

ALASKA LEGISLATURE COMMITTEE FILES 1983-1984

2962

HSA

HB 374

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HB 430

2962

however, the increase was not seen to be exorbitant. They further agreed that these expenses were well worth the accrued advantages.²

The California Department of Corrections also addressed this issue.³ In part they concluded despite the apparent administrative and financial benefits associated with larger institution size, smaller institutions than size 400 may be preferable when the cost and administrative problems associated with the increased tension, hostility, and likelihood of violence associated with larger size are assessed.

The North Carolina system in particular has adopted the smaller unit, decentralized model. There are 81 different facilities to house a current population of 17,200 inmates. The general philosophy shared by Stuart Shadbolt was "smaller the better." Their new max unit dedicated this year houses 350. This system then follows the stance of John Conrad advocating the replacement of larger units with a network of smaller, more humane units.⁴

Advantages of Two Small Units

o Management Flexibility -- As stated by Roger Endell, Director, Division of Corrections, an intrinsic problem in the construction of any institutional space, and particularly those that

²Personal Communication, April, 1983.

³Moyer, F.D., "Some Essentials of Facility Planning," 1978, California Department of Corrections, Sacramento, Ca. 95814.

⁴John Conrad, "Which Way To The Revolution," in Should We Build More Prisons?, (National Council on Crime and Delinquency, 1977).

have substantial security specifications, is that its construction generally commits the State to a fixed kind of space limited in function. Should Alaska's correctional needs change in the future its ability to adapt will be shaped by the kind of space that has already been constructed.⁵ The construction of two units would allay this commitment. For example, suppose the State's max needs halved over a period of time, one unit could be more easily converted to serve some other purpose.

- o Transfer of Inmates -- An undesirable possibility in corrections is the formation of cliques and organizations among the inmate population for purposes of disruption. The most efficacious action by management is transferring key inmates, preferably to a different unit. This, obviously, can only be accomplished if there is another unit available.

- o Control of the Institution -- From administrators contacted there was unanimous agreement that the smaller the institution the easier it is to control the inmate population, even where the same staff to inmate ratio existed. The main reason was due to the ability of staff to establish rapport with the inmates and diffuse quickly and efficiently potentially dangerous situations. In larger institutions the mere number of interactions which occur tends to inhibit this important function.

⁵Adult Corrections In Alaska, p. 41.

o Smaller Prisons Are More Humane and Safer For Staff and Community -- Conrad sees prisons as inevitable in modern society, but advocates they need not be inhumane, dehumanizing, brutal holding tanks for inmates. Rather, the solution lies in designing and building smaller institutions that would reduce the inhumanity that breeds in the larger institutions. Conrad argues that continued use of brutal maximum security prisons not only affects the inmates, but degrades all of society. This argument is supported in a study which established the inmate's perception of density was directly related to rate of assaultive behaviors by inmates on other inmates and staff. It is likely that perception of density is directly related to the size of the institution.

As Roger Endell noted, other states have found that the larger the facility the higher the incidence of prison violence. He further attributed the relative absence of violence in Alaska's prisons to its small prison capacities. Dana Fabe, head of the Public Defenders in Alaska, also concurs and stresses the need to establish several small maximum security facilities. "Ms. Fabe believes that this approach would also strengthen the Division's ability to separate dissimilar groups of maximum security prisoners; e.g., sex offenders could be housed apart from other classes of prisoners."

o Other Institutional Advantages -- In an interview with many of the staff at the Fairbanks Office of Adult Probation and parole, several additional advantages were cited. Staff and inmate attitudes would be much more positive in smaller prisons. The reasons given for positive inmate attitudes was that in smaller prisons the inmate retains his sense of individuality as opposed to simply being a nameless face and number among many. As for positive staff attitudes these would occur because of the ability among small staffs to "get to know each other" and form supportive relationships. Higher levels of face-to-face communication would also reduce the possibility of inmate manipulation of one staff member against another.

EXECUTIVE SUMMARY
FOR THE LEGISLATURE

The Anderson Case
for a
Maximum Security Prison
April 26, 1983

We'd like to be taken seriously.

Now that the attention-getting phase of our program has concluded, we'd like to firmly establish our position on maximum security prisons by briefly re-stating it:

1. The Legislature should decide on the location of any correctional facility such as this one. The impacts on a community are enormous and of long-term economic and social importance. It is the kind of decision that determines which part of the State will or will not grow. This is the kind of decision Legislatures should be making. Legislatures prevail, over time. Commissioners come and go, and policies with them. It is obvious that you and your colleagues must make this decision. It is just as obvious that the management decisions belong to the professionals.

2. It is decision time. Information we have developed during our research tells us that the State of Alaska is at peril if a decision is not reached during this Session of the Thirteenth! We have mentioned this to no one up to now, but, we'll appreciate being able to fill you in during the coming week. Please let us have a couple of minutes to do so. Thank you.

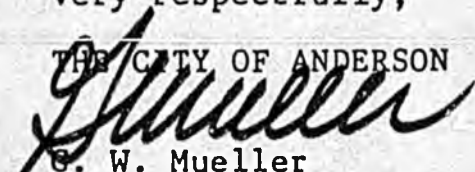
3. Two small prisons, not one large one. Our research among Alaska prison managers, those in the Lesser-48, and throughout the professional literature support the validity of this concept, and it may actually cost less to operate two smaller, than one large. Costs to construct two will be only about 22% more than to build the single larger unit, we have been told by prison architects.

4. Palmer and Anderson are appropriate locations to serve the north and south of the State since about 46% of all inmates resided in the Greater Anchorage area and about 41% came from Fairbanks and the Bush before their placement in institutions.

5. And finally, Anderson has the same kind of locational advantages as any other site, except one--and that's where we have it all over everybody--our citizens voted for it in a legal Referendum. To this time, no other city has done that!

Very respectfully,

THE CITY OF ANDERSON



G. W. Mueller
Mayor

White Paper

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A Consideration
For Location of
Maximum Security
Prison
In
Anderson

CONSIDERATIONS ABOUT ANDERSON AND MAXIMUM SECURITY PRISONS

- o Purpose of maximum facilities is LESS REHABILITATION AND MORE WAREHOUSING. Lessens the necessity to establish facilities in urban, or near urban, areas.
- o Availability of the Anderson Site for VISITATION is enhanced by the TRAIN STOP and HIGHWAY connecting Alaska's two largest cities.
- o There is no other prison system in Anderson. The modern trend is to keep prison facilities: less than 500 bed capacity, and GEOGRAPHICALLY SEPARATE, so as NOT TO CREATE A "PRISON MEGALOPOLIS." This latter characteristic allows for 1) distribution of the economic advantages and 2) the flexibility for prison management to have access to a variety of resources from the land and the community.
- o Anderson is in the middle of a growth/development corridor of Alaska. Remembering that given the prison facility will last many generations to come the Anderson site makes an excellent choice given the emerging DEVELOPMENT PATTERNS ALONG THE RAIL-BELT.
- o The facility, if a 400 bed one as currently proposed, will employ between 175 and 250 persons. The City of Anderson looks forward to the advantages new citizens afford and to the opportunity for current and future citizens to obtain correctional employment.
- o With OVERWHELMING COMMUNITY SUPPORT any deficit Anderson may have will be overcome or lessened. No matter where a site is located, there will be positive and negative factors to be dealt with. It is emphasized that where Anderson differs is the community spirit so necessary for what successes prisons can achieve.
- o IN SUMMARY, Prisons need four things to operate: a physical facility, personnel to staff and administer, offenders to be located there, and supplies. Anderson can provide a location whereby the state can satisfy these needs efficiently, economically, and continually.

COMMUNITY SUPPORT

- o Referendum on March 29, 1983 supported prison by 2-to-1.
- o 61% voter turnout
- o Five public meetings informed citizens
- o Reasons Anderson wants prison are community expansion and employment opportunities in future generations.

LAND AVAILABILITY

- o Multiple sites for selection
- o Sites are available by State Land Selection Process from Cook Inlet Region, Incorporated; or, Federal Lands

ELEMENTS OF PHYSICAL ENVIRONMENT

- o Water - pure, unlimited, and without fee via prison's own wells and distribution facilities.
- o Sewage - Cost saving from construction/operation of on-site treatment system.
- o Power - Optional excess power available from Clear AFB or, Golden Valley Electric Association and potential Anchorage-Fairbanks intertie.
- o Heating - Coal from Usibelli Mines 50 miles away, and/or fuel from North Pole Refinery 100 miles away.
- o Transportation available by highway, rail, and air.

ELEMENTS OF HUMAN ENVIRONMENT

- o Recreational areas and activities plentiful in Anderson area.
- o Modern elementary and high school expandable to accommodate increased student body.
- o Medical facilities currently 80 miles north in Fairbanks via highway, but, with increased population expect Anderson facility.
- o Fire protection supported by Anderson and Clear AFB.
- o The prison will attract quality personnel to work there and live in Anderson. Precedent in support is Clear AFB personnel educational level and technical skill level in Anderson for 20+ years. AFB also offers supply of potential quality employees from those retired or wishing a job change.

White Paper

+ + + + +

A Consideration For Location of Maximum Security Prison In Anderson

MODERN
PRISONS
DESCRIBED

1. In modern penal systems the purpose of maximum security units has changed little since the inception of the first prison in our nation. The purpose is simply to provide for the safe keeping of those individual offenders who have shown themselves incapable of co-existing with others, or are deemed a danger to themselves or others, or are in danger from others.

Less
Rehabilitation

Individuals are assigned to maximum units via a thorough process called classification and end up "max-rated" only as a last resort. Given these considerations, experts argue that "max units" are simply warehousing units, with less emphasis on rehabilitation.

Rehabilitation is attempted in minimum or medium security units -- an assignment available to max inmates through re-classification. Thus

FOR SITE SELECTION OF A MAXIMUM SECURITY UNIT
THE AVAILABILITY OF REHABILITATION SERVICES
SHOULD NOT BE A MAJOR FACTOR OF CONSIDERATION.

EASY
TRAVEL

2. An Anderson site would be ideal for friends and relatives wishing to visit inmates because of its accessibility by highway and rail. The train is a particularly good bet for families not having access to automobile transportation and during most of the year the frequency of the local runs is such that persons visiting the prison could make convenient connections. Additionally, for persons visiting from Fairbanks, Anderson is a short, scenic drive.

NO PLACE
PERFECT

3. With the numerous points to consider, no matter which site the State selects, all points will not be positive relative to other sites. For example, one might argue that Haines would have been more positively effected economically than a Palmer area site, but Palmer is nearest the largest city. Anderson may have transportation and utility advantages over Palmer. Given that no one site will score relatively higher than other sites on all points, what becomes important is how to handle the deficits and then the community becomes an indispensable part of site consideration.

Positive
Community
Attitude

A positive community outlook supports the goals of the prison in many direct and subtle ways. For example, a positive community attitude attracts, in part, quality personnel to staff the prison; assists those families moving to the area because a friend or relative is incarcerated and thus eliminates worry on part of the inmate; works with the prison administration to provide for staff housing, supplies, and emergency labor needs thus resulting in an efficient institution with a high morale.

ANDERSON IS A CITY WHICH HAS PUBLICLY ANNOUNCED, ON THE BASIS OF INFORMED DECISION MAKING, THAT IT WILLINGLY ACCEPTS THE COMMUNITY RESPONSIBILITY.

LONG
USEFUL
LIFE

4. Prisons last for many years, a conservative estimate being a useful life of between 60 to 90 years. A good many prisons operating today are "centenarians". Thus when considering a site, the future of the area must be carefully taken into account. Any points negative with respect to Anderson should be assessed with the question, "What will the Anderson area be like 5, 10, 20, 50 years from now?" The current projections are that Anderson will be part of a rapidly developing area along the rail belt which could make it a center point of population in the next 20 years. This, accompanied by projected increases in transportation facilities demotes any current concerns about "out-of-the-wayness" to only temporal concerns at best.

MAJOR
PRISON
PROBLEMS

5. Many of the major problems in prisons today are in part related to their mere magnitude in terms of numbers of persons locked up under one roof. Recent national recommendations stress the importance of keeping newly constructed units less than 500 bed capacity, and the physical separation of units. In other words, the recommendations could be interpreted as "do not build a prison megalopolis" be it under one roof or by building multiple adjacent structures. Separation of facilities, geographically, has several advantages.

Physical
Separation

First from the standpoint of the state the economic advantages are spread as well as any disadvantages which communities might accrue. For example, suppose the presence of a facility attracts inmate families which have children who in turn have learning problems, behavior problems in school, and relatively high delinquency rates. Why concentrate these traits versus spreading them out and subject them to strong positive community influence (like Anderson can provide)?

Other
Advantages

Second building a facility geographically separate from other current institutions makes good sense from a management point of view. Take the hopefully unlikely and extreme case of a major earthquake in the vicinity of a prison creating the need for evacuation. Would it not be better to evacuate only one facility than several too closely juxtaposed? Further, physical separation enhances identification by staff with "their" facility and increases pride, morale, and dedication as opposed to "working in a large network of prisons." Management also has a variety of land and community resources, the variety offering the opportunity to install new programs and ideas which may not be acceptable in just any one location. These are only a few of the reasons not to build prisons in the same geographical locale.


Gary Copus, Ph.D

INTRODUCTION TO ANDERSON

Anderson, Alaska thinks it would be a good place for a Maximum Security Prison--But only a Maximum Security Prison! The people of Anderson are pretty outspoken on that point. They have talked it over.

You say you've never heard of Anderson-- and haven't the foggiest notion of where it is?

Touche!

No convention mecca, is Anderson. It is not on the tourist highways and by-ways or the slick travel maps. But, it is well connected--very well connected, to an all-weather highway, an airport and ocean-going barges via the Alaska Railroad, right in the middle of nowhere! Between Anchorage and Fairbanks.

Now you've heard of Anderson! a town of 550 people which comes of age on its 21st birthday in June.

The reasons for putting forth Anderson's name stem from a package of advantages no where else available in quite the same magnitude or combination, as they are available in Anderson.

..... READ ON!

COMMUNITY SUPPORT

The City of Anderson has made a pointed and energetic effort to inform the citizens of all aspects, both negative and positive, of having a maximum security prison within close proximity of the town. The idea was first publicly presented on February 8 at a City Council meeting where the decision was made to continue by informing the public and assessing the general opinion. During further public hearings and Town Hall meetings occurring on February 17, 18, 25, 26, and March 18, 26 it is estimated that over 60% of all citizens in Anderson were personally involved in acquiring knowledge and asking questions. Undoubtedly, 100% became informed through informal discussion.

During the meetings, material used to guide informative discussion was used from the American Correctional Association, The Federal Bureau of Prisons and the Criminal Justice Institute at Hemlock Hill, New York. In addition, at the March 18th Town Hall meeting, professionals in the correctional area were invited to address the citizenry. Invited and accepting were Captains Douglas Nowak and Lawrence Jackson of the U.S. Air Force, and Dr. Gary Copus.

Dr. Copus, with academic and practical expertise in community impact by prisons, was very careful to point out what to some communities might be undesirable impacts. No area was left unexamined and the result was--

BASED ON SOUND AND TOTAL INFORMATION THE CITIZENS OF ANDERSON VOTED ON MARCH 29TH TO DIRECT THE CITY COUNCIL TO PURSUE WITH VIGOR THE ATTRACTION OF THE MAXIMUM SECURITY PRISON TO ANDERSON.

The resulting 2-to-1 vote was based on 61% of the registered voters. Voting was done in an official manner in all precincts, locked ballot boxes and election judges. Noteworthy is that the prison issue was the only item on the ballot so that the largest turnout in Anderson's voting history was due to the community interest which was overwhelmingly positive.

An informal assessment was made as to the reasons the community obviously wanted a maximum security prison.

First the community sees the prison as an employment opportunity for its future generations. Correctional employment was seen as not only an opportunity for young adults to have the alternative of remaining in Anderson as productive citizens, but the community also recognized modern corrections as providing a desirable career opportunity. Present employment was of lesser concern. Anderson is not currently impacted by any economic crisis which might sway a community's opinion to be only temporally positive. Anderson is in a reasonably good economic and employment status.

Second the community saw many positive aspects of development and growth. Among those mentioned were cultural and social growth, economic growth through curricula expansion and attraction of additional qualified teachers, and the establishment of social and health services. The community looks at the prison as offering a challenge to develop and manage a "new Anderson."

ECONOMIC ADVANTAGES
OF ANDERSON

The economical advantages of an Anderson site could vastly outweigh those of many other potential sites if life cycle economics is considered.

Life cycle economics center upon options available for essential operating utilities, such as:

heating/air conditioning
electric power
water
sewage treatment
transportation

HEATING Healy coal, transported by the Alaska Railroad, powers the generators and boilers at the Anderson-located Clear Air Force Station. Three Anderson sites are located immediately adjacent to the Alaska Railroad. Options for heating and power generation include both coal and/or diesel transported by the Alaska Railroad :

- o Coal: Usibelli Mines, Inc.
Healy, Alaska
50 miles South
- o Diesel: North Pole Refinery Co.
North Pole, Alaska
100 miles North

ELECTRIC POWER An option available only at an Anderson site includes the potential of purchasing the stable excess power generated at Clear Air Force Station, as many other Alaskan communities do from nearby U.S. Government facilities. The City of Anderson itself purchases power from the Golden Valley Electric Association, soon to be served by the Anchorage-Fairbanks Power Intertie, providing still another option for sub-station service at about the same time the Maximum Security Prison is expected to be operational.

WATER Anderson does not offer city-treated or supplied water to the Clear Air Force Station which consumes in excess of One Hundred Fifty Million Gallons per Month, or to the 117

domestic users inside the Municipality. The prison facility would drill its own wells and provide its own water from the uniquely-abundant natural supply of superior quality potable water available in Anderson--one of its priceless natural resources. Thus the prison would not now, or later, be in the position of having to purchase water supplies from a Municipality. And, the water in Anderson is hygienically pure without treatment. The prison would, of course, have established water rights, thereby protecting its call upon the natural resource forever.

A comprehensive water study, funded by the Alaska State Legislature, was completed on February 7, 1983 by URS Engineers, an internationally-connected firm of engineers and scientists with an Anchorage operations base. The final Draft Report, accepted by the Anderson City Council on February 15, 1983, found the water to be not only pure, but plentiful for domestic needs for generations into the future in the built-up residential area, and, of unlimited industrial supply nearly everywhere else in the Municipality.

In further testimony of the purity and abundance of water for large-demand-users such as the prison might be considered, the State-owned/operated Clear Fish Hatchery draws water from its complex of wells directly into its propagation system, using 60 million gallons per month. Brewing and soft drink industries are looking at Anderson not only because of its abundance of pure water, but also because of its logistical advantages.

SEWAGE TREATMENT Another cost saving advantage of an Anderson site is that the prison would construct and operate its own small, self-contained treatment system, just as does the Clear Air Force Station for its 500+ military and civilian personnel forces. The State may wish to acquire slightly more than the proposed 100-acre-reservation for these purposes. Everywhere at all Anderson sites, land is available to the State for its purposes and needs.

TRANSPORTATION The advantages of prisoner transfer transportation has been earlier addressed. In this section, logistical transportation is discussed.

The locational advantage of an inter-modal transportation network must not be under-estimated, either for the construction phase or the ultimate operational life of the prison.

Construction materials can be boarded on rail cars at any point in the Lower-48 or the Orient and off-loaded near any of the potential Anderson sites. This same transportation system will greatly reduce costs of consumable supplies for the operation phases through use of the rail-barge-rail-truck-road inter-modal matrix available only at Anderson, while utilizing the state-owned Alaska Railroad utility. The air link to Anderson sites has been prior addressed.

CULTURAL-SOCIAL-RECREATIONAL
ADVANTAGES OF ANDERSON

Since Anderson is just 90 minutes driving time from the main campus of the University of Alaska/Fairbanks, and the university's Nenana Valley Rural Education Center presents credit-courses at Anderson and throughout the region, opportunities to take or teach graduate and under-graduate courses are readily available, as are symphony, drama, music and art, sports and popular music. The Fairbanks Regional Medical Center is only 30 air minutes from Anderson and provides a wide range of modern medical procedures.

In Anderson itself, there is an opportunity to participate in social and fraternal clubs and organizations as well as sports and educational activities. Anderson's new and modern elementary and High School can absorb a hundred or more students with only the addition of a few staff positions. By adding new rooms to the architecturally expandable complex, up to 250 additional students could be responsibly accommodated.

A new gun club and indoor shooting range will be completed next year in Anderson and, cross-country ski, snowmachine and ATV trails criss-cross the area and sport fishing and hunting are very nearby. Youth and large all-family parks are popular and in use. All roads and water removal ditching will have been completed prior to commencement of major construction.

Anderson is a Second Class City with an experienced, stable government and Council. There is no property tax. Except for educators and government employees, most adults work at Anderson's Clear Air Force Station as technical or management personnel. While Anderson has obvious employment stability, second and eventually third generation citizens face chronic unemployment and welcome the opportunity to train and to qualify for positions at the prison, now, and into its future life cycle.

LAND AVAILABILITY
IN ANDERSON

Anderson is surrounded on both sides by land available to the State through the State land selection process. Most specifically, from removal from the Cook Inlet Region, Incorporated selection pool, or from other federally owned land from which it may select. The State itself owns land which should be considered, and will soon receive numerous Sections of land in Township 7 South, Range 7 West, F.M. which affords a number of site potentials. The City of Anderson recommend sites in Sections 15, 14, 10, 11 of T7S, R7W FM be studied; then, section 8 or 4 of T7S, R7W FM; finally sections 13, 23, 26, 27 and 34 T7S, R7W FM.

MEMO

To: Senator J. Josephson

From: Gary D. Copus, City Of Anderson

Re.: Cost Differentials of Two-Prison Model

Per your request in HESS Committee, I am providing information on initial construction costs between one 400 bed facility vs. two 200 bed facilities.

Source: Mr. James Austin, National Council on Crime and Delinquency, contacted several architects experienced in prison construction. Based on lack of design decisions total \$ amounts were not developed, but, for any design it was estimated the % difference will be 22%.

Implications: Assume that cost for a 400 bed unit is \$100,000/bed or \$40,000,000. The two facility differential would be $22\% \times \$40,000,000 = \underline{\$8.8 \text{ million difference}}$.

POSITION PAPER

House Bill No. 374

"An Act relating to the establishment of maximum security prison facilities at Anderson and Palmer/Sutton."

House Bill No. 374 modifies AS 33.30.020 by making that section subject to the provisions of AS 33.30.025 which is entitled Location of Facilities. AS 33.30.025 requires that after July 1, 1983, the Commissioner shall locate all newly constructed maximum security prison facilities that contain 200 or more beds within the vicinity of Anderson and Palmer/Sutton.

The Department of Health and Social Services and the Division of Adult Corrections totally opposes the concept of predetermined building sites for prison facilities. It is imperative that such decisions be made by professional correctional practitioners and based on sound criminal justice criteria for site location to ensure that the prison facilities meet standards for programming, security, and safety.

Recommended by: *Roger V. Endell*
Roger V. Endell, Director
Division of Adult Corrections

Date: 4/21/83

Approved by: *Robert London Smith*
Robert London Smith, Ph.D.
Commissioner

Date: 4/26/83

STATE OF ALASKA
FISCAL NOTE

Revision Date , 1983

I. REQUEST

Bill/Resolution No.: House Bill No. 374
Title: Act relating to estab. of max pris fac
Sponsor: Shultz
Requestor: House State Affairs

II. FISCAL DETAIL

Agency Affected: Health & Social Services
Program Category Affected: Adm. of Just.
BRU, Program of Subprogram(s) Affected:
Adult Confinement

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

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

Not applicable.

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Roger C. Lange *Roger C. Lange* Phone: 465-3376
Division: Adult Corrections Date: April 21, 1983

Approved by Commissioner: *Robert Gordon Smith* Date: 4/26/83
Department Health & Social Services

Distribution:

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

3/8/83

IV. ANALYSIS

No specific additional costs can be identified related to the requirement to locate all newly constructed maximum security prison facilities within the vicinity of Anderson and Palmer/Sutton.



CITY OF ANDERSON

P.O. Box 40011 • Clear, Alaska 99704 • Phone (907) 832-5566

In Reply
Refer To:
April 12, 1983
LEG 100

RECEIVED
APR 13 1983

Honorable Mitch Abood
THE STATE CAPITOL
Pouch "V" (MS 3100)
Juneau, Alaska 99811

Dear Representative Abood:

When Mayor Gerald W. Mueller and I visited Juneau last week, we missed getting in to see you, and we are very sorry that had to happen.

We stressed to the 20-some Legislators we did see, that Anderson desires to be considered a serious potential location for Alaska's soon-to-be-built maximum security prison.

In a few days we will provide you and your staff with a White Paper and supporting documentation outlining our position. Until that time we would like you to have the basic information your colleague Legislators now have.

In this letter we re-emphasize three themes of great importance in our program:

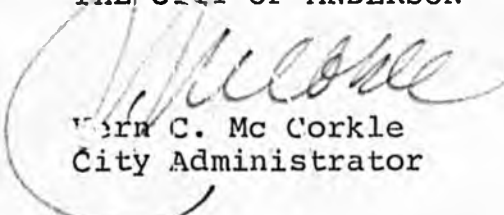
- (1) Anderson is the only City among those expressing interest, to conduct a bona fide Voter Referendum on the prison question. That Referendum had a 61% voter turn-out and was 2-to-1 in favor of an Anderson location.
- (2) We contend that the costs to construct and operate, including costs of transportation and services for inmates, must be viewed in terms of life cycle economics - the 60-to-100 year expected life of the prison. Anderson is in a growth corridor and 50 years from today will prove to have been a very wise decision.

- (3) Only Anderson offers a rare combination of economic factors which must be seriously considered:
- o Alaska Railroad adjacency;
 - o Availability of North Pole diesel/heating oil, or Healy coal via the Alaska Railway;
 - o Abundant land at no cost to the State if selected or traded with the Cook Inlet Regional Corporation;
 - o Water service and sewage treatment on-site which dramatically reduces cost compared to municipally-furnished services.

We will provide the continuing information we have promised, but, if you or your staff require additional information, please call the above number, or my home telephone, below listed.

Very truly yours,

THE CITY OF ANDERSON



Vern C. Mc Corkle
City Administrator

VCM/ww
832-5810, residence

Attachment: News Item

ALASKA

Anderson ready for tou

By DAVID RAMSEUR
News-Miner Bureau

JUNEAU—City Manager Vern McCorkle likens it to David and Goliath. Others say it's more like the impossible dream.

The tiny town of Anderson, about 75 miles south of Fairbanks on the Parks Highway, has tossed its hat in the ring for a new maximum security state prison.

Even though state officials have all but narrowed the prison site to two other locations, Anderson is not giving up. In fact, Anderson officials say they've just now begun to fight.

"It's definately uphill," city Manager McCorkle admitted Wednesday between appointments with legislators. "We just know it's not going to be an easy fight."

He and Mayor Gerald Mueller are here for the week trying to convince enough lawmakers that their community of 550 is the best spot to house 300 hardened criminals.

"Our position is it's all well and good for the president of the Senate to want the prison in his backyard but we'd like equal consideration," McCorkle said.

Politicizing the issue with state-

ments like that is part strategy. City officials counting noses in case the prison site falls to the

They hope to rec chairmen of the power nance Committee and appear to stand a good Don Bennett is from banks and Sen. John Sa resented Anderson.

But state officials l ideas. Three areas—S and the Matanuska-S probably Sutton—are s ning for the prison est

Alaska State Legislature

COMMITTEES

Co-Chairman — House Resources
Committee
Chairman — REAA Budget Oversight
Committee
Member — House State Affairs
DOT — Finance Sub Committee



House of Representatives

While in Session:

Pouch V
State Capitol
Juneau, Alaska 99811
Phone (907) 465-4851
465-4940

Home - P.O. Box 355
Delta Junction, Alaska 99737

Dick Shultz

RECEIVED
APR 14 1983

I would appreciate your appraisal of this report.

It concerns the proposed location of the maximum prison in Anderson.

Thank you...


Dick Shultz

White Paper

+ + + + +

A Consideration
For Location of
Maximum Security
Prison
In
Anderson

Developed In Cooperation With
GARY COPUS, Ph.D
Criminal Justice Division
University of Alaska
Fairbanks

Credentials Brief

GARY COPUS, PH.D

Currently serving the Thirteenth Alaska Legislature as a consultant in Corrections, Dr. Copus has also assisted the Mayor and Council of the City of Anderson in determining its viability for siting a Maximum Security Prison.

He received his Doctorate in Sociology at the University of Missouri-Columbia.

From 1970 until 1979, he was instructor in Criminal Justice in the graduate school at Sam Houston University, Huntsville, Texas.

From 1980 to the present he served in the Criminal Justice program in which he has published and lectured in all areas of corrections and its alternates.

We are very proud to have the assistance of Dr. Copus in developing our position.

White Paper

+ + + + +

A Consideration
For Location of
Maximum Security
Prison
In
Anderson

CONSIDERATIONS ABOUT ANDERSON AND MAXIMUM SECURITY PRISONS

- o Purpose of maximum facilities is LESS REHABILITATION AND MORE WAREHOUSING. Lessens the necessity to establish facilities in urban, or near urban, areas.
- o Availability of the Anderson Site for VISITATION is enhanced by the TRAIN STOP and HIGHWAY connecting Alaska's two largest cities.
- o There is no other prison system in Anderson. The modern trend is to keep prison facilities: less than 500 bed capacity, and GEOGRAPHICALLY SEPARATE, so as NOT TO CREATE A "PRISON MEGALOPOLIS." This latter characteristic allows for 1) distribution of the economic advantages and 2) the flexibility for prison management to have access to a variety of resources from the land and the community.
- o Anderson is in the middle of a growth/development corridor of Alaska. Remembering that given the prison facility will last many generations to come the Anderson site makes an excellent choice given the emerging DEVELOPMENT PATTERNS ALONG THE RAIL-BELT.
- o The facility, if a 400 bed one as currently proposed, will employ between 175 and 250 persons. The City of Anderson looks forward to the advantages new citizens afford and to the opportunity for current and future citizens to obtain correctional employment.
- o With OVERWHELMING COMMUNITY SUPPORT any deficit Anderson may have will be overcome or lessened. No matter where a site is located, there will be positive and negative factors to be dealt with. It is emphasized that where Anderson differs is the community spirit so necessary for what successes prisons can achieve.
- o IN SUMMARY, Prisons need four things to operate: a physical facility, personnel to staff and administer, offenders to be located there, and supplies. Anderson can provide a location whereby the state can satisfy these needs efficiently, economically, and continually.

COMMUNITY SUPPORT

- o Referendum on February 29, 1983 supported prison by 2-to-1.
- o 61% voter turnout
- o Five public meetings informed citizens
- o Reasons Anderson wants prison are community expansion and employment opportunities in future generations.

LAND AVAILABILITY

- o Multiple sites for selection
- o Sites are available by State Land Selection Process from Cook Inlet Region, Incorporated; or, Federal Lands

ELEMENTS OF PHYSICAL ENVIRONMENT

- o Water - pure, unlimited, and without fee via prison's own wells and distribution facilities.
- o Sewage - Cost saving from construction/operation of on-site treatment system.
- o Power - Optional excess power available from Clear AFB or, Golden Valley Electric Association and potential Anchorage-Fairbanks intertie.
- o Heating - Coal from Usibelli Mines 50 miles away, and/or fuel from North Pole Refinery 100 miles away.
- o Transportation available by highway, rail, and air.

ELEMENTS OF HUMAN ENVIRONMENT

- o Recreational areas and activities plentiful in Anderson area.
- o Modern elementary and high school expandable to accommodate increased student body.
- o Medical facilities currently 80 miles north in Fairbanks via highway, but, with increased population expect Anderson facility.
- o Fire protection supported by Anderson and Clear AFB.
- o The prison will attract quality personnel to work there and live in Anderson. Precedent in support is Clear AFB personnel educational level and technical skill level in Anderson for 20+ years. AFB also offers supply of potential quality employees from those retired or wishing a job change.

White Paper

+ + + + +

A Consideration
For Location of
Maximum Security
Prison
In
Anderson

MODERN
PRISONS
DESCRIBED;

1. In modern penal systems the purpose of maximum security units has changed little since the inception of the first prison in our nation. The purpose is simply to provide for the safe keeping of those individual offenders who have shown themselves incapable of co-existing with others, or are deemed a danger to themselves or others, or are in danger from others.

Less
Rehabilitation

Individuals are assigned to maximum units via a thorough process called classification and end up "max-rated" only as a last resort. Given these considerations, experts argue that "max units" are simply warehousing units, with less emphasis on rehabilitation.

Rehabilitation is attempted in minimum or medium security units -- an assignment available to max inmates through re-classification. Thus

FOR SITE SELECTION OF A MAXIMUM SECURITY UNIT
THE AVAILABILITY OF REHABILITATION SERVICES
SHOULD NOT BE A MAJOR FACTOR OF CONSIDERATION.

EASY
TRAVEL

2. An Anderson site would be ideal for friends and relatives wishing to visit inmates because of its accessibility by highway and rail. The train is a particularly good asset for families not having access to automobile transportation and during most of the year the frequency of the local runs is such that persons visiting the prison could make convenient connections. Additionally, for persons visiting from Fairbanks, Anderson is a short, scenic drive.

NO PLACE
PERFECT

3. With the numerous points to consider, no matter which site the State selects, all points will not be positive relative to other sites. For example, one might argue that Haines would have been more positively effected economically than a Palmer area site, but Palmer is nearest the largest city. Anderson may have transportation and utility advantages over Palmer. Given that no one site will score relatively higher than other sites on all points, what becomes important is how to handle the deficits and then the community becomes an indispensable part of site consideration.

Positive
Community
Attitude

A positive community outlook supports the goals of the prison in many direct and subtle ways. For example, a positive community attitude attracts, in part, quality personnel to staff the prison; assists those families moving to the area because a friend or relative is incarcerated and thus eliminates worry on part of the inmate; works with the prison administration to provide for staff housing, supplies, and emergency labor needs thus resulting in an efficient institution with a high morale.

ANDERSON IS A CITY WHICH HAS PUBLICLY ANNOUNCED, ON THE BASIS OF INFORMED DECISION MAKING, THAT IT WILLINGLY ACCEPTS THE COMMUNITY RESPONSIBILITY.

LONG
USEFUL
LIFE

4. Prisons last for many years, a conservative estimate being a useful life of between 60 to 90 years. A good many prisons operating today are "centenarians". Thus when considering a site, the future of the area must be carefully taken into account. Any points negative with respect to Anderson should be assessed with the question, "What will the Anderson area be like 5, 10, 20, 50 years from now?" The current projections are that Anderson will be part of a rapidly developing area along the rail belt which could make it a center point of population in the next 20 years. This, accompanied by projected increases in transportation facilities demotes any current concerns about "out-of-the-wayness" to only temporal concerns at best.

MAJOR
PRISON
PROBLEMS

5. Many of the major problems in prisons today are in part related to their mere magnitude in terms of numbers of persons locked up under one roof. Recent national recommendations stress the importance of keeping newly constructed units less than 500 bed capacity, and the physical separation of units. In other words, the recommendations could be interpreted as "do not build a prison megalopolis" be it under one roof or by building multiple adjacent structures. Separation of facilities, geographically, has several advantages.

Physical
Separation

First from the standpoint of the state the economic advantages are spread as well as any disadvantages which communities might accrue. For example, suppose the presence of a facility attracts inmate families which have children who in turn have learning problems, behavior problems in school, and relatively high delinquency rates. Why concentrate these traits versus spreading them out and subject them to strong positive community influence (like Anderson can provide)?

Other
Advantages

Second building a facility geographically separate from other current institutions makes good sense from a management point of view. Take the hopefully unlikely and extreme case of a major earthquake in the vicinity of a prison creating the need for evacuation. Would it not be better to evacuate only one facility than several too closely juxtaposed? Further, physical separation enhances identification by staff with "their" facility and increases pride, morale, and dedication as opposed to "working in a large network of prisons." Management also has a variety of land and community resources, the variety offering the opportunity to install new programs and ideas which may not be acceptable in just any one location. These are only a few of the reasons not to build prisons in the same geographical locale.

Gary Copus, Ph.D

INTRODUCTION TO ANDERSON

Anderson, Alaska thinks it would be a good place for a Maximum Security Prison--But only a Maximum Security Prison! The people of Anderson are pretty outspoken on that point. They have talked it over.

You say you've never heard of Anderson-- and haven't the foggiest notion of where it is?

Touche!

No convention mecca, is Anderson. It is not on the tourist highways and by-ways or the slick travel maps. But, it is well connected--very well connected, to an all-weather highway, an airport and ocean-going barges via the Alaska Railroad, right in the middle of nowhere! Between Anchorage and Fairbanks.

Now you've heard of Anderson! a town of 550 people which comes of age on its 21st birthday in June.

The reasons for putting forth Anderson's name stem from a package of advantages no where else available in quite the same magnitude or combination, as they are available in Anderson.

..... READ ON!

COMMUNITY SUPPORT

The City of Anderson has made a pointed and energetic effort to inform the citizens of all aspects, both negative and positive, of having a maximum security prison within close proximity of the town. The idea was first publicly presented on February 8 at a City Council meeting where the decision was made to continue by informing the public and assessing the general opinion. During further public hearings and Town Hall meetings occurring on February 17, 18, 25, 26, and March 18, 26 it is estimated that over 60% of all citizens in Anderson were personally involved in acquiring knowledge and asking questions. Undoubtedly, 100% became informed through informal discussion.

During the meetings, material used to guide informative discussion was used from the American Correctional Association, The Federal Bureau of Prisons and the Criminal Justice Institute at Hemlock Hill, New York. In addition, at the March 18th Town Hall meeting, professionals in the correctional area were invited to address the citizenry. Invited and accepting were Captains Douglas Nowak and Lawrence Jackson of the U.S. Air Force, and Dr. Gary Copus.

Dr. Copus, with academic and practical expertise in community impact by prisons, was very careful to point out what to some communities might be undesirable impacts. No area was left unexamined and the result was--

BASED ON SOUND AND TOTAL INFORMATION THE CITIZENS OF ANDERSON VOTED ON FEBRUARY 29TH TO DIRECT THE CITY COUNCIL TO PURSUE WITH VIGOR THE ATTRACTION OF THE MAXIMUM SECURITY PRISON TO ANDERSON.

The resulting 2-to-1 vote was based on 61% of the registered voters. Voting was done in an official manner in all precincts, locked ballot boxes and election judges. Noteworthy is that the prison issue was the only item on the ballot so that the largest turnout in Anderson's voting history was due to the community interest which was overwhelmingly positive.

An informal assessment was made as to the reasons the community obviously wanted a maximum security prison.

First the community sees the prison as an employment opportunity for its future generations. Correctional employment was seen as not only an opportunity for young adults to have the alternative of remaining in Anderson as productive citizens, but the community also recognized modern corrections as providing a desirable career opportunity. Present employment was of lesser concern. Anderson is not currently impacted by any economic crisis which might sway a community's opinion to be only temporally positive. Anderson is in a reasonably good economic and employment status.

Second the community saw many positive aspects of development and growth. Among those mentioned were cultural and social growth, economic growth through curricula expansion and attraction of additional qualified teachers, and the establishment of social and health services. The community looks at the prison as offering a challenge to develop and manage a "new Anderson."

ECONOMIC ADVANTAGES
OF ANDERSON

The economical advantages of an Anderson site could vastly outweigh those of many other potential sites if life cycle economics is considered.

Life cycle economics center upon options available for essential operating utilities, such as:

heating/air conditioning
electric power
water
sewage treatment
transportation

HEATING Healy coal, transported by the Alaska Railroad, powers the generators and boilers at the Anderson-located Clear Air Force Station. Three Anderson sites are located immediately adjacent to the Alaska Railroad. Options for heating and power generation include both coal and/or diesel transported by the Alaska Railroad:

- o Coal: Usibelli Mines, Inc.
Healy, Alaska
50 miles South
- o Diesel: North Pole Refinery Co.
North Pole, Alaska
100 miles North

ELECTRIC POWER An option available only at an Anderson site includes the potential of purchasing the stable excess power generated at Clear Air Force Station, as many other Alaskan communities do from nearby U.S. Government facilities. The City of Anderson itself purchases power from the Golden Valley Electric Association, soon to be served by the Anchorage-Fairbanks Power Intertie, providing still another option for sub-station service at about the same time the Maximum Security Prison is expected to be operational.

WATER Anderson does not offer city-treated or supplied water to the Clear Air Force Station which consumes in excess of One Hundred Fifty Million Gallons per Month, or to the 117

domestic users inside the Municipality. The prison facility would drill its own wells and provide its own water from the uniquely-abundant natural supply of superior quality potable water available in Anderson--one of its priceless natural resources. Thus the prison would not now, or later, be in the position of having to purchase water supplies from a Municipality. And, the water in Anderson is hygienically pure without treatment. The prison would, of course, have established water rights, thereby protecting its call upon the natural resource forever.

A comprehensive water study, funded by the Alaska State Legislature, was completed on February 7, 1983 by URS Engineers, an internationally-connected firm of engineers and scientists with an Anchorage operations base. The final Draft Report, accepted by the Anderson City Council on February 15, 1983, found the water to be not only pure, but plentiful for domestic needs for generations into the future in the built-up residential area, and, of unlimited industrial supply nearly everywhere else in the Municipality.

In further testimony of the purity and abundance of water for large-demand-users such as the prison might be considered, the State-owned/operated Clear Fish Hatchery draws water from its complex of wells directly into its propagation system, using 60 million gallons per month. Brewing and soft drink industries are looking at Anderson not only because of its abundance of pure water, but also because of its logistical advantages.

SEWAGE TREATMENT Another cost saving advantage of an Anderson site is that the prison would construct and operate its own small, self-contained treatment system, just as does the Clear Air Force Station for its 500+ military and civilian personnel forces. The State may wish to acquire slightly more than the proposed 100-acre-reservation for these purposes. Everywhere at all Anderson sites, land is available to the State for its purposes and needs.

TRANSPORTATION The advantages of prisoner transfer transportation has been earlier addressed. In this section, logistical transportation is discussed.

The locational advantage of an inter-modal transportation network must not be under-estimated, either for the construction phase or the ultimate operational life of the prison.

Construction materials can be boarded on rail cars at any point in the Lower-48 or the Orient and off-loaded near any of the potential Anderson sites. This same transportation system will greatly reduce costs of consumable supplies for the operation phases through use of the rail-barge-rail-truck-road inter-modal matrix available only at Anderson, while utilizing the state-owned Alaska Railroad utility. The air link to Anderson sites has been prior addressed.

CULTURAL-SOCIAL-RECREATIONAL
ADVANTAGES OF ANDERSON

Since Anderson is just 90 minutes driving time from the main campus of the University of Alaska/Fairbanks, and the university's Nenana Valley Rural Education Center presents credit-courses at Anderson and throughout the region, opportunities to take or teach graduate and under-graduate courses are readily available, as are symphony, drama, music and art, sports and popular music. The Fairbanks Regional Medical Center is only 30 air minutes from Anderson and provides a wide range of modern medical procedures.

In Anderson itself, there is an opportunity to participate in social and fraternal clubs and organizations as well as sports and educational activities. Anderson's new and modern elementary and High School can absorb a hundred or more students with only the addition of a few staff positions. By adding new rooms to the architecturally expandable complex, up to 250 additional students could be responsibly accommodated.

A new gun club and indoor shooting range will be completed next year in Anderson and, cross-country ski, snowmachine and ATV trails criss-cross the area and sport fishing and hunting are very nearby. Youth and large all-family parks are popular and in use. All roads and water removal ditching will have been completed prior to commencement of major construction.

Anderson is a Second Class City with an experienced, stable government and Council. There is no property tax. Except for educators and government employees, most adults work at Anderson's Clear Air Force Station as technical or management personnel. While Anderson has obvious employment stability, second and eventually third generation citizens face chronic unemployment and welcome the opportunity to train and to qualify for positions at the prison, now, and into its future life cycle.

LAND AVAILABILITY
IN ANDERSON

Anderson is surrounded on both sides by land available to the State through the State land selection process. Most specifically, from removal from the Cook Inlet Region, Incorporated selection pool, or from other federally owned land from which it may select. The State itself owns land which should be considered, and will soon receive numerous Sections of land in Township 7 South, Range 7 West, F.M. which affords a number of site potentials. The City of Anderson recommend sites in Sections 15, 14, 10, 11 of T7S, R7W FM be studied; then, section 8 or 4 of T7S, R7W FM; finally sections 13, 23, 26, 27 and 34 T7S, R7W FM.

HB

395

INTRODUCTION OF BILLS (House)

State-Owned
Salmon
Hatcheries
(transfer of)

HOUSE BILL NO. 393, by Rep. Bettisworth. Would transfer operation of state-owned salmon hatcheries by lease to qualified regional associations (AS 16.10.380 created regional associations for the purpose of enhancing salmon production), or to local nonprofit hatchery corporations approved by a qualified regional association. The bill's "findings" section states: "The legislature finds that declining state revenues and the newly imposed constitutional spending limit require a reduction in expenditures for state-operated salmon hatcheries. This reduction is likely to result in the closure of many, if not all, state hatcheries. State hatcheries play an important role in the conservation and management of the state's fisheries resources and benefit all fishermen - commercial, subsistence, and sport - who depend on salmon stocks. Therefore, it is in the public interest to provide for the transfer of operation of the hatcheries by lease to private nonprofit operators."

A lease to operate a state-owned hatchery shall make the lessee solely responsible for the operation and maintenance of the hatchery and shall indemnify the state against liability for harm or loss arising from the operation during the period of the lease. Application for the transfer of the operation of a state-owned hatchery shall be made on a form provided by the Department of Fish and Game.

Does not provide for an effective date (becomes law 90 days after Governor's approval).

Introduced May 2 and referred to the House Special Committee on Fisheries, Resources, and Finance.

State Retirement System
(fireman/
peace officer status)

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 394, by Rep. Hayes. See Sponsor Substitute for Senate Bill 277, page 614, identical.

Introduced May 4 and referred to State Affairs, Finance.

Presidential Party Primary Elections

HOUSE BILL NO. 395, by Reps. M. M. Miller, Duncan, & Vaska. Would limit presidential party primary elections in Alaska to those voters who have publicly declared a preference for a particular political party. A person voting in the presidential party preference primary election could only be given the ballot of the political party he has declared a preference for. Repeals AS 15.25.270: "The lieutenant governor may not schedule another state election on the date scheduled for the presidential party primary election." Provides for an immediate effective date.

Introduced May 3 and referred to State Affairs and Judiciary.

State Audit of Local Governments

HOUSE BILL NO. 396, by the Community and Regional Affairs Committee. Amends AS 29.48.220 (Post Audit). Current law requires the assembly or council to provide for an annual independent audit of the accounts and financial transactions of the municipality or, in the case of a second class city, an audit or statement of annual income and expenditures. Amended so that only second class cities that had received less than \$100,000 in total

HPS 573 3 29 1

PRESIDENTIAL PRIMARIES

Sixteen states responded to the questionnaire by indicating that they hold "true" presidential primaries (sometimes called delegate selection primaries) in which voters choose individuals or a slate of persons to serve as delegates to the national party conventions at which party candidates for president are chosen. Thirteen of the states responded by saying they hold presidential preference primaries at which candidates for president appear on the ballot and are voted for directly. One state indicated that either kind of primary was permissible under state law, and the choice of which kind to hold was left to the parties. Another state said that both kinds of primaries are held. Sixteen states do not hold presidential primaries; their delegates to the national conventions are selected at state conventions or caucuses. The remaining three states hold some kind of primary, but the information available does not permit us to ascertain the type of primary utilized.

Presidential Primaries

	"True" Primary	Preference Primary	Caucus/ Convention	Administration	Finance	Date
ALABAMA	✓			parties	state	2nd Tues. March
ALASKA		✓		state	state	3rd Tues. April
ARIZONA			✓			
ARKANSAS	✓			parties	parties	
CALIFORNIA	✓			county	county	Tues. after 1st Mon. June
COLORADO			✓			
CONNECTICUT	✓			state	state	Tues. after 4th Mon. March
DELAWARE			✓			
FLORIDA	✓			county	county	2nd Tues. March
GEORGIA	✓			parties	parties	
HAWAII			✓			
IDAHO		✓		state/county	state-25%/county-75%	4th Tues. May
ILLINOIS	✓			state/county	county	3rd Tues. March
INDIANA	✓			state	county	Tues. after 1st Mon. May
IOWA			✓			
KANSAS			✓			
KENTUCKY		✓		state	state/county	
LOUISIANA		✓		county	state	1st Sat. April
MAINE			✓			
MARYLAND	✓			state	local	2nd Tues./May in Pres. yrs.
MASSACHUSETTS		✓		state	state	1st Tues. March
MICHIGAN	†	†		state	state	3rd Tues. May

* No data available

† depends on party rule

Presidential Primaries (cont.)

	"True" Primary	Preference Primary	Caucus/ Convention	Administration	Finance	Date
MINNESOTA			✓			
MISSISSIPPI		✓		parties	counties	1st Tues./Sept.
MISSOURI			✓			
MONTANA	✓	✓		county/state	county/state	Tues. after 1st Mon./June
NEBRASKA				county	county	
NEVADA	✓		✓			
NEW HAMPSHIRE	✓			state	state	2nd Tues./March
NEW JERSEY						1st Tues. after 1st Mon./June
NEW MEXICO		✓		state	state	1st Tues. June in 1956, etc.
NEW YORK*						
NORTH CAROLINA		✓		state	state	Tues. after 1st Mon./May
NORTH DAKOTA	✓	✓		county	county	
OHIO				state	state	Tues. after 1st Mon./June
OKLAHOMA			✓			
OREGON	✓	✓		state	county	3rd Tues./May
PENNSYLVANIA	✓			state	state	4th Tues./April
RHODE ISLAND				state	state	
SOUTH CAROLINA	✓		✓			
SOUTH DAKOTA	✓			state/county	county	1st Tues./June
TENNESSEE		✓		state/county	county	1st Tues./May
TEXAS		✓		parties	state	1st Sat./May
UTAH			✓			
VERMONT		✓		state	state	1st Tues./March
VIRGINIA			✓			
WASHINGTON			✓			
WEST VIRGINIA*						
WISCONSIN*				state	state/county	1st Tues./April
WYOMING			✓			

* No data available

† depends on party rule

CHAPTER TWO PRIMARIES

REQUIREMENTS FOR HOLDING A PRIMARY

The most commonly utilized requirement for qualifying to hold a primary election is that the party in question wins a statewide race in the last general election or receives a specific percentage of the total vote cast in the most recent general election for governor. However, some states have requirements which do not follow this format. Specific exceptions to this format are noted in the footnote to the table entitled "Primary Nominations."

At least two states have provisions for continuing parties' eligibility for primaries without regard to their turnout performance, while others link the requirements to the turnout percentage in the race for Secretary of State, Congressional offices, or even the total number of votes cast in races for the State Legislature.

This data was obtained both from the Election Codes of the various states and from the questionnaires which were completed by the Offices of the several Secretaries of State.

Primary Nominations

% Vote in Last Statewide Election
Required to Hold Primary Election

ALABAMA	•	MONTANA	5
ALASKA	3	NEBRASKA	5
ARIZONA	1	NEVADA†	5
ARKANSAS	3	NEW HAMPSHIRE	3
CALIFORNIA†	1	NEW JERSEY†	10
COLORADO	10	NEW MEXICO	15
CONNECTICUT	20	NEW YORK	5
DELAWARE†		NORTH CAROLINA	10
FLORIDA	3	NORTH DAKOTA	•
GEORGIA	•	OHIO	5
HAWAII	•	OKLAHOMA†	
IDAHO	3	OREGON	20
ILLINOIS	5	PENNSYLVANIA	2
INDIANA†	10	RHODE ISLAND	5
IOWA	2	SOUTH CAROLINA†	
KANSAS†	5	SOUTH DAKOTA	10
KENTUCKY†	20	TENNESSEE	5
LOUISIANA	5	TEXAS	2
MAINE	5	UTAH†	2
MARYLAND	3	VERMONT	5
MASSACHUSETTS	3	VIRGINIA	10
MICHIGAN†	5	WASHINGTON	5
MINNESOTA	5	WEST VIRGINIA	1
MISSISSIPPI	•	WISCONSIN	1
MISSOURI	•	WYOMING	10

* No Data Available

% vote applies to gubernatorial elections unless otherwise noted.

† California—obtain number of registered voters equivalent to 1% of last gubernatorial vote

Delaware—number of registrants must equal 5/100 of 1% of total registration

Indiana—10% of vote in last Secretary of State election

Kansas—5% of vote in last Secretary of State election

Kentucky—20% of last Presidential vote

Michigan—5% of vote in last Secretary of State election

Nevada—5% of last congressional vote

New Jersey—10% of last General Assembly vote

Oklahoma—new parties formed with 5% of total registration; old parties remain

South Carolina—new parties formed with petition of 10,000 signatures; old parties remain

Utah—2% of last congressional vote

GAINING BALLOT STATUS: THE INDEPENDENT CANDIDATES

The most commonly used format for running as an Independent candidate includes filing a declaration of intent to run by a specified date, collecting the required number of signatures of registered voters, and filing a formal petition with the designated Chief Election Officer in the state, usually the Secretary of State. As in the case for qualifying parties to hold a primary elections, the number of signatures may be either a percentage of turnout for a certain office or a specified number of signatures of registered voters, depending on the state. Many states require the signatures to be those of registered persons who did not participate in either party's primary election.

Most states indicated that access to the ballot by independent candidates is relatively easy, while only two states said that it is difficult. Some states (e.g., Michigan) have no provision for ballot access by independent candidates. It is important to remember that these measures are subjective and are based on different characteristics in each state.

All data in this section was obtained from the questionnaires which were completed by the Offices of the Secretaries of State.

Primary Ballot Access in Statewide Races

	Payment of Fee	Signature Petition	Choice of Fee or Petition	Both Fee and Petition		Payment of Fee	Signature Petition	Choice of Fee or Petition	Both Fee and Petition
ALABAMA			✓		MONTANA			✓	
ALASKA	✓				NEBRASKA	✓			
ARIZONA		✓			NEVADA			✓	
ARKANSAS			✓		NEW HAMPSHIRE			✓	
CALIFORNIA			✓		NEW JERSEY		✓		
COLORADO		✓			NEW MEXICO			✓	
CONNECTICUT		✓			NEW YORK			✓	
DELAWARE	✓				NORTH CAROLINA			✓	
FLORIDA			✓		NORTH DAKOTA		✓		
GEORGIA			✓		OHIO				✓
HAWAII				✓	OKLAHOMA			✓	
IDAHO				✓	OREGON			✓	
ILLINOIS		✓			PENNSYLVANIA				✓
INDIANA		✓			RHODE ISLAND		✓		
IOWA		✓			SOUTH CAROLINA	✓			
KANSAS			✓		SOUTH DAKOTA		✓		
KENTUCKY			✓		TENNESSEE		✓		
LOUISIANA			✓		TEXAS			✓	
MAINE		✓			UTAH	✓			
MARYLAND				✓	VERMONT		✓		
MASSACHUSETTS		✓			VIRGINIA	✓			
MICHIGAN		✓			WASHINGTON	✓			
MINNESOTA			✓		WEST VIRGINIA	✓			
MISSISSIPPI	✓				WISCONSIN		✓		
MISSOURI			✓		WYOMING	✓			

MINOR PARTY ACCESS TO THE BALLOT

A majority of the responses to the questionnaire indicated that it is relatively easy among the states for minor parties to access the ballot. One common requirement for partisan access to the general election ballot includes a petition with voter signatures equal in number to a specified percentage of the turnout in the most recent general election. Another commonly utilized requirement is that of requiring a number of signatures equal to a specified percentage of the total vote cast in the most recent gubernatorial election.

Another means of accessing the ballot is by requiring conventions to be held in several counties and for them to be attended by a certain proportion of the electorate. This approach usually culminates in a state convention which nominates candidates for the general election ballot. Some states also charge a filing fee, however, this requirement is not an exclusive characteristic of either of the above mentioned methods of accessing the ballot.

The statutes of many states distinguish between minor parties and parties which are seeking ballot status for the first time by specifying different requirements for gaining ballot status. For example, minor parties may be required only to obtain a percentage of the signatures of voters who voted in the last general election, while new parties seeking ballot status may be required to obtain a minimal number of signatures.

Ballot Access for Minor Parties and Independent Candidates

	Minor Party		Independent Candidate			Minor Party		Independent Candidate	
	Easy	Difficult	Easy	Difficult		Easy	Difficult	Easy	Difficult
ALABAMA		✓		✓	MONTANA*				
ALASKA	✓		✓		NEBRASKA	✓		✓	
ARIZONA*					NEVADA	✓		✓	
ARKANSAS		✓			NEW HAMPSHIRE			✓	
CALIFORNIA		✓		✓	NEW JERSEY	✓		✓	
COLORADO	✓		✓		NEW MEXICO	✓		✓	
CONNECTICUT			✓		NEW YORK	✓		✓	
DELAWARE	✓		✓		NORTH CAROLINA*				
FLORIDA	✓		✓		NORTH DAKOTA*				
GEORGIA		✓		✓	OHIO			✓	
HAWAII	✓		✓		OKLAHOMA	✓		✓	
IDAHO		✓	✓		OREGON	✓		✓	
ILLINOIS	✓		✓		PENNSYLVANIA*				
INDIANA*					RHODE ISLAND	✓		✓	
IOWA	✓		✓		SOUTH CAROLINA		✓		
KANSAS*					SOUTH DAKOTA	✓		✓	
KENTUCKY	✓		✓		TENNESSEE			✓	
LOUISIANA	✓		✓		TEXAS	N.C.	N.C.	N.C.	N.C.
MAINE	✓		✓		UTAH	✓		✓	
MARYLAND*					VERMONT	✓		✓	
MASSACHUSETTS	✓		✓		VIRGINIA	✓		✓	
MICHIGAN	✓			✓	WASHINGTON	✓		✓	
MINNESOTA	✓		✓		WEST VIRGINIA*				
MISSISSIPPI	✓		✓		WISCONSIN	✓		✓	
MISSOURI	✓		✓		WYOMING*				

* No Data Available

N.C. No Comment—Involved in Litigation

WRITE-IN VOTES ALLOWED ON PRIMARY BALLOTS

A majority of states allow write-in votes on primary ballots. It should be noted, however, that a wide variety of requirements are placed on the format of write-in votes and the names of persons who are eligible as write-in candidates.

Most states do allow write-in votes on primary ballots. At least one state (Kansas) does not permit write-in votes in primaries except in those cases where there are no nominees on the ballot for a specific office.

This data was obtained both from the Election Codes of the various states and from the questionnaires which were completed by the Offices of the Secretaries of State.

Write-Ins Allowed on Primary Ballots

	Yes	No		Yes	No
ALABAMA	✓		MONTANA	✓	
ALASKA		✓	NEBRASKA	✓	
ARIZONA		✓	NEVADA		✓
ARKANSAS		✓	NEW HAMPSHIRE	✓	
CALIFORNIA	✓		NEW JERSEY	✓	
COLORADO	✓		NEW MEXICO	✓	
CONNECTICUT		✓	NEW YORK	✓	
DELAWARE	✓		NORTH CAROLINA	✓	
FLORIDA	✓		NORTH DAKOTA	✓	
GEORGIA	✓		OHIO	✓	
HAWAII		✓	OKLAHOMA		✓
IDAHO	✓		OREGON	✓	
ILLINOIS	✓		PENNSYLVANIA	✓	
INDIANA		✓	RHODE ISLAND*		
IOWA	✓		SOUTH CAROLINA	✓	
KANSAS		✓	SOUTH DAKOTA		✓
KENTUCKY	✓		TENNESSEE	✓	
LOUISIANA		✓	TEXAS†	✓	
MAINE	✓		UTAH	✓	
MAINELAND	✓		VERMONT	✓	
MASSACHUSETTS	✓		VIRGINIA	✓	
MICHIGAN	✓		WASHINGTON	✓	
MINNESOTA	✓		WEST VIRGINIA	✓	
MISSISSIPPI	✓		WISCONSIN		✓
MISSOURI	✓		WYOMING	✓	

* No Data Available

† only for party offices

THE UNITARY PRIMARY

Texas is only one of four states in which the political parties hold separate primaries with separate election workers for each party. Of those four states (Texas, Connecticut, Mississippi, and South Carolina), only in Texas and Connecticut do the parties use separate polling places. Mississippi and South Carolina hold their primaries in the same locations on the same days, but each party uses separate election personnel. The remaining forty-six states use some form of unitary primary.

Thirty-five states hold a closed unitary primary. In a closed unitary primary, the parties share polling places and election workers, but each party has a separate ballot. A voter must disclose his party preference to the election officials before he is given a ballot.

Idaho, Michigan, Minnesota, Montana, North Dakota, Utah, Vermont, and Wisconsin hold regular open unitary primaries. In a regular open unitary primary, all parties' candidates are listed on one ballot, or the voter receives a ballot for each party. The voter never publicly discloses his party preference. If he receives multiple ballots, he marks the ballot of one party and discards the others. If he receives a combined ballot, he must vote for the candidates of only one party, or his ballot will be discounted.

Alaska, Louisiana, and Washington hold blanket open primaries. All candidates are placed on one ballot. The ballot is divided by political office, and not by political party. Candidates are listed in random order under the office they are seeking. Each candidate's party affiliation is indicated beside his name. A voter may vote for candidates of one party or more than one party. In Alaska and Washington each party's top vote-getter in the primary race advances to the general election. However in Louisiana, the top two vote-getters, regardless of party, advance to the general election.

The Unitary Primary

	Unitary Primary	Types of Unitary Primaries			Non-Unitary Primary
		Closed	Regular Open	Blanket Open	
ALABAMA	✓	✓			
ALASKA	✓			✓	
ARIZONA	✓	✓			
ARKANSAS	✓	✓			
CALIFORNIA	✓	✓			
COLORADO	✓	✓			
CONNECTICUT					✓
DELAWARE	✓	✓			
FLORIDA	✓	✓			
GEORGIA	✓	✓			
HAWAII	✓	✓			
IDAHO	✓		✓		
ILLINOIS	✓	✓			
INDIANA	✓	✓			
IOWA	✓	✓			
KANSAS	✓	✓			
KENTUCKY	✓	✓			
LOUISIANA	✓			✓	
MAINE	✓	✓			
MARYLAND	✓	✓			
MASSACHUSETTS	✓	✓			
MICHIGAN	✓		✓		
MINNESOTA	✓		✓		
MISSISSIPPI*					✓
MISSOURI	✓	✓			
MONTANA	✓		✓		
NEBRASKA	✓	✓			
NEVADA	✓	✓			
NEW HAMPSHIRE	✓	✓			
NEW JERSEY	✓	✓			
NEW MEXICO	✓	✓			
NEW YORK	✓	✓			
NORTH CAROLINA	✓	✓			
NORTH DAKOTA	✓		✓		
OHIO	✓	✓			
OKLAHOMA	✓	✓			
OREGON	✓	✓			
PENNSYLVANIA	✓	✓			
RHODE ISLAND	✓	✓			
SOUTH CAROLINA*					✓
SOUTH DAKOTA	✓	✓			
TENNESSEE	✓	✓			
TEXAS					✓
UTAH	✓		✓		
VERMONT	✓		✓		
VIRGINIA	✓	✓			
WASHINGTON	✓			✓	
WEST VIRGINIA	✓	✓			
WISCONSIN	✓		✓		
WYOMING	✓	✓			

* Mississippi and South Carolina hold their primaries in the same locations on the same days but use separate election personnel for the different parties. Mississippi has elected the Louisiana unitary primary plan but has had difficulty with preclearance under the Voting Rights Act.

Source: *Party Primary Election Systems in the United States: An Interim Report* by the Lyndon B. Johnson School of Public Affairs to the Texas House Committee on Elections, 63rd Legislature, May 1972, and Texas Secretary of State's Office, Elections Division, June 1982.

I. REQULST

Bill/Resolution No.: HB 395
 Title: Presidential Party Primary Election
 Sponsor: M M Miller
 Requestor: House State Affairs

II. FISCAL DETAIL

Agency Affected: Office of the Governor
 Program Category Affected: Exec Operations
 BRU, Program of Subprogram(s), Affected: Division of Elections

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL		7.3				9.1
300 CONTRACTUAL		87.9				108.9
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		95.2	-0-	-0-	-0-	118.1
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	95.2				118.1
FEDERAL FUNDS					
OTHER (Specify Source)					

POSITIONS:

FULL-TIME					
PART-TIME					
TEMPORARY					

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL: Not Provided

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Dana C. Coffman, Deputy Director

Phone: 586-6181

Division: Division of Elections

Date: May 10, 1983

Approved by Commissioner: 

Date: May 11, 1983

Department: Lieutenant Governor

Distribution:

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

"An Act relating to presidential party primary elections"

ASSUMPTIONS:

1. The passage of this legislation will initially affect the 1984 Presidential Party Primary Election.
2. Extensive travel to larger population centers required in order to educate the voter about the closed primary system.
3. Advertising expenses, (34.6) including radio, tv, and newspapers, required for an adequate voter outreach program.
4. The redesign of instructions, forms, and posters will be required.
5. Following the passage of this legislation, approximately 10% of Alaska's non-partisan voters will change their political party affiliation, resulting in a moderate increase in registrar activity.

HB

397

INTRODUCTION OF BILLS (House)(cont'd)

HB 396 (cont'd)

state aid for the year could submit the simpler report of income and expenses.

Amends AS 37.05.318 to allow the state to require an independent audit of a capital improvement project for which over \$100,000 has been provided as a state grant. Does not provide for an effective date (becomes law 90 days after Governor's signature).

Introduced May 3 and referred to Community & Regional Affairs and Finance.

Primary
Elections

HOUSE BILL NO. 397, by Rep. Bettisworth. Would call for a form of closed primary elections in Alaska. Requires that the primary election ballot be prepared with the names of the candidates grouped according to political party. A person could only vote for candidates in one party, and a ballot cast with votes for candidates in more than one party could not be counted. Does not provide for an effective date (becomes law 90 days after Governor's signature).

Introduced May 4 and referred to State Affairs and Judiciary.

AK Indust.
Development
Authority
(multifamily
housing)

HOUSE BILL NO. 398, by the Rules Committee by request of the Governor. Would amend a 1982 appropriation to the Alaska Industrial Development Authority to allow use of the money to establish capital reserve funds to secure bonds issued in connection with the financing of multi-family housing projects. Effective immediately.

Introduced May 4 and referred to the House Special Committee on Loans and Finance.

In his message transmitting the bill to the House for consideration, Governor Sheffield stated:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to an appropriation to the Alaska Industrial Development Authority (AS 44.88).

The bill amends a prior appropriation to the authority, sec. 9, ch. 114, SLA 1982, to enable the authority to obtain greater utility from the multifamily housing loans security fund. Under the proposed amendment, assets of the security fund would also be available to establish capital reserve funds to secure bonds issued in connection with the financing of multifamily housing projects.

I urge your prompt consideration and approval of this legislation.

Anchorage
Streets
(renaming)

HOUSE BILL NO. 399, by Reps. Hayes and Martin. Would rename A and C Streets in Anchorage as Wickersham Boulevard and Eisenhower Boulevard. Does not provide for an effective date (becomes law 90 days after Governor's signature).

Introduced May 5 and referred to Transportation.

I. REQUEST

Bill/Resolution No.: HB 397
 Title: Relating to Primary Elections
 Sponsor: Rep Bettisworth
 Requestor: House State Affairs

II. FISCAL DETAIL

Agency Affected: Office of the Governor
 Program Category Affected: Exec Operations
 BRU, Program of Subprogram(s) Affected: Division of Elections

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL			7.3		8.2	
300 CONTRACTUAL			54.0		60.5	
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING		-0-	61.3	-0-	68.7	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		-0-	61.3	-0-	68.7	-0-
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

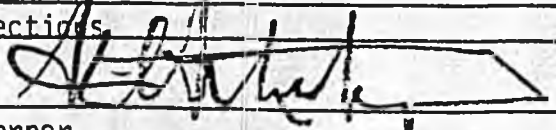
III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL: Not Provided

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Dana C. Coffman, Deputy Director
 Division: Division of Elections

Phone: 586-6181

Date: May 10, 1983

Approved by Commissioner: 
 Department: Lieutenant Governor

Date: May 11, 1983

Distribution:

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

"An Act Relating to Primary Elections"

ASSUMPTIONS:

1. The passage of this legislation will initially affect the 1984 Primary Election.
2. Additional 12% inflation for each of the subsequent election years.
3. Extensive travel to larger population centers required in order to educate the voter about the closed primary system.
4. Advertising expenses, (34.6) including radio, tv, and newspapers, required for an adequate voter outreach program.
5. The redesign of instructions, forms, and posters will be required.
6. Following the passage of this legislation, approximately 10% of Alaska's non-partisan voters will change their political party affiliation, resulting in a moderate increase in registrar activity.

H B

4 1 5

Alaska State Legislature

REPRESENTATIVE
BARBARA LACHER
P.O. BOX 478
PALMER, ALASKA 99645
(907) 376-4215



WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA 99811
(907) 465-4894

House of Representatives

MEMORANDUM

TO: Representative Mitch Abood, Chairman House State Affairs

FROM: Representative Barb Lacher *BL*

DATE: February 20, 1984

RE: HB 415

A large, handwritten signature in black ink, enclosed within a large, hand-drawn oval. The signature appears to be "Barb Lacher".

Dear Mitch,

HB 415, an Act relating to Bidder Preference is currently in State Affairs awaiting action. I respectfully request that this bill be scheduled for hearing as soon as possible. Thank you.

Alaska State Legislature

HB 415

REPRESENTATIVE
BARBARA LACHER
P.O. BOX 478
PALMER, ALASKA 99645
(907) 376-4215



WHILE IN JUNEAU
POUCH V
JUNEAU, ALASKA 99801
(907) 465-4894

House of Representatives

MEMORANDUM

TO: Representative Lacher

FROM: Sarah Robinson

DATE: May 13, 1983

RE: HB 415

HB 415 amends AS 37.05 by adding a preface stating the intent of the Alaska Bidder's Preference Law. The purpose of this preface (AS 37.05.225 new Section) is to protect the existing Alaskan Bidder's Preference Law from imminent constitutional challenge. Research has indicated that an amendment to add a preface with intent will provide the necessary protection by providing other grounds than "residency" for the Bidder's Preference Law. An examination of bidder's preference laws in other states tends to support this view.

The bill adds a new subparagraph to AS 37.05.230 (5), D. to require all parties of a joint venture to comply with the requirements for an Alaskan bidder under the same Section. This amendment has been found necessary in light of the recent Alaskan Supreme Court Decision on the Irby-Northface contract award from the Alaska Power Authority.

There is strong evidence to support the view that the Alaskan Bidder's Preference Law should remain at 5% and not be raised to 15%, as suggested by HB 106, due to clear constitutional challenges that would result from such an increase.

HB 415

M E M O R A N D U M

TO: Representative Barbara Lacher
FROM: Sarah Robinson
SUBJECT: Alaska Bidder's Preference
DATE: March 26, 1983

T A B L E O F C O N T E N T S

- I The Application of Joint Venture to Alaska Bidders Preference Laws
- II Nonresponsive Bidders
- III Discussion of Current APA Policy and Recent Challenges to the Bid to Irby-Northface, A Joint Venture
- IV Questions

Attachments: Reference in the following Memorandum to attachments are indicated with the use of "[]" indicating the attachment number.

1. 2/17/83 telegram from IBEW to Yould of APA.
2. 1/25/83 letter from Attorney General Gorsuch's office to Perkins of APA.
3. 9/25/81 Memorandum Decision and Order Denying Injunctive Relief, Judge Shortell (3AN-81-6291).
4. Alaska Statutes concerning Joint Ventures, AS 08.18.011.
5. Earlier Attorney General's Opinions concerning the responsiveness of bids and the time at which a business license is obtained, 7/16/63, 7/15/66, and 2/24/67.
6. Alaska Statutes concerning Alaska Bidder's Preference and Supplements, includes 1982 amendment from 1982 SCS CSHB 156 (Rules), AS 37.05.230, AS 37.05.240.
7. 2/25/83 letter to Eberle of APA from Attorney's Wagg and Davis concerning nonresponsive bids.
8. 2/23/83 certification from DOL concerning Irby Construction, Inc.'s out-of-state license and no registered Electrical Administrator, and attached list of 47 cease and desist orders issued in AK between 7/80 and 1/83 for the absence of an Electrical Contractor's license.
9. 2/23/83 cease and desist orders issued to Northface Construction, Inc., and Irby Construction, Inc. for the absence of a licensed Electrical Administrator, and supporting documents.
10. 2/23/83 cease and desist order issued to Shirley Schinderline for operating as an Electrical Administrator for two companies, at once, and supporting documents.
11. Alaska Statutes regarding electrical administrators and their license requirements, AS 08.40.130, and cease and desist orders, AS 08.40.175.
12. 2/16/83 letter to APA from Irby and Northface stating intent to form a joint venture for the purpose of bidding on the Anchorage-Fairbanks Intertie, and supporting documents.
13. 1/10/83 memorandum to Commissioner Robinson, of the Department of Labor, regarding discussions between APA and others concerning the

use of joint venture within the Alaska Bidder's preference for the bid evaluation on the Anchorage-Fairbanks Intertie, and supporting documents.

14. 3/10/83 letter to Oczkus of IBEW, from Attorney Cohen of Ely, Guess and Rudd Law Firm, regarding the application of joint venture to Alaska Bidder's Preference Laws.
15. 3/1/83 certification that Irby Construction, Inc. has no Alaska business license, from the Department of Revenue (AS 37.05.230 (5) (B)).
16. 3/1/83 certification that Irby Construction, Inc. has not filed with Alaska under AS 10.05.597, as a foreign corporation.
17. 2/22/83 letter to Kennedy, President of Northface Construction, Inc. requesting a copy of the joint venture agreement with Irby, and attached documents from IBEW.
18. Alaska Statutes and Supplements concerning the formation of APA and the duties and regulations of APA. Note that the statutes clearly require APA to call for, evaluate, and award bids, and do not authorize APA to contract consultants for this purpose.
19. Current status of 1983 House Bill 106, "An Act relating to Bidder's Preference," which raises the 5% advantage for Alaskan bidders to 15%.

I JOINT VENTURES

The IBEW sent a telegram, on February 17, 1983, to Eric Yould, Executive Director of the APA, protesting the bid contract award to Irby Construction, Inc. and Northface Construction, Inc., a joint venture, hereafter referred to as Irby/Northface, for the Anchorage-Fairbanks Intertie. The telegram lists six factors which make Irby/Northface a nonresponsive¹ bidder and which should disqualify them from having been awarded the bid [1].

It is difficult to piece together the full sequence of events between the opening for bids and the final award to Irby/Northface, but the cease and desist orders dated February 23, 1983 seem to have followed the award to Irby/Northface and the orders were overridden by the Attorney General's office between February 23 and 25, 1983. Irby/Northface had been granted the contract again by February 25, 1983.²

On February 25, 1983, Perkins of APA received a letter from the Attorney General's office, from Richard P. Kerns, Assistant Attorney General, Transportation Section. This letter specifically addressed all six reasons listed in the IBEW telegram that were cited as evidence that Irby/Northface is a nonresponsive bidder.

1. nonresponsive bidder refers specifically to bid contract violations. To be responsive a bid must comply with all meaningful (or material) aspects with the instructions to bidders in terms of the method and timeliness of bid submission and in terms of the substance of any resulting contract. All bidders stand on equal footing and the integrity of the formal advertising system is maintained. See Section II below.
2. Further investigation is required to fully document this sequence of events and the full role of Attorney General Gorsuch's office.

Two of the six examples of nonresponsiveness in the Irby/Northface bid listed in the IBEW telegram are concerned with the applicability of the joint venture statutes to the Alaska Bidder's Preference Laws. The other four instances of nonresponsiveness listed are more directly related to nonresponsiveness as defined in footnote 1. I will address the joint venture issue in this first section and then turn to the issue of nonresponsiveness in section II of this memorandum.

The applicability of the joint venture statute [4] to the Alaska Bidder's Preference Law has been raised in this recent challenge to the Irby/Northface bid contract award, and in an earlier case [3].

Attorney General Gorsuch's office addressed all six issues raised in the IBEW telegram [2], the two most directly related to joint venture are 1) Irby/Northface should not qualify for Alaska Bidder's Preference because neither contractor has performed similar work within the state (AS 37.05.230 (1)(B), and supplement AS 37.05.230 (5)(C)). The 1982 amendment to this statute specifically states that:

An Alaska bidder, for the purpose of bid awards under (1)(B) of this section [A bid shall be awarded to an Alaska bidder₃ if his bid is not more than five percent higher³ than the lowest nonresident bidder's], is a person who (5) has maintained a place of business within the state for a period of six months immediately preceding the date of this bid.

And, 2) IBEW points out that Irby/Northface does not have an Alaska business license listed in the name of the firm as a joint venture.

APA and Attorney General Gorsuch argue that the license need only be in the name of one of the parties of a joint venture and that the "business license requirement does not take effect at the time of the bid, but at some later time," ([2], page 2). This position is in direct contrast to that taken by earlier Attorney Generals Hayes (Opinion No. 14, 7/16/63); Colver (Opinion No. 4, 7/15/66), and Benesch (Opinion No. 3, 2/24/67), [5] where it is repeatedly argued that it is unlawful for a bidder to submit a bid without a license unless it is clearly stated as such in the bid at its initial submission. Furthermore, Attorney General Gorsuch's argument directly contradicts the requirements stated in the Alaska Bidder's Preference Statutes. Which state that "the bidder must submit a bid for goods and services under the name as appearing on his current Alaska business license," (AS 37.05.230 (5)(B)). [6]

Two conflicting interpretations of the applicability of joint venture to Alaska Bidder's Preference are represented in the current challenge to the APA bid contract award to Irby/Northface. APA, and the Attorney General's office argue that joint venture applies to the Alaska Bidder's Preference Law, while the IBEW argues that the Bidder's Preference statutes are quite clear in their use of the English language and that a joint venture is not the same as a business, unless the bidder has a license under that name, as a joint venture, and has been operating as a business in the State under that name for a period of at

3. House Bill 106, sponsored by Ward, would amend this statute to award a 15% preference to Alaska bidders.

least six months prior to the bid. If a joint venture had filled these requirements, which are stipulated in the Bidder's Preference statutes [6] then they would qualify for preference as Alaska bidders. The APA and Attorney General Gorsuch's office, on the other hand, argue by analogy that a joint venture and a business are the same entity, and further that only one of the members of a joint venture need fill the Alaska residency requirements or license requirements in order to qualify for preference as an Alaskan bidder.

Attorney General Gorsuch's response to this "statute violation,"⁴ argued by the IBEW, is in keeping with an earlier bidder's challenge [3]. This is 3AN-81-6291, Pacific Ventures, Inc., Plaintiff, Dillingham Corporation, Plaintiff in intervention, v.s. APA, Defendants, Southeast-Harrison Western, a joint venture, defendant in intervention. The Attorney General's office argues, in the February 25, 1983 letter to the APA, that this statute "does not require the bidder to have performed similar work within the state... (but) simply to have maintained a place of business within the state." This is the same conclusion drawn by Judge Brian Shortell in the 1981 Memorandum Decision and Order Denying Injunctive Relief (p.7).

In determining that Southeast-Harrison Western was qualified for an Alaska bidder preference pursuant to AS 37.05.230 the APA consulted with and relied upon the interpretation of the senior purchasing agent in the Anchorage office of the Division of General Services and Supply, Alaska Department of Administration, that in this situation the joint venture would be entitled to the Alaska bidder preference so long as one of the partners satisfied the requirements. (3AN-81-6291:7 emphasis added)

The difference between the Attorney General's argument and Judge Shortell's is that the former implies this application of joint venture while the latter explicitly states it.⁵ These two positions endorse APA's policy interpretation of the Bidder's Preference which includes the use of joint venture, and implicitly endorse APA's use of a consulting firm to derive that interpretation.

In both the 1981 litigation and in the present pending hearing for a bidder's challenge, the plaintiffs have argued, with IBEW, that joint venture does not apply to the Alaska Bidders Preference statutes. The crux of the argument is therefore the acceptability of the analogy used between a joint venture and an Alaska business, as it is applied in APA policy. The constitutionality of this interpretation could be challenged.

IBEW has argued that there is a legal difference between a business license and a joint venture license.⁶

4. It should be noted that the letter from Gorsuch's office (2/25/83) cites AS 37.05.230 (1)(B) with an unusual typographic error, as AS 17.04.230 (1)(B); AS 17 is concerned with food and drugs!

5. AS 08.18.011 specifies a joint venture, see [4].

6. These two kinds of licenses have different contexts. A business license is regulatory of fiscal responsibility for a legal business entity, while a joint venture license is a form of tax revenue. Preference statutes state, in plain English, "business license" and not "joint venture license."

Clearly the APA has been operating under their current interpretation of the Alaska Bidder's Preference law and the applicability of the joint venture statutes to this law in evaluating bids since 1980, and they will continue to do so until either the statutes are explicitly amended to read, in even clearer English, or until a bidder's challenge goes beyond a memorandum from the Superior Court, as in the 1981 challenge.

II NONRESPONSIVENESS

A second area of challenge to APA's recent contract award to Irby/Northface is in terms of contractual errors and irregularities in the bidding process. These issues of nonresponsiveness are raised in the IBEW telegram to the APA and are a reiteration, in part, of an earlier challenge on the grounds of "nonresponsiveness" in the 1981 case 3AN-81-6291 [5].

Attorneys for HW-Newberry, Wagg and Davis of Faulkner, Banfield, Doogan and Holmes Law Offices of Anchorage, sent a letter to Eberle, of the APA, on February 25, 1983, which directly addresses the legal arguments for the nonresponsiveness of Irby/Northface's bid. [7] It is pointed out, in this letter, that Irby/Northface did not follow the instructions contained in paragraph 4.1.4 of the bid price form in filling out the bid. This resulted in Irby/Northface's failure to attribute its indirect costs (supervision, overhead and profit) only to sub-item (a) as required by the instructions in the solicitation for bids.

The reason unit prices are used in bids is that quantities, for many reasons, can overrun or underrun. Irby/Northface, by not following the instructions for placement of indirect cost by bidding both sub-items equally, will be paid the sub-item (b) price for any overruns instead of the sub-item (a) price minus indirect costs. This must be contrasted with the situation where a bid is correctly submitted. A correct bid would have all indirect costs in sub-item (a) (for example at \$100.00 per unit), and only direct costs in sub-item (b) (for example at 75.00 per unit). Obviously any overrun on the job will be paid by the owner at the sub-item (b) rate, which logically will be lower than the sub-item (a) rate, if the bid

7. Ross Kopperrud, (personal communication in a phone conversation on March 18, 1983), of the Anchorage office of the Attorney General's Office, stated that APA went to an outside consultant in 1980 to derive this "legal" interpretation of the statutes in regard to the use of joint ventures in evaluating Alaska bidders.

instructions are followed. Thus, the State would obtain the benefit of a lower charge for overruns. However, Irby's bid, in effect, has made both (a) and (b) unit prices at \$100.00. Any overruns would be charged to the State at \$100.00 per unit instead of \$75.00 per unit as set out above. The possibility of additional cost resulting from Irby's improper bidding practices is obvious, and more importantly, goes directly to price. Thus in an overrun, the public, who are the people competitive bids are designed to protect, can and will pay substantially more. The failure of Irby/Northface to conform to the instructions "could" effect the price and therefore their bid is nonresponsive.

([7], pages 3, 5)

The second area of nonresponsiveness that Wagg and Davis point out is the presence of line item changes in the bid (crossed out lines and altered figures) that have no signature, such that it is impossible to determine who made the changes and when. The bidder instructions stipulate that (paragraph 11, p2-9):

a bid shall be rejected for the following reasons:
(e) the bid contains a material alteration or erasure which is not initialed by the signer of the bid.

(ibid)

There are twelve (12) instances where quantities were changed without a signature or initial in the Irby/Northface bid.

Pacific Venture's motion as plaintiff in 3AN-81-6291, as cited in section I of this memorandum, was based upon a similar argument of nonresponsive bidding. The court argued in that case that:

the law with regard to an agency finding of nonresponsiveness in bidding situations does not favor the unsuccessful bidder,

and further argued in that case that the plaintiff:

needs to show reasonable basis for nonresponsiveness in order to qualify for judicial review of agency actions. (3AN-81-6291, p.6)

The defendant in the 1981 case was Southeast-Harrison Western, a joint venture, and (perhaps) ironically they are the plaintiff in the current bidder's challenge to be heard in Anchorage next week, against Irby/Northface. It should be obvious, therefore that joint venture firms, such as Southeast-Harrison Western and Irby/Northface seem more concerned with submitting a successful bid than any constitutional question concerning APA's bid evaluation procedures or with the responsiveness of their own bids. This is clearly illustrated by the above joint venture taking both sides of the fence in this argument.

While I have yet to have access to the legal briefs from the 1981 bidder's challenge, it would seem that there is a more substantial case nonresponsiveness in the present bidder's challenge against APA and Irby/Northface, than in the 1981 case.

The IBEW telegram points out that, at the time of bid submission, Irby/Northface had no electrical administrator. On February 23, 1983 the Licensing Examiner (AK Dept. of CED) certified that Irby/Northface had no licensed electrical administrator [8]. Attached to this certification are 4 cease and desist orders issued to contractors for the same bid violations, issued by DOL. The cease and desist orders [9] issued to Irby and Northface (February 23, 1983) were overridden by the Attorney General's Office, in contrast to the previous 47 cease and desist orders issued between 7/80 and 1/83, why? This is the intervention of the Attorney General's Office that are constituent mail refers to and protests.

A cease and desist order was issued to Irby/Northface on February 23, 1983 was accompanied by a cease and desist order to Shirley Schinderline of Eide Construction Co. for serving as an electrical administrator for two companies at the same time [10]. Attached to this is the certification from the licensing examiner of the same date, which certifies that she had sent a letter to the Division of Occupational Licensing, dated February 10, 1983, and received February 16, 1983, which states her intention of serving as electrical administrator for two construction companies at the same time. DOL rejected this, on the grounds covered in AS 08.40.130 and AS 08.40175 [11].

It should be pointed out here that upon initial inquiry into this matter, as a part of routine investigation to answer constituent mail, I was directed to Ross Kopperrud of the Attorney Generals' Office who gave me only the APA side of the story and made no mention of any of these documents or of the IBEW investigations. He further provided me with the case number for the 1983 bidder's challenge, but gave me the wrong number, when I was unsuccessful in obtaining a copy of the case from the clerk's office of the Anchorage Superior Court, I called him back. At which time he stated that "that's the number on his copy and he couldn't help me." Needless to say, did not mention any other documents or investigations or involved parties. It was not until I contacted IBEW that I was able to obtain the other side of the story, and the correct case number, etc.

On February 16, 1983, Kennedy and Davis of Irby/Northface sent a letter to Eberle of the APA, to notify them of their joint venture formed for the purpose of bidding and constructing the Intertie (APA-83-0015). [12]

The evidence for nonresponsiveness in the bidding contract of Irby/Northface seems strongest in terms of 1) the double licensing of Shirley Schinderline as Electrical Administrator, 2) in terms of the erasures, etc., on the bid and 3) in terms of their failure to comply with the bid instructions in the sub-item unit prices in their actual bid.

8. Note the suggestion of backdating in the Schinderline letters to DOL, compare the documents in [10].

IBEW suggests that Irby/Northface is also nonresponsive in their lack of demonstrated work experience within the state, and therefore their noncompliance with the EEO plan in hiring within the state.

It is not clear that these nonresponsive arguments would hold up in court, given the earlier failure of a bidder's challenge on similar grounds. Further research is required at this stage, into the grounds for the 1981 challenge of nonresponsive bidding.

III DISCUSSION

It does seem that a court case could be made for the constitutionality of APA policy interpretation of the Alaska Bidder's Preference Law, which employs the use of joint venture, by analogy, to refer to Alaska business.

Clearly APA has blatantly chosen to operate with their own interpretation of the Alaska Bidder's Preference Law. To date I have been unable to examine the minutes of the Committee meetings which resulted in the final form of CSHB 156, sponsored by the Rules Committee, in 1982 and which was enacted into law. This bill amended the Bidder's Preference statutes AS 37.05.230 and AS 37.05.240. It would be interesting to see if there was any discussion at that time of the joint venture statute in relation to the Bidder's Preference statutes, and if so, why did the resulting amendment not address this problem?

Attorney Charles W. Cohen, of Ely, Guess and Rudd Law Offices, sent a letter of March 10, 1983, to Oczkus of IBEW, which argues that there is a legal case to be made for the unconstitutionality of applying joint ventures to the Bidder's Preference statutes [14].

If we were to read the Alaska statutes AS 37.05.230 (5)(B) in their literal sense, the bid contract award to Irby/Northface is not in compliance with Alaska State Law. Furthermore, Irby Construction Co., Inc. does not have an Alaska Business license [15], nor do they have a foreign corporation license, as required by Alaska State Law, under AS10.05.597 [16]. Finally no license is registered for Irby/Northface, as a joint venture. In other words, the APA has accepted Northface's license as the legal ("business") license in compliance with AS 37.05.230 (5)(B), even though the contract has been awarded to the joint venture and not the smaller Alaskan firm.

Out of a very real concern for Alaskan hire, the IBEW has been most active in their attempts to get an investigation underway. First, in their own attempt to investigate the contract awarded to Irby/Northface [17], and later in terms of the telegram to APA, the IBEW has encountered obstacles that could be interpreted as obstruction of justice.

IV QUESTIONS

1. What is the intent of the Alaska Bidder's Preference Law?
 - a) To protect Alaskan firms
 - b) To protect Alaskan workers

- c) To promote the development of Alaskan firms qualified to handle large contracts
 - d) To protect the Alaskan public from overspending on large State contracts
 - e) To allow small Alaskan firms to enter into larger contracts by allowing for larger out-of-state firms to piggy-back on them in a joint venture and thereby compete in bids
2. Why has there been no legislative attempt to amend the Alaskan Bidder's Preference Law in terms of the question of joint venture and its applicability (or non-applicability) to this law? Witness pending legislation in the 1983 Session which does not address this and 1982 legislation which did not, why?
 3. Who will profit from the passage of HB 106 this year?
 - a) Large out-of-state firms in Alaskan joint venture firms
 - b) And/or smaller Alaskan firms
 - c) Alaskan workers
 - d) The Alaskan people
 - e) The APA
 4. Is there some unforeseen harm to Alaskan businesses if we were to amend the Alaska Bidder's Preference to include joint ventures explicitly? If we were to exclude it?
 5. Should we draft legislation to amend the Bidder's Preference Law, or should we leave it to the courts and eventual executive order?
 6. Is there sufficient evidence for obstruction of justice, in the current bidder's challenge, on the part of the office of the Attorney General?
 7. Has the APA acted irregularly or illegally in its use of a consultant in the bidding process?
 8. Has the APA acted irregularly or illegally in its policy interpretation of the Alaska Bidder's Preference Law?
 9. What restrictions for Alaska hire apply to joint venture bidders who have received a Alaska Bidder's Preference contract? How does this compare to a fully Alaskan firm who has received a contract under an Alaska business license?

HB

430

House Bills 430, 459, 460 - Repeal of March 13 Presidential Primary Election.

A timely repeal of this primary could save considerable monies. The dates and activities noted in each block are deadlines for the fraction of monies committed. By February 12, approximately 1/2 of the funds to be expended will be committed. Any bill to repeal must have an immediate effective date incorporated. February 20th, when ballots have been shipped by certified mail and final notices are committed to advertising seems to be a date, admittedly arbitrary, when the election should proceed.

JANUARY 9
1/8 funds

Travel/Training
election board wkrs
(ongoing)

initial ordering of:
-special forms
-posters, other
materials
-voter ID cards
-voter registration forms

program costs for
party affiliation
& precinct registration changes

temporary staff
hired

JANUARY 24
1/4 funds

Travel/Training
election board wkrs

order all ballots

sign program
contract

initial advertising
(print & video
contracted)

purchase supplies &
postage to all
precincts

40 day notices sent
out
mass mailings

FEBRUARY 12
1/2 funds

Travel/Training
election board wkrs

airmail all
remaining material

contract for communications
(election returns
cable hoodups, sites)

ballots separated
& shipped from
printer

FEBRUARY 20
3/4 funds

Travel/Training
election board wkrs

10 day notices sent
out

secondary advertising
contracted
(print, radio,
video)

certify-mail all
ballots to
precincts

MARCH 13
Total funds

payment of all
election workers,
including:
tally teams
counting teams
canvass boards

rents for halls

transportation of
ballots, troopers

polling place set-
ups by contractors

MEMORANDUM
January 16, 1984

TO: Rep. Miller
FROM: Denise Zachary *dz*
SUBJECT: Dates/ Presidential Primaries - Republican and Democrat

	Presidential Primary	Candidate Filing Deadline
Alabama	March 13	January 14, 1984
Arkansas	March 13	December 28, 1983
Alaska	March 13	December 28, 1983
California	June 5	March 23, 1984
Connecticut	March 27	February 20, 1984
Florida	March 13	January 16, 1984
Georgia	March 13	February 20, 1984
Idaho	May 22	April 23, 1984
Illinois	March 20	December 30, 1983
Indiana	May 8	March 9, 1984
Louisiana	April 7	March 2, 1984
Maryland	May 8	February 27, 1984
Massachusetts	March 13	January 6, 1984
Montana	June 5	March 17, 1984
Nebraska	May 15	March 16, 1984
New Hampshire	February 28	January 3, 1984
New Jersey	June 5	April 26, 1984
New Mexico	June 5	March 16, 1984
New York	April 3	February 16, 1984
North Carolina	May 8	February 7, 1984
North Dakota	June 12	April 18, 1984
Ohio	May 8	February 23
Oregon	May 15	March 6, 1984
Pennsylvania	April 10	January 31, 1984
Rhode Island	March 13	January 6, 1984
South Dakota	June 5	April 3, 1984
Tennessee	May 1	March 6, 1984
Texas	May 5	February 6, 1984
Vermont	March 6	January 16, 1984
West Virginia	June 5	March 31, 1984
Wisconsin	April 3	March 1, 1984
Washington D.C.	May 1	March 2, 1984
Puerto Rico	March 18	February 9, 1984

This information from NCSL this date.

MSG 3230

1/13/84

MARY/MATSU

TO: REP. HAYES, ABOOD, WARD, COWDERY, SHULTZ, M.M. MILLER, LARSON
LACHER

FR: ERNEST E. LINE, DISTRICT CHAIRMAN
DISTRICT 16 REPUBLICANS
SR BOX 5014
WASILLA 99687 PHONE: 376-6709

*ALASKA PRESIDENTIAL PREFERENCE PRIMARY HAS NO PRACTICAL WORTH. PLEASE
RESCIND THE PRESIDENTIAL PRIMARY LEGISLATION. SUPPORT AND PASS HB 460.*
THIS ACTION TAKEN BY THE DISTRICT COMMITTEE, DISTRICT 16 REPUBLICANS.

EOM

MSG 3259 MARTIE/MATSU 1/13/84

TO: REP. ABOOD, REP. WARD, REP. COWDERY, REP. SHULTZ, REP. M.M. MILLER,
REP. LARSON, REP. LACHER

FROM: MR. AND MRS. GUS SCHEELE
PO BOX 870330
WASILLA* 99687
892 6338

WE ARE OPPOSED TO THE PRESIDENTIAL PRIMARY.

MSNG NO 3259 MARTIE/MATSU 1/13/84

TO: REP. ABOOD, REP. WARD, REP. COWDERY, REP. SHULTZ, REP. M.M. MILLER,
REP. LARSON, REP. LACHER

FROM: NEIL A. JR. AND JANE BROWNE

BOX 870350

WASILLA 99687

376 5577

WE ARE OPPOSED TO THE PRESIDENTIAL PRIMARY.

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: HB 430, 459-60
 Title: repeal of Presidential
Party Primary statutes
 Sponsor: Gov., Lacher, Ward
 Requestor: (H) State Affairs
 Date of Request: 1/10/84

FISCAL DETAIL

Agency Affected: Division of Elections
 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	(222.0)					
200 TRAVEL	(15.3)					
300 CONTRACTUAL	(562.7)					
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	(800.0)					
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	1,000.0					
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL: By January 24, 1984 \$200.0 of the \$1,000.0 special fund established by Ch. 20, SLA 1983 will be expended, reflecting a savings of \$800.0 by the repeal of AS 15.25.220 - AS 15.25 280.

ANALYSIS: Attach a separate page for analysis

Prepared By: T.P. Thoma Phone: _____
 Division: Division of Elections Date: 1/16/84
 Approved by Commissioner: [Signature] Date: 1/16/84
 Agency: _____

Distribution (by Agency preparing fiscal note):

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

12/1/83

1. HB 430 is the first presidential primary election repeal bill received by the State Affairs Committee in the closing days of last session. This will be the first public hearing for the bill which was sponsored by request of the governor.
2. The Lt. Governor is scheduled to testify along with the Division of Elections (if they are needed). Since Mc Alpine technically heads the Division, they may choose to defer to him.

**** Difference between HB 430 and the two other primary repeal bills****

HB 430 is a technically clean bill. The other bills have an unnecessary section in them (section 2). Dick Bradley, the attorney who drafted the bill will be on hand to explain the section. I've also asked that he supply the committee with a written explanation.

Prepared by the Division of Elections.

PRESIDENTIAL PARTY PRIMARY ELECTION
March 13, 1984

Background

In the 1980 legislative session, members of the state House and Senate were successful in getting statutory authority for Alaska's first Presidential party primary. AS 15.25.220-280 authorizes this primary for 1984. The primary was approved chiefly because of the argument that candidates would come to Alaska, campaign, and learn more about the state. This primary election was to be binding on the delegate selection process by the terms of the statute.

In May 1983, the U.S. Supreme Court issued its opinion in LaFollette vs. U.S., concluding that in order for a presidential primary election to be binding on political parties in the delegate selection process, the conduct of the election must comply with party rules. Both Democratic and Republican party rules require a CLOSED primary election before the results can bind the delegate selection process. In order to comply, the Division of Elections had hoped that a voter's party preference could be declared without physically changing his or her registration. This plan was rejected by both of the parties because it failed to comply with national party rules.

The Division of Elections then adopted what is known as the Massachusetts plan for presidential primaries. This requires registered party members to vote their party's ballot while non-partisans may choose which party to join on election day. As a result, only those voters who declare a party preference and are willing to have their voter registration changed will be allowed to vote on March 13 in Alaska.

Since 58% (151,500) of Alaska's voters are non-partisan or registered "other", a procedure was adopted to accommodate all voters; by allowing this 58% and the 1,017 registered Libertarians (who chose not to appear on the ballot) to declare a party affiliation up to and including election day, while requiring any Democrats or Republicans that wish to change their party affiliation to do so no less than 30 days prior to March 13.

Reasons for Repeal

1) Approximately \$.8 million would be saved by repeal of AS 15.25.220-280.

2) The method of voting is both objectionable and confusing to voters. Every letter and communication received on this issue has been vehemently opposed to the method of conducting the primary. Alaskans seem satisfied with the present, "blanket," open primary system of voting; they pride themselves on their status as informed independents.

3) The primary is an undue administrative burden on the many citizens that serve Alaska's polling places. In addition to the many hours of new training necessary to explain the primary to these workers, the sharp change in the regular rules of voting will focus undeserved criticism on the poll workers for a one-time method of primary election. Confusion over voter eligibility will also tend to discourage voters from casting a primary ballot. This problem is exacerbated in the absentee-by-mail voting process.

4) Only one of the nine major Presidential candidates have traveled to Alaska to campaign. It appears that the chief argument for the primary has not occurred. (Nine other states are also having primaries on this date.)

5) Alaska's delegate strength to the two major party conventions is so small, .4 of 1% of delegate votes, that spending up to \$1 million on such an election could easily be viewed as a waste of money by the majority of the electorate.

6) Since only one candidate will appear on each the Republican and Alaska Independence Party ballots, the secrecy of the vote is compromised.

7) If the primary is repealed, the political parties will return to the traditional methods of apportioning delegates by caucus and convention.

ndment, effective May 28.
d "state ballot counting
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d for "canvassing" in the

s. — This section was
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pronouns in conformity
l(c) and § 4, Chapter 58.

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COPY
§ 15.13.011

chapter. The question of exemption from the requirements of this chapter may be submitted by the city council or borough assembly by ordinance or by initiative ordinance. Nothing in this chapter prohibits a municipality from regulating by ordinance campaign contributions and expenditures.

(b) Except as otherwise provided, this chapter applies to contributions, expenditures and communications made by a candidate, group, municipality or individual for the purpose of influencing the outcome of a ballot proposition or question as well as those made to influence the nomination or election of a candidate. (§ 1 ch 76 SLA 1974; am §§ 1, 2 ch 189 SLA 1975)

NOTES TO DECISIONS

7

Constitutionality. — In the case of *First Nat'l Bank v. Bellotti*, 435 U.S. 765, 98 S. Ct. 1407, 55 L. Ed. 2d 707, rehearing denied, 438 U.S. 907, 98 S. Ct. 3126, 57 L. Ed. 2d 1150 (1978), the supreme court of the United States has indicated in unmistakable terms that state disclosure laws pertaining to ballot issues are constitutional. *Messerli v. State*, Sup. Ct. Op. No. 2236 (File No. 4326), 626 P.2d 81 (1980).

When there is no showing that an individual must remain anonymous with respect to advertising as to ballot propositions because of the possibility of being subject to reprisals, economic or otherwise, the state campaign disclosure laws are not unconstitutional as applied to a contributor hoping to influence the outcome of a ballot issue because the objective of an informed electorate is sufficiently compelling to overcome an interest in anonymous political expression.

Messerli v. State, Sup. Ct. Op. No. 2236 (File No. 4326), 626 P.2d 81 (1980).

Initiative substantially similar to ch. 76, SLA 1974, correctly withheld from ballot. — Substantial similarity existed between ch. 76, SLA 1974, which enacted this chapter, relating to election campaigns, and an initiative relating to campaign contributions and expenditures, which was filed with the lieutenant governor prior to the regular 1974 session of the legislature. The act effectively displaced the initiative, and the lieutenant governor was correct in withholding the initiative from the ballot. *Warren v. Boucher*, Sup. Ct. Op. No. 1205 (File No. 2315), 543 P.2d 731 (1975).

For comparison of ch. 76, SLA 1974, and the initiative, see *Warren v. Boucher*, Sup. Ct. Op. No. 1205 (File No. 2315), 543 P.2d 731 (1975).

Sec. 15.13.011. Inapplicability to presidential primary. The provisions of this chapter do not apply to a presidential primary election conducted under AS 15.25.220 — 15.25.280. (§ 3 ch 20 SLA 1980)

Sec. 15.13.020. Alaska Public Offices Commission. (a) There is created in the Department of Administration the Alaska Public Offices Commission consisting of five members.

(b) The governor shall appoint two members of each of the two political parties whose candidate for governor received the highest number of votes in the most recent preceding general election at which a governor was elected. The two appointees from each of these two parties shall be chosen from a list of four names to be submitted by the central committee of each party.

(c) The four members selected under (b) of this section shall, by a majority vote, appoint the remaining fifth member of the commission.

Effect of amendments. — The 1980 amendment substituted "director" for "lieutenant governor" where it appears at the beginning of the first sentence and near the beginning of the third sentence. deleted "the same rate of" preceding "compensation" near the middle of the second sentence, and substituted "as provided in AS 15.15.380" for "paid elections judges" at the end of the second sentence.

The 1982 amendment, effective May 28, 1982, substituted "state ballot counting review" for "canvassing of the vote" in the first sentence and for "canvassing" in the fifth sentence

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

NOTES TO DECISIONS

Applied in *Silides v. Thomas*, Sup. Ct. Op. No. 1362 (File Nos. 3019, 3020, 3021), 559 P.2d 80 (1977).

Chapter 13. State Election Campaigns.

Section

- 10. Applicability
- 11. Inapplicability to presidential primary
- 20. Alaska Public Offices Commission
- 30. Duties of the commission
- 40. Contributions, expenditures and supplying of services to be reported
- 45. Investigations, hearings
- 50. Groups
- 60. Campaign treasurers
- 70. Contributions and expenditures; amount and form of payment

Section

- 80. Statement by contributor
- 90. Identification of communication
- 100. Expenditures before filing
- 110. Filing of reports
- 120. Penalty; limitations on actions
- 122. Legal counsel
- 125. Civil penalty; late filing of required reports
- 130. Definitions

Collateral references. — 25 Am. Jur. 2d, Elections, §§ 4-7, 10, 280-290.

29 C.J.S., Elections, §§ 2-4, 6, 118(7), 216(1)-216(5).

Sec. 15.13.010. Applicability. (a) This chapter applies in every election for governor, lieutenant governor, a member of the state legislature, a delegate to a constitutional convention, or judge seeking electoral confirmation. It also applies to every candidate for election to a municipal office in a city or borough with a population of more than 1,000 inhabitants according to the latest United States census figures or estimates of population certified as correct for administrative purposes by the Department of Community and Regional Affairs. A municipality may exempt its elected municipal officers from the requirements of this chapter if a majority of the voters voting on the question at any regular election, as defined by AS 29.78.010(14), or a special municipality-wide election called for that purpose, vote to exempt its elected municipal officers from the requirements of this