

ALASKA LEGISLATURE COMMITTEE FILES 1981-1982 86/2

2098 SSA HB 654 - HB 866

2098

To: Vic

From: Bob

Re: CSHB 651 and CSHB 654, Rough Notes --- Subject to Change

Date: 5/4/81

CSHB 651 by Cato (House Transportation) creates the "Alaska Marine Transportation Authority". The authority would be a public corporation of the state.

The "Authority" would consist of 8 directors. Seven of these would be appointed by the Governor, subject to confirmation by the Legislature. The 8th director would be the Commissioner of DOTPF, and would be a non voting ex officio member.

Not including ARCC, there are six government corporations in Alaska, the Municipal Bond Bank Authority, ASHA, AHFC, AIDA CFAB and the APA. All of these public corporations were originally created for specific purposes related to financing.

A recent report done for the Legislative Budget and Audit Committee by the Institute of Public Administration entitled Alaska's Public Corporations a Framework for Assesment, January 1982, says the new debt to be issued by Alaska's six public corporations during 1982 will exceed \$1.0 billion.

This is more than the total general obligation (voter approved) debt of the entire state issued since statehood. The G.O debt as of 6/30/80 was \$1.1 billion.

Technically, bonds or debt incurred by a public corporation are not guaranteed by the state. The debt is, for the most part, revenue bonds. But, to quote the LBA report,

"Nevertheless, history has proven that should the repayment of any of these bonds run into difficulty, it is indeed the state government that would be held responsible by the bond market."

The Authority created under CSHB 651 will not, and in fact cannot incur debt. However, that is one of the primary reasons to create an authority. The other is to make it autonomous or insulate it from the normal bureaucracy.

CSHB 651 accomplishes only the second point. The bill separates the Division of Marine Highways from the DOTPF, but does not give it the normal power of an Authority.

Rep. Cato's office maintains that the Division of Marine Transportation is not responsive to the public's needs, and that it needs to be separated from DOTPF. However, an Authority is more insulated from the public than a Division, and certainly more immune to public pressure. Going back to the LBA report it states,

"...important development decisions (especially distribution and pricing of transportation, energy, housing and industrial capitalization) could become separated from legitimate political institutions based on voter support."

In other words, an Authority may become less responsive to public pressure than the Division of Marine Highways.

Although the Marine Highway Authority does not have the power to sell bonds it does have considerable power in other regards. One power of particular interest is contained in AS 19.70.050 (9) which allows the Authority to establish rates and tariffs.

Right now the Division of Marine Transportation operates under a generally agreed upon rule that the Legislature will subsidize about 50% of the operating costs through general fund appropriations. The rest of the funds come from program receipts. Under CSHB 651 the directors of the authority can unilaterally change this policy, although the Authority is subject to the Executive Budget Act.

To conclude, the Authority created under CSHB 651 does not have the power to incur debt, which is normally one reason to create an authority. Also, it may actually exacerbate the problem of public accountability, by insulating the Authority from the normal political process.

Regarding CSHB 654, as mentioned, the Commissioner of DOTPF would be an ex officio Director of the Authority. Under provisions of CSHB 654, a companion bill by the sponsor, the Commissioner of DOTPF would not be appointed by the Governor, but rather by a "Board of Transportation.

The members of the Board of Transportation would be appointed by the Governor subject to approval by the Legislature. They in turn would choose the Commissioner. The Commissioner would not have to be approved by the Legislature.

Hence, under CSHB 651 you would have an 8 member Authority making decisions relating to Marine Highways with one member, the Commissioner appointed by a seven member board which oversees the Department. And, the Board under AS 44.42.021(b)(11) of CSHB 654 must,

"supervise and maintain all state ... vessels"

DOTPF maintains that CSHB 654 will create another layer of bureaucracy, and when combined with CSHB 651 it becomes confusing and there is an overlap of responsibility.

CREATING BOARD AT THE HEAD OF
THE DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

HB 654

This proposed bill would create a DOT Board. This bill, if passed, might be the only method possible to make the DOT function efficiently. Currently the directions to the DOT come from the Governor, the Administration, the Legislature, the four Deputy Commissioners at the DOT Headquarters, and the several Directors within each region.

The workers, the few that are left, receive these various directions which are usually conflicting and at odds with one another, and the predictable result is that production and morale are extremely low.

Almost all of the other States have gone to a Board of Commissioners due to the very same problems that are currently confronting the State of Alaska DOT. Other States have found that an unsalaried Board of Commissioners is the sole body that filters the directions from the Administration, the Legislature, and other interested agencies, and gives a unified single direction to the DOT organization. This has generally resulted in a stable long-range program without constantly juggling priorities.

You may consider requiring the appointment of members to represent both major political parties equally with one independent member, so that all major political factions would be represented regardless of who occupies the Governor's mansion.

The current DOT is not and has not functioned effectively since its inception in 1977. Since that time, there is \$50,000,000 in Federal Highway funds that should have been spent to upgrade the existing transportation system in the State. Instead, the money is on the Federal Aid books and it will soon be lost to the State. Even if the money is obligated by some miracle in the near future, inflation will have eroded its potential to repair and reconstruct the thousands of miles of highways that are disintegrating due to lack of maintenance and reconstruction.

This bill (12-1989) and House Bill 12-1993 appear to conflict since they are both creating Commissions that have authority to plan for and implement transportation systems. 12-1993 has authority just for the Marine Highway System whereas 12-1989 is intended to have overall authority for all transportation modes. Generally, when you have overlapping authorities, you end up with infighting to gain greater control and the end result is lower efficiency due to the transportation planning going in too many directions. The Marine Highway is tied directly to the Land Highway System and the authority for both modes should remain under one Board of Commissioners.

Sec. 6. AS 44.42.050 (d) should be revised to include a 10% contingency to cover project overruns in design and construction. All too frequently several major and badly needed projects are delayed because there are insufficient or no funds set up to cover these overruns. It should be noted that most overruns are not the result of mistakes, but they are usually caused by additions to the projects demanded by State and Federal agencies or as a result of requests made at public hearings.

Sec. 8. AS 44.42.055 (b) (1) The budgets requested by the Commission should be prepared by the Department Heads in the lower echelons who are responsible for project development. Too often during the last few years, the budgets have been made out by the new Directors who have recently been brought into the DOT who really have no conception of the needs of their departments. Great sums of money are being expended by the DOT, but in many cases, the funds are being misspent. Funds for outside travel, especially to the Planning Section, are being allocated, where in fact, the funds could be spent to increase productivity in the Department by purchasing desk computers, and some of the latest state of the art survey and drafting equipment.

(2) The Board of Commissioners would be more receptive to Municipal demands than the current isolated and insulated Commissioner and Deputy Commissioners. For instance, the City of Valdez has repeatedly requested the minor expenditure of DOT funds for the extension of the bike path from the Airport Road intersection along the Richardson Highway to the new recreational complex at Mile 1.5. There have been five automobile fatalities and one bike fatality in this area during the last five years. The City has been told that there are higher priorities than this bike path. The people closest to the transportation problems usually have the best solutions to those problems. The duties of the Board of Commissioners, as outlined in this bill, would require the Board to listen to public input from the municipalities and from other public and private organizations.

1. BY STATUTE, WHAT ROADS AND HIGHWAYS DOES THE STATE HAVE RESPONSIBILITY TO CONSTRUCTION AND MAINTAIN?

ARIZONA

The State of Arizona constructs, improves, repairs, and maintains portions of the State routes which have been designated and accepted as State highways by the Arizona Transportation Board (28-1861). City streets which link State highways, or carry State highway traffic through a municipality may be designated as State highways (28-1866). A county board of supervisors may petition the Transportation board to take over and designate a State route located within the county as a State highway (28-1863). The Board cannot include a route in the State system until there are funds for its improvement in the budget of the Department of Transportation (28-1863).

COLORADO

Colorado's State highway system consists of federal-aid primary roads, federal-aid secondary road, the interstate system and its extensions into urban areas, and other roads designated as part of the State system by the State Highway Commission (43-2-101). (Roads specially designated as part of the system by the Commission may not exceed 5% of the mileage of the other three systems.) A board of county commissioners may petition the State Highway Commission to accept any section of county road as part of the State system. After determining that the county road is of such construction and in such state of repair as will make it proper to accept it as a State highway, the Commission in its discretion may designate it as part of the State system (43-1-207).

The State Department of Highways must construct and maintain all roads comprising the State highway system (43-2-102).

1. BY STATUTE, WHAT ROADS AND HIGHWAYS DOES THE STATE HAVE RESPONSIBILITY TO CONSTRUCTION AND MAINTAIN?

HAWAII

By statute, the State of Hawaii must maintain the State highway system and all roads on which federal aid funds have been spent (17 Sect. 264-31, Sect. 264-43). The State's Director of Transportation determines which roads will be included in the State highway system, and may include any public highway used primarily for through traffic and not for access to any specific property (17 Sect. 264-42). The director may designate a county highway as part of the State system. In this event, ownership of the county highway transfers to the State without compensation (17 Sect. 264-2).

IOWA

Iowa does not have a state system per se. Instead, the State, through the Department of Transportation, has jurisdiction over the construction and maintenance of "primary roads", which are defined as those roads classified as "freeway-expressway, arterial and arterial connector" (Chapter 306.2, 306.4). The State also has jurisdiction over roads and streets wholly within the boundaries of State lands operated as parks, institutions, and so forth (306.1). Concurrent jurisdiction is shared by the State and counties in which secondary roads enter and exit from State lands at separate points (306.4).

The State freeway-expressway system is limited by statute to 2,660 miles, while the arterial system may not exceed 3,500 miles (306.1). No limit is placed on the arterial connector system, the other major component of the State-governed road network.

1. BY STATUTE, WHAT ROADS AND HIGHWAYS DOES THE STATE HAVE RESPONSIBILITY TO CONSTRUCT AND MAINTAIN?

MONTANA

The State of Montana maintains those highways which have been designated as State highways, the federal-aid interstate system the federal-aid primary system and its extensions, the federal-aid secondary system and its extensions, and other public highways included in the State maintenance system by the Montana Highway Commission (32-2407.1). Additionally, the State Highway Department has responsibility for maintenance of all public highways which it maintained on July 1, 1976 (32-2407.2). Montana enters into cooperative agreements with the National Park Service and the federal highway administration regarding maintenance of National Park approach roads (32-2601).

The Highway Commission may designate highways which are not located entirely within Montana as part of the State's federal-aid system. The State would assume responsibility for constructing and maintaining these roads. Highways included in this provision must be located outside of Montana because of natural geographical or physical conditions which make the construction of the highway within the State impossible, and may not be part of another state's highway system (32-2408).

OREGON

The Oregon Transportation Commission may "select, establish, designate, construct, maintain, operate, and improve" the State highway system. The State system consists of both primary and secondary highways. The State Division of Highways determines which county roads will be included in the system, by law, selecting routes which will promote the completion of a connecting network of intercounty roads (366-290). County roads designated as part of the State system are maintained and repaired by the State (366.290). The Department of Transportation is responsible for portions of State highways located within municipalities, and is required by statute to construct, maintain, and improve other city streets which a) form a link in the State highway system or join two State highways, or b) have been designated as streets or roads over which State highway traffic is routed (373.030).

The Department may eliminate any portion of a highway from the State system. However, the State must continue maintaining the road if it is still in use.

1. BY STATUTE, WHAT ROADS AND HIGHWAYS DOES THE STATE HAVE RESPONSIBILITY TO CONSTRUCT AND MAINTAIN?

WASHINGTON

The State of Washington constructs and maintains the State highway system which consists of roads and highways specified as part of the system by the Legislature (e.g., RCS 45.17.005,010). State highways are not distinguished as primary or secondary routes. Streets within incorporated cities may be included as part of the State Highway system (RCW 47.27.010). The State operates and controls all traffic control devices on such streets which have been assigned as part of the State highway system in cities and towns having a population of 15,000 or less (RCW 47.24.020). Larger communities may operate and control their own traffic signals, subject to the approval of the State Highway Commission. Similarly, municipal regulations pertaining to speed and parking on such streets must be approved by the State Highway Commission (RCW 47.24.020).

The Legislature makes a specific appropriation for maintenance of the State highway system, after a thorough review of maintenance program plans at the legislative committee level (RCW 47.05.040). Briefing material used in legislative deliberations on the State highway maintenance appropriation for 1979-1981 is attached.

WYOMING

Wyoming's State highway commissioner designates which public highways will be State highways (Sect. 24-2-109). The cost of constructing and maintaining these highways is borne by the State (Sect. 24-1-118). The State also pays for State highways located within National Forests (Sect. 24-2-108). The Commissioner may designate any county highway as part of the State system, and assume responsibility for maintenance and construction (Sect. 24-2-109). The commissioners of each county in Wyoming determine what roads, existing or not yet established, will be county roads (Sect. 24-1-101). The expense of constructing and maintaining county highways is paid by the county (Sect. 24-1-102).

The State participates in several other road programs at the county and municipal levels. 93% of the expense of constructing roads under the State-county roads program is assumed by the State. Counties pay the remaining 7% of construction costs and assume all responsibility for maintenance after a road has been completed (Sect. 24-2-110). The farm to market road program which includes mine to market roads, rural free delivery roads, public school bus roads and other rural roads connecting important highways, or leading rail shipping points or local settlements is also jointly financed by State and county funds. Again, the State pays 93% of all construction costs and the county provides 7% and performs all maintenance (Sect. 24-4-102).

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1. BY STATUTE, WHAT ROADS AND HIGHWAYS DOES THE STATE HAVE RESPONSIBILITY TO CONSTRUCTION AND MAINTAIN?

Counties may also propose the establishment of "industrial roads", but must have the cash money available to pay 50% of the construction costs before initiating the project (Sect. 24-5-102). The State pays the remaining 50% of industrial road project costs.

The State may enter into cooperative agreements with incorporated municipalities for the construction of city streets which directly connect established State highways. The State pays the entire expense of such construction projects, and the cost of necessary repairs. The municipality, if it has a population of fifteen hundred or more, is responsible for cleaning these streets and snow removal (Sect. 24-2-111).

The State directly controls and supervises all construction projects in which State money is spent (Sect. 24-2-108).

WYOMING

2. IS THERE A STATUTORY PROVISION REQUIRING/ENABLING LOCAL GOVERNMENTS TO ASSUME RESPONSIBILITY FOR CONSTRUCTION AND MAINTENANCE OF THESE ROADS?

ARIZONA

There seems to be no provision in the Arizona statutes enabling local governments to assume responsibility for State highways within their jurisdiction. Local authorities may alter the maximum speed limits on State highways and urban extensions of State system, however, changes must be approved by the director of the Department of Transportation (28-703(D)).

COLORADO

The State Department of Highways may enter into a contract with a city or incorporated town for the maintenance or construction of urban extensions of the State highway system, where it appears that the city or town has adequate facilities to do such construction or maintenance (43-2-103). The Highway Department may make similar arrangements with counties (43-2-104). Municipalities may regulate and enforce all traffic on city streets which are part of the State highway system, although the Department of Highways must approve all regulations before they are effective (43-2-135(g)). The Department installs and operates traffic control signals, signs, and traffic control devices on State highways in cities having a population of five thousand or less. Larger cities may maintain and operate such signals, signs, and devices at their own expense. However, no local authority may erect signs or traffic control signals so as to stop traffic on any State highway without written permission from the Department of Highways (43-2-135(1)).

Cities and counties may assume responsibility for any portions of the State highway system which have been removed from the State system by the Highway Commission (43-2-106).

2. IS THERE A STATUTORY PROVISION REQUIRING/ENABLING LOCAL GOVERNMENTS TO ASSUME RESPONSIBILITY FOR CONSTRUCTION AND MAINTENANCE OF THESE ROADS?

HAWAII

The State may contract with a county legislative body to have the county maintain portions of the State highway system located within its jurisdiction (17 Sect. 264-44). The reverse is also true; a county may contract with the Department of Transportation for State maintenance of portions of the county highways designated as part of the federal primary or secondary highway system (17 Sect. 265-2). Counties are required by law to accept, maintain, and repair privately constructed highway improvements (17 Sect. 265-6).

IOWA

The transfer of responsibility for all roads within the State is governed by "functional classification boards" on the county and State level. The county boards classify each segment of the public roads in accordance with classification definitions established by code. Roads may be reclassified as needs and conditions change. Jurisdiction and responsibility over the roads are based on these classifications. The State board hears appeals of decisions made by the county boards and renders final decisions.

Iowa recently completed a total reclassification of all roads in the State, which resulted in an increase in the road mileage for which counties and cities are responsible and a corresponding decrease in the State road mileage responsibility.

2. IS THERE A STATUTORY PROVISION REQUIRING/ENABLING LOCAL GOVERNMENTS TO ASSUME RESPONSIBILITY FOR CONSTRUCTION AND MAINTENANCE OF THESE ROADS?

MONTANA

Montana statute 32-1627 states that the Department of Highways shall pay the entire cost of constructing and maintaining State highways within incorporated municipalities. However, the municipalities must pay one half of the State's share of the cost of curbs and gutters along these streets. According to Montana law, "The Department of (of Highways) may enter into an agreement with a local government body to maintain portions of public highways within its boundaries..." (32-2407.3). This statute is ambiguous. It may or may not enable local governments to assume responsibility for construction and maintenance of roads situated within their jurisdiction.

OREGON

In several instances, local governments can assume responsibility for portions of the State highway system. The State may enter into cooperative agreements with counties and municipalities regarding construction, maintenance and repair work on State highways within their jurisdictions (366.770). The Department of Transportation may also eliminate a road from the State's secondary highway system, transferring responsibility for it to the county in which it is located (366.290(3)).

2. IS THERE A STATUTORY PROVISION REQUIRING/ENABLING LOCAL GOVERNMENTS TO ASSUME RESPONSIBILITY FOR CONSTRUCTION AND MAINTENANCE OF THESE ROADS?

WASHINGTON

There is no provision in the Washington statutes enabling a local government to assume responsibility for a portion of the State highway system located within its jurisdiction unless that portion is no longer needed as part of the State system (RCW 36.75.090, 47.24.010). The State and county governments may enter into cooperative agreements with one another "where a necessity appears therefor or where economy in public highway improvement and maintenance will be best served" (RCW 36.75.030). It appears as if the State can enter into similar agreements with municipal governments (RCW 47.24.020). If a county or municipality agrees to maintain a road and does not do so to the satisfaction of the State, the State may perform the job and deduct the cost from the county's/ municipality's share of funding the next year (RCW 36.75.250, 47.24.020).

WYOMING

The Wyoming Highway Commission may remove any portion of a State highway from the State highway system and relinquish it to county or city control (Sect. 24-3-126). There are no other provisions for local control, construction or maintenance of the State highway system.

3. WHAT IS THE REVENUE SHARING FORMULA FOR HIGHWAY CONSTRUCTION AND MAINTENANCE?

Arizona levies several vehicle license and highway user taxes which are apportioned among municipalities, counties, and the State. The vehicle license tax which is collected by each county is distributed as follows:

- 1) 20% to the State treasurer to be placed in the State general fund;
- 2) 25% to the general fund of the county;
- 3) 25% to the State treasurer to be placed in the State general fund to aid in school financial assistance;
- 4) 25% to the incorporated municipalities of the county, allocated to each one in proportion to its population;
- 5) 5% to the county general fund to cover administrative costs of the vehicle license tax program (28-1591).

Moneys received from the license tax upon motor vehicle carriers engaged in interstate commerce are allocated according to the following formula:

- 1) 25% goes to the general fund of the State;
- 2) 25% is apportioned among the State's counties. The amount each county receives is based on the total mileage of State and federal highways in the State;
- 3) 25% is given to common and high school districts, with special reference to the needs of one and two room and accommodation schools;
- 4) 25% is distributed among cities and towns proportionate to the total mileage of State and Federal highways within each one (28-1592).

Highway user revenues, the largest pool of transportation funds, are allocated as follows:

- 1) 11% to the Arizona highway patrol;
- 2) 57% to the State highway fund;
- 3) 15% to the counties to be further distributed to each individual county based on the proportion that the sale of motor vehicle fuel and the estimated consumption of use fuel in each county bears to the statewide totals;
- 4) 17% to the incorporated cities. One-half of this money is apportioned to each city on the basis of its population. The remaining one-half is distributed first on the basis of the county origin of sales of motor vehicle fuels within the State, and further allocated among the cities and towns within each county in the proportion that the population of each city or town bears to the total population of all cities and towns in the county (28-1598).

3. WHAT IS THE REVENUE SHARING FORMULA FOR HIGHWAY CONSTRUCTION AND MAINTENANCE?

The Colorado highway users tax fund is apportioned as follows:

- 1) The highway crossing protection fund receives \$20,000 each month to promote public safety and pay costs of installing and improving safety signals at railroad and street railway crossings (43-4-205);
- 2) The Colorado State Patrol receives an amount specified by the Colorado General Assembly;
- 3) 65% of the balance of the fund is paid into the State highway fund (43-4-206);
- 4) Counties receive 26% of the balance of the fund. 80% of this money is allocated among individual counties in proportion to the mileage of public highways, excepting mileage of State highways, in each one. 20% is allocated to the counties in proportion to their motor vehicle registration (43-4-207).
- 5) Municipalities are entitled to 9% of the balance of the highway users tax fund. 80% of this money is distributed to individual cities in proportion to their motor vehicle registration. The remaining 20% is allocated among cities on the basis of the mileage of streets in each one (43-4-208).

COLORADO

3. WHAT IS THE REVENUE SHARING FORMULA FOR HIGHWAY CONSTRUCTION AND MAINTENANCE?

HAWAII

Local governments in Hawaii do not receive highway moneys by means of a revenue sharing formula. The counties of Hawaii are allowed to collect miscellaneous highway and vehicle "user" fees, and are also permitted by statute to levy a county fuel tax on each gallon of liquid fuel sold for use within the county. The amount of the tax is set by each county council (14 Sect. 243).

IOWA

Funds for construction and maintenance are allocated to the counties and cities from the road use tax fund. The fund is composed of motor vehicle registration fees, motor fuel taxes, use taxes, and other moneys. Allocations from the road use tax fund are made on the following basis after first deducting entitlements for several special purpose funds: (1) 45% to the primary road fund (State); (2) 28% to the secondary road fund of the counties; (3) 9% to the county farm-to-market road fund; (4) 18% to the street construction fund of the cities.

Sixty percent of the county allocation is distributed to each county based on the need of each county in relation to the total needs of the entire county road system; 40% is based on the area of each county relative to the total area of the State. The needs of the counties were determined until 1979 by a periodically convened special highway study committee, and are now assessed by the Department of Transportation.

The distribution of funds to cities is based on population of each city in relation to the total population of all cities in the State.

3. WHAT IS THE REVENUE SHARING FORMULA FOR HIGHWAY CONSTRUCTION AND MAINTENANCE?

Montana annually allocates \$6,500,000 of gas tax revenues among eleven "financial" districts" each of which contains several counties (32-2603). The financial districts receive money for portions of the federal-aid highway system, the federal-aid secondary system, and the federal-aid interstate system located within their boundaries. Each district receives an amount for federal-aid primary highways based on the ratio between the incomplete mileage (figure includes all mileage which doesn't meet State standards) of the district and the total incomplete mileage in the State (32-2606). The proportion of funding each district receives for federal-aid secondary highways is computed on the following basis:

- (a) 1/4 in the ratio of land area in each district to the total land area in the State.
- (b) 1/4 in the ratio of the rural population in each district to the total rural population in the State.
- (c) 1/4 in the ratio of the rural road mileage in each district to the total rural road mileage in the State.
- (d) 1/4 in the ratio of the value of rural lands in each district to the total value of rural land in the State.

MONTANA

The money appropriated to each district is further apportioned to each county in the district on the same basis (32-2607). The amount given to each district for federal-aid interstate highways is based on the ratio between the estimated cost of constructing the system in each district and the estimated cost of constructing the entire system within the State (32-2609). The department may give a limited amount of additional money to a district for any of the systems. However, the succeeding fiscal year, the district's allocation will be reduced by a like sum (32-2610).

The Department of Highways annually makes funds available to each county and city over 5,000 for matching federal-aid off-system road and urban highway grants. Counties receive this money on the same basis that they receive funding for federalaid secondary highways (32-2607.1). The allocation to cities is based on the ratio of urban population in the city to total urban population in all cities over 5,000 in the State (32-2611).

3. WHAT IS THE REVENUE SHARING FORMULA FOR HIGHWAY CONSTRUCTION AND MAINTENANCE?

20% of all monies credited to the Oregon highway fund must be appropriated among the State's counties (366.525). In any year, individual counties receive an amount which is based on the ratio of the number of vehicles and trailers in the county, to the total number of vehicles and trailers in the State (366.530). Cities are entitled to 12% of the money credited to the State highway fund. Each city receives a share proportionate to the size of its population (366.800(5)).

OREGON

Counties and "road districts" (counties may be divided into road districts by popular initiative) may levy several different taxes to pay local road construction, maintenance, and repair costs (371; 373.240). In some cases, counties must allocate revenues from taxes among the road districts according to a formula specified by statute (368.710).

3. WHAT IS THE REVENUE SHARING FORMULA FOR HIGHWAY CONSTRUCTION AND MAINTENANCE?

WASHINGTON

Local governments receive statutorily dedicated highway funds and administrative assistance through the State Aid Division of the Washington State Department of Transportation. Proceeds from the State fuel tax, vehicle ownership and licensing fees, and fines accrue to a "motor vehicle fund" (RCW 46.68.020, 030, 050; 82.36.020) which is distributed among city, county and State highway and road programs according to the following statutory formula: 11.53% to cities and towns, 22.78% to counties, and 52.21% to the State (RCW 46.68.100). Money is allocated to individual cities and counties according to another formula specified by statute (RCW 46.68.110; 46.68.115; 46.68.120). Another 7.12% of the motor vehicle fund goes into an urban arterial trust account which finances bond programs and limited "pay as you go" construction of local arterials (RCW 46.68.100). 6.95% of the State's portion of the motor vehicle fund is dedicated to construction and improvement of State highways in urban areas (RCW 46.68.150).

WYOMING

10% of Wyoming's gasoline license tax revenues are reserved solely for payment of the State's share of the county-state road construction program. This money must be allocated among the counties based 50% on the ratio which the rural population of the county bears to the total rural population of the State, and 50% on the ratio which the area of the county bears to the area of the State (Sect. 24-2-110). 75% of the amount of any bond issue issued by the State for State highway construction must be apportioned to each county in the proportion which the assessed valuation of the county bears to the total assessment of the State (Sect. 24-1-119).

4. WHAT CRITERIA DO THE STATUTES CONTAIN REGARDING THE ALLOCATION OF STATE HIGHWAY CONSTRUCTION AND MAINTENANCE FUNDS?

ARIZONA

Arizona has a Transportation Priority Planning Committee which recommends statewide highway construction project priorities to the State Transportation Board. The committee prepares and annually updates a long range statewide transportation facilities construction program which prioritizes construction projects to be undertaken in each of the five ensuing fiscal years. The estimated cost of the program for each year must be approximately equal to the revenues estimated to be available for highway construction during that year. The committee must devise a rating formula to use when deciding project priorities, taking into account the following criteria: (a) sufficiency rating, (b) user benefits, (c) economic factors, (d) continuity of improvement, (e) social factors, (f) land use, (g) aesthetic and environmental factors, (h) conservation factors, (i) safety factors, (j) life expectancy, (k) recreational factors, (l) availability of State and federal funds, (m) any other relevant criteria developed by the committee (28-111).

Additionally, Arizona law provides that the Department of Transportation must spend money from the State highway fund first for construction of highways which are joint federal-state projects, and second, for taking over and constructing other State highways. Reconstruction or replacement of existing highways damaged or destroyed by acts of God or other sudden or unexpected causes must be the priority use of the Department's maintenance moneys. Damaged federal-state roads must be repaired before reconstruction of other State highways is undertaken (28-1822).

COORADO

The State Highway Commission must determine priorities for construction on the State highway system before May 30 of the year preceding the year during which construction is to be undertaken (43-2-136(a)).

In establishing priorities, the State Highway Commission must make use of a highway "sufficiency rating" system which takes into consideration traffic volume, composition of traffic, width of roadbed, pavement type, and other construction factors which are necessary in order to adequately compare existing highway facilities with the known desirable standards for highways (43-2-136). Counties and cities must annually submit to the Highway Commission priorities for the construction of roads, streets, and highways within their jurisdiction. Counties and cities may use a highway sufficiency rating method similar to that employed by the State Department of Highways (43-2-137; 43-2-138).

4. WHAT CRITERIA DO THE STATUTES CONTAIN REGARDING THE ALLOCATION OF STATE HIGHWAY CONSTRUCTION AND MAINTENANCE FUNDS?

HAWAII

Hawaii law specifies how each county's fuel tax revenues may be spent, but only prioritizes one type of expenditure: counties must pay amounts due on road construction bonds before spending money on other projects (Sect. 243-6). The State's share of fuel tax revenue is also "earmarked" by statute, but not prioritized. Moneys in the State highway fund may be expended for the following purposes:

- (1) To pay the costs of repairs and maintenance of the State highway system.
- (2) To pay the costs of acquisition, planning, designing, construction and reconstruction of the State highway system and bikeways.
- (3) To reimburse the general fund for interest on and principal of general obligation bonds issued to finance highway projects (14 Sect. 248-9).

There are also general instructions regarding money generated by motor vehicle and "user" taxes levied by the county. These funds may be used for the following purposes:

- (1) For all costs involved in construction and maintenance of public highways.
- (2) For installation, maintenance, and repair of street lights on county-maintained public roads.
- (3) For purposes connected with traffic control and safety.
- (4) For payment of interest on and redemption of bonds.
- (5) For purposes connected with mass transit.
- (6) For the design and construction of bikeways.

These projects are not prioritized by statute. (Sect. 249-18).

IOWA

Iowa's statutes provide little direction for the allocation of State highway funding. Highway planning appears to be a joint function of the Transportation Commission and the Highway Division of the Department of Transportation. The Commission is responsible for the development of an annual transportation policy and plan, while the Highways Division has jurisdiction over the planning, design, construction and maintenance of the State primary highways (307.10, 307.24).

Improvements to the State primary road system are given statutory priority over new construction. Such improvements are to be made "as rapidly as funds become available therefore until the entire mileage of the primary road system meets traffic requirements (313.8). The condition of the primary roads to be equalized as nearly as possible by such improvements.

The statutes also provide that sufficient funds will be made available to equal the total federal allotment to the State for road purposes, and to maintain the roads constructed with such funds. (313.1).

4. WHAT CRITERIA DO THE STATUTES CONTAIN REGARDING THE ALLOCATION OF STATE HIGHWAY CONSTRUCTION AND MAINTENANCE FUNDS?

MONTANA

Montana State statutes do not prioritize highway construction or maintenance projects. However, before money is appropriated to the financial districts, counties or cities funds are removed for four types of projects: bridge replacement, construction and reconstruction of federal-aid priority primary routes, upgrading highways through economic growth centers, and improving highway safety (32-2613, 32-2614, 32-2617; 36-2618). "Reasonable" amounts must also be spent for establishing footpaths and bicycle trails, which, by law, must be constructed along all sections of the interstate highway system (32-2626).

OREGON

Oregon statutes contain several provisions regarding expenditure of the State Highway Fund. "Reasonable" amounts must be spent to establish footpaths and bicycle trails. Except where specified by statute, footpaths and bicycle trails must be established wherever a highway, road, or street is being constructed, reconstructed, or relocated (366.514). Before allocating the State's highway monies, the Department of Transportation must first set aside an amount sufficient to comply with the terms of the various federal aid programs in which the State participates (366.735). By law, the Department must also withdraw \$250,000 each year from the amount appropriated for cities. This money must be spent by the department on city streets which are receiving excessive wear through sudden increases in population, or heavy and unusual traffic. The Department may not use this money for streets which are part of the State highway system (366.805).

4. WHAT CRITERIA DO THE STATUTES CONTAIN REGARDING THE ALLOCATION OF STATE HIGHWAY CONSTRUCTION AND MAINTENANCE FUNDS?

Washington State statutes outline a procedure for prioritizing highway projects. The Washington State Highway Commission establishes three categories of highway improvements:

- (1) Category A improvements consist of those necessary to sustain the structural, safety, and operational integrity of the existing State highway system;
- (2) Category B improvements consist of those continuing the development of the interstate system;
- (3) Category C consists of major transportation improvements (other than improvements to the interstate system) including designated but unconstructed highways which are vital to the state-wide transportation network (RCW 47.05.030).

The Commission prepares a long range plan allocating the estimated revenues for a fourteen year period among the categories, giving primary consideration to the following factors:

- (a) The relative needs in each of the categories.
- (b) The need to provide adequate funding for Category A improvements to protect the State's investment in its existing highway system; and
- (c) The continuity of future highway development of all categories of improvements with those previously planned (RCW (47.05.035)).

In preparing the long range plan, the Highway Commission must adopt a schedule for performing Category A improvements within each classification of State highways (all State highways are classified by the Commission according to their function and importance (RCW 47.05.020) (RCW 47.05.035(2))).

The Commission must prioritize all A and B improvement projects according to the following criteria:

- (a) The highway's structural ability to carry loads imposed on it;
- (b) Its capacity to move traffic at reasonable speeds without undue congestion.

(continued)

4. WHAT CRITERIA DO THE STATUTES CONTAIN REGARDING THE ALLOCATION OF STATE HIGHWAY CONSTRUCTION AND MAINTENANCE FUNDS?

- (c) Its adequacy of alignment and related geometrics;
- (d) Its accident experience; and
- (e) Its fatal accident experience (RCW 47.05.050).

When selecting which category C projects to perform, the Commission must compare the projects on the basis of the following:

- (a) Continuity of development of the highway transportation network;
- (b) Coordination with the development of other modes of transportation;
- (c) The State long range goals of the local area and its transportation plan;
- (d) Its potential social, economic, and environment impacts;
- (e) Public views concerning proposed improvements;
- (f) The conservation of energy resources and the capacity of the transportation corridor to move people and goods safely and at reasonable speeds; and
- (g) Feasibility of financing the full proposed improvement (RCW 47.05.051).

There are statutory provisions permitting the Highway Commission to deviate from the established prioritization of projects (RCW 47.05.051(g); 47.05.055).

According to Wyoming statutes, the State Highway Commission prioritizes only county industrial road projects using the following criteria: (1) date project was proposed; (2) county money available for project; (3) traffic count; (4) number of people project will service; (5) tax value of the area served by the proposed industrial road (Sect. 24-5-121).

House Bill 654

This is "an act relating to the Department of Transportation and Public Facilities and establishing a board at the Department of Transportation and Public Facilities and providing for an effective date."

This bill establishes a board of transportation made up of 7 members. One member of the Board shall be appointed from each allocation district as in AS.19.30.127, (Local Service Roads and Trails districts.)

two members with highway construction experience
two members with aeronautical experience
one member with a maritime background
one member with to be an economist
one member shall be selected from the public at large

Members serve overlapping terms with no member serving more than two terms.

Sec. 44.42.017 The board is entitled to compensation of \$150 per day as well as travel and per diem, and is authorized \$100 for board approved meetings or conferences.

Sec. 44.42.019 The board is authorized to hire staff as necessary. Staff is in the partially exempt category.

Sec. 44.42.021, Powers and Duties

(a) The board shall: "Recommend policy for adoption to the legislature to assure the development and maintenance of a comprehensive and balanced statewide system that will meet the needs of the people of the state for safe and efficient transportation services." The bill outlines considerations for the board in their preparation of these policies. (inasmuch as these are straightforward in the bill, I will not go into detail here, but highlight significant areas)

(c) The board may (1) engage in experimental projects relating to existing or future modes of transportation.. (2) exercise the power of eminent domain, including the declaration of taking as in AS. 09.55.

(d), .." the board shall supervise the execution (of the plan) by the commissioner of other statutory powers and responsibilities granted to the commissioner by law.", which gives added accountability from the commissioner to the board.

Sec. 44.42.040 The board may adopt regulations.

Sec. 44.42.040 The board shall adopt regions in the state. The functions of the department.. shall be performed, to the maximum extent possible through the regional office. Region directors are appointed by the commissioner. (Recall that the board has supervisory powers here)

This section also elaborates on the "plan" for transportation.
Sec. 4, AS.44.42.050(a) provides for an annual comprehensive
intermodal, long range plan.

Sec. 5 AS 44.42.050(b) provides for amendments to the plan.

Sec. 6 speaks to "two year" plan but does not address two phase funding.
See HB 650.

Sec. 7 through Sec. 10 speaks to Public Facilities and outlines
procedures for the public facilities and other plans.

Sec. 12 through Sec. 16 inserts the word board in place of the word
commissioner

TESTIMONY ON CS HB 648, CS HB 649, CS HB 651,
CS HB 652 and CS HB 654

My name is Walter B. Parker. I am a resident of Anchorage, Alaska residing at 3724 Campbell Airstrip Road. I have been active in Alaskan transportation operations and planning since 1946.

CS HB 654

I strongly support this bill. I believe that the Board would serve as the forum that has long been needed to discuss the transportation affairs of the state. It is time to decentralize some of the power in the state executive and this bill certainly is a good step in that direction.

I believe if we look at the Department of Education and see that the same Commissioner working with his board has survived some of the greatest policy changes in state history is a good indication of the way in which the board proposed in this bill might work for transportation. As a former Commissioner I would regard the board as an enhancement of the decision making power rather than a check upon it.

The change I would suggest would be to have two maritime members and drop the economist. This does not reflect a bias against economists who despite our present revenue forecasts I tend to admire as a profession. However, I believe this board should reflect overall transportation background and not specified professional expertise.

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 654 Relating to DOTPF and establishing the
Title Board of Transportation & Public Facilities at the head of the Dept.
 Requested by House Transportation Date 1/21

II. FISCAL DETAIL

Agency Affected Department of Transportation and Public Facilities
 Program Category Affected Administration and Support
 EPU, Program, Or Subprogram(s) Affected Board of Transportation and Facilities
 (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-	89.8	98.8	108.6	119.4	131.3
200 TRAVEL	-0-	41.0	46.1	50.7	55.8	61.3
300 CONTRACTUAL	-0-	55.0	60.5	66.5	73.1	80.4
400 COMMODITIES	-0-	5.0	5.5	6.0	6.6	7.2
500 EQUIPMENT	-0-	10.0	1.0	1.0	1.0	1.0
600 LAND & STRUCTURES	-0-	-0-	-0-	-0-	-0-	-0-
700 GRANTS, CLAIMS, ETC.	-0-	-0-	-0-	-0-	-0-	-0-
TOTAL	-0-	201.7	211.9	232.8	255.9	281.2

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND	-0-	201.7	211.9	232.8	255.9	281.2
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME	-0-	2	2	2	2	2
PART TIME	-0-	-0-	-0-	-0-	-0-	-0-
TEMPORARY	-0-	-0-	-0-	-0-	-0-	-0-

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

See attached notes and HB 654 1982.

IV. DATE 2/4/82

PREPARED BY D.H. Wong Don Paul
 AGENCY Department of Transportation & Public Facilities
 PHONE 415-3710

Original: Legislative Finance

ESTIMATED COST ON HB654
For Board of Transportation & Facilities

100	Personal Services			
	2 Full time Staff			
	Executive Director			
	24A 4320/mo		\$51,840	
	Secretary I			
	10B 1726/mo		<u>20,712</u>	\$72,552
	Benefits at 23.8%			<u>17,257</u>
				\$89,819
200	Travel			
	Per Diem-Members			
	\$80/day			
	(per as 39.20.160)			
	Meetings			
	5 days - Initial set up x 7 members (35)			
	3 days - 6 Regular x 7 members (126)			
	5 days - Special x 7 members (35)			
	3 days x 3 Inspection x 7 members (63)			
			<u>259</u> x \$80/day	\$20,720
	Per Diem-Staff			
	5 days (5)			
	3 days 6 times (18)			
	5 days 1 time (5)			
			<u>28</u> x \$80/day	\$ 2,240
200	Air Fare - Members & Staff			
	\$1,566 per meeting x 8 meetings		12,528	
	Avg/trip = \$261			
	\$261 x 7 members x 3 inspection trips		5,481	
	Total air fare		<u>\$18,009</u>	
	Inflation/Rate increase 5%		<u>900</u>	<u>\$18,909</u>
	Total Travel			\$41,869
300	Contractual			
310	Communication		\$ 6,000	
320	Printing & Advert.		9,000	
330	Space rental		9,300	
364	Equipment Rental		6,000	
380	Professional Services		20,000	
390	Other Contractual Services		<u>4,700</u>	
	Total Contractual			\$55,000

400

Commodities

450

Office Supplies

\$ 5,000

Total Commodities

\$ 5,000

500

Equipment

Furniture & Office

Equipment including

10,000

2 desks, 2 chairs

10,000

3 file cabinets, 1 book shelf

1 typewriter, 1 calculator

3 guest chairs, 1 table

Total cost Estimated

: \$201,688

Total Estimated Cost FY 83

\$201,700

Sec. 39.20.160. Regulations. The fixing and payment under AS 39.20.110 — 39.20.170 of travel and per diem allowances and of advances and recovery and reimbursement of travel expenses shall be in accordance with regulations adopted by the commissioner of administration. The regulations shall be uniform for all officials and employees, and all agencies and departments. The regulations shall also govern the use of public transportation facilities by officials and employees. The regulations relate to the internal management of state agencies and their adoption is not subject to the Administrative Procedure Act (AS 44.62). (§ 9 ch 60 SLA 1957; am § 2 ch 13 SLA 1963)

Sec. 39.20.170. Construction of AS 39.20.110 — 39.20.170. AS 39.20.110 — 39.20.170 may not be construed to modify or repeal a law providing for the travel expenses of the governor, or members of the legislature, or members of boards or commissions of the state government. (§ 10 ch 60 SLA 1957)

Sec. 39.20.180. Transportation and per diem expenses for members of boards, commissions, etc. Except as otherwise provided by law, from and after March 27, 1962, the provisions in this section relating to per diem and transportation govern exclusively and supersede all other provisions of law with respect to a member of a state board, commission, committee, judicial council, or other similar body of persons of the state organized or established under the authority of law, but excluding any other state employee other than a legislator, who is otherwise entitled by law to receive from the state payments for expenses of transportation, and for reimbursement or for per diem in lieu of reimbursement for other expenses incident to his duties as such member:

(1) For transportation, the member is entitled either to the use of state transportation requests, or to be reimbursed for expenses of transportation to the same extent, in the same manner, and under the same conditions as provided for state officials and employees by the provisions of AS 39.20.110 — 39.20.170.

(2) For reimbursement for other expenses, the member is entitled to a per diem allowance prescribed by the commissioner of administration under the regulatory authority set out in AS 39.20.160 for each day or portion of a day spent in actual meeting or on authorized official business incident to his duties as a member. (§ 1 ch 130 SLA 1953; am § 1 ch 34 SLA 1960; am § 1 ch 37 SLA 1962; am § 5 ch 136 SLA 1967; am § 12 ch 47 SLA 1974)

Cross reference. — As to coverage of state board and commission members under the Worker's Compensation Act, see AS 23.30.242.

Cited in *Laborers & Hod Carriers Local 341 v. Groothuis*, Sup. Ct. Op. No. 773 (File Nos. 1435, 1439), 494 P.2d 808 (1972).

Quoted in *Employers Liab. Assurance Corp. v. Groothuis*, 8 Alas. L.J. No. 12, p. 134 (Nov., 1970).

Title 40
Public Records
and Records

Title 41
Public Resources

Public Utilities
and Carriers

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Alaska State Legislature

Senate Committee on State Affairs

Vic Fischer, Chairman • Pouch V • Juneau, Alaska 99811 • (907) 465-4954

Official Business

Senate State Affairs Committee Minutes

May 5, 1982

Members Present: Sen. Vic Fischer, Chair
Sen. Dick Eliason
Sen. Brad Bradley
Sen. Terry Stimson
Sen. Mike Colletta

COMMITTEE CALENDAR

HB 866am An Act establishing a special investment tax credit

WITNESS REGISTER

David Heatwole
Alaska Miners Association
509 West Third Ave., Suite 17
Anchorage, Alaska 99501
Testified in favor of HB 866

George Krusz
Alaska State Chamber of Commerce
310 2nd St.
Juneau, Alaska 99801
Supports concept of HB 866; expand to include oil and gas industry

Gary Jenkins
National Federation of Independent Businesses
former Division of Audit
P. O. Box 194
Auks Bay, Alaska 99803
Has problems with HB 866; suggests expanding to include all small businesses

Tom Williams
Commissioner, Dept. of Revenue
Pouch S
Juneau, Alaska 99811
Testified in opposition to HB 866

Dave Hutchins
ARECA/Electrical Association
6000 C Street, Suite C
Anchorage, Alaska 99502
Suggests HB 866 be amended to include renewable energy resource investments

Lance Anderson
Cook Inlet Regional, Inc.
1600 Oxford Drive
Anchorage, Alaska
Supports HB 866

Phil Holdsworth
Alaska Miners Association--S.E.C.
326 4th St., #1004
Juneau, Alaska 99801
Supports HB 866

Rep. Terry Gardiner
Pouch V
Juneau, Alaska 99811
Testified in opposition to HB 866

PREVIOUS ACTION

No previous action in this committee.

ACTION NARRATIVE

Tape #
0000

Sen. Vic Fischer, chair, called the meeting to order at 1:50 pm with members Sen. Colletta, Sen. Bradley, Sen. Eliason, and Sen. Stimson present.

David Heatwole, Alaska Miners Association, stated that the association is in support of HB 866 because it broadens the economic base. We have world class deposits worth as much as Prudhoe Bay. Mining is labor intensive. Development needs infrastructure and stable investment climate. HB 866 enables a quicker recovery of the investment and it signals "lower 48" companies that Alaska wants development. (Written testimony attached.)

Sen. Fischer asked what the state could do to develop mining. David Heatwole responded: 1) Develop infrastructure and 2) Send a positive symbol to investors.

Sen. Fischer asked how HB 866 could be a tax generator if the state is to provide infrastructure and tax exemptions. Sen. Eliason remarked that only profitable firms can use the credit, so what good is the credit to less profitable investors. David Heatwole responded that it encourages investment in Alaska rather than someplace else.

George Krusz, Alaska State Chamber of Commerce, testified that the Chamber has supported the concept of HB 866 since December 1981. Tax credits should be expanded for all industry including oil and gas...it is not fair to exclude oil and gas. (Written statement attached.)

Gary Jenkins, National Federation of Independent Businesses, stated his concern that benefits of HB 866 only go to a limited group which already get special loan assistance. HB 866 is not fair to small businesses. They provide most jobs but receive little incentive. Gary suggests that the credit be expanded to all businesses except oil and gas. From past experience in the Dept. of Revenue, Gary reasons that many businesses would pay little or no tax because of the credit amendment; he would only support the concept of HB 866 if it is applied to all businesses. (Written statement attached.)

Sen. Fischer asked to what extent HB 866 creates a windfall for profitable businesses. Gary Jenkins responded that as much incentive as possible is needed.

0600 Sen. Eliason posed a question about the fact that as much as 46% of investment credit which is returned to the corporation can be taxed by the Feds. Gary Jenkins agreed that this is true, although the credit primarily reduces state tax liability. Sen. Fischer asked if all sectors need equal incentive. Gary Jenkins responded that small businesses are in need of incentives. Sen. Eliason asked if non-renewable resources should be taxed differently than renewable ones, given that, once removed, non-renewable resources are gone forever. Gary Jenkins responded that investment tax credit should be equal but non-renewable resources should be subject to a severance tax.

Sen. Bradley asked how many small businesses are in the state. Gary answered that more than half of the state's businesses are small...less than 50 people.

Tom Williams, Commissioner, Dept. of Revenue, (verbal testimony only) testified against HB 866 for the following reasons.

(1) It will not encourage investment. Alaska income tax maximum tax bracket is 9.4%. Investment credit would lower the 9.4%. 46% of the credit will go back to the Feds, so the maximum benefit to a firm is 46% of 9.4%. Investment decisions are based on discounting of a future income stream compared to costs. The investment credit will not make a difference in the rate of return calculation. Maximum benefit of the tax credit would be less than 1% in the overall rate of return.

(2) Too many benefits have already been conferred and already forgotten.

(a) Last year's state income tax rates were significantly reduced. Old rates were \leq \$50,000 = 5.4%
 $>$ \$50,000 = 9.4%

New rates are: \$10,000 = 1% less than 1/5 of old rate
10-20,000 = 2% less than 40% of old rate
20-30,000 = 3% less than 60% of old rate
30-40,000 = 4% less than 80% of old rate

40-50,000 = 5%	less than 95% of old rate
50-60,000 = 6%	33% relief
60-70,000 = 7%	25% relief
70-80,000 = 8%	25% relief
80-90,000 = 9%	
90-100,000 = 9%	
> 100,000 = 9.4%	same as before, but the first \$100,000 receives a substantial tax break

(b) In 1981 the IRS created the "Accelerated Cost Recovery System (Automatic Super Depreciation) which increases depreciation and reduces net taxable income. In effect, it reduces state taxes because state taxes are based on federal tax.

(c) Last year's state legislature increased the allowable amount of investments eligible for an investment credit from \$500,000 to \$20 million: a 40 fold increase. It doesn't make sense to increase that 40 fold increase by an additional five fold.

(3) Commissioner Williams also opposes HB 866 because it is disproportionate. Our investment tax credit is 18% of the federal investment tax credit rate. The Feds allow 10% tax credit. Our 9.4% maximum income tax rate was 18% of the Federal maximum income tax rate of 48%. It doesn't make sense to increase our investment credit refund to 100% of the federal allowance while our total tax rate is less than 1/5 of the federal rate.

(4) Who benefits? Small corporations do not benefit. Small corporations are being taxed in a low state income tax bracket. Large corporations have more income to shelter. Large corporations can sell credits through subsidiaries. Credits get concentrated in the hands of the rich who have the most income to shelter. It is easy to set up leasing arrangements through subsidiaries. Unity taxation lumps all subsidiaries together. Subsidiaries can be set up to transfer credits and no language can prevent this under unitary taxation.

(5) We are steadily eroding our tax base. For example: our housing loan programs, municipal revenues and public works are all riding on oil revenues. We need to broaden our tax base. Who will pay for the development of infrastructure to support industries such as mining and agriculture if they do not pay taxes? Our revenue sources must not be eroded; HB 866 erodes our non-petroleum tax base by 1/3!

(6) HB 866 gives the oil companies excellent support in their argument that our taxes are discriminatory and deny equal protection to the oil industry. After all, oil is like a rock which is mined. It must be processed to obtain market

value. HB 866 would leave us very exposed to a lawsuit by the oil companies. Dick Donaldson, Vice President of Standard Oil said he would challenge our entire tax system, including severance because it discriminates against oil production.

For all of these reasons, Commissioner Williams is opposed to an investment credit equal to 100% of the Federal investment credit.

In summary:

- 1 - ineffectiveness
- 2 - benefits already conferred
- 3 - disproportionate benefits in relation to the difference between federal and state tax rates
- 4 - disproportionate in favor of rich
- 5 - ability to sell credit through subsidiaries
- 6 - erosion of our non-petroleum tax base

In addition, HB 866 provides a better factual basis for oil companies to challenge our entire tax system.

Sen. Colletta inquired if we need psychological incentives to encourage development. Commissioner Williams responded, "People don't know about the tremendous benefits which have recently been conferred by the legislature for oil and other industries."

Sen. Colletta remarked that the credit would "enable investors to recover their investment more quickly." Comm. Williams stated, "Other factors completely overwhelm the effect of a state investment credit such as infrastructure and price of raw materials."

Sen. Fischer stated that Kuparuk was made on the basis of oil prices, not investment climate, and he asked if there is any way that an industry needing incentive could benefit from a credit without also allowing other industries who don't need a credit to reap a windfall benefit.

Commissioner Williams responded that he didn't see how one could do that because even the Feds have not been able to prevent the creation of subsidiaries to sell credits. He calculated that the Prudhoe Bay rate of return after tax was 27.6% and without all state taxes the rate of return would have been 28.5%. He further stated that mining may have higher labor costs than oil, but the price of raw materials dominates all other investment decisions.

Sen. Eliason asked about Alaska's old tax incentive plan, prior to Prudhoe Bay. Williams replied that it was repealed because the state never got anything in return except a urea plant on the Kenai, which he felt might have been built in any event, as it earns a good return.

Sen. Bradley asked if the incentive would create employment, thus decreasing the amount for welfare and unemployment costs.

Commissioner Williams stated that the minerals are "not going anywhere" and development will occur when ore prices are profitable. He feels that we could help industry by providing better infrastructure.

Sen. Eliason asked if other states have investment tax credits, and Williams replied that they do, but none are as disproportionate as the one proposed by HB 866.

Sen. Eliason asked how severe Alaska taxation is compared to other states, and Williams answered that overall Alaska is in the better half because Alaska doesn't have franchise tax, nor gross receipts tax; employers don't have to pay higher wages to compensate for a personal income tax bite, and our property taxes are not excessive.

Dave Hutchins, ARECA Electrical Association, proposed that renewable energy resource investment receive the same tax credit as other industries under HB 866.

Lance Anderson, Cook Inlet Regional, Inc., supports HB 866. He stated that HB 866 would be a positive factor in investment decisions; most corporate investments are not even eligible for investment credit. The measure will encourage investment in marginal industries and diversification of Alaska's employment base. He stated that small businesses do not need investment credit as they already have no income tax liability. Even if HB 866 wipes out all state income tax liability on large projects, large corporations would still pay a 7% mining license tax. Mines are low margin businesses, and the incremental return is more important than it is for oil companies. Passage of HB 866 sends a psychological message that the state wants and needs mining development and will reward investment activity.

Lance Anderson answered questions which people have asked him on other occasions. In response to the question, "Who is eligible for the credits?" Lance stated that only non-oil corporations would be eligible. Even if tax credits are exchanged, Lance would approve, because the goal is to encourage investment. HB 866 encourages reinvestment. In response to inquiries about what constitutes "qualified property", Lance stated that it does not include roads, buildings, etc. Qualifying property will not be a large part of the investment. He described how the credit is calculated (the percentage eligibility formula used for federal investment credit calculations prior to 1981:

less than 3 year useful life	=	0% eligible
3-5 year	"	" = 33 1/3 % eligible
5-7 year	"	" = 66 2/3 % eligible
7 or more year	"	" = 100 % eligible

Lance Anderson went on to describe the impact HB 866 would have on state revenues. He said it should have a very minimal impact. Only minimal amounts are invested in mining, timber and fisheries by taxpaying corporations. There will be local tax and employ-

ment benefits.

HB 866, he stated, is a revenue generating bill because it generates profits.

Lance Anderson questioned the accuracy of the fiscal note before the committee. The bill, he stated, is worth the chance, even if it will only speed up development by one year. The people who will have the new jobs will benefit. In response to the question, "Is HB 866 another subsidy to a special interest?" Lance answered that it is not a subsidy; it is a temporary tax reduction tied to investment. It will have a broad impact. CIRI supports this bill because it can help develop Beluga coal or Seldovia chrome. There is no mining currently taking place on native lands. Native corporations need more capital and HB 866 helps to attract capital for joint ventures and international development concerns.

Investment credits have been useful on the national level and they are effective. The critical question we should be asking is "When will these resources be developed?"

Sen. Eliason said that he didn't mind if some of these resources are developed at a later date so others can receive the full benefit of them. Sen. Eliason challenged Lance Anderson's statement that many investments, such as buildings, would not qualify for the credit, stating that this is not true according to the IRS code which states that buildings are exempt, however "the term 'building' does not include a structure used as an integral part of extraction", page 2, publication 572, Tax Information on Investment Credit.

Phil Holdsworth, Miners and Coal Operators of Alaska, supports HB 866. Borax's exploratory work does not qualify as an investment. Alaska's mining license tax is like a severance tax except that it is paid on net income while severance taxes are paid on gross income.

Rep. Terry Gardiner testified that HB 866 is a poor policy with good intentions. On the national level, credits have been a failure, a great misallocation of resources. National investment is less than it was a year ago. The credit has not affected the creation of new businesses. The investment credit allowed businesses to lease excess credits and get windfall gains. Borax development depends of the price of molybdenum and state tax policy has little effect. Borax will not even pay tax until 1992. For his own district, Ketchikan, new schools will be needed, in addition to additional public expenditures. What does Ketchikan get out of it? How can Ketchikan obtain state assistance for schools, etc, if the state is not receiving any taxes from Borax. Local taxpayers will have to pay for new infrastructure, but Borax is outside of local tax jurisdiction. Rep. Gardiner then addressed individual resources:

- * Timber - the proposed credit would increase credit for cutting and replanting, even on private property. We

will pay timber companies to cut and replant: a strange situation.

- * Fishing - I am a processor, and have invested a lot of money. My investment has nothing to do with state credits. It only depends on my ability to be a good businessman and make an intelligent decision. HB 866 is a great thing for poor businessmen, because it is probably the only way they can make money. The normal American way to make profit is to work hard and be smarter than the next guy.
- * Oil - We're getting to the situation where we will only be taxing one industry in the state and that is oil. HB 866 will enable the oil companies to more effectively argue in court that they are being discriminated against. Fishermen pay a 3% raw fish tax whether or not they make a profit. It can be argued that this tax should be repealed on the grounds that tax relief would promote investment. Although this might sound plausible, Rep. Gardiner stated, he doesn't think it really would be plausible. The same arguments can be made against any tax. However, we can't rely on oil for all public revenues. Rep. Gardiner stated that HB 866 is a very dangerous bill because it can support a challenge from the oil companies.

Sen. Eliason asked who will benefit from HB 866.

Rep. Gardiner responded that small businesses make small, eligible investments. Small businesses tend to deal in real property which has lower eligibility than personal property such as equipment which large companies tend to deal with. Large companies like timber can declare credits against roads and other kinds of support activities.

[This concludes the minutes on the portion of the meeting concerned with HB 866.]

QUOTES FROM MALCOLM GILLIS, PROFESSOR OF ECONOMICS, HARVARD UNIVERSITY,
Statement to Permanent Fund Trustees on "The Effects of In-State
Investment", OCT. 23, 1981.

If the diversification so keenly sought means the creation of an economy that would be viable once oil runs out, then this would require an economy that could ultimately stand on its own in the absence of subsidies, and also pay ordinary taxes. Large-scale subsidization runs counter to the expressed goal of economic development.

There are few safe generalizations in economic policy. But, one generalization comes as close as any to a universal truth: selective government-sponsored credit programs have been, virtually everywhere, resounding failures. Here we speak of failure not so much in the sense of spawning resource misallocation so abhorrent to economists, but failure in the sense of not achieving the results desired by the government. This has been true in Kuwait, Libya, Qatar, United Arab Emirates, Saudi Arabia, Iraq, Algeria, Ecuador, Venezuela, Malaysia, Iran, Indonesia, Mexico, Nigeria, Norway, Holland, Britain, Alberta Canada and Salah Malaysia... I would add that I have searched in vain for 14 years for one example of a truly effective state-subsidized loan program for industry.

Since some (usually significant) fraction of firms receiving subsidized loans are marginal enterprises to begin with (indeed, this is often precisely the argument used to justify special credit programs), many ultimately go under... As the British, Italian and Swedish experiences

clearly show, this is one way to spend a lot of the public's money. Whether Alaska is ready for a substantial government-as-entrepreneur presence is a question that can only be decided by Alaskans.

In several other cases, governments have rushed headlong into encouragement of greater local processing. Indeed, there are many instances in which governments, in their zeal to promote processing, have given up more in investment funds or in foregone tax revenue than they have received in benefits to their economies. The Bolivian tin smelter, constructed in 1968-69, is such an example. For another, consider a case in timber. The country of Papua New Guinea has some attractive hardwood stands. Their government is committed to a policy of discouraging log exports and encouraging sawmilling and veneer plants, the better to secure greater domestic value-added in processing. To further this aim, the government has abolished export taxes on lumber and veneer, while maintaining a 10% excise tax on logs. In so doing, it gives up \$440 of lost taxes for each \$100 of additional wages made possible by higher employment in timber processing. This is but one of the common examples of the types of waste involved in indiscriminate enthusiasm for expanded investment in local processing. In such cases, the non-quantifiable benefits to the host economy had better be very high, given that the net quantifiable benefits are negative.

MEMORANDUM

DATE: May 10, 1982

TO: Senator Vic Fischer

FROM: Ira Winograd *I.W.*

RE: Cook Inlet Regional Incorporated and HB 866, Investment Credits

CIRI has prepared and distributed a background paper on HB 866. This paper is incorrect in the following statements.

1. CIRI states that roads, buildings mine sites etc. are ineligible for investment credits. This is contradicted by THE IRS. Publication 572, "Tax Information on Investment Credit" defines qualifying investment property as: 1. being depreciable, 2. having a useful life of three or more years, 3. being tangible personal property used as an integral part of ... extraction. The IRS definition of building includes mining buildings as qualifying property. A qualifying building, "includes a structure which is an integral part of ... extraction." Other tangible qualifying personal property includes, "any other depreciable property that is used as an integral part of the specified business activities. Business activities are... extracting."

CIRI states that in a development project the amount of qualifying property will be a minor part of total investment. This is contradicted

by Borax which informed the governors office that 63 percent of its total projected expenditures would be eligible for the investment credit base.

2. CIRI states that only a porion of qualifying investments are eligible for calculation of the investment credit base. This is also false. One hundred percent of all qualifying property is part of the investment credit base as of 1981. See attached, form 3468, Computation of Investment Credit, 1. recovery property, line b, column 3, (3 yr. prop. is not qualifying prop).

3. CIRI states that HB 866 would have a very minimal impact on current projections of state revenues. Com. of Rev., Tom Williams, estimates that HB 866 would lower non oil and gas corporate income tax revenues by one-third. This is our second largest source of revenue.

4. CIRI disputes the Dept. of Rev. financial that the proposed credit would exempt Borax from \$82 million in state taxes. This is contradicted by Borax, which has informed the governors office that it plans \$950 million in qualifying investments. Thus, under HB 866, Borax would have \$95 million worth of investment credits.

Computation of Investment Credit

1981
 27

▶ Attach to your tax return.
 ▶ Use separate Schedule B (Form 3468) to figure your tentative business energy investment credit.

Name _____ Identifying number as shown on page 1 of your tax return _____

- Part I** Elections (Check the box(es) below that apply to you (see Instruction D).)
- A The corporation elects the basic or basic and matching employee plan percentage under section 48(n)(1)
- B I elect to increase my qualified investment to 100% for certain commuter highway vehicles under section 46(c)(6)
- C I elect to increase my qualified investment by all qualified progress expenditures made this tax year and all later years
- Enter total qualified progress expenditures included in column (4), Part II ▶ _____
- D I claim full credit on certain ships under section 46(g)(3). (See Instruction B for details.)

Part II Qualified Investment

Figure your qualified investment in new or used investment credit property acquired or constructed and placed in service during the tax year. The qualified investment for qualified progress expenditures and qualified rehabilitation expenditures is allowed in the tax year the expenditure is incurred or in the case of self-constructed property the year the expenditure is chargeable to a capital account for the property.

For certain taxpayers, the basis or cost of property placed in service after February 18, 1981, is limited to the amount the taxpayer is at risk for the property at year end. See Instruction E.

Note: Include your share of investment in property made by a partnership, estate, trust, small business corporation, or lessor.

1 Recovery Property	Line	(1) Recovery Period	(2) Unadjusted Basis	(3) Applicable percentage	(4) Qualified investment (Column 2 x column 3)
New	(a)	3-Year		60	
	(b)	Other		100	
Used	(c)	3-Year		60	
	(d)	Other		100	
2 Total—Add lines 1(a) through 1(d)				2	

3 Nonrecovery Property	Line	(1) Life years	(2) Basis or cost	(3) Applicable percentage	(4) Qualified investment (Column 2 x column 3)
New	(a)	3 or more but less than 5		33 1/3	
	(b)	5 or more but less than 7		66 2/3	
	(c)	7 or more		100	
Used	(d)	3 or more but less than 5		33 1/3	
	(e)	5 or more but less than 7		66 2/3	
	(f)	7 or more		100	

- 4 Total—Add lines 3(a) through 3(f) **4**
- 5 New commuter highway vehicle—Enter total qualified investment. (See instruction D) **5**
- 6 Used commuter highway vehicle—Enter total qualified investment. (See instruction D) **6**
- 7 Qualified rehabilitation expenditures incurred before January 1, 1982, for: (see specific instructions)
- (a) Improvements with 5 or more but less than 7 years—Enter 66 2/3% of expenditures **7(a)**
- (b) Improvements with 7 or more life years—Enter 100% of expenditures **7(b)**
- 8 Total qualified investment in 10% property—Add lines 2, 4, 5, 6, 7(a) and 7(b). (See instructions for special limits) **8**
- 9 Enter 100% of qualified rehabilitation expenditures incurred after December 31, 1981, for:
- (a) 30-year old buildings **9a**
- (b) 40-year old buildings **9b**
- (c) Certified historic structures (Enter the Dept. of Interior assigned project number) **9c**
- 10 Total qualified investment—Add lines 8, 9(a), 9(b), and 9(c) **10**

- Part III** Tentative Regular Investment Credit
- 11 10% of line 8 **11**
- 12 15% of line 9(a) **12**
- 13 20% of line 9(b) **13**
- 14 25% of line 9(c) **14**
- 15 Corporations electing the basic or basic and matching employee plan percentage for contributions to tax credit employee stock ownership plans—Check box A above (see Instruction D)
- (a) Basic 3% credit—Enter 1% of line 10 **15a**
- (b) Matching credit (not more than 0.5%)—Enter allowable percentage times adjusted line 10 (attach schedule) **15b**
- 16 Credit from Cooperative—Enter regular investment credit from cooperatives **16**
- 17 Current year regular investment credit—Add lines 11 through 16 **17**
- 18 Carryover of unused credits **18**
- 19 Carryback of unused credits **19**
- 20 Tentative regular investment credit—Add lines 17, 18, and 19, enter here and in Part IV, line 21 **20**



Alaska State Legislature

Senate Committee on State Affairs

Vic Fischer, Chairman • Pouch V • Juneau, Alaska 99811 • (907) 465-4954

Official Business

MEMORANDUM

DATE: May 17, 1982

TO: Senator Ed Dankworth, Co-Chairman, Senate Finance Committee
Senator Don Bennett, Co-Chairman, Senate Finance Committee

FROM: Senator Vic Fischer *[Signature]*

RE: HB 866, Investment Tax Credit

The House version of HB 866 provided an investment tax credit equal to 100 percent of the investment credit allowed on federal taxes. Corporations investing in farming, fishing, timber or mining would be eligible for the investment credit. Oil and gas investments would not be eligible for the credit.

The Senate CS for HB 866 makes the following amendments:

1. The investment tax credit is changed to 36 percent of the investment credit allowed on federal taxes. The state currently allows an investment tax credit equal to 18 percent of the investment credit allowed on federal taxes.
2. The investment tax credit only applies to mining activities and the activities must be conducted by corporations which have previously not been active in Alaska, or be conducted at previously undeveloped sites.
3. The new investment tax credit expires December 31, 1986.

The purpose of these amendments is to channel investment tax credits to initiate new mining investments which would not have been made without the investment tax credit. The committee could not obtain a clear legal judgement as to whether US Borax might qualify and thus obtain a windfall of close to \$80 million.

The following reference materials are enclosed:

CS for HB 866

Transcript of State Affairs hearing of May 5, 1982, on HB 866.

Fiscal note on House passed version of HB 866

Letter of May 15, 1982, to Senator Vic Fischer, from Commissioner Williams, regarding Effects on Economic-Decision Making from

Increasing the State Investment Tax Credit as Proposed in HB 866

Memorandum of May 12, 1982, to Senator Fischer, regarding Effect of

Investment Credit on Projected State Revenues Generated by US Borax
other pertinent material

STATE OF ALASKA

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

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

April 27, 1982

The Honorable Vic Fischer
Chairman
Senate State Affairs Committee
Room 423 - Capitol Building
Juneau, Alaska

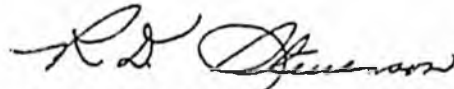
Re: House Bill No. 866 am

Dear Senator Fischer:

House Bill No. 866 am, an Act establishing a special investment tax credit, upon first reading in the Senate on April 26, 1982 was referred to the Senate State Affairs and Finance Committees.

For the consideration of the Senate State Affairs Committee, I am enclosing a copy of a Fiscal Note prepared by Mr. Robert R. Kessel, Director, Audit Division, Department of Revenue concerning the proposed legislation.

Sincerely,

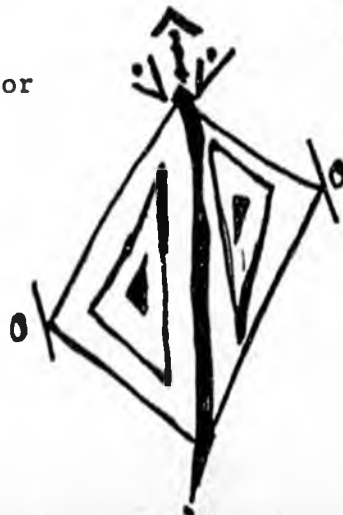


R. D. Stevenson
Special Assistant

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

Joseph K. Donohue
Deputy Commissioner
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 Number: HB 866 am

Title: An Act establishing a special investment tax credit

Requested by: State Affairs

Date: April 26, 1982

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)

	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	-	-	-	-	-	-
800 MISCELLANEOUS	-	-	-	-	-	-
TOTAL	-	-	-	-	-	-

FUNDING (Millions of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND	(2.5)	(11.5)	(13.0)	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER (Specify Source)	-	-	-	-	-	-

POSITIONS

	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)

It is assumed that the investment tax credit utilized by the four impacted industries, including carryback of the credit, would essentially equate to the income tax payable by these four groups for the latest year. These four groups account for approximately 33 percent of the Department's revenue projections.

IV. DATE: April 26, 1982

PREPARED BY: Robert R. Kessel

AGENCY: Audit Division

PHONE: 465-2320

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/81)

STATE OF ALASKA
DEPARTMENT OF REVENUE

M E M O R A N D U M

TO: R. D. Stevenson
Special Assistant

FROM: Robert R. Kessel
Director, Audit Division *RR*

DATE: April 26, 1982

RE: HB 866 am

The bill would substantially expand the Investment Tax Credit for certain corporations. However, the bill falls short of its intended purpose to promote the development of farming, fishing, timber and mining and, in addition, is potentially very expensive.

I am not aware of any study which supports the conclusion that state income tax credits are a strong encouragement for investment in a particular state. Most studies, in fact, reflect that state income taxes have a low importance ranking when investment appraisals are made. In fact, supply of labor, financing, marketability, supply of raw materials, etc., are of the most relevancy.

Experience has shown that when a social or economic problem arises, often the first - and not carefully considered - answer is to use the tax system, whether the proposal comes from government or the private sector. However, tax credits seldom solve the social or economic problem. In fact, tax credits are useful only to those who have income taxes to pay (profitable) and who can therefore make use of the credits. Those who don't pay taxes - those with sufficient or no tax liability - thus receive no assistance from the tax credit program. If a tax credit were to cover these groups - the ones who really need it - it must be refundable; i.e., paid by the state even in the absence of tax liability, and a refundable credit really involves direct spending or subsidy.

It is questionable whether the Federal Investment Tax Credit has provided businesses the incentive to make investments and whether the credit has provided an accelerator effect on the economy as a whole.

Questions that have been asked at the Federal level include:

1. Does the credit flow through to stockholders in the form of dividends rather than used for capital expenditures?
2. Has the credit been used for foreign investment rather than domestic investment thus exporting more jobs overseas?
3. Has the investment tax credit actually increased investment in capital projects?

These very same questions must be asked if Alaska allows the investment tax credit to the extent of HB 866 am.

The extent of the investment tax credit in HB 866 am appears to be grossly misunderstood. The bill would allow the same amount of investment tax credit as is allowed on the Federal return. This is in spite of the tremendously large differentials in tax liabilities at the two levels. For example, if a taxpayer invested \$5,000,000 in qualified investment property with the resulting investment credit of \$500,000 (10%), the Alaska taxable income needed to absorb that amount would be about \$5,400,000. In other words, not a cent of Alaska income tax would be paid if the corporation had a taxable income of \$5,400,000. Conversely, the Federal tax liability on that amount, even with the investment tax credit, would be about \$2,000,000

If a corporation invested \$50,000,000 in qualified property, the Alaska taxable income needed to absorb the investment tax credit would be in excess of \$50,000,000 whereas the Federal tax liability on the \$50,000,000 would be about \$18,000,000.

Since only profitable companies could utilize the investment tax credit, the reduction in Alaska State Income Taxes resulting from HB 866 am would increase Federal taxable income by a like amount. In essence, up to 46% of what is saved at the State level would simply be transferred to the Federal Government in the form of a higher Federal income tax liability.

In addition, Alaska already has an investment tax credit for all industries but limited to 18% of the Federal Tax Credit and a further limitation of \$20,000,000 for qualified property eligible for the credit. The 18% directs itself to the fact that the tax rates are so different; i.e., maximum State rate - 9.4%, maximum Federal rate - 46%.

There are more qualified farmers than there is farmland available. The additional investment tax credit would give the existing farmers additional tax benefits but would do little to expand ownership to a new influx of farmers.

Most timber related companies already have more tax credits and carry-over losses than they can utilize. It is markets that are needed.

For fisheries, all except bottom fishing appears overly crowded. That fact is witnessed by the limited entry system controlling the harvest of fishery resources. Tax credits would not expand the market nor provide higher prices.

Mining, in general, is a highly capital intensive industry. The expanded investment tax credit would serve the purpose of providing almost permanent assurance that no tax would be due because of the fifteen year carry-over provision available for the investment tax credit.

Finally, the expanded credit could be very costly particularly in one instance. If U. S. Borax develops its Ketchikan Molybdenum mine to the extent publicly indicated, the investment tax credit to that corporation could be as high as \$100,000,000 (based on investment cost of \$1 billion). With the fifteen year carry-over provision for the investment tax credit, the investment tax credit of \$100,000,000 could equate to the following revenue loss to Alaska (assuming U. S. Borax had sufficient taxable income to absorb):

Investment Credit applied against tax liability - per current law

\$1,000,000,000	
x 10% Investment Credit amount	
x 18% currently allowed for Alaska corporations	\$ 18,000,000

Investment Credit applied against tax liability per this bill

\$1,000,000,000	
x 10%	<u>100,000,000</u>

Net Loss in Revenue

\$ 82,000,000

The above assumes that the entire \$1 billion would be eligible for the investment tax credit. The portion actually available could vary from 65-100%.

Borax activity will not impact the immediate future fiscally since production from the Ketchikan mine is not anticipated until the late 1980's.

The bill also creates a carry-back problem. The investment tax credit can be carried back and would affect prior year taxes. Therefore, in essence, this bill provides for the potential of a refund of past years taxes. This potentially creates a constitutional question.

HB 866 am adds a provision not contained in HB 866. It is as follows:

"(K) No Credit shall be allowed under (j) of this section for any investment credit which is allowed as to federal taxes for leased property by reason of Section 168(F)(8) of the Internal Revenue Code (26 U.S.C. 168(F)(8))."

One consequence of the Accelerated Cost Recovery System and revisions of the investment tax credit is that many companies are not able currently to use all their tax deductions and credits. In considering potential investments, these companies are at a competitive disadvantage and can become targets for tax-induced takeovers and merges. The Economic Recovery Tax Act of 1981 (ERTA) establishes what is referred to as a safe-harbor for characterizing transactions as leases rather than as sale. A lease transaction permits the lessee-user of property to transfer tax benefits to a lessor-investor, a sale transaction does not. If a lessee-user transfers the tax benefits back to the lessor, the user receives a significant portion of the tax benefits through reduced rental charges.

The new law provides more ease in transferability and its provisions eliminate many of the arguments which often had occurred between the taxpayer and IRS. However, the substantive law regarding lease transactions has not changed as a result of the Economic Recovery Tax Act (ERTA). Procedural law has changed and provides for the ease in transferability of the tax benefits from lessee to lessor.

Section 2(K) of HB 866 am provides for an unworkable administrative process for the Department of Revenue. The Department does not have the staffing to determine if the pre-ERTA Federal

law provision would have caused a lease arrangement to be considered a sale. The taxpayer, as under pre-ERTA, would obviously class certain transactions as a lease rather than a sale and await our challenge, as they previously did with the Federal Government. Therefore, no decrease in the fiscal note developed for HB 866 is foreseen and, if any, would be impossible to determine.

RRK/gb

STATE OF ALASKA

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

POUCH 5
JUNEAU, ALASKA 99811
PHONE: (907) 465-2300

May 15, 1982

The Honorable Vic Fischer, Chairman
Senate State Affairs Committee
Pouch V
Juneau, AK 99811

Re: Effects on Economic Decision-Making from Increasing the State
Investment Tax Credit as Proposed in House Bill 866

Dear Mr. Chairman:

In my testimony before the Committee I stated that increasing the State's investment tax credit as proposed in HB 866 would have only a minimal effect on the internal rate of return after taxes for new projects in Alaska. I also said that, to the extent there would be an effect on the rate of return, it would be greater for "fat cat" corporations than for small ones. I now have had the opportunity to prepare an example which demonstrates the truth of both assertions.

Suppose we have a new project in Alaska, and to avoid any distortions by making it too large, suppose further that it costs \$1,000,000, takes a year to complete and will employ 25 people. Suppose, too, that after expenses other than income taxes and depreciation, the project yields a net cash flow of \$250,000 a year for its first four years of operation, and then each year thereafter the net cash flow decreases by five percent from the previous year. Finally, let us suppose that the project qualifies for Accelerated Capital Recovery System treatment under the new tax law using a 10-year life.

The analysis I have used takes this project and compares the internal rate of return (IRR) on the investment under Alaska's present investment tax credit with the IRR under the credit proposed in HB 866. This comparison is first made with the project standing alone; that is, the investor has no other income to be sheltered from the tax benefits generated from the project. I call this Case 1. Case 2 doesn't involve too fat a "fat cat" corporation, simply one with \$750,000 a year of taxable Alaskan net income from other sources.

The tables attached to this letter show what the after-tax cash flows are under Case 1 and Case 2, both with the present investment tax credit and with the one proposed by HB 866. As you can see from those tables, the IRR under the non-"fat cat" case (Case 1) is 18.763% under

Hon. Vic Fischer (re HB 866)
May 15, 1982
Page 2

the present law and would rise by only 0.363 of a percentage point to 19.126% under HB 866. In contrast, the improvement in the rate of return for the "fat cat" case (Case 2) is nearly three times as great as for the "skinny" cat -- 0.997 of a percentage point (15.772% to 16.769%).

Note also how small a difference there is in the rate of return between present law and HB 866. The extra economic incentive from raising the State's investment tax credit is truly minimal (and you can see why: look how much higher the federal taxes would be during the early years with HB 866 than they are under present law, in both Cases 1 and 2). Other factors have much more effect on the economics of an investment than the amount of investment tax credit. For example in Case 1, suppose one's assumptions about market prices, labor costs, operating expenses have a 10 percent increase, and cash flows were only a 5 percent increase in the rate of return. tax incentive under HB 866

Without going into detail, I would only reiterate my objections that HB 866 does too little economically, at too high a price for the State, to the advantage of wealthy corporations over small ones. It scarcely makes economic sense and certainly makes poor State policy.

I hope this information may prove useful to you and your Committee in considering HB 866.

Sincerely,



Thomas K. Williams
Commissioner of Revenue

Attachments

P.S. I might add parenthetically that the reason for the lower IRRs in the "fat cat" case is that all income from the project is taxed in the maximum tax bracket under both federal and state tax laws, because of the other \$750,000 of taxable income; the project represents incremental income to the corporation. In Case 1 the project stands alone, and so the first \$100,000 and first \$90,000 are taxed below the maximum rates under the federal and Alaska tax laws, respectively.

CASE 2. A LARGE ONGOING ALASKAN BUSINESS

Yr	Pre-Tax Cash Flow from Project	Project Depreciation	With State Investment Tax Credit Under Existing State Law							With State Investment Tax Credit under HB 866				
			AK Inc. Tax From Project Before ITC	AK ITC Applied	AK Inc. Tax From Project After ITC	US Inc. Tax From Project Before ITC	US ITC Applied	US Inc. Tax From Project After ITC	Net After-Tax Cash Flow	AK ITC Applied	AK Inc. Tax From Project After ITC	US ITC Applied	US Inc. Tax From Project After ITC	Net After-Tax Cash Flow
1	-1,000,000	0	0	0	0	0	0	0	-1,000,000	0	0	0	0	-1,000,000
2	250,000	80,000	15,980	18,000*	-2,020	79,129	100,000	-20,871	272,891	82,520**	-66,540	100,000	9,738	306,802
3	250,000	140,000	10,340	0	10,340	45,844	0	45,844	193,816	17,480	-7,140	0	49,123	208,012
4	250,000	120,000	12,220	0	12,220	54,179	0	54,179	183,601	0	12,220	0	54,179	183,601
5	250,000	100,000	14,100	0	14,100	62,514	0	62,514	173,386	0	14,100	0	62,514	173,386
6	237,500	100,000	12,925	0	12,925	57,305	0	57,305	167,271	0	12,925	0	57,305	167,271
7	225,625	100,000	11,809	0	11,809	52,355	0	52,355	161,461	0	11,809	0	52,355	161,461
8	214,344	90,000	11,688	0	11,688	51,822	0	51,822	150,834	0	11,688	0	51,822	150,834
9	203,627	90,000	10,681	0	10,681	47,355	0	47,355	145,591	0	10,681	0	47,355	145,591
10	193,445	90,000	9,724	0	9,724	43,112	0	43,112	140,609	0	9,724	0	43,112	140,609
11	183,773	90,000	8,815	0	8,815	39,081	0	39,081	135,878	0	8,815	0	39,081	135,878
12	174,584	0	16,411	0	16,411	72,760	0	72,760	85,413	0	16,411	0	72,760	85,413
13	165,855	0	15,590	0	15,590	69,122	0	69,122	81,143	0	15,590	0	69,122	81,143
14	157,562	0	14,811	0	14,811	65,666	0	65,666	77,086	0	14,811	0	65,666	77,086
15	149,684	0	14,070	0	14,070	62,382	0	62,382	73,231	0	14,070	0	62,382	73,231
16	142,200	0	13,367	0	13,367	59,263	0	59,263	69,570	0	13,367	0	59,263	69,570
17	135,090	0	12,698	0	12,698	56,300	0	56,300	66,091	0	12,698	0	56,300	66,091
18	128,336	0	12,064	0	12,064	53,485	0	53,485	62,787	0	12,064	0	53,485	62,787
19	121,919	0	11,460	0	11,460	50,811	0	50,811	59,648	0	11,460	0	50,811	59,648
20	115,823	0	10,887	0	10,887	48,270	0	48,270	56,665	0	10,887	0	48,270	56,665
21	110,032	0	10,343	0	10,343	45,857	0	45,857	53,832	0	10,343	0	45,857	53,832
22	104,530	0	9,826	0	9,826	43,564	0	43,564	51,140	0	9,826	0	43,564	51,140
23	99,304	0	9,335	0	9,335	41,386	0	41,386	48,583	0	9,335	0	41,386	48,583
24	94,338	0	8,868	0	8,868	39,316	0	39,316	46,154	0	8,868	0	39,316	46,154
25	89,621	0	8,424	0	8,424	37,350	0	37,350	43,846	0	8,424	0	37,350	43,846

IRR=15.772%

IRR=16.769%

* Under present law, Alaska's ITC equals 18% of the federal ITC, or 1.8% of the qualified investment. Since the corporation has \$750,000 of other Alaskan taxable income, the \$2020 in ITC not used to shelter income from the project from tax can be used to reduce the tax on this other income. By the same token, the \$100,000 federal ITC can all be used in one year to reduce the tax on the other \$750,000 of taxable income.

** Under HB 866, Alaska's ITC would equal the federal ITC, or \$100,000 in this example. The negative figure reflects the fact that a \$100,000 Alaskan ITC would shelter not only all of the \$170,000 taxable income from the project, but would reduce to zero the \$66,540 tax on the other \$750,000 of taxable Alaskan income, and still leave some \$17,480 of ITC to spare. This \$17,480 is carried over into the next year, where it reduces to zero the \$10,340 tax liability generated by the project and reduces the taxes on the other \$750,000 by \$7,140 (reflected as a negative figure).

CASE 1. A NEW ALASKAN BUSINESS ON ITS OWN

Yr	Pre-Tax Cash Flow from Project	Project Depreciation	With State Investment Tax Credit Under Existing State Law							With State Investment Tax Credit under IIB 866				
			AK Inc. Tax From Project Before ITC	AK ITC Applied	AK Inc. Tax From Project After ITC	US Inc. Tax From Project Before ITC	US ITC Applied	US Inc. Tax From Project After ITC	Net After-Tax Cash Flow	AK ITC Applied	AK Inc. Tax From Project After ITC	US ITC Applied	US Inc. Tax From Project After ITC	Net After-Tax Cash Flow
1	-1,000,000	0	0	0	0	0	0	0	-1,000,000	0	0	0	0	-1,000,000
2	250,000	80,000	12,020	12,020	0	57,950	57,950	0	250,000	12,020	0	57,950	0	250,000
3	250,000	140,000	6,380	5,980*	400	30,166	30,166	0	249,600	6,380	0	30,166	0	250,000
4	250,000	120,000	8,260	0	8,260	35,750	11,884	25,866	217,874	8,260	0	11,884	27,850	222,150
5	250,000	100,000	10,140	0	10,140	44,086	0	44,086	195,774	10,140	0	0	48,750	201,250
6	237,500	100,000	8,965	0	8,965	38,876	0	38,876	189,659	8,965	0	0	43,000	194,500
7	225,625	100,000	7,849	0	7,849	33,927	0	33,927	183,849	7,849	0	0	37,538	188,088
8	214,344	90,000	7,728	0	7,728	33,393	0	33,393	173,222	7,728	0	0	36,948	177,396
9	203,627	90,000	6,721	0	6,721	28,927	0	28,927	167,979	6,721	0	0	32,018	171,609
10	193,445	90,000	5,764	0	5,764	24,822	0	24,842	162,859	5,764	0	0	27,335	166,110
11	183,773	90,000	4,855	0	4,855	21,317	0	21,317	157,601	4,855	0	0	23,259	160,514
12	174,584	0	12,451	0	12,451	54,331	0	54,331	107,802	12,451	0	0	60,059	114,525
13	165,855	0	11,630	0	11,630	50,693	0	50,693	103,531	8,867**	2,763	0	54,772	108,319
14	157,562	0	10,851	0	10,851	47,237	0	47,237	99,474	0	10,851	0	47,237	99,474
15	149,684	0	10,110	0	10,110	43,954	0	43,954	95,620	0	10,110	0	43,954	95,620
16	142,200	0	9,407	0	9,407	40,835	0	40,835	91,958	0	9,407	0	40,835	91,958
17	135,090	0	8,738	0	8,738	37,872	0	37,872	88,480	0	8,738	0	37,872	88,480
18	128,336	0	8,104	0	8,104	35,057	0	35,057	85,176	0	8,104	0	35,057	85,176
19	121,919	0	7,500	0	7,500	32,383	0	32,383	82,036	0	7,500	0	32,383	82,036
20	115,823	0	6,927	0	6,927	29,842	0	29,842	79,054	0	6,927	0	29,842	79,054
21	110,032	0	6,383	0	6,383	27,429	0	27,429	76,220	0	6,383	0	27,429	76,220
22	104,530	0	5,866	0	5,866	25,216	0	25,216	73,449	0	5,866	0	25,216	73,449
23	99,304	0	5,375	0	5,375	23,322	0	23,322	70,608	0	5,375	0	23,322	70,608
24	94,338	0	4,908	0	4,908	21,522	0	21,522	67,908	0	4,908	0	21,522	67,908
25	89,621	0	4,466	0	4,466	19,812	0	19,812	65,343	0	4,466	0	19,812	65,343

IRR=18.763%

IRR=19.126%

* Under present law, Alaska's ITC equals 18% of the federal ITC, or 1.8% of the qualified investment. As with the federal ITC, any ITC that is not used in a tax year may be carried forward into the next tax year. In this case only \$12,020 of the \$18,000 state ITC was taken in the first year; the balance of \$5,980 is taken in the second.

** Under IIB 866, Alaska's ITC would equal the federal ITC, or \$100,000 in this example. This \$8,867 figure represents what remains of the \$100,000 ITC after the twelfth year of the project.

MEMORANDUM

DATE: May 4, 1982

TO: Seator Vic Vischer

FROM: Ira Winograd, staff *I.W.*

RE: HB 866, Investment Credits - Effect on Borax, and Benefits Already
Conferred to Renewable Resource Industries

BORAX

Upon full operation, Borax estimates that state corporate income tax liability will be \$5 million per year, and \$40 to \$60 for the life of the original equipment. Under HB 866, the Department of Revenue estimates that Borax will have \$86 million additional state investment credits. Thus, Borax would not pay any income tax. (Borax would still be liable for license fees.) The Department of Revenue estimates that the Borax mine will cause an increase in state budgetary expenditures of \$12.5 million per year. (All figures are in 1982 dollars.)

TIMBER

Among tax breaks already given to the timber industry are the following:

1. The effect of section 631 of IRS code is that timber companies are only taxed on 60% of their income. (The difference between fair market value and the cost of their own timber is treated as a capital gain. Capital gain maximum tax liability is 28% instead of the maximum 46% tax rate applied to corporate income in non-timber industries. $[.6 = .28/.46]$ The rationale for section 631 is that it encourages reforestation.)

2. Seedlings are typically supplied at a discount through government agencies.

AGRICULTURE

The state has appropriated \$114,624,800 since 1979 to develop agriculture. According to the legislative finance division, expenditures are as follows:

Delta I	13,883,000
Pt. McKenzie	5,025,000
Nenana/Totchaket	500,000
DNR	495,700
U of Ak.	25,749,400
Rural Ag.	2,147,000
ARLF	20,719,200
Capital Proj.	41,137,400
Operating Bud.	<u>4,967,300</u>
Total	\$114,624,800

The industry has generated little, if any, corporate tax revenues to offset these expenditures.

Excerpts from, "Financing Agricultural Projects in Alaska", House Research Agency

State programs for financing agriculture include land contracts offered by the Department of Natural Resources, clearing loans through the Agricultural Action Council, and loans for development and operations of both project and non-project commercial agricultural ventures through the Agricultural Revolving Loan Fund.

The ARLF holds about 50 percent of the \$47 million of farm credit outstanding in Alaska. Land contracts and clearing loans bring the state share to 80 percent of total farm credit in Alaska.

The state's dominant position in the farm credit market is due primarily to the interest rate differential between state programs and other sources of credit. The current interest rate through state programs is six percent versus the 12 percent or higher available through other major lenders.

If state support continues at current levels, loan demand for operation and development of project acreage is expected to peak at \$91 million (1981 dollars) outstanding in 1989. Capital project infrastructure improvements are expected to cost an additional \$23 million, with operating losses totaling nearly \$5 million per year for several years.

Other projected state expenditures for roads, bridges, surveying, administration, etc. is anticipated to be \$49 million (1981 dollars) in land-related appropriations through 1990.

FISHERIES

Excerpts from, "The Alaska Fishing Industry", House Research Agency

State appropriations for programs related to commercial fishing totaled about 120 million in FY 1982. The appropriations were distributed as follows:

fisheries financing programs	56.3 million
management and regulation	30.5 million
fisheries development & marketing	24.1 million
capital improvements	<u>8.8 million</u>
total	\$119,700,000

Fisheries expenditures were 2.2 percent of the state budget in 1978, 79, 80 and 81.

State revenue from non-corporate fish taxes and fees levied on the fishing industry totalled \$28.2 million in FY 1981.

I estimate that the fisheries contributed an additional \$1,044,000 million in corporate income tax payments in F.Y. 1981. (In 1979 the Dept. of Rev. calculated that the fisheries contributed 3% of general

corporate income tax revenues. The FY 1981 general [non-petroleum]
corporate income tax yield was \$34,800,000. $.03 \times 34.8 = 1.04$)

Fisheries revenues (\$29.2 million) equaled 1.3 percent of total state
revenues (\$2,282.6 million) in 1981, and state expenditures on fisheries
were 2.2 percent of the state budget.

MEMORANDUM

DATE: May 12, 1982

TO: Senator Fischer *I.W.*

FROM: Ira Winograd, staff

RE: HB 866 am, (House Passed Version of Investment Tax Credit) Effect of 10% Investment Credit on Projected State Revenues Generated by US Borax

The 10 percent investment credit offered by the House version of HB 866 would exempt Borax from state income taxation for from fourteen to seventeen years. HB 866 would cost the state \$45 million in forgone Borax revenue.

The ten percent investment credit would generate approximately \$45 million in investment credits for Borax to apply against state income tax liability. Borax could also be the beneficiary of an additional \$32 million in excess credits.

Borax estimated that it would be liable for \$46.8 million in state income tax for the first fourteen years of operation. More recent estimates indicate that income tax liability during the first seventeen years of operation may be \$45.7 million under a high investment scenario.

Methodology

Low investment scenario	High investment scenario
	Investment to obtain full production
\$870 million*	\$1,500 million
	Investment eligible for investment credit
548.1	950
	Investment credit entitlement
44.9	77.9
	Directly useable investment credits
44.9	45.7

* In 1982 real dollars.

Investment to obtain full production. Low figure (870) supplied by Borax to the governors office. High figure (1,500) supplied by Borax to Phil Holdsworth of the Alaska Miners Association.

Investment eligible for investment credit. Borax estimates that 63 percent of investment is eligible for investment credit. (The department of revenue estimates that 80% of investment may be eligible for investment credit.)

Investment credit entitlement equals investment eligible for investment credit multiplied by the proposed 8.2 percent net increase in investment credit. The net increase in investment credit is the difference between the H.B. 866 10% credit and the existing 1.8% credit.

Useable investment credits. Borax verified the following stream of state income tax liability (in real 1982 dollars based on an 870 million investment):

	Tax Liability	net income	adjusted net income	adjusted tax
year 1 -	.023 million	.2	(25.0)	0
2 -	.276	2.9	(22.3)	0
3 -	.374	4.0	(21.2)	0
4 -	.528	5.6	(19.6)	0
5 -	.541	5.8	(19.4)	0
6 -	2.6	27.7	2.5	.2
7 -	4.1	43.6	18.4	1.7
8 -	5.1	54.3	29.1	2.7
9 -	6.1	64.9	39.7	3.7
10 -	6.1	64.9	<u>39.7</u>	3.7
11 -	5.9	62.8		5.9
12 -	5.9	52.1		5.9
13 -	4.7	50.0		4.7
14 -	4.6	48.9		4.6
15 -	4.5	47.9		4.5
16 -	4.5	47.9		4.5
17 -	4.6	48.9		4.6
Total			21.9	<u>45.7</u>

The corresponding income is shown in column two, based on the existing 9.4% corporate income tax.

Column three shows the adjusted net income to account for the extra depreciation during the first ten years due to the additional 630 million investment under the high investment scenario; (870 low investment, plus 630 additional investment, equals 1,500 high investment). The department of revenue estimates that each additional investment dollar will reduce net income by 40¢ over a ten year depreciation schedule.

The fourth column shows adjusted tax liability based on decreased net income during the first ten years under the high investment scenario.

Useable investment credits cannot exceed net tax liability for the first 15 years after the investment. However, not all investment will be made before the first year of operation. After approximately the seventeenth year of operation, investment credits based on initial investments would no longer be eligible for refund. Under the high investment scenario, only \$45.9 would be eligible for credit refund. Excess investment credit would be \$32.2 million.



Alaska State Legislature

Senate Committee on State Affairs

Vic Fischer, Chairman • Pouch V • Juneau, Alaska 99811 • (907) 465-4954

Official Business

4/29/82

SENATE STATE AFFAIRS COMMITTEE SCHEDULE

May 1—May 7

THURSDAY

May 6

1:30 pm

- HB 635 Operation of oversized implements of husbandry
- HB 651 Alaska Marine Highway Authority
- HB 654 Board of Transportation and Public Facilities
- HB 866 Investment tax credit



ALASKA MINERS ASSOCIATION, INC.

509 W. Third Ave., Suite 17, Anchorage, Alaska 99501 (907) 276-0347

May 5, 1982

The Honorable Vic Fisher, Chairman
Senate State Affairs Committee
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

Dear Senator Fisher:

The Statewide Board of Directors of the Alaska Miners Association unanimously passed the attached resolution urging enactment of HB-866. The Alaska Miners Association represents approximately 1400 miners located throughout Alaska.

The Alaska Miners Association believes that the investment tax credits proposed in HB-866 will broaden Alaska's economic base. The people of Alaska are concerned about our state's dependence upon oil revenues. We feel diversification of our state's economy is very important for the long term economic health of Alaska.

Many members of the legislature may be hesitant to consider a tax credit bill in the face of declining oil revenues. However, HB-866 is an incoming-producing bill. It will send a strong signal to investors that Alaska is seriously attempting to attract mineral development and increase exploration and mining activity. The economic benefits accruing to the state will far outweigh the revenues lost by the tax credit.

The initial reduction in revenues by mineral investment would be small, less than ten million dollars annually. The tax credits will make Alaskan mineral investments more competitive on a world wide basis and lead to the establishment of a long term healthy mining industry.

We are asking for your help to obtain passage of this bill and make an investment in Alaska's long term economic future.

Sincerely yours,

David A. Heatwole
President

DAH/dlw



ALASKA MINERS ASSOCIATION, INC.

509 W. Third Ave., Suite 17, Anchorage, Alaska 99501 (907) 276-0347

RESOLUTION - HOUSE BILL-866

Whereas the Alaska Miner's Association desires to foster the development of Alaska's mineral resources and,

Whereas the people of Alaska desire to broaden the economic basis of our state and,

Whereas the Investment Tax Credits proposed in HB-866 would provide financial incentives for the development of minerals in Alaska.

The Board of Directors hereby resolves to urge the Speaker of the Alaska State House and the President of the Alaska State Senate, for expeditious passage of HB-866.

Approved

Fairbanks, Alaska

March 30, 1982

David A. Heatwole - President

Sandra H. Thomas - Secretary

Here are a few tips on how to read those new annual reports intelligently.

Reading between the lines

By Aaron Bernstein

WITH ANNUAL REPORTS arriving in the mail almost daily now, a short primer on what to look for this year may be in order.

A joyous LIFO

You've probably always thought of LIFO (last in, first out) inventory accounting as a conservative technique that tends to depress earnings. That's generally true. But, since LIFO matches current sales against latest costs, earnings can be dramatically buoyed when inventories are cut and the latest costs get older and older, lower and lower.

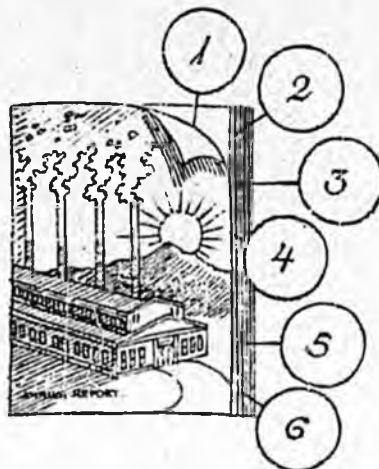
"A full year of high interest rates and slow sales has led to strong pressure to cut inventories," says Seidman & Seidman's Harvey Moskowitz. "This is something I think readers should look for because it inflates earnings."

Take Texaco. High interest rates and an oil glut caused Texaco to cut inventories by 16%. The LIFO cushion that was built into those barrels over the years amounted to \$454 million, and transformed what would have been a drop in net income into a modest gain. Texaco's annual report revealed that.

Spicing up income

Last year a number of firms received a much-needed shot in the arm from the Economic Recovery Tax Act's provision for selling tax benefits. These sales are one-time deals and shouldn't be confused with higher earnings resulting from better sales or margins.

Moore McCormack Resources, a \$766 million natural resources conglomerate, for instance, netted a nice \$5.5 million from sales of investment



credits and depreciation deductions. That brought net income up to \$51.3 million in 1981 from \$47 million in 1980. Without those sales, income for 1981 is down slightly from the previous year.

It sounds better in translation

For years now, companies have been complaining about the adverse effect of accounting for foreign currency translations. Now that the FASB has finally taken steps to make translations painless, you can bet that companies aren't going to complain in their presidents' letters that earnings have been improved as a result.

Although the new rule, FASB Statement 52, won't be mandatory until Dec. 15, 1982, a number of firms elected to adopt it last year. In fact, some even picked up the new accounting method retroactively, which the FASB permits.

Xerox chose to take advantage of the new rule this way and altered its results back four years. Net income as reported in their new annual is \$7.08 in 1981, up from \$6.69 in 1980 and \$6.12 in 1979.

Without the new rule, Xerox' 1981 net income drops 31 cents, to \$6.77, as compared with increases to \$7.24

Numbers Game

in 1980 and \$6.60 the year before. A somewhat different picture.

Watch the actuaries

With interest rates seemingly glued to the heavens, a number of firms have changed their assumptions about how much money their pension plans will earn for many years to come. By raising your interest rate assumptions, you can put vastly fewer dollars into the pension plan in a given year. Presto: higher earnings.

General Motors, for instance, explains in a note that it changed its assumed rate of return on its pension fund from 6% to 7% last year. That added 69 cents a share to GM's bottom line—which amounts to over half of its \$1.07 net earnings in 1981.

Selling out

It would appear that last year was a bad one for \$1.2 billion (sales) AMF. Net income dropped almost one-third, from \$2.58 a share in 1980 to \$1.84. But this poor showing is due mostly to sale of unprofitable operations, and doesn't really reflect AMF's true status as a going concern. If you look just at the remaining businesses in each year, profits rose by 23%, from \$2.39 a share in 1980 to \$2.95 last year.

Says Moskowitz, "The recession last year forced many companies to look hard at operations that weren't carrying their own weight." As a result, it's important to determine to what extent the figures you are examining are for ongoing operations, and to what extent they include one-time writeoffs for discontinued operations.

Inequitable?

The use of equity accounting—which allows a company to show, as earnings, a percentage of the earnings of other companies in which it has a minority interest of about 20% or more—is misleading in any year. After all, the parent company never really sees any nondividend cash from those equity investments. So, when you're trying to see how much money a company really has to spend, subtract those dollars.

At Teledyne, the \$3.2 billion conglomerate, net income per share last year was \$19.96. Of this, \$3.49, or about \$72 million, came from equity accounting. That means that about 17% of Teledyne's earnings isn't Teledyne's to spend. The company actually received a mere \$18 million in dividends from the investments. ■

Introduced: 2/16/82
Referred: Labor & Commerce
and Finance

1 IN THE HOUSE

BY HAYES

2 HOUSE BILL NO. 866 am


3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL


6 For an Act entitled: "An Act establishing a special investment tax credit."

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




8 * Section 1. LEGISLATIVE FINDINGS AND INTENT. The legislature finds and
9 declares that the establishment of a special investment tax credit will
10 promote the development of farming, fishing, timber, ^{renewable energy resources} and mining of mines,
11 wells, and other natural deposits (other than oil and gas) in the state and
12 will assist the state by diversifying its economy to make it less dependent
13 on oil and gas, provide increased employment opportunities, and provide an
14 incentive for investment in the state.

15 * Sec. 2. AS 43.20.036 is amended by adding new subsections to read:



16 (j) For purposes of calculating income tax payable under this
17 chapter the taxpayer may apply as a credit against his tax liability 100
18 percent of the investment credit allowed as to federal taxes under
19 Internal Revenue Code sec. 38 (26 U.S.C. 38) upon the full amount of
20 qualified investment put into use in the state for each taxable year for
21 any of the following purposes:



22 (1) exploration, development, or mining of the natural
23 deposits listed in sec. 613(b) of the Internal Revenue Code (26 U.S.C.
24 613(b)); for the purposes of this paragraph, "mining" has the meaning
25 given in sec. 613(c)(2) of the Internal Revenue Code (26 U.S.C. 613(c)-
26 (2));

27 (2) farming or the clearing of land for the purpose of making
28 the land suitable for use in farming, or soil or water conservation for
29 land used in farming, or for the prevention of erosion of land used in

1 farming; for the purposes of this paragraph

2 (A) "farming" has the meaning given in sec. 464(e) of
3 the Internal Revenue Code (26 U.S.C. 464(e));

4 (B) "clearing of land" and "land suitable for use in
5 farming" has the meaning given in sec. 182(c) of the Internal
6 Revenue Code (26 U.S.C. 182(c)); and

7 (C) "soil or water conservation for land used in farm-
8 ing" and "prevention of erosion of land used in farming" have the
9 meanings given in sec. 175(c) of the Internal Revenue Code (26
10 U.S.C. 175(c));

11 (3) fishing; for the purposes of this paragraph, "fishing"
12 means the commercial taking or processing of a specific fishery resource
13 (including both fin fish and shell fish) and the maintenance, management
14 or development of vessels, gear and equipment for fishing or processing
15 of fish; or

16 (4) planting, including preparation of the timber site for
17 planting or for natural seeding, cultivation, maintenance, management,
18 development, cutting or harvesting of timber; for the purposes of this
19 paragraph "timber" has the same meaning as "timber" in sec. 611 of the
20 Internal Revenue Code (26 U.S.C. 611); or

21 (5) *developing renewable energy resources.*
22 (k) No credit shall be allowed under (j) of this section for any
23 investment credit which is allowed as to federal taxes for leased prop-
24 erty by reason of Section 168(f)(4) of the Internal Revenue Code (26
25 U.S.C. 168(f)(8)).

26 * Sec. 3. This Act applies to tax years beginning after December 31,
27 1981.

May 6, 1982

Senator Vic Fisher, Chairman
Senate State Affairs Committee
Pouch V
Juneau, Alaska 99811

RE: House Bill 866

Dear Senator Fischer:

We at NFIB are delighted that the legislature is desirous of stimulating business in Alaska by allowing the full federal investment tax credit which is provided for in HB 866. However, we are extremely concerned about the fact that this tremendous benefit is limited only to a few select businesses in Alaska.

NFIB now represents over 3,000 businesses in Alaska and many of our members are becoming increasingly concerned at the tremendous benefits which are provided by the legislature to the farming, fishing and mining businesses in the state while the rest of the business community is largely ignored. The major current benefit provided to the select group are the several low interest rate loan programs specifically for these businesses while there are no effective loan programs for the majority of the remainder of the business community especially for those companies with 10 or less employees. Now on top of these loan programs, this bill would provide a full 10% investment tax credit rather than the 1.8% currently provided.

It must be remembered that the majority of new jobs in Alaska, like the rest of the United States, are provided by small business, yet a major percentage of these businesses are really struggling to survive in today's economy and, in fact, many are not. Why shouldn't these businesses be provided incentives to expand and hire more employees.

Again, we are not opposing this bill per se, only the fact that that it is limited to the specified select group of businesses. It is recommended that it be amended to include at least the small business community.

Senator Vic Fischer
Page 2

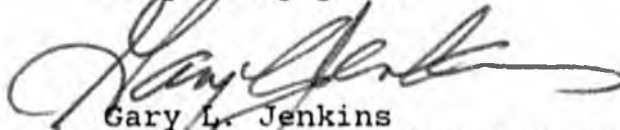
We would recommend that the bill be amended on page 2 by adding the following paragraph:

(5) providing services as a licensed contractor; manufacturing goods for sale; providing transportation, communication or other public utility services; providing financial, insurance or real estate services; or providing any other professional or nonprofessional services, but not including any business engaged in the exploration, development, production, refining, or transportation of oil or gas.

You may also wish to modify the legislative intent statement to include a reference to "other business activities". That could be inserted on line 10 of the bill.

If I can provide any other information to the committee on this bill, please contact me.

Very truly yours



Gary L. Jenkins
Director/Governmental Relations
Alaska

ALASKA STATE CHAMBER OF COMMERCE
STATEMENT IN SUPPORT OF HB 866
SENATE STATE AFFAIRS COMMITTEE
MAY 6, 1982

Mr. Chairman, my name is George Krusz. I am president of the Alaska State Chamber of Commerce. The ASCC is the largest statewide federation of Alaska business, with a membership of some 500 firms and individuals. Our membership represents the spread of Alaska business from individually owned and operated firms to the largest employers in the state. Geographically, representation ranges from Alaska and the Pacific Coast to the Southwest and East Coast. For more than twenty years, the state chamber has been representing the interest of all Alaskan business in Juneau. The chamber traditionally has been supportive of legislation fair to large and small concerns alike.

We strongly support the concept of legislation allowing investment tax credit under 43.20.036 at 100% of the tax credit allowed under federal statutes. As a matter of fact, this very idea is part of the chamber's 1982 legislative program adopted at our annual Prelegislative Conference in December, 1981.

We also strongly feel that this credit should be allowed for all Alaska businesses including the oil and gas industry. During the House Labor and Commerce Committee hearing on this bill we proposed a substitute bill that would do just that, but withdrew the proposal when it became evident that it had no possibility of acceptance and in fact would

be a detriment to the passage of HB 866. However I believe it necessary to again state our belief that it is rather unfair to Alaska businesses outside of farming, fishing, timber, and mining industries to not be allowed the advantage of a more liberal tax credit policy as established in HB 866.

Notwithstanding our feeling that all Alaska industry should be allowed this credit, and in view of the fact that three of the four industries singled out in this bill are in a severe state of economic doldrums and the fourth, mining, needs all the encouragement it can receive from the state for development, I wish to state the Alaska State Chambers' strong support of HB 866 as a first step in the process of allowing the entire span of Alaskan industry to be treated equally under the state's tax laws.

Mr. Chairman, we greatly appreciate this opportunity to present our views.

SENATE STATE AFFAIRS COMMITTEE

Testimony of Dave Heatwole

for

HOUSE BILL 866

MAY 6, 1982

My name is Dave Heatwole and I am here to represent Alaska's mining industry. I am President of the Alaska Miner's Association, representing some 1,400 miners from large and small companies, and I have spent my entire career in the mining industry.

I believe all of you can agree with me that most Alaskans are very concerned about broadening our state's economic base. Why are we so dependent upon oil revenues? What are we going to do when the oil runs out?, are questions frequently asked by Alaskan public forums. What I would like to do today is give you some idea what the future hard rock mining industry could do for Alaska's economy and tell you why House Bill 866 is important to stimulate mining activity in our state.

Historically mining has always been important to Alaska--The discovery of gold at the turn of the century led to Alaska's first great economic boom. Hard rock mining became active in the early 1900's with the development of the Kennecott and Alaska-Juneau mines. Mining was the mainstay of Alaska's economy until men and material restrictions of the second world war forced the closure of Alaska mines. After the war, mining never really got started again, lower 48 and foreign producers attracted investment capital and with the exception of a few gold mines, and major mining activity never really got started again in Alaska.

In the late 1960's - early 70's, a few major mining companies returned to Alaska to begin mineral exploration programs. These companies returned to Alaska to begin mineral exploration programs, because foreign expropriation and pending domestic mineral shortages-made domestic mineral investment much more attractive. Alaska offered the United State's last great unexplored frontier. This recent mineral exploration activity has produced a few major world class discoveries:

- o The Ambler Deposits of Southeast Brooks Range.
- o The Red Dog Deposits in Delong Mts., North of Kotzebue.
- o The Brady Glacier Cu-Ni Deposit.
- o The Quartz Hill Deposit and;

In Juneau's back yard the Green's Creek Deposit.

The Gross Metal value-of these deposits, based on published figures--is on the order of \$50 billion, close to the pre- OPEC value of Prudhoe Bay.

The development of these deposits could create a substantial addition to Alaska's economy--mining, unlike oil, is a very labor intensive business, a majority of the new wealth created would stay in the state in the form of wages and goods purchased. John Whitney, a noted mineral economist, in 1979 predicted that the development of the deposits of NW Alaska, Red Dog and Ambler would create over 1,000 new jobs in Alaska and produce annual gross sales on the order of \$570 million (1979 dollars). Given the right conditions by the year 2,000, there could be 10 or more developments of this scale in Alaska.

I hope I have convinced you that mining has the potential to significantly impact Alaska's future economy. The development of major mining, depends on two factors:

1. Availability of infrastructure.
2. A stable investment climate.