ALASKA LEGISLATURE COMMITTEE FILES 1993-1994 8672

7756 HOUSE COMMUNITY & REGIONAL AFFAIRS

Alaska State Legislature

Committees:

House Resources,
Chairman

Community &
Regional Affairs

Labor & Commerce

Representative William K. Williams

During Session:
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Juneau, AK 99801-1182
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4/11/94

SPONSOR STATEMENT FOR HOUSE BILL 501,
an Act relating to Native corporations

Alaska has hundreds of Native corporations, each with shareholders numbering from less than 100 to nearly 16,000. As the law now stands, when shareholders wish to remove directors netiher they nor the corporations have a clear map of the process. Each attempt can be brought by a single shareholder and can go on indefinitely, sapping the resources of these for-profit corporations, many of which are primary employers in their regions.

The situation is most comparable to that in municipal government, where elected officials can face recall elections. (In fact, the regional Native corporations have more shareholders than most Alaska municipalities have voters.) The Legislature, recognizing that limitless recall efforts could cripple the legitimate work of government and make it difficult to attract and keep qualified restrictions on these drives. This bill generally applies the municipal recall election procedures (AS 29.26.240 - AS 29.26.360) to Native corporations.

The Corporations Code now gives each shareholder the power to force all other shareholders to vote on removal, no matter how slim the odds of seccess or how frivolous the reason. Any one of what are sometimes thousands of shareholders could hold up a corporation's annual meeting in this way.

By contrast, when voters want to remove municipal officials from office, they apply to the municipal clerk for a recall petition, supplying the names of at least ten sponsors and the grounds for recall. Once the petition is prepared, it must be signed by a number of voters equal to at least 25% of the number who voted at the last regular election before the municipal clerk may call an election.

In addition to adapting the municipal recall procedure for corporations, the bill defines a removal petition as the start of proxy solicitation, triggering all filing and truthfulness requirements under State

law. This change, which codifies the relevant case law, is the definition already employed by the State Division of Banking, Securities and Corporations.

The Corporations Code does not answer most of the questions it raises about the process for removing corporate directors, and lacks an adequate definition of when proxy solicitation begins. House Bill 501 proposes simple and clear steps for removal and defines solicitation in the event of a removal election. The objective of HB 501 is to provide a road map for a fair elections process.

Alaska Federation of Natives, Inc.

March 31, 1994

Representative Bill Williams
Alaska State Legislature
State Capitol, Room 128
Juneau, Alaska 99801-1182

Dear Bill:

This is to express the sincere interest of the Alaska Federation of Natives in House Bill 501, which you introduced on February 14 of this year. The legislation results in part from Native corporations' experiences with shareholder matters not adequately addressed by the present Corporations Code. Before 1988 and 1989, when Alaska's new Corporations Code was enacted, Native interests worked with the Legislature to revamp the Code. Since that time, we have discovered shortcomings in the new Code and have worked to revise it. HB 501 is the result of that effort.

The bill was not drafted to favor or obstruct the interest of either management or shareholders. Rather, it tries to provide both shareholders and management with a clear procedural road map where virtually none has existed before. When shareholders currently wish to remove an elected director from office, they and their corporation must feel their way through the law, relying on the common law from other states and on the Division of Banking, Securities and Corporations, or even the courts, for guidance when they encounter large gaps in the Corporations Code. As a consequence, removal efforts drag on almost endlessly, and all parties incur enormous legal costs in simply making their way through the process.

The removal of directors of Native corporations is in many ways strikingly similar to recall elections in municipalities. Native corporations have many of the elements associated with municipal governments. Because the Alaska Native Claims Settlement Act prohibits Native corporation shareholders from selling their stock when they disagree with management, their recourse is to elect or remove directors. Similarly, few municipal residents are in a position to leave town over a dispute with city hall, so they also have the electoral and recall options.

If the Native corporations and their shareholders have been having problems with the removal process, and if municipalities have a statutory recall process that could be translated into effective use by Native corporations, common sense dictates that we examine this option. Thus, HB 501 reflects the municipal recall procedure, adapted, with little change, to Native corporations.

1577 "C" Street, Suite 100 □ Anchorage, Alaska 99501 □ Ph.(907) 274-3611 FAX(907)276-7989

The legislation first gives shareholders a forum to go to - the Department of Commerce and Economic Development, Division of Banking, Securities and Corporations - if the corporate secretary rejects their petition for removal. The Division holds a hearing to decide whether the corporation acted appropriately under the law in rejecting the petition. If the determination is in the petitioners' favor, the corporation must hold a shareholder meeting to vote on the removal. The Division already has jurisdiction over proxy disputes in Native corporations. By making the direct removal process clearer, this legislation ought to decrease, rather than increase, the Division's workload.

In addition to providing a step-by-step removal procedure, HB 501 defines the point at which proxy solicitation begins for the purposes of filing solicitations with the Division of Banking, Securities and Corporations. The Division already uses this definition, which states the common law by designating the process of petition gathering as proxy solicitation.

Finally, the bill changes the size of Native corporations that must file reports with the Division of Banking, Securities and Corporations. As the law now stands, a Native corporation with fewer than 300 shareholders in Alaska is exempt from filing its annual report and proxy materials with the Division, no matter how big the corporation's assets and income. This bill proposes to require such filings of any Native corporation with at least 150 Alaska resident shareholders, if that corporation has at least $5 million in assets. Small but economically powerful corporations would no longer be exempt from the filing standards with which all regional corporations must comply.

The Alaska Federation of Natives believes that the best interest of Native shareholders throughout Alaska requires statutory clarification of these procedures. We encourage a thorough public examination of them through hearings that will allow regional and village corporations an opportunity to respond. Accordingly, we have sent a copy of this letter and its attachments to Representative Harley Olberg, Chairman of the Committee on Community and Regional Affairs.

We enclose a Sponsor Statement for your use and appreciate your efforts on behalf of this bill. Please contact either of us or Robert Loescher, Executive Vice President of Sealaska Corporation, if you have questions.

Sincerely,

Julie E. Kitka, President
Alaska Federation of Natives

Roy Huhndorf, Chairman
AFN Legislative Committee

Letter of Intent

House Bill 501

" An Act relating to Native corporations; and providing for an effective date."

April 18, 1994

The House Community and Regional Affairs Committee considered House Bill 501 and recommends that the House Judiciary Committee allow for statewide teleconferencing before taking any action Please invite Mr. Larry Carroll, Senior Securities Examiner, Division of Banking, Securities and Corporations to attend any meeting on this bill.

_____

Representative Harley Olberg, Chairman

HB

502

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM February 9, 1994

SUBJECT: Mandated municipal services (Work Order No. 8-LS1684)

TO: Representative Mark Hanley

FROM: Tamara Brandt Cook
Director TBC

Here is the draft you requested based upon SJR 32 introduced during the Seventeenth Legislature. You attached a copy of a memorandum by Michael R. Stahl, Assistant Municipal Attorney, and asked me to review it to see if it answered my concerns with the original resolution. I have done so, and continue to have all the same doubts about the workability of this legislation that were expressed in my memorandum dated May 15, 1991. Additionally, I note that Mr. Stahl expresses the notion that, as a constitutional amendment, the legislation would be fleshed out by statute and, possibly, regulation. Since this legislation enacts a statute and not a constitutional amendment, that chance for clarification has disappeared.

TBC:gc
94-109.glc

Enclosure

8-LS1684\A
Cook
2/9/94

HOUSE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE HANLEY

Introduced:
Referred:

A BILL

FOR AN ACT ENTITLED

"An Act relating to mandated municipal activities or services."

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

* Section 1. AS 01.10 is amended by adding a new section to read:

Sec. 01.10.035. MANDATED MUNICIPAL SERVICES. A law enacted after the effective date of this section that requires a municipality to perform a new activity or service or increase the level of any activity or service is not effective unless an appropriation is made and money is disbursed to the municipality to pay the costs of implementing the law.

Representative Mark Hanley

Alaska State Legislature

MEMORANDUM

TO: Tam Cook, Legal Services

FROM: Rep. Mark Hanley MH

RE: "Bill of Mandates"

DATE: February 7, 1994

Tam, please see the attached; copy of memo from you dated 5/15/91,a copy of SJR 32, and the Municipality of Anchorage's response to the questions you raised in your memo.

Please draft a bill to accomplish the same goal as SJR 32; that no law enacted after the effective date that requires additional services or activities on the part of municipalities is effective unless appropriations of state money are made to cover those costs.

I do not want a constitutional amendment. Please draft a bill which changes the statutues to accomplish this goal. I am also interested in your reaction to the muni's reply memo.

Thank you for your assistance. Please call with any questions.

Interim: 3111 C St., Suite 410, Anchorage, AK 99503 • (907) 561-2033 *Session: State Capitol, Juneau, AK 99801-1182 • (907) 465-4939*

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

P.O. Box Y, Juneau, Alaska 99811
(907) 465-3867 or 465-2450
FAX (907) 465-2029

Deliveries to: 240 Main Street
Court Plaza, Room 500
Mail Stop 3101

MEMORANDUM May 15, 1991

SUBJECT: Mandated Municipal Services (Work Order No. 7-LS1379)

TO: Senator Rick Uehling

FROM: Tamara Brandt Cook
Director TBC

Here is the draft you requested proposing a constitutional amendment relating to mandated municipal services. The amendment would provide that no law enacted after the effective date of the amendment that requires additional services or activities on the part of municipalities is effective unless appropriations of state money are made to cover those costs.

Frankly, I do not understand how this proposal will work. Does it require an appropriation to cover costs only for the first year after enactment or forever, so that laws go into and out of effect on a yearly basis? Must the legislature appropriate money to cover costs of implementing each law separately or will a large appropriation to each municipality to cover all its responsibilities do? What if the appropriation is not large enough? Does the municipality get to choose which laws to implement and which to render ineffective? May each municipality choose separately, so that laws are not uniform across the state? May a municipality faced with a funding shortfall implement some laws one month and others the next? How is anyone to know whether a law is in effect or it isn't? How are they to know in which municipality it is in effect?

TBC:lmb
91-190.lmb

SENATE JOINT RESOLUTION NO. 32

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY SENATOR UEHLING

Introduced: 5/17/91
Referred: Judiciary, Finance

A RESOLUTION

Proposing an amendment to the Constitution of the State of Alaska relating to mandated municipal services.

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

* Section 1. Article X, Constitution of the State of Alaska, is amended by adding a new section to read:

SECTION 16. MANDATED MUNICIPAL SERVICES. No law enacted after the effective date of this section that requires a borough or city to perform a new activity or service or increase the level of any activity or service is effective unless an appropriation is made and money is disbursed to the borough or city to pay for costs of implementing the law.

* Sec. 2. The amendment proposed by this resolution shall be placed before the voters of the state at the next general election in conformity with art. XIII, sec. 1, Constitution of the State of Alaska, and the election laws of the state.

MUNICIPALITY OF ANCHORAGE

MUNICIPAL ATTORNEY'S OFFICE

MEMORANDUM

DATE: March 26, 1993

TO: Anne Williams, Executive Assistant
Municipal Manager's Office

THRU: Larry D. Crawford, Municipal Manager

THRU: Richard L. McVeigh, Municipal Attorney

THRU: Ann Waller Resch, Deputy Municipal Attorney

FROM: Michael R. Stahl, Assistant Municipal Attorney

SUBJECT: Constitutional Amendment To Require Reimbursement For State Mandated Municipal Services

QUESTION PRESENTED:

You have asked for analysis of points raised which question the efficacy of the following proposed constitutional amendment:

> Article X, Constitution of the State of Alaska, Section 16. Mandated Municipal Services. No law enacted after the effective date of this section that requires a borough or city to perform a new activity or service or increase the level of any activity or service is effective unless an appropriation is made and money is disbursed to the borough or city to pay for costs of implementing the law.

Generally the points raised in objection are as follows:

1. How must the legislature appropriate the funds to cover costs of implementing a mandate law?

2. May a municipality or borough choose which laws to implement and may the municipality or borough declare laws effective or ineffective on a monthly, or yearly basis? and

3. Are there problems with uniformity of laws across the state and knowledge of what laws are in effect where?

DISCUSSION:

These are good questions, but all can be answered easily with a brief amount of legal research. Numerous states have enacted some form of mandate reimbursement.

Proposed Article X, Section 16 is a constitutional amendment whose purpose and intent seem clear: To impose an obligation on the State to fund increased levels and new requirements of mandated activities or services with respect to each unit of local government. Constitutional provisions rarely, if ever, set forth procedures or details for their implementation. Successful compliance with the mandate reimbursement amendment may require the legislature to enact a statutory program to implement mandate funding or reimbursement, which would most likely include written regulations and procedures, an appeals process for local governments, and a state agency to administer implementation. Whether appropriations are individual as to each mandate or lump sum appropriations is not an issue. It is obvious there must be some accounting procedure for a lump sum appropriation to illustrate sufficiently what mandates the appropriation would fund. It appears generally in other states some mandates appropriate funding up front while most states provide a "claims" procedure and reimburse documented costs.

States with mandate reimbursement requirements have responded differently to local obligation on unfunded mandates. Legislatures can permit a simple unconditional option to local governments on unfunded mandates. Under this scenario, the local government simply has the option to implement the law if it has the money. Or the legislature can enact a statutory or administrative program which requires local governments to petition courts or an administrative agency to permit noncompliance with allegedly unfunded mandates. ~~Another possibility is the local government must comply but may submit a reimbursement claim.~~ We believe the correct interpretation of the proposed Alaska provision is that a mandate law is ineffective and need not be implemented without an up-front appropriation. If the legislature failed to adopt statutory guidance and administrative procedures, aggrieved municipalities would be relegated to the courts for interpretation and implementation of the constitutional provision. City of Sacramento v. State of California, 785 P.2d 522 (Cal. 1990).

The non-uniformity of municipal or borough law across the state does not appear to be anything significantly different than what currently exists. Laws are not uniform between cities, counties, boroughs, municipalities, etc. in this state or nation wide. Legislative services, publishers, and/or clerks who normally have the duty to record and keep current the written law would need a procedure to document municipal decisions on nonimplementation of unfunded mandates. This procedure could be a subject of legislative enactment if it proved to be a problem.

The month to month or year to year inconsistencies in local implementation of unfunded mandates appears to be a non-issue also. From a practical stand point, local governments normally have no interest in turning their laws "on again/off again." Secondly, implementation would depend upon whether or not a mandate is funded, not successful municipal budgetary experience with funded mandates.

CONCLUSION:

Numerous states have enacted mandate reimbursement provisions either by statute or constitutional amendment. Those states that have enacted mandate reimbursement by constitutional amendment have had the most successful experiences with mandate reimbursement. In the absence of legislative interpretation by follow-up statute and administrative procedures, the courts will be left to interpret the constitutional provision and answer the questions of the type above. Schmidt v. Dept. of Education, 490 N.W.2d 584 (Mich. 1992). The wise legislature will attempt to interpret the provision and provide its own statutory and administrative program for compliance with the constitutional provision in order to avoid decisions being foisted upon it by the courts. However, any legislative follow up enactment or administrative procedural provisions will be subject to judicial review as the Supreme Court is the ultimate arbiter of constitutional provisions. Schmidt 490 N.W.2d at 586. While questions such as the ones above must be asked, they are relatively easily answered and workable solutions identified through careful study.

WILLIAMS\SERVICES\MOS\el

8-LS1684\A.1
Cook
3/29/94

AMENDMENT

OFFERED IN THE HOUSE BY REPRESENTATIVE HANLEY

TO: HB 502

Page 1, line 4, after "SERVICES.":

Insert "(a)"

Page 1, after line 8:

Insert a new subsection to read:

"(b) This section does not apply to a state law enacted to comply with federal law or requirements for state participation in a federal program."

(7)

Date Referred: February 14, 1994 FURTHER REFERRALS: Finance

Date of Committee Action: 4-07-94

The COMMUNITY AND REGIONAL AFFAIRS Committee considered: HB 502

HOUSE BILL NO. 502 MANDATED MUNICIPAL SERVICES

"An Act relating to mandated municipal activities or services."

RECOMMENDATIONS: [ ] the same title
be replaced with CS HB 502 [ ] a new title

[ ] have attached amendments(s)

[ ] do pass

[ ] do not pass

[ ] no recommendations

[X] individual recommendations

[ ] additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(s): (Dept) APPROVES PREVIOUS: (Dept/Date)

[ ] fiscal impact _____ [ ] fiscal note(s) _____

[X] zero fiscal note C+RA [ ] zero fiscal note(s) _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
Con Bunde	✓	Jerry Sanders		✓	
W.K. Williams	✓	Ed Willis		✓	
[illegible]	✓	Audrey Allberg		✓	

Audrey Allberg
CHAIRMAN'S SIGNATURE

MUNICIPALITY OF ANCHORAGE
Municipal Manager's Office
Post Office Box 196650
Anchorage, Alaska 99519-6650
(907) 343-4433

TELECOPIER COVER LETTER
TELECOPIER NUMBER: (907) 343-4110

DATE: 3/31/94

FAX NUMBER: 465-2418

TOTAL NUMBER OF PAGES: 6 (including cover letter)

TO: Michelle Toohey, Rep. Hanley's office

FROM: Dan Moore, M.O.A.

PHONE NUMBER: 343-4282

COMMENTS:

Attached is a "draft" of a proposed substitute for HB 502 which was prepared by Scott Brandt Erickson, asst. municipal atty.

Also attached is a summary of changes that were made in this proposed substitute; these changes are discussed section by section.

— DM

PROPOSED SUBSTITUTE FOR HB 502

IN THE LEGISLATURE FOR THE STATE OF ALASKA

EIGHTEENTH LEGISLATURE - SECOND SESSION

A BILL

FOR AN ACT ENTITLED

"An Act relating to mandated municipal activities or services."

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

*Section 1. AS 01.10 is amended by adding a new section to read:

Sec. 01.10.035. MANDATED MUNICIPAL SERVICES. a) for the purposes of this section the following terms shall have the meanings indicated:

1. "Law" means any state statute or regulation

2. "new activity or service" means any activity or service which is required as a result of a state law, which was not required prior to the adoption of the relevant state law and which results in costs mandated by the state.

3. "increase in level of activity or service" means any change in the delivery of a current service or activity which is required by either a change in the law or a reduction in the level of state funding for the activity or service and which results in additional costs mandated by the state.

4. "costs mandated by the state" means any increased cost creating a significant financial impact which a municipality is required to incur after January 1, 1995 as a result of any statute enacted after January 1, 1995, or any regulation adopted after January 1, 1995, which mandates a new activity or service or a

higher level of municipal contribution to an activity or service. Costs mandated by the state shall not include costs of the type experienced equally by private and public entities which are incurred by a municipality in its proprietary capacity or costs which result from activities or services which a municipality, although not required to do so, elects to provide.

5. "significant financial impact" means an activity or service which requires municipalities to expand existing services, employ additional personnel, or increase local expenditures.

b) No law adopted or amended after January 1, 1995, which imposes or increases costs mandated by the state as a result of a new activity or service or an increase in the level of municipal funding for an activity or service, shall be effective unless the bill creating the law either contains an appropriation for the reimbursement of the local government or specifically exempts said statute from the operation of this section.

c) All bills which apply to municipalities shall include findings as to:

1) whether the bill would mandate a new activity or service or increase the level of municipal funding for an activity or service; and

2) whether any mandate contained in the bill will have a significant financial impact on municipalities.

d) If a municipality disputes the findings under subsection (c) of this section associated with a particular bill it may, within 30 days of the effective date of the law, petition the Legislative Audit Division for review of the action.

e) Notwithstanding subsection (b) of this section a municipality may elect to provide an activity or service pursuant to a statute which is rendered ineffective under section (b) of this section using local funds to pay any costs mandated by the state. If a municipality voluntarily provides an activity or service through local option in this manner, the municipality may modify the activity or service consistent with the policy and intent of the statute to the extent and in the manner necessitated by the limitations of the local funding provided as determined by the municipality.

f) If a funded activity or service which imposes costs mandated by the state becomes unfunded in whole or in part in a subsequent year a municipality affected by the reduction in funding may modify the activity or service as provided in subsection e.

NOTES ON DRAFT MANDATES BILL

The attached draft attempts to respond to some of the comments from the teleconference held on March 29, 1994. The relevant parts are as follows:

1. Format change: the proposed statute has been separated into five subsections in order to accommodate definitions and implementing directions.

2. Definitions: Definitions have been added for several terms. "Law" is defined to make clear that changes in regulations may contain hidden mandates. "New activity or service" has been defined in part by reference to the term "costs mandated by the state" in order to facilitate a limitation on de-minimus mandates. "Increase in level of activity or service" is also defined by reference to "costs mandated by the state" for the same reason. "Costs mandated by the state" is defined to avoid inclusion of costs which a municipality voluntarily assumes or which are imposed upon a municipality on the same basis as private entities. This definition is based upon California Government Code section 17514. "Significant financial impact" is defined to address concerns about di-minimus mandates. This definition is based upon Massachusetts General Laws Chapter 11 section 6B.

3. Exemption from statute: Subsection (b) is patterned after the original bill, but it allows an exception for bills which specifically are exempted from the proposed 1.10.035. The format of the section is also patterned after California Government Code section 17580.

4. Initial findings: Subsection (c) would require a fiscal note or some recognition in a bill as to whether it contains a mandate subject to the limitations in the proposed 1.10.035.

5. Review: Subsection (d) would provide a procedure by which a municipality that disputes a finding as to the mandate status of a measure may seek review of that finding by the Legislative Audit Division so long as the request for review is made within 30 days of passage. The time limit is in order to avoid delayed challenges and to facilitate a determination prior to the expenditure. It may be that there is a better way or a different entity who could more appropriately provide this review. The Legislative Audit Division was selected for lack of a better idea.

6. Local options: Subsection (e) is a local option section which allows a municipality faced with an unfunded mandate to decide whether it will provide the activity or service from local funds. It will allow the local municipality to provide the service in whole or in part, modifying the intended program to the extent necessary to comply with available funding. Essentially, the unfunded mandate would become an

authorization for a municipality to provide a service or activity at whatever level it deems appropriate.

7. Reduced funding of mandates: Subsection (f) would allow municipalities to provide reduced levels of services in out years if funding is reduced, consistent with subsection (e).

HOUSE COMMUNITY AND REGIONAL AFFAIRS

DATE: 4/9/94

PLACE: Rm. 124

SUBJECT OF MEETING:

HB 502

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?		WHAT SUBJECT/ WHICH BILL?
Eugene G. Dan	A.A.R.P + V.F.W.	Box 20995 Juneau	9980	586 2 3816		Y	(N)	H 502
Pete Anderson	AARP	9916 Long Rear, Juneau	99801	789-7422		Y	(N)	HB 502
Dona Hall	AARP	3570 Glacier Hwy #10	99801	780-4082		Y	(N)	HB 502
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	

DRAFT

HB 502 - An Act Relating to Mandated Municipal Activities or Services
Testimony from the Municipality of Anchorage (by teleconference)
House Community & Regional Affairs Committee Meeting
March 29, 1994, 1pm

The Municipality of Anchorage supports HB 502 related to State funding of future mandated municipal activities or services. The Municipality continues to be negatively impacted by costly State and Federal mandates which have been transferred to the local government level. While Federal mandates are currently the most numerous and costly to the Municipality, State mandates have also had a negative impact. The Municipality's primary concern lies in the potential escalation of unfunded State Mandates as a result of future declining revenues collected by the State. Today's testimony will focus on the need to fund State mandates.

State mandates as defined within the language of HB 502 constitutes any law requiring a municipality to perform a new activity or service, or increase the level of any existing activity or service. Mandates, in and of themselves, are not necessarily bad, however when the State establishes mandates which require the Municipality to provide new programs or services without providing the full funding, then the Municipality is forced to give an artificially high priority to the mandates. As a result of assigning mandates a high priority, basic services provided by the Municipality must either be reduced or taxes must be increased to fund the mandates.

Unfunded mandates can occur through direct means such as statutes, regulations, and rules, or through indirect means such as the pass-thru effect of State Agency budget cuts. The Municipality believes that as the State struggles to balance its budgets now and in the future, the practice of burdening local governments with unfunded mandates will increase. The Legislature therefore needs to pass legislation similar to HB 502 in a timely manner, so that future Legislatures will be discouraged from unfairly burdening local government with unfunded State mandates.

Attached as part of our testimony is a highlighted list of actual unfunded State mandates which have negatively impacted the Municipality. While HB 502 will not likely have an effective date covering past enacted mandates, the Municipality nonetheless would take this opportunity to request that the Legislature either provide funding for the existing State mandates, or give the Municipality the option of participating in the program or service.

The most prominent and costly of existing State mandates for the Municipality is the Senior Citizens/Disabled Veterans property tax exemption. In 1993, the Municipality was underfunded by $6.4 million in its exemption of approximately $7.2 million in taxes under this program (1993 reimbursement totalled only $801,730). Furthermore, the Governor's FY95 budget proposes eliminating reimbursement for this program entirely. The Senior Citizens/Disabled Veteran property tax exemption is the Municipality's greatest example of an unfunded State mandate. Again, the Municipality is concerned that as the State's revenues decline unfunded State mandates to local government will only increase.

DRAFT

Other significant examples of State mandates that the Municipality already experiences per the attachment include: alcohol services, domestic violence writs, prisoner transportation costs, 1% for art, Davis-Bacon wages, etc. Note, too, that there are many additional assumed State responsibilities that the Municipality provides to its citizens which are not currently reimbursed by the State. Rather than mention all the assumed responsibilities, our testimony today is intended to focus only on mandates not funded by the State.

Of final note, the Municipality's legal department has performed an initial review of HB 502. The law department's initial concerns to the bill as presently drafted include a suggestion that the term "law" be clarified (i.e., statutes and regulations). In addition, HB 502 would likely be made more effective as a statute if a State administrative body were charged with the responsibility of creating regulations to define "mandates" and "new/increased levels of activity or service". Also, an issue to consider in drafting the statute is that levels of service may not change but funding levels from year to year may (e.g., Senior Citizens property tax exemption). And lastly, the method of appropriating State dollars to fund <u>all</u> unfunded State mandates should be addressed in the statute. The Municipality's legal department is willing to assist the Committee in further developing sections of HB 502.

Thank you to the Committee for this opportunity to provide initial input regarding HB 502.

MUNICIPALITY OF ANCHORAGE
PRIMARY LIST OF
STATE MANDATED REQUIREMENTS

DRAFT

MANDATED PROGRAM/SERVICE DESCRIPTION	UNFUNDED AMOUNT MANDATED TO MOA	REQUIREMENT CITATION/COMMENTS
Senior Citizen/Disabled Veteran Property Tax Exemption	6,400,000	AS 29.45.030
Alcohol Services	717,050	AS 47.37.170 Notes to Decision
Domestic Violence Writs	604,000	Statutory requirement since 1985
Prisoner Transportation Cost	508,000	Duty of State Dept. of Corrections
Jail Contract	1,500,000	Duty of State Dept. of Corrections
Capital Projects - Art	20,000	1% Art
Capital improvements Union scale wages required on construction contracts	125,000	Davis/Bacon Act
Hazardous Liquid Spills	50,000	AFD assistance request
Hazardous Material Handling	25,000	Emergency planning and comments Right-to Know Act AS 29.35.500
Hazardous Waste Disposal (Orphan Drum Program)	10,000	46.03.710 Alaska Statute 46.03.740 Alaska Statute
State of Alaska, Department of Environmental Conversation, Wastewater Disposal Regulations 18 AAC72	5,000	18.AAC72, 1990
Alaska Coastal Wildlife Refuge Management Plan	5,000	AS 16.20.031(a)
Hazardous Materials CRTK Program - Hazardous materials "Community-Right-to-Know (CRTK) program. This program consists of inspection, identifying marking and maintaining records of businesses that maintain hazardous materials on their property	144,100	AS 29.35.500 Alaska Session Law Ch.108
Hepatitis B Immunizations	50,000	SB 194 passed 1991
CSP Hepatitis B Immunization	7,000	SB 194 of the 1991 session
State Single Audit	8,500	2 AAC 45.010 Single Audit Regulations
Testing of well water used for drinking - corrective actin as necessary	1,800	Alaska Drinking Water Regulations 18 AAC 80.060
Background checks - time off work for employees to have checks done	5,000	State Regulation
Equipment and staff time to monitor chlorine levels in pools	25,000	Public Swimming Pools and Spas State Regulations 18 AAC 30.500
Inspection fee - rope two and requirement to have two people operating	12,000	State Regulation concerning Recreational Devices 8 AAC 78.250

legis/manreq

STATE OF ALASKA
1994 LEGISLATIVE SESSION

FISCAL NOTE

BILL NO: HB 502

Revision Date:

Dept. Affected: Community & Regional Affairs

Title: "An Act relating to mandated municipal activities or services."

BRU:

Component:

Sponsor: Representative Hanley

Requestor:

COMPONENT SERIAL NO.

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**
CAPITAL						
REVENUE FUND SOURCE:						

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**	**0.0**

POSITIONS:

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

Estimate of current (FY94) impact $ none

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Remond Henderson Remond Henderson Director Phone: 465-4708

Division: Administrative Services Date: 3/29/94

Approved for the Commissioner by: Bruce Geraghty Deputy Commissioner Date: 3-29-94

Agency: Community & Regional Affairs

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155 SOUTH SEWARD STREET
JUNEAU, ALASKA 99801

MAR 28 1994

March 24, 1994

The Honorable Mark Hanley
Alaska State Legislature
Room 515, State Capitol
Juneau, Alaska 99801-1182

Dear Representative Hanley:

Thank you for the opportunity to offer our support for your House Bill 502, which would require the state to fund any mandates to municipalities.

The City and Borough of Juneau understands and supports the State's efforts to reduce its budget, and is deeply appreciative of the largesse extended by the State to our community in past years. We support a responsible level of government spending and are more than willing to work with the State in finding mutually workable solutions to Alaska's fiscal challenges.

...ize that reductions in State aid to municipalities must be a part of the State's strategy, ...we urge you strongly to provide for an orderly, well planned process that allows communities to plan ahead to absorb fiscal impacts and address possible lower-cost alternatives to traditional service delivery.

House Bill 502 directly supports our efforts to be partners with the State in managing revenue shortfalls. It would require the State to take a longer view and assure that when municipalities are given a mandate, they will also be given the ability to implement it. This allows both state and local government to be responsible to our citizens in assuring that necessary services and functions continue to be provided.

The City and Borough of Juneau has already taken on a number of state-mandated functions, such as air pollution control, fire inspection, and building code inspection. CBJ Manager, Mark Palesh, in testimony delivered a few days ago before the House Finance Committee, stated, "We do not oppose "belt-tightening" at all levels of government; it can be very fiscally therapeutic. However, municipalities can be very innovative in coping with their own problems. Please allow us time to do so and to become part of the solution."

Representive Hanley, thank you for your foresight and willingness to help build this partnership between state and local government.

Sincerely,

Jamie Parsons

Jamie Parsons
Mayor

cc: The Honorable Jim Duncan
The Honorable Bill Hudson
The Honorable Fran Ulmer
City & Borough Assembly
Mark R. Palesh, City & Borough Manager
Clark Gruening, CBJ Lobbyist

Task Force on Governmental Roles

Final Report

by

Brad Pierce, Task Force Staff

July 10, 1992

This document was produced jointly by the Governor's Office of Management and Budget and the Alaska Municipal League.

IV. RECOMMENDATIONS

Task Force Principles Applied to Specific Intergovernmental Issues

The primary job of the Task Force was to decide what is reasonable for one level of government to expect of another. The "what is reasonable test" must take into account the great diversity of municipalities in the state and the enormous disparity in their wealth. It is necessary to examine the situation that currently exists and decide what it should be, based on an understanding of traditional state-local roles and making allowances for the state's unique organizational features. The Task Force applied the principles cited previously to the following issue areas: mandates, police protection, local prosecution, jails, transportation, Senior Citizen/Disabled Veteran Property Tax Exemption, Revenue Sharing and Municipal Assistance. These issue areas were chosen because Task Force members felt them to be high priority concerns and that were not being studied by some other working group. Task Force members also studied two statewide tax alternatives, the personal income tax and general sales tax, which are discussed in this report without recommendations.

In many of the issue areas discussed below, the Hickel administration is either in the process of developing a policy position or legislation has been offered to address specific intergovernmental problems. In a few instances, articulation of Hickel administration policy has come about as a direct result of HCR 17 and subsequent Task Force activities. Each issue is described briefly and Task Force observations and recommendations are presented in boldface type at the end of each section.

A. Mandates

The U.S. Advisory Commission on Intergovernmental Relations (ACIR) defines mandates as "legal requirements, constitutional provisions, statutory provisions or administrative regulations that a local government undertake a specific activity or provide a service meeting minimum standards."[4] Federal and state mandates constrain local decision making by requiring municipalities to substitute national or state priorities for local concerns. Mandates (federal or state) usually address a legitimate need or problem. However, unless accompanied by adequate funding they can be extremely burdensome for local governments. For example, the Municipality of Anchorage estimates that federal and state mandates cost the city $13.2 million in FY 91.

The Alaska Municipal League recently examined 2,162 bills introduced during the past four years in the 16th and 17th Legislatures to see how many placed mandates on local governments. Of the 463 bills (non duplicated) introduced that affected municipalities in some way, 86 passed including 23 that placed mandates on municipalities. Of these, 11 were related to federal mandates.[5] As in the rest of the country, mandates are of increasing concern to local officials in Alaska.

At the federal level, President Bush promised in his 1992 State of the Union address that he would not allow any additional federal mandates without funding while he remained in office. However, a recent compilation of pending legislation counted 121 bills in Congress that placed some form of mandate on state or local governments.[6] Whether or not the President is able to keep his promise remains to be seen. In the meantime, the National Conference of State Legislatures and National League of Cities provide federal mandate watch services and a focal point for expressing states' and local governments' interests to the federal government.

While acknowledging the serious problem of federal mandates on local governments and establishing the principle that the state should intervene on their behalf whenever possible, the Task Force has chosen to focus primarily on state mandates over which the state has control. Experience has shown that it is only when federal mandates (e.g., wetlands permitting) become intolerable to a large segment of the population does the combined volume of state and local outrage cause a change in federal policy.

The main result of the recent national focus on the cost to municipalities of complying with state and federal mandates has been legislation placing limits on state mandating authority. Currently 28 states require fiscal notes on bills placing mandates on local governments and 14 have reimbursement requirements. Three states—Florida, New Hampshire and Louisiana have constitutional amendments requiring reimbursement for state mandates on localities.[7] Various analyses of these measures have shown them to be more or less effective. In practice, reimbursement bills and fiscal notes have proven to be relatively easy to circumvent. The Alaska Legislature passed a version of municipal fiscal note legislation, SB 301, during the recently completed 1992 legislative session. Under the provisions of this bill, DCRA is charged with producing fiscal notes for legislation affecting municipalities.

TASK FORCE RECOMMENDATION

Since the state and local governments are necessarily partners in providing public services, it follows that the state has an obligation to take into account any financial impact that new laws may have on municipalities. The Task Force recommends that the legislature closely monitor fiscal notes produced by the Department of Community and Regional Affairs under the provisions of (SB 301) to ensure that staff produce credible estimates. Further, the legislature should make a firm commitment to use the estimates in its deliberations.

In recognition of the fact that in the future it will be necessary for local governments to take on additional funding responsibilities for services that are now either provided directly or funded by the state, the Task Force stopped short of a blanket endorsement of reimbursement legislation. Instead the Task Force approved the philosophical principle cited previously that the level of government mandating a particular program or service has the responsibility to fund it.

B. Police, Prosecution and Jails

Provision of local police services, prosecution of misdemeanor crimes and maintaining local jails are all facets of basic public protection. Traditionally these functions have been viewed as community responsibilities—simply part of living in a civilized settled society. The Task Force recognizes that the state is obligated to provide a minimal level of public protection services to all citizens, but beyond that public protection is primarily a local responsibility. The state makes allowances for communities that do not have the resources to provide local public safety services. The Village Public Safety Officer (VPSO) program was specifically designed for this purpose. The state provides prosecution and legal defense services and maintains jails or provides for custody of prisoners charged under state laws.

Conflicts between the state and local governments have occurred when the Departments of Public Safety or Law have determined that communities are capable of supporting public protection with local resources and the state has sought to pass on those costs to the local governments. There is no requirement in state law that municipalities have ordinances to provide public protection services in place when they incorporate, nor that they continue such services. Several communities in Alaska have refused to accept public protection responsibilities because of budget cutbacks or the lack of political will to vote for local taxes. In a few instances, municipalities are looking for ways to pass

Representative Mark Hanley

Alaska State Legislature

Sponsor Statement

To: Rep. Harley Olberg, Chair
House Community and Regional Affairs Committee

From: Rep. Mark Hanley

Re: HB 502 "Mandated Municipal Services"

Date: March 25, 1994

The intent behind HB 502 is simple, that no law enacted after the effective date that requires additional services or activities on the part of municipalities is effective unless appropriations of state money are made to cover those costs.

An example of a state mandated program with serious financial consequences to the Municipality of Anchorage is the Senior Citizens/Disabled Veterans property tax exemption. For many years the State reimbursed the municipalities for the revenues lost due to the implementation of this exemption. In more recent years, the state has short-funded this expense to the municipalities. The Anchorage taxpayers bear the burden of these expenditures.

With the Legislature continuing to turn to cuts in the Municipal Assistance and Revenue Sharing Program to balance the budget, the concern about mandated services placing further financial burdens on municipalities is amplified.

Many other states have adopted and successfully implemented some form of mandate reimbursement requirement. I believe the Legislature has an obligation to recognize the problem we create when we mandate services on municipalities and support an equitable solution.

Interim: 716 West 4th Avenue, # 300, Anchorage, AK 99501; (907) 258-8192 *Session: State Capitol, Juneau, AK 99801-1182; (907) 465-4939*

ALASKA MUNICIPAL LEAGUE

217 Second Street, Suite 200 • Juneau, Alaska 99801 • Tel (907) 586-1325, Fax (907) 463-5480

DATE: March 28, 1994

TO: Chairman Harley Olberg and Members,
House Committee on Community and Regional Affairs

FROM: Kent E. Swisher, Executive Director

ABOUT: HB 502, Mandated Municipal Services

The Alaska Municipal League supports enactment of HB 502, relating to mandated municipal activities or services.

AML's 1994 Policy Statement provides in part "**The League urges passage of legislation that would require a governmental agency unilaterally transferring responsibility for a program to a municipality or imposing regulations on a municipality to reimburse the municipality for the cost of the transferred responsibility or regulations.**"

HB 502 requires that state mandates be funded as a condition of the new imposition becoming effective. AML supports this concept and therefore supports HB 502.

CITY OF FAIRBANKS
Office of City Manager
410 CUSHMAN STREET
FAIRBANKS, ALASKA 99701
907-459-6850

VIA FAX
ORIGINAL MAILED

March 28, 1994

The Honorable Mark Hanley
Alaska House of Representatives
State Capitol (MS 3100)
Juneau, Alaska 99801-1182

RE: House Bill 502/mandated municipal activities

Dear Mark:

Thank you for the opportunity to comment on this bill, which would alleviate some of the burdens that are routinely placed on struggling municipalities. I also suggest that the wording be extended to include state regulations as well.

During the same time that state and federal funding to municipalities has steadily declined, mandates have increased. While there has been much recent attention on the effects of federal legislation such as the "Brady Bill" and the Americans with Disabilities Act, there are many state programs and regulations affecting the City. They include:

1. Solid Waste Program (18 AAC 60)
2. Hazardous Waste Program (18 AAC 62)
3. Wastewater Disposal Program (18 AAC 72)
4. Water Quality Program (18 AAC 70), which includes City actions regarding wetlands, non-point source, and groundwater.
5. Contaminated Sites Program
6. Air Program (18 AAC 50)
7. Underground Storage Tanks Program

While I cannot give you a solid cost estimate of the cumulate effect of these unfunded mandates on short notice, we know that in <u>just one</u> mandated project, the City was forced to spend nearly a million dollars on a state-mandated water project.

A major concern to me today is the Legislature's action regarding the Governor's proposed reductions in municipal assistance and revenue sharing. A fifty percent (50%) reduction in these programs equates to a 1.8 million dollar cut. In Fairbanks we only provide three basic services: police, fire, and public works. As you contemplate these reductions, I hope that you'll also look at additional ways to help us shoulder the burden we already carry. Think about the other side of future mandates and help us to pay for the mandates of the past. One way to help us pay for road maintenance is to provide local governments which have road powers with a share of any <u>new</u> motor fuels tax collected. Better that we should soak up these fuel tax dollars than the federal government.

Anyway, Mark, you have our support in any effort to improve the situation. Good luck on your initiative.

OFFICE OF THE CITY MANAGER

Mark Boyer
City Manager

xc: Honorable Mayor Hayes and Council Members
Interior Delegation (via mail)

c:\WP51\dcm\Hanley.m28

Municipality of Anchorage

P.O. BOX 196650
ANCHORAGE, ALASKA 99519-6650
TELEPHONE: (907) 343-4431
FAX: (907) 272-1991

Tom Fink, Mayor

OFFICE OF THE MAYOR

March 21, 1994

The Honorable Ron Larson, Co-Chair
House Finance Committee
Alaska State Capital
Juneau, AK 99801

Dear Representative Larson:

I am deeply concerned with the proposal to slash FY 95 State Revenue Sharing and Municipal Assistance revenues by half from the FY 94 levels. These kinds of huge cuts, added to the disproportionate reductions in these revenues in the last several years, would be devastating to all municipalities and cities around Alaska.

Attached is a description of the programs and services impacting Anchorage residents that would most likely be reduced or eliminated if the Governor's proposed budget prevails. These cuts are based on our 1994 budget process; however, a new public hearing process could result in some changes. Without doubt, however, any reduction in State revenues <u>will</u> mean reductions in services and elimination of programs.

If falling State revenues require the reduction of the State government budget, I feel that it is only fair for local governments to share in that reduction. However, the current trend for the State to balance its budget on the backs of local governments by disproportionate reductions in State Revenue Sharing and Municipal Assistance is inequitable and only serves to increase the pressure on local budgets.

It has been inferred by some that State Revenue Sharing and Municipal Assistance have been targeted for disproportionate cuts since such programs are unique to Alaska. This is <u>not</u> so. Alaska is not alone in sharing state-collected revenues with its local governments as is discussed in more detail in the attached material.

Since Alaska communities have taken such a disproportionate reduction in State revenues in recent years, I ask that the FY 95 funding for State Revenue Sharing and Municipal Assistant remain at the FY 94 level.

Sincerely,

Tom Fink
Mayor

cc: Anchorage Caucus

corres2\ltf06

IMPACTS OF GOVERNOR'S PROPOSED FY95 STATE OPERATING BUDGET ON THE MUNICIPALITY OF ANCHORAGE

A. THE ANCHORAGE BUDGET

In 1986, Anchorage received $55.7 million in State Revenue Sharing and Municipal Assistance revenues for purposes of funding its operating budget. In 1993, we received only $28.6 million. Based on the Governor's Proposed FY 95 State Operating Budget, these amounts would be further reduced to $22.0 million in 1994 and $13.3 million in 1995. These falling state revenues combined with falling federal revenues and increasing labor costs put pressures on the Anchorage budget.

In recent years we have been able to produce a balanced budget with essential services funded at a continuation level. In order to stay within available revenues, we have taken positive actions to hold down the costs of running the city. In addition to certain wage and benefit concessions, much of these savings resulted from positive actions taken by Municipal departments such as:

- consolidated functions/reorganizations
- eliminated "nice to do"/"nice to have" functions
- more efficient operation
- hiring freezes
- reduced workforce
- reduced lower-priority services
- budget management that has produced savings from amounts budgeted

Our options will be more limited for future budget reductions. It seems clear that reductions to lower priority services throughout Anchorage government will have to be made. In recent past years, we have been able to minimize reductions in essential police, fire, emergency medical, road maintenance, and health programs and services. However, with the magnitude of the state revenue reductions proposed by the Governor, these programs and services can no longer be spared.

B. GOVERNOR'S PROPOSED STATE REVENUE REDUCTIONS

The Governor's Proposed FY95 State Operating Budget includes reductions in funding for the following major programs which would result in the indicated estimated annual revenue reductions to Anchorage:

State Revenue Sharing	$ 5,254,000
Municipal Assistance	8,765,000
Senior Citizens Property Tax Exemption	802.000
	$14,821,000

Due to the timing of when the revenues are received by Anchorage from the State, the reduction in Anchorage's calendar year 1994 budget would be $5,254,000 while the reduction in the calendar year 1995 budget would be $14,821,000, assuming no further State Revenue Sharing reduction is made during the 1995 legislative session.

Anchorage's budget is on a calendar year basis. Since legislative and possible Governor's veto actions will probably not be completed until late June 1994, we will be half through the 1994 budget before we know the amount of any reduction in state revenues. In reality, about $10.5 million (double the $5,254,000) in annualized cuts would have to be made in 1994 with the remainder of the cuts made in 1995.

C. POTENTIAL AREAS OF ANCHORAGE SERVICE REDUCTIONS

Based on the priorities in our 1994 operating budget, the following programs and services directly impacting Anchorage residents would likely be candidates for reduction or elimination if the Governor's proposed budget prevails:

- Reduce Police Crime Prevention Program by 85%
- Reduce Police K-9 Unit by 50%
- Reduce Police Property Crimes Unit by 52%
- Reduce Community Services Patrol Officers by 33%
- Reduce Police Forensic processing of evidence by 40%
- Reduce Police internal investigations staff by 50%
- Reduce Police Person Crimes Unit by 13%
- Reduce Police Narcotics Enforcement by 23%
- Reduce Police Patrol Operating Unit by 5%
- Reduce Police Equipment purchases such as weapons and equipment repair
- Eliminate one engine company at downtown fire station
- Close Fire Station #10 (Rabbit Creek)
- Eliminate the fire company at Station #12 (Dimond and New Seward)
- Reduce maintenance on 5,000 streetlights
- Increase response time to public complaints concerning zoning violations
- Eliminate asphalt overlay program on city streets
- Turn off 300 amenity street lights in Spenard and Central Business District
- Eliminate oiling of 81 miles of gravel streets for dust control
- Reduce the effort to demolish dangerous buildings
- Reduce traffic signal timing improvement
- Reduce street signage and painting of lane markings
- Reduce snow-hauling of cul-de-sacs
- Eliminate 5 bus routes to South Anchorage, O'Malley, Hillside, Dimond Center areas
- Reduce repair of bus passenger shelters
- Eliminate 2 bus routes to Eagle River
- Eliminate Sunday service
- Reduce Saturday service on 13 routes
- Close Spenard and Fairview Recreation Centers
- Close Muldoon and Samson-Dimond Branch Libraries
- Eliminate funding of additional trail maintenance to the new hotel in Girdwood

- Reduce hours of operation at Loussac Library from 62 to 56 hours per week
- Eliminate enforcement of nuisance, noise and housing codes
- Reduce hours of operation of Anchorage Senior Center
- Reduce well child clinic immunizations and restrict home visit program
- Eliminate Hearing Officer Program for violations of Animal Control Ordinance
- Reduce ability to investigate complaints on Child/Adult Care Facilities
- Reduce assistance provided to the Homeless
- Eliminate oversight of both Anchorage and Chugiak Senior Centers
- Eliminate water testing related to the National Pollution Discharge Elimination System (NPDES) and Spring Clean-up
- Reduce ability to schedule Women, Infant and Children's (WIC) grant clients
- Reduce ability to assess and coordinate the medical needs of Anchorage
- Zoning and Platting applications would take six (6) months longer to process
- Wetlands permits would go from a 5 day processing time to six months
- Eliminate maintenance of the Geographic Information System Data Base used by construction contractors
- Eliminate support to Alaska Aviation Heritage Museum
- Eliminate support to Anchorage Economic Development Corporation
- Reduce support to the Alaska Center for the Performing Arts by 50%
- Reduce maintenance of parks and park facilities
- Eliminate maintenance and operational support for facilities occupied by Non-profit agencies: Grandview Gardens, Government Hill Community Center, Chugiak and Anchorage Senior Centers, Girdwood Community Center
- Snow Removal, parking lot repairs, security reduced at major public facilities: Sullivan Arena, Ben Boeke, Egan Center, ACPA, Animal Control
- Equal Rights Commission discrimination complaints will take significantly longer to investigate
- Eliminate DWI Hearing Officer Program
- Reduce the prosecution of serious Misdemeanor offenses
- Reduce funding for the Federation of Community Councils by 48%

In addition to the above direct programs and services, support will be greatly reduced in areas such as accounting, auditing, management services, training, procurement, management information systems, legal services, and various other administrative and technical areas. This will further reduce services both to the public as well as to other Municipal agencies and will result in a degradation in the timeliness and quality of Municipal services.

We estimate that about 200 Municipal employee positions will have to be eliminated in the aforementioned reductions. This will have an adverse impact on the Anchorage economy just at the time that our economy is on the rebound.

The above cuts are the most likely based on our 1994 budget process; however, a new public hearing process could result in some changes. Without doubt, however, any reduction in State revenues <u>will</u> mean reductions in services and elimination of programs.

D. STATE TRANSFERS TO LOCAL GOVERNMENT

Some people seem to be of the opinion that programs such as State Revenue Sharing and Municipal Assistance are unique to Alaska. This is not so. Alaska is not alone in sharing state-collected revenues with its local governments. Based on a recent Alaska Municipal League study, every state provides some means of sharing resources for the provision of basic services at the local level.

State support is the second largest source of funding for local government in the United States, representing 33.6 percent of city government general revenues nationwide according to a 1990 study by the Advisory Commission on Intergovernmental Relations. In the "Far West" states, state transfers accounted for 40.9 percent of local revenue, while in Alaska state-transferred revenues were 37 percent of Alaska local government revenue in 1990. Alaska's percent has probably dropped significantly since 1990.

State government has an obligation to share revenue generated from the state's commonly held resources and land base to help provide essential public services at the local, as well as the state, level.

In Alaska, where the state, not private interests that could be taxed by cities and boroughs, owns most of the resource-rich land, and benefits directly from it, programs for the distribution of the wealth to support locally provided services are even more appropriate and important than in many other states.

Alaska's Municipal Assistance (AS 29.60.350) and State Revenue Sharing (AS 29.60.010) programs are key mechanisms in our state for passing a portion of the state's revenues, which are mainly derived from oil, on to cities and boroughs. These programs help local governments provide basic services such as education, sanitation, public safety, and transportation. In many cases, local governments can provide basis services that are more responsive, better suited, more efficient, and better matched to community needs than programs coordinated by state government because citizens have direct and immediate access to the officials who determine policy and oversee delivery of these services. The state should recognize support of local government as a fundamental obligation comparable to support of state community service agencies and should develop a long-term program to meet this obligation reliably.

E. STATE OF ALASKA IS BALANCING ITS BUDGET ON THE BACKS OF LOCAL GOVERNMENTS

If falling State revenues require the reduction of the State government budget, we feel that it is only fair for local governments to share in that reduction. However, the current trend for the State to balance its budget on the backs of local governments by disproportionate reductions in State Revenue Sharing and Municipal Assistance is inequitable and only serves to increase the pressure on local budgets.

Municipal Assistance and State Revenue Sharing

The Governor's proposed FY 95 State Operating Budget reduces the Municipal Assistance and State Revenue Sharing appropriations by 50.1% and 48.8% respectively from the FY 94 appropriation amounts.

In 1986, the Municipality received $55.7 million in State Revenue Sharing and Municipal Assistance revenues for purposes of funding its operating budget. In 1995, under the Governor's Proposed FY 95 State Operating Budget the Municipality will receive only $13.3 million in State Revenue Sharing and Municipal Assistance Revenues. This represents a 76% drop in State assistance in a nine year period.

Attachment 1 shows the decreasing amounts of State Revenue Sharing and Municipal Assistance revenues that the Municipality of Anchorage has received since 1986. As these revenues decreased and labor costs increased, the property taxes paid by Anchorage residents have increased (Attachment 2).

The Municipality of Anchorage is requesting that funding for Municipal Assistance and State Revenue Sharing remain at the FY94 level. The Municipality provides critical and needed services to a multitude of Alaskans, not just those who reside within city limits. The Municipality has absorbed inflation and reduced expenditures by every means practicable since 1986, while the State budget has generally continued to grow. Attachment 3 compares the growth in the State operating budget with the reduction in State Revenue Sharing and Municipal Assistance revenues.

Municipal Assistance

A.S. 29.60.350(a) says, in part, "The legislature may appropriate to the municipal assistance fund during each fiscal year an amount equal to or greater than 30 percent of the income tax received by the State . . ."

The Municipal Assistance Program was restructured in 1978 as a means for the State of Alaska to share its oil wealth with Alaska local governments. For many years, the State funded Municipal Assistance at the minimum statutory entitlement. In recent years, however, Alaska local governments have taken a double hit in Municipal Assistance revenues. Not only have the petroleum related corporate income tax revenues gone down, the State has also reduced the percent being appropriated for Municipal Assistance.

For FY 95, the Governor's proposed Municipal Assistance appropriation is less than 9% of the prior years's corporate income tax revenues rather than the statutory 30%.

Senior Citizen/Disabled Veteran Property Tax Exemption

The Governor's proposed FY 95 State Operating Budget provides no funding for this program.

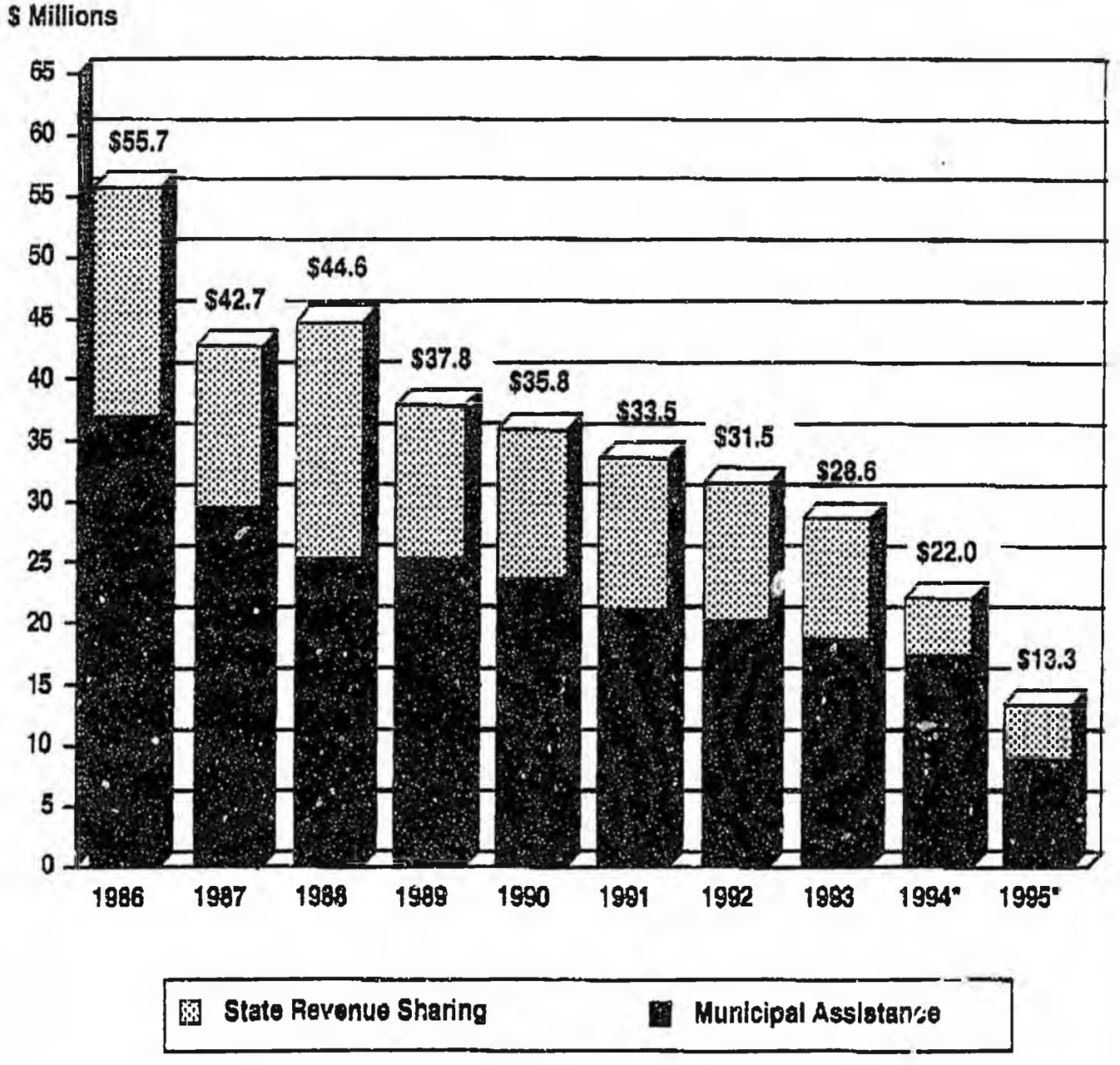
The Municipality of Anchorage continues to request full funding under this program, according to the original intent. In 1993, the Municipality exempted approximately $7.2 million in taxes under this program and yet will only be reimbursed approximately $0.8 million, an underfunding of over $6.4

million. The Municipality has seen its revenue loss for this program increase 46% over last year. This shortfunding will have to be made up from either an increase in taxes for the remaining taxpayers or the loss of more government services. Anchorage residents cannot afford to continue to subsidize the program. The State should fully fund the exemption. If it does not, the program should be repealed or made an option of local governments.

corres2/rgd184

Prepared March 21, 1994

MUNICIPAL ASSISTANCE / STATE REVENUE SHARING TREND FOR ANCHORAGE

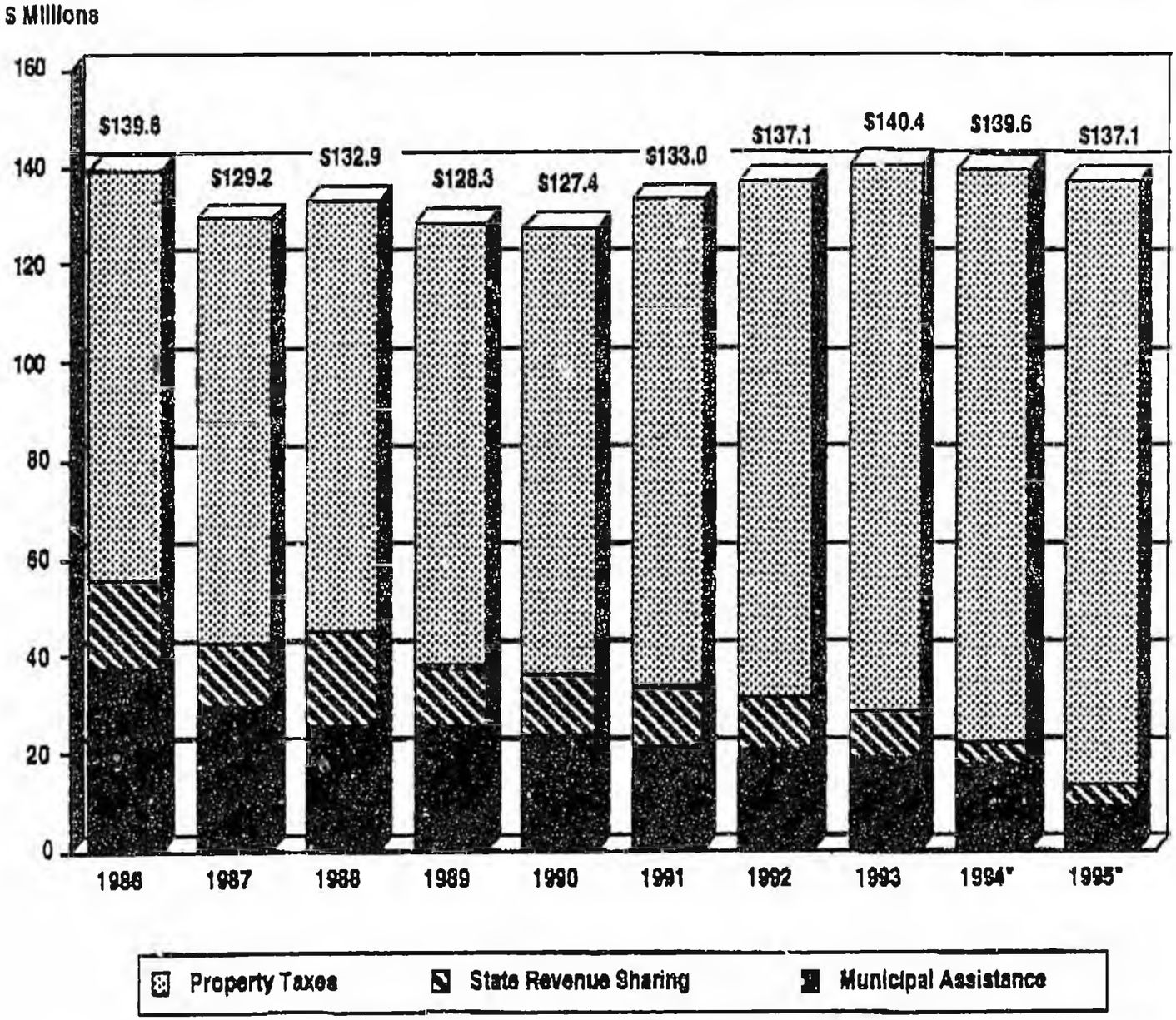


* Based on Governor's Proposed FY95 State Operating Budget.

ATTACHMENT 1

MUNICIPAL ASSISTANCE / STATE REVENUE SHARING / PROPERTY TAXES

TREND FOR ANCHORAGE

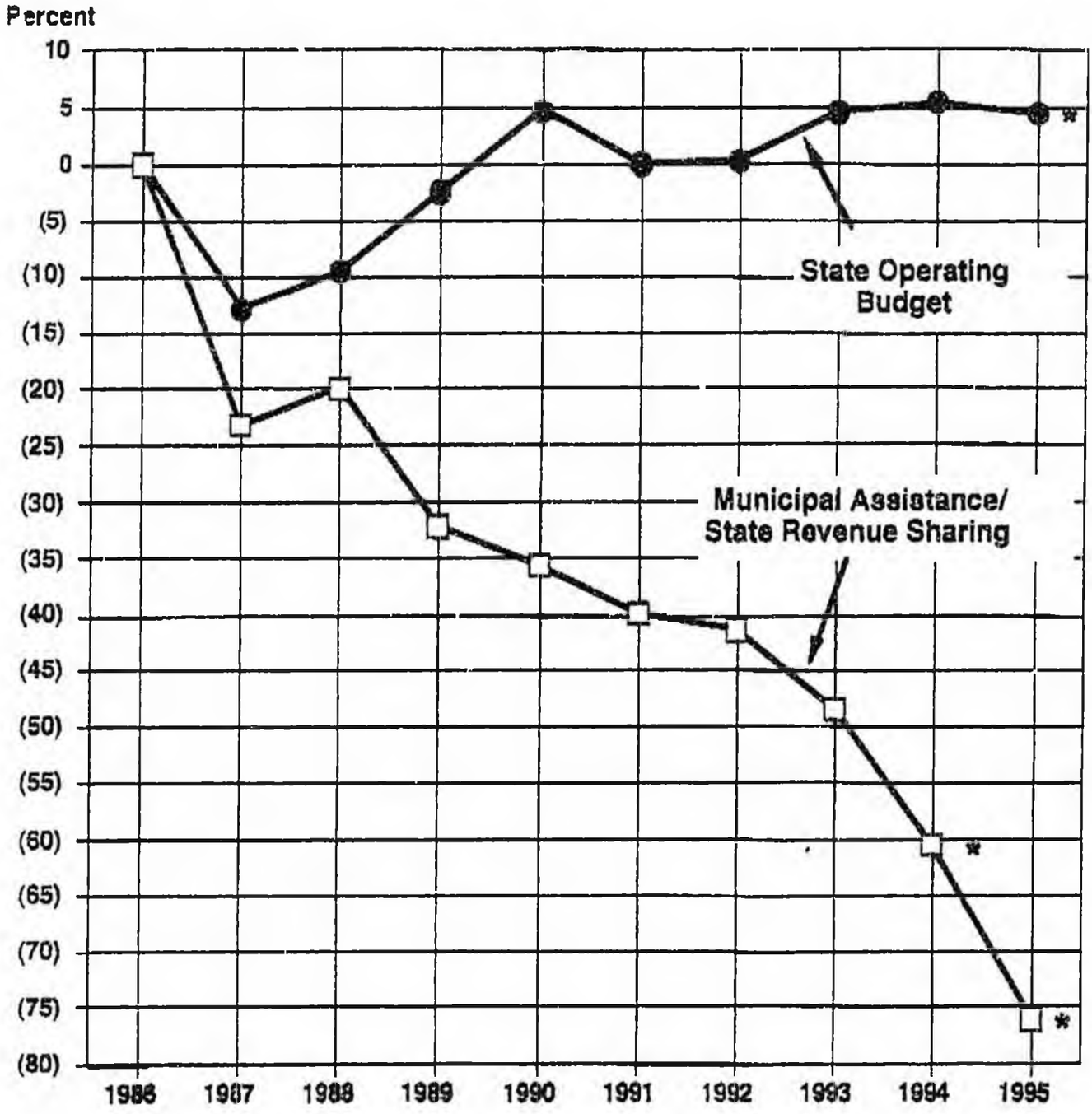


* Estimate; 1995 property taxes are assumed here to increase from 1994 by the same percentage as 1994 from 1993.

ATTACHMENT 2

CUMULATIVE PERCENT OF CHANGE

MUNICIPAL ASSISTANCE / STATE REVENUE SHARING PAID TO ANCHORAGE COMPARED TO STATE OPERATING BUDGET CHANGES



* Based on Governor's Proposed FY95 State Operating Budget.

ATTACHMENT 3

HB

515

WALTER J. HICKEL
GOVERNOR

P.O. Box 110001
Juneau, Alaska 99811-0001
(907) 465-3500

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 25, 1994

The Honorable Ramona L. Barnes
Speaker of the House
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Dear Speaker Barnes:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill making amendments to the Alaska Land Act, also referred to as Title 38.05. The bill also makes other amendments to the same title.

The Alaska Land Act dictates how the Department of Natural Resources manages state land. Since 1959, this set of statutes has been added to and amended so that it now exceeds 180 pages in length. This past summer, I asked Commissioner Noah to review the Alaska Land Act to recommend changes that would bring greater efficiency to the management of state lands without sacrificing public involvement in land use decisions. This legislation is the result of that effort.

This legislation will result in increased delivery of state government services to the citizens of Alaska at no additional costs. It will streamline procedures for mining and land actions, clarify definitions for agriculture, allow greater flexibility for managing our forests, provide for exchange of native allotments located within state park units, and make other changes necessary for cost effective and sound land management.

This legislation is not intended to be a comprehensive overhaul of the Alaska Land Act, but rather the first step in a process that will continue to review the requirements of law, the needs of Alaskans, and the cost effective operation of government. I look forward to working with you to assure your prompt consideration and passage of this bill.

Sincerely,

Walter J. Hickel

Walter J. Hickel
Governor

FISCAL NOTE

STATE OF ALASKA

BILL NO. HB 515

1994 LEGISLATIVE SESSION

Revision Date: Original

Dept Affected: Natural Resources

Title: "Title 38 Revision"

BRU: ALL

Component: ALL

Sponsor: Governor

Requestor:

Component Serial No. ALL

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES (1004)*	100.0	100.0	100.0	100.0	100.0	100.0

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY94) cost: $ None

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 if necessary)

Bill would lower administrative costs for Division of Land (deletes duplicative land bank, travel to hold lotteries at remote sites, special procedures for set net sites/aquatic farmsites, loopholes that let ex-lessees transfer site cleanup costs to state, enforcement of reconveyance restrictions on remote parcels/homesteads). It would increase revenue by ensuring fair market value for most state land sales and leases under AS 38.05.070-.105, and at least some rental payment to hold homesites/homestead entry permits.

*Revenue of $100.0 depends on maintaining current level of staffing in FY95.

Prepared by: Jerry Gallagher, Legislative Liaison Phone: 465-2400

Division: Commissioner's Office Date: 1-Feb-94

Approved by Commissioner:

Harry A. Noah Date: 1-Feb-94

Agency: Natural Resources

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Date: March 1, 1994

Prepared By: Department of Natural Resources

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Senate Bill 339 and House Bill 515 relate to the management of state land and resources and to certain remote parcel and homestead entry land purchase contracts and patents. The bill amends or repeals provisions in AS 38 to simplify and clarify them, and to provide greater efficiency in the management of state land and resources.

Sections 1 through 7 of the bill would amend AS 38.04.020 to delete the land disposal bank for potential state land sales, recast the land bank as a land disposal program, revise planning and classification requirements, and make appropriation requests for land disposals discretionary by the commissioner of the Department of Natural Resources (DNR). Currently, existing AS 38.04.020 requires the land bank to have at least 500,000 acres classified and available for disposal into private ownership. That statute also requires an annual report on the status of the land bank and mandates that the commissioner annually submit an appropriation request to the legislature to administer surveys and disposals of land. The land bank system is outdated because regional land use plans have now classified over 2,000,000 acres of state land for disposal. Section 35 of the bill repeals existing AS 38.04.020(c),

(f), (j), and (k), the requirements of which have become unnecessary due to the amount of land now classified for disposal. Section 8 of the bill makes a conforming amendment to AS 38.04.021(b)(1).

Sections 9 and 10 of the bill amend existing AS 38.04.030 and AS 38.04.035 to simplify the methods that DNR can use to design state land disposals. Section 9 amends existing AS 38.04.030 by authorizing DNR to develop additional disposal programs by regulation. A program established by regulation would have to provide for competitive disposal at no less than fair market value, but would not necessarily have to conform to existing programs in AS 38.

Section 10 amends AS 38.04.035 by making a fair market value return to the state mandatory, rather than discretionary, when state land is conveyed to private parties, unless a conveyance for less than fair market value is specifically authorized by statute or regulation.

Section 11 of the bill amends existing AS 38.05.035(b)(9) to allow DNR to reconvey substitute land for state land that is subject to a pending Native allotment application. This amendment is designed to give DNR the ability to relocate Native allotment claims from state parks and recreation areas to less sensitive areas. Existing AS 38.05.035(b)(9) only allows the reconveyance of land wrongfully

conveyed by the federal government to the state, such as land subject to Native use and occupancy predating state selection. The amendment is intended to allow DNR to take advantage of a 1992 amendment to the Alaska Native Claims Settlement Act (ANCSA), 43 U.S.C. 1617(c), which authorizes the relocation of pending Native allotment claims to substitute state land with the commissioner of DNR's concurrence.

Sections 13 and 14 of the bill delete from existing AS 38.05.055 and AS 38.05.057(a) the requirement that a purchaser appear in person at a lottery or auction for state land. In Chambers v. State, No. 3AN-88-4634 CI (1989), that requirement was held to violate the equal protection clause of the Constitution of Alaska because it discriminates between local and non-local residents. Section 12 of the bill amends existing AS 38.05.050 to remove the requirement that the lottery or auction be held in a community near the land to be disposed. Such a decision would, instead, be discretionary. Section 35 of the bill repeals existing AS 38.05.057(g) and AS 38.05.057(j), which are premised on the existing requirements in AS 38.05.050, AS 38.05.055, and AS 38.05.057(a) that are being deleted. Section 32 of the bill amends AS 38.09.010(g) to remove language related to personal appearance at a lottery and local site for a lottery.

In addition, sec. 14 of the bill deletes a provision of AS 38.05.057(a) that requires the commissioner of DNR to consult

with the municipal assessor before determining the purchase price for state land located in that municipality. Because the appraisal required by existing AS 38.05.840 gives the commissioner an accurate valuation, the consultation requirement is unnecessary.

Section 15 of the bill repeals and reenacts AS 38.05.069(e)(2). Existing AS 38.04.069(e)(2) defines "approximate vicinity," a term that is not used elsewhere in existing AS 38.05.069, the agricultural preference right statute. The bill would replace "approximate vicinity" with a definition of "adjacent," a term that is used elsewhere in that statute.

Changes made by secs. 16 through 18 and sec. 35 of the bill eliminate special procedures for leasing setnet and aquatic farming sites contained in existing AS 38.05.082, 38.05.083, and 38.05.856. Sections 29 and 35 revise the public notice requirements of existing AS 38.05.945 accordingly, by repealing AS 38.05.945(a)(5) and (6) and amending AS 38.05.945(d). Section 16 amends existing AS 38.05.082(b), which requires DNR to award set net leases between two or more competing applicants on the basis of a complex analysis of the "most qualified applicant." This procedure is highly dependent on DNR's ability to make factual determinations as to each applicant's tenure in the fishery, present ability to utilize the location to its maximum potential, and "other factors relevant to the equitable assignment of the disputed area." The amendment would replace this procedure with the options of either a public

auction under AS 38.05.075(a) or, if only one application is received and the value of the lease is $5,000 a year or less, a negotiated lease under AS 38.05.070(b). In secs. 3 and 5, ch. 27, SLA 1991, the legislature amended AS 38.05.082(b), effective January 1, 1997, regarding language that refers to DNR land use plans. Section 34 of the attached bill clarifies that the changes in the bill regarding new procedures for determining the qualifications of setnet lease applicants, contained in sec. 16 of the bill, do not affect the changes made to AS 38.05.082(b) by secs. 3 and 5, ch. 27, SLA 1991.

In sec. 18 of the bill, AS 38.05.083 is repealed and reenacted to set out aquatic farm and hatchery site leasing procedures. In the repeal and reenactment, many of the existing permit provisions in AS 38.05.856 are moved to AS 38.05.083 as leasing provisions. AS 38.05.856 is repealed by sec. 35 of the bill. Section 35 of the bill also repeals existing AS 38.05.855, which requires DNR to identify and propose sites for aquatic farms and hatcheries, and AS 38.05.946(b), which requires DNR to hold public hearings on those proposed sites. The purpose of these changes is to bring the leasing of setnet and aquatic farming sites into conformity with the procedures governing other state land uses. Section 36 of the bill makes clear that the changes made to existing AS 38.05.083 and 38.05.856 by secs. 18 and 34 of the bill do not impair the legal rights of a person who holds a permit under those statutes.

Section 19 of the bill repeals and reenacts AS 38.05.090 to make a lessee of state land responsible for returning a former leasehold to a marketable condition. The amendment would also provide for the automatic vesting of title in the state of any personal property, buildings, or fixtures that are not removed by the lessee within a specified time. Under the existing statute, a lessee who leaves buildings or personal property on state land when a lease expires is not subject to any penalty and is not responsible for the costs of restoring the property to a condition suitable for subsequent leasing. The changes made by sec. 19 would address this statutory deficiency.

Sections 20 and 21 of the bill give the commissioner of DNR new authority regarding the sale of state timber. A new statute AS 38.05.117, would permit the commissioner of DNR, after making a best interests determination, to sell timber that will quickly lose substantial economic value or perpetuate insect or disease epidemics unless salvaged. Cases of damage due to insects, disease, or fire, or when the land is to be cleared of timber and converted to some nonforest use, often fall outside of the normal five-year sale schedule mandated by AS 38.05.113 and the limitations on sales set out in AS 38.05.115. This new section providing for salvage sales would exempt those sales from the limitations of AS 38.05.113 and, in certain circumstances, from the limitations of AS 38.05.115. The amendment made by sec. 21 of the bill would permit the commissioner of DNR to negotiate timber sales

in certain areas if the commissioner finds that the specified circumstances "will exist" within two years, and adds, as a circumstance: "that timber will lose substantial economic value due to insects, disease, fire, or land use conversion."

Section 22 of the bill amends existing AS 38.05.180(c) to remove restrictions on DNR's ability to delay an oil and gas lease sale for more than 90 days after the sale's scheduled date in the five-year oil and gas leasing schedule submitted annually to the legislature. Under the existing statute, an oil and gas lease sale may be delayed only for a maximum of 90 days after the last day of the calendar quarter for which the sale was scheduled. After that time, the sale must be delayed until the sale has again appeared in the annual five-year leasing schedules submitted to the legislature for two calendar years. Although the purpose of the 90-day restriction was to prevent arbitrary delays in lease sales, that has not been shown to be a problem. The Department of Natural Resources has concerns that administrative appeals and court challenges to lease sales might cause the 90-day limit to be exceeded. Also, DNR might wish to extend the comment period for a lease sale beyond 90 days to facilitate unique needs of residents in the area. For instance, the comment period might otherwise occur during peak subsistence hunting or fishing seasons. The amendment would delete the 90-day restriction to accommodate unavoidable delays, while still allowing for timely scheduling of lease sales. Timely scheduling of future sales is important in

encouraging development.

Section 23 of the bill amends existing AS 38.05.185(a) to eliminate overly broad provisions allowing land to be closed to mining. The existing statute allows DNR to determine which state land should be closed to mining or mineral entry. The commissioner of DNR must first find that mining would be incompatible with significant surface uses of the land. Although not defined in AS 38.05, the term "mining" generally refers to the activities and operations involved in extracting, processing, and marketing minerals. "Mining" presupposes the existence of valid mining rights under mining claims or leases. Existing AS 38.05.185(a) is overly broad because it allows land to be closed to mining without provision for valid existing mining rights. The existing statute could be viewed as effecting a "taking" of valid mining rights, since it authorizes a mineral closure without requiring an eminent domain action or providing for compensation; it may therefore run afoul of AS 37.05.170 and art. IX, sec. 13, of the Alaska Constitution. The amendment would provide that land may be closed to location under AS 38.05.185 - 38.05.275, which would prevent the acquisition of new mining rights, thus avoiding these potential pitfalls.

Section 24 amends existing AS 38.05.190(a) to clarify the qualifications for mining claim ownership by aliens and foreign corporations. Under the existing statute, an alien at least 18 years old from a country that grants "like privileges" to United

States citizens may acquire or hold exploration and mining rights. A corporation in which more than 50 percent of the stock is owned or controlled by aliens whose country does not grant reciprocal rights to United States citizens may not acquire or hold exploration and mining rights. However, determinations of which countries grant "like privileges" to United States citizens have never been made or enforced in any consistent manner due to the number and complexity of mining laws worldwide. The federal mining laws, upon which Alaska laws were initially based, allow an alien to form a domestic corporation that would be qualified to obtain mining rights, without inquiry into "like privileges." The Alaska laws governing the acquisition and holding of oil and gas rights also do not inquire into "like privileges." Amending AS 38.05.190(a) to delete these requirements would be consistent with modern business practices, similar federal laws, and state laws affecting other types of mineral rights.

The bill makes several changes regarding mining operations. Section 35 of the bill repeals AS 38.05.207 in its entirety. That statute requires a production license for every mining operation. This provision was added in 1982 in an effort to resolve issues arising under sec. 6(i) of the Alaska Statehood Act. In Trustees for Alaska v. State, 736 P.2d 324 (Alaska 1987), AS 38.05.207 was held not to satisfy the Statehood Act provision and the existing rent and royalty measures in AS 38.05.211 and AS 38.05.212 subsequently were enacted. The production license requirement in

AS 38.05.207 is thus outmoded and serves no public purpose at this time.

Section 25 of the bill would repeal and reenact AS 38.05.211(d) to simplify the adjustments to be made in the annual rental amounts due on mining claims and leases. The existing statute requires the rental amounts to be adjusted every 10 years based on changes in the consumer price index for Anchorage. This statutory adjustment would most likely result in odd rental amounts that would make calculating, accounting, and collection more difficult. Additionally, adjusting rental amounts only at 10-year intervals could result in large changes at one time. The repeal and reenactment would allow rent adjustments to be made whenever the change in the consumer price index for all urban consumers in the Anchorage area equals or exceeds $5, and would restrict the change to multiples of $5. Both DNR and the mining claim or lease owners would appear to be better served if changes can be made more often, and in smaller increments than at cumulative 10-year intervals. The amendment also more clearly identifies the consumer price index on which changes are to be based.

Section 26 of the bill amends AS 38.05.255 to provide a more workable surface use authorization for mine millsites. The existing statute requires a millsite permit for millsites and tailings disposal. Millsites and tailings disposal sites involve large, long-term structures such as mills, dams, and tailing

impoundments, often constructed or installed at considerable expense. However, the term "permit" traditionally refers to an authorization to use land for a limited purpose, with the authorization revocable at the will of the grantor of the permit. A permit does not accommodate the realistic needs of a mining project, which requires long-term surface occupancy and some certainty of continuance if the authorization is maintained in good standing. A prudent operator would obviously be reluctant to invest the large amounts of capital and time necessary for a major mining project if the millsite authorization could be revoked without cause at any time. The amendment substitutes "lease" for "permit" in AS 38.05.255 and provides other conforming changes relating to that change of term. A lease provides for use of the land for a definite period of time if the leasehold is maintained in good standing. A lease generally requires good cause and notice for cancellation. The amendment also exempts millsite leases from the requirements of AS 38.05.070 - 38.05.105, which govern leases not for the extraction of natural resources. Those statutes require competitive bidding as the disposal method. A millsite lease, however, should not be competitively bid since there will almost always be only one party, the mine operator, applying for a particular tract for a millsite lease, and the characteristics of each mine probably will not generate more than one or two acceptable millsite tracts for disposal. Instead, the bill requires the commissioner of DNR to adopt regulations establishing appropriate procedures and annual rent amounts for millsite leases.

Section 27 of the bill amends existing AS 38.05.265 to eliminate the failure to file a lease application within a prescribed period of time as grounds for abandonment of a mining claim. In areas open to mining only under lease, a person who locates a mining claim first must record the certificate of location with DNR under AS 38.05.205(a). DNR then issues a public notice of the proposed mining lease and mails a lease application to the locator. The locator of the mining claim is required to return the lease application within 90 days after receipt of it. Under existing AS 38.05.265, if a lease applicant fails to file the application within 90 days after receipt, the mining claims included within the proposed lease area are abandoned. The 90-day deadline for return of the lease application appears to be for the purpose of issuing a lease timely after the required public notice, so that the notice is not "stale" when the lease is finally issued. However, if the application is not timely filed, the notice period could be repeated without the severe penalty of loss of the mining applicant's leasehold property rights. Under this bill, an applicant would still be prohibited from mining the claims, except for testing or sampling purposes, until a lease is issued and other filing requirements are met.

Section 28 of the bill amends AS 38.05.850(a) to clarify that the use of revokable permits is allowable to authorize certain uses of limited value.

Sections 30, 31, and 33 of the bill amend existing AS 38.08.030, 38.08.040, and AS 38.09.030, respectively, to increase fees for the use of homesites and homesteads before patent, to defray DNR's administrative costs. Existing AS 38.08.030(b) sets a maximum $10 application fee for the use of a homesite. Existing AS 38.09.030(a) limits the application fee for homesteads to $5 per acre. These minimal fees presently paid by permittees for the use of state land do not even cover DNR's administrative costs. This proposal would amend AS 38.08.030(b) by increasing the fee for new homesite applications to the maximum of $25 set out in AS 38.05.057(d), and would amend AS 38.08.040(a) to establish a $100 annual fee to receive and hold a homesite permit before patent. AS 38.09.030(a) would be amended to increase the application fee for homesteads to $20 per acre if the land is not classified as agricultural. The fee increases would apply only to new applications filed after the effective date of this bill. Section 36 of the bill makes clear that the new requirement in AS 38.08.040 for payment of an annual rental fee for a homesite entry permit does not apply to a person who was issued a permit under that statute's existing guarantee that the $10 "application fee is the sole rent chargeable on the permit for its duration."

In addition, secs. 30 and 31 make amendments to clarify that homesite entry permits are issued under lottery procedures in AS 38.05.057(e), (f), and (h). Under DNR regulations, lottery procedures apply to issuance of the permits, but AS 38.05.057 and

AS 38.08 are not clear regarding the applicable procedures.

Section 35 of the bill would repeal existing AS 38.09.050(d) and (e), which prohibit the sale of homesteads for five years after the issuance of patent and the subdivision of homesteads for either five or 10 years after patent, depending on whether the land was purchased under AS 38.09.090. Section 38 of the bill would prohibit DNR from including the conditions of former AS 38.05.078(d) (prohibiting sale or subdivision of the parcel for 10 years after purchase) in a remote parcel purchase contract issued after the effective date of this bill. This section also would require DNR to amend a remote parcel or homestead purchase contract or patent issued before the effective date of the bill if the holder of the contract or patent pays (1) the administrative costs of the amendment, and (2) the difference between the land's fair market value before and after the conditions on the land are removed. The latter requirement is proposed because the fair market value of remote parcel land and homestead entry land sold by the state under existing law has been reduced by 50 percent to account for the conditions in AS 38.05.078 and AS 38.09.050. Removal of the conditions under secs. 34 and 37 of the bill is designed to increase revenue from state land sales and to allow private landowners greater use of the land.

Section 37 of the bill, and its immediate effective date (sec. 39 of the bill), allow for timely adoption of regulations needed to

implement the changes made by the bill. Section 40 of the bill provides for an effective date of July 1, 1994 for the remainder of the bill.

In addition to the changes described above, numerous "housekeeping" amendments are contained in many sections of the bill.

HOUSE COMMUNITY AND REGIONAL AFFAIRS

DATE: 3/8/94

PLACE: Rm. 124

SUBJECT OF MEETING:

HB 515

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?		WHAT SUBJECT/ WHICH BILL?
Ron Swanson	DNR	PO Box 107005 Anch	99510	762-2692 →		(Y)	N	
Jerry Gallegher	DNR	400 Willoughby JNO		465-2400 →		(Y)	N	
Neil Johannsen	DNR	PO Box 107005 Anch	99510	762-2600 →		(Y)	N	
Tom ~~Boutin~~ Bootin	DNR	400 Willoughby JNO			465-3379	(Y)	N	
John Walsh	DCRA	Box 112100 Jnu	99811		465-4898	Y	(N)	HB 515
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	