ALASKA LEGISLATURE COMMITTEE FILES 1985-1986 8672

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Alternatively, if the Legislature wished to continue the CCC program, while abolishing the PCC program, they could lapse the appropriation's remaining balance and then reappropriate funds on an annual basis for estimated CCC payments.

APPENDIX A

MEMORANDUM

State of Alaska

TO: Joseph K. Donohue
Deputy Commissioner
Department of Revenue

DATE: July 15, 1982

FILE NO: 366-034-83

TELEPHONE NO: 465-3600 ex. 56

FROM: WILSON L. CONDON
ATTORNEY GENERAL

By:
Diane Tremmel Colvin
Assistant Attorney General

SUBJECT: Funding for Tax Credits under AS 43.20.013(a) for FY'83

You ask whether funding is provided by Ch. 101, SLA 1982 for payment of refunds to persons who make contributions to candidates for public office and political organizations as authorized by AS 43.20.013(a). 1/ While the legislative intent is not clear, we believe that funding is provided for this purpose and for child care tax credits by Chapter 101. The amount of the appropriation is $1,033,000. We base this conclusion on an examination of the legislative history of CS for HB 666(Fin) (1982 House budget bill) and SCS for HB 148(Fin) (1982 Senate budget bill).

AS 43.20.013 authorizes tax credits not to exceed specified limits for:

> (1) contributions made to certain candidates for public office and certain political organizations, and
>
> (2) expenses for child care.

Subsection (c) of AS 43.20.013 provides as follows:

> The commissioner of revenue shall pay the amount of a tax credit allowed by this section to a resident individual who makes a return as provided in AS 43.20.012. A credit under this section shall be paid in the manner provided in AS 43.20.030(e) for the payment of refunds and payment may not be made without an appropriation for that purpose.

1/ You also ask whether this program is underfunded for fiscal year 1983. That is not a legal question and no response is made to that question in this memo.

02-001A(Rev.10/79)

It is apparent from the language of subsection (c) that payments for political contributions and child care expenses may not be made without an appropriation.

Your question concerning funding of refunds for political contributions arises because Ch. 101, SLA 1982, at p. 26, line 7 appropriates $1,033,000 for Refundable Credits, with no indication of the specific amount provided for the two types of credits under this budget component, political contributions and child care credit. Thus we must turn to the legislative history of this issue to reach a conclusion. 2/

The budget submitted to the 1982 Legislature by the governor requested $2,791,000 for the credits authorized by AS 43.20.013. The detailed budget shows that the figure for this component, termed "refundable credits", was calculated as follows:

Political Contributions	$1,758,000.
Child Care Credit	$1,033,000.

When the budget emerged several weeks later in the form of HB 666, the figure allocated for the component of Refundable Credits was $1,033,000. In hearings before the House Finance Committee on March 31, 1982, a motion was made to accept this figure, with the statement that it would fund child care credits. There was considerable discussion over the elimination of the amount originally proposed by the Governor for political contributions. To answer objections to the change from the Governor's

---

2/ On its face, the appropriation for refundable credits is clear and unambiguous and it can be argued that it is unnecessary to resort to extrinsic interpretative aids such as legislative history. Alaska Public Employees v. State, 525 P.2d 12, 14 (Alaska 1974). This approach is based on the "plain meaning rule", i.e., where the meaning of a statute is apparent, there is no need to resort to methods of statutory construction. White v. Alaska Ins. Guaranty Ass'n., 592 P.2d 367, 369 (Alaska 1979). However, we believe it is appropriate in this case to examine legislative history for assistance in making a judgment on the meaning of the provision in question. The Alaska court has rejected the "plain meaning" rule as a strict exclusionary rule. North Slope Borough v. Sohio Petroleum Corp., 585 P.2d 534, 540 (Alaska 1978).

request, Representative Meekins proposed that any money left from the current fiscal year be reappropriated to cover refunds for political contributions. The minutes of the House Finance Committee for March 31 show that he made the following motion:

> ...to extend the lapse date of the FY'82 appropriation so that if there are any funds left they could be used for refunds during the period between January 1 and July 1.

After some discussion, the motion passed, along with the motion to accept the figure of $1,033,000. Thus the House budget, as it was passed out of the House Finance Committee and taken up on the floor of the House, included funding for child care credit in the amount of $1,033,000 and funding for political contributions dependent on "left-over" FY'82 funds, if any.

As you know, CS for HB 666 passed in the House, but not in the Senate. 3/ An "alternative" budget (SCS for HB 148(Fin)) was developed by the Senate. It included the same figure, $1,033,000, in the category of Refundable Credits. This was the figure included in the version passed on the Senate floor, and sent to Conference Committee. 4/

The Conference Committee on CS for HB 148(Fin) requested limited powers of free conference on several items, including Refundable Credits. 5/ The request was granted by both houses, and the issue of refundable credits was discussed in free conference on May 31, 1982. The minutes of the Free Conference Committee for that date read as follows:

Representative Cotten noted that current law

3/ 1982 House Journal, p. 1155.

4/ 1982 Senate Journal, p. 1503.

5/ 1982 Senate Journal, p. 1620; 1982 House Journal, p. 2231.

> allows for refunds for political contributions, and asked if the funding level for this program is adequate to cover refund claims. Representative Adams advised that the law states that refunds may be given; it does not state that reimbursements must be made. Representative Cotten attested to inequities involved in refunds issued on a "first come/first served" basis. Mr. Adams moved for adoption of the House figure of 1,033.0. Representative Cotten objected. Senator Ray moved for adoption of the Senate figure (identical to that of the House). Representative Cotten's objection to the figure was overridden and the "synonymous" House/Senate total adopted.

While not clear, this discussion appears to contemplate continued funding for political contributions, albeit at a reduced and arguably insufficient level. At the least, it does not manifest legislative intent to eliminate funding for credits for political contributions. Without such a showing, we believe it would be difficult to maintain that the amount approved by the Conference Committee in the budget category of Refundable Credits and ultimately accepted by both houses and enacted into law by the Governor eliminated all funding for political contributions and funds child care credits only. 6/

This apparent lack of intent to eliminate political contributions funding is further demonstrated by the format of the budget bill itself. There are numerous appropriations in Ch. 101, SLA 1982 that are accompanied by intent statements. For example, on page 26, lines 12-17, the appropriation for student ADM Support is followed by this statement:

> This appropriation does not provide for student ADM Support for BIA schools which may

---

6/ It should be noted that a bill which would have repealed AS 43.20.013(a), CS for HB 137(Fin), passed in the House but was not acted upon in the Senate. 1982 House Journal, p. 655. Failure of this bill to pass both houses is an additional indication of legislative intent in this area. Had this bill passed in the Senate as well as the House the intent to eliminate the political contributions program would have, of course, been clear.

> transfer to school districts or new schools or programs which may be established during FY'83. It is the intent of the legislature that the Department of Education fund any such transfers or additions out of this appropriation and present to the legislature a request for a supplemental appropriation to accommodate the costs of any BIA transfers or establishment of new schools or programs, no later than the 15th day of the 1983 legislative session.

We believe that the appropriation for refundable credits would have been accompanied by a statement of this kind had the legislature intended to eliminate all funding for political contributions.

There are, however, indications to the contrary. The analysis of SCSHB 148(Fin) prepared by Legislative Finance shows at p. 48 the reduction from the governor's recommendation of $2,791,000 in the refundable credits program category to $1,033,000 in both the Senate and House budgets. This is accompanied by the notation: "Delete political contribution credit (1758.0)". This is of interest, but cannot be taken, we believe, as proof of legislative intent to eliminate all funding for credits for political contributions. It is rather, a staff analysis of the means of arriving at the figure of $1,033,000 and explaining the variation between the Governor's recommendation and the legislative versions.

Thus we conclude that with no clear showing of legislative intent to the contrary Ch. 101, SLA 1982 appropriates $1,033,000 for refundable credits, which includes credits for political contributions and credits for child care. Payments for both types of credits may be made by the Department of Revenue up to this amount. As you indicated in your memorandum to us, it may be necessary to prepare a request for a supplemental in 1983 to cover claims that exceed this amount.

We hope this information is of use to you. If you have further questions, please do not hesitate to contact us.

WLC/DTC/pkh

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APPENDIX B

MEMORANDUM State of Alaska

TO: Hon. Mary Nordale, Commissioner
Department of Revenue

DATE: August 1, 1984

FILE NO: 366-031-85

TELEPHONE NO: 465-3600

FROM: Norman C. Gorsuch
Attorney General

SUBJECT: Enactment of appropriation to finance political campaign contribution credits

By: James L. Baldwin
Assistant Attorney General
Governmental Affairs-Juneau

You have requested our opinion concerning the availability of the appropriation made in chapter 3, SSLA 1980 to pay claims for political contribution credits under AS 43.20.013. That section provides for the refund of money contributed by individuals for use "exclusively for a political campaign for a candidate ... or by a group seeking to influence the outcome of a ballot proposition or question ...." AS 43.20.013(a). In addition, the section provides for the refund of 16 percent of the federal tax credit claimed by the individual for household and dependent care services necessary for gainful employment. AS 43.20.013(b). Apparently, the legislature attempted to prevent the payment of political campaign contributions by amending an earlier appropriation made to finance both political campaign and childcare credits. This action was taken in section 140 of HCS CSSB 409(Fin) am H (Reeng). Section 140 provides:

> Sec. 140. Section 1, ch. 3, SSLA 1980 is amended to read:
>
> Section 1. The sum of $112,042,000 is appropriated from the general fund to the Department of Revenue
>
> (1) for refunds to individuals and fiduciaries for income taxes paid after December 31, 1978 for all or part of a tax year occurring after December 31, 1978 and
>
> (2) for <u>childcare</u> [1979 AND 1980] tax credits payable under AS 43.20.013.

In section 140, the legislature attempted to accomplish two things. First, it makes the unobligated balance of the $112,042,000 appropriation available for at least an additional claim year by removing the reference to the 1979 and 1980 claim

years */ and, second, it inserted the word "childcare" in the statement of purpose of the appropriation so that the major source of funding for the credit would be sabotaged.

We believe the extension of a lapse date is without question within the legislature's power to appropriate. However, the attempt to radically restrict the objects of expenditure under an existing appropriation is an abuse of the legislature's power because it constitutes an attempt to retroactively amend or repeal AS 43.20.013(a). The Department of Revenue advises that if this amendment is effective, no money remains available to pay refunds to individuals who have made political campaign contributions since 1979. Repeal of the credits established under AS 43.20.013 should be presented to the governor in a separate non-appropriation bill so that all of the safeguards specified by the Alaska Constitution for the enactment of bills into law are operative.

It is significant that AS 43.20.013(a) and (b) provide that individuals are "entitled" to these credits. The credits are commonly referred to as "refundable credits." The refundable credits represent a holdover from the now repealed individual income tax and represent refunds to individuals in the same manner as a refund of excess withholding. <u>See</u> AS 43.20.013(c). The program could be viewed as a reimbursement of money paid by individuals on behalf of the state to third persons, i.e., candidates or day care operators. The credit encourages individuals to directly provide financing for these worthwhile purposes. The program avoids or minimizes a direct state subsidy to these third persons and in effect makes the public a major source of financing for these activities. In return, the state reimburses the public. So long as AS 43.20.013 remains state law, individuals who expend money consistent with the law may have a claim against the state for their entitlement. We believe the legislature cannot retroactively defeat claims for refundable credits for the 1979 and 1980 claim years. <u>See</u> AS 01.10.100(a). We also believe that the legislature may not use its appropriation power to prospectively repeal the entitlement established under AS 43.20.013.

---

*/ The Department of Revenue has implemented AS 43.20.013 by the adoption of 15 AAC 20.042. These regulations permit an individual to claim a credit under AS 43.20.013 within three years after the year in which the contribution is made. By removing the claim years from the 1980 appropriation, we presume the legislature intended to reappropriate the unobligated balance of the appropriation for the 1984 claim year.

The difficult part of your question concerns the power of the legislature to change the purpose of existing appropriations. It is common for the legislature to make clarifications of the purpose of an appropriation in response to circumstances which permit more effective use of the money. However, an amendment to an appropriation can never conflict with existing law or be used to extinguish an entitlement vested under general law. The Alaska Constitution prohibits the amendment or repeal of substantive law by the enactment of appropriations. Article II, section 13 of the Alaska Constitution provides in relevant part:

> Every bill shall be confined to one subject unless it is an appropriation bill or one codifying, revising, or rearranging existing laws. Bills for appropriations shall be confined to appropriations. The subject of each bill shall be expressed in the title.

The purpose of the Framers in restricting appropriations bills to appropriations was to avoid the practice of "logrolling." Alaska Constitutional Convention, Commentary on Legislative Article at 7, Committee Proposal No. 5 (Dec. 14, 1955). Logrolling occurs when a measure which could not command majority legislative support on its own merits is combined with another measure or measures, and cumulatively they obtain passage. It is a particularly insidious practice when it occurs through an appropriations bill, because appropriations bills often come before the legislature for a vote on final passage in a form which cannot be amended. Various courts have noted the evil inherent in the practice. Flanders v. Morris, 558 P.2d 769, 772 (Wash. 1977), ("It is obvious why a legislator would hesitate to hold up the funding of the entire state government in order to prevent the enactment of a certain provision, even though he would have voted against it if it had been presented as independent legislation"); Sellers v. Frohmiller, 24 P.2d 666, 669 (Ariz. 1933).

There are other purposes of the "confinement" requirement in appropriations bills. The requirement prevents avoidance of the governor's item veto power by the inclusion, in an appropriation item, of material which actually is a "general law" measure:

> The legislature cannot by location of a bill give it immunity from executive veto. Nor can it circumvent the Governor's veto power of substantive legislation by artfully drafting general law measures so that they appear to be true conditions or limitations on an item of appropriation.

Henry v. Edwards, 346 So. 2d 153, 158 (La. 1977).

Judge Carpeneti, in the only Alaska case to address the confinement issue, noted that it is extremely difficult to uncover the proper test to determine when an appropriation goes beyond what is permitted by the constitution. Legislative Budget and Audit Committee v. Hammond, No. 1JU-80-1163 CIV (Alaska Super., July 17, 1980), Memo. Decision at 40. Virtually every court which has been faced with this issue has announced that it should be decided on a "case by case" basis. As the Supreme Court of Nebraska said in deciding a confinement case:

> All authorities are in agreement that it is impossible to fix exact limits in the area of constitutional separation of powers. All states approach the problem on a case-by-case basis.

State ex rel. Meyer v. State Board of Equalization and Assessment.

The Alaska Supreme Court has not yet decided a case raising a claim that particular amendment of an existing appropriation violates the constitutional requirement that bills for appropriations be confined to appropriations. There are cases construing the single subject rule, which is also found in article II, section 13, e.g., Short v. State, 600 P.2d 20 (Alaska 1979). However, because of the distinction between appropriation bills and other bills, the Alaska cases construing the single subject rule are of very little value in interpreting the confinement requirement. Legislative Budget and Audit, No. 1JU-80-1163 CIV at 42.

Appropriations bills may and almost always do include appropriations for several purposes. By definition they embrace many unrelated subjects. For this reason, the cases interpreting the single subject rule are of little direct assistance in interpreting the confinement requirement. It is probable that the Alaska Supreme Court would not automatically apply its single subject rule analysis to a confinement case, but would adopt a rule appropriate to confinement cases.

In Biles v. Department of Public Welfare, 403 A.2d 1341 (Pa. Comm. 1979), the court announced the following test for determining the propriety of material inserted in an appropriations Act:

> To be constitutional the language in an appropriation bill must be germane to the appropriations,

> must not conflict with existing law, and it must not extend beyond the life of the appropriations bill itself.

Biles, 403 A.2d at 1343. While observing that the Biles test is "superficially attractive," Judge Carpeneti modified it because he felt "the test does not go far enough." Legislative Budget and Audit, No. 1JU-80-1163 CIV at 43. He reasoned that under the Biles test, the legislature could enact or repeal general law through an appropriations bill, and do so session after session, and completely render the confinement requirement meaningless.

After a careful review of relevant authority, the superior court expressed its view of the confinement provision by announcing the following test to be used in evaluating conditions added to appropriations:

> [T]he qualifying language must be the minimum necessary to explain the Legislature's intent regarding how the money appropriated is to be spent. It must not administer the program of expenditures. It must not enact law or amend existing law. It must not extend beyond the life of the appropriation. Finally, the language must be germane, that is, appropriate, to an appropriation bill.

Legislative Budget and Audit, No. 1JU-80-1163 Mem. Decision at 44-45 (emphasis added, footnotes omitted).

Every instance where language is challenged in an appropriations bill is a new case which must be examined separately. Courts applying what appear to be similar tests to apparently similar facts reach opposite conclusions. Compare Welden v. Ray, 229 N.W.2d 706, 710 (Iowa 1975), with Henry v. Edwards, 346 So. 2d 153, 159-165 (La. 1977). We contend that the legislature may not indirectly repeal AS 43.20.013(a) by the amendment of the purpose of an appropriation. The constitution requires the legislature to place such a measure before the governor in a separate bill. Therefore, we believe you may ignore the purported amendment which limits the purposes for which the appropriation may be spent. We also find that there is no legislative intent to make the lapse date extension nonseverable from the other amendments contained in section 140. Under these circumstances, we believe the presumption of severability set out in AS 01.10.-030 controls.

JLB/pjg

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APPENDIX C

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPI
JUNEAU, ALASKA 998
907 465-3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M   August 9, 1984

SUBJECT: Appropriation for payment of tax credits (HCS CSSB 409(Fin) am H (Reengrossed)

TO: Representative Terry Martin

FROM: Tamara Brandt Cook TBC
Deputy Director
Division of Legal Services

You have asked me to review an Attorney General's Opinion dealing with the amendment during last session of an appropriation originally enacted in 1980 for payment of tax credits under AS 43.20.013. (Attorney General's Opinion, 366-031-85, August 1, 1984) A brief explanation of the situation follows.

The original appropriation contained in Section 1, ch. 3, SSSLA 1980 was to be used for refunds for income taxes paid after December 31, 1978 for a tax year occurring after that date and ". . . for 1979 and 1980 tax credits payable under AS 43.20.013." While the appropriation did not contain a lapse clause, arguably this could have been treated as a one-year appropriation which would have lapsed at the end of the fiscal year on July 1, 1981. Instead the Department of Revenue adopted a regulation that first became effective on October 9, 1980 permitting individuals to claim a credit under AS 43.20.013 within three years after the year in which the contribution is made. (15 AAC 20.042) Apparently, on the strength of this regulation the Department of Revenue placed the appropriation in a non-lapsing account. Even though the last day on which a claim could have been filed under the original appropriation and the regulation was December 31, 1983 the balance of the appropriation was not moved into the general fund but was kept in the non-lapsing account.

The legislature addressed this situation by enacting two conflicting sections in HCS CSSB 409(Fin) am H (Reengrossed). Section 140 provides:

Sec. 140. Section 1, ch. 3, SSLA 1980 (sic) is amended to read:

> Section 1. The sum of $112,042,000 is appropriated from the general fund to the Department of Revenue
>
> > (1) for refunds to individuals and fiduciaries for income taxes paid after December 31, 1978 for all or part of a tax year occurring after December 31, 1978; and
> >
> > (2) for childcare [1979 AND 1980] tax credits payable under AS 43.20.013.

Section 228 provides:

> Section 228. Section 1, ch. 3, SSSLA 1980, is amended to read:
>
> Section 1. The sum of $106 .91,900 [112,042,000] (sic) is appropriated from the general fund to the Department of Revenue
>
> > (1) for refunds to individuals and fiduciaries for income taxes paid after December 31, 1978 for all or part of a tax year occurring after December 31, 1978; and
> >
> > (2) for 1979 and 1980 tax credits payable under AS 43.20.013.

The intended result of Section 228 was to lapse the balance of the original appropriation retained in the non-lapsing account into the general fund. The Governor, however, vetoed this section on July 14, 1984 leaving Section 140 intact, and signed the bill into law on the same day.

It is fundamental that only the legislature has the power to appropriate state funds. (Article IX, Section 13, Constitution of the State of Alaska) Section 140 has the effect of extending the original appropriation. The Attorney General recognizes the power of the legislature to do so in the opinion. "We believe the extension of a lapse date is without question within the legislature's power to appropriate." (Attorney General's Opinion, 366-031-85, August 1, 1984, page 2) However, the Attorney General asserts that the attempt to restrict the object of the expenditure to

childcare tax credits payable under AS 43.20.013(b), rather than allowing the money to continue to be used for all tax credits payable under that section, amounts to an attempt to retroactively amend or repeal AS 43.20.013(a).

The retroactivity argument seems to be based on an assertion that the legislature by amending the original appropriation is somehow attempting to defeat claims for political campaign contributions made during 1979 and 1980. However, under the Department of Revenue's own regulation, claims for contributions made during 1979 were barred after December 31, 1982 and claims for contributions made during 1980 were barred after December 31, 1983. The amendment to the original appropriation did not take effect until July 15, 1984, so it is difficult to understand how this can be viewed as an attempt on the part of the legislature to retroactively cut off those claims. It could have had no effect on those claims.

The Attorney General also asserts that the amendment to the original appropriation indirectly repeals AS 43.20.013(a) or repeals that subsection by implication. It seems to me that a court is more likely to find that the amendment has no effect on any part of AS 43.20.013. There exists a long-established judicial policy disfavoring the implied repeal of statutes. (United States v. Borden, 308 US 188 (1939); Cook v. United States, 288 US 102 (1933); Watt v. Alaska, 451 US 259 (1981)) The cases that consider implied repeals deal with situations in which one piece of substantive legislation appears to conflict with another, and in such situations the court will attempt to construe both statutes so that each is preserved. It goes even further to argue that a court would find that an appropriation might have the effect of impliedly repealing a substantive statute. I believe that a court would find, if faced with the question, that the amendment to the original appropriation merely has the effect of providing funding for claims payable under AS 43.20.013(b), but not for claims payable under AS 43.20.013(a).

One reason the Attorney General offers for objecting to the use of an amendment to an existing appropriation to impliedly repeal AS 43.20.013(a), is that such a repeal should be offered as substantive legislation subject to veto by the Governor. This is undoubtedly correct if the legislature were, in fact, attempting to repeal AS 43.20.013(a). However, the Attorney General in this opinion ignores the

fact that the Governor was free to veto Section 140 if he did not like the method used by the legislature in amending the original appropriation. In fact, the Governor vetoed Section 228 which would have simply provided for the lapse of money that could not be used under the terms of the original appropriation.

As far as I can tell, the Attorney General in this opinion is essentially objecting to the fact that the legislature in amending the original appropriation provided funding for tax credits payable under AS 43.20.013(b) but did not provide funding for credits payable under AS 43.20.013(a). Since there is apparently no other source of funds for payment of those credits, the opinion expresses the concern that individuals entitled to those credits may have a cause of action against the state on the theory that the tax credit program contained in substantive law vests the intended recipients with a right to the money. It appears to me unlikely that a court would find that the enactment of a grant program entitles the intended recipient to payment under the program in the absence of an appropriation to fund the program. In fact, AS 43.20.013(c) specifically conditions payment of the credit on an appropriation for the purpose. That subsection states in part:

> A credit under this section shall be paid in the manner provided in AS 43.20.030(e) for the payment of refunds and payment may not be made without an appropriation for that purpose.

In any case, it might be more appropriate for the individuals impacted by the lack of funding for AS 43.20.013(a) to bring an action against the state to determine any question that may exist as to whether the statute confers an absolute or vested right, rather than for the executive branch of government to ". . . ignore the purported amendment which limits the purposes for which the appropriation may be spent" as the Attorney General advises. (Attorney General's Opinion, 366-031-85, August 1, 1984, page 5).

As the Attorney General notes, the precise issues dealt with in the opinion have not been addressed by the Alaska Supreme Court, so it cannot be said with certainty how the court would respond if faced with a challenge by the legislature to the action that the Attorney General advises the Department of Revenue to take. It appears to me that the

legislature would however, have a reasonable basis for challenging that action.

TBC:ojb
J8/071

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MEMORANDUM State of Alaska

TO: Gerald L. Wilkerson
Legislative Auditor
Division of Legislative Audit

DATE: February 5, 1985

FILE NO: 366-320-85

TELEPHONE NO: 465-3600

FROM: Norman C. Gorsuch
Attorney General

By: Diane T. Colvin
Assistant Attorney General
Commercial-Juneau

SUBJECT: Requirements for organizations under the political contribution credit program

RECEIVED
FEB 6 - 1985
LEGISLATIVE AUDIT

In conjunction with an audit of the political contribution credit program administered by the Department of Revenue, you have asked whether national political parties and national special interest groups qualify under AS 43.20.013(a), which provides for payments to individuals for contributions made to certain political candidates and organizations. We conclude that a national organization may qualify if the purpose for which it is organized meets the criteria set forth in AS 43.20.013(a).

AS 43.20.013(a) provides as follows:

(a) A resident individual is entitled to a tax credit not to exceed $100 for
(1) a contribution made in a calendar year to a person or organization for use exclusively
(A) for a political campaign for a candidate for
(i) President or Vice President of the United States, whether or not the candidate will be voted on in a primary election in Alaska;
(ii) United States senator from Alaska;
(iii) United States representative from Alaska;
(iv) governor or lieutenant governor of Alaska;
(v) the Alaska legislature;
(vi) delegate to an Alaska constitutional convention;
(vii) electoral confirmation as a judge or justice of a court in Alaska; or
(viii) municipal office in Alaska; or
(B) by a group seeking to influence the outcome of a ballot proposition or question in Alaska; and
(2) dues paid in a calendar year to a nonprofit organization organized primarily for the purpose of influencing elections in Alaska.

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AS 43.20.013(a) places no geographical limitations on an organization. It does, however, impose requirements regarding the purpose of the organization. Thus, a national organization such as "Mondale for President" would qualify because it is organized for the purpose set forth in AS 43.20.013(a)(1)(A)(i) -- it is a political campaign organization supporting a candidate for the Presidency. On the other hand, a contribution to the Republican National Committee would not qualify, because it is not organized exclusively for one of the purposes listed in AS 43.20.013(a)(1)(A)(i) - (viii). It may support the Republican nominee for President, but it also supports other candidates, such as Republican congressional candidates in other states, who are not covered by the statute.

Likewise, national special interest organizations do not qualify unless they are organized for the purposes set forth in AS 43.20.013(a). Thus, a nationwide organization could qualify if it were organized primarily to influence an Alaskan election. AS 43.20.013(a)(2). A state organization would not qualify unless, like the Alaska Environmental Action Committee, it were organized primarily for the purpose of influencing elections in the state. The organizations you list in your memorandum (National Rifle Organization, Audubon Society, National Wildlife Federation, Second Amendment Foundation) would not qualify because they are not organized primarily for the purpose of influencing elections in Alaska nor for any of the other purposes listed in AS 43.20.013(a)(1) and (2).

Focusing on the purpose of the organization fulfills, we believe, the legislative intent of the statute. AS 43.20.013(a), like sec. 41 of the Internal Revenue Code (providing for a tax credit for political contributions), was enacted not only for the obvious purpose of encouraging citizens to make contributions to candidates for public office, but also to "compensate" for the fact that contributions to political organizations are not tax deductible as charitable contributions for income tax purposes. *See* I.R.C. §§ 501, 527 (West 1984). Thus, a contribution must be made to a legitimate political organization in order to qualify as a credit. A charitable organization that incidentally supports a candidate or proposition does not come under the purview of the statute.

Determining whether or not a contribution is made for one of the purposes covered by the statute creates a difficult administrative problem for the Department of Revenue. The purpose of an organization is not always apparent from its name. In addition, it is difficult for the department to identify all the organizations in the state that may be organized for the

purposes listed in AS 43.20.013(a). This task, in order to be done accurately and efficiently, will probably require additional personnel, and assistance from the Division of Elections and the Alaska Public Offices Commission (APOC).

The other problem created for the department is a public relations one. An organization, in order to encourage contributions, may "advertise" to the public that it qualifies under AS 43.20.013(a) when in fact it does not. Based on a representation of this kind, the contributor will apply to the department for a refund, which may be denied because the contribution was not earmarked exclusively for one of the purposes listed in AS 43.20.013(a). Persons denied a refund are more likely to voice their dissatisfaction with department personnel than with employees of the organization who made the erroneous representation.

One way of easing the administrative burden on the department may be to amend the current regulation, 15 AAC 20.042, which requires, in effect, that a group supporting or opposing a ballot proposition must be registered with the Alaska Public Offices Commission in order to qualify. This registration requirement could be extended to cover most candidates and groups, except those that are not otherwise required to register with APOC, such as groups supporting candidates for national offices. For those organizations that are required to register, the use of registration as a qualifier would probably help to expedite the processing of applications for refunds.

We hope this provides sufficient information for concluding your audit. If you wish further information, please contact us.

NCG:DTC:cct
cc: Ervin Jones, Director
Administrative Services Division
Department of Revenue

Theda S. Pittman, Director
Public Offices Commission
Department of Administration

Sandi Stout, Director
Division of Elections
Office of the Lieutenant Governor

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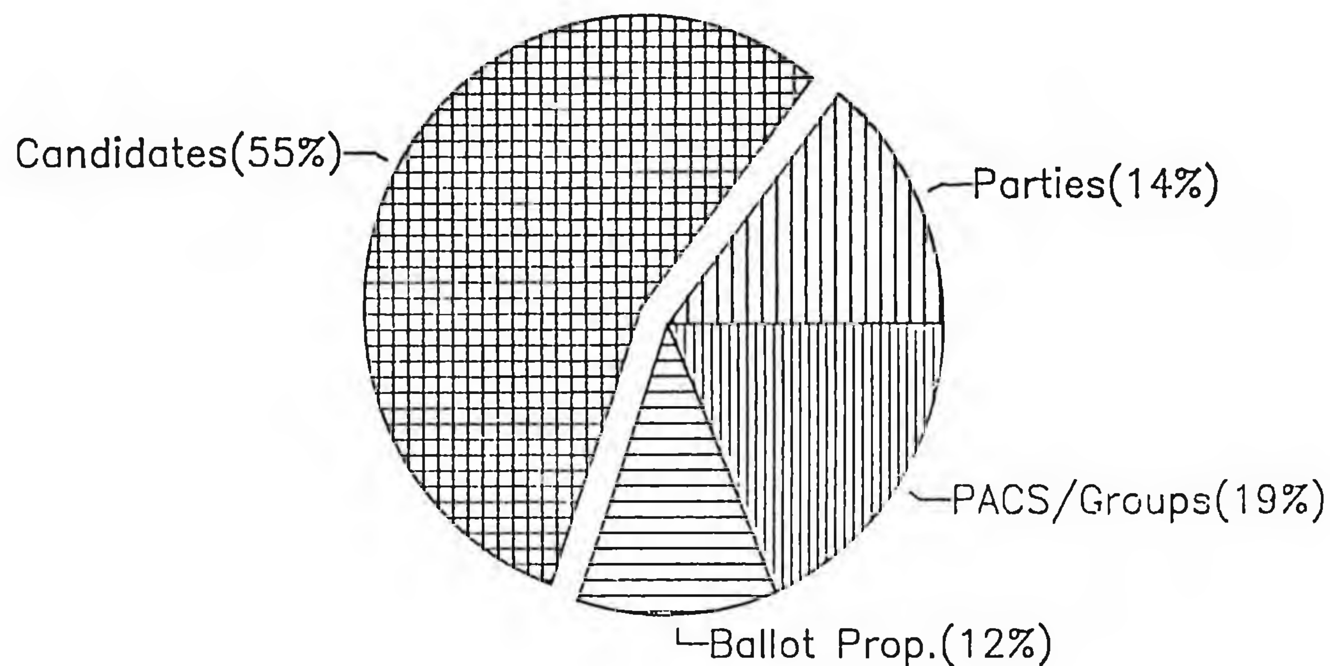
PCC for Contributions / Category of Recipient

1981–1983

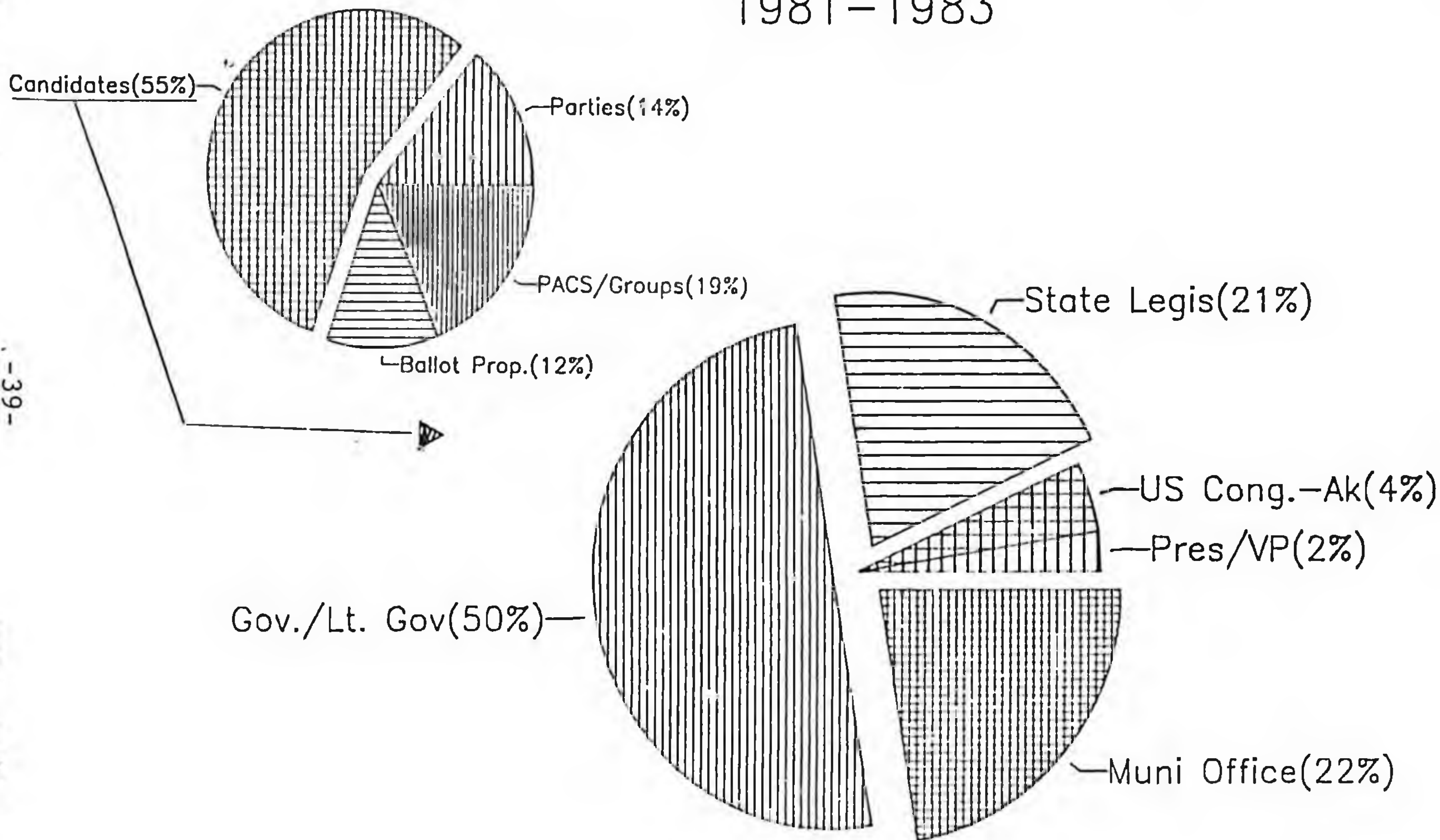


Out of Total of $ 2,428,000

APPENDIX E

PCC for Contributions / Elective Office

1981–1983



Out of a Projected $ 1,345,355

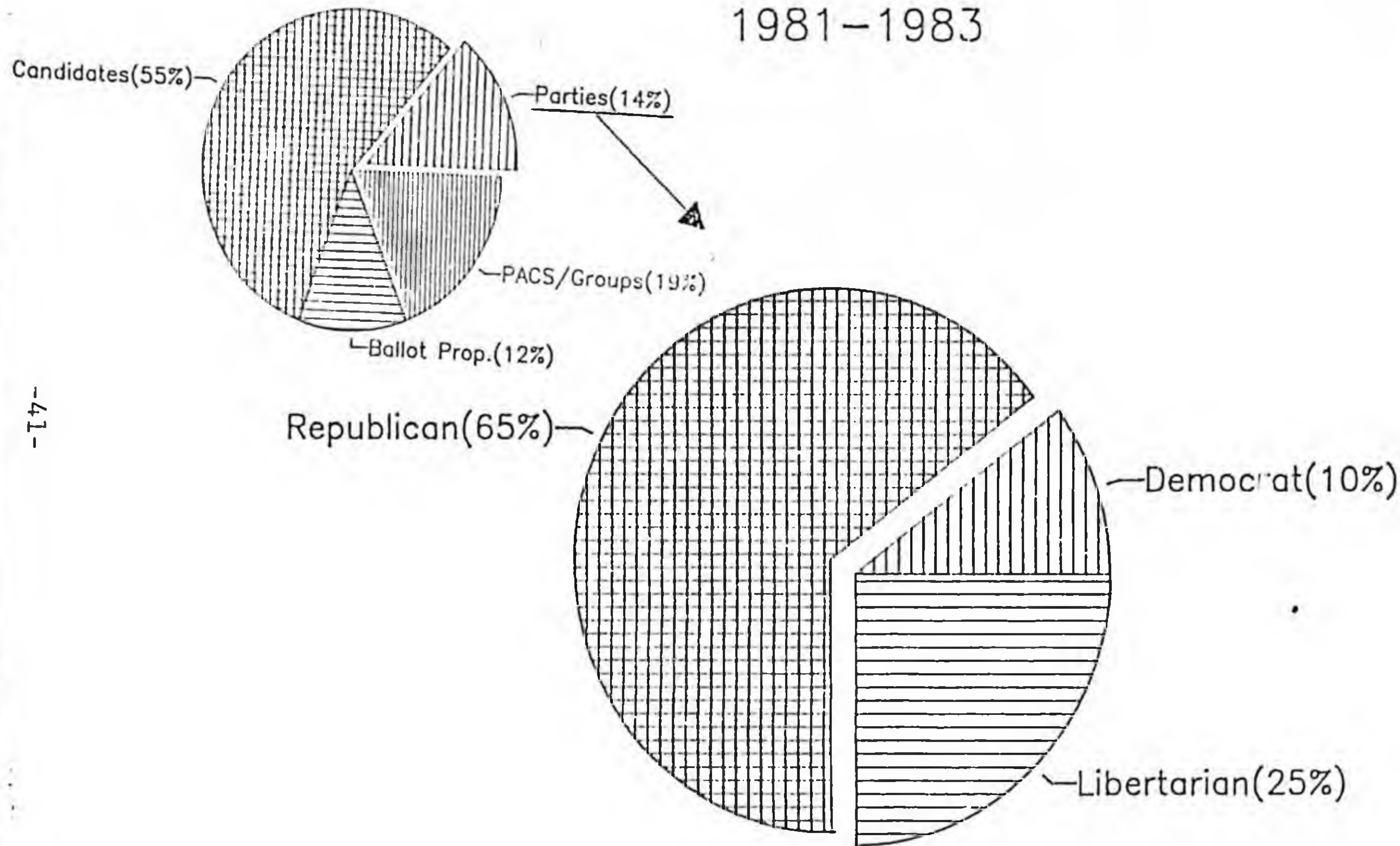
APPENDIX F

(Intentionally left blank)

(Intentionally left blank)

APPENDIX G

PCC for Contributions / Political Parties



Out of a Projected $ 348,400

(Intentionally left blank)

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF REVENUE

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

OFFICE OF THE COMMISSIONER

April 2, 1985

RECEIVED
APR 2 - 1985
LEGISLATIVE
AUDIT

Gerald L. Wilkerson
Legislative Auditor
Division of Legislative Audit
Pouch W
Juneau, AK 99811

re: Preliminary audit reports on: "A Special Report on the Department of Revenue, Political Contribution Credit Program, Claim Years 1981-1983, February 15, 1985."

Dear Mr. Wilkerson:

Recommendation No. 1

The Department of Revenue (DOR) should develop and implement better review procedures of political contribution credit claims to prevent payment of credits for contributions to ineligible recipients.

I agree that better review procedures should be developed and implemented, and have directed that the two divisions involved, Audit and Administrative Services, begin immediately to explore such improvements. The question remains, however, one of materiality and resource allocation. Your findings show that aside from the payments made based on contributions to national parties, the Department erred in paying 15 out of 400 cases sampled for a projected error amount of approximately $60,000 over a three year period, an average annual error amount of $20,000. In evaluating this finding, one must consider that the salary and benefits cost of one additional Document Processor I, range 7, is $24,262 per year. This raises serious questions in my mind as to the cost/benefit of increasing our efforts. In my analysis, I have discounted those errors related to national political parties, since based on this latest interpretation, it will be a fairly simple revision to make prospectively.

A notice regarding the national political party contributions will be included in the 1985 Refundable Credit Claim form, as suggested.

Finally, you suggest that the Department of Revenue should determine if identification and recovery of claims paid in error would be cost-effective. We will evaluate the cost of such an undertaking and the potential benefits, and as you suggest, proceed accordingly.

Gerald L. Wilkerson
April 2, 1985
Page 2

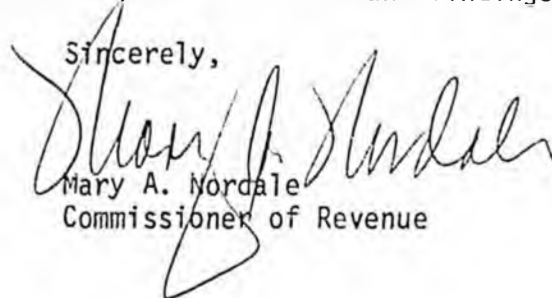
Recommendation No. 2

DOR should improve its data processing edit functions to reduce the possibility of making duplicate payments for political contribution credits.

Although I agree with you that $4,000 is not a significant amount compared to the $2,427,840 paid out in the same period, we will immediately implement the SSN matching process in processing claims filed in 1985. The fact that this step was left out was an error of omission, as we did at one time perform such an edit check.

Thank you for your careful review of the Political Campaign Credit system. The in-charge auditor, Jim Griffin, conducted the audit in a very professional and very efficient manner. I hope that as my staff works toward implementation of your recommendations, we may feel free to call upon Mr. Griffin for further discussion of his ideas and findings.

Sincerely,



Mary A. Nordale
Commissioner of Revenue

MAN:EJ:ms

REP. TERRY MARTIN

ELECTIVE DISTRICT 13
MOUNTAIN VIEW
RUSSIAN JACK SPRINGS
NUNAKA VALLEY
ELMENDORF A.F.B.
CREEKSIDE
EAST ANCHORAGE

HOME
3960 REKA DRIVE-B6
ANCHORAGE, AK 99508
PHONE 333-6990

DURING SESSION
POUCH V
STATE CAPITOL BUILDING
JUNEAU, AK 99811
PHONE 465-3783

Alaska House of Representatives

February 26, 1986

Senator Pat Rodey, Chairman
Senate Judiciary Committee
Capitol Building
Juneau, Alaska 99811

Dear Senator Rodey,

HB 144, a measure I have sponsored pertaining to lists of campaign contributions has been referred to your committee. The bill has been heard in the House State Affairs and Judiciary committees and the Senate State Affairs committee. I enjoyed support from the chairs of all of those committees, especially Representative M. Mike Miller. I note that the House passed the bill 39 to 1.

The legislation essentially addresses freedom of information and legislative oversight; not a House or Senate issue, not a Republican or Democrat issue, but rather a subject of interest to us all.

I would greatly appreciate it Senator, if you or your staff could take a few minutes to review the bill, and, at your earliest convenience schedule a public hearing. I think you will find the bill has broad support with virtually no objection from any quarter.

Thank you for your consideration.

Sincerely,

Terry

Representative Terry Martin
House Minority Leader

TM;jl

Sec. 43.05.085. List of contributors. The commissioner of revenue shall prepare and furnish to the Alaska Public Offices Commission by July 1 of each year a list of all persons claiming a credit under AS 43.20.013(a), including the dates, if available, and candidates or groups to which the contribution was made. These lists or parts of them may not be made public except on order of the supreme court of the state. (§ 4 ch 76 SLA 1974; am § 111 ch 6 SLA 1984)

Effect of amendments. — The 1984 amendment, substituted "Public Offices" for "Election Campaign" in the first sentence and made a series of internal reference and technical changes throughout the rest of the section.

Article 2. Fiscal Responsibilities.

Section
140. Bonds
190. [Repealed]

Sec. 43.05.140. Bonds. Before taking office, the commissioner of revenue shall furnish a bond to the state. The bond shall be approved by the attorney general and filed with the Department of Administration, and a copy of it shall be filed in the attorney general's office. The bond shall be conditioned that the principal will faithfully discharge the duties of the office, keep a strict, true and correct account of all money disbursed, and that the principal will properly account for it and will pay over to a successor or other person entitled by law to receive it all money or property in the hands or possession of the principal, in accordance with law; or, in default, that the parties executing the bond will pay to the state and others injured all damages, costs, and expenses resulting from the default. The surety on the bond shall be a surety company authorized to transact business in the state. All premiums for the commissioner of revenue's bond shall be paid by the state. The amount of the bond shall be $200,000, but if the funds in the treasury of the state exceed the amount of the bond given by the commissioner of revenue, or if for any reason the governor and the Department of Administration consider the bond insufficient they shall notify the commissioner of revenue of that fact, and the commissioner of revenue shall give the additional bond with sufficient sureties, within the time and in the amount which the governor and the Department of Administration consider necessary for the safety of the state. (§ 7-1-4 ACLA 1949)

Editor's notes. — This section is set out above to correct an error in the main pamphlet.

COPY

January 29, 1985

Honorable Jay Rabinowitz, Chief Justice
Alaska Supreme Court
303 "K" St.
Anchorage, Alaska 99501

Dear Chief Justice Rabinowitz,

In our democratic form of government, with it's three separate branches, the judicial branch is often called upon by the legislative and executive branches to solve problems between the two. And so it is with this letter that I present you with a set of facts and ask for your assistance.

In 1974 the Alaska legislature enacted a law that allowed state residents to apply for a personal income tax credit of up to 50 dollars. The credit was given if a taxpayer donated money to a political candidate, a candidate for judicial retention or a ballot initiative. Under that system, if a resident could prove that he or she made a donation to a campaign, the state would allow them to credit up to 50 dollars against their state income tax.

In 1980, when the personal income tax on Alaska residents was repealed, the law was changed to allow for a political contribution credit. That is, since the personal income tax was repealed, if a resident made a contribution to a political campaign, he or she would simply be reimbursed by the state. Also in 1980, the amount of the credit was increased to 100 dollars.

In the last year I have become interested in this program and have begun to investigate what types of organizations are being claimed as creditable contributions. Quite simply, I have been trying to find out where the money is going.

AS 43.20.013 (a)(1)(A) is clear, it allows a credit of up to 100 dollars for a resident who has contributed to a campaign in Alaska. Early last year I requested from the Department of Revenue a list of who Alaska residents have claimed as creditable contributions. Officials with Revenue were very cooperative in granting my request. My intent was to determine if the political campaign contribution program was accomplishing its purpose of assisting the average citizen in making contributions to candidates for elective office. I was also interested in how much money was being spent in-state versus out of state.

With that background in mind, on to the problem. With the 1984 elections out of the way, I thought it would be interesting to check and see how much money was spent on campaign credits during the past election season, and where it went. When my office placed a telephone call to the proper revenue official and asked for the list, just as we had done before, we were refused access to the information.

AS 43.05.085 states that the information dealing with the political contribution credit shall not be made public except on order of the supreme court of the state of Alaska. Ms. Sally Smith, the Director of Public Services of the department cited this statute as her reasoning for not releasing the information.

Thus, Mr. Chief Justice, I request your assistance.

I am sure you are aware that "Campaign reform" is the subject of much discussion in the press and the subject of much legislation in the capitol. Without exception the bills introduced thus far are designed not only to limit expenditures, but to make public the origin and the amounts of money being spent on elective office. I expect some form of this legislation to pass soon, simply because the people are demanding it.

When AS 43.05.085 first appeared in section 4, chapter 76, SLA 1974, it was in reference to a tax credit. It was the mood of the day, and maybe rightly so, that information related to taxpayers should remain confidential. However, as this statute applies today, there is no personal income tax debt to be credited. It therefore follows that there is no information relating to taxpayers that can be divulged. Keep in mind that I am not asking to see the names of those who contributed, only the names of those organizations and candidates that have been credited as Alaskan campaigns.

Along the lines of keeping information confidential, I would like to point out that when the program was indeed a tax credit, the state was not expending funds, it was simply deferring them. Understandably, that was between the taxpayer and the state. However, as the program exists today, the state is expending public funds. I for one believe that the final destination of public funds should be public knowledge.

Finally, I would like to point out that I have requested and was given this information once already. Since I received the list, I have not infringed on the rights or privacy of one Alaskan, simply because I did not ask for, and I did not receive the name of any Alaskan.

In conclusion Mr. Chief Justice, I am requesting you to order the Department of Revenue to provide me and the public with the names of candidates and organizations that have been claimed in calendar years 1983 and 1984 by anyone applying for reimbursement of their political campaign contribution.

I await your response.

Also, for your information, I am enclosing a copy of HB144 which will hopefully be passed during this session to correct this situation.

Thank you.

Sincerely,

Representative Terry Martin
House Minority Leader

TM:jl
encl

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

REPLY TO:

☐ 1031 W 4th AVENUE
SUITE 200
ANCHORAGE, ALASKA 99501
PHONE: (907) 276-3 0

☐ 1st NATIONAL CENTER
100 CUSHMAN ST.
SUITE 400
FAIRBANKS, ALASKA 99701
PHONE: (907) 452-1568

☑ POUCH K · STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

February 22, 1985

Mr. David A. Lampen
Clerk of the Superior Court
State of Alaska
303 "K" Street
Anchorage, AK 99501-2084

Re: Application for Release f
Individual Tax Credit Lis

Dear Mr. Lampen:

Enclosed is the state's response to Representative Terry Martin's application to the court seeking release of information made confidential by AS 43.05.085. The state does not oppose Representative Martin's request, for the reasons given in the attached statement.

Thank you for your assistance. If you have questions, please contact us.

Sincerely yours,

NORMAN C. GORSUCH
ATTORNEY GENERAL

By:
Diane T. Colvin
Assistant Attorney General

DTC/mf

Enclosure

cc: Honorable Terry Martin
Alaska State Legislature

Sally Smith, Director
Public Services Division
Department of Revenue

03-C5LH

IN THE SUPREME COURT FOR THE STATE OF ALASKA

In Re Application For Release)
of Individual Tax Credit Lists)
)
)
)

STATE'S STATEMENT OF NON-OPPOSITION TO
APPLICATION FOR RELEASE OF INDIVIDUAL TAX CREDIT LISTS

Pursuant to Appellate Rule 404(c), the state files this response to the application filed by Representative Terry Martin for release of individual tax credit lists. The state does not oppose Representative Martin's request for release of these lists, for the reasons given below.

First, Representative Martin is requesting only the names of candidates and groups for whom the tax credit provided by AS 43.20.013 is claimed. Release of this information would not jeopardize any individual contributor's claim to pi /acy.

Second, Representative Martin is a state le islator. The political contribution program involves the expen .ture of public funds. Representative Martin, as a public offi .al, has a legitimate reason for seeking the information reques d. His interest would, we believe, outweigh any interest the c. .didates and groups may have in nondisclosure.

Finally, AS 43.05.085 requires that the information requested by Representative Martin be provided to the Alaska Public Offices Commission (APOC). Other information of this kind in the possession of APOC is public information. There is not a legitimate privacy reason, in our view, for treating this particular information differently. More importan y, the purpose of AS 15.13, under which campaign expendi ces and contributions must be reported to APOC, is to er ble the electorate of the state to be better informed ab funds contributed to and expenditures made by candidates f public office. This public purpose is not served if certain nformation held by APOC is kept confidential.

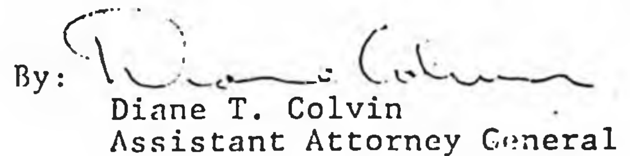
/ / / / / /

ATTORNEY GENERAL, STATE OF ALASKA
STATE CAPITOL
POUCH K, JUNEAU, ALASKA 99811
PHONE 465-3600

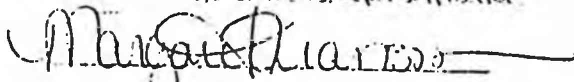
The state, therefore, does not oppose the application for release of the names of candidates and groups for whom credits were claimed under AS 43.20.013.

DATED: 2-22-85

NORMAN C. GORSUCH
ATTORNEY GENERAL

By: 
Diane T. Colvin
Assistant Attorney General

The undersigned hereby certifies that on the 22nd day of February, 1985, the attached documents were mailed to ~~the attorneys of record~~ representative Martin



Subscribed and sworn to before me the date last written.

Notary Public
My Commission Expires 10/1/88

ATTORNEY GENERAL, STATE OF ALASKA
STATE CAPITOL
POUCH K, JUNEAU, ALASKA 99811
PHONE 465-3600

In the Matter of the Application for Release of Individual Tax Credit Lists.	)))))	Supreme Court No. S-839

Filed and Entered
APPELLATE COURTS of the
STATE of ALASKA
MAR 27 1985
CLERK
By .... Deputy

ORDER

Before: Rabinowitz, Chief Justice, Burke, Matthews, Compton and Moore, Justices.

On consideration of the application for the release, pursuant to AS 43.05.085, of individual tax credit lists, filed by Representative Terry Martin on February 5, 1985, and the statement of non-opposition to the application, filed by the State of Alaska on February 25, 1985,

IT IS ORDERED:

The application is granted. The State of Alaska is directed to release to Representative Martin a list of all candidates or groups to which contributions were made and for which the tax credit provided for by AS 43.20.013 was claimed during calendar years 1983 and 1984.

Entered by direction of the court at Anchorage, Alaska on March 21, 1985.

CLERK OF THE SUPREME COURT

DAVID A. LAMPEN

ccs: Justices
Counsel
Representative Terry Martin
Sally Smith, Director of Public Services, Department of Revenue

TM
DC
55

RECORDS CERTIFICATION

I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

James O. Smith
Signature of Camera Operator

11/7/89
Date

02-519 (REV 8/78)

HB
155

Original sponsors: Ringstad, Duncan,
Sund, et al

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 155 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to notice requirements on the clo-
7 sure of mobile home parks."

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

9 * Section 1. AS 34.03.225 is amended to read:

10 Sec. 34.03.225. LIMITATIONS ON MOBILE HOME PARK OPERATOR'S
11 RIGHT TO TERMINATE. A mobile home park operator may evict a mobile
12 home or a mobile home park dweller or tenant only for one of the
13 following reasons:

14 (1) the mobile home dweller or tenant has defaulted in the
15 payment of rent owed;

16 (2) the mobile home dweller or tenant has been convicted of
17 violating a federal or state law or local ordinance, and that viola-
18 tion is continuing and is detrimental to the health, safety or welfare
19 of other dwellers or tenants in the mobile home park;

20 (3) the mobile home dweller or tenant has violated a pro-
21 vision, enforceable under AS 34.03.130, of the rental agreement or
22 lease signed by both parties and not prohibited by law including rent
23 and the terms of agreement; and

24 (4) a change in the use of the land comprising the mobile
25 home park, or the portion of it on which the mobile home to be evicted
26 is located; however, all dwellers or tenants so affected by a change
27 in land use shall be given at least 180 days' [90 DAYS] notice, or
28 longer if a longer notice period is provided in a valid lease.

29 * Sec. 2. AS 34.03.225 is amended by adding a new subsection to read:

(b) A mobile home park operator may not evict a mobile home or a mobile home park dweller or tenant because of the age of the mobile home. This does not prohibit eviction for violation of a provision enforceable under AS 34.03.130 that requires that a mobile home be in a fit and habitable condition.

IN THE SENATE BY THE JUDICIARY COMMITTEE

SENATE CONCURRENT RESOLUTION NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

FOURTEENTH LEGISLATURE - FIRST SESSION

Suspending Uniform Rule 41(b) of the Alaska State Legislature concerning House Bill No. 155.

BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

That under Rule 54 of the Uniform Rules of the Alaska State Legislature the provisions of Rule 41(b) of the Uniform Rules are suspended in the consideration of House Bill No. 155.

```
******************************************************************************
*                                                                            *
* DELIVER TO: JPOM                                                           *
*                                                                            *
*                                                                            *
* ORIGINAL                                                                   *
* SENT:            04/22/85  TIME: 16:53                                     *
* FROM:            VERNITA VESTAL                                            *
* SUBJECT:         POM                                                       *
* PRINT DATE:      04/22/85  TIME: 16:54                                     *
*                                                                            *
******************************************************************************
```

TO: SENATE JUDICIARY COMMITTEE:
SENATORS RODEY, KELLY, FAIKS, HALFORD, AND ZIEGLER

FROM: RUDOLPH PYE
7800 DEBARR #54
ANCHORAGE, ALASKA 99504 (H) 337-7502

RE: HB 155-MOBILE HOME

AS A MOBILE HOME OWNER I URGE YOU TO ACT ON HB 155 IMMEDIATELY. AS A MOBILE HOME OWNER I FEEL THAT I AM BEING CHEATED IN ALASKA VILLAGE 7800, AS WE ARE PAYING EXORBANT SPACE RENT AND NOT BEING ZONED IN THE CITY OF ANCHORAGE . NO SECURITY AT BY LIVING HERE, I CAN'T SELL IT OR ANYTHING.

```
*****************************************************************
*                                                               *
* DELIVER TO: JPOM                                              *
*                                                    10         *
*                                                               *
* ORIGINAL                                                      *
* SENT:            04/25/85  TIME  10:04                        *
* FROM:            LANA TRUJILLO                                *
* SUBJECT          POM                                          *
* PRINT DATE:      04/25/85  TIME: 10:04                        *
*                                                               *
*****************************************************************
```

TO: SENATE JUDICIARY

SEN. RODEY, KELLY, FAIKS, HALFORD, ZIEGLER

SEN. JOSEPHSON AND V. FISCHER

REP. POURCHOT AND MARTIN

FROM: JAMES DERRY, 5750 GLENN, #38, ANCHORAGE, 99504, 333-0937(HM), 338-0774(WK)

RE: HB 155, MOBILE HOMES

I'M A MOBILE HOME OWNER AND HAVE A RIGHT TO LIVE WHERE AND HOW I WISH. I PLEASE ASSIST ME IN MY RIGHT TO DO SO BY PASSING HB 155. WHERE I HAVE MY MOBILE HOME WILL SOON BE SOLD. THANK YOU FOR YOUR ASSISTANCE.

FROM: HAROLD BAUER
5811 TONGA DRIVE
ANCHORAGE, AK. 99507 PHONE 562-4462

RE: HB 155- CONDOS MANUFACTURED HOUSING

WE WANT THE RIGHTS TO OWN THE LAND WE LIVE ON JUST [illegible] YOU DO.
PLEASE HELP US GET OUR LAND BY PASSING HB 155. ALL [illegible] THE HOME
OWNERS WILL BE APPRECIATIVE.

* DELIVER TO: JPOM

* ORIGINAL
* SENT: 04/25/85 TIME: 10:21
* FROM: MICKI HENSON
* SUBJECT: POM
* PRINT DATE: 04/25/85 TIME: 10:21

TO: ALL LEGISLATORS

FROM: PEGGY M. PAROT
4110 DEBARR G-19
ANCHORAGE, AK. 99508 PHONE: 337-5273

RE: HB 155- CONDOS MANUFACTURED HOUSING

AS A MOBILE HOME OWNER I DO NOT THINK I SHOULD BE A DISENFRANCHISED HOME OWNER BECAUSE OF WHERE I CHOOSE TO LIVE. GIVE ME THE ABILITY TO OWN THE LAND I LIVE ON BY PASSING HB 155 AS IS.

FORMER EVICTED "VAGABOND" RESIDENT

```
**************************************************************
*                                                            *
* DELIVER TO: JPOM                                           *
*                                                            *
*                                                            *
* ORIGINAL                                                   *
* SENT:            04/24/85   TIME: 16:33                    *
* FROM:            LANA TRUJILLO                             *
* SUBJECT:         POM                                       *
* PRINT DATE:      04/24/85   TIME: 16:33                    *
*                                                            *
**************************************************************
```

21

TO: ALL SENATORS

FROM: ELAINE HILDAHL, 1200 W. DIMOND, #1429, ANCHORAGE, 99515, 344-7363(HM)

RE: HB 155, MOBILE HOMES

PLEASE HELP US GET OUR OWN LAND BY PASSING HB 155. WE HAVE THE RIGHT TO OWN OUR OWN LAND JUST AS ANYONE ELSE. TIME IS RUNNING OUT, PLEASE ACT TODAY AND VOTE YES. THANK YOU.

****
*   *
* DELIVER TO: JPOM   *
*   *
*   *
* ORIGINAL   *
* SENT: 04/25/85 TIME: 08:52   *
* FROM: LANA TRUJILLO   *
* SUBJECT: POM   *
* PRINT DATE: 04/25/85 TIME: 08:53   *
*   *
****

TO: ALL SENATORS

FROM: COLLEEN MILLER, 1545 S. HOYT, #26, ANCHORAGE, 99508, 333-8633(HM), 561-2162(WK)

RE: HB 155, MOBILE HOMES

AS A MOBILE HOME OWNER, I DON'T BELIEVE THAT I SHOULD BE DISENFRANCHISED SIMPLY BECAUSE OF WHERE I CHOOSE TO LIVE. PLEASE GIVE ME THE ABILITY TO OWN THE LAND I LIVE ON BY PASSING HB 155 AS IS.

FROM: ELIEEN THORNTON, 4110 DEBARR, SPACE 5-C, ANCHORAGE, AK 99504, 338-4743 (H) AND 279-2511 (W)

SUBJECT: HB 155, CONDOMINIUM REGIMES; MANUFACTURES HOUSING

I WOULD LIKE TO SEE THIS BILL PASSED. I AM A MOBILE HOME OWNER AND I AM ON A LIMITED INCOME AND I DON'T THINK IT IS FAIR THAT THEY KEEP "UPPING" MY RENT $25 ANYTIME THEY FEEL LIKE IT.

```
******************************************************************
*                                                                *
* DELIVER TO: JPOM                                               *
*                                                                *
*                                                                *
* ORIGINAL                                                       *
* SENT:            04/25/85  TIME: 16:02                         *
* FROM:            BARBARA NORRELL                               *
* SUBJECT:         POM                                           *
* PRINT DATE:      04/25/85  TIME: 16:10                         *
*                                                                *
******************************************************************
```

TO: ALL LEGISLATORS

FROM: KAREN TURLINGTON, 7800 DEBARR, ANCHORAGE, AK 99504, 337-2726 (H) OR 333-6522 (W)

SUBJECT: HB 155, CONDOMINIUM REGIMES; MANUFACTURED HOUSING

AS A MOBILE HOME OWNER THE PASSING OF HB 155 COULD ENABLE US TO OWN THE LAND WE LIVE ON, LIKE EVERYONE WANTS TO. I AM SURE ALL MOBILE HOME OWNERS WILL FEEL STRONGLY ON THIS ISSUE.

[illegible] [illegible]

* [illegible]
* [illegible] [illegible] TIME: 13:15
* [illegible] VERNITA VESTAL
* SUBJECT [illegible]
* PRINT DATE: 04/26/85 TIME: 13:15

TO: ALL LEGISLATORS

FROM: ABRAHAM LINCOLN MIDGETT, JR.
1545 S. HOYT SP 71
ANCHORAGE, ALASKA 99508 (H) 333-6065 (W) 337-1434

RE: HB 155-CONDOMINIUM REGIMES

I LIVE IN MALESPENA MOBILE HOME PARK, I WANT TO JOIN THE OTHERS WHO WANTS TO OWN THEIR PROPERTY. NOW THAT THE HB 155 IS PASSED I URGE YOU ALL TO DO THE SAME. MAY GOD BLESS YOU ALL.

TO: ALL MEMBERS OF THE LEGISLATURE

FROM: TERRY C. KENNARD
3171 STOREY DR., NORHT POLE 99705

PHONE: H) 488-1517 W) 452-4705

RE: HB 372 - ABORTIONS

MSG: I DON'T BELIEVE THE STATE OF ALASKA SHOULD BE PAYING FOR ABORTIONS UNLESS IT IS TO SAVE THE LIFE OF THE WOMAN.

TO: ALL LEGISLATORS

FROM: AL WORFIELD
2527 QUAN
ANCHORAGE, ALASKA 99507 (H) 563-6047

RE: HB 155-CONDOMINIUM REGIMES

I [illegible] AN OPPORTUNITY TO PURCHASE [illegible] WHO KNOWS WHEN THE OWNER WILL DECIDE WHEN TO SELL THE LAND [illegible] OTHER [illegible] LEAVE US WITHOUT A PLACE TO LIVE.

****
*
* DELIVER TO: JFOH
*
*
* ORIGINAL
* SENT: 04/26/85 TIME 08:1[illegible]
* FROM: LANA TRUJILLO
* SUBJECT: POH
* PRINT DATE: 04/26/85 TIME 00:14
*
****

TO: ALL LEGISLATORS

FROM: CHERYL JONES, 801 AIRPORT HEIGHTS, #409, ANCHORAGE, 99504, 277-9704(HM), 264-5419(WK)

RE: HB 155, MOBILE HOMES

I AS A MOBILE HOME OWNER WOULD LIKE TO HAVE THE CHOICE TO OWN MY OWN LAND WHICH I LIVE ON JUST AS YOU DO. BY PASSING HB 155 I WOULD HAVE THAT CHOICE. I FEEL THAT ALL MOBILE HOME OWNERS WILL BE VERY APPRECIATIVE OF THIS PASSING OF HB 155.

FROM: MARCELINO RESARI
1545 SO. HOYT #35
ANCHORAGE, AK. 99508 PHONE: 333-0894 HM.

RE: HB 155- CONDOS MANUFACTURED HOUSING

WE MOBILE HOME OWNERS LIKE MANY OTHERS IN ANCHORAGE CAN'T AFFORD TO BUY A HOUSE BECAUSE WE DON'T MAKE ENOUGH MONEY- ESPECIALLY WHEN YOU ARE RETIRED. IT IS MORALLY WRONG FOR THE PARK OWNERS TO ADVERTISE A SPACE THEN LATER CLOSE THE PARK DOWN. WE'VE GOT NO PLACE TO GO AND NO PLACE TO LIVE- PLEASE PASS HB 155 TO SAVE THE HOMES OF THE LOW INCOME PEOPLE.

****

FROM: KIM PARTYKA, 2415 NORTH TAHITI LOOP, ANCHORAGE, ALASKA 99507 (H) 563-8160

RE: HB155 CONDOMINIUM REGIMES

PLEASE PASS THIS BILL ON BEHALF OF ALL MOBILE HOME OWNERS AND LONG TIME ALASKA RESIDENTS THEREBY GIVING US THE RIGHT TO OWN THE LAND THE MOBILE HOMES SIT ON AND THEREFORE TO BUILD EQUITY IN OUR LAND.

FROM: TERRY HARLEY, 4110 DEBARR, SP. 19-D, ANCHORAGE, AK 99508, 338-2524

SUBJECT: HB 155, CONDOMINIUM REGIMES; MANUFACTURED HOUSING

AS A MOBILE HOME OWNER, I WOULD LIKE TO BE ABLE TO BUY SPACE WHERE I CHOOSE. I SEE NO USE IN ENRICHING CONTRACTORS BY BUY SUBSTANDARD HOUSING WHEN A MOBILE HOME IS ADEQUATE BY COMPARISION.

FROM: DORIS SMITH, 328 BONIFACE PKW., #2772 (LI[illegible] AT 1001 BONIFACE, MAYFLOWER CIRCLE) ANCHORAGE, ALASKA [illegible] [illegible]

RE: HB155, CONDOMINIUM REGIMES

I WANT THE RIGHT TO OWN THE LAND THAT WE LIVE ON. [illegible] HELP US GET THIS LAND BY PASSING HB155. AS MOBILE HOME OWNER [illegible] WILL BE APPRECIATIVE. THANK YOU

61

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* DELIVER TO: JPOM                                                      *
*                                                                       *
*                                                                       *
* ORIGINAL                                                              *
* SENT:          04/26/85  TIME: 09:39                                  *
* FROM:          LANA TRUJILLO                                          *
* SUBJECT:       POM                                                    *
* PRINT DATE:    04/26/85  TIME: 09:40                                  *
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TO: ALL LEGISLATORS

FROM: TERESA DRUMMER, 7505 GLENN MULDOON,#38, ANCHORAGE, 99504, 337-5484(HM)

RE: HB 155, MOBILE HOME

THE HOUSE HAS PASSED HB 155 UNANIMOUSLY. PLEASE DO THE SAME BEFORE TIME RUNS OUT THIS SESSION.

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* DELIVER TO: JPON                                                          *
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* ORIGINAL                                                                  *
* SENT:           05/02/85  TIME: 13:22                                     *
* FROM:           VERNITA VESTAL                                            *
* SUBJECT:        PON                                                       *
* PRINT DATE:     05/02/85  TIME: 13:23                                     *
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TO: SENATE JUDICIARY COMMITTEE:
SENATORS RODEY, KELLY, FAIKS, HALFORD, AND ZIEGLER

FROM: RON DODSON
P.O. BOX 110332
ANCHORAGE, ALASKA 99511 (H) 344-1655 (W) 344-1233

RE: SB 44-CONDOMINIUM

TO CONTINUE SUPPORT FOR SB 44. SUGGEST VOTE AGAINST HB 155. AS THE OWNER OF MANAGEMENT COMPANY. I FIND SB 44 FAR SUPERIOR TO HB 155.

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* DELIVER T:   JPOH                                                         *
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* ORIGINAL                                                                  *
* SENT:            05/02/85   TIME: 10:54                                   *
* FROM:            BARBARA NORRELL                                          *
* SUBJECT:         POM                                                      *
* PRINT DATE:      05/02/85   TIME: 11:30                                   *
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TO: SENATE JUDICIARY
SEN. RODEY, KELLY, FAIKS, HALFORD, ZIEGLER

FROM: WILEY BROOKS/CPM, PRESIDENT ELECT AK CHAPTER INSTITUTE OF REAL ESTATE MANAGEMENT, 2525 BLUEBERRY ROAD, SUITE 105, ANCHORAGE, AK 99503, 277-2484

SUBJECT: HB 155, CONDOMINIUM REGIMES; MANUFACTURED HOUSING

PLEASE CONTINUE YOUR SUPPORT OF SB 44. IT IS FAR SUPERIOR TO HB 155.

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* DELIVER TO: JPOM                                      *
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* ORIGINAL                                              *
* SENT:            05/02/85  TIME: 10:03                *
* FROM:            VERNITA VESTAL                       *
* SUBJECT:         POM                                  *
* PRINT DATE:      05/02/85  TIME: 10:04                *
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TO: SENATE JUDICIARY COMMITTEE:
SENATORS RODEY, KELLY, FAIKS, HALFORD, AND ZIEGLER

FROM: MARTHA BRISTOW
STR 1 BOX 204
CHUGIAK, ALASKA 99567 (H) 688-3918 (W) 786-4320

RE: HB 155-CONDOMINIUM

I URGE YOU TO VOTE AGAINST HB 155. IT DOES NOT GIVE THE PUBLIC AS MUCH PROTECTION AS SB 44.

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* DELIVER TO: JPOM                                               *
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* ORIGINAL                                                       *
* SENT:          05/01/85  TIME: 09:00                           *
* FROM:          VERNITA VESTAL                                  *
* SUBJECT:       POM                                             *
* PRINT DATE:    05/01/85  TIME: 09:01                           *
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TO: SENATE JUDICIARY COMMITTEE:
SENATORS RODEY, KELLY, FAIKS, HALFORD, AND ZIEGLER

FROM: WILLIAM MCNALL
P.O. BOX 771421
EAGLE RIVER, ALASKA 99577 (H) 694-4030(W) 276-2535

RE: HB 155-SB 44, CONDOMINIUM

SB 44 IS FAR SUPERIOR TO HB 155. HB 155 SUPPORTERS HAVE RECENTLY MISREPRESENTED THE IMPACT OF THEIR BILL. YOU UNDOUBTLY HAVE RECEIVED MANY POMS BASED UPON THIS MISINFORMATION. PLEASE CONTINUE TO SUPPORT SB 44 BY DECLINING SUPPORT FOR HB 155. SINCERELY YOURS.

Alaska State Legislature

Advisory Council Members
Senator Bennett, Chairman
Senator Kerttula
Senator Abood
Senator Sackett

1024 W. 6th Avenue, Suite 203
Anchorage, Alaska 99501
Phone: (907) 274-1426

SENATE ADVISORY COUNCIL

MEMORANDUM

TO: SENATOR JAN FAIKS
SENATOR RICK HALFORD
FROM: ELIZABETH J. HICKERSON
SUBJECT: BILLS RELATING TO MOBILE HOMES: CS HB 155 (Judiciary); CS HB 148 (Judiciary); CS SB 188 (L&C)
DATE: MAY 3, 1985

The so called crisis facing mobile home owners has peeked the interest of the Legislature this session. Three bills have been introduced specifically relating to mobile homes and parks:

CS HB 155 (Judiciary), an act relating to notice requirements on the closure of mobile home parks and permitting the establishment of horizontal property regimes for mobile home;

CS HB 148 (Judiciary), an act relating to mobile home warranties; and,

CS SB 188 (L&C), an act relating to eviction from a mobile home park.

These three bills have been promoted as consumer bills, however, a closer review of the bills raises many questions that should be addressed.

CS HB 148 (Judiciary) is a needed measure, because of the increasing cost of mobile homes, and lack of state regulation over the construction of mobile homes. The federal government does provide construction standard regulation, but is not geared to our unique problems in Alaska. Mobile homes are not presently manufactured in Alaska, but are sold here. Numerous consumers have encountered substantial harm due to ill constructed mobile homes. Too often the out of state manufacturer has gone bankrupt or otherwise gone out of business, leaving the consumer without a means to recover damages. The performance bond is the only true means to ensure that consumers will be more protected from these manufacturers. This bill increases the performance bond for manufacturers from $35,000 to $100,000. The average cost of mobile homes

is approximately $40,000, but the prices range from $10,000 to over $100,000. A private cause of action against the bond is established. Violations of these provisions are made unfair trade practices. This bill is strongly endorsed by the Consumer Protection Division of the Department of Law, and is considered the most important mobile home bill pending before the legislature. A hearing is scheduled on this bill for Monday, May 6, before Senate Labor and Commerce. It has a Judiciary referral.

CS HB 155 (Judiciary) has three main provisions. Section 1 amends AS 34.03.225, and increases the eviction notice for mobile home tenants from 90 to 180 days in the event that a change in the use of the land occurs.

Section 2 provides that a mobile home park operator may not evict a mobile home or a tenant because of the age of the mobile home. I am concerned that this may unreasonably interfere with the rights of an operator. Mobile home owners realize that they own personal property, not real property, and are required to arrange for the location of their mobile homes. Park operators need to be able to operate parks which are attractive and safe. The lease should provide protection for both parties. By passing state law which eliminates the rights of the parties to contract on this issue, the state may encourage more operators to sell their parks. If this happens, fewer spaces will be available in an already tight market.

Section 3 provides for the establishment of mobile home parks which are owned by the inhabitants. This section has been sold as a consumer bill, and in reality, it is an operator's bill. The effect of this bill, if it becomes law, will be to allow operators to sell their lots, with few consumer protection provisions. The only provisions that will extend some protection to consumers are in the eviction notice (180 days), and the right of first purchase during the first 60 days. According to AHFC, Consumer Protection, and others involved in the industry, 180 days is not sufficient time for tenants to relocate. One year notice is required by AHFC, and advocated by others as the minimum amount of notice needed.

It is important to note what is not provided under this bill:

unit boundaries are not established;

description of units are not provided;

contents of the declaration are not itemized;

allocation of allocated interests are not described;

development rights are not outlined;

alteration of units is not discussed;

organization and powers of the unit owners' association are not mentioned;

transfer of association control is not outlined;

termination of contracts and leases are not included;

upkeep of common elements is not provided;

tort and contract liability is not outlined;

liens for assessments are not included;

public offering statements or certificates for resale, which provide for disclosures regarding budget and reserve accounts are not required;

no warranties are included;

declarant is not obligated to complete and restore the property; and

unconscionable agreement or terms of contracts are not mentioned.

As you know, all of these provisions and more are included in SB 44. Without these provisions, the state will be allowing an unknown entity "condominimized mobile home parks" to be established under an outdated statute, the Horizontal Property Regimes Act. We know that problems exist already with regular condos. Mobile home parks have many more unique problems which should be addressed. Park operators will have the advantage if this bill passes.

CS SB 188 (L&C) provides that mobile homes or tenants can not be evicted because of the age of the mobile home. The same concerns I mentioned regarding Section 2 of CS HB 155 (Judiciary) apply to this bill.

HB155

History:
HB155 is this years version of last years SB464 sponsored by Sen. Halford. SB464 went through the full Senate in a 20-0 vote. The House version died as the Legislature adjourned.
This year HB155 is sponsored by Rep. Ringstad. After three hearings in the House Labor and Commerce Committee (including two teleconferences), a substitute was approved and past out of committee.
The bill was then referred to the House Judiciary Committee where another substitute was approved before being passed out of that committee.

Intent:
CSHB155 is an act relating to notice requirements on the closure of mobile home parks and permitting the establishment of horizontal property regimes for mobile homes.

Purpose:
CSHB155 is divided into two sections. Section 1 outlines the criteria in which a mobile home owner may be evicted from a mobile home park. This section also amends the old Landlord Tenant Act to provide 180 days eviction notice for mobile home owners when any change is made in land use. This provision is designed to provide the same level of protection to the mobile home owner during conversion to a non-horizontal property regime as is provided for in conversion to a horizontal property regime. This section also provides for the protection of older mobile homes, thus not permitting a mobile home park owner to evict a mobile home because of its age.

Section 2 of this bill allows for the establishment of a horizontal property regime for mobile homes. This concept of "condominiumization" of mobile homes is simply to allow mobile home owners an opportunity to become the legal property owners of the designated parcel of land within a mobile home park. Furthermore, mobile home park owners would now have the option to develop their parks and sell independent parcels of property.

Section 2 includes a subsection (c) that reuires 180 days notice be given to the mobile home owner in the event of an eviction notice. The old law only provided for a 90 day notice. Subsection (d) provides the tenant or subtenant of a mobile home the first right of refusal on the property in the event of a sale. If the offer is not accepted, then the offeror may not offer the land at a higher price for the following 180 days.

SECTIONAL ANALYSIS CSHB 155 (PROPOSED)

A title change has been made over HB 155 to include the changes made to the Landlord Tenant Act on notification requirements.

SECTION 1 - The section amends A.S. 34.03.225(4) of the Landlord Tenant Act to provide 180 days eviction notice for mobile home owners when any change in land use is to be made. This provision is designed to provide the same level of protection to the mobile home owner during conversion to a non-horizontal property regime as is provided for in conversion to a horizontal property regime.

SECTION 2 - This section has been expanded from the original bill by changing "manufactured housing" to "mobile homes" and deleting the old subsection (c) and adding new sections (c) and (d). The new subsection (c) requires that 180 days notice be given prior to the eviction date and that the notice include the rights of the tenant under this section. The new subsection (d) gives the tenant or subtenant of a mobile home first right of refusal on the land and states that if the offer is not accepted then the offeror may not offer the land at a better price or terms for 180 days following.

SECTION 3 - Immediate effective date.

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

MEMORANDUM February 6, 1985

SUBJECT: Manufactured housing condominia (HB 155)

TO: Representative John Ringstad
Chairman, House

FROM: Richard A. Bradley
Legislative Counsel

You have requested a brief analysis of HB 155.

As a preliminary matter, note that any analysis or summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

The predecessor to HB 155 in the Thirteenth Legislature was a sequel to the rather long bill that was drafted to permit the establishment of the "horizontal property regime," (i.e., condominia) for mobile home parks. The problem was that the typical word used throughout AS 34.07, the chapter dealing with condominia, to describe what is owned in a condominium by the individual owner is "apartment" and it was thought that that word did not quite accurately describe the condominium estate that would result in a condominium for mobile homes. I assume that a condominium for mobile homes would consist of land improved by utility connections for the individual mobile homes-- but not much more is required.

The phrase "manufactured housing" seems to describe "mobile homes" generically.

The provisions of sec. 500(a) describe the condominium estate ("an estate in real property consisting of an undivided interest in common in a portion of real property

together with a separate interest in space") with reference to the needs of a condominium for manufactured housing.

Sec. 500(b) acknowledges the fact that a condominium regime for manufactured housing will not have any "three-dimensional aspects" to the real property owned.

And sec. 500(c) states the intent of the legislature that unless the provisions of AS 34.07.010 - 34.07.460 are "inapplicable" to a condominium regime for manufactured housing, the provisions of that chapter apply.

If I may be of further assistance, please advise.

RAB:ojb
J11/062

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: ____________

REQUEST
Bill/Resolution No.: CSHB 155 (L&C)
Title: "...notice requirements... mobile homes..."
Sponsor: Repr. Ringstad
Requestor: House Labor & Commerce
Date of Request: March 15, 1985

FISCAL DETAIL
Agency Affected: Department of Law
Program Category Affected: Public Protection
BRU, Program or Subprogram(s) Affected: Consumer Protection

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

The committee substitute adds a provision for 180 day eviction notice for mobile home owners when any changes in land use is to be made. The CSHB 155 (L&C) also gives the tenant or subtenant first right of refusal on the land and provides that if the offer is not accepted the offerer may not offer the land at a better price or terms to others for 180 days. These changes will not cause a fiscal impact as they provide precise guidelines that will encourage compliance with both landlord and tenant rights.

Prepared By: Richard I. Pegues, Director
Phone: 465-3672
Division: Administrative Services
Date: 3/15/85

Approved by Commissioner: Norman C. Gorsuch
Date: 3/15/85
Agency: Department of Law

Distribution (by Agency preparing fiscal note):
- Legislative Finance
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7/1/84