

ALASKA LEGISLATURE COMMITTEE FILES 1983-1988 80/2

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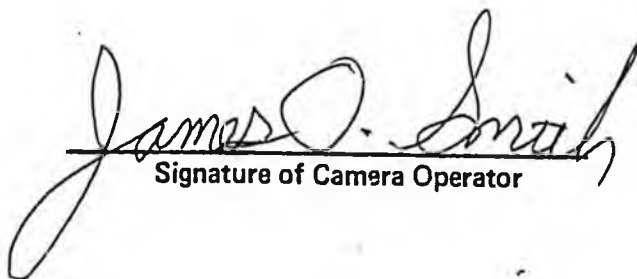
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# RECORDS CERTIFICATION



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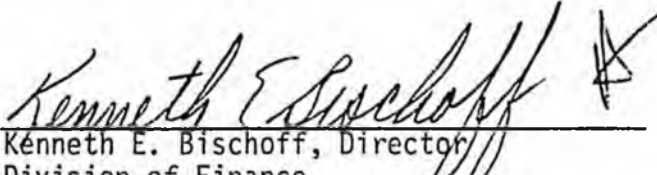
Position Paper  
SB 148

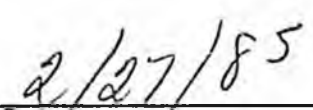
This bill basically attempts to replace the Division of Legislative Audit with a similar organization headed by an elected official.

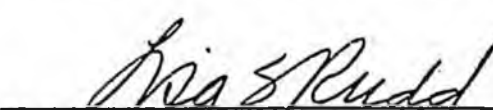
Since the Department of Administration is responsible for maintaining the State's financial systems and prepares the State Annual Financial Report, there is continuous contact between us and the Legislative Audit Division. We anticipate no significant impact or change in the way we would conduct business with the new State Treasurer's organization as the legislation as currently written provides that the Deputy State Treasurer in the new organization be a Certified Public Accountant. Consequently, all audits would continue to be conducted according to standards prescribed by authoritative accounting organizations (such as the American Institute of Certified Public Accountants, Federal General Accounting Office, etc.).

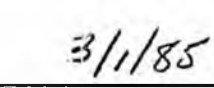
The Department of Administration has had a good working relationship with the Division of Legislative Audit. We anticipate no significant changes in the working relationship that would take place with the new elected State Treasurer based upon our understanding of this legislation.

The Department of Administration's position on this bill is neutral.

  
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Kenneth E. Bischoff, Director  
Division of Finance

  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Commissioner Lisa Rudd  
Department of Administration

  
\_\_\_\_\_  
Date



Times photo by Herb Swanson

### Montessori school

Bobby Walker stacks counting rods recently during a class at Children's Montessori School in Chugiak. Maria Montessori, founder of the school, believed that children learn best through hands-on activities.

## State mishandles \$3 million in loans

by Harry McFarland  
Times Business Writer

Nearly five years after the state issued its first loan to a Delta Junction barley farmers' cooperative, papers have yet to be signed to legally obligate the group to repay loans now totaling about \$3 million.

Those unsigned notes are just one example of the faulty accounting methods and mishandled loan packages plaguing a \$52-million loan program, according to official documents. State officials say those problems could threaten Alaska's legal position should they need to initiate foreclosures on any of the loans.

Among the 276 borrowers of the Agricultural Revolving Loan Fund, 48.6 percent were delinquent with payments, according to a Division of Agriculture report for August.

State officials this week presented a

plan that would forgive the parcel-purchase and land-clearing loans on the second phase of the Delta project if the farmers give up their rights to farm. It validates acknowledgement that foreclosures to recover a portion of the state's investment may be commonplace among the 276 borrowers.

Last year, the state foreclosed on 13 Delta II farmers.

"We are trying to come to grips with the problems," said James Barnett, deputy commissioner of the Department of Natural Resources. "We have to realize that we have to take losses. Some farmers are going to have to go into default."

Assistant Attorney General Joan Travostino, who has been assigned to help Division of Agriculture officials correct discrepancies in loans, said signatures from Alaska Farmers Cooperative directors won't be affixed to the

documents for some time.

"They don't have any way to pay. They don't make enough money," Travostino said.

Payment will be "tough," acknowledged Adrian Fredericks, cooperative manager since 1980, because "there aren't enough acres in production to keep a facility, like this, running."

Fredericks said that annual payments are being made to the agriculture division, but they are not full payments.

The cooperative's grain elevator has the capacity to handle 60,000 to 70,000 acres of grain production, Fredericks said, but only 12,000 to 13,000 acres are yielding crops.

"There's no way that the cooperative would be able to service the debt," he said.

The paper trail that details years of See Mishandled, page A-12

## Sheffield axes Susitna funds; backers say dam will proceed

by Debblo Rehnwand  
Times Writer

Conspicuously absent from Gov. Bill Sheffield's \$2.6 billion budget for 1987, released Friday, were funds for the Susitna hydroelectric project. But proponents say the licensing process can continue without any more state dollars.

"Receiving money this year would have made the process easier down the road, but I think we all understand there isn't the money right now," said David Gottstein, spokesman for Alaskans for Statewide Energy Solutions, a group backing development of Railbelt

ment fund," Gottstein said.

Sheffield said he intends to introduce legislation to do just that.

"We plan to return the money to the fund and continue with the FERC (Federal Energy Regulatory Commission) licensing process," the governor said.

In 1984, the legislature passed what is known as a continuing appropriation. The legislation required lawmakers to set aside \$200 million each year for development of the Susitna project, as well as \$50 million for the Bradley Lake hydro project.

This fall, however, two public inter-

An Anchorage judge agreed with the groups' legal argument and tossed out the continuing appropriation.

That threw into limbo the hundreds of millions of dollars already set aside for Susitna. Sheffield on Friday said he has a three-point plan for developing the dam, which includes returning the money already earmarked for Susitna to the power development fund.

"After we've reappropriated that money, we need a mechanism through legislation where we can put the interest derived from the fund back into the fund each year," Sheffield said.

"The third thing we need this year in

Continued from page A-1

error-plagued accounting procedures was first revealed by a 1980 audit that examined a \$1 million loan issued to the cooperative without any signed loan papers. The loan was issued to build the grain elevator at Delta Junction.

A confidential state ombudsman's report written this summer and obtained by The Times revealed the problems in the Division of Agriculture's loan program, and, specifically, the lack of documentation on the cooperative's loans.

Division of Agriculture Director Bill Heim admitted problems in the agency, but said he has been short of personnel that would help keep the loans in order.

The ombudsman's report further revealed that one of the cooperative's loans never has had a principal nor repayment terms agreed to by the group or the agriculture division.

"I guess I can't answer why they weren't signed," Fredericks said.

Neither apparently can anyone else.

The officials who ran the Division of Agriculture in 1980 and 1981 were replaced when Gov. Bill Sheffield was elected to office. Only John Katz, Department of Natural Resources commissioner, was retained by Sheffield, and he now runs the governor's Washington, D.C., office.

In 1982, auditors found that 23 loans had been authorized and more than \$5 million disbursed without official loan documents. Katz told Legislative Budget and Audit Director Gerald Wukerson that letters of intent were executed to outline terms of the notes, but the farmers' cooperative apparently slipped through the cracks.

Travostino said the cooperative's four unsigned notes, as well as those of other borrowers, have forced the board to tighten loan procedures, especially to those who keep returning for funds.

Barnett said the state will have to begin taking a more focused approach to forcing farmers to meet the obligations.

"A lot of money was sent in a lot of places during the early '80s," Barnett said. "A lot of the investment was too speculative."

"I think in the past," said Travostino, "the loan board was not concerned with the delinquencies, because they were so busy handing out money."

State auditors say that 48.6 percent of the state's 787 farming loans are delinquent, while the Division of Agriculture says only 35 percent are delinquent. The

13.6 percent difference is a matter of semantics.

Heim said auditors mark a loan delinquent and due when a current month's payment is past due. The loan fund says a note is delinquent when it hasn't been paid on its maturity date.

Delta Junction farmers have borrowed 46 percent, or \$22.3 million, of the total outstanding loans, according to agricultural division records. Auditors say \$13.5 million in loans are delinquent, a rate of 25.8 percent; the loan board says 17.2 percent are late.

In the Delta Junction area, 98 borrowers account for a total 364 loans; 21 farmers have been referred to the Department of Law for collection.

The Matanuska Valley farmers are not much better off, as they account for about 21 of 77 farmers in that area who have been referred to the law department. Auditors say nearly 26 percent of the Matanuska loans are delinquent, while the agriculture division says delinquencies are 17 percent.

A 1984 legislative audit reiterated criticisms detailed in earlier reviews, which had found numerous discrepancies in agricultural division loan handling procedures. The auditors found one \$160,000 mistake in interest accrual, and had to correct more than 150 loan account errors.

More staff and thorough accounting may be the only answers, state officials say. Both Barnett and Travostino note that a receding revenue picture could darken any hope that the state will be able to keep pouring money into agricultural projects, hire needed loan examiners, accounting staff and attorneys to ensure tighter control on the monies.

"We have to make the farmers successful without putting any more money in," Barnett said.

Legislative auditors in 1980 first began hammering at the agriculture officials to clear up discrepancies in its loan procedures.

Among the recommendations were:

- The Department of Natural Resources should improve its procedures for disbursing loan funds. The recommendation came from a "special review" of the \$1 million allocation to build grain storage facilities at Delta Junction.

The funds were issued to the Alaska Farmers Cooperative, but auditors found that the "loan agreement was never executed, and although the Coop is voluntarily complying with some of the conditions . . . it is not meeting the more important condi-

tions regarding investment capital and operating losses."

Auditors recommended the state force the cooperative to sign loan payments, and the agricultural division should monitor the group's "activities to ensure that the provisions of the agreement are being carried out."

• Apparently a loan agreement of \$2,000 was executed improperly for the amount of \$174,000. The auditors recommended that that be changed to reflect the proper amount of money loaned.

Yet, more than two years later, agriculture division procedures remained in disarray. A legislative audit for fiscal 1982 found auditors recommending that "ARLF should ensure loan notes are properly executed" after they found the 23 loans issued without legally binding documents.

The lack of documentation left auditors to conclude that, "If the notes are not complete with the amount of the loan, issue date, interest rate, repayment terms, and maturity date, and a notarized signature of the borrower, the collectibility of the loan may be jeopardized.

"For example," the auditors continued, "ARLF presently has plans to foreclose on a loan for which the note has no stated repayment terms or maturity date. The borrower has departed from Alaska. ARLF may have difficulties foreclosing on this loan due to the incomplete note."

Auditors also said they found five delinquent loans that

were't shown by division staff to be in that status. "This was due to the staff being informed that loan extension and-or reamortization agreements were in process," auditors said. "However, no written agreements were ever executed with the borrowers."

The 1982 audit also revealed:

• A loan for \$40,000 denied by the ARLF board was subsequently issued by agricultural division staff.

• A loan issued for an amount different from the amount approved by the board.

• Two loans totaling \$43,000 issued with no record of board approval.

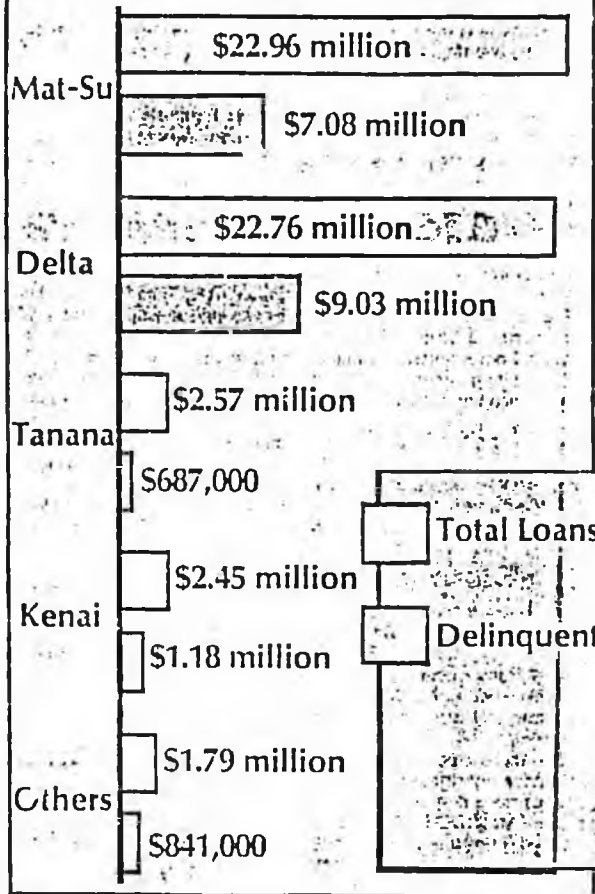
Alaska statutes required that any loans in excess of \$25,000 be approved by the loan board and the natural resources commissioner.

In December 1984, the auditors once again reported major discrepancies and laxity in the agriculture division, and issued several recommendations to tighten up the purse strings.

Among the findings, the auditors found that bank accounts were not reconciled, borrowers' controlled accounts were not kept in check which allowed borrowers to spend funds on inappropriate equipment, and interest accruals were reported erroneously. One mistake in interest totaled \$160,000.

The auditors reported they had to make adjustments on interest accruals for more than 250 accounts.

# Local farm debts



SECTIONAL ANALYSIS OF 2d SSSB 148  
PREPARED BY SENATOR TIM KELLY

Section 1

Amends AS 37 by adding a new chapter establishing the basic powers and duties of the State Treasurer.

The proposed AS 37.06.010 sets out the specific powers and duties of the Treasurer. The second sponsor substitute incorporates the use of four terms found in the U.S. General Accounting Office publication "Standards for Audit of Governmental Organizations, Programs, Activities, and Functions": "compliance audit", "management audit", "program audit" and "investigation" to specifically define the kinds of functions to be carried out by the Treasurer. Definitions of this type are not present in existing law. In subsection (a), 10 paragraphs establish mandatory duties of the Treasurer. In the second sponsor substitute, use of the terminology "provide for" and "review" in these paragraphs emphasizes the contract audit and supervisory authority of the Treasurer found in the proposed AS 37.06.040, AS 37.06.050 and AS 37.06.100, below.

Paragraph (1) requires the Treasurer to provide for annual compliance audits of all state agencies. This overall audit authority is presently exercised by the Division of Legislative Audit. See AS 24.20.271.

Paragraph (2) requires the Treasurer to review annual compliance audits of municipalities. This paragraph would establish new supervisory authority in the Treasurer over compliance audits of municipalities. See section 34. It will require that all municipalities in the state be audited under the same audit standards.

Paragraph (3) requires the Treasurer to review annual compliance audits of school districts receiving certain kinds of state assistance. This paragraph would establish new supervisory authority in the Treasurer over compliance audits of school districts. See sections 2 and 3. As in the case of municipalities in paragraph (2), this section will require that all school districts in the state be audited under the same audit standards.

Paragraph (4) requires the Treasurer to provide for management and program audits and investigations when requested by the governor, as head of the executive branch, the Legislative Budget & Audit Committee, representing the legislative branch, and the chief justice of the supreme court, as head of the judicial branch. The Treasurer must provide for an audit or investigation upon request of one of these officials or entities. This paragraph is an expanded version of AS 24.20.281, which relates to special audits conducted by the Legislative Auditor at the direction of the Legislative Budget and Audit Committee.

Paragraph (5) requires the Treasurer to provide for management and program audits of certain state agencies. See section 55. This authority, known as "sunset" audit authority, is part of existing law.

Paragraph (6) requires the Treasurer to provide for the audit of all financial statements of state government and all agencies of state government. The grant of this authority is intended to ensure that the financial reports of state government are consistently prepared, permitting comparisons between agencies and from year to year.

Paragraph (7) requires the Treasurer to examine estimates of receipts and expenditures to be included in the governor's annual budget request. See AS 37.07.060.

Paragraph (8) requires the Treasurer to report to the governor, the attorney general and the Legislative Budget & Audit Committee any unauthorized handling or expenditure of state money, or other improper financial practices or any obstruction of the Treasurer during an audit. This paragraph is new law.

Paragraph (9) requires the Treasurer to assist state agencies, municipalities and school districts in improving accounting systems. It is part of existing law and the responsibility of the Legislative Audit Division. See AS 24.20.271.

Paragraph (10) requires the Treasurer to keep accounts reflecting the costs of audits and investigations and any other necessary accounts. When combined with the contract audit authority in the proposed AS 37.06.100 and 37.06.110 (see below), this requirement will permit billing of state agencies, municipalities and school districts for compliance audits conducted by the Treasurer or contractors of the Treasurer.

Subsection (b) establishes the discretionary authority of the Treasurer.

Paragraph (1) permits the Treasurer on the Treasurer's own initiative to provide for management or program audits or investigations on any matter related to state finance. This grant of audit authority represents a significant addition to existing law.

Paragraph (2) permits the Treasurer to investigate and examine the conduct of officers disbursing state funds or controlling state property or of individuals preparing documents used as a basis for disbursing state funds. This is new law.

The proposed AS 37.06.020 relates to the retention and qualification of the Assistant State Treasurer and employees of the Office of the Treasurer.

Subsection (a) provides that the Assistant Treasurer shall be a certified public accountant or certified internal auditor with at least five years of experience in governmental auditing appointed by the Treasurer and will serve as Treasurer if a vacancy in the Office of Treasurer occurs.

Subsection (b) provides that the Treasurer may employ staff, including certified public accountants on a temporary basis. Employees of the Office of Treasurer shall be in the exempt service.

The proposed AS 37.06.030 relates to access of the Treasurer to records and authority of the Treasurer to require individuals to give testimony regarding audit matters.

Subsection (a) would grant to the Treasurer essentially the same authority to obtain and inspect the records and accounts of agencies

as currently exists for the Legislative Auditor. See AS 24.20.271 (5) and (6). The Treasurer would have the authority to inspect all records and accounts, regardless of their confidentiality. Restrictions on the release by the Treasurer of confidential information are found in the proposed AS 37.06.040.

Subsection (b) provides that the Treasurer may require any individuals to give information regarding any matter that the Treasurer is required to audit. The subsection provides for the answering of written interrogatories and the taking of statements under oath. This is new law.

The proposed AS 37.06.040 relates to audit and investigation reports and the Treasurer's review of those reports.

Under subsection (a), the Treasurer shall review audit and investigation reports for accuracy, completeness and compliance with audit standards. If the report is found to be deficient in any of these respects, the Treasurer shall return it to the agency, municipality or school district with a notice of deficiencies for correction by the auditor or investigator.

In subsection (b), once the Treasurer approves a report, the Treasurer shall provide a copy of the report to the governor, the legislature and the head of the agency to which the report pertains. Unless the audit report is based upon or contains confidential information, it shall be released to the public.

Subsection (c) provides that if deficiencies in the report are not corrected, the Treasurer shall disapprove the report and notification shall be given to the authorities supervising the agency, municipality or school district. Disapproval of an report concerning a municipality or school district triggers provisions for the withholding of state funds to that entity contained in the proposed AS 37.06.050 (below).

Subsection (d) requires the Treasurer to prepare an annual report and submit it to the legislature.

The proposed AS 37.06.050 establishes new authority for the Treasurer to require correction of deficiencies identified in audit and investigation reports.

Subsection (a) requires the head of an agency or the governing body of a municipality or school district to correct deficiencies identified in audit or investigation reports and to file a written response setting out the proposed corrections. If the Treasurer approves the response, the Treasurer shall notify the agency or governing body.

Under subsection (b), if the Treasurer disapproves the response of a municipality or school district setting out proposed corrections, the Treasurer shall serve notice on the governing body of intent to withhold funds under this section.

Subsection (c) provides that following notice given in subsection (b), the governing body of a municipality or school district may request a hearing under the Administrative Procedure Act, AS 44.62, or an informal conference with the Treasurer.

Subsection (d) provides authority for the Treasurer, after a hearing, to order that state funds under certain programs be withheld from a municipality or school district if the Treasurer finds that the

auditor or investigator has failed to correct the report or the governing body has failed to adopt an adequate plan to correct deficiencies identified in an report. Programs subject to this authority include: (1) payments for approved school construction projects, AS 14.11; (2) the public school foundation program, AS 14.17; (3) municipal tax resources equalization, AS 29.60.010 - 29.60.80; (4) state aid to municipalities, AS 29.60.100 - 29.60.180; grants to municipalities, AS 37.05.315. Upon certification by the Treasurer to the Commissioner of Administration to withhold funds under these programs, 50 percent of funds shall be withheld. A provision making this authority applicable to programs suspended from operation by the Legislature.

Subsection (e) permits the governing body of a municipality or school district from which funds are withheld under subsection (d) to petition the Treasurer for release of the funds. Release would be permitted if the Treasurer finds that adequate action has been taken to correct deficiencies identified in an audit or investigation report.

The proposed AS 37.06.060 relates to express authority for the Treasurer to provide for follow-up audits and investigations. This authority does not exist in current law.

Subsection (a) establishes discretionary authority for the Treasurer to provide for follow-up audits and investigations.

Subsection (b) requires the Treasurer to provide for a follow-up audit or investigation when an initial audit reveals certain serious deficiencies.

The proposed AS 37.06.070 relates to conflicts of interest by the Treasurer and the Treasurer's staff.

Subsection (a) prohibits the Treasurer and the employees of the Treasurer from serving on state boards and commissions or in another administrative agency of state government.

Subsection (b) requires the Treasurer and the employees of the Treasurer to file annual conflict of interest statements under AS 39.50.

The proposed AS 37.06.080 relates to the conduct of audits by the Treasurer and the audit files of the Treasurer.

Subsection (a) requires state officials and employees to cooperate with the Treasurer during an audit and permits the Treasurer to obtain bank balances of the accounts of the state.

Subsection (b) requires the Treasurer to keep a complete file of all reports and releases as well as all work papers related to audits. Release of information in audit files is subject to the same rules on confidentiality established in the proposed AS 37.06.040. The Treasurer is also required to keep a complete record of all fiscal transactions of the Treasurer's office.

The proposed AS 37.06.090 requires the Treasurer to establish audit standards for the conduct of audits in accordance with generally accepted government auditing standards. The term "generally acceptable government auditing standards" is defined in the proposed AS 37.06.140. All audits provided for or subject to the review of the Treasurer shall be in accordance with the audit standards promulgated

under this section. If federal grants require that different audit standards be used, then the federal audit standards can be used.

The proposed AS 37.06.100 requires the Treasurer to contract with certified public accountants to the greatest extent practicable for the completion of financial and compliance audits. Authority to contract for management and program audits and investigations with certified public accountants and certified internal auditors is also contained in this section. Contract audits conducted under this section shall be in conformance with the audit standards established in the proposed AS 37.06.090.

The proposed AS 37.06.110 requires independent state agencies, municipalities and school boards to reimburse the State Treasurer for the costs of annual compliance audits.

The proposed AS 37.06.120 relates to the legal counsel to the Treasurer.

Subsection (a) requires the attorney general to advise the Treasurer on legal matters and represent the Treasurer in legal actions to which the Treasurer is a party. If the attorney general is representing another agency of state government in a legal action or the Treasurer determines that employment of independent legal counsel will better serve the needs of the office of the Treasurer, the Treasurer is permitted to retain independent counsel.

Subsection (b) gives the Treasurer the authority to inform the attorney general of the need for the attorney general to direct a prosecution in the name of the state against any person for an illegal act or omission discovered in the course of the Treasurer's official duties. This provision is based upon a similar grant of authority made to the Washington State Auditor under Washington law.

The proposed AS 37.06.130 requires the Treasurer to adopt regulations and conduct hearings under the Administrative Procedure Act (AS 44.62).

The proposed AS 37.06.140 defines seven terms used in the proposed AS 37.06.

The definition of "agency" is intended to reach every organization part of or affiliated with state government.

The terms "compliance audit", "management audit", "program audit" and "investigation" are taken from U.S. General Accounting Office audit standards. These definitions are intended to provide specific guidance to the Treasurer in the conduct of the duties assigned to the Treasurer by law. These terms do not presently exist in Alaska law. The terms "special audit" and "performance post-audit" relating to the duties of the Legislative Audit Division, exist in AS 24.20.271 and 24.20.281 but are not defined anywhere in state law.

The term "generally accepted government auditing standards" is defined by direct reference to U.S. General Accounting Office audit standards and represents standards which are nationally recognized in the government auditing profession.

"Treasurer" is defined to refer to the State Treasurer elected under article IX, Section 17 or 18 of the State Constitution.

## Section 2

Amends AS 14.11.125(b) to require that annual audits of school districts receiving state assistance under the public school facilities construction advance account (AS 14.11.105) conform to audit standards adopted by the Treasurer. As provided for in the proposed AS 37.06.010, above, such audits would be subject to review by the Treasurer. Audits would be required to conform to audit standards adopted by the Treasurer.

## Section 3

Amends AS 14.17.190(b) to require that annual audits of school districts receiving state assistance under the public school foundation program (AS 14.17.010-14.17.250) conform to audit standards adopted by the Treasurer. As provided for in the proposed AS 37.06.010, above, such audits would be subject to review by the Treasurer. Audits would be required to conform to audit standards adopted by the Treasurer.

## Sections 4,5,6,7,8,9,10,11,12,13,14,15 & 16

These sections amend the state election code (Title 15) to include the office of Treasurer in the same provisions that apply to all other elected, statewide offices.

Sections 4,5, and 6 relate to limitations on campaign contributions and expenditures, disclosure of sources of contributions and objects of expenditures and reporting requirements administered by the Alaska Public Offices Commission.

Sections 7,8 and 9 relate to recounts.

Section 11 relates to nominations of candidates through the primary election process.

Section 12 adds the basic provision in title 15 to provide for the election of the Treasurer.

Sections 13 and 14 relate to the recall.

Sections 15 and 16 relate to the state election pamphlet.

## Section 17

Amends AS 18.55.996 (i) to require that annual audits of Regional Native Housing Authorities established under AS 18.55.995-18.55.998, be performed by an outside auditor and conform to the audit standards established by the Treasurer. This section also provides that the Treasurer shall establish the form and record of the financial records of housing authorities.

#### Sections 18 and 19

Section 18 amends AS 18.56.089 to require that annual audits of the Alaska Housing Finance Corporation conform to the audit standards established by the Treasurer.

Section 19 amends AS 18.56.200 (b) to require that annual audits of the financial statement of AHFC conform to the audit standards established by the Treasurer.

#### Section 20

Amends AS 24.05.040 to provide that a member of the Legislature may seek the office of Treasurer while holding office as a state legislator.

#### Section 21

Amends AS 24.20.140 to require that the annual audit of the expenditures of the Legislative Council conform to the audit standards established by the Treasurer.

#### Section 22

Amends AS 24.20.201 (a), relating to the powers of the Legislative Budget & Audit Committee, to reflect repeal of the statutes establishing the Legislative Audit Division and the transfer of those functions to the Treasurer. The section amends existing law to reflect that post-audits of the Alaska Housing Finance Corporation and the Alaska Industrial Development Authority will be conducted by the Treasurer rather than by the committee. The committee will retain the authority to review those reports.

#### Section 23

Amends AS 24.20.201 to require that the Legislative Budget & Audit Committee shall provide for an annual audit of the Office of the State Treasurer by an independent auditor.

#### Section 24

Amends AS 24.20.206, relating to the duties of the Legislative Budget & Audit Committee, to reflect repeal of the statutes establishing the Legislative Audit Division and the transfer of those functions to the Treasurer. The section amends existing law to reflect that post-audits of the Alaska Permanent Fund, the Alaska Housing Finance Corporation and the Alaska Industrial Development Authority will be conducted by an independent outside auditor. The committee will retain authority to review those reports. The section also replaces the language "operational and performance evaluation" in current law

with "management and program audit" as those terms are defined in the proposed AS 37.06.140. See the analysis of section 1 of the bill.

#### Section 25

Amends AS 24.20.281 to provide that the state Treasurer, rather than the Legislative Audit Division, will provide for or conduct management and program audits and investigations when requested by the Legislative Budget & Audit Committee. The term "special audit" in existing law is replaced with "management and program audit" and "investigation" to reflect the new definition of those terms in the proposed AS 37.06.140. See the analysis of section 1 of the bill.

#### Section 26

Amends AS 24.20.291, relating to conflict of interests by the legislative auditor and the legislative fiscal analyst, to reflect the repeal of the Legislative Audit Division.

#### Sections 27, 28, 29 and 30

Amends AS 24.23.030 (b) and (c), AS 24.23.040 (b) and AS 24.23.060 (a), relating to professional service contracts by the Legislature, to reflect the repeal of the Legislative Audit Division.

#### Section 31

Amends AS 24.55.330 (2), relating to the definition of "agency" under statutes establishing the Ombudsman, (AS 24.55.010-24.55.340), to include the State Treasurer.

#### Section 32

Amends AS 24.60.050 (e), relating to state loans held by members of the legislature under statutes regulating standards of conduct by legislators (AS 24.60.010-24.60.190), to reflect the repeal of the Legislative Audit Division.

#### Section 33

Amends AS 29.48.220, relating to annual post-audits of all municipalities, to require that audits conform to audit standards adopted by the Treasurer. The effect of this section is to ensure that all municipalities in the state are uniformly audited on an annual basis.

#### Section 34

Amends AS 30.13.125, relating to annual post-audits of Regional Resources Development Authorities (AS 30.13.010-30.13.900), to require that annual audits be conducted at the direction of the Treasurer rather than the Legislative Auditor and conform to audit standards adopted by the Treasurer. The section is also amended to require that financial records of authorities be in a form prescribed by the Treasurer.

#### Section 35

Amends AS 35.10.135, relating to the Public Facilities Planning Fund to require that annual audits of the fund conform to audit standards adopted by the Treasurer.

#### Section 36

Amends AS 37.05.210, relating to fiscal reporting and statistics by the Department of Administration under the Fiscal Procedures Act (AS 37.05.010-37.05.410), to require that reports of financial transactions and reports of the financial condition of the state be filed with the Treasurer rather than the Legislative Auditor.

#### Section 37

Amends AS 37.12.100, relating to the annual audit of the corporation, to require that the audit conform to audit standards adopted by the Treasurer.

#### Sections 38 and 39

Section 38 amends AS 37.13.160, relating to audits of the Alaska Permanent Fund (AS 37.13.010-37.13.210), to provide that the Legislative Budget & Audit Committee may request the Treasurer to conduct an annual post audit and an annual management and program audit of the fund's investments and investment programs.

Section 39 amends AS 37.13.170, relating the annual financial statements of the fund, to require that audits of financial statements conform to audit standards adopted by the Treasurer.

#### Sections 40, 41 and 42

Amend existing law relating to compensation and allowances of elected public officials.

Section 40 amends AS 39.20.050 by adding the Treasurer to the provisions regarding exclusive compensation of elected statewide officials.

Section 41 amends AS 39.20.060 by adding the Treasurer to provisions regarding the exemption of elected statewide officials from the state personnel laws.

Section 42 amends AS 39.20.310 by adding the Treasurer to provisions regarding the exemption of elected statewide officials from statutes on annual leave.

#### Section 43

Amends AS 39.25.110, relating to the exemption of certain state employees from the State Personnel Act (AS 39.25.010-39.25.220), to provide that employees of the Treasurer shall be in the exempt service.

#### Sections 44, 45 and 46

Section 44 amends AS 39.50.020 (b), relating to the filing of statements of financial and business interests by certain public officials (AS 39.50.010-39.50.200), by adding the Treasurer to the list of officials required to file these statements with the Alaska Public Offices Commission. This section also applies to candidates for the office of Treasurer.

Section 45 amends AS 39.50.130, relating to the consequences of failure to file financial reports required under AS 39.50.020, by adding the Treasurer to the list of elected statewide officials subject to these penalties.

Section 46 amends AS 39.50.200 (8), relating to the definition of "public official" under AS 39.05, by deleting a reference to the Legislative Auditor and inserting the Treasurer.

#### Section 47

Amends AS 42.40.270, relating to audits of the Alaska Railroad Corporation (AS 42.40.010-42.40.990), to require that annual audits be conducted by an independent outside auditor. Annual performance audits would be performed by an independent outside auditor rather than "a recognized railroad management expert". Annual audits would be required to conform to audit standards adopted by the Treasurer to the extent that such standards are not inconsistent with the provisions of this section.

Financial records of the corporation would be made available to the Treasurer rather than to the Legislative Audit Division. Limitations on disclosure of financial information would apply to the Treasurer, rather than to the Legislative Audit Division.

#### Section 48

Amends AS 43.20.013 (a), relating to tax credits for political contributions, to permit individuals contributing to candidates for the office of Treasurer to claim a tax credit of up to \$100.

#### Sections 49 & 50

Section 49 amends AS 44.07.200, relating to the Capital City Development Corporation (AS 44.07.010-44.07.360), to require that the accounts and books of the corporation be subject to the examination of the Treasurer rather than the Legislative Auditor. This section would also require that the audit of the corporation conducted every two years be performed by the Treasurer rather than by an independent accountant. The audit would be required to conform to audit standards adopted by the Treasurer.

Section 50 amends AS 44.07.280, relating to the staff of the Capital City Development Oversight Committee (AS 44.07.220-44.07.290), to require that the Treasurer rather than the Legislative Audit Division provide audits requested by the committee.

#### Section 51

Amends AS 44.47.530, relating to the annual report of the Division of Housing Assistance (AS 44.47.360-44.47.560) within the Department of Community and Regional Affairs, to require that the audit conform to audit standards adopted by the Treasurer.

#### Section 52

Amends AS 44.66.050 (a), relating to the review of the activities of certain agencies, boards and commissions (AS 44.66.010-44.66.060), to require that audits pursuant to this section be conducted by an independent outside auditor selected by the Treasurer rather than by the Legislative Audit Division. Such audits would be required to conform to audit standards adopted by the Treasurer. The section further amends this provision to reflect the use of the new term "management and program audit" rather than "performance audit" in the proposed AS 37.06.100. See the analysis of section 1.

#### Sections 53, 54 and 55

Section 53 amends AS 44.81.260 (b), relating to confidentiality of the records of the Alaska Fishing and Agriculture Bank (AS 44.81.010-44.81.350), by providing that the Treasurer, rather than the Legislative Audit Division has access to the records of the bank.

Section 54 amends AS 44.81.270, relating to audits of CFAB, to provide that the Treasurer or an independent auditor selected by the Treasurer, rather than the Legislative Audit Division may audit the bank.

Such audits would be required to conform to audit standards adopted by the Treasurer.

Section 55 amends AS 44.81.280, relating to the disclosure of information acquired by auditors of CFAB, by providing that the Treasurer and the Treasurer's employees, rather than the Legislative Auditor, shall be subject to the limitations of this section.

#### Section 56

Amends AS 44.82.180, relating to audits of the Alaska Gas Pipeline Financing Authority (AS 44.82.010-44.82.200), to require that the financial records of the authority be audited annually by an independent outside auditor rather than by the Legislative Auditor. Such audits would be required to conform to audit standards adopted by the Treasurer. The section is also amended to require that financial records of the authority be in a form prescribed by the Treasurer.

#### Section 57

Amends AS 44.83.190, relating to audits of the Alaska Power Authority (AS 44.83.010-44.83.425), to require that audits of the financial records of the authority conform to audit standards adopted by the Treasurer. The section is also amended to require that financial records of the authority be in a form prescribed by the Treasurer.

#### Section 58

Amends AS 44.85.100 (a), relating to audits of the Alaska Municipal Bond Bank Authority, to require that audits of the books and accounts of the authority conform to audit standards adopted by the Treasurer.

#### Section 59

Amends AS 44.88.200, relating to audits of the Alaska Industrial Development Authority (AS 44.88.010-44.88.220), to require that audits of the financial records of the authority conform to audit standards adopted by the Treasurer. The section is also amended to require that financial records of the authority be in a form prescribed by the Treasurer.

#### Section 60

Amends AS 47.40.031, relating to the purchase of services by the Department of Health & Social Services, to require that facilities soliciting or receiving grants from the department under AS 47.40.011-47.40.091 submit to the Treasurer, rather than the legislative auditor a financial statement prepared by an independent certified public accountant. The section also requires that such facilities furnish all fiscal information, books, records, and accounts pertaining to

services rendered to the state to the Treasurer rather than to the Division of Legislative Audit.

#### Section 61

This section is a general transition provision to provide that all activities, transactions and rights under any statute affected by this act will remain in effect or transfer to successor provisions upon the effective date of 2d SSSB 148.

#### Section 62

This section provides that wherever necessary, references to the Legislative Audit Division in Alaska Statutes or regulations, shall be read as referring to the Office of the State Treasurer. The section also gives the revisor of statutes and the regulations attorney of the executive branch the authority to make corrective name changes.

#### Section 63

This section repeals the Legislative Audit Division.

AS 24.20.241 establishes the division.

AS 24.20.251 relates to the qualifications and appointment of the Legislative Auditor.

AS 24.20.261 relates to the staff of the division.

AS 24.20.271 relates to the powers and duties of the division.

AS 24.20.301 (a) relates to records of the division.

AS 24.23.060 (b) relates to the filing of contracts of the division under the Legislative Contract Procedure (AS 24.23.010-24.23.070).

#### Section 64

Provides that only those sections necessary for conducting an election for the office of Treasurer need take effect following the approval by the voters of the constitutional amendment establishing the Office of State Treasurer. Included in this group is the tax credit for political contributions and financial disclosure of candidates for the Office of Treasurer.

#### Section 65

Provides that the remaining sections of the bill take effect on the first day of the first term of the first State Treasurer.

# Editorials

## State treasurer

SEN. TIM KELLY has introduced legislation at Juneau to create a new state officer to be the auditor for all financial transactions. Despite the fact it would fulfill one of the state's greatest needs, the bill probably has no chance of passage this year.

The need has been obvious for years. Since 1977 the state has paid out \$23 billion and left an auditable trail like that of a raven's shadow on a snowfield.

Since 1980 the legislature has approved 2,925 grants giving hundreds of millions of dollars to aid municipalities. The state agency that administers those grants has audited exactly three of them to see how the money was used.

A non-profit group in Anchorage was handed a state check for \$150,000 to fund a special project. The check was payable to the executive director who, fortunately, chose not to keep it as his own. He was never asked to account for what he did with it. Another social agency was handed \$200,000 it had not asked for and had no use for. Nobody was concerned with what became of it.

ACCOUNTABILITY in handling its money is one of the greatest needs of the state yet it is not desired by all the state leaders. Enactment of this law will be diffi-

cult.

The idea of another elective state official is repulsive to the governor, who now rules the roost as the man in charge. Like the idea of electing the attorney general, the new state auditor (the bill would give him the title of treasurer) would be a threat to the governor and his appointees.

Unfortunately, there are also lower-rung politicians who prefer chaos to an orderly process because they do better when there is no accounting. The legislators will have pressure put on them to prevent enactment.

THIS IS A proposal that deserves universal approval. It can be speculated that the constitutional convention delegates would have written it into the original document had they known that \$23 billion would be scattered to the winds as far as the records are concerned.

To win this one, the people are going to have to build up pressure on their representatives. It may be as unpopular with politicians as the idea of moving the capital, which the people wanted but the politicians didn't.

This is the kind of issue that is so sound, so essential to good government, that it will not go away. Eventually we'll get an elected auditor. Why now now?

ESTABLISH STATE TREASURER POSITION

DEMOGRAPHICS	STTREAS		
	N-R	SUPPORT	OPPOSE
TOTAL.....	6%	72%	22%
LOCATION			
RURAL.....	9%	74%	17%
CENTRAL.....	10%	65%	25%
SOUTHCENTRAL....	4%	74%	23%
ANCHORAGE.....	6%	74%	20%
SOUTHEAST.....	3%	69%	28%
REGISTER			
DEMO.....	4%	77%	18%
REPUB.....	8%	70%	21%
NONPART.....	6%	69%	21%
NOTREGIS.....	3%	77%	19%
SEX			
MALE.....	6%	68%	25%
FEMALE.....	6%	75%	19%
AGE			
18-24 YRS OF AGE..	0%	30%	20%
25-40.....	7%	73%	23%
41-55.....	5%	72%	23%
56+ YRS.....	11%	60%	26%
INCOME			
N-R.....	5%	53%	37%
10-\$20,000 INCOME..	7%	81%	12%
\$20,000-\$40,000..	7%	71%	22%
\$40,000-\$60,000..	2%	73%	24%
\$60,000+.....	10%	67%	23%
WORKFOR			
FEDERAL.....	2%	81%	16%
STATE.....	4%	81%	15%
LOCAL.....	5%	63%	32%
PRIVATE.....	7%	70%	23%
NOTWORK.....	8%	71%	22%
TIMEINCH			
UNDER 1 YR IN CH..	12%	53%	29%
1-4 YEARS.....	4%	30%	16%
5-9 YEARS.....	5%	74%	22%
10-14 YEARS.....	12%	62%	26%
15+ YEARS.....	5%	70%	24%

FISCAL NOTE

REVISION DATE: \_\_\_\_\_

REQUEST

FISCAL DETAIL

Bill/Resolution No.: SB 148 Agency Affected: Legislative Audit, CRA, DEC, DOTPF, Labor, HSS, and DOA

Title: Elected State Treasurer Program Category Affected: \_\_\_\_\_

Sponsor: Kelly/Sturculewski/Halferd/ Bennett/Ferguson/Abood/Falks ERU, Program or Subprogram(s) Affected \_\_\_\_\_

Requestor: \_\_\_\_\_

Date Requested: \_\_\_\_\_

Fiscal Note is zero based upon assumptions detailed in the analysis section.

ANALYSIS

Assumptions:

1. Financial compliance audits performed upon school boards, municipalities, independent State authorities, banks or quasi-corporations, as required by this law, shall be paid for by the auditee.
2. Financial compliance audits performed in item (1) will be performed by certified public accountants licensed in the State.
3. Performance, management and program audits to be performed on independent State authorities or quasi-corporations will be done by the State Treasurer.
4. The FY 86 budget level of the Legislative Audit Division, including appropriate inflation adjustments (\$2,569,400) through 1988, will be combined with other budgets listed in item 6 to fund the State Treasurer organization.
5. Management and program audit requests by the Governor, Legislative Budget and Audit Committee or the Chief Justice of the Supreme Court will not increase above the FY 84 audit request activity.
6. Budget levels of the respective executive branch internal audit groups, approximating \$2,200,000, including appropriate inflation adjustments, will be transferred to the elected treasurer organization in 1988, are adequate to meet their respective audit mandates and will be adjusted for inflation through the date of transfer. These groups are presently part of CRA, DEC, OMB, DOTPF, Labor, HSS, and DOA.

Prepared By: *Mark J. Jones*

Phone: 465-3830

Division: Legislative Audit

Date: 7/5/86

Approved by Commissioner \_\_\_\_\_

Date: \_\_\_\_\_

Agency: \_\_\_\_\_

Distribution (by Agency preparing fiscal note):

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

# STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : \_\_\_\_\_

**REQUEST**

Bill/Resolution No. : CSHB 148 (Judiciary)  
 Title : "An Act relating to mobile  
 home warranties."

Sponsor : Rules/Governor  
 Requestor : Sen. Finance  
 Date of Request : March 5, 1986

**FISCAL DETAIL**

Agency Affected : Department of Law  
 BRU : Consumer Protection

Component : Consumer Protection

**EXPENDITURES/REVENUES : (Thousands of Dollars)**

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>		-0-	-0-	-0-	-0-	-0-

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

**FUNDING : (Thousands of Dollars)**

GENERAL FUND		-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>						

**POSITIONS :**

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

**ANALYSIS :** Attach a separate page if necessary

Please see attached analysis.

Prepared by : Richard I. Pegues, Director Phone : 465-3672  
 Division : Administrative Services Division Date : 3/6/86  
 Approved by Richard I. Pegues / For / Commissioner : Harold M. Brown, Atty General Date : 3/6/86  
 Agency : Department of Law

Distribution (by Agency preparing fiscal note):

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

## CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. CSHB 148

The committee substitute retains the right of private action contained in the original version of the bill, and it adds new responsibilities to the Department of Law. First, copies of all complaints and summons arising from private actions must be served on the attorney general, who in turn must transmit a copy of the complaint and summons to the surety. Second, manufacturers' surety bonds shall be deposited with the Department of Law to assure compliance with AS 45.30.011. Moreover, sureties shall inform the attorney general in writing of all claims against the bond lodged directly with the surety and all sums paid against the bond. The Department of Law assumed responsibility for administering mobile home warranties in 1983. The department's only new responsibility under this bill is the requirement to receive and transmit complaints. The department has been monitoring surety bonds since 1983. Although there will be a small additional expense for transmitting complaints and summons, this expense does not warrant fiscal note costs.

# STATE OF ALASKA

**DEPARTMENT OF LAW**  
OFFICE OF ATTORNEY GENERAL  
CONSUMER PROTECTION SECTION

April 11, 1985

Honorable Pat Rodey, Chairman  
Senate Judiciary Committee  
Alaska State Legislature  
Pouch V (MS 3100)  
Juneau, AK 99811

Re: HB 148

Dear Pat:

This letter is written to encourage the Senate Labor and Commerce Committee to quickly consider and pass HB 148. This bill passed the House Labor and Commerce Committee unanimously and also passed the House Judiciary Committee unanimously, although the present version is a committee substitute that was developed in the House Judiciary Committee. House Bill 148 passed the House on a vote of 39 to 0 with one excused. As you can see there was tremendous support for this legislation. I believe the reason for this support and the popularity of the bill is the important relief granted to a purchaser of a mobile home in Alaska. Essentially the bill accomplishes three changes in the present law:

1. It raises the performance bond required of a manufacturer of mobile homes from \$35,000 to \$100,000.
2. It creates a private cause of action for a mobile home buyer against the manufacturer's bond for warranty violations.
3. It transfers warranty enforcement authority from the Department of Commerce and Economic Development to the Department of Law.

Increase in bond amount from \$35,000 to \$100,000.

This bill would amend AS 45.30.015(a) to increase the bond amount that a manufacturer of mobile homes would have to post with the State from \$35,000 to \$100,000. The purpose of this bond is to assure compliance with the provisions of AS 45.30.011, which set forth the warranty obligation by a manufacturer of a mobile home. The increase in the cost of mobile homes since the statute was first enacted suggests the need for the increase in the bond. You are probably aware that there are many persons in the state who live in mobile homes or choose to purchase mobile homes for

BILL SHEFFIELD, GOVERNOR

XX<sup>REPLY TO</sup>

1031 W 4th SUITE 110  
ANCHORAGE ALASKA 99501  
PHONE (907) 279-0428

1st NATIONAL CENTER  
100 CUSHMAN SUITE 400  
FAIRBANKS ALASKA 99701  
PHONE (907) 456-8588

S S FULLER BLDG  
4th & HARRIS, SUITE 214  
POUCH K  
JUNEAU ALASKA 99811  
PHONE (907) 465-3692

STATE COURTHOUSE ROOM 26  
PO BOX 671  
VALDEZ ALASKA 99686  
PHONE (907) 835-2462

their primary residence. There are no manufacturers of mobile homes in the State of Alaska, and the posting of this bond aids in making certain the mobile homes sold in the state are warranted for one year and that the manufacturer corrects any substantial defects that occur. Attached is a report that we prepared which sets forth some of the problems mobile home consumers have had with their mobile homes.

We, in this section, conducted a survey to determine the cost to a manufacturer if the bond amount were increased from \$35,000 to \$100,000. Our research showed that there would not be significant increase to the cost of a manufacturer whose mobile homes were sold in Alaska if the bond were increased. The cost of a bond pursuant to AS 45.30.015 would be between 1% and 2% of the face value annually, but in most cases only about 1% of the face amount. Thus, a \$100,000 bond would cost a manufacturer approximately \$1000, with an upper limit of \$2000 a year.

The financial stability and net worth of a manufacturer might well determine the cost of a bond or even if the manufacturer can obtain a bond. Any company's inability to obtain a bond would probably be a good indication of its level of reliability in fulfilling its bonded obligations, according to one local insurance broker. If the manufacturer is currently able to obtain a \$35,000 bond that same manufacturer would likely be able to obtain a \$100,000 bond. Thus the manufacturer would be looking at an increase from approximately \$350 to approximately \$1000 if this bill is enacted increasing the bond required from \$35,000 to \$100,000

#### Private cause of action against the bond

The current mobile home warranty statute, at AS 45.30.040, only allows a private buyer injured by the manufacturer of a defective home to request the state to take administrative action against the bond. In order to obtain the proceeds of the bond for any consumers, the state would have to show in an administrative action that the mobile home manufacturer's violations of the warranty act were "regular and recurring." Thus, an individual mobile home buyer may have a serious defect in the purchased mobile home but not be able to obtain the bond proceeds absent state action. The state is not likely to take action unless there are several mobile home buyers who experienced defects in a particular manufacturer's mobile homes.

Also, a buyer may believe she or he has a valid claim against the bond in a case in which the state enforcing authority

does not agree that administrative action is warranted. Providing a clear private cause of action against the bond may relieve a burden on government by reducing the number of administrative hearings and yet ensure that an individual can choose to enforce his own rights, whether or not a state agency agrees with the individual. Of course the mobile home buyer under the proposed revision to the statute would still have to file an action in court and prove that the mobile home manufacturer had violated the warranty provisions of the Mobile Home Warranty Act. The benefit to the mobile home buyer to be able to bring his or her private action against the mobile home manufacturer's bond becomes readily apparent in that case where the mobile home manufacturer has gone out of business, gone bankrupt or has no assets that can be used to satisfy a judgment that a mobile buyer might receive in court. Since all the mobile home manufacturers are located outside the state, collection efforts against an outside mobile home manufacturer may be very difficult for an individual mobile home buyer in the state. It is hoped that creating this private cause of action will make it possible for many claims to be settled without any formal action. The mobile home buyer would notify the manufacturer and the surety on the bond and hopefully some settlement or agreement could be arrived at to provide repairs or correct the defect without the necessity of litigation in many cases.

Transfer of enforcement from the Department of Commerce and Economic Development to the Department of Law

The bill proposes a change in the definition of "department" to mean the Department of Law in AS 45.30.100(2).

The Department of Commerce and Economic Development and the Department of Law agree that this is the most appropriate place to locate the enforcement of the Mobile Home Warranty Act. The Division of Legislative Audit prepared a special report on the Department of Commerce and Economic Development, Division of Measurement Standards, on April 6, 1983. In that report Legislative Audit recommended the transfer of the responsibility to resolve warranty defects of mobile homes found at AS 45.30 from the Department of Commerce and Economic Development to the Department of Law. The audit reflected three reasons for the need for the transfer:

1. Alleged possible conflicts of interest involving the Department of Commerce and Economic Development mobile home inspector;

Honorable Pat Rodey  
Senate Judiciary Committee

April 11, 1985  
Page 4

2. Alleged possible failure of the Department of Commerce and Economic Development to carry out the duties of the mobile home warranty act / and alleged use of money appropriated for that purpose in other ways.

3. The public perception that the Consumer Protection Section of the Department of Law is the agency to contact concerning consumer complaints with problems relating to mobile homes.

A follow up report was issued by the Division of Legislative Audit on June 4, 1984. That audit report provided: "The 1983 audit of the Division recommended that the Mobile Home Warranty Program would be better served under the Consumer Protection Section of the Department of Law. The recommendation was made on the basis that the Consumer Protection Section is the agency to which the public looks for resolution of consumer problems and would therefore be best suited to administer the program. The Department of Commerce and Economic Development has entered into a Reimbursable Service Agreement with the Department of Law to transfer the program. Legislation to make the transfer permanent was introduced into the 1984 session of the legislature."

For your convenience I have attached a copy of the 1983 report and the 1984 follow up report by the Division of the Legislative Audit.

We respectfully request that the Senate Labor & Commerce Committee carefully consider enacting the suggestions of the Division of Legislative Audit and transferring the responsibility for enforcement of AS 45.30 to the Department of Law. From a consumer viewpoint it would seem beneficial to alert the public to the fact that the actual enforcement of the Mobile Home Warranty Act now lies with the Department of Law. For instance, if a private attorney were advising mobile home owners, the attorney would no doubt look to the current statute and attempt to make contact with the Department of Commerce for additional information. It is difficult to justify the referral from one agency to another that is necessitated simply because the definition contained in AS 45.30.100 of "department" has not been changed by the legislature to the Department of Law.

Thank you for consideration of this legislation. We stand ready to assist the committee in any way that we can. I would be happy to testify via teleconference or in person. I have

Honorable Pat Rodey  
Senate Judiciary Committee

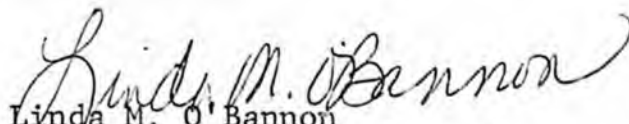
April 1, 1985  
Page 3

a very moving and interesting video tape of the defects in one particular mobile home. The House Labor and Commerce Committee viewed a portion of that video tape. I would be happy to play a portion of that for your committee. Again, we encourage you to consider this legislation as quickly as possible and pass the bill out of your committee. Thank you for considering our position.

Sincerely,

NORMAN C. GORSUCH  
ATTORNEY GENERAL

By:

  
Linda M. O'Bannon  
Assistant Attorney General  
Consumer Protection Section

/pc

Enclosures

THE MOBILE HOME WARRANTY ACT  
AND CONSUMER PROBLEMS WITH MOBILE HOMES

A Report by the Consumer Protection Section,  
Department of Law,  
February 4, 1984

Introduction

Mobile homes have become a major housing alternative for Alaskans, one which often involves considerable expense. Ranging in price from \$10,000 to well over \$100,000 (not including land), mobile homes in the state sold for an average of \$40,263 in mid-1984, as reported by the Alaska Housing Finance Corporation. Often mobile homes are purchased by consumers who lack the income needed for conventional housing and who are less able to protect themselves from defective products and unfair sales techniques. Yet unlike conventional housing, mobile home construction is not subject to regulation or inspection by local or state authorities, nor is the sale of mobile homes subject to professional licensing requirements.

A part from the Department of Law's general enforcement powers against unfair or deceptive trade practices, state efforts to prevent and remedy the widespread problems confronted by mobile home purchasers rest solely on the mobile home warranty act, AS 45.30. The Consumer Protection Section's recent experience in administering this act shows that defects in mobile homes and consumers' problems in obtaining corrective action continue to be frequent occurrences and continue to demand significant efforts on the part of the section.

Background of the Mobile Home Warranty Law

In 1980, the Legislature acted to ensure that consumers receive adequate warranty protection when they purchase mobile homes. (Ch. 104, SLA 1980, amending AS 45.30.) This statute requires new mobile homes to be covered by a one-year written warranty against substantial defects in materials and workmanship. One important provision of the mandated warranty is that the dealer and manufacturer are each fully responsible for correcting defects, so that the consumer is not shuttled back and forth with no one taking responsibility. Another important provision is that the warranty must cover not only the structure of the mobile home but also all mechanical systems, equipment, and appliances included when it is sold.

The statute also establishes a method to enforce compliance. Written notices of violations may be issued by a

state inspector, and the enforcement agency may hold administrative hearings on alleged violations. When it is determined, following such a hearing, that a dealer or manufacturer has violated a provision of the law, the violator may be ordered to take corrective action. Moreover, in appropriate cases the manufacturer's \$35,000 performance bond may be forfeited and the proceeds distributed to the injured parties.

The 1980 mobile home legislation did more than establish state warranty requirements; it also repealed existing portions of AS 45.30 which regulated mobile home construction standards. The reason for this repeal was not, it must be emphasized, a belief that such regulation was unnecessary. Rather, it was simply a matter of federal preemption. In 1976 the U.S. Department of Housing and Urban Development (HUD) had taken over the regulation of mobile home construction throughout the country. This meant the preemption of Alaska's construction standards program.

The HUD program, however, did not come close to eliminating many kinds of serious problems that frequently afflict purchasers of mobile homes. As pointed out in a 1980 Federal Trade Commission study of mobile home warranty problems, the scope of the HUD standards is limited and the agency's remedial powers when defects occur are "severely circumscribed." The construction standards, which cover only basic components and focus on safety concerns, do not protect consumers from defects in appliances, cabinetry, carpeting, ceiling tile or wall paneling, floor coverings, and so on; nor do they address damage occurring during transportation or set up. Equally important, inspection is required of a mobile home only once -- at any point -- during the manufacturing process, so that defects may readily occur which are not detected. Indeed, HUD has acknowledged that "no mobile home is completely without failures to conform to the Federal standards." Finally, once a mobile home has been purchased by a consumer, the only defects which HUD can require the manufacturer to correct are those which present an unreasonable risk of injury or death.

Thus, when the Alaska Legislature passed its mobile home warranty act, joining seventeen other states at that time with similar legislation, it did so in recognition of the need to fill a major gap in the legal protection provided to consumers. The House committee which recommended passage of the act had before it a report from the Attorney General's Consumer Protection Section analyzing complaints within the past two years from some 68 consumers having problems with mobile homes. In addition to multitudinous defects reported in interior construction, exterior construction, plumbing, appliances, electrical systems, and plumbing systems, a common thread running through the consumers'

experience was a lack of response from dealers and manufacturers to their complaints. Long delays in merely getting someone to look at the problem were common, and in many cases the defects remained uncorrected even after repeated attempts at repair. Experience since that time amply demonstrates the continuing importance of the warranty law.

Recent Consumer Protection Section  
Experience with Mobile Home Problems

Since the enforcement of the mobile home warranty act was administratively transferred to the Consumer Protection Section in May of 1983, the section has handled 65 complaints and has responded to over 96 inquiries and requests for assistance. Although most consumer mobile home complaints involve several individual problems that the consumer has experienced, the major focus of complaints received during the past year and a half may be summarized as follows:

1.	Defects in materials and workmanship	27%
2.	Misrepresentative sales techniques	46%
3.	Shoddy repair services	16%
4.	Mobile home park and other problems	11%

Specific mobile home related complaints include but are not limited to the following:

1. Doors and windows that will not open or close properly.
2. Cracked sinks and bathtubs.
3. Overly expensive to operate or inadequate heating systems.
4. Excessively high interior humidity
5. Buckling walls and separating components.
6. Misrepresentations about the ability to qualify for a loan, or about the outcome or penalty resulting from not qualifying for or not obtaining a loan to purchase a mobile home.
7. Settling of mobile homes resulting from inadequate or improper setup procedures.
8. Numerous failed attempts to repair mobile home defects by unqualified service persons.
9. Misrepresentations of the authority of a salesperson.
10. Failure to deliver title.

Although a report regarding consumer problems with their mobile homes must be brief, because as one consumer wrote to Consumer Protection just last week "there isn't enough paper in Alaska to state the dissatisfaction we've experienced," a few specific examples will help provide a clear understanding of the seriousness of consumer mobile home problems.

During the past year, three purchasers of a particular brand of mobile home complained to the Consumer Protection Section that the roofs on the mobile homes were leaking severely and that they had been unable to obtain a remedy from either the manufacturer or dealer. The consumer found that the dealer had "disappeared" and the manufacturer's response was that the consumers needed to shovel their roofs more adequately in the winter time (despite the dealer's original claim that their roofs were specially designed for "Alaska conditions"). Yet only a minor amount of snow had accumulated on them, and moreover the manufacturer's own "homeowners manual" stated that the roofs should not be climbed or walked on. Although the manufacturer's warranty had expired on two of the mobile homes, through mediation and negotiation the Consumer Protection Section obtained for the consumers new roofs and a one year warranty from the manufacturer that the structure of the roof would remain free from defects.

After resolution of the complaints one of the consumers confided that had the problem not been resolved he would have had to leave his home. It should be pointed out that since February of 1984, 56 mobile homes purchased between 1980 and 1984 were repossessed. According to AHFC personnel many of these homes were abandoned by their owners. With a 17% increase in the cost of a new mobile home between 1983 and 1985 and a slight decrease in the average monthly income of a new mobile home purchaser during the same period, it has become increasingly difficult for mobile home consumers to bear the burden of major defects such as these.

Many consumer complaints have involved the formation of large amounts of condensation on interior surfaces of their mobile homes. In many instances this leads to wet and ruined walls and carpets; in one case a consumer reported mushrooms growing on the floor. Homes inspected by this section have been found to possess warped ceilings, floors and walls. In some cases permanent fixtures such as bathtubs and toilet bowls have begun to sink through the floors. Often manufacturers respond to these problems with allegations that the consumer is improperly ventilating or utilizing the mobile home.

In other recent complaints consumers stated that they ordered mobile homes with particular features and amenities to be included by the manufacturer. They found, however, that when the mobile homes arrived many of these features were not included with the homes. Although the purchase agreements clearly stated that these items would be included, the dealer claimed that the consumer had agreed to accept the home without them. One consumer stated that the dealer kept telling him that he would "take care of it"; the outcome is pending. Consumer Protection records show

that many consumers are promised features or amenities with their mobile homes and then find those features missing upon delivery. They also find that the homes are many times improperly installed and in fact the homes themselves have been damaged in transit or were not properly constructed in the first place.

During the past two and one half years the Consumer Protection Section has recovered over \$132,000 for consumers who experienced defects in their mobile homes or mobile home transactions.

A SPECIAL REPORT ON THE  
DEPARTMENT OF COMMERCE AND  
ECONOMIC DEVELOPMENT  
DIVISION OF MEASUREMENT STANDARDS

April 6, 1983

Audit Control Number

08-4156-83-S

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ALASKA

AUDIT DIVISION  
POUCH W—ALASKA OFFICE BUILDING

**THE LEGISLATURE**

BUDGET AND AUDIT COMMITTEE

JUNEAU, ALASKA 99811

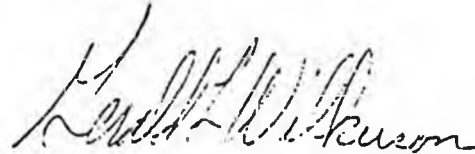
April 6, 1983

Members of the  
Legislative Budget and Audit Committee:

In accordance with the provisions of Title 24 of the Alaska Statutes, the attached report is submitted for your review.

A SPECIAL REPORT ON THE  
DEPARTMENT OF COMMERCE AND  
ECONOMIC DEVELOPMENT  
DIVISION OF MEASUREMENT STANDARDS

April 6, 1983



Gerald L. Wilkerson, CPA  
Legislative Auditor  
Division of Legislative Audit

TABLE OF CONTENTS

	<u>Page</u>
Purpose of the Report . . . . .	1
Organization and Function . . . . .	3
Findings and Recommendations. . . . .	5
Appendix:	
A. Disposition of Allegations on DMS Management. . . . .	17
Agency Response:	
Department of Commerce and Economic Development . . . . .	27

## PURPOSE OF THE REPORT

In accordance with a Legislative Budget and Audit Committee special request and Title 24 of the Alaska Statutes, an examination of the Department of Commerce and Economic Development, Division of Measurement Standards (DMS), was conducted to determine if:

1. The Division has complied with applicable State statutes and regulations governing its fiscal and budgeting activities.
2. The allegations submitted to the Legislative Budget and Audit Committee are true. (See Appendix A of this report).
3. The performance of the Division is acceptable in terms of economy, efficiency, and effectiveness.

DMS was organized in July, 1982, with the transfer of the permit and weigh station functions of the Department of Public Safety to the Department of Commerce and Economic Development, Weights and Measures Section. We recognize the problems created by the transition from a section of 18 employees who were located in three areas of the State to a division of 58 employees stationed in eight different locations. Therefore, in general, we focused our evaluation of program performance on those program areas which were in existence within the Weights and Measures Section prior to July, 1982.

The policy and audit approach utilized by the Division of Legislative Audit for Performance Review can best be described as "audit by exception".

This methodology focuses audit effort on areas of an auditee's operations that have been identified by a preliminary survey as having a high degree of probability for needing improvements.

Therefore, by design finite audit resources are used to identify where and how improvements can be made and little time is devoted to reviewing well run operations or programs. Consequently, this report highlights those areas needing improvement and does not emphasize those operations and programs that are properly functioning.

## ORGANIZATION AND FUNCTION

The Division of Measurement Standards (DMS) was established in July 1982 with the transfer of the permit and weigh station functions from the Department of Public Safety to the Department of Commerce and Economic Development, Weights and Measures Section. The Division has four distinct statutory requirements:

1. Public and consumer protection through maintenance of uniform standards which ensure the accuracy of commercial weighing and measuring devices within the State (AS 45.75).
2. Consumer protection for buyers of mobile homes through the enforcement of mobile home warranties (AS 45.30).
3. Operation of weigh stations to identify and remove overweight commercial vehicles from the State highway system (AS 44.33.020(25)).
4. Issuing of special permits authorizing the operation of overweight and oversize vehicles, and the collection of fees for these special permits (AS 44.33.020(25)).

The "Weights and Measures Act", AS 45.75, requires a system of weights and measures that conforms to the standards customarily in use in the United States. The weights and measures obtained by the State are to be verified by the National Bureau of Standards (NBS) and are to be properly maintained to ensure their reliability and traceability to NBS.

To accomplish this mandate, DMS is the custodian of the State's weights and measures and conducts the periodic verification with NBS. The State's standards of weights and measures are used to verify all office standards. The office standards then are used to verify all field standards used by DMS. In addition, these standards become the basis for verification of all instruments and devices used for determining weight or measure in commercial transactions within the State.

DMS fulfills its responsibilities through physical inspection of devices, examination of packaging, and the investigation of complaints. DMS may issue "stop-use" or "removal orders" of measuring devices and commodities offered for sale, when it is necessary to enforce the Weights and Measures Act.

Alaska Statute 45.30 mandates the responsibility to resolve warranty defects of mobile homes. Manufacturers selling mobile homes in the State are required to post a bond guaranteeing the warranty of that mobile home for one year. If the warranty is violated and a complaint is submitted through the Division, the Mobile Home Inspector has the authority to resolve the warranty defect through negotiations with the manufacturer, local dealer, and home owner.

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If the problem cannot be resolved, the Division may revoke the bond and use the proceeds to repair the warranty defect.

Under AS 44.33.020(25) the Division is responsible for the operation of 12 weigh stations located on the State highway system. The primary function of these weigh stations is to remove vehicles from the highway system that are in violation of the axle and gross weight limitations adopted by the Department of Transportation under AS 19.10.060.

In addition, DMS administrates the oversize and overweight permit program within AS 44.33.020(25). Commercial vehicles that exceed the maximum allowable size, weight, and load limitations are able to legally travel over the highway system by obtaining special permits which are issued for a fee. DMS also regulates pilot cars under this statute.

## FINDINGS AND RECOMMENDATIONS

### Recommendation No. 1

The Department should take immediate action to improve the employee morale of the Division of Measurement Standards (DMS).

As a result of interviews with 15 employees which is 28% of the current staff and the review of written communications (see Appendix A), it is obvious that a serious morale problem exists within DMS. The cause of the low employee morale does not appear to be centered around any single issue but is due to a build up of problems within the Weights and Measures Section over the past several years. Additional morale problems occurred with the transfer of the permit and weigh station functions to DMS.

During our review the Director of DMS and the Commissioner of the Department of Commerce and Economic Development recognized the severity of the morale problem and its potentially negative effect on program performance. Procedures, including employee interviews conducted by the Department's personnel officer, have been initiated to determine the causes of the low employee morale and to provide for possible solutions.

We encourage the Commissioner to continue these efforts to ensure improved employee morale and to avoid deterioration in program operations.

### Recommendation No. 2

DMS should avoid situations that give the appearance of a conflict of interest.

We noted several situations during our review which at a minimum give the appearance of a conflict of interest to employees (see Appendix A, Question Nos. 1 and 2) and other persons outside the Division. The situations noted are as follows:

1. Complaints may be filed with DMS by consumers against mobile home dealers and/or manufacturers when a mobile home has warranty defects. The DMS Mobile Home Inspector acts as a mediator between the consumer and the mobile home dealer and/or manufacturer to resolve the complaint.

During the period from July 1, 1981 to January 31, 1983, the Mobile Home Inspector received and mediated at least four complaints involving the mobile home dealership owned by his father. We understand the father has voluntarily dissolved his business as part of an out-of-court settlement with the State's Consumer Protection Section. However, other relatives own mobile home dealerships in the State.

2. During our review of contract procedures, we found that three contracts were awarded to a mobile home service and repair company. The DMS Mobile Home Inspector is a former employee of this business and his brother currently is employed there. The contracts were for remodeling of the current DMS offices, repair of a damaged weigh station, and construction of stairs at another weigh station. These contracts totalled \$3,689 and required two informal competitive bid proposals, and awarded the contracts.

In order to avoid the appearance of a conflict of interest, DMS should provide written procedures which would require an additional review of the bids by the Section Chief in these situations prior to awarding the contract. In addition, DMS should ensure that the person delegated the responsibility of awarding contracts is familiar with AS 37.05, Section 4, Uniform Purchasing and the State's contract procedures in Chapter 8 of the Purchasing Regulations.

3. A person convicted of price fixing in a retail gasoline business was hired by the Director in March, 1981, as a Weights and Measures Inspector I. The inspector's duties include inspection and testing of retail gasoline pumps.

The Division of Personnel requires a written description of a misdemeanor or felony conviction with the State employment applications. The description is evaluated to determine if the applicant is suitable for the responsibilities of a particular position. The evaluation may include discussions with the probation officer, if any, and the hiring authority.

In this case the hiring authority was the Director of DMS who had full knowledge of the employee's past, however, no written description of the conviction was in his personnel file.

The employee was asked to resign and his termination was effective April 17, 1981. However, as an agency entrusted with the responsibility of regulating industry for the public's protection, DMS should exercise a greater degree of care in its hiring practices.

### Recommendation No. 3

DMS should improve its budgeting and financial management.

Our review of the last three fiscal year budget requests and DMS financial records resulted in the following recommendations (see also Appendix A, Question Nos. 4 through 7).

A. DMS should ensure performance indicators in their budget requests are accurate.

The State budget request includes a form for each agency to report its performance activities of a past fiscal year based on predetermined measurements. In addition, the agency is to project its planned performance activities for the budget year. These performance indicators are one of the guidelines used to determine whether or not the amount of funds requested by the agency is reasonable.

In a review of the Fiscal Year 1983 and 1984 budget requests, we determined that some of the information reported by DMS for actual performance activities in Fiscal Years 1981 and 1982 was not accurate. The exceptions noted were as follows:

<u>Performance Activity</u>	<u>Number per Budget Request</u>	<u>L/A Findings</u>
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Fiscal Year 1981

Commodity items audited	699,485	This number represents the estimated population of commodity items from which a sample of items was audited. In comparison, the number reported for Fiscal Year 1982 was 12,577, which was the number of items audited that year rather than the estimated population of commodities.
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Fiscal Year 1982

Value of prepackaged goods found in violation	648,900	This number represents the estimated population of commodity items (see Fiscal Year 1981 above) which does not relate to dollar value. In contrast, DMS reported an estimated \$66,500,000 for this performance activity for Fiscal Year 1981. However, the methods used to derive this dollar amount are questionable.
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<u>Performance Activity</u>	<u>Number per Budget Request</u>	<u>L/A Findings</u>
Devices tested	16,500	The activity reports submitted to management showed a total of 11,276 devices. See Recommendation No. 7(C) concerning the accuracy and completeness of activity reports.
Mobile home inquiries/complaints received	100/150	The number of inquiries is unknown as no log or record is kept by DMS. The number of complaints based on a review of DMS records was actually 26 instead of 150. See Recommendation No. 5 relating to the mobile home program.

The budget instructions state that the agency should select only measures of activities for which data is already being collected or reasonably can be collected in the budget year. In addition, they state that once a useful measure has been identified it is useful to look at the same measure from year-to-year. DMS presented 17 performance activity measures in the last three fiscal year budgets of which only two have been reported all three years.

DMS should ensure information that is used, in part, to determine their level of funding is accurately and consistently presented in the budget requests.

B. DMS should prepare their fiscal year budgets in accordance with their anticipated spending plans.

The DMS Fiscal Year 1982 budget requested \$96,900 for rental of State vehicles through DOTPF. Actual costs during 1982 totalled approximately \$62,000, 36% less than budgeted. DMS staff explained that this budget line item was intentionally overbudgeted and the excess funds were used to cover expenditures in other underbudgeted line items within the contractual services category for which funding was harder to secure.

State budget requests should reflect anticipated spending to provide the Legislature with an accurate estimate of program needs.

- C. DMS should ensure State funds are expended only for authorized purchases in accordance with the State Administrative Manual.

DMS purchased seafood in August, 1981, and September, 1982, totalling \$100 and \$548 respectively. The seafood was presented to the members of the Western Weights and Measures Conferences. The State Administrative Manual, Section 6820, prohibits expenditure of State funds for nonessential food-stuffs.

- D. DMS should ensure appropriations are expended in accordance with law.

DMS received an appropriation totalling \$33,200 through Chapter 50, SLA 1980 to "purchase scale testing equipment and to provide transportation to test scales for seafood processors in the Aleutian Islands and Western Alaska". Through a review of the related expenditures, we found \$8,148 was expended for travel to areas other than the Aleutian Islands or Western Alaska.

In addition, DMS received another appropriation totalling \$39,100 through Chapter 120, SLA 1980, to implement the Mobile Home Warranty Program enacted by Chapter 104, SLA 1980. We determined that \$2,875 of these funds were expended on travel unrelated to the Mobile Home Warranty Program.

Recommendation No. 4

DMS should improve its personnel management.

During our review we noted personnel matters which may have contributed to the low employee morale (see Appendix A, Question Nos. 16 and 17). Our findings and recommendations are as follows:

- A. DMS should update job descriptions and classifications as required by the State Personnel Rules.

We determined through a review of job descriptions and employee interviews that material changes have occurred in the duties and responsibilities of two classified positions since the formation of the Division.

A Weights and Measures Inspector IV position no longer has the supervisory authority over the inspectors. The employee's current responsibilities include only administrative and budgeting duties. The Mobile Home Inspector's duties now include supervision of the weigh stations in addition to mediating mobile home warranty complaints.

The State Personnel Rules, 2.04.2, require each appointing authority to report to the Division of Personnel, material changes in the duties and responsibilities of existing positions. Memorandums in the employees' personnel files indicate that these changes in duties and responsibilities are temporary, however, based on our review and discussions with employees, the changes appear to be more permanent in nature. We recognize the difficulties encountered by management in the transition of becoming a full division. However, the job descriptions and duties should now be changed to reflect the actual duties and responsibilities of these positions to decrease the confusion and misunderstandings within the Division.

B. DMS should utilize promotional eligibility lists to the extent possible.

In July, 1982, DMS assumed the responsibility of the weigh stations from the Department of Public Safety. Twenty-eight commercial vehicle inspectors were transferred from the Department of Public Safety to DMS, however, DMS did not receive a transfer of any supervisory personnel. In order to provide sufficient supervision of the weigh stations, DMS upgraded three of the commercial vehicle inspector positions from a range 12 to a range 15. The incumbents in two of the upgraded positions became supervisors while the other inspectors were not afforded the opportunity to interview for the positions.

The State Personnel Rules, 3.01.3, state where adequate competition exists among permanent employees qualified for promotion an examination may be announced on a promotional basis.

DMS should utilize the promotional eligibility list in future situations where sufficient competition warrants to ensure the selection of the most qualified person for the position and to afford equity in their hiring practices.

Recommendation No. 5

The Department should seek legislation to transfer the Mobile Home Warranty Program to the Consumer Protection Section of the Department of Law.

We reviewed the function of the Mobile Home Warranty Program and the activity from July, 1981, through March, 1983. Based on our review we noted the following:

1. The Mobile Home Inspector acts as a mediator between the consumer and the dealer and/or manufacturer in order to resolve complaints.
2. During Fiscal Year 1982, DMS received 26 mobile home warranty complaints.

3. As of March, 1983, DMS had received nine complaints in Fiscal Year 1983.
4. The Consumer Protection Section receives and investigates mobile home complaints from consumers. According to a memorandum dated March 17, 1983, from an assistant attorney general, the Consumer Protection Section had five complaints currently under investigation.

Since the Consumer Protection Section is the agency which the public looks to for resolution of consumer problems and the Mobile Home Warranty Program deals with consumer protection warranty laws, it appears that the program could be more efficiently and effectively administered by the Consumer Protection Section.

We understand the Department has signed a reimbursable services agreement with the Department of Law to transfer the Program. The Department of Law plans to draft and initiate the necessary legislative change.

Recommendation No. 6

The Department should seek removal of DMS staff as delegates to the National Conference of States on Building Codes and Standards.

The Director and the Mobile Home Inspector are delegates to the National Conference of States on Building Codes and Standards, Incorporated (NCSBCS). The assessment fee of the NCSBCS is \$2,000 which DMS remits annually. During the period from May, 1981, through January, 1983, the Director attended five meetings related to NCSBCS which were held in Seattle, WA; Denver, CO; Boston, MA; Atlanta, GA; and New Orleans, LA. The Mobile Home Inspector also attended the meetings at Seattle and New Orleans. According to correspondence from NCSBCS, delegates must be active in and have responsibilities for building regulations.

DMS duties and responsibilities relating to building codes and standards were greatly diminished with the repeal of the State mobile home standards in September, 1980, and the enactment of the Mobile Home Warranty Program. Furthermore, current activity in the Mobile Home Warranty Program does not warrant involvement of DMS in NCSBCS.

Recommendation No. 7

DMS should improve its procedures to ensure compliance with statutory requirements.

We noted two areas of statutory compliance in which DMS should improve their procedures. Our recommendations are as follows:

- A. DMS should provide sufficient documentation that office and field standards (official test devices) are verified in accordance with law.

We could not find sufficient documentation to determine if DMS is in compliance with AS 45.75.060 which requires verification of office and field standards on an annual basis.

In addition, we determined that it is a DMS policy not to verify field standards in remote locations on an annual basis due to the high transportation costs and infrequent use of the standards.

In order to provide sufficient documentation, DMS should develop a complete inventory of all office and field standards with identifying numbers (where possible); the location of the standard; and the last date of verification. DMS should obtain a current State property list and utilize their word processing equipment to aid in the development of the inventory. In addition, the test lab's recording sheets should include sufficient identifying information to determine exactly which standard was tested.

- B. DMS should develop procedures to ensure that weight and measure devices are inspected and tested semiannually in accordance with law.

DMS does not have sufficient documentation to determine that they are in compliance with AS 45.75.080 which requires all weights and measures in commercial use to be inspected and tested at least semiannually or more often as the Director considers necessary. We were able to review inspection dates for 110 businesses located in Southeastern Alaska. Of those 110 businesses, 43 received annual inspections, 23 received semiannual inspections, and the remaining 44 did not have sufficient information to determine the frequency of inspections.

Alaska Statute 45.75.050 states the Director may promulgate regulations which exempt classes of devices from the semiannual inspection and testing required by AS 45.75.080. These regulations should include schedules fixing the frequency required for retests of the exempted class of devices.

DMS staff indicated that the high cost of transportation hinders their ability to comply with the required semiannual inspections. We recognize this problem. However, DMS should compile an inventory of devices including location and the last date of testing. This will provide management with data to determine the extent of compliance possible within budgetary constraints. We recommend the use of DMS word processing equipment, where practicable, to facilitate the compilation and maintenance of the inventory list. In addition, DMS should promulgate regulations to reflect any exemptions of classes of devices from the requirements of AS 45.75.080.

C. DMS should develop a uniform method for compilation of weights and measures verification activity data.

An inspector, in order to verify a weight or measure device, performs an inspection which is an evaluation of the physical characteristics of the device, and a test which is the actual test for accuracy through the use of standards, e.g. test weights. We noted inconsistencies in the methods used by inspectors to count the number of devices, and inspections and tests of those devices.

When the Chief of the Weights and Measures Section was asked to explain the correct method of accounting for these activities, the method described did not agree with the instructions he gave the staff in a memorandum dated August 17, 1982. The Chief stated that the memorandum was incorrect. We also noted that the method described in the memorandum would inflate the actual number of devices verified by the inspectors.

In addition to the inconsistencies in accounting for activities, we noted that monthly activity information is not organized in a manner to facilitate managerial use of data for planning and budgeting purposes. The Fiscal Year 1982 activity data was entered into the DMS word processing system. According to DMS staff, this data was used to calculate the total number of devices tested in Fiscal Year 1982 reported in the Fiscal Year 1984 budget request. However, we could not reconcile the recorded amount of devices totalling 11,276 to the reported number of 16,500 (see Recommendation No. 3A). The Fiscal Year 1983 activity data has not been entered into the word processing system.

DMS should develop procedures to ensure activity data is accounted for in a consistent manner and that data is complete and organized in a manner which facilitates use by management.

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APPENDIX

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APPENDIX A  
DISPOSITION OF ALLEGATIONS  
ON DMS MANAGEMENT

Presented below are the allegations concerning the management of DMS along with our findings. We have not included questions for which there was no documentation to prove or disprove the allegation.

CONFLICT OF INTEREST

Question No. 1

Has DMS hired a mobile home inspector who is related to proprietors of mobile home dealerships in Anchorage?

Finding

We determined the Mobile Home Inspector is related to owners of mobile home dealerships in Anchorage (see Recommendation No. 2(1)).

Question No. 2

Did the Director hire a person as a Weights and Measures Inspector I who had been convicted for price fixing of gasoline prices in Anchorage?

Finding

A person convicted of a misdemeanor was hired by the Weights and Measures Section in March, 1981 (see Recommendation No. 2(3)).

Question No. 3

Was the 1978 directive from DMS, to all fish processors and buyers, disallowing the use of hydraulic type scales in the best interests of the State?

Finding

In May, 1978, a legislative bill (House Bill No. 964) was introduced which would have required fish processors to use electronic hanging scales to determine the weight of fish sold. However, a directive was issued by the Weights and Measures Section (now DMS) before any action was taken on the legislation. The directive stated it had been determined that the hydraulic type scales would not hold the tolerances set by Title 3, Chapter 32 of the Alaska Administrative Code. According to the directive, hydraulic type scales were not to be utilized after January, 1980.

We discussed the issue with the Alaska manager of the Pacific Seafood Processors Association. He stated there had been a problem with the accuracy of hydraulic type scales. The processing companies in the organization were not happy about the idea of having to expend monies to replace their hydraulic scales. However, he believes it was in the best interests of the industry. In addition, we sent questionnaires to 78 seafood processors operating in Alaska. Of the 29 questionnaires returned, 9 did not believe the replacement of hydraulic type scales was necessary; 4 believed it was necessary; and 16 had no opinion.

#### FINANCIAL MANAGEMENT

##### Question No. 4

Has DMS reported accurate information for performance indicators in their budget requests?

##### Finding

In a review of the Fiscal Year 1983 and 1984 budget requests, we determined that some of the information reported by DMS for actual performance activities in Fiscal Years 1981 and 1982 was not accurate (see Recommendation No. 3A).

##### Question No. 5

Has DMS inflated the amount budgeted for State vehicle expense?

##### Finding

DMS budgeted and received funds in excess of 36% of actual State vehicle costs (see Recommendation No. 3B).

##### Question No. 6

Were State funds used to purchase seafood for members of the Western Weights and Measures Conference?

##### Finding

DMS purchased seafood in August, 1981, and September, 1982, totalling \$100 and \$548, respectively (see Recommendation No. 3C).

##### Question No. 7

Did DMS expend a 1979 appropriation for field test weights and a 1978 appropriation for commercial fishing scale inspections on the Alaska Peninsula and the Aleutian Chain in accordance with legislative intent?

Finding

We determined that DMS received an appropriation totalling \$33,200 in Chapter 50, SLA 1980, to "purchase scale testing equipment and to provide transportation to test scales for seafood processors in the Aleutian Islands and Western Alaska". Through a review of the related expenditures we found that \$8,148 was expended for travel to areas other than the Aleutian Islands or Western Alaska (see Recommendation No. 3D).

Question No. 8

Did DMS expend \$10,000 to purchase food for the 1980 Western Weights and Measures Conference held in Juneau?

Finding

DMS budgeted and received \$4,000 in Fiscal Year 1981 for the State's contribution to the costs of the 1980 Western Weights and Measures Conference held in Juneau. In August, 1980, DMS issued a warrant for the \$4,000 to the Western Weights and Measures Conference. Additional costs of the Conference, according to DMS staff, were paid for by sources of funding other than the State.

Question No. 9

Did DMS rent facilities in Seattle for fishing scale inspections in Fiscal Years 1982 and 1983?

Finding

DMS budgeted \$900 for Fiscal Year 1982 and \$1,000 for Fiscal Year 1983 to rent facilities in Seattle to conduct fishing scale inspections and conduct a seminar. However, DMS did not rent any such facilities in either fiscal year. According to DMS staff, they could not find rental space in Seattle for either budgeted amounts, however, space was provided free of charge to the State by a scale company and seafood processor. DMS is not requesting funds in their Fiscal Year 1984 budget for rental facilities in Seattle.

Question No. 10

Have personal long-distance telephone calls been charged to the State?

Finding

We reviewed a sample of telephone charges occurring between July 1, 1982, and January 31, 1983. It was determined that internal control over long-distance telephone calls was non-existent prior to January, 1983.

Effective August, 1979, the Department policy and procedures manual requires a record be kept of all long-distance telephone calls indicating date, number, person contacted, and purpose of the call. The recorded telephone calls are to be reconciled to the monthly billing. This procedure was implemented by DMS in January, 1983.

Question No. 11

Was DMS appropriated \$40,000 to purchase electric meter test equipment which actually cost \$5,000?

Finding

DMS received a capital appropriation totalling \$49,500 through Chapter 25, SLA 1982, which was effective August 1, 1982. Through a review of the capital budget request submitted by DMS and discussions with the staff, we determined that approximately \$36,000 of the \$49,500 was for the purchase of new electric meter test equipment and the remaining funds were to be used for the purchase of a mass comparator with a 500 pound capacity.

As of December 31, 1982, DMS had expended \$14,962 of the appropriation. Instead of purchasing new electric meter test equipment, DMS purchased used equipment costing \$5,000. DMS staff stated they knew about the used equipment when they requested the \$36,000 but were not sure it would still be available when DMS received the appropriation. Therefore, DMS budgeted and requested the \$36,000 rather than the \$5,000. In addition, DMS has purchased field weight standards costing \$9,692 to be stored mainly in the Aleutian Islands and Bristol Bay areas to facilitate the testing of fishing scales in those areas. Also, DMS has encumbered \$9,535 for the purchase of a mass comparator with a capacity of 5 to 60 pounds for the Juneau laboratory.

Question No. 12

What was the cost of the truck mounted liquid petroleum prover purchased by DMS and why were funds budgeted for its purchase in both Fiscal Years 1982 and 1983?

Finding

DMS requested \$37,500 in their Fiscal Year 1982 budget for the purchase of a new prover. However, the Legislature did not fund the full request of \$41,000 for equipment purchases but instead only funded \$3,400 making it impossible for DMS to purchase the prover in Fiscal Year 1982. Again in Fiscal Year 1983, DMS requested funds to purchase a prover. The amount requested decreased to \$28,700 due to instructions from the Department to pare down the request. As a result, DMS could not purchase a new prover but instead purchased a used prover for the \$18,750.

Question No. 13

Did DMS properly expend funds for the purchase of office equipment and furniture in Fiscal Year 1983?

Finding

As of December 31, 1982, DMS had expended \$13,944 on various types of office equipment and furniture, including desks, chairs, bookcases, transcribers, tape recorders, etc. These expenditures have been charged against the \$28,700 operating appropriation allocation for equipment, which was requested for the purchase of the truck mounted prover discussed in Question No. 12 and an additional \$7,800 transferred from the Department of Public Safety with the permit and weigh station functions.

We conclude that DMS has properly expended funds to purchase office equipment and furniture.

Question No. 14

Has DMS equipped a weights and measures testing laboratory in Juneau in addition to the one maintained in Anchorage?

Finding

DMS has either purchased or transferred from the Anchorage metrology laboratory equipment totalling \$19,220 for the Juneau laboratory. This equipment will be used to verify the DMS field standards and the standards (test weights) of the fishing and construction industries used in Southeastern Alaska. We conclude that the use of this equipment will result in a cost savings to the State and the industries due to the elimination of costly transportation expenses to transport the standards to Anchorage for verification.

Question No. 15

Has DMS properly budgeted for program revenues?

Finding

DMS budgeted program revenue for Fiscal Years 1981 and 1982 totalling \$10,100 and \$11,300, respectively. The revenue was to be collected from processors and contractors who requested scale inspections which had not been scheduled by DMS. Actual revenue collected for reimbursement of per diem, transportation, and/or mileage totalled \$10,223 in Fiscal Year 1981 and \$2,805 in Fiscal Year 1982 leaving an unrealized balance of \$8,495. DMS budgeted \$12,300 in program revenue for Fiscal Year 1983 none of which has been collected.

DMS staff stated they had discontinued the policy to request reimbursement for unscheduled scale inspections and would not be collecting the program revenue budgeted for Fiscal Year 1983. The Fiscal Year 1984 budget request reflects a decrease resulting from the change in policy.

#### PERSONNEL MANAGEMENT

##### Question No. 16

Has a Weights and Measures Inspector IV and the Mobile Home Inspector been performing duties and responsibilities different from those described on their job descriptions and class specifications?

##### Finding

We determined that material changes have occurred in the duties and responsibilities of these two positions since the formation of the Division (see Recommendation No. 4A).

##### Question No. 17

Did DMS select supervisors of the weigh stations in accordance with the State Personnel Rules?

##### Finding

The selection of the weigh station supervisors was in compliance with the State Personnel Rules. However, we recommend DMS utilize the promotional eligibility list in future situations where sufficient competition warrants to ensure the selection of the most qualified person for the position and to afford equity in hiring practices (see Recommendation No. 4B).

##### Question No. 18

Did DMS comply with the State hiring procedures in the selection of the Chiefs of the Weights and Measures Section and the Permits and Weigh Stations Section?

##### Finding

We reviewed the personnel records and determined that these positions were filled in accordance with the State Personnel Rules. In addition, the Office of the Ombudsman reviewed the selection of the Chief of the Permits and Weigh Stations Section. In a letter dated January 23, 1983, the Ombudsman concluded that the person hired was within the top five available eligibles, as required by Personnel Rule 5.02.2. None of the other persons in the top five were considered.

The Ombudsman stated that even though the Personnel Rules do not require consideration of all persons within the top five, the Department would benefit by adopting a policy which requires the appointing officers to consider those persons. Such a practice would improve the quality of appointments by bringing the best qualified applicant to the attention of the appointing officer.

Question No. 19

Was a Weights and Measures Inspector IV position held open approximately one year while the Division attempted to qualify a staff member for the position?

Finding

A Weights and Measures Inspector IV position was vacant from May to December, 1980. On December 8, 1980, a Weights and Measures Inspector trainee was promoted to the Weights and Measures Inspector IV position. The employee's application had been rewritten to include work experience not previously included on his application submitted for the trainee position.

Question No. 20

Has DMS complied with the State Personnel Rules and the State Administrative Manual concerning employee moving expenses?

Finding

In November, 1981, a Weights and Measures Inspector I was promoted and transferred from Anchorage to Kenai to operate the field office. He accepted the promotion with the understanding that his moving costs could not be reimbursed by the State due to the agency's fiscal constraints. Then in July, 1982, DMS promoted a Weights and Measures Inspector III to Chief of Weights and Measures Section. DMS transferred him and his family from Juneau to Anchorage reimbursing all moving expenses.

According to the Deputy Director of the Division of Personnel, an agency may offer a promotional transfer without reimbursement of moving expenses if the agency has fiscal constraints and/or the position could be filled by advertising in the area where the position is vacant.

We conclude that DMS has complied with State Personnel Rules and procedures concerning reimbursement of employee moving expenses.

Question No. 21

Is overtime pay properly approved, supported, and recorded in the State accounting records?

### Finding

We reviewed expenditures for overtime pay for Fiscal Years 1981, 1982, and 1983 (through January 31, 1983). Based on the results of our test, we determined that overtime pay is properly approved, supported, and recorded in the accounting records.

### PROGRAM MANAGEMENT

#### Question No. 22

Is the Division's participation in the Western Weights and Measures Conference (WWMC) and the National Conference of States on Building Codes and Standards, Incorporated (NCSBCS) justifiable in terms of economy, efficiency, and effectiveness?

### Finding

The participation by the Director and staff in the WWMC is directly related to their duties and responsibilities under AS 45.75, Weights and Measures Act. However, the duties and responsibilities of DMS relating to building codes and standards were greatly diminished in 1980 with the enactment of the Mobile Home Warranty Program. Furthermore, implementation of Recommendation No. 5 which recommends the transfer of the Program to the Consumer Protection Section, would remove all responsibilities relating to the building codes and standards. Therefore, we recommend the Department seek removal of DMS staff as delegates to the NCSBCS (see Recommendation No. 6).

#### Question No. 23

Have actions taken by the Mobile Home Inspector, relating to an investigation in 1982, resulted in a class action suit being filed against the State, the Director of DMS, and the Mobile Home Inspector?

### Finding

Through inquiries of the Alaska Court System and the Office of the Attorney General, we determined that no suit has been filed naming the State, the Director of DMS, or the Mobile Home Inspector as defendants.

#### Question No. 24

Is DMS discontinuing safety inspections of commercial vehicles in March, 1983?

### Finding

On July 15, 1982, the permit and weigh station functions of the Bureau of Vehicle Maintenance, Department of Public Safety, were transferred to DMS.

The Legislature did not include the transfer of authority for safety enforcement. In order to fulfill the requirements of a federal contract for a safety demonstration project, DMS received a delegation of authority for safety enforcement from the Alaska Transportation Commission which was effective July 1, 1982. This allowed DMS to continue the safety inspections through the completion date of the federal contract, March 11, 1983.

This issue was reviewed by the Office of the Ombudsman and a letter report was issued January 28, 1983. The Ombudsman concluded that the statement which alleges the Department of Commerce is not fulfilling its statutory responsibility for enforcing commercial safety standards is "unsupported". Further, the Department does not have statutory responsibility for commercial safety enforcement. We concur with this conclusion of the Office of the Ombudsman.

Presently, the Director of DMS is working with the Commissioner of the Department of Commerce and Economic Development to provide alternative plans for a commercial vehicle safety program.

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**DEPARTMENT OF COMMERCE &  
ECONOMIC DEVELOPMENT**

POUCH D  
JUNEAU, ALASKA 99811  
PHONE: 465-2500

OFFICE OF THE COMMISSIONER

June 10, 1983

Gerald L. Wilkerson, Legislative Auditor  
Legislative Affairs Agency  
Pouch W  
Juneau, Alaska 99811

Dear Mr. Wilkerson:

Recommendation Number 1

The Department should take immediate action to improve the employee morale of the Division of Measurement Standards (DMS).

RESPONSE:

The Division of Measurement Standards acknowledges that some morale problems existed during the period of the audit and since the formation of the Division. Positive steps have been taken by both the Department and the Division to respond to the problems, to expand the lines of communications, and to ensure addressing individual concerns. The response to these increased efforts have been very positive and progress will be closely monitored to ensure achieving desired results.

The Division does not agree that the cause was a build up of problems that existed within the Weights and Measures Section over the past several years, with the exception of isolated personnel problems, the specific items identified by the Division's employees are of recent origin and the approach has been to provide solutions to these.

It may also be noted that only two employee grievances were filed in Weights and Measures in the five years preceding the transition to Division status.

Recommendation Number 2

DMS should avoid situations that give the appearance of a conflict of interest.

1. During the period from July 1, 1981 to January 21, 1983, the mobile home inspector received and mediated at least four

complaints involving the mobile home dealership owned by his father. We understand the father has voluntarily dissolved his business as part of an out-of-court settlement with the State's Consumer Protection Section. However, other relatives own mobile home dealerships in the State.

RESPONSE:

1. The mobile home warranty program has been transferred to the Department of Law, office of Consumer Protection.
2. During our review of contract procedures, we found that three contracts were awarded to a mobile home service and repair company. The DMS Mobile Home Inspector is a former employee of this business and his brother currently is employed there.

RESPONSE:

2. During the period when the contracts were awarded, neither the Mobile Home Inspector nor his brother were employed by the company providing the service.

Recommendation Number 3

DMS should improve its budgeting and financial management.

- A. DMS should ensure performance indicators in their budget requests are accurate.

In a review of the fiscal year 1983 and 1984 budget requests, we determined that some of the information reported by DMS for actual performance activities in fiscal years 1981 and 1982 was not accurate. The exceptions noted were as follows:

<u>Commodity items audited</u>
<u>Value of prepackaged goods found in violation</u>
<u>Devices tested</u>

The budget instructions state that the agency should select only measures of activities for which data is already being collected or reasonably can be collected in the budget year. In addition, they state that once a useful measure has been identified it is useful to look at the same measure from year-to-year.

RESPONSE:

- A. Some of the confusion associated with the figures are based on lack of understanding of the methods used to document activity and the value of certain information. The following is offered to clarify the information:

June 10, 1983

In conducting audits of commodities offered for sale, a representative sample of the total population is selected. The selected items are tested to ensure conformance to specified standards. The size of the sample is determined by the size of the estimated total population and the requirement to test sufficient items to achieve statistical accuracy for the inferences made.

Three units of measurement are generally used for documenting activity impact:

Inspections - The number of individual commodity items actually tested for compliance with standards.

Audits - The number of items in the total population.

Value - The cost of the individual items.

The inspection is a measure of the weights and measures officials productive activity. The audit defines the population available for consumption and the value denotes the dollar impact of the commodities. By considering all of these factors, we may analyze a range of management factors from the employee's productivity to their impact on the marketplace.

The misunderstanding stems from typographical errors in the FY 84 budget request. Correct performance indicator titles should be:

1. Commodity items tested
1. Commodity items audited

Devices tested:

Actual count of devices tested was 16,519. See response to recommendation 7(c).

As defined in the budget instructions, the purpose of a performance indicator is to "identify the extent of major BRU activities and functions." As program requirements and emphasis have changed and we have increased the availability of quantifiable management information, we have attempted to select indicators that would represent measures of both activity and economic impact. The intent was to provide a more comprehensive indication of the Division's involvement in the regulatory process. It has been the Division's goal to develop quantifiable measurement indicators that permit analysis of all activities.

- B. DMS should prepare their fiscal year budgets in accordance with the instructions provided by the Office of the Governor.

The State budget instructions require agencies to report transfers between line items with an expenditure category on a specific form provided. This allows the agency to develop a budget which reflects actual anticipated spending.

RESPONSE:

- B. The Division of Measurement Standards will prepare all future budget requests in accordance with the instructions provided by the Office of the Governor.
- D. DMS should ensure appropriations are expended in accordance with law.

DMS received an appropriation totaling \$33,200 through Chapter 50, SLA 1980 to "purchase scale testing equipment and to provide transportation to test scales for seafood processors in the Aleutian Islands and Western Alaska." Through a review of the related expenditures, we found \$8,148 was expended for travel to areas other than the Aleutian Islands or Western Alaska.

In addition, DMS received another appropriation totaling \$39,100 through Chapter 120, SLA 1980, to implement the mobile nome warranty program enacted by Chapter 104, SLA 1980. We determined that \$2,875 of these funds were expended on travel unrelated to the mobile nome warranty program.

RESPONSE:

- D. The audit team did not identify the specific trips that they considered inappropriate, therefore, a general explanation is offered in an attempt to clear up some possible misunderstandings.

Fish buying scales are a highly mobile device that are moved from the factory to the scale repair facility, to various locations throughout the state, depending on specific requirements and appropriate seasons. Every effort is made by the Division to test the maximum number of devices at the most economical cost. An example of device mobility is a particular scale may be used in Seward during the herring season and shipped to the Aleutian Chain for the salmon season. If we can test the device in Seward before it is shipped to the Aleutian Chain, the cost for the inspector's travel will be significantly lower. Another example of a very successful method is the Seattle inspection program. The fishing industry in the Aleutian Chain and Western Alaska normally ship all their scales to Seattle for rebuilding every two years. The Division sends an inspector to Seattle whenever the number of available devices warrant the expenditure, to test and certify fish buying scales at company headquarters and scale repair facilities. By utilizing this procedure, the devices are tested prior to being

shipped to Alaska and being placed into service. This program has permitted the Division to not only increase the number of devices tested prior to their being used in commercial transactions throughout the state and has reduced the cost to the industries involved, but has allowed us to increase the number of devices tested and certified that are used in the remote areas of the Aleutian Chain and Western Alaska.

Some of the trips to Seattle were charged to this supplemental account because it was more economical to test the devices there rather than wait until they had been shipped to the Aleutian Chain. We felt that the intent of the appropriation was to ensure that accurate devices were being used and our effort was directed toward testing the devices where ever they could be located. Some administrative trips were charged to both appropriations to coordinate program requirements.

Recommendation Number 4

DMS should improve its personnel management.

During our review we noted personnel matters which may have contributed to the low employee morale.

A. DMS should update job descriptions and classifications as required by the State personnel rules.

RESPONSE:

A. All the Division employees P-402's were updated prior to the period the audit was conducted. As noted, two personnel were assigned to special projects during the transition period when the Division was in the process of establishing the structure necessary to respond to its basic management requirements. It must be kept in mind that when the permits and weigh station program was transferred from the Department of Public Safety to the Department of Commerce and Economic Development, the management and administrative support staff was not included. With the establishment of the Division of Measurement Standards to consolidate the weights and measures and permits and weigh station functions, both the management and the support staff had to be recruited and trained while continuing the daily activities required by statute. This necessitated the utilization of existing personnel to perform diverse duties to ensure program continuity. This transition period is largely complete and the organizational structure has been redefined to be responsive to program needs. P-402's will be updated to reflect actual duties being performed when the Division structure has been clearly defined and those recently hired into supervisory positions are fully trained.

It should be noted that the opening statement referred to two instances in the five year period considered. It was also noted that these are not violations of the personnel rules. We find the negative implication of the statement to be unjustified.

Recommendation Number 7

DMS should improve its procedures to ensure compliance with statutory requirements.

We noted two areas of statutory compliance in which DMS should improve their procedures.

A. DMS should provide sufficient documentation that office and field standards (official test devices) are verified in accordance with law.

RESPONSE:

A. The Division does have the documentation necessary to identify its inventory of office and field standards and to determine date of verification. To ensure more convenient access to the information, the word processing equipment will be used.

B. DMS should develop procedures to ensure that weight and measure devices are inspected and tested semiannually in accordance with law.

DMS staff indicated that the high cost of transportation hinders their ability to comply with the required semiannual inspections. We recognize this problem. However, DMS should compile an inventory of devices including location and the last date of testing. This will provide management with data to determine the extent of compliance possible within budgetary constraints. We recommend the use of DMS word processing equipment, where practicable, to facilitate the compilation and maintenance of the inventory list.

RESPONSE:

B. This is already being accomplished using manual records. The word processing equipment will be utilized to the maximum extent possible with current administrative staff.

C. DMS should develop a uniform method for compilation of weights and measures verification activity data.

An inspector, in order to verify a weight or measure device performs an inspection which is an evaluation of the physical characteristics of the device, and a test which is the actual test for accuracy through the use of standards, e.g. test weights. We noted inconsistencies in the methods used by inspectors to count the number of devices, and inspections and tests of those devices.

In addition to the inconsistencies in accounting for activities, we noted that monthly activity information is not organized in a manner to facilitate managerial use of data for planning and budgeting purposes. The fiscal year 1982 activity data was entered into the DMS word processing system. According to DMS staff, this data was used to calculate the total number of devices tested in fiscal year 1982 reported in the fiscal year 1984 budget request. However, we could not reconcile the recorded amount of devices totaling 11,276 to the reported number of 16,500.

DMS should develop procedures to ensure activity data is accounted for in a consistent manner and that data is complete and organized in a manner which facilitates use by management.

RESPONSE:

- C. A management information system is in place. The annual reports are used for management planning. These reports are developed by counting the individual field test reports.

The monthly reports are utilized by the individual supervisors to compare actual to scheduled activities. A format is being developed that will permit entering the data from each field test report into the word processing system. Device and activity data will be maintained on this system, limited only by availability of administrative staff time.

There is not a point of confusion in where to count various types of field activity. As indicated by our verification of field test reports, the inspection activity and the testing activity are accounted for separately. An actual count of the reports provided the following activity for FY 82:

Device inspections - 14,200  
Device tests - 16,519

As indicated previously, management decisions and budget requests are prepared based on activity data documented on field test reports. Additionally, every reasonable effort is made to verify data prior to drawing conclusions. We afforded the audit team this same opportunity by offering the field test report to them to verify the data contained in the budget request. This offer was repeated during the audit team's exit briefing and the records are available if verification of accuracy is a concern. We do not feel that drawing conclusions from unverified data is justified. To reemphasize the activity indicator as reported in the FY 84 budget request of 16,500 devices tested, was reverified by the Division by individually counting the field test reports on May 17, 18, and 19, 1983.

APPENDIX A  
DISPOSITION OF ALLEGATIONS ON DMS MANAGEMENT

Question Number 1

Has DMS hired a Mobile Home Inspector who is related to proprietors of mobile home dealerships in Anchorage:

Finding:

We determined the Mobile Home Inspector is related to owners of mobile home dealerships in Anchorage.

RESPONSE:

Relationship is acknowledged (see response to recommendation number 2).

Question Number 3

Was the 1978 directive from DMS, to all fish processors and buyers, disallowing the use of hydraulic type scales in the best interests of the State?

Finding:

In May, 1978, a legislative bill (House Bill 964) was introduced which would have required fish processors to use electronic weighing scales to determine the weight of fish sold. However, a directive was issued by the Weights and Measures Section (now DIMS) before any action was taken on the legislation. The directive stated it had been determined that the hydraulic type scales would not hold the tolerances set by Title 3, Chapter 32 of the Alaska Administrative Code. According to the directive, hydraulic type scales were not to be utilized after January, 1980.

We discussed the issue with the Alaska manager of the Pacific Seafood Processors Association. He stated there had been a problem with the accuracy of hydraulic type scales. The processing companies in the organization were not happy about the idea of having to expend monies to replace their hydraulic scales. However, he believes it was in the best interests of the industry. In addition, we sent questionnaires to 78 seafood processors operating in Alaska. Of the 29 questionnaires returned, 9 did not believe the replacement of hydraulic type scales was necessary; 4 believed it was necessary; and 16 had no opinion.

RESPONSE:

The issue that was not addressed by the audit team was whether the device was legal. This device is not legal for use for purchasing fish.

Question Number 4

Has DMS reported accurate information for performance indicators in their budget requests?

Finding:

In a review of the fiscal year 1983 and 1984 budget requests, we determined that some of the information reported by DMS for actual performance activities in fiscal years 1981 and 1982 was not accurate.

RESPONSE:

We do not agree that the information was not accurate (see response to recommendation number 3).

Question Number 10

Have personal long distance telephone calls been charged to the State?

Finding:

We reviewed a sample of telephone charges occurring between July 1, 1982 and January 31, 1983. It was determined that internal control over long distance telephone calls was nonexistent prior to January, 1983.

RESPONSE:

Long distance telephone logs are now being maintained.

Question Number 18

Did DMS comply with the State hiring procedures in the selection of the Chief of the Weights and Measures Section and the Permits and Weigh Stations Section?

Finding:

We reviewed the personnel records and determined that these positions were filled in accordance with the State personnel rules. In addition, the Office of the Ombudsman reviewed the selection of the Chief of the Permits and Weigh Stations Section. In a letter dated January 28, 1983, the Ombudsman concluded that the person hired was within the top five available eligibles, as required by personnel rule 5.02.2. None of the other persons in the top five were considered.

The Ombudsman stated that even though the personnel rules do not require consideration of all persons within the top five, the Department would benefit by adopting a policy which requires the

Gerald L. Wilkerson

-10-

June 10, 1983

appointing officers to consider those persons. Such a practice would improve the quality of appointments by bringing the best qualified applicant to the attention of the appointing officer.

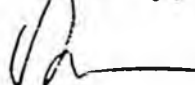
RESPONSE:

The finding that none of the other people in the top five were considered is incorrect. All available eligibles were interviewed and considered for both positions.

CONCLUSION:

Due to the public nature of the final audit report and the possibility that the statement would be construed to lend some validity to unspecified allegations, the Department feels that the opening statement to Appendix A should be limited to: "Presented below are the allegations concerning the management of DMS along with our findings."

Sincerely,



Richard A. Lyon  
Commissioner

RAL:JS:cw

STATE OF ALASKA

A FOLLOW-UP REPORT ON THE  
DEPARTMENT OF COMMERCE AND  
ECONOMIC DEVELOPMENT  
DIVISION OF MEASUREMENT STANDARDS  
(Originally Released April 6, 1983)

June 4, 1984



DIVISION OF MEASUREMENT STANDARDS  
June 4, 1984

# CONFIDENTIAL

A FOLLOW-UP REPORT ON THE  
DEPARTMENT OF COMMERCE AND  
ECONOMIC DEVELOPMENT  
DIVISION OF MEASUREMENT STANDARDS  
(Originally Released April 6, 1983)

June 4, 1984

## FINAL REPORT

Commissioner, Department of  
Commerce and Economic Development

Richard A. Lyon

Deputy Commissioners, Department of  
Commerce and Economic Development:

Vincent O'Reilly  
Terry Elder

# STATE OF ALASKA

AUDIT DIVISION  
POUCH W  
JUNEAU, ALASKA 99811

## THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

June 4, 1984

Members of the  
Legislative Budget and Audit Committee:

In accordance with the provisions of Title 24 of the Alaska Statutes, the attached report is submitted for your review.

A FOLLOW-UP REPORT ON THE  
DEPARTMENT OF COMMERCE AND  
ECONOMIC DEVELOPMENT  
DIVISION OF MEASUREMENT STANDARDS  
(Originally Released April 6, 1983)

June 4, 1984



Gerald L. Wilkerson, CPA  
Legislative Auditor  
Division of Legislative Audit

TABLE OF CONTENTS

	<u>Page</u>
Purpose of the Report . . . . .	1
Organization and Function . . . . .	3
Prior Audit Recommendations . . . . .	5
Agency Response:	
Department of Commerce and Economic Development. . . . .	13

PURPOSE OF THE REPORT

In accordance with the provisions of Title 24 of the Alaska Statutes and a special request of the Legislative Budget and Audit Committee, a follow-up review of the Department of Commerce and Economic Development's Division of Measurement Standards was conducted to determine the extent of implementation of recommendations presented in our report titled A Special Report on the Department of Commerce and Economic Development, Division of Measurement Standards, April 6, 1983.

## ORGANIZATION AND FUNCTION

The Division of Measurement Standards (DMS) was established in July 1982 with the transfer of the permit and weigh station functions from the Department of Public Safety to the Department of Commerce and Economic Development, Weights and Measures Section. The Division has four distinct statutory requirements:

1. Public and consumer protection through maintenance of uniform standards which ensure the accuracy of commercial weighing and measuring devices within the State (AS 45.75).
2. Consumer protection for buyers of mobile homes through the enforcement of mobile home warranties (AS 45.30).
3. Operation of weigh stations to identify and remove overweight commercial vehicles from the State highway system (AS 44.33.020(25)).
4. Issuance of special permits authorizing the operation of overweight and oversize vehicles, and the collection of fees for these special permits (AS 44.33.020(25)).

The "Weights and Measures Act", AS 45.75, requires a system of weights and measures that conforms to the standards customarily in use in the United States. The weights and measures obtained by the State are to be verified by the National Bureau of Standards (NBS) and are to be properly maintained to ensure their reliability and traceability to NBS.

To accomplish this mandate, DMS is the custodian of the State's weights and measures and conducts the periodic verification with NBS. The State's standards of weights and measures are used to verify all office standards. The office standards then are used to verify all field standards used by DMS. In addition, these standards become the basis for verification of all instruments and devices used for determining weight or measure in commercial transactions within the State.

DMS fulfills its responsibilities through physical inspection of devices, examination of packaging and the investigation of complaints. DMS may issue "stop-use" or "removal orders" of measuring devices and commodities offered for sale, when it is necessary to enforce the Weights and Measures Act.

Alaska Statute 45.30 mandates the responsibility for resolving warranty defects of mobile homes to the Department of Commerce and Economic Development. The Department assigned the responsibility for carrying out the provisions of the

## PURPOSE OF THE REPORT

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statute to the Division of Weights and Measures upon its creation in July of 1982.

The 1983 audit of the Division recommended that the Mobile Home Warranty Program would be better served under the Consumer Protection Section of the Department of Law. The recommendation was made on the basis that the Consumer Protection Section is the agency to which the public looks for resolution of consumer problems and would therefore be best suited to administer the program. The Department of Commerce and Economic Development has entered into a Reimbursable Service Agreement with the Department of Law to transfer the program. Legislation to make the transfer permanent was introduced into the 1984 session of the Legislature.

The Division, under the provisions of AS 44.33.020(25) has the responsibility for the operation of the weigh stations located on the State highway system. The primary function of the weigh station program is the enforcement of the size, weight and load limitations adopted by the Department of Transportation and Public Facilities under AS 19.10.060.

Additionally, DMS administers the oversize and overweight permit program as provided under AS 44.33.020(25). Permits are issued, for a fee, which allows commercial vehicles that exceed the maximum allowable size, weight or load limitations the right to legally travel over the State highway system. DMS also regulates pilot cars under this statute.

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