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RICO THE ENFORCER

JUSTICE

NEWSWEEK

J. Ray McDermott & Co., a major builder of oil platforms, paid \$509,615 in bribes to the vice chairman of Tenneco Oil Co. to undertake lucrative construction projects in the Gulf of Mexico. But the cost of doing business jumped unexpectedly last year after the firm pleaded guilty on seven criminal counts. A Federal judge in New Orleans not only fined McDermott \$105,000, but confiscated its \$897,000 in illegal profits from the Tenneco deals.

While serving as mayor of Lansing, Ill., for sixteen years, Jack O. McNary shook down real-estate developers and invested his booty in two private businesses. Convicted last year of extortion, McNary was sen-

pit as underworld hit men. While Justice officials concede the law must be applied cautiously, they see no need to sheath their weapon. "This is a valuable tool," says Attorney General-designate Benjamin Civiletti. "We will not shy away from using it to pursue corrupt enterprises which do not fit the layman's view of organized crime." With about 200 RICO cases already filed, and the government increasing its use of the statute, the American Bar Association has scheduled a special seminar on how to deal with RICO at its convention this week.

RICO is one of the broadest criminal statutes Congress has ever passed. The law first enumerates 24 Federal and eight

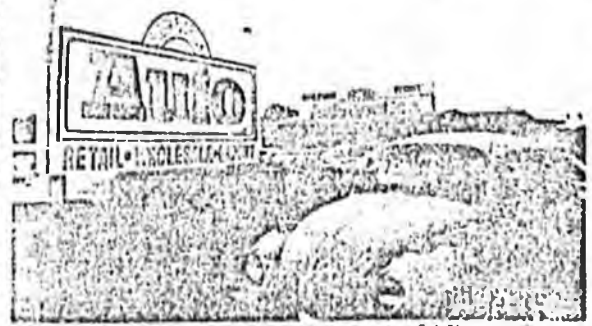
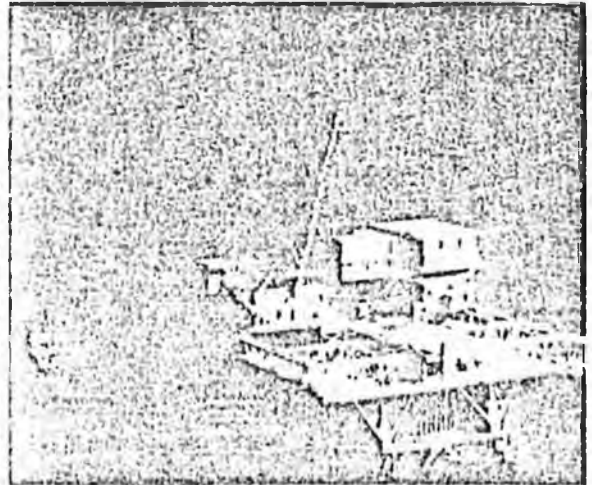
led seven nursing-home owners and three pharmacists to plead guilty and pay fines of \$1 million.

The law also gives prosecutors extraordinary latitude to trace crime back to the otherwise insulated kingpin. "The statute allows a prosecutor to paint a broader picture than could be normally seen by a jury," says Jeremiah T. O'Sullivan, chief of the Organized Crime Strike Force in Boston. For instance, John Christopher was tried in Tampa, Fla., in 1975 for masterminding a ring that kidnapped women and forced them into prostitution. Normally, the scope of the evidence would have been limited to the specific kidnapping; at the RICO trial, however, the judge permitted



Charles Pugh—Atlanta Journal Constitution

A new spoils system: The government could not seize a private mansion, but it could take profits from an oil rig, and possibly a used-car lot



Bob Sherman—Camera 5

tenced to three years in prison. He will also have to ransom his businesses, which the government now effectively controls.

These cases share a dubious distinction. The Justice Department prosecuted them—and other button-down crimes—with a law designed specifically to convict Mafia capos. Known as RICO (Racketeer Influenced and Corrupt Organizations), the nine-year-old law allows the government to seize legitimate businesses if they have been used for illegal schemes or as investments for dirty money. Says Chicago attorney Sherman Magidson, "RICO can reach out and castrate people."

The RICO law frightens many lawyers and judges. They worry about language so loosely drawn that it lets the government sweep even small-time white-collar defendants and public officials into the same

state crimes such as murder, extortion or mail fraud; then it states that anyone found to have participated in two of them within a ten-year period has undertaken a pattern of racketeering. If prosecutors can link such patterns to an interstate "enterprise"—loosely defined as virtually any personal association or business—the defendants become subject to imprisonment for up to twenty years, fines of \$25,000 per count and forfeiture. "Taking away businesses from these guys is like taking away tools from a burglar," says New Jersey Federal prosecutor George Wilson.

RICO is an extremely potent weapon for prosecutors. In plea bargaining, when most cases are settled, the potential RICO penalties often lead defendants to make a deal with the government rather than take their chances with a jury. In Chicago, for instance, the fear of forfeiting their businesses

50 witnesses to describe Christopher's criminal behavior over thirteen years.

The government has used RICO in several important prosecutions against reputed mobsters. In Chicago, two alleged organized-crime hit men were sent to prison for 30 years after RICO convictions. And in Boston, after convicting four extortionists, the government seized the contents of five massage parlors—including 5 gallons of massage lotion and a Christmas tree.

VICTORY: Much of the controversy about RICO has focused on white-collar and government corruption cases. Federal officials won an important victory last month when the U.S. appeals court in New York upheld a guilty verdict in a complicated RICO hospital-fraud prosecution. Prosecutors established that Karl R. Huber, a Phi Beta Kappa Princeton graduate and Harvard law-school-trained attorney, had

MACHINE CANDIDATE

IDEAS

NEWSWEEK

"First of all," intones the speaker, "let me say that the United States is not a failure. I recognize that it's foolhardy to unilaterally disarm, but..." So begins an upbeat, let's-look-at-the-record foreign-policy speech that could well be the sickoff of the 1970 primaries. The speaker, however, is not Jimmy Carter, Ted Kennedy or even Howard Baker, but a fresh political voice from the Midwest. The name? IBM-370.

The slick-tongued computer-orator is the brainchild of two communications professors who believe that getting elected to

three "dramatic" views of the world, then play to the most widespread of the views. Set in a foreign-policy context, these three attitudes translated into cold-war, neo-isolationist and power-politics mind-sets. On the Panama Canal, for instance, the cold-war view held that the U.S. ought not to surrender the Canal Zone, the neo-isolationist view dictated that the U.S. get out of Panama and the power-politics view supported the negotiation of a new treaty to protect U.S. interests in the zone.

The professors picked twenty such issues to be covered by the speech. They culled

newspapers and magazines for months, jotting down quotes that reflected all three positions on all twenty issues, then transferred the quotes onto 60 index cards. Finally, they went to—where else?—Peoria, Ill., to see how the opinions played. Sixty Peorians were asked to sort the cards in order of preference, from those most reflective of their views to those least reflective. Then the subjects rearranged the cards to show the most important each issue was to them.

1974-1976: Cragan and Shields fed the results into the computer and instructed it to write a speech based on the most prevalent opinions, complete with adverbs and adjectives. They pushed a button and out came the hypothetical candidate's carefully considered opinion on how best to handle U.S. foreign policy—for Peorians. "The point," says Cragan, "is that you can't take any idiot, parade him around the country for twelve months, and get him elected."

But the ultimate purpose behind this slightly 1934-ish project, say the two professors, is to force politicians out of the business of

manipulating symbols and back into the business of governing. To that end, their IBM-370 is about to churn out perfect speeches on energy, foreign policy and domestic policy. "When we publish these speeches in 1980," says Cragan, "we hope it will spark enough controversy for someone to ask the candidates why their speeches sound so much like our computer's. Maybe that will get them to say what they really think for a change."

So far, that message hasn't got through. Instead of coming clean, six political aspirants, including a candidate in a gubernatorial primary and a mayoral contender, have already called on Cragan and Shields for a little help from their computer. All were turned down—and lost their races.

DIANE K. SHAH with RICHARD MANNING in Chicago



Jeff Lowenthal—Newsweek

Cragan and computer: 'My fellow Americans...'

public office is becoming more a matter of manipulating campaign symbols than dealing with substance. To prove their thesis, they set out to program the IBM-370 to write the "perfect" foreign-policy speech—one guaranteed, that is, to appeal to the most and offend the fewest in any given audience. "We figured that if we did the proper market-type research and programmed the computer to write a speech reflecting the findings, the speech would end up sounding pretty much like the genuine article churned out by a pack of poll-watching speechwriters," says John Cragan of Illinois State University.

DRAMA: To begin with, Cragan, 35, and partner Donald Shields, 34, of the University of Missouri-St. Louis, theorized that all a politician need do to get elected is recognize that voters generally subscribe to one of

helped rescue his father's failing business empire by overcharging hospitals for equipment. Convicted last year on 30 criminal counts, Huber now faces four years in jail and a fine of \$108,000. He does have one choice: he can pay a fine of an additional \$100,000 or forfeit his corporate holding company to the government.

RICO charges against public officials have a particularly odd twist: the "enterprise" usually involved is the government. A jury convicted five Macon, Ga., police detectives who took money and "carnal" bribes to overlook prostitution and other illegal activities. The criminal enterprise with which they were connected was the vice squad. Florida state judge Samuel Smith was tried for selling acquittals; his judicial district was named as the enterprise.

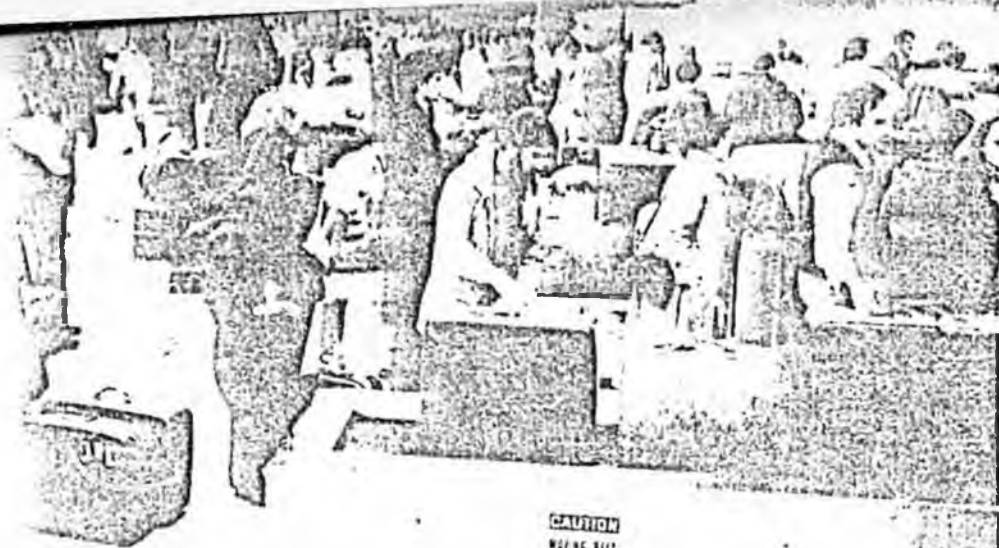
FORFEIT: Some judges are uncomfortable with this creative use of RICO. In May, U.S. Judge Ross Sterling in Texas dismissed a Federal indictment of five Texans accused of an oil swindle. "RICO was designed to keep racketeers out of business, not to make racketeers out of businessmen," Sterling said. Last week, Atlanta Federal Judge Harold Murphy dismissed part of a RICO indictment against porn king Michael Thevis. It would have forced Thevis to forfeit \$1 million in cash and jewelry and his \$4 million mansion if convicted. The law does not extend to what a criminal might have fought with illicit profits, Murphy ruled.

RICO appears flawed in several ways. One is its broad language, which allows the government to collect a batch of minor crimes and call it general racketeering. "We have a joke that if you have a job and send out letters, the government is going to confiscate your property," says prominent Washington defense lawyer William Hundley. The forfeiture provision—not often used—also causes trouble. The statute does not state precisely what happens when profits from racketeering are mixed with legitimate funds to operate a business.

CHIEFTAINS: Nor is it clear how closely tied property need be to the criminal enterprise before it can be confiscated. In Miami, two alleged chieftains of the "Black Tuna" ring—accused of smuggling 500 tons of marijuana into the U.S.—are arguing that the government has no right to seize a used-car business, three houses or a houseboat featured in the indictment.

Whatever its weaknesses, RICO gives the government an effective threat against sophisticated crime. Justice officials, who must approve RICO prosecutions, insist they study every case carefully before proceeding. But they find white-collar criminals especially elusive. "The psychology of these business types is that they're not going to get caught, and if they are, they'll find a way around it," says New York lawyer Grey Ullman. At the least, for white-collar criminals as well as gangsters, RICO seems to be evolving up the odds.

IN PRESS with LAINE SHANNON in Washington, MEL A. LISSIMONS in Chicago and bureau reports



Flocks of holiday travelers won't be enough to get the major airlines on an uptrend.

AVIATION

A bleak new year for airline profits

A 2-ft. snowfall grounded planes in Denver on Christmas Eve, but elsewhere most airlines reported holiday traffic heavy enough to bring a moment of cheer to even the gloomiest executives. "I don't take much solace out of that," says Randall Malip, senior vice-president for marketing at USAir Inc. "It just means people who are working have a little more money and are still doing the traditional things. I see no change in the basic underlying problems."

Despite lower fuel bills, lower interest rates, and a slowing in labor-cost increases, 1982 is likely to be the third straight year of record losses for the 11 largest airlines, which lost \$417 million on operations in 1981. What is more, total revenues are expected to drop for the first time in the industry's history.

An insane probability: The outlook for 1983 is not encouraging. "As empty as we're flying," says one airline president, "there's an insane probability of sharply increased capacity." Spurred by lower fuel prices, the increased availability of landing slots at large airports, and the major airlines' determination to hold market share against aggressive smaller competitors, carriers are expected to increase flights by nearly 10% in 1983. By adding more seats to planes, industry capacity, in available seat miles, could be up by 15% or more. Northwest Airlines, Frontier Airlines, United Airlines, and Delta Air Lines will be showing some of the heftiest increases.

Although Trans World Airlines Inc. says it is trying to exercise "capacity restraint," the restructuring of its route system is adding capacity at its St. Louis hub. Other airlines have been making similar moves to strengthen their operations, thus increasing the likelihood of an all-out war as carriers slash fares to bring connecting traffic to their hubs.

Dallas will become an especially bloody battleground next spring if PSA Inc. launches a proposed new venture in that city with 30 planes leased from failed Braniff International Corp. Industry sources also fear that the death throes of weak carriers could spark a repeat of the havoc caused when Braniff slashed fares systemwide in its final days.

Permanent discounts? With the economy recovering only in fits and starts, at best, overcapacity is already chronic. All those empty seats, as well as the cash squeeze at weaker airlines, have led to never-ending fare wars. More than 80% of tickets were sold at discounts averaging 53% in October, the latest month for which figures are available. Revenue per passenger mile was 5.7% lower than in October, 1981. "There'll be this kind of pricing so long as any carrier feels the need to look at things on a short-term basis because of its own situation," says Eva Davis Holman, vice-president at Donaldson, Lufkin & Jenrette Inc.

This year's traffic growth—1.7% in the first 11 months for the major carriers—came most totally from deeply discounted prices. Travelers are becoming so accustomed to rock-bottom fares, says Julius Maldutis, a vice-president at Salomon Bros., that "we could find the industry establishing itself in a permanent discount structure."

Managements cling to the hope that prices will rise when demand revives, but even the staunchest believers are wavering. Says Morton Ehrlich, senior vice-president for planning at Eastern Air Lines Inc.: "There's something very compelling about very large red bracketed numbers quarter after quarter. I hope I turn out to be right in terms of a little bit of sanity coming back into the business. Unfortunately, logic isn't what brought us to this state."

INVESTMENTS

Can a racketeering law be applied to brokers?

Six investors in California, Nevada, and Virginia bought large amounts of Levitz Furniture Corp. stock on margin in 1981, allegedly on the recommendation of a Smith Barney, Harris Upham & Co. account executive who claimed he knew the furniture warehouse chain was a takeover target. But no takeover occurred, Levitz stock dropped precipitously, and the investors lost \$2.6 million. Now the investors are about to file a joint complaint in Manhattan federal court against Smith Barney. Their stockholder suit will probably be the largest yet to attempt to wield a relatively old legal weapon—the Racketeering Influenced & Corrupt Organizations Act of 1970 (RICO)—in a new way. Under RICO's treble-damages allowance, the investor group will seek amounts totaling \$65.8 million.

"Investing is not like playing blackjack," says Arthur M. Schwartzstein, a Washington lawyer representing four of the six plaintiffs. "If you feel you've been wronged, you don't have to swallow it. There may be avenues of recourse," including RICO.

Aimed at crime: Courts and lawyers remain divided over RICO, which outlaws the use of income received from a "pattern of racketeering" and was aimed at eradicating organized crime. But, says Peter H. Morrison, former chief of the fraud section of the U.S. attorney's office in Manhattan, the law's "reach extends considerably beyond that." Thus, while violations of securities laws are not usually viewed as racketeering, Congress defined the term to include "any offense involving... fraud in the sale of securities." And a pattern is defined as two violations of a number of laws, including securities laws, over 10 years.

To date, no court has upheld a claim against a broker under RICO. Future use of the racketeering statute may depend on the Smith Barney case, which is likely to wend its way to the Supreme Court. Smith Barney refused to comment until a complaint is filed.

Schwartzstein and other lawyers who believe RICO applies in securities fraud were heartened by a recent federal court ruling. It dismissed a claim by Shearson/American Express that Congress never intended the law to overlap with the antifraud provisions of the federal securities acts. Says Schwartzstein: "RICO gives David a little negotiating power with Goliath."



Life in Hiding

Frank Calimano came home from the Korean War to find his brother a heroin addict and vowed to get revenge from the mobsters who peddled dope. By the mid-'70s he was a successful heating and air-conditioning contractor in New York, where hoodlums are as common as hammers in the construction trade. Calimano volunteered to feed information to local authorities. Eventually, he penetrated the Mafia's highest circles and became pals with the late gangland chief Carlo Gambino. In 1978 Calimano told his story to a Federal grand jury investigating labor racketeering. Then, to protect him and his family, the government placed the Calimanos in its Witness Security Program and sent them off to Houston with fresh identities.

Almost immediately, Calimano ran into trouble. Because he had no credit record, Calimano had difficulty starting a new business. Old friends recognized him on the street. And Federal prosecutors back in New York did not offer any further help. Calimano fell into a depression; last June he was found hanged in a hospital room, an apparent suicide. Says his widow, Vivian: "I don't want anyone to go into this program the way it is now. You can get better protection from the Mafia."

Born-Again Lives: Calimano was a victim of what had seemed a good idea. The government believed that it owed something to witnesses who provided information about organized crime but feared retaliation from mobsters. It started its assistance in 1970 with "safe houses." When they proved inadequate, Federal authorities agreed in 1975 to do much more: they would move informants and their families to different communities and help them begin completely new lives. But the execution of the plan has always been flawed. At U.S. Senate hearings this month, a string of "protected witnesses," hidden behind a screen and guarded by Federal marshals, confirmed that their born-again lives have been filled with poorly delivered promises, erratic assistance and, sometimes, tragedy.

The program is unusual enough that other government agencies seem unable to cope with it. One thing a protected witness needs at once is a new social-security card so that he can get a job, but the Social Security Administration has been painfully slow in issuing new numbers or transferring old accounts. Fourteen states refuse to provide new birth certificates; some state officials contend that if a witness committed a fraud after they had given him the new identification, they might be held liable.

The U.S. marshals assigned to help the witnesses are often not properly trained for the job and their efforts can be sadly comic. One marshal booked a witness on an airplane under the name "T. Kennedy" and another gave a witness—the alias "John Philip Sousa"—ploys guaranteed to attract unwanted and possibly deadly attention. Marshals have given away the new locations of their charges during casual courtroom conversations or in idle barroom chatter. In one Catch-22 incident,

the marshal service refused to give a witness a copy of his own agreement with the government because it included his old name; another marshal told a veterinarian treating the man's dog that the animal was part of the Federal witness-protection program.

Most of the informants in the program are not innocent bystanders. They tend to be either former hoodlums who fell out of favor with their gangs or convicted felons who decided to trade information for better treatment. The reward that the authorities offer is a chance at a fresh start, at least for the informants' families. "I did not want my children to grow up in that environment, because they would have become a part of organized crime," says Joe Cantalupo, who has testified against his former mob colleagues in Brooklyn. But many of these crooks do not know how to live anywhere except in the underworld; they have few skills to sell in straight society.

Informants still in prison can pose special problems. Security in many Federal jails is poor, and protected witnesses suspect that other inmates often can get access to supposedly secret records disclosing their true identities. Fearful that some other prisoner may have a contract to kill them, they fight to stay in isolation. Several witnesses have sued the government to prevent their transfers into the general prison population. These prisoners are effectively cut off from their families as well: even these visits are considered a security risk and are usually limited.

Not Easy: The worst problems, however, occur when the government tries to help law-abiding citizens such as Calimano who have agreed to help the police. Only about 5 per cent of the witnesses fall into this category, but they have the most to lose. It is not easy for a business executive or an accountant to erase his history and start from scratch. Usually, the witness must sacrifice his career, his friends and, for a while at least, a comfortable standard of living. Vivian Calimano's problems continue—Her oldest son cannot establish a line of credit, and she has not received any social-security bene-



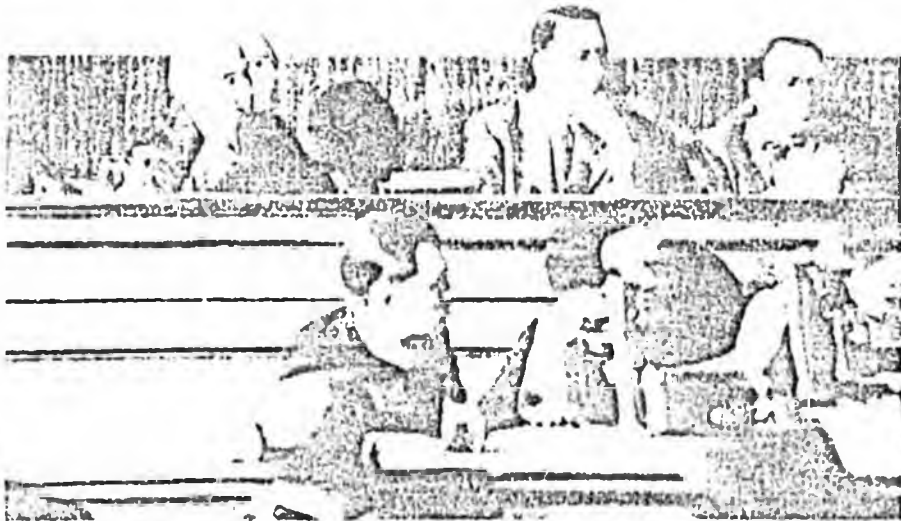
Cantalupo with a friend: A new start for his kids

fits because her husband's old account has not been transferred to his new number.

Yet no one wants to eliminate the program. "An efficient and effective Federal witness-security program is a vital tool in the fight against organized crime," says Sen. Sam Nunn, whose investigating committee conducted the recent hearings. Some steps have been taken to make the program more efficient. Witnesses now sign a 21-page memorandum of understanding that spells out what they can expect. Prosecutors must brief marshals before handing witnesses into their custody. One hundred and thirty marshals have been trained as "security specialists," and the remainder of the marshal corps is receiving instruction in how to cope with the witnesses' needs. More than 150 major companies now participate in a job pool for protected witnesses. The revamped program seems to be working for some. Still, says Howard Sahr, chief of the marshals' protection operation: "Witnesses should only enter when there is no other alternative."

ARIC PRESS with ELAINE SHANNON in Washington

Bad News for Labor Racketeers . . .



Present efforts to curb corruption among union leaders date back to the 1950s and a committee chaired by Sen. Estes Kefauver (third from right at rear).

THE CHARACTERS change, but it is the same old story, and a disturbingly frequent one. It was recited again a few months ago. A Labor Department official told a Senate committee about the activities of a labor union official, this one a Floridian.

As president of one local, manager of another, president of a district labor council and trustee of a workers' benefit plan, he had access to union workers' funds and embezzled from six labor organizations. Although convicted, he remained in office pending appeals and siphoned off another \$1 million.

Congress now seems determined to close off such opportunities. The vehicle is the Labor Management Racketeering Act. Already passed unambiguously by the Senate, it will be taken up this fall by the House Education and Labor Committee. The bill's sponsor, Sen. Sam Nunn (D-Ga.), says it is a signal to "organized crime and corrupt union leaders that Americans will no longer tolerate" criminal influence and activity in organized labor.

In effect, the bill would amend three existing acts—the Labor Management Reporting and Disclosure Act, the Labor Management Relations Act and the Employment Retirement Income Security Act.

A key provision would provide stronger incentives for unions to purge criminal elements from their ranks. For example, it would be a felony to employ a misdemeanor or felon, to cooperate with unions to engage in a payroll siphoning ruse and for a union or worker to con-

fit fund to hire or employ a convicted criminal.

In addition, the bill doubles to 10 years the period during which a criminal is disqualified from employment with such organizations after conviction or imprisonment.

The bill extends the disqualification to all positions with a union or benefit fund by eliminating the current exemption for "clerical" or "custodial" employees. Thus unions could no longer employ otherwise disqualified criminals as highly paid "clerks" or "custodians."

To prevent convicted criminals from continuing to work for unions or trust funds during lengthy appeals, the bill provides that disqualification for conviction begins on "the date of the judgment of the trial court," regardless of whether the judgment is appealed.

The bill would, however, protect the interests of an individual whose conviction is overturned. His salary would be placed in escrow upon his conviction. If the verdict is reversed, the individual is paid the accrued salary; if the verdict is upheld, the funds are restored to the union.

LABOR DEPARTMENT attitudes would be important to the success of such legislation. The department's role in investigating organized crime within unions in years past—specifically, its reluctance in some instances to initiate probes—has been criticized.

The bill therefore amends previous acts by assigning not merely the authority to investigate but also the responsibility

to the Labor Department. The bill also states that the Department of Labor is the party that should be notified of convictions.

A Labor Department federal prosecutor and the FBI and the Department of Labor had taken a role in the government's fight against criminal corruption of the New York-New Jersey waterfront.

That fight with the International Longshoremen's Association dating back to the 1950's was the genesis of the present bill. At the time the nation was shocked by revelations of massive kickbacks and payoffs to longshoremen's union leaders uncovered by the Senate crime committee chaired by the late Sen. Estes Kefauver (D-Tenn.). The late Sen. John L. McClellan (D-Ark.) later made a stir as chairman of the Senate Permanent Subcommittee on Investigations when it exposed criminal activities by Teamsters union officials.

ACCORDING TO Sen. Don Nickles (R-Okla.), one of the co-sponsors of the bill, the fact that corruption has existed within labor's ranks for so many years is due in part "to the enactment of laws that seem to encourage crime." The fact that a convicted union official has been able to remain in office until appeals are exhausted is one example.

"It is time that we change the course of this country's labor laws—time that the laws reflect the high standards Americans expect of us," Nickles says.

In a letter to Nickles, the Justice Department put its weight behind the bill. It wrote:

"Recent convictions involving labor-management corruption on the waterfront and in other industries have demonstrated the continuing need for strong federal legislation to deter the use of extortion, bribery and payments involving conflicts of interest among the parties to collective bargaining."

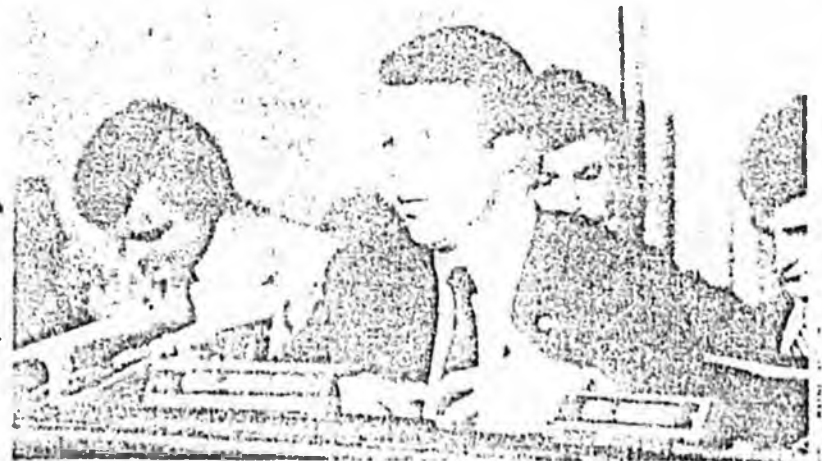
According to Sen. Warren B. Rudman (R-N.H.), a former attorney general in his state, "Larceny, sabotage and labor disruption have become so prevalent in some union areas that they are included as part of the cost of doing business."

Labor Secretary Raymond J. Donovan has assured the Senate Labor and



Sen. Sam Nunn (D-Ga.) believes that unions need the help of Congress to rid themselves of corruption.

and good news for union members is a Senate-passed bill that awaits action in the House



The Senate antibracketeering bill, says Sen. Don Nickles (R Okla.), is a long-awaited change in the course of this country's labor laws.

Human Resources Committee that his department would do what was expected of it.

"Our department has an unwavering commitment to protect workers and benefit plan participants. We will use every tool presently available to us to safeguard the integrity of labor organizations and benefit plans... and we would welcome the additional tools that would be given by the proposed legislation."

The bill would require Donovan's department to investigate abuses of a criminal, not merely a civil, nature. This section of the bill has been opposed on the ground that it encroaches on the crime-fighting authority of other federal investigative and prosecuting agencies. To allay concerns, the bill says

that nothing in it should be construed as precluding other agencies from conducting their own probes into both civil and criminal violations.

One aspect of the bill that is due for scrutiny by the House is the proposed mandatory disqualification of union officers on conviction. Considering that punishment would be meted out before appeals have run their course, the proviso raises "troubling civil liberties issues," says AFL-CIO President Lane Kirkland.

Two other portions of the bill also concern Kirkland. One is a section referring to employer contributions to union-managed trust funds. Kirkland explains that a union official can make an honest error "that has nothing to do with under-the-table employer pay-

ment" and that he fears the section's misapplication.

Kirkland also contends that the 10-year disqualification from office could be too severe. "I can't persuade myself that all cases are alike," he says. He has suggested that trial judges be authorized in fact to impose disqualification periods of not more than 10 years at the time of conviction.

DESPITE THESE reservations about the bill, Kirkland has endorsed it. His endorsement, he says, stems from organized labor's recognition that it "simply does not have the resources—the trained manpower, the subpoena, the grand jury, the authority to indict and punish perjury, the due process trial procedures... and the effective sanctions to punish the guilty.

Understandably, Kirkland feels the bill puts the spotlight too harshly on union officials. "Unlike bankers, businessmen and politicians, union officers are judged according to their worst examples," he told the senators.

Nunn believes that the bill does not take anything from labor but provides the extra tools needed for unions to "clean up themselves" of corrupt practices. "The unions have labored to be the cleanest of the people," he says. "For years, but in many cases, they have been unable to do so alone. I believe the unions need the help of Congress."

—JIM MATHIAS



Organized labor does not have effective sanctions to punish the guilty on its own, says AFL-CIO President Lane Kirkland.

A new ploy to fight takeovers

During the non-trading days between last Jan. 20 and Feb. 1, New York investors Carl U. Leahn and companions by controls purchased some 1 million shares of Marshall Field & Co. common stock. Together with stock of the Chicago retailer that it already owned, the sudden transactions boosted the Leahn group's holdings to 5 million shares, about 1/3 of total Field stock outstanding.

The company's reaction was predictable. It hired a law firm to fight the threat that Leahn would seek control and possibly liquidate the company to sell off its large real estate holdings.

But the legal claim was novel. Skadden, Arps, Slate, Meagher & Flom, the New York law firm well known for its

The racketeering charge could deter investors from making hostile tender offers

corporate takeover department, charged Leahn and his group on Field's behalf with "racketeering," although there has never been any suggestion that Leahn or his companies are in any way affiliated with organized crime, the usual target of the racketeering laws.

Cynical judges. The legal claim was based on an interpretation of the federal Racketeering Influenced & Corrupt Organizations Act of 1970 (RICO) that has caused considerable comment within corporate legal circles in the past year. Some lawyers believe that the racketeering charge, which causes legitimate businesses considerable embarrassment and may work to deter professional investors from making hostile tender offers, could become more common in the coming months.

RICO outlaws the use of income received from a "pattern of racketeering" to acquire a business. A pattern of racketeering is defined, in turn, as any two violations of a number of different laws, including the securities laws, during a 10-year period.

Citing a consent decree that Leahn had just signed with the Securities & Exchange Commission in connection with his acquisition of Hammermill Paper Co. shares, as well as other Leahn activities that had been drawn into question by federal and state agencies, Field insisted that the allegations, if proved, amounted to a pattern of racketeering.

Although RICO has been the law for 12 years, it has surfaced in civil suits only during the past year or so. The reasons given by securities lawyers who refuse to be quoted by name, are twofold. One

is that federal judges, especially those on the U.S. District Court in Manhattan that hears a large percentage of the nation's takeover cases, are becoming increasingly cynical about the usual claims made by a target company's lawyers. The judges view many cases as legally unjustified attempts by entrenched management to fight off an acquisition justifiable on business or financial grounds.

The second reason is that in 1977 the Supreme Court threw doubt on the right of a target company to sue for fraud under the securities laws. By law, whoever acquires more than 5% of a company's stock must submit to the SEC in a Schedule 13D a statement of his intentions. Defense lawyers have traditionally alleged that the 13D filing is false or misleading because the acquirer did not disclose his true purposes. But now "the courts are divided over whether a target company has standing to sue," says Martin Lipson, a New York takeover lawyer not connected to the Field case. Under RICO, however, a target company has the explicit right to sue.

In his Schedule 13D, Leahn denied that he and his group had formed any plans to liquidate Field, sell off its assets, merge it with another company, or make any other major change in its corporate structure. The claim was greeted with some skepticism. Since 1975, Leahn had purchased large positions in a number of companies and gained a reputation of seeking control, merger, and sale of assets. Often he ultimately sold the shares back to the companies at a considerable profit.

Severe sanctions. On Feb. 8, Field sued Leahn in Manhattan federal court, charging that he had failed to disclose a plan to acquire 35% of the stock, seize control, and engage in "extraordinary corporate transactions." At the same time, Field laid the groundwork for its racketeering charge.

Beyond the publicity value, a racketeering charge can be worrisome because of the severe sanctions open to judges to impose. RICO allows treble damages, attorneys' fees, and an injunction that theoretically could prevent an investor from attempting future takeovers for a period as long as 10 years.

In the Field case, Skadden Arps attor-

neys persuaded District Judge Percy N. Levai to issue a temporary restraining order while Leahn made further disclosure of his plans, giving Field 10 days to scout up a "white knight" to counter Leahn's acquisition bid. Leahn cited the defects Judge Levai lifted the restraining order, and Leahn continued to buy, ultimately acquiring some 80% of Field shares. Within three weeks, however, Field arranged through Goldman, Sachs & Co. a merger with HATS Inc. at \$20 per share. It is expected to be completed this summer.

Vulnerability. Litigation between Leahn and Field was dropped on Mar. 30, before Judge Levai could rule on the racketeering charges. Had the suit continued, however, Field's lawyers would likely have pressed for documents from Leahn that might have proved their racketeering claims. Under RICO, it is unnecessary to show a conviction, only that



Lawyers may paint investors as racketeers

the alleged violations of law actually occurred. Most of what was discovered during the two months of litigation was sealed by agreement of the parties, who will not comment publicly on the case.

Some corporate lawyers privately condemn the use of RICO in takeover suits as "sewer tactics," "just a diversionary tactic," and "silly." But many agree that the fear of being labeled a racketeer could influence future takeover strategy. And, says one, "those especially vulnerable are professional investors, like Leahn, with a track record."

Whether RICO charges will catch on remains to be seen, but a few attorneys think that their use in the Field case was an important psychological turning point. Says one well-regarded takeover lawyer: "I don't think the racketeering charge is of any moment, but don't quote me because I may have to use it in a case tomorrow."

H B

631

COMMITTEE REPORT
SENATE

FURTHER:

Date July 27 1941

Mr. President

The Committee on EDUCATION considered July 27 1941

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

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for _____
- new title
- same title and recommends _____
- and attached a "LETTER OF INTENT" NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS

Chairman

Chairman recommendation

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Sup 146

Revision Date: _____

REQUEST Page 1 of 13
Bill/Resolution No.: CSHB 631
Title: Relating to runaway children
Sponsor: Liska
Requestor: _____
Date of Request: 5/14/84

FISCAL DETAIL
Agency Affected: Health & Social Services
Program Category Affected: Social & Economic Assistance for the General Population
BRU, Program or Subprogram(s) Affected: Youth Services BRU/ McLaughlin Youth Center Fairbanks Youth Facility; Social Services BRU/Direct Service Delivery

EXPENDITURES/REVENUES: (_____ of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING					
100 PERSONAL SERVICES		292.1	306.7	322.0	338.1
200 TRAVEL		7.0	7.4	7.8	8.2
300 CONTRACTUAL		4.0	4.2	4.4	4.6
400 SUPPLIES		2.8	2.9	3.1	3.3
500 EQUIPMENT		6.4	-0-	-0-	-0-
600 LAND & STRUCTURES					
700 GRANTS, CLAIMS					
800 MISCELLANEOUS					
TOTAL OPERATING	-0-	312.3	321.2	337.3	354.2
CAPITAL	1,620.0	-0-	-0-	-0-	-0-
REVENUE					

FUNDING: (Thousands of Dollars)

GENERAL FUND	1,620.0	312.3	321.2	337.3	354.2
FEDERAL FUNDS					
OTHER					
TOTAL					

POSITIONS:

FULL-TIME		6	6	6	6
PART-TIME		2	2	2	2
TEMPORARY					

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Funding not identified.

ANALYSIS: Attach a separate page for analysis

Prepared By: Frank Hester Phone: 465-3170
Division: Health & Youth Services Date: 5/17/84
Approved by Commissioner: John A. By Date: 5/17/84
Agency: DHSU

Distribution (by Agency preparing fiscal note):
legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)

12/1/83

1.	POSITION TITLE SOCIAL WORKER III			RANGE/STEP 16A	BARG. UNIT GGU	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION FAIRBANKS	ELECTION DISTRICT	LEC.	
3.	CONTINUATION LEVEL	ADDITION			JUSTIFICATION				
4.	TYPE OF EXPENDITURE			AMOUNT					
	1	2	3						
	PERSONAL SERVICES								
5.	Salary	35,580							
6.	Benefits	10,674							
7.	Supplemental Benefits								
8.	Fixed Benefits								
9.	TOTAL PERSONAL SERVICES	01	46,254						
10.	Travel	02	1,000						
11.	Contractual	03	500						
12.	Commodities	04	400						
13.	Equipment	05	800						
14.	Other								
15.	TOTAL COST		48,954						
	RECEIPT CODE	FUNDING SOURCE							
16.		Federal Receipts	1002						
17.		G.F. Hatch	1003						
18.		General Funds	1004	48,954					
19.		I-A Receipts	1005						
20.		Program Receipts	1028						
21.		Other							
FOR B&M USE ONLY 4A KEY NUMBER _____									

13 REQUEST FOR
NEW POSITION

AGENCY HEALTH AND SOCIAL SERVICES
SOCIAL AND ECONOMIC ASSISTANCE
PROGRAM FOR THE GENERAL POPULATION
BRU SOCIAL SERVICES
COMPONENT DIRECT SERVICE DELIVERY

CSHB 631(Fin)

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Revised Date _____

FY 85

1.	POSITION TITLE SOCIAL WORKER III				RANGE/STEP 16A	ORG. UNIT GGU	FORM 12 PAGE/LINE	GOV.	APPRDV.	DISAPP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION FAIRBANKS	ELECTION DISTRICT	LEG.		
3.	CONTINUATION LEVEL				JUSTIFICATION					
4.	TYPE OF EXPENDITURE				AMOUNT					
	1		2		3					
	PERSONAL SERVICES									
5.	Salary		35.580							
6.	Benefits		10.674							
7.	Supplemental Benefits									
8.	Fixed Benefits									
9.	TOTAL PERSONAL SERVICES		01		46,254					
10.	Travel		02		1,000					
11.	Contractual		03		500					
12.	Commodities		04		400					
13.	Equipment		05		800					
14.	Other									
15.	TOTAL COST				48,954					
16.	RECEIPT CODE	FUNDING SOURCE								
17.		Federal Receipts 1002								
18.		G.F. Hatch 1003								
19.		General Funds 1004				48,954				
20.		I-A Receipts 1005								
21.		Program Receipts 1020								
		Other								
FOR B&M USE ONLY 4A KEY NUMBER - - - - -										

13 REQUEST FOR
NEW POSITION

AGENCY HEALTH AND SOCIAL SERVICES
SOCIAL AND ECONOMIC ASSISTANCE
PROGRAM FOR THE GENERAL POPULATION
BRU SOCIAL SERVICES
COMPONENT DIRECT SERVICE DELIVERY

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FY 85

1.	POSITION TITLE SOCIAL WORKER III				RANGE/STEP 15A	BARG. UNIT GGU	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION ANCHORAGE	ELECTION DISTRICT	LEG.		
3.	CONTINUATION LEVEL				JUSTIFICATION					
4.	TYPE OF EXPENDITURE				AMOUNT					
	1		2		3					
	PERSONAL SERVICES									
5.	Salary		30,876							
6.	Benefits		9,262							
7.	Supplemental Benefits									
8.	Fixed Benefits									
9.	TOTAL PERSONAL SERVICES		01		40,138					
10.	Travel		02		1,000					
11.	Contractual		03		500					
12.	Commodities		04		400					
13.	Equipment		05		800					
14.	Other									
15.	TOTAL COST				42,938					
	RECEIPT CODE	FUNDING SOURCE								
16.		Federal Receipts 1002								
17.		G.F. Hatch 1003								
18.		General Funds 1004		42,838						
19.		I-A Receipts 1005								
20.		Program Receipts 1028								
21.		Other								
FOR B-1 USE ONLY										
4A KEY NUMBER _____										

13 REQUEST FOR
NEW POSITION

AGENCY HEALTH AND SOCIAL SERVICES
SOCIAL AND ECONOMIC ASSISTANCE
PROGRAM FOR THE GENERAL POPULATION
BRU SOCIAL SERVICES
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1.	POSITION TITLE SOCIAL WORKER III			RANGE/STEP 16A	BARG. UNIT GGU	FORM 12	PAGE/LINE	GOV.	APPROV.	DISAPP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION ANCHORAGE	ELECTION DISTRICT	LEC.		
3.	CONTINUATION LEVEL			ADDITION	JUSTIFICATION					
4.	TYPE OF EXPENDITURE			AMOUNT						
	1	2	3							
	PERSONAL SERVICES									
5.	Salary	30,876								
6.	Benefits	9,262								
7.	Supplemental Benefits									
8.	Fixed Benefits									
9.	TOTAL PERSONAL SERVICES	01	40,138							
10.	Travel	02	1,000							
11.	Contractual	03	500							
12.	Commodities	04	400							
13.	Equipment	05	800							
14.	Other									
15.	TOTAL COST		42,838							
16.	RECEIPT CODE	FUNDING SOURCE								
17.		Federal Receipts 1002								
18.		G.F. Hatch 1003								
19.		General Funds 1004		42,838						
20.		I-A Receipts 1005								
21.		Program Receipts 1028								
		Other								
FOR B&M USE ONLY										
4A KEY NUMBER										

13 REQUEST FOR
NEW POSITION

AGENCY HEALTH AND SOCIAL SERVICES
SOCIAL AND ECONOMIC ASSISTANCE
PROGRAM FOR THE GENERAL POPULATION
BRU SOCIAL SERVICES
COMPONENT DIRECT SERVICE DELIVERY

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Revised Date

FY 85

1.	POSITION TITLE SOCIAL WORKER III			RANGE/STEP 16A	BARC. UNIT GGU	FORM 12 PAGE/LINE	COV.	APPROV.	DISAPP.
2.	TYPE OF POSITION PPT	STAFF MONTHS 6	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION KENAI	ELECTION DISTRICT	LEG.	
3.	CONTINUATION LEVEL	ADDITION		JUSTIFICATION					
4.	TYPE OF EXPENDITURE			AMOUNT					
	1	2		3					
	PERSONAL SERVICES								
5.	Salary	16,542							
6.	Benefits	3,300							
7.	Supplemental Benefits								
8.	Fixed Benefits								
9.	TOTAL PERSONAL SERVICES	01	19,842						
10.	Travel	02	500						
11.	Contractual	03	500						
12.	Commodities	04	200						
13.	Equipment	05	800						
14.	Other								
15.	TOTAL COST	21,842							
	RECEIPT CODE	FUNDING SOURCE							
16.		Federal Receipts 1002							
17.		G.F. Match 1003							
18.		General Funds 1004		21,842					
19.		I-A Receipts 1005							
20.		Program Receipts 1020							
21.		Other							
FOR B&H USE ONLY									
4A KEY NUMBER _____									

13 REQUEST FOR
NEW POSITION

AGENCY HEALTH AND SOCIAL SERVICES
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BRU SOCIAL SERVICES
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1.	POSITION TITLE SOCIAL WORKER III			RANGE/STEP 16A	BARG. UNIT GGU	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.
2.	TYPE OF POSITION PPT	STAFF MONTHS 6	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION WASILLA	ELECTION DISTRICT	LEG.	

3.	CONTINUATION LEVEL	ADDITION		
4.	TYPE OF EXPENDITURE		AMOUNT	
	1	2	3	
	PERSONAL SERVICES			
5.	Salary	16,020		
6.	Benefits	3,200		
7.	Supplemental Benefits			
8.	Fixed Benefits			
9.	TOTAL PERSONAL SERVICES	01	19,220	
10.	Travel	02	500	
11.	Contractual	03	500	
12.	Commodities	04	200	
13.	Equipment	05	800	
14.	Other			
15.	TOTAL COST		21,220	

JUSTIFICATION

	RECEIPT CODE	FUNDING SOURCE	
16.		Federal Receipts 1002	
17.		G.F. Match 1003	
18.		General Funds 1004	21,220
19.		I-A Receipts 1005	
20.		Program Receipts 1020	
21.		Other	

FOR B&M USE ONLY
4A KEY NUMBER

13 REQUEST FOR
NEW POSITION

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PROGRAM FOR THE GENERAL POPULATION
BRU SOCIAL SERVICES
COMPONENT DIRECT SERVICE DELIVERY

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FY 85

1.	POSITION TITLE SOCIAL WORKER III				RANGE/STEP 16A	DARG. UNIT GGU	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION KETCHIKAN	ELECTION DISTRICT	LEG.		
3.	CONTINUATION LEVEL		ADDITION		JUSTIFICATION					
4.	TYPE OF EXPENDITURE			AMOUNT						
	PERSONAL SERVICES									
5.	Salary		30,876							
6.	Benefits		9,262							
7.	Supplemental Benefits									
8.	Fixed Benefits									
9.	TOTAL PERSONAL SERVICES	01		40,138						
10.	Travel	02		1,000						
11.	Contractual	03		500						
12.	Commodities	04		400						
13.	Equipment	05		800						
14.	Other									
15.	TOTAL COST			42,838						
	RECEIPT CODE	FUNDING SOURCE								
16.		Federal Receipts 1002								
17.		G.F. Match 1003								
18.		General Funds 1004		42,838						
19.		I-A Receipts 1005								
20.		Program Receipts 1020								
21.		Other								
FOR B&M USE ONLY 4A KEY NUMBER _____										

13 REQUEST FOR
NEW POSITION

AGENCY HEALTH AND SOCIAL SERVICES
SOCIAL AND ECONOMIC ASSISTANCE
PROGRAM FOR THE GENERAL POPULATION
BRU SOCIAL SERVICES
COMPONENT DIRECT SERVICE DELIVERY

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Revised Date _____

FY 85

1.	POSITION TITLE SOCIAL WORKER III				RANGE/STEP 16A	DARG. UNIT GGU	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAPP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION KETCHIKAN	ELECTION DISTRICT	LEG.		
3.	CONTINUATION LEVEL				JUSTIFICATION					
4.	TYPE OF EXPENDITURE			AMOUNT						
	1	2		3						
	PERSONAL SERVICES									
5.	Salary	30,876								
6.	Benefits	9,262								
7.	Supplemental Benefits									
8.	Fixed Benefits									
9.	TOTAL PERSONAL SERVICES	01	40,138							
10.	Travel	02	1,000							
11.	Contractual	03	500							
12.	Commodities	04	400							
13.	Equipment	05	800							
14.	Other									
15.	TOTAL COST	42,838								
16.	RECEIPT CODE	FUNDING SOURCE								
17.		Federal Receipts 1002								
18.		G.F. Match 1003								
19.		General Funds 1004		42,838						
20.		In Receipts 1005								
21.		Program Receipts 1078								
		Other								

FOR D&M USE ONLY
4A KEY NUMBER _____

13 REQUEST FOR
NEW POSITION

AGENCY HEALTH AND SOCIAL SERVICES
SOCIAL AND ECONOMIC ASSISTANCE
PROGRAM FOR THE GENERAL POPULATION
BRU SOCIAL SERVICES
COMPONENT DIRECT SERVICE DELIVERY

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FY 85

TITLE OF INCREMENT

1
Capital Project - Additional Juvenile Facility Beds

EXPLAIN WHICH BRU OBJECTIVE IS AFFECTED, AND HOW.

2 Program Objective Affected:
To comply with CS for HB 631 if enacted in its present form.
How Objective is Affected:
Detention facilities are not currently available for housing youths detained under this legislation.

BRIEFLY DESCRIBE WHAT THIS INCREMENT PURCHASES.

3 This legislation would require the planning and design of 5-bed units for detention of youth. Each unit would require a work/monitor station and a common day room in addition to 464 square foot of space each for 5 beds.
Operating costs would begin in FY 86.

4. CODE	EXPENDITURE BY OBJECT	AGENCY REQ.	GOV'S REQ.
100	Personal Services		
200	Travel		
300	Contractual Services		
400	Commodities		
500	Equipment		
600	Lands, Buildings, Etc.	810.0	
700	Grants, Claims, Etc.		
800	Miscellaneous		
TOTAL		810.0	
I-A Transfer (NON-ADD)			
Federal Receipts - Code:			
General Fund		810.0	
Other			
5. POSITION INFORMATION			
	PFT		
	Staff Months		
	FTE		

6. INCREMENT PRIORITY
BRU Level: _____ or _____
Agency Level: _____ of _____

7. CHECK ONE OR BOTH
 Currently Existing Service
 New Service

8. IMPACT FROM CAPITAL PROJECT (NAME)

Chapter _____ SLA _____ Page/Line _____

6 INCREMENT REQUEST

AGENCY Health and Social Services
PROGRAM Social and Economic Assistance for the General Population
BRU Youth Services
COMPONENT McLaughlin Youth Services

CSHB 631(Fin)

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Revised Date _____

FY85

TITLE OF INCREMENT	4. CODE	EXPENDITURE BY OBJECT	AGENCY REQ.	GOV'S REQ.	
<p>1 Capital Project - Additional Juvenile Facility Beds</p> <hr/> <p>EXPLAIN WHICH BRU OBJECTIVE IS AFFECTED, AND HOW.</p> <p>2 Program Objective Affected: To comply with CS for HB 631 if enacted in its present form.</p> <p>How Objective is Affected: Detention facilities are not currently available for housing youths detained under this legislation.</p> <hr/> <p>BRIEFLY DESCRIBE WHAT THIS INCREMENT PURCHASES.</p> <p>3 This legislation would require the planning and design of 5-bed units for detention of youth. Each unit would require a work/monitor station and a common day room in addition to 464 square foot of space each for 5 beds.</p> <p>Operating costs would begin in FY 86.</p>	100	Personal Services			
	200	Travel			
	300	Contractual Services			
	400	Commodities			
	500	Equipment			
	600	Lands, Buildings, Etc.	810.0		
	700	Grants, Claims, Etc.			
	800	Miscellaneous			
	TOTAL			810.0	
	I-A Transfer (NO/ADD)				
	Federal Receipts - Code:				
	General Fund			810.0	
	Other				
	5. POSITION INFORMATION		PFT		
			Staff Months		
		FTE			
6. INCREMENT PRIORITY					
BRU Level: _____ or _____					
Agency Level: _____ of _____					
7. CHECK ONE OR BOTH					
<input type="checkbox"/> Currently Existing Service <input checked="" type="checkbox"/> New Service					
8. IMPACT FROM CAPITAL PROJECT (NAME)					
Chapter _____ SLA _____ Page/Line _____					

6 INCREMENT REQUEST

AGENCY Health and Social Services
Social and Economic Assistance
 PROGRAM for the General Population
 BRU Youth Services
 COMPONENT Fairbanks Youth Facility

CSHB 631(Fin)
 Page 13 of 13
 Revised Date _____

FY85

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

MAR 22 1984

9-914

Revision Date: _____

REQUEST

Bill/Resolution No.: CSHB 631 (Jud)
Title: "An act relating to runaway children."
Sponsor: Representative Liska
Requestor: House HESS
Date of Request: 3/19/84

FISCAL DETAIL

Agency Affected: Public Safety
Program Category Affected: Administration of Justice
BRU, Program or Subprogram(s) Affected: Alaska State Troopers

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	0.0	0.0	0.0	0.0	0.0	0.0
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Francis C. Allan *F.C.A.* Phone: 269-5691
Division: Alaska State Troopers *mck* Date: 03/12/84

Approved by Commissioner: Robert J. Sundberg *[Signature]* Date: 3/20/84
Agency: Public Safety *[Signature]*

Distribution (by Agency preparing fiscal note):

Legislative Finance
Legislative Sponsor
Requestor

Robert Sundberg

ANALYSIS

CS FOR HB 631 (Fin)

Page 2

ASSUMPTIONS

Enactment of CSHB 631 would result in an increased level of effort by police agencies to locate runaway youths and a consequent increase in the number of such youths requiring social services. CSHB 631 would also require immediate secure detention of certain youth who were unresponsive to other services.

The primary impact would be in the major urban areas where caseload increases are estimated as follows: Anchorage 75, Fairbanks 40, Ketchikan 45, Kenai 10, and Palmer/Wasilla 10. These estimates are only of the numbers of youth who would require detention after other services had failed. This represents only a small portion of those who would require services. Estimates of reported runaway youth are far greater, for example, it is estimated that there are 1,200 runaways annually in Anchorage alone.

The increased demand for services would require new social workers to provide the labor intensive services required; e.g., crisis intervention, counseling, exploration of alternatives to detention, investigation and preparation of documents and information for court hearings within 48 hours.

An additional five detention beds would be required at McLaughlin Youth Center and Fairbanks Youth Facility to safely house detained youth. Existing facilities are currently operating at double their design capacity and could not safely accommodate additional youth. It would also be inappropriate to detain non-delinquent youth with accused or adjudicated delinquents. Those children requiring detention could not be detained during prior to construction of additional detention beds.

PROGRAM SUMMARY

The Personal Services includes Social Worker III, PFT, positions in Fairbanks, Anchorage and Ketchikan. Social Worker III, PPT positions are in Kenai and Wasilla.

Travel is for staff to attend meetings, conferences, courses and for transportation of new hires.

Contractual Services are estimated for additional costs for copier usage, communications, utilities, equipment rental, accident and liability insurance.

Supplies are for general office supplies.

Equipment items necessary for the establishment of new positions include desks, chairs, desk and side and file cabinets.

COMPUTATIONS

The computations are based on estimated costs for FY 86 plus an additional 5% for each succeeding year. Capital project costs are based on DOT/PF's FY 85 estimate.

ECONOMIC IMPACT

There will be no economic impact.

IMPACT ON LOCAL GOVERNMENTS

Local police agencies would be required to increase their level of effort; however, the fiscal impact of this on local government cannot be estimated.

BILLS IN JUDICIARY COMMITTEE

May 25, 1984

<u>NUMBER</u>	<u>SPONSOR</u>	<u>TITLE</u>	<u>IN</u>	<u>COMMITTEE ACTION</u>
SB 1	P.Fischer	Relating to municipal government.	3/9/83	3/9/83 Subcommittee - Ray
SB 4	Sturgulew	Repealing the requirement that an applicant for a beverage dispensary license file a bond.	3/30/83	4/4/83 - Subcommittee Ray
SB 20	Ziegler	Authorizing participation by magistrates in the judicial retirement system.	1/18/83	1/24, 3/25/83 Subcommittee - Ziegler
SB 49	Ray	Relating to the exclusionary rule; changing Rule 37(c), Rules of Criminal Procedure, and Rule 412, Alaska Rules of Evidence.	1/18/83	1/24, 2/4, 2/9, 2/18, 2/25/83 Subcommittee - Pettyjohn
SB 60	Sturgulew	Relating to the constitutional spending limit.	1/19/83	1/31/83 Subcommittee - Josephson
SB 107	Halford	Relating to crime victim compensation	2/3/83	2/4/83 Subcommittee - Ray
SB 115	Rodey	Relating to individual rights of peace officers.	5/11/83	5/11/83, 2/3, 2/6/84 Subcommittee - Ray
SB 121	Pettyjohn	Authorizing capital punishment, classifying murder in the first degree as a capital felony, and establishing sentencing procedures for capital felonies.	2/11/83	2/14, 3/18/83 Subcommittee - Ray
SB 147	Kerttula	Relating to safeguarding self-identity and address of motor vehicle operators involved in accidents.	3/25/83	3/25, 4/20/83 Subcommittee - Josephson
SB 153	Rodey	Relating to punishment for obstructing a private citizen who assists a peace officer or judicial officer in the performance of official duties.	4/6/83	4/11/83 - Subcommittee Josephson

<u>NUMBER</u>	<u>SPONSOR</u>	<u>TITLE</u>	<u>IN</u>	<u>COMMITTEE ACTION</u>
SB 159	Ray	Relating to assignment of district court judges and magistrates.	3/4/83	3/4, 4/20/83 Subcommittee - Ziegler
SB 183	Josephson	Forgiving debts owed by political subdivisions for judicial services.	4/13/83	4/18/83 - Subcommittee Ray
SB 246	Rules (Leg Council)	Revising the corporations code.	2/7/84	2/8, 5/21 '84 Subcommittee - Josephson
SB 271	Rodey	Relating to the exclusionary rule; and changing Rule 412, Alaska Rules of Evidence.	4/20/83	4/20/83 - Subcommittee Pettyjohn
SB 290	Bennett	Permitting transfer of forfeited aircraft to the Alaska Wing, Civil Air Patrol.	5/4/83	5/9/83 - Subcommittee Ray
CSSB 298 (Fin)	Moss	Continuing appropriation of repayments of principal and interest on loans made by the Alaska Agricultural Action Council.	5/24/84	
SB 302	P.Fischer	Relating to the salary of legislators.	5/23/83	5/23/83 - Subcommittee Ray
CSSB 328 (Jud) am	Ray	Relating to legislative immunities and privileges.	2/28/84 (Ret from floor)	2/29/84 - Subcommittee Josephson
SB 329	Ziegler	Relating to liquor licenses.	1/9/84	1/13/84 - Subcommittee Ray
SB 399	Faiks	Relating to trespassing and posting of land.	4/11/84	4/11/84 - Subcommittee Josephson
SB 449	Fahrenkamp	Relating to procedures for levy on personal property under the Alaska Exemptions Act.	2/10/84	2/10/84 - Subcommittee Ziegler
SB 465	Halford	Establishing an annuity program; amending the longevity bonus program and the permanent fund dividend distribution program.	2/13/84	2/15/84 - Subcommittee Ray

<u>NUMBER</u>	<u>SPONSOR</u>	<u>TITLE</u>	<u>IN</u>	<u>COMMITTEE ACTION</u>
SB 474	Rodey	Relating to the longevity bonus program.	2/13/84	2/15/84 - Subcommittee Ray
SB 476	Fahrenkamp	Authorizing certain municipalities to conduct limited historic gambling enterprises.	2/14/84	2/15/84 - Subcommittee Pettyjohn
SB 515	Rules (Code Revision)	Relating to the uniform disposition of certain property rights at death.	3/29/84	3/30/84 - Subcommittee Pettyjohn
SB 528	HESS Cmte.	Relating to the spousal defense to sexual assault.	3/28/84	3/28, 4/18, 4/25/84 Subcommittee - Ray
SB 552	Resources Cmte.	Relating to discovery of attorneys' trial preparation efforts.	5/12/84	5/14, 5/23/84 Ziegler
SB 553	HESS Cmte.	Relating to profit resulting from the commission of a crime.	5/12/84	5/14/84
SR 4	P.Fischer	Relating to fees paid to jurors.	3/9/83	3/9, 3/23/83 Subcommittee - Eliason
SCR 1	Sturgulew	Relating to the establishment of a Legislative Research Agency.	1/21/83	
SCR 39	HESS Cmte.	Directing the Legislative Council to review and develop proposals for applying an annuity concept for a senior citizens' retirement program.	3/13/84	3/16/84 - Subcommittee Ray
SJR 14	Rules (Statehood Commission)	Proposing an amendment to the Constitution of the State of Alaska relating to the rights of states.	1/26/83	1/31, 2/16/83 Subcommittee - Eliason
SJR 15	Rules (Statehood Commission)	Proposing an amendment to the Constitution of the State of Alaska relating to cooperation with foreign nations.	1/26/83	1/31, 2/16/83 Subcommittee - Eliason
SJR 32	Governor	Proposing an amendment to the Constitution of the State of Alaska creating a fund to finance the construction of capital projects.	5/16/84	5/16/84 - Subcommittee Josephson

<u>NUMBER</u>	<u>SPONSOR</u>	<u>TITLE</u>	<u>IN</u>	<u>COMMITTEE ACTION</u>
SJR 33	Pettyjohn	Relating to an amendment to the Constitution of the United States which would empower the President of the United States by veto to strike or reduce items in appropriation bills.	1/26/84	1/27/84 - Subcommittee Eliason
SJR 35	Ray	Proposing an amendment to the Constitution of the State of Alaska requiring that at least 25 percent of the principal of the Alaska permanent fund be invested in the state.	2/3/84	2/6, 2/27, 3/2/84 Subcommittee - Pettyjohn
CSHB 162 (C&RA)	Ward	Relating to limits on terms certain municipal officials may serve.	2/8/84	2/8/84 - Subcommittee Ray
CSHB 172 (Fin)	Governor	Relating to municipal government.	5/24/84	
CSHB 279 (Fin)	Bussell	Authorizing participation by magistrates in the judicial retirement system.	5/7/84	5/7/84 - Subcommittee Ray
HB 293	Ward	Relating to the definition of the term 'agency' in the Ombudsman Act.	5/16/83	5/16/83 - Subcommittee Ziegler
HB 299	Abcod	Relating to public records.	5/23/83	5/23/83 - Subcommittee Zielger
CSHB 388 (Fin)	Tischer	Repealing the state estate tax.	5/23/84	
CSSHB 444 (Fin) am	Liska	Relating to offenses involving restraint of a minor.	5/16/84	5/16/84 - Subcommittee Ray
CSHB 455 (Res)	Coll	Relating to the defects in the title of the state to land.	5/8/84	5/11/84 - Subcommittee Eliason
HB 456	Ward	Authorizing an advisory vote by the qualified voters of the state on the question of the election of the attorney general.	3/15/84	3/16/84 - Subcommittee Ray

<u>NUMBER</u>	<u>SPONSOR</u>	<u>TITLE</u>	<u>IN</u>	<u>COMMITTEE ACTION</u>
HB 506 am	Shultz	Relating to payment for purchase by the state.	5/24/84	5/25/84
CSHB 524 (Fin)	Adams	Relating to the constitutional spending limit.	2/23/84	2/27/84 - Subcommittee Ray
CSHB 530 (Fin)	Pestinger	Relating to minors charged with felonies; and amending the children's proceedings waiver provisions.	5/7/84	5/7, 5/11, 5/14/84 Subcommittee - Pettyjohn
CSHB 540 (L&C)	Bettisworth	Relating to contractors' payment bonds.	5/23/84	
HB 556	Ward	Relating to complaints alleging retaliation before the State Commission for Human Rights.	5/24/84	
CSHB 569 (I&C)	Phillips	Relating to cemetery associations, nonprofit cemetery corporations and cemetery lots.	3/1/84	3/2, 3/9/84 Subcommittee - Ziegler
CSHB 593 (Jud)	Liska	Relating to surcharges imposed in criminal cases.	3/30/84	3/30/84 - Subcommittee Ray
HB 626	Liska	Relating to the crime of conspiracy.	5/8/84	5/11/84 - Subcommittee Ray
CSHB 655 (Fin) am	Hayes	Relating to the longevity bonus program; requiring the payment of longevity bonuses from appropriations from the general fund.	3/8/84	3/9/84 - Subcommittee Ray
CSSSIB 678 (SA)	Liska	Relating to the preservation of World War II artifacts.	5/24/84	5/25/84 5/25/84
CSHJR 1 (Jud)	Phillips	Proposing an amendment to the Constitution of the State of Alaska providing that a legislator who is convicted of a felony forfeits legislative office.	1/17/84 (Ret from floor to committee)	1/18/84 - Subcommittee Ray
HJR 66 am	Liska	Relating to removal of World War II artifacts from the state.	5/24/84	

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COMMITTEE REPORT
SENATE

FURTHER: Final

Date 2/15/1977

Mr. President

The Committee on SENATE considered CS 104

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

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for _____
- new title
- same title and recommends _____
- and attached a "LETTER OF INTENT" NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS

Chairman _____

Chairman recommendation _____

Alaska State Legislature

House of Representatives



Official Business

Al Adams
Chairman
Committee on Finance

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

M E M O R A N D U M

TO: All Members
House Finance Committee

FROM: Al Adams
Chairman
House Finance Committee

DATE: February 22, 1984

SUBJ: HB 648

Last year the Legislature enacted an amendment to the Executive Budget Act defining the term 'capital project'. This was done for two reasons:

1. Over time the distinction between capital and operating budget items had become blurred. Operating items were frequently included in capital budgets thus obscuring the true costs of ongoing operating programs and avoiding legislative review.

2. The voter approved spending limit established different allocations for the capital and operating budgets.

The definition of 'capital project' passed by the House Finance Committee last year (See Attachment A) specified that equipment and repair costs that exceed \$50,000 be considered capital projects. The definition that finally passed the Legislature, however, (See Attachment B) reduced \$50,000 to \$25,000 and applied this dollar restriction not only to equipment and repair costs but to the remaining types of capital projects as well, i.e. land acquisition, construction, structural improvements, engineering and design. In retrospect, this language change appears unwise.

House Bill 648 amends the definition of 'capital project' to conform with the original definition passed by House Finance last year. A dollar limit is placed only on equipment and repair costs. In addition, the limit is reduced from \$25,000 to \$15,000.

Finally, this proposed amendment will alleviate the difficulty that members of the Legislature and the Administration are currently experiencing in developing the FY 85 capital budget.

APA/el

Attachment A

1 governor [HE] shall accompany each proposal with a statement of the
2 reasons for it, including the reasons for its omission from the bud-
3 get.

4 * Sec. 14. AS 37.07.120 is amended by adding new paragraphs to read:

5 (7) "office" means the Alaska office of management and
6 budget established in the Office of the Governor by AS 44.19.141;

7 (8) "capital projects" and "capital improvements" mean an
8 allocation or appropriation item for land acquisition, construction,
9 or structural improvement including engineering and design for the
10 project and equipment and maintenance costs exceeding \$50,000.

11 * Sec. 15. AS 44.19.141 is amended to read:

12 ARTICLE 12. OFFICE OF MANAGEMENT AND BUDGET [DIVISION
13 OF POLICY DEVELOPMENT AND PLANNING].

14 Sec. 44.19.141. ALASKA OFFICE OF MANAGEMENT AND BUDGET [DIVISION
15 OF POLICY DEVELOPMENT AND PLANNING]. There is in the Office of the
16 Governor the Alaska office of management and budget [DIVISION OF
17 POLICY DEVELOPMENT AND PLANNING].

18 * Sec. 16. AS 44.19.142 is amended to read:

19 Sec. 44.19.142. DIRECTOR. The office of management and budget
20 [DIVISION OF POLICY DEVELOPMENT AND PLANNING] is administered by a di-
21 rector who is appointed by, and serves at the pleasure of, the gover-
22 nor.

23 * Sec. 17. AS 44.19.143 is amended to read:

24 Sec. 44.19.143. PERSONNEL. The director shall employ such per-
25 sonnel as may be necessary to carry out the provisions of AS 44.19.-
26 141 - 44.19.152 and the relevant provisions of AS 37.07.

27 * Sec. 18. AS 44.19.144(a) is amended to read:

28 (a) The director shall

29 (1) supervise and administer the activities of the office

Attachment B

1 judgment are necessary [ON ACCOUNT OF LAWS ENACTED AFTER THE TRANS-
2 MISSION OF THE BUDGET, OR ARE OTHERWISE IN THE PUBLIC INTEREST].
3 However, if the governor finds that an emergency situation necessi-
4 tates the proposal of supplemental or special appropriations, the
5 governor may transmit them to the legislature at any time. The gover-
6 nor [HE] shall accompany each proposal with a statement of the reasons
7 for it, including the reasons for its omission from the budget.

8 * Sec. 14. AS 37.07.120 is amended by adding new paragraphs to read:

9 (7) "office" means the Alaska office of management and
10 budget established in the Office of the Governor by AS 44.19.141;

11 (8) "capital projects" and "capital improvements" mean an
12 allocation or appropriation item for an asset with an anticipated life
13 exceeding one year and a cost exceeding \$25,000 and include land
14 acquisition, construction, structural improvement, engineering and
15 design for the project, and equipment and repair costs.

16 * Sec. 15. AS 44.19.141 is amended to read:

17 ARTICLE 12. OFFICE OF MANAGEMENT AND BUDGET
18 [DIVISION OF POLICY DEVELOPMENT AND PLANNING].

19 Sec. 44.19.141. ALASKA OFFICE OF MANAGEMENT AND BUDGET [DIVISION
20 OF POLICY DEVELOPMENT AND PLANNING]. There is in the Office of the
21 Governor the Alaska office of management and budget [DIVISION OF
22 POLICY DEVELOPMENT AND PLANNING].

23 * Sec. 16. AS 44.19.142 is amended to read:

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25 [DIVISION OF POLICY DEVELOPMENT AND PLANNING] is administered by a di-
26 rector who is appointed by, and serves at the pleasure of, the gover-
27 nor.

28 * Sec. 17. AS 44.19.143 is amended to read:

29 Sec. 44.19.143. PERSONNEL. The director shall employ such

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: HB 648
 Title: Relating to the definition of Capital Projects
 Sponsor: House Finance Comm
 Requestor: _____
 Date of Request: _____

FISCAL DETAIL

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

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL		-0-				

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Rep. Al Adams *AA* Phone: 465-3706
 Division: _____ Date: 2/21/84

Approved by Commissioner: _____ Date: _____
 Agency: _____

Distribution (by Agency preparing fiscal note):

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

12/1/83

COMMITTEE REPORT
HOUSE

(11)

FURTHER:

2/13/84

Date: 2-24-84

The Committee on FINANCE has had HB 648

"An Act relating to the definition of capital projects
under the Executive Budget Act."

under consideration and recommends:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for HB 648 same title
 new title
- and recommends DO PASS
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation Zero Fiscal Note Attached
2/21/84
- referred to the _____ Committee

MEMBERS SIGNING

DO PASS

Robert P. Adams

Jan Samson

Terry Martin

Frank T. Zwick

J. Duncan

Hubert

MEMBERS HAVING

OTHER RECOMMENDATIONS:

Robert P. Adams
CHAIRMAN

H

B

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5

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: March 6, 1984

Page 1 of 3

REQUEST

Bill/Resolution No.: CSHB 655 (Finance)
Title: Longevity Bonus Program

FISCAL DETAIL

Agency Affected: Administration
Program Category Affected: Social Services

Sponsor: Hayes

Requestor: _____

Date of Request: _____

BRU, Program or Subprogram(s) Affected:
Longevity Bonus Program

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
<u>OPERATING</u>						
100 PERSONAL SERVICES		85.2	28.7	28.7	28.7	28.7
200 TRAVEL						
300 CONTRACTUAL		85.0	85.5	86.0	86.5	87.0
400 SUPPLIES		1.5	1.0	1.0	1.0	1.0
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC		18,456.0	18,456.0	18,456.0	18,456.0	18,456.0
800 MISCELLANEOUS						
<u>TOTAL OPERATING</u>	0	18,627.7	18,571.2	18,571.7	18,572.2	18,572.7
<u>CAPITAL</u>	0	0	0	0	0	0
<u>REVENUE</u>	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND		18,627.7	18,571.2	18,571.7	18,572.2	18,572.7
FEDERAL FUNDS						
OTHER						
<u>TOTAL</u>	0	18,627.7	18,571.2	18,571.7	18,572.2	18,572.7

POSITIONS:

FULL-TIME	0	1.0	1.0	1.0	1.0	1.0
PART-TIME	0	2.7	0	0	0	0
TEMPORARY	0	0	0	0	0	0

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

General Funds

ANALYSIS: Attach a separate page for any Analysis.

Prepared By: E. Louis Keller, Director

Division: Pioneers' Benefits

Phone: 465-4400

Date: March 6, 1984

Approved by Commissioner: Lisa Rudd

Agency: DEPARTMENT OF ADMINISTRATION

Date: 3/13/84

Distribution (by Agency preparing fiscal note):

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

CSHB 655 (Finance)
Fiscal Note Analysis
Prepared by Division of Pioneers' Benefits
Department of Administration
March 6, 1984

This bill would change eligibility requirements for the Longevity Bonus Program to allow all one-year residents of Alaska who are age 65 or older to participate, and would restrict growth of the program by escalating the age of eligibility.

ASSUMPTIONS

- a. All persons who are age 65 and older who have been residents of Alaska for at least one year would be eligible for payments in FY 85-90. On July 1, 1990, the age for eligibility would be increased to 66 years, and each year thereafter on July 1, it would be increased one year.
- b. It is believed that there are approximately 16,500 persons now living in Alaska who would qualify under new eligibility requirements, and that there will be approximately 10,348 persons on the program by July 1, 1984. Therefore, it is assumed that an additional 6,152 persons would be enrolled on the program in FY 85 under the bill.
- c. The amount of the bonus would be \$250 per month.
- d. The program would continue to grow at the rate of approximately 60 per month, after the initial group of persons are enrolled who would be made eligible by the one-year residency requirement.
- e. All costs would be paid from the State General Fund.
- f. An increase in the Longevity Bonus staff would be needed to process the flood of new applications.
- g. The Act would take effect on the date of a final decision by the Alaska Supreme Court if that decision affirms the findings of the Superior Court in the existing law suit by Rodney Vest. For lack of a definite date, it is assumed for the purposes of computing this fiscal note, that the effective date would be July 1, 1984.

CSHB 655 (Finance)
 Fiscal Note Analysis
 Prepared by Division of Pioneers' Benefits
 Department of Administration
 March 6, 1984

Additional funds needed for FY 85 are computed as follows:

	<u>Annual Cost</u>
Personal Services	
Clerk V, PFT	\$ 85,196
Clerk II, PPT (4 positions, 8 months)	56,486
Contractual Services	
Added postage, bonus warrants, printing of new regulations and application forms and increased telephone tolls	85,000
Commodities	
Office supplies and file cabinets for application and recipient files	1,500
Grants	
Additional funds needed for Bonus payments to additional persons who will be eligible (6,152 x 12 x \$250)	18,456,000

Total additional funds required for FY 85	\$18,627,696

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78

COMMITTEE REPORT
SENATE

FURTHER:

Date May 29, 1914

Mr. President

The Committee on JUDICIARY considered CLASSIFIED
PROSECUTION OF WORLD WAR II OFFICERS

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

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for _____
- new title
- same title and recommends _____
- and attached a "LETTER OF INTENT" NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS

Chairman _____

Chairman recommendation _____

TO: Senator Bill Ray
FROM: Paula d. Scavera
DATE: May 25, 1984
RE: SCSCS HB 678 (State Affairs)

The reason for this bill is apparently people are removing from the state, vintage planes and gun displacements and selling them to museums or private collectors.

SECTION 1

Adds language to the definition section of the Alaska Historical Preservation Act to include World War II artifacts.

Alaska State Legislature

POUCH V
JUNEAU, ALASKA 99811
(907) 485-3733

DISTRICT 15
STAR ROUTE BOX 421
EAGLE RIVER, ALASKA 99577
(907) 688-2526



VICE-CHAIRMAN
Judiciary
Legislative Regulations Review

MEMBER
Resources
Rules
Finance — Sub. Com. Labor

Representative John J. Liska

April 11, 1984

MEMORANDUM

FROM: Rep. John J. Liska

REFERENCE: HB 678, "An act prohibiting removal of WW II artifacts from State land."

The purpose of this bill is to insure World War II artifacts are included in the State Statutes under the Alaska Historic Preservation Act.

Presently, we have a major problem in the State of Alaska with the removal of World War II artifacts. These historical items are being removed either in tact, for museums in the lower 48, or disassembled to supply a very lucrative demand for spare parts for these vintage planes.

Your packet contains:

- A. Pages 30, 31 and 32 from a publication entitled "The Historical "Battle of Alaska" remains." These pages refer to various types of aircraft that crashed in Alaska and where they have been removed to:
1. Douglas - O - 38F - removed to Air Force Base Museum in Dayton Ohio in 1968.
 2. Stinson - A Trimotor - to Wisconsin in 1972 by J.D. Berry.
 3. P - 51H and P - 40 - Steve Myers, Washington.
 4. U.S. Navy Vough OS 2U King Fisher - removed to the Smithsonian Institute.
 5. P - 39 Airacobras, on display in Seattle.

Additionally, page 73 shows Japanese artifacts from World War II.

Page two
HJR 66

In addition in your packets, but not nearly as interesting, are letters from CAVPAC supporting HJR 66 and HB 678 and a copy of a letter from General Talley who was involved in the Alutian Campaign.

Another piece of back up material has been submitted by the North Star Chapter Pearl Harbor Survivors Association. I have made copies of the first three pages - which may or may not be the same artifacts as previously submitted in your packet.

JJL/tm

Besides the public museums such as the Smithsonian Institute and the Anchorage Historical and Fine Arts Museums, there are many small or private collections which display items of Alaskan history. Unfortunately, in many cases, Alaskans have no say in how the collections are handled.

History is repeating itself in the area of aviation history. It is seen in many examples of aircraft downed during World War II which are leaving the state.

A Douglas O-38F had engine problems and crashed in 1941. It was removed to the Air Force Museum in Dayton, Ohio in 1968.

In 1972 a Stinson 'A' Trimotor which crashed in 1947 was removed to Wisconsin by J.D. Berry. Berry wrote to Wien Air Alaska and followed it up with a phone call to try and get the airline to purchase the plane for the cost of its removal, but there was no interest, so it was sent Outside in order to pay the costs for its removal.

Two P-51H's were pulled out near Stevens Village. Two more were found near Kotzebue, and three were removed from across Cook Inlet. One P-40 was removed from Amchitka Island in the Aleutians. All of these aircraft were removed by Steve Myers of Washington.

Another P-40 was removed from a site near Fairbanks in 1977 and was sold to a buyer at an unknown Lower 48 destination.

A United States Navy Vought OS2U Kingfisher which crashed during WWI on one of the small islands near Kodiak, was removed in the early summer months of 1979 for removal to the Smithsonian.

There have been numerous other cases. An ad in Flying Magazine's June '80 issue states that sale of "P-39 Airacobras. Recently recovered from a fresh water lake in the Alaskan Peninsula. Russian armament, 117 hour totals hours each. Make offer, would like aviation museum or same to purchase...Yakima, Washington..." A call from the United States Historical Aircraft Preservation Museum in Anchorage brought no response.

Three B-25 Mitchell bombers have left the state in the past two years, in flyable condition, headed for the Outside.

The United States Historical Aircraft Preservation Museum has been trying for several years to open a museum facility located at Merrill Field, but has been blocked from doing so because it has no planes to put into the facility. At the same time, the Planes of Fame Museum from Chino, California has been soliciting donations of Alaska aircraft on a promise of opening an Alaskan branch museum at some undetermined later date.

It has successfully acquired an A-26 from Dr. Donald Rogers, an H-21 helicopter from Bill Swift to help in removing aircraft downed in Alaska, a B-25 from Fairbanks. A wing insignia was donated to the Air Force Museum by Ted Spencer - the insignia coming from the wing on an

aircraft downed at Nome which was to have been used in reconstructing a P-63 Airacobra.

The Committee contends that Planes of Fame has an established reputation for flying, crashing and destroying one-of-a-kind aircraft, and of selling aircraft and aircraft parts in the Lower 48 and abroad in order to keep itself solvent.

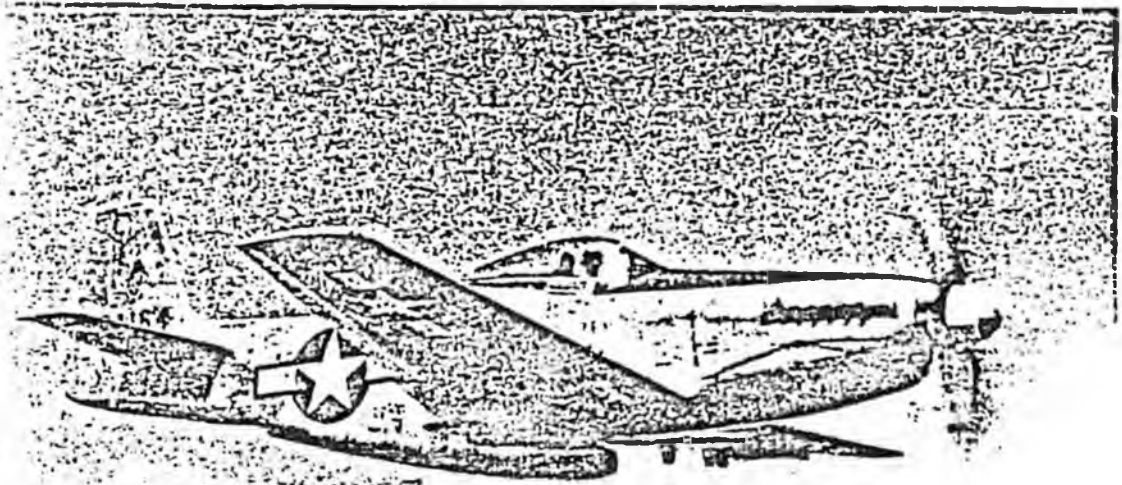
Flying in races and demonstrations for trophies and prize money has taken its toll on the vintage military aircraft.

The Committee feels that if it can adhere to those goals, Alaska will have one of the finest aviation museums in the U.S., preserving that part of Alaskan history.

The United States Historical Aircraft Preservation Museum is currently conducting negotiations for several planes of significant historical value, as well as parts and planes to be retrieved from bush areas.

Access to battlefields in the Aleutians is difficult because of the expense and weather conditions involved, but the area promises to be a fertile area to search.

If the museum has had a difficult time collecting actual aircraft for its displays, there has been no shortage of donations of other treasures. Photographs, blue prints from the Bell Factory which

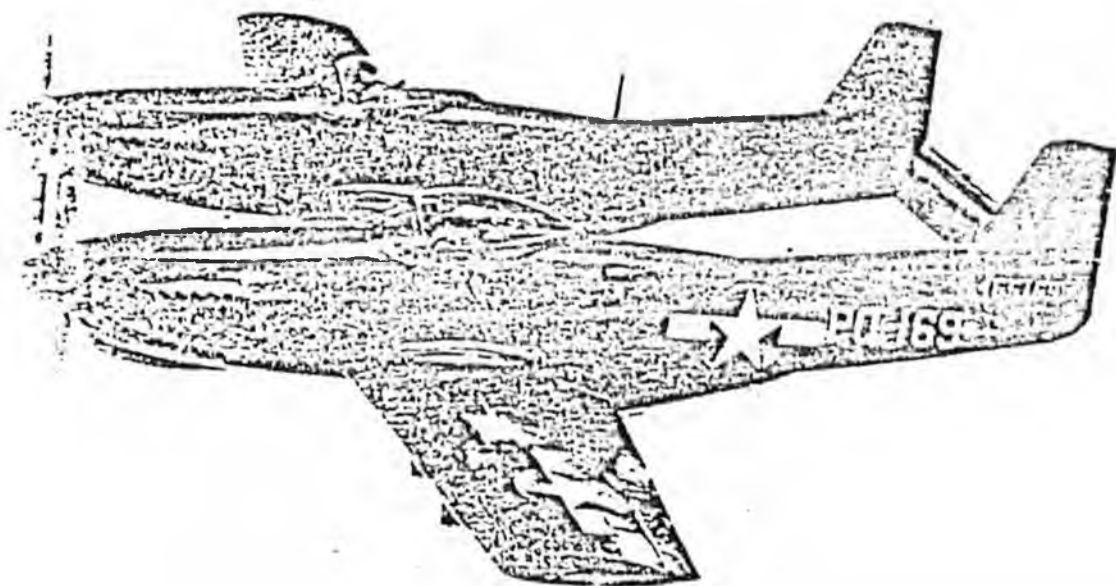


These fighters, P-51's Mustang, were used toward the end of WW II in Alaska. They did not see combat in the Aleutian Campaign. Three downed P-51's were located.

AAHS

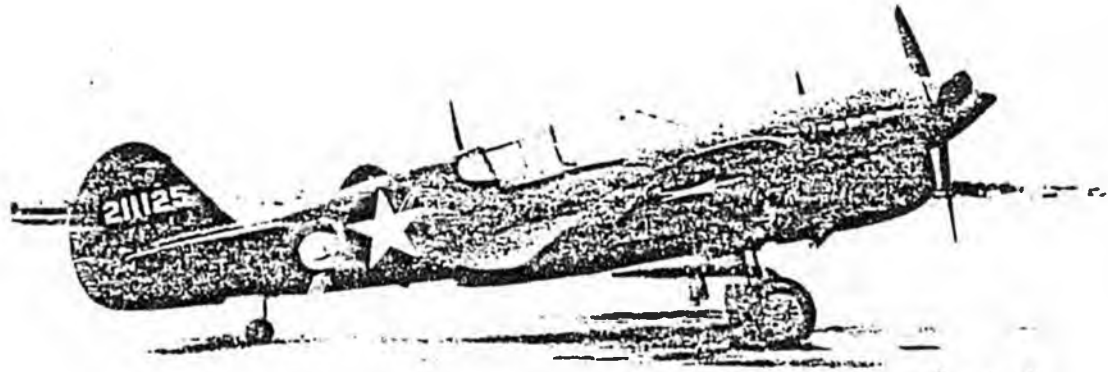
The P-82 Twin Mustang was based in Alaska after WW II. One was located that bellied in and is intact in the Interior.

USAF



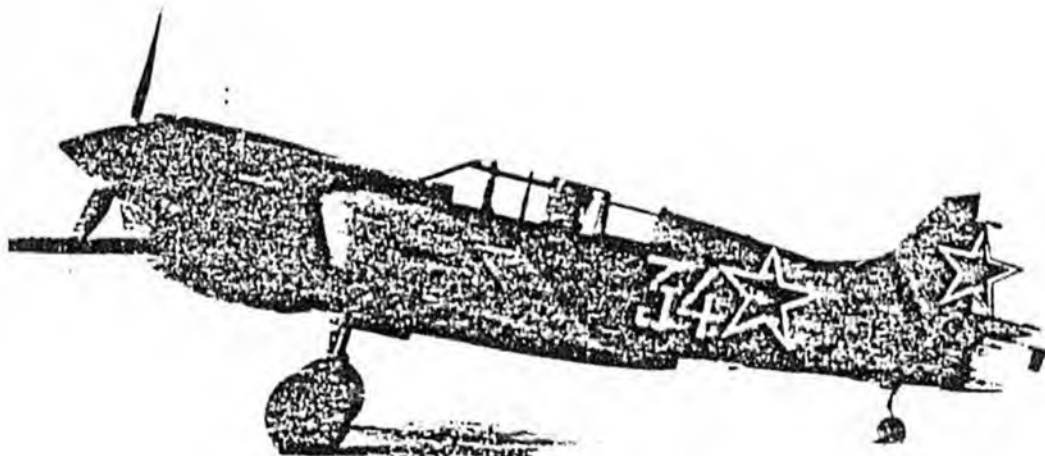
Curtiss P-40 was used by the USAF during the Aleutian Campaign. Eight P-40's were located: Five of them were abandoned, two were downed, and one is in the bottom of a fresh water lake. Also several brand new P-40's were buried in crates in the Aleutians.

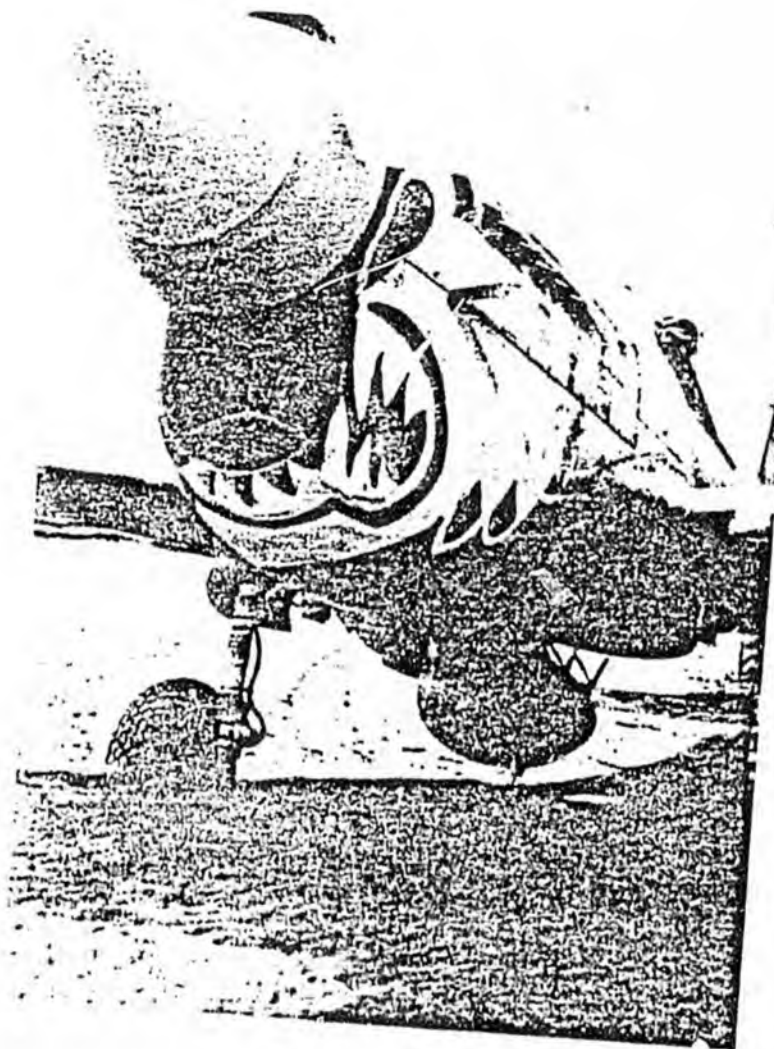
RWT



Approximately 48 Lend Lease P-40's came through Alaska on their way to Siberia. At present Moscow is the only place in the world that has one of the Lend Lease P-40's. Two more were located in the Interior.

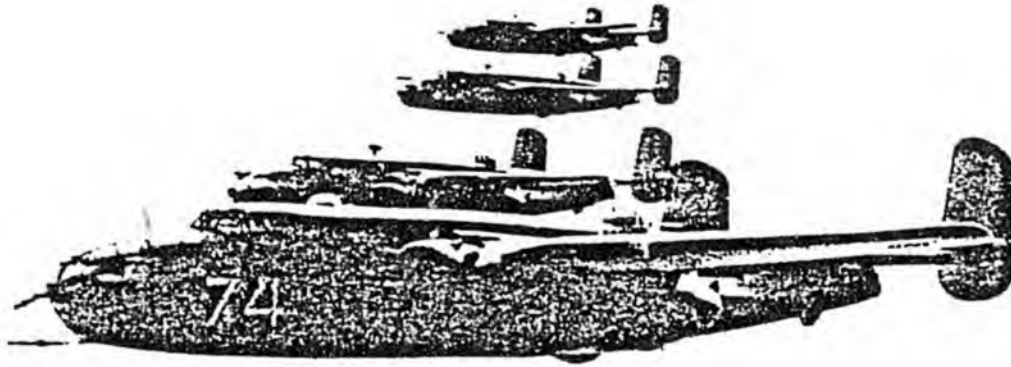
GFP





This is a Curtiss P-40 called the "Aleutian Tiger." It was used in combat by the United States during the Aleutian Campaign. Four of them were located.

USAF

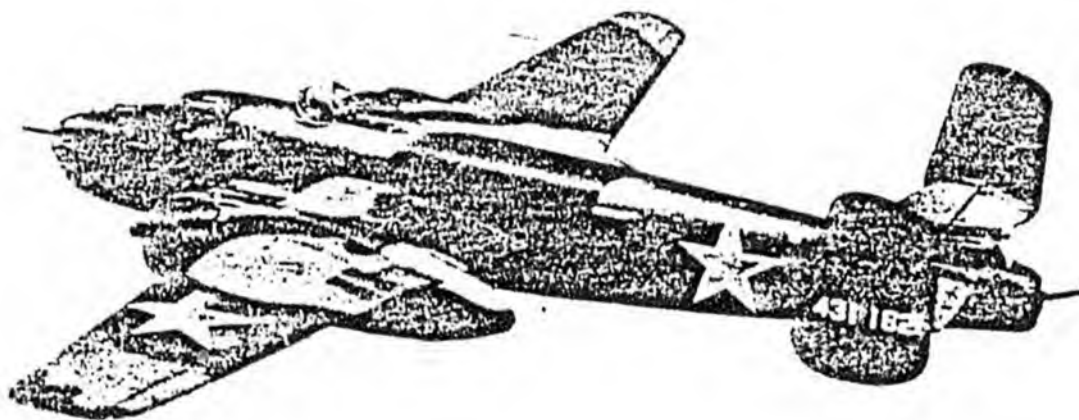


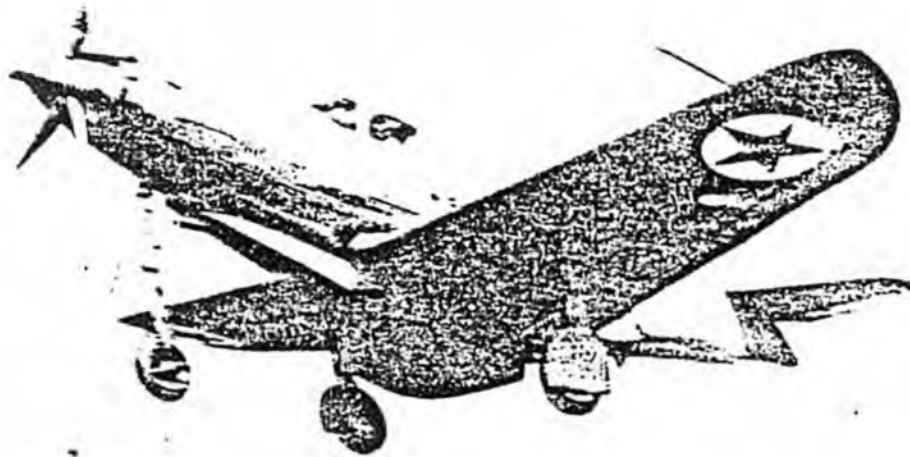
Two of these B-25 Medium Bombers went down in the Aleutians during the Aleutian Campaign.

USAF

Approximately 732 of these Lend Lease B-25 Mitchell Bombers were ferried from Great Falls, Montana, Whitehorse to Fairbanks to Siberia, Russia to be used against the Germans during WW II. Three of these aircraft went down in the Interior Alaska.

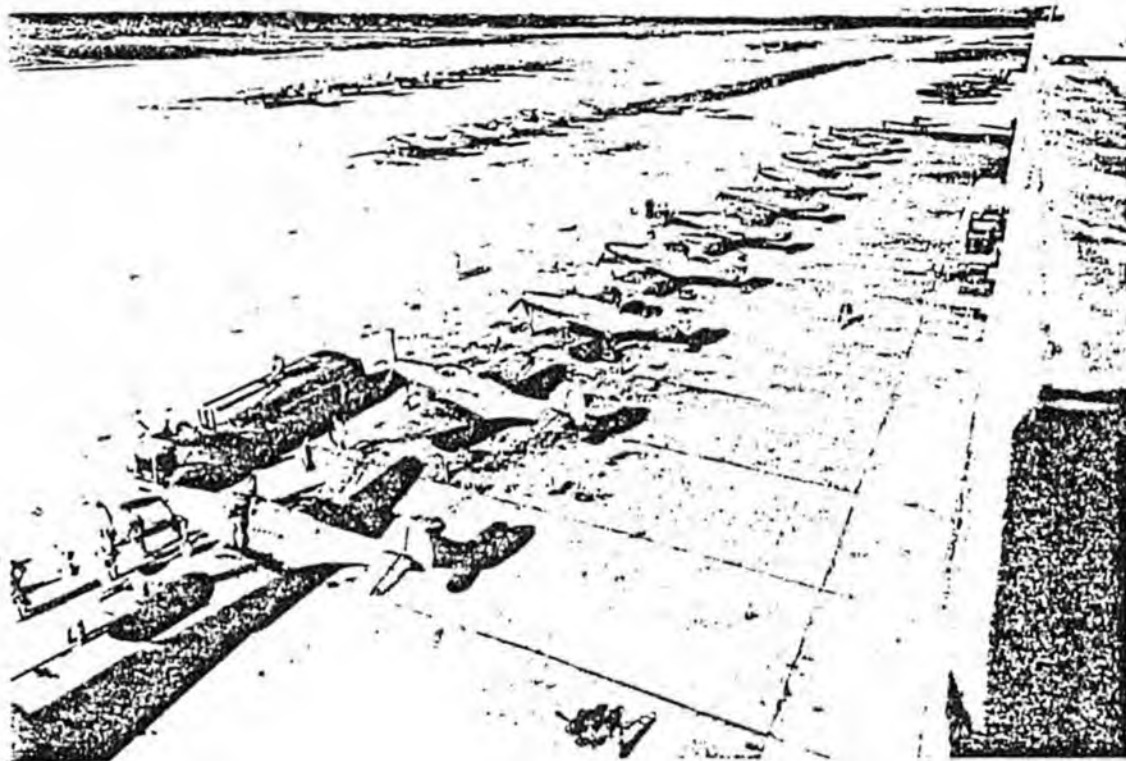
NAA

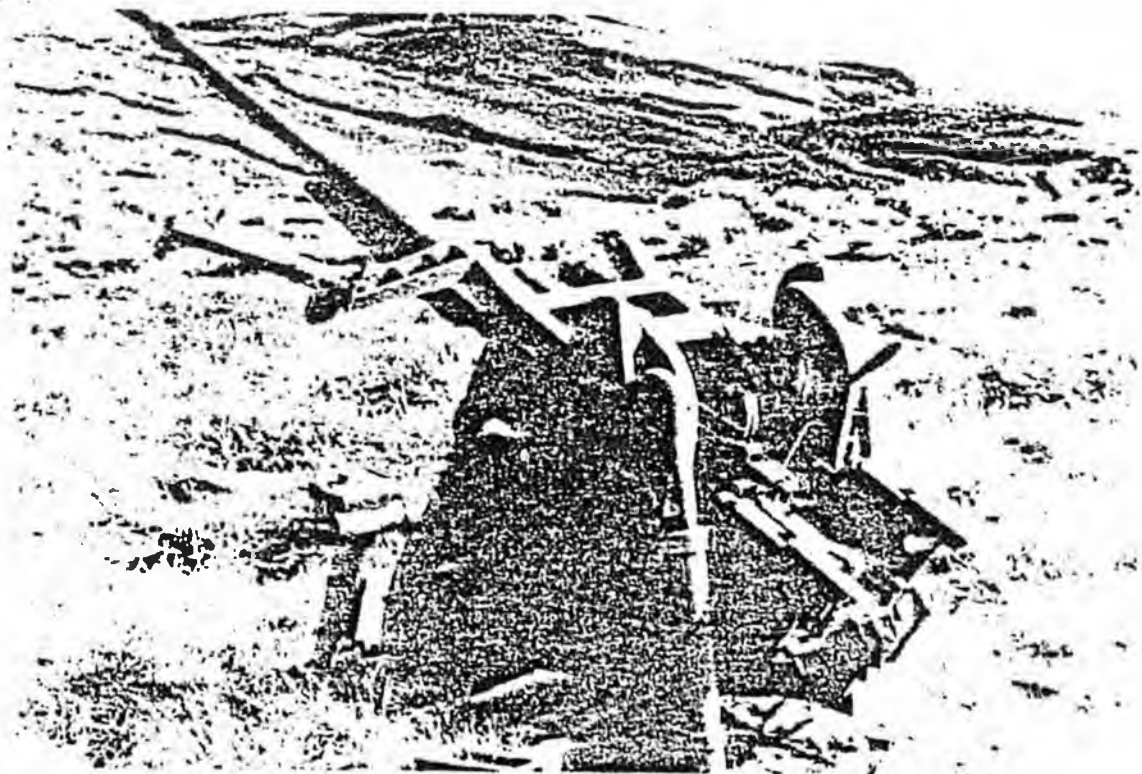




Approximately 2,618 P-39 Airacobra came through Alaska on their way to Siberia under the Lend Lease Program. Eleven of the P-39's went down in the Interior, and six of these are in fresh water lakes.

USAF

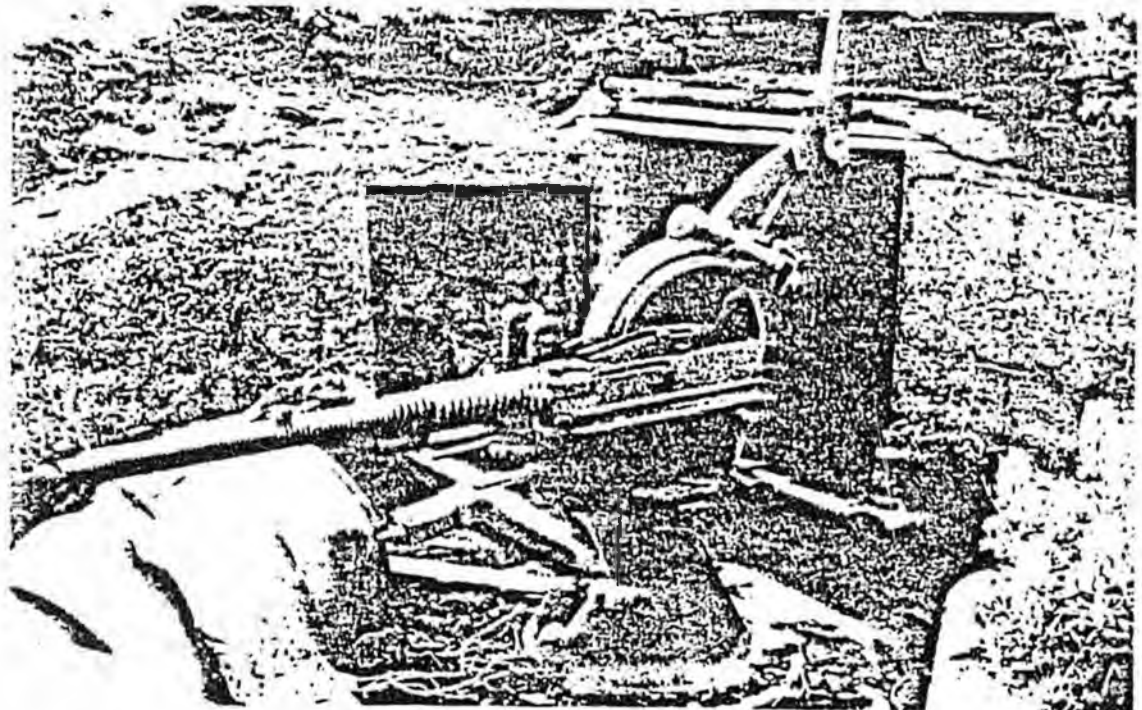




Japanese Model 96 (1936), Type 2, 25 mm Anti-aircraft Gun and Mount. This gun is very rare and was not extensively used by the Japanese.

COE

Japanese Model 93 Heavy Machine Gun, 13.3 mm on an Anti-Aircraft Mount. USFWS



CAVPAC, P.O. Box 8-901

Anchorage, Alaska 99508



HJR66 and HB678 BACKUP INFORMATION

The Alaska Historical and Transportation Museum and other interested non-government organizations are focusing on long range planning, development, and preservation of pioneer, transportation and military history throughout the State and especially on the Aleutian Island Chain.

The projects of the organizing committees are to: (1) Survey and inventory significant relics, artifacts, and related historical material pertaining to transportation (surface, maritime, and with major emphasis on aviation); (2) Develop plans for the historic preservation and interpretation of these artifacts; (3) Recommend an appropriate museum site(s); (4) Coordinate with other public and private sector museums to insure that all groups interested in aircraft recovery can participate in recovery and restoration of aircraft, and that the restored aircraft will remain in Alaska; and (5) Prepare a presentation for submittal to the Governor and the Legislature in 1985 on a statewide program of cultural and historical preservation, including programs on pioneer, transportation, military, and the historically related areas, which are either not currently included in existing museum services or are inadequate in scope.

These projects and assessments will supplement the existing Statewide Museum Plan and will include recommendations for future museum development in the State of Alaska.

There has been no comprehensive statewide assessment or inventory of Alaska's historical artifacts that are constantly being removed from the State. Although many agencies have worked with each other on various aspects of preservation, an overall coordinated appraisal of the most critical needs in this area has never been possible.

Alaska's military history covers a wide range of topics: the Alaska Purchase to World War II era, aviation, maritime, World War II Aleutian campaign, D/W Line, and post-WW II history, etc. A number of agencies have shown an interest and have done limited statewide planning to locate historical Alaskan artifacts, but have discovered that big money in the lower 48 is stealing many of our WW II aircraft from federal and state land without any interference and are selling them to museums and making a fortune. It's big business. Many of these U.S. and Japanese aircraft have been salvaged almost intact.

It is hoped that HJR66 and HB678 will assist, when implemented, to retain valuable artifacts in Alaska and in 1985 some funds can be made available to improve our historical museums. The Army, Air Force, and National Guard have already assisted in salvaging and restoring some of these artifacts.

CAV Needs You And You Need CAV
for

VETERAN POWER

Army Navy Air Force Marines Coast Guard National Guard Reserves

Paid for by CAVPAC, P.O. Box 8-901, Anchorage, Alaska 99508

The historically significant relics, artifacts and other materials are part of Alaska's history and should be preserved before it is too late. Many WWII aircraft, both friendly and enemy, have been literally stolen from the Aleutian Chain and are now in museums in the States of Ohio, Tennessee, Washington and California that we know of. They are a part of Alaska's wartime history and should remain here. They will also be of tourist interest.

Draft prepared by B. B. Talley
with contribution by
Col. Evan J. Griffith, USAF

BACKGROUND MATERIAL IN SUPPORT OF HB _____
APPROPRIATING FUNDS FOR A COMPREHENSIVE DOCUMENTARY FILM
OF WWII IN ALASKA

There exist several books and papers, some official, which purport to document the history of WWII in Alaska. In addition, the military services have extensive motion pictures of their operations in Alaska. In recent years there has been a rebirth of interest on the part of individuals and organizations, particularly veterans organizations, in this part of Alaska's history. These individuals and groups have many important visual records which can be obtained for a comprehensive documentary film of WWII in Alaska.

In 1980, on the 40th anniversary of its arrival in Alaska, the veterans of the 11th US AF held a reunion in Alaska. It included a visit to the Aleutians as far out as Shemya. Weather prohibited their going to Attu. Extensive motion pictures and video tapes were made of this celebration, including interviews and oral history from many of the veterans present.

In 1982 extensive motion pictures and video tapes were made by individuals, organizations and by TV stations of the ceremony in dedication of a memorial on Unalaska Island to all those who lost their lives in the Aleutians during WWII. This included the Armed Forces of the United States and Canada, the Aleuts, and the Japanese Armed Forces. The two Japanese officers, now retired, who led the first and second waves of bombers in the attack on Dutch Harbor on 4 June 1942 participated in this dedication. The dedication was preceded by a flight from Unalaska Island to the Umnak Air Base, and to the position of the Japanese carrier from which the attack was launched, thence following the course of the planes to the rendezvous point and returning to Dutch Harbor. The plane was piloted by the Japanese officer who led the attack, flying

in reverse the course flown in the attack. From the rendezvous point, the plane flew the course at the same altitude flown in the actual attack. In the plane were Admiral James S. Russell, USN-Ret. who commanded the US Navy Catalinas in Alaska during WWII, BG B. B. Talley, Corps of Engineers, retired, who was responsible for building the secret air base on Umnak Island from which the US AF P-40s broke up the Japanese aerial attack on Dutch Harbor, and Admiral Hiroichi Samejima, JMSDF (Ret.) who led the first wave of Japanese bombers, and Colonel Zenji Abe, JMSDF (Ret.) who led the second wave which consisted of dive bombers. (Then Lieutenant Commander Abe later transferred to the army, as the reconstituted Naval defense force did not have dive bombers.) Also in the plane were Mr. Ted Spencer who arranged the dedication ceremony and the aerial flight here described. There was also a motion picture camera crew aboard who recorded the flight on film.

In view of the advancing age of the still living participants in WWII in Alaska, delay in the production of this visual history might preclude their participation in this important chapter in Alaska's history.

Inasmuch as the State of Alaska would be the primary beneficiary, the State should be the primary sponsor of the project. Such a project is within the purview of the Alaska Historical Commission of the Department of Education.

The project would include, but not necessarily be limited to, bringing together into a single compilation the best of the existing film, editing it into a single comprehensive historical document. There should be included in this compilation such additional footage as may be appropriate, with commentary by selected veterans who took part in the action.

Upon being instructed to carry out this project and being provided with the necessary funds for its accomplishment, the Alaska Historical Commission formed by AS Title 44, Article 3,

would have power to prepare or to authorize and coordinate the preparation and production by others of a documentary film covering this important portion of Alaska's history. Such a history should include but not be limited to the stills and motion pictures already in existence, but should include additional visual components as may be appropriate. Such a project should be completed by June 30, 1986.

A conceptual organization structure for executing this project is shown in Figure 1.

C O N T E N T S

Part I. Facts of Aircraft and Aircraft Parts, Flyable and Non-Flyable, that Left the State of Alaska.

- Page 1. Douglas C-38F Aircraft that left the state of Alaska in 1968.
- Page 2. Flying Magazine add in June 1980 regarding the removal of two P-39 Airacobras from Alaska. Six years ago two P-39 Airacobras were located at Minchumina Lake. In 1982 approximately \$10,000 were spent by a company to retrieve these aircraft. The group found out these were no longer there. We suspected that the aircraft mentioned in the Flying Magazine add are the same ones that were in Minchumina Lake.
- Page 3. A letter to Mr. Aldrich in California who sells vintage airplane parts. He sent to the USWAPM the original letter of Mr. Steve Matthews of Fairbanks who illegally removed airplane parts from state land and was attempting to sell them. The present whereabouts of the parts are unknown.
- Page 4. Photographs of two P-39 Airacobras on state land near Fairbanks. For the past four years illegal salvagings had been done to these.
- Page 5. Alaska Magazine Jan. 1981 two articles about a Stinson aircraft that was removed from the dump at Merrill Field, Anchorage and which is now on display at Seattle. The man who removed the aircraft, J. Berry, also removed in the early 1970's a P-40 aircraft from the Alaskan bush which was later transported to the Lower 48.
- Page 6 and 7. An article from a vintage/WW II aircraft book regarding the removal of a P-40 from the Aleutians.
- Page 8 thru 12. A Flying Magazine article regarding the removal of one P-40, four P-51 Mustangs, and three other P-50 Mustangs that were just removed for parts out of the state of Alaska.
- Page 13. Photographs of the P-40 that was removed from the Aleutians.
- Page 14. Oct. 1978 Alaska Magazine article on donation of a P-39 Airacobra's wing portion to the Lower 48.
- Page 15. Air Classics Magazine 1979 article with photographs of mutilation of a Lend Lease Russian aircraft's wing which is now in Ohio.
- Page 16. A letter from Dept. of Interior regarding the unlawful removal of aircraft parts from Amchitka Island. The two individuals who were involved in this unlawful act were fined \$500 each.
- Page 17 and 18. A letter from the Smithsonian Institution about the removal of a Navy CSPW Kingfisher from Afognak Island. The aircraft is now on loan from Smithsonian to Bradley Museum in Connecticut.

C O N T E N T S

Part I. Continued

- Page 19. A Douglas SRD-5 Dauntless wing which was in the Aleutian but is now in California.
- Page 20. Four photographs of helicopter parts and aircraft parts being shipped by Sealand from Anchorage to California.
- Page 21. B-25 aircraft engines that were donated to an aviation group in Alaska and are now in California.
- Page 22. A letter to Paul Caulkett regarding two B-25 aircraft that were to be used as static display within the state of Alaska.
- Page 23 and 24. A letter from the Alaska Department of Transportation in Fairbanks showing that one of the B-25 aircraft (paragraph 4) was sold to Mr. John C. Morgan by one of the aviation societies in Anchorage.
- Page 25. Two photographs of the B-25 that one of them was sold to Calif.
- Page 26. Alaska Magazine Dec. 1960 article on a Stearman that was in Alaska and is now in the Lower 48. (If interested, a copy of the article can be provided.)
- Page 27. Three photographs of P-38 Lightning which was removed from Alaska and is now in California.
- Page 28. A letter from State of Alaska, Dept. of Natural Resources regarding the attempts of Castle AFB in California to remove the remains of a P-38 from the Aleutians.
- Page 29. Air Classics Magazine April 1961 article on A-26 Invader that was given to California as a donation.
- Page 30. Two photos of the A-26 flvable aircraft that^{was} donated to Calif.
- Page 31. Top - photo of the three B-25's which two of them left the state of Alaska. Destination unknown. Bottom - another photo of the A-26 that was donated to California.
- Page 32. Picture of a B-25 flvable aircraft that is now in California.
- Page 33. A Lockheed Constellation that was donated to City of Kenai, later was sold for \$30,000 and is now in Florida.

Part II. Aircraft and artifacts that had left the state of Alaska which cannot be stated as illegally been salvaged. Records at the Air Force Rescue Coordination Center at Elmendorf AFB show these WW II aircraft are no longer in their crash sites, there are no indication of their present whereabouts, or who retrieved them. Reports from bush pilots, who spotted the aircraft earlier, show that the same aircraft are no longer in their crash sites.

HCR

9

SENATE AMENDMENT

By SENATE JUDICIARY COMMITTEE

To: _____ SENATE BILL No. _____

To: _____ HOUSE BILL No. CSUC2 9(SA)

PAGE: 2 LINE: 7

Delete "1984" and insert "1985"

- ACK - Most happy to meet

16 February 1984

Senator Bill Ray
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

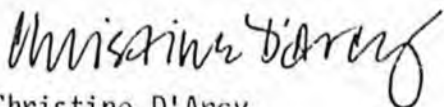
Dear Senator Ray:

Several parts of the Department of Transportation and Public Facilities have contacted our office for information regarding Robert Murray's sculpture Nimbus now installed outside the Juneau Court and Office Building. They have asked that I provide you with similar information. It is enclosed.

The Alaska State Council on the Arts may be in a position to assist your office regarding this piece. Please let me know if we can. I will be in Juneau for meetings on February 29 and could arrange to meet with you staff as well.

I look forward to hearing from you.

Sincerely,



Christine D'Arcy
Executive Director

CD:mt
enclosure

D.1.

Alaska State Council on the Arts

619 Warehouse Avenue, Suite 220/Anchorage, Alaska 99501/(907) 279-1558

Juneau Courthouse Sculpture Project

The following is a listing in order of the events and actions to date concerning the commissioning of a sculpture for the Juneau Courthouse Plaza.

1. In July, 1974 Lou Cassetta, architect of the Juneau Courthouse, met with Roy Helms of the ASCA to discuss possible matching funding from the National Endowment for the Arts for works of art in conjunction with the new building. Under consideration at that time was the restoration of a totem pole, the construction of display cases for museum pieces in the lobby of the building, and a piece of sculpture in or adjacent to the plaza. (re.: July 24, 1974 letter from Lou Cassetta to Arthur Snowden II)
2. By the time the application was filed the inclusion of the totem pole was set aside since this would not be a new work of art, but a restoration, and fibre wall hangings were included for the four court rooms.
3. The National Endowment responded on November 6, 1974 indicating that they could only consider funding for one project, the sculpture for the plaza. (Letter from Richard Koshalek, November 6, 1974).
4. The Court System confirmed that there was no conflict between the guidelines of the National Endowment for the Arts and the legislative appropriation limitations. The manner in which to spend \$25,000 for works of art was left to the discretion of the Court System by the Legislature. (Letter of August 5, 1974 from Arthur Snowden, II to Lucian Cassetta.)
5. In December, 1974 the project application to the National Endowment was changed to include only the plaza sculpture. A total of \$10,000 was applied for with \$10,000 matching pledged by the Alaska Court System. (Letter of December 13, 1974 from Roy Helms to David Bancroft).
6. On August 18, 1975 Brian O'Doherty, Director of the Visual Arts Programs of the National Endowment indicated a reluctance on the part of the review panel to consider a sculpture project with such a low budget. He indicated that they would be willing to fund \$20,000 if there were \$20,000 matching available.
7. The Alaska State Council on the Arts was approached by the Alaska State Court System on August 20, 1975 for the additional \$10,000. This was approved by telephone conference on August 29, 1975 of the Visual Arts Committee and the Executive Committee.
8. On June 28, 1976, a grant was awarded to the Alaska State Council on the Arts from the National Endowment for the Arts in the amount of \$20,000 for the Juneau Sculpture Project. The grant conditions included adherence to the guidelines under which the Alaska State Council on the Arts applied which included:

- g. The committee eventually voted and unanimously selected the following three artists in the ranked preference listed
1. Robert Murray. 2. Cliff Westermann. 3. Robert Breer.
12. Robert Murray was contacted and was willing to undertake the commission. A contract between Arts Alaska, Inc. and Robert Murray was negotiated effective 23 December, 1976.
13. Robert Murray visited the site on 18 January 1977, met with Justices Boochever, Connor, and Stewart to discuss the proposed sculpture, the desired changes in the concrete pad in the plaza, and desired alterations to the surrounding buildings for long-term planning purposes.
14. It is intended that the model for the sculpture will be ready for review by the committee in mid-June, 1977. At that time the three Alaskan members of the selection committee will meet with Murray in Juneau to review the plans and approve or disapprove the proposed sculpture.

ADDENDUM: Criterion outlined relative to the site and the selection process

1. The sculpture will be viewed from all sides and heights, including above and below.
2. If the sculpture is to be centered in the circular central space in the plaza a net diameter of 20' is possible.
3. Consideration needs to be given to the "gray" nature of the climate in Juneau. The material and finish would desirably be highly reflective or brightly colored.
4. There is a potential of strong winds from all directions which should be taken into consideration when considering large, flat surfaces.
5. The work of art to be commissioned is to be of national or regional significance. This was interpreted to the committee as meaning that the artist selected should have a demonstrated record of nationally or regionally recognized work as a contemporary sculptor.
6. The general vicinity of the plaza is "busy" visually with closely built structures of varying heights and colors. It was agreed that a "busy" sculpture would not be appropriate and this was kept in mind when reviewing artists.
7. A variety of philosophies about the proposed nature of the to-be-commissioned work were suggested including consideration of "strength" as descriptive of the Court System and accessibility to the community (especially the children of the community).

FILE WITH HERC —

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

P.O. BOX 1467
JUNEAU, ALASKA 99802

SOUTHEAST REGION

(907) 364-4360

February 22, 1984

Re: Nimbus

The Honorable Bill Ray
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Dear Senator Ray:

In response to your recent request on relocating Nimbus, the following is offered:

- The Department of Administration is the State agency with "ownership" of the Juneau Court and Office Building.
- The Department of Transportation & Public Facilities would be the agency charged with relocating the artwork if this project is funded by the legislature. We would of course, do the work for the Department of Administration (since they are the "owners") and would follow recommendation and guidance of the Alaska State Council on the Arts. Also, we would expect to have to obtain the approval of the agency responsible for the site of relocation.
- Our ball park cost estimate to relocate Nimbus in downtown Juneau is \$30,000 to \$70,000. This estimate includes a 40% contingency (+ or -) for unknowns, such as major site preparation work that might be required at a new location. If this range of costs is acceptable, we are prepared to refine the costs further.
- Consideration should be given to a replacement art piece. I would expect the Alaska Council on the Arts could provide guidance on this issue.

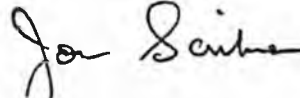
The Honorable Bill Ray

-2-

February 22, 1984

- I do not find any contractual obligations which would prevent the relocation of this art work.

Sincerely,



Jonathan W. Scribner
Deputy Commissioner

sh

cc: Christine D'Arcy, Executive Director
Alaska State Council on the Arts

Ray Gillespie, Legislative Assistant
Office of the Governor

Anselm Staack, Deputy Commissioner
Department of Administration

February 8, 1984

M E M O R A N D U M

TO: Arthur H. Snowden, II
Administrative Director
Alaska Court System

FROM: Karla Forsythe, General Counsel *KLF*
Alaska Court System

SUBJECT: Nimbus

You asked me to outline the court system's authority over Nimbus, in response to a request from Sen. Bill Ray.

I have reviewed documents provided to me by Gerry Dubie, Manager of Material Operations for the court system. Assuming that these documents accurately reconstruct the sculpture's acquisition, they show that the Alaska Court System has no ongoing responsibility for Nimbus. Questions about its relocation should be addressed to the Department of Transportation and Public Facilities.

The Alaska Court System does not own Nimbus

Under the terms of the contract commissioning Nimbus, Arts Alaska, Inc. originally held the copyright and owned the sculpture. [See attached copy of the contract.]

The issue of who should be considered the permanent owner of Nimbus was raised in a May 15, 1978, letter which you wrote to Roy Helms, Executive Director of the Alaska State Council on the Arts (ASCA). You stated:

Its ownership should be vested in the State of Alaska . . . the Court system is merely a tenant in that building. [See attached letter.]

Mr. Helms then asked Tom Main (Assistant Director, Department of Administration, General Supply and Services) who should own the sculpture. Mr. Main responded:

February 8, 1984
Nimbus

We agree with Mr. Snowden and you that the Murray Sculpture should be considered a permanent appurtenance to the Juneau Court and Office Building. [See attached copy of June 16, 1978, memorandum.]

Mr. Main noted that the Department of Transportation and Public Facilities is responsible for state-owned buildings.

The Board of Directors of Arts Alaska, Inc. transferred ownership of Nimbus in a June 28, 1978, letter to Donald Harris, Commissioner, Department of Transportation and Public Facilities, stating:

This letter is to transfer ownership of this work of art from Art: Alaska, Inc. to the State of Alaska. [Emphasis added, see attached copy.]

Statutes

The relevant Alaska statutes place the responsibility for decisions about Nimbus with the Department of Transportation and Public Facilities and not with the court system.

The provisions of AS 22.05.025, enacted in 1980 to give the supreme court authority over all matters relating to the operation of court facilities, clarify that the court system is not the owner. The statute defines court facility as "a state facility in which 75 per cent or more of the net usable space is occupied by the court system and other justice-related agencies." The most recent occupancy status report (copy attached) shows 6.35% of space in the Juneau Court Building allocated to the Department of Law, 2.12% to Public Safety, and 55.28% to the court system, for a total of 63.75 per cent occupied by the court and justice-related agencies.

Additionally, Nimbus does not fall under the court's authority because it is a public work of art and not a court facility. In 1975 the legislature enacted AS 35.27.-010 requiring works of arts in public buildings, including court buildings. The statute allocates a primary role to the Department of Transportation and Public Facilities, including approval of the artist by the department's architect (in this case Lou Cassetta). Although the documents provided to me do

not mention the department until the 1978 transfer of ownership, at the time the Juneau court and office building was under construction, DOTPF was the primary agency with authority to plan for a work of art, as well as the sole agency with authority to construct the building.

Court Involvement

In 1977 the court system contributed \$10,000 to Arts Alaska for a Juneau sculpture, with \$20,000 contributed from a National Endowment grant, and \$10,000 contributed by ASCA. The art in public places statute requires consultation with the principal user of the building, and Justice Boochever was one of six members of the selection committee. Along with Justice Connor and Judge Stewart, he met with the artist in January 1977 to discuss the proposal. At the artist's request, the court system authorized a minor redesign of the plaza to remove concrete benches from two sides of the site and to widen the approach ramp, at a cost of \$1300, and a minor reworking of the footings, both of which were absorbed in the appropriation for the project. After installation, the court system's involvement ended.

Recommendation

Neither the documents nor the relevant statutes point to an established procedure for relocating a public work of art. The contract between Arts Alaska, Inc. and the artist is also silent on this subject. However, Appendix A, Section O, provides that a program of regular maintenance will be planned that is acceptable to the artist.

Under AS 35.10.070, the Department of Transportation and Public Facilities is authorized to gather, investigate and compile information concerning the use, construction and maintenance of public works, and to make recommendations. Under AS 35.05.040, DOTPF is authorized to dispose of property rights, and to exercise any other powers necessary to carry out its duties under law. Since any formal action can be undertaken only by DOTPF, you might suggest that Sen. Ray consider requesting a DOTPF study of relocation alternatives and costs. At the same time, the department may wish to solicit an attorney general's opinion about whether a design modification at the artist's behest incorporates the physical setting in the artist's copyright, and if so, how this affects the prospects for relocation (issue raised in attached letter from Christine D'Arcy). The NEH grant and the 1974 legislative appropriation for a work of art in the plaza should also be reviewed.

Arts Alaska, Inc.

619 Warehouse Avenue • Suite 220
Anchorage, Alaska 99501 • (907)279-1558

SERVICE CONTRACT

This contract, effective as of the 23rd day of December, 1976, between Arts Alaska, Inc. (hereinafter called the "Corporation"), and Robert Murry (hereinafter called the "Artist").

WITNESSETH THAT: Whereas the Corporation is entering into this contract for professional services; and Whereas, the Corporation has the authority to enter into this contract by the approval of the Board of Directors of Arts Alaska, Inc.;

NOW THEREFORE, the parties hereto agree as follows:

Article I. The Services to be Performed.

The Artist is hereby commissioned to undertake and complete a metal sculpture for the Juneau courthouse plaza per the design to be submitted to the Alaska State Council on the Arts and reviewed by the judging panel. The work of art will be delivered and installed at the site at the expense of the Artist.

All materials used shall be selected, applied and treated in order to be reasonably protected against damage. Full instructions will be provided for the continued maintenance of the work of art.

The Artist will view the site of the planned space for the work of art at his own expense, prior to beginning the project.

The artist will be invited to participate in the unveiling ceremony. All

costs for such participation will be the responsibility of the Artist should he choose to participate.

Article II. The Period of Performance.

The period of performance under this contract shall commence on January 1, 1977, and expire on September 1, 1978. Performance may be extended for additional periods by the mutual written agreement of the parties.

Article III. Consideration.

In full consideration of the Artist's performance hereunder, the Corporation shall pay the Artist a total amount for the completed and accepted Work of Art of FORTY THOUSAND AND NO/100 DOLLARS (\$40,000), and not more.

From the above amount, the Artist shall arrange and pay, or otherwise provide for all services, supplies and equipment for services, labor, materials, travel, hotel and subsistence, transportation, storage, fees, rentals, insurances, taxes, and all other cost and expenses required to complete the Project to the satisfaction of the Corporation.

Payment on account of the Cost of the Project shall be made as follows:

\$4,000 at the signing of the contract.

\$16,000 when the proposal submitted by the Artist is approved by the selected panel.

\$16,000 when notified that the piece is fabricated and ready for shipment.

\$4,000 upon final installation and acceptance by the State of Alaska.

Article IV. Additional Contract Provisions.

Appendix A attached hereto and made a part hereof sets forth special

conditions for the project.

Appendix B attached hereto and made a part hereof sets forth additional general provisions of this contract.

Article V. Changes.

Appendix C attached hereto and made a part hereof, sets forth any changes or additions that were made in this contract prior to its execution. (If appendix C is not attached hereto, there have been no such changes or additions).

Article VI. Special and General Conditions for the Project.

All articles of the attached General Conditions for the project shall be part of this agreement as if written herein in full.

By signing, the Artist declares that he has read and is in accord with the agreement and the terms identified in the General Conditions. If countersigned, this contract shall serve as an instrument of agreement.

IN WITNESS WHEREOF, the parties have executed this contract.

ARTIST

By: Robert Murray

DATE: 18 Jan. 77

Permanent address of artist

First floor
66 Grand St.

New York, N.Y. 10013

Social Security # 092-42-3051

ARTS ALASKA, INC.

By: R. W. Hill
Executive Director

DATE: 12/23/76

APPENDIX A

Special Conditions for the Project

- A. The Artist will visit the project site to survey and evaluate its visual, environmental and background characteristics.
- B. After consideration of the desires, views and expectations of the selection committee a written outline description of the work-of-art as you envision it along with drawings and/or maquettes showing the intended form, shall be prepared and submitted with a site plan noting the proposed location of the sculpture.
- C. Site preparation specifications will be provided at such time as the proposal is accepted by the committee.
- D. The Selection Committee will review the proposal and recommend acceptance and/or modifications. Upon their acceptance the project will proceed as outlined. Should agreement not be accomplished this contract can be terminated by the Board of Directors of Arts Alaska, Inc. In such event the total compensation to the Artist will be the initial payment of \$4,000.
- E. The Artist is required to meet with the Selection Committee at the time of the review of the proposal. All expenses for travel and per diem related to this meeting will be paid by the Corporation or the Alaska State Court System.
- F. The Artist will obtain and pay, or otherwise provide for the services of professional consultants to assist in the preparation and documentation of data related to stress, climatic and organic damage, and firm and secure mounting.
- G. The Artist will provide all required facilities, equipment and labor to transport and to install the sculpture. After the installation all debris shall be removed from the site and all damage to the surrounding areas shall be repaired and rendered invisible.

APPENDIX B

General Conditions for the Project

- A. In the performance of the Project, the Artist shall be obligated to observe and conform to all applicable codes, ordinances, regulations, statutes and laws. *The Corporation will provide the Artist with copies of any such restrictive codes, etc.*
- B. Portions of the Project may be sublet by the Artist at his expense, subject to prior written approval by the Corporation. Approval shall not be unreasonably withheld. All work shall be undertaken by the Artist personally or under his personal supervision.
- C. The Work on the Project shall commence immediately after signing of the agreement by all parties concerned and shall be pursued with reasonable dispatch and without interruptions, except when caused by forces beyond the Artist's control. It shall be so organized as to assure completion of the Project on or before the date stated in the agreement.
- D. All payments on account of the Project shall be subject to the receipt of a signed request for payment from the Artist, certifying that the work under this agreement is progressing as planned and in accordance with the agreement.
- E. Final payment will be made only when the completed work of art has been accepted by the Corporation with the concurrence of the Project Selection Committee.
- F. Actual payment process may take up to two weeks before transmittal of payment to the Artist.
- G. The Corporation reserves the right to suspend at any time and for any reason for any given or indefinite time the services to be rendered under this agreement upon written notice to the Artist. *The Corporation will be responsible for storage charges incurred during such delay.*
- H. The work under this agreement may be terminated by either party, subject to a written notice submitted fourteen (14) days before termination, provided that attempts to reconcile the reason for cancellation have been undertaken but have failed. Upon termination, payment on account of the Project shall be made in proportion to the work completed, ~~provided the Artist will submit to the Corporation all work performed up to the effective date of cancellation in an orderly manner, and every effort will be considered for completing the work per the original design.~~
- I. The Corporation shall not be liable for payment for any additional services, unless such services and the cost thereof have been previously approved in writing. Any term of this agreement may be amended by a written Amendment to the Agreement, signed by both parties, subject to the authorization of the Board of Directors where required.

- J. All drawings, models or maquettes shall remain the Artist's property. The copyright in the Work of Art, however, belongs to the Corporation, and no more copies than are required in the Project may be made ~~or caused to be made by anyone without prior written approval from the Corporation.~~
ent Rbt
- K. All aspects of the Project shall be guaranteed by the Artist against faulty execution or defective or inferior materials, equipment or workmanship for one (1) calendar year after completion and acceptance of the Project by the Corporation, during which period the Work of Art shall be repaired, restored or replaced at the Artist's expense, *with the exception of the painted surface.*
ent Rbt
- L. It is understood that under the terms of the Contract, the Artist is an "Independent Contractor" who shall indemnify and save harmless the Corporation and the State of Alaska from and against any and all manner of actions, liabilities, and claims of any person arising out of or in connection with the performance of the services to be performed by the Artist under this Contract. Any work under this Agreement shall not be construed as employment with the State of Alaska or Arts Alaska, Inc. The Artist will be required to obtain and pay for his gross income license and be responsible for payment of income, social security, and other taxes.
- M. The artist shall not assign or transfer any interest in this Agreement without the prior written consent of the Corporation; provided, however, that claims for money due or to become due from The Corporation under this agreement may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the Corporation.
- N. In the event tht the Artist dies before the date fixed for completion or becomes permanently incapacitated and/or unable to complete the work on the Project, ~~the Corporation may within thirty (30) days after notice thereof, elect in writing to pay a proportionate share of the agreed price for work completed to the satisfaction of the Corporation, and acquire the unfinished work. This Agreement shall then be cancelled and the Corporation be entitled to the return of such part of the price above the proportionate share, as the Artist has already been paid.~~ *the heirs or executor will make every effort to complete the project per the original design.*
ent Rbt
- O. *A program of regular maintenance will be planned by the Corporation for the State of Alaska that is acceptable to the artist.*
ent Rbt

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any be made.

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pletion and acceptance of the Project by the Corporation,
during which period the Work of Art shall be repaired, restored
or replaced at the Artist's expense, with the exception of the
painted surface.

- L. It is understood that under the terms of the Contract, the Artist is an "Independent Contractor" who shall indemnify and save harmless the Corporation and the State of Alaska from and against any and all manner of actions, liabilities, and claims of any person arising out of or in connection with the performance of the services to be performed by the Artist under this Contract. Any work under this Agreement shall not be construed as employment with the State of Alaska or Arts Alaska, Inc. The Artist will be required to obtain and pay for his gross income license and be responsible for payment of income, social security, and other taxes.
- M. The artist shall not assign or transfer any interest in this Agreement without the prior written consent of the Corporation; provided, however, that claims for money due or to become due from the Corporation under this agreement may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the Corporation.
- N. In the event that the Artist dies before the date fixed for completion or becomes permanently incapacitated and/or unable to complete the work on the Project, the heirs or executors will make every effort to complete the project per the original design.
- O. A program of regular maintenance will be planned by the Corporation for the State of Alaska that is acceptable to the Artist.

CORRECTION

CORRECTION

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- K. All aspects of the Project shall be guaranteed by the Artist against faulty execution or defective or inferior materials, equipment or workmanship for one (1) calendar year after completion and acceptance of the Project by the Corporation, during which period the Work of Art shall be repaired, restored or replaced at the Artist's expense, with the exception of the painted surface.
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- O. A program of regular maintenance will be planned by the Corporation for the State of Alaska that is acceptable to the Artist.



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MAY 1 1978

STATE ARTS COUNCIL

Alaska Court System

State of Alaska

303 "K" STREET
ANCHORAGE, ALASKA
99501

ARTHUR H. SNOWDEN II
ADMINISTRATIVE DIRECTOR

(907) 274-8611

May 15, 1978

Mr. Roy H. Helms
Executive Director
Alaska State Council on the Arts
619 Warehouse Avenue, Suite 220
Anchorage, AK 99501

Dear Mr. Helms:

This is in response to your recent letter (received in this office on May 5) discussing ownership of the four fibre wallhangings in Juneau and the Murray sculpture.

I agree with your position that the fibre wallhangings are owned by the Alaska State Council on the Arts for placement in the Alaska Contemporary Art Bank for permanent loan to the Alaska Court System. You should, therefore, proceed to tag and identify these pieces.

I disagree with your understanding that the Murray sculpture is to be the property of the Alaska Court System. The Court System, like the Alaska State Council on the Arts, contributed money toward the creation of this art form. Its ownership should be vested in the State of Alaska. Whether it would be most appropriately placed in the Contemporary Art Bank or the Department of Administration is inconsequential to me. My preference would, of course, be the Contemporary Art Bank. If this approach is not taken, however, the next best placement would be the Department of Administration, which is the owner of the Juneau Court and Office Building. The Court System is merely a tenant in that building.

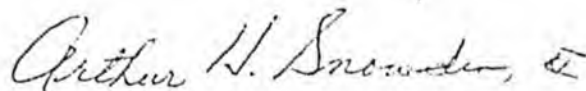
I would imagine that this type of question will be raised many times in the future because of the Arts in Public Places law. Therefore, a solution should be provided as a guideline for all future art works.

I would be most happy to assist you in the ultimate resolution of this question.

Mr. Roy H. Helms - 2
May 15, 1978

In closing, let me assure you we will continue to assist the Council and the Executive Branch through our staff help, toward the success of the State's sculpture project.

Sincerely yours,



Arthur H. Snowden, II
Administrative Director

AHS/bd

cc: Chief Justice Boochever
Susan Burke
Rick Barrier
Jim Babb

The Red Dog mine once operating will bring the regions valuation to a point where a sufficient tax base will exist for borough formation.

What State controls and oversight are contained in HB 377?

1. Authority Formation has to be approved by the Governor.
2. Three of the eight members of the Authority Board of Governors will be selected by the Governor from his cabinet.
3. Any bond sale must have advance approval of the State Bond Committee (the Commissioners of Commerce, Revenue, and Administration).
4. Financial records of the Authority are subject to audit by the Legislative Auditor; records must be established and maintained in a manner approved by the Legislative Auditor.