

ALASKA LEGISLATURE COMMITTEE FILES 1983-1984 86/2

2447

HJ

HB 279

-

HB 312

2147

TND 17

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SENATE JUDICIARY COMMITTEE

Meeting Minutes
March 25, 1983

The meeting was called to order at 1:30 p.m. by Senator Ray, Chairman. All members were present except Senator Josephson, who was excused.

The first order of business was Senate Bill 20--An Act authorizing participation by magistrates in judicial retirement system--as to which Senator Ray acknowledged the presence of House Judiciary Committee Chairman Bussell and Representatives Liska and Malone, along with the staff of other members of the House Judiciary Committee.

Senator Ray turned the scheduled teleconference with Anchorage over to subcommittee chairman Ziegler.

By teleconference from Anchorage, Sheldon Sprecker, a magistrate in Glenallen and president of the Magistrates' Association, testified in favor of the bill and stated that about 30 magistrates and district court judges were present in Anchorage to listen to and participate in the teleconference. Mr. Sprecker also emphasized that magistrates are judges under a number of relevant criteria, including the recent Holmway decision.

By teleconference from Anchorage, Linda Hartshorn, a magistrate in Wrangell, testified in favor of the bill. Senator Ray asked Ms. Hartshorn some questions, to which she responded and discussion was had.

By teleconference from Anchorage, Steven Cline, a District Court Judge in Fairbanks, testified in favor of the bill pointing out that he has been a magistrate training judge for approximately five years and that the functions and duties of magistrates are essentially similar to those of judges and involve extreme hardships, such as having social activities restricted and being exposed to harsh, sometimes dangerous, working and living conditions. Senator Ray asked Judge Cline a question, to which the Judge responded and discussion was had, whereupon Representative Bussell asked the witness a question, to which the Judge responded and discussion was had. Judge Cline also stated that Fairbanks District Court Judge Cruchfield was present and was fully in favor of the bill.

From Juneau, Lee Paulson of the A.P.E.A., testified in opposition to the bill and stated that his organization's views were shared by a teachers' union, the N.E.A. As the main reasons for opposing it, Mr. Paulson emphasized the high cost of the bill in reference to the limited number of people benefiting therefrom; the fact that funds are desperately needed for cost of living adjustments to senior citizens' benefits; and that under existing law magistrates are not required to be attorneys or

have any other type of special training. Representative Bussell asked a question, to which Mr. Paulson responded and discussion was had, whereupon, by teleconference from Anchorage, Sheldon Sprecker responded to and pointed out several "inaccurate points" in Mr. Paulson's prior testimony. Furthermore, Magistrate Sprecker stated that he feels the fiscal note amount of approximately \$650,000.00 is a reasonable figure and, as an example of the terrible hardships magistrates have to endure, Magistrate Sprecker pointed out that he recently had to handle the identification and physical carrying of the bodies of the victims of the McCarthy killings.

Senator Ray asked a question about whether or not, and how much, Magistrate Sprecker was paid for carrying out his duties in McCarthy, to which a response was made.

From Juneau, Ken Humphreys, Director of the Division of Retirement and Benefits, testified in response to questions posed by Senator Ray. Mr. Humphreys verified and explained the accuracy of the fiscal note figures, whereupon Senator Eliason asked a question about magistrates receiving a retirement credit for military service, to which Mr. Humphreys stated that as PERS employees magistrates should receive such credit and any assertion to the contrary must be in error. Senator Eliason also asked whether the same reasons for enacting generous judiciary retirement benefits apply to retirement benefits for magistrates. Mr. Humphreys responded by stating that, from the employer's standpoint, the basic rationale of retaining qualified people doesn't seem to apply to magistrates.

Representative Malone asked a question about the current PERS cost figures in the fiscal note, to which Mr. Humphreys responded and discussion was had, whereupon Senator Ray asked a question regarding the same subject, to which Mr. Humphreys also responded and discussion was also had.

Senator Eliason asked Senator Ziegler about how other states handled this type of problem, and Senator Ziegler responded, whereupon the teleconference was terminated. Chairman Bussell and the other House Judiciary Committee members and staff then left the meeting.

The second order of business was new sub-committee assignments as follows:

SB 147	Relating to safeguarding self-identity and address of motor vehicle operators involved in accidents	Josephson
SB 208	Extending the termination date of the Alcoholic Beverage Control Board	Ray

The third order of business was the following announcements:

By Senator Ray: The Committee meeting on April 4, 1983
will start at 1:00 p.m.;

By Senator Pettyjohn: leave to take up SJR 19 at the Committee
hearing on April 8, 1983 was requested and
granted.

There being no further business the meeting adjourned at 2:14 p.m.

H B

281

COMMITTEE REPORT

HOUSE

FURTHER:

(7)

4/26/83

Date: 5/12/83

Mr. Speaker:

The Committee on JUDICIARY has had HB 281

"An Act relating to the payment of wages."

under consideration and reports it back as follows:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for HB 281 (240) same title
 new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation Zero Fiscal Note Attached
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

[Signature]

[Signature]

[Signature]

[Signature]

MEMBERS HAVING
OTHER RECOMMENDATIONS:

[Signature]

[Signature]

[Signature]

CHAIRMAN

COMMITTEE REPORT

4/26

HOUSE

JUDICIARY

FURTHER

(7)

3/18/83

Date: 4/26/83

Mr. Speaker:

The Committee on LABOR & COMMERCE has had HB 281

An Act relating to the payment of wages. //

under consideration and reports it back as follows:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for HB 281(L+C) same title
 new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation ~~Zero Fiscal Note Attached~~
- referred to the _____ Committee

MEMBERS SIGNING DO PASS

Walt F. ...
John J. Landrum
John ...

MEMBERS HAVING OTHER RECOMMENDATIONS:

Walt F. ... no rec.
Kirk ... NO REC
H. ... No Rec.

Walt F. ...
 CHAIRMAN

STATE OF ALASKA
FISCAL NOTE

Revision Date: _____, 1983

I. REQUEST

Bill/Resolution No.: HB 281
 Title: Payment of Wages
 Sponsor: Rules Committee
 Requestor: _____

II. FISCAL DETAIL

Agency Affected: Administration
 Program Category Affected: Gen Admin Svcs
 BRU, Program of Subprogram(s) Affected: Labor Relations

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

N/A

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Betsy Strangheim
 Division: Labor Relations

Phone: 465-4404
 Date: March 31, 1983

Approved by Commissioner: Lisa Rudd
 Department: Administration

Date: 4/7/83

Distribution:

- Original to Legislative Finance
- Copy to Office of Management and Budget (for Legislature introduced bills)
- Copy to Department (for Governor introduced bills)
- Copy to Sponsor
- Copy to Requestor (if different from Sponsor)

3/8/83

POSITION PAPER
HOUSE BILL 281

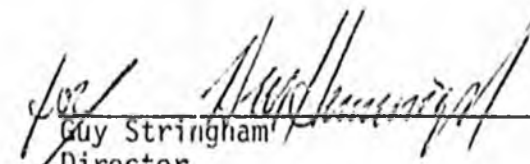
If this bill is passed, employers who fail to pay employees' wages within three working days of termination may be penalized an amount up to 90 working days of the employee's wages. It would also expressly provide that where wages are in dispute, the employee will be notified of the undisputed part and paid that amount timely.

An express retention by the employee of all remedies to which the employee might otherwise be entitled under Chapters 5 and 10 of Title 23 has been added. Finally, a housekeeping section provides that terms used in AS 23.10.050 to 23.10.150 which are not defined in Title 23 shall be defined consistent with the federal Fair Labor Standards Act, as amended.

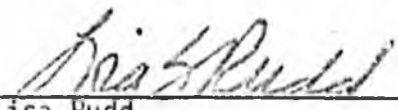
We are neutral with respect to passage of this bill. The statutes being amended do not apply to the State, as an employer, so this bill would not affect the Department of Administration.

Prepared by:

Approved by:



Guy Stringham
Director
Division of Labor Relations



Lisa Rudd
Commissioner
Department of Administration



Date



Date

7/0323-08-7/BDGSF1

I. REQUEST

Bill/Resolution No.: HB 281
 Title: Act Relating to payment of wages
 Sponsor: Governor
 Requestor: Governor

II. FISCAL DETAIL

Agency Affected: DOA
 Program Category Affected: All
 BRU, Program of Subprogram(s) Affected: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Tom Haas, Acting Director
 Division: Finance

Phone: 465-2240
 Date: 3/23/83

Approved by Commissioner: Lisa Rudd
 Department: ADMINISTRATION

Date: 4/7/83

Distribution:

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3/8/83

STATE OF ALASKA
FISCAL NOTE

Revision Date March 10, 1983

I. REQUEST

Bill/Resolution No.: HB 281
 Title: "...payment of wages..."
 Sponsor: Rules Committee
 Requestor: Rules Committee

II. FISCAL DETAIL

Agency Affected: Labor
 Program Category Affected: Public Protection
 BRU, Program of Subprogram(s) Affected: Labor Standards and Safety Division

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL: No fiscal impact.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: MS Judy Knight, Special Assistant Phone: 465-2700
 Division: Commissioner's Office Date: March 10, 1983
 Approved by Commissioner: MS Jim Robison Date: March 10, 1983
 Department: Labor

LEG:A:11

Distribution:

Original to Legislative Finance
 Copy to Office of Management and Budget (for Legislature introduced bills)
 Copy to Department (for Governor introduced bills)
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3/8/83

BILL SHEFFIELD
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

March 18, 1983

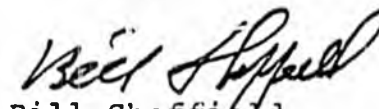
The Honorable Joe L. Hayes
Speaker of the House
Alaska State Legislature
Pou...
Juneau, Alaska 99811

Dear Mr. Speaker:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the payment of wages. This bill would make discretionary the imposition of the wage claim penalty under AS 23.05.140(d) against an employer who fails to pay wages to an employee within three days of the date of termination. In addition, the bill would strengthen the protection given an employee who has been offered a partial payment of a wage claim on the condition that he release the employer from paying the entire amount of wages claimed. The bill would void such a release which is given contingent on part payment of the wage claim.

The final provision of the bill would limit the application of the definitions in the federal Fair Labor Standards Act, 29 U.S.C. 203, to only those terms used in the Alaska Wage and Hour Act which are not defined by state law or regulation.

Sincerely,


Bill Sheffield
Governor

MSG 83-00009443 PRTY 1 04/18/83 11:37:32 ORIG: LA01 IN= 0007 OUT= 0039
FROM: SHIRLEE ANC LIO TO: POMS JUNEAU INFO
TARGET: LJHL SUBJ: POM

4/18/83, SHIRLEE ANC LIO, 9443

TO: ALL MEMBERS, ALASKA LEGISLATURE

FROM: JOHN NACCARATO, P.O. BOX 4-328, ANCHORAGE 99509
(RES: 3301 EUREKA) H 561-2501 W 272-8224

I SUPPORT HOUSE BILL 281, HOUSE BILL 280, HOUSE BILL 216,
SENATE BILL 214, SENATE BILL 182. SENATE BILL 154,
SENATE BILL 104 AND SENATE BILL 78.

I OPPOSE HOUSE BILL 304, HOUSE BILL 223, HOUSE BILL 182, AND
SENATE BILL 172.

*Disciplinary
Reprimand*

MSG TO 00100844 PRTY 1 04/14/83 14:36:49 ORIG LA01 IN= 0018 OUT= 0083
FROM: SHIRLEE AND LIO TO: POMS JUNEAU INFO
TARGET: LJOHL SUBJ: POM

1. 4/83, SHIRLEE AND LIO, 8344

TO ALL MEMBERS, ALASKA LEGISLATURE

FROM: TERRY LEE UNDERWOOD, 3025 MACK RD., FAIRBANKS 99701
H 479-6186 W 582-3282

I AM IN SUPPORT OF HB 281, HB 280, HB 216, HB 214, SB 182,
SB 154, SB 104, SB 78.

I AM OPPOSED TO HB 304, HB 223, HB 182 AND SB 172.

FROM: MIKE ADDINGTON, 630 W: 47TH, NO. B, ANCHORAGE 99503
H 563-7644

I SUPPORT HB 281, HB 280, HB 216, SB 214, SB 182, SB 154,
SB 104, SB 78.

I OPPOSE HB 304, HB 223, HB 182, AND SB 172.



Mike Addington
Ref

MSG 83-00008657 P. TY 1 04/14/83 14:56:48 ORIG: LA01 IN= 0020 -OUT= 0089
FROM: SHIRLEE AND LIO TO: POMS JUNEAU INFO
TARGET: LJHL SUB: POM

4/14/83, SHIRLEE AND LIO, 8657

TO: ALL MEMBERS, ALASKA LEGISLATURE

FROM: JIM SINGREE, ROUTE 1, BOX 1315-2, KENAI 9961
H 776-8835 W 562-3282

*Jim
Ref*

I SUPPORT HB 291, HB 289, HB 216, SB 214, SB 182, SB 154,
SB 104 AND SB 78.

I OPPOSE HB 304, HB 273, HB 188 AND SB 172.

FROM: DON HERRICK, STAR ROUTE A, BOX 1506H, ANCHORAGE 99507
W 562-3282 H 345-0703

I SUPPORT HOUSE BILLS 281, 280, 214, SENATE BILLS 214, 182,
154, 104 AND 78.

I OPPOSE HOUSE BILLS 304, 223, 182 AND SENATE BILL 172.

234567
JIP
Rob

FROM: JACKIE STARR, 1200 W. BIRCH RD BLVD., SP 1022, ANCH 99502
W 542-2282 H 345-1837

I SUPPORT HOUSE BILLS 281, 280, 214, SENATE BILLS 214, 182,
154, 104 AND 78.

I OPPOSE HOUSE BILLS 304, 223, 182 AND SENATE BILL 172.

VERMONT STATE HOUSE

HOUSE BILLS 304, 223, 182 AND SENATE BILL 172

MSG 03-00008778 PRTY 1 04/14/83 16 18 27 ORIG: LA01 IN= 0026 OUT= 0133
FROM: SUBILEE, ANCH LIG 70 PONS, WINEAU INFO
TARGET: LINDA SWEET FOR

TO: ALL MEMBERS, ALASKA LEGISLATURE

FROM: RICK HANCOCK, 1200 WEST PIMOND, SP. 1492, ANCH 99502
W 562-3282 H 344-1867

I SUPPORT HOUSE BILLS 281, 280, 216, SENATE BILLS 214, 182,
154, 104 AND 78.

I OPPOSE HOUSE BILLS 304, 223, 182 AND SENATE BILL 172.

FROM: DAN KIDDAUGH, 7814 RAYMAR CIRCLE, ANCHORAGE 99502
W 562-3282 H 349-4878

I SUPPORT HOUSE BILLS 281, 280, 216, SENATE BILLS 214, 182,
154, 104 AND 78.

I OPPOSE HOUSE BILLS 304, 223, 182 AND SENATE BILL 172.

FROM: LISA OYON, BOX 102, SOLDOTNA, ALASKA 99689
W 562-3282 H 344-1867

I SUPPORT HOUSE BILLS 281, 280, 216, SENATE BILLS 214, 182,
154, 104 AND 78.

I OPPOSE HOUSE BILLS 304, 223, 182 AND SENATE BILL 172.

FROM: DAN KIDDAUGH, 7814 RAYMAR CIRCLE, ANCHORAGE 99502
W 562-3282 H 349-4878

I SUPPORT HOUSE BILLS 281, 280, 216, SENATE BILLS 214, 182,
154, 104 AND 78.

I OPPOSE HOUSE BILLS 304, 223, 182 AND SENATE BILL 172.



Sub file

H B

2 8 2

COMMITTEE REPORT

HOUSE

FURTHER:

(7)

4/25/83

Date: 5-4-83

Mr. Speaker:

The Committee on JUDICIARY has had HB 282

"An Act relating to notices for occupational safety and health violations."

under consideration and reports it back as follows:

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

MEMBERS SIGNING
DO PASS

[Signature]

[Signature]

[Signature]

[Signature]

MEMBERS HAVING
OTHER RECOMMENDATIONS:

[Signature]

[Signature]

CHAIRMAN

COMMITTEE REPORT

4/25

HOUSE

JUDICIARY

FURTHER:

(7)

3/18/83

Date: 4/22/83

Mr. Speaker:

The Committee on LABOR & COMMERCE has had HB 282

An Act relating to notices for occupational safety and health violations.

under consideration and reports it back as follows:

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

MEMBERS SIGNING DO PASS

John R. Rosten
John J. Connelley
Walt Furnace

MEMBERS HAVING OTHER RECOMMENDATIONS:

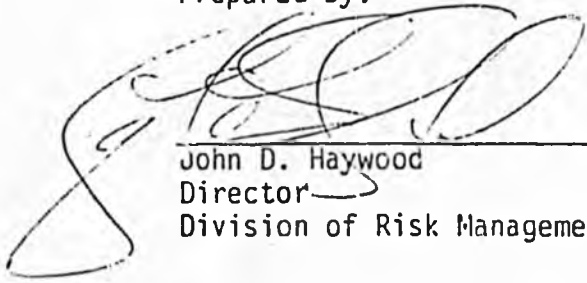
Kid Uehling
H. Malone No Rec
Wils. Goyman " "

Walt Furnace E.
 CHAIRMAN

HB 282
POSITION PAPER

This bill does not have a program impact on the Division of Risk Management. The Department of Administration supports the bill as a cost-efficient measure.

Prepared by:

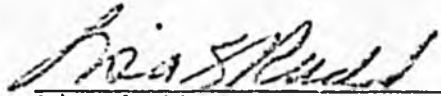


John D. Haywood
Director
Division of Risk Management

March 24, 1983

Date

Approved by:



Lisa Rudd
Commissioner
Department of Administration

3/29/83

Date

EXAMPLES OF NON-SERIOUS VIOLATIONS

1. Failure to adopt and post in a conspicuous location at each jobsite office, a code of safe practices and procedures which applies to the firm's operation and embraces applicable safety and health standards.
2. Failure to provide a first aid kit readily available to employees at the worksite, and/or in every vehicle used to transport employees.
3. Failure to provide in the absence of an infirmary, clinic, hospital, or physician which is reasonably accessible in terms of time and distance to the worksite, and is available for the treatment of injured employees, a person who has a valid certificate in first-aid training from the U.S. Bureau of Mines, the American Red Cross, or equivalent training that can be verified by documentary evidence, shall be available at the worksite to render first aid.
4. Failure to conspicuously post the telephone numbers of physicians, hospitals, or ambulances.
5. Failure to assure that in indoor storage areas, oil soaked rags, paint saturated clothing, waste, excelsior and combustible refuse are deposited in noncombustible covered receptacles.
6. Failure to prohibit smoking in indoor general storage areas, except in locations prominently designated as smoking areas; and/or to post "No Smoking" signs in prohibited areas.
7. Failure to keep all places of employment in a clean, orderly and sanitary condition.
8. Failure to assure that portable fire extinguishers are not obstructed or obscured from view; or where visual obstruction cannot be completely avoided, that the location and intended use of extinguishers are conspicuously indicated.
9. Failure to assure that any receptacle used for decayable solid or liquid waste or refuse is so constructed that it does not leak and may be thoroughly cleaned and maintained in a sanitary condition.
10. Failure to provide individual hand towels or sections thereof, of cloth or paper, warm air blowers or clean individual sections of continuous cloth toweling convenient to the lavatories.

STATE OF ALASKA
FISCAL NOTE

Revision Date _____, 1983

I. REQUEST

Bill/Resolution No.: HB 282
 Title: Notices for Occup. Safety & Health
 Sponsor: House Rules Committee
 Requestor: _____

II. FISCAL DETAIL

Agency Affected: Dept. of Administration
 Program Category Affected: _____
 BRU, Program of Subprogram(s) Affected: _____
 Division of Risk Management

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	-0-	-0-	-0-	-0-		
CAPITAL	-0-	-0-	-0-	-0-		
REVENUE	-0-	-0-	-0-	-0-		

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

N/A

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: John Haywood Phone: 465-2180
 Division: X Risk Management Date: 3/24/83
 Approved by Commissioner: Lisa Rudd Date: 3/24/83
 Department: Administration

Distribution:

Original to Legislative Finance
 Copy to Office of Management and Budget (for Legislature introduced bills)
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 Copy to Requestor (if different from Sponsor)

3/8/83

STATE OF ALASKA
FISCAL NOTE

Revision Date March 10, 1983

I. REQUEST

Bill/Resolution No.: HB 282
 Title: "...citations for occupational..."
 Sponsor: Rules Committee
 Requestor: Rules Committee

II. FISCAL DETAIL

Agency Affected: Labor
 Program Category Affected: Public Protection
 BRU, Program of Subprogram(s) Affected: Occupational Safety and Health

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL: No fiscal impact.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Judy Knight, Special Assistant
 Division: Commissioner's Office

Phone: 465-2700

Date: March 10, 1983

Approved by Commissioner: Jim Robison
 Department: Labor

Date: March 10, 1983

LEG:A:10

Distribution:

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 Copy to Requestor (if different from Sponsor)



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

March 18, 1983

The Honorable Joe L. Hayes
Speaker of the House
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Mr. Speaker:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to notices for occupational safety and health violations.

This bill would allow the Department of Labor to issue a notice, rather than a citation, to an employer for an occupational health and safety violation which is not serious, if the employer agrees to remedy the violation within a reasonable time. If the employer fails to remedy the violation, then a citation is issued in accordance with the procedures for serious violations.

The bill would accomplish several things. It would free occupational safety and health compliance officers from cumbersome administrative responsibilities which attend the issuance of citations, and thereby allow them to devote more time to inspections, while also saving clerical time. (Currently, inspectors can only inspect approximately eight percent of the state's work sites a year). The bill would also promote speedier correction of hazards, since much of the paperwork that must flow between employer and agency in the citation-issuance process would be eliminated. The department strongly urges passage of this bill, and it has the support of unions and employer organizations as well.

Sincerely,

A handwritten signature in cursive script that reads "Bill Sheffield".

Bill Sheffield
Governor

HB

293



ombudsman

John E. Chenoweth

State of Alaska

Reply to:

- 840 K Street, Room 203
Anchorage, Alaska 99501
(907) 276-4011
- Pouch WO
Juneau, Alaska 99811
(907) 465-4970
- P.O. Box 74358
Fairbanks, Alaska 99707
(907) 452-4001

March 31, 1983

Representative Jerry Ward
Alaska House of Representatives
Pouch V
Juneau, Alaska 99811-3100

RE: ~~House Bill 293~~

Dear Representative Ward:

I am responding to your March 25 letter with reference to the above-captioned legislation.

The issue of the office's jurisdiction over the Alaska Bar Association traces back to two complaints, A79-0641 and A79-0642, filed against the association in June, 1979. The two complaints were generally directed against the association's grievance procedures and charged financial and other irregularities involving members of the board of governors and employees of the association.

The matters involved my predecessor, Frank Flavin, so I do not have direct understanding of past events to guide my response. I am advised that the bar association refused access of the ombudsman's office to certain files essential to the conduct of the investigation. The ombudsman sought enforcement of the subpoena in the superior court. Judge Moody denied the relief requested because Mr. Flavin was a member of the association and had access to the records independently of his official position. The argument whether the association was or was not subject to the ombudsman's jurisdiction was not resolved.

Some effort was made to address the issue in conjunction with a 1980 "sunset review" of the association by the Alaska Legislature. In 1980, the Legislature apparently concluded that the bar association should terminate, with a delayed date of one year (i.e. a lapse date of June 30, 1981). Because of action to terminate the association, the then-pending ombudsman's complaints were discretionarily discontinued in mid-1980.

In 1981, legislation was offered that continued the existence of the Alaska Bar Association. At least one early version of that

legislation specifically stated that the association was to be regarded as a state agency subject to the ombudsman's jurisdiction. The final version, Ch. 52, SLA 1981, omitted any mention of the matter. As regards the issue of jurisdiction, the law has not been amended to provide clearly, one way or the other, on the matter of jurisdiction.

Complaints against the bar association are not numerous. The office received nine in 1979 (all discretionarily discontinued in light of the disposition of the litigation and the then-pending sunset termination), six in 1980, three in 1981, five in 1982, and none to date in 1983. None has culminated in an investigation.

I do not understand the association to have changed its position that it is not subject to the office's jurisdiction. Staff in my offices have cautioned persons who call an ombudsman's office with complaints against the bar association that, until the issue of jurisdiction is decided, action on the merits or substance of the complaint will be delayed. With that explanation, most realize that our chances of completing an investigation or providing assistance in a matter involving the bar association lay somewhere between "slim" and "none".

Since my appointment to this office, I have not pursued clarification of this matter through Opinion of the Attorney General, litigation, or legislation.

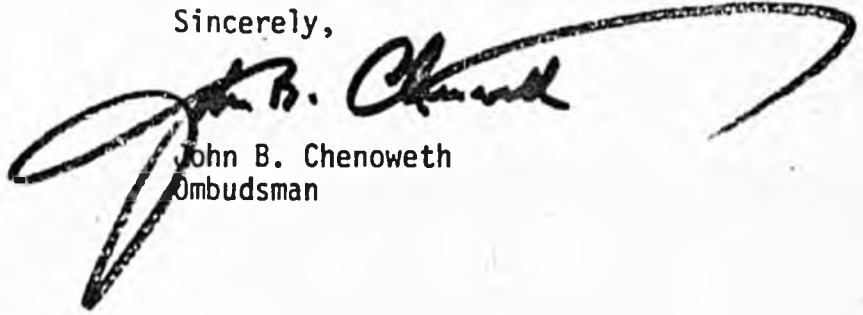
The matter deserves clarification by legislation. Please understand that I am not committed to making the association subject to our jurisdiction. The legislature could as well conclude that the association was not subject to our jurisdiction. I have enough "business" from complainants dissatisfied with agencies, boards, commissions and other entities for which there is no jurisdictional challenge. As a management philosophy, I am inclined to assert jurisdiction in instances where a complaint is received and a question of jurisdiction raised, until I am advised or otherwise conclude that jurisdiction to examine an act or decision of the agency is lacking.

The question to be considered in this instance, to my mind, is whether there is an existing remedy by which alleged errors or misconduct by the bar association may be systematically reviewed. If the legislature identifies an alternative, the jurisdiction of this office need not include the bar association; if the legislature's inquiry discloses no such review mechanism, does the legislature wish to commit that responsibility to the office of the ombudsman as a matter of law. Your legislation initiates a dialogue on the issue.

I am reminded that Bart Rozell, a partner in the Juneau firm of Faulkner, Banfield -- a past president of the state bar association -- may have familiarity with the litigation I describe and with the previous recent efforts to resolve the matter through legislation. May I respectfully suggest that you contact him.

Thank you for the opportunity to comment.

Sincerely,

A large, stylized handwritten signature in black ink, appearing to read "John B. Chenoweth". The signature is written over the typed name and title.

John B. Chenoweth
Ombudsman

JBC:jdt



Alaska State Legislature House of Representatives

PO BOX 2716
ANCHORAGE, ALASKA 99510
(907) 276-4506

WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4939

REPRESENTATIVE JERRY WARD
DISTRICT 13

MEMBER FINANCE COMMITTEE
CHAIRMAN OF SUBCOMMITTEE ON
COMMERCE & ECONOMIC DEVELOPMENT
CHAIRMAN OF SUBCOMMITTEE ON LABOR
MEMBER OF SUBCOMMITTEE ON STATE LOANS

March 25, 1983

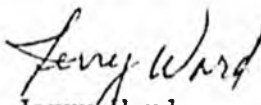
Mr Jack Chenoweth, Ombudsman
Pouch W0, Mail Stop 3000
Juneau, AK 99811

Dear Mr. Chenoweth:

In the Annual Report to the Office of the Ombudsman for 1981-1982, in your review of the Court System you describe the jurisdiction of your office. On page 103 of that report it is stated, "Investigation of grievances concerning the Alaska Bar Association, whose membership comprises attorneys admitted to practice in the State's courts, remains unresolved."

Please advise me of the background of this issue. Have grievances been filed against the Association? Has any formal ruling been requested as to your jurisdiction? What would be the recommendation of your office for clarifying this area?

Yours very truly,


Jerry Ward
State Representative

Court System

The State's judicial system consists of the Alaska Supreme Court, the court of appeals, superior court, and district court. Final appellate jurisdiction is assigned by the Alaska constitution to the state supreme court. Appellate jurisdiction in specified proceedings is granted by statute to the three-judge court of appeals. The superior and district courts have a jurisdiction over a wide range of civil and criminal matters. The superior court has jurisdiction on appeals of agency decisions when appeal is provided by law. The judicial system in rural areas and in urban communities is anchored by magistrates holding office under appointment of a presiding judge of the superior court.

The ombudsman may not investigate the act or decision of a justice, judge, or magistrate, nor may he inquire into the substantive content of a judicial order, decision, or opinion. Subordinate agencies of the judicial system—the court administrative system, clerical support staff, the Judicial Council, and the Council on Judicial Qualifications—can be investigated by the ombudsman. Investigation of grievances concerning the Alaska Bar Association, whose membership comprises attorneys admitted to practice in the State's courts, remains unresolved.

Inquiries Received:	CY 81	FY 82
Information	66	71
Complaints	89	108
Complaints Closed:		
Declined	56	69
Assisted	20	30
Investigation initiated:		
Justified/partially justified	1	5
Rectified	0	3
Partially rectified	1	1
Not rectified	0	1
Not supported	3	1
Indeterminate	0	0
Discontinued	<u>13</u>	<u>11</u>
Total	93	116

Selected closed cases

COMPENSATION FOR JUROR SERVICES [J82-0082]. The complainant, a member of the jury in *State v. Hohman*, asserted that the court system had not properly computed and compensated the members of that jury for their services. Investigation disclosed that conduct of the trial generally began in the early afternoon hours and usually concluded for the day after 5:00 p.m. and, often, close to 6:00 p.m. The jurors were not advised in advance that the jury fee payable would be computed based only on one-half day's service and without reference to the portion of daily jury service that exceeded four hours. The initial determination was made with reference to court rule that recognized service based only on full- and half-day service without reference to jury service extending beyond normal hours of court. The ombudsman suggested that additional compensation was due the jurors and recommended com-

Alaska Ombudsman Statutes

Sec. 24.55.010. OFFICE OF THE OMBUDSMAN. There is created in the legislative branch of the state the office of the ombudsman.

Sec. 24.55.020. APPOINTMENT OF THE OMBUDSMAN. (a) A candidate for appointment as the ombudsman shall be nominated by the ombudsman selection committee composed of three members of the senate appointed by the president of the senate and three members of the house of representatives appointed by the speaker of the house. One member of the minority party caucus in each house shall be appointed to the selection committee.

(b) The ombudsman selection committee shall examine persons to serve as ombudsman regarding their qualifications and ability and shall place the name of the person selected in nomination. The appointment is effective if the nomination is approved by a roll call vote of two-thirds of the members of the legislature in joint session and approved by the governor. However, the governor may veto the appointment and return it, with a statement of his objections, to the legislature. Upon receipt of a veto message the legislature shall meet immediately in joint session and reconsider approval of the vetoed appointment. The vetoed appointment becomes effective by an affirmative vote of two-thirds of the membership of the legislature in joint session. The vote on the appointment and on reconsideration of a vetoed appointment shall be entered in the journals of both houses.

(c) The appointment of the ombudsman becomes effective if, while the legislature is in session, the governor neither approves nor vetoes it within 15 days, Sundays excepted, after its delivery to him. If the legislature is not in session and the governor neither approves nor vetoes the appointment within 20 days, Sundays excepted, after its delivery to him, the appointment becomes effective.

Sec. 24.55.030. QUALIFICATIONS; PROHIBITION AGAINST POLITICAL ACTIVITY. (a) No person may serve as ombudsman

- (1) within one year of the last day on which he served as a member of the legislature;
- (2) while he is a candidate for or holds any other national, state, or municipal office; nor may the ombudsman become a candidate for national, state or municipal office until one year has elapsed from the date he vacates the office of ombudsman;
- (3) while he is engaged in any other occupation for which he receives compensation;
- (4) unless he is at least 21 years of age and is a qualified voter who has been a resident of the state for at least three years.

(b) It is essential that the nonpartisan nature, integrity and impartiality of the ombudsman's functions and services be maintained. The ombudsman and members of his staff may not join, support or otherwise participate in a partisan political organization, faction or activity, including but not limited to the making of political contributions. However, this subsection does not restrict the ombudsman or members of his staff from expressing private opinion, registering as to party, or voting.

Sec. 24.55.040. TERM OF OFFICE. (a) The term of office of the ombudsman is five years. An ombudsman may be reappointed but may not serve for more than three terms.

(b) If the term of an ombudsman expires without the appointment of a successor under this chapter, the incumbent ombudsman may continue in office until a successor is appointed. If the ombudsman dies, resigns, becomes ineligible to serve, or is removed or suspended from office, the deputy ombudsman becomes acting ombudsman until a new ombudsman is appointed for a full term.

Sec. 24.55.050. REMOVAL. The legislature, by a concurrent resolution adopted by a roll call vote of two-thirds of the members in each house entered in the journal, may remove or suspend the ombudsman from office, but only for neglect of duty, misconduct, or disability.

Sec. 24.55.060. COMPENSATION. The ombudsman is entitled to receive an annual salary equal to that of a superior court judge.

Sec. 24.55.070. **STAFF AND DELEGATION.** (a) The ombudsman may appoint a deputy ombudsman; he shall also appoint assistants and clerical personnel necessary to carry out the provisions of this chapter.

(b) The ombudsman may delegate to his deputy or assistants any of his duties except those specified in secs. 190-200 of this chapter; however, during the ombudsman's absence from his principal business offices, the ombudsman may delegate the duties specified in secs. 190-200 of this chapter to his deputy for the duration of his absence. Those duties specified in secs. 190-200 of this chapter shall be performed by the deputy ombudsman when he is serving as acting ombudsman under sec. 40(b) of this chapter.

(c) The ombudsman and the staff appointed by him are in the exempt service under AS 39.25.110.

Sec. 24.55.080. **OFFICE FACILITIES AND ADMINISTRATION.** (a) The Alaska Legislative Council shall provide suitable office space and equipment for the ombudsman and his staff.

(b) The salary and benefits of the ombudsman and his permanent staff shall be paid through the same procedures used for payment of the salaries and benefits of other permanent legislative employees.

(c) The ombudsman shall submit a budget for each fiscal year to the finance committees of the legislature and shall annually submit an estimated budget to the governor for information purposes in the preparation of the executive budget.

Sec. 24.55.090. **PROCEDURE.** The ombudsman shall, by regulations adopted under the Administrative Procedure Act (AS 44.62), establish procedures for receiving and processing complaints, conducting investigations, and reporting his findings. However, he may not charge fees for the submission or investigation of complaints.

Sec. 24.55.100. **JURISDICTION.** (a) The ombudsman has jurisdiction to investigate the administrative acts of agencies.

(b) The ombudsman may exercise his powers without regard to the finality of an administrative act.

Sec. 24.55.110. **INVESTIGATION OF COMPLAINTS.** The ombudsman shall investigate any complaint which is an appropriate subject for investigation under sec. 150 of this chapter, unless he reasonably believes that

- (1) there is presently available an adequate remedy for the grievance stated in the complaint;
- (2) the complaint relates to a matter that is outside the jurisdiction of the ombudsman;
- (3) the complaint relates to an administrative act of which the complainant has had knowledge for an unreasonable length of time before the complaint was submitted;
- (4) the complainant does not have a sufficient personal interest in the subject matter of the complaint;
- (5) the complaint is trivial or made in bad faith;
- (6) the resources of the ombudsman's office are insufficient for adequate investigation.

Sec. 24.55.120. **INVESTIGATION ON THE OMBUDSMAN'S MOTION.** The ombudsman may investigate the administrative act of an agency on his own motion if he reasonably believes that it is an appropriate subject for investigation under sec. 150 of this chapter.

Sec. 24.55.130. **NOTICE TO COMPLAINANT.** (a) If the ombudsman decides not to investigate a complaint, he shall inform the complainant of that decision and shall state his reasons.

(b) If the ombudsman decides to investigate a complaint, he shall notify the complainant of his decision.

Sec. 24.55.140. **NOTICE TO THE AGENCY.** If the ombudsman decides to investigate a complaint, he shall notify the agency of his intention to investigate unless he believes that advance notice will unduly hinder the investigation or make it ineffectual.

Sec. 24.55.150. **APPROPRIATE SUBJECTS FOR INVESTIGATION.** (a) An appropriate subject for investigation by the ombudsman is an administrative act of an agency which the ombudsman has reason to believe might be

- (1) contrary to law;
- (2) unreasonable, unfair, oppressive, arbitrary, capricious, an abuse of discretion, or unnecessarily

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- discriminatory, even though in accordance with law;
- (3) based on a mistake of fact;
 - (4) based on improper or irrelevant grounds;
 - (5) unsupported by an adequate statement of reasons;
 - (6) performed in an inefficient or discourteous manner; or
 - (7) otherwise erroneous.

(b) The ombudsman may investigate to find an appropriate remedy.

Sec. 24.55.160. INVESTIGATION PROCEDURES. (a) In an investigation, the ombudsman may

- (1) make inquiries and obtain information as he considers necessary;
- (2) enter without notice to inspect the premises of an agency, but only when agency personnel are present; and
- (3) hold private hearings.

(b) The ombudsman shall maintain confidentiality with respect to all matters and the identities of the complainants or witnesses coming before him except insofar as disclosures may be necessary to enable him to carry out his duties and to support his recommendations.

Sec. 24.55.170. POWERS. (a) Subject to the privileges which witnesses have in the courts of this state, the ombudsman may

- (1) compel by subpoena, at a specified time and place, the appearance and sworn testimony of a person who the ombudsman reasonably believes may be able to give information relating to a matter under investigation; and
- (2) compel a person, by subpoena, to produce documents, papers, or objects which the ombudsman reasonably believes may relate to the matter under investigation.

(b) If a person refuses to comply with a subpoena issued under (a) of this section, the superior court may, on application of the ombudsman, compel obedience by proceedings for contempt in the same manner as in the case of disobedience to the requirements of a subpoena issued by the court or refusal to testify in the court.

Sec. 24.55.180. CONSULTATION WITH AGENCY. Before giving an opinion or recommendation which is critical of an agency or person, the ombudsman shall consult with that agency or person.

Sec. 24.55.190. PROCEDURE AFTER INVESTIGATION. (a) The ombudsman shall report his opinion and recommendations to an agency if he finds, after investigation, that

- (1) a matter should be further considered by the agency;
- (2) an administrative act should be modified or cancelled;
- (3) a statute or regulation on which an administrative act is based should be altered;
- (4) reasons should be given for an administrative act;
- (5) any other action should be taken by the agency;
- (6) there are no grounds for action by the agency; or
- (7) the agency's act was arbitrary or capricious, constituted an abuse of discretion, or was otherwise erroneous or not in accordance with the law.

(b) The ombudsman may request the agency to notify him, within a specified time, of any action taken on his recommendations.

Sec. 24.55.200. PUBLICATION OF RECOMMENDATIONS. Within a reasonable amount of time after the ombudsman reports his opinion and recommendations to an agency he may present his opinion and recommendations to the governor, the legislature, a grand jury, the public or any of these. The ombudsman shall include with his opinion any reply made by the agency.

Sec. 24.55.210. NOTICE TO THE COMPLAINANT. After a reasonable time has elapsed, the ombudsman shall notify the complainant of the actions taken by him and by the agency.

Sec. 24.55.220. MISCONDUCT BY AGENCY PERSONNEL. If the ombudsman believes there is a breach of duty or misconduct by an officer or employee of an agency in the conduct of his official duties, the ombudsman shall refer the matter to the chief executive officer of the agency or, when appropriate, to the grand jury or to another appropriate official or agency.

Sec. 24.55.230. **ANNUAL REPORT.** The ombudsman shall submit to the legislature and the public an annual report of his activities under this chapter.

Sec. 24.55.240. **JUDICIAL REVIEW.** A proceeding or decision of the ombudsman may be reviewed in superior court only to determine if it is contrary to the provisions of this chapter.

Sec. 24.55.250. **IMMUNITY OF THE OMBUDSMAN.** No civil action may be brought against the ombudsman or a member of his staff for anything done, said or omitted in performing his duties or responsibilities under this chapter.

Sec. 24.55.260. **OMBUDSMAN'S PRIVILEGE NOT TO TESTIFY.** The ombudsman and his staff may not testify in a court regarding matters coming to their attention in the exercise or purported exercise of their official duties except as may be necessary to enforce the provisions of this chapter.

Sec. 24.55.270. **LETTERS TO OR FROM OMBUDSMAN.** A letter to the ombudsman from a person held in custody by an agency shall be forwarded immediately, unopened, to the ombudsman. A letter from the ombudsman to a person held in custody by an agency shall be delivered immediately, unopened, to the person.

Sec. 24.55.275. **CONTRACT PROCEDURES.** The ombudsman shall adopt by regulation procedures consistent with AS 24.23 to be followed by the office of the ombudsman in contracting for services. However, the procedure for requests for proposals does not apply to contracts for investigations under AS 24.55.100.

Sec. 24.55.280. **TIME FOR JUDICIAL REVIEW OF AGENCY ACTION.** This chapter in no way extends the time limit in which judicial review of agency action must be sought.

Sec. 24.55.290. **PENALTY.** A person who wilfully hinders the lawful actions of the ombudsman or his staff, or who wilfully refuses to comply with their lawful demands, or who wilfully violates sec. 270 of this chapter, is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$1,000.

Sec. 24.55.300. **ADMINISTRATIVE PROCEDURE ACT.** The administrative acts of the ombudsman are not subject to the provisions of the Administrative Procedure Act (AS 44.62) except as provided in sec. 90 of this chapter.

Sec. 24.55.310. **CONFLICT OF INTEREST.** The ombudsman, the deputy ombudsman and their professional staff are subject to AS 39.50 (conflict of interest).

Sec. 24.55.320. **MUNICIPALITIES.** A municipality may by ordinance elect to become subject to the jurisdiction of the ombudsman appointed under this chapter. If a municipality so elects, it shall notify the ombudsman of that election and shall thereafter be considered an agency for the purposes of this chapter. If a municipality subjects itself to the jurisdiction of the ombudsman, the municipality shall pay its pro rata share of the cost of the operation of the office of the ombudsman based on the number of complaints or the case load emanating from that municipality, as prescribed by the ombudsman. If a municipality elects to remove itself from the jurisdiction of the ombudsman, it shall do so by ordinance, shall notify the ombudsman of that election and shall not thereafter be considered an agency for the purposes of this chapter.

Sec. 24.55.330. **DEFINITIONS.** In AS 24.55.010 - 24.55.340

- (1) "administrative act" means an action, omission, decision, recommendation, practice, policy, or procedure of an agency, but does not include the preparation or presentation of legislation or the substantive content of a judicial order, decision or opinion;
- (2) "agency" includes a department, office, institution, corporation, authority, organization, commission, committee, council or board of a municipality or in the executive, legislative or judicial branches of the state government, and a department, office, institution, corporation, authority, organization, commission, committee, council or board of a municipality or of the state government independent of the executive, legislative and judicial branches; it also includes an officer, employee or member of an "agency" acting or purporting to act in the exercise of his official duties, but does not include the governor, lieutenant governor, a member of the legislature, justice of the supreme court, judge of the court of appeals, a superior court judge, district court judge, magistrate, member of a city council or borough assembly, elected city or borough mayor, or a member of an elected school board;
- (3) "municipality" means a home rule or general law borough or city; including but not limited to a unified municipality organized under AS 29.68.010 - 29.68.580.

Sec. 24.55.340. **SHORT TITLE.** This chapter may be cited as The Ombudsman Act.

STATE OF ALASKA
FISCAL NOTE

Revision Date _____, 1983

I. REQUEST

Bill/Resolution No.: HB 293
 Title: Ombudsman
 Sponsor: Ward
 Requestor: House Judiciary Committee

II. FISCAL DETAIL

Agency Affected: Alaska Court System
 Program Category Affected: Justice
 BRU, Program of Subprogram(s) Affected: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Richard P. Barrier, Deputy Admin. Director Phone: 264-0545
 Division: Alaska Court System Date: 4/25/83

Approved by Commissioner: _____ Date: _____
 Department: _____

Distribution:

- Original to Legislative Finance
- Copy to Office of Management and Budget (for Legislature introduced bills)
- Copy to Department (for Governor introduced bills)
- Copy to Sponsor
- Copy to Requestor (if different from Sponsor)

3/8/83

STATE OF ALASKA
FISCAL NOTE

Revision Date / , 1983

I. REQUEST

Bill/Resolution No.: HB 293
 Title: "... 'agency' in the Ombudsman Act."
 Sponsor: Repr. Ward
 Requestor: House Judiciary Committee

II. FISCAL DETAIL

Agency Affected: Department of Law
 Program Category Affected: General Govt.
 BRU, Program of Subprogram(s) Affected: Legal Services

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

N/A

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Richard I. Pegues Director Phone: 465-3672
 Division: Administrative Services Division Date: April 15, 1983
 Approved by Commissioner: Richard I. Pegues/for Date: April 15, 1983
 Department: Department of Law

Distribution:

- Original to Legislative Finance
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- Copy to Department (for Governor introduced bills)
- Copy to Sponsor
- Copy to Requestor (if different from Sponsor)

HB 293
Fiscal Note
Analysis

This bill amends AS 24.55.330(2) by including the Alaska Bar Association in the definition of "agency" in the Ombudsman Act. The Department of Law has no direct governmental connection with the Association and therefore the bill will not have a fiscal impact on the department.

HB

298

COMMITTEE REPORT
HOUSE

(7)

FURTHER:

3/20/84

Date: 4-12-84

The Committee on JUDICIARY has had HR 298

"An Act establishing a National Petroleum Reserve, Alaska, special revenue fund; and providing for an effective date."

under consideration and recommends:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for HR 298 (Jud) same title
 new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation Zero Fiscal Note Attached
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

CHAIRMAN

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date 3/22/84

REQUEST

Bill/Resolution No: CS HB 298 (Res)
 Title: National Petroleum Reserve
Special Revenue Fund
 Sponsor: House Resources
 Requestor: House Judiciary
 Date of Request: 3-21-84

FISCAL DETAIL

Agency Affected: Revenue
 Program Category Affected: _____
 BRU, Program or Subprogram(s) Affected:
Treasury

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
<u>OPERATING</u>						
100 PERSONAL SERVICES	-	-	-	-	-	-
200 TRAVEL	-	-	-	-	-	-
300 CONTRACTUAL	-	-	-	-	-	-
400 SUPPLIES	-	-	-	-	-	-
500 EQUIPMENT	-	-	-	-	-	-
600 LANDS & STRUCTURES	-	-	-	-	-	-
700 GRANTS, CLAIMS	-	-	-	-	-	-
800 MISCELLANEOUS	-	-	-	-	-	-
<u>TOTAL OPERATING</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
<u>CAPITAL</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>
<u>REVENUE</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER	-	-	-	-	-	-
<u>TOTAL</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>	<u>-</u>

POSITIONS:

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

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis.

Prepared By: Milt Barker MB
 Division: Treasury

Phone: 465-2350
 Date: 3-21-84

Approved by Commissioner: Robt. O. Heath
 Agency: Revenue

Date: 3/23/84

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

HB 298

EXPLORATION OF NATIONAL PETROLEUM RESERVE IN ALASKA

42 USC 6502.
42 USC 6504.

43 USC 1712,
1782.

42 USC 6502.

43 USC 1337.

For necessary expenses of carrying out the provisions of section of Public Law 94-258, and for conducting hereafter and with fu appropriated by this Act and by subsequent appropriation. A notwithstanding any other provision of law and pursuant to rules and regulations as the Secretary may prescribe, an expediti program of competitive leasing of oil and gas in the Natio Petroleum Reserve in Alaska, \$107,001,000, to remain available u expended: *Provided*, That (1) activities undertaken pursuant to Act shall include or provide for such conditions, restrictions, prohibitions as the Secretary deems necessary or appropriate mitigate reasonably foreseeable and significantly adverse effects the surface resources of the National Petroleum Reserve in Ala (the Reserve); (2) the provisions of section 202 and section 603 of Federal Lands Policy and Management Act of 1976 (90 Stat. 274 shall not be applicable to the Reserve; (3) the first lease sale shall conducted within twenty months of the date of enactment of this A *Provided*, That the first lease sale shall be conducted only aft publication of a final environmental impact statement if such deemed necessary under the provisions of the National Environme tal Policy Act of 1969 (42 U.S.C. 4332); (4) the withdrawals establis by section 102 of Public Law 94-258 are rescinded for the purpose the oil and gas leasing program authorized herein; (5) bidding system used in lease sales shall be based on bidding systems included i section 205(a)(1) (A) through (H) of the Outer Continental Shelf Land Act Amendments of 1978 (92 Stat. 629); (6) lease tracts may enco pass identified geological structures; (7) the size of lease tracts may up to sixty thousand acres, as determined by the Secretary; (8) each lease shall be issued for an initial period of up to ten years, and sha be extended for so long thereafter as oil or gas is produced from th lease in paying quantities, or as drilling or reworking operations approved by the Secretary, are conducted thereon; and (9) all receiv from sales, rentals, bonuses, and royalties on leases issued pursuan to this Act shall be paid into the Treasury of the United States. *Provided*, That 50 per centum thereof shall be paid by the Secre of the Treasury semiannually, as soon as practicable after March and September 30 each year, to the State of Alaska for (a) plan (b) construction, maintenance, and operation of essential public facilities, and (c) other necessary provisions of public service. *Provided further*, That in the allocation of such funds, the State shall give priority to use by subdivisions of the State most directly severely impacted by development of oil and gas leased under the Act.

NOTE:

Judicial review.
Publication in
Federal
Register.

Any agency of the United States and any person authorized by Secretary may conduct geological and geophysical explorations in the National Petroleum Reserve in Alaska which do not interfere with operations under any contract maintained or granted previously. Any information acquired in such explorations shall be subject to conditions of 43 U.S.C. 1352(a)(1)(A).

Any action seeking judicial review of the adequacy of any program or site-specific environmental impact statement under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) concerning oil and gas leasing in the National Petroleum Reserve in Alaska shall be barred unless brought in the appropriate District Court within 60 days after notice of the availability of such statement is published in the Federal Register. Any proceeding on such act

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K-STATE CAPITOL
JUNEAU, ALASKA 99811

April 26, 1982

Honorable Bettye Fahrenkamp
Chairwoman, Senate Resources Committee
Alaska State Senate
Twelfth Legislature
Pouch V
Juneau, Alaska 99811

Re: SB 835 (National Petroleum Reserve-Alaska
Trust Fund). Our File No. 366-619-82

Dear Senator Fahrenkamp:

SB 835, which would establish a trust fund account for revenues the state receives from the federal government from federal oil and gas leasing in the National Petroleum Reserve-Alaska, presents a number of serious legal questions in its current form.

The first question is raised under Article IX, Section 7 of the Alaska Constitution, which provides in pertinent part: "The proceeds of any state tax or license shall not be dedicated to any special purpose, except as provided in Section 15 of this article or when required by the federal government for state participation in federal programs." The Department of Law and the Legislative Counsel have disagreed over the reach of this prohibition. Our department has construed the prohibition broadly to apply to all "public revenues" (e.g., taxes, license fees, revenues from the sale or disposition of natural resources, etc.); the Legislative Counsel has interpreted it narrowly as reaching only tax and license revenues. On April 23, 1982, the Alaska Supreme Court adopted the Department of Law's broader interpretation in State v. Alex, ___ P.2d ___, Op. No. 2488 (Alaska, April 23, 1982). See Slip Op. at p. 20. As a result, we believe the revenues which the bill addresses -- i.e., those that the state would receive from the federal government as the result of federal oil and gas leasing in NPR-A -- are subject to the prohibition.

However, there is an exception to the dedicated fund prohibition "when required by the federal government for state participation in federal programs." The pertinent portion of

P.L. 96-514, 94 Stat. 2964, which directs payment of the money to the state, attaches certain conditions to the state's receipt of that money: The state may use it "for (a) planning, (b) construction, maintenance, and operation of essential public facilities, and (c) other necessary provisions of public service: Provided further, [That in the allocation of such funds, the State shall give priority to use by subdivisions of the State most directly or severely impacted by development of oil and gas leased under this Act."] In other words, the funds received from the federal government must be dedicated to planning, construction, maintenance, and operation of essential public facilities, and other necessary provisions of public service. In addition, impacted political subdivisions must be given priority in the allocation of the funds.

We believe the establishment of a trust fund into which all the federal revenues are placed immediately upon receipt from the federal government is both permissible under Article IX, Section 7 of the Alaska Constitution and desirable in that it will ease the administrative task of demonstrating to the federal government that the funds received have been expended for the purposes and in the manner required by the federal Act. However, it also is our opinion that the explicit provisions of the law establishing the trust fund cannot impose conditions on the use of the money which exceed those "required by the federal government for state participation" in the federal program -- i.e., those in the federal Act. Since it is only the federal conditions which except the funds from the general dedicated fund prohibition, we believe the only conditions which may be attached to the funds are those required by the federal Act.

As a result, we believe the directive in Section 2(c) of SB 835 to pay a minimum of 50 percent of amounts in the fund to the North Slope Borough violates the dedicated fund prohibition because the federal Act does not require it for state participation. In addition, the directive in Section 2(d) that remaining amounts in the fund may be spent only "in conjunction with the exploration of the National Petroleum Reserve in Alaska and a program of competitive leasing of oil and gas from that reserve" also violates the prohibition, again because the federal Act does not require it. The federal Act simply does not impose these restrictions on the use of the funds received by the state.

Another question raised by SB 835 stems from Article II, Section 19 of the Alaska Constitution, which provides in pertinent part: "The legislature shall pass no local or special act if a general act can be made applicable." The problem here is that SB 835 specifically names the North Slope Borough as a recipient of amounts from the fund established. However, nothing in the federal Act requires that the North Slope be named, and it is obvious that a general act can be made applicable and satisfy the terms of the federal Act simply by "giv[ing] priority to use by subdivisions of the State most directly or severely impacted by development of oil and gas leased under this Act." That is the language of the federal Act, so using that language would satisfy that condition of the federal Act. It is language of general applicability to all subdivisions which might be impacted by NPR-A development, and therefore would be a general (not local or special) act within the meaning of the Alaska Constitution. (We also would point out that the North Slope Borough may not be the only political subdivision impacted by oil and gas leasing in NPR-A. In the reserve, Barrow is a first class city and Wainwright and Nuiqsuit are second class cities. Moreover, development in NPR-A may have an impact on other political subdivisions along the pipeline corridor or, it is conceivable, any other route chosen to transport the oil and gas produced -- i.e., Nome, etc. This potential impact on other political subdivisions demonstrates the advisability of couching the bill in terms of a general act, not a local or special act directed only to the North Slope Borough.)

Another problem stems from Article II, Section 13 of the Alaska Constitution, which provides in pertinent part: "Bills for appropriations shall be confined to appropriations." The problem in SB 835 is the Section 2(c) directive to pay money to the affected subdivisions (in the bill's current form, only the North Slope Borough). Specifically, Section 2(d) describes that directive as an appropriation. If it is an appropriation, it is an appropriation in a general act and not in a bill confined to appropriations as required by the Constitution. This conclusion is reinforced by the provision in Section 2(d) that amounts remaining in the fund after the payment to the subdivisions cannot be expended without appropriation by the legislature. To avoid this problem, the bill could be amended simply to require appropriation by the legislature prior to any expenditure of funds in the trust account, giving the legislature discretion to appropriate funds to impacted subdivisions or for other purposes permitted under the federal Act.

Following my testimony on SB 835 at the Senate Resources Committee meeting on April 23, 1982, I met with Tom Smythe and Robert DuPere, representing the North Slope Borough, and Resa King of the Committee staff. We seemed to reach general agreement that some minor modifications to the bill would satisfy the constitutional concerns while remaining true to the basic thrust of the proposed bill. My notes indicate that the following changes were contemplated:

1. Page 1, lines 12-15 should be amended to read (material to be deleted is capitalized and in brackets; new material is underlined): "(1) The United States Congress, by P.L. 96-514 (94 Stat. 2964, December 12, 1980), [APPROPRIATED \$107,001,000 FOR A PROGRAM OF] provided that the state shall receive 50 percent of receipts derived from competitive leasing of oil and gas in the National Petroleum Reserve in Alaska;" This change would eliminate any confusion regarding the \$107,001,000 federal appropriation which is for administration of the leasing program, not an appropriation to the state. The state will only receive money under the federal Act after the program begins generating lease revenues.

2. Page 1, lines 24-26 should be amended to read: "The fund shall consist of funds [APPROPRIATED TO IT BY THE LEGISLATURE EQUAL TO THE AMOUNT OF FUNDS] received by the state from the federal government under P.L. 96-514." This would establish the constitutionally-permissible dedicated fund.

3. Subsection (c) of Section 2, which begins on page 1, line 29, and continues to page 2, line 4, should be deleted in its entirety and replaced with the following:

(c) The commissioner of revenue shall pay to the subdivisions of the state most directly or severely impacted by development of oil and gas leased under the federal Act the amount appropriated by the legislature from the fund for that purpose. It is the intent of the legislature that the amount appropriated for payment to the subdivisions equal 50 percent of the amount received from the federal government under the federal Act, and that this percentage be reviewed every five years following passage of this Act.

This would indicate the legislative intent of sharing the revenues with impacted political subdivisions without violating the dedicated fund prohibition by imposing conditions beyond those required by the federal Act. It also avoids the local and special legislation problem, as well as the problem regarding an appropriation in a bill not confined to appropriations.

4. Page 2, lines 5-10 should be amended to read:
"(d) Amounts received by the state under (a) of this section [WHICH ARE NOT APPROPRIATED IN ACCORDANCE WITH (c) OF THIS SECTION] shall be used by the state, subject to appropriation by law, for the following activities and services [IN CONJUNCTION WITH THE EXPLORATION OF THE NATIONAL PETROLEUM RESERVE IN ALASKA AND A PROGRAM OF COMPETITIVE LEASING OF OIL AND GAS FROM THAT RESERVE]:" This avoids any dedicated funds problem by eliminating those conditions which exceed those required by the federal Act.

5. Subsection (e) of Section 2, appearing on page 2, lines 15-20, should be deleted in its entirety.

6. Subsection (f), beginning on page 2, line 21, and ending on page 3, line 1, should be amended to read:

"(f) amounts paid to [THE NORTH SLOPE BOROUGH] subdivisions under (c) of this section shall be used by the [NORTH SLOPE BOROUGH] subdivisions only for the following activities and services in conjunction with [THE EXPLORATION] development on the National Petroleum Reserve in Alaska and a program of competitive leasing of oil and gas from that reserve:

"(1) planning;

"(2) construction, maintenance, and operation of essential public facilities by the [NORTH SLOPE BOROUGH] subdivisions; and

"(3) other necessary public services provided by the [NORTH SLOPE BOROUGH] subdivisions."

This change is necessary to avoid the local and special legislation problem.

Honorable Bettye Fahrenkamp
Re: SB 835

April 26, 1982
Page 6

In addition, it was suggested that a committee letter of intent be drafted to the effect that, at the present time, the North Slope Borough is the only political subdivision of the state which will be most directly or severely impacted by oil and gas leasing in NPR-A.

I believe these comments accurately reflect the consensus of our work group. However, the other individuals present may have some further suggestions for change.

Finally, I must indicate that these comments are not intended to represent the Administration's policy position on this bill. Rather, they are provided in the nature of a drafting service to overcome the constitutional and other legal problems which we believe are presented by the bill in its current form. If we can be of further assistance in this regard, please contact us at your earliest convenience.

Sincerely,

WILSON L. CONDON
ATTORNEY GENERAL

By: *15/*
G. Thomas Koester
Assistant Attorney General

GTK:dlm

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

Tom Smythe
Robert DuPere ✓
Keith Specking

LETTER OF INTENT
TO ACCOMPANY
CSHB 298 (Resources)

It is the intent of the Legislature that the Department of Revenue rely on the following analysis of Committee Substitute for House Bill 298 (Resources) and P.L. 96-514, Title 1, Sec. 100 when administering this Act. In particular, it is the intent of the Legislature that the Department determine if a subdivision is "most directly or severely impacted" by oil and gas development in the National Petroleum Reserve - Alaska for purposes of Sec. 2(c) of this Act in a manner consistent with the analysis of such impacted communities provided in this letter of intent.

CSHB 298 (Res) implements the revenue-sharing provisions of P.L. 96-514, Title 1, Sec. 100 (1380) dealing with the Interior Department's oil and gas leasing program in the National Petroleum Reserve - Alaska. This leasing and revenue sharing program was part of the Interior Department Appropriations Act of 1981.

CSHB 298 (Res) establishes a state program which carries out the legislative intent of the federal act, which states as follows:

"That 50 per centum thereof (rentals, bonuses, royalties, etc.) shall be paid by the Secretary of the Treasury ... to the State of Alaska for (a) planning; (b) construction, maintenance, and operation of public facilities; and (c) other necessary provisions of public service.

PROVIDED FURTHER, that in the allocation of such funds, the State shall give priority to use by subdivisions of the state most directly or severely impacted by development of oil and gas leased under this section." 42 U.S.C. Sec. 6508

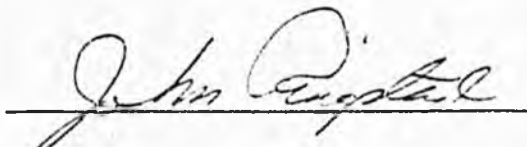
The purpose of this provision is to provide a source of funds for dealing with impacts related to the NPR-A oil and gas leasing program. The provision states that the funds are to be used for "planning," for "construction," and "operation of public facilities" and for "other necessary" public services. The purpose was also to allocate these funds to communities where the impacts are "most directly or severely" felt. The provision requires the state to give "priority" to subdivisions "most directly or severely impacted" by the NPR-A leasing program in "the allocation of such funds." This will rule out the possibility of a statewide revenue-sharing program or even one designed to ameliorate oil and gas development impacts in general. The purpose is restricted by federal law to communities suffering the effects of the NPR-A leasing program.

The federal provision does not expressly define further than this which communities could qualify for impact funds. Certainly the North Slope Borough would qualify since the program affects the Borough in the most "direct" way possible, being entirely inside of it. This is

consistent with the statutory predecessor to the federal revenue-sharing provision. P.L. 94-258 (1976), which transferred jurisdiction over the NPR-A from the Navy to the Interior Department, authorized the Secretary to assist impacted communities "located on or near the reserve as a direct result of the exploration and study activities, Sec. 107.

The language in the 1980 Act allows the State more leeway in allocating funds to local communities than the 1976 Act; nonetheless, the intention is to abide by the limitation that funds be allocated to communities "most severely or directly impacted." This bill should be implemented with the degree of flexibility necessary to cover such eventualities, but restrained by the purpose of the federal provision.

This approach would also be consistent with similar interpretations of the courts of federal law and federal programs. The U.S. Supreme court recently interpreted the Coastal Zone Management Act's "directly affecting" language in the SECRETARY OF THE INTERIOR v. CALIFORNIA. The court found that for an affect to be direct there had to be a significant, physical alteration of an area; in this case, California's coastal zone. When Congress adopted the Coastal Energy Impact Program (16 U.S.C. 1456 (a)) it limited loans and grants to coastal states and local governments actually in the coastal zone. Also, Senator Stevens' OCS revenue-sharing bill, S.800, would qualify only coastal local governments to receive OCS revenue-sharing funds. Thus, in other, similar situations, both Congress and the courts narrowly relate direct affects on a geographic basis, providing a sound, factual underpinning to federal revenue sharing for adverse affects of specific federal programs.



Representative John Ringstad,
Co-chairman, House Resources Committee

Alaska State Legislature

House of Representatives

Al Adams

Chairman
Committee on Finance



Official Business

April 6, 1983

MEMORANDUM

TO: ✓ Representative John Ringstad, Co-Chairman
Representative Dick Shultz, Co-Chairman
House Resources Committee

FROM: Representative Al Adams *APA*

SUBJECT: House Bill 298 - Establishing a National Petroleum Reserve, Alaska, Special Revenue Fund

HB 298 is pending in House Resources. I would appreciate the committee's consideration of the legislation at the earliest possible date.

In 1980, Congress approved Public Law 96-514 which contained language requiring that 50% of the royalties received from oil and gas leases in the National Petroleum Reserve - Alaska shall be paid to the State of Alaska. Part of that stipulation also provided that the priority use of these funds would be by the subdivisions of the state that were most directly impacted by the development of oil and gas leases in the NPR-A. I have introduced HB 298 to establish the special revenue fund into which these monies will be deposited. It is in this manner that I believe we can best assure the state's compliance with the intent of the federal Act. You may recall that last session, a comparable piece of legislation passed both houses of the Legislature but was vetoed by the Governor. I have attached a copy of the Attorney General's letter in which he advised the Legislature of necessary changes in order to comply with constitutional and statutory requirements. I believe you will find that HB 298 satisfies the concerns raised by the past Administration.

For the committee's further review, I have attached copies of letters and testimony concerning the federal legislation, as well as comments offered by the Mayor of the North Slope Borough. Should you like any additional information, please let me know.

WHILE IN SESSION
Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-3706

OUT OF SESSION
P.O. Box 333
Kotzebue, Alaska 99752
(907) 442-3320

1024 W. 6th
Anchorage, Alaska 99501
(907) 274-0615

HOUSE BILL 298

Establishing a National Petroleum Reserve, Alaska
Special Revenue Fund

Section 1. FINDINGS.

(1) The U.S Congress provided by law (P.L. 96-514) that Alaska shall receive 50% of the royalties derived from competitive oil and gas leases in the NPRA:

(2) Nearly all of NPRA NPR-A lies within the boudaries of the North Slope Borough; and

(3) Because of the nature of the congressional appropriation, this bill establishes a fund to comply with the federal Act's provisions.

Section 2. NATIONAL PETROLEUM RESERVE, ALASKA, SPECIAL REVENUE FUND.

(a) Establishes the NPRA Special Revenue Fund consisting of money received from the federal government under P.L. 96-514.

(b) The fund shall be managed by the Commissioner of Revenue.

(c) The commissioner is directed to pay the funds, as appropriated by the legislature, to the subdivisions most severely impacted by oil and gas leases. It is the intent of the legislature that 50% of the revenues received from the federal government under this las shall be appropriated for this purpose. The percent of funds for this purpose shall be reviewed by the legislature every five years.

(d) The remaining 50% shall be used by the state, as appropriated by the legislature, for planning, construction, maintenance and operation of essential public facilities, and other necessary public services.

(e) The subdivisions receiving funds may only use them for purposes that are in conjunction with development of NPRA and with competitive oil and gas leasing program. These shall also include planning, construction, maintenance and operation of essential public facilities and other necessary public services.

Section 3. Immediate effective date.

(5)

VAN NESS, FELDMAN & SUTCLIFFE

A PROFESSIONAL CORPORATION

SUITE 500

1220 NINETEENTH STREET, N. W.

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ROBERT G. SZABO
GRENVILLE GARSIDE

ALAN L. MINTZ
GARY D. BACHMAN
ELLEN L. PARTRIDGE
R. KEITH GUTHRIE
PETER D. DICKSON

December 20, 1979

MEMORANDUM

TO: Mayor Eben Hopson
North Slope Borough

Edward Hopson
President
Arctic Slope Regional Corporation

FROM: G. William Frick *swf*

RE: Summary of NPR-A Meeting

This memorandum will summarize the meeting held with representatives of the Arctic Slope Regional Corporation, North Slope Borough and others in Anchorage on December 7, 1979. The persons who attended the meeting are on the attached list.

A. Arctic Gas Pipeline

The first item of discussion was a presentation by Jack Bachman (907-276-2900), the Alaska representative of Northwest Pipeline, who provided an update on the Salt Lake City meeting between Mayor Hopson and other Borough representatives, and John McMillian and Northwest Pipeline staff. Bachman indicated that Northwest Pipeline was pleased with the interest of the North Slope Borough to participate in some manner in the project and was interested in providing an opportunity for the local as well as state involvement if possible. He did note that state actions thus far had been disappointing. He indicated that Northwest Pipeline hoped to begin civil construction in 1981, begin laying pipe in 1982, and finish the line in the warm weather of 1985.

He pointed out that the Northwest Pipeline Company has no direct responsibility for the conditioning plant, although it is extremely interested in its construction as an essential part of the overall system. While the state has indicated it wants to do "something" on the conditioning plant, it has not yet formulated a position. Bachman did note that moving the conditioning plant to Fairbanks would prevent the pipeline from being built. Northwest Pipeline is looking at producers as "overrun insurance," who will be turned to if necessary for completion of the line; the Department of Justice has problems with producers owning the line. Larry Dinneen pointed out that ARCO has expressed interest in knowing what the North Slope Borough and ASRC plan to do regarding the conditioning plant.

Mayor Hopson expressed concern about the failure of the North Slope Borough to have been consulted on issues surrounding the conditioning plant and the pipeline that affect the North Slope Borough. He also emphasized that while NSB had proposed having some involvement, it was subject to further decisions and negotiations involving the NSB and ASRC.

Follow-up actions from the discussion with Bachman are:

1. This firm is to contact Howard Butner, Vice President for Finance of Northwest Alaska Pipeline in Washington. Butner apparently has a variety of studies and other documents regarding various financial schemes for financing the pipeline that may be of use to the NSB in reviewing its potential participation.
2. This firm is to develop a brief analysis summarizing what has transpired with the gas pipeline to date and to prepare recommendations to the Borough on what future actions to take on this issue.

B. NPRA Legislation

The next item discussed was the position of ASRC and NSB on the NPRA legislation now being drafted by the Department of the Interior. Under this legislation NPR-A would be designated a "National Conservation Area." Mayor Hopson emphasized that the North Slope Borough supported any effort, including private leasing, that would open up NPR-A for exploration and development as the North Slope Borough's contribution to the national goal of improving energy supplies. Mayor Hopson emphasized that the Borough has always supported onshore development.

There was general agreement with the basic statutory positions that DOI had indicated would be included in the legislation.

Conrad Bagne suggested that the bill include provisions allowing local access to non-commercial and commercial discoveries found near communities on the North Slope. Herb Bartel pointed out that the BLM had already developed several years of planning analysis and data on NPR-A and that this experience should not be lost in the transition to the NCA management scheme. In particular, with respect to the four areas that were to be given special attention, the governmental offices charged with responsibility for those special areas, assuming it is not BLM, should be required to utilize BLM analysis.

Jon Buchholdt noted that the four areas cited for special consideration are possibly the most promising for private leasing; the boundaries, terms, and access of those areas should be examined carefully to insure development is not precluded. Herb Bartel also observed that the protection for fishing sites should not be limited to designated sites but rather to "systems" that would allow movement within fishing areas as the fish populations, and other influences on fishing, change.

With respect to the leasing systems, it was pointed out that a "nominating" system should be used in order to give the Borough, as well as the federal government, advance notice of what areas should be studied to determine the need for environmental or other protection. There was general agreement that any leasing system should, to the maximum extent possible, utilize bids that would internalize non-economic factors such as environmental protection and local hire. In addition, local considerations and provisions encouraging participation by small companies should be included into a system. Senator Gravel apparently is looking into developing such a program independently of the Department of the Interior. It was also pointed out that the Teshekpuk Lake had already been identified as an area that should be protected for the Native community. This should be kept in mind as the provisions regulating the Teshekpuk Lake area are formulated.

Senator Stevens joined the meeting at this point and made the following comments:

1. He considers the letter of Acting Secretary Joseph, regarding the legislative program of NPR-A, to be balanced but is concerned about those areas that DOI proposes to "set aside." He also feels that any provisions relating to the Mineral Leasing Act may present problems.
2. He is concerned about the revenue sharing provisions and feels it may be hard to hold the 50% now proposed

to be allocated to the state because of the large royalty already received by the state from Prudhoe Bay. Provisions guaranteeing local share from the revenues to the state would help maintain this provision.

3. He supports the NCA being administered by the BLM but is concerned about BLM continuing to apply the approaches they have traditionally followed under the Mineral Leasing Act. Stevens indicated he was meeting with Guy Martin on the legislation on December 10.
4. He is quite committed to keeping this bill separate from D-2 and indicated that this was the view of Secretary Andrus. Senator Stevens cautioned about trying to put D-2 related Native amendments on the bill when it comes from the House.
5. Senator Stevens vigorously emphasized the need to slow the Beaufort Sea sale. He is very concerned about drilling in the Beaufort Sea and feels that the international situation will result in a compressing of the time for leasing of NPR-A.
6. He is very interested in getting small companies involved in the development of NPR-A.
7. He supports the efforts to find a new agency or agencies to fund and administer NARL. He mentioned also the possibility of turning over the gas field at Barrow to the North Slope Borough and providing authority for requiring federal facilities to pay for gas from the field.

In the afternoon we were joined by representatives of the Department of the Interior: Gerry Gilliland, Curt McVie, Irene Rowan, Jim Wicks, and Ed Eisenson.

Gerry Gilliland outlined the Department's views on the legislation. He emphasized that the legislation is to encourage oil and gas development while protecting the unique surface values and lifestyle of the native residents. BLM is to administer the area in a multiple use manner and the local residents are to assist BLM in land use planning and in its lease program. He noted also that the bill included language that would lead to transfer of the Barrow gas field to the North Slope Borough.

With respect to leasing, the Department hopes to have a minimum time schedule that would result in the first lease within twenty months of the legislation. The legislation would provide

broad leasing authority to the BLM to establish terms and conditions. He emphasized that the authority would allow stipulations to protect the environment and require access yet he noted that the proposal did not have any corridors specifically set aside. He said that the bill would provide the Secretary with discretionary authority to lease minerals but only local leasing of coal would be specifically allowed. The report from Gilliland basically coincided with the information provided in Undersecretary Joseph's letter.

Gilliland indicated that the legislation was being reviewed within the Administration but that there had been no major changes proposed. The only objections from other agencies involved issues unrelated to the direct administration of NPR-A, e.g., the Department of Justice was concerned about anti-trust language, some agency was concerned about the size of the tracts being too large and thereby inhibiting participation by local companies, and there was concern over the name of the NCA. Gilliland does not know the exact timetable for submission of the bill to Congress but expects it to happen before January. He felt it was too late for any additional input at this time from the local community although the Department remains interested in the local reaction.

With respect to the four special areas he emphasized that the bill would only have Congress stating that BLM is to give those areas special consideration; it would be left up to the BLM, after consultation with an Advisory Committee, to determine exactly what those special considerations should be. BLM proposes to use the Federal Land Policy Management Act (FLPMA) planning process to establish appropriate restrictions. He also pointed out that Section 603 of FLPMA would not apply nor would the 1876 Mineral Act. This would preclude hard rock mining and provide no protection of existing claims. It was pointed out by Charlie Edwardson that there might be some outstanding claims that existed before the formulation of NPR-A.

Gilliland agreed that the leasing approach authority in the bill would allow internalization of costs but such leasing would not be mandated by the legislation.

Mayor Hopson emphasized the importance of sharing information from prior exploration of NPR-A inasmuch as the data is a key factor affecting exploration on the Slope. Mayor Hopson expressed his desire that the legislation should turn over leasing totally to private companies so that the Federal government would not be involved in the actual exploration.

Gilliland agreed that the applicability of the North Slope Borough ordinances to activities taking place in NPR-A would be part of the planning process. This means that the BLM could decide to apply them but that they were not automatically incorporated into the plan. He also noted that there was no local hire provision in the bill, which produced substantial discussion about the need for such provision. Gilliland and Curt McVie agreed that this was a point that deserved additional examination and indicated a willingness to have the Department consider taking a position on such a provision in the letter of transmittal of the bill to Congress or in the testimony of the Administration on the bill, inasmuch as it was too late to make any change to the legislation at this point.

Follow-up activities.

1. We should draft for the Department of the Interior an analysis of the need for an affirmative action program mentioning the adverse economic as well as societal impacts of not utilizing local residents. We should also draft appropriate language for such provision.
2. We should write to the Department requesting that they include reference to such a provision in their testimony or in the letter of transmittal to Congress.
3. We should attempt to have included in the legislation a specific guarantee of a portion of the state's revenue being allocated to the North Slope Borough.
4. We should examine other National conservation areas, and BLM regulations regulating activities in those areas, to identify deficiencies in the management program that should be addressed in the legislation or in Report language.

cc: Conrad Bagne Oliver Leavitt
Tom Smythe Larry Dinneen
Jon Buchholdt Jim Wickwire

ATTENDANCE LIST

December 7, 1979 Meeting

Anchorage, Alaska

Mayor Eben Hopson, NSB

Eugene Brower, NSB

Tom Smythe, NSB

Conrad Bagne, NSB

Herb Bartel, NSB

Jon Buchholdt, NSB

Gerry White, NSB

Ralph Anderson, NSB

Bob Dupere, NSB

Lou Dishner, Lobbyist for NSB

Larry Dinneen, ASRC

Oliver Leavitt, ASRC

Eddie Hopson, ASRC

Jim Wickwire, Seattle

Bill Van Ness, Washington, D. C.

G. William Frick, Washington, D. C.

Ken Forsen, Arctic Technical

Services

Jack Bachman, North West Pipeline

Alaska State Legislature

House of Representatives

Al Adams

Chairman

Committee on Finance



Official Business

April 6, 1983

MEMORANDUM

TO: ✓ Representative John Ringstad, Co-Chairman
Representative Dick Shultz, Co-Chairman
House Resources Committee

FROM: Representative Al Adams *APP*

SUBJECT: House Bill 298 - Establishing a National Petroleum Reserve, Alaska, Special Revenue Fund

HB 298 is pending in House Resources. I would appreciate the committee's consideration of the legislation at the earliest possible date.

In 1980, Congress approved Public Law 96-514 which contained language requiring that 50% of the royalties received from oil and gas leases in the National Petroleum Reserve - Alaska shall be paid to the State of Alaska. Part of that stipulation also provided that the priority use of these funds would be by the subdivisions of the state that were most directly impacted by the development of oil and gas leases in the NPR-A. I have introduced HB 298 to establish the special revenue fund into which these monies will be deposited. It is in this manner that I believe we can best assure the state's compliance with the intent of the federal Act. You may recall that last session, a comparable piece of legislation passed both houses of the Legislature but was vetoed by the Governor. I have attached a copy of the Attorney General's letter in which he advised the Legislature of necessary changes in order to comply with constitutional and statutory requirements. I believe you will find that HB 298 satisfies the concerns raised by the past Administration.

For the committee's further review, I have attached copies of letters and testimony concerning the federal legislation, as well as comments offered by the Mayor of the North Slope Borough. Should you like any additional information, please let me know.

WHILE IN SESSION
Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-3706

OUT OF SESSION
P.O. Box 333
Kotzebue, Alaska 99752
(907) 442-3320

1024 W. 6th
Anchorage, Alaska 99501
(907) 274-0615

HOUSE BILL 298

Establishing a National Petroleum Reserve, Alaska
Special Revenue Fund

Section 1. FINDINGS.

(1) The U.S Congress provided by law (P.L. 96-514) that Alaska shall receive 50% of the royalties derived from competitive oil and gas leases in the NPRA:

(2) Nearly all of NPRA NPR-A lies within the boudaries of the North Slope Borough; and

(3) Because of the nature of the congressional appropriation, this bill establishes a fund to comply with the federal Act's provisions.

Section 2. NATIONAL PETROLEUM RESERVE, ALASKA, SPECIAL REVENUE FUND.

(a) Establishes the NPRA Special Revenue Fund consisting of money received from the federal government under P.L. 96-514.

(b) The fund shall be managed by the Commissioner of Revenue.

(c) The commissioner is directed to pay the funds, as appropriated by the legislature, to the subdivisions most severely impacted by oil and gas leases. It is the intent of the legislature that 50% of the revenues received from the federal government under this las shall be appropriated for this purpose. The percent of funds for this purpose shall be reviewed by the legislature every five years.

(d) The remaining 50% shall be used by the state, as appropriated by the legislature, for planning, construction, maintenance and operation of essential public facilities, and other necessary public services.

(e) The subdivisions receiving funds may only use them for purposes that are in conjunction with development of NPRA and with competitive oil and gas leasing program. These shall also include planning, construction, maintenance and operation of essential public facilities and other necessary public services.

Section 3. Immediate effective date.

15
VAN NESS, FELDMAN & SUTCLIFFE

A PROFESSIONAL CORPORATION

SUITE 500

1220 NINETEENTH STREET, N. W.

WASHINGTON, D. C. 20036

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BEN YAMAGATA
ROBERT G. SZABO
GRENVILLE GARSIDE

ALAN L. MINTZ
GARY D. BACHMAN
ELLEN L. PARTRIDGE
R. KEITH GUTHRIE
PETER D. DICKSON

December 20, 1979

MEMORANDUM

TO: Mayor Eben Hopson
North Slope Borough

Edward Hopson
President
Arctic Slope Regional Corporation

FROM: G. William Frick *swf*

RE: Summary of NPR-A Meeting

This memorandum will summarize the meeting held with representatives of the Arctic Slope Regional Corporation, North Slope Borough and others in Anchorage on December 7, 1979. The persons who attended the meeting are on the attached list.

A. Arctic Gas Pipeline

The first item of discussion was a presentation by Jack Bachman (907-276-2900), the Alaska representative of Northwest Pipeline, who provided an update on the Salt Lake City meeting between Mayor Hopson and other Borough representatives, and John McMillian and Northwest Pipeline staff. Bachman indicated that Northwest Pipeline was pleased with the interest of the North Slope Borough to participate in some manner in the project and was interested in providing an opportunity for the local as well as state involvement if possible. He did note that state actions thus far had been disappointing. He indicated that Northwest Pipeline hoped to begin civil construction in 1981, begin laying pipe in 1982, and finish the line in the warm weather of 1985.

He pointed out that the Northwest Pipeline Company has no direct responsibility for the conditioning plant, although it is extremely interested in its construction as an essential part of the overall system. While the state has indicated it wants to do "something" on the conditioning plant, it has not yet formulated a position. Bachman did note that moving the conditioning plant to Fairbanks would prevent the pipeline from being built. Northwest Pipeline is looking at producers as "overrun insurance," who will be turned to if necessary for completion of the line; the Department of Justice has problems with producers owning the line. Larry Dinneen pointed out that ARCO has expressed interest in knowing what the North Slope Borough and ASRC plan to do regarding the conditioning plant.

Mayor Hopson expressed concern about the failure of the North Slope Borough to have been consulted on issues surrounding the conditioning plant and the pipeline that affect the North Slope Borough. He also emphasized that while NSB had proposed having some involvement, it was subject to further decisions and negotiations involving the NSB and ASRC.

Follow-up actions from the discussion with Bachman are:

1. This firm is to contact Howard Butner, Vice President for Finance of Northwest Alaska Pipeline in Washington. Butner apparently has a variety of studies and other documents regarding various financial schemes for financing the pipeline that may be of use to the NSB in reviewing its potential participation.
2. This firm is to develop a brief analysis summarizing what has transpired with the gas pipeline to date and to prepare recommendations to the Borough on what future actions to take on this issue.

B. NPRA Legislation

The next item discussed was the position of ASRC and NSB on the NPRA legislation now being drafted by the Department of the Interior. Under this legislation NPR-A would be designated a "National Conservation Area." Mayor Hopson emphasized that the North Slope Borough supported any effort, including private leasing, that would open up NPR-A for exploration and development as the North Slope Borough's contribution to the national goal of improving energy supplies. Mayor Hopson emphasized that the Borough has always supported onshore development.

There was general agreement with the basic statutory positions that DOI had indicated would be included in the legislation.

Conrad Bagne suggested that the bill include provisions allowing local access to non-commercial and commercial discoveries found near communities on the North Slope. Herb Bartel pointed out that the BLM had already developed several years of planning analysis and data on NPR-A and that this experience should not be lost in the transition to the NCA management scheme. In particular, with respect to the four areas that were to be given special attention, the governmental offices charged with responsibility for those special areas, assuming it is not BLM, should be required to utilize BLM analysis.

Jon Buchholdt noted that the four areas cited for special consideration are possibly the most promising for private leasing; the boundaries, terms, and access of those areas should be examined carefully to insure development is not precluded. Herb Bartel also observed that the protection for fishing sites should not be limited to designated sites but rather to "systems" that would allow movement within fishing areas as the fish populations, and other influences on fishing, change.

With respect to the leasing systems, it was pointed out that a "nominating" system should be used in order to give the Borough, as well as the federal government, advance notice of what areas should be studied to determine the need for environmental or other protection. There was general agreement that any leasing system should, to the maximum extent possible, utilize bids that would internalize non-economic factors such as environmental protection and local hire. In addition, local considerations and provisions encouraging participation by small companies should be included into a system. Senator Gravel apparently is looking into developing such a program independently of the Department of the Interior. It was also pointed out that the Teshekpuk Lake had already been identified as an area that should be protected for the Native community. This should be kept in mind as the provisions regulating the Teshekpuk Lake area are formulated.

Senator Stevens joined the meeting at this point and made the following comments:

1. He considers the letter of Acting Secretary Joseph, regarding the legislative program of NPR-A, to be balanced but is concerned about those areas that DOI proposes to "set aside." He also feels that any provisions relating to the Mineral Leasing Act may present problems.
2. He is concerned about the revenue sharing provisions and feels it may be hard to hold the 50% now proposed

to be allocated to the state because of the large royalty already received by the state from Prudhoe Bay. Provisions guaranteeing local share from the revenues to the state would help maintain this provision.

3. He supports the NCA being administered by the BLM but is concerned about BLM continuing to apply the approaches they have traditionally followed under the Mineral Leasing Act. Stevens indicated he was meeting with Guy Martin on the legislation on December 10.
4. He is quite committed to keeping this bill separate from D-2 and indicated that this was the view of Secretary Andrus. Senator Stevens cautioned about trying to put D-2 related Native amendments on the bill when it comes from the House.
5. Senator Stevens vigorously emphasized the need to slow the Beaufort Sea sale. He is very concerned about drilling in the Beaufort Sea and feels that the international situation will result in a compressing of the time for leasing of NPR-A.
6. He is very interested in getting small companies involved in the development of NPR-A.
7. He supports the efforts to find a new agency or agencies to fund and administer NARL. He mentioned also the possibility of turning over the gas field at Barrow to the North Slope Borough and providing authority for requiring federal facilities to pay for gas from the field.

In the afternoon we were joined by representatives of the Department of the Interior: Gerry Gilliland, Curt McVie, Irene Rowan, Jim Wicks, and Ed Eisenson.

Gerry Gilliland outlined the Department's views on the legislation. He emphasized that the legislation is to encourage oil and gas development while protecting the unique surface values and lifestyle of the native residents. BLM is to administer the area in a multiple use manner and the local residents are to assist BLM in land use planning and in its lease program. He noted also that the bill included language that would lead to transfer of the Barrow gas field to the North Slope Borough.

With respect to leasing, the Department hopes to have a minimum time schedule that would result in the first lease within twenty months of the legislation. The legislation would provide

broad leasing authority to the BLM to establish terms and conditions. He emphasized that the authority would allow stipulations to protect the environment and require access yet he noted that the proposal did not have any corridors specifically set aside. He said that the bill would provide the Secretary with discretionary authority to lease minerals but only local leasing of coal would be specifically allowed. The report from Gilliland basically coincided with the information provided in Undersecretary Joseph's letter.

Gilliland indicated that the legislation was being reviewed within the Administration but that there had been no major changes proposed. The only objections from other agencies involved issues unrelated to the direct administration of NPR-A, e.g., the Department of Justice was concerned about anti-trust language, some agency was concerned about the size of the tracts being too large and thereby inhibiting participation by local companies, and there was concern over the name of the NCA. Gilliland does not know the exact timetable for submission of the bill to Congress but expects it to happen before January. He felt it was too late for any additional input at this time from the local community although the Department remains interested in the local reaction.

With respect to the four special areas he emphasized that the bill would only have Congress stating that BLM is to give those areas special consideration; it would be left up to the BLM, after consultation with an Advisory Committee, to determine exactly what those special considerations should be. BLM proposes to use the Federal Land Policy Management Act (FLPMA) planning process to establish appropriate restrictions. He also pointed out that Section 603 of FLPMA would not apply nor would the 1876 Mineral Act. This would preclude hard rock mining and provide no protection of existing claims. It was pointed out by Charlie Edwardson that there might be some outstanding claims that existed before the formulation of NPR-A.

Gilliland agreed that the leasing approach authority in the bill would allow internalization of costs but such leasing would not be mandated by the legislation.

Mayor Hopson emphasized the importance of sharing information from prior exploration of NPR-A inasmuch as the data is a key factor affecting exploration on the Slope. Mayor Hopson expressed his desire that the legislation should turn over leasing totally to private companies so that the Federal government would not be involved in the actual exploration.

Gilliland agreed that the applicability of the North Slope Borough ordinances to activities taking place in NPR-A would be part of the planning process. This means that the BLM could decide to apply them but that they were not automatically incorporated into the plan. He also noted that there was no local hire provision in the bill, which produced substantial discussion about the need for such provision. Gilliland and Curt McVie agreed that this was a point that deserved additional examination and indicated a willingness to have the Department consider taking a position on such a provision in the letter of transmittal of the bill to Congress or in the testimony of the Administration on the bill, inasmuch as it was too late to make any change to the legislation at this point.

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cc: Conrad Bagne Oliver Leavitt
Tom Smythe Larry Dinneen
Jon Buchholdt Jim Wickwire

ATTENDANCE LIST

December 7, 1979 Meeting

Anchorage, Alaska

Mayor Eben Hopson, NSB

Eugene Brower, NSB

Tom Smythe, NSB

Conrad Bagne, NSB

Herb Bartel, NSB

Jon Buchholdt, NSB

Gerry White, NSB

Ralph Anderson, NSB

Bob Dupere, NSB

Lou Dishner, Lobbyist for NSB

Larry Dinneen, ASRC

Oliver Leavitt, ASRC

Eddie Hopson, ASRC

Jim Wickwire, Seattle

Bill Van Ness, Washington, D. C.

G. William Frick, Washington, D. C.

Ken Forsen, Arctic Technical

Services

Jack Bachman, North West Pipeline

PREPARED FOR

SENATOR FRANK R. FERGUSON

BY

MAYOR EUGENE BROWER

NORTH SLOPE BOROUGH

Regarding

SENATE BILL NO. 835

on

April 20, 1982

Despite the fact that commercial petroleum prospects for NPRA have been substantially downgraded by the United States Geological Service and Department of Natural Resources as a result of past Federally sponsored drilling programs the potential impacts, in fact, may be greater. Past drilling indicates the possibility of a reasonably large number of smaller fields rather than the giants or super giants forecast in the past. If this is the case, production would probably await the development of groups of smaller fields which would collectively represent a commercial undertaking. Collectors would link these small fields to a pipeline running to TAPS. The tracts receiving bids during the January 27, 1982 NPRA lease sale and their pattern substantiate this belief. This type of development scenario necessarily would disturb a larger area as well as being more difficult to service.

In contrast to Prudhoe Bay, the impacts of NPRA development will be at the doorstep of four of the eight permanent Borough communities (Barrow, Nuiqsut, Atkasook, and Wainwright). The indirect or secondary impacts of the Prudhoe Bay development, discounting primary impacts, created drastic cultural, social and economic disruptions for the permanent Inupiat population. Impacts forced change upon the resident population, not at their own making, and required them to organize a local governmental unit to represent their interests. With the development of NPRA the

pressures will be more direct and perhaps more devastating unless mitigation measures can be taken.

Senate Bill 835 will provide a portion of the funding required to address forthcoming impacts. With Prudhoe Bay and the Kuparuk experience, future Borough approaches to industrial impacts will involve direct yet cooperative State/industry/Borough planning and provision of basic consolidated services within the fields as well as within the communities. The result of Borough involvement promoting consolidation of facilities and services will result in more efficient, less disruptive development and therefore less detrimental impact.

The Federal law, Department of Interior and Related Agencies Appropriations Act of 1980, contains the following language:

Provided, that . . . (9) all recipients from sales, rentals, bonuses, and royalties on leases issued pursuant to this Act shall be paid into the Treasury of the United States: Provided, that 50 per centum shall be paid by the Secretary of the Treasury semiannually, as soon as practicable after March 30 and September 30 each year, to the State of Alaska for (a) planning, (b) construction, maintenance and operation of essential public facilities, and (c) other necessary provision of public service: Provided further, that in the allocation of such funds the State shall give priority to use by subdivisions of the State most directly or severely impacted by development of oil and gas leased under this Act.

was in part a result the cooperative effort of the State and

the North Slope Borough in working with the Administration and the Congress.

Since NPRA is Federal reserve lands, there was no requirement for Federal revenue sharing. In fact, there was local opposition from influential Administrative and Congressional officials to sharing with the State. The Administration considered draft language to include only the Borough since NPRA lies almost totally within the Borough. However, Governor Hammond's opposition to direct revenue sharing rather than a pass through and the Borough's belief that the Borough alone would be limited to the 25 percent precedent for local revenue sharing established in worldlife range and refuge law, prompted the Borough to jointly seek revenue sharing with the State. The joint State/Borough effort resulted in the State receiving 50 percent of the net Federal receipts with a proviso that the State would pass through funds to directly or severely impacted local governmental units.

Although the Administration introduced legislation in both the House and the Senate, Senator Stevens, in a sophisticated legislative maneuver, extracted the appropriate NPRA lease sale language from the Administration bill and included it as a part of Interior Appropriations. NPRA leasing was permitted and the revenue sharing preserved. However, the remainder of the Administration bill which dealt in large part with environmental constraints and enforcement provisions is dormant and

probably will not be resurrected. This places a great burden upon the State and the Borough to ensure efficient, environmentally sound development.

In summary, the North Slope Borough urges the prompt enactment of Senate Bill 835 to provide the Borough with the means of ameliorating impacts occasioned by the development of petroleum leases in NPRA. In providing this pass through of funds, the Borough will use these funds for the planning, construction, maintenance and operations of public facilities and other necessary provisions of services resulting from NPRA lease sales.

REPORT LANGUAGE FOR HR 7724

Provisions Affecting Exploration of
National Petroleum Reserve in Alaska

The bill provides \$194,251,000 to initiate and carry out the leasing of the National Petroleum Reserve in Alaska, a Federal land holding of 23 million acres which is entirely located on the North Slope of Alaska. In addition to providing funds, the House bill provides substantive requirements directing the Secretary how such leasing is to be carried out. The Committee has agreed to the House provisions, with certain changes. The Committee believes that private leasing of the NPRA is extremely important and that it should proceed as expeditiously as possible. It is important, however, that the Congress also provide guidance to the Secretary on how that leasing should take place.

The social, economic, and environmental conditions in the Arctic are extremely fragile. The sudden influx of workers and money into an area can be extremely disruptive to the local community and put a strain on governmental services. There is also great potential for harm to the environment from the equipment and other activities associated with the exploration and development. Therefore, it is extremely important that the Secretary develop and implement a leasing program that gives proper consideration to the effects on the local community and political jurisdiction whose lands involved will be most directly

affected by the economic and social impacts. Because of these concerns, the Committee has made several changes in the House bill.

First, the House bill exempted the lease program from Sections 202 and 603 of the Federal Lands Policy and Management Act of 1976. While the Committee agrees that those sections of FLPMA should not operate to delay the leasing program, the sections would also have provided authority for important interaction between the Secretary and the State and local governments. The Committee considers it very important that the Secretary consult with the State and local jurisdictions regarding the lease program and insure important State and local decisions regarding land use control, environmental protection and preservation of subsistence use by local residents are made part of any leasing program. The Committee amendment would require the Secretary to recognize and insure application of these local requirements, even though the FLPMA sections are otherwise not applicable. The Committee believes that this will not delay the lease program in any way.

Second, the Committee has added language that will lead to greater participation in the jobs and business contracts associated with the leasing program by disadvantaged Native groups. Natives have historically gained the least from the economic activity associated with oil and gas development. Efforts were made in connection with construction of the Trans-Alaska pipeline

and the proposed Alaska Natural Gas Transportation System to encourage hiring of Natives. The unemployment rate for Natives in the North Slope is perhaps the highest in the country and it is appropriate that they have a role in the development of the resources from the area in which they live. This amendment makes more explicit the Federal goal that Natives have a preference in the employment and contracts that will be generated by the leasing program of NPRA authorized by the bill.

Third, the Committee recognizes that the impacts of oil and gas development increases costs for local governmental units. In addition, the Committee considers it important that such local jurisdictions share in the financial rewards associated with the development of resources of land within their jurisdictions, even though fee ownership may still be with the Federal government. The House bill provides that 50% of the lease sale proceeds, the royalties, and other income from the NPRA be returned to the State of Alaska, with a directive that the State allocate the funds to benefit the jurisdictions most affected by the development of NPRA.

The Committee supports the concept of returning funds to local jurisdictions but is concerned that those funds be available to benefit the jurisdictions most directly affected by the development and the activities that produce the income. The State is subject, understandably, to pressures from jurisdictions throughout the state for distribution of its revenues; past

experience indicates that certain areas, particularly those less populated, may not receive distribution appropriate to their needs or to the impacts that they have suffered. Furthermore, the State has restricted the authority of local jurisdictions to raise revenues by taxing property associated with oil and gas development. This has had its most serious impact on those locations where the oil and gas exploration and development is taking place and substantial amounts of property are located. Consequently, the Committee has preserved the 50% allocation to the State and its local jurisdictions but has directed distribution within the state so that a reasonable portion goes to the North Slope Borough, the local jurisdiction most affected by development of NPRA; the NPRA is composed of lands located totally within the North Slope Borough boundaries. Given the priority set forth in the House bill that the funds go to the jurisdictions most impacted by development, the Committee considers it appropriate to make the allocation explicit in the bill.

Finally, the Committee has rejected the request by the Administration that the bill require transfer of the Barrow gas field, which at present is under the jurisdiction of the Secretary of the Interior. The gas from that field is essential to life in Barrow, our northernmost community. The gas is used for heat and electricity, and a reliable supply of gas is necessary during the severe Arctic winters. While the Committee agrees that the source and cost of long-term energy supplies for

Barrow, as well as other North Slope Borough Villages, should be examined by the Secretary and discussed with the local community, it is inappropriate for the Congress to direct that a transfer take place in advance of studies and other data that demonstrate how energy supplies can best be funded. The Committee wants to avoid hurriedly choosing an unrealistic operating situation which might endanger the continued supply of fuel for heat to the community.

The leasing of NPRA provides a good opportunity for the Secretary to study energy needs on the North Slope and determine how North Slope Villages, including Barrow, can gain access to indigenous energy supplies. While the Barrow gas field would obviously not be included in any leasing program, the Secretary should consider lease conditions on tracts which will be leased that will guarantee access to any discovered oil or gas by the villages. Following development of such information, the Congress will be better able to respond in an appropriate manner to the Administration's request for transfer of the Barrow gas fields.

H B

3/2

COMMITTEE REPORT

HOUSE

(7)

FURTHER:

4/25/83

Date: 5-2-83

Mr. Speaker: (Returned to Judiciary 4/25/83)

The Committee on JUDICIARY has had HB 312

"An Act relating to harming a police dog."

under consideration and reports it back as follows:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for HB 312 (SUB) same title
 new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation Zero Fiscal Note Attached
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBER HAVING
OTHER RECOMMENDATIONS:

_____ CHAIRMAN

I. REQUEST

Bill/Resolution No.: HB 312
 Title: "...harming a police dog."
 Sponsor: Repr. Adams
 Requestor: House Judiciary Committee

II. FISCAL DETAIL

Agency Affected: Department of Law
 Program Category Affected: Adm. of Justice
 BRU, Program of Subprogram(s) Affected: Prosecution

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

N/A

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Richard I. Pegues, Director Phone: 465-3672
 Division: Administrative Services Division Date: April 18, 1983
 Approved by Commissioner: Norman C. Gorsuch, Attorney General Date: April 18, 1983
 Department: Department of Law

Distribution:

- Original to Legislative Finance
- Copy to Office of Management and Budget (for Legislature introduced bills)
- Copy to Department (for Governor introduced bills)
- Copy to Sponsor
- Copy to Requestor (if different from Sponsor)

HB 312
Fiscal Note
Analysis

The intentional harming of a police dog is such a rare occurrence that any fiscal impact to the department will be relatively insignificant.

Kotzebue

1 dog

not subject to harassment or threats

Alaska State Troopers

3 Search & Rescur Dogs

2 Narcotics Dogs

Support the legislation. Were to call back saturday
with info re: harassment

Did not call back

Ketchikan Police Department

1 Narcotics Dog - Not subject to threats or
harassment

Support the legislation

Kenai Police Department

1 Street Dog - Not aware of harassment. Dispatcher
could not comment on the bill

Juneau Police Department

No Dogs

Fairbanks Police Department

No Dogs

Anchorage Police Department

3 Street Dogs

2 Narcotics Dogs

Support the legislation. Their dogs (all of them) have
be harassed and threatened. One dog was threatened
wednesday (April 27) with a knife.

The department feels that it would be very difficult
to convince the prosecutors to file charges under
the Criminal Mischief Statute because it covers such
a broad range of offenses. If there were specific
statutes relating to harassment or injuring a police
dog it would be much easier to convince the prosecution
to prosecute.

The department has never attempted to file charges under
the criminal mischief statute as they felt there would
be no chance of prosecution.



POUCH V
JUNEAU, ALASKA 99811
(907) 465-4990

Alaska State Legislature
HOUSE OF REPRESENTATIVES

REPRESENTATIVE
CHARLIE BUSSELL
CHAIRMAN

Committee on Judiciary

M E M O R A N D U M

DATE: April 20, 1983

TO: File

FROM: Cynthia Nelson *CN*
Administrative Assistant

SUBJECT: Proposed CS for HB 312 (Judiciary)
"An Act relating to harming a police dog."

On April 20, 1983 I spoke with Deputy Chief Audie of the Anchorage Police Department. The Anchorage Police Department strongly supports this legislation and hopes that it will act as a deterrent to the threats which have been made towards their police dogs.

The Anchorage Police Department presently owns and maintains five (5) police dogs. Four (4) are classified as "Street Dogs" and are used for building searches and in situations where there would be a substantial danger to a police officer. In addition, "Street Dogs" are used for search and rescue situations locating lost persons.

The additional dog owned by the Anchorage Police Department is classified as a "Narcotics Dog". This particular dog was imported from Germany and is used to locate narcotics by smell. This dog in particular has been subjected to numerous threats of harm.

These dogs represent an investment of approximately \$12,000 each which includes an eight week training session with it's designated police officer "handler". This figure does not include salary and per diem paid to the officer while in training at the outside school.

There is not only a substantial financial investment in these dogs but a great deal of time investment. However, the value of these dogs to the life and safety of the public and to the police officers they serve would be difficult to measure.

MEMBERS:
REP. JOHN LISKA, VICE CHAIRMAN; REP. RAMONA BARNES, EMERITUS;
REP. JOE HAYES; REP. HUGH MALONE; REP. DON CLOCKSIN; REP. RON WENDTE