March 17 concerning Senate Bill 200, amending the Fisheries Business Tax statutes. The goal of S.B. 200 is to clear up the problem of unfair taxation to salmon fishermen who freeze their catch rather than icing it before taking it in to sell. My staff and I worked with people in your department in trying to find a way to accomplish that in a way that would be as simple to administer and enforce as possible. We re-drafted the bill a number of times at the suggestions of your staff but were unable to come up with any solutions better than the approach used in the present version of S.B. 200.

I appreciate your suggestion of an amendment to help solve what you see as a compliance problem. Although I wish your department had come up with the idea back when we asked for input, I don't see a problem with the extra requirement you suggest, and feel that it could easily be added to the bill in committee.

My concern is over your comment that this bill amounts to writing an exemption into tax law which provides a benefit for a small select group of taxpayers. On the contrary, I am trying to protect a group of taxpayers who have been suffering due to inconsistent interpretations of statute by the Revenue Department.

Please look over the attached documents. The first is by Mr. Richard Kirkland, Audit Division, dated January 26, 1976. In that letter he states that "the fact that a fishing vessel preserves quality by freezing does not constitute a freezership or floating cold storage operation, and . . . would not be subject to the tax levied on freezerships."

Commissioner Williams
March 20, 1981
Page 2

The next document is Alaska Tax Ruling #77-3 which states that, "The fact that a vessel, rigged for fishing, freezes its catch instead of icing does not subject the vessel or its operators and owners to the statutes applicable to freezerships because the mere preservation of a catch until it can be processed does not constitute processing." This is signed by Gary Jenkins.

The third document is the "Cancellation of Alaska Tax Ruling #77-3" by Gary Jenkins. This was dated September 26, 1980, after the end of the 1980 salmon season. This document declares that the Revenue Department's interpretation of the statutes (regarding boats freezing their catch) has been in error for the last several years. In other words, anyone who had or was considering installing freezing capacity on their boat over the last few years and had contacted Revenue to find out what taxes they would be liable for, would have been told they would not have to pay the processor's tax. They would even have been told that an official, numbered tax ruling provided for their exclusion from the tax.

It would seem that a citizen is entitled to depend upon an opinion (in fact, a ruling) from officials of a state department concerning applicability of statutes. In this case after people fished for two seasons with the understanding that they were not being charged a tax, the Revenue Department reversed its interpretation of the tax law and rather than charging the tax from the date of the new interpretation sent notices to fishermen saying they owed back taxes for two seasons.

I strongly object to this tactic. The change in interpretation was Revenue's mistake and fishermen who acted in good faith on the Department's ruling should certainly not have to pay. It is unfair for a fisherman investing in freezing equipment to believe he is not liable for a tax and later be hit with an unexpected 5% tax right off his gross income. Knowledge of this factor would certainly play a part in the initial decision about whether to add the freezing capabilities.


I would like to know how many fishermen were sent these retroactive tax bills and how many have paid it. It seems to me that anyone who has paid it deserves a refund from the Revenue Department. Please let me know your feelings on this.

Commissioner Williams
March 20, 1981
Page 3

It is apparent that if the Revenue Department, itself finds the statutes vague enough in their definition of "processor" to completely reverse its own interpretation, then the statute is indeed unclear and needs some fine tuning. I do hope that S.B. 200 can help to clarify the law, make it fair to fishermen who are freezing their own catch but clearly not in the processing business, and will help avoid inconsistencies in interpretations from year to year which result in some expensive surprises.

Please let me know right away if my understanding of this whole situation is correct and what thoughts you have on the matter. As S.B. 200 is already scheduled for its first committee hearing on Monday, March 23, it is important that we get some answers and get to work on finding appropriate solutions to these problems.

Sincerely yours,



Dick Eliason
State Senator
District B

Enclosures

cc: Gary Jenkins, Director
Division of Audit

DE:sp

STATE OF ALASKA THE LEGISLATURE


POUCH Y. STATE CAPITOL
JUNEAU, ALASKA 99811
967-465-3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

March 25, 1981

SUBJECT: Retroactive tax exclusion under SB 200
(Work Order Number 12-1263)

TO:  Senate Labor and Commerce Committee
Attn: Michael Thill
Administrative Assistant

FROM: Linn H. Asper
Legislative Counsel

You have asked if there would be any legal difficulty in making the tax exclusion contained in Sec. 2 of SB 200 retroactive for the prior two years. It is my opinion that there is a substantial difficulty with retroactive application of the SB 200 tax exclusion. It is the same difficulty that was raised when the legislature was considering making refunds of state income taxes collected before 1979. I assume that a refund of fisheries business tax is contemplated for the excluded fishermen; otherwise there would be no purpose in making the exclusion retroactive. However, a refund of taxes already collected by the state is likely to be held to be an dedication of public funds to a private purpose, in violation of Article IX, section 6 of the state constitution.

The problem has been addressed by several courts in other jurisdictions where retroactive repeals of tax laws accompanied by refunds of the taxes validly collected have been attempted. The Washington Supreme Court, applying the Washington constitutional provisions which prohibit making gift of public money or credit (Article 8, sections 5 and 7), stated its holding succinctly:

We are holding only that, where a tax ordinance has been previously validly enacted, it cannot be repealed retroactively, and the tax money heretofore collected validly cannot be refunded simply on the basis of the

retroactive repeal. City of Yakima v. Huza, 407 P.2d 814, 820 (Wash. 1965); see also, Utz v. Newport, 252 S.W.2d 434 (Ky. 1952).

The court did note that the "situation might well be treated differently if . . . some duty existed on the part of the city to refund part of the taxes." 407 P.2d at 820.

The Wisconsin Supreme Court, construing Wisconsin's constitutional requirement that public funds be spent only for a public purpose, reached the same conclusion -- that a refund of validly collected taxes would be an appropriation of public monies to private ends and, thus, constitutionally impermissible unless there exists a moral obligation to support the refund. State v. Giessel, 64 N.W.2d 421 (Wis. 1954). The court noted the following cases which found refunds of taxes to be permissible:

Will of Heinemann, 230 N.W. 698 (Wis. 1930) (refund of inheritance tax voluntarily paid under a statute imposing the tax which was later declared unconstitutional and void by the United States Supreme Court); State ex rel. Adams v. Crawford, 121 A. 800 (Conn. 1923) (refund of a portion of liquor license fees covering that portion of the license period when the licensees were prohibited from selling intoxicating liquors under their licenses because of the enactment of World War I federal prohibition law); Raleigh County Bank v. Sims, 73 S.E.2d 526 (W. Va. 1952) (refund of business and occupation taxes paid pursuant to a tax statute later declared to be unconstitutional and void, when such claim for refund was already barred by the statute of limitations).

In the situation presented in SB 200 there seems to be no compelling moral duty to refund the taxes.

There are California cases which indicate that a refund of taxes before those taxes have become due is permissible. The California Supreme Court in In re Skinker's Estate, 303 P.2d 745 (Calif. 1956) stated:

"The Legislature cannot by a subsequent act increase or decrease the rate, remit the tax, or in any way surrender, impair or limit rights that have become fixed. (In re Estate of Stanford, 126 Cal. 112, 118 et seq., 54 P.

259, 58 P. 462, 45 L.R.A. 788; In re Estate of Rossi,
169 Cal. 148, 149, 146 P. 430.)

"Where a tax has become due, a subsequent act of the Legislature reducing the tax by reason of the change in the exemptions, tax rates, or for that matter in any way, is held to be a gift of state monies and is prohibited by Article IV, section 31, of the California Constitution.

"Retroactive effect of such legislation is therefore prohibited." (Footnotes omitted)

In the cited cases it is important to determine the time when the rights relating to the taxes become fixed. With regard to the fisheries business tax it is clear that the taxes are due at the time the fish are processed (AS 43.-75.015). This means that the taxes collected or due under AS 43.75 in prior years have been committed to the state and may not be refunded.

It is my conclusion that making the exclusion stated in SB 200 retroactive would not permit the refund of taxes paid by excluded persons and would therefore be a meaningless gesture.

LHA:ljb

Introduced: 2/23/81
Referred: Labor & Commerce
and Finance

1 IN THE SENATE

BY ELIASON

2 SENATE BILL NO. 200

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE -- FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the fisheries business tax (AS 43.-
7 75.015); and providing for an effective date."

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

9 * Section 1. AS 43.75.015(c) is amended to read:

10 (c) A person engaging or attempting to engage in a fisheries
11 business who first actually and physically processes the fishery re-
12 source, or a person who purchases frozen salmon from a person excluded
13 by AS 43.75.017 from liability for the tax, is liable for and shall pay
14 to the department the entire tax imposed by this section. In determin-
15 ing this tax liability, the person may not deduct from the value of the
16 fishery resources processed the value of fishery resources that are
17 canned or processed for other fisheries businesses, but shall include
18 that value as part of the value of the fishery resources processed.

19 * Sec. 2. AS 43.75 is amended by adding a new section to read:

20 Sec. 43.75.017. EXCLUSION FROM FISHERIES BUSINESS TAX. (a) A
21 person is not processing a fisheries resource under AS 43.75.015 when
22 salmon are frozen aboard a fishing vessel if

23 (1) the vessel is operated as a commercial fishing vessel
24 under a valid commercial fishing license;

25 (2) the salmon are not processed beyond heading, gutting or
26 cleaning, freezing and glazing; and

27 (3) the salmon which are frozen were caught by the vessel.

28 * Sec. 3. This Act takes effect immediately in accordance with AS 01.10.-

29 070(c).

*(1) the salmon are sold or transferred to a buyer
licensed under AS 43.00.000.*

§ 43.70.070

in (b) of this of the tax due applies shall ns which the perjury. (§ 5 1 SLA 1960; ch 144 SLA

day of the third of the tax year" "owing," and the e for filing" for the time until April upon appli- tention is neces- tant to ascertain ney due."

1978, provides: ES FOR REVE- THIS ACT. The AS 43.70 which dar year (includ- e March 1, 1978 gross receipts for returns filed in (d) is the source a 1979 in accord- The increase in which goes into e of revenue to be alities under AS subsequent years. e any organized y class to revenue 0.080 and AS period of time."

LA 1980.

A 1980, effective he repeal of this uary 1, 1980, and beginning after

1978.

§ 43.70.080

REVENUE AND TATION

§ 43.75.010

Editor's note. — The repealed section SLA 1976, and subsection (b) was repealed derived from § 9, ch. 43, SLA 1949. by § 5, ch. 144, SLA 1978. Subsection (a) was repealed by § 4, ch. 94.

Sec. 43.70.080. Disposal of money. All money collected by the department under this chapter shall be deposited in the general fund. (§ 11 ch 43 SLA 1949; am § 4 ch 155 SLA 1962; am § 74 ch 69 SLA 1970; am § 4 ch 144 SLA 1978)

Effect of amendment. — The 1978 amendment deleted the former second sentence, which read "The Department of Revenue shall refund to each organized borough and each city of any class 60 per cent of the money collected in the local government."

Sec. 43.70.100. Penal provisions. Repealed by § 46 ch 113 SLA 1980.

Cross reference. — For present Editor's note. — The repealed section provisions concerning criminal penalties, derived from § 10, ch. 43, SLA 1949. see AS 43.05.290.

Chapter 75. Fisheries Taxes.

Article

- 1. Taxes and Licenses (§§ 43.75.010 — 43.75.055)
- 4. General Provisions (§§ 43.75.130 — 43.75.140)

Editor's note. — As to legislative 1979 Temporary and Special Acts and findings and purpose relating to AS 43.75 Resolutions and editor's note following AS see §§ 1 and 2, ch. 79, SLA 1979 in the 43.75.011.

Article 1. Taxes and Licenses.

Section	Section
10. [Repealed]	30. Filing return and payment of tax
11. Fisheries business license	50. [Repealed]
15. Fisheries business tax	55. Security for collection of taxes

Sec. 43.75.010. Fisheries business licenses. Repealed by § 13 ch 79 SLA 1979.

Cross reference. — For present general gross receipts tax of Alaska provisions covering the subject matter of Business License Act. — See Liberati v. U. repealed section, see AS 43.75.011. Bristol Bay Borough, Sup. Ct. Op. No. 175E (File No. 3365), 584 P.2d 1115 (1978).

Editor's note. — The repealed section derived from § 1, ch. 82, SLA 1949; § 1, ch. 113, SLA 1951; § 1, ch. 146, SLA 1962; §§ 1, 2, ch. 84, SLA 1967. There is no general prohibition against like municipal and state taxes. Liberati v. Bristol Bay Borough, Sup. Ct. Op. No. 1755 (File No. 3365), 584 P.2d 1115 (1978).

State license tax on salmon canneries with its revenue sharing provision is not different in kind from

Sec. 43.75.011. Fisheries business license. A person engaging or attempting to engage in a fisheries business shall first apply for and obtain a license as provided in AS 43.75.020. (§ 3 ch 79 SLA 1979)

Editor's note. — Section 1, ch. 79, SLA 1979, provides: "FINDINGS. The legislature finds that the state has
 "(1) funded and implemented several fisheries-related development programs;
 "(2) funded and implemented fishery loan programs;
 "(3) increased its fishery protection and management program;
 "(4) funded and implemented a limited entry program; and
 "(5) embarked on a program of encouraging the development of a bottom fishing industry."

Section 2, ch. 79, SLA 1979, provides: "PURPOSE. The purposes of this Act are to
 "(1) insure that the state is able to continue its efforts toward overall fisheries-related development programs by raising additional revenue to pay for the programs;
 "(2) make the imposition of the fisheries tax more uniform among fisheries businesses; and
 "(3) provide funding for the development of new fisheries."

Sec. 43.75.015. Fisheries business tax. (a) A person engaged in a fisheries business is liable for and shall pay the tax levied by this section on the value of each of the following fisheries resources processed during the year at the rate set out after each:

- (1) salmon canned at a shore-based cannery — four and one-half per cent;
 - (2) salmon processed by a shore-based fisheries business, except salmon for which the tax is due under (1) of this subsection, and all other fisheries resources processed by a shore-based fisheries business — three per cent;
 - (3) fisheries resources processed by a floating fisheries business — five per cent.
- (b) Instead of the taxes levied by (a) of this section, a person engaged in a fishery business which includes processing a developing commercial fish species is liable for and shall pay a tax equal to

- (1) one per cent of the value of the developing commercial fish species processed by a shore-based fisheries business during the year; and
- (2) three per cent of the value of the developing commercial fish species processed by a floating fisheries business during the year.

(c) A person engaging or attempting to engage in a fisheries business who first actually and physically processes the fishery resource is liable for and shall pay to the department the entire tax imposed by this section. In determining this tax liability, the person may not deduct from the value of the fishery resources processed the value of fishery resources that are canned or processed for other fisheries businesses, but shall include that value as part of the value of the fishery resources processed. (§ 3 ch 79 SLA 1979)

Sec. 43.75.030. Filing return and payment of tax. (a) A person subject to the tax shall file a return stating the value of fisheries

resources processed under this chapter, as provided by regulation. The return shall be signed by the taxpayer or a duly authorized agent. If a receiver in possession of such a return is required to file the return on behalf of the person of whom the return is received, the return shall be signed by the receiver. (e) Every person who files a return which a license holder is required to file shall file a statement under which the commissioner may examine the return. (am §§ 5, 6 ch

Effect of amendment. The amendment to AS 43.75.010 is effective from the first sentence "AS 43.75.010 — this chapter" in subsection (a) and the word "such" is deleted.

Sec. 43.75.015. Repealed by ch 113 SLA 1979.

Cross reference. Provisions concerning AS 43.05.220 concerning criminal offenses AS 43.05.290.

Editor's note. Derived from § 4, 17, SLA 1968; § 4, ch. 94, SLA 1976; § 7, ch. 79

Sec. 43.75.015. Repealed by ch 113 SLA 1979. for a license holder to file under oath to produce during the extent of license against which the license holder is liable in respect to the department. The tax shall be paid to three times the value of the license until approved by

firm, association, organization, business trust, or society, as well as a natural person;

(8) "personal property" includes money, goods, chattels, things in action, and evidences of debt;

(9) "property" includes real and personal property;

(10) "real property" is coextensive with land, tenements, and hereditaments;

(11) Repealed by § 2 ch 66 SLA 1965.

(12) "signature" or "subscription" includes mark when the person cannot write, with his name written near the mark by a witness who writes his own name near the person's name; but a signature or subscription by mark can be acknowledged or can serve as a signature or subscription to a sworn statement only when two witnesses so sign their own names thereto;

(13) "state" means the State of Alaska unless applied to the different parts of the United States and in the latter case it includes the District of Columbia and the territories;

(14) "writing" includes printing. (§ 4 ch 62 SLA 1962; am § 2 ch 66 SLA 1965; am § 10 ch 117 SLA 1968)

Cross references. — For additional definition of "peace officer," see AS 11.30.100. For further definition of "person," see AS 15.55.250. For additional definitions, see AS 15.60.010.

Effect of amendments. — The 1965 amendment repealed paragraph (11).

The 1968 amendment substituted "state troopers" for "state police" in paragraph (6).

Quoted in Matanuska-Susitna Borough v. King's Lake Camp, Sup. Ct. Op. No. 472 (File No. 857), 439 P.2d 441 (1968); Stroh v. State Housing Authority, 7 Alas. L.J. No. 9, p. 647 (Sept., 1969); Stroh v. Alaska State Housing Authority, Sup. Ct. Op. No. 496 (File No. 924), 459 P.2d 480 (1969).

Sec. 01.10.065. Certified mail. When the use of registered mail is authorized or required by the laws of the state, certified mail, with return receipt requested, may be used. (§ 1 ch 66 SLA 1965)

Article 3. Effect of Statutes.

Section 70. Time statutes take effect
80. Computation of time

Section 90. Retrospective statutes
100. Effect of repeals or amendments

Sec. 01.10.070. Time statutes take effect. (a) All laws passed by the legislature become effective 90 days after enactment. The legislature may by concurrence of two-thirds of the membership of each house, provide for another effective date.

(b) The actual effective date of a bill having no effective date clause is determined by starting with the day after signature by the governor or the day on which he gives written notice that he is allowing it to become law without his signature, and counting

law at 12:01 a.m., on the day after it is signed by the governor or on the day after he has given written notice that he is allowing the law to become effective without his approval.

(d) A law which specified a definite effective date becomes effective at 12:01 a.m., Pacific Standard time, on the date specified. (§ 5 ch 62 SLA 1962; am § 8 ch 126 SLA 1966)

Effect of amendment.—The 1966 amendment rewrote this section.

Sec. 01.10.080. Computation of time. The time in which an act provided by law is required to be done is computed by excluding the first day and including the last, unless the last day is a holiday, and then it is also excluded. (§ 6 ch 62 SLA 1962)

This section was taken from the laws of Oregon: Mahan v. Sparks, 10 Alaska 292 (1942); Lowe v. Hess, 10 Alaska 174 (1941).

It merely states the common-law rule. Lowe v. Hess, 10 Alaska 174 (1941).

This statutory computation is declaratory of the common-law rule in Alaska. Turnbull v. Bonkowski, 274 F. Supp. 733 (D. Alas. 1967).

Alaska's computation-of-time statute merely expresses the common law. Turnbull v. Bonkowski, 419 F.2d 104 (9th Cir. 1969).

Common law.—At common law it was established if the last day on which an act was to be performed fell on a Sunday, then that Sunday was excluded and the time was extended to the following day Wade v. Dworkin, Sup. Ct. Op. No. 306 (File No. 603), 407 P.2d 587 (1966).

The common-law rule is that when the period of time within which an act is to be performed exceeds one week, an intervening Sunday is included in the computation. Wade v. Dworkin, Sup. Ct. Op. No. 306 (File No. 603), 407 P.2d 587 (1966).

Legislative intent.—The legislature, by virtue of its enactment of this section, manifested its intent to exclude Sundays in the computation of time only when Sunday falls on the last day of a period in question. Wade v. Dworkin, Sup. Ct. Op. No. 306 (File No. 603), 407 P.2d 587 (1966).

Exception in common law as to computation of person's age.—There

counted, not from the day of birth, but from the preceding day when limitation is figured. Turnbull v. Bonkowski, 274 F. Supp. 733 (D. Alas. 1967).

The computation-of-time statute is expressive of only the general common-law rule and does not presume to abrogate the well-established exception thereto governing the computation of a person's age. It follows that the statute has no application in calculating a person's age. Turnbull v. Bonkowski, 419 F.2d 104 (9th Cir. 1969).

The supreme court is enjoined by the legislature to observe the provisions of AS 01.10.020, in resolving any issue relating to this section and its applicability to the five-day recount provision of AS 15.20.430. Wade v. Dworkin, Sup. Ct. Op. No. 306 (File No. 603), 407 P.2d 587 (1966).

Computing limitation under AS 15.20.420.—In computing the five-day period of limitation prescribed by AS 15.20.420, an intervening Sunday is to be included. Wade v. Dworkin, Sup. Ct. Op. No. 306 (File No. 603), 407 P.2d 587 (1966).

Computation of the limitations period provided by AS 09.10.070 subsequent to the removal of the disability of minority is to be made by excluding the first day and including the last. Turnbull v. Bonkowski, 274 F. Supp. 733 (D. Alas. 1967).

Filing appeal.—Under this section, the day on which the judgment is entered should be excluded in comput-

FISCAL NOTE

I. REQUEST
 Bill/Resolution No. SB 200
 Title An Act Relating to the Fisheries Business Tax
 Requested by Senate Labor and Commerce Committee Date 3/3/81

II. FISCAL DETAIL
 Agency Affected _____
 Program Category Affected _____
 BRU, Program, or Subprogram(s) Affected _____
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)
EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL						

FUNDING (Thousands of Dollars)

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

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

There would be no change in revenues due to transfer of the tax liability from the salmon catcher/processor to the salmon purchaser.

IV. DATE 3/3/81 PREPARED BY Robert W. Elliott
 AGENCY Revenue
 PHONE 465-2309
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 200

Title An Act relating to the fisheries business tax

Requested by Senate Labor and Commerce Committee Date Feb. 24, 1981

II. FISCAL DETAIL

Agency Affected Department of Revenue

Program Category Affected Revenue Collection and Management

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

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (The of Dollars) NONE

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						

TOTAL

FUNDING (Thousands of Dollars) NONE

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS NONE

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
FULL TIME						
PART TIME						
TEMPORARY						

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

See the attached memorandum to R. D. Stevenson dated March 9, 1981.

IV. DATE March 9, 1981

PREPARED BY Gary L. Jenkins

AGENCY Audit Division

PHONE 465-2320

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

S

B

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10

STATE OF ALASKA
THE LEGISLATURE

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


LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

March 27, 1981

SUBJECT: Appropriation based on race distinction
(SB 210)

TO: Senate Labor and Commerce Committee

FROM: Billy G. Berrier 
Director
Division of Leg . Services

You have asked whether an appropriation based on race distinction violates the equal protection clause of the constitution.

Any legislation based on race distinction is in a suspect category and may be subject to strict scrutiny by the courts. The classification must serve a compelling state interest and the means selected must be narrowly drawn to fulfill the governmental purpose. The courts have not clearly articulated guidelines to determine the constitutionality of specific legislation.

There are very many cases dealing with aspects of this problem. An analysis of these would serve little purpose in this opinion since the United States Supreme Court has recently spoken in this area in the case of Fullilove v. Kluznick, 65 L.Ed.2d 902 (48 L.W. 4979) (1980). In this case there was a total of five opinions. The reasoning in three of the opinions, with a total of six justices, found the classification constitutional while the reasoning of two opinions, with three justices, found the classification unconstitutional. Together these opinions reflect the different approaches to the case.

Two justices view racial classification as always unconstitutional.

March 27, 1981

The other justices are of the opinion that racial classifications may be used in certain circumstances but have different views as to what circumstances justify a racial classification. All agree that the legislation must be an attempt to remedy past discriminatory practices.

The issue in that case was whether the minority businesses set-aside of the Public Works Employment Act of 1977 was constitutional. The set-aside requirement that ten percent of all public works contracts be awarded to minority business, defining minority group members as "citizens of the United States who are Negroes, Spanish-speaking, Orientals, Indians, Eskimos and Aleuts."

Of those justices finding the set-aside constitutional, Justice Powell took the strictest view. He stated:

"In the history of this Court and this country, few questions have been more divisive than those arising from governmental action taken on the basis of race. Indeed, our own decisions played no small part in the tragic legacy of government-sanctioned discrimination. See Plessy v. Ferguson, 163 U.S. 537 (1896); Dred Scott v. Sanford, 19 How. 393 (60 U.S.) (1857). At least since the decision in Brown v. Board of Education, 347 U.S. 483 (1954), the Court has been resolute in its dedication to the principle that the Constitution envisions a Nation where race is irrelevant. The time cannot come too soon when no governmental decision will be based upon immutable characteristics of pigmentation or origin. But in our quest to achieve a society free from racial classification, we cannot ignore the claims of those who still suffer from the effects of identifiable discrimination.

"Distinguishing the rights of all citizens to be free from racial classifications from the rights of some citizens to be made whole is a perplexing, but necessary, judicial task. When we first confronted such an issue in Bakke, I concluded that the Regents of the University of California were not competent to make, and had not made, findings sufficient to uphold the use of the race-conscious remedy they adopted. As my opinion made clear, I believe that the use of racial classifications, which are fundamentally at odds with the ideals of a democratic

society implicit in the Due Process and Equal Protection Clauses, cannot be imposed simply to serve transient social or political goals, however worthy they may be."

He stated that the essential elements to consider were:

- (1) the efficacy of alternative remedies;
- (2) the planned duration of the remedy;
- (3) the relationship between the percentage of workers to be employed and the percentage of minority group members in the relevant population or work force; and
- (4) the availability of waiver provisions if the hiring plan could not be met.

He added "a race-conscious remedy should not be approved without consideration of an additional crucial factor -- the effect of the set-aside on innocent third parties."

Training and planning employment is one of the least intrusive remedies available and the program is limited in duration. Since it does not set aside jobs, the ratio provisions and the availability of waiver provisions would not be a factor. The effect on innocent third parties of exclusion from job training is clearly less than the effect of a contract percentage approved in Fullilove.

In my opinion an appropriation for the purpose of a comprehensive Southeast Alaska Native training program would be found constitutional under any analysis in Fullilove, which found the minority business set-aside constitutional.

BGB:ljb

Bill No. Senate Bill 210

Date March 2, 1981

Title An Act making an appropriation to the Department of Labor for a contract with the Central Council Tlingit and Haida Indian Tribes of Alaska for a comprehensive Southeast Alaska Native training and employment plan; E.D.

Contact: Glenn Lundell
465-2700 *GL*

The bill does not contain sufficient information to develop a position paper. It will be necessary to review a copy of the proposal to determine if this effort could be coordinated with other employment service activities, would create a duplication of effort, or would benefit the unemployed or underemployed.

Pursuant to the Alaska Manpower Program Policy statement made by the Governor on January 24, 1976, training and employment programs are to be reviewed and coordinated by the State Manpower Services Council. It is recommended that the proposal be reviewed by that body and appropriate recommendations be made to legislative committees. The next meeting of that Council will be held in Juneau on April 2 and 3, 1981.

It is possible that an appropriation based on race distinction would violate the equal protection clause of the U. S. Constitution. A legal opinion should probably be requested.

POSITION PAPER/Department of Labor



Official Business

Alaska State Legislature

Senate

Committee on Labor & Commerce

Pouch V
State Capitol
Juneau, Alaska 99811

SUMMARY SB 210:

\$253,000 is appropriated from the general fund to the Department of Labor for a contract with the Central Council Tlingit and Haida Indian Tribes of Alaska for a comprehensive SE Alaska Native Training and employment plan. Takes effect immediately.

(8) "personal property" includes money, goods, chattels, things in action, and evidences of debt;

(9) "property" includes real and personal property;

(10) "real property" is coextensive with land, tenements, and hereditaments;

(11) Repealed by § 2 ch 66 SLA 1965.

(12) "signature" or "subscription" includes mark when the person cannot write, with his name written near the mark by a witness who writes his own name near the person's name; but a signature or subscription by mark can be acknowledged or can serve as a signature or subscription to a sworn statement only when two witnesses so sign their own names thereto;

(13) "state" means the State of Alaska unless applied to the different parts of the United States and in the latter case it includes the District of Columbia and the territories;

(14) "writing" includes printing. (§ 4 ch 62 SLA 1962; am § 2 ch 66 SLA 1965; am § 10 ch 117 SLA 1968)

Cross references. — For additional definition of "peace officer," see AS 11.30.100. For further definition of "person," see AS 15.55.250. For additional definitions, see AS 15.60.010.

Effect of amendments. — The 1965 amendment repealed paragraph (11).

The 1968 amendment substituted "state troopers" for "state police" in paragraph (6).

Quoted in Matanuska-Susitna Borough v. King's Lake Camp, Sup. Ct. Op. No. 472 (File No. 857), 439 P.2d 441 (1968); Stroh v. State Housing Authority, 7 Alas. L.J. No. 9, p. 647 (Sept., 1969); Stroh v. Alaska State Housing Authority, Sup. Ct. Op. No. 496 (File No. 924), 459 P.2d 480 (1969).

Sec. 01.10.065. Certified mail. When the use of registered mail is authorized or required by the laws of the state, certified mail, with return receipt requested, may be used. (§ 1 ch 66 SLA 1965)

Article 3. Effect of Statutes.

Section	Section
70. Time statutes take effect	90. Retrospective statutes
80. Computation of time	100. Effect of repeals or amendments

Sec. 01.10.070. Time statutes take effect. (a) All laws passed by the legislature become effective 90 days after enactment. The legislature may by concurrence of two-thirds of the membership of each house, provide for another effective date.

(b) The actual effective date of a bill having no effective date clause is determined by starting with the day after signature by the governor or the day on which he gives written notice that he is allowing it to become law without his signature, and counting 90 calendar days, the law becoming effective at 12:01 a.m., Pacific Standard time, on the 90th day.

(c) A law having an immediate effective date clause becomes

ing the law to become effective without his approval.

(d) A law which specified a definite effective date becomes effective at 12:01 a.m., Pacific Standard time, on the date specified. (§ 5 ch 62 SLA 1962; am § 8 ch 126 SLA 1966)

Effect of amendment.—The 1966 amendment rewrote this section.

Sec. 01.10.080. Computation of time. The time in which an act provided by law is required to be done is computed by excluding the first day and including the last, unless the last day is a holiday, and then it is also excluded. (§ 6 ch 62 SLA 1962)

This section was taken from the laws of Oregon. Mahan v. Sparks, 10 Alaska 292 (1942); Lowe v. Hess, 10 Alaska 174 (1941).

It merely states the common-law rule. Lowe v. Hess, 10 Alaska 174 (1941).

This statutory computation is declaratory of the common-law rule in Alaska. Turnbull v. Bonkowski, 274 F. Supp. 733 (D. Alas. 1967).

Alaska's computation-of-time statute merely expresses the common law. Turnbull v. Bonkowski, 419 F.2d 104 (9th Cir. 1969).

Common law.—At common law it was established if the last day on which an act was to be performed fell on a Sunday, then that Sunday was excluded and the time was extended to the following day. Wade v. Dworkin, Sup. Ct. Op. No. 306 (File No. 603), 407 P.2d 587 (1965).

The common-law rule is that when the period of time within which an act is to be performed exceeds one week, an intervening Sunday is included in the computation. Wade v. Dworkin, Sup. Ct. Op. No. 306 (File No. 603), 407 P.2d 587 (1965).

Legislative intent.—The legislature, by virtue of its enactment of this section, manifested its intent to exclude Sundays in the computation of time only when Sunday falls on the last day of a period in question. Wade v. Dworkin, Sup. Ct. Op. No. 306 (File No. 603), 407 P.2d 587 (1965).

Exception in common law as to computation of person's age.—There exists a well-recognized exception in the common law as to the computation of a person's age. This exception, briefly stated, is that a year must be

counted, not from the day of birth, but from the preceding day when limitation is figured. Turnbull v. Bonkowski, 274 F. Supp. 733 (D. Alas. 1967).

The computation-of-time statute is expressive of only the general common-law rule and does not presume to abrogate the well-established exception thereto governing the computation of a person's age. It follows that the statute has no application in calculating a person's age. Turnbull v. Bonkowski, 419 F.2d 104 (9th Cir. 1969).

The supreme court is enjoined by the legislature to observe the provisions of AS 01.10.020, in resolving any issue relating to this section and its applicability to the five-day recount provision of AS 15.20.430. Wade v. Dworkin, Sup. Ct. Op. No. 306 (File No. 603), 407 P.2d 587 (1965).

Computing limitation under AS 15.20.430.—In computing the five-day period of limitation prescribed by AS 15.20.430, an intervening Sunday is to be included. Wade v. Dworkin, Sup. Ct. Op. No. 306 (File No. 603), 407 P.2d 587 (1965).

Computation of the limitations period provided by AS 09.10.070 subsequent to the removal of the disability of minority is to be made by excluding the first day and including the last. Turnbull v. Bonkowski, 274 F. Supp. 733 (D. Alas. 1967).

Filing appeal.—Under this section, the day on which the judgment is entered should be excluded in computing the time within which an application for an appeal must be filed. Mahan v. Sparks, 10 Alaska 292 (1942).

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Official Business

Alaska State Legislature

Senate

Committee on Labor & Commerce

Pouch V
State Capitol
Juneau, Alaska 99811

SUMMARY SB 224: by Sturgulewski

After a tenant terminates his rental, property or money (held as security) may be applied by the landlord for payment of accrued rent or damages (AS 34.03.120).

Accrued rent and damages must be itemized by the landlord in a written notice and delivered with the amount due to the tenant no later than 30 days after the following:

1. Termination of the tenancy
2. Delivery of possession of the tenant
3. Notice to the landlord of an address to which notices to the tenant may be sent.

"DAMAGES" do not include wear resulting from ordinary use of the premises.

JUNEAU TENANTS COALITION
419 6TH ST. #232
JUNEAU, AK 99801

March 13, 1981

Michael Thill
Office of Sen. Bob Mulcahy
Pouch V
Juneau, Alaska 99811

Dear Mr. Thill:

Thank you for the opportunity to comment on SB 224. I would like to have the 14-day limit retained. With damage deposits of \$150 to \$500 not uncommon, there should be as short a delay as possible when returning deposits. The 14-day limit may, on rare occasions, be difficult to comply with. Compare this with the tenant's hardship of not having access to this money. Added to moving expenses the tenant might have two security deposits paid out simultaneously. Many tenants live on fixed, low, or moderate incomes and may have to "do without" necessities during the moving period. To be deprived of their security deposit for a full month will be a true hardship to tenants. SB 224, as now worded, would cause hardship to many Alaskans and would benefit local or absentee landlords only on rare occasions.

Although no great need to modify other portions of the statutory section exists, we have no opinion as to other proposed changes in the bill.

Sincerely,

JUNEAU TENANTS COALITION


Robert J. Sylvester, President

MEMORANDUM

TO:

Senator Bob Mulcahy
Pouch V
Juneau, AK 99811

DATE:

March 18, 1981

FILE NO:

TELEPHONE NO:

FROM:

Wilson L. Condon
Attorney General

SUBJECT:

SB 224, Landlord/Tenant
Amendment

By: Robert A. Evans, Assistant Attorney General
Consumer Protection Section
1049 W. 5th Avenue, Suite 101
Anchorage, AK 99501

You asked the Consumer Protection Section to comment on SB 224, and this memo responds to your request.

It is in the best interests of both landlord and tenant to resolve the amount of the security deposit to be returned or withheld as soon as possible after termination of the tenancy. The interest of the landlord is served by a prompt inventory of the residence, determination of damages, and the ability to re-rent the premises to mitigate loss or damage, if any.

The interest of the tenants is served by quick resolution of any problems and timely return of their security deposit. The moving tenants must usually seek housing elsewhere and most likely will be required to make another deposit. The dual deposit will be particularly onerous on lower income tenants.

In fact, the dual deposit situation will work to the detriment of some landlords. When a lower income tenant is looking for a new apartment, he/she will probably have to request that the new landlord be either wholly or partially unsecure as far as the security deposit goes. As any landlord knows, once a tenant is in place without having paid a security deposit or a partial deposit, it is difficult to obtain the deposit or balance due.

The conditioning of the landlord's return of the security deposit or notice, upon the tenants being required to give notice "to the landlord of an address to which notices to the tenant may be sent" seems unwise for the following reasons:

1. The tenant is required to come up with two deposits, one for his/her old apartment, and one for his/her new apartment. Such a condition would cause a great hardship on many people.

Senator Bob Mulcahy

Page 2

March 18, 1981

2. The language of the amendment makes the giving notice of a forwarding address mandatory on the tenant and only permissive on the landlord. The specific language of the amendment states that the tenant must give notice to the landlord of a forwarding address. The landlord on the other hand may send notices. The effect of this mandatory requirement is to deny the tenant his security deposit if he fails to give notice. However, if the landlord fails to give notice or return the security deposit, the permissive word "may" in the amendment relieves the landlord of any legal obligation and denies the tenant of any legal right.

It may be useful to have the tenant give an address to which notices can be sent, but the requirement of forwarding address should definitely not be a condition precedent to the return of the security deposit or notice of rent due and damages. A tenant may be travelling or may not immediately know his new address. The statute could be amended to state that the tenant should give a forwarding address, but not make it an absolute requirement for security deposit returns or notice.

The amendment, though seemingly simple, could have a significant effect on the balance of rights and duties of landlords and tenants. For this reason, I think that any attempt to alter the existing uniform residential landlord/tenant act should be in a much more thorough and comprehensive manner.

op

cc: Ron Lorensen, Deputy Attorney General
cc: Sarah Kavasharov, Assistant Attorney General
cc: Don Clocksin, Representative

(d) Within 14 days after the written offer has been delivered to the landlord, the landlord may refuse consent to a sublease or assignment by a written rejection signed and delivered by him to the tenant, containing one or more of the following reasonable grounds for rejecting the prospective occupant:

- (1) insufficient credit standing or financial responsibility;
- (2) number of persons in the household;
- (3) number of persons under 18 years of age in the household;
- (4) unwillingness of the prospective occupant to assume the same terms as are included in the existing rental agreement;
- (5) proposed maintenance of pets;
- (6) proposed commercial activity; or
- (7) written information signed by a previous landlord, which shall accompany the rejection, setting out abuses of other premises occupied by the prospective occupant.

(e) In the event the written rejection fails to contain one or more grounds permitted by (d) of this section for rejecting the prospective occupant, the tenant may consider the landlord's consent given, or at his option may terminate the rental agreement by a written notice given without unnecessary delay to the landlord at least 30 days before the termination date specified in the notice.

(f) If the landlord does not deliver a written rejection signed by him to the tenant within 14 days after a written offer has been delivered to him by the tenant, the landlord's consent to the sublease or assignment shall be conclusively presumed. (§ 1 ch 10 SLA 1974)

Article 3. Landlord Obligations.

Section	Section
70. Security deposits; prepaid rent	100. Landlord to maintain fit premises
80. Disclosure	110. Limitation of liability
90. Landlord to supply possession of the dwelling unit	

Sec. 34.03.070. Security deposits; prepaid rent. (a) A landlord may not demand or receive prepaid rent or a security deposit, however denominated, in an amount or value in excess of two months' periodic rent.

(b) Upon termination of the tenancy, property or money held by the landlord as prepaid rent or as a security deposit may be applied to the payment of accrued rent and the amount of damages which the landlord has suffered by reason of the tenant's noncompliance with § 120 of this chapter. The accrued rent and damages must be itemized by the landlord in a written notice delivered to the tenant together with the amount due no later than 14 days after termination of the tenancy and delivery of possession by the tenant. "Damages" do not include wear resulting from ordinary use of the premises.

(c) All money paid to the landlord by the tenant as prepaid rent or as a security deposit in a lease or rental agreement shall be promptly deposited by the landlord, wherever practicable, in a trust account in a

bank, savings and loan association, or licensed escrow agent, and the landlord shall provide to the tenant the terms and conditions under which the prepaid rent or security deposit or portions of them may be withheld by the landlord; nothing in this chapter prohibits the landlord from commingling prepaid rents and security deposits in a single financial account.

(d) If the landlord wilfully fails to comply with (b) of this section, the tenant may recover an amount not to exceed twice the actual amount withheld.

(e) This section does not preclude a landlord or tenant from recovering other damages to which he may be entitled under this chapter.

(f) The holder of the landlord's interest in the premises at the time of the termination of the tenancy is bound by this section. (§ 1 ch 10 SLA 1974)

Sec. 34.03.080. Disclosure. (a) The landlord or person authorized to enter into a rental agreement on his behalf shall disclose to the tenant in writing at or before the commencement of the tenancy the name and address of

- (1) the person authorized to manage the premises; and
- (2) an owner of the premises or a person authorized to act for and on behalf of the owner for the purpose of service of process and for the purpose of receiving and receipting for notices and demands.

(b) The information required to be furnished by this section shall be kept current and this section extends to and is enforceable against any successor landlord, owner or manager.

(c) A person who fails to comply with (a) of this section becomes an agent of each person who is a landlord for the purpose of

- (1) service of process and receiving and receipting for notices and demands; and
- (2) performing the obligations of the landlord under this chapter and under the rental agreement and expending or making available for the purpose all rent collected from the premises. (§ 1 ch 10 SLA 1974)

Sec. 34.03.090. Landlord to supply possession of the dwelling unit. At the commencement of the term the landlord shall deliver possession of the premises to the tenant in compliance with the rental agreement and § 100 of this chapter. The landlord may bring an action for possession against any person wrongfully in possession and may recover the damages provided in § 290 of this chapter. (§ 1 ch 10 SLA 1974)

Sec. 34.03.100. Landlord to maintain fit premises. (a) The landlord shall

- (1) make all repairs and do whatever is necessary to put and keep the premises in a fit and habitable condition;
- (2) keep all common areas of the premises in a clean and safe condition;

Article 4. Tenant Obligations.

Section

130. Rules and regulations

Sec. 34.03.120. Tenant to maintain dwelling unit.

Cleanup within 10 days of notice of noncompliance. — Where the tenants cleaned up the premises within 10 days from the date they were served with notice of noncompliance with the rental

agreement, the rental agreement could not be terminated for that reason. *Vczar v. Francis*, Sup. Ct. (p. No. 1634 (File No. 3173), 579 P.2d 1056 (1978).

Sec. 34.03.130. Rules and regulations.

(c) A mobile home park operator may determine by rule or regulation the style or quality of the equipment, including but not limited to underskirting and tie-downs, to be purchased by the tenant from the vendor of the tenant's choice; however, the operator may not require that the equipment be purchased from the operator.

(am § 4 ch 138 SLA 1976)

Effect of amendment. — The 1976 amendment added subsection (c).

As the rest of the section was not affected by the amendment, it is not set out.

Legislative history report. — For report on ch. 138, SLA 1976 (SCS CSHB 829 am S [re-engrossed]), see 1976 Senate Journal, p. 1368.

Article 5. Tenant Remedies.

Sec. 34.03.160. Noncompliance by the landlord: General.

Stated in *McCall v. Fickes*, Sup. Ct. Op. No. 1335 (File No. 2611), 556 P.2d 535 (1976).

Sec. 34.03.180. Wrongful failure to supply heat, water, hot water or essential services.

Cited in *McCall v. Fickes*, Sup. Ct. Op. No. 1335 (File No. 2611), 556 P.2d 535 (1976).

Article 6. Landlord Remedies.

Section

225. Limitations on mobile home park operator's right to terminate

Sec. 34.03.220. Noncompliance with rental agreement: Failure to pay rent.

Ten-day period dates from receipt of notice. — The period of 10 days in which to cure breaches in the rental agreement should be 10 days after receipt of the notice

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Sec. 34.03

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(1976).

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Sec. 34.03:

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firm, association, organization, business trust, or society, as well as a natural person;

(8) "personal property" includes money, goods, chattels, things in action, and evidences of debt;

(9) "property" includes real and personal property;

(10) "real property" is coextensive with land, tenements, and hereditaments;

(11) Repealed by § 2 ch 66 SLA 1965.

(12) "signature" or "subscription" includes mark when the person cannot write, with his name written near the mark by a witness who writes his own name near the person's name; but a signature or subscription by mark can be acknowledged or can serve as a signature or subscription to a sworn statement only when two witnesses so sign their own names thereto;

(13) "state" means the State of Alaska unless applied to the different parts of the United States and in the latter case it includes the District of Columbia and the territories;

(14) "writing" includes printing. (§ 4 ch 62 SLA 1962; am § 2 ch 66 SLA 1965; am § 10 ch 117 SLA 1968)

Cross references. — For additional definition of "peace officer," see AS 11.30.100. For further definition of "person," see AS 15.55.25. For additional definitions, see AS 15.60.010.

Effect of amendments. — The 1965 amendment repealed paragraph (11).

The 1968 amendment substituted "state troopers" for "state police" in paragraph (6).

Quoted in *Matanuska-Susitna Borough v. King's Lake Camp*, Sup. Ct. Op. No. 472 (File No. 857), 439 P.2d 441 (1968); *Stroh v. State Housing Authority*, 7 Alas. L.J. No. 3, p. 647 (Sept., 1969); *Stroh v. Alaska State Housing Authority*, Sup. Ct. Op. No. 496 (File No. 024), 469 P.2d 480 (1969).

Sec. 01.10.065. Certified mail. When the use of registered mail is authorized or required by the laws of the state, certified mail, with return receipt requested, may be used. (§ 1 ch 66 SLA 1965)

Article 3. Effect of Statutes.

Section	Section
70. Time statutes take effect	90. Retrospective statutes
80. Computation of time	100. Effect of repeals or amendments

Sec. 01.10.070. Time statutes take effect. (a) All laws passed by the legislature become effective 90 days after enactment. The legislature may by concurrence of two-thirds of the membership of each house, provide for another effective date.

(b) The actual effective date of a bill having no effective date clause is determined by starting with the day after signature by the governor or the day on which he gives written notice that he is allowing it to become law without his signature, and counting 90 calendar days, the law becoming effective at 12:01 a.m., Pacific Standard time, on the 90th day.

(c) A law having an immediate effective date clause becomes

law at 12:01 a.m., on the day after it is signed by the governor or on the day after he has given written notice that he is allowing the law to become effective without his approval.

(d) A law which specified a definite effective date becomes effective at 12:01 a.m., Pacific Standard time, on the date specified. (§ 5 ch 62 SLA 1962; am § 8 ch 126 SLA 1966)

Effect of amendment.—The 1966 amendment rewrote this section.

Sec. 01.10.080. Computation of time. The time in which an act provided by law is required to be done is computed by excluding the first day and including the last, unless the last day is a holiday, and then it is also excluded. (§ 6 ch 62 SLA 1962)

This section was taken from the laws of Oregon. *Mahan v. Sparks*, 10 Alaska 292 (1942); *Lowe v. Hess*, 19 Alaska 174 (1941).

It merely states the common-law rule. *Lowe v. Hess*, 10 Alaska 174 (1941).

This statutory computation is declaratory of the common-law rule in Alaska. *Turnbull v. Bonkowski*, 274 F. Supp. 733 (D. Alas. 1967).

Alaska's computation-of-time statute merely expresses the common law. *Turnbull v. Bonkowski*, 419 F.2d 104 (9th Cir. 1969).

Common law.—At common law it was established if the last day on which an act was to be performed fell on a Sunday, then that Sunday was excluded and the time was extended to the following day. *Wade v. Dworkin*, Sup. Ct. Op. No. 306 (File No. 603), 407 P.2d 587 (1965).

The common-law rule is that when the period of time within which an act is to be performed exceeds one week, an intervening Sunday is included in the computation. *Wade v. Dworkin*, Sup. Ct. Op. No. 306 (File No. 603), 407 P.2d 587 (1965).

Legislative intent.—The legislature, by virtue of its enactment of this section, manifested its intent to exclude Sundays in the computation of time only when Sunday falls on the last day of a period in question. *Wade v. Dworkin*, Sup. Ct. Op. No. 306 (File No. 603), 407 P.2d 587 (1965).

Exception in common law as to computation of person's age.—There exists a well-recognized exception in the common law as to the computation of a person's age. This exception, briefly stated, is that a year must be

counted, not from the day of birth, but from the preceding day when limitation is figured. *Turnbull v. Bonkowski*, 274 F. Supp. 733 (D. Alas. 1967).

The computation-of-time statute is expressive of only the general common-law rule and does not presume to abrogate the well-established exception thereto governing the computation of a person's age. It follows that the statute has no application in calculating a person's age. *Turnbull v. Bonkowski*, 419 F.2d 104 (9th Cir. 1969).

The supreme court is enjoined by the legislature to observe the provisions of AS 01.10.020, in resolving any issue relating to this section and its applicability to the five day recount provision of AS 15.20.430. *Wade v. Dworkin*, Sup. Ct. Op. No. 306 (File No. 603), 407 P.2d 587 (1965).

Computing limitation under AS 15.20.430. In computing the five day period of limitation prescribed by AS 15.20.430, an intervening Sunday is to be included. *Wade v. Dworkin*, Sup. Ct. Op. No. 306 (File No. 603), 407 P.2d 587 (1965).

Computation of the limitations period provided by AS 09.10.070 subsequent to the removal of the disability of minority is to be made by excluding the first day and including the last. *Turnbull v. Bonkowski*, 274 F. Supp. 733 (D. Alas. 1967).

Filing appeal.—Under this section, the day on which the judgment is entered should be excluded in computing the time within which an application for an appeal must be filed. *Mahan v. Sparks*, 10 Alaska 292 (1942).

I. REQUEST
 Bill/Resolution No. SB 260
 Title Special appropriation for a grant to Lower Kuskokwim Corporation
 Requested by _____ Date _____

II. FISCAL DETAIL
 Agency Affected Commerce & Economic Development
 Program Category Affected Economic Development
 BRU, Program, or Subprogram(s) Affected Economic Enterprise - Industrial Projects
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.	50.0					
TOTAL	50.0					

FUNDING (Thousands of Dollars)

GENERAL FUND	50.0					
FEDERAL FUNDS	0					
OTHER (Specify Fund Source)	0					

POSITIONS

FULL TIME	0					
PART TIME	0					
TEMPORARY	0					

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

IV. DATE 3/13/81 PREPARED BY Richard H. Eakins
 AGENCY Commerce & Economic Development
 PHONE 465-2018
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

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Alaska State Legislature

Senate

Committee on Labor & Commerce

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

SUMMARY SB 277:

Sec 1: This act provides aircraft owners and operators with access, thru the establishment of a public insurance corporation, to adequate insurance against liability and hull damage.

Sec 2: AS 21 is ammended by adding a new chapter; Chapter 86

ARTICLE 1 AVIATION INDEMNITY CORPORATION OF ALASKA

21.86.010 Corporation established; Aviation Indemenity Corporation of Alaska is established as a public corporation, having a legal existence independent and separate of the State. Obligations issued by the corporation do not constitute a debt, liability, or obligation and credit of the State.

21.86.020 Establishment of a board of directors appointed by the governor and confirmed by the legislature. Membership:

- (1) one representative from an air carrier, subject to FAA routes
- (2) two representatives, certified by the Alaska Transportation Commission as air taxi operators; only one may be operating from a business based in a city having over 100,000 population, and both must be insured under this chapter when insurance becomes available.
- (3) two reps from the aviation community not associated with commercial aviation enterprise represented in (1) or (2) of this sub-sec.
- (4) two representatives of the insurance industry
- (5) two members of the general public who have no financial interest in the aviation or the insurance business.

The term of office for each director is three years;

When a directors term expires, the governor shall appoint a successor form the same class as the director whose term has expired. In the event of resignation, death, or inability to serve , the governor sha! appoint a successor from the same class as the terminated director for the unexpierd term.

SB 277 cont.

Provides for a three year term of office;

Within 90 days of the first meeting of the board, the director shall submit to the Div of Insurance a plan of operation, providing for fair and reasonable administration of the corporation.

Outlines powers and duties of the board including standards of acceptable risks, the issuance of contracts indemnifying owners and operators against loss by reason of liability for covered claims for an act of omission in the operation of an aircraft in this State, and agreeing to tender on their behalf a defense to a covered claim in a civil action. Subject to approval of the Div of Insurance, the board shall charge a premium for the protection provided. The board shall carry out the obligations of its contracts, and shall maintain and report information concerning claims for those it insures.

Board may exclude an individual based on risk factors, but may not exclude an application because of his classification.

Provides limits on liability for policies issued; insurance contract shall cover the defense against but not the punitive damages.

Annual reporting to the director of information on claims.

Dir. of the Div of Ins. may order termination of the corporation based on public hearings, and a determination that the continuation would result in substantial underwriting loss. (unless excessive premiums)

The corporation is exempt from tax for the first 5 years, however after that period there will be a premium tax.

Outlines rate categories for general and commercial aviation.

Provides for an assessment on insureds, corporation may levy an assessment on insureds holding policies the previous year.

Provides for refunds to insureds if premiums exceed claim and underwriting expenses for the year.

Outlines payment of premiums and cancellation of insurance.

Establishes aviation revolving fund (loan) in the Department of Commerce and Econ. to be administered by the Div of Insur. Loans may be made from the fund to the corporation upon certification of the director, but loans are not to exceed 30 million at any time. Loans shall be repaid to the fund in annual installments of at least 25% of the excess of the premiums earned, reserves, expenses, and assessments made by the corporation, if any, and interest shall be paid at a rate of 7 percent.

FUTURE OF AVIATION INSURANCE IN ALASKA

Before one can predict the future of Aviation Insurance, one must look at its past.

Prior to 1970 there were no Domestic Insurers accepting Aviation Insurance in Alaska. From 1970 through 1977 several notable Domestic Insurers entered the State including, but not limited to, such well known Insurers as Insurance Company of North America, Ranger, Pan American, Insurance Company State of Penn. and U.S.A.I.G. Without exception, all lost money and withdrew from the State.

Prior to 1970 and since 1978 most of the Aviation Insurance in Alaska has been provided by Lloyds of London and British Companies who have continually provided a market for the aviator since the first airplane came to Alaska.

During the 1970's aviation rates were steadily decreasing year after year even though as a Nation we were experiencing inflation and as a State we were experiencing an increase in airplanes, pilots and, sadly, a sharp increase not only in accidents, but also an increase in the fatality rate. In 1978 one hundred fifty-eight people were killed in airplanes with the average court award and/or settlement per person being \$450,000. each or \$71,000,000. That figure does not include the dollars spent on hull losses.

Rates started increasing in 1979 after the 1978 figures were known. In 1979 the fatality record was better, but over the past five years Alaska has averaged more than 50 fatalities a year at an average cost of \$450,000. per death or an annual cost of \$22,500,000. just to pay liabilities. As a result, many pilots and Air Taxi operators have experienced sharp and heavy increases in the cost of their insurance. Those who have had accidents the past five years are being charged more than those who have had no accidents. But everyone's rates are up and up a lot.

Newspaper articles have appeared recently accusing Lloyds of London of having a monopoly and "fixing" prices. I have been somewhat dismayed to see these things in print and even more dismayed as to who is doing the accusing.

(1) Many of those doing the most complaining have been involved in accidents in the past five years and many have had a fatal crash. The statistics are a matter of public record.

(2) Lloyds of London is a Market Place, not an Insuror, so how can it be a monopoly?

(3) The British Companies are also a Market Place made up of many Insurors.

(4) We are seeing a wider variance in rates today than we've seen in years, i.e. the ones with a repeated accident record are rated accordingly. Those with none or one are also rated accordingly.

(5) There is stiff competition in the World Market, but there is no rate cutting.

Recently Senator Eliason had introduced into the Senate Senate Bill 277 which would create a State Funded Aviation Insuror. The bill asks for \$30,000,000. to fund the Insurance Company. The Insurance Company would be assessible. That means anytime within three years from date your policy expires you could be assessed up to 50% of what you paid in premium. S.B. 277 does not discuss rate levels, but in verbal discussion proponents of this bill acknowledge they probably could not provide insurance cheaper. So you would trade what you now have, i.e. a guaranteed cost, for an unknown cost, and by asking the State to subsidize your insurance do, at the same time, subject yourself to public scrutiny for you cannot expect public funds without accepting public involvement in your day to day flying life.

There are many arguments against Senate Bill 277, and I'm confident your Broker and Insuror is ready to discuss in detail with you all of the ramifications of it.

As for the future of Aviation Insurance in Alaska

- (1) It will always be available in the free market at price;
- (2) When the accident rate declines and thus loss experience declines, rates will decrease;
- (3) There is at present three separate Domestic Insurors considering re-entering the State to provide Aviation Insurance. However, it is not their intent to cut rates, for the past 10 year's statistics prove that rate levels for that decade were hopelessly inadequate.

(4) But some of you were not here in the sixties, but those of you who were realize that the rate levels of today are the rate levels of the sixties. Your hull values are higher, your seating capacity is greater, and with the average court award being \$450,000. per person, most of you are carrying higher limits of liability as you should.

I would suggest that instead of "Hanging the wrong man" i.e. the Insurors, that each of you acknowledge that the basic problem is accidents, not insurance. Pilots wreck airplanes and hurt people. Insurors pay for them, so we all pay for them.

Insurance is a pooling of dollars by the many to pay the losses of the few. But if the dollars out exceed the dollars in, then rates must be increased, and that fact does not change whether it is Insurors as you now know them or a State owned Insurance.

Here are some sobering statistics: The State of Alaska has one-eighth of 1 percent of the United States population, 1.3 percent of the pilots, 2.9 percent of the aircraft and 5.6 percent of the accidents. Alaskan aircraft are involved in 4.4 percent of the fatal accidents. Air taxi operators here rack up 22.6 percent of American accidents among that group, and 15 percent of the air-taxi fatalities.

Instead of complaining about rates and asking the State to subsidize the accident and fatality rate by forming an Insurance Company, ask

your legislator to:

(a) Kill Senate Bill 277 - and in its place -

(b) Put the \$30,000,000. to work doing what National Transportation Safety Board AAS-80-3 recommends in its Special Report on Safety in Alaska.

for in so doing all citizens would benefit in a reduction in loss of life and property, and each of you will ultimately benefit in reduced insurance costs as a result of safety.

Submitted by


Lois Clary

Lois Clary is a licensed insurance agent who has been actively involved in all lines of insurance for 32 years and insurance in the State of Alaska for 20.

Alaska Air Carriers Association

TESTIMONY

OF

TULINDA DEEGAN

PRESIDENT

ALASKA AIR CARRIERS ASSOCIATION

ON

S.277 - AN ACT TO
ESTABLISH THE AVIATION
INDEMNITY CORPORATION
OF ALASKA

MAY 4, 1981

TESTIMONY
OF
TULINDA DEEGAN
PRESIDENT
ALASKA AIR CARRIERS ASSOCIATION

ON

S.277 - AN ACT ON
ESTABLISH THE AVIATION
INDEMNITY CORPORATION
OF ALASKA

MAY 4, 1981

I AM PLEASED TO PRESENT THE VIEWS OF THE ALASKA AIR CARRIERS ASSOCIATION (AACA) ON SENATE BILL 277 - AN ACT ESTABLISHING THE AVIATION INDEMNITY CORPORATION OF ALASKA. WITH ME TODAY IS D. CRAIG CLARK, PRESIDENT OF ANCHORAGE AIRWAYS AND CHAIRMAN OF THE ALASKA AIR CARRIERS ASSOCIATION.

THE ALASKA AIR CARRIERS ASSOCIATION, FOUNDED IN 1966, REPRESENTS AIR CARRIERS ENGAGED IN THE TRANSPORTATION OF PASSENGERS, CARGO AND MAIL. THE MEMBERSHIP INCLUDES CERTIFICATED AIR CARRIERS, COMMUTER AND AIR TAXI OPERATORS. THE KEY PURPOSE OF THE ASSOCIATION IS TO FOSTER AND PROMOTE AN ENVIRONMENT THAT ASSURES SAFE AIR TRANSPORTATION IN THE STATE OF ALASKA.

THE AACA BOARD OF DIRECTORS PASSED THE FOLLOWING RESOLUTION AT THEIR APRIL 8, 1981 MEETING:

WHEREAS, ESCALATING INSURANCE RATES HAVE BECOME A MAJOR PROBLEM OF THE AIR CARRIER INDUSTRY IN ALASKA, THE ALASKA AIR CARRIERS ASSOCIATION,

RESOLVES, TO SUPPORT DISCUSSION OF PROPOSALS IN S.277 TO ESTABLISH AN ALTERNATIVE IN THE INSURANCE MARKET PROVIDED THAT SECTION 21,86,110, ASSESSMENTS ON INSURED, BE AMENDED TO DELETE THE 50% SPECIAL ASSESSMENT AND THAT SECTION 21,86,086, TERMINATION, BE AMENDED TO INCLUDE AT LEAST A 30 DAY NOTICE PERIOD TO INSURED ON DISSOLUTION OF THE CORPORATION.

THE MEMBERS OF THIS COMMITTEE ARE WELL AWARE OF THE IMPORTANCE OF AVIATION IN ALASKA. AIR TRANSPORTATION IS ESSENTIAL TO ALASKA. OUTSIDE OF MAJOR POPULATION CENTERS THERE ARE VIRTUALLY NO ROADS. ALMOST EVERYTHING THAT IS REQUIRED FOR SURVIVAL, INCLUDING FOOD, CLOTHING AND MEDICINE MUST BE BROUGHT IN BY AIR.

INSURANCE PREMIUMS FOR AIRCRAFT HULL INSURANCE AND AVIATION LIABILITY INSURANCE HAS JUMPED 100 TO 200 PERCENT THIS YEAR. ALL OPERATORS HAVE FACED THESE COST INCREASES. AIR CARRIERS ARE FORCED TO PASS THIS INCREASE ON TO CONSUMERS. ATTACHED TO OUR TESTIMONY ARE RECENT ARTICLES THAT OUTLINE THE PROBLEM.

THE ALASKA AIR CARRIERS ASSOCIATION COMMENDS THE SENATE FOR ADDRESSING THIS CRITICAL ISSUE AND IS CONFIDENT THAT THE HEARINGS OF THIS COMMITTEE WILL BE A MAJOR STEP IN RESOLVING THE PROBLEM OF HIGH AVIATION INSURANCE RATES IN THE STATE OF ALASKA.

A REVIEW OF SOME FACTS ON THE CURRENT AVIATION INSURANCE INDUSTRY IS IN ORDER. SINCE AMERICAN INSURANCE COMPANIES PULLED OUT OF ALASKA IN 1968, THE PRIMARY MARKET FOR AVIATION COVERAGE IS LLOYDS OF LONDON. ACCORDING TO THE ALASKA DIVISION OF INSURANCE THIS MARKET REPRESENTS 90% OF ALASKAN AVIATION INSURANCE.

QUOTATIONS IN THE CURRENT MARKET ARE LIMITED TO THE INITIAL BROKER. THIS MEANS THAT AN AIR CARRIER CANNOT "SHOP AROUND" FOR A BETTER RATE. STATISTICS ON THE PREMIUM AND LOSS LEVELS EXPERIENCED BY LLOYDS IS SKETCHY AT BEST AND ARE NOT COMPLETE ENOUGH TO DRAW REALISTIC CONCLUSIONS.

MEMBERS OF THIS COMMITTEE WILL HEAR TESTIMONY THAT THE CURRENT HIGH INSURANCE RATES ARE PART OF A CYCLE. PROponents OF THE CYCLE THEORY CONTEND THAT HIGH INSURANCE RATES WILL DRAW DOMESTIC INSURANCE COMPANIES BACK INTO THE MARKET AND THROUGH COMPETITION RATES WILL COME BACK DOWN.

WHEN RATES GO TOO LOW THEN THE DOMESTIC COMPANIES WILL PULL OUT OF THE MARKET AS THEY DID IN 1968.

THE DEVASTATING IMPACT THIS CYCLE WOULD HAVE ON AIR TRANSPORTATION IN ALASKA IS OF GREAT CONCERN TO THE

ALASKA AIR CARRIERS ASSOCIATION. SUCH A CYCLE WOULD MAKE LONG TERM FINANCIAL PLANNING EXTREMELY DIFFICULT. THE EXISTENCE OF AN UNDERWRITING FIRM IN ALASKA MAY SMOOTH OUT THE PEAKS AND VALLEYS IN SUCH A CYCLE.

THE AIR CARRIERS IN THE STATE OF ALASKA UNDERSTAND THAT THE CONCEPT OF INSURANCE IS A POOLING OF DOLLARS BY A LARGE GROUP TO PAY FOR THE LOSSES OF A FEW. ONE CLEAR WAY TO IMPROVE ALASKAN AVIATION INSURANCE RATES IS TO IMPROVE THE ALASKAN AVIATION ACCIDENT RATE. A RECENT NATIONAL TRANSPORTATION SAFETY BOARD STUDY ON AIR TAXI SAFETY IN ALASKA STATES "ALASKA . . . HAS AN AIR SAFETY PROBLEM . . . (A)BOUT 30 PERCENT OF ALL AIR TAXI ACCIDENTS IN THE UNITED STATES OCCURRED IN ALASKA, AND THEIR RATE OF OCCURRENCE WAS FOUR TIMES THAT OF THE REST OF THE UNITED STATES." THE ALASKAN FEDERATION OF NATIVES (AFN) ALSO RECOGNIZED THE NEED FOR IMPROVED AVIATION SAFETY. AT THE 1980 CONVENTION THE AFN PASSED A RESOLUTION TO WORK WITH OTHER ASSOCIATIONS AND AGENCIES TO REDUCE THE AIRCRAFT ACCIDENT RATE IN ALASKA.

THE AIR CARRIER INDUSTRY RECOGNIZES THAT MANAGEMENT AND COMPETENT FLIGHT CREWS ARE THE KEY TO SAFE OPERATION.

AT THE PRESENT TIME, AIR CARRIERS IN ALASKA DO NOT HAVE ACCESS TO STANDARDIZED TRAINING PROGRAMS TO IMPROVE BOTH MANAGEMENT AND THE FLIGHT CREW'S SKILLS.

IN 1978, THE INDUSTRY ESTABLISHED THE ALASKAN AVIATION SAFETY FOUNDATION, A NON-PROFIT CORPORATION DESIGNED TO FOSTER AVIATION SAFETY THROUGH EDUCATION PROGRAMS. THE FOUNDATION WILL OFFER AVIATION TRAINING PROGRAMS THROUGHOUT THE STATE.

AMERICAN AIRLINES TRAINING CORPORATION (AATC) WILL DEVELOP TRAINING SYSTEMS TO MEET THE UNIQUE NEEDS OF AVIATION IN ALASKA. THESE PROGRAMS WILL BE DESIGNED TO PROVIDE STANDARDIZED RECURRENT TRAINING THAT WILL REDUCE THE ACCIDENT RATE. THE RESEARCH TO DEVELOP THE TRAINING PROGRAMS WILL BE CONDUCTED IN ALASKA.

WHILE AMERICAN AIRLINES IS DEVELOPING THE COMPREHENSIVE TRAINING PROGRAM THE FOUNDATION WILL BE WORKING WITH OTHER AVIATION GROUPS TO OFFER THEIR PROGRAMS IN ALASKA.

THE AIRCRAFT OWNERS AND PILOTS ASSOCIATION (AOPA) HAS DEVELOPED EXTENSIVE PILOT TRAINING COURSES. VERY FEW OF THESE PROGRAMS ARE OFFERED IN ALASKA BECAUSE OF THE HIGH COST OF TRANSPORTING INSTRUCTORS AND THE TRAINING MATERIALS TO ALASKA. THE FOUNDATION HAS WORKED OUT A COST-SHARING ARRANGEMENT WITH AOPA TO OFFER MORE OF THESE PROGRAMS IN ALASKA.

THE PREVENTION OF ACCIDENTS IN ALASKA BEGINS WITH MANAGEMENT. THE ALASKAN AVIATION MANAGEMENT PROGRAM WILL BE OFFERED IN AT LEAST FIVE ALASKAN COMMUNITIES. THE MANAGEMENT PROGRAM HAS BEEN OFFERED IN THE PAST AND IS DESIGNED SPECIFICALLY FOR ALASKAN AVIATION OPERATORS.

EACH YEAR AT THE ALASKA AIR CARRIERS ASSOCIATION ANNUAL CONVENTION, ENGINE AND AIRCRAFT MANUFACTURERS OFFER SEMINARS FOR MECHANICS. THESE PROGRAMS ARE WELL ATTENDED AND ARE THE ONLY SCHEDULED OPPORTUNITY FOR ALASKAN CARRIERS TO MEET WITH THE MANUFACTURERS. THE FOUNDATION WILL EXPAND THIS PROGRAM AND OFFER MECHANICS' SEMINARS THROUGHOUT THE STATE.

THE FOUNDATION HAS WORKED WITH THE EMPLOYEE ASSISTANCE CONSULTANTS OF ALASKA (EAC) TO DEVELOP A PROGRAM TO HELP EMPLOYEES OF AIR CARRIERS. EAC WORKES WITH EMPLOYEES AND THEIR FAMILIES TO DEAL WITH PERSONAL PROBLEMS WHICH MAY AFFECT THEIR PRODUCTIVITY, HEALTH, OR CONTINUED EMPLOYMENT. THE BASIC ASSUMPTION OF THIS PROGRAM IS THAT A HEALTHY EMPLOYEE IS ALSO A SAFE EMPLOYEE.

THE FOUNDATION WILL PROVIDE AIR CARRIERS WITH INFORMATION ON AIRCRAFT ACCIDENTS IN ALASKA. INFORMATION SUCH AS THE CAUSE AND THE TYPE OF AIRCRAFT WILL BE PREPARED IN AN EASY-TO-READ FORMAT AND DISTRIBUTED TO AIR CARRIERS.

THE ALASKAN AVIATION SAFETY FOUNDATION IS BEING DEVELOPED IN COOPERATION WITH THE INSURANCE INDUSTRY. THE FOUNDATION IS WORKING WITH ROBERT J. CARNIE, AVIATION SAFETY CONSULTANT WITH THE INTERNATIONAL INSURANCE BROKERAGE FIRM OF REED STENHOUSE, TO ESTABLISH SAFETY PROGRAMS RECOGNIZED BY THE INSURANCE INDUSTRY. CARNIE HAS EXTENSIVE EXPERIENCE FLYING HELICOPTERS IN ARCTIC ENVIRONMENTS.

IN AN EFFORT TO REDUCE INSURANCE COSTS, THE ALASKA AIR CARRIERS ASSOCIATION HAS PUT TOGETHER A GROUP WORKERS' COMPENSATION INSURANCE PROGRAM. THE ALASKA DIVISION OF INSURANCE HAS ISSUED FINAL APPROVAL FOR THE ALASKA AIR CARRIERS ASSOCIATION (AACA) WORKERS' COMPENSATION PROGRAM. THIS PROGRAM IS AVAILABLE EXCLUSIVELY TO MEMBERS IN GOOD STANDING WITH THE AACA. AN IMPORTANT PROVISION OF THE PROGRAM IS THE REQUIREMENT THAT PARTICIPANTS IN THE PROGRAM MUST BE ACTIVE IN SAFETY PROGRAMS ESTABLISHED BY THE AACA BOARD OF DIRECTORS. THE DIVISION OF INSURANCE HAS ALLOWED THE BOARD OF DIRECTORS ONE YEAR TO DEVELOP THE PROGRAMS. THE PARTICIPANTS IN THE PROGRAM TO DATE WILL SAVE AN ESTIMATED \$86,000 IN PREMIUMS.

THANK YOU FOR THE OPPORTUNITY TO EXPRESS OUR VIEWS ON AVIATION INSURANCE.

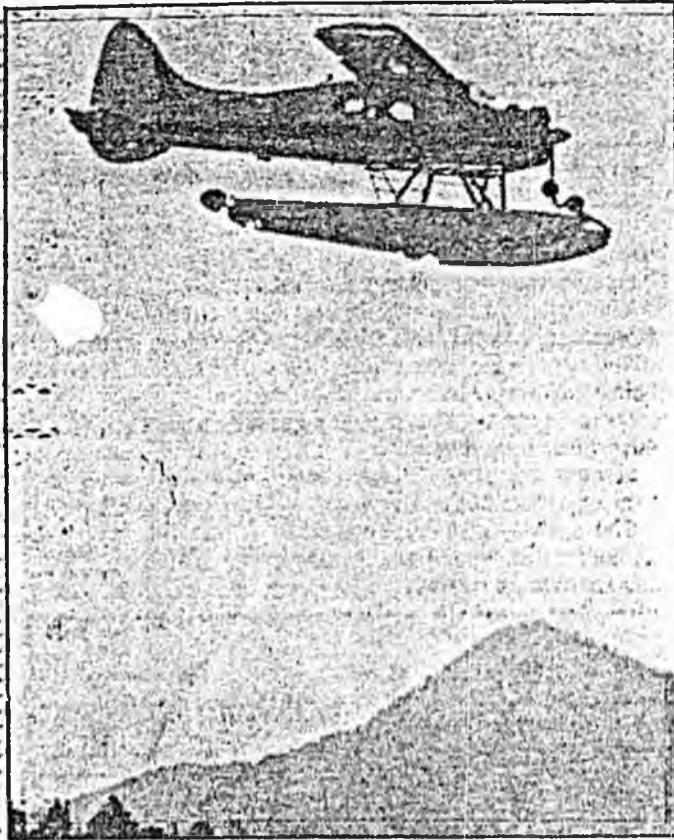
Pilots fasten seat belts, a

By J.K. MARSH
Daily News Staff Writer

Alaska aviators have found their insurance rates jumping from 100 to 200 percent this year, and those changes are forcing changes for many.

The rate increase is hitting both commercial and pleasure pilots, forcing increases in air taxi rates, and discouraging private pilots from acquiring their own planes.

The reasons for the high Alaskan rates are simple. Alaskans fly more, with almost 16 times the flight hours per



Aircraft owners and operators throughout Alaska have faced insurance premium increases that have more than doubled their payments in the last few years. Increases are blamed on the high percentage of accidents in the state, and the reluctance of most insurance writers to get involved. Andrea Smith photo.

resident as the rest of the U.S. in 1978, and have double the number of aviation accidents.

Insurance companies that have taken too many losses insuring Alaskan fliers are staying out of the market, leaving almost no one insuring state aviation but the Lloyd's syndicate of London.

Alaska Senate Bill 277, introduced March 12, would establish an Aviation Indemnity Corporation of Alaska to provide another market for insuring the aircraft operators in the state. Initially funded by the state, the corporation would exist independently and would set rates at a competitive level. It would not depend on state subsidy for continued operations.

The corporation would make aircraft insurance more accessible to fliers, but would not guarantee lower rates, said state Division of Insurance director Ken Moore.

Another reason for higher rates is the unlimited liability to which Alaska air carriers are subject, said Paul Breed of SEA Airlines. The amount of liability for which a victim can sue is unlimited in Alaska, while on international flights the amount is limited to \$100,000 by international agreement, Breed said. Alaska is not the only state with unlimited liability, but many states have set limits.

"People injured in a wreck deserve to be compensated, but I question some of the large claims being awarded," said Mike Salazar of Ketchikan Air Service.

Breed also contends there is little significant difference between the rates for good risks and bad risks. Operators who may cut corners on safety procedures can cut operating costs, and suffer no greater increase in insurance premiums.

Breed said he has had no liability claims filed against him since he started as an air taxi operator in 1973, and only one claim for hull damage, in 1974. But he has found no significant difference between his rates and those of others who have had claims against them.

The result is sharply increasing insurance premiums, for air taxis, instructors and private pilots alike.

Jack Cousins has been a flight instructor in the Ketchikan area since 1964, but he won't be teaching this year because his insurance premiums have gone from \$3,800 to \$9,800, and the coverage has fallen from \$500 to \$1,000 deductible on ground insurance and from five percent to 10 percent deductible on air insurance.

"You can hobnob for one or two dollars more to cover fuel

Insurance rates climb

increases, but you can't tell a guy you need to charge \$20 more an hour to cover the insurance," Cousins said.

Breed said it looks like his rates would have increased by about 500 percent over the past two and a half years, "and that's with no claims against us at all."

Adding to the increase is the new policy requirement that Breed carry year-round insurance for all his fleet, although one-half to two thirds of his planes are inactive during the winter. He said that until last year he could get a lower rate for inactive planes during the winter.

Higher insurance rates come partially from higher accidents rates. Between 1974 and 1978, there were almost five times as many nonfatal air taxi accidents per 100,000 hours of flying time in Alaska - 15.2 - as in the rest of the U.S. Nonfatal general aviation accidents per 100,000 hours were more than double those in the rest of the U.S. during that period.

A 1980 special study by the National Transportation Safety Board concluded that the major factors contributing to the high air taxi accident rate in Alaska are the "bush syndrome," inadequate airfield facilities and communications, and inadequate weather observations and navigation aids.

One recommendation was safety programs which reiterate the hazards of the "bush syndrome," which is the willingness of the pilot or the passengers to take unwarranted risks to complete a flight in hazardous conditions.

Other recommendations include improved maintenance of runway facilities, especially in small villages; increasing weather observation stations and improving weather in-

formation communications; and location of a Federal Aviation Administration principal operations inspector and principal maintenance inspector at Ketchikan, Nome, Bethel and other regional hubs.

Insurance companies are in the business to insure, but if they lose money at it they are going to get out of the market.

"In the early and mid-1970s, the foreign (lower 48) market was strong, but they had a terrible experience," said Ken Moore, director of the state Division of Insurance. "Over the last 11 years their true loss - loss against premium - was 139 percent, and some years it went up to 219 percent. They gradually eased out instead of adjusting the price structure."

In 1979, Lloyd's syndicate wrote \$13.9 million in insurance covering Alaska aviation, while companies in the lower 48 wrote only \$1.2 million, Moore said.

"Basically, Lloyd's is the only market, and they're keeping up with losses by the expedient of adjusting their rates to conform," he said.

Moore said the proposed state aviation insurance corporation, "isn't any guarantee rates will go down at all. It's to make a market that's accessible by local agents. If nothing else, it may jar London to opening up the market."

"Aviation insurance in Alaska has been like this historically," said Rick Harcastle of Harcastle-Davies Insurance in Ketchikan. "Peaks and valleys. After a year or two of good experiences, we get more companies involved."

"The competition aspect came home this year, and the composite of deaths and accidents over the last few years finally caught up with the industry," he said.

The amount of damages per accident can be much higher for airplanes than automobiles, and Harcastle said, "the trend in damages per accident, particularly fatalities and partial disability, has gone from fair to worse."

Fewer people own automobiles, and the claims are generally smaller, so that a company's losses can be better predicted. "But in aviation, you might wipe out 20 people with one accident," Harcastle said.

The result of higher insurance costs, coupled with increasing fuel costs, is higher air taxi rates. "We're already pricing ourselves out of the local recreation market," Breed said.

Salazar said that the state should start building more airports. Wheel planes are faster, cheaper and carry more. "In the future I don't think it will be economical for float planes to operate, except into the lakes."

If other insurance writers get involved in the market again, the premiums may peak and start heading down again. But insurance may stay high, making flying in Alaska accessible less to those who do it for pleasure, and more expensive for those who fly out of necessity.

Rep. Linn Dancy, D-Ft., saying that full Social Security benefits at 65 is enshrined in our culture, expressed fears that the measure might prove politically unacceptable. People retiring at age 62 under the plan would receive 64

at odds in sh

right direction. Not only must weather conditions be adequate at Kennedy Space Center here, but the forecast must be favorable at the main landing site at Edwards Air Force Base in California and the backup site at White Sands Missile Range in New Mexico.

The Anchorage Times

CITY / STATE

/ General news

Senators grapple with aviation

by Karen Ranspot
Times Writer

Six Alaska state senators are proposing the state get in the business of aviation insurance.

But an aide to Sen. Richard Ellison said he sponsored the legislation as a means of sparking discussion and not as an absolute solution to the problem of high aviation insurance rates.

The Senate bill was introduced last week by the Sitka Republican and would create the Aviation In-

demnity Corp. of Alaska, fashioned after the state's medical malpractice insurance corporation.

The corporation would set requirements for insurance and establish premiums that would be neither "excessive" nor "inadequate." The bill defines excessive rates as those producing too high a profit and inadequate rates as those that would endanger the solvency of the corporation or destroy competition in the aviation insurance field.

The state would loan the corpora-

tion up to \$30 million to set up shop and the loan would be repaid from premiums collected.

Air taxi operators, unhappy with rising insurance rates, and insurance brokers, concerned the state may be entering their business, are meeting separately this week to discuss the legislation.

Although the director of the division of insurance said the administration is not taking a position on the legislation, he said the high rates are caused, at least in part, by high

Tuesday, March 17, 1981, The Anchorage Times B-1

B
SECTION

insurance rate woes

loss rates in Alaska.

"There is no place in the world they fly like we fly up here," Ken Moore said. That statement is backed up by a 1980 National Transportation Safety Board report that says Alaska's non-fatal air taxi accident rate is five times the national average. The fatal air taxi accident rate is double the national average.

Moore said it is difficult to compile figures comparing rates charged to losses paid since most aviation in-

ket, Lloyd's of London.

However, statistics for American insurance companies in 1978 show losses of \$6.4 million in Alaska compared to premiums of \$2.7 million. That was the year the American insurance companies pulled out of Alaska, Moore said.

London's rates have "virtually doubled, and in cases tripled, in the last year," Moore said.

And Ellison is concerned those rate increases will force some air

"Due to lack of competition (in aviation insurance), air taxi operators are forced to pay unreasonably high rates," Mary LaVan of Ellison's office said. The senator is also concerned about a rumor Lloyd's may be considering pulling out the Alaska market, she said.

The legislation is designed to spark discussion, LaVan said, and Ellison hopes to get input from the aviation and insurance industries. "The best way to get input from a

Air insurance rates anger fliers

Caren Ranspot
Writer

The courts' and the public's attitude toward insurance companies causing aviation insurance rates to skyrocket, according to one local taxi operator. Another thinks the state's monopoly on Alaska aviation insurance is the real problem. Some air taxi operators are facing insurance rate increases of 200 to 300 percent. But Joe Wilbur of Wilbur Flight Operations blames the courts and not the insurance companies. "It is a combination of the sue-happy people and juries," Wilbur said. "The public thinks the insurance companies are ripping them off and juries make large settlements in cases involving insured pilots. They never stop to think that those awards passed along through increased rates. When losses are higher than premiums, the insurance companies have no choice but to raise rates," Wilbur said. "And because there is often no al-

ternative transportation, pilots find themselves 'pushing the weather,' Wilbur said, which leads to the high accident rate in Alaska. Alaska's non-fatal air accident rate is five times the national average and the fatal air accident rate is double the national average.

Because of the high cost of getting liability insurance, air taxi operators are currently studying proposed legislation that would set up a state aviation insurance program. But Craig Ketchum of Ketchum Air Service said operators aren't ready to come out in support or opposition to the bill.

Most of the operators only received a copy of the bill Wednesday and they haven't had time to review it, Ketchum said, but all think something must be done.

Ketchum thinks part of the problem is the lack of competition in Alaska. Since American insurance companies pulled out of the market in 1978, Lloyd's of London is the only company willing to insure Alaska pilots. "They have a monopoly,"

Ketchum said.

Air taxi operators are required by state law to carry liability insurance. While Ketchum said pilots realize the insurance is essential to protect the public, he said 200 to 300 percent rate increases this year are endangering many air taxi operators.

One pilot is facing a \$30,000 insurance bill this year, Ketchum said, compared to \$12,000 last year. That kind of increased cost of business is difficult to pass along to passengers without losing business, he said.

Liability insurance for passengers is running between \$1,200 to \$2,500 per seat plus another \$1,000 to \$1,700 for the aircraft, Ketchum said, which means liability for a seven-passenger plane might run \$15,500.

And since most air taxi airplanes are mortgaged, the operator is also required to carry hull insurance to cover the cost of replacement in case of a crash. The hull insurance is currently running about 10 percent of the value of the airplane or \$10,000 for a \$100,000 plane.

A rumor that Lloyd's of London is considering pulling out of the Alaska aviation market might be good news, Ketchum said. If no insurance was available and "the public could not fly anywhere, the problem (of insurance costs) could come to light."

A local insurance agent, Lois Clary, defended the rate increases and said the reason for the sudden jump was that rates have been too low for the past 10 years.

The Anchorage Times

CITY/STATE

/Comics
/Television

SECTION
B

Clark: penalize unsafe pilots

by Karen Ranspot
Times Writer

The first step toward lowering Alaska's skyrocketing aviation insurance rates is to get the unsafe pilots out of the air, the chairman of the Alaska Air Carriers Association says.

And he thinks the way to reach them is through their pocketbooks.

Craig Clark says safe aviators are having to pay higher insurance bills because the poor pilots are having all the accidents. He thinks a proposed state aviation insurance program may be a solution for the safety-conscious pilots. But he's also worried that the program may become a subsidy program.

"A subsidy is not going to solve the problem. It will just allow the bad operators to continue," Clark says. Selective underwriting would keep the bad operators out and allow the good operators to pay lower premiums.

"Usually you buy insurance to cover a catastrophe but this year my

insurance was a catastrophe."

Clark thinks it is time he and other safety conscious air taxi operators quit paying for the losses piled up by the sloppy operators.

He recommends a state grant to the recently formed Alaska Safety Foundation. The money could be used to institute a safety program, both for pilots and managers of air taxi operations.

If insurance companies or a state insurance program offered graduating a reduced premium, the responsible operators would get an economic break while bad pilots would have to pay for their own crashes.

The Federal Aviation Administration is not doing a good job of policing pilots in Alaska and that allows the irresponsible operator to continue to add to the accident rate in Alaska, Clark said. "I don't believe FAA has enough personnel (in Alaska) to police the operators."

The accident prevention coordinator for the Federal Aviation Administration in Alaska agrees polic-

ing is difficult. The Nome-Kotzebue area has a high accident rate, Gene Morris said, but most of the accidents take place in Bush areas far from the population centers.

"The area is so large you could put a 100-man office in the area and still have trouble covering it."

But the manager of an air taxi operation plays an important role in keeping accidents to a minimum. Despite the high accident rate for the area, Nelson Walker of Kotzebue recently received an award for 30-years of accident-free flight.

"As soon as a pilot leaves the fold of the guy who is keeping a tight rein, they get the same accident rate as everyone else," Morris said.

Because of an oversupply of air taxi operations and the marginal profitability of the business, there is a lot of pressure to fly in marginal weather or to overload airplanes, Clark said.

Otherwise, the potential customer may take his business elsewhere, he added. "Most pilots don't

go out to commit suicide," Clark said, but some of them might as well.

Morris agrees the safety foundation is a good idea, but like Clark, he doubts it will be effective unless it is tied to some form of economic incentive such as reduced insurance rates.

Accident prevention specialists feel they are putting on a dog and pony show for the empty seats, Morris said. The pilots and managers willing to invest the time and money to attend the classes usually are not the ones who need to be there.

But while aviation insurance rates have skyrocketed this year, Morris said, there is some hope on the horizon. Insurance rates tend to lag a year or two behind accident rates and, so far, 1981 is a safer year than 1980 was.

There have been six non-fatal air taxi accidents and one fatal accident, Morris said. During the same period, the previous five-year annual average was 11.2 non-fatal accidents and 1.2 fatal accidents.

The Anchorage Times

CITY/STATE

/Business
/Television

SECTION
B

Program goal: better pilots

by Bill Blessington
Times Writer

The Alaska Air Carriers Association is seeking a \$1-million state grant to begin a state-of-the-art training program aimed at reducing aircraft accidents.

The training program, operating under the umbrella of a tax-exempt foundation, would be specifically tailored to improve pilot skills and reduce the accidents attributed to pilot error, said Tulinda Deegan, executive director of the Alaska Air Carriers Association.

She said the foundation will either build a training facility at a centralized location or transport portable facilities throughout the state if the project is approved by the Legislature.

The association hopes the training facility will help reduce Alaska's aircraft fatality rate, which is five times higher than anywhere else in the country.

From 1974 through 1978, 600 lives were lost in commercial and general aviation accidents in Alaska. Just over 85 percent of the accidents were caused by pilot error, accord-

ing to government statistics.

If the Legislature funds the initial cost of setting up the program, the association hopes that state aviation-fuel taxes can be used to support it on a regular basis.

"We are willing to keep it (the tax) and add to it if necessary to fund this," Deegan said.

Presently, airlines and private pilots pay a four cents a gallon tax on aviation gasoline and 2.5 cents per gallon tax on jet fuel. The state collects \$4.1 million a year from the aviation fuel tax.

"We'd like to see that tax turned over and used for aviation," said Deegan.

The Air Carriers Association has contracted with the American Airlines Training Corp. to build the curriculum and provide flight training simulators. Deegan said they plan to spend nine months putting the training program together at a cost of \$363,000.

"We're hopeful we can be fully funded by the Legislature this year. If not, we'll try to make it up with private funds. The problem is that

American Airlines has the manpower now, but they may not have it next year."

As Deegan explained, the firm has proposed to interview the most experienced Alaskan pilots — survivors, as she put it — to find out why they are still flying. Their methods and techniques will then be incorporated in the training program and passed on to other pilots.

The second highest cause for aircraft accidents here, she said, is terrain, a condition that can be duplicated by sophisticated flight simulators.

"If we can train pilots to handle terrain better," she said, "we can reduce accidents."

The training program, she said, would offer participating companies and pilots a way to lower their aircraft liability rates in the same way that car drivers who have had student training can obtain lower rates on their car insurance.

The foundation's budget for the training program calls for a \$1 million grant from the state the first year, decreasing to \$400,000 by the

fourth year. Private contributions from the industry would increase over the first five years from \$150,000 to \$500,000 during the same period, and user fees, collected from pilots and mechanics who take the specialized courses would increase from \$50,000 to \$100,000 during the same period.

In a related effort to reduce accidents and provide lower costs for members, the association has just announced a reduced rate group plan for workmen's compensation.

The new workmen's compensation plan, said Deegan, provides a reduction of about 24 percent for members. To participate, she explained, members have to participate in safety programs sponsored by the organization.

"This follows several years of difficult negotiations and should prove a valuable benefit to members," Deegan said.

"Not only are the premium savings attractive, but the safety programs associated with the insurance package should help improve the overall accident rate in the state."



4950 AIRCRAFT DRIVE • ANCHORAGE, ALASKA 99502 • (907) 243-4600

TESTIMONY

OF

D. CRAIG CLARK

CHAIRMAN

ALASKA AIR CARRIERS ASSOCIATION

PRESIDENT

ANCHORAGE AIRWAYS, INC.

ON

SB 277 - AN ACT TO
ESTABLISH THE AVIATION
INDEMNITY CORPORATION
OF ALASKA

MAY 4, 1981

I am pleased to have the opportunity to present my views on Senate Bill 277 - An act establishing the Aviation Indemnity Corporation of Alaska.

Aviation hull and liability rates have taken a sharp increase in the past two years and are apparently going to rise higher. Anchorage Airways, Inc. rates on our primary turbo prop aircraft have risen from 1.30% for hull coverage to 2.75% and are expected to go higher in June 1981. The liability premium for 9 passenger seats has increased from \$5700.00 per year to \$12,400 per year. This rate increase on our 2 turbo-prop aircraft has increased our cost of operation nearly \$53,000 per year or approximately \$30.00 per hour. Our other aircraft insurance was increased by \$28,000. During this three year period of insurance renewals, Anchorage Airways has suffered one hull loss in the amount of \$46,000 caused by operation of one of our aircraft by the Federal Government. We have not had any liability claims. My point is that our rate increases have been a result of the overall rising market rates and not a result of the losses experienced by our firm. Insurance is purchased for protection from high operating losses, however the increase in premiums has become a high operating loss in itself.

Air taxi firms can pass this increased cost of operations on to their customers but there is usually a period of time (as high as six months) that the cost must be absorbed by the operator because of the competition. The scheduled Air Carriers are not

experiencing the same increase in rates. Lloyds of London has typically been reducing airlines premiums and have now stopped those reductions but have not as yet begun to raise the airline rates.

The private aircraft owner is having a particularly difficult time. Many have dropped insurance coverage on their aircraft. This results in a smaller premium base available to spread the risk. Aircraft sales to the private pilot have suffered because of the high cost of insurance coverage required by the lending institutions.

The high cost of insurance today is the result of the problem of high dollar losses incurred by the insurance companies. The high dollar losses are a result of the liberal liability claims paid in the State of Alaska and the high aviation accident rate we have in the state.

There are several actions that can be taken to solve the problem of high losses. The FAA over the past 10 years has ineffectually tried to lower the accident rate by imposing more restrictive operating regulations upon the public. These new regulations have been totally unsuccessful as exhibited by the continuing high accident rate which is five times higher in Alaska than in the lower 48 states. My proposed solutions are:

1. Selective underwriting of aviation risks. Establish procedures for rating a risk (similar to the existing workmen's compensation program) whereby a good risk enjoys a reasonable rate and a bad risk must pay a much higher rate (possibly up to 500% higher than standard).

2. Recognition of Aviation Safety Training. Establish procedures for recognition of aviation safety training and allowing a reduction in premium rates for successful completion of such courses. The aviation safety training course must be qualified under the program and must train to a desired proficiency level. It is my opinion that most flight schools would not qualify as an approved aviation training course, in order for this type of program to be effective the safety training must be beyond the level of FAA requirements.

3. Wrongful death limit. Consideration of a "wrongful death limit" may be beyond the scope of this committee at this time, however a wrongful death limit similar to the Warsaw Convention and the state workmen's compensation program would considerably reduce the cost of aviation insurance. If a reasonable wrongful death limit of \$100,000 to \$250,000 existed liability rates would be manageable and the deceased's estate

would be adequately compensated. In the event of gross negligence the death limit would be pierced and the deceased's estate would receive the "normal" settlement. This type of legislation would provide several benefits to the flying public in that a "grossly negligent" operator, as proven guilty of such by the court system, would find that continued negligent operations would be financially burdensome and the Federal Aviation Agency would be hard pressed to allow the individual to continue with FAA approved flight operations.

In closing, I would like to express my belief that insurance is a protection for a catastrophic loss that has occurred with reasonable preventative practices in effect. Subsidization of Aviation Insurance premiums by the State of Alaska without provisions for the forementioned solutions will only foster a continued high Alaskan aviation accident rate and result in the eventual financial failure of the proposed Aviation Inemnity Corporation of Alaska.

Thank you very much for your time to hear my opinions.



MUNZ

NORTHERN

AIRLINES, INC.

P. O. BOX 790 NOME, ALASKA 99762 (907) 443-2215

April 9, 1981

Senator Richard Eliason
Pouch V
Juneau, Alaska 99811

Re: Senate Bill 277
Aviation Insurance Co.

Dear Senator Eliason,

I would add my support to Senate Bill 277 for it is truly needed in the rural areas.

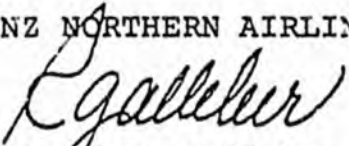
At this moment I have before me a bill for over \$115,000, just arrived from our Insurance Company. If we were Sears or Coca Cola this wouldn't be so tough, but Munz is a small struggling privately owned company attempting to provide needed passenger and mail service in a very remote, low traffic area.

We fly about 11,000 passengers a year. Simple math reduces this to almost \$11 for each passenger.

Reducing this cost means better, more economical service for our travellers and I heartily endorse the effort.

Yours truly,

MUNZ NORTHERN AIRLINES, INC.


Richard F. Galleher
President & General Manager

RFG:mpc
cc: Frank Ferguson

d/c Hunter of Alaska, Inc.
 Set. 4 Alaska 99501
 ne 907,

Statement

GUNZ NORTHERN
 AIRLINES INC
 P O BOX 790
 AK 99762

Date 3 31 81
 Account 455800

Contact D VANDER JAGT

PAGE 004

Reference Number	Reference Date	Coverage	Transaction	Company	Policy Number	Effective Date	Amount
74013	3 30 81	AVN HULL	PREMIUM TAX	PREM TAX-ST	B1-RBH679	3 01 81	391.86
						TOTAL	115,331.34*

Handwritten: # ending this month

Stamp: APR-5 81

Retain this copy for your records.
 Please return the gold copy with your remittance.

P.O. Box 4340
Mt. Edgecumbe, AK 99835

March 27, 1981

Telephone (907) 966-2258

Dear Aviation Insurance Consumer:

Recent proposed legislation (SB 277) will allow an Aviation Indemnity Corporation of Alaska to be formed. Reading the proposed act, it is clear that AICA will be separate from the state government and will provide a vehicle through which all Alaskans can benefit through reduced insurance premiums for aviation coverage.

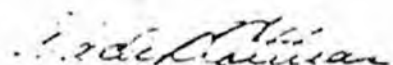
At present, as you all know, the only real market for insurance is through London, and that market is milking Alaskan dollars at an ever increasing rate. While it is true that our accident rate is several times that of the lower 48, there is no reason that we should have to pay premiums which are a hardship to us or our customers when the primary benefit of these premiums is to enrich the insurance community. Senate Bill 277 provides for premiums to be determined by the actual loss histories, not by the profit incentive of how much will the market bear. Further, no Alaskan insurance broker or agent need fear being hurt by this legislation because the insurance to be made available will be marketable through them, providing them with reasonable profits. It should be noted that there is no requirement that this insurance must be purchased. If less expensive or more complete coverage is available, then it should be used.

AICA is to be a private corporation totally separate from the state. Indeed, the only association between the state and AICA will be that the Governor of Alaska will appoint the board of directors, and the state will provide the seed money to get it started--all of which is to be repaid through future premiums. True, yearly reports will have to be made, and the corporation will have to abide by the laws of the state, but these requirements are neither more nor less restrictive than those imposed on other corporations doing business within Alaska; however they are more stringent than those imposed on foreign corporations.

Each of you who have been involved in a loss situation know that the final settlement of that loss has been to the insurance company's benefit. A salvagable aircraft has been declared a total loss because it was insured for less than the market value, and an aircraft which for economic reasons should have been totalled has been declared repairable, requiring many months delay. A local company sensitive and responsive to local needs would be able to respond to the unique needs of the Alaskan aviation community and prevent such excesses.

This legislation is needed to keep the cost of insurance at a reasonable level, and your input is necessary to make this proposed legislation into law. Copies of Senate Bill 277 can be obtained through your local Legislative Information Office, and comments on it, both positive and negative, would be welcomed by any of the sponsors or your local Senator. If you are in favor of this proposal, please write and inform Senator Richard Eliason, Pouch V, Juneau, Alaska 99811. Without your help and input, this much-needed assistance will never become available.

Very truly yours,


Wade R. Cothran
AIC Center Sitka

April 16, 1981

Senator Richard Eliason
Pouch V
Juneau, Alaska 99811

Dear Senator Eliason:

This letter is in regards to the proposed legislation (SB 277). We as an organization, consisting of approximately one hundred members, do support SB 277.

As you probably are aware, aircraft insurance costs are spiraling and we believe this is partially due to the monopoly by Lloyds' of London. We believe our Aviation Indemity Corporation would be benefical to not only the operator, but to the consumer.

Your help in pursueing this matter to an equitable end would be greatly appreciated.

Sincerely yours,



Ken Bellows
S.E. Alaska Aviation Assn.
Box 1566
Sitka, Alaska 99835

— FLY WITH US! 907 • 747 • 8636 —



BELLAIR

— BOX 371 • SITKA • ALASKA • 99835 —

P.D.&G. AIRCRAFT
P.O. Box 81063
College, Alaska 99708

April 12, 1981

Senator Richard Eliason
Pouch V
Juneau, Alaska 99811

Dear Senator Eliason:

I wish to comment on proposed legislation regarding the formation of the Aviation Indemnity Corporation of Alaska. I am a certified air carrier (certificate no. F-24-79).

At this point something has to be done to provide some alternative to the insurance situation which we carriers are confronted with. Rates of most of the carriers have been driven far beyond the means of the everyday citizen, primarily by the unreasonable rises in insurance costs. This has caused the public to not conduct business with certified carriers, or to turn to uncertified, uninsured (and illegal) carriers. There is virtually no enforcement action taken against those illegal operations, and I can understand that enforcement and conviction are difficult. Part of the solution is for certified carriers to be able to provide service to the public at an affordable and reasonable rate. We are hard-pressed to do that under current conditions.

Another related problem we have is the various State agencies acquiring their own aircraft. Some of the justification I have heard expressed is that it is too expensive for the agencies to charter an aircraft, that they can do it cheaper for themselves. I doubt that is true under even the current economic conditions. There is no question it would not be true if the State were required to provide at the same cost the insurance which air carriers must provide. But for a State agency to use such justification when the State is so involved as a factor in our high rates is farcial. (If elaboration is needed as to how involved the State is in causing those rates, I am sure some of the local Juneau operators would verbally assist me). Lower insurance rates would once again make it unquestionably cheaper for us to do the State's flying than it would be for the State to do its own.

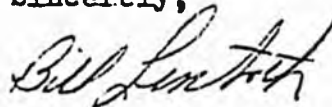
Now, because of my views against the State's involvement in areas which should be left to private enterprise, it is going to seem hypocritical for me to advocate the establishment

page 2, Letter to Senator Eliason

of the Aviation Indemnity Corp. of Alaska. Despite the fact that I have given it much thought, in some aspects it remains hypocritical, but at this point I am willing to swallow a bitter pill and say that I support the establishment of the AICA.

We must have an alternative to the insurance situation we are faced with. So long as the monies which the State provides are paid back once the program is established, then I believe that is a legitimate, and in this case necessary, use of the revenues which our resources are producing for us.

Sincerely,



BILL LENTSCH
Owner/Operator

cc: all Fairbanks Senators and Representatives

April 16, 1981

Senator Richard Eliason
Alaska State Senate
Pouch V
Juneau, AK 99811

Dear Senator Eliason:

Below, I have comments on Senate Bill 277. My first emphasis will be referenced to the page number of the Senate bill. I will then define some general concerns and comments voiced by myself and other businessmen in Sitka. I am very much in support of this legislation, so any criticism I voice hopefully is constructive.

Page 1 -- Purpose -- Many feel adequate insurance is available presently. Should emphasis be on "alternative and economical" insurance? (later I'll discuss the need to substantiate economical coverage).

--Corporate Board of Directors -- A directorship consisting of users of the insurance program may be more effective than a "mixed bag".

Page 2 -- Item E -- The Board should be responsible for policy of the corporation, not the Director of the Division of Insurance. Is this not a distinct and separate entity from the State of Alaska?

-- Item F -- I question the legality discussed here. Directly or indirectly, the Board of Directors must be responsible for their conduct as agents of the Corporation.

Page 4 -- Powers and duties of the Corporation -- My question: Is the corporation actually getting into the whole gamut of insurance services (i.e., underwriting, sales, payoff, etc.? Or as a support vehicle to the already established insurance market? Many read this legislation and are not sure as to the scope of proposal.

Page 7 - d -- There is a discussion of "available reasonable rates". What is reasonable? I feel there is a strong need to have projected management costs, premiums, etc., in order to evaluate what is proposed in this bill with what is presently available.

Page 12 -- Sale of Corporation -- Many businessmen in Sitka have concerns of the involvement of the State in financing, policy decisions, etc., of this Corporation. Although intent is one thing, what will actually occur?

I feel the corporation should be organized with private ownership at the inception. It may become more complicated, but if the need is justified in dollars and cents, then the major users should be willing to contribute capital to the corporation (in the form of insurance premium deposits). Use of present insurance markets with the corporation's support as underwriter seems more conducive to the insurance industry as a whole.

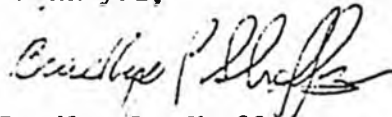
There is an imminent need for either direct or indirect subsidy of this industry. At present the principle means of travel in Alaska are marine, air, or road (rail and auto). The aviation industry is the only one of the three which does not receive subsidy from the State. This means of subsidy seems very logical in that it is not a direct demand for funding of aircraft transportation but of financing a means of reducing costs.

I wonder if the need of an independent study and evaluation may be necessary to eventually reach a viable solution to the insurance situation. This bill needs organized support of the aircraft industry, insurance companies, and the public.

I have a concern as to the effect of premium loss ratios and its effect on the financial capacity of the Corporation. A year of major losses could conceivably exceed the present \$30,000,000.00 addressed in SB 277.

Please contact me if you have any questions or comments, Senator Eliason, as I am hopeful this proposal will become a reality.

Thank you,



Bradley L. Shaffer
P.O. Box 1636
Sitka, Alaska 99835

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 1, 1981

SUBJECT: Aviation indemnity insurance
(SB 277)

TO: Senator Richard I. Eliason

FROM: *LHC* Linr. H. Asper
Legislative Counsel

You have asked for a description of the operation of the provisions of SB 277, which would create an aviation indemnity corporation to provide aircraft insurance in the state. The perceived need for creating the corporation is that aircraft insurance in the state is currently available only through Lloyds of London at very high rates. It is thought that a quasi-public corporation backed by the state might be able to offer coverage at reasonable rates. This bill is patterned after the Medical Indemnity Corporation of Alaska (MICA) which was formed to deal with the unavailability of insurance in the area of medical malpractice.

The corporation is established by state law, but is independent of and separate from the state (sec. 010). The corporation operates through a Board of Directors selected by the governor (sec. 020). The directors manage the business of the corporation and must prepare a plan of operations within 90 days of their first meeting (sec. 030). The corporation has standard corporate powers in order to operate, and can write aircraft insurance (sec. 040). The operations of the corporation are supervised, to some extent, by the director of the division of insurance (secs. 060 - 070). The corporation may be terminated if the director determines that the corporation can only prevent substantial underwriting loss by charging excessive premiums (sec. 080).

The corporation must pay a tax on all premiums collected, but is exempt from the tax for five years after it commences operations (sec. 090). Rates may be set by the corporation

under guidelines set out in sec. 100. If experience indicates that claims and claims expenses exceed premiums, an assessment may be levied against the insureds (sec. 110). If premiums exceed claims and claims expenses the corporation may return money to the insureds by refunds (sec. 120).

Provision is made for sale of the corporation to a private corporation upon such terms as may be required by the director (sec. 140).

Financial support of the corporation is provided in Article 3 of the bill, which creates a loan fund in which the state provides the corporation with loans not to exceed \$30,000,000 to provide surplus to pay claims of policyholders. The loans are to be paid back in annual installments of at least 25 percent of the excess of premiums earned over claims and expenses, at an interest rate of 7 percent (sec. 200).

Under Article 3, General Provisions, are found various definitions, a description of which provisions of Title 21 apply to the corporation, and a provision exempting the corporation from the open meeting requirement of AS 44.62.310.

LHA:ljb



Clary
Insurance Agency

April 6, 1981

The Honorable M. Ed Dankworth
Senator
State of Alaska, District J
Pouch V
Juneau, Alaska 99811

Re: Senate Bill 277

Dear Ed:

Your letter of April 1, 1981, plus memorandum prepared by Linn H. Asper, Legislative Council, written to Senator Richard I. Eliason regarding Aviation Indemnity Insurance has been received for which I thank you.

Ed, I am not an Aviation expert, but with a working knowledge of same, a close relationship with Lloyds of London, as well as having over forty years in the insurance business, I feel I can speak for our industry somewhat.

Insurance rates are based more on loss experience than on competition of insurance companies. Lloyds Underwriters basically are comprised of what in our country are insurance companies, and, I assure you, the syndicates these Underwriters represent are competitive.

I feel you or anyone else reading the newspapers will agree that not too many days go by without your reading of aircraft accidents, and the value placed on planes and lives runs extremely high. You state that Senator Eliason received numerous comments from people in the Aviation Industry regarding high rates. I have heard of one comment, that being from Sitka; however, the number is irrelevant and immaterial. There are many classes of insuring needs where Lloyds is the only outlet for coverage, and their rates are also high. I am surprised a Senator, or Senators, would ever consider

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Senator M. Ed Dankworth
April 6, 1981
Page Two

Re: Senate Bill 277

placing a bill before the Senate because he, or they, were told the rates were high and only Lloyds was insuring.

Have you any idea of the stampede of dissatisfied people, associations, industries, businesses that would request the State of Alaska supply them with insurance coverage if the State even considers providing coverage for one industry because of high cost complaints by a few in that industry? S.B. 277, Aviation Indemnity Insurance, follows and refers to Medical Indemnity Corporation of Alaska. First of all, MICA was formed because at that time no insurance was available for medical malpractice, not even Lloyds, and doctors were threatening to leave Alaska. A few years ago, preceding MICA, I represented the State's insurance agents and brokers on the Governor's Malpractice Committee and, believe me, we on this Committee worked our butts off for three months plus in an attempt to solve the problem of malpractice insurance with MICA as the ultimate outcome, and it was not until after several months of diligent, concentrated study that the final plea was presented for either the Senate's or House's consideration. Yet, because of one or more complaints, not because of lack of coverage availability, but because of high cost created by high loss experience, a Senator presents a bill to the Senate with no prior investigation for the cause of high rates. If the Alaska Insurance Industry had been consulted, which it was not, I'm sure S.B. 277 would never have reared its ugly head. The Insurance Division of the Department of Commerce was consulted and presented a Bill Analysis to the Senate.

This Bill Analysis was presented, it appears, with very little planning, investigation or common sense. Of the eleven factors they presented favoring creation of the A.I.C.A., not one presents any solid thinking or knowledge of what's going on. In preparing this analysis, I feel they (the Insurance Division) could have at least gathered statistics and other concrete information from specialists of Aviation Insurance within our State's agents and/or brokers who are daily underwriting, rating and handling other factors of this very specialized coverage. This criticism also applies to their presentation opposing creation of A.I.C.A.



Senator M. Ed Dankworth
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Page Three

Re: Senate Bill 277

Ed, I am not directly involved with those of our industry who are formulating a solid front opposing this bill. Our office insures a heavy volume of Aviation Insurance.

Lois Clary, President of our Company, heads our Aviation Department. I am not speaking of her as Mrs. Clary, but Lois is probably the most highly respected Aviation specialist in Alaska and holds the same high respect on the Lloyds' floor in London. She is meeting with and leading the brokers in their opposition, and said opposition is based on knowledge and facts, not the fumbling and guesswork given to the Senate in the pros and cons presented by the Insurance Division. The possibility of the Senate's even recognizing and considering a bill because a few felt their insurance rates were too high is mind-boggling.

From where I sit, I would say every individual whoever purchased insurance of any kind feels the premium is too high.

Ed, I've discussed the idiocy of this bill with you and Arliss, to whom I'm sending a copy of this presentation. I am not otherwise involved other than in listening to Lois discuss the progress being made.

I realize this presentation sounds strong and critical, but how in H--- could we on the Malpractice Committee spend so many working hours over three plus months being led by the Commissioner of the Department of Commerce, Tony Motley, who was assisted by a highly qualified technical consultant imported from Los Angeles before a Bill was presented, when here is a Bill being presented to the Senate asking for the formation of a Company and Thirty Million Dollars to support same with nothing to back it up? The Thirty Million Dollars could probably be used up in a few months just paying or defending claims.



Senator M. Ed Dankworth
April 6, 1981
Page Four

Re: Senate Bill 277

I am enclosing copies of the Bill Analysis prepared by the Division of Insurance plus a copy of a Position Editorial prepared by Lois and other Brokers which will give more facts from those who know.

Amen.

Sincerely,



CLYDE H. CLARY
Chairman/CEC
BAYLY, MARTIN & FAY, INC. OF ALASKA
d/b/a Clary Insurance Agency

CHC:mes

cc: Senator Arliss Sturgulewski



STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

POUCH D

JUNEAU, ALASKA 99811

Phone: 465-2500

April 2, 1981

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

Dear Senator Mulcahy:

Re: SB 277

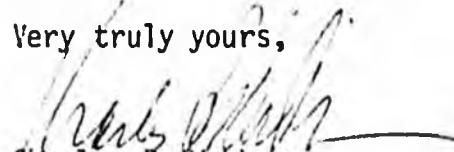
Thank you for your request for our position on SB 277. We have taken a neutral position on this legislation. The bill is modeled after AS 21.88 which was formed to resolve a market availability crisis for medical professional liability insurance in 1976. SB 277 establishes a similar corporation (A. I. C. A.) to write aviation hull and liability insurance for risks in Alaska. More than 90% of this market is written in nonadmitted, nonregulated markets such as Lloyds of London.

We have prepared a list of factors favoring creation of A. I. C. A. and a list of factors not favoring creation of A. I. C. A. These are enclosed for your review.

In addition, the Division of Insurance has prepared a section by section analysis and a chart of the aviation experience for 1970 to 1980 for insurers admitted to write insurance in this State. These materials are also enclosed for your perusal. The chart of aviation experience also lists the experience for nonadmitted insurers but the data is not completely reliable since it does not come directly from the insurer.

As I noted earlier, we do not take a position of the bill but we do have an interest in assuring that the proposal is workable and can be administered. This proposal does meet those provisions.

Very truly yours,


Charles R. Webber
Commissioner

CRW/tt3/7

08-H2LH

Enclosures

Factors opposing creation of A.I.C.A.

1. The principal argument in opposition is philosophical. This can be viewed as placing the State in the insurance business thus in competition with private industry.
2. There has been no documentation or substantiation that currently available rate levels are excessive.
3. There has been no documentation or substantiation that current marketing practices are inappropriate.
4. Viability of the program relies on the ability of A.I.C.A. to purchase reinsurance at reasonable rates. This ability has not been tested.
5. Two admitted markets are considering the provision of a market in Alaska. These are U.S.A.I.G. and A.O.A.
6. Formation of A.I.C.A. may tend to become a monopolistic or exclusive market. There may not be sufficient risks left to attract other markets including Lloyds.
7. There are other market segments that might equally argue for creation of similar corporations.