

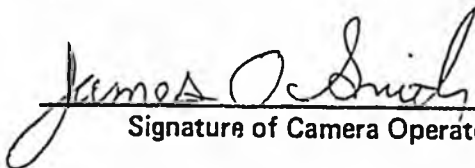
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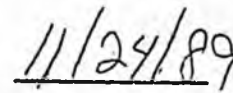


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A FOLLOW-UP REPORT ON
THE DEPARTMENT OF ADMINISTRATION
DIVISION OF EQUAL EMPLOYMENT OPPORTUNITY

August 15, 1984

Audit Control Number

02-1165-B-85-R

Commissioner, Department of
Administration

Lisa Rudd

Deputy Commissioners, Department
of Administration

Human Resources
Administrative Management
Telecommunications
Information Resources Management

Eleanor Andrews
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Vacant
James R. Shea

STATE OF ALASKA

AUDIT DIVISION
POUCH W
JUNEAU, ALASKA 99811

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

October 23, 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 ADMINISTRATION
DIVISION OF EQUAL EMPLOYMENT OPPORTUNITY

August 15, 1984

Audit Control Number

02-1165-B-85-R



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

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PURPOSE OF THE REPORT

In accordance with Title 24 of the Alaska Statutes, a follow-up examination of the Department of Administration, Division of Equal Employment Opportunity was conducted to determine to what extent our prior audit recommendations (made in an April 29, 1983, report) have been implemented.

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ORGANIZATION AND FUNCTION

The Division of Equal Employment Opportunity (DEEO) is responsible for carrying out the State's equal employment opportunity policy in the Executive Branch of the State of Alaska.

Specific duties of the agency include the development of affirmative action plans for each Executive Branch department. The agency serves as a coordinator and provider of technical assistance to each department in the implementation of their respective affirmative action plans. In addition to these duties, DEEO is responsible for representing the Executive Branch in discrimination complaints brought by outside agencies and for development of an internal discrimination complaint resolution process within the Executive Branch.

Besides the specific duties listed above, DEEO has become an informal referral source for the State and private sector on the current status of Federal equal employment laws and regulations and their interpretation by the courts. The agency has developed and implemented management information systems to provide better analysis of the applicant screening process and the current utilization of Federally designated "protected classes" employed by the State.

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PRIOR AUDIT RECOMMENDATIONS

Prior Audit Recommendation No. 1

The Department of Administration (DOA), Division of Equal Employment Opportunity (DEEO) needs more support and authority from the Governor to increase its effectiveness. ↙

In the prior Audit, we concluded that DEEO had not effectively developed, coordinated, or monitored a comprehensive, widely supported policy of equal opportunity and non-discrimination in the Executive Branch's employment decisions, programs, and activities. DEEO's ineffectiveness was attributed, in large part, to a lack of centralized executive support. Since DEEO has no specific statutory responsibility, the Division derives what authority and responsibilities it has from executive order. Consequently, the effectiveness of the Division depends on the nature and extent of the Governor's leadership.

Legislative Audit's Current Position

The Governor has provided stronger support for DEEO's equal employment opportunity and affirmative action programs. This support, along with that of the Legislature, is evidenced through an increased budget appropriation for Fiscal Year 1985 (See Appendix A). In addition, the Governor's support has been demonstrated through increased attention given to Equal Employment Opportunity (EEO) matters in the Governor's cabinet meetings and by increased EEO activity within the Department of Administration. This increased support has allowed DEEO to improve its effectiveness. As shown by Appendix B, significant gains in minority employment were made during the last half of Fiscal Year 1984.

Prior Audit Recommendation No. 2

DEEO should improve affirmative action plan procedures and elicit more cooperation from Executive Branch departments.

The primary analytical tool for identifying problems and promoting EEO is the departmental Affirmative Action Plan (AAP). The method of developing affirmative action goals and time tables contained in the AAP has proven cumbersome. Many departments contacted had expressed frustration with the AAP preparation process.

Legislative Audit's Current Position

For Fiscal Year 1984, no departmental AAPs were prepared. Analytical employment data, required as a part of affirmative action hiring, was provided by the newly implemented

data processing "Affirmative Action Internal Audit and Reporting System" (AIRS). Prior to Fiscal Year 1984, this information was developed through time-consuming hand calculations made by individual departments as a part of their AAP. In addition to eliminating some of the burdensome calculations required in the preparation of past AAPs, AIRS also provides a more accurate and timely source of job class minority/female availability information. Although AIRS has replaced AAPs as the source of affirmative action hiring analytical data, AAPs are necessary to establish policies and objectives by which the State's affirmative action progress can be measured. Beginning Calendar Year 1985, DEEO plans to implement a state-wide AAP covering all State departments.

Prior Audit Recommendation No. 3

DOA should assume central administrative control over the use and release of expanded certification registers (ECRs).

The 1981 affirmative action report, prepared by DEEO, stated that the State had adopted an expanded certification policy. Under this policy, departments who have identified an "under-utilization" of women/minorities in a particular job class may hire for positions in that class from an "expanded" register. That is, under the "5 plus 5" system, they can consider not only the top five candidates on the certified register; but, in addition, they can also consider up to the top five women and/or minorities for an under-utilized position.

Executive Branch departments had largely ignored the use of ECRs. Departments cited the time-consuming, hand-generated informational requirements associated with ECR use, the restriction that ECRs were available only to departments that had submitted AAPs, and the lack of familiarity with ECRs by those responsible for hiring, as impediments to their effective use.

Legislative Audit's Current Position

DEEO has increased administrative control over and simplified the use of ECRs. At the beginning of Fiscal Year 1984, ECR informational requirements no longer required time-consuming calculations. With the implementation of AIRS (see Prior Audit Recommendation No. 2 discussion), ECR use was available to all Executive Branch departments regardless of whether the department submitted an AAP.

However, effective April 1983, the DOA, Division of Personnel revised the "5 plus 5" procedure of considering applicants. The revised procedure required the consideration of all applicants within the top five rankings. Previous

to this revision, only the top five ranked individuals were considered. A result of the revised procedures was to require ECR users to consider large numbers of applicants. Although Fiscal Year 1984 showed an increased hiring of minorities (see Appendix B), ECRs were not consistently used during this time period. Personnel officers to whom we spoke complained that the "5 plus 5" ECR system required the consideration of more people than resources would permit.

In late June of 1984, DEEO, in cooperation with the Division of Personnel and the Personnel Council (composed of departmental personnel officers), devised and implemented a simplified expanded certification system. This system requires expanded consideration of only a single member of each under-utilized group for a given job class.

Under the new expanded certification system, it remains up to each departmental personnel officer to notify hiring supervisors when expanded certifications should be used. DEEO does not monitor whether expanded certifications are used. Additionally, in instances in which expanded certifications are used but considered minorities/females are not hired, DEEO does not require explanatory documentation as to why the minority and/or female was not hired.

To provide information through which the effectiveness of expanded certification can be evaluated, DEEO needs to require agencies to document whether hirings made into under-utilized job classes were done using expanded certifications. Such information should be retained by the agency for a reasonable period of time to demonstrate why a member of the under-utilized race and/or sex was, or was not, hired.

Prior Audit Recommendation No. 4

DEEO should develop and use data that analyzes the availability of women and minorities in a more consistent and useful manner.

DEEO's 1981 Annual Affirmative Action Report for the State of Alaska's Executive Branch (the most recent report published) provided extensive data on the number of women and minority workers employed in various segments of the Executive Branch workforce. However, the report did not speak to the availability of women and minorities in the State with the qualifications needed for various State positions. In addition, DEEO's application and determination of availability had been arbitrary, unsubstantiated, and inconsistent. Availability is a key factor in determining if women and minorities are under-utilized (see Note 1).

Legislative Audit's Current Position

Publication of a 1983 DEEO State Annual Report did not take place because there were no 1983 AAPs on which to report (see Recommendation No. 2 discussion). However, DEEO's implementation of AIRS provides an analytical and consistent method of determining availability. During Fiscal Year 1984, AIRS availability data base was taken from the 1980 census figures supplied by the U.S. Department of Commerce. This information, which was available to department personnel officers through "on-line" computer terminals, was used to determine when ECRs should be used.

For Fiscal Year 1985, the AIRS data base was upgraded using a combination of State applicant flow information, University of Alaska availability figures, and the 1980 census figures supplied by the U.S. Department of Commerce. To make AIRS availability data more convenient and simpler for personnel officers to use, DEEO began preparing quarterly reports showing under-utilized job groups (see Appendix C). Executive Branch personnel officers, who receive these quarterly reports, will no longer require computer terminal access to AIRS.

A weakness of the AIRS system is that it does not monitor employee transfers, promotions, or terminations. Chapter 41, Part 60-2 of the Code of Federal Regulations (which regulates all non-construction Government contractors having fifty or more employees) requires internal audit and reporting systems to include this function as a means of measuring the effectiveness of the total affirmative action program. In order to insure that nondiscriminatory policy is carried out, DEEO needs to develop a system capable of monitoring these activities.

Prior Audit Recommendation No. 5

DEEO should establish a comprehensive internal complaint procedure to be utilized by all Executive Branch departments.

Administrative Order No. 59 gave the responsibility to DEEO to establish a uniform complaint procedure which would be available to all persons subject to the order. DEEO had not established a uniform internal complaint procedure.

Legislative Audit's Current Position

Administrative Order No. 75, which included an internal discrimination complaint procedure, replaced Administrative Order No. 59 as DEEO's authoritative mandate. DEEO has

handled ten internal discrimination complaints since the current Administrative Order's April 1983 effective date. DEEO plans to improve the procedure outlined in Administrative Order No. 75 in order to provide Executive Branch departments and employees with a more effective means of filing internal discrimination complaints. Appendix E summarizes complaints handled by DEEO which originated from external anti-discrimination agencies, as well as those brought internally to DEEO.

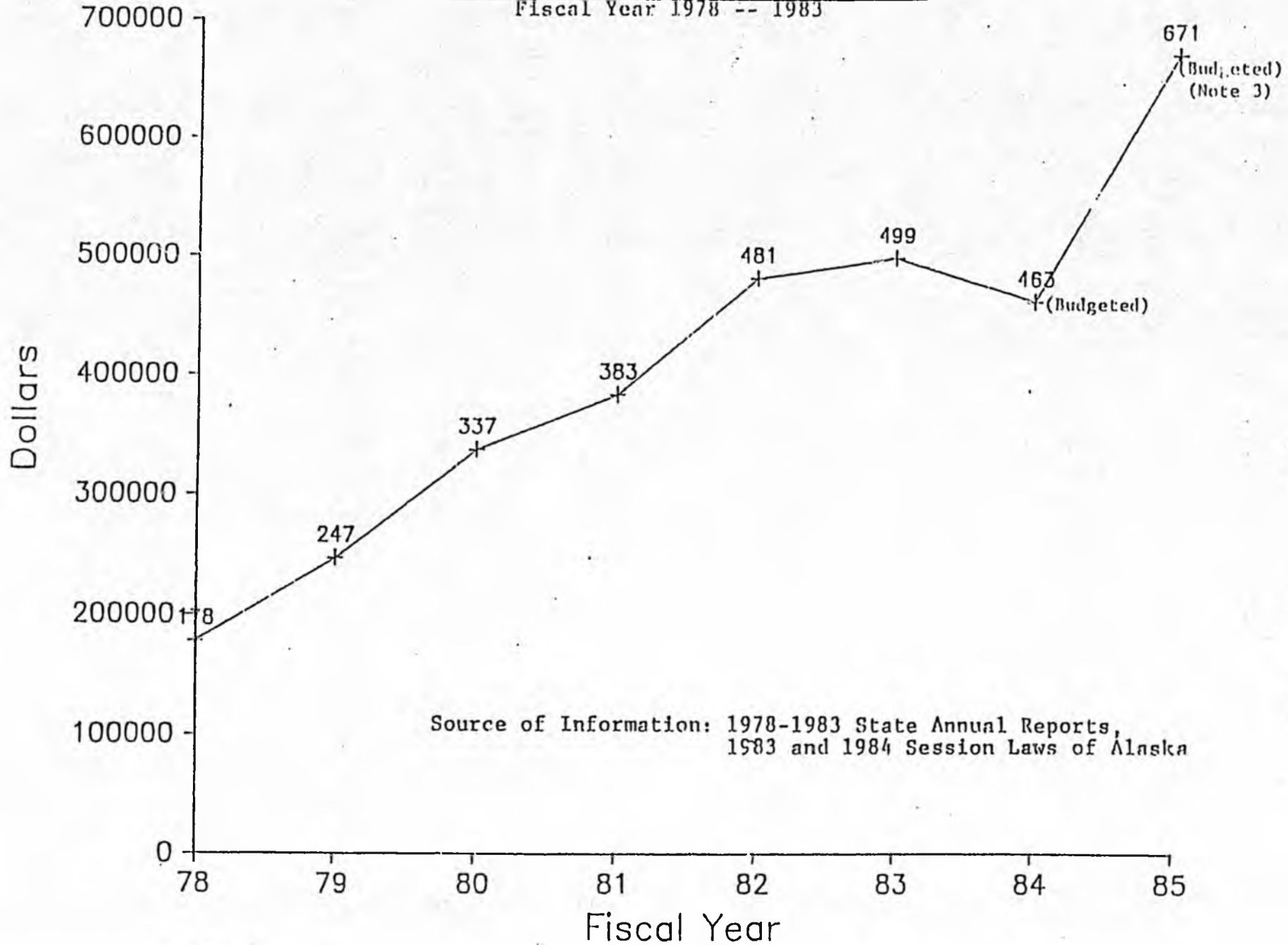
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APPENDIXES

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APPENDIX A

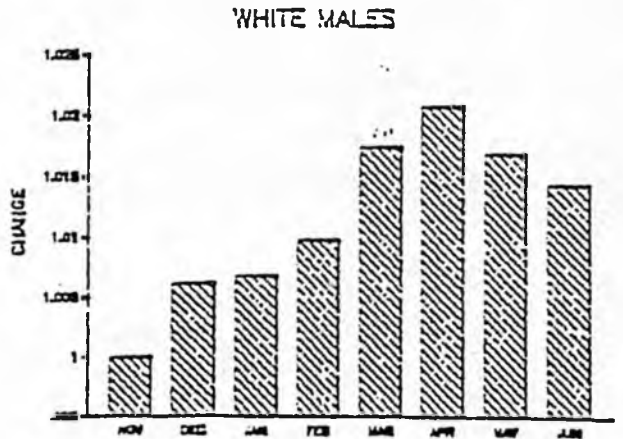
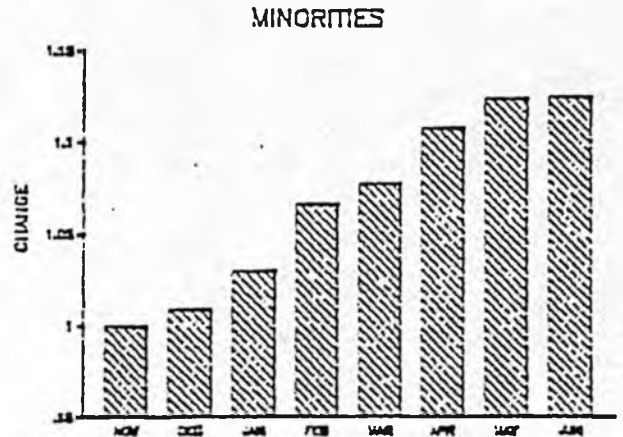
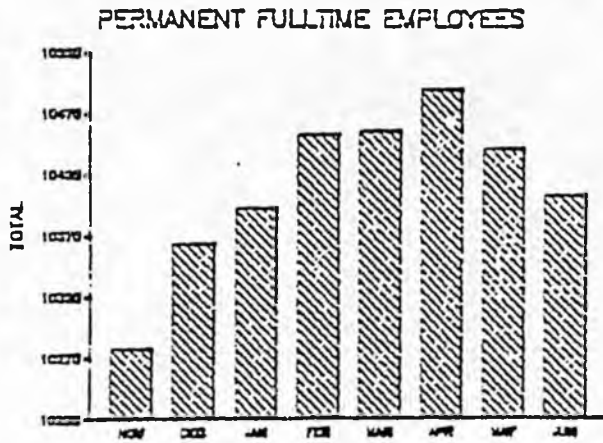
STATE OF ALASKA
DEPARTMENT OF ADMINISTRATION
REPORTED EXPENDITURES BY DIVISION OF EEO
Fiscal Year 1978 -- 1983



Source of Information: 1978-1983 State Annual Reports,
1983 and 1984 Session Laws of Alaska

APPENDIX B

STATE OF ALASKA
 DEPARTMENT OF ADMINISTRATION
 DIVISION OF EQUAL EMPLOYMENT OPPORTUNITY (DEEO)
PERMANENT FULL-TIME EMPLOYEE WORKFORCE TOTALS AND PERCENTAGE CHANGES
IN MINORITIES, FEMALES, AND WHITE MALES
 For the period November 1983 through June 1984



Source of Information: DEEO Records. See notes 4 and 5.

APPENDIX C
 STATE OF ALASKA
 DEPARTMENT OF ADMINISTRATION
 DIVISION OF EQUAL EMPLOYMENT OPPORTUNITY (DEEO)
 WORKFORCE UNDER-UTILIZATION REPORT FOR PERMANENT FULL-TIME EXECUTIVE BRANCH EMPLOYEES
 Effective April 1 -- June 30, 1984

Job Group Title	Total Employees In Job Group	TOTAL NUMBER UNDER-UTILIZED											
		RACE/SEX/ETHNIC BREAKOUT											
		White		Black		Hispanic		Asian/P. Isl.		Am. Ind./AK Nat.		TOTAL	
H	F	H	F	H	F	M	F	M	F	Female	Minority		
Officials/Administrators	71	-	14	-	-	1	1	-	-	3	3	18	8
Managers	293	-	12	-	3	-	1	3	1	10	8	25	26
Managers; Engineers/Math/Science	221	-	30	3	1	1	1	3	-	4	3	37	18
Management Specialists	229	-	9	3	4	-	1	-	2	2	5	21	17
Accountants/Auditor/Finance Specs.	243	-	16	1	2	4	2	3	2	3	3	25	20
Personnel/Training/L. Rel. Specs.	45	3	-	1	-	-	-	1	-	2	1	1	5
Employment & U.I. Specialists	184	9	-	1	-	2	-	1	-	5	-	-	9
Insp./Compliance/Hearing Officers	208	-	-	2	-	-	-	3	1	5	4	5	15
Engineers/Surveyors/Architects	497	-	25	6	1	1	1	12	1	1	5	33	28
Computer/Math/Cps. Research	155	-	11	-	1	2	2	1	-	6	4	18	16
Natural Scientists	651	-	1	8	1	7	-	5	-	14	8	10	43
Natural Resources Specialists	108	-	-	-	-	-	-	-	-	-	-	-	-
Social Scientists	190	-	-	2	3	1	1	2	-	7	3	7	19
Social/Rec./Religious Workers	239	16	-	-	-	-	-	-	-	10	3	3	13
Lawyers/Judges	-	-	-	-	-	-	-	-	-	-	-	-	-
Teachers/Couns./Libs./Archivists	128	-	10	-	2	-	1	-	-	3	7	20	13
Health Profess. other than Nursing	43	7	-	1	1	-	-	-	-	1	1	2	4
Registered Nurses	177	13	-	-	-	-	1	-	-	2	5	6	8
Writers/Artists/Pub. Rel. Specs.	58	-	-	1	1	-	1	-	1	3	2	5	9
Health Technicians	98	1	-	2	-	-	-	-	1	2	2	3	7
Engineer/Science Technicians	145	-	2	1	1	2	-	-	-	6	2	5	12
Technicians, Other	126	3	-	1	1	1	1	1	-	6	2	4	13
Para-Professionals	334	17	-	-	-	2	-	1	-	11	27	27	41
Supervisors; Office/Clerical	77	20	-	2	1	-	-	-	1	3	2	4	9
Gen. Office/Admin. Support Occs.	944	72	-	16	9	7	4	4	-	32	49	62	121
Secretaries/Stenoc/Typists	1,096	100	-	8	14	7	8	2	-	24	34	56	97
Financial Record Proc. Occs.	445	20	-	4	4	3	3	-	-	12	16	23	42
Protective Svc./Expt. Pol. & Det.	691	-	81	-	-	6	1	2	6	34	18	106	67
Supervisor, Protective Service	126	-	17	1	-	1	-	1	-	-	3	20	6
Police and Detectives	270	-	26	3	2	2	2	1	1	16	5	16	32
Service/Maintenance Occupations	265	6	-	-	-	3	3	3	1	18	19	23	47
Skilled Craft Occupations	31	1	-	-	-	1	-	-	-	2	1	1	4
Transportation/Material Moving	54	-	-	1	-	1	-	-	-	-	2	2	4
Total Executive Branch	9,432	388	224	48	52	55	35	49	19	247	210	408	721

Source of Information: DEEO Records -- See Notes 1, 2, and 4.

APPENDIX D

STATE OF ALASKA
 DEPARTMENT OF ADMINISTRATION
 DIVISION OF EQUAL EMPLOYMENT OPPORTUNITY (DEEO)
SCHEDULE OF TOTAL EXECUTIVE BRANCH EMPLOYEE WORKFORCE COMPOSITION BY RACE AND SEX
 December 31, 1980 -- June 30, 1984

Percentage Composition of Executive Branch Workforce

<u>Category by Race and/or Sex</u>	<u>As of Dec. 31. 1980</u>	<u>As of Dec. 31. 1981</u>	<u>As of Dec. 31. 1982</u>	<u>As of Dec. 31. 1983</u>	<u>As of June 30. 1984</u>
White Males	52.3%	52.1%	51.5%	51.0%	50.5%
White Females	38.3%	38.4%	38.9%	39.6%	39.0%
Ak. Native/American Indian Male	2.4%	2.3%	2.1%	2.1%	2.2%
Ak. Native/American Indian Female	2.5%	2.4%	2.5%	2.3%	2.7%
Black Male	.9%	.9%	1.0%	1.1%	1.2%
Black Female	1.2%	1.3%	1.2%	1.2%	1.2%
Asian/Pacific Islands Male	.6%	.7%	.7%	.7%	.8%
Asian/Pacific Islands Female	.9%	1.0%	1.1%	1.1%	1.3%
Hispanic Male	.4%	.4%	.4%	.4%	.5%
Hispanic Female	.5%	.5%	.5%	.5%	.6%
Total Male	56.6%	56.4%	55.3%	55.3%	55.2%
Total Female	43.4%	43.6%	44.2%	44.7%	44.8%
Total Minority	9.4%	9.5%	9.5%	9.4%	10.5%

Source of Information: DEEO Records

APPENDIX E
 STATE OF ALASKA
 DEPARTMENT OF ADMINISTRATION
 DIVISION OF EQUAL EMPLOYMENT OPPORTUNITY (DEEO)
SUMMARY OF DISCRIMINATION COMPLAINTS HANDLED BY DEEO BY DEPARTMENT
for the fiscal year ending June 30, 1984

DEPARTMENT	DISPOSITION OF DISCRIMINATION COMPLAINT CASES CLOSED DURING FY 84						STATUS OF OPEN DISCRIMINATION COMPLAINTS AT 6/30/84					
	Lack of Substantial Evidence	Conciliation Agreement (1)	Complaint Withdrawn	Predetermination Settlement (2)	Administrative Closure (3)	Total	Pre-determination (4)	Investigation (5)	Determination (6)	Conciliation (7)	Public Hearing (8)	Total
DOA	1	0	2	0	0	3	2	3	0	0	0	5
DOC	2	0	0	2	1	5	2	3	0	0	0	4
DCED	0	0	1	1	1	3	0	0	0	0	0	0
DCRA	1	0	0	0	0	1	0	0	0	0	0	0
DOE	0	0	0	1	0	1	1	0	1	0	1	3
DEC	0	0	0	1	0	1	0	0	0	0	0	0
DFG	1	0	0	0	1	2	0	0	0	0	0	0
DHSS	0	0	2	4	0	6	1	2	5	1	1	10
DOL	0	0	0	0	1	1	0	1	1	0	0	2
LAW	0	0	0	0	0	0	0	0	0	0	0	0
DCMVA	0	0	1	0	0	1	0	0	2	0	0	2
DNR	0	0	1	0	1	2	1	0	1	0	0	2
GOVERNOR	0	0	0	0	0	0	3	0	0	0	0	3
DPS	0	0	0	0	0	0	3	2	1	0	1	7
DOR	0	0	0	0	0	0	0	1	0	0	0	1
DOTPF	3	0	0	2	1	6	0	6	0	0	0	6
Total	4	0	7	11	6	32	13	17	11	1	3	45

1. Conciliation Agreement: Complaint resolution achieved only after a full investigation and finding had been made by the anti-discrimination agency representing the complainant.
2. Predetermination Settlement: Complaint resolution achieved prior to the anti-discrimination agency having conducted an investigation.
3. Administrative Closure: Complaint closed for various reasons including failure of the complainant to cooperate, failure to file the complaint in a timely manner, and lack of jurisdictional authority by DEEO to handle the complaint.
4. Predetermination: Attempt made to reach a settlement prior to an investigation.
5. Investigation: Anti-discrimination agency researches the facts surrounding the complaint in order to arrive at a determination.
6. Determination: The anti-discrimination agency investigating the complaint concludes that the complaint either has "just cause" or "lacks substantial evidence".
7. Conciliation: As a result of a determination in favor of the complainant, a formal settlement is attempted.
8. Public Hearing: After the certified failure at conciliation, a formal public hearing is held by the State Human Rights Commission in order to resolve the complaint.

Source of Information: DEEO Records.

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STATE OF ALASKA
DEPARTMENT OF ADMINISTRATION
DIVISION OF EQUAL EMPLOYMENT OPPORTUNITY (DEEO)
NOTES TO THE APPENDIXES

Note 1 - Definition of under-utilization and factors to be considered when making an analysis of utilization

Chapter 41, part 60-2.11 of the Code of Federal Regulations (which regulates all non-construction Government contractors having 50 or more employees) defines under-utilization "as having fewer minorities or women in a particular job group than would reasonably be expected by their availability." The Code further states that in making a separate utilization analysis of minorities and females, the following factors should be considered:

1. The size of the minority and female unemployment force in labor area surrounding the facility;
2. The minority population of the labor area surrounding the facility;
3. The percentage of the minority and female workforce as compared with the total workforce in the immediate labor area;
4. The general availability of minorities and women having requisite skills in the immediate labor area;
5. The availability of minorities and women having requisite skills in an area in which the employer can reasonably recruit;
6. The availability of promotable and transferable minorities and women within the employer's organization.
7. The availability of women seeking employment in the labor or recruitment area of the employer.
8. The existence of training institutions capable of training persons in the requisite skills; and
9. The degree of training which the employer is reasonably able to undertake as a means of making all job classes available to minorities and women.

Note 2 - Methodology used by DEEO to compute workforce under-utilization report (Appendix C)

The Appendix C quarterly under-utilization report was prepared by DEEO to be used in determining under-utilized Executive Branch departmental job groups (see Recommendation No. 4 discussion). The number of employees under-utilized (see Note 1) per job group was determined by the following formula: $(P \times T) - E = U$ where,

P = Percentage of job group workforce availability by race/sex/ethnic category

T = Total Executive Branch job group employment

E = Executive Branch employment in job group race/sex/ethnic category

U = Number of employees under-utilized in job group by race/sex/ethnic category.

The availability figures for race/sex/ethnic categories per job group were calculated by DEEO. The Office of Federal Contract Compliance Programs approved the factor analysis approach used by DEEO in computing these figures as being a reasonable methodology for determining Executive Branch employment availability. To determine the availability of the members of race/sex/ethnic categories, DEEO applied judgemental weighting to the following factors:

1. State labor force statistics from the 1980 census conducted by the U.S. Department of Commerce (45-60% weighting applied to availability calculation).
2. State of Alaska population figures from the 1980 census conducted by the U.S. Department of Commerce (10-30% weighting applied to availability calculation).
3. Executive branch applicant flow data (10-45% weighting applied to availability calculation).
4. University of Alaska availability data (10-25% weighting applied to availability calculation where data usable).

Note 3 - Fiscal Year 1985 DEEO budget

Chapter 122 of the 1984 Session Laws of Alaska designated \$150,000 of the \$670,500 Fiscal Year 1985 budget to be granted to the Tlingit Haida Central Council for a minority recruitment project.

Note 4 - Composition of permanent full-time employee workforce

The permanent full-time employee workforce consists of those permanent employees and probationary employees in permanent positions covered under the General Government, Supervisory, Public Safety Employees Association, Excluded from Bargaining, and Confidential Bargaining Units.

Note 5 - Availability of permanent full-time employee workforce figures

Permanent full-time employee workforce employment figures provided by DEEO were available for the period November 1983 through June 1984. For this reason, the graphs shown on Appendix B are limited to this time period.

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BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF ADMINISTRATION

OFFICE OF THE COMMISSIONER

POUCH C (MS 0200)
JUNEAU, ALASKA 99811
PHONE: (907) 465-2200

November 19, 1984

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

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Dear Mr. Wilkerson:

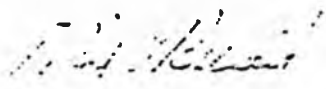
Re: A Follow-up Report on the Department of Administration,
Division of Equal Employment Opportunity, August 15, 1984

We appreciate the opportunity to respond to the findings and recommendations of your follow-up report to the special report on the Department of Administration, Division of Equal Employment Opportunity issued April 29, 1983.

In general we concur with your report and findings and have no further comments at this time.

If you have any questions regarding this response, please contact me.

Yours sincerely,


Lisa Rudd,
Commissioner

LSR/MGM/jbh
1/10D1/1106-01
cc: Fran Rose
Acting Deputy Commissioner
Human Resources
Department of Administration

Merwin H. Peters
Director
Division of Equal Employment
Opportunity
Department of Administration

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF ADMINISTRATION

OFFICE OF THE COMMISSIONER

POUCH C (MS 0200)
JUNEAU, ALASKA 99811
PHONE: (907) 465-2200

November 19, 1984

Mr. Gerald L. Wilkerson
Legislative Auditor
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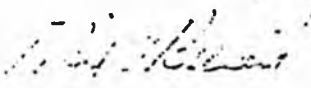
Re: A Follow-up Report on the Department of Administration,
Division of Equal Employment Opportunity, August 15, 1984

We appreciate the opportunity to respond to the findings and recommendations of your follow-up report to the special report on the Department of Administration, Division of Equal Employment Opportunity issued April 29, 1983.

In general we concur with your report and findings and have no further comments at this time.

If you have any questions regarding this response, please contact me.

Yours sincerely,


Lisa Rudd
Commissioner

LSR/MGM/jbh
1/10D1/1106-01
cc: Fran Rose
Acting Deputy Commissioner
Human Resources
Department of Administration

Merwin H. Peters
Director
Division of Equal Employment
Opportunity
Department of Administration

DUNCAN

CSHB 147 (FIN)

The Finance Committee Substitute transferred the Division of E.E.O. to the Office of the Governor ~~from~~ the Department of Administration. The committee felt that the affirmative action program could be better enforced in State agencies with the full power and authority of the Governor behind it.

In addition the committee changed the reporting requirement to a quarterly basis to lessen the administrative burden on the Division.

An intent section was added in Section 1 which states reasons for establishment of the EEO Division.

Alaska State Legislature



REPRESENTATIVE JIM DUNCAN

POUCH V JUNEAU, ALASKA 99811

(907) 465-4766

MEMORANDUM

COMMITTEES:
FINANCE
BUDGET AND AUDIT
LOANS
POLICY

May 1, 1985

TO: Senator Mitch Abood, Chair
Senate State Affairs Committee

FROM: Representative Jim Duncan

SUBJECT: CSHB 147 (FIN)

This important bill establishes the Division of Equal Employment Opportunity in the Office of the Governor. Currently the Governor must reestablish the Division of EEO annually by Executive Order.

In addition, this bill strengthens the enforcement of equal employment principles within State government.

I urge you to schedule HB 147 for a hearing in your committee as soon as possible.

Should you have any questions concerning CSHB 147 (FIN) please give me call.

Sec. 44.19.443 subjects regulations of the office to the Administrative Procedure Act.

Sec. 44.19.444 directs the governor to establish the equal employment opportunity program and adopt an annual affirmative action plan.

Sec. 44.19.445 requires departments and agencies to comply with the affirmative action plan and directs the head of the department or agency to adopt an affirmative action program to implement the plan within the agency.

Sec. 44.19.446 requires the office to accept complaints of employment discrimination for informal resolution.

Sec. 44.19.447 prohibits retaliation against a person for filing a complaint with the office and makes violators liable for a civil penalty of not more than \$1,000.

Sec. 44.19.448 authorizes the office to have access to confidential information but prohibits the office from making the information public.

Sec. 44.19.449 sets out definitions for the article.

Section 2 makes clear that the Act does not limit the right of a person to file a complaint with the Human Rights Commission.

If I may be of further assistance, please advise.

TBC:ojb
J14/046

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 25, 1985

SUBJECT: Sectional Analysis of CSHB 147 (Finance)
TO: Representative Jim Duncan
FROM: Teresa B. Cramer *TBC*
Legislative Counsel

You have requested a sectional analysis of CSHB 147 (Finance), establishing an equal employment opportunity program and creating an office of equal employment opportunity.

Section 1 sets out the purpose of the legislation as ensuring fair employment practices, eliminating barriers to employment, and monitoring the state's progress towards equal employment opportunity.

Section 2 establishes for office of equal employment opportunity in the Office of the Governor.

Sec. 44.19.441 creates the office and provides for a director appointed by the governor.

Sec. 33.19.442 directs the office to administer the equal employment opportunity program for the executive branch and lists the powers and duties of the office. In addition to directing the office to assist and monitor the progress of state government in equal employment opportunity matters, paragraph (8) of the section permits the office to file a legal action against a state officer or employee who violates affirmative action standards and procedures and to employ independent legal counsel for the action. Paragraph (12) directs the office to serve as primary liaison between the executive branch and other agencies, organizations and groups concerned with equal employment opportunity.

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF ADMINISTRATION

POUCH C (MS 0200)
JUNEAU, ALASKA 99811
PHONE: (907) 465-2200

OFFICE OF THE COMMISSIONER

November 19, 1984

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

RECEIVED
NOV 23 1984
LEGISLATIVE
AUDIT

Dear Mr. Wilkerson:

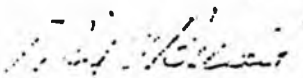
Re: A Follow-up Report on the Department of Administration,
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Yours sincerely,


Lisa Rudd,
Commissioner

LSR/MGM/jbh
1/10D1/1106-01
cc: Fran Rose
Acting Deputy Commissioner
Human Resources
Department of Administration

Merwin H. Peters
Director
Division of Equal Employment
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Department of Administration

DUNCAN

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An intent section was added in Section 1 which states reasons for establishment of the EEO Division.

Alaska State Legislature



REPRESENTATIVE JIM DUNCAN

POUCH V

JUNEAU, ALASKA 99811

(907) 465-4766

MEMORANDUM

COMMITTEES:
FINANCE
BUDGET AND AUDIT
LOANS
POLICY

May 1, 1985

TO: Senator Mitch Abood, Chair
Senate State Affairs Committee

FROM: Representative Jim Duncan

SUBJECT: CSHB 147 (FIN)

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I urge you to schedule HB 147 for a hearing in your committee as soon as possible.

Should you have any questions concerning CSHB 147 (FIN) please give me call.

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

April 25, 1985

SUBJECT: Sectional Analysis of CSHB 147 (Finance)
TO: Representative Jim Duncan
FROM: Teresa B. Cramer *ABC*
Legislative Counsel

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Section 1 sets out the purpose of the legislation as ensuring fair employment practices, eliminating barriers to employment, and monitoring the state's progress towards equal employment opportunity.

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Representative Jim Duncan
April 25, 1985
Page 2

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Section 2 makes clear that the Act does not limit the right of a person to file a complaint with the Human Rights Commission.

If I may be of further assistance, please advise.

TBC:ojb
J14/046

"An Act creating a division of equal employment opportunity in the Department of Administration."

Commissioner Lisa Rudd
Department of Administration
Pouch C
Juneau, Alaska 99811

Position Statement: Suggested amendments to CS for HB 147 (SA)

WITNESS:

Ron Williams
President, Alaska Native Brotherhood
8131 Dogwood
Juneau, Alaska 99801
789-0269

Position Statement: Testified on amendments to CS for HB 147 (SA)

WITNESS:

Earl Ford
United Black Community
4066 Deborah Dr.
Juneau, Alaska 99803

Position Statement: Testified on amendments to CS for HB 147 (SA)

WITNESS:

Nancy Groseck
Aide to Representative Clocksin
Pouch V
Juneau, Alaska 99811
465-3704

Position Statement: Presented four amendments to CS for HB 147 (SA)

Position Statement: Terry Cramer Division of Legal Services Pouch Y
Juneau, Alaska 99811 465-4520

Position Statement: Available to provide technical drafting assistance

Number 660

Representative Hurley asked for a motion to bring committee substitute for HB 147 before the committee for purposes of discussion. Representative Navarre so moved and CS for HB

147 (SA) was brought before the committee without objection.

Number 680

Representative Hurley brought Amendment #1 by the State Affairs Committee before the committee for discussion. Representative Navarre moved that the amendment be adopted.

Page 3, line 20: Delete "conduct an impartial investigation of each complaint" Insert "accept complaints"

Page 3, Line 22: Delete "reported to the division,"

There being no objection, Amendment #1 by the State Affairs Committee was adopted.

Number 707

Representative Hurley brought Amendment #2 by the State Affairs Committee before the committee for discussion. Representative Navarre moved that the amendment be adopted.

Page 3, line 24, following "complaint." Insert: "If the complainant agrees to comply with the resolution proposed by the division, the agency

Number 707

involved shall implement it."
There being no objection, Amendment #2 by the State Affairs Committee was adopted.
Representative Hurley brought Amendment #3 by the State Affairs Committee before the committee for discussion and explained that this was the collective bargaining amendment which Representative Miller had expressed interest in. Page 2 lines 13 - 15, delete all material and insert: "(6) participate in collective bargaining negotiations between the state and employee bargaining organizations to ensure that each collective bargaining agreement negotiated by the state ensures equal employment opportunity;"

Number 729

Representative Navarre expressed concern with the wording of the amendment and how it would affect the negotiation process.

Number 744

Commissioner Rudd stated that she was responsible not only for the Division of Equal

Number 760

Employment Opportunity but that she was also responsible for labor negotiation for the State. She explained that Amendment #3 by the State Affairs Committee in its present form implies that the Division would participate in the actual labor negotiations. She offered the alternative language which she had suggested at the previous hearing on the bill.

Number 785

Representative Hurley stated that the committee had not intended for the Division of Equal Employment Opportunity to actually participate in the negotiation process and suggested putting the amendment aside until Representative Miller returned from his Ethics Committee meeting.
Representative Hurley brought Amendment #4 by the State Affairs Committee before the committee for discussion and explained that it had been suggested by Commissioner Rudd.

Number 790

Representative Navarre moved that the amendment be adopted. Representative Jenkins objected to

Number 808

clarify the amendment.
Page 3, line 1: Insert after state "employment"
Delete "the"
Representative Jenkins removed his objection and Amendment #4 by the State Affairs Committee was adopted.

Number 820

Representative Hurley brought Amendment #5 by the State Affairs Committee before the committee for discussion and explained that Commissioner Rudd had suggested this amendment also.
Representative Collins moved that the amendment be adopted.
Page 1 line 26 through page 3 line 8
Section 44.21.465 POWERS AND DUTIES: Rearrange and renumber the following subsections: (4) to

subsection (1): (5) to subsection (2): (8) to

subsection (3)

Renumber the remaining subsections to follow in order.

There being no objection, Amendment #5 by the

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7 OF 9 PAGE = 12 OF 20

Number 830

State Affairs Committee was adopted. Representative Hurley announced that Representative Clocksin had several amendments to offer and that Nancy Groseck was present to explain them.

Number 830

Representative Boucher returned at 4:00 p.m.

Number 833

Representative Navarre moved for adoption of Amendment #1 by Clocksin for purposes of discussion.

Page 4, lines 19 -20, delete all material and insert: "(5) 'member of a protected class' means a person who experiences or has experienced difficulty in obtaining employment or advancement in employment because of race, religion, color, national origin, age, sex, physical handicap, marital status or change in marital status, pregnancy, parenthood or other factor not related to merit."

Number 873

Mr. Ron Williams, Alaska Native Brotherhood expressed concern over the amendment.

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CHANGE TAPE #47, SIDE TWO

Number 130

Mr. Earl Ford spoke against Amendment #1 by Clocksin. Committee discussion followed.

Number 207

Commissioner Rudd spoke in favor of the amendment.

Number 315

Representative Hurley suggested putting the amendment aside until language could be drafted to reflect the concerns discussed.

Number 381

Representative Navarre moved that Amendment #2 by Clocksin be adopted for purposes of discussion. Nancy Groseck explained the amendment. Committee discussion on Amendment #2 by Clocksin. Representative Hurley noted that the amendment might be better placed in subsection 3 (Page 2) of the bill and suggested that legal could draft accordingly.

Page 2, after line 12, insert a new paragraph to read: "(6) implement standards by which performance evaluations of supervisors reflect compliance with affirmative action plans and

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7 OF 9 PAGE = 14 OF 20

objectives, including the granting or denial of merit increases;"

Number 420

There being no objection, Amendment #2 by Clocksin was adopted.

Number 465

Representative Miller returned at 4:10 p.m

Representative Hurley brought Amendment #3 by Clocksin before the committee for discussion.

Page 3, after line 28, insert a new section to read:

"Sec. 44.21.485. RETALIATION PROHIBITED. (a)

An agency, officer, or state employee may not

directly or indirectly refuse to hire, transfer or promote, or dismiss, demote, suspend, lay off, or otherwise discipline an employee who has filed a complaint with the division for a failure to comply with affirmative action or equal employment opportunity or who has assisted the division in an investigation of a complaint.
(b) Violation of this section is a class A misdemeanor."

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7 OF 9 PAGE = 15 OF 20
Page 3, line 29, delete "44.21.485" and insert "44.21.490" Page 4, line 6 delete "44.21.490" and insert "44.21.495"

Number 476

Nancy Groseck explained the amendment and suggested revising it at direction of Commissioner Rudd. After discipline, insert the words " unless for just cause". Ms. Groseck also suggested replacing section (b) of the amendment with language similar to the violation provision in the child support legislation. Committee discussion.

Number 500

Representative Collins moved the amendment for purposes of discussion. Ms. Groseck presented revised language. Representative Collins moved to amend Amendment #3 by Clocksin. There being no objection it was so ordered. Representative Hurley asked if there was any objection to inserting "unless for just cause" after discipline. There being none, it was so ordered.

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Number 584

7 OF 9 PAGE = 16 OF 20
Representative Boucher asked the Chair to read the amended version of Amendment #3 by Clocksin. Representative Hurley read:
"Sec. 44.21.485. RETALIATION PROHIBITED. (a)
An agency, officer, or state employee may not directly or indirectly refuse to hire, transfer or promote, or dismiss, demote, suspend, lay off, or otherwise discipline, unless for just cause, an employee who has filed a complaint with the division for a failure to comply with affirmative action or equal employment opportunity or who has assisted the division in an investigation of a complaint.
(b) A person who knowingly violates this section is liable for a civil penalty of not more than \$1000."

Number 597

Page 3, line 29, delete "44.21.485" and insert "44.21.490" Page 4, line 6 delete "44.21.490" and insert "44.21.495"

There being no objection, Amendment #3 as

hsa 0329851 DOCUMENT=
Number 616

7 OF 9 PAGE = 17 OF 20
amended was adopted.
Representative Hurley brought Amendment #4 by Clocksin before the committee for discussion. Nancy Groseck explained the amendment. Page 2, after line 12, insert a new paragraph to

read: "(6)" enforce equal employment

opportunity by filing a legal action against a state officer or employee who violates affirmative action standards and procedures; for purposes of a legal action under this paragraph, the director may employ independent legal counsel not associated with the Department of Law;"

Renumber remaining paragraphs.

Representative Miller moved that the amendment be adopted. There being no objection, Amendment #4 by Clocksin was adopted.

Number 620

Representative Hurley brought amendment #3 by the State Affairs Committee back before the committee for consideration. Committee

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discussion on rewording the amendment. Terry Cramer from legal services suggested deleting the word "participate" and inserting the words "assist the Division of Labor Relations". There being no objection to amending the amendment, it was so ordered.

Page 2 lines 13 - 15, delete all material and insert: "(6) assist the Division of Labor Relations in collective bargaining negotiations between the state and employee bargaining organizations to ensure that each collective bargaining agreement negotiated by the state ensures equal employment opportunity;"

Number 700

Representative Hurley suggested amending Amendment #1 by Clocksin by deleting "member of a protected class means" and adding the word "or". Deleting "race, religion, color, national origin, age, sex, physical handicap, marital status or change in marital status, pregnancy, parenthood or other".

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Number 717

7 OF 9 PAGE = 19 OF 20

Representative Hurley noted that the amended version of Amendment #3 by the State Affairs Committee had not been adopted. There being no objection, the amended version of Amendment #3 was adopted.

Number 726

There being no objection to amending Amendment #1 by Clocksin, it was so ordered.

Representative Hurley read the amended version: Page 4, lines 19 -20, delete all material and insert: "(5) or a person who experiences or has experienced difficulty in obtaining employment or advancement in employment because of another factor not related to merit."

Number 737

There being no objection, the amended version of Amendment #1 by Clocksin was adopted.

Representative Hurley stated that the committee now had an amended version for the proposed CS for HB 147 (SA) before it. She suggested that the bill be redrafted to allow the committee time to review the extensive changes to the

bill. Representative Hurley announced that CS

for HB 147 as amended would be held over until Monday, April 1, at 3:00pm.

WITNESS REGISTER

WITNESS:

Michael McKennett, Director
Division of Equal Employment Opportunity
Pouch CE
Juneau, Alaska 99811
465-3570

Position Statement: Testified in support of HB 147

WITNESS:

Ron Williams
8121 Dogwood Lane
Juneau, Alaska 99801
789-0209

Position Statement: Testified in support of HB 147

WITNESS:

Earl Ford
Box 2242
United Black Community
Juneau, Alaska

Position Statement: Testified in support of HB 147

WITNESS:

~~Representative Mike Szymanski
Pouch V
Juneau, Alaska 99811
465-4979~~

~~Position Statement: Testified in support of HB 132~~

WITNESS:

Mike McMullen
Deputy Director, Division of Personnel
Pouch C
Juneau, Alaska 99811
465-4430

Position Statement: Observer

PREVIOUS ACTION

No previous action to record.

ACTION NARRATIVE

TAPE #21, SIDE ONE
Recording

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Number 000

1 OF 4 PAGE = 4 OF 12

Meeting called to order at 3:05 p.m.

Representatives Boucher and Miller were absent.

Representative Hurley brought HB 147 before the committee for consideration.

Number 050

Representative Boucher arrived at 3:10 p.m.

Number 052

The committee took an at ease at 3:12 p.m.

Number 055

The committee resumed its meeting at 3:15 p.m.

Representative Hurley read the transmittal letter from the Governor.

Number 106

Ron Williams, Grand President of the Alaska Native Brotherhood, testified in support of the bill. He read a resolution from the Alaska Native Sisterhood and Brotherhood passed at their October convention supporting legislation creating a Division of Equal Employment Opportunity in the Department of Administration. He also stated that the state may be acting unconstitutionally by not giving Alaska Natives equal opportunity for employment.

Number 149

Mr. Williams commented on the current status of

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1 OF 4 PAGE = 5 OF 12

Number 201

minority employment.

Mr. Williams suggested that an amendment should be adopted which expands the responsibilities of the division to identify the barriers which prohibit the state from hiring Alaskan natives.

Number 226

Mr Williams stated that the section addressing an affirmative action plan does not give the division any real authority to evaluate the plan and recommend implementation. Committee discussion on current grievance process, qualification enhancement programs and the effectiveness of the Human Rights Commission.

Number 440

Michael McKennett, Director of the Division of the Equal Employment Opportunity testified in favor of the legislation and explained that the bill is necessary in order to provide statutory authority and responsibility in order to increase the division's effectiveness. He pointed out that the bill does not create a new agency it only breathes statutory life into an

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1 OF 4 PAGE = 6 OF 12

existing agency. He stated that the bill has a zero fiscal note attached since the division will not require any more staff to operate under statute than it currently does under administrative order.

Number 551

Committee discussion on the classification of minorities, protected classes and affected classes. Mr. McKennett provided a definition of individuals included in protected classes.

Number 649

Representative Boucher expressed concern that there was a zero fiscal note and that the bill would only be changing the status of the division and not increasing its activity.

Number 670

Representative Hurley pointed out that without HB 147, the division must be reestablished by

each governor and that this bill provides for

its institution by extending the division statutory authority and responsibilities.

CHANGE TAPE #21, SIDE TWO

Number 021

Mr. McKennett stated that there would be no

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1 OF 4 PAGE = 7 OF 12

Number 028

change in the status of employees. Representative Jenkins asked whether the state would be in violation of federal laws if a future governor were to do away with the division.

Number 030

Mr. McKennett replied that technically the state would not be in violation of federal law but that a system would have to be established to meet affirmative action reporting requirements as well as complaints requirements.

Number 088

Committee discussion on available recourse procedure in filing discrimination complaints.

Number 164

Representative Boucher asked whether or not this bill would assist in improving the effectiveness of the Human Rights Commission.

Number 214

Mr. McKennett stated that it would because the division provides the technical expertise to individual departments to deal with complaints. He stated that the division records and tracks complaints so that it can measure the

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1 OF 4 PAGE = 8 OF 12

Number 247

effectiveness of its program in heading off complaints before they reach the public hearing process.

Number 333

Mr. Earl Ford of the Juneau United Black Community testified in support of HB 147 and stated that UBC has visited several agencies on discrimination cases which had advanced because administrators did not know how to adequately address them. He explained that members in UBC have found it difficult to know who to go to and that HB 147 provides a coordinating entity.

Mr. Ford expressed that UBC would like to see some "teeth" in the bill. He suggested that the division's monitoring and compliance role be defined and recommended that the duties of the division listed in the bill action in monitoring compliance. He also suggested that the division have the authority to train and monitor the effectiveness of the program in department recruitment efforts. He recommended that the

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1 OF 4 PAGE = 9 OF 12

Number 362

bill mandate training for supervisors and administrators.

Number 374

Representative Hurley stated that from the information received in today's hearing on the bill, that there was a need to consider strengthening it before moving it along.

Representative Boucher expressed concern that the bill would only be cosmetic if it only had a zero fiscal note. He stated that the idea was good but was concerned that it was not realistic

without more money.

Representative Hurley pointed out that all state agencies have an obligation under the law to provide for equal opportunity and stated that the division exists for the purposes of monitoring agencies to ensure that affirmative action is being enforced. She explained that more people were not needed to accomplish the job but rather it is a matter of getting the people in the departments doing the jobs already

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1 OF 4 PAGE = 10 OF 12

to be aware. She stated that each department has a personnel officer and is supposed to have an affirmative action officer and that they may not be doing their jobs if there is no system in place. She suggested that there was no need to add dollars to the bill but rather there was a need to strengthen the bill to ensure compliance.

~~Number 494~~

~~Representative Hurley brought HB 132 before the committee for consideration. Representative Szymanski, sponsor of the bill, spoke in its support and explained that the bill would not affect current employees. He stated that the bill would establish an upper limit for salary compensation and define base salary. He introduced the legislation for the purposes of establishing state policy on state employee salaries.~~

~~Number 557~~

~~Committee discussion on the number of exempt positions this bill would affect and the~~

"An Act creating the division of equal employment opportunity in the Department of Administration."

SB 18

"An Act establishing "William A. Egan Day" on October 8th of each year."

HB 228

"An Act relating to the retirement benefits for part-time teachers."

WITNESS REGISTER

WITNESS:

Robert Dawkins
Chairman, Minority Business Task Force
Juneau, Alaska
586-6429

Position Statement: Testified in support of CS for HB 147 and suggested changes

WITNESS:

Flor Q. Pax
Filipino Community Director
3840 Melrose St.
Juneau, Alaska 99801

Position Statement: Testified in support of CS for HB 147 and suggested changes

WITNESS:

Earl W. Ford
Juneau Chapter, United Black Community
4066 Deborah Dr.
Juneau, Alaska 99803
789-9387

Position Statement: Testified in support of CS for HB 147 and suggested changes

WITNESS:

Ron Williams
Grand President, Alaska Native Brotherhood
8131 Dogwood Lane
Juneau, Alaska 99801
586-7613

Position Statement: Testified in support of CS for HB 147 and suggested changes

WITNESS:

WITNESS:

Lisa Rudd
Commissioner of Administration
Department of Administration
Pouch C
Juneau, Alaska 99811
465-2200

Position Statement: Testified in support of CS for HB 147 and suggested changes

WITNESS:

Barry Best
2800A Peters Lane
Juneau, Alaska 99801

Position Statement: Testified in support of CS for HB 147 and suggested changes

Number 020

to order at 3:07 p.m. and brought HCR 13 and 14 before the committee for its consideration.

Number 073
Number 081

Representative Grussendorf testified in support of the legislation and explained that the Girl and Boy State programs are sponsored by the American Legion which requires the passage of legislative resolutions in their by-laws.

Representative Gato arrived at 3:10 p.m. Representative Miller moved that the resolutions be passed out of committee with a do pass unanimous approval. There being no objection it was so moved.

Number 112

Representative Hurley brought HB 147 before the committee for consideration and noted the presence of Commissioner Rudd. Representative Hurley explained that there was a proposed committee substitute which was the result of testimony and the committee's desire to strengthen the bill.

Representative Hurley briefly explained the

Number 181

changes including the title, repositioning of the Affirmative Action Plan provisions and substantial changes in the powers and duties section. Additionally, She noted that the CS provides for compliance with the Affirmative Action Plan.

Number 251

Representative Hurley commented that Representative Boucher and herself had been supportive of this strengthening measure. Representative Hurley invited Ms. Terry Cramer, drafter of the legislation, to present a section by section analysis of the proposed committee substitute. Ms. Cramer addressed the committee. Representative Miller expressed concern that the section which enables the Division to review collective bargaining agreements would not be as effective as it could be since it would be too late to influence equal employment opportunity. He explained that once an agreement reached the collective bargaining stage that nothing was

Number 270

really going to change.

Number 280

Ms. Cramer explained that the language has been taken from an Administrative Order.

Number 327

Representative Hurley stated that she believed the intent of the section was to review the agreements and make recommendations for the next negotiations. Ms. Cramer continued presenting a sectional analysis of the committee substitute.

Number 462

Representative Navarre commented on the annual report and suggested that a bi-annual report be required. Committee discussion followed.

Number 474

Ms. Cramer completed her presentation and Representative Hurley invited Commissioner Rudd to testify.

Ms. Lisa Rudd Commissioner of Administration stated that she had a personal interest in seeing the bill passed and pointed out that she had sponsored similar legislation when she was a member of the legislature. She explained that Governor Sheffield supports establishing the

Division of Equal Employment Opportunity in statute. Commissioner Rudd proposed the that subsections 4, 5, and 8 under the powers and duties provision be reordered so that they would appear as subsections 1, 2, and 3. Commissioner Rudd stated that the committee substitute places more emphasis on bureaucracy than on action than is desirable. She noted that the immediated calling of the affirmative action plan in the first section illustrates this. She explained that an affirmative action plan is only a tool for the real job which is to get people on the job. She suggested that the emphasis in the bill be shifted to reflect that the Division of Equal Employment Opportunity's prime responsibility is to ensure that minorities and women get jobs in state government. Commissioner Rudd agreed with Representative Millers concern on collective bargaining. She also suggested that the Division of Equal

Number 600

Employment Opportunity should not be given formal investigative powers as it may take away from its recruitment and training responsibilities. She noted that the Human Rights Commission already has enforcement powers.

Number 617

Representative Hurley stated that she did not think the bill provided for a full blown investigation. She pointed out the case overload in the Human Rights Commission. Commissioner Rudd replied.

Number 632

Representative Hurley suggested process could be clarified by regulation. Commissioner Rudd expressed opposition to the words "impartial investigation" and suggested it

be replaced by "receive complaints."

Number 647

Commissioner Rudd stated that she was very pleased with the bill and the support it had got from the committee and staff.

Number 676

Mr. Earl Ford, representative of the United

hsa 0325851 DOCUMENT=

2 OF 4 PAGE = 12 OF 16

Number 726

Black Community expressed support for the committee substitute bill and urged its passage. Mr. Ford testified that he supported wording in the bill which would enable the Division of Equal Employment Opportunity to informally resolve complaints and agreed with Representative Hurley that the process could be established through regulation.

Number 760

Mr. Bob Dawkins of Minority Business Task Force supported the inclusion of some investigative power in the powers and duties of the Division of Equal Employment Opportunity.

Number 768

Representative Boucher expressed concern about the potential for duplication of effort.

Number 840

Committee discussion followed.

Representative Boucher stated he would like to see a work session to resolve the two areas of concern.

Number 846

Representative Hurley explained that the committee substitute was a result of several

hsa 0325851 DOCUMENT=

2 OF 4 PAGE = 13 OF 16

Number 882

days of participation by Alaska Native Brotherhood, the United Black Community, the Division of Equal Employment Opportunity, Ed Thomas and committee staff at the direction of the committee and that work would be continued on the bill.

Mr. Flor Pax, Director of the Filipino Community, testified in support of the bill. He agreed with Representative Miller that the collective bargaining process should include participation by the Division of Equal Employment Opportunity before an agreement is reached. He also expressed concern that a formal complaint resolution process could further contribute to the complainant's frustration should his or her grievance not be resolved and the complainant would have to start all over through formal channels. He was not supportive of an impartial investigation unless the Division of Equal Employment Opportunity

could turnover documents or testimony to the superior court or the Human Rights Commission at the consent of the complainant. Mr. Pax concluded by commending the Division of Equal Employment Opportunity for doing a wonderful job.

CHANGE TAPE #43, SIDE TWO

Number 357

Representative Hurley thanked Mr. Pax and agreed that more work had to be done on that particular section. Committee discussion followed.

Number 424

Mr. Ron Williams, Alaska Native Brotherhood, spoke in favor of the legislation and noted that his concerns had been addressed in the committee substitute. He stated that he agreed with the committee substitute wording regarding collective bargaining agreements and suggested that the Division of Equal Employment Opportunity be given the power to investigate and resolve complaints.

Number 591

Representative Hurley noted that the committee

had receive a call from Janet Bradley, Executive Director of the Human Rights Commission who indicated indicated that the Commission was concerned that the committee substitute contained the possibility of the duplication of responsibility between the division and the commission.

Number 617

Mr. Barry Best testified in support of the bill and urged its passage. He commented on the collective bargaining section and stated that the Division of Equal Employment Opportunity input should be on the front end of the process. He pointed out that some of the contracts are for 3 years which was a substantial time to live with insufficiency. He questioned the necessity of investigative powers and suggested that that role was better left to the Human Rights Commission. He expressed concern that time spent towards resolving complaints would take resources way from getting people hired.

Number 708

Senator Fischer former chair of the Senate State Affairs Committee urged passage of the bill.

Number 762

Representative Hurley stated that HB 147 would be held over till Friday. She announced that HB 228 would be held over till Friday.

Number 775

Senator Fischer, prime sponsor of SB 18, spoke in favor of the bill.

Number 795

Representative Miller noted that October 9th was former Governor Bill Egan's birthday.

Number 801

Representative Boucher moved that SB 18 move out of committee with a a do pass recommendation and asked unanimous consent. It was so moved.

The meeting adjourned at 4:40 p.m.

END OF DOCUMENT

Representative Navarre moved to adopt CSHB 147(SA).

Representative Hurley asked for objections to adoption of the bill. No objections were heard. CSHB 147(SA) was moved out of committee with individual recommendations.

HB 147

MEASURE HISTORY

PAGE 01 OF 02

CS,IB 147 FIN

AN ACT ESTABLISHING AN EQUAL EMPLOYMENT OPPORTUNITY PROGRAM FOR THE EXECUTIVE BRANCH OF STATE GOVERNMENT AND CREATING AN OFFICE OF EQUAL EMPLOYMENT OPPORTUNITY IN THE OFFICE OF THE GOVERNOR.

PRIME SPONSOR: RULES COMMITTEE

BY REQ OF THE GOVERNOR

CO-SPONSORS:

\$10,000 GENERAL(FNOTE)

\$000 OTHER(FNOTE)

CURRENT STATUS: (S) SA

DATE		PAGE	ACTION
01/30/85	(H)	199	READ THE FIRST TIME
01/30/85	(H)	199	GOVERNOR'S TRANSMITTAL LETTER
01/30/85	(H)	199	FISCAL NOTE ZERO
04/03/85	(H)	797	SA RPT W/CS. NEW TITLE 6DP 1NR
04/03/85	(H)	797	NEW FISCAL NOTE SUPPLEMENT NO 40
04/22/85	(H)	1017	FIN RPT W/CS, NEW TITLE 9DP
04/22/85	(H)	1017	FISCAL NOTE SUPPLEMENT 53
04/26/85	(H)		RLS TO CALENDAR 4/26/85
04/26/85	(H)	1101	READ THE SECOND TIME
04/26/85	(H)	1102	CSHB 147(FIN) ADOPTED UNAN CONSENT

HB 147

MEASURE HISTORY

PAGE 02 OF 02

DATE		PAGE	ACTION
04/26/85	(H)	1102	ADVANCED TO THIRD READING UNAN CONSENT
04/26/85	(H)	1102	READ THE THIRD TIME
04/26/85	(H)	1102	PASSED Y36 N3 X1
04/26/85	(H)	1103	PETTYJOHN NOTICE OF RECONSIDERATION
04/27/85	(H)	1150	RECONSIDERATION NOT TAKEN UP
04/27/85	(H)	1150	TRANSMITTED TO (S)
04/29/85	(S)	961	READ THE FIRST TIME
			STATE AFFAIRS
			FINANCE
			RULES



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

11/24/89
Date

H B

180

**COMMITTEE REPORT
SENATE**

FURTHER: JUDICIARY

2/25/85

Date April 18, 1985

Mr. President

The Committee on STATE AFFAIRS considered CSHB 180 (Jud) relating to confidentiality of certain library records.

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

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for CSHB 180 (SH)
- new title
- same title and recommends _____
- and attached a "LETTER OF INTENT" [] NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to _____ Committee

**MEMBERS SIGNING
DO PASS**

Tom Kelly

W. Fischer

**MEMBERS HAVING
OTHER RECOMMENDATIONS**

Edna B. Vines
Chairman
W. Fischer
Chairman recommendation

Original sponsors: Clocksin and M.M.Miller

1
2 IN THE HOUSE

BY THE STATE AFFAIRS COMMITTEE

3 SENATE CS FOR CS FOR HOUSE BILL NO. 180 (State Affairs)

4 IN THE LEGISLATURE OF THE STATE OF ALASKA

5 FOURTEENTH LEGISLATURE - FIRST SESSION

6 A BILL

7 For an Act entitled: "An Act relating to the confidentiality of certain
8 library records."

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

10 * Section 1. AS 09.25 is amended by adding a new section to read:

11 Sec. 09.25.140. CONFIDENTIALITY OF LIBRARY RECORDS. (a) Except
12 as provided in (b) of this section, the names, addresses, or other
13 personal identifying information of people who have used materials
14 made available to the public by a library shall be kept confidential,
15 except upon court order, and are not subject to inspection under
16 AS 09.25.110 or 09.25.120. This section applies to libraries operated
17 by the state, a municipality, or a public school, including the
18 University of Alaska.

19 (b) Records of a public elementary or secondary school library
20 identifying a minor child shall be made available on request to a
21 parent or guardian of that child.
22
23
24
25
26
27
28
29

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: HB-180
 Title: ...confidentiality of...
 Library records
 Sponsor: Clocks in
 Requestor: House Judiciary
 Date of Request: 2/13/85

FISCAL DETAIL

Agency Affected: Education
 Program Category Affected: _____
 BRU, Program or Subprogram(s) Affected: Alaska State Libraries

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

This bill has no fiscal impact on the Department.

Prepared By: Steve Hole Phone: 465-2800
 Division: Commissioner's Office Date: 2/14/85
 Approved by Commissioner: *[Signature]* Date: 2/14/85
 Agency: Department of Education

Distribution (by Agency preparing fiscal note):

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

7/1/84

HOUSE CALENDAR

BILL HB0180
 PAGE 00295
 DATE 02/08/85
 CHAMBER HOUSE
 TEXT HOUSE BILL NO. 180 by Clocksin and M.M.Miller entitled:
 "An Act relating to the confidentiality of certain library records"
 was read the first time and referred to the Judiciary Committee.

Library
Records
 (confidential)

HOUSE BILL NO. 180, by Reps. Clocksin and M. M. Miller.
 Amends Civil Code relating to evidence (AS 09.25) by adding a new section to read: "The names of people who have used materials made available to the public by a library shall be kept confidential and are not subject to inspection under AS 09.25.110 [Inspection and Copies of Public Records] or 09.25.120 [Inspection and Copying of Public Records]. This section applies to libraries operated by the state, a municipality, or a public school, including the University of Alaska." Does not provide an effective date (takes effect 90 days after Governor signs bill).

Introduced February 8 and referred to Judiciary.

COMMITTEE REPORT
 HOUSE

2/20
 Miller

(7) FURTHER:
 2/8/85 Date: 2-16-85
 Mr. Speaker:
 The Committee on JUDICIARY has had HB 180

"an Act relating to the confidentiality of certain library records."

under consideration and reports it back as follows:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for HB 180 (out) same title new title
- and recommends CS HB 180 DO PASS
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation Zero Fiscal Note Attached
- referred to the _____ Committee

MEMBERS SIGNING
 DO PASS

MILLER *M. M. Miller*
 JENBERG *John Jenberg*
 CLOKSKIN *John Clocksin*
 TITUM *John Titum*
 LOR *John Lor*

MEMBERS HAVING
 OTHER RECOMMENDATIONS:

M. M. Miller
 CHAIRMAN

MEMORANDUM

State of Alaska

TO: Nancy Gustavson
Government Relations Committee
Alaska Library Association

DATE: Jan. 17, 1985

FILE NO:

TELEPHONE NO: 465-2910

FROM: Margaret Leibowitz
Deputy Director
Alaska State Library

SUBJECT: Confidentiality

Following is a list of twenty-three states with laws providing protections of confidentiality of library circulations/use records as of May, 1984:

California	Louisiana	New York
Colorado	Maine	Oregon
Connecticut	Maryland	Rhode Island
Delaware	Massachusetts	South Dakota
Florida	Michigan	Virginia
Illinois	Minnesota	Washington
Iowa	Nebraska	Wisconsin
Indiana	Nevada (7th to enact, 1981)	

The Library of Congress is protected by 2 USC 136, CRF 36:703.3.

For your information, AS 09.25.120 shows that the Courts have interpreted Alaska's Freedom of Information Act to include municipalities and the University of Alaska.

Attached is a memo explaining the current status of confidentiality of records.

Also attached is an editorial from the Washington Post which seems to summarize the views.

ML:tn

Attachments: 2

MEMORANDUM

State of Alaska

TO:
The Honorable Don Clocksin
Alaska House of Representatives

DATE: February 19, 1985

FILE NO:

TELEPHONE NO: 465-2910

FROM:
Richard B. Engen, Director
Div. of State Libraries & Museums *the*

SUBJECT: HB 180

As per your request, following yesterday's hearing on HB 180 which brought out a potential concern about this bill's fiscal impact on smaller libraries, the State Library conducted a limited telephone survey. The consensus of the librarians contacted was that the confidentiality requirement would not have a significant fiscal impact, unless very fast implementation/change were required under the law. Remarks included:

"No problem...it involves time not money"

"Just another detail to worry about"

can handle "as long as we have a grace period"

"could be implemented without too much of a hassle"

"might need a little time...agree with law--can't let day to day problems get in the way"

"it would be nice to have an automated circulation system"

Several libraries contacted already used a system that does not have borrower's names written on book cards. These included maintaining registers of books borrowed, patron registration numbers, mechanical book chargers (numerical); and attaching book cards to a throw away patron name card. One point emphasized was need for training and assistance in meeting the requirements of the law and alternatives for charge out systems. This is a part of the on-going State Library service plan.

School and/or Public Librarians were contacted in Nome, Savoonga, Unalakleet, Seward, Lake & Peninsula School District, Ketchikan, Haines, Juneau school libraries, Centralized Correspondence Study, Wrangell, Sutton and Petersburg.

cc: Mary Hakala

MEMORANDUM

State of Alaska

TO: Harold Reynolds, Jr.
Commissioner
Department of Education

DATE: July 13, 1984

FILE NO: 166-255-84 20

TELEPHONE NO: 276-3550

FROM: Norman C. Gorsuch
Attorney General

SUBJECT: Confidentiality of
Library Use Records

By: *Jan Hart DeYoung*
Jan Hart DeYoung
Assistant Attorney General

You inquired whether the State of Alaska has any laws addressing the confidentiality of state library records. You also asked whether any state law would prohibit the use of the following statement on the patron application form used by Library Services for the Blind and Physically Handicapped:

Records relating to recipients of Library of Congress reading material are confidential.

A review of the regulations and statutes disclosed no law specifically addressing this subject. However, AS 09.25.110-.120, Alaska's Freedom of Information Act, may require disclosure of the information you seek to protect.

By enacting AS 09.25.110, Alaska has adopted a policy of open access to state records. AS 09.25.110 provides:

Unless specifically provided otherwise, the books, records, papers, files, accounts, writings, and transactions of all agencies and departments are public records and are open to inspection by the public under reasonable rules during regular office hours. The public officer having the custody of public records shall give on request and payment of costs a certified copy of the public record.

Exceptions to this right of access are few and must be expressed specifically in the law. For example, AS 09.25.120 states, in part:

Every person has a right to inspect a public writing or record in the state, including public writings and records in recorders' offices except (1) records of vital statistics and adoption proceedings which shall be treated in the manner required by AS 18.50; (2) records pertaining to juveniles; (3) medical and related public health

records; (4) records required to be kept confidential by a federal law or regulation or by state law. Every public officer having the custody of records not included in the exceptions shall permit the inspection, and give on demand and payment of the legal fees therefore a certified copy of the writing or record

The only exception which may apply here is (4), "records required to be kept confidential by a federal law or regulation or by state law." The Library of Congress apparently endorses a rule of confidentiality for users of Library of Congress materials but leaves the issue of confidentiality to the states to resolve under state law. If federal regulation provided that library use records be kept confidential, those records would be protected under AS 09.25.120(4) :-

As previously stated, no state statute addresses the confidentiality of library records. The only state law which might allow the Department to protect these records from release to the public is the constitutional right to privacy in the Alaska Constitution, which states: "The right of the people to privacy is recognized and shall not be infringed." Alaska Const. Art. I, § 22. The constitutional right to privacy is not absolute. When confronted with a question whether information is protected under the right to privacy, courts engage in a balancing process, weighing the sensitivity of the information sought to be disclosed against the interest of public disclosure. See City of Kenai v. Kenai Peninsula Newspapers, Inc., 642 P.2d 1316, 1323 (1982).

Tension is inherent in the policy of open access to state records, on the one hand, and the right of privacy, on the other. We have previously stated that the Freedom of Information Act was designed to encourage informed participation of citizens in the process of government, to insure government's accountability, and to increase public confidence in the workings of the political system. It was not intended that the legislation be used as a tool to pry into the private lives of citizens. Thus, we concluded that "any analysis of the extent to which the public may have access to government records, therefore, must necessarily proceed from the hypothesis that the information revealed to the public will assist in accomplishing the legislature's general policy goal. Thus, mechanical application of the literal language in AS 09.25.110 to all requests for public disclosure is inappropriate." 1982 Inf. Op. Att'y Gen. 1 (Feb. 5; J66-314-82) (footnote omitted).

Because the right to privacy is not absolute, you cannot guarantee to a user that library records will remain confidential. At the same time, the Freedom of Information Act will not automatically require that such records be disclosed upon a request. Each request will have to be examined on its peculiar facts before it can be determined whether the records should be released. The following guidelines should apply.

First, it must be determined whether the information requested is of the type that should be protected by the right of privacy. In other words, is the information requested sensitive. Falcon v. Alaska Public Offices Commission, 570 P.2d 469, 479 (Alaska 1977). Certain medical information, financial records, and a person's age previously have been found sufficiently sensitive to be protected from disclosure. Id.; 1982 Inf. Op. Att'y Gen. (May 25; J66-513-82); 1982 Inf. Op. Att'y Gen. (Feb. 5). Depending upon the request, disclosure of library use records could reveal the fact that one is blind or physically handicapped and the library or reading material one has consulted. It is our opinion that both of these facts are sufficiently sensitive to be protected by the right to privacy. An individual's physical ills and disabilities are among the most sensitive of personal and psychological sensibilities. See Falcon, 570 P.2d at 478, quoting Rowe v. Ingraham, 403 F.Supp. 931, 937 (S.D.N.Y. 1975) (reviewing constitutionality of legislation requiring disclosure of patients receiving prescriptions for particular drugs). We also believe that disclosing the library materials used by a person would violate this right to privacy. Knowing what a person reads could reveal the most intimate and personal facts about that person. The privacy of ones thoughts should be basic to individual liberty. As the Alaska Supreme Court recently stated, "Article I, section 22 fosters and protects those values and characteristics typical of and necessary for a free society. Some of these are the sharing of thoughts and ideas, personal trust between individuals, free expression, and individuality." City and Borough of Juneau v. Quinto, P.2d ___, Op. no. 2841 at 6 (June 29, 1984) (criminal case). We do not believe those privacy interests can be adequately protected by advising a library patron in advance that use records are public documents. Such a notice could work a subtle form of censorship, influencing the selection of books or library materials.

Second, the public's interest in the information should be examined. Possessing information on who has used certain library materials, for example, could enable the possessor to target certain individuals for harassment. Such use of public records is a clear abuse of AS 09.25.110. It does not further the statute's purpose of opening the conduct of government

Harold Reynolds, Jr., Commissioner
Department of Education
166-255-84

July 13, 1984
Page 4

business to public scrutiny. A legitimate interest, however, would be in opening the administration of the library to public view. That interest would be served by providing the records but deleting all personal references.

In sum, absent special circumstances, we find the balance weighs against disclosure of the names of persons using the library. Disclosing use records, while deleting any references which would allow the library patron to be identified, should, in most cases, satisfy the policies underlying the Freedom of Information Act without interfering with privacy interests. There may, however, be some instances in which the release of names is necessary to accomplish an important public interest. Such requests should be reviewed on a case by case basis with advice from the Department of Law.

You stated in your letter that 21 states have statutes addressing the confidentiality of library use records. You may wish to approach the legislature and request legislation specifically addressing this issue. In the meantime, you cannot provide any absolute assurance that user records will be kept confidential. If library records are requested under AS 09.25.110-.120, I recommend that you respond by providing the records but deleting any personal references. If that response is unsatisfactory, you should refer the matter to the Department of Law to determine whether the interest in disclosure outweighs the privacy interests involved.

JHD:jg

cc: Linda Tobiska
Rick Roberts

February 20, 1985

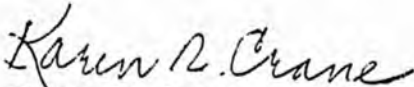
Honorable Don Clocksin
House of Representatives
Pouch V
Juneau, Alaska 99811

Dear Mr. Clocksin:

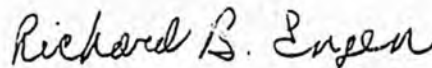
As an interested group the directors of the research and resource libraries under the state plan for library development, "Libraries for All Alaskans," would like to express support for your bill, H.B. 180, which assures the privacy of individual library records. This issue, as you are aware, has been a prime focus of librarians in our state, and your sensitivity to that focus appreciated and strongly endorsed.

Please do not hesitate to call on us for any manner of support for H.B. 180.

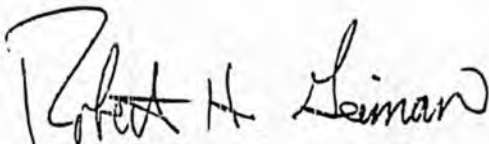
Sincerely,



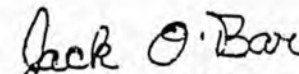
Karen R. Crane
Executive Director, Community Services
Fairbanks North Star Borough



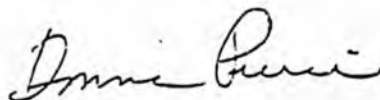
Richard B. Engen, Director
Division of State Libraries
and Museums



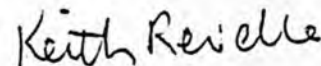
Robert H. Geiman, Director of Libraries
University of Alaska, Fairbanks



Jack O'Bar, Library Director
University of Alaska, Anchorage



Donna Pierce, Director
City/Borough of Juneau Libraries



Keith Revelle, Municipal
Librarian
Anchorage Municipal Libraries



REPRESENTATIVE DON CLOCKSIN

Alaska House of Representatives

MAJORITY LEADER

1024 WEST SIXTH AVENUE
ANCHORAGE, ALASKA 99501
(907) 274-4031

WHILE IN JUNEAU:
POUCH V
JUNEAU, ALASKA 99811
(907) 465-3704

FOR IMMEDIATE RELEASE

February 8, 1985

For more information, contact: Johnny Ellis 465-3718

House Majority Leader Don Clocksin, D-Anchorage, today introduced House Bill 180, which would protect the privacy of citizens when they check out materials from Alaska's public libraries. Currently, twenty-three other states have passed similar legislation. The American Library Association and the Alaska Library Association strongly support confidentiality of library records to protect individual privacy.

According to Representative Clocksin, the impetus for his legislation was the increasing number of requests nationwide being made of libraries for lists of the people who had checked out certain library materials. The American Library Association has documented cases in which information was requested for purposes other than legitimate police investigations.

Clocksin pointed out that the Alaska Constitution explicitly guarantees an individual's right to privacy. "Alaska's Freedom of Information Act was designed to inform the public and ensure the accountability of government, and not to be used as a tool to violate the privacy of individual Alaskans." Circulation records kept by public libraries are

not public records in the general sense but are similar to medical records kept by public hospitals. "These records are strictly between the institution and the individual," Clocksin said.

A July 1984 Attorney General's opinion said no state law protects library circulation records, although the constitutional right of privacy reflects a policy that they should not be disclosed.

"By filing this bill, I hope to implement that policy," Clocksin stated.

"I don't feel we should rely on a court to rule favorably.

Confidentiality of these records should be explicitly protected in the statutes."

#

Attachments (3)

The Washington Post

AN INDEPENDENT NEWSPAPER

The Rise in Oil Imports

OIL IMPORTS into the United States hit a peak in 1977, when they were nearly half of all the oil that the country consumed. The following year they started to fall as the Alaskan oil pipeline went into full operation. Then came the Iranian revolution, a huge jump in prices and two recessions. Oil consumption and imports fell for five-and-a-half years. But late last summer the pattern reversed itself. The country's dependence on foreign oil is now climbing again.

For the present, there is no great danger. Oil markets are slack and—unless the war between Iran and Iraq suddenly spreads—there is no immediate prospect of shortage or rising prices. But the oil is expensive and adds to a trade deficit already a drag on economic expansion. For the longer future, a rising trend means only trouble.

Oil imports are now up quite sharply, because oil use is up. In January 1983, Americans were burning oil at a rate of 14.8 million barrels a day. Last month the rate was over 17 million barrels a day. The reasons aren't very surprising. It's been very cold, and almost half of that increase was fuel oil. The economic recovery is well under way, and people are driving more. Industrial production is up, which means that industrial fuel needs are also up—although not much. The industrial engineers are the champions among energy conservationists.

It's important to recognize the extraordinary gains in conservation since 1973. American energy consumption is significantly lower now than it was then—although the gross national product has risen almost one-fourth, the population is up by 23 million people and there are some 20 million more cars on the road. But the impact of rapid growth falls most heavily on oil imports, and letting them run up will generate—as Americans have had ample opportunity to see since 1973—its own kind of disaster.

It's time to improve the incentives for conservation. The most conspicuous opportunities, as usual, lie in the use of gasoline. The price of gasoline has been falling for three years now and, adjusted for inflation, is not much higher than it was in 1974. People seem to be moving back to big cars. That swing, if it continues, will create havoc in an automobile industry that has been pushed hard by public policy to build mostly small cars.

How about seizing this moment of declining gas prices to impose a slowly but steadily rising tax on gasoline? Each nickel per gallon added to the gas tax would not only help hold down oil imports but would bring in \$5 billion a year. That's a serious contribution to reducing the deficit—if anybody over at the White House is seriously interested in reducing the deficit.

Who Read That Book?

IF YOU GO to the public library and take out a book on how to deal with head lice, improve your sex life or form a new political party, do you want the whole world to know about it? Shouldn't you be allowed to check out a racy novel or the biography of Karl Marx without having to explain your motives to anyone? The American Library Association thinks so and has taken a strong stand against releasing book circulation records. Twenty-two states, including Maryland and Virginia, have adopted legislation specifically protecting these records, and while there is no such statute in the District, it is the policy of city libraries not to release such records.

Did you even think this was a problem? Well, it is. The executive director of the Moral Majority in the state of Washington asked for the circulation records on a sex education film. Persons claiming to be investigators have sought to obtain information on the reading habits of suspected individuals. And, it should be noted, writers and reporters occasionally find items of interest on these lists. In fact, the ALA says that the only people who consistently op-

pose library privacy legislation in the states are journalists. It isn't right. In a legitimate criminal investigation—did John Smith, whose wife expired shortly after a beef stroganoff feast, take out that book on poisonous mushrooms?—circulation lists can be obtained with a subpoena. In all other cases, they ought to be considered private.

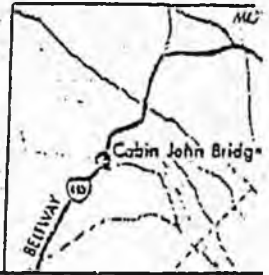
It will be argued that circulation lists are public records and that they ought to be made available to any interested member of the public. Not so. They are only public in the sense that medical records kept by the city hospital are public because they are created and kept by a public institution. While most data about the operation of a publicly funded service should be available—information about administration, operations and budget, for example—other files, such as health records or income tax returns, are personal and should be protected. An individual's choice of reading material falls into this category. Librarians and state legislatures that have adopted protective policies and laws have correctly drawn the fine line between the public's right to public information and the individual's right to read in peace.

LETTERS

Terror:

It is... that the last article in the Post's series "The Terror Factor" (Jan. 12) could find no "significant information of Soviet involvement in terrorist enterprises," since an earlier article in the same series noted that in June 1980, two of Abu Nidal's terrorists were released from detention in Bulgaria and their weapons returned to them after intervention by the Bulgarian Embassy in Baghdad. Bulgaria is one of the most submissive satellites of the Soviet Union, and its intervention to release the terrorists might reasonably be taken to indicate Soviet support for terrorism, especially in light of the continuing allegations of a Soviet-Bulgarian role in the attempted assassination of Pope John Paul II in 1981.

Although the last article in the current series quoted former CIA director



Traveling the Beltway

This is in reply to The Post's front-page article Feb. 14 on trucks causing accidents on the Beltway. I am alive to write this because of the skill and courage of a truck driver who avoided running over me after I was forced to brake sharply on the Beltway.

It happened on the infamous stretch leading to the Cabin John Dodge. The car ahead of me suddenly slowed and turned, without warning traffic was heavy in all lanes. I avoided hitting him, but behind me was another car and a moving van. With split-second reaction, the trucker, a woman, pulled left onto the snow-covered, steeply sloping median and managed to stop the rig. Without her strength, speed and skill, I think both drivers behind me and I would be dead. The only person injured was the truck driver, who saved to all. She got the only citation issued by the police, and the cause of the accident—the driver making the U-turn—got away.

Not all accidents are the fault of truck drivers.

MARY S. THORNE
Bethesda

The Beltway relieved by (1) not allowing trucks to unblock traffic (2) letting properly maintained, black only lanes until after midnight (3) encouragingly restricting allow mountainous miles to reaction.

If officials "move the truck" remove the volume of when emergency many hours of many thousands of gallons.

These regulations offered not to anyone or any as the others' mileage user since its inception.

Glenn Dale

Under Malawi's

In her article "Malawi Ughoids Execution of Hyattsville Nurse's Parents" (Feb. 9), Caryle Murphy claims, among other things, that "the lower traditional court that tried the Chirwas does not meet international legal standards of the Geneva-based International Commission of Jurists." There are certain facts The Post

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Robert B. Atwood
President and Publisher

William J. Tobin
Vice President
and Editor-in-chief

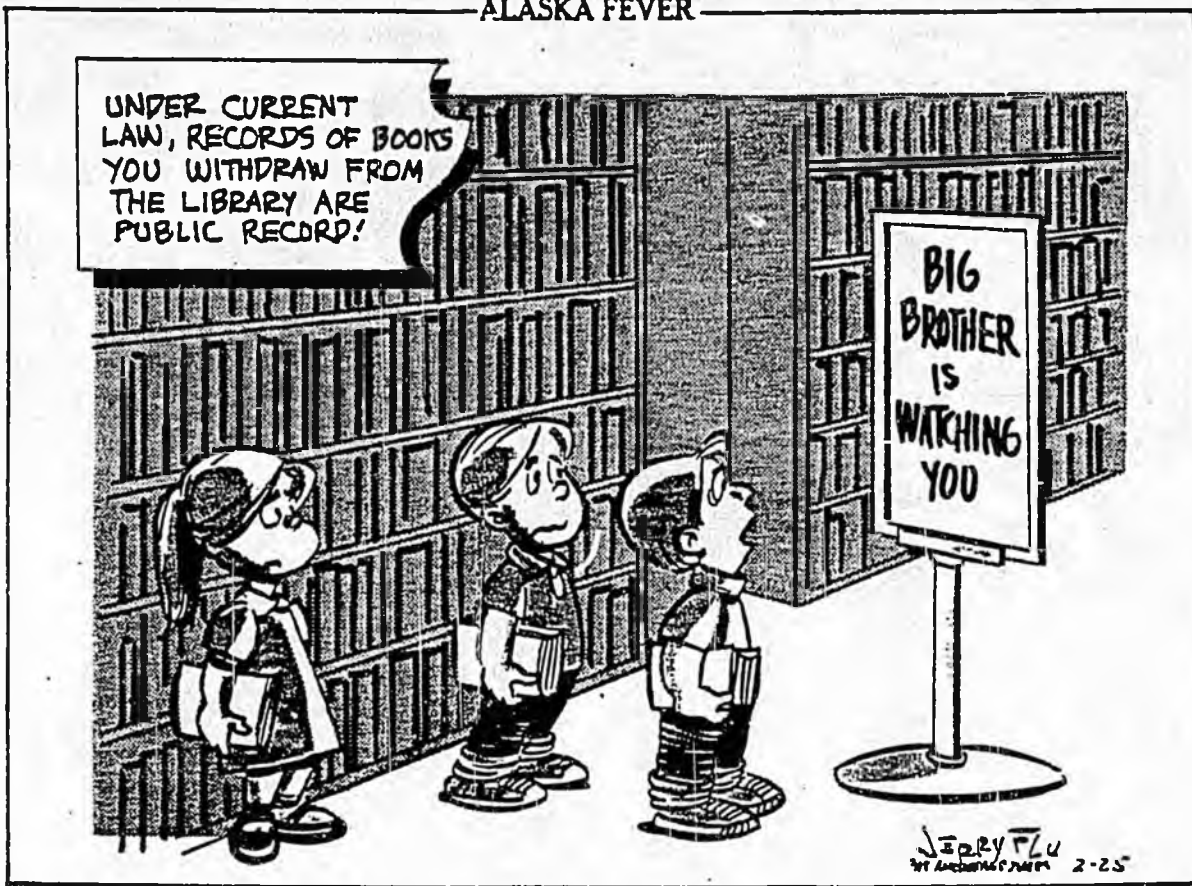
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The confessions of a nicotine eater

By Jody Powell

IT'S NOW BEEN 40 miserable days. That's too early to claim victory, though it is the longest I've ever made it without giving up. And, yes, there has been a bit of backsliding, a cigarette or two on a couple of occasions when I forgot my nicotine gum. Still, I think I'll make it this time. It's not just the 2,400 cigarettes I would have smoked since the first of the year — 2,400 conscious decisions not to do something that had become as natural as

breathing. I think it's because I just don't thi-
myself as a smoker any more — tho-
knows, I do think about smoking.

In any case, I am at least in a
few observations on the und-

ONE THAT BFC
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Injustice
in the field

... dump is about two-thirds full.

... the matter before the assembly. The Mid-Hillside Community Council has

... official who was fired when Mayor Tom Knowles reorganized his executive

Librarians back bill on privacy

by Beth Cunningham
Times Writer

Alaska librarians, saying a person's reading material is private, gave strong support Tuesday to a proposed state bill that would keep library circulation records confidential.

Open records of what library patrons check out would have a "chilling effect," and keep some people from reading anything but "innocuous material," said June Pinnell-Stephens, chairman of the Alaska Library Association's Intellectual Freedom committee. "What I read is nobody's business," Pinnell-Stephens said.

Pinnell-Stephens testified during a teleconference hearing with the state House Judiciary Committee on a bill that would protect the names of individuals who checked out any library material — books, records, magazines.

Stephens, speaking from Fairbanks to the House members in Juneau, agreed with seven other librarians or former library workers who all spoke in favor of the bill, which was proposed by Rep. Don Clocksin, D-Anchorage. The committee passed the proposal which now will go on to the House floor for a vote.

Rita Dursi, who represented the Anchorage chapter of the ALA, said libraries now must open records to anyone who demands to see them. "Before, libraries didn't have a legal leg to stand on," Dursi said of a library's right to keep records private.

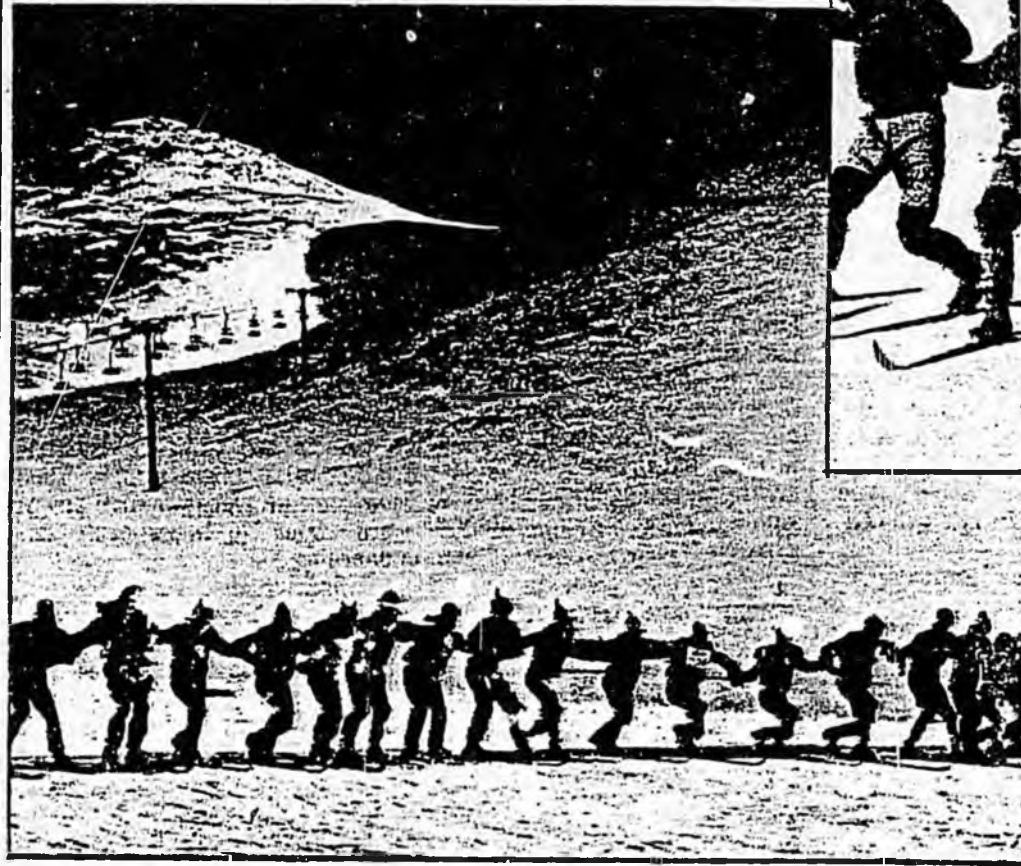
The only negative testimony came from Cam Carlson, who led "Parents In Action," a citizens' group formed to protest a book on homosexuality available in a Fairbanks public school. Carlson said people found out that she had checked out the book, but it did not bother her. "It just runs off your back" if others find out what you're reading, she said. Carlson said "an aura of suspicion" surrounds the proposed bill.

See Confidentiality, page B-5

GROUP TURN

These skiers broke Alaska's group turn record for cross country skis Sunday at Arctic Valley. The old record was seven skiers. The new record was accomplished with 57 people. An attempt to break the world record — 108 people — might be tried in April, says group coordinator Bill Mitchell. Prizes were donated by REI and Arctic Valley Ski Area.

Photo by Larsen Orr, hics



Lights return to haw

Associated Press

Uh-oh, they came back. Those eerie amber lights that dotted the city's skies over the weekend showed up late Monday for an encore.

The lights appeared at about 9 p.m. and seemed to float over west Anchorage. Spectators and officials were at a loss to explain the lights' source.

As many as 12 lights appeared in the western sky. Some glowed alone, while others appeared in crude designs or in straight lines of three to four lights each.

"There were a couple lights, but we couldn't tell what they were," said Roger Carpenter, team supervisor at the Anchorage International Airport Federal Aviation Administration control tower. "We didn't see anything on the tower radar."

Federal officials dismissed the lights that appeared over Anchorage late Sunday as hot air balloons, but the head of a balloonist group says he doubted the explanation.

Alaska Air Mushers Association President Don Reed said the city's hot air balloonists were at a banquet Sunday when the lights were reported, and he said "nobody in the 'right mind' would attempt a night flight without proper gear.

"There is only one balloon in town that is equipped for night flying, and there's only one set of lights," he said. "And that set isn't even working."

The mysterious lights apparently were visible over the city between 10:30 p.m. and 11 p.m. on Sunday. They were reported to the FAA's Air Route Traffic Control Tower as "foreign" objects, agency spokesman Pat

plane's door 4,000 feet

ers clung to him, the co-pilot of a
lece of cable to close his plane's
over Southwest Alaska Sunday.
stration spokesman Paul Steucke
a twin-engine Ryan Air Beechcraft
the small airliner took off from
llage northeast of Bethel.

e as Ryan flight 940, piloted by An-
inson, flew from Anchorage to St.
d.

rom the cabin prompted Ryan co-
rage, to leave the craft's controls
Beechcraft, Steucke said. There,
d passengers held onto him, Lacy
and used a section of support cable

at St. Mary's at about 3:30 p.m.,
ersonnel shortly after it landed at

t the aircraft at any time," the
sh continued to remain operational
st of the flight."

eechcraft does not feature a pres-
er injuries were reported.

disputed

tractors with private fill sites
available to them save thousands

Confidentiality bill draws key support

Continued from page B-1

Committee chairman Mike
Miller, D-Juneau, said the confi-
dentiality bill, or "personal pri-
vacy," was entirely separate
from any censorship or book-
banning issue. Miller, a co-spon-
sor of the bill, said groups seek-
ing to remove a book from li-
brary shelves still would have
the means to do so.

Clocksln said the confidential-
ity bill was specific enough to ex-
clude only a person's identity
from public records, so informa-
tion such as how many times a
book has been taken out or
whether a book had been re-
turned still would be available.

Clocksln added two amend-
ments to the original proposed

bill. One amendment says that
any information that could iden-
tify the person — name, social
security or address — would be
excluded from the library record.
The original bill read that only
the name would be excluded.

The bill also was amended to
say that law enforcement offi-
cials, with a court order, could
request information on who
checked out materials when it
was a matter of public safety.

Clocksln said he doesn't feel
the library confidentiality bill
harms the public's right to gain
access to information. He said
he feels strongly that public re-
cords should remain open.

"I'm probably one of the lead-
ing proponents of freedom of in-
formation," Clocksln said.
"That's one of the reasons why I

decided to sponsor this bill. I
thought it would make the point
more strongly. I feel this (library
confidentiality) is a legitimate
exception."

Dick Engen, president of
Alaska Library Association, said

22 states have enacted similar
legislation and that Librarians
around the country have been re-
questing library confidentiality
Clocksln said Alaska librarians
requested that the state pass a
similar law.

Rescuers recover pilot's body

Associated Press

Homer — A civilian mount-
aineering rescue team Monday re-
covered the body of a Peninsula
Airways pilot whose plane
crashed on the slopes of Mount
Veniaminof on the Alaska Penin-
sula, Alaska State Troopers said.

The Piper Navaho, carrying
only the pilot, was reported miss-
ing Thursday.

Troopers identified the pilot
as Leonard Mack, 39, and said his
body was taken off the mountain
at about 6 p.m.

The aircraft was reported
overdue on a flight from King
Salmon to Cold Bay. Its emer-
gency locator led searchers to
Mount Veniaminof, an 8,200-foot
volcano on the Alaska Peninsula.

Hickle Investment Company d/b/a

**The Hotel Captain Cook
Whales Tail
Crow's Nest
Quarterdeck**

**is making application for a
Duplicate Beverage Dispensary
License AS 04.11.090 d/b/a**

**Fletcher's
Located in The Hotel Captain Cook,
928 W. 5th Avenue,
Anchorage, Alaska.**

****Interested persons should submit written comment to their
local governing body, the applicant and to the Alcoholic
Beverage Control Board at 201 E. 9th Ave., Anchorage,
Alaska 99501 or phone (907) 277-8638.**

'Remembrance of Things Past:' Why should anyone want to?

Just when you think there's nothing good left to worry about, government comes along and reminds you that paranoia is your friend. I mean, of all the things I've ever thought to worry about — and, let me tell you, few people worry more extensively or more creatively than I do — fretting about Big Brother and The Library Books never entered my mind.

Oh, I remember being a little nervous when, as a precocious adolescent, I checked out a book of Rex Reed interviews garishly titled, "Conversations in the Raw." I blushed 10 ways to Sunday as the librarian wordlessly took my library card and processed the book — full, I was sure, of harsh judgment. But that was nervousness; this is full blown adult paranoia. Now we learn it apparently takes a special bill to guarantee that what we check out of a library is nobody's business but our own.

Now we find out Rep. Don Clocksin has introduced a bill that would make library check-out records confidential. Apparently last summer in Fairbanks, some folks wanted to know just who was reading those books about homosexuality in the library. I have no idea what conclusions they thought they'd be able to draw from such information, but



suzan nightingale

people are funny like that.

Other people, not surprisingly, apparently thought what they read was nobody's business but their own.

Here, the plot thickens. This being a sunshine state, the official state policy is one of open access to public records. Now, I like this policy. I love this policy. This is a **WONDERFUL** policy that serves the people of Alaska in a bunch of different ways. If the idea of government is really that we elect representatives because we can't all fit in one room, then it clearly follows that we don't need them deciding what's good for us to know.

But just because people have the right to existing government information doesn't ne-

cessarily mean the government should keep records about things just because the technology exists. Criminal records, sure, property information, government loans, campaign contributions — all that affects us in a public way. But *reading habits*? And not even reading habits but checking-out-book habits. Sheesh. There must be other methods of monitoring book usage.

At least it's not a problem in Anchorage. Our librarians not only don't keep permanent records (once you return a book, the card is chucked as a stringent matter of policy), they support Clocksin's bill because they, better than anyone, know that people check out all sorts of books for all sorts of reasons. You start keeping track of what people read, and pretty soon you've got a bunch of uninformed opinions running around because people are too intimidated to go read up on the controversial stuff.

Then the only defense is to start checking out oddball assortments like "Reggie!" and "Remembrance of Things Past" both at the same time. Throw in a few ringers like, "Garfield Gains Weight" and let the gawkers figure out what you really went in for.

So I guess I like Clocksin's bill, as far as it goes. I like the idea that information is public

unless it is specifically exempted, and his bill, by its nature, underlines that policy. And I don't think library records are anyone's business, so I have no qualms with telling people who want to know what I check out to get lost.

But I fear Clocksin's bill falls short of the real mark: Once the book is back on the shelf, why should any library keep a record of who's borrowed that book in the first place? So that if an axe murderer runs down Fourth Avenue we can all run to the library and see if he ever checked out any books featuring axe murderers running down city streets and nail him at the trial? Not once in the nine years that Kelth Revelle has been Anchorage's municipal librarian have police ever requested to see library records (which, as I said, is just as well, since they don't keep them here).

It's the record, *itself*, not just the *confidentiality* that's at issue. Part of the strength of open records — a real policy of open records in any government — is that only legitimate records will then be kept. To maintain inappropriate records, and then call them confidential, strikes me as only half a solution.

Suzan Nightingale is a Daily News columnist.

ADN 2-19-85

HB 180

ARTICLE 3.

INSTRUCTIONAL STANDARDS

4 AAC 52.300 – 4 AAC 52.499
(Reserved)

ARTICLE 4.

PROCEDURAL SAFEGUARDS

Section

- 500. Complaint procedure
- 510. Parental access to records
- 520. Parental request for amendment of records
- 530. Parental consent for release of records
- 540. Parental right to independent evaluation
- 550. Availability of hearing
- 560. Impartial hearing officer
- 570. Appeal to department
- 580. Placement of child during proceedings
- 590. Appointment of surrogate parent
- 600. Qualifications and duties of surrogate parent
- 610. Removal of surrogate parent
- 620. Rights upon reaching age of majority

4 AAC 52.500. COMPLAINT PROCEDURE.

(a) The department will review, investigate, and take appropriate action on complaints alleging that a district or other educational agency is acting contrary to the requirements of this chapter.

(b) Any person may file a complaint under this section with the Department of Education, Office for Exceptional Children, Pouch F, Juneau, Alaska 99801. (Eff. 7/1/83, Reg. 86)

Authority: AS 14.07.060
AS 14.30.180–14.30.350

4 AAC 52.510. PARENTAL ACCESS TO RECORDS. (a) Except as provided in (c) of this section, each district shall permit a parent to inspect and review any record relating to his child which is collected, maintained, or used by the district under this chapter.

(b) A district shall

(1) provide a parent, upon request, a list of types and locations of records collected, maintained, or used by the district;

(2) respond to any reasonable request of a parent for explanation and interpretation of a record;

(3) provide a parent with a copy of a record upon request;

(4) permit a representative of the parent to inspect and review a record; and

(5) comply with a request to inspect, review, or obtain a copy of a record within a reasonable period not to exceed 10 days and, in any case, before any meeting or hearing relating to the identification, evaluation, placement, or program of a child in which the parent may participate.

(c) A district may presume that a parent has authority to inspect and review a record relating to his child unless the district has been provided reasonable grounds to believe that the parent does not have authority to do so under state or federal law.

(d) If a record includes information on more than one child, a parent may inspect and review the information relating only to his child. (Eff. 7/1/83, Reg. 86)

Authority: AS 14.07.060
AS 14.30.180–14.30.350

4 AAC 52.520. PARENTAL REQUEST FOR AMENDMENT OF RECORDS. (a) A parent who believes that information in a record relating to his or her child which is collected, maintained, or used by a district under this chapter is inaccurate, misleading, or otherwise in violation of rights of the child may request that the district amend the record.

(b) The district shall, within a reasonable period of time following receipt of the request, decide whether to amend the record. If the district refuses to amend the record, it shall inform the parent of the refusal and advise the parent of his or her right to a hearing under 4 AAC 52.550.

(c) If a parent requests a hearing and the hearing officer decides that the information is inaccurate, misleading, or otherwise in violation of rights of the child, the district shall amend the record.