

ALASKA LEGISLATURE COMMITTEE FILES 1993-1994 8672

8132 HOUSE STATE AFFAIRS

397

States of America v. State of Alaska, Civil Action No. A91-081 CIV and approved by this Court in August 1991;

(b) the Agreement between the State of Alaska, the United States and Plaintiffs entered in The Native Village of Chenega Bay, et al. v. State of Alaska, 3AN-91-2344 Civil and approved and entered as a Final Judgment by the Alaska Superior Court in February 1992;

(c) the Consent Decree and Stipulation of Dismissal entered into between Alaska Natives and Native Interests, the United States and the State of Alaska in The Native Village of Chenega Bay, et al. v. The United States of America and The State of Alaska, Case No. A91-454 CIV and approved by this Court on January 17, 1992;

(d) the Agreement between the TAPL Fund and the State made on February 24, 1992 which contains mutual releases and covenants not to sue subject to an exception for AS 43.75 revenues specified therein and the Stipulation of Dismissal with Prejudice and Order executed by the United States and the TAPL Fund on February 13, 1992; and

(e) the State's Right-of-Way Lease for Trans-Alaska Pipeline and the United States' Grant and Agreement of Right-of-Way for Trans-Alaska Pipeline.

34. Except as explicitly stated herein, nothing in this Agreement alters, amends, modifies, or, in any way, affects the legal rights and duties of the Governments, on the one hand, and

Exxon Corporation or Exxon Shipping Company, on the other hand, under the Exxon Consent Decree.

Notices and Submittals

35. Whenever, under the terms of this Consent Decree, written notice is required to be given by one Party to another, it shall be directed to the individuals and addresses specified below, unless those individuals or their successors give notice of changes to the other Parties in writing.

As to the State of Alaska:

Attorney General
State of Alaska
Pouch K
Juneau, Alaska 99811

Supervising Attorney
Environmental Section
Department of Law
1031 W. Fourth Street, Suite 200
Anchorage, Alaska 99501

As to the United States:

Chief, Admiralty and Aviation Branch
Civil Division
U.S. Department of Justice
P.O. Box 14271
Washington, D.C. 20044-4271

As to Alyeska and the Alyeska Owner Companies:

Office of the President
Alyeska Pipeline Service Company
1835 South Bragaw Street
Anchorage, Alaska 99512

General Counsel
Alyeska Pipeline Service Company
1835 South Bragaw Street
Anchorage, Alaska 99512

To each of the Alyeska Owner Companies, at addresses to be supplied by Alyeska.

Election to Terminate

36. Any Party may elect to terminate this Agreement if: (a) a final judicial determination is made by any court of competent jurisdiction that this Agreement will not be approved and entered without modification; or (b) such court modifies this Agreement in a manner materially adverse to that Party prior to or contemporaneously with a final judicial determination approving this Agreement as modified. A Party electing to terminate this Agreement pursuant to this paragraph must do so within 10 days after an event specified in the preceding sentence, and shall immediately notify the other Parties of such election in writing by hand delivery, facsimile, or overnight mail. Termination of this Agreement by one Party shall effect termination as to all Parties. For purposes of this paragraph, "termination" and "terminate" shall mean the cessation, as of the date of notice of such termination, of any and all rights, obligations, releases, covenants, and indemnities under this Agreement.

Entry of Final Judgment

37. This Court finds that this Agreement is fundamentally fair, just and reasonable and directs that this consent decree be entered as a final judgment with respect to the claims against Alyeska, the Alyeska Owner Companies, Exxon Corporation and Exxon Shipping Company in State of Alaska v. Exxon Corporation, et al., Case No. A92-175 CIV. This Court directs that this consent

decree be entered as a final judgment in United States of America
v. Exxon Corporation, et al., Case No. A91-082 CIV.

Retention of Jurisdiction


38. The Court shall retain jurisdiction of this matter for the purpose of entering such further orders, direction, or relief as may be appropriate for the construction, implementation, or enforcement of this Agreement.

Miscellaneous

39. This Agreement can be modified only with the express written consent of the Parties to the Agreement and the approval of the Court.

40. Each undersigned representative of a Party to this Agreement certifies that he or she is fully authorized to enter into the terms and conditions of this Agreement and to execute and legally bind such Party to this Agreement.

THE FOREGOING Agreement and Consent Decree between the United States of America and the State of Alaska, on the one hand, and Alyeska and the Alyeska Owner Companies, on the other hand, is hereby APPROVED AND ENTERED THIS 25 DAY OF November, 1992.


Honorable H. Russel Holland
United States District Judge
District of Alaska

BURN, PEASE
& KURTZ
PROFESSIONAL CORPORATION
616 B STREET
ANCHORAGE, AK 99501
(907) 276-6100

AGREEMENT AND CONSENT DECREE
(S.M.G.)

FOR THE STATE OF ALASKA

Date: 11-25-92 Walter Hickel
WALTER J. HICKEL
Governor
State of Alaska

Date: 11.25.92 Charles E. Cole
CHARLES E. COLE
Attorney General
State of Alaska
Pouch K
Juneau, Alaska 99811

FOR THE UNITED STATES OF AMERICA

Date: Nov 25, '92 Stuart M. Gerson
STUART M. GERSON
Assistant Attorney General
Civil Division
U.S. Department of Justice
Washington, D.C. 20530

BURR. PEASE
& KURTZ
A PROFESSIONAL CORPORATION
610 N STREET
ANCHORAGE, AK 99501
(907) 276-6100

FOR ALYESKA AND THE ALYESKA OWNER COMPANIES

Date: November 25, 1992 ALYESKA PIPELINE SERVICE COMPANY
By: [Signature]
Its: General Counsel

Date: November 25, 1992 AMERADA/HESS PIPELINE CORPORATION
By: [Signature]
Its: Attorney in Fact

Date: November 25, 1992 ARCO TRANSPORTATION ALASKA, INC.
By: [Signature]
Its: Attorney in Fact

Date: November 25, 1992 BP PIPELINES (ALASKA), INC.
By: [Signature]
Its: Attorney in Fact

Date: November 25, 1992 EXXON PIPELINE COMPANY
By: [Signature]
Its: Attorney in Fact

Date: November 25, 1992 MOBIL ALASKA PIPELINE COMPANY
By: [Signature]
Its: Attorney in Fact

BURR. PEASE
& KURTZ
A PROFESSIONAL CORPORATION
810 R STREET
ANCHORAGE, AK 99501
(907) 276-6100

Date: November 25, 1992

PHILLIPS ALASKA PIPELINE
CORPORATION

By: *Gregory P. Stone*

Its: Attorney in Fact

Date: November 25, 1992

UNOCAL PIPELINE COMPANY

By: *Gregory P. Stone*

Its: Attorney in Fact

Date: November 25, 1992

Gregory P. Stone for
RONALD L. OLSON

Munger, Colles & Olson

355 South Grand Avenue

Los Angeles, California 90071

Attorney for Alyeska and

Alyeska Owner Companies

(except Exxon Pipeline Company)

Date: November 25, 1992

Randall J. Weddle
RANDALL J. WEDDLE

Faulkner, Banfield, Doogan &
Holmes, P.C.

550 W. 7th Avenue, Suite 1000

Anchorage, Alaska 99501

Attorney for Exxon Pipeline
Company

BURR, PEASE
& KURTZ
A PROFESSIONAL CORPORATION
810 N STREET
ANCHORAGE, AK 99501
(907) 278-8100

AGREEMENT AND CONSENT DECREE
[52946.1]

APPENDIX A

The settlement provides for the construction of docks and response storage facilities at Tatitlek and Chenega and the re-positioning of oil spill response equipment at both locations. The exact nature of these projects cannot be known without more investigation and planning. Nevertheless, it is intended that these facilities be constructed in such a way as to facilitate the effective response to an oil spill in Prince William Sound.

As currently proposed, the docks at Tatitlek and Chenega would be constructed on land acquired from the villages, with title to the land and facilities and the responsibility for maintenance given to the villages or State as deemed appropriate by the State. The docks would be suitable for oil spill response use as well as limited use by the ferry MV Bartlett and would permit the loading and unloading of passengers, light cargo and, if appropriate, vehicles. The facilities should be designed to support oil spill response vessels, including the new oil spill response ferry vessel now being designed.

The proposed docks consist of a pier head platform and 12 foot wide causeway and would be lighted for nighttime operations. Berthing and mooring dolphins and fenders would be provided. The dock would be useable throughout the tidal range. A one acre gravel pad would be created at the base of the dock. The total combined estimated cost of these projects would be about \$14.5 million, including the cost of constructing and stocking associated storage facilities with spill response equipment (e.g. boom and absorbent pads). Ownership of this response equipment would reside with Alyeska.

a. Tatitlek: The dock at Tatitlek would be located at the east end of the village and would require construction of a one quarter mile access road.

b. Chenega: The dock at Chenega would be located at the west end of the village and could use existing roads. The Chenega dock would be in the vicinity of the old saltery which is a major environmental concern of the people of Chenega, the State and the United States. The saltery contains asbestos and partially filled abandoned fuel oil storage tanks. It is in complete disrepair. The proximity of the saltery, coupled with the environmental hazard it presents, mandates that strong consideration be given to removal in conjunction with construction of the dock or associated pad.

APPENDIX B

In the event of a spill in Prince William Sound, particularly in the southwestern portion near Hinchinbrook, it would be useful to have the option of utilizing Cordova for staging response efforts. While Cordova has good air transport facilities, there is, at present, no available deep water port and little in available staging areas. Currently there is a proposal to create such a port at Shepard Point, about six miles outside of Cordova.

Connecting the port with Cordova requires rehabilitation of about two miles of existing road and construction of about 4.8 miles of new road, including a bridge across Humpback Creek. The road would run primarily across Eyak Corporation land. Eyak is supportive of the project. The proposed project includes the construction of the road to Shepard Point and a response staging area and the pre-positioning of boom and other response equipment.

In addition to the oil spill response benefits of this project, the proposed road would allow for the lightering of tourists into Cordova from tour vessels.

APPENDIX C

Of all of the restoration projects considered for funding from the EXXON VALDEZ oil spill Joint Trust Fund, the most public support has been generated for the acquisition of in-holdings in Kachemak Bay State Park which are scheduled to be logged. A number of proposals have surfaced for financing such a buyout, but have fallen short of the amount needed to complete the purchase. It is believed that the sum proposed for this project, combined with funds from other sources, would eventually be sufficient to complete the transaction.

The proposed buyback includes lands surrounding Peterson, China Poot and Neptune Bays. Acquisition of these lands would provide a significant benefit to the natural resources and people affected by the spill. In particular, the lands acquired provide habitat for species which utilize old growth forests, such as marbled murrelets. The shorelines of these bays contain numerous archeological sites, including house pits, rock shelters and middens. More than 6000 bald eagles winter annually in Kachemak Bay, with many using the lands in question. The sand bars and islands of China Poot Bay are regularly utilized haul out sites for harbor seals. In addition, Kachemak Bay provides recreational opportunities for many Alaskans and tourists who visit the southern Kenai Peninsula and is the scenic background for the Homer area.

APPENDIX D

In conjunction with creation of the Valdez Emergency Response Center, the United States Coast Guard and the Alaska Department of Environmental Conservation will be provided space for use as a communications center. This project will provide the funds to equip that space for the agencies so as to enhance the management of an oil spill response. The exact equipment to be purchased will be designated after further planning, but includes computer systems, software, facsimile machines, copier, communications console and miscellaneous furniture.

HB

2006



ALASKA STATE LEGISLATURE HOUSE OF REPRESENTATIVES

REPRESENTATIVE ELDON MULDER
DISTRICT 23 MULDOON-FT. RICHARDSON

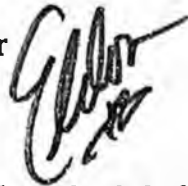
- CHAIR -
LEGISLATIVE COUNCIL

- CO-CHAIR -
HOUSE SPECIAL COMMITTEE ON
MILITARY AND VETERANS AFFAIRS

- CO-CHAIR -
MILITARY AFFAIRS FOR
ANCHORAGE CAUCUS

MEMORANDUM

MAR 23 1993

DATE: March 23, 1993
TO: Representative Al Vezey
Chair, House State Affairs Committee
FROM: Representative Eldon Mulder 
SUBJECT: House Bill 206

I would like to request that House Bill 206 be scheduled for a hearing by the House State Affairs Committee.

House Bill 206 pertains to elections by electrical and telephone cooperatives. The nature of these elections has changed in the past several years. Huge amounts of money are being raised and spent by candidates on these elections, yet the public presently has no way of knowing where the money is coming from. HB 206 would require candidates running for a seat on the board of directors of electrical or telephone cooperative boards to file disclosure statements with the Alaska Public Offices Commission. The bill applies only to those cooperatives with 10,000 or more customers or subscribers.

I believe the public has a right to know more than they presently do about these elections. I hope that HB 206 will have your support.

Please find back-up material attached.

Sponsor Statement
Representative Eldon Mulder

House Bill 206

House Bill 206 relates to the Alaska Public Offices Commission regulating elections by electrical and telephone cooperatives. The bill has been introduced as a measure to ensure greater accountability to the public.

The scope of these elections has changed in recent years. They often run into the high thousands of dollars, yet the public presently has no way of knowing where the money is coming from. It is only appropriate for the public to know how these campaigns are being financed.

House Bill 206 would require candidates running for a seat on the board of directors of electrical or telephone cooperative boards to disclose financial statements with the Alaska Public Offices Commission. The bill applies to cooperatives who furnish electrical power or telephone services to 10,000 or more customers.

FISCAL NOTE

BILL NO. CSHB 206 (C&RA)

STATE OF ALASKA
1993 LEGISLATIVE SESSION

Revision Date: _____
 Title: *An Act relating to the regulation of election campaigns,
 and providing for regulation by APOC of elections by certain . . . *
 Sponsor: Representative Mulder
 Requestor: _____

Department Affected: Administration
 BRU: Alaska Public Offices Commission
 Component: Alaska Public Offices Commission

COMPONENT SERIAL NO. 70

EXPENDITURES/REVENUES:

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	1.3	1.3	1.3	1.3	1.3	1.3
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	.6	.5	.5	.5	.5	.5
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
TOTAL OPERATING	1.9	1.8	1.8	1.8	1.8	1.8

CAPITAL	0	0	0	0	0	0
---------	---	---	---	---	---	---

REVENUE FUND SOURCE:	0	0	0	0	0	0
----------------------	---	---	---	---	---	---

FUNDING:

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	1.9	1.8	1.8	1.8	1.8	1.8
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
TOTAL	1.9	1.8	1.8	1.8	1.8	1.8

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.)
 See Attached.

Prepared by: Karen Boorman, Executive Director
 Division: Alaska Public Offices Commission

Phone: 276-4176
 Date: _____

Approved by Commissioner: Nancy Bear Usura
 Agency: Administration

Date: 3.5.93

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
 For further distribution information call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. CSHB 206

This bill would require candidates for an electrical or telephone cooperative's board of directors to comply with the Campaign Disclosure Law, AS 15.13, if the cooperative serviced at least 10,000 customers. Any group that took action to support or oppose these candidates would also be required to file reports and otherwise comply with AS 15.13. According to information from the Alaska Public Utilities Commission, there are 5 electrical cooperatives and one telephone cooperative that meet these criteria. All have annual meetings in March, April or May at which time newly elected board members would take office.

The commission has not had experience with non-governmental entities before so this is a new area. The closest analogy is in the regulation of municipal campaigns, candidates and groups. The commission has a policy that allows municipal candidates to file exemption forms if they do not intend to receive contributions exceeding \$1000 or make expenditures exceeding \$1000 during their campaign. If they do exceed this amount reporting requirements must be met. Groups taking action in support or opposition to these candidates must report at any monetary level. It is likely that the Commission will extend this \$1000 exemption policy to candidates for cooperative boards.

AS 15.13 will be more difficult to administer, at least initially, than it is to do so with municipalities for several reasons. No one entity regulates electrical and telephone cooperatives, these candidates are not accustomed to being regulated by the Alaska Public Utilities Commission and a municipality, usually the municipal clerk, has responsibility under APOC regulations 2 AAC 50.360 to provide a list of candidates and mailing addresses within seven days after the deadline for filing. A similar provision placed in statute for electrical and telephone cooperatives would certainly make administration easier.

The Commission anticipates it will incur start up costs in connection with administering and enforcing the new provisions. Staff must revise forms, manuals and prepare training materials. The Commission will receive many questions and requests for written and oral advice. Procedures will have to be established with the cooperatives, candidates and APOC to insure that all regulated candidates are notified of the requirements each year. Provisions for monitoring or determining the number of customers will have to be arranged to insure that candidates for cooperative boards servicing at least 10,000 customers are included. Training will have to be emphasized in the first few years to educate cooperative boards, candidates and groups active in cooperative elections. It is expected that at least one complaint will be filed each year alleging violations of the campaign disclosure laws.

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. CSHB 206 (C&RA)

ANALYSIS: (continued)

This comes at a time when Alaska Public Offices Commission staff and other resources are stretched thin and funding is at a maintenance level. Although an additional staff person is not necessary to accommodate these provisions, funds for printing of forms and manuals, conducting training, as well as overtime funds for staff to provide compliance assistance, training, to revise the manual and forms, draft advisory opinions and investigate complaints are needed. An estimated \$600 is allocated for the first year for printing, training and materials and \$500 each year thereafter. An estimated \$1,300, or 65 hours at \$20 per hour, is allocated for overtime.

ALASKA RURAL ELECTRIC COOPERATIVE ASSOCIATION

ACTIVE MEMBERSHIP

<u>ORGANIZATION</u>	<u>AREA OF SERVICE</u>	<u>CONSUMERS</u>
1.) Alaska Electric Generation and Transmission Cooperative, Inc..	Sterling to Homer	approximately 14, 000
2.) Alaska Village Electric Cooperative, Inc.	Western Alaska	5,420
3.) Chugach Electric Association, Inc.	Anchorage Area	63,361
4.) Copper Valley Electric Association, Inc.	Glennallen to Valdez	2,784
5. Cordova Electric Cooperative, Inc.	Cordova Area	1,569
6.) Golden Valley Electric Association, Inc.	Fairbanks Area	26,726
7.) Homer Electric Association, Inc.	Sterling to Soldovia	18,173
8.) Inn Electric Cooperative, Inc.	Iliamna Area	256
9.) Kodiak Electric Association, Inc.	Kodiak Area	5,197
10.) Kotzebue Electric Association	Kotzebue Area	1,004

11.) Levelock Electric Cooperative	Levelock Area	73
12.) Matanuska Electric Association, Inc.	Talkeetna to Eagle River Area	29,008
13.) Middle Kuskokwim Electric Cooperative, Inc.	Sleetmute, Stony River, Chuathbaluk, Crooked Creek, Red Devil	172
14.) Naknek Electric Association, Inc.	Naknek/King Salmon Area	765
15.) Nushagak Electric Cooperative, Inc.	Dillingham Area	1,158
16.) Tlingit-Haida Regional Electrical Authority	Southeast Area	1,183
17.) Unalakleet Valley Electric Cooperative	Unalakleet Area	235

ALASKA TELEPHONE COOPERATIVES

<u>Cooperative</u>	<u>Subscribers</u>
Arctic Slope Telephone Assoc. Cooperative, Inc.	1,724
Bristol Bay Telephone Cooperative, Inc.	1,249
Copper Valley Telephone Cooperative, Inc.	3,821
Cordova Telephone Cooperative, Inc.	1,455
Matanuska Telephone Association	31,577
Nushagak Telephone Cooperative, Inc.	1,590
Otz Telephone Cooperative, Inc.	2,071

Date Referred: March 24, 1993

FURTHER REFERRALS:

Date of Committee Action: 4-3-93

The STATE AFFAIRS Committee considered:

HB 206

HOUSE BILL NO. 206

ELECTIONS AND ELECTRIC COOP ELECTIONS

An Act relating to the regulation of election campaigns, and providing for regulation by the Alaska Public Offices Commission of elections by electrical cooperatives."

RECOMMENDATIONS: the same title
 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) Adm N 3-24-93

zero fiscal note _____

zero fiscal note(s) _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>[Signature]</i>	X	<i>[Signature]</i>		✓	
<i>[Signature]</i>	X	<i>[Signature]</i>		✓	
<i>[Signature]</i>	X				
<i>[Signature]</i>	✓				

[Signature]
CHAIRMAN'S SIGNATURE

HB

208

Alaska State Legislature



Representative Mike Navarre

March 16, 1993

Representative Al Vezey, Chair
House State Affairs Committee
Alaska State Legislature

Dear Representative Vezey:

Please schedule HB208 "An act relating to longevity bonus payments for certain nursing home residents; and providing for an effective date." for a hearing in the House State Affairs committee.

Attached is the sponsors statement regarding this piece of legislation. I have also made a request of the Department of Administration to prepare a fiscal note for this legislation.

Sincerely,

A handwritten signature in cursive script that reads "Mike".

Representative Mike Navarre



Representative Mike Navarre

**Sponsor Statement
HB 208**

HB 208 was introduced to correct an oversight when legislation was passed last session to allow the retention of longevity bonus checks for nursing home patients who qualified for the bonus and had their nursing home care provided entirely from private sources. Prior to passage of this legislation, all nursing home patients were losing their longevity bonus checks. The original intent was to withhold the state payments to offset in part the state expense of other support programs for nursing home care such as medicaid. For nursing home patients not receiving state support for their nursing home care, the legislature felt there should be no loss of the longevity bonus check. Unfortunately, in adopting the word "private" as an identification of source of funding, the legislature inadvertently excluded from the exemption all those individuals who receive a portion of their care under federal insurance programs such as medicare and veterans' health benefits. These programs are provided entirely by the federal government. Individuals covered by these programs are not being supported by the state while in the nursing home.

Individuals are frequently placed in a nursing home setting for a temporary recovery period from an accident or illness. Patients with extended stays in hospitals for recovery purposes are reported in nursing care status. These individuals fully expect to return to their homes and family once the recovery is complete. To bear any portion of their nursing expense, maintain a separate residence, and then suffer an additional reduction in their income due to the loss of the longevity bonus check works a severe hardship on seniors on fixed and/or limited incomes.

By amending AS 47.45.070 (c) to reflect "nonstate" instead of "private", these seniors will be allowed to retain their longevity bonus checks. Individuals receiving state support for their nursing home care through medicaid or another state assistance program, will continue to have their longevity bonus checks withheld.

FISCAL NOTE

BILL NO. HB 208

STATE OF ALASKA
1993 LEGISLATIVE SESSION

Revision Date: _____
 Title: An act relatinn to Longevity Bonus payments for
certain nursing home residents.
 Sponsor: Representative Navarre
 Requestor: State Affairs

Department Affected: Administration
 BRU: Pioneers' Benefits
 Component: Longevity Bonus
 Grants _____
 COMPONENT SERIAL NO. 26

Expenditures/Revenues:

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
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	147.0	155.1	163.1	170.4	177.1	184.1
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	147.0	155.1	163.1	170.4	177.1	184.1

CAPITAL	0	0	0	0	0	0
---------	---	---	---	---	---	---

REVENUE FUND SOURCE:	0	0	0	0	0	0
-------------------------	---	---	---	---	---	---

FUNDING:

1002 Federal Rec ^s	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	147.0	155.1	163.1	170.4	177.1	184.1
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
TOTAL	147.0	155.1	163.1	170.4	177.1	184.1

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: See attached.

Prepared by: Dennis L. DeWitt, Director
 Division: Pioneers' Benefits

Phone: 465-4400
 Date: _____

Approved by Commissioner: Nancy Bear Usura
 Agency: Administration

Date: 3/19/93

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
 For further distribution information call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. HB 208

ANALYSIS: (continued)

Currently there are 562 persons suspended from the Longevity Bonus program because they are in a nursing home. Approximately 9% (forty-nine) have their care paid entirely from non-state sources. These are the individuals who will receive Longevity Bonus benefits with the passage of this bill.

The FY94 amount is based on forty-nine new Longevity Bonus recipients. The increased amounts for FY95 through FY99 are based on projected growth rates for the number of individuals whose nursing home care is funded entirely from non-state sources.

HB

2009

HOUSE COMMITTEE REPORT

(i)

Date Referred: March 10, 1993

FURTHER REFERRALS:

State Affairs
Health, Education & Social Services
Finance

Date of Committee Action: 4-6-93

The COMMUNITY AND REGIONAL AFFAIRS Committee considered:

HF 209

HOUSE BILL NO. 209

COMMUNITY HEALTH AIDE GRANTS

"An Act relating to community health aide grants."

RECOMMENDATIONS:

be replaced with _____ the same 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 HESS

zero fiscal note(s) _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>[Signature]</i>	✓				
<i>W.R. William</i>	✓				
<i>[Signature]</i>	✓				
<i>Mr. N. Davis</i>	✓				
<i>Doug Sanders</i>	✓				
<i>Harley Olberg</i>	✓				

Harley Olberg
CHAIRMAN'S SIGNATURE

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. HB 209

Revision Date: _____ Dept. Affected: Health and Social Services
 Title: Relating to Community Health Aide BRU: State Health Services
Grants Component: Community Health Grants
 Sponsor: House HES
 Requestor: House Community & Regional Affairs COMPONENT SERIAL NO. 299

Expenditures/Revenues:	(Thousands of Dollars)					
OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL						
REVENUE FUND SOURCE						

FUNDING:	(Thousands of Dollars)					
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:						
FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: None

ANALYSIS: (Attach a separate page if necessary)

AS 18.28.010 (d) caps the total funding level for the grant program. The impact of HB 209 allows the department to award grants to new agencies without increasing or decreasing the total amount of funds in the component.

Prepared by: Peter M. Nakamura, MD, MPH Phone: (907) 465-3090
 Division: Division of Public Health Date: _____
 Approved by Commissioner: Theodore A. Mala, MD, MPH *TKM* Date: 3/18/93
 Agency: *(P)* Department of Health & Social Services

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
 For further information, contact the Legislative Office

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. HB 209

Revision Date: April 1, 1993 Dept. Affected: Health and Social Services
 Title: Relating to Community Health Aide Grants BRU: State Health Services
 Component: Community Health Grants
 Sponsor: House HES
 Requestor: House Community & Regional Affairs COMPONENT SERIAL NO. 299

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL						
REVENUE FUND SOURCE						

FUNDING:

(Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: None

ANALYSIS: (Attach a separate page if necessary)

AS 18.28.010 (d) caps the total funding level for the grant program. The impact of HB 209 allows the department to award grants to new agencies without increasing or decreasing the total amount of funds in the component.

Prepared by: Peter M. Nakamura, MD, MPH
 Division: Division of Public Health

Phone: (907) 465-3090
 Date: 07/11/93

Approved by Commissioner: Theodore A. M'ala, MD, MPH
 Agency: Department of Health & Social Services

Date: 4/1/93

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
 For further distribution information call the Governor's Legislative Office

ANALYSIS (cont.):

ASSISTANCE TO COMMUNITY HEALTH AIDE PROGRAMS
FORMULA FUNDING AS 18.28.010

Grantees	Full Formula	Full Formula	FY94 Gov	FY94 Gov
	Funding Level W/O HB 209	Funding Level With HB 209	Budget W/O HB 209	Budget With HB 209
Aleutian Pribilof Island Assn.	\$78,000	\$54,000	\$70,080	\$46,699
Bristol Bay Area Health Corp.	\$326,000	\$326,000	\$292,900	\$281,901
Copper River Native Assn.	\$78,000	\$78,000	\$70,080	\$67,453
Kodiak Area Native Assn.	\$86,000	\$86,000	\$77,200	\$74,372
North Pacific Rim	\$62,000	\$62,000	\$55,700	\$53,617
North Slope Borough	\$126,000	\$126,000	\$113,200	\$108,963
St. George	\$8,000	\$8,000	\$7,200	\$6,918
Yakutat	\$8,000	\$8,000	\$7,200	\$6,918
Eastern Aleutian Tribes	\$0	\$54,000	\$0	\$46,699
Total	\$772,000	\$802,000	\$693,560	\$693,560

Formula funding for the community health aide grants is determined by AS 18.28.010 based upon the number of health aides recognized by the department on July 1, 1984. To be eligible to receive state funding, an agency must also have been providing health aide services under contract to the Alaska Area Native Health Services on July 1, 1984. The statute allows the department to distribute available funds on a pro rata basis to eligible organizations. The available funding for this program has been reduced to 90% of full formula level as a result of state wide budget reductions. HB 209 will amend the statute to allow new contractors to become eligible for funding. The available funding will continue to be distributed pro rata to all eligible organizations. The impact of this bill will be a redistribution of funds resulting in a reduction to 87% of full formula for each agency in this component in FY94.

Those organizations funded through the designated Budget Request Units (Tanana Chiefs Conference, Yukon Kuskokwim Health Corporation, Norton Sound Health Corporation, Maniilaq Association, and Southeast Alaska Regional Health Corporation) will not be impacted by HB 209.

POSITION PAPER

HOUSE BILL NO. 209

A Bill for an Act entitled: An Act relating to community health aide grants.

BACKGROUND

Since 1985, DHSS has been authorized to provide grants to help support training and supervision costs for community health aides (CHAs) employed by regional health organizations. CHAs are the only resident source of primary medical care for many small, rural Alaska villages.

Existing legislation provides a funding formula for these grants. Annual grants are based on total authorized funding prorated to participating regional health organizations on the basis of the formula.


DISCUSSION

In recent years there have been changes in the organizations sponsoring CHA programs with a trend toward organizations serving somewhat smaller regions and a greater amount of local control of programs. Under the existing statute, grants could be given only to organizations who employed health aides on July 1, 1984. The new language allows grants to be made to successor organizations which have taken over the provision of CHA services in specific communities. The bill does not change the funding limitations found in the current legislation nor does it alter the formula for distribution of funds actually appropriated.

POSITION

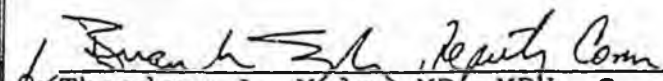
The Department supports enactment of HB 209. It would not be fair to restrict funding only to organizations which provided service in 1984 and to ignore developments and changes in the patterns of service provision in rural areas since that time. It is the department's understanding that current grantees also support HB 209.

Recommended By:


Peter M. Nakamura, MD, MPH, Director
Division of Public Health

3/18/93
Date

Approved By:


Theodore A. Mala, MD, MPH, Commissioner
Department of Health & Social Services

3/18/93
Date

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. HB 209

Revision Date: April 1, 1993 Dept. Affected: Health and Social Services
 Title: Relating to Community Health Aide BRU: State Health Services
Grants Component: Community Health Grants
 Sponsor: House HES
 Requestor: House Community & Regional Affairs COMPONENT SERIAL NO. 299

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

REVENUE FUND SOURCE						
---------------------	--	--	--	--	--	--

FUNDING:

(Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: None

ANALYSIS: (Attach a separate page if necessary)

AS 18.28.010 (d) caps the total funding level for the grant program. The impact of HB 209 allows the department to award grants to new agencies without increasing or decreasing the total amount of funds in the component.

Prepared by: Peter M. Nakamura, MD, MPH
 Division: Division of Public Health

Phone: (907) 465-3090
 Date: 4/1/93

Approved by Commissioner: Theodore A. Mala, MD, MPH
 Agency: Department of Health & Social Services

Date: 4/1/93

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
 For further distribution information call the Governor's Legislative Office

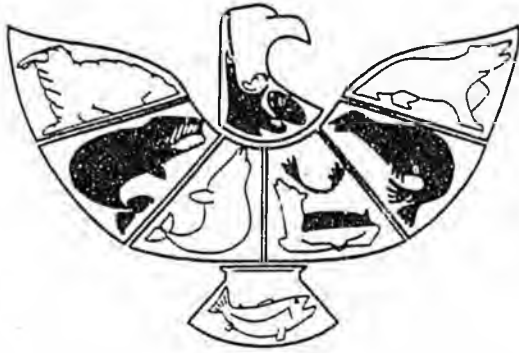
ANALYSIS (cont.):

ASSISTANCE TO COMMUNITY HEALTH AIDE PROGRAMS
FORMULA FUNDING AS 18.28.010

Grantees	Full Formula	Full Formula	FY94 Gov	FY94 Gov
	Funding Level W/O HB 209	Funding Level With HB 209	Budget W/O HB 209	Budget With HB 209
Aleutian Pribilof Island Assn.	\$78,000	\$54,000	\$70,080	\$46,699
Bristol Bay Area Health Corp.	\$326,000	\$326,000	\$292,900	\$281,921
Copper River Native Assn.	\$78,000	\$78,000	\$70,080	\$67,453
Kodiak Area Native Assn.	\$86,000	\$86,000	\$77,200	\$74,372
North Pacific Rim	\$62,000	\$62,000	\$55,700	\$53,617
North Slope Borough	\$126,000	\$126,000	\$113,200	\$108,963
St. George	\$8,000	\$8,000	\$7,200	\$6,918
Yakutat	\$8,000	\$8,000	\$7,200	\$6,918
Eastern Aleutian Tribes	\$0	\$54,000	\$0	\$46,699
Total	\$772,000	\$802,000	\$693,560	\$693,560

Formula funding for the community health aide grants is determined by AS 18.28.010 based upon the number of health aides recognized by the department on July 1, 1984. To be eligible to receive state funding, an agency must also have been providing health aide services under contract to the Alaska Area Native Health Services on July 1, 1984. The statute allows the department to distribute available funds on a pro rata basis to eligible organizations. The available funding for this program has been reduced to 90% of full formula level as a result of state wide budget reductions. HB 209 will amend the statute to allow new contractors to become eligible for funding. The available funding will continue to be distributed pro rata to all eligible organizations. The impact of this bill will be a redistribution of funds resulting in a reduction to 87% of full formula for each agency in this component in FY94.

Those organizations funded through the designated Budget Request Units (Tanana Chiefs Conference, Yukon Kuskokwim Health Corporation, Norton Sound Health Corporation, Maniilaq Association, and Southeast Alaska Regional Health Corporation) will not be impacted by HB 209.



Alaska Native Health Board

1345 Rudakof Circle, Suite 206
Anchorage, Alaska 99508

Phone: (907) 337-0028
FAX: (907) 333-2001

March 17, 1993

The Honorable Harley Olberg
Alaska State Legislature
State Capitol, Room 110
Juneau, AK 99801-1182

RE: House Bill 209

Dear Representative Olberg:

We would like to request that you schedule HB 209 for hearing by the Community and Regional Affairs Committee at the earliest possible date. House Bill 209 was introduced by the House Health, Education, and Social Services (HESS) Committee at the request of the Alaska Native Health Board (ANHB) to solve a very technical problem that has developed in the Community Health Aide Grants program, AS 18.28, which is administered by the Department of Health and Social Services (DHSS). The bill does not change the nature of the program or its cost to the State. It is supported by DHSS which helped us develop it. DHSS will be submitting a "zero" fiscal note, if they have not already.

The Community Health Aide Program is a critical component of the mostly federally funded rural health care system in Alaska. The Alaska Community Health Aide Grants program was enacted into statute in 1984. It provides grant funds for training and supervision of the community health aides who are for the most part the only health care providers in most of the villages throughout Alaska.

An enclosed one page article about the Community Health Aide Program describes it very well, although it fails to note that the health aides also serve non-Native rural residents who would otherwise not have access to primary and emergency health care when they live in rural and remote villages in the State. The program is almost entirely funded by federal dollars. Alaska contributes only by its limited support of training and supervision. The amount of the State's contribution is controlled by the ordinary budget process and is not affected by this bill.

KODIAK AREA NATIVE ASSOCIATION

ALEUTIAN/PRIPILOF ISLANDS ASSOCIATION
BRISTOL BAY AREA HEALTH CORPORATION
CHUGACHMIUT

SOUTHCENTRAL FOUNDATION
T ALASKA REGIONAL HEALTH CORPORATION
TANANA CHIEFS CONFERENCE

REQUEST FOR HEARING

The Honorable Harley Olberg
Page 2
March 17, 1993

When the program was established in 1984, eligibility for grants was limited to the regional and local Alaska Native health providers who were then providing services, and the level of grants was tied to the number of health aides in the system in 1984. In 1992, some of the villages in the Aleutian/Pribilof Islands Association (A/PIA) service area, which is immense and mostly impossible to reach except by travel through Anchorage, decided to form a new, more locally controlled health organization, Eastern Aleutians Tribes (EAT). EAT assumed responsibility for operating the federally supported health aide program for its villages after a very cooperative transfer from A/PIA, however it found itself unable to access the State DHSS grant funds because it was not in existence in 1984.

All of the Alaska Native regional health providers belong to ANHB. They asked us to take a leadership role in trying to amend this grant program to allow new providers to be eligible to receive grants. HB 209 accomplishes this without in any other way changing the program. The number of health aides upon which the grant amounts are awarded is still limited to the number providing services in 1984 and all other requirements of the program remain in place.

The Community Health Aide Program grants, in any given year, are restricted by the level of appropriation. That does not change in the bill. As a result, there is NO fiscal impact from the bill. All the grantees understand that each grantee may receive a slightly smaller grant than they have in previous years because a new grantee is added to the program, but they understand that this is the equitable thing to do.

House Bill 209 has received many committee referrals. It is critical that it pass this session to avoid disruptions in services provision and serious administrative problems for DHSS. Thus, an early hearing in the CRA Committee is crucial. ANHB's legal counsel, Myra Munson, is located in Juneau. She or her paralegal, Nancy Burns, will be contacting your staff soon to find out if you have any questions or need further information and to discuss scheduling the bill for hearing. If you have any questions in the meantime, Ms. Munson's address and phone number are 229 Fourth Street, Juneau, 586-5880. She will be available to provide whatever information or assistance may be needed throughout the session. Please contact her.

The Honorable Harley Olberg
Page 3
March 17, 1993

Thank you for consideration of our request. If we can be of help with other work of the CRA Committee, please be sure to contact us.

Cordially,

ALASKA NATIVE HEALTH BOARD

Ann Walker

Anne M. Walker *C.L.*
Executive Director

Enclosure

c: Representative Toohy
Representative Nicholia
Representative Williams

Community Health Aide Program

Winnie Reeve
Academic Coordinator, Community Health Aide Program

The Community Health Aide Program is a unique system of health care designed to provide village health care in Alaska's remote villages. The community health aides provide medical care under the supervision of referral physicians in each region of the state. They are taught to do a patient history, physical exam, assessment, and treatment plan using the *Community Health Aide/Practitioner (CHAP) Manual*, published by the Alaska Area Native Health Service in 1987.

Community health aides manage the treatment and referral of common medical problems, medevac emergencies to the nearest referral hospital, provide monthly exams for pregnant women, provide well-child exams and immunizations, and follow up with patients with chronic illnesses. Using the *Community Health Aide/Practitioner Manual*, they assess and treat patients according to medical standing orders and refer patients on a daily basis to a referral physician over the telephone. CHAP administrators, CHAP field instructors, travelling field physicians, public health nurses, maternal and child health nurses, dentists, eye doctors, and other health care providers create a support system by on-going telephone contact and field trips.

Currently, there are approximately 440 community health aides serving a population of 42,722 Alaska Natives in 171 villages. They are employed by the regional Native corporations and in some cases by independent village contractors, funded by Indian Self-determination Act contracts with the federal government.

Five CHAP training centers provide the basic training courses leading to community health practitioner certification. These training centers are located at the Alaska Native Medical Center in Anchorage; the Norton Sound Health Corporation in Nome; the Kuskokwim Campus, College of Rural Alaska in Bethel; the North Pacific Rim Native Corporation in Seward; and the Southeast Alaska Regional Health Corporation in Sitka.

Community health aides attend three training sessions in one of the training centers. Each session is three to five weeks in length. Students practice the knowledge and skills learned during a 200-hour fieldwork experience in a village clinic after each session and complete a two-week preceptorship in a referral hospital or large village clinic. After the completion of community health practitioner certification, the title community health aide changes to community health practitioner.

The Community Health Aide Program is a collaborative program with the College of Rural Alaska of the University of Alaska Fairbanks. It is a multi-agency program including the Alaska Area Native Health Service, the Alaska Department of Health and Human Services, the five CHAP Training Centers, 11 Native corporations, and several independent village contracting agencies. Because the community health aides and practitioners are employed in rural communities, a CHAP academic coordinator is employed to serve the needs of the students, to represent the program within the university, and to coordinate

with the many agencies involved in CHAP training around the state.

Three statewide committees meet to discuss village health care needs, to revise the CHAP curriculum, and to address the concerns of the community health aides and practitioners. These committees are the Association of CHAP Directors, the Academic Review Committee, and the Statewide Community Health Aide Association. Current projects that are underway include the revision of the statewide basic training curriculum, the development of a new emergency care course, a review of the community health practitioner certification process, a revision of the certification examination, and planning for the eighth annual statewide CHAP Program Forum.

The statewide Community Health Aide Program's mission to provide primary health care in Alaska's remote villages is exciting, challenging, and demanding, due to the continual need to teach and certify community health practitioners who can work safely and effectively in their home villages. It is also a challenge to provide the support needed for the students who work in the stressful situation of being a responsible health care provider in a setting that requires that they often care for their own families and friends.

The Alaska community health aides and practitioners are a wonderful loving community of individuals dedicated to serving their own people by stretching human physical, mental, emotional, and spiritual potential to the limit. Their work performance, strength of character, and love for the Alaska Native people can be an inspiration for us all.]

the day-to-day operation and maintenance of a medical facility and over the development and implementation of long-range goals and objectives for the medical facility; it includes any person acting as an agent or representative of an operator;

(8) "property" means any real, personal, or mixed property, or any interest in it, including without limitation any real estate, appurtenances, buildings, easements, equipment, furnishings, furniture, improvements, machinery, rights-of-way, and structures, or any interest in any of these items;

(9) "revenue" means, with respect to any medical facility, the rent, fees, charges, interest, principal repayments, and other income or profit received or to be received, either directly or indirectly, by the authority from any source on account of the facility. (§ 1 ch 141 SLA 1978)

Revisor's notes. — Reorganized in 1986 to alphabetize the defined terms.

Chapter 28. State Assistance for Community Health Aide Programs.

Section	Section
10. Community health aide grants	40. Liability limitation
20. Qualifications	50. Regulations
30. Community health aide grant account	100. Definitions

Cross references. — For duty of health aides to report certain injuries, see AS 08.64.369.

Sec. 18.28.010. Community health aide grants. (a) A qualified regional health organization is entitled to a grant of \$30,000 each fiscal year for the training and supervision of at least three primary community health aides.

(b) During each fiscal year a qualified regional health organization or local health organization is entitled to a grant of \$8,000 multiplied by the number of primary community health aides who each week during the previous fiscal year averaged at least 20 hours of service paid for by the health organization, but not to exceed the number of primary community health aides who were employed by the health organization on July 1, 1984.

(c) A grant under (b) of this section may be used only for

(1) training of primary community health aides, including tuition and travel to training programs;

(2) supervision of primary community health aides, including travel for supervisors;

(3) alternate community health aides.

(d) The department shall compute and pay a grant under this section within the limits of appropriations made for the purpose. (§ 1 ch 44 SLA 1985)

Sec. 18.28.020. Qualifications. To qualify for a community health aide grant a regional or local health organization must

(1) have received money from the federal government for a community health aide program during the fiscal year for which the grant is sought;

(2) provide the services of community health aides on a nondiscriminatory basis for the benefit of the public;

(3) apply for the grant in accordance with application requirements of the department or negotiate a contract with the department in lieu of a grant if the regional or local health organization provides other contract services for the state; and

(4) supply information requested by the department. (§ 1 ch 44 SLA 1985)

Sec. 18.28.030. Community health aide grant account. (a) The community health aide grant account is established in the department. Money to carry out the provisions of this chapter shall be appropriated to the account and distributed as community health aide grants or to fund contracts entered into by the department under AS 18.28.020(3).

(b) Each fiscal year the department shall determine the amount of money needed to fund all grants under AS 18.28.010 and contracts under AS 18.28.020(3) during the next fiscal year and shall report that amount to the legislature. If the amount appropriated to the account is not sufficient to finance all grants and contracts, the money shall be distributed pro rata among qualified regional and local health organizations. (§ 1 ch 44 SLA 1985)

Sec. 18.28.040. Liability limitation. The state is not liable for any injury that may result from the use of money awarded by the state as a community health aide grant or paid by the state under a contract under this chapter. (§ 1 ch 44 SLA 1985)

Sec. 18.28.050. Regulations. The department may adopt regulations necessary to carry out the provisions of this chapter. (§ 1 ch 44 SLA 1985)

Sec. 18.28.100. Definitions. In this chapter

- (1) "alternate community health aide" means a person who assists the primary community health aide when necessary and acts in the absence of the primary community health aide;
- (2) "community health aide" includes a primary community health aide and an alternate health aide;
- (3) "department" means the Department of Health and Social Services;
- (4) "local health organization" means a nonprofit corporation or other entity that provides health services in a rural area that is less than 4,000 square miles;
- (5) "primary community health aide" means a person who has completed the first of three levels of community health aide training offered by the Norton Sound Health Corporation at the Nome Hospital, the Kuskokwim Community College in Bethel, the Alaska Area Native Health Service in Anchorage, or another accredited training center;
- (6) "regional health organization" means a nonprofit corporation or home rule borough that provided health aide services
 - (A) under a contract with the Alaska Native Health Service that was in effect on July 1, 1984; and
 - (B) in a rural area that is at least 4,000 square miles. (§ 1 ch 44 SLA 1985)

Chapter 31. Asbestos.

Article

- 1. Asbestos Health Hazard Abatement Program (§§ 18.31.010 — 18.31.050)
- 2. Certification of Asbestos Workers (§ 18.31.200)
- 3. Miscellaneous Provisions (§ 18.31.500)

Editor's notes. — Section 3, ch. 71, the abatement of asbestos health hazards SLA 1985 provides that this chapter "does not apply to work involving asbestos or underway on October 1, 1985."

Article 1. Asbestos Health Hazard Abatement Program.

Section

- 10. Program established
- 20. Duties of the Department of Labor
- 30. Duties of the Department of Education

Section

- 40. Duties of school officials
- 50. Repayment of grant funds

HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES

STATE CAPITOL, JUNEAU 99801
(907) 465-3759



MEMORANDUM

TO: Rep. Al Vezey
House State Affairs Committee Chairman

FR: Rep. Cynthia Toohey *CT*
Rep. Con Bunde *CB*
House HESS Committee Co-Chairs

DA: April 7, 1993

RE: Scheduling of HB 209

We would like to request that you schedule HB 209, "An Act relating to community health aide grants", at your earliest possible convenience.

The House HESS Committee introduced this bill at the request of the Alaska Native Health Board to solve a technical problem that developed in the Community Health Aide Grants program with the establishment of Eastern Aleutians Tribes, a new, more locally controlled health organization in the Aleutian/Pribilof Islands Association service area.

In the House C&RA Committee, its first committee of referral, the bill was passed out of committee with 6 "do pass" votes.

Thank you for your consideration.

HB

226

8-GH1024E
Luckhaupt
3/25/94

CS FOR HOUSE BILL NO. 226(STA)
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE STATE AFFAIRS COMMITTEE

Offered:
Referred:

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the rate of interest and service charges in the state; relating
2 to interest rates and calculation of interest under certain judgments and decrees
3 and on refunds of certain taxes, royalties, or net profit shares; and providing for
4 an effective date."

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

6 * Section 1. AS 06.45.060(5) is amended to read:

7 (5) make loans, the maturities of which may not exceed 12 years except
8 as provided in this chapter, and extend lines of credit to its members, to other credit
9 unions, and to credit union organizations and participate with other credit unions, credit
10 union organizations, or financial organizations in making loans to credit union
11 members in accordance with the following:

12 (A) loans to members shall be made in conformity with
13 regulations adopted by the commissioner, except that

14 (i) a residential real estate loan, which is made to

1 finance the acquisition of a one- to four-family dwelling for the
2 principal residence of a credit union member that [WHICH] is secured
3 by a first lien on the dwelling, may have a maturity not exceeding 30
4 years;

5 (ii) a loan to finance the purchase of a mobile home,
6 which is secured by a first lien on the mobile home, to be used as the
7 residence of a credit union member, or for the repair, alteration, or
8 improvement of a residential dwelling that is the residence of a credit
9 union member shall have a maturity not to exceed 15 years unless the
10 loan is insured or guaranteed under (iii) of this subparagraph;

11 (iii) a loan secured by the insurance or guarantee of the
12 federal government, of a state government, or an agency of either may
13 be made for the maturity and under the terms and conditions specified
14 in the law under which the insurance or guarantee is provided;

15 (iv) a loan or aggregate of loans to a director or member
16 of the supervisory or credit committee of the credit union making the
17 loan that [WHICH] exceeds \$5,000 plus pledged shares shall be
18 approved by the board of directors;

19 (v) loans to other members for which directors or
20 members of the supervisory or credit committee act as guarantor or
21 endorser shall be approved by the board of directors when the loans
22 standing alone or when added to an outstanding loan or loans of the
23 guarantor or endorser exceed \$5,000;

24 (vi) the rate of interest may not exceed the greater of 15
25 percent a year or the rate specified in AS 45.45.010(a)
26 [AS 45.45.010(b)];

27 (vii) the taking, receiving, reserving, or charging of a
28 rate of interest greater than is allowed by this paragraph, when
29 knowingly done, is considered a forfeiture of the entire interest that the
30 note, bill, or other evidence of debt carries with it, or that has been
31 agreed to be paid on the note, bill, or other evidence of debt; if a

1 greater rate of interest has been paid, the person by whom it has been
2 paid or the person's legal representatives may recover back from the
3 credit union taking or receiving it the entire amount of interest paid, but
4 the action must be commenced within two years from the time the
5 usurious collection was made;

6 (viii) a borrower may repay a loan before maturity in
7 whole or in part on any business day without penalty;

8 (ix) loans shall be paid or amortized under regulations
9 adopted by the commissioner that consider the needs or conditions of
10 the borrowers, the amounts and duration of the loans, the interests of
11 the members and the credit union, and other factors established in
12 regulations adopted by the commissioner;

13 (x) the total dollar amount of real estate loans and
14 mobile home loans outstanding may not exceed 25 percent of the assets
15 of the credit union without the written approval of the commissioner;

16 (xi) a credit union with assets of less than \$3,000,000
17 may make real estate loans with maturities in excess of 15 years only
18 with the approval of the commissioner;

19 (B) a self-replenishing line of credit to a borrower may be
20 established to a stated maximum amount on terms and conditions that may be
21 different from terms and conditions established for another borrower;

22 (C) loans to other credit unions require the approval of the
23 board of directors of the loaning credit union;

24 (D) loans to credit union associations require the approval of the
25 board of directors of the credit union and may not exceed one percent of the
26 paid-in and unimpaired capital and surplus of the credit union;

27 (E) participation loans with other credit unions, credit union
28 associations, or financial organizations shall be made in accordance with
29 written policies of the board of directors of the credit union, except that a
30 credit union that originates a loan for which participation arrangements are
31 made in accordance with this section shall retain an interest not less than 10

1 percent of the face amount of the loan;

2 * Sec. 2. AS 09.30.070 is repealed and reenacted to read:

3 Sec. 09.30.070. INTEREST. (a) Interest shall accrue on a money judgment
4 in a civil case. Interest shall be calculated in a calendar quarter from the date of entry
5 of the judgment, at a rate equal to five percentage points above the annual rate charged
6 member banks by the 12th Federal Reserve District as of the first day of that quarter,
7 compounded quarterly as of the last day of that quarter, except that a judgment or
8 decree founded on a contract in writing, providing for an interest rate not exceeding
9 the legal rate of interest for that type of contract, bears interest at the rate specified in
10 the contract if the interest rate is set out in the judgment or decree.

11 (b) Except when the court finds that the parties have agreed otherwise,
12 prejudgment interest shall be awarded on a money judgment in a civil case.
13 Prejudgment interest accrues from the date process is served on the defendant or third-
14 party defendant as applicable, or a counterclaim or crossclaim is served on the
15 opposing party or co-party as applicable, until the entry of judgment. Prejudgment
16 interest shall be calculated in a calendar quarter at a rate equal to five percentage
17 points above the annual rate charged member banks for advances by the 12th Federal
18 Reserve District as of the first day of that quarter, compounded quarterly as of the last
19 day of that quarter immediately before the issuance of the summons or filing of the
20 counterclaim or crossclaim.

21 * Sec. 3. AS 38.05.135(e) is repealed and reenacted to read:

22 (e) If a royalty or net profit share payment to which the state is entitled under
23 AS 38.05.135 - 38.05.181 is overpaid, the amount overpaid bears interest in a calendar
24 quarter at the rate of five percentage points above the annual rate charged member
25 banks for advances by the 12th Federal Reserve District as of the first day of that
26 calendar quarter, compounded quarterly as of the last day of that quarter. However,
27 if the overpayment is the result of a correction made by the department, the amount
28 overpaid bears interest at the rate and in the manner provided in (d) of this section.

29 * Sec. 4. AS 43.05.280(a) is repealed and reenacted to read:

30 (a) If a tax levied under this title is overpaid, the amount overpaid bears
31 interest in a calendar quarter at the rate of five percentage points above the annual rate

1 charged member banks for advances by the 12th Federal Reserve District as of the first
2 day of that calendar quarter, compounded quarterly as of the last day of that quarter.
3 However, if the overpayment is the result of the correction of an assessment or return
4 made by the department, the amount overpaid bears interest at the rate and in the
5 manner provided in AS 43.05.225(1).

6 * Sec. 5. AS 45.10.120(c) is amended to read:

7 (c) A seller or holder of a retail charge agreement, revolving charge agreement
8 or other retail charge agreement may charge, receive and collect a service charge not
9 to exceed the following rates computed on the outstanding balances from month to
10 month,

11 (1) on so much of the outstanding balance as does not exceed \$1,000,
12 one and one-half percent per month:

13 (2) if the outstanding balance is more than \$1,000, one-twelfth of the
14 annual rate permitted under AS 45.45.010(a) [AS 45.45.010(b)] per month on the
15 excess over \$1,000 of the outstanding balance:

16 (3) if the service charge so computed is less than \$1 for any month, \$1;

17 (4) the service charge may be computed on a schedule of fixed amounts
18 if as so computed it is applied to all amounts of outstanding balances equal to the
19 fixed amount minus a differential of not more than \$5 provided that it is also applied
20 to all amounts of outstanding balances equal to the fixed amount plus at least the same
21 differential.

22 * Sec. 6. AS 45.45.010(a) is amended to read:

23 (a) The rate of interest in the state is five percentage points above the annual
24 rate charged member banks for advances by the 12th Federal Reserve District as
25 of the first day of the quarter compounded quarterly as of the last day of the
26 quarter [10.5 PERCENT A YEAR] and no more on money after it is due [EXCEPT
27 AS PROVIDED IN (b) OF THIS SECTION]. Parties may by mutual express
28 agreement provide for a lesser rate of interest.

29 * Sec. 7. AS 45.45.010(b) is amended to read:

30 (b) [INTEREST MAY NOT BE CHARGED BY EXPRESS AGREEMENT
31 OF THE PARTIES IN A CONTRACT OR LOAN COMMITMENT THAT IS MORE

1 THAN FIVE PERCENTAGE POINTS ABOVE THE ANNUAL RATE CHARGED
2 MEMBER BANKS FOR ADVANCES BY THE 12TH FEDERAL RESERVE
3 DISTRICT ON THE DAY ON WHICH THE CONTRACT OR LOAN
4 COMMITMENT IS MADE]. A contract or loan commitment in which the principal
5 amount exceeds \$25,000 is exempt from the limitation of (a) of this section
6 [SUBSECTION].

7 * Sec. 8. Beginning on the effective date of this Act, postjudgment interest accrues under
8 judgments or decrees in civil cases entered before, on, or after the effective date of this Act,
9 at the rate and in the manner specified in AS 09.30.070 as repealed and reenacted by sec. 2
10 of this Act.

11 * Sec. 9. For claims or causes of action in civil cases for which judgment has not been
12 entered before the effective date of this Act, prejudgment interest accrues before the effective
13 date of this Act at the rate and in the manner specified under law in effect at the time that
14 claim or cause of action accrued. After the effective date of this Act, prejudgment interest
15 accrues on that claim or cause of action at the rate and in the manner specified in
16 AS 09.30.070 as repealed and reenacted by sec. 2 of this Act.

17 * Sec. 10. Beginning on the effective date of this Act, interest accrues on overpayments
18 of royalties, net profit share payments, taxes, and on interest accrued on them before the
19 effective date of this Act, at the rates and in the manner specified in AS 38.05.135(e) as
20 repealed and reenacted by sec. 3 of this Act and in AS 43.05.280(a) as repealed and reenacted
21 by sec. 4 of this Act.

22 * Sec. 11. This Act takes effect immediately under AS 01.10.070(c).

FISCAL NOTE

No. 3

Bill Version: HB 226

(H) Publish Date: 3/12/93

STATE OF ALASKA
1993 LEGISLATIVE SESSION

Revision Date: _____ Dept. Affected: Revenue
 Title: Rates of Interest on Judgements and Tax Overpayments BRU: Revenue Operations
 Component: Oil & Gas Audit & Income & Excise
 Sponsor: Governor
 Requester: Governor COMPONENT SERIAL NO. 115 & 113

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

REVENUE FUND SOURCE:						
----------------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

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

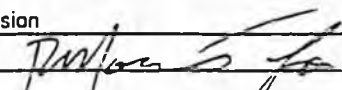
POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

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

ANALYSIS: (Attach a separate page if necessary)

SEE ATTACHED

Prepared by: Chuck Logsdon Phone: 276-1363 ext. 265
 Division: Oil & Gas Audit Division Date: 3/2/93
 Approved by Commissioner: Darrel J. Rexwinkel  Date: 3/2/93
 Agency: Revenue

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
 For further distribution information call the Governor's Legislative Office

FISCAL NOTE

Revision Date: 03/04/93
Title: Interest Rates on Judgements

Department Affected: DOT&PF
BRU:

Sponsor: Governor
Requestor:

Component:
Component Serial Number:

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
TOTAL OPERATING:	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
---------	---	---	---	---	---	---

REVENUE FUND SOURCE	0	0	0	0	0	0
---------------------	---	---	---	---	---	---

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
TOTAL FUNDING:	0	0	0	0	0	0

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: \$ _____

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Jeffrey C. Ottesen

Phone: 465-2951

Division: Engineering & Operations Standards

Date: March 4, 1993

Approved by Commissioner: Frank G. Turpin

Phone: 465-3900

Agency: Department of Transportation and Public Facilities

Date: March 4, 1993

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
For further distribution information call the Governor's Legislative Office

FISCAL NOTE

No. 2
 Bill Version: HB 226
 (H) Publish Date: 3/12/93

STATE OF ALASKA
 1993 LEGISLATIVE SESSION

Revision Date: _____

Title: 'An act relating to interest rates.'

Sponsor: _____

Requestor: Governor

Department Affected: Administration

BRU: Risk Management

Component: Risk Management

COMPONENT SERIAL NO. 71

EXPENDITURES/REVENUES:

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
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
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
---------	---	---	---	---	---	---

REVENUE FUND SOURCE:	0	0	0	0	0	0
----------------------	---	---	---	---	---	---

FUNDING:

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
TOTAL	0	0	0	0	0	0

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.)

See Attached

Prepared by: Donald Hitchcock, Director
 Division: Risk Management

Phone: 465-2180
 Date: _____

Approved by Commissioner: Nancy Bear Usher
 Agency: Administration

Date: 3/21/93

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
 For further distribution information call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

io. 1
Bill Version: HB 226
(H) Publish Date: 3/12/93

Revision Date: _____ Dept. Affected: Administration
Title: "An Act relating to interest rates and calculation of interest under certain judgments and decrees and on ref..." BRU: Finance
Sponsor: Rules Committee Component: Finance
Requestor: Governor COMPONENT SERIAL NO. 59

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
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
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
---------	---	---	---	---	---	---

REVENUE FUND SOURCE:	0	0	0	0	0	0
----------------------	---	---	---	---	---	---

FUNDING:

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
TOTAL	0	0	0	0	0	0

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: \$ None

ANALYSIS: (attach a separate page if necessary.)

Prepared By: Don Wanie, Director Phone: 465-2240
Division: Finance Date: _____

Approved by Commissioner: Nancy Bear Usher Date: 3/2/93
Agency: Department of Administration

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
For further distribution information call the Governor's Legislative Office



LARRY E. MEYERS
DIRECTOR

STATE OF ALASKA
DEPARTMENT OF REVENUE
INCOME AND EXCISE AUDIT DIVISION

PO Box 110420
Juneau, AK 99811-0420
Telephone: (907) 465-2320
FAX: (907) 465-2375

File HB 226
 Joe: Chris: Let's pursue
 HB 226 Hard!

DEPARTMENT OF REVENUE
 INTEREST RATES ON OVERPAYMENTS/CORRECTIONS/EARNINGS
 CURRENT LAW AND PROPOSED HB 226
 EXAMPLES

Maybe we
 can pass it
 this year?

EXAMPLE 1

Facts: Taxpayer overpays income tax liability by \$1,000,000 on 10/1/91. Refund of interest to 3/31/93 is shown under current law and proposed HB 226 as well as the net cost to the state.

	<u>Current Law</u>	<u>HB 226</u>
Interest from 10/1/91 to 3/31/93 on \$1,000,000	\$176,783	\$82,621
Less: State Short Term Investment Earning Rate on \$1,000,000 from 10/1/91 to 3/31/93	<u>\$ 55,308</u>	<u>\$55,308</u>
<u>Cost To State</u>	<u>\$121,475</u>	<u>\$27,313</u>

EXAMPLE 2

Facts: Taxpayer pays income tax assessment of \$10,000,000 on 10/1/91. Department corrects assessment on 3/31/93 resulting in a \$1,000,000 overpayment. Refund of interest is shown under current law, proposed HB 226 if simply treated as an overpayment, and compared to the interest payable under HB 226 where the overpayment is a correction in an assessment.

	<u>Current Law</u>	<u>HB 226- Overpayment</u>	<u>HB 226- Correction</u>
Interest from 10/1/91 to 3/31/93 on \$1,000,000	\$176,783	\$82,621	\$176,783
Less: State Short Term Investment Earning Rate on \$1,000,000 from 10/1/91 to 3/31/93	<u>\$ 55,308</u>	<u>\$55,308</u>	<u>\$ 55,308</u>
<u>Cost To State</u>	<u>\$121,475</u>	<u>\$27,313</u>	<u>\$121,475</u>

**DEPARTMENT OF REVENUE
INTEREST RATES ON OVERPAYMENTS/CORRECTIONS/EARNINGS
CURRENT LAW AND PROPOSED HB 226**

CURRENT LAW:

<u>Period</u>	<u>Discount Rate</u>	<u>Statutory Addition</u>		<u>Overpayment Rate- Greater Of</u>
10/1/91	5%	5%	=	10% or 11%
01/1/92	3.5%	5%	=	8.5% or 11%
04/1/92	3.5%	5%	=	8.5% or 11%
07/1/92	3.5%	5%	=	8.5% or 11%
10/1/92	3.0%	5%	=	8.0% or 11%
01/1/93	3.0%	5%	=	8.0% or 11%

HB 226 (SECTION 3):

<u>Period</u>	<u>Discount Rate</u>	<u>Statutory Addition</u>		<u>Overpayment Rates</u>	
				<u>Normal</u>	<u>Correction</u>
10/1/91	5%	2%	=	7.0%	or 11%
01/1/92	3.5%	2%	=	5.5%	or 11%
04/1/92	3.5%	2%	=	5.5%	or 11%
07/1/92	3.5%	2%	=	5.5%	or 11%
10/1/92	3.0%	2%	=	5.0%	or 11%
01/1/93	3.0%	2%	=	5.0%	or 11%

**STATE INVESTMENT EARNING
RATE-SHORT TERM-EQUALS
DISCOUNT RATE - APPROX.:**

<u>Period</u>	<u>Discount Rate</u>
10/1/91	5%
01/1/92	3.5%
04/1/92	3.5%
07/1/92	3.5%
10/1/92	3.0%
01/1/93	3.0%

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

March 18, 1993

WALTER J. HICKEL, GOVERNOR

PLEASE REPLY TO:

1031 W. 4TH AVENUE, SUITE 200
ANCHORAGE, ALASKA 99501-1994
PHONE: (907) 269-5100
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 110300 - STATE CAPITOL
JUNEAU, ALASKA 99811-0300
PHONE: (907) 465-3600
FAX: (907) 463-5295

465-6735

Hon. Al Vezey
Alaska House of Representatives
State Capitol, Room 102
Juneau, Alaska 99811

Dear Representative Vezey:

We understand that HB 226, relating to interest rates, is before your committee for consideration.

Attached is a sectional analysis for the bill. The bill was proposed by the Department of Law and the Department of Revenue. The bill makes important improvements in Alaska law on interest rates as explained in the sectional analysis.

The Department of Law would appreciate scheduling of a hearing at your committee's earliest convenience.

Sincerely yours,

CHARLES E. COLE
ATTORNEY GENERAL

By: *Deborah E. Behr*
Deborah E. Behr
Assistant Attorney General

DEB:cl

cc: Charles E. Cole
Attorney General

Bruce M. Botelho
Deputy Attorney General

Rod Mourant, Legislative Contact
Department of Revenue

SECTIONAL ANALYSIS OF
SB 161 OR HB 226

Prepared by Joseph Geldhof
Assistant Attorney General
Department of Law

INTRODUCTION

SB 161 and HB 226 were introduced at the request of the Governor. The proposed legislation contains two measures relating to interest rates.

SECTIONAL ANALYSIS

Section 1. This section repeals and reenacts the general statutory interest provisions. The proposed version basically adopts a market rate scheme for postjudgment interest based on the formula used by federal courts. In addition, this measure extends market rates for prejudgment interest in addition to past-judgment interest. Consistent with existing law, interest rates set out in contracts are not altered.

Section 2. This section alters the interest rate for "royalty oil" or "net profit share" overpayments. Basically, interest on overpayments is tied closely to market interest rates in order to reduce overpayment incentives for persons required to make royalty oil or net profit share payments under current law.

Section 3. This section makes a similar amendment to the one described in Section 2 for overpayments of state

taxes. However, a different (higher) interest rate is assessed when the overpayment results from a corrected tax assessment made by the Department of Revenue.

Section 4. This section provides for an effective date for the postjudgment interest provision discussed in Section 1. Basically, postjudgment interest on judgment or decrees entered before the effective date of this measure, if enacted, would remain unaffected.

Section 5. This section provides for an effective date for the prejudgment interest provision discussed in Section 1. Basically, prejudgment interest on judgments or decrees entered before the effective date of this measure, if enacted, would remain unaffected.

Section 6. This section provides for an immediate effective date for the provisions relating to interest payments made on overpayments of royalties, net profit share payments and taxes.

Section 7. This section provides for this entire proposal to take effect immediately.

JWG:JLB:kh

PREJUDGMENT AND POSTJUDGMENT INTEREST

UNDER CSHB 226 AND HB 226

Year (January)	Federal Discount Rate	CSHB 226 (Discount Rate Plus 5%)	HB 226 (Coupon Yield Equivalent)
1994	3.00%	8.00%	3.49%
1993	3.00%	8.00%	3.93%
1992	3.50%	8.50%	6.08%
1991	6.50%	11.50%	7.75%
1990	7.00%	12.00%	7.66%
1989	6.50%	11.50%	7.20%
1988	6.00%	11.00%	7.20%
1987	5.50%	10.50%	5.93%
1986	7.50%	12.50%	7.57%
1985	8.00%	13.00%	9.08%

HB

228



State of Alaska
Ombudsman

Duncan C. Fowler

March 25, 1993

Representative Al Vezey, Chair
House State Affairs Committee
Capitol Building
Juneau, Alaska 99801-1182

RE: HB 228 Procurement Procedures

Dear Representative Vezey:

The Office of the Ombudsman supports the passage of HB 228. It is a bill that relates to publications produced by the state and the procurement of property, services and employees in public entities. This bill has two provisions that effect the Office of the Ombudsman. These provisions would correct, in law, a problem that was created in the passage of the Procurement Act in 1986. This office has operated as an independent unit regarding its procurement practices since it was established in 1975.

When the state procurement code became law in 1986, the ombudsman promulgated the enclosed regulations to comply with the new code. The regulations were reviewed by the Department of Law and found to be in compliance with state law and intent of the new procurement act. However, a review last year by Tamara Cook of Legislative Legal Affairs leads me to believe the Department of Law was in error. Further, it appears an oversight regarding the ombudsman's procurement authority may have occurred during the enactment of the current procurement act. Passage of HB 228 would correct that problem in statute.

Ms. Cook's review indicated my procurement problem occurred when the term *services* was defined in the current procurement laws. That definition did not include such things as office space, professional services or supplies. There were two possible solutions to the problem. The best long-term solution to this problem is amending the effected statutes. This solution is proposed in HB 228. HB 228 is based upon last year's HB 245 which passed the House and all Senate committees but did not pass the Senate. It was not able to get scheduled in the last few minutes of last year's session.

The second solution was for the Legislative Council to amend the legislative procurement regulations making it clear that the ombudsman could promulgate procurement regulations. This was done at its June 17, 1992, meeting.

So, while my immediate problem has been resolved by a policy change made by the Legislative Council, HB 228 offers a better and more permanent solution.

The Office of the Ombudsman was established as an independent agency in the legislative branch of government in 1975. Since its establishment, the office has purposely kept arms-length relationships with other governmental agencies. Because the ombudsman has the responsibility to review the administrative practices of all state agencies, including those in the legislative branch, it is important that the perception of the objectivity and neutrality of the office not be compromised. Understandably, this can

Reply to:

- P.O. Box 102636
Anchorage, AK 99510-2636
(907) 277-8848
(800) 478-2624
- P.O. Box 113000
Juneau, AK 99811-3000
(907) 465-4970
(800) 478-4970
- P.O. Box 74358
Fairbanks, AK 99707-4358
(907) 452-4001
(800) 478-3257

Article 2. Procurement

Section	Section
095. Purpose	140. (Repealed)
100. Application	145. Procedure for procurement of professional services between \$5,000 and \$25,000
110. (Repealed)	150. (Repealed)
115. Nondiscrimination in source selection	155. Conditions for use of sole source procurement
120. (Repealed)	160. (Repealed)
125. Authority to make small procurements	165. Contract award
130. (Repealed)	170. Legal and contractual remedies
135. Procedure for small procurements of supplies, services, or construction between \$500 and \$5,000	180. Evaluation
	190. Procurement files
	195. Definitions

21 AAC 10.095. Purpose. The purpose of 21 AAC 10.095 - 21 AAC 10.195 is to comply with the requirements of AS 24.55.275 by adopting regulations that are consistent with the State Procurement Code (AS 36.30). 20 AAC 10.095 - 20 AAC 10.195 are to be interpreted in a manner consistent with the State Procurement Code (AS 36.30). (Eff. 11/10/88, Register 108)

AUTHORITY: AS 24.55.275

21 AAC 010.100. APPLICATION. 21 AAC 10.095 - 21 AAC 10.195 apply to all contracts for services, professional services, supplies, or construction to be provided to the ombudsman's office except

(1) contracts that have been awarded using the following procedures provided in the State Procurement Code (AS 36.30) and in 2 AAC 12; in those statutes and regulations, "ombudsman" is substituted in references to the commissioner of administration and the commissioner of transportation and public facilities:

- (A) competitive sealed bids;
 - (B) competitive sealed proposals;
 - (C) limited competition;
 - (D) emergency procurements;
 - (E) intergovernmental procurements for supplies, services, professional services, or construction;
 - (F) supplies produced or services performed by state employment programs;
 - (G) supplies or services from industries of state correctional institutions;
 - (H) state contract awards issued by other state agencies under which the ombudsman may obtain services, professional services, supplies, or construction; and
- (2) contracts under which the required services are to be provided for investigation of complaints under AS 24.55.100. (Eff. 11/10/88, Register 108)

AUTHORITY: AS 24.55.275

21 AAC 10.110. REQUESTS FOR PROPOSALS. Repealed 11/10/88.

21 AAC 10.115. NONDISCRIMINATION IN SOURCE SELECTION. Source selection may not be based on discrimination because of race, religion, color, national origin, sex, age, marital status, pregnancy, parenthood, handicap, or political affiliation. (Eff. 11/10/88, Register 108)

AUTHORITY: AS 24.55.275

21 AAC 10.120. AGGRIEVED RESPONDENTS. Repealed 11/10/88.

CORRECTION

**THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY**



State of Alaska
Ombudsman

Duncan C. Fowler

March 25, 1993

Representative Al Vezey, Chair
House State Affairs Committee
Capitol Building
Juneau, Alaska 99801-1182

RE: HB 228 Procurement Procedures

Dear Representative *Vezey*:

The Office of the Ombudsman supports the passage of HB 228. It is a bill that relates to publications produced by the state and the procurement of property, services and employees in public entities. This bill has two provisions that effect the Office of the Ombudsman. These provisions would correct, in law, a problem that was created in the passage of the Procurement Act in 1986. This office has operated as an independent unit regarding its procurement practices since it was established in 1975.

When the state procurement code became law in 1986, the ombudsman promulgated the enclosed regulations to comply with the new code. The regulations were *reviewed by the Department of Law and found to be in compliance with state law and intent of the new procurement act.* However, a review last year by Tamara Cook of Legislative Legal Affairs leads me to believe the Department of Law was in error. Further, it appears an oversight regarding the ombudsman's procurement authority may have occurred during the enactment of the current procurement act. Passage of HB 228 would correct that problem in statute.

Ms. Cook's review indicated my procurement problem occurred when the term *services* was defined in the current procurement laws. That definition did not include such things as office space, professional services or supplies. There were two possible solutions to the problem. The best long-term solution to this problem is amending the effected statutes. This solution is proposed in HB 228. HB 228 is based upon last year's HB 245 which passed the House and all Senate committees but did not pass the Senate. It was not able to get scheduled in the last few minutes of last year's session.

The second solution was for the Legislative Council to amend the legislative procurement regulations making it clear that the ombudsman could promulgate procurement regulations. This was done at its June 17, 1992, meeting.

So, while my immediate problem has been resolved by a policy change made by the Legislative Council, HB 228 offers a better and more permanent solution.

The Office of the Ombudsman was established as an independent agency in the legislative branch of government in 1975. Since its establishment, the office has purposely kept arms-length relationships with other governmental agencies. Because the ombudsman has the responsibility to review the administrative practices of all state agencies, including those in the legislative branch, it is important that the perception of the objectivity and neutrality of the office not be compromised. Understandably, this can

Reply to:

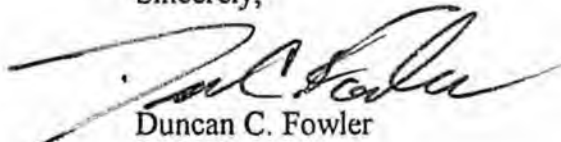
- P.O. Box 102636
Anchorage, AK 99510-2636
(907) 277-8848
(800) 478-2624
- P.O. Box 113000
Juneau, AK 99811-3000
(907) 455-4970
(800) 478-4970
- P.O. Box 74358
Fairbanks, AK 99707-4358
(907) 452-4001
(800) 478-3257

occur if there is a day-to-day administrative reliance on another agency. Dependent relationships can co-opt the ombudsman from having the ability to objectively review a citizen's complaint about that other agency.

Over the years, this effort to maintain both a reality and a perception of independence has manifested itself through the ombudsman establishing and publishing procurement regulations in the Alaska Administrative Code to guide the operation of the office. More often than not, the ombudsman's regulations have reflected the requirements state law placed on executive branch agencies. The Office of the Ombudsman is the only agency outside of the executive branch of government with the specific requirement to publish regulations relating to its operation in the Alaska Administrative Code. My current purchasing regulations are enclosed with this letter. I believe they more than meet the intent of Alaska's procurement laws.

I would appreciate your support in helping me resolve this potential problem. I would be happy to meet with you and other members of the House State Affairs Committee to answer questions or concerns about this matter. I do believe it is important to keep the Office of the Ombudsman as administratively independent as possible. That independence will help prevent any perception of a lack of objectivity on our part when asked to investigate citizen complaints about other state agencies, including those in our branch of government.

Sincerely,



Duncan C. Fowler
Ombudsman

DCF:pjc

Enclosure: Ombudsman Procurement Regulations 21 AAC 10

Article 2. Procurement

Section	Section
095. Purpose	140. (Repealed)
100. Application	145. Procedure for procurement of professional services between \$5,000 and \$25,000
110. (Repealed)	150. (Repealed)
115. Nondiscrimination in source selection	155. Conditions for use of sole source procurement
120. (Repealed)	160. (Repealed)
125. Authority to make small procurements	165. Contract award
130. (Repealed)	170. Legal and contractual remedies
135. Procedure for small procurements of supplies, services, or construction between \$500 and \$5,000	180. Evaluation
	190. Procurement files
	195. Definitions

21 AAC 10.095. Purpose. The purpose of 21 AAC 10.095 - 21 AAC 10.195 is to comply with the requirements of AS 24.55.275 by adopting regulations that are consistent with the State Procurement Code (AS 36.30). 20 AAC 10.095 - 20 AAC 10.195 are to be interpreted in a manner consistent with the State Procurement Code (AS 36.30). (Eff. 11/10/88, Register 108)

AUTHORITY: AS 24.55.275

21 AAC 010.100. APPLICATION. 21 AAC 10.095 - 21 AAC 10.195 apply to all contracts for services, professional services, supplies, or construction to be provided to the ombudsman's office except

(1) contracts that have been awarded using the following procedures provided in the State Procurement Code (AS 36.30) and in 2 AAC 12; in those statutes and regulations, "ombudsman" is substituted in references to the commissioner of administration and the commissioner of transportation and public facilities:

- (A) competitive sealed bids;
- (B) competitive sealed proposals;
- (C) limited competition;
- (D) emergency procurements;
- (E) intergovernmental procurements for supplies, services, professional services, or construction;
- (F) supplies produced or services performed by state employment programs;
- (G) supplies or services from industries of state correctional institutions;
- (H) state contract awards issued by other state agencies under which the ombudsman may obtain services, professional services, supplies, or construction; and

(2) contracts under which the required services are to be provided for investigation of complaints under AS 24.55.100. (Eff. 11/10/88, Register 108)

AUTHORITY: AS 24.55.275

21 AAC 10.110. REQUESTS FOR PROPOSALS. Repealed 11/10/88.

21 AAC 10.115. NONDISCRIMINATION IN SOURCE SELECTION. Source selection may not be based on discrimination because of race, religion, color, national origin, sex, age, marital status, pregnancy, parenthood, handicap, or political affiliation. (Eff. 11/10/88, Register 108)

AUTHORITY: AS 24.55.275

21 AAC 10.120. AGGRIEVED RESPONDENTS. Repealed 11/10/88.

21 AAC 10.125. AUTHORITY TO MAKE SMALL PROCUREMENTS. (a)

Procurement requirements may not be artificially divided to avoid using the other source selection methods set out in 21 AAC 10.095 - 21 AAC 10.195 and the State Procurement Code (AS 36.30).

(b) For purchases of supplies, services, or construction estimated to cost less than \$500, or procurements of repair parts estimated not to exceed \$1,500 for aircraft, automotive, marine, construction, or industrial equipment, or point-to-point air travel on scheduled airlines estimated to cost no more than \$5,000, or professional services estimated to cost no more than \$5,000, or concession contracts estimated to have gross receipts of less than \$5,000, the procurement officer shall use procedures providing adequate and reasonable competition and shall keep records to facilitate auditing of the procurements. (Eff. 11/10/88, Register 108)

AUTHORITY: AS 24.55.275

21 AAC 10.130. CONTRACT AWARD. Repealed 11/10/88.

21 AAC 10.135. PROCEDURE FOR SMALL PROCUREMENTS OF SUPPLIES, SERVICES, OR CONSTRUCTION BETWEEN \$500 AND \$5,000. For procurement of supplies, services, or construction estimated to cost between \$500 and \$5,000, the following procedures must be followed:

(1) At least three firms shall be contacted for quotations, either in writing or orally. If quotations are solicited orally, the procurement officer shall record who made the solicitation, the specifications or items solicited, the date the solicitation took place, the names of firms or persons contacted, if a firm the name of the person in each firm contacted, and the response of each firm or person. This record shall be made a part of the procurement file. For written solicitations, the procurement officer shall include a listing of persons contacted, a summary of the responses, and copies of all bids received as part of the procurement file.

(2) The procurement officer may use the appropriate Alaskan contractors list. It is not necessary to solicit all vendors on the contractors list. If used, the list must be rotated to the extent necessary to give all interested prospective contractors opportunity to compete. Nothing in this section is intended to limit the procurement officer from contacting additional firms or persons, not on the list, as long as at least three firms or persons are contacted.

(3) The award must be made to the lowest responsive and responsible bidder taking into account applicable Alaskan bidders and Alaskan products preferences under AS 36.30.170(b) and AS 36.30.328 and shall be made in accordance with the specifications and award criteria in the solicitation. (Eff. 11/10/88, Register 108)

AUTHORITY: AS 24.55.275

21 AAC 10.140. EVALUATION. Repealed 11/10/88.

21 AAC 010.145. PROCEDURE FOR PROCUREMENT OF PROFESSIONAL SERVICES BETWEEN \$5,000 AND \$25,000. For procurement of professional services estimated to cost between \$5,000 and \$25,000, the following procedures shall be followed:

(1) At least three firms or persons must be solicited for proposals, either in writing or orally. If oral solicitation is used, oral solicitations shall be followed up with written solicitations that are made a part of the procurement file. In addition, the procurement officer shall record who made the solicitation, the specifications of the services solicited, the date the solicitation took place, the names of firms or persons contacted, if a firm, the name of the person in the firm contacted, and the response of each firm or person. This record and a justification for the award shall be included in the procurement file. For written solicitations, the procurement officer shall include a list of firms or persons contacted, a copy of the solicitation used, a summary of the responses,

copies of all proposals received, and a justification for the award, as part of the procurement file.

(2) The procurement officer may use the appropriate contractors list. It is not necessary to solicit all vendors on the contractors list. If used, the list shall be rotated to the extent necessary to give all interested prospective contractors opportunity to compete. Nothing in this section is intended to limit the procurement officer from contacting additional firms or persons not on the list.

(3) The award shall be made to the most qualified, responsive, and responsible offeror, taking into account applicable Alaskan bidder and product preferences, and shall be made in accordance with the specifications and award criteria in the solicitation.

(4) The contract for services must be in writing. (Eff. 11/10/88, Register 108)

AUTHORITY: AS 24.55.275

21 AAC 10.150. FILING. Repealed 11/10/88.

21 AAC 10.155. CONDITIONS FOR USE OF SOLE SOURCE PROCUREMENT. (a) A contract may be awarded under this section only if the ombudsman determines in writing that there is only one source for the required procurement or construction.

(b) The following are examples of circumstances in which sole source procurement might be appropriate:

(1) if the compatibility of equipment, accessories, or replacement parts is the main consideration;

(2) if a specific item is needed for trial use or testing, including testing of a prototype;

(3) if an item is to be procured for resale;

(4) if public utility services are to be procured;

(5) if there exists a sole source of expertise required to perform a specific professional service; or

(6) if the procurement is for the services of legal counsel for the purpose of advising or representing the ombudsman in specific civil or criminal proceedings or on specific matters before federal or state regulatory agencies, boards or commissions.

(c) The determination that there is only one source for the required procurement must be made by the ombudsman and must specify the duration of its effectiveness. The determination and its basis must be in writing. The ombudsman will, in his or her discretion, advertise an intent to make a sole source award for the purpose of determining if other sources are available or interested in a particular procurement; however, award may not be made until the procurement is approved by the ombudsman. The ombudsman will, or the procurement officer shall, conduct negotiations, as appropriate, concerning price, delivery, and terms of a sole source procurement. (Eff. 11/10/88, Register 108)

AUTHORITY: AS 24.55.275

21 AAC 10.160. DEFINITION. Repealed 11/10/88.

21 AAC 10.165. CONTRACT AWARD. (a) A contract must be executed by the vendor and the ombudsman.

(b) A contract awarded under 21 AAC 10.100 - 21 AAC 10.165 must contain

(1) the amount of the contract;

(2) the date the work is to begin;

(3) the date by which the work must be completed;

(4) a description of the services to be performed under the contract; and

(5) a certification that sufficient money is available in an appropriation to be encumbered for the amount of the contract. (Eff. 11/10/88, Register 108)

AUTHORITY: AS 24.55.275

21 AAC 10.170. LEGAL AND CONTRACTUAL REMEDIES. (a) An interested party may protest the award of a contract, or a solicitation of supplies, services, professional services, or construction obtained under either the competitive bid procedure or the competitive proposal procedure of the State Procurement Code (AS 36.30) by following the procedures set out in AS 36.30 and in 2 AAC 12. For purposes of hearings, determinations, and appeals concerning contract controversies with the ombudsman's office, "ombudsman" is to be substituted in references to the commissioner of administration and the commissioner of transportation and public facilities in the State Procurement Code (AS 36.30).

(b) For any other procurement dispute not described in (a) of this section, an interested party may file an informal written protest with the ombudsman within 10 working days after the interested party knows or should have known of the alleged impropriety. The ombudsman will respond in writing within 10 working days, unless the circumstances warrant a longer deadline, and will give the reasoning for the decision. (Eff. 11/10/88, Register 108)

AUTHORITY: AS 24.55.275

21 AAC 10 180. EVALUATION. The ombudsman or procurement officer will provide a written evaluation of the services provided under a professional services contract in excess of \$25,000 before payment on the contract is made. The evaluation will be filed under AS 24.23.060 and is open for public inspection. (Eff. 11/10/88, Register 108)

AUTHORITY: AS 24.55.275

21 AAC 10.190. PROCUREMENT FILES. (a) A copy of each executed contract and each solicitation that does not result in a contract, together with relevant documents, shall be filed in the ombudsman's office. The invitation to bid or request for proposals, and each bid or proposal submitted, shall be filed with the contract copy if the contract is one in which an invitation to bid or a request for proposals is required. Procurement files are open for public inspection.

(b) A record of every sole source procurement must be maintained and must include

- (1) the supplier's or contractor's name;
- (2) the amount and type of each contract;
- (3) a listing of the supplies, services, professional services, or construction procured under each contract;
- (4) the identification number of each contract file; and
- (5) the ombudsman's written determination that there is only one source for the required procurement, its basis and its duration.

(c) For a contract awarded under competitive sealed proposals, the ombudsman will maintain a file that includes

- (1) a copy of the contract;
- (2) the register of proposals prepared under AS 36.30 and a copy of each proposal submitted; and
- (3) the written determination to award, prepared under AS 36.30.250. (Eff. 11/10/88, Register 108)

AUTHORITY: AS 24.55.275

21 AAC 10.195. DEFINITIONS. In 21 AAC 10.095 - 21 AAC 10.195,

(1) "interested party" means an actual or prospective bidder or vendor whose economic interest might be affected substantially and directly by the contract solicitation, the award of a contract, or the failure to award a contract; whether an actual or prospective bidder or offeror has an economic interest depends on the circumstances;

(2) "professional services" means professional, technical, or consultant's services that are predominantly intellectual in character; result in the production of a report or the

completion of a task, and include analysis, evaluation, prediction, planning, or recommendation;

(3) "procurement officer" means a person authorized by the ombudsman to enter into and administer contracts and to make written determinations with respect to them. (Eff. 11/10/88, Register 108)

AUTHORITY: AS 24.55.275

ARTICLE 3. Records

Section

200. Records of complaints and investigations

210. Complaint summaries

220. Employee records

21 AAC 10.200. RECORDS OF COMPLAINTS AND INVESTIGATIONS. (a) The following records of the office of the ombudsman are confidential:

(1) the record of a complaint under investigation; and

(2) the record of a complaint for which an investigation has been concluded, except the portion which is disclosed under AS 24.55.200.

(b) If approved in writing by the ombudsman, the office may release

(1) to an agency a copy of a record obtained during an investigation from the files of that agency;

(2) to a complainant a copy of a record obtained during an investigation from the complainant. (Eff. 9/16/84, Register 91)

AUTHORITY: AS 24.55.090
AS 24.55.160(b)

21 AAC 10.210. COMPLAINT SUMMARIES. Summaries of closed complaints maintained by the office in the computer system of the Legislative Affairs Agency may be made available by the ombudsman in order to assist in the management of state government programs, respond to inquiries about the performance of state government programs, and educate and inform the public about the activities and performance of the office. A summary prepared and distributed under this section may not disclose the name or other personal information about the complainant, and is not a publication for purposes of AS 24.55.200. (Eff. 9/16/84, Register 91)

AUTHORITY: AS 24.55.090
AS 24.55.160(b)

21 AAC 10.220. EMPLOYEE RECORDS. The provisions of AS 39.25.080 apply to personnel records of the office. Personnel records of the office of the ombudsman that are required to be kept confidential under AS 39.25.080 are not open for examination or inspection by the public, a federal or state agency, or a political subdivision of the state. (Eff. 9/16/84, Register 91)

AUTHORITY: AS 24.55.080
AS 39.25.080

House Economic Task Force

Chair:

Rep. Eileen Panigeo MacLean

Vice-Chair:

Rep. Jeannette James

Members:

Rep. Bettye Davis

Rep. Joe Green



Rep. Bill Hudson

Rep. Jerry Mackie

State Capitol, Room 507

Juneau, AK 99801

Phone: (907) 465-4833

Fax: (907) 465-2278

Rep. Carl Moses

Rep. Al Vezey

Rep. Bill Williams

Sponsor Statement

HB 228 - Relating to publications and procurement

HB 228 amends the state procurement code to help ensure that Alaskans have a fair chance in competing for State work. It encourages Alaskans to do business with other Alaskans, and it aims to increase the number of times money changes hands before it leaves the state. The current money multiplier in Alaska is around 2.1, while the national average is 7.8.

Alaska's economic condition is directly affected by the degree to which Alaskans seek goods and services within the state. State government is one of the largest purchasers of goods and services, and the health of our private-sector economy is directly affected by State government efforts to assure in-state procurements.

HB 228 has six key components. It aims to increase the share of work going to Alaskans by:

- 1) Encouraging procurement officers to focus their notice of solicitation on Alaskan vendors and service providers.
- 2) Requiring procurement officers to include administrative costs of administering a bid as a criterion in evaluating a bid or proposal, which would include the additional costs that result from the out-of-state location of the bidder or offeror.
- 3) Requiring procurement officers, to the fullest extent possible, to structure procurements so as to foster participation by Alaskan bidders.
- 4) Providing that bidders explain how they intend to use supplies and services from businesses located in the state, or to explain why they do not intend to use in-state providers.
- 5) Prohibiting, with certain exceptions, State agencies from soliciting outside the state to fill positions in State government unless a good faith effort in-state has not yielded sufficient qualified applicants.

6) Replacing the requirement that publications of a State agency be printed at a state-operated facility with a requirement that publications of a State agency be produced at a facility located in the state when practicable.

In addition, the bill clarifies that the office of the Ombudsman, as an agency in the Legislative branch, is exempt from, but must adopt procedures consistent with, AS 36.30 in its procurements.

An identical bill to HB 228 had 31 cosponsors in the House last year and was unanimously approved on the House floor. The House Economic Task Force urges its passage this year.

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 23, 1993

SUBJECT: Sectional Summary of HB 228

TO: Representative Eileen MacLean
Attn: David

FROM: Theresa L. Bannister *TB*
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. Provides findings and a purpose for the bill.

Section 2. Amends AS 24.55.275, which addresses the procurement procedures of the ombudsman. Authorizes the ombudsman to adopt procedures consistent with AS 36.30 for procuring supplies, services, professional services, construction, and office space. States that procedures based on competitive principles don't apply to contracts for investigations under AS 24.55.190.

Section 3. Conforms AS 36.30.020 to the amendment made in sec. 2 of the bill. Establishes an exception for the ombudsman to the requirement that the Legislative Council adopt the procurement procedures for the legislative branch.

Section 4. Amends AS 36.30.130(a). Addresses the distribution of notices for invitations to bid. Allows notice by newspaper publication calculated to reach prospective bidders in the state. Allows the notice to be mailed to active prospective contractors on the lists maintained under AS 36.30.050, if the contractors are located in the state, or, if the contractors are not located in the state, upon request.

Section 5. Amends AS 36.30.150(a). Requires bid evaluation to include consideration of administrative costs. Defines "administrative costs."

Representative Eileen MacLean
March 23, 1993
Page 2

Section 6. Amends AS 36.30.850(b), which lists the procurements that are not covered by the procurement code. Exempts from the procurement code certain contracts to be performed in foreign countries.

Section 7. Adds a new section to AS 36.30. Generally requires agencies to design procurements so as to foster participation by in-state bidders/offersors. Generally requires agencies to divide or otherwise restructure contracts under certain circumstances to make the contracts performable by in-state bidders or offersors.

Section 8. Adds a new section to AS 36.30. Requires bidders/offersors to explain how they propose to use the supplies and services of in-state businesses. Requires bidders/offersors to explain why they are not using these supplies and services.

Section 9. Adds a new section to AS 39.25 (state personnel act). Prohibits a state agency from soliciting outside the state for employees unless certain conditions are met. Exempts certain situations.

Section 10. Repeals and reenacts AS 44.99.200. Requires the publications of state agencies to be produced at an in-state facility when practicable. Directs the Department of Administration to establish certain standards for the production of state agency publications, except that the Board of Regents of the University of Alaska is to do this for the University.

Section 11. Amends AS 44.99.210, which relates to the disclosures required on certain state agency publications. Conforms this section to the changes made in AS 44.99.200 in sec. 10 of the bill: deletes the reference to the exemption under former AS 44.99.200(a).

Section 12. Repeals AS 44.99.230, which relates to state publications.

If I may be of further assistance, please advise.

TBL:gc:mi
93-260.glc

DIVISION OF LEGAL SERVICES

LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

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

240 Main Street, Suite 500
Juneau, Alaska 99801-2101

MEMORANDUM

March 1, 1993

SUBJECT: Privileges and immunities issue in proposed bill (Work Order No. 8-LS0754A)

TO: Representative Eileen MacLean, Chair
House Economic Task Force
Attn: David Harding

FROM: Theresa L. Bannister
Legislative Counsel

This memo accompanies the draft of the bill that you requested relating to state publications and procurement, including the procurement of employee services.

Please be aware that one of the provisions in the draft raises constitutional issues. The issue is contained in sec. 8. This section raises a constitutional privileges and immunities issue.^{1/} Section 8 raises the issue to the extent that the section tends to discriminate against natural persons who are nonresidents.

The section attempts to motivate bidders and offerors to use resident supplies and services by requiring bidders and offerors to explain how they propose to use resident supplies and services in the contract. The bidders and offerors must also explain why they are not using resident supplies and services.

While the state is given certain leeway in preferring its own residents in its own contracts, this leeway is not unlimited. The issue boils down to whether requiring these explanations falls within this leeway. On the one hand, the requirement does not establish a specific preference or a penalty for not using resident supplies and services. On the other hand, it applies to every contract and may establish a preference for residents, depending on the circumstances of the situation. The section does not indicate how the results of this requirement are to be applied and could have a very broad application, particularly when considering proposals, since the evaluation of proposals leaves more discretion to the agency. The potential for a broad, discretionary application that would screen out persons who don't use state

^{1/} U.S. Constitution art. IV, sec. 2, cl.1.

Representative Eileen MacLean

March 1, 1993

Page 2

products and service (or have a good reason for not doing so) may outweigh the state's proprietary interest. In a case applying the privileges and immunities clause to a local hire law, the Alaska Supreme Court decided not to give any weight to the fact that the state was procuring its own contracts, because the number of contracts affected by the local hire law was such a large percentage of all the construction projects in the state. Robison v. Francis, 713 P.2d 259, 265-266 (Alaska 1986). The outcome of a challenge in this case is unclear.

If I can be of further assistance, please advise.

TLB:mi

93-035.mai

Enclosure