

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990 8672
5898 HOUSE LABOR & COMMERCE

302

1 (g) Notwithstanding any provision of AS 23.40.070 - 23.40.260 to
2 the contrary, an agreement between an employer subject to AS 23.10.-
3 500 - 23.10.550 and an employee bargaining organization that conflicts
4 with AS 23.10.500 - 23.10.550, concerning benefits and leave for preg-
5 nancy, childbirth, related medical conditions, and family leave, is
6 void unless the agreement provides benefits comparable to those pro-
7 vided by AS 23.10.500 - 23.10.550.

8 * Sec. 5. AS 39.20.225(b)(4) is amended to read:

9 (4) Pregnancy and childbirth is a medical reason for a
10 female officer or employee to take personal leave. [A FEMALE OFFICER
11 OR EMPLOYEE, OTHERWISE QUALIFIED FOR A LEAVE OF ABSENCE, IS ENTITLED
12 TO TAKE A MAXIMUM OF NINE WEEKS LEAVE IMMEDIATELY PRECEDING AND FOL-
13 LOWING CHILDBIRTH. IF THE OFFICER'S OR EMPLOYEE'S ACCRUED PERSONAL
14 LEAVE IS INSUFFICIENT FOR THIS PURPOSE, THE OFFICER OR EMPLOYEE IS
15 ENTITLED TO TAKE LEAVE WITHOUT PAY FOR THE BALANCE OF THE NINE-WEEK
16 PERIOD.]

17 * Sec. 6. AS 39.20 is amended by adding a new section to read:

18 Sec. 39.20.305. FAMILY LEAVE. (a) An officer or employee who
19 is otherwise qualified to take leave of absence may take family leave
20 for a total of 18 workweeks during any 24-month period. An officer or
21 employee taking leave under this section shall use accrued personal
22 leave. After exhausting accrued personal leave, the officer or em-
23 ployee may take leave without pay for the balance of the 18-week
24 period. If the employee is entitled to a longer period of time under
25 AS 23.10.500, then the longer period applies. An eligible employee is
26 entitled to take family leave

27 (1) because of pregnancy, the birth of a child of the
28 employee, or the placement of a child, other than the employee's
29 stepchild, with the employee for adoption, in which case the

1 entitlement to leave expires at the end of the 12-month period begin-
2 ning after the date of the birth or placement; the department or
3 agency may require that an employee using family leave under this
4 paragraph take the leave in a single block of time; and

5 (2) in order to care for the employee's child, spouse, or
6 parent who has a serious health condition; in this paragraph, "child"
7 includes the employee's biological, adopted, or foster child, step-
8 child, legal ward, or a child to whom the employee stands in loco
9 parentis.

10 (b) If the necessity for family leave under (a) of this section
11 is foreseeable based on an expected birth or adoption or on planned
12 medical treatment or supervision, the employee shall provide the
13 employee's department or agency head with prior notice of the expected
14 need for leave in a manner that is reasonable and practicable. If the
15 necessity for leave under this section is foreseeable based on planned
16 medical treatment or supervision, the employee shall also make a
17 reasonable effort to schedule the treatment or supervision so as not
18 to disrupt unduly the operations of the state department or agency,
19 subject to the approval of the health care provider of the employee's
20 child, spouse, or parent.

21 (c) Notwithstanding (a) of this section, if a parent or child of
22 two employees employed by the state has a serious health condition,
23 the state is not required to grant family leave to both employees
24 simultaneously.

25 (d) A state department or agency may refuse to grant an employee
26 family leave under (a) of this section if the department or agency
27 establishes that

28 (1) the salary received by the employee places the employee
29 in the top 10 percent of employees within that department or agency;

1 and

2 (2) the employee has skills, knowledge, or experience that
3 cannot be provided satisfactorily by other state employees during the
4 period of the proposed leave and that are necessary to the department
5 or agency during that time to meet a business necessity.

6 (e) In this section, "child," "health care provider," "parent,"
7 and "serious health condition" have the meanings given in AS 23.10.-
8 550.

9 * Sec. 7. Notwithstanding AS 14.20.590(b), enacted by sec. 2 of this
10 Act, AS 23.10.500 - 23.10.550, enacted by sec. 3 of this Act, and AS 23.-
11 40.200(g), enacted by sec. 4 of this Act, a collective bargaining agreement
12 in effect on the effective date of this Act that contains terms that do not
13 comply with AS 23.10.500 - 23.10.550 remains valid until the agreement
14 expires. However, the contract may not be extended by agreement or renewed
15 unless it complies with AS 14.20.590(b) or AS 23.40.200(g), as applicable.
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6-0525E ✓
Cramer
4/5/89

Original sponsors: Brown, Ulmer,
Gruenberg, et al.

1 IN THE HOUSE

BY THE LABOR AND
COMMERCE COMMITTEE

2 CS FOR HOUSE BILL NO. 155 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to employment rights based on preg-
7 nancy, childbirth, and related conditions, and family
8 leave."

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

10 * Section 1. FINDINGS AND PURPOSE. (a) The legislature finds that

11 (1) the number of single-parent households and two-parent house-
12 holds in which the single parent or both parents work outside the home is
13 increasing significantly;

14 (2) it is important to the development of a child and to the
15 family unit that parents be able to participate in early childrearing and
16 the care of a child who has a serious health condition;

17 (3) the lack of employment opportunities to accommodate working
18 parents can force individuals to choose between job security and parenting;
19 and

20 (4) it is important for the family unit that a person be able to
21 care for a parent or spouse who has a serious health condition.

22 (b) The legislature declares that the purposes of this Act are

23 (1) to balance the demands of the workplace with the needs of
24 families, and to promote stability and economic security in families;

25 (2) to entitle employees to take reasonable leave for the birth
26 or adoption of a child and for the care of a child, spouse, or parent who
27 has a serious health condition; and

28 (3) to accommodate the legitimate interests of employers.

29 * Sec. 2. AS 14.20.590 is amended by adding a new subsection to read:

1 (b) Notwithstanding any provision of AS 14.20.550 - 14.20.610 to
2 the contrary, a negotiations agreement between an employer subject to
3 AS 23.10.500 - 23.10.550 and an employee bargaining organization that
4 conflicts with AS 23.10.500 - 23.10.550, concerning benefits and leave
5 for pregnancy, childbirth, related medical conditions, and family
6 leave, is void unless the agreement provides benefits comparable to
7 those provided by AS 23.10.500 - 23.10.550.

8 * Sec. 3. AS 23.10 is amended by adding new sections to read:

9 ARTICLE 7. PREGNANCY, CHILDBIRTH, AND FAMILY LEAVE.

10 Sec. 23.10.500. EMPLOYMENT BENEFITS AND PRIVILEGES FOR FAMILY
11 CARE. (a) An employer shall grant an employee whose health is af-
12 fected by pregnancy, childbirth, or a related medical condition the
13 same employment benefits and privileges that the employer grants to
14 other employees with similar ability to work who are not so affected,
15 including allowing the employee to take disability or sick leave or
16 other accrued leave that the employer makes available to temporarily
17 disabled employees.

18 (b) An employee is eligible to take family leave if the employee
19 has been employed by the employer for at least 35 hours a week for at
20 least six consecutive months or for at least 17 1/2 hours a week for
21 at least 12 consecutive months immediately preceding the leave. An
22 employer shall permit an eligible employee to take family leave for a
23 total of 18 workweeks during any 24-month period. The leave may be
24 unpaid leave. However, the employee may choose to substitute, or the
25 employer may require the employee to substitute, accrued paid vacation
26 leave, sick leave, personal leave, or other paid leave during this
27 period. If the employee is entitled to a longer period of time under
28 (a) of this section, then the longer period applies. An eligible
29 employee is entitled to take family leave

1 (1) because of pregnancy, the birth of a child of the
2 employee, or the placement of a child, other than the employee's
3 stepchild, with the employee for adoption, in which case the entitle-
4 ment to leave expires at the end of the 12-month period beginning
5 after the date of the birth or placement; an employer may require that
6 an employee using family leave under this paragraph take the leave in
7 a single block of time; and

8 (2) in order to care for the employee's child, spouse, or
9 parent who has a serious health condition; in this paragraph, "child"
10 includes the employee's biological, adopted, or foster child, step-
11 child, legal ward, or a child to whom the employee stands in loco
12 parentis.

13 (c) Notwithstanding (b) of this section, if a parent or child of
14 two employees employed by the same employer has a serious health
15 condition, the employer is not required to grant family leave to both
16 employees simultaneously.

17 (d) During the time that an employee is on leave under this
18 section, the employer shall maintain coverage under any group health
19 plan at the level and under the conditions that coverage would have
20 been provided if the employee had been employed continuously from the
21 date the leave began to the date the employee returns from leave under
22 (e) of this section. However, the employer may require that the
23 employee pay all of the costs for maintaining health insurance cover-
24 age during a period of unpaid leave.

25 (e) Unless the employer's business circumstances have changed to
26 make it impossible or unreasonable, when an employee returns from
27 leave under this section, the employer shall restore the employee

28 (1) to the position of employment held by the employee when
29 the leave began; or

1 (2) to a substantially similar position with substantially
2 similar benefits, pay, and other terms and conditions of employment.

3 (f) This section does not apply to an employer's small business
4 facility if the total number of employees employed within 50 road
5 miles of the small business facility, including those employed at the
6 facility, was fewer than 21 during the 20 consecutive workweeks in
7 which the employer employed at least 21 employees at all business
8 facilities.

9 (g) An employer may refuse to grant an employee family leave
10 under (b) of this section if the employer establishes that

11 (1) the salary received by the employee places the employee
12 in the top 10 percent of all employees in facilities of the employer
13 covered by this section; and

14 (2) the employee has skills, knowledge, or experience that
15 cannot be provided satisfactorily by other employees of the employer
16 during the period of the proposed leave and that are necessary to the
17 employer during that time to meet a business necessity.

18 Sec. 23.10.510. EMPLOYEE NOTICE. If the necessity for leave
19 under AS 23.10.500 is foreseeable based on an expected birth or adop-
20 tion or on planned medical treatment or supervision, the employee
21 shall provide the employer with prior notice of the expected need for
22 leave in a manner that is reasonable and practicable. If the necessi-
23 ty for leave under that section is foreseeable based on planned medi-
24 cal treatment or supervision, the employee shall also make a reason-
25 able effort to schedule the treatment or supervision so as not to
26 disrupt unduly the operations of the employer, subject to the approval
27 of the health care provider of the employee's child, spouse, or par-
28 ent.

29 Sec. 23.10.520. EMPLOYEE TRANSFER. (a) A pregnant employee may

1 request a transfer to a suitable position under this section. An
2 employer may not fill the position with a person other than the
3 requesting employee until the employer has offered the position to the
4 employee and the employee has refused the offer. A position is
5 suitable if

6 (1) it is an existing unfilled position in the same admin-
7 istrative division in which the employee is currently employed and is
8 less strenuous or less hazardous than the employee's current position;

9 (2) transfer to the position is recommended by a licensed
10 health care provider;

11 (3) the employee is qualified and immediately able to
12 perform the duties of the position; and

13 (4) the transfer will not subject the employer to legal
14 liability.

15 (b) An employer shall compensate an employee who receives a
16 transfer under this section at a rate at least equal to the lesser of
17 the rate, as adjusted by changes to compensation that apply generally
18 to the work force, at which

19 (1) the employee was compensated immediately before re-
20 questing the transfer; or

21 (2) the position into which the employee transfers is
22 compensated.

23 Sec. 23.10.530. APPLICATION TO OTHER LAWS. (a) The provisions
24 of AS 23.10.500 - 23.10.550 do not affect any other provision of law
25 relating to sex discrimination, pregnancy, or parenthood.

26 (b) The provisions of AS 23.10.500 - 23.10.550 are subject to
27 collective bargaining. However, a collective bargaining contract is
28 void unless it contains terms giving employees benefits comparable to
29 those provided by AS 23.10.500 - 23.10.550.

1 Sec. 23.10.540. INVESTIGATION AND CONCILIATION OF COMPLAINTS.

2 (a) A person aggrieved by a denial of a right or privilege granted by
3 AS 23.10.500 - 23.10.540 may file a complaint with the department.

4 (b) The department shall informally, promptly, and impartially
5 investigate the matters set out in a filed complaint. If the investi-
6 gator determines that the allegations are supported by substantial
7 evidence, the investigator shall immediately try to eliminate the
8 denial of rights or privileges by conference, conciliation, and per-
9 suasion.

10 Sec. 23.10.550. DEFINITIONS. In AS 23.10.500 - 23.10.550,

11 (1) "child" means an individual who is

12 (A) under 18 years of age; or

13 (B) 18 years of age or older and incapable of self-
14 care because of mental or physical disability;

15 (2) "employer" means a person, including the state and a
16 political subdivision of the state, who employed at least 21 employees
17 in the state for each working day during 20 consecutive workweeks in
18 either the current or the preceding calendar year;

19 (3) "health care provider" has the meaning given in AS 18.-
20 23.070;

21 (4) "parent" means a biological or adoptive parent, a
22 parent-in-law, or a stepparent;

23 (5) "serious health condition" means an illness, injury,
24 impairment, or physical or mental condition that involves

25 (A) inpatient care in a hospital, hospice, or residen-
26 tial health care facility; or

27 (B) continuing treatment or continuing supervision by
28 a health care provider;

29 (6) "small business facility" means a facility of an

1 employer at which fewer than 21 employees were employed for each
2 working day during 20 consecutive workweeks in the current or preced-
3 ing calendar year;

4 (7) "state" includes the University of Alaska and the
5 executive, legislative, and judicial branches of state government
6 including public and quasi-public corporations and authorities estab-
7 lished by law.

8 * Sec. 4. AS 23.40.200 is amended by adding a new subsection to read:

9 (g) Notwithstanding any provision of AS 23.40.070 - 23.40.260 to
10 the contrary, an agreement between an employer subject to AS 23.10.-
11 500 - 23.10.550 and an employee bargaining organization that conflicts
12 with AS 23.10.500 - 23.10.550, concerning benefits and leave for preg-
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22 LEAVE IS INSUFFICIENT FOR THIS PURPOSE, THE OFFICER OR EMPLOYEE IS
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10 after the date of the birth or placement; the department or agency may
11 require that an employee using family leave under this paragraph take
12 the leave in a single block of time; and

13 (2) in order to care for the employee's child, spouse, or
14 parent who has a serious health condition; in this paragraph, "child"
15 includes the employee's biological, adopted, or foster child, step-
16 child, legal ward, or a child to whom the employee stands in loco
17 parentis.

18 (b) If the necessity for family leave under (a) of this section
19 is foreseeable based on an expected birth or adoption or on planned
20 medical treatment or supervision, the employee shall provide the
21 employee's department or agency head with prior notice of the expected
22 need for leave in a manner that is reasonable and practicable. If the
23 necessity for leave under this section is foreseeable based on planned
24 medical treatment or supervision, the employee shall also make a
25 reasonable effort to schedule the treatment or supervision so as not
26 to disrupt unduly the operations of the state department or agency,
27 subject to the approval of the health care provider of the employee's
28 child, spouse, or parent.

29 (c) Notwithstanding (a) of this section, if a parent or child of

1 two employees employed by the state has a serious health condition,
2 the state is not required to grant family leave to both employees
3 simultaneously.

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5 family leave under (a) of this section if the department or agency
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13 or agency during that time to meet a business necessity.

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16 550.

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18 Act, AS 23.10.500 - 23.10.550, enacted by sec. 3 of this Act, and AS 23.-
19 40.200(g), enacted by sec. 4 of this Act, a collective bargaining agreement
20 in effect on the effective date of this Act that contains terms that do not
21 comply with AS 23.10.500 - 23.10.550 remains valid until the agreement
22 expires. However, the contract may not be extended by agreement or renewed
23 unless it complies with AS 14.20.590(b) or AS 23.40.200(g), as applicable.
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Representative Dave Donley, Chair House Labor & Commerce Committee

SUBJECT OF MEETING:

HJR 37 HB 155
HCR 2 HB 166
HB 72

DATE: 3-30-89

PLACE: C-17

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?	WHAT SUBJECT WHICH BILL
Paula Halcy	State Comm for Human Rights	80 "A" St. - Suite 202 Anchorage AK 99501 →		907 272-8706	907 272-7174	(Y) N	HB 155
Tom Lawson	DCED	PO Box 0 Juneau	99801		465-2017	(Y) N	HCR 2
Mary Pierce	WICHA	4000 Old Seward Hwy Suite 203 Anch AK	99503	907 563-3414	W/C	Y (N)	
DAVID JOHNSON	ASMA	3012 Tongass Ave Ketchikan AK	99901	907 225-6396	907 225-5149	Y (N)	HB 166
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	



Representative Dave Donley, Chair House Labor & Commerce Committee

SUBJECT OF MEETING:

HB 166

HB 155

HB 92

HB 72

DATE: 4-4-89

PLACE: C-17

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?		WHAT SUBJECT WHICH BILL?
GORDON EVARIS	HIAA	318 4TH ST., JUNEAU	99801		586-3210	<input checked="" type="radio"/>	N	HB 92
MIKE COUGHLIN	RET/BEN	P.O. Box CR JUNEAU 99811		4	465-4470	<input type="radio"/>	N	HB 92 IF NEEDED
Paul Zoller	DIO, JW	Pouch D JUNEAU			465-2275	<input checked="" type="radio"/>	N	HB 92
Kip Leary	Asst Admin				465-4430	<input checked="" type="radio"/>	N	HB - 155
Dennis Scholl, PhD	Alaska Mental Health Board	419 6th St, Suite 124 JUNEAU, AK 99801 →			465-3071	<input checked="" type="radio"/>	N	HB - 92
CONNIE J. SIPE	OAC				5-350	<input type="radio"/>	N	To answer questions/obs H
Mary Piere	MICHA	4000 Old Seward ANCH AK 99503			563-3414	<input checked="" type="radio"/>	N	HB-166
Clark Lruening	APA	217 Second Street Suite 204 JUNEAU				<input checked="" type="radio"/>	N	If time
Bern Hertel	AGO	JUNEAU				<input type="radio"/>	<input checked="" type="radio"/>	HB-166
						<input type="radio"/>	N	
						<input type="radio"/>	N	



Representative Dave Donley, Chair

House Labor & Commerce Committee

SUBJECT OF MEETING:

HB 155 HB 72
 HB 235 HB 166

DATE: 4-6-89

PLACE: C #17

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?	WHAT SUBJECT WHICH BILL?
John Manning	HSS	Box H-060 Juneau	99811		465-3027	Y <input checked="" type="checkbox"/>	
Kim Smith	MICA	10301 Glacier Hwy JUNEAU	99801	789-0631	789-2910	<input checked="" type="checkbox"/> N	HB 166
Beth Kertula	AG's	AGO				Y <input checked="" type="checkbox"/> N	HB 166
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	

HB

160

HOUSE LABOR AND COMMERCE COMMITTEE

ALASKA STATE LEGISLATURE

P.O. BOX Y, JUNEAU 99811

(907) 465-3892



February 21, 1989

M E M O R A N D U M

To: Representative Ron Larson, Co-chair
Representative Lyman Hoffman, Co-chair
House Finance Committee

From: Representative Dave Donley, Chair
House Labor and Commerce Committee

Re: Request for hearing - HB 160 and HB 161

I am writing to request that you schedule a hearing on HB 160 and HB 161, the enabling and appropriation bills for the Alaska Neighborhood Revitalization Program, before the House Finance Committee at your earliest convenience.

The Alaska Neighborhood Revitalization Initiative (HB 160) and the companion funding bill (HB 161) creates a statewide program modeled after Anchorage Neighborhood Housing Services to leverage state money with secondary financial markets, both public and private, to redevelop commercial business zones. This program will provide as much as a four to one match for every dollar the state puts in.

The purpose of the Alaska Neighborhood Revitalization Initiative is to provide an opportunity to develop a public/private partnership in communities to:

- Create new short term and long term jobs.
- Create an incentive for attracting new businesses to an area.
- Help make existing businesses more viable, attractive, and stable.
- Leverage business loans made with conventional financing.
- Create a business climate that better serves the Community

There is overwhelming support for the enabling legislation creating the Alaska Neighborhood Revitalization Initiative from the administration, the Legislature, the Alaska Municipal League, and small businesses throughout the state. HB 160 provides an unprecedented opportunity for economic development that will benefit Alaskans everywhere. However, identifying a secure and appropriate funding source for the seed money needed to initiate the program presents a significant challenge, given our current economic climate.

The House Labor and Commerce Committee introduced similar legislation last year with a direct general fund appropriation as the funding source. The measures, HB 430 and 431 passed the House but failed to come before the Senate for a vote prior to adjournment.

The original versions filed this year would have authorized the sale of \$11 million dollars in general obligation bonds as the funding source. Testimony

by the Department of Revenue regarding the possible negative effects of this approach on the state's bond rating convinced the Labor and Commerce Committee to explore other funding sources. Other sources we considered included:

General Fund Appropriation

In view of the state of our economy, the Committee felt that a general fund appropriation in the amount needed to reasonably fund the program was not an appropriate or feasible funding source and that we should make a more definitive recommendation.

Alaska Industrial Development and Export Authority

The effect of taking the appropriation from AIDEA would be to render the agency inoperable and could likely place them in noncompliance with their debt service coverage requirements (see attached letter from AIDEA).

Alaska Housing Finance Corporation

We considered taking the appropriation from AHFC's unrestricted loan account, as per the enclosed proposed Labor and Commerce CS. We asked AHFC to respond to the proposed CS's with a statement about their perception of the effects of such action. Our Committee was sufficiently concerned about the arguments outlined in their response (see enclosed letter) that we looked elsewhere for a funding source, although we were not completely convinced that their concerns were insurmountable.

Railbelt Energy Fund

The Committee's decision, as reflected in the CS HB 160/161 (L&C), was to fund the program through an appropriation from the Railbelt Energy Fund with the condition that no less than ninety percent of the projects funded through the program must be located in Railbelt communities.

* * * *

The program envisioned under HB 160 is essential to promote economic recovery for Alaska's communities. However, there may be a better funding source for the appropriation bill, and we ask that the House Finance Committee consider all options for financing the program when reviewing our committee substitute for HB 161.

HOUSE LABOR AND COMMERCE COMMITTEE

ALASKA STATE LEGISLATURE

P.O. BOX Y, JUNEAU 99811

(907) 465-3892

HOUSE LABOR AND COMMERCE COMMITTEE LETTER OF INTENT

HB 160 - "Alaska Neighborhood Revitalization Initiative"

It is the intent of the House Labor and Commerce Committee in passing out HB 160, creating the Alaska Neighborhood Revitalization Initiative, that the House Finance Committee carefully consider the purposes of the act in relation to the fiscal note prepared by the Department of Commerce and Economic Development and by the House Labor and Commerce Committee.

Specifically, HB 160 creates a program for neighborhood revitalization and development with particular emphasis on creating private sector employment. Therefore the state should take extraordinary measures to assure that all work associated with the initiative described in HB 160 should be performed by private persons and non-profit corporations and that participation or involvement by state employees be kept at an absolute minimum.

The Neighborhood Reinvestment Corporation

A congressionally-chartered, public nonprofit corporation, Neighborhood Reinvestment was established in 1978 (P.L. 95-557) to continue the efforts of the Urban Reinvestment Task Force. Its mission includes the revitalization of declining lower income neighborhoods for the benefit of their current residents, and the provision of affordable housing to neighborhood residents.

The Corporation achieves these goals primarily through the development and support of local neighborhood-based partnerships. The most widely known of these is the Neighborhood Housing Services (NHS) program, a partnership of neighborhood residents, business leaders and local government officials.

These and other local partnership organizations form the NeighborWorks system—the nation's largest and most successful systematic approach to neighborhood revitalization. NeighborWorks members are at work in 239 neighborhoods in 137 cities across the country. An additional 52 formerly-declining neighborhoods have been returned to substantial self-reliance through the efforts of NeighborWorks members.

As the anchor for this national system of local partnerships, Neighborhood Reinvestment provides a range of training and technical assistance to help each local partnership establish neighborhood goals and develop the strategies needed to achieve those goals.

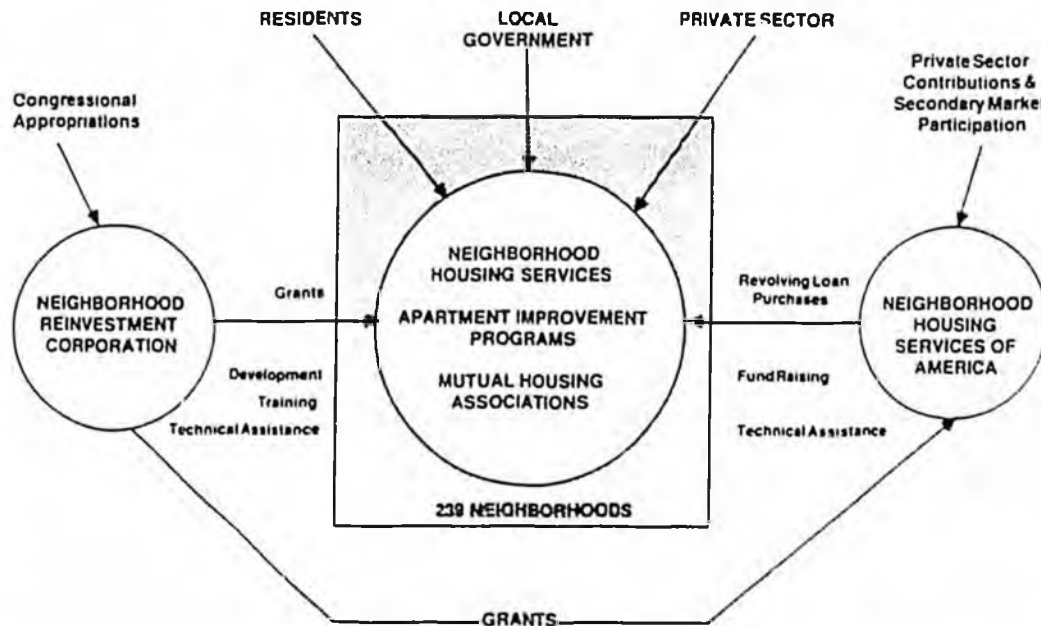
Neighborhood Reinvestment also makes small seed money grants to the local partnerships, which are matched many times over by contributions from local governments, businesses and foundations. In addition, the Corporation provides grants to Neighborhood Housing Services of America, the system's national secondary market.

The Corporation received a \$19 million federal appropriation in fiscal year 1987. Since 1974, a total expenditure of \$135 million in federal appropriations by the Corporation and its predecessor has produced an impact of more than \$4 billion in neighborhoods across the country.

The Corporation's board of directors is composed of a Governor of the Federal Reserve, the Comptroller of the Currency, the Secretary of Housing and Urban Development, the Chairman of the Federal Home Loan Bank Board, the Chairman of the Federal Deposit Insurance Corporation, and the Chairman of the National Credit Union Administration.

Although the Corporation is headquartered in Washington, D.C., the majority of its staff are based in nine districts across the country to better assist the local partnerships they serve.

The NeighborWorks System



STATE OF ALASKA
1989 LEGISLATIVE SESSION

BILL VERSION: CSHB 160 (L&C)
PUBLISH DATE: _____

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Commerce & Economic Dev.
Title: Neighborhood Revitalization BRI: Business Development
Initiative
Sponsor: House Labor and Commerce Components: _____
Requester: House Labor and Commerce

EXPENDITURES / REVENUES : (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES		82.6	82.6	82.6	82.6	82.6
TRAVEL		5.0	7.0	7.0	7.0	7.0
CONTRACTUAL		7.0	7.0	5.0	5.0	5.0
SUPPLIES		3.0	3.0	2.7	2.7	2.7
EQUIPMENT		6.0	0	0	0	0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		103.6	99.6	97.4	97.4	97.4

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

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

FUNDING: (Thousands of dollars)

GENERAL FUND		103.6	99.6	97.4	97.4	97.4
FEDERAL FUNDS						
OTHER						
TOTAL		103.6	103.6	97.4	97.4	97.4

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

See attached

Prepared by: Tom Lawson, Acting Director Phone: 465-2017
Division: Business Development Date: 2-21-89

Approved by Commissioner: Larry Merculieff Phone: 465-2500
Agency: Department of Commerce & Economic Development Date: 2/21/89

Distribution (by preparer):

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

FISCAL NOTE ANALYSIS

CSHB 160--ALASKA NEIGHBORHOOD REVITALIZATION INITIATIVE

Assumptions/Program Summary

CSHB 160 establishes a program which promotes neighborhood revitalization and development through local initiatives of the state's communities with the assistance of financial institutions and the state. The legislation creates a neighborhood revitalization and development fund to be administered by the Department of Commerce and Economic Development. Neighborhood housing services, community revitalization, and economic development projects are eligible. The program requires that any nonprofit organization applying for the grant funds from DCED must meet the criteria of the Neighborhood Reinvestment Corporation.

(The Neighborhood Reinvestment Corporation was established in 1978 by Congress as a public nonprofit corporation to assist communities in revitalizing declining neighborhoods for the benefit of current residents. That goal is achieved primarily through the development and support of Neighborhood Housing Services (NHS) programs, such as Anchorage Neighborhood Housing Services. In 1986 there were 239 NHS's in 137 cities.)

The bill also establishes the Alaska Main Street Program to provide grants to persons and organizations for economic revitalization and development projects in older central business districts and neighborhoods, using techniques developed by the National Trust for Historic Preservation.

The Neighborhood Revitalization and Development Fund is funded by the Railbelt Energy Fund. Administrative costs are funded through the general fund.

It is estimated that about 13 communities may be able to participate in the Neighborhood Revitalization and Development Program. Under the Main Street Program it is assumed that approximately twelve to fourteen communities will participate in program grants.

Personal Services. Staff for the Main Street and the Neighborhood Revitalization and Development Programs includes the following 2 permanent full time positions:

Program Coordinator-Development Specialist I (Range 18)	\$51.0
Accounting Clerk II (Range 09)	31.6

The Statewide coordinator will initiate and coordinate both programs. Under the supervision of the program coordinator, the accounting clerk will provide administrative support for the grant programs. Staff will administer grants for both programs. Grants for the community based Main Street programs will include provisions for technical assistance and training to accomplish community and economic revitalization.

Travel. Costs include travel to communities participating in the programs.

Contractual Services. Funds (\$7.0) are needed for office related services, including advertising, phone, postage, copying, printing, etc."

Supplies. Funds will be used to purchase office supplies and training materials. Costs will decrease in future years.

Equipment. Costs will only be for the first year and will include purchase of a computer/word processor terminal and miscellaneous equipment.

0949E

STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION: HB 160
PUBLISH DATE: _____

FISCAL NOTE

REQUEST:

Revision Date: 2/14/89
Title: HB 160 - Neighborhood Revitalization Initiative
Sponsor: House Labor and Commerce
Requestor: House Labor and Commerce
Agency Affected: Commerce and Economic Development
BRU: _____
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY91	FY92	FY 93	FY 94
PERSONAL SERVICES			34.8	79.6	79.6	79.6
TRAVEL			5.0	10.0	10.0	10.0
CONTRACTUAL			0	0	0	0
SUPPLIES			3.0	3.0	2.7	2.7
EQUIPMENT			6.0	0	0	0
LAND & STRUCTURES						
GRANTS, CLAIMS			0	0	0	0
MISCELLANEOUS						
TOTAL OPERATING			48.8	92.6	92.3	92.3
CAPITAL						
REVENUE			0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND			48.8	92.6	92.3	92.3
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME			2	2	2	2
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: House Labor and Commerce Committee Phone: 465-495
Division: House of Representatives Date: 2/14/89

Approved by Commissioner: Rep. Dave Donley, Chair Date: 2/14/89
Agency: House Labor and Commerce

- Distribution (by preparer):
- Legislative Finance
 - Legislative Sponsor
 - Requestor
 - Office of Management and Budget
 - Impacted Agency(ies)



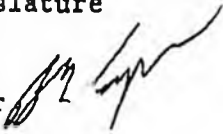
HB161

ALASKA INDUSTRIAL DEVELOPMENT
AND EXPORT AUTHORITY

1577 "C" STREET • SUITE 304 • ANCHORAGE, ALASKA 99501-5177 • (907) 274-1651

MEMORANDUM

TO: The Honorable Members
House Labor & Commerce Committee
Alaska State Legislature

FROM: Bertram L. Wagon 
Executive Director

DATE: February 21, 1989

SUBJECT: Authority Assets

The question has been asked of the Authority of how much money they have and how much can be removed by the legislature. Additionally, people have wanted to know what the consequences of such a removal would have on the Authority.

In order to answer these questions, it is necessary to look at the liabilities the Authority has outstanding, primarily bonds payable, and the covenants under which these bonds were sold. Utilizing June 30, 1988 audited financials, bonds payable totaled \$177,275,000. These are outstanding obligations which are general obligations of the Authority secured by all of our assets and future income. As set forth in a typical official statement offering the bonds for sale, language appears as follows:

"The Bonds constitute general obligations of the Authority, and the full faith and credit of the Authority is pledged to the payment of the principal of and interest on the Bonds. The Bonds are further secured by the Taxable Umbrella Bond Capital Reserve Fund and the moneys, properties, assets and revenues described herein. The Authority does not have the power to levy taxes for any purpose. The

Bonds do not constitute an indebtedness or liability of the State of Alaska and do not directly, indirectly or contingently obligate the State of Alaska to apply money from, or levy or pledge, any form of taxation whatever to the payment of the Bonds."

It is fairly obvious from the above that great pains were taken to advise all investors that the State of Alaska had no obligation whatsoever for payment of this debt. In order to make such a promise and still entice investors to purchase the debt of the corporation, the Authority had to pledge all of its assets and future stream of income to payment of the bonds, in effect, making them general obligations of the Authority.

Additionally, two particular statutes have bearing when considering the assets of the Authority. AS 44.88.130 sets forth the pledge the state makes with holders of the Authority's bonds:

"Sec. 44.88.130 Pledge of the state. The state pledges to and agrees with the holders of the bonds issued under this chapter and with the federal agency that lends or contributes funds in respect to a project or development project financed under AS 44.88.155 - 44.88.159 or 44.88.172 - 44.88.177, or in respect to an exporting transaction financed, guaranteed, or insured under AS 44.88.300 - 44.88.390 that the state will not limit or alter the rights and powers vested in the authority by this chapter to fulfill the terms of a contract made by the authority with the holders or federal agency and that the state will not in any way impair the rights and remedies of the holders until the bonds, together with the interest on them with interest on unpaid installments of interest, and all costs and expenses in connection with an action or proceeding by or on behalf of the holders are fully met and discharged. The authority is authorized to include this pledge and agreement of the state, insofar as it refers to holders of bonds of the authority, in a contract with the holders and, insofar as it relates to a federal agency, in a contract with the federal agency. (§ 1 ch 64 SLA 1967; am § 19 ch 42 SLA 1987)"

Should the legislature take assets out of the Authority, an aggrieved bond hold may argue that AS 44.88.130 has been violated. Whether such an agreement would be successful is of course, subject to the courts.

Secondly, AS 44.88.190(b) should be looked at. While quite possibly it does not mean what it appears to say an aggrieved party could use such language to protest a taking which would diminish the security of a bond holder. AS 44.88.190(b) states:

"(b) The funds, income or receipts of the authority shall not be considered or constitute money of the state, nor shall real property in which the authority has an interest be considered land owned in fee by the state or to which the state may become entitled or in any way lands belonging to the state, or state lands referred to in Art. VIII of the Alaska Constitution."

The caution that needs to be considered is if the state takes any action that gives a bond holder a course of action, the possibility exists that, that action could be set aside or by such action the state itself could be assuming liability for the debt.

The Authority has two negative covenants that restrict actions that the Authority may take if the parameters of these covenants are exceeded.

The first is an unrestricted surplus test. The covenant requires that the Authority's unrestricted surplus be at least equal to its general obligation indebtedness and in no event less than \$100 million. Currently the Authority has \$177 million in bonds outstanding which require the maintenance of at least an unrestricted surplus of that amount. At June 30, 1988, unrestricted surplus was \$319.6 million. As can be seen, the Authority exceeds this covenant by a wide margin.

The second major negative covenant is referred to as the coverage test. This test requires that in each year that the Authority has general obligation indebtedness outstanding, net income will be at least 150% of the general obligation annual debt service requirement. In essence, this covenant mandates that the Authority produce income at least equal to 150% of the amount required to pay principal and interest on our bonds. On June 30th coverage was at 181% and at December 31, 1988, had fallen to 162%. The reason of course being the poor performance of the real estate loan portfolio.

The asset base the Authority relies upon to make repayment to holders of its debt are primarily from loans and investments. Currently the loan portfolio is running 28% delinquent and additionally, \$49 million in loans have been modified to less than their contract rate of payment. For the year ended June 30, 1988, the Authority suffered its first loss in history of \$7.7 million. The investment income is carrying the debt service requirement, not the loans. If dollars are taken the investments are decreased and coverage will decrease accordingly.

The policy argument concerning withdrawing assets from the Authority revolves around the state's policy maker's expectations of the Authority. If a consensus exists that the Authority has outlived its usefulness, than appropriate decisions can be made to wind up its affairs. If however, the expectation is that the Authority can contribute to the economy of the state, it is imperative not to strip out its assets now because how can one expect investors to continue to purchase Authority debt when at the most difficult time in its history, the legislature is removing the finest quality assets.



520 East 34th St.
Anchorage, AK 99503
(907) 561-1900

P.O. Box 101020
Anchorage, AK 99510

February 16, 1989

Members, House Labor & Commerce Committee
P.O. Box V
Juneau, AK 99811

RE: House Bills 160, 161

Dear Members:

Your committee staff has requested an analysis of the potential impact to the Alaska Housing Finance Corporation should the Legislature appropriate \$11 million from Corporation reserves to fund a neighborhood revitalization and development fund. Although certain legal arguments have been raised in the past regarding the Legislature's ability to take funds out of the Corporation, including whether such a move would be subject to a bondholders' lawsuit, for the purposes of this response, we assume that there are no legal problems.

The short answer to the question is that such a move could effectively shut down AHFC as a lender which in turn could devastate the conventional housing market. Further details are outlined below.

If the Legislature were to take funds from AHFC, it would effectively eliminate AHFC's ability to purchase loans. To understand why this is the case, it is necessary to have some background on how AHFC functions. First, a prospective Alaskan homebuyer selects a home to buy and then applies for a loan from a lender (bank). If the potential borrower qualifies, the lender makes the loan and then sells the loan to AHFC. To buy this loan, and many others made over the course of the year, AHFC must go to the bond market to raise funds.

The requirement of having to go to the bond market, or in essence borrow money, is the crucial aspect. AHFC is not a direct general fund lender. As a result, we must be very sensitive to the concerns of the financial entities (insurers, banks, investors) upon whom we rely to raise funds. It is important to remember that nothing compels these parties to do business with us, particularly with the current state of the economy.

All of these entities, which include some of the world's top-rated banks, do business with AHFC based upon the premise of the Corporation's financial condition. Our high foreclosure and delinquency rates lately have been offset by almost exclusively our good financial position. You may recall that in a recent review of bond issues by bond rating agencies, AHFC's ratings were affirmed due to the sound financial management of the Corporation.

In recent business dealings with these financial institutions, many have expressed general concerns having to do with: 1) the current state of the Alaskan economy; and 2) the specific financial condition of AHFC. They have specifically informed us that if the Legislature appropriates funds from AHFC, they would be very hesitant to continue doing business with the Corporation. If these entities refuse to do business with AHFC, or restrict their business, AHFC may no longer be able to purchase conventional loans from Alaskan lenders since the Corporation will not be able to raise new funds for those purchases.

The concern goes even deeper. Almost all those doing business with AHFC have raised concerns about potential legislative actions. In all cases, the message from them was clear--if funds are removed from AHFC, they will not do business with AHFC since they believe their security would be jeopardized. Even hints of "legislative raids" in newspaper stories have caused the Corporation to receive a number of phone calls from investors wanting to know "what's going on" and then they reaffirm their concerns.

Finally, mention should be made of past legislative wishes with respect to the Corporation's reserves. Twice in the Corporation's history the Corporation has helped carry out some of the legislature's wishes. These include purchase of Department of Community and Regional Affairs, Housing Assistance Division loans and, last year, creation of a Stabilization Fund. In both instances there was a reasonable expectation that the Corporation's actions were significantly tied to housing and the benefit to the Corporation was equal to the actions taken.

Specifically with regard to the proposed \$11 million appropriation, AHFC believes that such an appropriation is too far from the scope of AHFC's mission of financing housing. It would be extremely difficult for the Corporation to represent to the financial community that it would receive \$11 million in housing benefits.

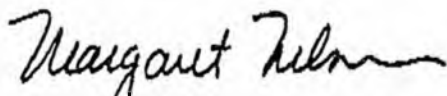
In addition, it should be noted that if AHFC funds are depleted, AHFC may not be able to continue efforts to stabilize the housing market such as the recently completed Home Owners' Assistance Program and the proposed Condominium Stabilization Program.

Since 1984, AHFC has not received any funds from the general fund and the Corporation hopes to continue operations in this manner. However, if funds are removed, it is not inconceivable that AHFC may end up itself, asking for appropriations in the future.

Another issue involving appropriation of funds from AHFC deals with the separate legal entity concept and separation of legal responsibility for debt repayment. As you are aware, debt issued by the State of Alaska is subject to vote approval. AHFC is established as a public instrumentality separate and distinct from the State of Alaska. The appropriation of funds by the State of Alaska opens the door for litigation from AHFC bond holders who may claim that if assets have been re-appropriated the separate legal existence does not in fact exist and the State does have responsibility for the approximately \$4 billion in AHFC debt outstanding.

If I can provide further assistance, please feel free to contact me.

Sincerely,



Margaret Nelson
Special Assistant/Public Information Officer

ec

Original sponsor: Labor and Commerce
Committee

1 IN THE HOUSE

BY THE LABOR AND
COMMERCE COMMITTEE

2 CS FOR HOUSE BILL NO. 160 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act establishing the Alaska neighborhood re-
7 vitalization initiative."

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

9 * Section 1. PURPOSE. The purpose of AS 44.33.436 - 44.33.439, added
10 by sec. 2 of this Act, is to promote neighborhood revitalization and devel-
11 opment through local initiatives of the state's communities with the assis-
12 tance of financial institutions and the state.

13 * Sec. 2. AS 44.33 is amended by adding new sections to read:

14 ARTICLE 6B. NEIGHBORHOOD REVITALIZATION AND DEVELOPMENT PROGRAM.

15 Sec. 44.33.436. NEIGHBORHOOD REVITALIZATION AND DEVELOPMENT
16 FUND. There is created the neighborhood revitalization and develop-
17 ment fund, to be administered by the commissioner. The commissioner
18 shall deposit to the credit of the fund

19 (1) grants and contributions to the fund; and

20 (2) appropriations to the fund.

21 Sec. 44.33.437. POWERS AND DUTIES. (a) The commissioner may
22 use money in the fund to make grants to

23 (1) nonprofit development corporations that qualify for
24 assistance from the Neighborhood Reinvestment Corporation organized
25 under 42 U.S.C. 8101-8107 (Neighborhood Reinvestment Corporation Act),
26 for neighborhood housing services, neighborhood revitalization, and
27 economic development projects in a community; and

28 (2) persons and organizations that qualify for assistance
29 under the Alaska Main Street Program established under this section.

1 (b) The department shall establish a community-based Alaska Main
2 Street Program to provide technical assistance and training to
3 accomplish community and economic revitalization and development of
4 older business districts and neighborhoods. The program must use
5 techniques developed by the National Trust for Historic Preservation
6 that are designed to stimulate business reinvestment, restore building
7 facades, retain existing small businesses, strengthen the local tax
8 base, create employment opportunities, promote new commercial
9 opportunities in the business district, and help to stimulate a
10 renewed sense of community pride.

11 (c) The commissioner may adopt regulations necessary to carry
12 out the department's functions under AS 44.33.436 - 44.33.439.

13 (d) The commissioner shall provide for an annual audit of the
14 grants to nonprofit development corporations made under this section.

15 Sec. 44.33.438. LIMITATION ON EXPENDITURES. Money appropriated
16 to the neighborhood revitalization and development fund from the
17 Railbelt energy fund may not be expended by the commissioner unless at
18 least 90 percent of the amounts expended from the Railbelt energy fund
19 appropriation are made for projects in

20 (1) communities located within 25 miles of the right-of-way
21 of the Alaska Railroad; or

22 (2) communities within a borough through which the right-
23 of-way of the Alaska Railroad passes.

24 Sec. 44.33.439. DEFINITIONS. In AS 44.33.436 - 44.33.439

25 (1) "commissioner" means the commissioner of commerce and
26 economic development;

27 (2) "community" means

28 (A) a municipality; and

29 (B) a place that is not incorporated as a city and in

1 which 100 or more persons reside as a social unit;

2 (3) "department" means the Department of Commerce and
3 Economic Development;

4 (4) "fund" means the neighborhood revitalization and devel-
5 opment fund established in AS 44.33.436;

6 (5) "Railbelt energy fund" means the fund established by
7 AS 37.05.520.

8 * Sec. 3. AS 44.33.520 is amended by adding a new paragraph to read:

9 (31) administer the neighborhood revitalization and develop-
10 ment program under AS 44.33.436 - 44.33.439.
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B

6-0428H
Chenoweth
2/15/89

Original sponsor: Labor and Commerce
Committee

BY THE LABOR AND
COMMERCE COMMITTEE

1 IN THE HOUSE

2 CS FOR HOUSE BILL NO. 160 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act establishing the Alaska neighborhood re-
7 vitalization initiative; and providing for an effective
8 date."

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

10 * Section 1. PURPOSE. The purpose of AS 44.33.436 - 44.33.438, added
11 by sec. 2 of this Act, is to promote neighborhood revitalization and devel-
12 opment through local initiatives of the state's communities with the assis-
13 tance of financial institutions and the state.

14 * Sec. 2. AS 44.33 is amended by adding new sections to read:

15 ARTICLE 6B. NEIGHBORHOOD REVITALIZATION AND DEVELOPMENT PROGRAM.

16 Sec. 44.33.436. NEIGHBORHOOD REVITALIZATION AND DEVELOPMENT
17 FUND. There is created the neighborhood revitalization and develop-
18 ment fund, to be administered by the commissioner. The commissioner
19 shall deposit to the credit of the fund

20 (1) grants and contributions to the fund; and

21 (2) appropriations to the fund.

22 Sec. 44.33.437. POWERS AND DUTIES. (a) The commissioner may
23 use money in the fund to make grants to

24 (1) nonprofit development corporations that qualify for
25 assistance from the Neighborhood Reinvestment Corporation organized
26 under 42 U.S.C. 8101-8107 (Neighborhood Reinvestment Corporation Act),
27 for neighborhood housing services, neighborhood revitalization, and
28 economic development projects in a community; and

29 (2) persons and organizations that qualify for assistance

1 under the Alaska Main Street Program established under this section.

2 (b) The department shall establish a community-based Alaska Main
3 Street Program to provide technical assistance and training for munic-
4 ipal governments, business organizations, merchants, and property
5 owners to accomplish community and economic revitalization and de-
6 velopment of older central business districts and neighborhoods. The
7 program must use techniques developed by the National Trust for His-
8 toric Preservation that are designed to stimulate business reinvest-
9 ment, restore building facades, retain existing small businesses,
10 strengthen the local tax base, create employment opportunities, pro-
11 mote new commercial opportunities in the central business district,
12 and help to stimulate a renewed sense of community pride.

13 (c) The commissioner may adopt regulations necessary to carry
14 out the department's functions under AS 44.33.436 - 44.33.438.

15 (d) The commissioner shall provide for an annual audit of the
16 grants to nonprofit development corporations made under this section.

17 Sec. 44.33.438. DEFINITIONS. In AS 44.33.436 - 44.33.438

18 (1) "commissioner" means the commissioner of commerce and
19 economic development;

20 (2) "community" means

21 (A) a municipality; and

22 (B) a place that is not incorporated as a city and in
23 which 100 or more persons reside as a social unit.

24 (3) "department" means the Department of Commerce and
25 Economic Development;

26 (4) "fund" means the neighborhood revitalization and devel-
27 opment fund established in AS 44.33.436.

28 * Sec. 3. AS 44.33.020 is amended by adding a new paragraph to read:

29 (31) administer the neighborhood revitalization and

1 development program under AS 44.33.436 - 44.33.438.

2 * Sec. 4. This Act takes effect July 1, 1989.

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HB

161

HOUSE COMMITTEE REPORT

(7)

Date Referred: February 8, 1989

FURTHER REFERRALS: FINANCE

Date of Committee Action: 2/6/89

The LABOR & COMMERCE Committee considered:

HB 161

HOUSE BILL NO. 161 [APPROP: REVITALIZATI /DEVELOPMENT FUND]
"An Act providing for the issuance of general obligation bonds in the amount of \$11,000,000 for the purpose of paying the cost of an appropriation to the neighborhood revitalization and development fund; and providing for an effective date."

RECOMMENDS:

- replacing with CS HB 161 (L+C) the same title
- the attached amendment(s) a new title
- do pass
- do not pass
- no reccmmendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- fiscal impact
- zero fiscal note
- zero with analysis

APPROVES PREVIOUS:

- fiscal note(s) published: _____
- zero fiscal notes(s) published: _____

SIGNING DO PASS:

David Dowley

Mark [unclear]

SIGNING OTHER THAN DO PASS:
(Do Not Pass, No Recommendation, Amend)

Mark Baynes no rec

John [unclear] ONP

Yvonne [unclear] ONP

Ch. [unclear] (no rec.)

David Dowley

Chairman's signature

HOUSE LABOR AND COMMERCE COMMITTEE

ALASKA STATE LEGISLATURE

P.O. BOX Y, JUNEAU 99811

(907) 465-3892

HOUSE LABOR AND COMMERCE COMMITTEE LETTER OF INTENT

HB 161 - "General Obligation Bonding for Neighborhood Revitalization and Development"

It is the intent of the House Labor and Commerce Committee in passing out HB 161, relating to the issuance of general obligation bonds for neighborhood revitalization and development, that the House Finance Committee carefully review the concerns expressed by the Department of Revenue regarding possible consequences to the State's bond rating. It is further our intent that the House Finance Committee consider alternative sources of funding for neighborhood revitalization and development, including local seed grants for administrative costs.

HOUSE LABOR AND COMMERCE COMMITTEE

ALASKA STATE LEGISLATURE

P.O. BOX Y, JUNEAU 99811

(907) 465-3892

February 16, 1989

M E M O R A N D U M

To: Members, House Labor and Commerce Committee

From: Representative Dave Donley, Chair
House Labor and Commerce Committee

Re: Proposed Committee CS for HB 160/161

You have before you two versions of proposed committee substitutes for HB 160/161, relating to the Alaska Neighborhood Revitalization program.

The first, labeled "Set A", consists of a proposed CS for HB 161 that takes the \$11 million dollars to fund the revitalization program out of the Railbelt Energy Fund. The attached proposed CS for HB 160 reflects the new funding source and contains a condition that no less than 50 percent of the projects funded under the program must be located within railbelt communities.

The second, labeled "Set B", consists of a proposed CS for HB 161 that takes the appropriation from the unrestricted balance of the AHFC revolving fund. The attached CS for HB 160 deletes language in the original bill dealing with the restrictions on the use of funds generated from GO bonds. Attached to the draft CS's is a letter from AHFC describing what they anticipate will be the effect of this action.

The two sets of draft CS's were prepared as a result of yesterday's informal work session to discuss alternative funding sources for the revitalization program. Alternative sources discussed included bonding, general fund appropriation, AIDEA, AHFC, and the Railbelt Energy Fund.

As a result the Committee has three versions to consider today: the original bills as filed (GO bonds as a funding source), Set A (Railbelt Energy Fund) and Set B (AHFC). The Senate Labor and Commerce Committee passed out identical measures to the original HB 160/161 yesterday. They are now in the Senate Finance Committee.

dd/gb

HOUSE LABOR AND COMMERCE COMMITTEE

ALASKA STATE LEGISLATURE

P.O. BOX Y, JUNEAU 99811

(907) 465-3892

February 21, 1989

M E M O R A N D U M

To: Representative Ron Larson, Co-chair
Representative Lyman Hoffman, Co-chair
House Finance Committee

From: Representative Dave Donley, Chair
House Labor and Commerce Committee

Re: Request for hearing - HB 160 and HB 161

I am writing to request that you schedule a hearing on HB 160 and HB 161, the enabling and appropriation bills for the Alaska Neighborhood Revitalization Program, before the House Finance Committee at your earliest convenience.

The Alaska Neighborhood Revitalization Initiative (HB 160) and the companion funding bill (HB 161) creates a statewide program modeled after Anchorage Neighborhood Housing Services to leverage state money with secondary financial markets, both public and private, to redevelop commercial business zones. This program will provide as much as a four to one match for every dollar the state puts in.

The purpose of the Alaska Neighborhood Revitalization Initiative is to provide an opportunity to develop a public/private partnership in communities to:

- Create new short term and long term jobs.
- Create an incentive for attracting new businesses to an area.
- Help make existing businesses more viable, attractive, and stable.
- Leverage business loans made with conventional financing.
- Create a business climate that better serves the Community

There is overwhelming support for the enabling legislation creating the Alaska Neighborhood Revitalization Initiative from the administration, the Legislature, the Alaska Municipal League, and small businesses throughout the state. HB 160 provides an unprecedented opportunity for economic development that will benefit Alaskans everywhere. However, identifying a secure and appropriate funding source for the seed money needed to initiate the program presents a significant challenge, given our current economic climate.

The House Labor and Commerce Committee introduced similar legislation last year with a direct general fund appropriation as the funding source. The measures, HB 430 and 431 passed the House but failed to come before the Senate for a vote prior to adjournment.

The original versions filed this year would have authorized the sale of \$11 million dollars in general obligation bonds as the funding source. Testimony

by the Department of Revenue regarding the possible negative effects of this approach on the state's bond rating convinced the Labor and Commerce Committee to explore other funding sources. Other sources we considered included:

General Fund Appropriation

In view of the state of our economy, the Committee felt that a general fund appropriation in the amount needed to reasonably fund the program was not an appropriate or feasible funding source and that we should make a more definitive recommendation.

Alaska Industrial Development and Export Authority

The effect of taking the appropriation from AIDEA would be to render the agency inoperable and could likely place them in noncompliance with their debt service coverage requirements (see attached letter from AIDEA).

Alaska Housing Finance Corporation

We considered taking the appropriation from AHFC's unrestricted loan account, as per the enclosed proposed Labor and Commerce CS. We asked AHFC to respond to the proposed CS's with a statement about their perception of the effects of such action. Our Committee was sufficiently concerned about the arguments outlined in their response (see enclosed letter) that we looked elsewhere for a funding source, although we were not completely convinced that their concerns were insurmountable.

Railbelt Energy Fund

The Committee's decision, as reflected in the CS HB 160/161 (L&C), was to fund the program through an appropriation from the Railbelt Energy Fund with the condition that no less than ninety percent of the projects funded through the program must be located in Railbelt communities.

* * * *

The program envisioned under HB 160 is essential to promote economic recovery for Alaska's communities. However, there may be a better funding source for the appropriation bill, and we ask that the House Finance Committee consider all options for financing the program when reviewing our committee substitute for HB 161.

Moody's **Municipal** Credit Report

Alaska Housing Finance Corporation

August 15, 1988

Update

Housing

Moody's rating: Aa

Housing Mortgage Bonds

Moody's rating: A1 (revised from A)

Insured Mortgage Bonds

Moody's rating: Aa

State Assisted Mortgage Bonds, Series H

Moody's rating: Aa

State Assisted Mortgage Bonds, Series I

Moody's rating: Aa

State Assisted Mortgage Bonds, Series J

Moody's rating: Aa

State Assisted Mortgage Bonds, Series K

Moody's rating: Aa

State Assisted Mortgage Bonds, Series L

Moody's rating: Aa

State Assisted Mortgage Bonds, Series M

Moody's rating: Aa

State Assisted Mortgage Bonds, Series N

Moody's rating: Aa

Home Mortgage Bonds, 1981 First Series

Moody's rating: Aa

Home Mortgage Bonds, 1981 Second Series

Moody's rating: Aa

Home Mortgage Bonds, 1982 First Series

Moody's rating: Aa

Home Mortgage Bonds, 1982 Second Series

Moody's rating: Aa

Home Mortgage Bonds, 1983 First Series

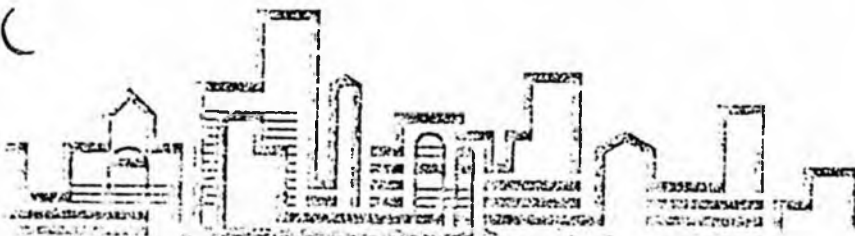
Moody's rating: Aa

Home Mortgage Bonds, 1983 Second Series

general overview:

This report updates 15 single-family housing bond ratings assigned to outstanding debt of the corporation issued from 1972-83. The Housing Mortgage, Insured Mortgage, State Assisted Mortgage, and Home Mortgage Bonds reviewed here represent all the rated debt of the corporation that is not guaran-

teed by the State of Alaska or collateralized by GNMA/FNMA/FHLMC mortgage-backed securities. The outstanding principal amount of debt reviewed is approximately \$1.6 billion or 37% of the corporation's total debt. Specific credit factors



Alaska Housing Finance Corporation

related to each rating are discussed later in this report.

The corporation is an established state housing agency and represents the major source of mortgage funds within the state. Currently the corporation has approximately \$4.4 billion principal amount of bonds outstanding (including approximately \$790 million of state-guaranteed bonds). All of the corporation's outstanding bonds are general obligations, although most of its outstanding bonds were issued under separate indentures.

The corporation administers a variety of housing programs including tax-exempt single family, taxable single family, veterans' single-family, several refinance programs, a mobile home program and, most recently, a home ownership assistance program. Given its prominent position, the corporation can significantly influence the state's housing and mortgage markets.

Alaska has experienced a significant economic downturn over the last two years, due primarily to the sharp drop in oil prices in early 1986. State spending of oil-generated revenue was the major force behind the state's rapid economic growth in the 1970s and early 1980s. The state estimates that every \$1.00 change in the price of oil affects state revenues by roughly \$150 million. During 1987, employment in the oil & gas and construction industries, and in state and local government, continued to contract. Although these losses were stemmed somewhat by growth in such traditional industries as fishing, timber, and metal mining and by increased federal government employment, the state's economy remains highly dependent on the oil and gas industry. The current economic situation is worsened by a severe oversupply of housing brought on by overbuilding (particularly of condominiums) during 1982-84. Together these developments have produced increased unemployment, a dramatic drop in construction activity, and a significant drop in housing values (estimated housing value declines range from 20%-40%). In fact, in many cases housing values have declined below the outstanding principal amount of the mortgage loans securing the related properties.

The corporation has incurred mounting loan delinquencies and a growing real estate owned problem as the current economic slump continues (in June

1986 the corporation held \$57 million in real estate owned and by March 1988 the corporation held \$238 million in REO). In 1987, the corporation foreclosed on approximately 2,800 mortgage loans with an aggregate outstanding principal balance of \$252 million; during the same year the corporation disposed of approximately 1,300 properties acquired through foreclosure (representing \$126 million in unpaid principal) through sale or conveyance to third-party guarantors (primarily WMAC or FNMA). The corporation reports that approximately 15% of the 43,336 loans (excluding mobile home loans) held in its total portfolio were delinquent and/or in foreclosure as of December 31, 1987. In general, loans originated during the early 1980s (under the State-Assisted and Home Mortgage programs) are performing worse than those originated in the 1970s (under the Housing Mortgage and Insured Mortgage programs). Most of the loans made under the State Assisted and Home Mortgage programs are growing equity mortgages, structured with annual 5% increases in the monthly payments during years four through nine of the mortgage terms; this feature has contributed to deteriorated portfolio performance. The corporation reports that roughly 25% of the mortgage loans securing the State Assisted and Home Mortgage bond issues are delinquent and/or in foreclosure.

In response to this portfolio deterioration, the corporation has established a special credit division to manage delinquent loans and foreclosed properties. Furthermore, the corporation is currently taking steps to address the oversupply of condominiums in the state by developing proposals to stabilize that segment of the housing market through coordinated efforts of lenders, insurers, and borrowers.

The corporation has also initiated its Homeowners Assistance Program which allows borrowers who are experiencing financial hardship to refinance mortgage loans at lower rates of interest and to receive temporary assistance payments. To the extent borrowers participate in this program, significant prepayments and early bond calls are likely to arise with respect to the corporation's outstanding bonds, including those reviewed in this report; such prepayments should have a positive effect on the credit strength of the overcollateralized State

Alaska Housing Finance Corporation

Assisted and Home Mortgage Bonds. The corporation hopes this program will stem the tide of foreclosures until the state's economy rebounds. Also in response to the economic downturn, the corporation has established more restrictive mortgage underwriting standards and has relaxed regulations to allow borrowers to rent their homes.

Despite the downturn in the economy and the dramatic increase in delinquent and foreclosed mortgage loans, the corporation remains cushioned from financial loss on defaulted loans by provision for loan loss protection on the greater part of its portfolio. Loans made prior to 1981 are protected by significant appreciation of the underlying properties and by the seasoned nature of mortgages (under the Housing Mortgage Bonds and Insured Mortgage Bonds). Loans originated from 1981 through early 1984 are afforded strong protection by sizable and largely untapped WMAC pool insurance policies with advance claim provisions; the pool insurance policies originally amounted to 15%-20% of each original pool of loans but now represent 20%-35% of each remaining pool of loans as the loans have amortized or pre-paid (under the State Assisted Mortgage Bonds and the Home Mortgage Bonds under review here, as well as the State-Guaranteed Bonds). Finally, loans originated subsequent to mid-1984 were collateralized by FNMA, FHLMC, and GNMA mortgage backed securities, and loan loss risk for the majority of these loans is not borne by the corporation.

In our evaluation of the relative strength of the fifteen specific bond indentures reviewed here, we applied a stress test to measure each indenture's ability to withstand continued high default rates and losses of 20%-30% of the defaulted mortgage amounts (after accounting for primary mortgage insurance recoveries). In our stress test we discounted the stated program fund balances to account for: (1) the inclusion of REOs in program assets and (2) required overcollateralizations (in the State Assisted and Home Mortgage Programs) necessary to generate sufficient cash flow given that mortgage rates are lower than the bond rates in these subsidized programs. All 15 programs remained financially healthy after a scenario in which all current REO's are disposed at a 20%-30% loss and all loans 60 days or more delinquent

are assumed to default and the related properties are disposed with the same 20%-30% loss. After such a scenario, the State Assisted and Home Mortgage program had remaining pool coverage, on average, equal to 30% of remaining loans outstanding. The Housing Mortgage and Insured Mortgage programs, which do not have pool policies, weathered this test comfortably because of their sizable fund balances and their lower delinquency and REO levels.

All the programs demonstrated sufficient pool insurance and/or fund balance available to withstand far more severe scenarios where one half to three-fourths of the loans in the portfolios default and sustain losses closer to 50% of the defaulted mortgage amounts. Given the ability of the programs to withstand such stressful scenarios, we are comfortable confirming the outstanding ratings on these bonds despite the poor performance of the loan portfolios and the continuing statewide economic recession.

Furthermore, bondholders are afforded added security by the financial strength backing the corporation's general obligation pledge. All of the corporation's bonds and notes are general obligations. As of March 31, 1988, the corporation reports a combined fund balance of \$1.5 billion (or approximately 36% of total bonds outstanding), of which \$479 million is unrestricted by any of the corporation's bond indentures. These significant financial resources have allowed the corporation to respond flexibly to its loan portfolio problems, manage its REO inventory, and absorb uninsured foreclosure losses. In fact, despite all the corporation's difficulties during the past two years of statewide economic recession, the corporation still managed to earn a positive net income of \$21 million in fiscal year 1987 and \$27 million for the nine months ended March 31, 1988.

Although the corporation's balance sheet remains quite healthy, its strength has been diluted somewhat by a variety of factors. The corporation is exposed to potential losses on its sizable mobile home loan portfolio and through its agreements to repurchase non-performing mortgage loans that were exchanged for approximately \$500 million of FNMA/GNMA mortgage-backed securities (the

Alaska Housing Finance Corporation

corporation has stepped up its loan loss set-aside provisions in response to these exposures). Additionally, the corporation has been utilizing unrestricted funds in its operating and revolving funds to front REO expenses until insurance claims have been received. Finally, the corporation has been and expects to continue allocating sizable amounts from its revolving fund to overcollateralize and fund reserves for its Homeowners Assistance Program bond issues.

An additional factor concerning the corporation's general obligation pledge relates to the potential vulnerability of the corporation's fund balances to legislative action by the State of Alaska. Recently, the governor vetoed legislation that was potentially damaging to the corporation's financial health. The

vetoed legislation could have required the corporation to utilize unrestricted funds to purchase from the state \$150 million of uninsured rural mortgage loans. The purchase price would have been required at face value, although the actual value of the loans is estimated at \$80 million. Furthermore, the vetoed legislation limited the corporation's use of the cash flow from these loans to the making of new uninsured rural mortgage loans.

We derive some comfort from the governor's veto of this legislation; however, the potential for future attempts by the legislature to tap the corporation's financial assets remains a concern. Despite these factors, the corporation's general obligation pledge continues to be backed by considerable financial strength.

financial factors:

Financial operations have weakened recently due to a variety of factors; however, the corporation's overall financial position remains strong, with a combined fund balance of approximately \$1.5 billion. The corporation's net income has been strained by an increase in delinquencies and foreclosures in its mortgage loan portfolio, a step-up in provisions for loan losses, insurance fund losses, and a growing real estate owned inventory. Additionally, revenues have been affected by a decrease in commitment fee income due to reduced lending activity and a reduction in reinvestment earnings during a period of declining interest rates.

Furthermore, net income was reduced by acceleration of discounts and costs of issuance associated with bonds called for early redemption and by

negative arbitrage resulting from a lag between receipt of mortgage loan prepayments and the associated redemptions. Despite all these financial strains the corporation earned \$21 million in net income representing 3.77% of gross income during fiscal year 1987, and has already earned over \$27 million or 7.13% of gross income for the nine months ended March 31, 1988.

The state has made sizable contributions to the corporation in the past, which is reflected in the corporation's overall financial position. However, by 1984 the corporation became self-sustaining and ceased to request financial support from the state; the corporation does not contemplate future requests for legislative appropriations.

Key Financial Data (\$ 000)

	6/30/85	6/30/86	6/30/87	3/31/88
Undesignated fund balance ^[1]	\$ 496,784	\$ 433,145	\$ 541,117	\$ 479,571
Combined fund balance ^[1]	1,458,373	1,500,208	1,521,136	1,548,294
Net revenues as % of gross revenue	13.87	7.11	3.77	7.13
Undesignated fund balance as % of bonds outstanding	13.02	9.32	13.58	11.09
Combined fund balance as % of bonds outstanding ^[1]	38.10	32.25	38.24	35.80

^[1]Consists of the fund balance of the corporation's operating fund and the general account of the revolving fund, the assets of these funds are not specifically pledged to any particular bond indenture but rather secure all bonds equally.

^[1]Includes real estate owned (listed at net estimated realizable value) which on June 30, 1985 amounted to \$14,411,000; on June 30, 1986 amounted to \$57,455,000; on June 30, 1987 amounted to \$165,146,000; and on March 31, 1988 amounted to \$248,000,000.

Memo to Board of Directors
Re: New Legislation
May 23, 1988
Page 3

HB543 represents the potential purchase of HAD loans by AHFC. This is a long appropriation bill, the germane sections are:

"Section 285: The sum of \$150,000,000 is appropriated from the housing assistance loan fund (AS 44.47.380) to the general fund."

"Section 301: Section 285 of this Act takes effect on the date of purchase by the Alaska Housing Finance Corporation of \$150,000,000 of the loan portfolio held by the housing assistance loan fund (AS 44.47.380)."

Originally, the intent was that AHFC would pay \$80 million cash for \$150 million (par value) of HAD loans. The \$80 million in cash, which would then be in the Housing Assistance Loan Fund, could be appropriated to the general fund as a source of revenue. AHFC would package up the \$150 million in loans to back an \$80 million bond sale to obtain the cash. AHFC would arrange with HAD to continue to have HAD originate loans in rural areas, the difference being that the loans would be based on AHFC standards, instead of HAD standards.

The combination of HB555 and HB543 causes two critical changes in this intended approach. First, it changes the \$80 million purchase price to \$150 million. Fortunately, the Governor can, if he chooses, change this by reducing the amount of the appropriation in Section 285. The second change is much more critical and damaging. This change is the addition of the wording in HB555 that was discussed above. Taken together, these bills mean that whatever amount AHFC pays for these loans is essentially a removal of assets from AHFC, with the amount of the removal being equal to the purchase price.

The important question is the potential impact of these bills on AHFC. There are two aspects to this question: 1) what if the transaction actually takes place, and 2) what if the transaction doesn't take place, but simply remains as a potential. This latter situation would be the case if the Governor did not veto Section 285 of HB543, or HB555, but the Board had not yet agreed to purchase the loans.

Although we may distinguish between these two cases, I believe it is fair to say the financial community will focus on what happens if the transaction takes place, since inevitably most attention in constructing a financial transaction is on what happens if things don't work out as planned.

Memo to Board of Directors
Re: New Legislation
May 23, 1988
Page 4

If the transaction were to take place, it would affect both our liquidity position and our net worth. Using our financials as of 3/31/88, we have:

Total fund equity	\$1,548.3 million
less Pledged assets	<u>(1,068.7)</u>
equals Unrestricted assets	479.6 million

Liquidity Position

On the attached sheet I have provided a more complete breakdown of the Unrestricted assets, but in summary they are:

Liquid assets	272.5
Less short-term obligations	<u>(74.0)</u>
Net liquid assets	198.5
Long-term assets	181.7
Other assets net of liabilities	<u>99.4</u>
Total net unrestricted assets	479.6

It would appear that AHFC has adequate liquid assets, but as shown in Attachment I over \$100 million of these are in loans in the "pipeline" - that is, loans purchased from lenders that have not yet been put in a bond issue. Although this number fluctuates, as long as AHFC is still actively making loans, some amount of pipeline funding is necessary.

Another major use of our liquid assets is to provide AHFC's contribution to bond issues. Since 3/31/88 we have used \$20 million of these liquid assets as collateral for bond issues, further reducing our available liquid assets.

Although some of our long-term assets could be turned into cash, it is clear from the composition of these assets that not a lot of cash will be forthcoming.

The largest component of the other assets net of liabilities is receivables from various insurance companies for advances made by AHFC to bond issues for delinquent loans or for expenses on foreclosed properties. This is not the kind of asset that is easy to turn into cash.

During the next few months there will be a strong demand on our liquid assets for purposes such as funding HOAP loans in the pipeline, putting AHFC's contributions into HOAP and other bond issues (lately about 25% of the issue), making advances as needed on delinquent loans and foreclosed properties, providing in-house financing when applicable, and capitalizing a mortgage insurance company.

Memo to Board of Directors
Re: New Legislation
May 23, 1988
Page 5

Generally, if we run low on liquid capital, we can supplement it with our Euro commercial paper program. We currently, for instance, have \$85 million in Euro commercial paper outstanding. However, one has to be cautious about assuming this source will always be available.

Euro Commercial Paper Program

AHFC has a \$150 million (maximum) Euro commercial paper program, backed (and supplemented) by a \$150 million Euro Revolving Facility. Together these allow us to issue short-term unsecured debt on the Euro market at reasonably low rates (currently we are paying about 7-1/2%). The security to lenders buying AHFC commercial paper is the financial condition of AHFC. As such, it is necessary for us to make a variety of covenants and representations regarding our financial condition, and potential changes in it. To summarize them, we agree to maintain a certain minimum financial condition, and furthermore, we must notify participants of any "material adverse change" in our condition. If the latter happens, it will likely mean the end of our Euro commercial paper program (and any other unsecured borrowing). Hence, a material adverse change, such as removal of, say, \$80 million in cash, will not only severely jeopardize our liquidity, but it also will most likely cause us to lose our major short-term borrowing facility.

Future Financings

As one may suspect, we have similar requirements in many of our other financings. Hence, a material adverse change would trigger the notification of many of our financial partners (and whatever consequences are involved). We have numerous examples of these covenants if any members are interested. Many of these notifications are triggered by the potential of an adverse change, rather than waiting until a change has actually occurred. For instance, in our letter of credit with Credit Suisse (an AAA Swiss bank), we agree to deliver to the bank:

" . . . promptly, notice of each action, suit or proceeding before any court or other governmental authority or other regulatory body or any arbitrator which may materially adversely affect the condition or operation, financial or otherwise, of the Corporation or the Program."

Note the use of the word "may". This is understood to mean that we must notify them even if there is only the potential for the adverse change. Clearly, a potential loss of, say, \$80 million in cash would trigger this clause.

Memo to Board of Directors
Re: New Legislation
May 23, 1988
Page 6

In summary, this means that virtually all of our current financial partners would become aware of the situation. Although this should not have much effect on outstanding long-term debt (unless so much were actually removed from AHFC that a financial covenant were breached), it would likely have a significant impact on the possibility of future bond issues. This legislation has, for instance, raised significant concern on the part of FSA, the bond insurance company that has guaranteed both HOAP issues. A number of questions will be raised, by FSA and others, but the two most critical ones will be:

1. How does the removal of \$X million affect AHFC's ability to operate?, and
2. Is this just the first of many "raids" on AHFC's assets?

Future business will be determined by our answers to those questions, and the confidence that others in the financial community have in those answers.

As must be obvious from the above discussion, I am very concerned about the impact of this legislation on AHFC's ability to continue its many programs. In fact, I view this situation as the most critical one that has confronted AHFC during my three year tenure. I believe the most likely consequence of this legislation is not that we will be immediately shut out of the market. Rather, we would most likely have to put up much more collateral to do bond issues, to insure that anyone who does business with us is totally protected within any bond issue, since reliance could no longer be placed upon the general assets of AHFC. Increasing the collateral requirements would quickly use up our available liquid resources, thereby shutting us out of the market, and requiring credit rationing even for existing bond issues.

As a result, I recommend in the strongest possible manner that the Board recommend to the Governor that he veto entirely Section 285 of HB543. I realize that this can create a potential revenue imbalance to the extent that some revenue from this transaction was anticipated. However, it may be appropriate to point out that this potential source of revenue (i.e., the cash value of the HAD portfolio) is not eliminated. The next Legislature could remedy the undesired effects (that is, delete the section in HB555 dedicating the cash flow to more HAD-type loans), at which time the transaction could proceed and the revenue could be obtained.

Finally, I recommend that the Board provide a positive recommendation to the Governor on HB555. Other than the one portion dealing with HAD loans, the bill is potentially very helpful to AHFC and the housing market.

Schedule of AHFC Net Unrestricted Assets
(in millions of dollars)

<u>Liquid Assets</u>	<u>3/31/88</u>
Cash and investments	\$ 165.0
Loans scheduled for pooling	51.7
Loans already pooled	<u>55.8</u>
	272.5
<u>Short-term Obligations</u>	
Euro commercial paper	<u>(74.0)</u>
<u>Liquid assets net of short-term obligations</u>	<u>198.5</u>
<u>Long-term Assets</u>	
Mobile home loans	30.1
State VA loans	75.4
Second mortgage loans	25.0
Rural loans	5.3
Rural non-owner occupied	3.6
Non-conforming loans	9.5
Notes receivable	26.5
Other loans	11.7
less allowance for loan losses	<u>(5.4)</u>
	181.7
Other assets net of other liabilities	<u>99.4</u>
Total net unrestricted assets	<u>479.6</u>



**Alaska
Housing**
FINANCE CORPORATION

520 East 34th St.
Anchorage, AK 99503
(907) 561-1900

P.O. Box 101020
Anchorage, AK 99510

TO: Board of Directors

Date: January 6, 1989

FROM: Mark K. Cameron
Finance Director

SUBJECT: Five-Year Liquidity Projection

Attached are several selected schedules providing overview information regarding the five-year liquidity projection for the Corporation. The projection is for discussion purposes only at this time.

You will note that the liquid assets of the Corporation decreases by \$61,257,000 from \$186,540,000 as of September 30, 1988 to \$125,283,000 as of June 30, 1993. The decrease is mainly due to subsidy for bond issuance.

It is important to note that the projections involve estimates of substantial sums the actual amounts of which are beyond the control of the Corporation. Specifically, the mortgage loan purchase estimates are totally dependent upon the delivery schedules of our Seller/ Servicers and the reissuance of Euro commercial paper assumes the dealers will be able to sell new paper providing funds the same day the existing commercial paper matures.

EC:nrs
CHA008

Attachments



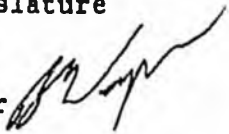
ALASKA INDUSTRIAL DEVELOPMENT
AND EXPORT AUTHORITY

HB161

1577 "C" STREET • SUITE 304 • ANCHORAGE, ALASKA 99501-5177 • (907) 274-1651

M E M O R A N D U M

TO: The Honorable Members
House Labor & Commerce Committee
Alaska State Legislature

FROM: Bertram L. Wagnon 
Executive Director

DATE: February 21, 1989

SUBJECT: Authority Assets

The question has been asked of the Authority of how much money they have and how much can be removed by the legislature. Additionally, people have wanted to know what the consequences of such a removal would have on the Authority.

In order to answer these questions, it is necessary to look at the liabilities the Authority has outstanding, primarily bonds payable, and the covenants under which these bonds were sold. Utilizing June 30, 1988 audited financials, bonds payable totaled \$177,275,000. These are outstanding obligations which are general obligations of the Authority secured by all of our assets and future income. As set forth in a typical official statement offering the bonds for sale, language appears as follows:

"The Bonds constitute general obligations of the Authority, and the full faith and credit of the Authority is pledged to the payment of the principal of and interest on the Bonds. The Bonds are further secured by the Taxable Umbrella Bond Capital Reserve Fund and the moneys, properties, assets and revenues described herein. The Authority does not have the power to levy taxes for any purpose. The

Bonds do not constitute an indebtedness or liability of the State of Alaska and do not directly, indirectly or contingently obligate the State of Alaska to apply money from, or levy or pledge, any form of taxation whatever to the payment of the Bonds."

It is fairly obvious from the above that great pains were taken to advise all investors that the State of Alaska had no obligation whatsoever for payment of this debt. In order to make such a promise and still entice investors to purchase the debt of the corporation, the Authority had to pledge all of its assets and future stream of income to payment of the bonds, in effect, making them general obligations of the Authority.

Additionally, two particular statutes have bearing when considering the assets of the Authority. AS 44.88.130 sets forth the pledge the state makes with holders of the Authority's bonds:

"Sec. 44.88.130 Pledge of the state. The state pledges to and agrees with the holders of the bonds issued under this chapter and with the federal agency that lends or contributes funds in respect to a project or development project financed under AS 44.88.155 - 44.88.159 or 44.88.172 - 44.88.177, or in respect to an exporting transaction financed, guaranteed, or insured under AS 44.88.300 - 44.88.390 that the state will not limit or alter the rights and powers vested in the authority by this chapter to fulfill the terms of a contract made by the authority with the holders or federal agency and that the state will not in any way impair the rights and remedies of the holders until the bonds, together with the interest on them with interest on unpaid installments of interest, and all costs and expenses in connection with an action or proceeding by or on behalf of the holders are fully met and discharged. The authority is authorized to include this pledge and agreement of the state, insofar as it refers to holders of bonds of the authority, in a contract with the holders and, insofar as it relates to a federal agency, in a contract with the federal agency. (§ 1 ch 64 SLA 1967; am § 19 ch 42 SLA 1987)"

Should the legislature take assets out of the Authority, an aggrieved bond hold may argue that AS 44.88.130 has been violated. Whether such an agreement would be successful is of course, subject to the courts.

Secondly, AS 44.88.190(b) should be looked at. While quite possibly it does not mean what it appears to say an aggrieved party could use such language to protest a taking which would diminish the security of a bond holder. AS 44.88.190(b) states:

"(b) The funds, income or receipts of the authority shall not be considered or constitute money of the state, nor shall real property in which the authority has an interest be considered land owned in fee by the state or to which the state may become entitled or in any way lands belonging to the state, or state lands referred to in Art. VIII of the Alaska Constitution."

The caution that needs to be considered is if the state takes any action that gives a bond holder a course of action, the possibility exists that, that action could be set aside or by such action the state itself could be assuming liability for the debt.

The Authority has two negative covenants that restrict actions that the Authority may take if the parameters of these covenants are exceeded.

The first is an unrestricted surplus test. The covenant requires that the Authority's unrestricted surplus be at least equal to its general obligation indebtedness and in no event less than \$100 million. Currently the Authority has \$177 million in bonds outstanding which require the maintenance of at least an unrestricted surplus of that amount. At June 30, 1988, unrestricted surplus was \$319.6 million. As can be seen, the Authority exceeds this covenant by a wide margin.

The second major negative covenant is referred to as the coverage test. This test requires that in each year that the Authority has general obligation indebtedness outstanding, net income will be at least 150% of the general obligation annual debt service requirement. In essence, this covenant mandates that the Authority produce income at least equal to 150% of the amount required to pay principal and interest on our bonds. On June 30th coverage was at 181% and at December 31, 1988, had fallen to 162%. The reason of course being the poor performance of the real estate loan portfolio.

The asset base the Authority relies upon to make repayment to holders of its debt are primarily from loans and investments. Currently the loan portfolio is running 28% delinquent and additionally, \$49 million in loans have been modified to less than their contract rate of payment. For the year ended June 30, 1988, the Authority suffered its first loss in history of \$7.7 million. The investment income is carrying the debt service requirement, not the loans. If dollars are taken the investments are decreased and coverage will decrease accordingly.

The policy argument concerning withdrawing assets from the Authority revolves around the state's policy maker's expectations of the Authority. If a consensus exists that the Authority has outlived its usefulness, than appropriate decisions can be made to wind up its affairs. If however, the expectation is that the Authority can contribute to the economy of the state, it is imperative not to strip out its assets now because how can one expect investors to continue to purchase Authority debt when at the most difficult time in its history, the legislature is removing the finest quality assets.

The Neighborhood Reinvestment Corporation

A congressionally-chartered, public nonprofit corporation, Neighborhood Reinvestment was established in 1978 (P.L. 95-557) to continue the efforts of the Urban Reinvestment Task Force. Its mission includes the revitalization of declining lower income neighborhoods for the benefit of their current residents, and the provision of affordable housing to neighborhood residents.

The Corporation achieves these goals primarily through the development and support of local neighborhood-based partnerships. The most widely known of these is the Neighborhood Housing Services (NHS) program, a partnership of neighborhood residents, business leaders and local government officials.

These and other local partnership organizations form the NeighborWorks system—the nation's largest and most successful systematic approach to neighborhood revitalization. NeighborWorks members are at work in 239 neighborhoods in 137 cities across the country. An additional 52 formerly-declining neighborhoods have been returned to substantial self-reliance through the efforts of NeighborWorks members.

As the anchor for this national system of local partnerships, Neighborhood Reinvestment provides a range of training and technical assistance to help each local partnership establish neighborhood goals and develop the strategies needed to achieve those goals.

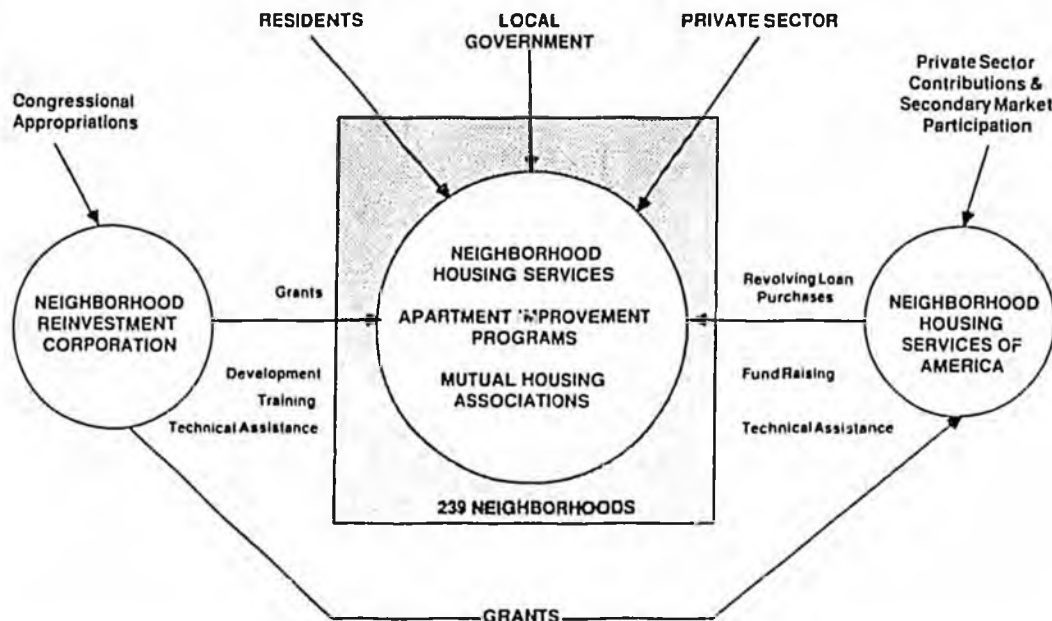
Neighborhood Reinvestment also makes small seed money grants to the local partnerships, which are matched many times over by contributions from local governments, businesses and foundations. In addition, the Corporation provides grants to Neighborhood Housing Services of America, the system's national secondary market.

The Corporation received a \$19 million federal appropriation in fiscal year 1987. Since 1974, a total expenditure of \$135 million in federal appropriations by the Corporation and its predecessor has produced an impact of more than \$4 billion in neighborhoods across the country.

The Corporation's board of directors is composed of a Governor of the Federal Reserve, the Comptroller of the Currency, the Secretary of Housing and Urban Development, the Chairman of the Federal Home Loan Bank Board, the Chairman of the Federal Deposit Insurance Corporation, and the Chairman of the National Credit Union Administration.

Although the Corporation is headquartered in Washington, D.C., the majority of its staff are based in nine districts across the country to better assist the local partnerships they serve.

The NeighborWorks System



HBIW

TABLE 1.11

State of Alaska
State General Obligation Bonds
Annual Debt Service

<u>Years Ended</u> <u>June 30</u>	<u>Principal</u>	<u>Interest</u>	<u>Total</u>
1988	\$108,685,000	\$ 39,220,555	\$147,905,555
1989	103,727,000	31,784,971	135,511,971
1990	95,560,000	24,746,290	120,306,290
1991	77,499,000	17,983,980	95,482,980
1992	56,149,000	12,052,225	68,201,225
1993	51,363,000	8,325,187	59,688,187
1994	28,398,000	5,531,975	33,929,975
1995	19,096,000	3,987,625	23,083,625
1996	18,610,000	2,864,412	21,474,412
1997	14,865,000	1,800,418	16,665,418
1998	13,380,000	1,008,193	14,388,193
1999	8,640,000	368,931	9,008,931
2000	<u>2,531,000</u>	<u>69,081</u>	<u>2,600,081</u>
Total	\$598,503,000	\$149,743,843	\$748,246,843

Source: Department of Administration, Bonded Debt and Debt Service, June 30, 1984.



520 East 34th St.
Anchorage, AK 99503
(907) 561-1900

P.O. Box 101020
Anchorage, AK 99510

February 16, 1989

Members, House Labor & Commerce Committee
P.O. Box V
Juneau, AK 99811

RE: House Bills 160, 161

Dear Members:

Your committee staff has requested an analysis of the potential impact to the Alaska Housing Finance Corporation should the Legislature appropriate \$11 million from Corporation reserves to fund a neighborhood revitalization and development fund. Although certain legal arguments have been raised in the past regarding the Legislature's ability to take funds out of the Corporation, including whether such a move would be subject to a bondholders' lawsuit, for the purposes of this response, we assume that there are no legal problems.

The short answer to the question is that such a move could effectively shut down AHFC as a lender which in turn could devastate the conventional housing market. Further details are outlined below.

If the Legislature were to take funds from AHFC, it would effectively eliminate AHFC's ability to purchase loans. To understand why this is the case, it is necessary to have some background on how AHFC functions. First, a prospective Alaskan homebuyer selects a home to buy and then applies for a loan from a lender (bank). If the potential borrower qualifies, the lender makes the loan and then sells the loan to AHFC. To buy this loan, and many others made over the course of the year, AHFC must go to the bond market to raise funds.

The requirement of having to go to the bond market, or in essence borrow money, is the crucial aspect. AHFC is not a direct general fund lender. As a result, we must be very sensitive to the concerns of the financial entities (insurers, banks, investors) upon whom we rely to raise funds. It is important to remember that nothing compels these parties to do business with us, particularly with the current state of the economy.

All of these entities, which include some of the world's top-rated banks, do business with AHFC based upon the premise of the Corporation's financial condition. Our high foreclosure and delinquency rates lately have been offset by almost exclusively our good financial position. You may recall that in a recent review of bond issues by bond rating agencies, AHFC's ratings were affirmed due to the sound financial management of the Corporation.

In recent business dealings with these financial institutions, many have expressed general concerns having to do with: 1) the current state of the Alaskan economy; and 2) the specific financial condition of AHFC. They have specifically informed us that if the Legislature appropriates funds from AHFC, they would be very hesitant to continue doing business with the Corporation. If these entities refuse to do business with AHFC, or restrict their business, AHFC may no longer be able to purchase conventional loans from Alaskan lenders since the Corporation will not be able to raise new funds for those purchases.

The concern goes even deeper. Almost all those doing business with AHFC have raised concerns about potential legislative actions. In all cases, the message from them was clear--if funds are removed from AHFC, they will not do business with AHFC since they believe their security would be jeopardized. Even hints of "legislative raids" in newspaper stories have caused the Corporation to receive a number of phone calls from investors wanting to know "what's going on" and then they reaffirm their concerns.

Finally, mention should be made of past legislative wishes with respect to the Corporation's reserves. Twice in the Corporation's history the Corporation has helped carry out some of the legislature's wishes. These include purchase of Department of Community and Regional Affairs, Housing Assistance Division loans and, last year, creation of a Stabilization Fund. In both instances there was a reasonable expectation that the Corporation's actions were significantly tied to housing and the benefit to the Corporation was equal to the actions taken.

Specifically with regard to the proposed \$11 million appropriation, AHFC believes that such an appropriation is too far from the scope of AHFC's mission of financing housing. It would be extremely difficult for the Corporation to represent to the financial community that it would receive \$11 million in housing benefits.

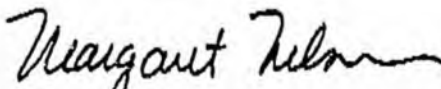
In addition, it should be noted that if AHFC funds are depleted, AHFC may not be able to continue efforts to stabilize the housing market such as the recently completed Home Owners' Assistance Program and the proposed Condominium Stabilization Program.

Since 1984, AHFC has not received any funds from the general fund and the Corporation hopes to continue operations in this manner. However, if funds are removed, it is not inconceivable that AHFC may end up itself, asking for appropriations in the future.

Another issue involving appropriation of funds from AHFC deals with the separate legal entity concept and separation of legal responsibility for debt repayment. As you are aware, debt issued by the State of Alaska is subject to vote approval. AHFC is established as a public instrumentality separate and distinct from the State of Alaska. The appropriation of funds by the State of Alaska opens the door for litigation from AHFC bond holders who may claim that if assets have been re-appropriated the separate legal existence does not in fact exist and the State does have responsibility for the approximately \$4 billion in AHFC debt outstanding.

If I can provide further assistance, please feel free to contact me.

Sincerely,



Margaret Nelson
Special Assistant/Public Information Officer

ec

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: State Bond Committee
 Title: Neighborhood Revitalization and BRU: _____
Development General Obligation Bonds
 Sponsor: Labor and Commerce Components: _____
 Requestor: House Labor and Commerce

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
OPERATING						
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LANDS & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	385.0	1,566.2	1,566.2
TOTAL OPERATING	0	0	0	385.0	1,566.2	1,566.2
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	385.0	1,566.2	1,566.2
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	385.0	1,566.2	1,566.2

POSITIONS:

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

ANALYSIS: attach a separate page for analysis.

Debt Service

Assumes 10 year bonds at an average interest rate of 7.0 percent.
 FY91 is one semi-annual interest only payment.

Prepared By: Milt Barker MB
 Division: Treasury
 Approved by Commissioner: [Signature]
 Agency: Department of Revenue

Phone: 465-2350
 Date: _____
 Date: 2/13/89

Distribution (by preparer):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

HB

166

*
* DELIVER TO: LIOCDLD *
*
* ORIGINAL *
* SENT: 04/22/89 TIME: 10:14 *
* FROM: LIOCMAB *
* SUBJECT: (H)L&C;HB166;4-22 *
* PRINT DATE: 04/22/89 TIME: 10:14 *
*

*** ANCHORAGE PARTICIPANT LIST ***

TO: ALL TELECONFERENCE SITES
FROM: MARYANN--> ANCHORAGE
SUBJECT: __HB166, CIVIL LIABILITY_____
DATE: ____APRIL 22, 1989_____
TELECONFERENCE NO. 89-04-047_____

TO TESTIFY:

CHARLES MCKEE

TO OBSERVE:

BOB NESTEL
GENE ROGUSZKA

EOM DJ

*
* DELIVER TO: LIOGLE *
*
* ORIGINAL *
* SENT: 04/20/89 TIME: 16:17 *
* FROM: LIOCINE *
* SUBJECT: (H)L&C; HB166; 4-20; ANC, PL#1 *
* PRINT DATE: 04/20/89 TIME: 16:19 *
*

*** ANCHORAGE PARTICIPANT LIST ***

TO: ALL TELECONFERENCE SITES
FROM: INEZ ---> ANCHORAGE

DATE: ___APRIL 20, 1989_____
TC #: ___89-04-048_____
SPONSOR: ___HOUSE LABOR AND COMMERCE_____
SUBJECT: ___HB 166 - CIVIL LIABILITY_____

TO TESTIFY:

- 1.) CHARLES MCKEE
- 2.)

TO OBSERVE:

- 1.) GAIL GATTON
- 2.)

EMAIL ADDRESS IS: LIOCINE
BACKUP NUMBER IS: 561-1199

EON IV

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*
* DELIVER TO: LIOGGLE
*
* ORIGINAL
* SENT: 04/20/89 TIME: 16:22
* FROM: LTCCSOL
* SUBJECT: H L&C; PL#1-HB166; 4-20
* PRINT DATE: 04/20/89 TIME: 16:22
*
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T/C NO: 89-04-048
DATE: 4-20
SPONSOR: HOUSE LABOR & COMMERCE
SUBJECT: HB166 CIVIL LIABILITY
MODERATOR: ALYSON
SITE: SOLDOTNA

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PARTICIPANT LIST

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*****
TESTIFIED

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NAME/REPRESENTING	ADDRESS	PHONE	BILL NO.
1.			
2.			
3.			
4.			
5.			

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*****
OBSERVED

```

NAME/REPRESENTING	ADDRESS	PHONE	BILL NO.
1. DENNIS MURRAY	ADMINISTRATOR HERITAGE PLACE	232 ROCKWELL	
2.	SOLDOTNA, 99669	262-2545	
3.			
4.			
5.			

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TESTIFIED:
UNABLE:
OBSERVED:
TOTAL:

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START TIME:

END TIME:

HOUSE COMMITTEE REPORT

(7)

Date Referred: February 10, 1989

FURTHER REFERRALS: JUDICIARY

Date of Committee Action: 5/8/89

The LABOR & COMMERCE Committee considered:

HB 166

HOUSE BILL NO. 166 [CIVIL LIABILITY]

"An Act relating to civil actions; amending Alaska Rules of Civil Procedure 68 and 82; and providing for an effective date."

RECOMMENDS:

- [V] replacing with CS HB 166 (LTC) [] the same title [] a new title
[] the attached amendment(s)
[] do pass
[] do not pass
[V] no recommendation
[] individual recommendations
[] additional referral to the Committee

ADOPTS: letter of intent

ATTACHES NEW FISCAL NOTE(S):

- [] fiscal impact
[] zero fiscal note
[] zero with analysis

APPROVES PREVIOUS:

- [] fiscal note(s) published:
[] zero fiscal notes(s) published:

SIGNING DO PASS:

Handwritten signature and lines for signing 'DO PASS'.

SIGNING OTHER THAN DO PASS:

(Do Not Pass, No Recommendation, Amend)

Handwritten signatures and notes for signing 'OTHER THAN DO PASS', including 'NO REC' and 'needs amending'.

signed original Committee Report this way

Chairman's signature

SPECIAL MEETING
OF
THE ALASKA MENTAL HEALTH PROGRAM DIRECTORS' ASSOCIATION
February 19, 1988

RESOLUTION 4-88

CS-SB 67

Whereas, there is pending before the legislature CS-SB 67, a bill which mandates inclusion of mental health coverage in policies of insurance providing coverage for physical health,

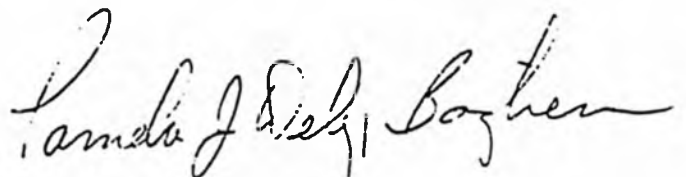
AND

Whereas it is apparent to this Association that there is a critical need for welfare of citizens of Alaska for said coverage,

NOW therefore be it RESOLVED

That this organization supports and urges passage of said CS-SB 67.

ADOPTED: February 19, 1988



Pamela J. Delys-Baglien, Ph.D.
Chair, Alaska Mental Health Program
Directors' Association

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

STEVE COWPER, GOVERNOR

REPLY TO:

1031 W 4th AVENUE SUITE 200
ANCHORAGE, ALASKA 99501-1994
PHONE: (907) 276-3550
FAX: (907) 276-3697

1st NATIONAL CENTER
100 CUSHMAN ST. SUITE 400
FAIRBANKS, ALASKA 99701-4679
PHONE: (907) 452-1568
FAX: (907) 456-1317

P.O. BOX K—STATE CAPITOL
JUNEAU, ALASKA 99811-0300
PHONE: (907) 465-3600
FAX: (907) 463-5295

April 26, 1989

The Honorable Dave Donley
Chair
House Labor & Commerce Committee
House of Representatives
P. O. Box V
Juneau, AK 99811

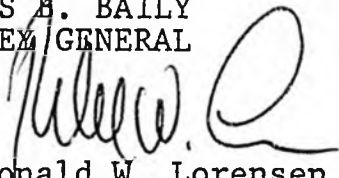
Dear Representative Donley:

Thank you for your request of April 5, 1989 concerning issues raised by the EXXON VALDEZ oil spill and the impact HB 166 would have on them.

Because the State of Alaska will be involved in litigation concerning the oil spill we are unable to respond to your request. We apologize for the inconvenience.

Sincerely,

DOUGLAS B. BAILY
ATTORNEY GENERAL


By: Ronald W. Lorensen
Deputy Attorney General

RWL:EJK:prm



NATIONAL INSURANCE
CONSUMER ORGANIZATION

Statement of

J. PETER HUNTER, PRESIDENT
NATIONAL INSURANCE CONSUMER ORGANIZATION

Before: The Joint Hearing
of the
House Labor and Commerce Committee
and the
House Judiciary Committee
of the
Alaska State Legislature

April 25, 1989

Mr. Chairman and members of the Committee, it is a great pleasure to be back in Alaska.

I have a question: Why are you still considering so-called "tort reform" when everywhere else the issue is now insurance reform and "tort reform" is a dead issue? There is a good reason for the change. Consider these facts:

*20 States, including Alaska, have sued insurers alleging collusion to create the liability insurance crisis of the mid-1980's --- the predicate for "tort reform."

*California citizens adopted Option 103, wisely recognizing the need to tame the monumental (and uncontrolled) insurance industry.

*We now know that tort reform doesn't lower insurance rates but insurance reform does!

*Key insurance reform proposals have gained widespread support (for example, the effort to repeat the anti-trust exception insurer enjoy in the McCarran-Ferguson Act is supported by both ABA's (Bar and Banker), small businesses,

121 N. Reynolds Street
Alexandria, Virginia 22314
(703) 549-8050

of Attorneys General), AARP, all consumer groups, environmental groups, civil rights groups, the FTC and the Ford, Carter and Reagan Justice Departments).

I. FROM A CONSUMER VIEWPOINT, WHAT'S WRONG WITH TORT REFORM?

A. "Tort Reform" doesn't lower prices

Given this history, any adoption of Tort Reform without mandatory lower insurance rates is surely buying 'a pig in a poke.'

1. The Aetna and St. Paul Filings. Aetna Casualty and Surety Co. and St. Paul Fire and Marine Co. have undertaken closed claim studies purposing to demonstrate that the savings resulting from five major tort reforms enacted in Florida -- eliminating the collateral source rule, capping non-economic damages, restricting joint and several liability, limiting punitive damages, and requiring periodic payment of future economic damages -- would be negligible. See attachments 1A and 1B.
2. The State Farm letter. State farm has corroborated the Aetna and St. Paul results. In a letter to the Kansas Insurance Department State Farm concludes, on the basis of "a sampling of commercial liability claims," that the following tort reforms would bring about the following savings:
 - a. eliminating the collateral source rule -- "about 1%";
 - b. non-economic cap -- "will not exceed 1%";
 - c. restricting joint and several liability -- "in our sample of liability claims, no claim was found that would have been affected by the joint and several restriction";
 - d. limiting punitive damages -- "in our sample, no punitive damage awards were found";
 - e. alternative payment of future economic losses - savings "would be negligible."

State Farm also emphasized that "it will probably be several

years before any effect from tort reform legislation can be expected to influence our experience." See Attachment 2.

3. The Florida Insurance Department data. 277 rate filings purporting to calculate the effect of the Florida tort reforms are on file with the Florida Insurance Department. 175, or 63%, showed no effect from the Florida tort changes, and the average reduction in all 277 filings was 1.2%. See Attachment 3. By way of contrast, insurance companies increased premiums in Florida by 62% in 1985, according to NAIC data, and by a similar amount in 1986.

4. The Great American West letter. In Washington state, which enacted perhaps the most comprehensive tort reform package in the nation in 1986, Great American West, Inc. calculated that the new law would, if anything, raise insurance rates. Great American West concluded:

"It does not appear that the 'tort reform' law will serve to decrease our losses, but instead it potentially could increase our liability. We elect at this point, however, not to make an upward adjustment in the indications to reflect the impact of the 'tort reform law.'" See Attachment 4.

5. The ISO Chief Executive Circular. Perhaps most disturbing, the Insurance Services Office has announced that it is issuing "advisory" rates that show no reduction resulting from tort reform, and has emphasized to its member companies that "any beneficial effects of tort reform cannot be quantified with any degree of accuracy" (emphasis ISO's). See Attachment 5. Yet when in 1975 New York enacted tort reform that would expand liability by replacing contributory negligence with comparative negligence, with comparative negligence, and would through raise insurance costs, ISO immediately raised its advisory rates by 5%,

and provided full actuarial justification for the increase. See Attachment 6. It is not readily apparent why ISO can tell us how much rates should rise when tort law expands, but can't tell us how much rates should fall when tort law is limited.

Whether it is good public policy to reduce insurance rates by limiting compensation to seriously injured people is a question on which reasonable minds can differ. But it is clearly not good policy to limit compensation to injury victims and get nothing in return.

B. "Tort Reform" lowers consumer rights and gives them nothing in return.

"Tort reform" takes away from the victim of negligence. It grants nothing in return for this reduction in rights. There should be a quid-pro-quo if Alaska's citizens are to be denied their rights.

C. "Tort Reform" is not based on careful analysis of need.

There have been few careful studies of how victims are treated under the current liability system to determine if there is a problem that needs fixing.

For Texas, where a closed claim study was undertaken, it showed no need for changes in the legal system

To try to find something without understanding what, if anything, is wrong with it, makes no sense.

D. "Tort Reform" lowers the deterrance effect of the legal system.

How could copying the liability of Exxon's oil transport strike you? Or Ford in building Pintos? Or A.F. Robbins in building Dalcom Shields?

America's consumers need the protection of the legal system to deter inappropriate behavior; to stop "crime in the suites."

E. The need for flexibility

People are not chattel. They are not fenders bumped or houses burned. When a drunk driver runs over a breadwinner, or a little girl, or an underwater reef, the penalty must fit the circumstances, both in terms of the victim and the wrongdoers act.

II. WHY DO CONSUMERS WANT INSURANCE REFORM?

A. Insurers are grossly inefficient

"Republican or Democrat, liberal or conservative, there is one thing we can agree on --- waste is bad, inefficiency robs us all."

Andrew Tobias
The Invisible Bankers

"Tobias says we are inefficient and he's right. We spend too much on distribution, overhead and just plain waste."

John Cox, President
Insurance Agency of North America

One of the best service auto liability insurers, USAA, delivers the product at a total overhead cost of twenty cents on the premium dollar. The average insurer requires over thirty-five cents. Prices could fall by 19% if the average insurer becomes as efficient as USAA.

B. Insurers are not well regulated.

Alaska's insurance regulation has historically been, to put it in its most favorable light, non-existent. Often bragging about the highest profits in the nation in its annual report, the Department has not historically protected consumers in this state.

When last I appeared here, I challenged then Director George by saying I doubted that the Department had ever

disapproved a rate. He responded by pointing out that he had too disapproved a rate -- an automobile rate for State Farm -- a decrease!! He said he was afraid State Farm would attract too much business if their rates went down.

How's that for consumer protection?

I don't mean to pick on Alaska, particularly State regulation generally is awful. I am encouraged by the new Director Roller. The U.S. General Accounting Office found "a lack of arms-length relationship between the regulators and the regulated" and that consumers were, generally, not protected by the state insurance departments of the nation.

C. Insurers are not fully competitive

In most states, insurers are structured comparatively. In auto insurance, for instance, 29 states have low concentration (Herfindahl-Hirschman Index below 1000), 21 are moderately concentrated (HHI between 1000 and 2000) and one, Alaska is heavily concentrated (HHI greater than 1000).

So, you have a problem with relying on competition, even in the best of competitive worlds.

But insurance is hardly "the best of competitive worlds," viz:

*it is largely exempt from anti-trust laws (Alaska exempts it from state anti-trust law and the McCarran-Ferguson Act exempts it from federal anti-trust law).

*it is the last bastion of fair trade laws (the Alaska anti-rebate law makes it unlawful for agents to offer discounts).

*there are prohibitions on group sales

*insurance price and service information is hard to understand, if you can find it at all.

Combining these comparative impediments with weak regulation guarantees two things:

- inefficiency and/or
- excessive profits

D. Alaska's profits are excessive

We know insurers are inefficient so profits can be hidden. But profits are too high in Alaska. According to the National Association of Insurance commissioners, Alaska's property/casualty insurance profits are among the highest in the country.

Here are the overall profits for the last decade:

	<u>Premium Earned</u>	<u>Operating Profit</u>	<u>Total Return on Equity Ø</u>	<u>Premium Earned*</u>	<u>Operating Profit</u>	<u>Total Return on Equity</u>
1978	\$285 Million	6.3%	17%	\$80 Billion	5.9'1	16'1.
1979	258	9.1	23	89	4.7	14
1980	257	6.8	19	95	4.6	15
1981	264	3.5	13	97	3.3	13
1982	332	18.0	43	103	0.7	8
1983	412	4.8	17	111	-0.2	7
1984	443	3.1	14	121	-3.2	1
1985	537	-1.9	4	140	-4.1	-
1986	642	3.4	15	176	2.0	13
1987	636	7.1	23	197	3.1	15
Total	\$4,066 Million	5.4%	18%	\$1,209 Billion	1.4%	10'1.

*Source: National Association of Insurance Commissioners, Profitability by line, by state, ten most recent editions.

Ø Estimated by assuming equity to premium rates of 2:1; investment income on equity of 9% latest year decreasing by 0.5'1. by year.

And this national 10% return understates the real economics vitality of their industry. during the same 10 years, the property/casualty industry's common stock have risen by 308'l. vs. 163'l. for the NYSE Composite Index (Source: Bests' Insurance Management Regents, January 1988.

Profitability in 1987 in Alaska for Medical Malpractice was over 50'l. return on equity and for other liability was over 40%r e- turn. But this was a high profit compared to other recent years. Medical malpractice profits in Alaska mirror the national averages over a ten-year review. When the General Accounting Office discounted reserve method of measuring profits is used, the return is about 30% over 10 years. The other liability return in Alaska was lower than the national average of GAO, 26% It was about 12% a good, not excessive return (if you ignore expense inefficiencies).

In 1987, Alaska's leading writers did well, viz:

Leading Medical Malpractice Writers:

	<u>Loss Rates*</u>
1. Medical Indem. Alaska	50.8%
2. Medicine/N.S. Exch.	34.0
3. CNA	66.5
4. Health Care Indem.	56.6
5. Amer. International	53.0

A profitable loss ratio would be about 90%. This shows remarkable profits in 1987.

*Source: Best's Executive Data Service

Alaska's Leading Other Liability Writers

	<u>Incurred/Earned Less Ratio</u>
1. American International	62.9%
2. Alaska National Insurance	33.8
3. Crum & Forster	64.8
4. Nationwide	50.3
5. CNA	50.6

A loss ratio of the order of 85% should be profitable. Again, 1987 was a remarkably good year for insurers in Alaska.

1988 was better, nationally. I do not have 1988 Alaska data as yet.

III. THE SPECIFIC PROBLEM - MEDICAL MALPRACTICE FOR DOCTORS DELIVERING BABIES IN RURAL AREAS

A. A real problem

No one should minimize the serious nature of unaffordability of malpractice insurance in rural areas for doctors delivering babies. Alaska is not alone in having this problem.

B. The Medical Malpractice "Crisis" in Alaska is NOT Due to an Expensive Aggregate System Cost.

If you look at the total costs of the Medical Malpractice system in Alaska it is an inexpensive system. For example, the latest data from the National Association of Insurance Commissioners (NAIC) shows total premiums in Alaska of \$13.6 million during 1987. That's \$28.00 per person (The statistical Abstract of the United States shows 481 Thousand people in Alaska in 1984).

For perspective, the average American spends \$133f per year on tobacco products.

Another way to look at system cost is vis-a-vis total medical costs in the state. According to the Alaska Department of Health, Alaska spent \$2,763 per capita health care costs by 1.0% (\$28.00 divided by \$2,763). I dare say that if you had no system to compensate the victims of malpractice and someone offered to do it for you for a percentage this small, you'd probably grab it.

C. Allocation is the Problem.

The problem is cost allocation, not total system costs. There are only about 550 doctors in Alaska (Statistical Abstract, 1986). This drives the cost very high, to about \$25,000 per doctor on average, some of which may be positive (because of deterrence effects), but some of which is likely inappropriate.

If you think of the medical profession as a pyramid, with the relatively many G.P.'s at the bottom and the relatively few specialists at the top, I think the problem becomes easier to visualize.

If I wake up in the morning with a bad back and go to my G.P., the likelihood of a major malpractice suit arising is negligible. But if my back is a serious medical problem, I will be referred up the specialty ladder until I get to the neurosurgeon.

At the top of the pyramid, where the number of insureds is least, the risk is greatest. Bad outcomes become more likely. The chance of lawsuit rises, and the cases are much more complex.

I believe it violates insurance spread-of-risk principles to force so much through such a narrow base. (Even though neurosurgeons net income, after med mal premiums, is excellent according to medical economics).

For one thing, why should the defense costs for the complex suits neurosurgeons win be forced to be spread through only the neurosurgeons? Why shouldn't the referring physician and the hospital granting privileges bear some of the cost of successful suits (as incentives for safer referrals/privilege granting)?

The overall system cost is reasonable in your state. Your focus should be on the allocation process, in my estimation.