

ALASKA LEGISLATURE COMMITTEE FILES 1993-1994 8672

7938 • HOUSE LABOR & COMMERCE •

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# HOUSE COMMITTEE REPORT

(7)

Date Referred: March 22, 1993

FURTHER REFERRALS:

Date of Committee Action: 4/01/93

The LABOR AND COMMERCE Committee considered:

HB 180

HOUSE BILL NO. 180

AHFC HOUSING INSPECTION REQUIREMENTS

"An Act relating to the residential housing inspection requirements of the Alaska Housing Finance Corporation."

RECOMMENDATIONS:

the same title

be replaced with \_\_\_\_\_  a new title

have attached amendments(s)

do pass

do not pass

no recommendations

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) \_\_\_\_\_

zero fiscal note \_\_\_\_\_

zero fiscal note(s) Revenue

SIGNING <u>DO</u> PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Brian Porter</i>	✓	<i>Joseph P. Ryan</i>		✓	
<i>Joe Sutton</i>	✓	<i>Bill Hudson</i>		✓	
<i>[Signature]</i>	✓				
<i>[Signature]</i>	✓				

*Bill Hudson*  
 \_\_\_\_\_  
 CHAIRMAN'S SIGNATURE

# ALASKA STATE LEGISLATURE

Representative Eileen Panigeo MacLean  
Co-Chair House Finance Committee  
P.O. Box 830  
Barrow, Alaska 99723  
(907) 852-7111

WHILE IN JUNEAU  
State Capitol, Room 507  
Juneau, Alaska 99801-1182  
465-4833  
465-4525  
463-3241 FAX

## HOUSE OF REPRESENTATIVES

### MEMORANDUM

District 37

North Slope  
Borough

Anaktuvuk Pass  
Atkasuk  
Barrow  
Kaktovik  
Nulqsut  
Point Hope  
Point Lay  
Wainwright


Northwest Arctic  
Borough

Ambler  
Buckland  
Deering  
Kiana  
Kivalina  
Kobuk  
Kolzebue  
Noatak  
Noorvik  
Selawik  
Shungnak

Seward Peninsula

Brevig Mission  
Diomedes  
Shishmaref  
Teller  
Wales

TO: Rep. Bill Hudson  
Chair, House Labor and Commerce Committee

FROM: Rep. Eileen Panigeo MacLean 

DATE: March 22, 1993

RE: Scheduling of HB 180

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HB 180 has been referred to the Labor and Commerce Committee, and I am requesting a hearing on this bill at your earliest convenience.

HB 180 responds to an unintended consequence of last year's merger of DCRA housing loans into AHFC. AHFC's building inspection requirements in AS 18.56.300(b) were designed for residential construction within municipalities or along the road system. Their application to remote settings was not anticipated, and can result in thousands of additional dollars added to the cost of a new home. This works against the development of new housing in remote areas where it is most needed.

HB 180 does not eliminate the requirement for multiple building inspections during construction. Instead it allows AHFC to use some flexibility in applying the existing criteria in remote settings.

HB 180 broadens the pool of eligible inspectors by including licensed architects and engineers, and more importantly it authorizes AHFC to identify other qualified people in rural communities who are capable of doing one or more of the required inspections.

In addition, this bill allows the use of videotape or other means that get the job done without requiring a site inspection. And it authorizes AHFC to use flexibility in its interpretation of building codes as long as health and safety considerations are not compromised.

Rep. Bill Hudson  
March 22, 1993

- 2 -

AS 18.56.300(b) was originally enacted to ensure that areas immediately outside municipal boundaries are held to comparable inspection requirements on AHFC-funded residential housing construction projects. While a requirement of four on-site inspections may be reasonable in urban areas, it imposes an unreasonable burden in areas where inspectors must be flown in.

HB 180 has the support of the banks involved in rural lending. It is welcomed by AHFC. And many builders have testified to the need for a more flexible arrangement in rural areas.

If you need further documentation, please contact David Harding of my staff (-3862).

Thank you.

**Sec. 18.56.220. Duty to advise about corporation's programs.** The corporation shall make a reasonable effort, through seminars, training sessions, and other forms of technical assistance, to assist local governments, regional housing authorities, nonprofit organizations, and other organizations and individuals to understand the corporation's housing programs and the opportunities that exist to obtain financial assistance from the corporation. (§ 98 ch 4 FSSLA 1992)

Effective dates. — Section 152, ch. 4, FSSLA 1992 makes this section effective July 1, 1992.

**Sec. 18.56.300. Construction standards for housing eligible for purchase of loans.** (a) The corporation may not make or purchase a housing loan for residential housing the construction of which begins after June 30, 1992, unless the seller of the mortgage loan complies with the provisions of this section and unless

(1) the unit is in compliance with the construction codes of the municipality, if the unit is located within a municipality that has adopted and enforces construction codes and each of those codes meets or exceeds the comparable standards for similar housing established by the state building code; or

(2) the unit is in compliance with the comparable standards for similar housing established by the state building code

(A) if the unit is located

(i) within a municipality whose construction codes do not meet the standards for similar housing established by the state building code;

(ii) within a municipality that does not enforce construction codes;

or

(iii) outside a municipality; or

(B) as to each specific code within the construction codes of the municipality that has adopted and enforces construction codes if the specific code does not meet or exceed the comparable standard for similar housing established by the state building code.

(b) As a condition of a commitment to purchase or approve a loan under this section for residential housing the construction of which begins after June 30, 1992, the corporation shall require inspection of the unit of residential housing that is the subject of the loan. The inspection must be performed by a municipal building inspector or by a person who is approved or certified to perform residential inspections by the International Conference of Building Officials or the International Association of Electrical Inspectors. The person who makes the inspection shall determine whether the construction conforms to relevant provisions of the construction codes of the municipality or of the state building code, as applicable, at each of the following stages of construction:

- (1) plan approval;
- (2) completion of footings and foundations;
- (3) completion of electrical installation, plumbing, and framing;
- (4) completion of installation of insulation;
- (5) final approval.

(c) A person may not bring an action for damages based on a duty imposed by (b) of this section to inspect a residential unit unless the action is for damages caused by gross negligence or intentional misconduct.

(d) This section does not apply to a nonconforming housing loan made or purchased by the corporation.

(e) In this section,

(1) "construction codes" means, with reference to a municipality, the building, mechanical, plumbing, and electrical codes, or any of them that have been adopted and are enforced by the municipality;

(2) "state building code" means

(A) for building standards, the standards set out in the version of the Uniform Building Code adopted by the Department of Public Safety under AS 18.70.080, including the provisions of that code applicable to buildings used for residential purposes containing fewer than four dwelling units, notwithstanding the exclusion of those buildings from the Department of Public Safety's jurisdiction made by AS 18.70.080(a)(2);

(B) for mechanical standards, the standards set out in the version of the Uniform Mechanical Code adopted by the Department of Public Safety under AS 18.70.080, including the provisions of that code applicable to buildings used for residential purposes containing fewer than four dwelling units, notwithstanding the exclusion of those buildings from the Department of Public Safety's jurisdiction made by AS 18.70.080(a)(2);

(C) for plumbing standards, the publications identified as the minimum plumbing code under AS 18.60.705; and

(D) for electrical standards, the minimum electrical standards prescribed by AS 18.60.580. (§ 2 ch 85 SLA 1990; am § 1 ch 29 SLA 1991; am §§ 1, 2 ch 52 SLA 1991; am § 99 ch 4 FSSLA 1992)

**Effect of amendments.** — The 1992 amendment, effective July 1, 1992, in subsection (d), inserted "nonconforming" and "or purchased" and deleted "under AS 18.56.106" from the end.

**Sec. 18.56.390. Definitions for AS 18.56.010 — 18.56.390.** In AS 18.56.010 — 18.56.390, unless the context clearly indicates a different meaning,

(1) "adjustable rate mortgage loan" means a mortgage loan with respect to which the interest rate varies or is expected to vary from time to time by reference to an index or formula or other reference point;

**Sponsor Statement**  
**HB 180**  
**Rep. Eileen Panigeo MacLean**

HB 180 relates to the residential housing inspection requirements of the Alaska Housing Finance Corporation. When DCRA's rural housing loan programs were merged into AHFC last year, they became subject to AHFC's inspection requirements as listed in AS 18.56.300(b). These requirements were never intended to apply to rural housing loan programs; in fact, AHFC's primary rural loan program (non-conforming housing) is specifically exempted in the statute.

Rural housing loans have been subject to the AHFC inspection requirements since July 1, 1992. These statutory requirements mandate a minimum of four site visits by a qualified inspector. Very few of these inspectors live in rural communities. The result is that a homeowner building a new house must pay for an inspector to fly in five times to review the progress of the project. If the inspector finds any problems during one of these site visits, additional inspection trips may be necessary.

Lending institutions have found that these requirements can add thousands of dollars to the price of a new home. This is an unnecessary and unfair burden on rural homeowners who already are faced with extremely high home construction costs.

While it would be simpler to exempt the former DCRA rural loans from such requirements, the housing inspection process can serve a useful purpose. It assures safe construction and offers lending institutions a level of comfort in financing rural projects. However, the key to assuring safe construction in rural areas without sending the price through the roof is flexibility in applying the inspection requirements.

HB 180 would provide this flexibility in the following ways:

- It broadens the pool of eligible inspectors statewide by allowing licensed architects and engineers to conduct the inspections. These professionals are clearly qualified to accomplish the task, and they often travel to rural areas to monitor construction projects.
- It allows AHFC to identify other qualified individuals in rural communities. A local contractor or journeyman in a trade might be obvious candidates to carry out part or all of a remote inspection.
- It authorizes inspection methods other than a physical site visit by an inspector. For example, AHFC could approve an inspection of footings and foundations based on videotape or photographs.

In addition, this bill authorizes AHFC to accept building methods or materials that may not meet state building codes if the corporation is satisfied that the code variation does not sacrifice health or safety. Such variations may help to remedy the rural disadvantage regarding available materials. If a building material were available that may not meet code but would stand up to an engineering review, then AHFC would be allowed to accept such equivalent substitutions.

HB 180 has the support of lending agencies around the state. AHFC agrees with the need for greater inspection flexibility. And builders appreciate the need for different inspection criteria in remote areas. The bill has a zero fiscal note from AHFC.

March 9, 1993

Representative Eileen MacLean  
State Capital  
Room 507  
Juneau, AK 99801

Dear Representative MacLean:

We believe HB180 is a necessary change in Section I AS 18.56.300(b) regarding mandatory construction inspections that affect the entire state of Alaska. The change will mitigate the severe financial and procedural impact of the law on rural areas while still providing quality housing, health, and safety protection.

There are approximately 178 ICBO certified inspectors who graduated from a class put on in 1992 by AHFC in anticipation of this law. These inspectors are distributed through 33 communities around the state. These private inspectors may not provide their services at reasonable cost when considering the social need to provide modern housing in rural Alaska.

We see two problems with the existing statutes for rural home builders: 1) The high cost of a home builder supporting the inspection program, and 2) the required inspectors are limited narrowly to only ICBO inspectors. In outlying areas such as St. Paul, King Cove, or Nome, the cost of four on-site inspections is for round-trip airfares plus possibly room and board. Anchorage/St. Paul is currently \$1,054 round-trip. If a typical inspector charges \$1,800 for a house, the total bill could exceed \$7,800. Costs for on-site visits for appraisal, surveys, thermal standards, and environmental considerations are in addition to this.

Secondly, by limiting the inspector pool to only ICBO inspectors, many qualified architects, engineers or other responsible persons are eliminated in assisting in the inspection process. Some of these local officials may be more experienced in local conditions than a newly created inspector flying out from an urban area. Many architects and engineers have frequent occasion to fly to rural areas to inspect projects and could add a home inspection at little extra cost.

Representative Eileen MacLean

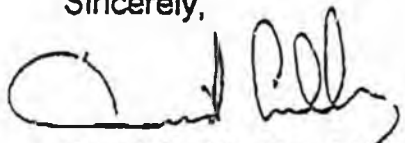
March 9, 1993

Page Two

It is our understanding that the original legislation exempted DCRA's Rural Housing Program from the statute, but an unintended by-product of the merger of DCRA's rural housing program into AHFC was to make this law a fact-of-life for the entire state.

We believe the solution to this problem is through passage of house bill 180 as it is currently written and asks for the legislature's support of the bill.

Sincerely,



David Cuddy, President

gs

**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**

March 4, 1993

**SUBJECT:** Sectional summary of HB 180

**TO:** Representative Eileen MacLean  
Attn: David

**FROM:** Theresa L. Bannister *TLB*  
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

**Section 1.** Amends AS 18.56.300(b) (in the Alaska Housing Finance Corporation chapter) to

(A) allow additional persons (licensed architects and engineers, and other AHFC-approved persons) to perform in rural areas the inspections required by AS 18.56.300(b);

(B) allow the inspector to use methods other than personal physical inspections to make the inspections in rural areas, if the methods are approved by the AHFC;

(C) ~~authorize~~ the AHFC to accept in rural areas variations from the applicable building code, if the inspector satisfies the AHFC that the variations don't adversely affect the ~~structural~~ integrity of the unit being inspected or the health and safety of the residents.

**Section 2.** Defines "rural area" for sec. 1.

If I may be of further assistance, please advise.

TLB:gc  
93-193.glc

# FISCAL NOTE

**STATE OF ALASKA**  
**1993 LEGISLATIVE SESSION**

**BILL NO.** House Bill 180

**Revision Date:** February 25, 1993  
**Title:** An Act relating to the residential housing inspection requirement of the Alaska Housing Finance Corporation  
**Sponsor:** Representative MacLean  
**Requestor:** Representative MacLean

**Dept. Affected:** Department of Revenue  
**BRU:** Alaska Housing Finance Corp  
**Component:** Alaska Housing Finance Corp  
**COMPONENT SERIAL NO.** 0110

**Expenditures/Revenues:**

(Thousands of Dollars)

OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
<b>TOTAL OPERATING</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

<b>CAPITAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
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<b>REVENUE FUND SOURCE:</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
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**FUNDING:**

(Thousands of Dollars)

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/Program Receipts	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
Other	0	0	0	0	0	0
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

**POSITIONS:**

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

Estimate of current year (FY93) impact: \$ 0

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

Alaska Housing Finance Corporation does not anticipate any increased cost with the proposed amendment to AS 18.56.300.

**Prepared by:** Key Murphy  
**Division:** Alaska Housing Finance Corporation  
**Approved by:** [Signature]  
**Agency:** REVENUE

**Phone:** (907) 561-1900  
**Date:** March 4, 1993  
**Date:** 3/5/93

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**NATIONAL  
Bank of Alaska**



Corporate Headquarters P.O. Box 124600 Anchorage, Alaska 99512-4600 (907) 578-1122

March 11, 1993

Representative Harley Olberg  
Alaska State Legislature  
State Capital  
Juneau, AK 99801-1182

Re: Residential Housing Inspection  
Requirements of AHFC

Dear Representative Olberg:

National Bank of Alaska has been a participant in the development of the housing needs of Alaskans since its inception 77 years ago. Due to the difficulty of attracting capital to our state for housing, NBA maintained an office in New York for that purpose in the 1950s and have participated in the creation of Alaska Housing Finance Corporation. NBA has been actively involved with Fannie Mae, Freddie Mac, HUD, VA, the Farmers Home Administration, and other secondary market lenders to assure the flow of capital to meet the housing needs of all Alaskans. It is our belief that the long-term viability of the state of Alaska is dependent on the equal access of housing to all inhabitants. Government regulations that inhibit equal access to housing or create a situation that discriminates by adding burdensome costs to particular residents of our state and does not foster equal access to housing of our population are not acceptable.

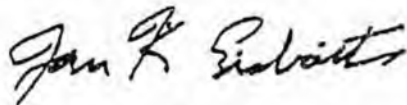
We believe that the ICBO legislation previously enacted created a costly bureaucratic situation for rural residents of the state of Alaska and does not practically increase equality of housing to our rural residents. We therefore have supported and encouraged the enactment of House Bill 180 which deals with inspections in rural and remote Alaska and ask that you provide support to this legislation as well. Keep in mind that the proposed amendments to the existing law relate to rural areas and increases the ability of Alaska Housing Finance to meet quality and safety objectives by giving it flexibility to deal with problems of remote communities. Rural in this legislation means an area that is not land connected by the state highway system.

March 11, 1993  
Page Two

Alaskans, in general, abhor other people forcing governmental authority onto us when we feel that these rules inhibit our ability to function as a unique society. Please keep in mind that Alaska has numerous communities and climates with unique situations which may require unique solutions. Costs related to Government regulations that may seem reasonable to a Kenai home builder may cost ten times as much for a home in the Bush. The original ICBO law was not intended to cover rural Alaska; however, with the merging of DCRA and Alaska Finance Corporation such a regulatory requirement now exists.

Your support and assistance in this matter would be greatly appreciated. If you have additional questions about the technical aspects of the bill, please contact Jim McCormack at 265-2878.

Sincerely yours,



Jan K. Sieberts  
Senior Vice President

sr

# HOFFMAN-LANGLIE, INC.

GENERAL CONTRACTORS  
P.O. BOX 721 BETHEL, AK 99559  
(907) 543-3983 FAX (907) 543-3956

3/11/93



Eighteenth Legislature  
Juneau, AK

RE: House Bill No. 180

Attn: Legislators

This letter is in support of House Bill No. 180, sponsored by Rep. Eileen Panigeo Maclean, which addresses the problem of the five required inspections on residential housing in rural Alaska.

As a general contractor in the Bethel area for the past 15 years, we know the cost of building in the rural areas is much higher than other areas. Although we feel building inspections benefit all parties concerned, HB 180 at least gives the homeowner some options, which may result in lowering the total cost of construction.

If inspections could be done by more than one qualified agency, the construction process would be able to proceed much faster, and probably much cheaper than depending on one source for inspections.

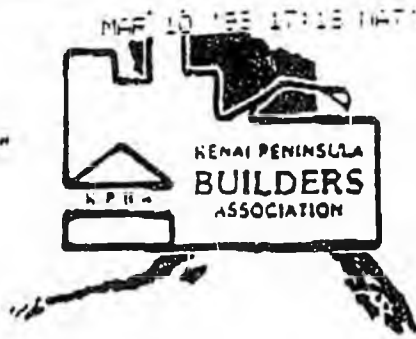
Since the building season is short, rural builders need some flexibility for getting the required inspections done.

In closing, our company strongly supports HB 180 and its benefits to rural homebuilders, and feel it would not hinder quality construction in rural Alaska. Thank you.

Sincerely,

Michael E. Langlie - President  
Hoffman-Langlie, Inc.





**KENAI PENINSULA BUILDERS ASSOCIATION**  
**Written Testimony**  
**House Bill No.180**

March 11, 1993

The Kenai Peninsula Builders Association is aware that the residential housing inspections required by Alaska Housing Finance Corporation are difficult and expensive for some outlying rural areas to comply with. House Bill 180 addresses this problem and while we support the reasoning of this bill, we can not support legislation which would allow inspections by anyone other than an ICBO certified inspector.

We feel that the intent of the existing statute which requires that inspections be made only by ICBO certified inspectors needs to be recognized and preserved. We strongly support the intent of the original legislation which requires ICBO certification for inspectors.

The Kenai Peninsula Builders Association agrees that the Alaska Housing Finance Corporation should be given the authority to deal with isolated problems of residential inspections in rural areas on a case-by-case basis.

THE  
FOLLOWING  
DOCUMENTS  
ARE  
POOR  
ORIGINAL  
COPIES



# Alaska State Legislature

Please enter into the record my testimony to the House Community & Regional Affairs  
committee name

committee on HS 120, dated March 11, 1993  
bill/subject

The problem HS120 addresses does not have to be so difficult. The cost of inspections to the rural areas could easily be substantially lowered. The estimated costs, frequently quoted, are very much exaggerated. Five - eight thousand is ridiculous. Of the five inspections required, only two would require an on-site inspection.

- 1, Plan approval - could be mailed to inspector.
- 2, Footings and Foundations - could be adequately photographed.
- 3, Electrical, plumbing, framing - would require an on-site inspection!
- 4, Insulation - photographed.
- 5, Final - on-site inspection.

In this way the cost could be very much reduced. If the cost is still too high the builder should call another certified inspector to get a better price. To allow an architect or engineer (or other) to do an inspection is definitely not the way to go. Make them pass the tests.

Signed: *William E. Bloom*  
 Testifier  
Advanced Home Inspections  
 Representing (Optional)  
Box 4194, Homer 99603  
 Address  
235-4227  
 Phone No.

TESTIMONY on H.B. - 180

March 11, 1993

My name is Henry Huntington. I'm building my own house in Barrow. I started in June 1992. When I heard about the inspections, it sounded like a good thing - so I could make sure everything was okay with the construction. But then I found out that there was only one qualified inspector in Barrow. He didn't even want to do it, and would have charged \$2500 just to start with, if no re-inspections were needed. That was ridiculous. If I hired a Point buy, I'd have to fly him there at great expense, if he would even be willing to go there, which he probably wouldn't. The cost and the effort required were not worth the product. It is just another hoop to jump through that benefits only AHFC. It really is not appropriate in rural areas where inspectors are few and far between and building is enough of a pain as it is.

By contrast, I got an Energy Rating quickly and easily and for \$60. I was happy to do that, and it is good to know that my house is a 5-star. ~~That~~ That type of system makes much more sense, because it is useful to the homeowner at an affordable cost, and provides AHFC with the information they need. While the idea of checking construction to make sure it is adequate is a good one, without some way to provide for the inspection in a reliable and cost-effective manner, the law is inappropriate to rural Alaska.

H.B. - 180 is a step in the right direction for helping rural Alaskans build quality homes with a minimum of regulatory cost and logistical burden.

# National Bank of Alaska



Corporate Headquarters P.O. Box 100600 Anchorage, Alaska 99510-0600 (907) 278-1132

March 9, 1993

Representative Eileen MacLean  
State Capital  
Room 507  
Juneau, AK 99801

Dear Representative MacLean:

We believe HB180 is a necessary change in Section I AS 18.56.300(b) regarding mandatory construction inspections that affect the entire state of Alaska. The change will mitigate the severe financial and procedural impact of the law on rural areas while still providing quality housing, health, and safety protection.

There are approximately 178 ICBO certified inspectors who graduated from a class put on in 1992 by AHFC in anticipation of this law. These inspectors are distributed through 33 communities around the state. These private inspectors may not provide their services at reasonable cost when considering the social need to provide modern housing in rural Alaska.

We see two problems with the existing statutes for rural home builders: 1) The high cost of a home builder supporting the inspection program, and 2) the required inspectors are limited narrowly to only ICBO inspectors. In outlying areas such as St. Paul, King Cove, or Nome, the cost of four on-site inspections is for round-trip airfares plus possibly room and board. Anchorage/St. Paul is currently \$1,054 round-trip. If a typical inspector charges \$1,800 for a house, the total bill could exceed \$7,800. Costs for on-site visits for appraisal, surveys, thermal standards, and environmental considerations are in addition to this.

Secondly, by limiting the inspector pool to only ICBO inspectors, many qualified architects, engineers or other responsible persons are eliminated in assisting in the inspection process. Some of these local officials may be more experienced in local conditions than a newly created inspector flying out from an urban area. Many architects and engineers have frequent occasion to fly to rural areas to inspect projects and could add a home inspection at little extra cost.

Representative Eileen MacLean  
March 9, 1993  
Page Two

It is our understanding that the original legislation exempted DCRA's Rural Housing Program from the statute, but an unintended by-product of the merger of DCRA's rural housing program into AHFC was to make this law a fact-of-life for the entire state.

We believe the solution to this problem is through passage of house bill 180 as it is currently written and asks for the legislature's support of the bill.

Sincerely,



Jim McCormack  
Vice President

gs

# NCP

ARCHITECTS & PLANNERS

March 9, 1993

Ref: House Bill 180

Dear Legislator:

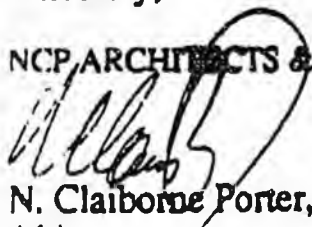
Post-it brand fax transmittal memo 7671		# of pages •	
To	Sen. Lou Marland	From	C. Porter
Post-it brand fax transmittal memo 7671			
Dept.		Phone #	542-2283
Fax #	463-3241	Fax #	

Recently I received a copy of HB 180 entitled "An Act Relating To The Residential Housing Inspection Requirements Of The Alaska Housing Finance Corp." As a registered architect in the State of Alaska and design professional involved in the inspection of the residential and commercial buildings, I find this change very positive. A request was made initially on HB 368 to include architects and engineers in that legislation, however, it was not done. Many different problems have been created by that omission and this is an attempt to clarify that oversight. This clarification is admirable and should be passed.

Lines 2 and 3 on page 2 do create an interesting set of circumstances for which further clarification are needed. The default position of HB 368 and HB 180 is that the Executive Director of Alaska Housing Finance Corp. is indeed the State Building Official and is the party that sets what body of codes that are to be enforced. In addition, there is no State Building Code for residential construction in the State of Alaska that is enforced by any agency as all of those agency's have been precluded by statute. Therefore, the Executive Director of Alaska Housing Finance Corp. is the defacto building official for this legislation and by the rules of the applicable codes has the authority to make changes and exceptions. That condition presently exist and will continue to exist based upon this legislation.

Finally let me state that the Architects I have spoken with are in favor of this modification to HB 368 and in favor of the passage of HB 180.  
Sincerely,

NCP ARCHITECTS & PLANNERS

  
N. Claiborne Porter, Jr.  
AIA

# EAGLE CONTRACTING CORPORATION

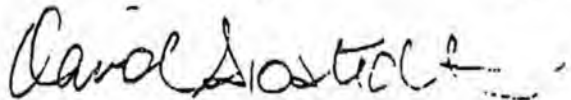
*You've tried the rest now try the best.*

March 10, 1993

RE: House Bill 180

This letter is to urge you to support HB 180. This bill would greatly benefit rural communities with regard to the expense of building.

Sincerely,



David Sjostedt  
President

TO: DAVE

FROM: BROOKE T. ADKINSON  
PO BOX 1080  
CORDOVA, AK. 99574

DATE: MARCH 16, 1993

RE: HB 180

PAGES: 4, INCLUDING COVER SHEET

HERE ARE THE QUESTIONS WHICH I PRESENTED TO YOU ON MARCH  
12th & 15th.

PLEASE CONSIDER THESE QUESTIONS WHEN YOU ARE CONSIDERING  
HB180.

THANK YOU.

BROOKE T. ADKINSON

March 15, 1993

Dear House Bill 180 Council members:

My name is Ross T. Adams, and I am a second generation Alaskan and proud of it. Alaska is the concept of quality building construction essential for the long term social and economic health of our state. We must stop allowing twenty year churches and kindergartens to be built where children may enjoy it in their own homes. It is a quality built home. The standard of the I.C.B.C. Conference of Building Officials and the Alaska Home Inspection Program. Rather than diluting a quality inspection and product by letting contractors or anyone else sign off on it, we should initiate a program to train and educate secondary educated individuals to help individuals get qualified for I.C.B.C. inspectors and

energy advised.  
 We must look long-  
 term at this, the better quality  
 of frame is today, the more it  
 will be with tomorrow. As the  
 short term for these communities  
 without a resident ICBC inspector  
 facing this transportation code should  
 communicate together and employ  
 a short term inspector among  
 them all.

Maybe the present inspection  
 code for these areas (Pud) are  
 extreme but consider that, I learned  
 from due to a dead shot in mine,  
 irregularly installed wood studs or  
 carbon monoxide poisoning code for  
 more to safety of the owner, insurance  
 Co, and banks all here.

If there is any arguments  
 you are still considering, please  
 HB 180 "please" include an amendment  
 mandating communities to use certified  
 inspectors if there is no resident  
 who becomes one in their town.  
 Here in Colorado we have  
 a certified inspector so you  
 remove us from your list  
 think you. And lastly...

I would tell you getting  
 a I C B C certificate is hard and  
 costly. I would agree, but not  
 impossible. I know because I  
 am one # 55747 and # 003 A.H.F.C.  
 I too, was raised in the bush,  
 started in construction as a laborer  
 then carpenter, foreman, general contractor  
 and finally an I C B C inspector and  
 helper in every district zone.  
 I admit it wasn't easy but  
 nothing of value is. As of  
 million are standing in front of  
 me five hundred dollars to take  
 the first I C B C test. I have  
 ninety fifty million reasons to have  
 I C B C certificate. I am the best  
 of your working men that have made  
 money the old way. I am to  
 construction - no inspection.  
 Let me do it again. Thank  
 you for your time.

Sincerely  
 Ricardo A. Salas  
 P.O. Box 1080  
 Cordova, Alaska 99574  
 (907) 424-5437.

THE  
FOLLOWING  
DOCUMENTS  
ARE  
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GUINN BUILDING SERVICES  
GENERAL CONTRACTOR  
PO BOX 1021  
BETHEL, AK. 99577  
343-4513 FAXER

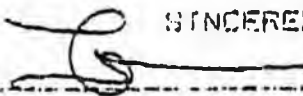
STATE OF ALASKA  
RE: HB 180

SIRS:

I AM A GENERAL CONTRACTOR LIVING AND DOING BUSINESS HERE IN BETHEL, AK. I WOULD LIKE TO VOICE MY SUPPORT FOR HB 180 REGARDING THE LOOSENING UP INSPECTIONS ON STATE FUNDED CONSTRUCTION. THE COST OF LIVING AND DOING BUSINESS HERE IN BETHEL AND THE SURROUNDING AREA IS BAD ENOUGH WITHOUT THE PROHIBITIVE COSTS OF THESE INSPECTIONS. AS AN EXAMPLE, IF I WAS SHORT 2 PIECES OF SHEETROCK FOR A JOB TODAY, I CAN BUY THEM IN ANCHORAGE FOR \$9.00 EACH, BUT IT WILL COST ME \$75.00 EACH TO GET THEM HERE, FOR A TOTAL OF \$ 43.00 EA. IN SOME INSTANCES, THE COST OF THE INSPECTIONS MAY BE THE DIFFERENCE BETWEEN AN APPROVAL OR DENIAL OF FUNDS FOR A PROJECT. MANY TIMES THERE IS A COMPETENT ENGINEER OR CONTRACTOR IN TOWN OR CLOSE BY THAT CAN ATTEST TO THE QUALITY OF PHASES OF A BUILDING. ALSO, IF CHOSEN, THE USE OF VIDEO WILL GREATLY CUT DOWN THE COST OF THE PROJECT.

GENERALLY, THE QUALITY THE STATE IS TRYING TO ATTAIN ON THESE PROJECTS IS MORE THAN SATISFACTORY WHEN A LICENSED GENERAL CONTRACTOR IS HIRED. THE PROBLEMS ARISE WHEN A SPECIALTY CONTRACTOR WHO HAS NO KNOWLEDGE OF THE REGULATIONS, AND IS UNLICENSED TO DO THE TOTAL SCOPE OF WORK TRIES TO DO THE JOB. THE REGULATIONS THE STATE HAS ADOPTED PUT ALL CONTRACTORS ON AN EQUAL BASIS, AND SHOULD BE KEPT IN PLACE AND ADHERED TO.

SINCERELY,

 03-10-93

JIM GUINN, OWNER

465-3799

Written Testimony  
House Bill No.180

March 11, 1993  
Steve Wisdom

The ~~Kodiak Peninsula Builders Association~~ <sup>through out the state</sup> worked hard with Alaska Housing Finance Corporation, bankers and other concerned people throughout the State of Alaska to bring this statute into existence. We feel one of the main purposes of this statute was to establish a bench mark by which the home buyer, lending institutes and contractors could be assured that homes meet minimum building <sup>standards</sup>. That bench mark is that all homes be built to ICBO codes and that this be verified by a series of inspections by certified ICBO inspectors. To open the approved list of inspectors whole sale to all architects and engineers in effect guts the intent of the original statute. If all architects and engineers are so clearly qualified to do the inspections, then all that is currently required of them is to pass the ICBO certification test. Clearly, some of them are qualified, but until they pass the test and become certified, are they different than the contractor who works with the building codes daily as well? Personally, I would not feel confident with a structural engineer inspecting the electrical or plumbing in my house. If architects and engineers are approved to do the inspections in non-rural areas, this would go against the original intent of the statute, eliminating the bench mark of ICBA certified inspectors.

I feel that the best approach to isolated problems with the inspections would best be dealt with on a case-by-case basis.

# ALASKA STATE LEGISLATURE

Representative Eileen Panigeo MacLean  
Co-Chair House Finance Committee  
P.O. Box 830  
Barrow, Alaska 99723  
(907) 852-7111

WHILE IN JUNEAU  
State Capitol, Room 507  
Juneau, Alaska 99801-1182  
465-4833  
465-4525  
463-3241 FAX

## HOUSE OF REPRESENTATIVES

### MEMORANDUM

District 37

North Slope  
Borough

Anaktuvuk Pass  
Atkasuk  
Barrow  
Kaktovik  
Nulqsut  
Point Hope  
Point Lay  
Walnwright


Northwest Arctic  
Borough

Ambler  
Buckland  
Deering  
Kiana  
Kivalina  
Kobuk  
Kotzebue  
Noatak  
Noorvik  
Selawik  
Shungnak

Seward Peninsula

Brevig Mission  
Diomedes  
Shishmaref  
Teller  
Wales

TO: Rep. Bill Hudson  
Chair, House Labor and Commerce Committee

FROM: Rep. Eileen Panigeo MacLean 

DATE: March 22, 1993

RE: Scheduling of HB 180

---

HB 180 has been referred to the Labor and Commerce Committee, and I am requesting a hearing on this bill at your earliest convenience.

HB 180 responds to an unintended consequence of last year's merger of DCRA housing loans into AHFC. AHFC's building inspection requirements in AS 18.56.300(b) were designed for residential construction within municipalities or along the road system. Their application to remote settings was not anticipated, and can result in thousands of additional dollars added to the cost of a new home. This works against the development of new housing in remote areas where it is most needed.

HB 180 does not eliminate the requirement for multiple building inspections during construction. Instead it allows AHFC to use some flexibility in applying the existing criteria in remote settings.

HB 180 broadens the pool of eligible inspectors by including licensed architects and engineers, and more importantly it authorizes AHFC to identify other qualified people in rural communities who are capable of doing one or more of the required inspections.

In addition, this bill allows the use of videotape or other means that get the job done without requiring a site inspection. And it authorizes AHFC to use flexibility in its interpretation of building codes as long as health and safety considerations are not compromised.

AS 18.56.300(b) was originally enacted to ensure that areas immediately outside municipal boundaries are held to comparable inspection requirements on AHFC-funded residential housing construction projects. While a requirement of four on-site inspections may be reasonable in urban areas, it imposes an unreasonable burden in areas where inspectors must be flown in.

HB 180 has the support of the banks involved in rural lending. It is welcomed by AHFC. And many builders have testified to the need for a more flexible arrangement in rural areas.

If you need further documentation, please contact David Harding of my staff (-3862).

Thank you.

# HOFFMAN-LANGLIE, INC.

GENERAL CONTRACTORS  
P.O. BOX 721 BETHEL, AK 99559  
(907) 543-3983 FAX (907) 543-3956

3/11/93

Eighteenth Legislature  
Juneau, AK

RE: House Bill No. 180

Attn: Legislators

This letter is in support of House Bill No. 180, sponsored by Rep. Eileen Panigeo Maclean, which addresses the problem of the five required inspections on residential housing in rural Alaska.


As a general contractor in the Bethel area for the past 15 years, we know the cost of building in the rural areas is much higher than other areas. Although we feel building inspections benefit all parties concerned, HB 180 at least gives the homeowner some options, which may result in lowering the total cost of construction.

If inspections could be done by more than one qualified agency, the construction process would be able to proceed much faster, and probably much cheaper than depending on one source for inspections.

Since the building season is short, rural builders need some flexibility for getting the required inspections done.

In closing, our company strongly supports HB 180 and its benefits to rural homebuilders, and feel it would not hinder quality construction in rural Alaska. Thank you.

Sincerely,

  
Michael E. Langlie - President  
Hoffman-Langlie, Inc.



**Sponsor Statement**  
**HB 180**  
**Rep. Eileen Panigeo MacLean**

HB 180 relates to the residential housing inspection requirements of the Alaska Housing Finance Corporation. When DCRA's rural housing loan programs were merged into AHFC last year, they became subject to AHFC's inspection requirements as listed in AS 18.56.300(b). These requirements were never intended to apply to rural housing loan programs; in fact, AHFC's primary rural loan program (non-conforming housing) is specifically exempted in the statute.

Rural housing loans have been subject to the AHFC inspection requirements since July 1, 1992. These statutory requirements mandate a minimum of four site visits by a qualified inspector. Very few of these inspectors live in rural communities. The result is that a homeowner building a new house must pay for an inspector to fly in five times to review the progress of the project. If the inspector finds any problems during one of these site visits, additional inspection trips may be necessary.

Lending institutions have found that these requirements can add thousands of dollars to the price of a new home. This is an unnecessary and unfair burden on rural homeowners who already are faced with extremely high home construction costs.

While it would be simpler to exempt the former DCRA rural loans from such requirements, the housing inspection process can serve a useful purpose. It assures safe construction and offers lending institutions a level of comfort in financing rural projects. However, the key to assuring safe construction in rural areas without sending the price through the roof is flexibility in applying the inspection requirements.

HB 180 would provide this flexibility in the following ways:

- It broadens the pool of eligible inspectors statewide by allowing licensed architects and engineers to conduct the inspections. These professionals are clearly qualified to accomplish the task, and they often travel to rural areas to monitor construction projects.
- It allows AHFC to identify other qualified individuals in rural communities. A local contractor or journeyman in a trade might be obvious candidates to carry out part or all of a remote inspection.
- It authorizes inspection methods other than a physical site visit by an inspector. For example, AHFC could approve an inspection of footings and foundations based on videotape or photographs.

In addition, this bill authorizes AHFC to accept building methods or materials that may not meet state building codes if the corporation is satisfied that the code variation does not sacrifice health or safety. Such variations may help to remedy the rural disadvantage regarding available materials. If a building material were available that may not meet code but would stand up to an engineering review, then AHFC would be allowed to accept such equivalent substitutions.

HB 180 has the support of lending agencies around the state. AHFC agrees with the need for greater inspection flexibility. And builders appreciate the need for different inspection criteria in remote areas. The bill has a zero fiscal note from AHFC.

**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

March 4, 1993

**SUBJECT:** Sectional summary of HB 180

**TO:** Representative Eileen MacLean  
Attn: David

**FROM:** Theresa L. Bannister *tlb*  
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

Section 1. Amends AS 18.56.300(b) (in the Alaska Housing Finance Corporation chapter) to

(A) allow additional persons (licensed architects and engineers, and other AHFC-approved persons) to perform in rural areas the inspections required by AS 18.56.300(b);

(B) allow the inspector to use methods other than personal physical inspections to make the inspections in rural areas, if the methods are approved by the AHFC;

(C) authorize the AHFC to accept in rural areas variations from the applicable building code, if the inspector satisfies the AHFC that the variations don't adversely affect the structural integrity of the unit being inspected or the health and safety of the residents.

Section 2. Defines "rural area" for sec. 1.

If I may be of further assistance, please advise.

TLB:gc  
93-193.glc

# FISCAL NOTE

**STATE OF ALASKA**  
**1993 LEGISLATIVE SESSION**

**BILL NO.** House Bill 180

<b>Revision Date:</b> <u>February 25, 1993</u>	<b>Dept. Affected:</b> <u>Department of Revenue</u>
<b>Title:</b> <u>An Act relating to the residential housing inspection requirement of the Alaska Housing Finance Corporation</u>	<b>BRU:</b> <u>Alaska Housing Finance Corp</u>
<b>Sponsor:</b> <u>Representative MacLean</u>	<b>Component:</b> <u>Alaska Housing Finance Corp</u>
<b>Requestor:</b> <u>Representative MacLean</u>	<b>COMPONENT SERIAL NO.:</b> <u>0110</u>

**Expenditures/Revenues:** (Thousands of Dollars)

OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
<b>TOTAL OPERATING</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

<b>CAPITAL</b>	0	0	0	0	0	0
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<b>REVENUE FUND SOURCE:</b>	0	0	0	0	0	0
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**FUNDING:** (Thousands of Dollars)

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/Program Receipts	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
Other	0	0	0	0	0	0
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

**POSITIONS:**

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

Estimate of current year (FY93) impact: \$ 0

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

Alaska Housing Finance Corporation does not anticipate any increased cost with the proposed amendment to AS 18.56.300.

<b>Prepared by:</b> <u>Kay Murphy</u> <i>Kay Murphy</i>	<b>Phone:</b> <u>(907) 561-1900</u>
<b>Division:</b> <u>Alaska Housing Finance Corporation</u>	<b>Date:</b> <u>March 4, 1993</u>
<b>Approved by:</b> <u>[Signature]</u>	<b>Date:</b> <u>3/5/93</u>
<b>Agency:</b> <u>REVENUE</u>	

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(b) The corporation shall implement the powers conferred by (a) of this section by adopting regulations under AS 18.56.088. (§ 2 ch 147 SLA 1988)

**Revisor's notes.** — Former AS 18.56.210 was renumbered as AS 18.56.900 in 1986.

**Cross references.** — For legislative findings and intent, see sec. 1, ch. 147, SLA 1988 in the Temporary and Special Acts.

**Legislative history reports.** — For legislative letter of intent relating to a legislative oversight committee in connection with AHFC activities under this section, see 1988 Senate Journal 3681.

**Sec. 18.56.300. Construction standards for housing eligible for purchase of loans.** (a) The corporation may not make or purchase a housing loan for residential housing the construction of which begins after June 30, 1992, unless the seller of the mortgage loan complies with the provisions of this section and unless

(1) the unit is in compliance with the construction codes of the municipality, if the unit is located within a municipality that has adopted and enforces construction codes and each of those codes meets or exceeds the comparable standards for similar housing established by the state building code; or

(2) the unit is in compliance with the comparable standards for similar housing established by the state building code

(A) if the unit is located

(i) within a municipality whose construction codes do not meet the standards for similar housing established by the state building code;

(ii) within a municipality that does not enforce construction codes;

or

(iii) outside a municipality; or

(B) as to each specific code within the construction codes of the municipality that has adopted and enforces construction codes if the specific code does not meet or exceed the comparable standard for similar housing established by the state building code.

(b) As a condition of a commitment to purchase or approve a loan under this section for residential housing the construction of which begins after June 30, 1992, the corporation shall require inspection of the unit of residential housing that is the subject of the loan. The inspection must be performed by a municipal building inspector or by a person who is approved or certified to perform residential inspections by the International Conference of Building Officials or the International Association of Electrical Inspectors. The person who makes the inspection shall determine whether the construction conforms to relevant provisions of the construction codes of the municipality or of the state building code, as applicable, at each of the following stages of construction:

(1) plan approval;

- (2) completion of footings and foundations;
- (3) completion of electrical installation, plumbing, and framing;
- (4) completion of installation of insulation;
- (5) final approval.

(c) A person may not bring an action for damages based on a duty imposed by (b) of this section to inspect a residential unit unless the action is for damages caused by gross negligence or intentional misconduct.

(d) This section does not apply to a housing loan made by the corporation under AS 18.56.106. *NOT COVERED BY HOUSING LOAN PLAN*

(e) In this section,

(1) "construction codes" means, with reference to a municipality, the building, mechanical, plumbing, and electrical codes, or any of them that have been adopted and are enforced by the municipality;

(2) "state building code" means

(A) for building standards, the standards set out in the version of the Uniform Building Code adopted by the Department of Public Safety under AS 18.70.080, including the provisions of that code applicable to buildings used for residential purposes containing fewer than four dwelling units, notwithstanding the exclusion of those buildings from the Department of Public Safety's jurisdiction made by AS 18.70.080(a)(2);

(B) for mechanical standards, the standards set out in the version of the Uniform Mechanical Code adopted by the Department of Public Safety under AS 18.70.080, including the provisions of that code applicable to buildings used for residential purposes containing fewer than four dwelling units, notwithstanding the exclusion of those buildings from the Department of Public Safety's jurisdiction made by AS 18.70.080(a)(2);

(C) for plumbing standards, the publications identified as the minimum plumbing code under AS 18.60.705; and

(D) for electrical standards, the minimum electrical standards prescribed by AS 18.60.580. (§ 2 ch 85 SLA 1990; am § 1 ch 29 SLA 1991; am §§ 1, 2 ch 52 SLA 1991)

**Effect of amendments.** — The first 1991 amendment, effective June 12, 1991, in subparagraph (e)(2)(C), substituted "the publications identified as the minimum plumbing code" for "the minimum plumbing code adopted by the Department of Labor."

The second 1991 amendment, effective June 16, 1991, in the first sentences of subsections (a) and (b), substituted "June 30, 1992" for "June 30, 1991."

**Editor's notes.** — Section 3, ch. 85, SLA 1990, as amended by § 4, ch. 52, SLA 1991, provides that AS 18.56.300(e)(2)(A) and (B) "are intended to assure that, for

purposes of determining whether housing the construction of which begins after June 30, 1992, meets the building and mechanical standards under AS 18.56.300(a) and (b), enacted by § 2 of this Act, the standards set out in each of the following fully apply to residences containing fewer than four dwelling units, even though those residences are excepted from regulation by AS 18.70.080(a)(2):

"(1) the Uniform Building Code, adopted for the state by 13 AAC 50.020(a);

"(2) the Uniform Mechanical Code, adopted for the state by 13 AAC 50.020(b)."

*NATIONAL*  
**Bank of Alaska**



Corporate Headquarters P.O. Box 122600 Anchorage, Alaska 99512-0600 (907) 575-1122

March 11, 1993

Representative Harley Olberg  
Alaska State Legislature  
State Capital  
Juneau, AK 99801-1182

Re: Residential Housing Inspection  
Requirements of AHFC

Dear Representative Olberg:

National Bank of Alaska has been a participant in the development of the housing needs of Alaskans since its inception 77 years ago. Due to the difficulty of attracting capital to our state for housing, NBA maintained an office in New York for that purpose in the 1950s and have participated in the creation of Alaska Housing Finance Corporation. NBA has been actively involved with Fannie Mae, Freddie Mac, HUD, VA, the Farmers Home Administration, and other secondary market lenders to assure the flow of capital to meet the housing needs of all Alaskans. It is our belief that the long-term viability of the state of Alaska is dependent on the equal access of housing to all inhabitants. Government regulations that inhibit equal access to housing or create a situation that discriminates by adding burdensome costs to particular residents of our state and does not foster equal access to housing of our population are not acceptable.

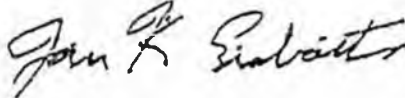
We believe that the ICBO legislation previously enacted created a costly bureaucratic situation for rural residents of the state of Alaska and does not practically increase equality of housing to our rural residents. We therefore have supported and encouraged the enactment of House Bill 180 which deals with inspections in rural and remote Alaska and ask that you provide support to this legislation as well. Keep in mind that the proposed amendments to the existing law relate to rural areas and increases the ability of Alaska Housing Finance to meet quality and safety objectives by giving it flexibility to deal with problems of remote communities. Rural in this legislation means an area that is not land connected by the state highway system.

March 11, 1993  
Page Two

Alaskans, in general, abhor other people forcing governmental authority onto us when we feel that these rules inhibit our ability to function as a unique society. Please keep in mind that Alaska has numerous communities and climates with unique situations which may require unique solutions. Costs related to Government regulations that may seem reasonable to a Kenai home builder may cost ten times as much for a home in the Bush. The original ICBC law was not intended to cover rural Alaska; however, with the merging of DCRA and Alaska Finance Corporation such a regulatory requirement now exists.

Your support and assistance in this matter would be greatly appreciated. If you have additional questions about the technical aspects of the bill, please contact Jim McCormack at 265-2878.

Sincerely yours,



Jan K. Sieberts  
Senior Vice President

sr

# National Bank of Alaska



Corporate Headquarters P.O. Box 100600 Anchorage, Alaska 99510-0600 (907) 276-1132

March 9, 1993

Representative Eileen MacLean  
State Capital  
Room 507  
Juneau, AK 99801

Dear Representative MacLean:

We believe HB180 is a necessary change in Section I AS 18.56.300(b) regarding mandatory construction inspections that affect the entire state of Alaska. The change will mitigate the severe financial and procedural impact of the law on rural areas while still providing quality housing, health, and safety protection.

There are approximately 178 ICBO certified inspectors who graduated from a class put on in 1992 by AHFC in anticipation of this law. These inspectors are distributed through 33 communities around the state. These private inspectors may not provide their services at reasonable cost when considering the social need to provide modern housing in rural Alaska.

We see two problems with the existing statutes for rural home builders: 1) The high cost of a home builder supporting the inspection program, and 2) the required inspectors are limited narrowly to only ICBO inspectors. In outlying areas such as St. Paul, King Cove, or Nome, the cost of four on-site inspections is for round-trip airfares plus possibly room and board. Anchorage/St. Paul is currently \$1,054 round-trip. If a typical inspector charges \$1,800 for a house, the total bill could exceed \$7,800. Costs for on-site visits for appraisal, surveys, thermal standards, and environmental considerations are in addition to this.

Secondly, by limiting the inspector pool to only ICBO inspectors, many qualified architects, engineers or other responsible persons are eliminated in assisting in the inspection process. Some of these local officials may be more experienced in local conditions than a newly created inspector flying out from an urban area. Many architects and engineers have frequent occasion to fly to rural areas to inspect projects and could add a home inspection at little extra cost.

Representative Eileen MacLean  
March 9, 1993  
Page Two

It is our understanding that the original legislation exempted DCRA's Rural Housing Program from the statute, but an unintended by-product of the merger of DCRA's rural housing program into AHFC was to make this law a fact-of-life for the entire state.

We believe the solution to this problem is through passage of house bill 180 as it is currently written and asks for the legislature's support of the bill.

Sincerely,



Jim McCormack  
Vice President

gs

# NCP

ARCHITECTS & PLANNERS

March 9, 1993

Ref: House Bill 180

Dear Legislator:

Post-It™ brand fax transmittal memo 7671		# of pages	
To	Eileen MacLara	From	C. Porter
Co.		Co.	
Dept.		Phone #	542-2283
Fax #	463-3241	Fax #	

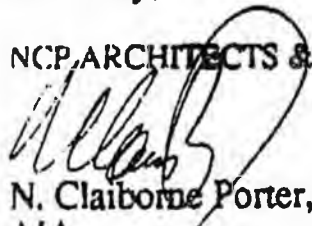
Recently I received a copy of HB 180 entitled "An Act Relating To The Residential Housing Inspection Requirements Of The Alaska Housing Finance Corp." As a registered architect in the State of Alaska and design professional involved in the inspection of the residential and commercial buildings, I find this change very positive. A request was made initially on HB 368 to include architects and engineers in that legislation, however, it was not done. Many different problems have been created by that omission and this is an attempt to clarify that oversight. This clarification is admirable and should be passed.

Lines 2 and 3 on page 2 do create an interesting set of circumstances for which further clarification are needed. The default position of HB 368 and HB 180 is that the Executive Director of Alaska Housing Finance Corp. is indeed the State Building Official and is the party that sets what body of codes that are to be enforced. In addition, there is no State Building Code for residential construction in the State of Alaska that is enforced by any agency as all of those agency's have been precluded by statute. Therefore, the Executive Director of Alaska Housing Finance Corp. is the defacto building official for this legislation and by the rules of the applicable codes has the authority to make changes and exceptions. That condition presently exist and will continue to exist based upon this legislation.

Finally let me state that the Architects I have spoken with are in favor of this modification to HB 368 and in favor of the passage of HB 180.

Sincerely,

NCP ARCHITECTS & PLANNERS

  
N. Claiborne Porter, Jr.  
AIA

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# Alaska State Legislature

Please enter into the record my testimony to the Home, Community & Regional Affairs committee name

committee on HB 127, dated March 11, 1993  
bill/subject

The problem HB180 addresses does not have to be so difficult. The cost of inspections to the rural areas could easily be substantially lowered. The estimated costs, frequently quoted, are very much exaggerated. Five - eight thousand is ridiculous. Of the five inspections required, only two would require an on-site inspection.

1. Plan approval - could be mailed to inspector.
2. Footings and foundations - could be adequately photographed.
3. Electrical, plumbing, framing - would require an on-site inspection!
4. Insulation - photographed.
5. Final - on-site inspection.

In this way the cost could be very much reduced. If the cost is still too high the builder should call another certified inspector to get a better price. To allow an architect or engineer (or other) to do an inspection is definitely not the way to go. Make them pass the tests.

Signed: William E. Blom

Testifier

Advanced Home Inspections

Representing (Optional)

Box 4194, Homer 99603

Address

235-4227

Phone No.

465-3799

Written Testimony  
House Bill No.180

March 11, 1993  
Steve Wisdom

The ~~Alaska Building Trades Association~~ <sup>then out the state</sup> worked hard with Alaska Housing Finance Corporation, bankers and other concerned people throughout the State of Alaska to bring this statute into existence. We feel one of the main purposes of this statute was to establish a bench mark by which the home buyer, lending institutes and contractors could be assured that homes meet minimum building <sup>standards</sup>. That bench mark is that all homes be built to ICBO codes and that this be verified by a series of inspections by certified ICBO inspectors. To open the approved list of inspectors whole sale to all architects and engineers in effect guts the intent of the original statute. If all architects and engineers are so clearly qualified to do the inspections, then all that is currently required of them is to take the ICBO certification test. Clearly, some of them are qualified, but until they pass the test and become certified, are they different than the contractor who works with the building codes daily as well? Personally, I would not feel confident with a structural engineer inspecting the electrical or plumbing in my house. If architects and engineers are approved to do the inspections in non-rural areas, this would go against the original intent of the statute, eliminating the bench mark of ICBA certified inspectors.

I feel that the best approach to isolated problems with the inspections would best be dealt with on a case-by-case basis.

TESTIMONY on H.B. - 180

MARCH 11, 1993

My name is Henry Huntington. I'm building my own house in Barrow. I started in June 1992. When I heard about the inspections, it sounded like a good thing - so I could make sure everything was okay with the construction. But then I found out that there was only one qualified inspector in Barrow. He didn't even want to do it, and would have charged \$2000 just to start with, if no re-inspections were needed. That was ridiculous. If I lived in Point Barrow, I'd have to fly him there at great expense, if he would even be willing to go there, which he probably wouldn't. The cost and the effort required were not worth the product. It is just another hoop to jump through that benefits only AHFC. It really is not appropriate in rural areas where inspectors are few and far between and building is enough of a pain as it is.

By contrast, I got an Energy Rating quickly and easily and for \$60. I was happy to do that, and it is good to know that my house is a 5-star. ~~That~~ That type of system makes much more sense, because it is useful to the homeowner at an affordable cost, and provides AHFC with the information they need. While the idea of checking construction to make sure it is adequate is a good one, without some way to provide for the inspection in a reliable and cost-effective manner, the law is inappropriate to rural Alaska.

H.B. 180 is a step in the right direction for helping rural Alaskans build quality homes with a minimum of regulatory cost and logistical burden.

GUINN BUILDING SERVICES  
GENERAL CONTRACTOR  
PO BOX 1021  
BETHEL, AK. 99577  
543-4613 PAGER


STATE OF ALASKA  
RE: HB 180

SIRS:

I AM A GENERAL CONTRACTOR LIVING AND DOING BUSINESS HERE IN BETHEL, AK. I WOULD LIKE TO VOICE MY SUPPORT FOR HB 180 REGARDING THE LOOSENING OF INSPECTIONS ON STATE FUNDED CONSTRUCTION. THE COST OF LIVING AND DOING BUSINESS HERE IN BETHEL AND THE SURROUNDING AREA IS BAD ENOUGH WITHOUT THE PROHIBITIVE COSTS OF THESE INSPECTIONS. AS AN EXAMPLE, IF I WAS SHORT 2 PIECES OF SHEETROCK FOR A JOB TODAY, I CAN BUY THEM IN ANCHORAGE FOR \$9.00 EACH, BUT IT WILL COST ME \$25.00 EACH TO GET THEM HERE, FOR A TOTAL OF \$49.00 EA. IN SOME INSTANCES, THE COST OF THE INSPECTIONS MAY BE THE DIFFERENCE BETWEEN AN APPROVAL OR DENIAL OF FUNDS FOR A PROJECT. MANY TIMES THERE IS A COMPETENT ENGINEER OR CONTRACTOR IN TOWN OR CLOSE BY THAT CAN ATTEST TO THE QUALITY OF PHASES OF A BUILDING. ALSO, IF CHOSEN, THE USE OF VIDEO WILL GREATLY CUT DOWN THE COST OF THE PROJECT.

GENERALLY, THE QUALITY THE STATE IS TRYING TO ATTAIN ON THESE PROJECTS IS MORE THAN SATISFACTORY WHEN A LICENSED GENERAL CONTRACTOR IS HIRED. THE PROBLEMS ARISE WHEN A SPECIALTY CONTRACTOR WHO HAS NO KNOWLEDGE OF THE REGULATIONS, AND IS UNLICENSED TO DO THE TOTAL SCOPE OF WORK TRIES TO DO THE JOB. THE REGULATIONS THE STATE HAS ADOPTED PUT ALL CONTRACTORS ON AN EQUAL BASIS, AND SHOULD BE KEPT IN PLACE AND ADHERED TO.

SINCERELY,

 03-10-93

JIM GUINN, OWNER

TO: DAVE

FROM: BROOKE T. ADKINSON  
PO BOX 1080  
CORDOVA, AK. 99574

DATE: MARCH 16, 1993

RE: HB 180

PAGES: 4, INCLUDING COVER SHEET

HERE ARE THE QUESTIONS WHICH I PRESENTED TO YOU ON MARCH  
12th & 15th.

PLEASE CONSIDER THESE QUESTIONS WHEN YOU ARE CONSIDERING  
HB180.

THANK YOU.

BROOKE T. ADKINSON

March 15, 1993

Dear House Bill 180 Council members:

My name is Rick T. Adams, I am a second generation Alaskan and proud of it. I feel the concept of Alaska building in initial design for quality building construction is essential for the long term social and economic health of our state. We must stop allowing twenty year chunkers and build one hundred year homes our grand children may enjoy. It is a win-win for all involved the owners, builders, financial at large from a quality built home. The key to this concept is a standard for all to follow - International Conference of Building Officials and by the Alaska Home Inspection Program's Energy Auditors. Rather than diluting a quality inspection and product by letting contractors or journey-man sign off a year; let's initiate a program thru post secondary education loans to help individuals get qualified for I.C.B.O. inspectors and

energy advisors.  
 We must look long-term at this, the labor quality is going to be with us for a long time for these communities without a resident ICBC inspector facing high transportation costs should be brought together and employ them all.

Maybe the present inspection costs for these areas (Paul) are extreme but consider this, I learned from the fact that in some, especially in the west or Carbon Monoxide poisoning costs for more to society, the danger, insurance, and banks all here.

If I am all my arguments you are still considering passing HB 180 "please" include an amendment mandating communities to use certified inspectors if there is no resident who becomes one in their town. If here in Colorado we have a certified inspector we can remove us from your list. I think you did really...

Some would tell you getting  
 an ICSO certification is hard and  
 costly. I would agree, but not  
 impossible. I know because I  
 am one # 55747 and #003 A.H.F.C.  
 I too, was raised in the bush,  
 started in construction as a laborer  
 then carpenter, foreman, general contractor  
 and finally an ICSO inspector and  
 hopefully an inquiry about soon  
 I admit it wasn't easy but  
 nothing of value is. It's not  
 Sullivan's standing in front of  
 me five hundred dollars to take  
 the first ICSO test. There are  
 ninety eight million reasons to have  
 ICSO certification for the state.  
 If your working ~ you have made  
 money the state has lost due to  
 construction ~ no inspection.  
 Let's not do it again. Thank  
 you for your time.

Sincerely

Ricardo A. Sullivan  
 P.O. Box 1080  
 Cordova, Alaska 99574  
 (907) 424-5437.

March 9, 1993

Representative Eileen MacLean  
State Capital  
Room 507  
Juneau, AK 99801

Dear Representative MacLean:

We believe HB180 is a necessary change in Section I AS 18.56.300(b) regarding mandatory construction inspections that affect the entire state of Alaska. The change will mitigate the severe financial and procedural impact of the law on rural areas while still providing quality housing, health, and safety protection.

There are approximately 178 ICBO certified inspectors who graduated from a class put on in 1992 by AHFC in anticipation of this law. These inspectors are distributed through 33 communities around the state. These private inspectors may not provide their services at reasonable cost when considering the social need to provide modern housing in rural Alaska.

We see two problems with the existing statutes for rural home builders: 1) The high cost of a home builder supporting the inspection program, and 2) the required inspectors are limited narrowly to only ICBO inspectors. In outlying areas such as St. Paul, King Cove, or Nome, the cost of four on-site inspections is for round-trip airfares plus possibly room and board. Anchorage/St. Paul is currently \$1,054 round-trip. If a typical inspector charges \$1,800 for a house, the total bill could exceed \$7,800. Costs for on-site visits for appraisal, surveys, thermal standards, and environmental considerations are in addition to this.

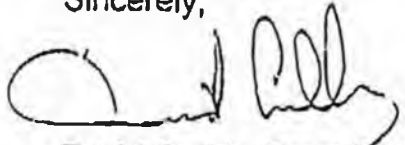
Secondly, by limiting the inspector pool to only ICBO inspectors, many qualified architects, engineers or other responsible persons are eliminated in assisting in the inspection process. Some of these local officials may be more experienced in local conditions than a newly created inspector flying out from an urban area. Many architects and engineers have frequent occasion to fly to rural areas to inspect projects and could add a home inspection at little extra cost.

Representative Eileen MacLean  
March 9, 1993  
Page Two

It is our understanding that the original legislation exempted DCRA's Rural Housing Program from the statute, but an unintended by-product of the merger of DCRA's rural housing program into AHFC was to make this law a fact-of-life for the entire state.

We believe the solution to this problem is through passage of house bill 180 as it is currently written and asks for the legislature's support of the bill.

Sincerely,



David Cuddy, President

gs

**Sec. 18.56.220. Duty to advise about corporation's programs.** The corporation shall make a reasonable effort, through seminars, training sessions, and other forms of technical assistance, to assist local governments, regional housing authorities, nonprofit organizations, and other organizations and individuals to understand the corporation's housing programs and the opportunities that exist to obtain financial assistance from the corporation. (§ 98 ch 4 FSSLA 1992)

**Effective dates.** — Section 152, ch. 4, FSSLA 1992 makes this section effective July 1, 1992.

**Sec. 18.56.300. Construction standards for housing eligible for purchase of loans.** (a) The corporation may not make or purchase a housing loan for residential housing the construction of which begins after June 30, 1992, unless the seller of the mortgage loan complies with the provisions of this section and unless

(1) the unit is in compliance with the construction codes of the municipality, if the unit is located within a municipality that has adopted and enforces construction codes and each of those codes meets or exceeds the comparable standards for similar housing established by the state building code; or

(2) the unit is in compliance with the comparable standards for similar housing established by the state building code

(A) if the unit is located

(i) within a municipality whose construction codes do not meet the standards for similar housing established by the state building code;

(ii) within a municipality that does not enforce construction codes; or

(iii) outside a municipality; or

(B) as to each specific code within the construction codes of the municipality that has adopted and enforces construction codes if the specific code does not meet or exceed the comparable standard for similar housing established by the state building code.

(b) As a condition of a commitment to purchase or approve a loan under this section for residential housing the construction of which begins after June 30, 1992, the corporation shall require inspection of the unit of residential housing that is the subject of the loan. The inspection must be performed by a municipal building inspector or by a person who is approved or certified to perform residential inspections by the International Conference of Building Officials or the International Association of Electrical Inspectors. The person who makes the inspection shall determine whether the construction conforms to relevant provisions of the construction codes of the municipality or of the state building code, as applicable, at each of the following stages of construction:

- (1) plan approval;
- (2) completion of footings and foundations;
- (3) completion of electrical installation, plumbing, and framing;
- (4) completion of installation of insulation;
- (5) final approval.

(c) A person may not bring an action for damages based on a duty imposed by (b) of this section to inspect a residential unit unless the action is for damages caused by gross negligence or intentional misconduct.

(d) This section does not apply to a ~~nonconforming~~ housing loan made ~~or purchased~~ by the corporation.

(e) In this section,

(1) "construction codes" means, with reference to a municipality, the building, mechanical, plumbing, and electrical codes, or any of them that have been adopted and are enforced by the municipality;

(2) "state building code" means

(A) for building standards, the standards set out in the version of the Uniform Building Code adopted by the Department of Public Safety under AS 18.70.080, including the provisions of that code applicable to buildings used for residential purposes containing fewer than four dwelling units, notwithstanding the exclusion of those buildings from the Department of Public Safety's jurisdiction made by AS 18.70.080(a)(2);

(B) for mechanical standards, the standards set out in the version of the Uniform Mechanical Code adopted by the Department of Public Safety under AS 18.70.080, including the provisions of that code applicable to buildings used for residential purposes containing fewer than four dwelling units, notwithstanding the exclusion of those buildings from the Department of Public Safety's jurisdiction made by AS 18.70.080(a)(2);

(C) for plumbing standards, the publications identified as the minimum plumbing code under AS 18.60.705; and

(D) for electrical standards, the minimum electrical standards prescribed by AS 18.60.580. (§ 2 ch 85 SLA 1990; am § 1 ch 29 SLA 1991; am §§ 1, 2 ch 52 SLA 1991; am § 99 ch 4 FSSLA 1992)

**Effect of amendments.** — The 1992 amendment, effective July 1, 1992, in subsection (d), inserted "nonconforming" and "or purchased" and deleted "under AS 18.56.106" from the end.

**Sec. 18.56.390. Definitions for AS 18.56.010 — 18.56.390.** In AS 18.56.010 — 18.56.390, unless the context clearly indicates a different meaning,

(1) "adjustable rate mortgage loan" means a mortgage loan with respect to which the interest rate varies or is expected to vary from time to time by reference to an index or formula or other reference point;

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# NATIONAL Bank of Alaska



Corporate Headquarters P.O. Box 122600 Anchorage, Alaska 99512-0600 (907) 275-1122

March 11, 1993

Representative Harley Olberg  
Alaska State Legislature  
State Capital  
Juneau, AK 99801-1182

Re: Residential Housing Inspection  
Requirements of AHFC

Dear Representative Olberg:

National Bank of Alaska has been a participant in the development of the housing needs of Alaskans since its inception 77 years ago. Due to the difficulty of attracting capital to our state for housing, NBA maintained an office in New York for that purpose in the 1950s and have participated in the creation of Alaska Housing Finance Corporation. NBA has been actively involved with Fannie Mae, Freddie Mac, HUD, VA, the Farmers Home Administration, and other secondary market lenders to assure the flow of capital to meet the housing needs of all Alaskans. It is our belief that the long-term viability of the state of Alaska is dependent on the equal access of housing to all inhabitants. Government regulations that inhibit equal access to housing or create a situation that discriminates by adding burdensome costs to particular residents of our state and does not foster equal access to housing of our population are not acceptable.

We believe that the ICBO legislation previously enacted created a costly bureaucratic situation for rural residents of the state of Alaska and does not practically increase equality of housing to our rural residents. We therefore have supported and encouraged the enactment of House Bill 180 which deals with inspections in rural and remote Alaska and ask that you provide support to this legislation as well. Keep in mind that the proposed amendments to the existing law relate to rural areas and increases the ability of Alaska Housing Finance to meet quality and safety objectives by giving it flexibility to deal with problems of remote communities. Rural in this legislation means an area that is not land connected by the state highway system.

March 11, 1993  
Page Two

Alaskans, in general, abhor other people forcing governmental authority onto us when we feel that these rules inhibit our ability to function as a unique society. Please keep in mind that Alaska has numerous communities and climates with unique situations which may require unique solutions. Costs related to Government regulations that may seem reasonable to a Kenai home builder may cost ten times as much for a home in the Bush. The original ICBO law was not intended to cover rural Alaska; however, with the merging of DCRA and Alaska Finance Corporation such a regulatory requirement now exists.

Your support and assistance in this matter would be greatly appreciated. If you have additional questions about the technical aspects of the bill, please contact Jim McCormack at 265-2878.

Sincerely yours,



Jan K. Sieberts  
Senior Vice President

sr

TESTIMONY of HB - 180

MARCH 11, 1993

My name is Henry Huntington. I'm building my own house in Barrow. I started in June 1992. When I heard about the inspections, it sounded like a good thing - so I could make sure everything was okay with the construction. But then I found out that there was only one qualified inspector in Barrow. He didn't even want to do it, and would have charged \$2000 just to start with, if no re-inspections were needed. That was ridiculous. If I lived in Point Barrow, I'd have to fly him there at great expense, if he would even be willing to go there, which he probably wouldn't. The cost and the effort required were not worth the product. It is just another hoop to jump through that benefits only AHFC. It really is not appropriate in rural areas where inspectors are few and far between and building is enough of a pain as it is.

By contrast, I got an Energy Rating quickly and easily and for \$60. I was happy to do that, and it is good to know that my house is a 5-star. ~~That~~ That type of system makes much more sense, because it is useful to the homeowner at an affordable cost, and provides AHFC with the information they need. While the idea of checking construction to make sure it is adequate is a good one, without some way to provide for the inspection in a reliable and cost-effective manner, the law is inappropriate to rural Alaska.

H.B.-180 is a step in the right direction for helping rural Alaskans build quality homes with a minimum of regulatory cost and logistical burden.

H B

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## ANS ROYALTY RIK RETROACTIVE AMERADA HESS ADJUSTMENTS

(Millions of Dollars)

(Includes Interest through Fall 1992 Billing Date)

Company	Billed	Resolved, Paid or Pending Settlement	Paid Under Protest	Unpaid or Disputed	Comments
Petrostar	\$ 2	\$ 2		\$ 0	
Tesoro To Chevron	142 <u>(45)</u> 97	97		0	\$45 M on bbls. sold to Chevron with an Amerada Hess Adjustment Clause. The rest would be covered under the Tesoro Settlement Agreement Payment Plan if consummated.
Chevron From Tesoro	64 <u>45</u> 109		\$47 <u>    </u> 47	\$17 <u>45</u> 62	\$47 M Payments under protest pending resolution of litigation. Scheduled for trial April 1995.
Mapco (GVEA) (Mapco)	18 <u>101</u> 119			18 <u>101</u> 119	Subject to two pending lawsuits -- one in Juneau and one in Anchorage.
<b>TOTALS</b>	<b>\$327</b>	<b>\$99</b>	<b>\$47</b>	<b>\$181</b>	

WALTER J. HICKEL, GOVERNOR

**DEPARTMENT OF LAW**

OFFICE OF THE ATTORNEY GENERAL

February 26, 1993

REPLY TO:

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

KEY BANK BUILDING  
100 CUSHMAN ST. SUITE 400  
FAIRBANKS, ALASKA 99701-4679  
PHONE: (907) 452-1568  
FAX: (907) 456-1317

P.O. BOX K - STATE CAPITOL  
JUNEAU, ALASKA 99811-0300  
PHONE: (907) 465-3500  
FAX: (907) 463-5295

Ralph Thomas  
Anchorage Daily News  
319 Seward St., #8  
Juneau, AK 99801

Re: SB 134 and HB 185

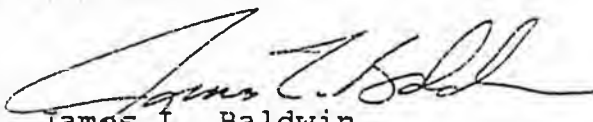
Dear Mr. Thomas:

Attached please find arguments and analysis of points in opposition to SB 134 and HB 185 (credits for capital investments of RIK purchasers). The arguments raised in the attachment form the basis for the attorney general's opposition to these bills.

Sincerely,

CHARLES E. COLE  
ATTORNEY GENERAL

By:

  
James L. Baldwin  
Assistant Attorney General

JLB:tg

## Rationale for Opposing Capital Credits Legislation (SB 134)

I. Capital credits are anti-competitive and not necessary for the refiners' economic expansion.

A. Capital credits are anti-competitive. Tesoro and MAPCO are expanding primarily into the super convenience store business (featuring the sale of alcohol), not the refining and distribution business. The state is being asked to finance competition with locally-owned grocery stores, fuel companies, fast food outlets, and other businesses. If the state pays for that expansion with capital credits, it makes all competing stores less competitive and dramatically discourages entry of new competitors. Moreover, MAPCO presently ships refined crude to Anchorage on the Alaska railroad, but is considering building a pipeline. If the state in effect pays for the pipeline with capital credits, it will be harming the railroad, as well as further exacerbating Tesoro's economic disadvantage vis a vis MAPCO.

The effect is worse on the oil side of the business. There is very limited competition now. If the state pays for expansion of the existing industry, no one will be able to afford to enter the market. Further, the greater the former underpayment (i.e., the bigger the RIK bill), the greater the subsidy. Capital credits use public funds to destroy private capital and tend to create monopolies.

- B. Capital credits would increase refining margins (profits). They would not decrease consumer costs and would probably increase consumer costs by limiting competition. If the legislature's goal is to reduce consumer energy costs, it could better achieve that goal by issuing checks to consumers when they purchase fuel. The consumers would then decide whether to keep the check for themselves, or return it to MAPCO or Tesoro.
- C. Payment of the purchasers' debts with public funds has nothing to do with their economic decisions to expand. Facilities that make economic sense will be built without this bill. This bill puts the state in the business of financing non-economic construction. At best, the bill will create low paying jobs that could not exist without a subsidy and those jobs will displace skilled jobs such as railway workers and truckers. Furthermore, payment of accrued obligations does not affect refining margins (profits); it simply increases the purchasers' stockholders' equity.
- D. Capital credits to the oil refiners would harm the development of other alternative fuels by making it possible to sell refined products cheaper. This, in turn, may depress economic development by limiting the competitiveness of alternative fuels.

II. Capital credits violate the spirit, if not the letter, of the constitution requiring the legislature to manage its resources to obtain the maximum benefit for all of the state's citizens.

The Alaska Constitution requires that the legislature must provide for the "maximum benefit" of all citizens of the state. An Alaska court has already ruled that this provision prohibits the state from selling its oil for less than it would receive if it allowed the producers to sell the oil for the state. This bill would result in that effect because the state would receive less than if it had let the producers sell the oil. Thus, the bill would violate the constitution.

Moreover, it would benefit some citizens of the state more than others. Capital credits are a form of appropriation. The debt is owed to the general fund (and Permanent Fund). Capital credits, however, only "benefit" a small portion of the state, presuming that any benefit from having had their valid debts forgiven through capital credits were in turn passed through to purchasers of Tesoro's and MAPCO's refined products.

Finally, the Permanent Fund is entitled to 25% of the debts currently owed. If this bill is enacted, the state treasury is exposed to a claim by the Permanent Fund for the value of any credits attributable to the Permanent Fund.

**III. Capital credits could undermine the fiscal security of the state.**

Currently, royalty revenues (including RIK payments) constitute 45% of the state's income. RIK payments range from 25% to 50% of that total. It is possible, under this legislation, that the state could be deprived of 10 to 25% of its entire income for any given year. In essence, it would be giving away a substantial portion of its natural resources.

**IV. RIK purchasers are not in the business of benefitting Alaskans.**

The primary RIK purchasers who would potentially benefit from the proposed legislation, i.e., Tesoro, MAPCO, and Chevron, are subsidiaries of out-of-state parent corporations. They have made substantial profits from their Alaskan operations to pay dividends to their shareholders or fund non-Alaskan operations. Their business is to benefit their shareholders, not Alaska. From 1987 to 1991, MAPCO paid its shareholders in excess of \$134 million in dividends, \$26 million more than the total amount of the state's claim, inclusive of interest. Note, it would have the state underwrite its further competitive advantage by forgiving its debts, and allowing it to shelter even greater profits for its shareholders.

RIK purchasers fail to produce data which support their contention that they priced their product based upon the supply price. In fact, MAPCO's SEC filings suggest that sales prices remained constant while supply costs decrease. Price was, and is, controlled only by competition. It must be remembered that MAPCO has monopoly power in Fairbanks and anti-trust violations were alleged against MAPCO in that

area. For example, MAPCO charges more for gas in Fairbanks (where it processes its oil) than in Anchorage (where competition exists). There is no independent evidence to suggest that MAPCO has passed on the benefits of lower supply prices to Alaskans.

Third, the refiners have not always used the oil they purchased from the state to make products for consumption in Alaska. For example, Chevron bought oil from Tesoro which Tesoro bought from the state. Chevron then shipped the oil out of state to its West Coast refineries.

**V. Royalty Oil Purchasers should not be singled out for favorable treatment.**

- A. If the state is going to give capital credits for money the state alleges is due it under a contract with a third party, there is no reason to single out refiners for special treatment. North Slope producers provide greater economic benefits to the state and have many large disputes regarding amounts owed to the state for royalties. The producers also are planning substantial additional capital investments in the future. How can the state maintain equal treatment for all parts of the oil industry unless it allows capital credits to others?
  
- B. The state has loan programs to assist students, fishermen, farmers, small business owners, and homeowners. Those people are expected to repay their obligations to the state. It is difficult to see the fairness of a doctrine that throws a farmer and his family off the farm or forecloses a poor student when

he won't or can't pay his obligation to the state, yet forgives (by capital credit) the debt of large, powerful corporations who negotiated their contracts with the state with the benefit of informed counsel, and who have been cognizant of their potential retroactive obligations since their original contracts were signed.

VI. The legislation encourages RIK purchasers not to pay amounts legitimately owed the state.

In essence, the bill provides for a capital credit any time an RIK purchaser disputes a debt owed to the state. In other words, any time a lawyer for an RIK purchaser dreams up a reason for not paying, they won't. The legislation would invite perpetuation of disputes so that debts could be avoided and new investments could be underwritten by the state's citizens.

Moreover, the bill allows the purchaser to try first to get a favorable result in court. Then, even if the purchaser loses (after the state incurs considerable litigation costs), the purchaser wins because he will be entitled to capital credits.

The bill sends a strong message to those who contract with the state that they will not be required to honor the agreement they made with the state.

VII. The legislation has many technical problems.

- A. Terms like "credit," "gross value of capital investment," and "substantially completed" are not defined. For example, does the credit apply to a total capital investment of \$100 MM when \$99 MM of the expenditure occurred out of state for construction of modular refining components which were subsequently shipped to Alaska and reassembled?
- B. It creates an administrative bureaucracy to determine whether a project's benefits are commensurate with the credit.
- C. It is impossible to determine how the credit would work.
- D. The bill appears to allow the Department of Commerce and Economic Development to approve material amendments to existing RIK contracts without the benefit of legislative oversight currently required by AS 38.05.183(f).



**United Association of Journeymen and Apprentices of the  
Plumbing and Pipe Fitting Industry**



**PLUMBERS & STEAMFITTERS LOCAL UNION NO. 367**

610 W. 54TH AVENUE • ANCHORAGE, ALASKA 99518

LARRY GALLAGHER, BUSINESS MANAGER

PHONE: (907) 562-2810 • FAX: (907) 562-2587



March 18, 1993

Dear Representative Bill Hudson:  
State Capitol  
Room 108  
Juneau, AK 99801-1182

On behalf of the members of U.A. Local 367, let me encourage your support of HB 185 as it comes before your legislative body for consideration.

The members of this organization see the many benefits to the State and its residents in allowing credits to the in-state refiners to offset retroactive royalty claims. Such a move will be converted directly into jobs and capital improvements benefitting a great many citizens for a number of years. You can play an important role in making that happen with your support of HB 185.

Thank you for your attention to this matter. The members of Local 367 will appreciate information with regard to your decision concerning this important piece of legislation. Your response to this office will be relayed to our several hundred Alaska resident members who are eagerly awaiting favorable disposition of HB 185.

Sincerely,

Larry Gallagher  
Business Manager  
U.A. Local 367

# STATE OF ALASKA

## DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

WALTER J. HICKEL, GOVERNOR

REPLY TO:

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

KEY BANK BUILDING  
100 CUSHMAN ST. SUITE 400  
FAIRBANKS, ALASKA 99701-4679  
PHONE: (907) 452-1568  
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March 12, 1993

Hon. Bill Hudson  
Alaska House of Representatives  
Room 108  
State Capitol  
Juneau, AK 98081-1182

Re: SB 134 and HB 185 (Capital  
credits for royalty  
oil purchasers)

Dear Representative Hudson:

Royce Weller of your staff requested our analysis of materials prepared by certain royalty oil purchasers concerning HB 185 and SB 134 (capital credits for royalty oil purchasers). The materials we reviewed include:

1) "A Response to Two questions Regarding Capital Credit Legislation for Royalty Oil Purchasers" - author unknown;

2) "SB 134 and HB 185 - A Sound Investment in Alaska's Economic Future" - by Tesoro Petroleum Company; and

3) "The fiscal and Economic Impact of New Vacuum and Asphalt Units at the Kenai Refinery of Tesoro Alaska Petroleum Company" - by ECO Northwest.

The foregoing documents provide a rationale for the passage of SB 134 and HB 185. Our analysis of the points raised in these documents by proponents of the bills is attached. If you desire more detail concerning any of the points raised in the analysis, do not hesitate to ask. Also enclosed is a copy of the Tesoro royalty oil settlement agreement you requested.

Sincerely yours,

CHARLES E. COLE  
ATTORNEY GENERAL

By:

  
Bruce Botelho

Deputy Attorney General

BMB:JLB:tg  
Attachments

RESPONSE TO CERTAIN MATERIALS SUPPORTING  
THE ENACTMENT OF SB 134 AND HB 185 (CAPITAL CREDITS)

Material is being circulated purporting to analyze the relationship between the Amerada Hess settlements and the amounts owed by the royalty oil purchasers. These materials lead the reader to the incorrect conclusion that SB 134 and HB 185 (capital credits for royalty oil purchasers) will create jobs and tax revenues. The following analysis serves as a rebuttal to

1) "A Response to Two Questions Regarding Capital Credit Legislation for Royalty Oil Purchasers" - author unknown;

2) "SB 134 and HB 185 - A Sound Investment in Alaska's Economic Future", by Tesoro Petroleum Company; and

3) "The Fiscal and Economic Impact of New Vacuum and Asphalt Units at the Kenai Refinery of Tesoro Alaska Petroleum Company," by ECO Northwest:

**1. Paying full value for the Oil Does Not Threaten the In-State Refining Industry--MAPCO and Tesoro Have the Right to Pay the Claim in Modest Installments Over Ten Years**

The state's claim against the royalty oil purchasers arose out of certain provisions in present and past contracts that required the purchasers to pay the state additional retro-active amounts if the state prevailed in the Amerada Hess case against the producers of North Slope crude oil. As a result of settlements between the state and the producers, the state

claimed that the royalty oil it sold to purchasers was undervalued to the extent that the producer's undervalued the oil.

Those who would benefit from the enactment of the bill imply that the payment of the state's claim would threaten the fiscal health of major in-state refiners. However, existing contracts and settlement agreements contain provisions that fairly provide for the payment of the debt owed to the state. MAPCO and Tesoro have the right to pay over approximately ten years. MAPCO has that right in its major contract which accounts for most of the state's claim against that company. Tesoro was given that right in its recently negotiated settlement agreement with the state. Neither company has reported to its shareholders or to the Securities and Exchange Commission that payment of the settlement amount over ten years (Tesoro) or the claim (MAPCO) would threaten the future of the companies.

MAPCO has repeatedly said to the SEC and its stockholders that the claim "will not have a material adverse effect on MAPCO's consolidated financial position." MAPCO, Inc. 10-Q Report to the SEC. Tesoro praised the settlement in its January 19, 1993 press release saying:

Management is pleased that this dispute was concluded on mutually favorable terms . . . . This settlement represents a significant step forward and will allow Tesoro's management to focus on other operational and financial matters. Further it removes an enormous uncertainty regarding the Company's future operations.

News Release of Tesoro Petroleum Corporation, January 19, 1993.  
State fiscal policy should not be driven by hollow threats.

**2. Capital Credits Do Not Create Jobs or Tax Revenue.**

The standing committees hearing these bills should carefully weigh the claim that the bills will create new jobs or unanticipated tax revenue. The ECO Northwest study claims that a \$46.5 million refinery expansion may work economic wonders. The questionable assumptions made in that study are discussed in paragraph 4A and B, but the study methodology merely diverts attention from the real issue. That being: are the benefits of capital construction available without the provision of capital credits? In Tesoro's case, capital credits will not create the promised economic bonanza - it is the refinery expansion itself that will produce whatever benefits may arise. The study did not take into consideration the state's role in the funding of Tesoro's refinery expansion. Nor did it consider Tesoro's motivation to expand.

The State's settlement with Tesoro was made so as not to interfere with expansion of Tesoro's refinery. The State agreed to take modest payments and to reduce its collateral so Tesoro could expand (page 11, paragraph 6 of the settlement agreement). In its news release, Tesoro acknowledged the key

provisions of the settlement that provide for future expansion by saying:

Tesoro's obligation owed the state under the agreement is subordinated to current and future senior debt of Tesoro of up to \$175 million plus indebtedness incurred in the future to improve the Company Alaska Refinery.

Id.

Whatever the benefits of the expansion may be, they are available without capital credits. The state gave Tesoro the ability to undertake the expansion without capital credits.

**3. Royalty oil purchasers would be singled out for Special Treatment.**

The legislature is prohibited by article II, section 19 of the Alaska Constitution from passing special legislation if a general act can be made applicable.

Under the bill, royalty oil purchasers would have a special benefit available only to them. In order to validly provide a valuable benefit to a limited group of firms doing business in the state, the legislature would need to establish that it is not denying equal protection of the law to other firms that are similarly situated. There must be a fair and substantial relationship to legitimate purposes. State v. Lewis, 559

P.2d 630 (Alaska 1977). The burden of proving the legitimacy of legislation under this standard has become significantly more complicated under the Alaska Supreme Court's enlightened approach to analyzing equal protection claims.

- A. The amount owed by royalty oil purchasers doesn't justify special treatment.

In an attempt to show that royalty oil purchasers are a class warranting special treatment, Tesoro notes that they owe approximately \$300 million, an amount equal to the total value of their capital assets, and that the approximately \$700 million paid by the producers represents only 6 percent of the value of their assets.

Among other things, this assessment indicates that the value of the investments by the producers is somewhere in the vicinity of 12 billion dollars. In the interest of equity, it is clear that the producers have made much greater direct investments which, in turn, have had even greater indirect multiplier effects on the Alaska economy.

It is suggested that the state's claim for reimbursement is huge in relation to the ability of royalty oil purchaser's to pay. The claim, for example, is compared to the value of the companies' Alaska assets. This comparison has no

meaning. It is characteristic of many industries that raw material or feed-stock costs exceed the value of the plants in which they are processed. For example, fish cost more than the plants in which they are processed. MAPCO and Tesoro have paid for oil many, many times the value of their Alaska assets. That is a characteristic of the refining business, not a distinguishing characteristic.

Proponents of the bill claim that royalty oil purchasers are entitled to special treatment because they are being asked to pay a disproportionate part of the total price adjustment resulting from the Amerada Hess settlement. They argue that the royalty oil purchasers have taken only 4 percent of total oil production yet owe \$300 million for the retroactive price adjustment. The implication is that the State is claiming \$300 million for 4 percent of the oil and \$700 million for the remaining 96 percent. However, this comparison is disingenuous and misleading. The proper comparison is to royalty oil taken, not to total oil production. The State's royalty share is 12.5 percent. Three-quarters of this amount, 9 percent, is subject to Amerada Hess price adjustments. Roughly 4 percent was sold to in-state refiners and 5 percent (not 96 percent) was taken "in value" by the producers. The royalty oil purchasers thus received about 44 percent of the State's oil subject to price adjustment (4 percent divided by 9 percent) and are being asked to pay only one-third

(\$300 million divided by \$1 billion) of the total amount owed. There is no disparity here that warrants special treatment.

B. The effect of the Amerada Hess settlement on royalty oil purchasers does not warrant special treatment.

The royalty oil purchasers imply that they deserve special treatment because they were unfairly made subject to the Amerada Hess oil values settlement. Tesoro and MAPCO negotiated contracts with the state to be bound to the results of the Amerada Hess litigation or settlement and to refrain from intervening in that litigation. It is disingenuous now for Tesoro or MAPCO to imply that they were unfairly excluded from settlement discussions with various producers. The refiners had little or no knowledge of the producers' pricing practices and would have added time and expense to the ultimate resolution of that dispute. The Superior Court decided that the refiners interests were well represented by the producers when it denied the refiners' motion to intervene. The State now asks for nothing more from Tesoro and MAPCO than they agreed to pay in their contracts. This would not provide a reasonable basis for special treatment.

4. The Royalty Oil Purchasers Owe a pre-existing debt for the Modest Price Adjustment which the State now Claims.

The state's claim for reimbursement represents a pre-existing debt of the royalty oil purchasers. They are asking for forgiveness of this debt. As a general matter, the public purpose provision of the Alaska Constitution forbids the bare forgiveness of preexisting debt. However, if it can be shown that the state receives adequate consideration for the forgiveness, the public purpose may be established.

As for the validity of the debt, the materials provided by the refiners in support of the bills imply that something is wrong with being asked to pay an addition to the original charge. The truth is that the royalty oil purchasers agreed by contract to make the additional payment now. It is suggested that prices of refined products would have been higher if only the royalty oil purchasers had known about the additional charge.

The price adjustment the state is seeking is about 3.0 percent (excluding interest) of the total amount which the refiners paid for royalty oil. This is a very modest adjustment accrued over roughly ten years. A tiny accounting reserve each year would have been prudent. The oil producers and Tesoro apparently had reserves, but MAPCO filed lawsuits asserting

surprise and disaster. Neither surprise nor disaster should be the result of a 3.0 percent price adjustment. MAPCO is hard pressed to claim surprise now, particularly when it was aware that its neighbor refinery, Petro Star, was required to escrow \$1.12 per barrel for its future Amerada Hess adjustments beginning in 1985. It comes as no surprise that Petrostar satisfied its obligations to the state without complaint.

A. The ECO Northwest Study use faulty assumptions.

The clear implication of ECO Northwest's study is that consideration for debt forgiveness will flow from the benefits of capital construction. The ECO Northwest study relies on a computer model that assumes capital spending will directly and indirectly stimulate economic activity. The desired result is programmed into the model. Furthermore, the model does not recognize public costs (e.g., schools, sewer, water, police, fire) which result from a project, it double counts revenue, and it ignores the beneficial effect of the field cost allowance discussed in subparagraph B below. The model also uses the wrong discount rate to determine the present value of alleged benefits which will occur, if they occur at all, over 20 or more years.

The model shows total Alaska spending benefits of \$87 million dollars per year (see Table 1 of the study). This amount serves as the basis for each result of the model and creates the

desired economic bonanza. Of the \$87 million, \$82 million (94 percent) is "expenditures on additional crude petroleum. . . ." This must mean royalty oil purchased from the state because there is no other long-term source of large quantities of oil. This amounts to double counting. The model assumes that additional oil will be produced because of the refinery expansion. In fact, the oil will be produced and purchased without the refinery expansion. The oil will either be taken in value (i.e., effectively "purchased" by the producers) or taken in kind, but the quantity produced will not be changed. On average, the likely real benefits are only about 6 percent of the benefits claimed in the ECO Northwest study (see Table A-3).

The model further overstates the adequacy of consideration by using an incorrect discount rate to determine the present value of future dollars. The model uses 4 percent and ignores inflation (see Table 4 of the study). A more realistic discount rate would be in the range of 8 to perhaps as high as 15 percent to recognize both inflation and the risk that the projected benefits will not occur. Using the correct discount rates would dramatically reduce the claimed benefits. For example, Table A-8, found on the next to last page of the ECO Northwest study, shows that at any discount rate greater than 4 percent, the additional tax revenues over 20 years are less than the cost of the project. Put another way, the project has a negative return to the state even with the double counting of crude oil

sales revenue. The selection of a 4 percent discount rate for the model was not a coincidence.

B. The ECO Northwest study omits consideration of other benefits provided by the state.

In determining whether there is adequate consideration to support the forgiveness of debt, the legislature must consider the other valuable benefits provided by the state treasury to encourage in-state refining. In the first phase of the Amerada Hess litigation, the Superior Court found that the state had no obligation to reimburse its lessees for field costs so long as the state took its oil in value, but ruled that a field cost was due if the oil was sold to an in-state refiner. This ruling was a major impediment to the development of in-state refining.

Recognizing this impediment, and in a conscious decision to support in-state refining, the state gave up its right to avoid the payment of field costs for in-value royalty oil and negotiated a settlement agreement with the North Slope producers which obligated it to pay the same field costs regardless of whether it takes its oil in value or in kind. That amount is currently 79 cents per barrel at Prudhoe Bay and 42 cents per barrel at the Kuparuk River Unit. These are field costs which the state incurred only because it chose as a matter of policy to sell to Tesoro, MAPCO, GVEA, Chevron and Petro Star.

The total value of the field cost deduction is now more than \$700 million, and is subject to escalate under the settlement agreements. These field cost deductions are estimated to total a minimum of \$1.4 billion over the life of the fields.

Based on the foregoing analysis it is questionable whether there would be adequate consideration to support the forgiveness of the RIK purchaser's preexisting debt or offset the incentives previously provided.

#### **5. There Are No Safeguards in the Bill**

The bill takes from the legislature and gives to royalty oil purchasers the responsibility and authority to spend hundreds of millions of dollars. There are no safeguards, checks, or balances. The authority extends for ten years. There is no oversight of the company's decisions, decisions that amount to material amendments of the royalty contracts.

Proponents of the legislation claim that the state is protected because the commissioner of the Department of Commerce and Economic Development must approve capital credits. However, the protection afforded by the bill is illusory. The commissioner is compelled to approve the credits unless there is proof by "clear and convincing evidence," that the credit will not