

ALASKA LEGISLATURE COMMITTEE FILES 1981-1982 80/2

1800 SLC SB 630 - SB 665

STATE OF ALASKA  
THE LEGISLATURE  
LEGISLATIVE AFFAIRS AGENCY

RECEIVED

JAN 7 1982

POUCH Y - STATE CAPITOL

JUNEAU, ALASKA 99811

BUDGET/AUDIT  
COMMITTEE

907-465-3800

MEMORANDUM

January 7, 1981

SUBJECT: Sunset of state agencies, boards and  
commissions -- SB 630

TO: Senator Arliss Sturgulewski

FROM: Edward H. Hein *EH*  
Legislative Counsel

You have asked for a section-by-section analysis of Work Order No. 12-1978, which has been prefiled as SB 630.

Sec. 1. The language of the title of the section, the first sentence of subsection (a) and the first sentence of subsection (b) has been amended to include state agencies, and in subsection (b) also state boards. The last half of the first sentence of subsection (a) has been reworded for purposes of clarity. Paragraph (1) relating to the Alcoholic Beverage Control Board and Paragraph (2) relating to the Alaska Transportation Commission have been deleted and thereby effectively repealed. In Paragraph (11) the statutory reference to the Council on Domestic Violence and Sexual Assault has been renumbered in accordance with changes made during the interim by the Revisor of Statutes. In the first sentence of subsection (b) the phrase "for the purpose of concluding its affairs" has been deleted and a new sentence has been added in an attempt to make clear that during the year in which a "terminated" agency, board or commission is "winding down", it may carry on business as usual. Subsection (c), which purported to give the legislature authority to continue or reestablish a state board or commission for a period not to exceed four years has been deleted.

Sec. 2 provides in a new subsection (f) even if a committee of reference fails to comply strictly with every requirement in AS 44.66.050(a) - (e), the state agency, board or commission will terminate on schedule. For example, if a report

Senator Arliss Sturgulewski

Page 2

January 7, 1982

required by AS 44.66.050(d) were to be submitted to the presiding officer on the 61st day of the legislative session; instead of the 60th day, such a failure to comply with the law would not be grounds for arguing that the agency, board or commission was not effectively terminated on the date established by statute.

Sec. 3 provides for an immediate effective date if the section is approved by a two-thirds vote of each house. The act would take effect on 12:01 am on the day after it is signed by the governor or the day after he gives written notice that he is allowing the act to become effective without his approval.

EHH:ljb

**Sec. 44.66.010. Termination of state boards and commissions.**

(a) Boards and commissions listed in this subsection expire on the date set out after each:

- (1) Alcoholic Beverage Control Board (AS 04.06.010) — June 30, 1983;
- (2) Alaska Transportation Commission (AS 42.07.011) — June 30, 1983;
- (3) State Board of Parole (AS 33.15.010) — June 30, 1982;
- (4) Alaska Public Utilities Commission (AS 42.05.010) — June 30, 1985;
- (5) Repealed by § 20 ch 110 SLA 1981.
- (6) Alaska Council on Science and Technology (AS 44.21.241) — June 30, 1983;
- (7) Alaska Renewable Resources Corporation (AS 37.12.010) — June 30, 1982;
- (8) Alaska Code Revision Commission (AS 24.20.075) — June 30, 1982;
- (9) Rural Development Council (AS 44.47.160 — 44.47.190) — June 30, 1987;
- (10) Older Alaskans Commission (AS 44.21.200) — June 30, 1985;
- (11) Council on Domestic Violence and Sexual Assault — June 30, 1985.

(b) Upon termination, a commission listed in (a) of this section shall continue in existence until June 30 of the next succeeding year for the purpose of concluding its affairs.

(c) A commission scheduled for termination under AS 44.66.010 — 44.66.060 may be continued or reestablished by the legislature for a period not to exceed four years. (§ 3 ch 149 SLA 1977; am § 3 ch 101 SLA 1978; am § 10 ch 179 SLA 1978; am § 3 ch 44 SLA 1980; am § 1 ch 115 SLA 1980; am § 11 ch 131 SLA 1980; am § 11 ch 136 SLA 1980; am § 3 ch 172 SLA 1980; am § 1 ch 32 SLA 1981; am § 1 ch 64 SLA 1981; am § 4 ch 79 SLA 1981; am § 3 ch 101 SLA 1981; § 20 ch 110 SLA 1981; am Executive Order No. 48, § 5 (1981))

**Revisor's notes.** — In subsection (a)(6), the reference "AS 44.21.241" was substituted for "AS 44.21.200" to reflect the renumbering of that section by the revisor of statutes under AS 01.05.031.

**Effect of amendments.** -- The first 1981 amendment, effective June 20, 1981, substituted "1982" for "1980" in paragraph (3) of subsection (a).

The second 1981 amendment, effective July 11, 1981, substituted "1983" for "1981" in subsection (a)(1).

The third 1981 amendment, effective

July 15, 1981, added paragraph (10) of subsection (a).

The fourth 1981 amendment added paragraph (11) of subsection (a).

The fifth 1981 amendment, effective July 27, 1981, repealed paragraph (5) of subsection (a) which provided a termination date for the Alaska Pipeline Commission.

The sixth 1981 amendment effective July 1, 1981, substituted "AS 44-21.241" for "AS 44.19.181" in paragraph (6) of subsection (a).

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The fourth 1980 amendment added paragraph (8) of subsection (a).

The fifth 1980 amendment added paragraph (9) of subsection (a).

**Sec. 44.66.020. Agency programs.** (a) Agency programs and activities listed in this subsection which are specifically designated as provided in AS 44.66.030 are subject to termination during the regular legislative session convening in the month and year set out after each:

(1) programs in the budget categories of general government, public protection, and administration of justice — January, 1980;

(2) programs in the budget categories of education and the University of Alaska — January, 1981;

(3) programs in the budget categories of health and social services — January, 1982;

(4) programs in the budget categories of natural resources management, development and transportation — January, 1983.

(b) An agency program or activity designated in (a) of this section shall be subject to termination during the regular legislative session convening four years after the preceding review and may be subject to termination at any time upon the recommendation of the Legislative Budget and Audit Committee and the concurrence of the legislature as if under AS 44.66.030. (§ 3 ch 199 SLA 1977)

**Sec. 44.66.030. Program identification.** During the legislative session preceding each of the years set out in AS 44.66.020, the Legislative Budget and Audit Committee shall designate, not later than March 1 of those years, the programs and activities within each program category which shall be subject to termination in the next fiscal year. The recommendations of the Legislative Budget and Audit Committee shall be submitted to the respective houses of the legislature in the form of a bill which, if enacted into law, would terminate those designated programs and activities on or before July 1 of the following year. (§ 3 ch 149 SLA 1977)

**Sec. 44.66.050. Legislative oversight.** (a) Before the termination, dissolution, continuation or reestablishment of a board or commission under AS 08.03.010 or AS 44.66.010, or of an agency program under AS 44.66.020 and 44.66.030, a committee of reference of each house, which shall be the standing committee of legislative jurisdiction as provided in the Uniform Rules of the Legislature, shall hold one or more hearings to receive testimony from the public, the commissioner of the department having administrative responsibility for each named board, commission, or agency program, and the members of the board or commission involved. The hearings may be joint hearings. The committee shall also consider the proposed budget of the board, commission, or agency program, prepared in accordance with AS 37.07.050(f), and the performance audit of the activities of the board, commission, or agency program, prepared by the legislative audit division as prescribed in AS 24.20.271(1). The committee may consider

any other report of the activities of the board, commission or program, including but not limited to annual reports, summaries prepared by the Legislative Affairs Agency, and any evaluation or general report of the manner of conduct of activities of the board, commission, or agency program prepared by the office of the ombudsman.

(b) During a public hearing, the board, commission or agency shall have the burden of demonstrating a public need for its continued existence or the continuation of the program, and the extent to which any change in the manner of exercise of its functions or activities may increase efficiency of administration or operation consistent with the public interest.

(c) A determination as to whether a board or commission or agency program has demonstrated a public need for its continued existence shall take into consideration the following factors:

(1) the extent to which the board, commission or program has operated in the public interest;

(2) the extent to which the operation of the board, commission, or agency program has been impeded or enhanced by existing statutes, procedures, and practices which it has adopted, and any other matter, including budgetary, resource, and personnel matters;

(3) the extent to which the board, commission or agency has recommended statutory changes which are generally of benefit to the public interest;

(4) the extent to which the board, commission or agency has encouraged interested persons to report to it concerning the effect of its regulations and decisions on the effectiveness of service, economy of service, and availability of service which it has provided;

(5) the extent to which the board, commission or agency has encouraged public participation in the making of its regulations and decisions;

(6) the efficiency with which public inquiries or complaints regarding the activities of the board, commission or agency filed with it, with the department to which a board or commission is administratively assigned, or with the office of the ombudsman have been processed and resolved;

(7) the extent to which a board or commission which regulates entry into an occupation or profession has presented qualified applicants to serve the public;

(8) the extent to which state personnel practices, including affirmative action requirements, have been complied with by the board, commission or agency to its own activities and the area of activity or interest; and

(9) the extent to which statutory, regulatory, budgeting or other changes are necessary to enable the agency, board or commission to better serve the interests of the public and to comply with the factors enumerated in this subsection.

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(d) As to each board, commission, or agency program assigned to it for purposes of review, the committee of reference shall, not later than the 60th day of the legislative session, submit a report to the presiding officer of the house. The report shall contain a summary of the findings of the committee as to the compliance of the board, commission or program with the factors enumerated in (c) of this section, together with a summary or recommendations of the committee as to each of the following:

(1) an identification of the problems or the needs that the programs and activities of the board, commission or agency are intended to address;

(2) a statement, to the extent practicable, of the objectives of the program of the board, commission, or agency program, and its anticipated accomplishments;

(3) an identification of any other programs having similar, conflicting or duplicate objectives;

(4) an assessment of alternative methods of achieving the purposes of the program;

(5) an assessment of the consequences of eliminating the board, commission or program and consolidating its activities with another program, or of funding it at a lower level;

(6) a justification for the recommended continuation or extension of the board, commission or program, and an explanation of the manner in which it avoids duplication of or conflict with other efforts; and

(7) any other information which, in the opinion of the committee, would improve the performance of the board, commission or agency with respect to its representation of and responsiveness to the public interest.

(e) The committee of reference may introduce a bill providing for the reorganization or continuation of the board, commission or agency program. No more than one board, commission, or agency program shall be continued or reestablished in any legislative bill, and the board, commission, or agency program shall be mentioned in the title of the bill. (§ 3 ch 149 SLA 1977)

**Sec. 44.66.060. Existing claims.** This chapter shall not cause the termination or dismissal of a claim or right of a citizen against a board, commission or program of an agency terminated under this chapter which is subject to litigation. Claims and rights shall be assumed by the department to which the board or commission terminated under this chapter was attached for administrative purposes. (§ 3 ch 149 SLA 1977)

## Chapter 66. Council on Domestic Violence and Sexual Assault.

Section	Section
10. Council on domestic violence and sexual assault; purpose	40. Meetings and quorum
20. Membership, terms, vacancies, and disqualification	50. Duties of the council
30. Compensation and expenses	60. Qualifications
	900. Definitions

**Sec. 18.66.010. Council on domestic violence and sexual assault; purpose.** There is established in the Department of Public Safety the Council of Domestic Violence and Sexual Assault. The purpose of the council is to provide for planning and coordination of services to victims of domestic violence or sexual assault or to their families and to perpetrators of domestic violence and sexual assault and to provide for crisis intervention and prevention programs. (§ 1 ch 101 SLA 1981)

**Sec. 18.66.020. Membership, terms, vacancies, and disqualification.** (a) The council consists of

(1) three persons appointed by the governor after consultation with the Network on Domestic Violence and Sexual Assault, a nonprofit corporation; the Network on Domestic Violence and Sexual Assault shall submit a list to the governor of persons recommended for appointment;

(2) the commissioner of public safety or the designee of the commissioner of public safety; and

(3) the commissioner of health and social services or the designee of the commissioner of health and social services;

(4) the commissioner of education or the designee of the commissioner of education;

(5) the attorney general or the designee of the attorney general.

(b) The term of office of a member appointed under (a)(1) of this section is two years. A member appointed under (a)(1) of this section serves at the pleasure of the governor and may not serve more than two consecutive terms. A vacancy on the council shall be filled for the unexpired term by appointment by the governor after consultation with the Network on Domestic Violence.

(c) A person who receives compensation from or is an employee of a domestic violence, sexual assault, or crisis intervention or prevention program may not be appointed to the council. (§ 1 ch 101 SLA 1981)

**Editor's notes.** — Section 4, ch. 101, SLA 1981, provides: "Of the first members appointed to the Council on Domestic Violence and Sexual Assault under AS

18.66.020(a) added in sec. 1 of this act (1) one member shall be appointed to serve a term of one year; (2) two members shall be appointed to serve a term of two years."

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# STATE OF ALASKA

## DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

POLICH S  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-2300

January 21, 1982

The Honorable Bob Mulcahy  
Chairman  
Senate Labor and Commerce Committee  
Room 119 - Capitol Building  
Juneau, Alaska

Dear Senator Mulcahy:

Re: Senate Bill No. 641

Senate Bill No. 641, an Act providing a corporate tax exemption, was introduced in the Senate on January 11, 1982, and was referred to the Senate Labor and Commerce and Finance Committees.

For the consideration of the Senate Labor and Commerce Committee, I am enclosing copies of Fiscal Notes prepared by Mr. Robert R. Kessel, Director, Audit Division, and Mr. John Larson, Economist, Research Section, Department of Revenue, concerning the proposed legislation.

Sincerely,



R. D. Stevenson  
Special Assistant

cc: The Honorable Don Bennett  
The Honorable M. E. Dankworth  
Co-Chairmen  
Senate Finance Committee

Joseph K. Donohue  
Deputy Commissioner, Taxation  
Department of Revenue

John Larson, Economist  
Research Section  
Department of Revenue

Robert R. Kessel, Director  
Audit Division  
Department of Revenue

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 641  
 Title An Act providing a corporate tax exemption  
 Requested by Senate Labor and Commerce Date 1-19-82

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 (Thousands of Dollars) None - See analysis below

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	-0-					

FUNDING (Thousands of Dollars) None - See analysis below

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND	-0-					
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS None - See analysis below

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME						
PART TIME						
TEMPORARY						

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

We are assuming that the Act would be effective for taxable years beginning on or after January 1, 1983. Therefore, there would be no material reduction in expenditures until FY85.

IV. DATE January 19, 1982 PREPARED BY Robert R. Kessel

AGENCY Audit Division  
 PHONE (907) 465-2320  
 Original: Legislative Finance  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named)

# MEMORANDUM

# State of Alaska

Department of Revenue

TO: R.D. Stevenson  
Special Assistant

DATE: January 19, 1982

FILE NO:

TELEPHONE NO:

FROM: R.R. Kessel  
Director, Audit Division

SUBJECT: SB 641 - Corporate  
Tax Exemption

SB 641 would provide for an exemption for corporations subject to the income tax imposed by AS 43.20 of \$150,000. A bill very similiar to SB 641 (SB 20) was introduced during the last session and apparently went nowhere.

Past studies indicate that upwards to 90% of corporate tax returns filed would be exempt from tax. The remaining few taxpayers would be very large domestic corporations and those multistate corporations having a substantial amount of Alaska income.

Gary Jenkins' comments of a year ago are still appropriate: "Any legislation of this nature could cause serious problems for the State in it's defense of AS 43.21 because of the fact that nearly 100% of domestic corporations will be exempt from tax, thus the only taxpayer would be the multistate corporations doing business in Alaska".

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. Senate Bill 641  
 Title An Act providing a corporate tax exemption.  
 Requested by Senate Labor & Commerce Date 01/19/82

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 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL						

FUNDING <sup>Millions</sup> ~~(Thousands)~~ of Dollars

GENERAL FUND		(3.7)	(15.5)	(16.7)		
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

SEE ATTACHMENT.

IV. DATE 01/19/82 PREPARED BY John Larson, Economist  
 AGENCY Dept. of Revenue, Research Section  
 Original: Legislative Finance PHONE 465-2173  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named)  
 33-001 (Rev. 12/81)

Attachment to Fiscal Note on Senate Bill 641

Senate Bill 641 would reduce the tax liability of both petroleum and non petroleum corporate taxpayers under AS 43.20 beginning in tax year 1983.

The exempting of the first \$150,000 of taxable income approximates a 39% tax reduction in non petroleum corporate tax liability which translates into revenue losses of \$3.4 million, \$15.2 million, and \$16.4 million for the years FY 83, FY 84, and FY 85.

The revenue loss from petroleum corporations would approximate \$300,000 a year.

The total revenue loss then to the general fund approximates \$3.7 million, \$15.5 million and \$16.7 million in FY 83, FY 84, and FY 85.

This analysis is based on limited data which is not necessarily a representative sample of the data which we do not have.



Official Business

# Alaska State Legislature

## Senate

### Labor & Commerce Committee

Pouch V  
State Capitol  
Juneau, Alaska 99811

#### SUMMARY SB 641:

Provides for a corporate tax exemption of \$150,000 against its net income taxable under Chapter AS 43.20.

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I. REQUEST

Bill/Resolution No. Proposed legislation -- An Act... relating to examination fees and  
 Title assessments; and providing for an effective date.

Requested by Governor Date Dec. 4, 1981

II. FISCAL DETAIL

Agency Affected Department of Commerce & Economic Development

Program Category Affected Consumer Protection

BRU, Program, or Subprogram(s) Affected Banking & Securities

(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			0			
200 TRAVEL			0			
300 CONTRACTUAL			0			
400 COMMODITIES			0			
500 EQUIPMENT			0			
600 LAND & STRUCTURES			0			
700 GRANTS, CLAIMS, ETC.			0			
TOTAL			0			

FUNDING (Thousands of Dollars)

GENERAL FUND			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)

An increase in program receipts.

*Willis F. Kinnear*

# STATE OF ALASKA

## DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

POUCH D  
JUNEAU, ALASKA 99811  
PHONE: 465-2500

February 23, 1982

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

Dear Senator Mulcahy:

Re: Banking Fees

During your conversation with Mr. Kirkpatrick this date, you indicated a wish for clarification of the responsibility of the Division of Banking and Securities and the numbers of financial institutions involved. First, let me state that we conduct joint examinations of the State banks, trust departments and savings and loan associations with the applicable federal agencies, i.e., FDIC of banks and trust departments and FSLIC of the savings and loan associations. In both instances, we make all efforts to avoid redundancy in our examinations.

The Federal Deposit Insurance Corporation (FDIC) and the Federal Savings and Loan Insurance Corporation (FSLIC) are insuring agencies and, as such, are not concerned with State law. Our responsibilities are, on the other hand, geared to structure of the financial institution and the safety and soundness of the operation. In other words, our joint efforts are complimentary of each other and not a duplication. We would be pleased to provide a copy of those items we examine to determine compliance of State law and those contents which are in the FDIC examination.

We are currently jointly examining nine (9) banks, two (2) trust departments, and one (1) savings and loan association. Our sole examination responsibilities include four (4) small loan companies, eighteen (18) premium finance companies and four (4) bank holding companies. In addition, we have one (1) bank and one (1) savings and loans association in the chartering process and one (1) savings and loan association and two (2) credit unions in the process of converting to State charters.

February 23, 1982

There are other activities that the examiners are assigned that do not fall in the definition of examining banks. Just this past year, as an example, they have worked on the following:

Researched and developed allowable activities of representative offices and loan production offices of banks that do not constitute banking or branch banking.

Process and investigate three branch bank applications.

Process and investigate an application of a bank to purchase and assume a branch bank of another bank.

Review competitive federal chartered institutions allowable activities and promulgate regulations so state-chartered institutions can compete (Wildcard Statute).

Investigate and take action to revoke a Certificate of Incorporation of a savings and loan in organization revocation. Hearing preserved organization.

Investigate procedure to allow a bank holding company to transfer trust authority from the bank to the holding company.

Process and investigate consumer complaints from the public and the consumer protection agencies file against financial institutions.

It appears to us that the question boils down to whether the public should pay the cost or should the user financial institutions pay the cost. As was stated in your meeting, the program receipts resulting from the fees paid account for only approximately 10 percent of the division's budget.

I hope this has covered the points addressed in the meeting. Should you have further questions or if we may be of any assistance, please feel free to call on Mr. Kirkpatrick at any time.

Sincerely,



Edward W. Eboch  
Deputy Commissioner

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# STATE OF ALASKA

## DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

POUCH D

JUNEAU, ALASKA 99811

Phone: 465-2500

January 18, 1982

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

Dear Senator Mulcahy:

Thank you for your request for a position statement on SB 647 - an act relating to exam fees.

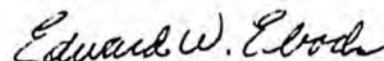
Our position on this bill is based on the following information:

Salary increases during the three-year period were 32.8% (not including merit increases). Per diem costs have increased a corresponding amount, while travel costs (air fare) have increased a disproportionate 84.1%. (Travel and per diem calculated on Juneau to Anchorage and return.) A corresponding increase was also noted in other line items; however, these increases were not included. An increase from \$7,500 to \$10,000 in maximum fees will yield a 33% increase in fees but would not cover our averaged increase in costs of 49.9%. An increase from \$7,500 to \$12,000 or a 60% increase will provide a 10% cushion for future increases.

The Division of Banking, Securities and Corporations has made an effort to reduce the cost of examination. Four examiners are now stationed in Anchorage close to most of the banks. Also, to avoid duplication of expense, joint examinations are conducted with Federal Deposit Insurance Corporation, Federal Savings & Loan Insurance Corporation and the Federal Reserve Board in the case of bank holding companies.

The examination and investigation fees assessed are program receipts. Should this increase not be approved, it will be necessary to request additional general funds and/or reduce services to both the public and private sectors. Current revenue does not meet program receipts appropriation.

Sincerely,



Charles R. Webber  
Commissioner

ARGUMENTS IN FAVOR OF INCREASED EXAMINATION FEES/12-1-81 .

1) The division presently examines 10 state-chartered institutions, nine banks and one S&L. Of the nine that have been examined so far this year, eight examinations have exceeded the \$7,500 limit. So, if the legislative intent is that the users cover the cost of examination, rather than their constituents, then the ceiling must be raised.

2) The division always conducts joint examinations with FDIC; there is no duplication. The division rates the banks according to the "CAMEL" system, and as required by AS 06. FDIC does not examine as required by AS 06. There are, however, identical forms, reports, and staffing.

3) FDIC does not actually levy a fee on the banks it examines; rather, this cost is allocated indirectly to insurance premiums. Because the FDIC insurance fund generates a good deal of income, even this indirect cost is less than it truly is. *1/2 of 1% usually*

4) Inflation has resulted in higher costs to the department, thus the dollar amount should be increased.

5) Failure to increase the allowable fees will result in only one of two things - either less and fewer examinations or, supplementals.

# MEMORANDUM

# State of Alaska

TO: Jim Kelly, Administrative Assistant to  
Senator Pat Rodey  
Senate Commerce Committee

DATE: November 18, 1981

FILE NO:



TELEPHONE NO: 465-2521

FROM: Willis F. Kirkpatrick, Director  
Division of Banking and Securities  
Department of Commerce and Economic  
Development

SUBJECT: Increase in Banking  
Fees

I have reviewed your comments of November 5, 1981 with a great deal of interest. There appear to be a number of misconceptions presented to you by the bankers. First, we do not consider the examinations to be duplicative. On the contrary, examinations are conducted jointly with FDIC with all examination tasks being assigned to either FDIC or State examiners to avoid exactly what you describe. We do, however, conduct such additional examination procedures as are mandated by the State statutes, i.e., replacement of impaired capital, assessment of stockholders, denying dividends, and taking possession, etc. This cooperation between the State and FDIC reduces the staffing and expense to each agency and avoids duplication. In addition, the FDIC does not directly charge for examinations as this inallocated cost is a product of the insurance fees.

As you may or may not be aware, the FDIC insurance fund derives a good deal of income from investments. This income, I am told, more than offsets their cost of operation. In reality the State chartered banks are paying for only one examination. The State's national banks, on the other hand, not only pay the FDIC insurance fees but an assessment to the Comptroller of the Currency to support their cost of operation. The other insurance agencies, i.e., Federal Savings and Loan Insurance Corporation and the National Credit Union Administration, are operated in a similar way.

Second, as previously stated the examinations are conducted jointly by the State and the applicable federal regulators. We use the same examination forms, issue one consolidated report and utilize combined examiner staffing to generate the Report of Examination. The examination schedules are coordinated with our federal counterparts to eliminate the need for two examinations.

Third, the point that the FDIC examinations "are the ones which really count" is not well taken nor accurate. The State is the primary regulator by statute. It has the responsibility for the chartering and dissolution of its banks and the authority to take possession of a failing bank and to rehabilitate or liquidate it. If it is the argument that only FDIC examination portion of our joint is relevant then it can only be concluded that the Alaska Banking Code provisions noted on the attached compliance examination check list are not relevant and, therefore, should be repealed, in which event all State chartered banks should become national banks.

Fourth, the \$120,800 figure is a product of the budget process and is our best estimate as to anticipated revenue. Unfortunately, if this amount is not realized it is necessary to ask for supplemental funding or to reduce spending in an already tight budget. Either method present a viable alternative. In the past it has always been the legislators intent that the users (banks) cover the cost of the examination rather than their constituents(public).

In conclusion, for your further information, there are now ten (10) state-chartered financial institutions and 23 other licensees. The State's nine (9) banks are rated by the State and FDIC in five (5) specific categories on a scale of one to five (one the highest; five the lowest). These categories are (1) capital (capital adequacy), (2) earnings, (3) management, (4) assets (quality) and (5) liquidity. This is commonly referred to as the "CAMEL" rating. Banks with ratings of one or two are not considered to be "problem banks." Banks, however, of three to five are considered to have varied problems which require additional supervision. Of the State's nine (9) banks only two have a rating of one or two. The remainder have ratings of three to five which as previously stated, require additional regulatory supervision. These ratings are not public knowledge nor are they disclosed to management. The frequency of examinations and other regulatory responses should reveal to the individual banks their status. It's quite possible that some or all of the banks offering input to you have problems which require additional supervision. I would, of course, wish that this information remain confidential for your use only.

I disclose this for only one reason. We evidently have some State banks that are classified as problem banks and, therefore, under close supervision. It is obvious to me that if we were removed as the primary regulator it would be very much to their liking.

WFK/kb 4/7

ALASKA STATE LEGISLATURE  
SENATE BANKING COMMITTEE  
POUCH V, JUNEAU 99011M E M O R A N D U M

DATE: November 5, 1981

TO: Willis F. Kirkpatrick, Director  
Division of Banking and Securities

FROM: Jim Kelly, Administrative Assistant *JK*

RE: Increase in Banking Fees

Thank you for your memorandum of October 9th in which you provided the information I requested. I do have, however, one question about the reference you made in that memo to a "mandate" to supplement SF revenues with program receipts totaling \$120,800. Is that your estimate which you prepared for the FY 82 budget, or where does it come from? Also, what happens if your receipts come in less than expected?

For your information, when Senator Rodey and I discussed your proposed legislation with the Anchorage bankers, we met nearly unanimous opposition. Only Alaska Pacific Bank seemed to understand your position. The chief complaint appears to be that state-chartered institutions are being forced to pay twice for examinations, once to the Division and once to the federal insurers. And the bankers, of course, feel that the examinations provided by the FDIC are the ones which really count.

The question which Senator Rodey has asked me to communicate to you is: Are the examinations duplicative? He wonders if there is a way that your Division and the FDIC could cooperate a bit more to accomplish your goals and yet reduce the costs and inconvenience to the banks?

Would it be possible to provide this office with an explanation of how your Division does, in fact, cooperate with the FDIC, either in terms of generation of information or timeliness of examination schedules? And, how do the two examinations differ?

# MEMORANDUM

# State of Alaska

TO: Jim Kelley, Administrative Assistant  
Office of Senator Patrick Rodey

DATE: October 9, 1981

FILE NO:

TELEPHONE NO: 465-2521

FROM: *Willis*  
Willis F. Kirkpatrick, Director  
Division of Banking & Securities  
Department of Commerce & Economic  
Development

SUBJECT: Increase in Banking Fees

The number of bank examinations which exceed the \$7,500 cap had been relatively few in number until the current year. We have been forced to reduce the state examiner participation in an attempt to remain within our limits. We have, however, experienced cost overruns due to additional time required for most recent examinations, plus salary, per diem and travel expense. It was calculated, when this limit was established in 1978, that we could field from Juneau to Anchorage or Fairbanks, three (3) examiners for two weeks or two (2) examiners for three weeks for the \$7,500 cap. Approximately 1/3 of the cost was travel and per diem. Since that time, however, both travel and per diem have increased markedly. It would now equal approximately 45% of the total. We have, however, in the interim, opened a field office in Anchorage which has served to substantially reduce travel and per diem costs but increased personnel costs caused by inflation have offset the savings.

In addition, we are mandated to supplement General Fund revenues with program receipts totaling \$120,200. With examination schedules being staggered and the interval between examinations being extended to 18 months to two years, this amount is almost impossible to attain. For informational purposes, our present examination schedule includes seven (7) commercial banks, two (2) mutual savings banks, one (1) savings and loan association, two (2) trust departments, four (4) small loan companies and twenty-three (23) premium finance companies. In addition, we are processing an application for the charter of a commercial bank, a conversion of a savings and loan association and the charter of a savings and loan association. Various credit union groups have also contacted us regarding conversion to State charter and for new charters. The generation of investigation fees, however, will probably not be realized until well into FY '83 and will have only minimal effect on revenues.

Jim Kelley

-2-

October 9, 1981

The division has examined nine (9) of the ten (10) presently chartered financial institutions. Of the nine (9), eight (8) examinations have exceeded the \$7,500 limit. The present \$7,500 cap has left us a revenue shortfall for these examinations of \$18,900 plus. The attached chart indicates the allowable charge and the actual cost to the department of the last full scope examination performed.

WFK/saC/25

Attachment

FEES FOR MOST RECENT EXAMINATIONS  
OF ALASKA'S DEPOSITORY FINANCIAL INSTITUTIONS

	<u>Actual Costs Incurred</u>	<u>Allowable Charges</u>
ALASKA BANK OF COMMERCE	\$ 7,806.38	\$ 7,500.00
ALASKA MUTUAL	7,567.70	7,500.00
ALASKA PACIFIC BANK	12,409.73	7,500.00
ALASKA STATEBANK	12,460.75	7,500.00
FIRST BANK	8,283.87	7,500.00
MT., MCKINLEY MUTUAL BANK	9,833.86	7,500.00
PEININSULA SAVINGS & LOAN	2,682.29	2,682.29
PEOPLES BANK & TRUST	8,283.16	7,500.00
UNITED BANK ALASKA	<u>12,271.85</u>	<u>7,500.00</u>
TOTAL	\$81,599.59	\$62,682.29
 Total Costs	 \$81,599.59	
Total Collections	<u>62,682.29</u>	
Net Losses	\$18,917.30	

# ALASKA MUTUAL BANK

P.O. Box 1120 - 5th & F Street - Anchorage, Alaska 99510

December 16, 1980

Mr. Jim Kelly  
Administrative Assistant  
Alaska State Legislature  
Senate Banking Committee  
Pouch V  
Juneau, Alaska 99811

Dear Jim:

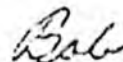
In accordance with our telephone conversation of last week I am forwarding your copy of the Anchorage Real Estate Research Report.

In addition, I am also providing the information omitted from my letter of November 28, 1980. The information requested is as follows:

<u>Calendar Year</u>	<u>Franchise Tax Paid</u>	<u>Examination Fee Paid</u>
1975	\$ 65,673.00	\$1,750.00
1976	\$ 91,565.00	-0-
1977	\$112,249.00	\$2,000.00
1978	\$ 91,194.00	-0-
1979	\$ 58,337.00	\$4,313.55

If you need further information, please advise.

Sincerely,



Robert W. Sullivan  
Vice President

RWS/jw  
Enclosure



# ALASKA MUTUAL BANK

P.O. Box 1120 - 5th e) F Street - Anchorage, Alaska 99510

December 19, 1980

Mr. Jim Kelly  
Administrative Assistant  
Alaska State Legislature  
Senate Banking Committee  
Pouch V  
Juneau, Alaska 99811

Dear Jim:

Reference is made to your letter of November 18, 1980, in which you solicit comments pertaining to possible changes in the Alaska banking code. Alaska Mutual Bank is pleased to have the opportunity to comment on some of the proposals outlined and will, in addition, offer some additional suggestions.

- (1) AS 06.01.010 - We do not believe an increase in examination fees in excess of \$7500 per examination is justified. Our experience has shown that, on the average, we have 2 state bank examiners present for a period of approximately two weeks. If one assumes 2 manweeks at a rate of approximately \$2250 per manweek salary per examiner, then the fee should approximate \$4500 per examination. If travel and per diem are to be paid by the banks, it is difficult to believe that the current authorized fee of \$7500 per examination is inadequate.
- (2) AS 06.01.020 - We generally concur with the proposed language of this change with the exception of the words "or require". We do not believe the commissioner should have the authority to require financial institutions, through regulation, to provide a service that may be disruptive to the banking system notwithstanding a commissioner's interpretation of "serving the public convenience and advantage". It is our belief that a "requirement" should be dealt with, if appropriate, by statute rather than regulation.
- (3) AS 06.05.011 - No comment.
- (4) AS 06.05.015 - Amending of (6) is unnecessary. This is an intrusion in the affairs of the bank. Each situation determines the need for and frequency of financial statements. Much depends on collateral type and term of loans, and other factors not necessarily relating to an annual financial statement. The added burden to the consumer does not warrant this change.





# Alaska State Legislature

## Senate

Official Business

### Labor & Commerce Committee

Pouch V  
State Capitol  
Juneau, Alaska 99811

#### SUMMARY SB 647:

The Commissioner, (Dept of Commerce and Econ Dev) shall assess every financial institution a fee for expenses incurred for all regular and special examinations or investigations. The major change in the bill concerns an increase in the maximum examination fee which may be charged, reflecting the increased cost for examinations. The existing maximum of \$7,500 was established by statute in 1978, however, since then the cost of an examination has risen 50%, and this bill would address the increase in examination fees by raising the maximum fee level to \$12,000. The bill further provides that all assessments shall be paid to the Department within 30 days after the financial institution receives the notice of assessment.

STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

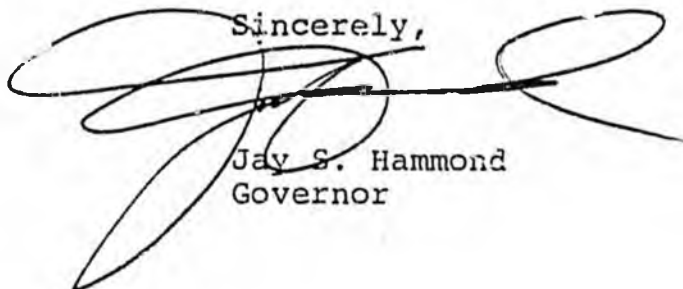
January 11, 1982

The Honorable Jalmar Kerttula  
President of the Senate  
Alaska State Legislature  
Pouch V  
Juneau, Alaska 99811

Dear Mr. President:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill which increases the fee that the commissioner of commerce and economic development may assess a financial institution for investigation and examination costs. It raises the existing maximum of \$7,500 to a maximum of \$12,000 per examination. The fee increase is necessary because costs associated with these examinations have risen approximately 50 percent since 1978 when the \$7,500 maximum fee was first established. An additional amendment is included, slightly re-writing the garbled last sentence of AS 06.01.010(b).

Sincerely,



Jay S. Hammond  
Governor

1500 1/11/82

# Alaska Statutes

## Title 6. Banks and Financial Institutions.

### Chapter

- 01. Administration (§§ 06.01.010 — 06.01.050)
- 05. Alaska Banking Code (§§ 06.05.005 — 06.05.545)
- 10. Model Foreign Bank Loan Act (§§ 06.10.010 — 06.10.050)
- 15. Mutual Savings Bank Act (§§ 06.15.010 — 06.15.380)
- 20. Alaska Small Loans Act (§§ 06.20.010 — 06.20.920)
- 25. Trust Companies (§§ 06.25.010 — 06.25.350)
- 30. Alaska Savings Association Act (§§ 06.30.005 — 06.30.915)
- 35. Uniform Common Trust Fund Act (§§ 06.35.010 — 06.35.050)
- 40. Premium Financing Act (§§ 06.40.010 — 06.40.190)

### Chapter 01. Administration.

- | Section  | Section                |
|--|------------------------|
| 10. Examination fees and assessments                         | 40. Examination policy |
| 20. General powers of department                             | 50. Definitions        |
| 30. Orders and injunctions; notice and hearings; regulations |                        |

Editor's note. — Section 55, ch. 169, SLA 1978, contains a severability clause.

**Sec. 06.01.010. Examination fees and assessments.** (a) The expenses of the department reasonably incurred in the examination or investigation of all financial institutions or applications to establish financial institutions regulated by the department under this title shall be charged to and paid by each financial institution as provided in (b) of this section.

(b) The commissioner shall assess every financial institution, and every applicant to establish a financial institution, a fee for the actual expenses incurred by the department in connection with any examination or investigation, whether regular or special. The fee shall include the proportionate part of the salaries and cost of employee benefits of the examiners while conducting examinations or investigations and while preparing reports of the same, and transportation costs and per diem of each examiner while away from his duty station. However, the cost to the financial institution in connection with an examination may not exceed \$7,500 per examination. The assessment shall be made by the commissioner as soon as feasible after the

examination or investigation has been completed. All assessments shall be paid to and received by the department by each institution within 30 days after receipt of notice of the assessment.

(c) Any financial institution which fails to make the payments required by the commissioner under (a) and (b) of this section within the time specified is subject to a penalty of not more than \$100 each day it is late. The penalty, together with the amount due under (a) of this section, may be recovered in a civil action brought by the department. (§ 42 ch 169 SLA 1978)

**Sec. 06.01.020. General powers of department.** The commissioner may by regulation authorize financial institutions, except licensees subject to ch. 20 of this title, to exercise any of the powers conferred upon a federally chartered bank, trust company, savings association, or other federally chartered institution doing business in this state which is subject to the regulations of the United States Comptroller of the Currency, the Federal Reserve Board, the Federal Home Loan Bank Board, the Federal Deposit Insurance Corporation or the successor or successors of them, if the commissioner finds that the exercise of the power both:

- (1) serves the public convenience and advantage; and
- (2) equalizes and maintains the quality of competition between state-chartered financial institutions and corresponding federally chartered financial institutions. (§ 42 ch 169 SLA 1978)

**Sec. 06.01.030. Orders and injunctions; notice and hearings; regulations.** (a) Whenever it appears to the commissioner that a person has engaged in an act or practice in violation of any provision of this title or of a regulation adopted under it, the commissioner may

- (1) if he considers it to be in the public interest, issue an order directing the person to stop the act or practice; reasonable notice and an opportunity for a hearing must be given before issuing the order; however, the commissioner may issue a temporary order pending the hearing which remains in effect until 10 days after the hearing is held and which becomes final if the person to whom the notice is addressed does not request a hearing within 15 days after receipt of the notice; or
- (2) bring an action in the superior court to enjoin the acts or practices and to enforce compliance with this title or a regulation adopted under it; upon a proper showing, the department is entitled to the appropriate remedy, and a receiver or conservator may be appointed for the defendant or the defendant's assets; the commissioner is not required to post a bond.

(b) Except as provided in (a) of this section, the department shall give public notice of each proposed action, but it is not required to hold a hearing before taking the action unless it receives written opposition to the proposed action. Written opposition must be filed with the department within the time specified by the department. In cases

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# Alaska State Legislature

## Senate

Official Business

### Labor & Commerce Committee

Pouch V  
State Capitol  
Juneau, Alaska 99811

#### SUMMARY SB 648:

SB 648 expands the definition of "employee" under the Workers Compensation Act to include an offender performing community work service as an alternative to sentencing. Currently, if an offender becomes injured while working, his only recourse is to pursue a tort remedy, with uncertain compensation to the injured person, and the possibility of exceedingly large judgements against the negligent party.

The development of State alternative sentencing programs has been hampered by the reluctance of many organizations to accept referrals, fearing the liability to the organization in the event of an offender becoming injured.

CS SB 648 designates the employee as an employee of the state, working at the direction of the state, and assures that the state will assume the insurance liability for worker's compensation coverage.

# STATE OF ALASKA

## DEPARTMENT OF LAW

### CRIMINAL DIVISION PRETRIAL SERVICES SECTION

JAY S. HAMMOND, GOVERNOR

465-3678

POUCH KC - STATE CAPITOL  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-3428

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

Dear Senator Mulcahy:

In response to your request for a position on the proposed committee substitute for Senate Bill 648 whereby the State of Alaska would assume the total cost of worker's compensation for individuals placed in community work service, the Department of Law supports the additional provision of the committee substitute.

In the memorandum of advise on the issue of liability for injuries to offenders performing community work service, dated February 4, 1982, and made available to your committee, analysis of the current provisions of the Worker's Compensation Act indicated that these offenders are excluded from worker's compensation coverage as they are not "employees" within the meaning of the Act. Exclusion of these offenders from coverage under the Act was problematic in that an offender injured in the performance of community work service could only recover damages for the injury by proving both fault and negligence in a common law tort suit action contrary to the underlying purposes of worker's compensation statutes. Additionally, in that this class of individuals is not within the coverage provisions of the Worker's Compensation Act, the exclusive remedy provisions (AS 23.30.055) are not applicable, thus greatly increasing the potential liability for employers in those instances where fault and negligence are proven. The original version of SB 648, requested by the governor at the behest of the Department of Law, attempted resolution by merely redefining "employee" for purposes of the Worker's Compensation Act to include offenders performing community work service. However, as was pointed out at hearings on SB 648 in your committee, merely redefining "employee" to include this class of individual could result in significant problems in implementation. Chief among these problems is the premium rate that would be charged employers for worker's compensation coverage for offenders

performing community work service. In that offenders processed by the State into community work service perform a variety of functions, each of which may require a differing level of job injury risk (the method by which worker's compensation insurance premiums are determined), the result would be a separate risk premium determination for each placement rather than a standardized risk premium that had been assumed to be the result. Alternatively, if placements were limited to a few risk classes, the ability of the community work service referral program to creatively place these offenders by matching their existing job skills or interest areas with community referral needs would be severely hampered. Similarly, the risk assessments are comparatively higher for certain job classes which positively impact a greater segment of a community than for other classes which do not; e.g., litter pickup along the highways commands a substantially higher premium than performing janitorial duties in a local agency.

This uncertainty of premium rates likewise results in a continued reticence on the part of agency-employers to accept such referrals, although these agency-employers derive a substantial benefit from the labor provided. Agencies accepting community work service referrals either would need to restrict the type of work to be performed or would have to budget uncertain amounts of funds to pay increased risk premiums should they determine in the course of the budget year that they could substantially benefit from another type of work. This uncertainty would result in the agency-employers realizing a substantially diminished benefit from the program.

The alternative to this legislation is the maintenance of the status quo, whereby the State would continue to assume the excess of any tort liability that would result from community work service placements. As this state of the law promotes lawsuits to enable recovery, and is an uncertain remedy for injured individuals, it belies the purposes of worker's compensation and is unacceptable to the Department of Law.

The proposed committee substitute appears to be the best alternative in terms of achieving statewide acceptance of the program, and thus meaningful implementation. With the proposed committee substitute no determination as to premium rates needs to be accomplished as the State is a self-insurer under the Worker's Compensation Act. As there won't be a variance in premium rates for the type of community work service assigned, the placements can continue to be creative, sensible and worthwhile. Furthermore, with over 2,000 referrals and 50,000 hours of community work service performed to date under the aegis of the State, we have not yet experienced any liability situations, thus making even a speculative cost of this assumption extremely low.

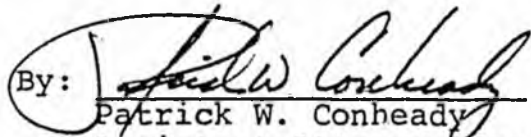
In conclusion, as a matter of strong public policy, the Department supports the proposed committee substitute and views it as a vehicle for uniform implementation of an innovative alternative in the criminal justice system. The speculative costs which attend this version are far outweighed by the benefits provided to both the recipients of the community work service and to the individuals performing it.

If you have further questions regarding this legislation, please feel free to contact me.

Sincerely,

WILSON L. CONDON  
ATTORNEY GENERAL

DANIEL W. HICKEY  
CHIEF PROSECUTOR

By:   
Patrick W. Conheady  
Assistant Attorney General  
Chief, Pretrial Services

PWC/ks

# STATE OF ALASKA

## DEPARTMENT OF ADMINISTRATION

### DIVISION OF RISK MANAGEMENT

JAY S. HAMMOND, GOVERNOR

POUCH C (MS 0218)  
JUNEAU, ALASKA 99811  
(907) 465-2180

February 26, 1982

Mr. Michael Thill  
Administrative Assistant  
Senate Labor and Commerce Committee  
MS 3100 - Pouch Y  
Juneau, AK 99811

Dear Mr. Thill:

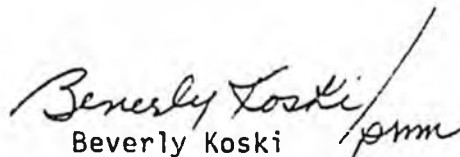
Re: Position Paper  
CS Senate Bill 648

The Division of Risk Management does oppose this bill, which has the effect of automatically transferring all liability to the State of Alaska in connection with community work which the court has ordered.

Risk Management has communicated with both The Honorable Judge James Hornaday, and Arthur Snowden, relative to the issues addressed in this proposed bill.

We believe that this bill should not be acted upon. If further information is desired, please do not hesitate to call upon myself, or John Haywood, the Director of Risk Management, at 465-2180.

Sincerely,

  
Beverly Koski  
Loss Control Manager

BK/rmm  
LRMA/B

(MS 0218)

July 23, 1981

The Honorable James C. Hornaday  
District Court  
State of Alaska  
Third Judicial District  
P.O. Box 136  
Homer, AK 99603

Dear Judge Hornaday:

In response to your letter of June 30, 1981, the Division of Risk Management did oppose the bills which were introduced and had the effect of automatically transferring all liability to the State of Alaska in connection with community work which the Court had ordered.

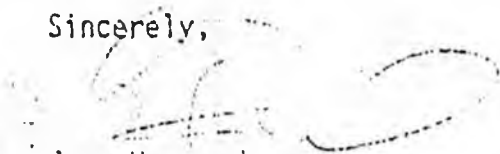
We believe there is a better way of handling the situation in which the organization responsible for the work program does not have adequate insurance protection.

Since some of the entities are municipalities which do have insurance, it would be a situation in which the State were assuming liability for a responsible entity which has its own protection. There would be no control by the State as far as ensuring that proper safeguards were being taken, and the State would automatically pay all losses which occurred.

I would suggest that the State provide excess insurance over and above any basic insurance which the entity responsible may or may not possess. In this way, the municipality of Anchorage or other large organizations would assume their own losses whereby a small non-profit organization or entity which does not carry insurance would in effect receive coverage from the first dollar of loss from the State's insurance. I believe that this would be an acceptable solution to the problem and would enable this valuable program to continue.

If you have any further thoughts concerning this please let us know.

Sincerely,

  
John Haywood  
Director

JH/jb  
HMS/JCH

(MS 0218)

November 20, 1981

Mr. Arthur H. Snowden, II  
Administrative Director  
Alaska Court System  
303 "K" Street  
Anchorage, AK 99501

Dear Mr. Snowden:

Re: Liability of State for Court  
Ordered Community Work


The Division of Risk Management, Department of Administration, is responsible for the disposition of claims which arise out of State operations. In the absence of a contractual agreement, the liability of the State would be determined by the facts pertaining to an injury or damage to property of others.

The Division of Risk Management would provide insurance coverage for injury to Court ordered persons providing community work and for bodily injury or property damage liability to third parties caused by these persons while under Court order. This insurance would be primary in the absence of other valid and collectable insurance coverage. If the municipal or nonprofit organization sponsor has insurance for workers' compensation and comprehensive general liability which applies to these persons, then the State insurance will provide coverage on an excess basis only.

Between the State and the sponsoring entity, there will be adequate coverage to protect both the Court ordered participant and the public.

Any questions pertaining to this procedure should be referred to the Division of Risk Management.

Sincerely,



John Haywood  
Director

JH/dab

cc: Pat Conneady  
Kathy Kolkhorst  
Marie Forsythe

# MEMORANDUM

## State of Alaska

DEPT Labor  
DIV. Commissioner's Office  
SEC. \_\_\_\_\_

TO:  Michael Thill  
Administrative Assistant  
Senate Labor & Commerce Committee

DATE : March 8, 1982

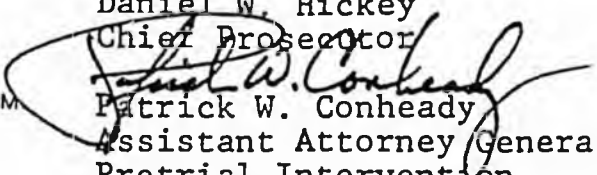
FROM: *Judy Knight*  
Judy Knight  
Special Assistant  
Department of Labor

SUBJECT: CS for SB 648 (L&C)

The Department of Labor has no comments on proposed Committee Substitute and believe that the proposed draft provides a solution to the existing problem. Thanks for the opportunity to review.

# MEMORANDUM

# State of Alaska

TO: Wilson L. Condon  
Attorney General  
and  
Daniel W. Hickey  
Chief Prosecutor  
FROM:   
Patrick W. Conheady  
Assistant Attorney General  
Pretrial Intervention  
Program Director

DATE: February 4, 1982  
FILE NO:  
TELEPHONE NO:  
SUBJECT: Liability During Performance  
of Community Work Service

A number of questions have been raised concerning the potential for liability for offenders who are placed in a community work service alternative at both the pretrial (diversion) or post trial (conviction) stages. These questions have primarily arisen as a result of a reluctance on the part of placement agencies to accept community work service referrals if there is an attendant assumption of liability on the part of the agency. Although placements made through the Department of Law's Pretrial Intervention Program (diversion) have not elicited the level of concern about liability that judicially authorized placements have, the liability issue is nonetheless of major concern in continuing an important component of the diversion program.

The liability issue is a double faceted question. First, what type of liability can potentially result, and to whom, for injuries to the offender in the course of performing community work service. Second, where does liability lie for injuries to others, or to property, for tortious conduct on the part of an offender during the performance of community work service. Resolution of these questions should facilitate implementation of the community work service alternative under AS 12.55.055.

During the last several months, I have worked with both the court system and the Division of Risk Management of the Department of Administration on these problems. I have additionally prepared and submitted legislation to ensure that offenders performing community work service are included within the coverage of the Worker's Compensation Act.

## I. Factual Basis

An offender can be required to perform community work service in one of four ways: (1) attendant to a diversion agreement between the state and the offender for a felony or

misdemeanor offense; (2) attendant to a diversion agreement between a municipality and the offender for a misdemeanor offense; (3) resulting from a sentence for a felony offense pursuant to AS 12.55.015 (a)(6) and AS 12.55.055; and (4) resulting from a sentence for a misdemeanor offense pursuant to AS 12.55.015 (a)(6) and AS 12.55.055. This department's Pretrial Intervention Program administers the former three possibilities while having only peripheral involvement with the latter one.

To be eligible for pretrial diversion, an offender must be a first offender, or if previously convicted, the prior offense must be sufficiently in the past so as to be considered stale, and the prior conviction must be of a nature that when considered conjointly with the instant offense, it does not evince a pattern of habituation to crime. The offense charged must be a property crime or a drug offense, or, in rare situations a crime of domestic violence. All other violent crimes are excluded. In post-conviction situations, eligibility is determined by the sentencing judge, relying upon the presentence report prepared by probation personnel in the Division of Corrections for felony offenders. For misdemeanants, community work service is totally within the sentencing judge's discretion with no presentence reports or recommendations. There are no eligibility guidelines for post conviction community work service referrals.

All individuals referred to the Pretrial Intervention Program for community work service are subject to an intake interview. For state diversion referrals, this interview is in-depth and also serves as a screening device; for the other referrals, the interview is in the nature of matching the offender with appropriate community work. The majority of placements are with private, non-profit corporations, although a number are with state or municipal government agencies.

After placement, the Pretrial Intervention Program requires only that the agency report back that the offender is undertaking the requisite community work service on a satisfactory basis; the Pretrial Program does not supervise or otherwise control offenders in the performance of community work.

II. Liability for Injuries to Individuals  
Performing Community Work Service  
Resulting from "Employment" Related  
Accidents.

The first issue that needs to be resolved is whether offenders placed in community work service are "employees" within the meaning of AS 23.30.265(11). If so, they are then subject to the provisions of the Worker's Compensation Act, AS 23.30. This is an issue that has not been directly resolved by Alaska's courts, although there is sufficient precedent to provide considerable guidance on the question.

The definition of employee for purposes of AS 23.30 is not sufficiently clear in determining an offender's status as an employee. AS 23.30.265 provides:

(11) "employee" means an employee employed by an employer as defined in paragraph (12);

(12) "employer" means the state or its political subdivision or a person employing one or more persons in connection with a business or industry coming within the scope of this chapter and carried on in this state.

Previous opinions of this office delineated the test for an employee. 1963 Op. of the Attorney General, No. 8. Citing both Larson, Workmen's Compensation, (1C, p. 8-1, §43 and p. 8-231, §47) and Ferrell v. Industrial Commission of Arizona, 79 Ariz. 278, 288 P.2d 492, the opinion stated the rule that a contract of hire, expressed or implied, is essential to create the status of an employee generally, and the word "hire" connotes payment of some kind. This test was likewise utilized by the Alaska Supreme Court:

The relationship of employer-employee can only be created by a contract which may be expressed or implied.

Selid Construction Co. v. Guarantee Ins. Co., 355 P.2d 389, 393 (Alaska 1960).

The existence of an employee-employer relationship is critical for unless that relationship exists between the offender and the placement agency, or the state, or both, then the exclusiveness of liability remedy provided in AS 23.30.055 is not applicable. The Supreme Court of Alaska has emphasized:

. . .the [Worker's Compensation] act's coverage extend[s] only to persons occupying the status of an employee under either an express or implied contract of hire

City of Seward v. Wisdom, 413 P.2d 931, 939 (Alaska 1966). Further support for the "contract of hire" requirement is implicit in AS 23.30.020.

The elements of the "contract of hire" concept were discussed in a subsequent opinion of this office on the issue of worker's compensation for state prisoners working voluntarily on governmental projects. 1965 Op. of the Attorney General, No. 3. After citing numerous authorities denying coverage to prisoners including a similar case before the Alaska Workmen's Compensation Board, the opinion found the lack of an employee-employer relationship when (1) there was an absence of any pecuniary remuneration for the services performed, and (2) the nature of the services performed were involuntary. In sum, for the establishment of an employee-employer relationship, a "contract of hire" encompassing (1) voluntary acts in return for (2) some type of remuneration needs to be present. See, Larson, §47 et seq.

In the instant case, remuneration can be found for both classes of offender performing community work service. For those individuals participating in the Pretrial Intervention Program where community work service is a portion of the offender's treatment plan, it can be said that the recompense realized in part for performance of community work service is the ultimate dismissal of criminal charges pending against the offender, a valuable, albeit unquantifiable, benefit. Similarly, those offenders sentenced to community work service under AS 12.55.015(a)(6) and AS 12.55.055 can be said to be receiving remuneration in the form of substituted or reduced periods of confinement. However, the absence of voluntariness in either instance precludes a conclusion that a contract of hire is present.

It is quite clear that offenders sentenced to community work service are not free to bargain and contract for their services. The apparent voluntariness present in the offender's choice to refuse to perform community work service when sentenced under AS 12.55.015(a)(6) and AS 12.55.055 is belied by the residual right of compulsion present with the sentencing authority. A refusal on the part of the

sentenced offender to perform community work service would most likely lead to the offender's incarceration, a significantly more onerous result.

Likewise, offenders in the Pretrial Intervention Program who "voluntarily" agree to perform community work service as part of an individualized treatment plan developed for them are free to negotiate the place and manner of performance of that obligation, but there is no voluntariness present with respect to what that performance will encompass and how long it will last. While participation in the Pretrial Intervention Program is clearly in the offender's best interest and entry is on a voluntary basis, the alternative to diversion, prosecution, belies a freedom for offenders to bargain and contract for their services.

Consequently, the lack of any express provision in the Alaska Worker's Compensation Act, AS 23.30, according offenders performing community work service the status of employees in conjunction with the absence of a true contract of hire between the offender and the state or a referral agency, precludes recovery for offenders performing community work service under worker's compensation. Absent coverage under the Worker's Compensation Act, an offender who is injured performing community work service must bring a common law action in tort to recover for injuries sustained.

### III. Tort Liability

A determination of potential liability for tortious conduct occurring either by or to an offender is a much more difficult question. This is due to the large number of variations as to questions of fact that may occur in any given situation. As a matter of law, fact situations can be hypothesized which give rise to liability on the part of the state, political subdivisions of the state, placement agencies and the offender. Similarly, those situations can be altered to exclude tort liability as a matter of law for any of the potentially liable parties. Consequently, the tort liability issue should be resolved in a manner consistent with the legislative intent embodied in AS 12.55.055, that is, to institute a workable community work service program in the state. To this end, two approaches have been formally proposed.

A. HB 255 and SB 285. Under this proposed legislative solution, the state would automatically assume all liability

for tortious conduct to others, or to property, by an offender sentenced to community work service. This approach, however, would only include offenders sentenced by a court under AS 12.55.055, therefore excluding a large portion of offenders performing community work service under diversion agreements. It would additionally place the total financial burden upon the state, ignoring current levels of liability coverage maintained by political subdivisions of the state and non-profit corporations which serve as placement agencies and receive the benefits of the community work service. Moreover, it would hold the state strictly liable, irrespective of the conduct of the various parties involved.

B. Assumption of Excess Liability. The second, and preferable, alternative is that embodied in John Haywood's memoranda of November 20, 1981 and January 6, 1982, copies of which are attached. The Division of Risk Management has determined that it is appropriate for the state to assume all liability for tortious conduct in excess of the liability coverage currently provided by placement agencies. For private non-profit organizations and political subdivision of the state serving as placement agencies currently providing liability coverage, there will be no change. Assumption of placement will not cause an increase in coverage, as the state assumes the excess. Similarly, for those private, non-profits not currently providing liability coverage, the state will assume any liability resulting from placements. This alternative eliminates the possibility of increased costs to placement agencies for accepting referrals while allowing those agencies to directly benefit from the community work service performed. It has the added advantage, however, of retaining the responsibility of those agencies for their interaction with and supervision of offenders performing community work service. Lastly, it eliminates any necessity for the state to underwrite the complete cost of the community work service program.

#### IV. Conclusion

The questions posed by the implementation of the community work service program are not insoluble. For tort liability, a change in policy as evidenced by Mr. Haywood's memoranda is sufficient, and is an equitable manner in which to ensure the proper functioning of the community work service program. For injuries sustained by offenders themselves,

Wilson L. Condon &  
Daniel W. Hickey

-7-

February 4, 1982

a legislative resolution is necessary. This legislation has been submitted and we are working with the appropriate committees on it.

PWC/gb

Attachments

cc: John Haywood  
Director  
Division of Risk Management  
Department of Administration

NOV 24 1981

DEPT. OF LAW  
CRIMINAL DIVISION

(MS 0218)

November 20, 1981

Mr. Arthur H. Snowden, II  
Administrative Director  
Alaska Court System  
303 "K" Street  
Anchorage, AK 99501

Dear Mr. Snowden:

Re: Liability of State for Court  
Ordered Community Work

The Division of Risk Management, Department of Administration, is responsible for the disposition of claims which arise out of State operations. In the absence of a contractual agreement, the liability of the State would be determined by the facts pertaining to an injury or damage to property of others.

The Division of Risk Management would provide insurance coverage for injury to Court ordered persons providing community work and for bodily injury or property damage liability to third parties caused by these persons while under Court order. This insurance would be primary in the absence of other valid and collectable insurance coverage. If the municipal or nonprofit organization sponsor has insurance for workers' compensation and comprehensive general liability which applies to these persons, then the State insurance will provide coverage on an excess basis only.

Between the State and the sponsoring entity, there will be adequate coverage to protect both the Court ordered participant and the public.

Any questions pertaining to this procedure should be referred to the Division of Risk Management.

-Sincerely,

John Haywood  
Director

JH/bab

cc: Pat Conbeady ✓  
Kathy Kolkhorst  
Karla Forsythe

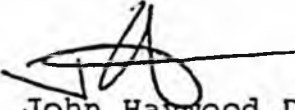
# MEMORANDUM

State of Alaska

TO: Patrick W. Conheady  
Assistant Attorney General  
Pretrial Intervention Program, FILE NO:

DATE: January 6, 1982

TELEPHONE NO:

FROM:   
John Haywood, Director  
Division of Risk Management  
Department of Administration

SUBJECT: Community Work Service

This memo is to further clarify my letter of November 20, 1981 to Arthur H. Snowden regarding liability of the State for community work service. It is the intention of the Division that the coverage provided will extend likewise to community work service arranged by the Department of Law, Criminal Division, Pretrial Intervention Program.

I trust this clarifies this matter.



COMMITTEE MINUTES FORM

This form is to be prepared and submitted to the Committee Records Staff within the next legislative day following the public hearing or committee meeting. Please submit this form completed with the following information pursuant to Rule 23 of the Uniform Rules.

Committee Name: Senate Labor and Commerce  
Members Present:

Date: 10 February, 1982

Senator Mulcahy, Chairman

Senator Fahrenkamp

Senator Zifler . . . Senator Rodey was excused from a call of the Senate;

Public hearing or committee meeting on: SB 648, SB 663, SB 700

COMMITTEE CALENDAR

<u>bill number</u>	<u>bill title</u>
SB 648	"An act relating to workers' compensation coverage for certain persons providing community work service."
<u>bill number</u>	<u>bill title</u>

WITNESS REGISTER

Witness Name: Mr. Pat Conheady , Assistant A.G.  
Affiliation: Department of Law  
Address: Juneau, Alaska  
Phone:

Summarized Position Statement: Testified in support of the bill, provided the committee with background information pertaining to the bill, and answered questions of the committee.  
PREVIOUS ACTION

Reference Number:  
Statutory Reference:  
Amendments Formally Considered:

Member Moving Adoption: Senator Fahrenkamp: Move the bill with individual recommendations;  
Action: Passed or Failed  
Voting Record: 3 do pass

ACTION NARRATIVE

Tape Recording Number 0000 Chair opens at 024 with members 3 present  
etc.  
Testimony of Mr. Conheady begins at tape reading 024 and continues through tape reading 125.

COMMITTEE MINUTES FORM

This form is to be prepared and submitted to the Committee Records Staff within the next legislative day following the public hearing or committee meeting. Please submit this form completed with the following information pursuant to Rule 23 of the Uniform Rules.

Committee Name: Senate Labor and Commerce

Date: 10 February, 1982

Members Present: Senator Mulcahy, Chairman

Senator Fahrenkamp

Senator Ziegler

Senator Rodey was excused from a call of the Senate;

Public hearing or committee meeting on: SB 648, SF 663, and SB 700;

COMMITTEE CALENDAR

SB 648 "An act relating to workers' compensation coverage for certain  
bill number bill title persons providing community work service."

\_\_\_\_\_ bill number \_\_\_\_\_ bill title \_\_\_\_\_

WITNESS REGISTER

Witness Name: Ms. Bev Koski

Affiliation: Division of Risk Management, Department of Administration

Address: State Office Building

Phone:

Summarized Position Statement: Supported the testimony of Pat Conheady and urged passage of the bill.

PREVIOUS ACTION

Reference Number:

Statutory Reference:

Amendments Formally Considered:

Member Moving Adoption: Senator Fahrenkamp: Move the bill with individual recommendations;

Action: Passed or Failed

Voting Record: 3 do pass

ACTION NARRATIVE

Tape Recording

Number 0000

Chair opens at 127 with members 3 present etc.

Ms. Koski testimony occurs at tape reading 127, and supports the testimony of Mr. Conheady ( tape log 024-125).

STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

January 11, 1982

The Honorable Jalmar Kerttula  
President of the Senate  
Alaska State Legislature  
Pouch V  
Juneau, Alaska 99811

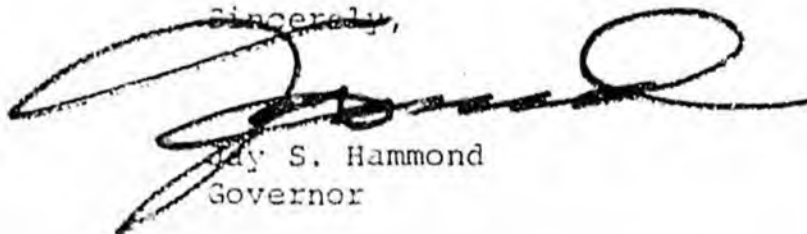
Dear Mr. President:

Under the authority of article III, section 18 of the Alaska Constitution, I am transmitting a bill to amend the definition of "employee" contained in the Workers' Compensation Act to provide workers' compensation for offenders injured during the performance of community work service.

Under the current definition of "employee" contained in the Act, an offender performing community work service resulting either from an alternative sentence under AS 12.55.015(a)(6) or from a diversion agreement with state or municipal prosecutors executed under the Department of Law's Pretrial Intervention Program is not eligible for compensation for injuries sustained during the performance of community work service. In attempting to implement the legislature's intent that the state develop alternative sentencing programs, this exclusion has proven to be a problem in that the sole remedy provision of workers' compensation is not applicable and an injured offender may recover only by means of a tort action. Pursuing a tort remedy is much less certain in terms of compensating the person for an injury, and it could result in exceedingly large judgments against a negligent party -- contrary to the purposes of workers' compensation Acts.

Additionally, the absence of a workers' compensation exclusive remedy provision is creating a reticence on the part of some organizations to accept referrals, in view of the potential liability which may result. By including offenders injured in the performance of community work service within the scope of the Workers' Compensation Act, additional costs for liability are minimal and implementation of the community work service sentencing alternative included in the revised criminal code will be facilitated.

Sincerely,



Rudy S. Hammond  
Governor

For cases construing former statute directing imprisonment on judgment for payment of fine, see Williams v. Illinois, 399 U.S. 235, 90 S. Ct. 2018, 26 L.

Ed. 2d 586 (1970); Hood v. Smedley Sup. Ct. Op. No. 800 (File No. 1406), 498 P.2d 120 (1972).

**Sec. 12.55.055. Community work.** (a) The court may order a defendant convicted of an offense to perform community work as a condition of a suspended sentence or suspended imposition of sentence, or in addition to any fine or restitution ordered. If the defendant is also sentenced to imprisonment, the court may recommend to the Department of Health and Social Services that the defendant perform community work.

(b) Community work includes work on projects designed to reduce or eliminate environmental damage, protect the public health, or improve public lands, forests, parks, roads, highways, facilities, or education. Community work may not confer a private benefit on a person except as may be incidental to the public benefit. (§ 12 ch 166 SLA 1978)

**Secs. 12.55.060 — 12.55.075.**

Repealed by § 21 ch 166 SLA 1978.

**Cross references.** — For provisions as to sentencing reports, see AS 12.55.025. As to sentences of imprisonment for felonies, see AS 12.55.125. As to sentences of imprisonment for misdemeanors, see AS 12.55.135.

**Editor's note.** — The repealed sections derived from §§ 8.06, 8.07, ch. 34, SLA 1962; § 1, ch. 6, SLA 1966; § 1, ch. 60, SLA 1974.

**Sec. 12.55.080. Suspension of sentence and probation.** Upon entering a judgment of conviction of a crime, or at any time within 60 days from the date of entry of that judgment of conviction, a court, when satisfied that the ends of justice and the best interest of the public as well as the defendant will be served thereby, may suspend the imposition or execution or balance of the sentence or a portion thereof, and place the defendant on probation for a period and upon the terms and conditions as the court considers best. (§ 8.08 ch 34 SLA 1962; am. § 24 ch 43 SLA 1964; am § 8 ch 68 SLA 1965)

**Cross references.** — See Cr. R. 35 (k). For additional circumstances where a defendant's sentence may be modified, see AS 12.55.088.

The power to suspend sentence is not inherent in the judicial branch of government. *Pete v State*, Sup. Ct. Op. No. 137 (File No. 290), 379 P.2d 625 (1963).

Such power must be conferred by the legislature. — The power to suspend sentences exists only when conferred upon the judiciary by the legislature. *Pete v. State*, Sup. Ct. Op. No. 137 (File No. 290), 379 P.2d 625 (1963).

Parallels 18 U.S.C. § 3651. — Alaska's probation statutes, this section, AS 12.55.090 and AS 12.55.100 closely parallel the federal statute, 18 U.S.C. § 3651, which empowers federal district courts to grant probation. *Brown v. State*, Sup. Ct. Op. No. 1367 (File No. 2890), 559 P.2d 107 (1977).

This section and AS 12.55.090 appear to have been modeled after the federal statute, 18 U.S.C. § 3651. *Tiedeman v. State*, Sup. Ct. Op. No. 1592 (File No. 3394), 576 P.2d 114 (1978).

The Alaska probation statutes, this section, AS 12.55.090 and 12.55.100, use

much of the same language as 18 U.S.C. § 3651, and were apparently modeled after the federal law. *Gonzalez v. State*, Sup. Ct. Op. No. 2040 (File No. 1980).

This section and AS 12.55.085(a) are construed in pari materia together in § 1, ch. 19 of Title 17. See also AS 12.55.085(a) construed with reference to AS 12.55.085(b) in pari materia. *Jackson v. State*, Sup. Ct. Op. No. 1194 (File No. 1975).

This section and AS 12.55.085(a) apply to Chapters 10 and 11 of Title 17. — The provisions of this section govern the imposition of sentence applicable to violations of AS 12.55.085(a) No. 889 (File No. 1973); *Call v. State*, Sup. Ct. Op. No. 1844, 511 P.2d 130 (1973).

The two-year minimum requirement of AS 12.55.085(a) has thus been implicit in Alaska law contrary to more recent legislative intent. See *Speas v. State*, Sup. Ct. Op. No. 889 (File No. 1973); *Call v. State*, Sup. Ct. Op. No. 1844, 511 P.2d 130 (1973).

This section and AS 12.55.085(a) both the mandatory minimum provision of AS 17.10.200 where specific provisions are made" language of AS 17.10.200. *State, Sup. Ct. Op. No. 8511 P.2d 130 (1973).*

The mandatory requirement of AS 17.10.200 have been suspended imposition of sentence or parole. *White v. State*, Sup. Ct. Op. No. 1055 (File No. 1907), 52 P.2d 130 (1973).

State law prohibits the enactment of an ordinance which would conflict with the mandatory minimum sentence provisions of AS 12.55.085(a). *Kodiak v. Jackson*, Sup. Ct. Op. No. 3480, 584 P.2d 130 (1973).

Mandatory minimum sentence provisions by city ordinances are in conflict with state law. *Municipality of Anchorage v. State*, Sup. Ct. Op. No. 1793 (File No. 390), 511 P.2d 130 (1973).

The mandatory sentencing provisions providing for a mandatory minimum sentence on conviction of a police officer were irreconcilable with the mandatory minimum sentence provisions of AS 12.55.085(a).

(5) "grandchild" means a child as defined in (4) of this section of a child as defined in (4) of this section;

(6) "brother" and "sister" include stepbrothers and stepsisters, half brothers and half sisters, and brothers and sisters by adoption, but do not include married brothers and married sisters unless wholly dependent on the employee;

(7) "child," "grandchild," "brother," and "sister," include only persons who are under 19 years of age, persons who, though 19 years of age or over, are wholly dependent upon the deceased employee and incapable of self-support by reason of mental or physical disability, and persons of any age while they are attending the first four years of vocational school, trade school, or college, and persons of any age while they are attending high school;

(8) "compensation" means the money allowance payable to an employee or his dependents as provided for in AS 23.30.005 — 23.30.270, and includes the funeral benefits provided for in AS 23.30.005 — 23.30.270;

(9) "death" as a basis for a right to compensation means only death resulting from an injury;

(10) "disability" means incapacity because of injury to earn the wages which the employee was receiving at the time of injury in the same or any other employment;

(11) "employee" means an employee employed by an employer as defined in paragraph (12);

(12) "employer" means the state or its political subdivision or a person employing one or more persons in connection with a business or industry coming within the scope of AS 23.30.005 — 23.30.270 and carried on in this state;

(13) "injury" means accidental injury or death arising out of and in the course of employment, and an occupational disease or infection which arises naturally out of the employment or which naturally or unavoidably results from an accidental injury, and includes breakage or damage to eyeglasses, hearing aids, dentures, or any prosthetic devices which function as part of the body and further includes an injury caused by the wilful act of a third person directed against an employee because of his employment;

(14) "insurance commissioner" refers to the person who heads the insurance division or section of the Department of Commerce and is charged with the administration of the state insurance laws;

(15) "married" includes a person who is divorced but is required by the decree of divorce to contribute to the support of his former spouse;

(16) "medical and related benefits" includes but is not limited to physicians' fees, nurses' charges, hospital services, hospital supplies, medicine and prosthetic devices, physical rehabilitation, and treatment for the fitting and training for use of such devices as may reasonably be required which arises out of or is necessitated by an

FISCAL NOTE

I. REQUEST

Bill/Resolution No. Senate Bill No.  
 Title "An Act relating to Workers' Compensation coverage . . ."  
 Requested by Rules Committee Date 1/8/82

II. FISCAL DETAIL

Agency Affected Labor  
 Program Category Affected Public Protection  
 BRU, Program, Or Subprogram(s) Affected Workers' Compensation  
 (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 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
<b>TOTAL</b>	0	0	0	0	0	0

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME	0	0	0	0	0	0
PART TIME						
TEMPORARY						

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

IV. DATE January 8, 1982

PREPARED BY Judy Knight  
 AGENCY Labor

Original: Legislative Finance PHONE 465-2700  
 cc: Budget and Management  
 Prime Sponsor (First Legislator Named)

S B

6 5 2



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

January 11, 1972

The Honorable Jalmar Kerttula  
President of the Senate  
Alaska State Legislature  
Pouch V  
Juneau, Alaska 99811

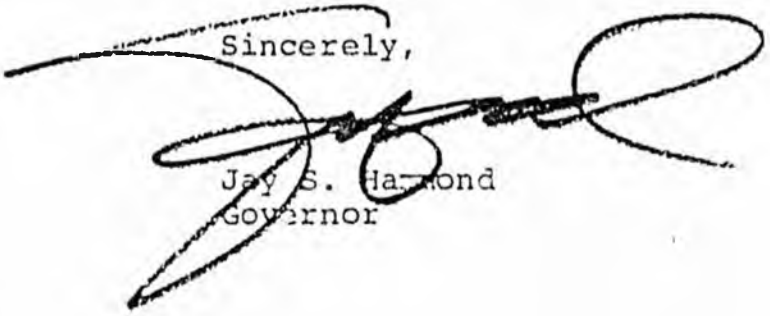
Dear Mr. President:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to preservation of the confidentiality of trade secrets and other proprietary information submitted to the Department of Environmental Conservation. The bill improves access by the department to confidential information by assuring the person supplying the information that confidentiality would be preserved. This is especially important to effectively regulate air and water quality and solid waste discharges.

The bill is very similar to the provisions of SB 90 and HB 7 which are currently in the Senate Rules and House Judiciary committees, respectively. The provisions of AS 46.03-.865(a), (b), (c) and (e) in sec. 1 of the bill are nearly identical to the provisions of AS 40.25.015(e)(11), (f), (g), and (h), respectively, which would be enacted by SB 90.

The primary differences between this bill and SB 90 are that this bill (1) deals only with trade secret information submitted to the Department of Environmental Conservation; (2) includes trade secrets voluntarily submitted to the department; (3) requires a written request of confidentiality; (4) allows release of the confidential information sooner than 20 years after submittal, upon authorization of the person supplying the information; and (5) requires the department to provide a general description of all information which it is keeping confidential.

Sincerely,



Jay S. Hammond  
Governor

## Part 4. Administrative Procedure.

### Chapter

62. Administrative Procedure Act (§§ 44.62.010 — 44.62.650)

### Chapter 62. Administrative Procedure Act.

#### Article

1. Application and Effect (§§ 44.62.010 — 44.62.030)
2. Submission, Filing and Publication of Regulations (§§ 44.62.040 — 44.62.125)
3. The Alaska Administrative Register and Code (§§ 44.62.130 — 44.62.170)
4. Procedure for Adopting Regulations (§§ 44.62.180 — 44.62.290)
5. Judicial Review (§ 44.62.300)
6. Agency Meetings Public (§§ 44.62.310 — 44.62.312)
7. Legislative Review of Rules (§ 44.62.320)
8. Administrative Adjudication (§§ 44.62.330 — 44.62.630)
9. General Provisions (§§ 44.62.640 — 44.62.650)

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Revisor's note. — In this chapter the 1970 Alaska constitutional "secretary of state" has been changed to amendment (SJR 2) changing the "lieutenant governor" in conformity with designation of that office.

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Establishment of quotas by the Board of Game on the taking of game must be in accordance with this chapter. *State v. Tanana Valley Sportsmen's Ass'n*, Sup. Ct. Op. No. 1716 (File No. 3433), 583 P.2d 854 (1978).

As must be regulations promulgated under AS 16.05.257. — See *State v. Tanana Valley Sportsmen's Ass'n*, Sup. Ct. Op. No. 1716 (File No. 3433), 583 P.2d 854 (1978).

While AS 16.05.257, which authorizes the Board of Game to adopt regulations providing for subsistence hunting, does not specifically refer to this chapter, it appears clear that it merely sets forth an additional purpose for which regulations may be promulgated. *State v. Tanana Valley Sportsmen's Ass'n*, Sup. Ct. Op. No. 1716 (File No. 3433), 583 P.2d 854 (1978).

Issuance of permits for killing of caribou based on verbal instructions

to agents held improper. — The issuance of permits for the killing of caribou in certain specified areas of the state based on verbal instructions to the permit agents as to the need of individual applicants does not conform to requirements of this chapter. *State v. Tanana Valley Sportsmen's Ass'n*, Sup. Ct. Op. No. 1716 (File No. 3433), 583 P.2d 854 (1978).

Nothing in this chapter authorizes the Board of Game to impose requirements not contained in written regulations by means of oral instructions to agents. Such verbal additions to regulations involving requirements of substance are unauthorized and unenforceable. *State v. Tanana Valley Sportsmen's Ass'n*, Sup. Ct. Op. No. 1716 (File No. 3433), 583 P.2d 854 (1978).

Cited in *Hammond v. Hickel*, Sup. Ct. Order (File Nos. 4281, 4282, 4283, 4284, 4285, 4291), 588 P.2d 256 (1978).

#### Article 1. Application and Effect.

##### Section

10. Application to State Organization Act of 1959
20. Authority to adopt, administer, or enforce regulations

##### Section

30. Consistency between regulation and statute

# Alaska Statutes

## Title 46. Water, Air and Environmental Conservation.

### Chapter

- 03. Environmental Conservation (§§ 46.03.010 — 46.03.900)
- 05. Water Pollution Control Act (Repealed)
- 07. Village Safe Water Act (§§ 46.07.010 — 46.07.080)
- 10. Pollution as Nuisance (Repealed)
- 15. Water Use Act (§§ 46.15.010 — 46.15.270)
- 25. Alaska State Commission of Oceanography (Repealed)
- 26. Commission for Ocean Advancement Through Science and Technology (Repealed)
- 30. Certification of Operators (§§ 46.30.010 — 46.30.130)
- 35. Environmental Procedures Coordination (§§ 46.35.010 — 46.35.210)
- 40. The Alaska Coastal Management Program (§§ 46.40.010 — 46.40.210)

### Chapter 03. Environmental Conservation.

#### Article

- 1. Declaration of Policy (§ 46.03.010)
- 2. Department of Environmental Conservation (§§ 46.03.020 — 46.03.040)
- 3. Water Pollution Control (§§ 46.03.050 — 46.03.130)
- 4. Air Pollution Control (§§ 46.03.140 — 46.03.240)
- 5. Radiation Protection (§§ 46.03.250 — 46.03.310)
- 6. Pesticide Control (§§ 46.03.320 — 46.03.330)
- 7. Prohibited Acts and Penalties (§§ 46.03.710 — 46.03.850)
- 8. General Provisions (§§ 46.03.860 — 46.03.900)

Editor's note. — Section 5, ch. 120, SLA 1971, provides: "All litigation, hearings, investigations and other proceedings pending under any law amended or functions which may be transferred by this Act, continue in effect and may be continued and completed notwithstanding any such transfer or amendment provided for in this Act. Certificates, orders, rules or regulations issued or filed under authority of a law amended by this Act or functions which may be transferred by this Act,

remain in effect for the term issued, unless or until revoked, vacated, or otherwise modified under the provisions of this Act. All contracts or other obligations created by any law amended by this Act or by virtue of functions which may be transferred by this Act, and in effect on July 1, 1971, remain in effect unless or until revoked, or modified under the provisions of this Act."

Legislative committee report. — For report on ch. 120, SLA 1971 (SB 75 am H), see 1971 House Journal, p. 1016.

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. proposed (Dept. of Law File #J-77-046-82)  
Title "An Act relating to confidentiality of trade secrets supplied to DEC."  
Requested by the Dept. of Environmental Conservation Date 1/6/82

II. FISCAL DETAIL

Agency Affected there is potential for a 1 State agencies to be affected  
Program Category Affected see above  
BRU, Program, Or Subprogram(s) Affected see above  
(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 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES	-0-	-0-	-0-			
200 TRAVEL	-0-	-0-	-0-			
300 CONTRACTUAL	-0-	-0-	-0-			
400 COMMODITIES	-0-	-0-	-0-			
500 EQUIPMENT	-0-	-0-	-0-			
600 LAND & STRUCTURES	-0-	-0-	-0-			
700 GRANTS, CLAIMS, ETC.	-0-	-0-	-0-			
TOTAL	-0-	-0-	-0-			

FUNDING (Thousands of Dollars)

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

POSITIONS

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

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section II)

IV. DATE January 5, 1982 PREPARED BY Lynn H. Suksdorf  
AGENCY Dept. Environmental Conservation  
Original: Legislative Finance PHONE 465-2640  
cc: Budget and Management  
Prime Sponsor (First Legislator Named)  
33-001 (Rev. 12/81)

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COMMITTEE REPORT

SENATE

FURTHER: Finance

1/18/82

Date: 1 March 82

Mr. President:

The Committee on LABOR & COMMERCE has had SB 665

making a supplemental appropriation to the Department of Commerce and Economic Development for the low income weatherization program

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

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

MEMBERS SIGNING  
DO PASS

MEMBERS HAVING  
OTHER RECOMMENDATIONS:

\_\_\_\_\_

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CHAIRMAN

## TESTIMONY ON SENATE BILL 665

"Energy is the only real wealth in the new order. But, like all wealth it is finite. It must be the lemming in us that makes production with a capital "P" so much more attractive than conservation. To waste our knowledge and technology of totally renewable resources on a glut of stagnant, oozing ferment limited by the amount of decayable material that was obliterated by mother nature 30 million years ago seems the height of folly. When will we stop?"

Buckminster Fuller  
"Critical Path"

My name is Robert Robadeau and I am a member of the City Council of Unalakleet as well as the Chairman of the Energy Planning Board which is the first attempt in our village to unify the I.R.A. Council, the Native Corporation and City Government in a common goal. Traditionally a Native village is a single living organism; a bond of community with a single purpose. To survive, perhaps when possible, with a degree of comfort. But comfort is a matter of comparison. To you comfort may be crisp, clean sheets each night; a steak not too well done; or no lines at the local gas pump. To us in Northwestern Alaska it is shelter, warmth, food and survival.

The differences in our perceptions of comfort is what I have come to talk to you about today.

Martha Nanouk is 77. She is mother to 14, grandmother to 43, great grandmother to 31. Martha has no income. The checks which keep her home heated, her stomach full, her many generations of children in spending money is not income. She has been told it is the privilege of the government to give her money for her long service, her many years of being a part of Unalakleet. Because she has no income, she qualifies for no loans. Martha is too used to giving to know the rules about asking. But before I came down here she asked me if I would ask you to fix her house. Although her house is not an old one it has withstood the east wind and our winters for one too many years with open cracks in the door jams that makes shoveling out the kitchen after a snow storm a matter of course. She has stuffed moss in the bigger holes but the hollow core door lets the cold through anyway. Her walls have all the insulation the designer thought necessary when the house was designed for suburban Arizona. Martha receives help from some agency, she is not sure of which one; to pay her electric bill so the few dollars she could set aside for repairs to cut the

high fuel bills would not be put back in her pocket, are spent paying a great grandchild to shovel out her kitchen.

Once you break a ridge pole in a log cabin it begins to resemble a large snow drift very quickly. Andrew Bang's home broke its ridge pole 17 years ago when his cabin was hooked to a bulldozer and dragged back away from the crumbling bank that threatened to deposit his home in the river mouth. Andrew is 83. His parents came to Alaska to herd the reindeer and he has lived his life on Norton Sound. Andrew has stretched waxed paper on his windows, the Nome Nugget is chinked into his walls, he uses a wood stove for heat, but he must keep an oil burner on, for days he can't chop wood and haul it from the beach. He pays half again as much for his fuel oil as you. Andrew receives \$250 per month, this is the money he has to stay alive and maintain his degree of comfort.

Energy is our life blood, and energy is expensive. When I talk to Martha and Andrew I tell them that the State of Alaska is very interested in helping to relieve the heavy burden of costs. I tell them that a billion dollars is as many greenbacks as the sand on the beach and that is what our state will spend next year on the energy problem. I haven't told them that 95% of that will only help the people living in the cities of the Great Land. I would feel embarrassed.

"But can you fix our house?" they asked me; and I am here to ask you.

I want to go back and tell them yes. With the additional handicap of including our prohibitive freight costs in the total grant leaves only slightly more than half of the money left over for materials. Why should we who have the greatest need because of our poor housing, high energy costs, and more severe climate be given only half the help of residents who reside in urban areas?

We need weatherization. We are an independent breed of folks in Unalakleet. We would like the means to become self sufficient once again. We do not want huge subsidies that hide the cost of energy. We do not want huge projects along the lines of the pyramids or the Hoover Dam. We want the ability to lessen our need, our dependence. Conservation!

Our local Energy Planning Board wants to be able to formulate a comprehensive, long range energy blueprint for our village. As reapportionment rears its ugly head we are not naive enough to demand new programs, new legislation. All we are asking is that you allow us to use the existing programs under the intent of the law. In our village we hope to establish a model energy plan to lead the way of other villages in our area. But we need the weatherization.

project to help us inventory our need. Even the \$1,500 before freight is nowhere near what 70% of our homes need now to meet our new building codes for a weather efficient house. But, it is a start. If I can go back to all of the Marthas and Andrews and tell them that next winter their fuel needs will drop by 20% I will feel that a start has been made.

Ideally, I hope that you will do all in your power to help us make use of the conservation audit program, the weatherization program, and the findings of the village energy Reconnaissance Program. If these three similar projects could be brought under the administration of one agency, coordinated by a village planning board the, immediate benefits would be twofold. First, each home would be eligible for a \$300 grant and the \$5,000 loan program as benefits of the audit, and the \$1,500 material fees in order to approach minimum weatherization standards. Secondly, the real wealth of all three of these programs is not in the money provided to each home, but more importantly a total energy use inventory of each housing unit would provide the data needed for our comprehensive plan. Without the data base cost effective programs would be as impossible to design for rural Alaska as they are now. Conservation is part of the Eskimo culture traditionally regulated by the harsh environment. Give us the means to use conservation rather than subsidies to approach our degree of comfort. The old adage about giving a man a fish and he eats once, but teaching him to fish feeds him for life seems to have more meaning to me these days. With our energy needs your subsidy programs taught us to eat too much without teaching us the brutal facts of overconsumption. Soon we will be left with huge needs and no subsidies. Let us learn again how to conserve. I urge you to pass Senate Bill 665 immediately. It is just a step towards our energy independence.

Thank you.

My name is George Olanna from Nome, originally from Shishmaref about 125 miles north of Nome. I am working for Kawerak, Inc., non-profit organization of Bering Strait Regional Corporation. I am a Certified Teacher and work as ABE teacher for Kawerak.

I am in support of SB 665, providing that rural villages get their share. Our region is cold, lot colder than southern part of our state. There are lots of homes right now in the villages that need up-grading. We needed this program long time ago. We had weatherization program in Shishmaref about 4-5 years ago. The problem was that most of the homes did not get help. It was not enough.

The money that is approved for the villages is, in most case, not enough due to high cost of transportation.

We also need to train our people to do home audits. We live in these homes and know what is needed. The problem with home audit programs is that individuals who are eligible for \$300 grants can receive \$300 to improve their homes. But what is \$300 in the villages? What can we get with \$300? Not much. The value of \$300 is like a penny. We can qualify for home improvement loans up to \$5,000 after the home audits are done. But who can afford to borrow money when there is no employment in the villages?

The cost of fuel is very high in the villages. In Shishmaref during the winter months, a drum of stove oil will last one week, in most of the homes. We need to repair these homes to offset the cost of fuel and electricity. Without weatherization programs for low-income families, it is impossible to obtain the material we need.

At this time I like to read a letter of support from Norton Sound Health Corporation Board of Directors, signed by Clinton Gray, Executive Director, for Charles Soxie, Chairman of the Board.

Thank you for giving me this time.



# NORTON SOUND HEALTH CORPORATION

P.O. BOX 966  
NOME, ALASKA 99762  
(907) 443-5411

February 22, 1982

To Whom It May Concern:

The Board of Directors of Norton Sound Health Corporation convey their support for Senate Bill 665 relating to the weatherization program for low-income households.

Further, the Board supports this program for all rural Alaskan communities. The Norton Sound Health Corporation views the weatherization program as a vital element in safeguarding the health and well-being of rural Alaskans.

Sincerely,

Charles F. Soxie  
Chairman, Board of Directors

My name is Frank Fox. I work for Nunam Kitlusisti as Energy Planner for Bethel area. The villages I work with are from Tuluksak to Eek down river from Bethel including Tuntutuliak. All are within 50 miles radius from Bethel.

The villages I work with have had problems in the past about winterization. When we make orders from Seattle from the villages, our orders arrive in mid-part of August just enough time to do some work in some homes.

Sometimes the supply doesn't arrive all in one package. When this happens the cost of transportation goes up to fly them to villages from Bethel.

Last year, cost of building material by barge was \$5.44 per 100 lbs. for lumber and \$9.35 per 100 lbs. for insulation. The cost would go up about 10% this summer.

I am in support of SB 665, providing that rural villages get their share. With the high cost of heating fuel, this program is badly needed in out area. Thank you. I am looking forward for your help and you will help!

Testimony of the Rural Alaska Community Action Program, Inc. on  
Senate Bill 665

RurAL CAP appreciates the opportunity to comment on SB 665, the supplemental appropriation to the low income weatherization program, and we strongly recommend speedy approval of the \$1.5 million appropriation. Fast action is necessary to ensure that remote rural communities are able to participate on an equal footing. The level of federal funding that Alaska receives for this program has been cut back substantially, and the arrival of the diminished federal dollars has been delayed until approximately April 1. Consequently, barge deadlines for rural areas may be missed. As a result, the State will be spending nearly all of the money in urban and roadaccessible areas. Expedited approval of SB 665 would help to offset the large reduction in this year's federal grant and help ensure that rural communities facing the highest energy costs of all are served by this vitally needed program.

The need for weatherization for lowincome families exists throughout the state, but nowhere is that need more critical than in rural Alaska. There, energy costs range from \$1.50 to over \$3.00 per gallon for heating fuel. The climate of Western, Interior and Northern Alaska is significantly more severe than that of the rest of the state. The result is that some families are forced to pay from \$1,000 to \$4,000 to heat homes that are smaller than some urban garages. Per capita incomes in certain rural areas, sometimes less

than onethird of the levels in Anchorage, Juneau and Fairbanks, often end up being halfspent on energy and transportation costs. The lack of year round surface transportation causes problems in maintaining a secure year round fuel supply. Cutbacks in federal money for new housing mean that insulating existing houses properly is even more important.

Every gallon of fuel saved under this program in rural areas has a very high payoff to people with very low incomes. RurAL CAP's preliminary study of energy savings under the federally funded weatherization program based on our 1978 and 1979 Nome project show actual energy savings of over 14% for most households, or an average of \$200 per household per year in 1980.

Because our study assumptions were very conservative, those savings are likely to be even higher. Unlike many programs which aid low-income persons, this program offers people a chance to reduce their reliance on welfare by reducing the money they spend on energy.

Small wonder, then, that the Northwest Alaska's Mayors Conference and the state's Weatherization Policy Advisory Committee have called for speedy passage of SB 665.

Why is a supplemental appropriation for lowincome weatherization necessary? Repeated delays in the delivery of the federal grant mean that there would be problems in meeting deadlines for rural areas. A large reduction in the amount of the federal grant means that there is little money

to meet a large need. The state has therefore decided to spend an unusually large share of the grant in urban areas and on the road system, where houses can be weatherized more quickly and more cheaply.

The result is that areas with very great need for low-income weatherization will be left out for yet another year. Omitted are areas like the Calista region, which has one of the lowest per capita incomes in the state and among the lowest number of homes weatherized. Also omitted are the Aleutians, where the high cost of travel and restrictive federal administrative cost regulations mean that weatherization is extremely difficult. Northwest Alaska, with an especially harsh climate and high energy costs, is omitted because certain communities have had 11% of the houses weatherized under the program. Other communities in the same region have never received weatherization services. Speedy passage of the supplemental appropriation will enable deserving people in these areas to receive weatherization.

We call on the Legislature to express its intent that these supplemental funds be geographically distributed in the proportion that federal weatherization monies have historically been distributed -- approximately 75% to rural areas; and 25% to urban areas. This distribution reflects the higher costs, more severe climate, and lower incomes of Alaska's rural areas. This 75/25 split would restore the program's historic distribution before it was disrupted by delays in this year's federal grant.

Barge deadlines imposed by outside shipping companies and

the mechanics of the bureaucracy do require speedy action by the legislature. Because the state's fiscal year ends right in the middle of the construction season, it is necessary to make sure the appropriation will not lapse until the end of fiscal 1983 (June 30, 1983).

In addition to expanding the list of areas served, the supplemental will also enable more people to save more energy and money in those areas which are to be served by the federal program. Part of the supplemental should be used to offset the reductions in the number of people served in a given area caused by the reduction in the federal grant. All of the supplement should be used to bring flexibility to the rigid federal regulations which don't reflect Alaska's special circumstances. The federal regulations need more flexibility in three areas:

1. The current limit of \$1,008 worth of materials (including freight) per house should be increased to \$1,500 of materials before freight (F.O.B. Anchorage or Seattle). The \$1,008 limit has not been increased since the program began in 1975. Since then, inflation has cut the purchasing power of that \$1,008 in half. The limit is so low that major cost savers like wall insulation often cannot be done.

The inclusion of freight in materials cost is not a problem in the lower 48, where nearly everyplace has cheap surface transportation. But in Alaska, to include freight in the materials costs unfairly discriminates against the areas of highest need by reducing the amount of energy savings materials that are allowed. A more reasonable limit of \$1,500 before freight, would treat all areas of the state fairly

and ensure that necessary energy saving improvements will be made. Since homes done with federal money will otherwise be bound by the federal limit of \$1,008, we recommend that the Legislature allow some of the supplemental funds to be used to increase that limit to \$1,500 before freight.

2. The categorical restrictions on types of materials expenditures also need more flexibility. For example, many houses are in very bad repair, but the \$250 limit on general repairs often means that important energy-related improvements cannot be made. Leaky roofs or rotten windows allow moisture to destroy the value of insulation. Sealing air leaks in the house may require big improvements, such as pieces of new siding or new stove pipes. \$250 for repairs does not go far in rural Alaska.

3. The third major need is for flexibility in setting and applying the low-income guidelines for Alaska. Though the federal regulations allow Alaska's cutoff to be higher, there is no allowance for regional variations within Alaska. We would endorse a formula which adjusts weatherization income guidelines for the higher cost of living in various areas of the state.

In conclusion, the low income weatherization program is successful; it is needed. Without SB 665, it will not reach the areas of greatest need and it will not serve the areas it will reach as well as it could. We call on the Legislature and Governor to approve SB 665 as soon as possible.

## THE NEED FOR WEATHERIZATION IN RURAL ALASKA

### As Found in Alaska Power Authority Village Energy Reconnaissance Studies

NORTEC: Grayling, Scammon Bay, Goodnews Bay, Togiak

"The actual oil consumption in this area ('The Western Alaskan region where degree days vary from 12,000 to 14,000 days per year'.) is approximately 40-50% greater than required for a well-insulated home...Energy conservation offers the best opportunity in the villages for reduction of oil consumption and energy costs... These (energy conservation) technologies have the highest reliability, the greatest availability, and are most appropriate for the area involved."

Roy Barkwell: \* Savoonga

"...Conservation of residential heating fuel has definite merit... The author's judgment from past experience and the site visit is that approximately 30% of this heat could be conserved through upgrading of building envelope by weatherstripping, added insulation, etc....The primary advantage of this technology is inherent in its low capital cost requirements and lack of complex maintenance and operations procedures."

Marks Engineering: Tanana

Conclusions: "Heating requirements ... can be greatly reduced if the structures are upgraded with energy saving improvements."

Recommendations: "Community residents should be encouraged to weatherize...."

CH<sub>2</sub>M Hill: Ahkiok, King Cove, Larsen Bay, Old Harbor, Ouzinkie,  
Sand Point

Recommendations for all villages: Feasibility studies of heat energy conservation ( i.e. weatherization).

(This recommendation for a feasibility study of weatherization reflects the cumbersome way the reconnaissance process works in Rural Alaska when consultants apply it literally without taking

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\* Master's Thesis based on work done for Fryer: Pressler: Elliott reconnaissance of Savoonga.

into account the special circumstances in rural areas. At least one other consultant, NORTEC, has said no feasibility study is necessary for weatherization, since we already know that it works and is greatly needed.)

Retherford Associates: Buckland, Koyokuk, Russian Mission, Sheldon Point, Chuathbaluk, Crooked Creek, Nikolai, Red Devil, Sleetmute, Stony River, Takotna, Telida, Hughes

"It cannot be overemphasized that if villages wish to stabilize and hopefully reduce the local cost of energy, immediate short-term conservation measures must be implemented. These conservation measures . . . can reduce current non-transportation fuel use on the order of 15 percent over the 20 year period of this study."

(It is ironic to note that this study simply assumed that energy conservation would be done and did not include this important energy strategy in the list of options studied.)

Wind Systems Engineering: Shungnak, Kiana, Ambler

Recommendations in all three villages: An "integrated" approach to conservation and weatherization:

"Increasing end use (energy) efficiency is as important as increasing (energy) conversion efficiency. This approach looks at energy as both electrical and thermal and takes advantage of reduced electric consumption associated with a well-insulated thermally tight building. Community facilities which are consolidated and built with energy efficient appliances, load management, and a well insulated shell make excellent sense from an integrated energy standpoint."

Frver: Presslev: Elliott: Elim, Savoonga, Kaltag, White Mountain

Recommendations for all four villages: To bring in an auditor/energy specialist to help the villages participate in existing federal and state weatherization programs. (The consultants did not check whether those programs have enough money to meet weatherization needs of rural households.)

MINUTES OF THE LOW-INCOME WEATHERIZATION  
POLICY ADVISORY COMMITTEE MEETING OF  
FEBRUARY 10, 1982

The meeting was called to order at 1:15 p.m.

Members Present: Tom Hunter, Doug Elliott, Patrick Durkin,  
Budd Goodyear, Shirley Yocum, Earl Finkler  
for Johnny Adams, Jan Sarice for Eric  
Sutcliffe

Members Absent: Vera Gazaway, Ted Wellman

State Personnel Present: Mike Carr, George Skladal

Guests Present: Vince Holton, Bob Lohr

The meeting was called to order by Mike Carr, the acting  
Chairman, and the introduction of the new members and  
representatives was completed. Also, it was announced that Fred  
Janvrin, from the University of Anchorage Alaska, has resigned  
from the Policy Advisory Committee (PAC).

George Skladal made an opening statement for the Department of  
Energy and Power Development (DEPD) thanking the PAC members for  
their participation and asking for their continued support.

The minutes of the January 8, 1982 PAC meeting were read and  
approved as a matter of record. Moved by Doug Elliott, 2nd by  
Tom Hunter, vote unanimous.

OLD BUSINESS

Election of a Chair person:

The necessity of choosing a chairperson was discussed.  
Since no member would volunteer to serve as chair person,  
Mike Carr was asked to serve as temporary chairman until the  
members of the PAC would be able to choose a member for the  
position.

State Plan Funding Allocation:

Mike Carr presented the States' substitute Funding  
Allocation Plan in response to the PAC's suggestions from  
the January 8, 1982 meeting. Bob Lohr voiced Rural CAP's  
support of the substitute plan and withdrew the plan  
suggested by Rural CAP earlier in the week. After much  
discussion and debate, and the consideration of amendments  
made and withdrawn, the State's substitute Funding  
Allocation Plan was approved by a vote of 6 in favor and 1  
opposed. Motion for approval was made by Doug Elliott and  
seconded by Earl Finkler.

Final Approval of the State Plan:

A motion to approve the State Plan as amended was made by Tom Hunter and seconded by Pat Durkin. The motion passed by a vote of 6 in favor and 1 opposed.

NEW BUSINESS

Senate Bill 665:

The PAC discussed the need for additional funding to supplement the federal support for the Weatherization Program. Discussion centered on the legislation introduced by Senator Ferguson and how it could be used to augment the program. It was decided that the PAC would send a resolution in support of SB 655 to the Governor and each member of the State House and Senate. The following resolution was moved for adoption by Earl Finkler and seconded by Budd Goodyear. The motion was passed by unanimous consent.

It is resolved that the Weatherization Policy Advisory Committee supports the appropriation of \$1,500,000, as provided by Senate Bill 655, to supplement funding for the existing federal Low-Income Weatherization Assistance Program; and it is further resolved that the funding be authorized for utilization to meet the unique needs of Alaskans, and not be bound by federal limitations which are unduly restrictive as applied to Alaska.

Governors' Request for '83 Funding:

The PAC discussed the Governor's Capitol Improvements budget and the \$5,000,000, allocated for low-income weatherization under the Residential Energy Conservation Program. The PAC decided that a second resolution should be sent to the Governor and each member of the State House and Senate in support of this allocation of funds. The following resolution was made for adoption by Pat Durkin and seconded by Doug Elliott. The motion was passed by unanimous consent.

Whereas, there is a great unmet need for Low-Income Weatherization Assistance in the State of Alaska, and;

Whereas, Federal funds for this purpose have been significantly reduced and elimination of the federal funding is likely in 1983;

Therefore, be it resolved, that the Weatherization Policy Advisory Committee supports the Governor's request for creation of a state funded Low-Income Weatherization Assistance Program, and also, supports the appropriation of \$5,000,000, to fund this program through fiscal year 1983.

Future Meetings:

It was decided that no date be set for the next meeting of

the PAC until such time as funds are appropriated by the State or until an unexpected situation demands the participation of the PAC.

PAC Chairman:

Budd Goodyear volunteered to serve as Chairman of the PAC for the remainder of the year. He will appoint someone to record the minutes of the meeting.

The meeting was adjourned at 3:50 p.m.

RESOLUTION

ENTITLED: URGING SUPPORT FOR SENATE BILL 665 TO PROVIDE FOR A COMPREHENSIVE WEATHERIZATION PROGRAM FOR LOW INCOME ALASKANS

WHEREAS, Energy costs of \$3.00 per gallon for fuel oil is not uncommon in rural communities, and

WHEREAS, low income Alaskans are unable to bear these high energy costs, and

WHEREAS, federal programs that have traditionally subsidized the payment of low income people's housing energy bills are being dramatically cut and may be entirely phased out, and

WHEREAS, weatherization properly applied to low income households in rural Alaska to meet Alaskan climatic conditions with produce energy savings for the life of the home rather than subsidize bills on a one time basis, and

WHEREAS, the federally funded low income weatherization program has been cut and that limited funding for fiscal year 1982 will not be available in time to meet barge deadlines for work in rural areas this summer, and

WHEREAS, a special appropriation called for in Senate Bill 665, if passed in a timely manner would insure that funding would be available in time to meet rural barge deadlines, and

WHEREAS, local and regional non-profit contractors would be used, and local hire would be used exclusively in the installation of weatherization materials in local communities, now therefore be it

RESOLVED, THAT THE NORTHWESTERN MAYORS CONFERENCE URGES THE ALASKAN STATE LEGISLATURE TO PASS SENATE BILL 665 AND ALSO URGES THAT THE GOVERNOR SIGN THE BILL IN TIME TO MEET SPRING BARGE DEADLINES AND INSURE THAT LOW INCOME RURAL ALASKANS RECEIVE WEATHERIZATION PROGRAM BENEFITS THIS SUMMER TO HELP MEET THE ENERGY NEEDS FOR THE COMING WINTERS.

## 0001 | PRELIMINARY REPORT

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## 0003 | ENERGY SAVINGS FROM WEATHERIZATION IN RURAL ALASKA

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0006

## INTRODUCTION:

0007

0008 | MOST ANALYSES OF ENERGY PROBLEMS IN RURAL ALASKA ASSUME THERE IS  
 0009 | SIGNIFICANT POTENTIAL FOR CONSERVING ENERGY USED IN SPACE  
 0010 | HEATING. HOWEVER, TO DATE THERE HAS BEEN NO STUDY TO DETERMINE  
 0011 | ACTUAL ENERGY SAVINGS THAT HAVE RESULTED FROM ATTEMPTS AT ENERGY  
 0012 | CONSERVATION IN RURAL AREAS, SUCH AS THE FEDERAL LOW-INCOME  
 0013 | WEATHERIZATION PROGRAM. RURAL CAP HAS STUDIED A SAMPLE OF HOMES  
 0014 | IN NOME WHICH WERE WEATHERIZED UNDER THE FEDERAL PROGRAM IN 1978  
 0015 | AND 1979 TO DETERMINE THE RESULTING ENERGY SAVINGS. THAT PROGRAM  
 0016 | PROVIDED A MAXIMUM OF \$1,008 PER HOUSE FOR IMPROVEMENTS WHICH  
 0017 | WOULD SAVE ENERGY. THE PROGRAM REGULATIONS IMPOSE VARIOUS  
 0018 | SPENDING COST LIMITS ON SPECIFIC TYPES OF IMPROVEMENTS, SUCH AS  
 0019 | THE PROPOSED \$250.00 LIMIT TO BE IMPOSED FOR THE CATEGORY OF  
 0020 | "GENERAL HEAT WASTE" IN THIS YEAR'S PROGRAM. DESPITE A FAIRLY  
 0021 | DISTINCT DIFFERENCE IN THE QUALITY OF HOUSING, THESE SPENDING  
 0022 | LIMITS WERE THE SAME FOR BOTH RURAL AND URBAN AREAS. IN ADDITION,  
 0023 | THE HIGH COST OF TRANSPORTING MATERIAL TO RURAL AREAS LIMITED THE  
 0024 | EXTENT OF IMPROVEMENTS THAT COULD BE MADE WITH THE AVAILABLE  
 0025 | FUNDS.

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0027 | FEDERAL FUNDING FOR THE PROGRAM HAS BEEN SEVERELY REDUCED AND MAY  
 0028 | BE ELIMINATED NEXT YEAR. THE ALASKA LEGISLATURE IS CONSIDERING  
 0029 | PROPOSALS TO USE STATE FUNDS ON WEATHERIZATION.

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0031 | TO AID POLICY-MAKERS, INTERESTED PARTIES AND THE PUBLIC IN  
 0032 | DISCUSSION OF ENERGY CONSERVATION IN RURAL ALASKA, RURAL CAP HAS  
 0033 | PREPARED THIS STUDY OF ACTUAL ENERGY SAVINGS THAT HAVE RESULTED  
 0034 | UNDER THE FEDERAL LOW-INCOME WEATHERIZATION PROGRAM IN NOME,  
 0035 | ALASKA.

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0037 | IT SHOULD BE EMPHASIZED THAT TWO DIFFERENT ISSUES ARE INVOLVED IN  
 0038 | THIS STUDY. FIRST IS THE BROAD QUESTION OF THE POTENTIAL FOR  
 0039 | ENERGY CONSERVATION IN RURAL AREAS, BASED ON ACTUAL FUEL USE  
 0040 | BEFORE AND AFTER ENERGY CONSERVATION IMPROVEMENTS HAVE BEEN MADE.  
 0041 | THE DISTINCTION BETWEEN USING ACTUAL BEFORE AND AFTER DATA AND  
 0042 | USING SAVINGS ESTIMATED FROM ENERGY AUDITS IS IMPORTANT. THE  
 0043 | SECOND QUESTION IS THE EFFECTIVENESS OF THE FEDERAL LOW-INCOME  
 0044 | WEATHERIZATION PROGRAM ITSELF. THE PROGRAM MAY NOT REALIZE THE  
 0045 | FULL POTENTIAL ENERGY SAVINGS FOR A VARIETY OF REASONS: SOMETIMES  
 0046 | CONFLICTING GOALS (SUCH AS LOCAL EMPLOYMENT AND JOB TRAINING  
 0047 | VERSUS QUICK COST-EFFECTIVE PROJECT MANAGEMENT); PROBLEMS IN  
 0048 | ADMINISTRATION; THE LOW PER HOUSE EXPENDITURE LIMIT; AND THE  
 0049 | LIMITS ON SPENDING FOR VARIOUS TYPES OF IMPROVEMENTS. THIS STUDY  
 0050 | IS INTENDED TO SUGGEST ANSWERS TO THE FIRST QUESTION BY ANSWERING  
 0051 | THE SECOND--TO DOCUMENT THE POTENTIAL FOR ENERGY CONSERVATION IN  
 0052 | RURAL HOMES BY EXAMINING ACTUAL ENERGY SAVINGS UNDER THE FEDERAL

0053 | ~~LOW-INCOME WEATHERIZATION PROGRAM. THE LIMITATIONS OF THE FEDERAL~~  
0054 | ~~PROGRAM SHOULD BE KEPT IN MIND WHEN USING THE RESULTS TO ADDRESS~~  
0055 | ~~THE BROADER QUESTION OF DEMONSTRATING THE POTENTIAL FOR ENERGY~~  
0056 | ~~CONSERVATION IN RURAL AREAS.~~

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0058 | METHODOLOGY:

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0060 | THE STUDY BEGAN WITH THE NAMES OF WEATHERIZATION CLIENTS FROM  
0061 | 1978 AND 1979 IN NOME. RURAL CAP STAFF VISITED THE FUEL DEALERS  
0062 | IN NOME AND LEARNED THAT MOST OF THE CLIENTS PATRONIZED BONANZA  
0063 | FUEL EXCLUSIVELY. PATRONS OF THE OTHER FUEL DEALER, ARCTIC  
0064 | LIGHTERAGE, WERE DROPPED FROM THE SAMPLE. BONANZA HAS ON FILE  
0065 | MONTHLY STATEMENTS FROM CUSTOMERS WITH CHARGE ACCOUNTS FOR THE  
0066 | YEARS 1977-78 AND 1980-81. THE MONTHLY STATEMENT IDENTIFIES FUEL  
0067 | OIL PURCHASES, ALTHOUGH ONLY A TOTAL INVOICE CHARGE IS GIVEN. BY  
0068 | DEDUCTING THE CITY'S 3% SALES TAX AND DIVIDING THE AMOUNT  
0069 | PURCHASED BY THE PRICE IN EFFECT AT THE TIME, THE NUMBER OF  
0070 | GALLONS PURCHASED WAS DETERMINED. WHERE THE EXACT DAY OF PURCHASE  
0071 | WITHIN A MONTH WAS NOT LOGGED, THE LOWEST PRICE IN THE PERIOD WAS  
0072 | ASSIGNED TO THE PURCHASE. WITH MULTIPLE PURCHASES IN A MONTH THE  
0073 | LOWEST PRICE WAS ASSIGNED TO THE FIRST PURCHASE, THE NEXT HIGHEST  
0074 | PRICE TO THE NEXT PURCHASE, ETC. BY ERRING ON THE SIDE OF LOWER  
0075 | PRICES THE NUMBER OF GALLONS IS OVERSTATED AND THE TOTAL SAVINGS  
0076 | IS UNDERSTATED. THIS METHOD WAS USED PRIMARILY FOR INCOMPLETELY  
0077 | LOGGED DATA IN THE YEAR AFTER WEATHERIZATION (1980).

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0079 | SPECIFIC PRICE DATA FOR SALES DURING 1977 - APRIL 1978 ARE NOT  
0080 | YET AVAILABLE. THE PRICE IN EFFECT DURING MAY 1978 (\$ .785/GAL.)  
0081 | WAS USED. SINCE THIS PRICE IS CERTAINLY HIGHER THAN ACTUAL  
0082 | PRICES DURING THAT PERIOD, THE NUMBER OF GALLONS IN A GIVEN  
0083 | PURCHASE IS UNDERSTATED. BY UNDERSTATING BASE YEAR CONSUMPTION,  
0084 | WE UNDERSTATE THE ENERGY SAVINGS UNDER THE PROGRAM.

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0086 | WHEN PRICE DATA FOR THAT PERIOD BECOMES AVAILABLE, A FINAL  
0087 | ANALYSIS WILL BE DONE. PRELIMINARY CALCULATIONS UNDER A VARIETY  
0088 | OF PRICE ASSUMPTIONS INDICATE THAT THE FINAL ANALYSIS WITH ACTUAL  
0089 | (I.E., LOWER) PRICES IN THE BASE YEAR COULD SHOW FROM 2-15  
0090 | PERCENTAGE POINTS GREATER SAVINGS DEPENDING ON THE LEVEL OF  
0091 | CONSUMPTION.

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0093 | STAFF AT BONANZA FUEL INFORMED US THAT ALMOST ALL CUSTOMERS  
0094 | EITHER ALWAYS PAY CASH OR ALWAYS CHARGE THEIR PURCHASES. MOST OF  
0095 | THE WEATHERIZATION CLIENTS ON OUR LIST DO CHARGE THEIR PURCHASES.  
0096 | THOSE WHO PAID CASH WERE DROPPED. IN ADDITION, CLIENTS WHOSE  
0097 | NAMES APPEARED IN BOTH YEAR'S WEATHERIZATION PROJECTS WERE ALSO  
0098 | DROPPED (TO AVOID COMPLICATIONS IN ACCURATELY IDENTIFYING POST-  
0099 | WEATHERIZATION FUEL USE). THE MONTHLY STATEMENTS OF THE REMAIN-  
0100 | ING SAMPLE OF 21 CLIENTS WERE EXAMINED FOR 1977-78 AND 1980.

0101

0102 | FURTHER DELETIONS FROM THE SAMPLE WERE MADE AFTER GATHERING THE  
0103 | AVAILABLE DATA. THE SAMPLE DID NOT INCLUDE CLIENTS FOR WHOM ONLY  
0104 | PARTIAL BEFORE AND AFTER DATA WAS AVAILABLE. IN ADDITION, THOSE

0105 CLIENTS WHO DID NOT HAVE A CONSISTENT PATTERN OF FUEL PURCHASES  
0106 DURING AT LEAST ONE OF THE YEARS BEFORE AND ONE OF THE YEARS  
0107 AFTER WEATHERIZATION WERE DROPPED (FOR EXAMPLE, A GAP OF TWO  
0108 MONTHS IN PURCHASES COMPARED TO OTHER YEARS INDICATES AN UNUSUAL  
0109 | ABSENCE, SUCH AS AN EXTENDED STAY AWAY FROM HOME.). IF THE  
0110 PATTERN OF PURCHASES WITHIN EACH YEAR SHOWED GAPS BUT THE GAPS  
0111 WERE CONSISTENT ACROSS THE YEARS, THE CLIENT WAS RETAINED IN THE  
0112 SAMPLE. IN SOME INSTANCES, THE PATTERN OF PURCHASES ONLY ALLOWED  
0113 | COMPARISONS FOR 10- OR 11-MONTH PERIODS. WHERE THE PATTERN OF  
0114 PURCHASES WITHIN THESE PERIODS ACROSS THE YEARS WAS CONSISTENT,  
0115 THE CLIENT REMAINED IN THE SAMPLE.

0116  
0117 THE STUDY ASSUMED THAT FUEL PURCHASES WITHIN THE PERIODS COMPARED  
0118 FOLLOW THE PATTERN OF ACTUAL FUEL USE. IN A SCATTERED FEW  
0119 INSTANCES, WHERE THE PATTERN OF PURCHASES SUGGESTED AN ADJUSTMENT  
0120 TO REFLECT ACTUAL USE WAS NECESSARY, THE ADJUSTMENT WAS MADE BY  
0121 PRO-RATING THE PURCHASE AMOUNT. (FOR EXAMPLE, WHEN THERE IS A  
0122 PURCHASE ON THE FIRST AND LAST DAY OF THE PERIOD OF COMPARISON,  
0123 ONE PURCHASE WOULD BE EXCLUDED.)

0124  
0125 STAFF AT BONANZA FUEL INDICATED THAT ONLY ONE OF THE FINAL SAMPLE  
0126 OF 14 MAY HAVE MOVED DURING THE PERIOD OF ANALYSIS. A CHANGE IN  
0127 THE CLIENT'S ACCOUNT NUMBER AND A GAP IN THAT YEAR'S PURCHASES  
0128 TEND TO CONFIRM THAT POSSIBILITY. THAT CLIENT HAS BEEN DROPPED  
0129 FROM THE FINAL SAMPLE.

0130  
0131 FUEL USE WAS ADJUSTED FOR DIFFERENCES IN HEATING DEGREE DAYS  
0132 BETWEEN THE BASE YEAR AND THE YEAR AFTER WEATHERIZATION. FUEL  
0133 USE WAS ASSUMED TO BE DIRECTLY PROPORTIONAL TO THE NUMBER OF  
0134 DEGREE DAYS IN THE PERIOD OF COMPARISON.

0135  
0136 FINDINGS:

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0138 DESPITE THE LACK OF PRICE DATA IN THE BASE YEAR, WHICH HAS CAUSED  
0139 AN UNDERSTATEMENT OF ENERGY SAVINGS IN EACH HOUSEHOLD, AVERAGE  
0140 ACTUAL SAVINGS ACROSS THE SAMPLE RANGE BETWEEN 7.2% AND 14.8%,  
0141 DEPENDING ON THE EXACT COMPOSITION OF THE SAMPLE. THREE CLIENTS  
0142 HAD GREATER ENERGY USE AFTER WEATHERIZATION, ONE SLIGHT (+1.3%);  
0143 ONE MODERATE (+12.8%) AND ONE VERY HIGH (+47.9%). IN OUR  
0144 PRELIMINARY DATA GATHERING, WE WERE UNABLE TO GATHER DATA TO  
0145 CONTROL FOR FACTORS WHICH MIGHT EXPLAIN SUCH ANOMALOUS RESULTS,  
0146 SUCH AS AN INCREASE IN HOUSE SIZE OR IN NUMBER OF HOUSEHOLD  
0147 RESIDENTS OR A CHANGE IN LIFESTYLES. WE WILL ATTEMPT TO GATHER  
0148 SUCH DATA FOR THE FINAL ANALYSIS. IN THE MEANTIME, WE HAVE  
0149 PRESENTED A VARIETY OF AGGREGATIONS OF THE FINDINGS TO SHOW THE  
0150 IMPACT OF VARIOUS CHANGES IN THE SAMPLE AS A RESULT OF THESE  
0151 SOMEWHAT ANOMALOUS DATA POINTS.

0152  
0153 | WE BELIEVE THE YEARLY AVERAGE SAVINGS PER HOUSEHOLD OF ALL  
0154 | HOUSEHOLDS WITH SAVINGS, 14.8% OR \$207.64 (ITEM B), BEST REFLECTS  
0155 | THE DEMONSTRATED POTENTIAL FOR ENERGY CONSERVATION IN RURAL  
0156 | HOUSEHOLDS UNDER THE FEDERAL LOW-INCOME WEATHERIZATION PROGRAM.