

ALASKA LEGISLATURE COMMITTEE FILES 1993-1994 8672

8396 SENATE LABOR & COMMERCE

HERITAGE

Real Estate
Corporation

August 6, 1993

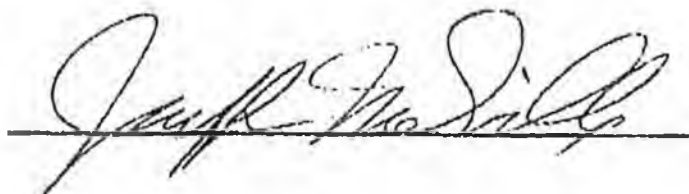
Senator Tim Kelly, Chair
Senate Labor and Commerce Committee
Alaska State Legislature
716 W. 4th, Suite 200
Anchorage, AK. 99501

Dear Senator Kelly:

I am in total support of SB 206. The Bevins v. Ballard case set a precedent unlike any other outside the State of Alaska. In this situation, it is to no ones advantage to be the only State who finds licensees responsible for innocent misrepresentation. The licensee is faced with unjust and extensive liability while the representations were made by someone else, or not made at all.

I urge your committee to pass this legislation through the Senate and on to the Governor for his signature into law.

Thank you for your consideration,



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Janet Bordericou

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Alisa Barnhart
Alisa O Barnhart

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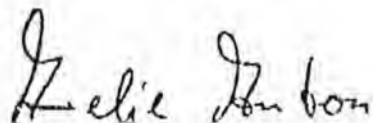
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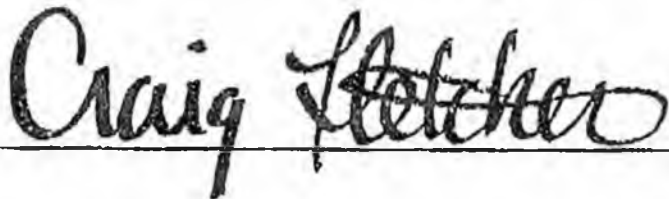
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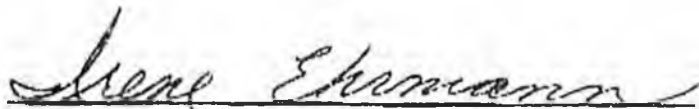
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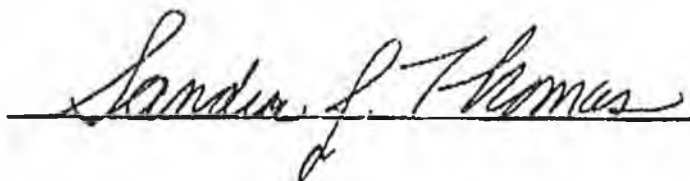
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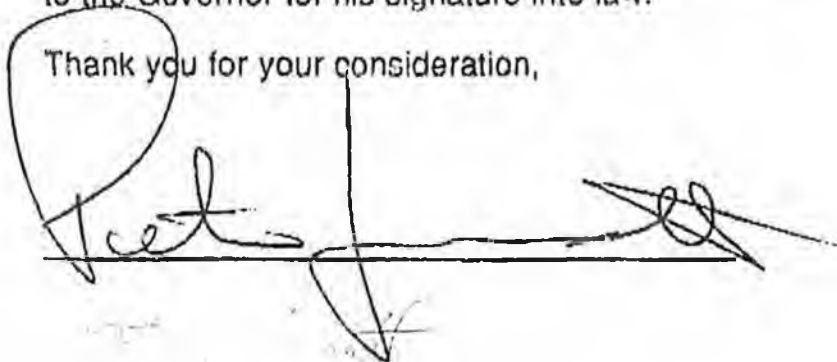
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Thank you for your consideration,



KARABELNIKOFF & ASSOCIATES
Counseling in Real Estate, Land Economics, & Finance

4000 Old Seward Highway, Suite 302, Anchorage, AK 99503
(907) 563-4511; FAX 563-4519

August 5, 1993

Senator Tim Kelly, Chair
Senate Labor and Commerce Committee
716 W. 4th Avenue
Anchorage, AK 99501-2133

Re: SB 206 on innocent representation by agents in real property transactions

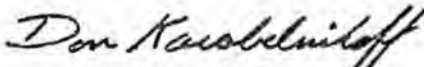
My 25-year career in Alaskan real estate transactions leads me to urge legislators to correct the Supreme Court's misunderstanding of the real world. Though I worked as a real estate salesman only one year, my career involves frequent interaction with brokers and other real estate professionals. I once supervised the foreclosed properties departments of Alaska Mutual Bank/Alliance Bank. We had nearly two thousand parcels of real estate that we did not want to own; I hired many real estate agents.

I am well-versed in the duties and skills that real estate agents need. I do not believe real estate agents should guarantee all the information that comes from many sources. Yes, they should be reasonably diligent, but they should not always independently confirm the veracity of the representations of the seller or other parties.

The tendency to impose strict liability requires real estate sales people to have the skills of many different professions. They will need expertise in building codes, land use regulations, hydrology, engineering -- soils, civil and structural, real estate appraisal, real estate law and tax law. This is not reasonable; the people of Alaska will suffer as a result of the current situation. Please enact remedial legislation.

Let me know if you have any questions.

Sincerely,



Don Karabelnikoff, CRE
Real Estate Counselor

July 27, 1993

Dear *Tim* :

This letter is concerning Senate Bill 206 which would overturn Bevins vs. Ballard, removing a real estate agent's liability for innocent misrepresentations.

I urge you to support this bill.

Sincerely,

Pam W. Parker

Pam Parker

July 20, 1993

Alaska State Legislature
Senate Labor and Commerce Committee
716 W. 4th Avenue
Anchorage, Ak. 99503

Re: SB 206

Attn: Senator: Tim Kelly, Chairman

Dear Senator Kelly,

Over time the liability of real estate brokers has become greater and greater as you know. Simultaneously the capacity of the public to take advantage of the situation has mushroomed.

I have been licensed in Alaska since 1972, and have seen the attitude of sellers become increasingly obstructive regarding disclosures. Today's sellers know about the brokers liability and they feign ignorance of problems themselves.

I am persuaded that the buying public today is less informed than they were a decade ago because the sellers can skip out on the process so easily. After all who knows better than the owner what the problems are?

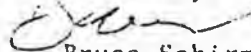
I'll give you an example of an instance which, were it not for the buyers goodwill, could have caused me problems (short version:).

The sellers owned a 4 plex which they wished to sell since they planned a move to Arizona. Prospective buyers who have businesses in our area but who live in California during the winters made an inspection of the property.

One bedroom was not inspected due to a late sleeper. A lease and option were signed. The seller took the option money and left town.

Later inspection of the bedroom revealed mold in one corner. The seller claimed it was nothing unusual (it happened every year) and they just painted it over each spring. Translation: good luck; sure is nice weather in Arizona.

< Sincerely,



Bruce Schirmers
Owner/Broker



Bruce & Co.

P.O. Box 2856

262-4500

Soldotna, Alaska 99669



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Fax: Commercial 561-7137
Residential 561-7138

Senator Tim Kelly, Chair
Senate Labor and Commerce Committee
716 W 4th Ave
Anchorage, AK 99501-2133

Dear Senator Kelly,

This letter is written in support of your effort to eliminate realtors' liability for innocent misrepresentations. Senate Bill 206 embodies fundamental principles of fairness which have been given short shrift by the Alaska Supreme Court.

When the court established liability for realtors' innocent misrepresentations, it created liability which makes a realtor liable for failure to tell a purchaser something the realtor does not know. What's more, the realtor is liable even if she could not have discovered the actual facts. This point should be obvious, for in cases where the realtor failed to disclose facts she could have discovered through the exercise of reasonable care, the purchaser's claim would be based on negligence not innocent conduct.

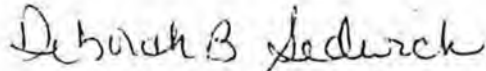
Much can be said about the fairness of holding a person liable who is innocent of any wrongdoing or negligence. We all know that is completely contrary to basic notions of fair play. What may be less obvious to many lay people is how the Alaska Supreme Court has singled out real estate professionals for liability which has never been applied to other professionals.

Imagine the reaction if physicians were told they are liable for their failure to administer a treatment unknown to the doctor and unknowable through the exercise of reasonable medical prudence. Yet, that is exactly where doctors would find themselves if they were held to the same standard as realtors.

Lawyers may quibble about fine points of agency law and other rarified doctrinal tidbits, but the plain fact is that the Alaska Supreme Court has made realtors strictly liable--that is liable without fault. Strict liability is something Alaska's courts have always refused to apply to engineers, lawyers, doctors and architects. Why has the court singled out realtors?

Your efforts to correct the imbalance introduced by the unfortunate decision of the court are greatly appreciated. While I offer my unqualified support for the bill as drafted, I wonder if it is truly necessary to include section 2 in its present form. Could section 2 be revised to read something like the following: This Act is meant to be applied to all causes of action which have not been reduced to judgement before the effective date of this Act. It is my understanding that a court can change the law so that it applies in this fashion to existing causes of action. I see no reason why the Legislature lacks the power to do likewise. However, I defer to your political and legal judgement on this issue.

Sincerely,



Deborah B. Sedwick
Vice President
Residential Sales

cc: Reps: Kay Brown, David Finkestein, Mark Hanley, Cynthia Toohey
Senators: Dave Donley, Johnny Ellis, Loren Leman, Drue Pearce, Steve Rieger
Chairman Jack White Company: Bill Swain

HERITAGE**Real Estate**
Corporation

August 6, 1993

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Senate Labor and Commerce Committee
Alaska State Legislature
716 W. 4th, Suite 200
Anchorage, AK. 99501

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I urge your committee to pass this legislation through the Senate and on to the Governor for his signature into law.

Thank you for your consideration,

Janice J. Lawrence, Assoc Broker

3 C Street, Suite 102
Anchorage, Alaska 99503
62-1222 FAX 273-2473

18550 Eagle River Road
Eagle River, Alaska 99577
(907) 694-4994 FAX 694-3641

35571 Spur Highway
Soldotna, Alaska 99669
(907) 262-5862 FAX 262-1004

502 Lake Street
Kenai, Alaska 99611
(907) 283-4408 FAX 283-4225

701 East Parks Hwy, Suite 101
Wasilla, Alaska 99654
(907) 376-2448 FAX 373-7296

END

TONGASS REALTY, Inc.

431 DOCK STREET PHONE (907) 225-4108
KETCHIKAN, ALASKA 99901
FAX (907) 225-0353

Mr. Tim Kelly, State Senator
Senate Labor & Commerce Committee
State Capitol, Suite 101
Juneau, Alaska 99801-1182
July 21, 1993

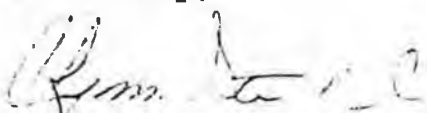
SB 206

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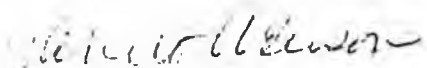
As licensed real estate agents we would like to take this time to pledge our support of Senate Bill #206. We encourage your efforts in this regard and will be copying this letter to Senator Robin Taylor and Representative Bill Williams encouraging their support also.

Thank you for your efforts in this regard.

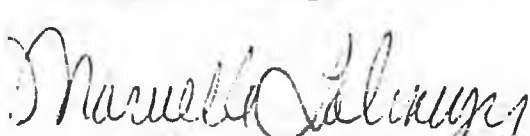
Sincerely,



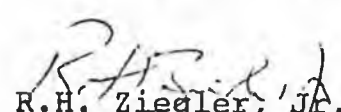
Leif M. Stenford, Broker
Tongass Realty, Inc.



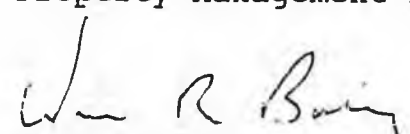
Nancy Axelson
Associate Broker



Marvelle Lahmeyer, Associate



R.H. Ziegler, Jr., Broker
Tongass Realty, Inc.
Property Management Division



William Bolling, Associate

cc: Sen. R. Taylor
Rep. B. Williams

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Land
Investments
Management

SUBURBAN REALTY

4803 Spenard Road, Suite A
P.O. Box 92232 Anchorage, Alaska 99509



Tel. 907-248-3606

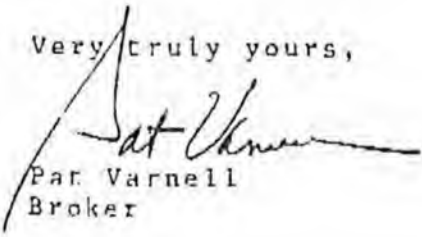
August 4, 1993

Dear Senator: *KELLY*

We strongly urge your support for Senator Kelly's SB No. 206. We in the industry do not feel we should be required to "insure" a seller's representations. Passage of HB 298 has created additional liability for those in our field. Alaskan brokers are now suffering with loss of E & O insurance.

Please show your support for our Industry, profession, and survival.

Very truly yours,


Pat Varnell
Broker

cc: file

KIRK WICKERSHAM

ATTORNEY AT LAW

3111 C STREET, SUITE 200 • ANCHORAGE, ALASKA 99503

(907) 563-5297

FAX 563-2250

July 22, 1993

Senator Tim Kelly, Chair
Senate Labor and Commerce Committee
716 W. 4th Ave.
Anchorage, Alaska 99501

Dear Sen. Kelly:

I appreciated the opportunity to speak with you at the City Mortgage party regarding S.B. 206. As I mentioned, I have been working on the idea of combining full property disclosure with relief from the **Bevins** and **Cousineau** decisions since 1984. This was one of the reasons that I sought appointment to the Real Estate Commission and served as Chair.

Cousineau provides that the buyer has the right to rely on any representation unless the reliance is "irrational, preposterous or wholly in bad faith". **Cousineau** and **Bevins** together make the seller and listing agent absolutely vicariously liable for statements made by the agent working with the buyer, even though they have no way to know about or control these statements, or even to question whether they were made. These cases have spawned a whole field of litigation which takes place a year or two after the closing, the purpose of which is simply to extract ten or twenty thousand dollars in a settlement with the agent.

The original idea of a bill was to combine full disclosure from the seller, who knows the most about the property, with relief from **Bevins**. The result would be better informed purchases, fewer deals falling through, and fewer lawsuits. Ultimately, there is the possibility that Alaska real estate agents could buy E&O insurance through a group policy administered by the AREC, for as little as \$60 per year. This is done in other states, but not Alaska because of our punitive laws. Actually, most agents in Alaska go bare, which is not in the public interest.

I was, and am, very critical of the Property Disclosure law as it passed the legislature. It not only failed to provide relief from **Bevins**, it provided for up to triple damages against agents and sellers for even innocent misrepresentation. There are other serious flaws as well. Although it passed as an industry supported bill, I know of no agent who understands the bill who supports it.

Moreover, the bill put Alaska into the category of states in which the real estate commission promulgates forms for use by agents. I used to practice law and sell real estate in Colorado (one such state) and was part of the group that drafted and revised the forms. I felt it was a very good system. The Alaska experience, however, was not like the

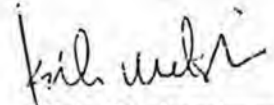
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Colorado experience. In Alaska, no matter how many constructive comments were submitted by members of the public, the Attorney General's office blocked or refused to make changes in the draft. Thus, our form is seriously flawed.

One tough thing about your bill, which I hope we can diffuse, is that it was supposed to be part and parcel of the Property Disclosure bill. With that already passed, this one may be opposed by trial lawyers and consumer advocates who would see no reason to change the current situation.

In short, I will be happy to be your lead witness on August 10. Let me know how much background and detail you want at the hearing.

Sincerely,

A handwritten signature in cursive script, appearing to read "Kirk Wickersham".

Kirk Wickersham

encl.

KIRK WICKERSHAM
3111 C ST. SUITE 200
ANCHORAGE, ALASKA 99511
563 - 5297

University of Alaska B.A. 1966

Yale Law School LL.B. 1969

University of Colorado M.U.R.P. 1974

Wickersham is an attorney, real estate broker and planning consultant with over twenty three years of professional experience.

As an attorney, he represents real estate firms, investors and developers; small businesses and individuals in the areas of real estate, zoning and development controls, securities and venture capital, small business development, and civil litigation. He also represents local governments and public agencies. He serves on the Executive Committees of the Alaska Bar Association Sections on Environmental and Real Estate Law.

His experience as a broker includes the marketing of residential and investment properties. He was a member of the Alaska Real Estate Commission from 1987 to 1991, and served as Vice Chair and Chair. He wrote the Alaska Earnest Money and Listing Agreement Manuals, and is a frequent lecturer on real estate law and practice, and land development.

As a planning consultant, Wickersham is a consultant to the North Slope Borough. He has prepared innovative plans and/or development regulations which have been adopted by many communities throughout the State and in the Lower 48. He served as Chairman of the American Planning Association Planning and Law Division, and won a national award for his positive style of development regulations and incentives. He has written three planning books and over two dozen professional journal articles. His innovative method of conducting workshops at which the residents of the community prepare their own plans and regulations has been used by over 175 communities in Alaska, the Lower 48, and Canada.

He is active in a wide variety of civic organizations, and served as President of Independence Ski Resort Company. He is listed in *Who's Who in the West* and *Who's Who in American Law*.



NORTH STAR REALTY, INC.

P.O. BOX 72934 • 905 FIRST AVE. • FAIRBANKS, ALASKA 99707 • (907) 452-2500

July 15, 1993

Senator Tim Kelly, Chair
Senate Labor and Commerce Committee
3111 C Street, Suite 550
Anchorage, AK 99503

Dear Senator Kelly:

I wholeheartedly support your Senate Bill No. 206, "An Act relating to Real Property Transfers.

I have been in the real estate profession since 1972 and have been sued only once due to the fault of the State of Alaska to have a right-of-way on a road that is State maintained. I have conducted an honest and full disclosure practice throughout the years.

The present situation is highlighted by the fact that one of the local law firms put on an approved course for real estate brokers regarding the new disclosure law. One lawyer for the firm insisted that we should have nothing to do with helping a seller fill out the form. "When I go to court with you I want to be able to say that you had nothing to do with the seller's statements." The other lawyer from the same firm in the second half of the session said, "If you are not going to help the seller fill out the form, 'What are they hiring you for?'" It is clear that that law is simply looking for someone to be responsible for the buyer's lack of knowledge and ability to ascertain the facts for themselves or hire a competent agent to represent their interest if they are not trusting of the seller's agent and want a "deep pocket" to make up for their own lack.



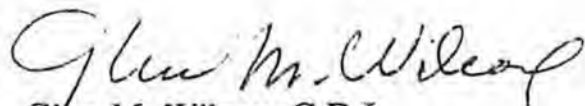
RESIDENTIAL • COMMERCIAL • INDUSTRIAL • INVESTMENT PROPERTIES

Page - Sen. Kelly, July 15, 1993

I realize that your bill, SB 206, does not speak to this exact situation, but your bill does represent a stemming of the tide which seems to be overtaking the industry. It's bad enough to be liable for what you believe to be true, but it is beyond belief that we want a society that holds us liable for "innocent misrepresentation". We advise our clients to seek further professional help if they are unable to find the facts or discern the severity of any given situation. The buyers should have to do the same and would be so advised if they were being represented by us.

I hope your bill, SB 206, makes it all the way and starts a new trend.

Sincerely,

A handwritten signature in cursive script that reads "Glen M. Wilcox".

Glen M. Wilcox, G.R.I.

Broker

GMW/me



ALASKA ASSOCIATION OF REALTORS®, INC.

741 Sesame Street, Suite 100 • Anchorage, AK 99503
Telephone 907-563-7133

June 10, 1993

Dear Broker,

At the request of the Alaska Association of REALTORS®, SB 206 was introduced in April during the last legislative session.

This important piece of legislation would remove liability for "innocent misrepresentation" by agents in a real estate transaction. When passed, this bill would apply to residential, commercial, and raw land transactions.

As you know, Alaska and two other states are the only jurisdictions in which real estate professionals are made liable for "innocent misrepresentation." This has been the cause of numerous lawsuits. I'm sure you would agree, it seems errors and omissions insurance carriers either have been reluctant to write policies or have increased premiums in Alaska. The Alaska Surety Fund does not cover innocent misrepresentation claims.

We are requesting your assistance in impressing upon the members of the Alaska Legislature the need for passage of SB 206. How can you help? Contact your legislator and ask for support on SB 206. Our latest information is that hearings will be held in Anchorage on July 20. Contact the Anchorage Legislative Information Office (561-7007) for the schedule—plan to attend.

Sincerely,

Dea Turner
Executive Vice President

Reverse page: SB 206

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Background and Analysis of Proposed
"Innocent Misrepresentation" Legislative Relief

In 1982, on an appeal to the Supreme Court of Alaska, Bevins v. Ballard, 655 2nd 757, the court upheld a lower court decision that a (real estate) broker/or agent was liable for "innocent misrepresentations" made to a buyer. In other words, under Alaska law a real estate broker/agent may be liable for fraudulent, negligent and even innocent misrepresentation. The broker/agent is liable for damages resulting from representations concerning property, even though he had no knowledge that his statement was incorrect. Simply reporting a statement from an owner may result in liability. Only two other jurisdictions in the U.S. have similar liability statutes.

The Real Estate Surety Fund, a fund created to allow injured parties in a real estate transaction the ability to file a claim (up to \$10,000) and funded by all licensees, does not cover "innocent misrepresentation" claims. Errors and omissions insurance carriers have become increasingly wary of writing policies in Alaska due to this liability. The majority have refused (at any price) to issue errors and omissions insurance for real estate agents/brokers in the state. It is virtually impossible to obtain coverage. The result is the consumer does not have the needed protection in real estate transactions for the occurrence of fraudulent and intentional misrepresentation by an agent/broker who does not have the resources available to pay a judgement.

SB

2008

**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

January 28, 1994

SUBJECT: Sectional Summary of SB 208. (State officers and employees who seek election to state or national office)

TO: Senator Dave Donley

FROM: Teresa B. Cramer *TBC*
Legislative Counsel

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

Section 1 amends the existing prohibition that applies to classified and partially exempt employees who seek nomination to state or national elective political office or become candidates for office. The existing provision requires those employees to resign and provides that a position held by a classified or partially exempt employee who is a candidate becomes vacant on the date the employee files a declaration of candidacy. The amendment would extend the prohibition to members of the exempt service other than those who hold an elective state office and would include general letters of intent to become a candidate in the events that trigger the requirement to leave state service.

TC:pl
94-077.plm

SECTIONAL ANALYSIS



Official Business

Alaska State Legislature

Senator Dave Donley

State Capitol
Juneau, AK 99801-1182

SPONSOR STATEMENT

Senate Bill 208

Requiring State Employees to Resign Their Position Once a Letter of Intent to Run for Office Has Been Filed

The purpose of Senate Bill 208 is to require that anyone who chooses to run for office and raise money to do so, must resign from their state employment.

Once a letter of intent has been filed with the Alaska Public Offices Commission, a person becomes a candidate and can raise money for their campaign. Currently, state employees have an unfair advantage in raising funds for their election due to the position of power they might hold from their state employment.

Passage of SB 208 will bring higher ethical standards to our electoral process and help restore public confidence in our state officials.

DD/mf

*For 8 entities w/ separate
legal existence from the state.*

SENATE COMMITTEE REPORT
FIRST COMMITTEE OF REFERRAL

DATE: 5/5/93

FURTHER: JUDICIARY
FINANCE

Date of 5-Day Notice: 1-27-94
(in accordance with Uniform Rule 23)

DATE TURNED
INTO OFFICE: 2-8-94

L&C Committee considered SB 208

"An Act relating to the employment of certain state employees and officers seeking election to state or national office."

and recommends:

replace with _____ CS SB 208 (L&C)

same title
 new title
 technical
title change
(HB only)

attaches amendment(s)

adopts _____ Letter of Intent

further referral to the _____

do pass

do not pass

no recommendation

individual recommendations

FISCAL NOTE INFORMATION

SB&CS

Department	Date	Zero	Fiscal
D.O.A.	2/2/94	✓	
OFFICE OF GOV.	2/2/94	✓	

Department	Date	Zero	Fiscal

Appropriation No Fiscal Note

Governor's Bill with Previous Fiscal Notes (enter information above)

DO PASS:

OTHER RECOMMENDATIONS:

Tom Kelly-Dobson

Chair: Signature and Recommendation

8-LS0336E
Cramer
2/7/94

CS FOR SENATE BILL NO. 208(L&C)
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE

Offered:

Referred:

Sponsor(s): SENATOR DONLEY

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the employment of certain state employees and officers, and
2 certain officers and employees of the Alaska Railroad, seeking election to state
3 or national office."

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

5 * Section 1. AS 39.25.160(e) is amended to read:

6 (e) Except for state officers who hold an elective state office and seek
7 election to the same or another state or national elective office, an officer or [AN]
8 employee in the classified, [OR] partially exempt, or exempt service who files a
9 general letter of intent to become a candidate, seeks nomination to, or becomes a
10 candidate for state or national elective political office shall immediately resign any
11 position held in the state service or with the Alaska Railroad. The officer's or
12 employee's position becomes vacant on the date the officer or employee files a
13 general letter of intent or a declaration of candidacy for state or national elective
14 office. This subsection applies to officers and employees in the classified, partially

1 exempt, and exempt services, including officers and employees of the University
2 of Alaska.

3 * Sec. 2. AS 42.40.710 is amended to read:

4 Sec. 42.40.710. CORPORATION EMPLOYEES. Employees of the Alaska
5 Railroad are employees of the corporation and not of the state. The provisions of
6 AS 39 do not apply to employees of the corporation. However, no later than
7 January 1, 1987, the corporation shall adopt a code of ethics for its directors and
8 employees that is substantially equivalent to that adopted in AS 39. An officer or
9 employee of the corporation who files a general letter of intent to become a
10 candidate, seeks nomination to, or becomes a candidate for state or national
11 elective political office shall immediately resign any position held in the
12 corporation or in state service. The officer's or employee's position becomes
13 vacant on the date that the officer or employee files a general letter of intent or
14 a declaration of candidacy for state or national elective office.

*next transfer
put in a
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P.R.*

SENATE BILL NO. 208

IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - FIRST SESSION

BY SENATOR DONLEY

Introduced: 5/5/93
Referred: L&C, JUD, FIN

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the employment of certain state employees and officers
2 seeking election to state or national office."

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

4 * Section 1. AS 39.25.160(e) is amended to read:

5 (e) Except for state officers who hold an elective state office and seek
6 election to the same or another state or national elective office, an officer or [AN]
7 employee in the classified, [OR] partially exempt, or exempt service who files a
8 general letter of intent to become a candidate, seeks nomination to, or becomes a
9 candidate for state or national elective political office shall immediately resign any
10 position held in the state service. The officer's or employee's position becomes
11 vacant on the date the officer or employee files a general letter of intent or a
12 declaration of candidacy for state or national elective office.

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. SB 208

Revision Date: _____
Title: Candidates must resign state employment.
Sponsor: Senator Donley
Requestor: _____

Department Affected: Office of the Governor
BRU: Division of Elections
Component: Elections
COMPONENT SERIAL NO. 21

EXPENDITURES/REVENUES:

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL	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 &	0	0	0	0	0	0
GRANTS,	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

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

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

FUNDING:

1002 Federal	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	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 (FY94) impact: 0

ANALYSIS: (Attach a separate page if necessary.)

Prepared by: Joseph L. Swanson, Director
Division: Division of Elections

Phone: 465-4611

Date: 2/2/94

Approved by Commissioner: John B. Coghlin, Lieutenant Governor

Agency: Office of the Governor

Date: 2/2/94

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FN - Div. of Elections

OFFICE OF THE GOVERNOR

*DIVISION OF ELECTIONS
P.O. BOX AF
JUNEAU, ALASKA 99811-0105
PHONE (907) 465-4611*

POSITION PAPER

FOR

SB208

Per Request of Senator Kelly

The Division of Elections takes a neutral position on the content of the Act. It should, however, be noted that SB208 does not provide the Division with the authority to deny an application for candidacy to an individual who is in violation of the Act or a means by which to respond to a complaint (Sec. 15.25.042) on a candidate who is in violation.

2/2/94

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. SB 208

Revision Date: _____ Dept. Affected: Administration
 Title: *An Act relating to employment of certain BRU: Personnel/OEEO
employees Component: Personnel/OEEO
 Sponsor: Sen. Donley
 Requestor: (S) L&C COMPONENT SERIAL NO. 56

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE

(Thousands of Dollars)

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

Estimate of current year (FY94) cost: none

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Kevin Ritchie, Director Phone: 465-4430
 Division: Personnel/OEEO Date: _____
 Approved by Commissioner: Nancy Bear Usery Date: 2/2/94
 Agency: Administration

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FN - ADMINISTRATION

SB

212

December 2, 1993

Mr. Josh Fink
c/o Senator Tim Kelly
Room 101
State Capitol
Juneau, Alaska 99801-1182

Dear Josh:

Thanks for your assistance and the opportunity to testify to Senator Kelly's Committee recently regarding state purchasing.

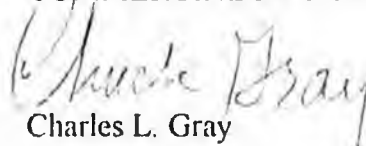
It seems to me that Section 1(c) allows enough leeway for the state to break up printing orders so that they can be handled by in-state speciality houses, such as the Anchorage fellows who do pre-press work, but don't operate presses themselves.

However, I do wonder about cases where Alaska printers often combine their efforts with "outside" specialty printers to offer a more competitive bid on certain kinds of work, such as large numbers of envelopes. When applied only to printing, it should be required that the bidder actually maintains a full-time printing operation in the state. It probably gets a little more complicated when you broaden the concept to cover other state vendors, such as architects or auto parts. But I know you are up to it!

The explanation you gave Senator Kelly when he asked how printers got excluded from the 1990 legislation was okay so far as it went, but don't forget it was certain people at UAF who had and have visions of being the state print shop who worked hard for an in-house requirement -- and got it. Don't underestimate them again this time around.

We hope that Senator Kelly can keep SB212 on track this year. It is utterly amazing that a legislature would exclude one particular segment of private enterprise from state bidding.

Sincerely,
FAIRBANKS DAILY NEWS-MINER/
COMMERCIAL PRINTING COMPANY



Charles L. Gray
Publisher Emeritus

CLG:cga



Alaska Permanent Fund Corporation

P.O. Box 25500 Juneau, Alaska 99802-5500

(907) 465-2047

November 12, 1993

The Honorable Tim Kelly
Chairman, Senate Labor & Commerce Committee
716 W. 4th Avenue Suite 400
Anchorage, AK 99501-2133

Dear Senator Kelly:

This letter will provide answers to each of the 17 questions you raised in your letter of November 2, 1993 regarding Alaska brokerage and investment services. I have also enclosed a letter written on the same subject by Bill Means, our chief investment officer, which was distributed during the last legislative session to members of the House Finance Revenue Budget Subcommittee.

Let me first give you my views on the proposed state policy which would require the Alaska Permanent Fund Corporation and other state investment agencies "to increase the utilization of brokerage and investment services provided by persons located in the state."

As a matter of existing Permanent Fund policy, we do business with Alaska firms whenever possible - provided such business does not increase the Fund's risk or reduce the yields on the Fund's investments. One result of this policy is that, in a recent seven-month period, commissions totaling \$862,174 were earned by brokerage firms with offices in Alaska. As our stock portfolio grows, we expect to do increased business with these and other Alaska firms.

PERMANENT FUND CORP.

LTR ON POLICY ON FINANCIAL SERVICES

Senator Tim Kelly
November 12, 1993
Page 2

Our current policy is predicated on strict adherence to the prudent investor standard; any policy which would require us to deviate from that standard is simply a form of social or political investing which would not necessarily serve the interests of all Alaskans.

In the 16-plus years of the Fund's existence, labor unions have asked that we not invest in companies currently undergoing labor strife; conservative groups have asked that we not invest in companies that do business with communist countries; religious groups have questioned the morality of our investment in alcohol and tobacco companies; social activists have challenged our investments in multinational firms which do business in South Africa; and every time the movie *Silkwood* is shown on TV, we are questioned by opponents of nuclear energy about why we invest in Kerr-McGee.

All of these constituencies are legitimate and important; they should not be ignored - as the constituency of Alaska brokerage and investment services should not be ignored. As a matter of state law, however, they should not be allowed to influence or distort the Permanent Fund's investment process. Thus far, no popular initiative nor legislative proposal to utilize the Fund for political or social purposes has been adopted.

The Permanent Fund's constituency is comprised of 500,000-plus Alaskans. Would it be good state policy to put the personal interests of some smaller subset of these Alaskans above all others? I believe that once you breach the brick wall which separates economic investing from social and political investing - regardless of how noble the cause - the chances are that you will lose the integrity of your Fund as ever-increasing numbers of other just causes ask for and receive special consideration.

Senator Tim Kelly
November 12, 1993
Page 3

Presented below are the specific answers to your specific questions:

1. How large is the fund managed by the Permanent Fund Corporation?

As of the first quarter ending September 30, 1993 the Fund totaled \$15.378 billion. This included Fixed Income, Equity, and Real Estate.

2. On trades that you (department staff) do directly, what firms and what branches do you work with?

We trade with a majority of the premier firms who fall within the category classified as recognized dealers by the Federal Reserve. The names that we deal with change from time to time, since they may fall out of favor due to their inability to deliver product, competitive pricing and other services.

3. What efforts have been made to work with brokers in Alaska, or to provide credit to branches in Alaska?

Our major focus has been to use the equity assets in an effort to work with brokers that are located in Alaska. The Alaska Permanent Fund Corporation established the ALASKA BROKERAGE PROGRAM in 1983. Since the inception of this program our equity managers have been instructed to direct business to those firms that have offices in the state provided they are able to give our managers competitive execution, all else being equal.

4. In the last five years, has there been an increased amount of trades done locally or increased credits to local branches?

There has been an increase in the credits to the local brokers. For the period April 1 through October 31, 1993 we paid out to our local brokers approximately 32% of the total commissions generated by our managers. With the growth of our equity portfolios over the past few years it is appropriate to assume that if the percentage of

Senator Tim Kelly
November 12, 1993
Page 4

commissions remained constant over time, then the total dollars in commissions would have grown proportionately. Additionally, over the last six months we have added new managers that are now participating in the brokerage program. As we go forward, we expect to add new equity disciplines and new managers. These new managers will also be incorporated into the program.

5. What percentage of equity trades (listed and OTC) are done directly with brokers in Alaska? Fixed-income trades?

Our managers do not transact directly with local brokers. They transact with their relationships and where they can bundle large blocks of trades. They do in fact direct commissions to our local brokers and specifically deal with brokerage firms that have regional or affiliate offices in Alaska. In addition to using traditional brokers, our managers also use automated trading systems and crossing networks that enable them to obtain low commission rates with minimal market impact.

With regards to fixed income, we have preferred to deal with either the major metropolitan financial centers or large regional offices where dealer firms have institutional staff and are able to provide critical, timely information and execution. We have tested the local market on more than one occasion and each time found the execution to be untimely, resulting in less than optimum pricing to the portfolio.

6. What percentage of equity trades (listed and OTC) are done with firms that have branches in Alaska? Fixed-income trades? How does this compare to the national market share percentages of those companies?

It is our understanding that as a general rule approximately 25-33% of plan sponsor equity commissions are directed. The Alaska Permanent Fund falls within this range. As an example, for the period April 1- October 31, 1993, 32% of all commissions generated by our active domestic managers went to Alaskan brokerage firms that participate in our brokerage program.

Senator Tim Kelly
November 12, 1993
Page 5

7. Does any credit come back to local offices on new issues purchased?

No. We have never designated commissions on fixed-income investment.

8. Please provide a recap of commissions generated by each money manager and by trades done directly.

For the most recent reporting period for our program, March 31 - October 31, 1993 the following outlines the commission recap:

<u>MANAGER</u>	<u>COMMISSIONS</u>	<u>ALASKA COMMISSIONS</u>	<u>% TO ALASKA</u>
Alliance	\$169,881	\$88,866	52.3
Chancellor	535,036	123,603	23.1
Capital Guardian	133,764	72,682	54.3
Invesco	105,903	105,903	100.0
Ark Asset	1,089,632	209,872	19.3
RCM	<u>649,405</u>	<u>261,246</u>	<u>40.2</u>
Totals:	\$2,863,621	\$862,174	32.1%

9. Have you done any research on the impact of directed trades on quality of execution? Is there any written evidence that trades directed to Alaska brokers would impact execution capability?

We have not conducted any specific research on this matter. However, we do routinely monitor commissions paid by our managers and have been made aware by our performance consultant that commission rates paid by our managers are consistent with those that are paid by other large institutional portfolio managers. It is our opinion that our utilization of brokers who have Alaska offices has not had a negative effect on execution costs. This view is based on the amount of commission rates paid to local brokers and the fact that manager performance is consistent with performance achieved for other large portfolios with similar characteristics.

Senator Tim Kelly
November 12, 1993
Page 6

10. **Are you aware of the soft-dollar arrangements your different money managers have? Do any of these arrangements benefit the Permanent Fund or State?**

We are aware that our managers use soft dollars during the normal course of business to buy research services from brokers. We have not requested that our managers provide us with their soft-dollar policies, nor have we requested that they provide specifics as to the services purchased through soft-dollar arrangements. It is our understanding that our managers use soft dollars judiciously and direct a small share of commission to soft dollar purchases. Our managers performances have not appeared to suffer as a result of their soft-dollar arrangements.

11. **Do existing money manager soft-dollar arrangements constrain money managers from doing business directly with brokers in Alaska or from providing credit back to those brokers?**

We are not aware that soft-dollar arrangements hinder our managers from doing business with brokers in Alaska.

12. **Have you considered suggesting your money managers use step-outs? (Trades done with one broker and apportioned out to others.)**

We are not aware of the extent that our managers use step-outs in directing commissions to our local brokers. Generally, managers use step-outs when they are "cleaning up" directed commissions. They are not used routinely since the broker stepping-out pays all the floor broker costs and then is asked to credit a percentage to another broker who gets a "free ride."

13. **Do you include any local money management firms or money management divisions of local investment firms in your searches?**

Senator Tim Kelly
November 12, 1993
Page 7

Yes. Whenever we conduct a manager search, we use the database of our consultant, Callan Associates, Inc., at no cost to any interested manager. We continually receive inquiries in Juneau from prospective managers and encourage them to notify Callan on our behalf. Naturally, any Alaskan based prospective manager that meets our style objective and the hiring criteria would be seriously considered for final selection. We have not done a domestic manager search in the past five years.

14. **Would you consider placing such firms or divisions of firms on a short list if they provide the type of management under consideration and meet all other criteria?**

Yes. We would consider a short list if they met all criteria as mentioned in the previous question.

15. **Have you considered using local firms for: (1) securities lending programs; (2) commodities hedging programs; (3) underwriting?**

(1) We are in the process of undertaking a lending program to be managed in-house for fixed income. Our intentions are to include those firms that have the capital resources, access to collateral, have the ability to borrow large blocks, and meet other requirements yet to be determined. (2) We cannot buy commodities due to statutory constraints. (3) We do not issue debt and generally buy secondary paper rather than new issues.

16. **If you desired to work with local brokers, but the firms' policy was to use branches outside, would you require that services be purchased locally? Would you consider requesting a change of firm policy to meet state policy or desires?**

Yes. If possible we would buy local services. We would consider a change in policy.

Senator Tim Kelly
November 12, 1993
Page 8

17. Are you willing to encourage and nurture institutional brokerage and money management expertise in Alaska?

Yes. We will continue to do what we can to foster institutional brokerage and money management within the state.

I hope this answers your questions. I would be happy to discuss these or any other Fund-related matters with you at any time.

Sincerely,



William H. Scott
Executive Director

Enclosure

cc: Members, Board of Trustees

Alaska Permanent Fund Corporation

P.O. Box 25500 Juneau, Alaska 99802-5500

(907) 465-2047

MEMORANDUM

DATE: February 26, 1993

TO: The Honorable Terry Martin, Chair
House Finance Revenue Budget Subcommittee
Alaska State Legislature

THRU: William H. Scott *William H. Scott*
Executive Director

FROM: *William L. Means*
William L. Means
Chief Investment Officer

SUBJECT: Alaska Brokerage

At the recent Revenue Budget Subcommittee hearing on the Alaska Permanent Fund Corporation, your staff distributed a document addressing Alaska brokerage commissions and requesting a response. Accordingly, we are responding to your request.

The Alaska Permanent Fund Corporation has had an Alaska brokerage commission program in place since the summer of 1983, and Alaska brokerage offices have been receiving Permanent Fund commission dollars since that time. Our managers have been instructed to do business with brokerage firms having offices in Alaska, provided they are able to give our managers competitive executions. This program has been adopted by resolution of the Board of Trustees. The brokerage firms are required to be direct members of the New York and American stock exchanges. Our managers are informed in April of

The Honorable Terry Martin, Chair

February 24, 1993

Page 2

each year of the percentage of Alaska business each qualifying brokerage firm should receive. Each brokerage firm receives a minimum of 5% of the business with the remaining amount being distributed on the basis of the number of employees in Alaska. Currently, eight (8) brokerage firms in Alaska are participating in the program. This program is monitored on a daily basis by the staff of the Permanent Fund Corporation, and, on a quarterly basis, managers are informed of any wide disparities. Brokerage firms are responsible for establishing proper accounts with managers to insure that business is credited to their Alaska offices.

Total domestic brokerage commission business generated by the Alaska Permanent Fund in FY 92 amounted to \$5,797,000. Of this \$1,320,000, or 22.8%, was commission business credited to the accounts of Alaska brokerage firms or offices. Since the elimination of fixed commissions, the brokerage business has become extremely competitive, both as to execution price and a firm's ability to execute large orders without affecting the price of securities. Brokerage offices, other than the head office, normally receive 25-30% of the large institution account commissions generated by that office with the balance going to head office overhead and profit. It is our understanding that total brokerage commissions generated annually by PERS and TRS combined do not significantly exceed \$2 million.

The bond business is an information business and the Fund's success is directly proportional to the quality and timeliness of the market information we receive. Our past experience with many firms has been that this critical information does not flow fast enough or in a complete enough form to brokerage offices in Los Angeles, San Francisco, Chicago, Dallas, or Anchorage. Many large active bond traders and managers with firms comparable in size to the Alaska Permanent Fund Corporation insist on dealing with a firm's main office so as to receive the most timely information. In fact, a number of broker/dealer firms, in recognition of this fact, have recently closed their large institution sales desks in such cities as Los Angeles, Chicago, Dallas, and Atlanta.

While the Permanent Fund Corporation has attempted on a number of occasions to develop bond business with Alaska brokerage firms, these attempts have never been successful. This business, unlike most of the business of our stock

The Honorable Terry Martin, Chair
February 24, 1993
Page 3

managers, is an over-the-counter business. There is no print-out of volume or execution prices. The business is centered in New York City and is done over the telephone. It is a very volatile business and one in which the large investor is dependent upon the flow of information from salesmen who are, in most cases, in close proximity to the firm's traders who are talking to traders at other firms and witnessing the flow of trades worldwide. During the process of a telephone conversation lasting less than a minute, prices for sizable blocks of U.S. Treasury bonds can, and frequently do, vary by hundreds of thousands of dollars. For the proper management of the Alaska Permanent Fund, the flow of quality information in a timely manner is critical. In order to illustrate this point, it is not unusual for our investment officers to be telephoned at home between 3:30 a.m. and 4:30 a.m. Alaska Time to inform them of rapidly breaking news in either Europe or New York. Frequently, this news is acted upon immediately, resulting in the execution of large orders.

Total U.S. Treasury and corporate bond business executed by the Alaska Permanent Fund in FY 92 amounted to \$4.970 billion. Of this, \$4.353 billion was U.S. Treasury business which is very low profit margin business. Average profitability on such transactions for large institutions amounts to 1/32 of 1% or \$312.50 per \$1,000,000. Assuming this level of profitability, total profitability to brokers on all U.S. Treasury transactions with the Alaska Permanent Fund in FY 92 amounted to \$1,360,000. Branch brokerage offices would receive 25-30% of their portion of this figure. Brokerage firms in Alaska without large institutional trading desks in New York City backing them are at an extreme competitive disadvantage competing for this business.

The profit margin on corporate bond transactions is typically larger, being normally 1/8 of 1% or \$1,250.00 per \$1,000,000. Utilizing this figure, \$617 million in Permanent Fund corporate bond business would have generated in FY 92 \$771,250 in brokerage firm profits. Again 25-30% of an Alaska brokerage office's portion would be allocated to that office. The Fund has always encouraged Alaska brokers to show us corporate bond offerings. Unfortunately, all too often the bonds have been sold out before Alaska brokers have even been made aware of them. This is not a problem unique to Alaska, but a problem also experienced by brokerage offices in cities such as Los Angeles and San Francisco.



520 East 34th Avenue
Anchorage, AK 99503-4199
(907) 561-1900

P.O. Box 101020
Anchorage, AK 99510-1020

November 15, 1993

Senator Tim Kelly
Chair, Alaska State Legislature
Senate Labor and Commerce Committee
716 W. 4th, Suite 400
Anchorage, Alaska 99501-2133

Dear Senator Kelly:

The following responds to the questions contained in your November 2, 1993 letter regarding the provisions of SB 212 relating to the establishment of a state policy for procurement of investment services.

1. *How large is the fund managed by the Permanent Fund Corporation (Alaska Housing Finance Corporation)?*

Investments securities held by the Corporation aggregated \$1,864,433,000 at June 30, 1993.

2. *On trades that you (department staff) do directly, what firms and what branches do you work with?*

Virtually all investment security trading is done through trustees or investment managers.

3. *What efforts have been made to work with brokers in Alaska, or to provide credit to branches in Alaska?*

The Corporation has not directed the trustees and investment managers to use specific brokers or to provide credit to specific branches within those firms from whom the securities are purchased. Where investments have been made directly, staff has honored all requests from local firms or branches to be given the opportunity to bid.

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— ANFC LETTER ON
FINANCIAL INVESTMENT'S POLICY —

Senator Tim Kelly
November 15, 1993
Page 2

4. *In the last five years, has there been an increased amount of trades done locally or increased credits to local branches?*

The Corporation has done little in the way of direct investments during the last five years. When it has, the local branch of the firm has been provided the opportunity to bid on the funds when they have expressed an interest.

5. *What percentage of equity trades (listed and OTC) are done directly with brokers in Alaska? Fixed income trades?*

The Corporation does not invest in equity securities. Fixed income securities are generally not purchased directly by the Corporation. To our knowledge, none of the trustees or investment managers assisting the Corporation deal directly with brokers in Alaska.

6. *What percentage of equity trades (listed and OTC) are done directly with firms that have branches in Alaska? Fixed income trades? How does this compare to the national market share percentages of those companies?*

The Corporation does not invest in equity securities. Fixed income securities are generally not purchased directly by the Corporation. While we are unable to obtain detailed information, it appears that a significant portion of the investment activity occurs through brokers with branches in Alaska. The Corporation does not have information on the national market shares of brokerages.

7. *Does any credit come back to local offices on new issues purchased?*

Investment securities are seldom purchased directly by the Corporation. Where securities are purchased, they generally do not represent new issues.

8. *Please provide a recap of commissions generated by each money manager and by trades done directly?*

The Corporation does not invest in equities and does not pay commissions. Fixed income securities are purchased on a net yield basis. The dealers purchase and sell based upon fee spreads set internally. In some cases where they hold the securities and have a strong desire to move them, they may be selling them at cost. To our knowledge, there is no way of determining the amount, if any, of related commissions.

Senator Tim Kelly
November 15, 1993
Page 3

9. *Have you done any research on the impact of directed trades on quality of execution? Is there written evidence that trades directed to Alaska brokers would impact execution capability?*

The Corporation has not researched the impact of directed trades on quality of execution and has no written evidence supporting or refuting the contention that trades directed to Alaska brokers would impact execution capability. The firm/office from whom the security is being purchased requires a certain level of compensation to justify their involvement in the transaction. If part of the compensation is given up to others without a reduction in the work or risk, it stands to reason that the fee would need to be increased. As investments are purchased on a net yield basis, the increased compensation would be reflected in a reduction in the yield on the investment.

10. *Are you aware of the soft dollar arrangements your different money managers have? Do any of these arrangements benefit the Permanent Fund (Alaska Housing Finance Corporation) or State?*

Some firms assisting with the investment of the Corporation's funds not pledged to outstanding bonds acknowledge soft dollar arrangements applicable to credits for trades done with certain funds they invest. Each has represented to the Corporation, however, that they have no such arrangements related to the investment of Alaska Housing Finance Corporation funds. They feel their fiduciary obligation to obtain the best yields for the Corporation could be confused were they to have soft-dollar arrangements related to AHFC investment activity.

11. *Do existing money manager soft dollar arrangements constrain money managers from doing business directly with brokers in Alaska or from providing credit back to those brokers?*

As noted above, the firms assisting the Corporation claim to have no soft dollar arrangements applicable to credits for AHFC trades.

12. *Have you considered suggesting your money managers use step-outs (trades done with one broker and apportioned out to others)?*

No.

Senator Tim Kelly
November 15, 1993
Page 4

13. *Do you include any local money management firms or money management divisions of local investment firms in your searches?*

Certain funds of the Corporation are held pursuant to custody/trust arrangements with an Alaska trust company with investment functions performed by their Anchorage staff.

14. *Would you consider placing such firms or divisions of firms on a short list if they provide the type of management under consideration and meet all other criteria?*

Yes.

15. *Have you considered using local firms for: 1) Securities lending programs; 2) Commodities hedging programs; 3) Underwriting?*

The Corporation does not lend securities or have a commodities hedging program. Underwritings of Corporation debt securities typically include firms which have offices in Alaska. The Corporation does request the underwriter of AHFC debt securities to include in the selling group all broker/dealer firms with offices in the State of Alaska which are active in the sales of municipal securities. This request is made so that Alaska residents who desire to purchase the Corporation's securities have maximum access to them during the marketing period.

16. *If you desired to work with local brokers, but the firms' policy was to use branches Outside, would you require that services be purchased locally? Would you consider requesting a change of firm policy to meet state policy or desires?*

In the case of AHFC, what is being purchased from broker/dealers is investment securities. We do not rely on the broker/dealers for services. Recognizing that the Corporation desires the highest possible return on its investments and that the dealer/broker desires to offer the highest yielding securities responsive to the bidding parameters, requiring that the firm service the account in a manner inconsistent with their internal policies would appear unwise without first assuring that in so doing yields will not be diminished, investment opportunities reduced, or staff additionally burdened. Requesting rather than requiring in-state account coverage is much more likely to result in the Corporation being made aware of the firm's willingness to provide services on that basis and any consequences which may result.

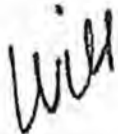
Senator Tim Kelly
November 15, 1993
Page 5

17. *Are you willing to encourage and nurture institutional brokerage and money management expertise in Alaska?*

Yes. We are reluctant to do so, however, if yields on investments will be adversely impacted, investment opportunities restricted, or staff unduly burdened unless the legislation specifies an acceptable level of incremental cost.

I hope the above has adequately responded to your questions. If not, please let me know.

Sincerely,



Will Gay
Chief Executive Officer/
Executive Director

Post-It™ brief fax transmittal memo 7671		# of pages ▶ 4
To: <i>Sen Kelly</i>	From: <i>Sen Kelly</i>	
Co. <i>Sen Kelly</i>	Co. <i>DOA</i>	
Dept.	Phone # <i>2200</i>	
Fax # <i>258-4524</i>	Fax #	

ASKA
ISTRATION

WALTER J. HICKEL, GOVERNOR

P.O. BOX C
JUNEAU, ALASKA 99811-0200
PHONE: (907) 465-2200
FAX: (907) 465-2135

OFFICE OF THE COMMISSIONER

November 18, 1993

The Honorable Tim Kelly
Alaska State Legislature
716 W. 4th, Suite 400
Anchorage, AK 99501-2133

Dear Senator Kelly:

Thank you for this opportunity to comment on the important issues facing Alaskan businesses contained in SB 212.

We support Alaskan businesses and are interested in fostering a healthy and competitive business climate in Alaska and in streamlining the procurement process to the greatest extent possible while reducing the cost to operate State government.

SB 212 seeks to enhance the competitiveness of Alaskan businesses through changes in our procurement practices. The intent of SB 212 is consistent with current State procurement policy.

AAM 81.150 SMALL PROCUREMENTS states:

Lists of vendors from which quotes are sought should be rotated to provide as many Alaskan vendors as possible the opportunity to compete for State procurement.

AAM 81.180 PROFESSIONAL SERVICES states:

Procurements should be separated to accommodate Alaskan vendors if Alaskan vendors would not otherwise be able to respond.

AAM 81.210 SPECIFICATIONS states:

When practicable, specifications should include items grown or manufactured in Alaska.

This bill has potential consequences for the State operating budget which should be considered. Section 2 provides for issuance of bids and proposals to only bidders located in Alaska. Our records show that 2,639 bids were issued in fiscal years 1987 through 1993. Of those bids, 239 awards were made to out-of-state bidders. This represents 9% of the bids issued, or an average of 34 per year. During the past three years out-of-state awards totaled 22, 26 and 24 for FY93. If awards over the past seven years had gone to the lowest Alaskan bidders, the State would have paid an additional \$3,784,072 for these

Senator Kelly

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November 18, 1993

goods and services, 26% higher than the amount actually paid.

Comments on sections 5, 6, 7 and 9 regarding income producing assets, investments, the Alaska Permanent Fund Corporation, and investment services should more appropriately come from those departments affected by these sections.

Specific answers to the questions posed in your November 2 letter concerning the bonus system follow and are addressed in the order presented in your letter:

1. Of all bids received from Alaskan contractors in FY 91, 92, and 93, roughly how many utilized the Alaskan bidder or product preferences?

We do not keep the data in the form you requested. To obtain this information would require extensive research beyond the time available. A random sample was taken of Invitation to Bid awards for November 1991 through February 1992. The following was found:

- 90 bids were published that received 435 bid responses.
- Of the 435 bids received, only three utilized the product preference.

To answer your question -- virtually all Alaskan bidders use the Alaska bidders preference. The Alaska product preference usage is minimal.

2. In your opinion, why wouldn't an Alaskan contractor bidding on a state contract utilize either the product or bidder's preference?

In our opinion the Alaska bidder preference is used extensively by Alaska bidders.

Limited use of the Alaska product preference is due to a number of reasons:

- much of what we bid does not have an Alaska product available that would permit application of the preference;
- the availability of an Alaska product may be questionable to bidders; or
- the Alaska product may not be cost competitive.

3. Wouldn't a bonus program eliminate the fatal flaw in the existing law where contractors are not willing to take the chance, and consequently do not use the product preference bid bonus, because they are afraid of being black-balled on future state contracts if they cannot get planned Alaskan components (no matter what the reason: earthquake, bankruptcy of Alaskan supplier, back ordered, out of schedule, etc.)?

AS 36.30.330 established penalties for a bidder's failure to use an Alaska product when they submitted a bid based on the

use of the product. To our knowledge this penalty has never been invoked, but was established to prevent manipulation of the bid process. The law specifically limits these penalties to circumstances within the bidder's control. Therefore a bidder designating the use of an Alaska product would not be penalized for conditions noted that are beyond their control.

4. In the last 5 years, roughly how many bid protests were initiated as a result of an objection involving the use of a preference?

From 1990 through 1993 out of 183 protests received, ten involved the use of a preference. There was not enough time to request 1988 and 1989 protest files from Archives.

5. Wouldn't a bonus system, in which there would be a one-time accounting effort at project completion to establish the amount of Alaskan goods and services that went into the project, be an easier program to administer than the present product preference program, in which there is a continuous administrative effort by the state from bid opening through completion? Wouldn't administrative costs associated with bid protests, record keeping requirements, and inspections be reduced?

A bonus system would be difficult to administer for Invitations to Bid established by this department because unlike construction payments are made by the customer agency's accounting staff and removed from the evaluation and award of the bid.

In this circumstance, requests for bonus payment would require our procurement staff to become involved with customer agency contract payments.

Savings from reduced protests and simplified bid evaluations would probably be overshadowed by additional administrative review of payment requests by procurement staff.

6. Wouldn't this program build in tremendous incentive to actually use Alaskan goods and services if contractors/suppliers knew they could increase their bottom line profits by using cost competitive Alaskan goods and services?

The bill might be an incentive for bidders to use more Alaskan products if it eliminates disincentives in the current law such as infrequent product evaluation and penalties. It would appear that the bonus, if set at the same percentage as the current preferences, would provide no more incentive. On balance bonus payments to contractors always provides an incentive and should bolster the use of Alaska products.

7. Might this program allow providing a bonus for local hire at project completion where as the Alaska Hire Program has been ruled unconstitutional?

This question would be better answered by the Department of Law.

8. Wouldn't this program be viewed with as much approval by

Senator Kelly

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November 18, 1993

procurement/payables officers as is currently given to the common "2 - 10 net 30" incentive to expedite payment of invoices?

We believe this bill would result in additional administrative effort for State accounting and procurement staff to verify bonus claims and for this reason may not be viewed with approval.

9. Wouldn't this program allow all Alaskan suppliers to approach out-of-state general contractors with something of value to interest the contractor in using an "unfamiliar" sub-contractor/supplier? (Where nothing except local knowledge exists as an inducement currently?)

This program may well result in enhancing the marketability of Alaska products to potential out-of-state contractors.

10. Wouldn't this program allow the use of upwards of \$200,000,000 in federal construction funds by Alaskan contractors and businesses where current federal regulations prohibit "localized bidding preferences"?

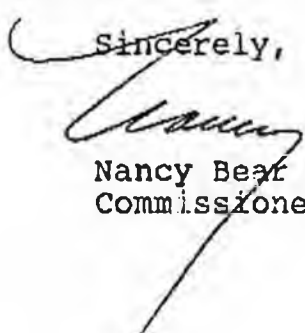
This question should be addressed by Department of Transportation & Public Facilities.

11. Wouldn't this program nullify reciprocal trade statutes based on "preferences"?

This bill may nullify reciprocal trade statutes based on the application of preferences. More research will be needed to confirm this.

I hope this adequately answers the questions you raised. Please feel free to contact me or Dugan Petty, the Director of General Services, should you have any further questions.

Sincerely,


Nancy Bear Usera
Commissioner

NBU/tlc

cc: Division of General Services
Department of Administration



A partnership program of
 Anchorage Chamber
 of Commerce
 Anchorage Economic
 Development Corporation
 University of Alaska
 Small Business
 Development Center
 State of Alaska
 Department of Commerce
 and Economic Development

April 1, 1993

MEMORANDUM

To: Senator Tim Kelly
 Attention: Josh Fink

From: Mary Rucker, Program Manager, BUY ALASKA *Mary*

RE: BUY ALASKA for Brokerage and Investment Services

The importance of innovative policy and legislation regarding the consideration and use of in-state companies by the State of Alaska is paramount to the success of BUY ALASKA. The economic benefits to the private sector are obvious.

We at BUY ALASKA support efforts to enhance local purchasing of all products and services available here in Alaska. We appreciate your consideration of the following report on the advantages and benefits of in-state procurement of financial services.

Thank you.

University of Alaska
 Small Business
 Development Center
 430 W. 7th Avenue, Suite 110
 Anchorage, Alaska 99501
 (907) 274-7232
 (800) 478-7232
 FAX (907) 274-9524

**BUY ALASKA'S POSITION STATEMENT
 & RESPONSE TO DOR & PF MEMOS**

BUY ALASKA for Brokerage and Investment Services

General comments on Department of Revenue and Permanent Fund memos:

- While technical points need to be addressed, many can be resolved with an attitude of "how can we make it happen?" as opposed to "how can we find reasons why it can't happen?"
- The recent loss of two national accounting firms from Alaska highlights the need to nurture in-state professional services.
- The professional investment officers employed by the state are properly addressing issues of fiduciary responsibility and performance obligations. Their comments should be viewed in a positive light, and as a beginning for working closer with the Alaska investment community.
- Without compromising integrity or fiduciary responsibility, many, if not all, trades can be done through local brokers.
- An open, cooperative relationship with the Alaska investment community will prove mutually beneficial. Local brokers and managers have more reasons to give state officials the very best prices and service than do brokers outside.
- The following comments address only securities brokerage. A very significant amount is spent by the state on money management. While specific issues differ between brokerage and money management, the general principles of "Buy Alaska" and its economic benefits apply.
- Cooperation and mutual support will only come from a written policy making clear the state's intent to do business locally.
- Accountability and reporting to the legislature will give investment officers both direction and incentive to "Buy Alaska." It will also give them flexibility to fulfill their fiduciary responsibilities.

Response to Department of Revenue Memorandum dated March 9, 1993:

- "A long standing policy of encouraging the money management firms...to execute trades with brokerage firms that have offices located in Alaska on an "all things being equal" basis.... This policy is articulated in the contracts with external money managers and by law."
- Are copies of contracts and applicable law available?
- How well-known, enforced, or effective have these policies been?
- Does the Department of Revenue have a breakdown of how many trades

have been done in Alaska?

- Portfolio managers use particular brokers to execute block trades for both good executions and market information

- While certain trades may be done better by particular brokers, many trades can be efficiently executed by local brokers who can match the price being charged by outside brokers. As opposed to other bidding processes, no "Alaskan preference" is required or appropriate. All that is needed is a chance to work closely with state investment officers.

- Trades with Alaskan brokers should only be done by those who prove they are capable of handling a particular type of transaction. A fundamental assumption is that "all things are equal." Closer relationships with Alaskan brokers can result in more revenues flowing back to the state.

- Enhancing the volume and expertise of local brokers will go a long way towards "providing the citizens of Alaska with a strong, committed financial community."

- Trading *debt*:

In general, some of the principles mentioned above apply. It is not a case of "all or nothing." Many steps can be taken to increase brokerage done in Alaska without costing more or getting poor executions. The following comments were made:

1. Need information on a timely basis and access to institutional desks.

- With modern communications and computers, some local brokers are dealing regularly and directly with the same institutional desks and traders as outside institutional brokers presently used by state investment officers. This will substantially increase with greater use of in-state brokers. In fact, that is one of the big reasons to do more trades in-state.

2. Limiting competition increases prices and lessens access to information.

- Under no circumstances should investment officers be forced to deal with in-state brokers. Only those that perform should get the business. However, by policy, investment officers should make a legitimate effort to include local brokers in their discussions and bidding.

3. Local brokerage firms need to be well capitalized.

- Local firms include such national powerhouses as Dean Witter, Shearson Lehman Brothers, Merrill Lynch, Kemper, and Paine Webber. These are well-capitalized firms capable of handling large state transactions. In addition, several regional firms can handle smaller transactions. Do we want a repeat of the same job loss that occurred in the accounting profession? Including local brokers *increases* the competitive environment instead of reducing it.

4. International securities

- The large national firms mentioned above have active international trading operations. Local brokers can interface with specialists in their firms without adding costs or impeding transactions.
- Alaska is turning its attention to the Pacific Rim, and attempting to assume a significant international position. A strong local financial community with expertise in international investing and a world perspective will be indispensable future economic growth.

Response to Permanent Fund Memorandum dated February 26, 1993:

In addition to points already covered above, the following addresses issues specific to the Permanent Fund:

- Of the total FY 92 domestic equity brokerage business of \$5,797,000 done by the Fund, only 22.8% or \$1,320,000 was commission business credited to the accounts of Alaska brokerage firms or offices. This does not include international equity trades.
- Virtually no fixed income trades are done with Alaskan offices. The largest part of the Permanent Fund portfolio is fixed income.
- Some Alaska brokerage firms maintain market hours matching the New York markets. Adjusting hours would be easy if a reason existed to do so.
- The major national brokerage firms with offices in Alaska have large institutional trading desks in New York City. Some already maintain close ties to their institutional desks. Others could do so with the increased institutional business the Permanent Fund could provide.
- Some Alaska brokerage firms have institutional computer systems and trading relationships that keep them up-to-date on new issues and major blocks of bonds available. They have the same information available to institutional brokers in New York or Seattle. Other brokers could develop these systems if demand warranted it. Without a written policy from the state, some local offices are prohibited from contacting the state or its agencies.
- As a practical matter, only firms who have already made a commitment to maintain offices in Alaska, or those willing to do so, will benefit from increased usage of local offices. It would be unrealistic to envisage outside firms opening 2 or 3 person offices in Alaska just to do trades with the state. Infrastructure, communications, schedule coverage and other considerations strongly argue against the economics of tiny brokerage offices. It is hard to see how increased dollars flowing through the Alaska economy, with its concomitant employment, could hurt the state economy.

Fees Generated:

Further research needs to be done, but the following estimates begin to delineate the size of the brokerage industry and potential for increase:

Total annual revenues from existing brokerage industry:	\$15-20,000,000
Dept. of Revenue Equity trades (DOR est. approx.)	\$2,000,000
Dept. of Revenue Fixed Income (estimate)	1,000,000
Permanent Fund Equity trades (PF est. approx.)	5,800,000
Permanent Fund Fixed Income (PF est. approx.)	<u>2,200,000</u>
Total	\$11,000,000

Does not include:

- Alaska Industrial Development Export Authority
- Alaska Railroad
- Alaska Housing Finance Corporation
- University of Alaska
- Alaska Post Secondary Education Commission
- Permanent Fund international equity business
- Other state agencies and departments

This also does not include the "spin off" impact that would help repatriate more dollars from boroughs, municipalities, school districts, authorities, etc. to say nothing of private corporations, native corporations, and potential new investing in Alaska.

SUMMARY: Depending on what percentage of current state business is done in state, direct potential exists to increase in-state business up to 50-70%. "Spin-off" benefits could be substantially greater.

Impact on Employment:

- The local brokerage industry tends to justify its staffing levels based on revenue volume. While some economies of scale exist, increases in revenue volume will have a direct impact on employment.
- The Alaskan brokerage community employs perhaps 200 people. These are permanent, skilled, year-round jobs.
- Any material increase in state brokerage business done in Alaska will have a two-fold impact: 1. A direct increase in permanent, professional employment; and, 2. Increased skill, expertise, connections and internal clout which will benefit all Alaskans and their businesses that use brokerage services.
- Local brokers will be spending more money in-state travelling to and visiting with state investment officers in Alaska.
- "Buy Alaska" policies for money management could result in additional material increases in employment.

**Proposed Provisions for Committee Substitute
for Senate Bill 212**

1. Section 9 of Senate Bill 212 should be amended to include Alaska Industrial Development Authority.
2. Each state agency or fund named in Section 9 shall, by not later than January 1, 1995, create, fund and place in operation an "Emerging Alaskan Money Manager's" Program. Funds dedicated to the program shall be allocated for fixed income investments, equities and other exchange traded securities and contracts in which the agency is authorized by law to invest in the same proportion as the asset allocation model of the particular agency.
3. The criteria for the selection of money managers authorized to participate in the Emerging Alaskan Money Manager's Program shall include:
 - a. Sole or principal office located in Alaska.
 - b. Majority of the firm's employees and its principal investment decision-maker to be residents of Alaska with residence to be determined by the tests applicable to permanent fund dividend entitlement.
 - c. Achievement and maintenance of levels of performance by the Emerging Alaskan Money Manager, which are not less than those required by the agency for the performance of their other money managers with respect to the same or similar type of security.
 - d. Possession of all necessary licenses and registrations from governmental authorities to offer the discretionary money management services with respect to the equities, fixed income instruments, exchange traded securities or contracts proposed to be managed.
 - e. Such other criteria as may be established by the agency consistent with the goal of establishment of the Emerging Alaskan Money Manager's Program.
4. All criteria to qualify for participation in the Emerging Alaskan Money Manager's Program and the process for applying those criteria to the selection process for final participation in the Emerging Alaskan Money Manager's Program shall be published, and the screening process shall take place in Alaska either by personnel of the agency involved or by contract with persons or firms resident in the State of Alaska.
5. Each agency involved in this program shall commit not more than two percent or less than one-half of one percent of the funds allocated by it to fixed income investments

**PROPOSED "EMERGING" AK
MONEY MANAGERS PRGM**

equities and other negotiable securities to management through the Emerging Alaskan Money Manager's Program.

6. Nothing contained in this legislation shall preclude any affected agency from placing additional funds with a participant in the Emerging Money Manager Program via the utilization of that agency's other investment procedures and criteria.

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. HCS CSSB 212(L&C)

Revision Date: _____ Dept. Affected: Statewide*
 Title: An Act relating to the giving of procurement BRU: _____
notices: changing the content of the required procurement... Component: _____
 Sponsor: Senate Labor & Commerce
 Requestor: (H) Labor & Commerce COMPONENT SERIAL NO. _____

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	256.1*	256.1*	256.1*	256.1*	256.1*	256.1*
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	256.1*	256.1*	256.1*	256.1*	256.1*	256.1*

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE:	0	0	0	0	0	0
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FUNDING:

1002 Federal Receipts	*	*	*	*	*	*
1003 GF Match	*	*	*	*	*	*
1004 GF	*	*	*	*	*	*
1005 GF/Program Receipts	*	*	*	*	*	*
1006 GF/MHTIA	*	*	*	*	*	*
Other	*	*	*	*	*	*
TOTAL	256.1*	256.1*	256.1*	256.1*	256.1*	256.1*

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 (FY94) impact: \$ -0-

ANALYSIS: (attach a separate page if necessary.)
See attached.

*Bids are awarded by the Division on behalf of customer agencies that have a variety of funding sources. This analysis reflects potential cost impacts to all agencies as a result of potentially higher bid awards. These are not cost impacts to the Division of General Services.

Prepared By: Dugan Petty, Director *D. Petty*
Division: General Services

Phone: 465-2250
Date: _____

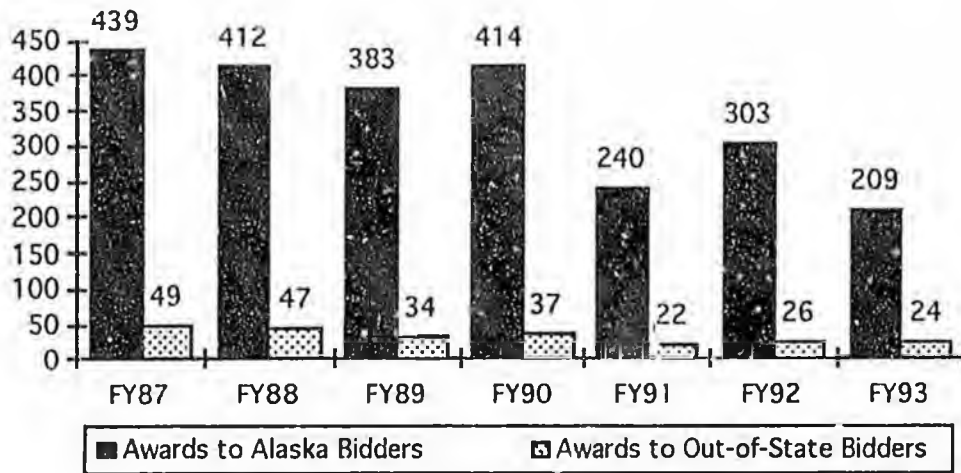
Approved by Commissioner: Nancy Bear Usara *N. Usara*
Agency: Department of Administration

Date: 3/31/94

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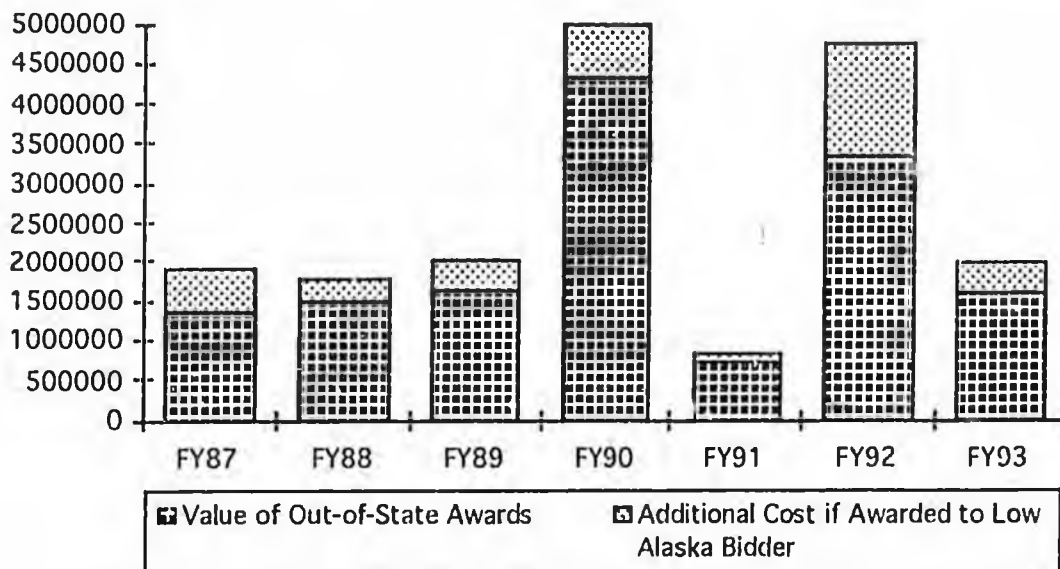
Section 2 of the bill requires notices of bids and proposals to be mailed only to in-state bidders on the contractors list when practicable. We estimate this bill will result in Alaska bidders receiving 66% more of the awards that currently go out-of-state. On average, over the past seven years 34 bids a year are awarded to out-of-state bidders. The graph below demonstrates the number of out-of-state awards in relationship to in-state bid awards over the past seven years.

Invitations to Bid Issued by Department of Administration



An analysis of out-of-state bids issued from FY87 through FY93 indicate that prior implementation of this bill, if 66% effective, would have kept an average of \$1.3 million per year worth of contracts issued by the Department of Administration in-state. The average annual addition costs to State agencies of not purchasing from the otherwise low bidder would be approximately \$356.0. (See graph and table below.)

Difference in Cost Between Alaska Bidders and Low Bidder When Award was Made to Out-of-State Bidder



FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. HCS CSSB 212(L&C)
Page 3 of 3

	FY87	FY88	FY89	FY90	FY91	FY92	FY93
Value Out-of-State Awards	\$1,335.1	\$1,499.5	\$1,618.7	\$4,324.0	\$730.0	\$3,340.0	\$1,605.0
Value of Low AK Bidders	\$1,922.0	\$1,754.0	\$2,010.1	\$4,992.1	\$835.1	\$4,730.1	\$1,993.0
Cost if Awarded to Low AK Bidders	\$586.8	\$254.5	\$391.4	\$668.1	\$105.2	\$1,390.0	\$388.0

The bill permits bids to be issued to out-of-state bidders when specifically requested or when the notice limitation to only in-state bidders is not practicable. We estimate the number of bids that will go to out-of-state vendors and the number of out-of-state bid awards to be reduced by 66%. Therefore we project, based on the most recent FY93 data, the potential fiscal impacts associated with 66% of the out-of-state awards going to the low Alaska bidder to be:

- Projected Awards Captured for In-State Business $24 \times 66\% =$ 16 awards
- Projected Value of Low Alaska Bidder Captured for In-State Business $\$1,993.0 \times 66\% =$ \$1,315.40
- Projected Value of Out-of-State Awards $\$1,605.0 \times 66\% =$ \$1,059.30
- Projected Fiscal Impact (Difference) \$256.1

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. HCS CSSB 212(L&C)

Revision Date: _____ Dept. Affected: Administration
 Title: An Act relating to the giving of procurement BRU: General Services
notices: changing the content of the requirement procurement... Component: Purchasing
 Sponsor: Senate Labor & Commerce
 Requestor: House Labor & Commerce Committee COMPONENT SERIAL NO. 60

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
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
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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 (FY94) impact: \$ -0-

ANALYSIS: (attach a separate page if necessary.)

This bill will require one-time notices of the revised statute to all bidders on the contractors list maintained under AS 36.30.050. Thereafter notices will be mailed only to bidders with Alaska zip codes unless a bidder specifically requests a bid solicitation for a specific Invitation to Bid.

Fiscal impact to the Division will be minimal.

Prepared By: Dugan Petty, Director
 Division: General Services

Phone: 465-2250
 Date: _____

Approved by Commissioner: Nancy Bear Usura
 Agency: Department of Administration

Date: 3/31/94

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SENATE COMMITTEE REPORT
FIRST COMMITTEE OF REFERRAL

DATE: 5/7/93

FURTHER: FINANCE

Date of 5-Day Notice: 5-1-20-94
(in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: 2-8-94

L&C Committee considered SB 212

"An Act relating to publications produced by state agencies and to the procurement of property, property interests, and services by state agencies."

and recommends:

replace with _____ CS SB 212 (L&C)

- same title
- new title
- technical title change (HB only)

attaches amendment(s)

adopts _____ Letter of Intent

further referral to the _____

do pass

do not pass

no recommendation

individual recommendations

FISCAL NOTE INFORMATION

Department Date Zero Fiscal

Department Date Zero Fiscal

SB&CS

Department	Date	Zero	Fiscal
Admin	2/2/94	✓	
Admin-Statewide	2/2/94		✓
DOTPE	2/2/94		✓

Department	Date	Zero	Fiscal

Appropriation No Fiscal Note

Governor's Bill with Previous Fiscal Notes (enter information above)

DO PASS:

OTHER RECOMMENDATIONS:

T. Kelly - Do Pass
Chair: Signature and Recommendation

STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

P.O. BOX 110400
JUNEAU, ALASKA 99811-0400
TELEPHONE: (907) 465-2300
FACSIMILE: (907) 465-2389

November 12, 1993

The Honorable Tim Kelly
Alaska State Senate
716 W. 4th, Suite 400
Anchorage, Alaska 99501-2133

F A X T R A N S M I T T A L M E M O *****

TO: Josh Fink

DEPT: _____ FAX #: 258-4524

FROM: Mary Lu LaVine PHONE: 465-2301

CO: Revenue FAX #: _____

Post-It brand fax transmittal memo 7671

NO. OF PAGES
14

Dear Senator Kelly:

Enclosed is the Department of Revenue's response to your questionnaire regarding instate brokerage and investment services. The Department does have a policy that recognizes the commitment brokerage firms have made to Alaska. I am also a member of the recently created Alaska State Pension Investment Board. Treasury Division staff provided education to the Board on current policy as well as inviting members of the local brokerage community to make an educational presentation regarding this subject. It is my expectation that the Board will continue to review this issue to develop an informed recommendation regarding pertinent legislation.

I have taken the liberty of enclosing a memo from the Department of Revenue's Chief Investment Officer dated March 9, 1993 regarding directed brokerage. This memo discusses many of the issues involved in directing policy. I hope this memo and the Department's response to your questionnaire will be of assistance.

1. Roughly what is the amount of money invested in various funds managed by the Treasury Division?

Response:

Fixed Income Only

General Investments	\$2,055,000,000.
International Airport Revenue Fund	24,000,000.
International Airport R&R	500,000.
Budget Reserve Fund	700,000,000.
Supplemental Benefits Trust Fund	1,500,000.
ASLC Collateral Loans	8,200,000.
ASLC Bond Proceeds Disb.	6,000,000.
Bond Construction	231,000.
Public School-Income	8,900,000.
University of Alaska-Income	336,000.
Alaska Advance College Tuition	6,100,000.

- DOR LETTER ON
FINANCIAL INVESTMENT'S POLICY

The Honorable Tim Kelly
 Alaska State Senate
 November 12, 1993
 Page 2

Multiple Assets

Public Employees' Retirement Trust Fund	3,950,000,000.
Teacher's Retirement Trust Fund	2,300,000,000.
Investment Loss Trust Fund	149,000,000.
Judicial Retirement Trust Fund	41,000,000.
Military Retirement Trust Fund	3,100,000.
Public School Trust Fund	139,000,000.
University Of Alaska Trust Fund	21,400,000.

2. On trades that you (department staff) do directly, what firms and what branches do you work with?

Response:

<u>Company</u>	<u>Location</u>
Bank of America	San Francisco
Bear, Stearns Securities Corp.	San Francisco
Deutsche Bank Gov't. Securities, Inc.	New York
Discount Corporation of New York	New York
Donaldson, Lufkin & Jenrette	San Francisco
First Boston Corporation	New York
Goldman Sachs & Co.	San Francisco
Kidder Peabody & Co., Inc. Corporate	Bond-Milwaukee Government - San Francisco
Lehman Brothers, Inc.	San Francisco
Merrill Lynch & Co., Inc. Corporate	Bond-San Francisco Government - Seattle
Morgan Stanley & Co., Inc.	San Francisco
Paine Webber Incorporated	New York
Salomon Brothers Inc.	Chicago
Swiss Bank Corporation	New York
United Bank of Switzerland Securities Inc.	New York

The Honorable Tim Kelly
 Alaska State Senate
 November 12, 1993
 Page 3

DIRECT ISSUERS - COMMERCIAL PAPER

American Express Credit	Wilmington, Delaware
American General Finance	Houston
Associates Corp of North America	Dallas
Ford Motor Credit	Detroit
General Electric Capital	New York

3. What efforts have been made to work with brokers in Alaska, or to provide credit to branches in Alaska?

Response:

This Department does have a policy that recognizes the commitment brokerage firms that have offices in the state have made to Alaska. In regards to equities, all contracts with equity managers state "Provided that all components of the trade execution are equal, Contractor is encouraged to execute trades with brokerage firms that have an office located in Alaska." Staff further notifies all equity managers which firms have offices in Alaska, local addresses and telephone numbers as well as local contracts. Concurrently, staff notifies local brokerage offices who the contacts, address and telephone numbers and names of equity managers the Department of Revenue employs..

To further assist local offices, staff has recently instituted a policy of notifying local offices on a quarterly basis of the amount of trades that have occurred. Volume of shares, dollar value of the transactions and total commission. It is hoped that this information will assist local offices in monitoring trading activity.

In regards to Fixed Income, coverage is typically assigned by the brokerage firms. In only one instance has coverage been assigned to an Alaskan office. Staff did provide opportunities for local coverage to execute trades on behalf of the Department of Revenue.

I have taken the opportunity to include an unsolicited letter from a member of the local brokerage community that thanks staff for their efforts to improve the program.

4. In the last five years, has there been an increased amount of trades done locally or increased credits to local branches?

Response:

This information is difficult to discern. In regards to equities, public knowledge is not

The Honorable Tim Kelly
 Alaska State Senate
 November 12, 1993
 Page 4

available as to how brokerage firms distribute their income or how local offices use proceeds that they receive. However, because of the efforts of this administration, I am confident that more commission dollars are being distributed to local offices.

As this question applies to fixed income securities, the Department of Revenue has only been covered by one local office in over a decade. This coverage did occur in the last five years and that individual was given a representative opportunity to compete for business. However, the individual that did provide local coverage left the firm in the spring of 1992 and was not replaced by local coverage. I emphasize that the Department of Revenue did not participate in any discussions as to where coverage should be assigned.

5. What percentage of equity trades (listed and OTC) are done directly with brokers in Alaska? Fixed income trades?

Response:

To my knowledge, no equity trades are executed through Alaskan offices and, as stated earlier, staff receives no coverage from Alaskan offices for fixed income.

6. What percentage of equity trades (listed and OTC) are done with firms that have branches in Alaska? Fixed income trades? How does this compare to the national market share percentages of those companies?

Response:

The percentage of trades executed through firms that have offices located in Alaska can be broken down as follows:

<u>Equities</u>		<u>Fixed Income</u>
by shares	28%	total cost 32%
by total cost	28%	
by commission	29%	

7. Does any credit come back to local offices on new issues purchased?

Response: As it applies to funds managed by the Department of Revenue, new issues play a very limited role in equities and fixed income. No data is available regarding equities and fixed income purchases are executed through existing relationships.

8. Please provide a recap of commissions generated by each money manager and by trades done directly.

The Honorable Tim Kelly
 Alaska State Senate
 November 12, 1993
 Page 5

Response: For Quarter Ending June 30, 1993

<u>Manager</u>	<u>Total Commission</u>	<u>Local Commission</u>	<u>%</u>
Ark Asset Mgmt	177,976	32,157	18
Capital Guardian	14,291	5,975	42
IDS Advisors	50,914	26,349	52
Invesco	29,098	19,799	68
John McStay	33,633	0	0
Lazard Freres	12,076	269	2
Mackay-Shields	75,771	20,151	27
Miller Anderson	255,677	93,743	37
Newbolds	18,728	4,313	23
Putnam	28,399	2,987	14
RCM	27,553	7,569	27
State Street	5,637	304	5
Wells Fargo	1,333	18	1

9. Have you done any research on the impact of directed trades on quality of execution? Is there any written evidence that trades directed to Alaska brokers would impact execution capability?

Response:

No execution study has been commissioned. In the response to question six one might note that commissions paid to Alaskan firms as a percentage was 1% greater than volume by shares or total cost. This is not alarming because the observation was for a limited period. In regards to fixed income executions, the Department of Revenue observed during the period when coverage was provided locally, the brokerage firm was market competitive with obligations by agencies of the United States Government but was not competitive with corporate issues. Staff does have documented evidence of competitive prices in regards to Alaskan fixed income coverage.

10. Are you aware of the soft dollar arrangements your different money managers have? Do any of these arrangements benefit the Permanent Fund or State?

Response:

Many but not all equity managers employed by the Department of Revenue do use soft dollar arrangements. Revenue is indirectly rewarded as it may pay for research or other tools that would assist managing an equity portfolio.

The Honorable Tim Kelly
Alaska State Senate
November 12, 1993
Page 6

11. Do existing money manager soft dollar arrangements constrain money managers from doing business directly with brokers in Alaska or from providing credit back to those brokers?

Response:

Potentially yes, arrangements are typically made through institutional brokerage firms. If soft dollars are used, for example, to pay for research from an organization that does not have any office in Alaska, a manager should constraint in getting best execution or sufficient information to make appropriate decisions.

12. Have you considered suggesting your money managers use step-outs? (Trades done with one broker and apportioned out to others.)

Response:

No suggestions have been made, however, some managers do use Stepouts.

13. Do you include any local money management firms or money management divisions of local investment firms in your searches?

Response:

Yes. The Department of Revenue uses a consultant to assist in money manager searches. Not only does the Department inform prospective managers about the consultant, it also advises the consultant of these managers. The Department also maintains an open dialogue with prospective managers, to the degree that a manager wishes to have contact, to keep prospective managers informed of current allocation, manager searches or any other pertinent information.

14. Would you consider placing such firms or divisions of firms on a short list if they provide the type of management under consideration and meet all other criteria?

Response: Unequivocally.

15. Have you considered using local firms for: 1) Securities lending programs; 2) Commodities hedging programs; 3) Underwriting?

Response:

1. Securities Lending; The Department of Revenue contracts with its custodian bank for securities lending.

2. Commodities hedging programs are not part of the funds asset allocation nor are they being considered.

The Honorable Tim Kelly
Alaska State Senate
November 12, 1993
Page 7

3. Historically, local firms have been considered and participated in debt underwriting.
16. If you desired to work with local brokers, but the firms' policy was to use branches Outside, would you require that services be purchased locally? Would you consider requesting a change of firm policy to meet state policy or desires?

Response:

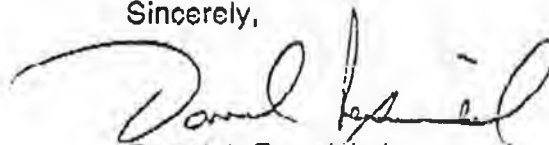
Any fiduciary must invest with the beneficiaries in mind. All considerations, best execution, commissions, etc. must be made in that context. The Department of Revenue is committed to continual review and improvement of the process within the context of managing in the best interests of the beneficiaries.

17. Are you willing to encourage and nurture institutional brokerage and money management expertise in Alaska?

Response:

It is incumbent on staff to keep all institutional brokerage coverage and money managers well informed. This only serves in the best interest of the state and beneficiaries. In terms of fixed income coverage, the Department of Revenue has never denied coverage nor requested that they not be covered by offices in Alaska.

Sincerely,



Darrel J. Rexwinkel
Commissioner of Revenue

93-119

Enclosures

cc: William A. Corbus, Chair, ASPIB
Gail R. Oba, Vice-Chair, ASPIB
James "Pat" Wellington, ASPIB Trustee
Gary M. Bader, ASPIB Trustee
Ross A. Kinney, ASPIB Trustee
Laraine L. Derr, Deputy Commissioner, Treasury
Robert D. Storer, Chief Investment Officer, Treasury
Kris Lethin, Legislative Liaison, Governor's Office

M E M O R A N D U M

STATE OF ALASKA DEPARTMENT OF REVENUE

To: Darrel J. Rexwinkel
Commissioner

Date: March 9, 1993

From: Brian C. Andrews *B. Andrews*
Deputy Commissioner

Telephone: 465-4399

From: Robert D. Storer *Bob*
Chief Investment Officer

Re: Directed Brokers

The Department of Revenue recognizes the commitment a number of regional and national brokerage firms have made to Alaska over the years. This commitment has resulted in a long standing policy of encouraging the money management firms, who manage assets on behalf of the Department of Revenue, to execute trades with brokerage firms that have offices located in Alaska on an "all things being equal" basis; i.e., these firms must be able to execute a trade at an equal or competitive market price. This policy is articulated in the contracts with external money managers and by law.

There are a number of reasons the policy was developed in this manner. But first, an explanation of the actual trade process, which differs between equities and debt, is appropriate.

The *domestic equity (stocks)* portfolios of the various Funds for which the Department of Revenue is responsible are managed externally by a number of professional money management firms who have demonstrated an ability to exceed market returns over a prolonged period of time. Multiple managers are used to provide style diversification, i.e., growth and value, as well as a method of diversifying the potential negative results of a given portfolio manager having the inevitable year of under-performance. Managers specialize in managing funds for a number of large institutions with portfolios having the same basic security holdings. When equity managers reposition portfolios they do so by proportioning the results of a single transaction of a large block of securities.

Portfolio managers also know through experience which brokerage firms specialize in trading certain types of equities and which organizations are aggressive buyers or sellers of securities on any given day. When the decision is made to execute a trade they use this knowledge to direct the activity, usually through a special direct telephone line to the appropriate institutional trading desk, with specific instructions on how to complete the trade depending on the market environment. This method of trading is the most expeditious way to receive market information and complete the execution of a trade. The large volume of this type of block trade also gives the portfolio manager the ability to negotiate the lowest possible commission fees on behalf of all the portfolios under management.

If a portfolio manager were directed to execute trades with a limited number of firms away from existing relationships, the transaction would most likely be delayed. Any such delay could have a significant negative impact on the Department of Revenue's equity portfolios due to potentially

Darrel J. Rexwinkel
Commissioner

March 9, 1993
Page 2

volatile market conditions, more costly commissions resulting from the lower volume of transactions, and the limited competitive environment that directed brokerage creates.

It should also be noted that directing a portion of the total block of securities being traded to a separate brokerage firm would create a non-competitive pricing environment resulting in higher prices when purchasing stock and lower prices when selling stock. Most assuredly, if the portfolio manager directed the entire transaction to a less efficient environment that manager would be abdicating fiduciary responsibility to all other funds that he/she has under management.

The Department of Revenue recognizes these problems, but also recognizes that a number of brokerage firms have a commitment to the State of Alaska. Staff feels that directing the Fund's managers to execute trades with organizations that have made a commitment to the citizens of Alaska on an "all things being equal" basis, with the potential for sharing revenues with the local brokerage community, is the best way to balance our role as the fiduciary of the beneficiaries of the funds, and to assist in providing the citizens of Alaska with a strong, committed financial community.

Trading *debt* (bills, notes, and bonds) has many similar characteristics plus some additional issues. The key similarities between debt and equities are 1) the need for information in a timely manner; 2) immediate access to institutional trading desks to fully execute a trade; and 3) limiting competition increases the probability of less competitive prices and lessens the access to information in the financial markets.

Directing trade activity in the debt markets to regional offices actually counters an on-going trend. For a number of years major national brokerage firms have been reducing or eliminating regional offices due to the needs of portfolio managers for timely information, plus trading debt is not labor intensive. This is one unfortunate misstatement in the attached handout that I will address later.

The potential delay of information should not be taken lightly. In the new issue market, I personally have seen delays in excess of 15 minutes in receiving information from regional offices in San Francisco versus the same information offered directly from the trading floor in the New York headquarters of national brokerage firms. This example is not an isolated incident and can have a material impact when trying to purchase issues that have been over-subscribed (buy orders in excess of the amount of securities available).

Another issue in trading a debt portfolio of the size of Revenue's is the need to trade in large dollar volume, thereby requiring the brokerage firm to be well capitalized. The attachment states that, "Many brokerage firms will strongly resist changing established patterns of doing business." This is true because prudence dictates that most trades be directed to the larger capitalized national brokerage firms at the expense of a number of smaller regional firms that have had offices in Alaska for years. This further reduces the competitive environment of managing a debt portfolio.

While the handout does not specifically discuss *international securities*, all the previously mentioned components of trading domestic securities apply to trading international securities. In addition, the issues of trading currency and the operating hours of the international markets are

Darrel J. Rexwinkel
Commissioner

March 9, 1993
Page 3

critical factors. The international market requires specialized personnel who can access local markets during the respective trading hours. These factors further complicate directing activity to Alaskan offices.

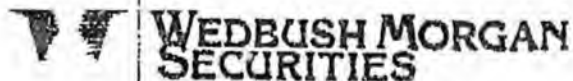
There are two statements in the attachment that I would like to address. The first item is the amount of fees that are being generated and the second is the number of employees such activity would generate.

It is noted that 20-30 million dollars in fees and commissions are generated annually by the various public entities that have responsibility to manage money in Alaska. I certainly do not have access to such information from the other agencies, but it should be noted that commissions generated by trading domestic equities on behalf of the Department of Revenue were \$521,000 for the quarter ending June 30, 1992, and \$486,000 for the quarter ending September 30, 1992. Because debt trades without commissions, it is impossible to determine what income would be derived from trading the debt portfolio; however, the Department of Revenue tends to manage the portfolio with a low turnover rate which implies similarly low revenues to the brokerage firms.

The attachment also states that 20-30 million dollars in commissions and fees would generate from 120 to 210 full time employees to Alaska. This may be so, but it should be noted that the infrastructure of the brokerage firms is already in place and, as stated earlier, trading debt is not labor intensive. The Department of Revenue employs three personnel to manage over five billion dollars in debt trading.

The Department of Revenue, in conjunction with its fiduciary responsibility to the beneficiaries of the Funds under management, has created a policy which recognizes that commitment and addresses the need for a diversified strong financial community in Alaska for the benefit of all of the citizens of the state. The Department of Revenue encourages contact with all members of the Alaska financial community and are committed to working with the community within the context of prudently managing the Funds for the best interests of the beneficiaries.

4300 B STREET SUITE 105 | ANCHORAGE | ALASKA 99503
MEMBER NEW YORK STOCK EXCHANGE AND OTHER PRINCIPAL EXCHANGES



907-563-4300
FAX 907-563-8372

November 9, 1993

Mr. Robert D. Storer
Chief Investment Officer
State of Alaska, Department of Revenue
P.O. Box 110405
Juneau, AK 99811-0405

Dear Bob,

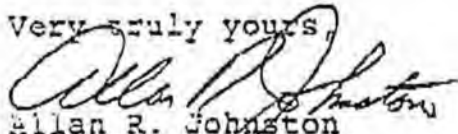
Thank you for your letter of September 17th, with the list of equity managers for the State of Alaska. Your policy to encourage these firms to do business in the State is a most welcome one, which we support whole-heartedly. If there is ever anything we can do to help you implement and develop this program, please count on us.

In recent weeks, both IDS and Ark Capital Management have been actively directing business to us. We are delighted that we have been able to establish these relationships, and hope to encourage more business in the future.

As you suggest in your letter, we will contact the other managers again, in the hope that they may also be encouraged to begin doing business with Alaskan offices. Now that the managers are aware of your active support, perhaps a renewed effort at this time will get the program off the ground. We appreciate your commitment to this policy.

Thank you again for your help and support.

Very truly yours,


Allan R. Johnston
Vice President

SB 212: "An Act relating to publication by state agencies and to the procurement of property, property interests, and services by state agencies."

The department supports passage of this bill.

1. **THE DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT IS INTERESTED IN ONE ASPECT OF THE BILL MORE THAN OTHERS, THAT OF COMMENCING AN INNOVATIVE CONSTRUCTION PROCUREMENT METHODS PILOT PROGRAM TO ADDRESS CURRENT SYSTEM SHORT-FALLS.**

The mission of the Department of Commerce and Economic Development is, in part, to promote a viable private sector in the State of Alaska. SB 212 is an effort to assist Alaskan businesses to better compete for state government purchases of goods and services vis-a-vis out-of-state suppliers.

Section 13 of SB 212 calls for the Commissioner of the Department of Transportation and Public Facilities to begin a two-year program for the use of innovative methods of the procurement of construction services by using bonuses to replace the preferences required under AS 36.30.

The bonus system is envisioned to offer the same type of preference to contractors who use it that currently exist under AS 36.30 with the process being changed, somewhat, for the bonus system. Under the new program, the process would be changed to one that simply accounts for the purchase of Alaskan products at the end of the contract and then makes the incentive adjustment to the final payment to the contractor.

Background:

AS 36.30.322-.338 establishes current preferences for Alaskan products. These statutes are administered on a regular basis by the Department of Transportation and Public Facilities and the Department of Commerce and Economic Development as well as other state departments.

The purpose of the existing statute is to provide a useful, working incentive to encourage Alaskan contractors to use Alaskan products in meeting state agency needs. The changes in SB 212 respond to the fact that there are problems in the current approach that limit its effectiveness in meeting the intent of the original 1986 legislation.

In 1986, the state created a statutory preference for Alaska that states:

(AS 36.30.328)

In the evaluation of a bid or proposal for a procurement for an agency, a bid or offer that designates the use of Alaska products identified in the contract specifications and designated as Class I, Class II or Class III state products under AS 36.30.332 is decreased by the percentage of the value of the designated Alaska products under AS 36.30.332.

(Class I is a 4% incentive, where more than 25% and less than 50% of the product is produced or manufactured in the state; Class II products offer a 5% preference, and are at least 50% but not more than 75% produced or manufactured in the state; and Class III products carry a 7% incentive, and are greater than 75% produced or manufactured in Alaska.)

The Department of Commerce and Economic Development regularly determines, in advance, the class of products submitted for use in the program.

The current preference program is restricted to evaluations of competitive bids for state procurements. This requires bidders to know and submit names of approved products and vendors at the time of the bid. It also locks the contractor or supplier into actually supplying the specified product that was stated in the bid whether or not it was wise to do so in the light of the current requirements of an ongoing project.

Under existing statute, there is a substantial penalty for not using a designated product noted on the original bid document. The statute (AS 36.30.330) requires the Commissioner of Commerce and Economic Development to declare a contractor "not a responsible bidder or offeror" if he/she has, twice in the preceding three years, failed to use a designated Alaska product "for reasons within the control of the bidder or offeror." The declaration of "not a responsible bidder" has potentially grave consequences for future contractors' participation on other state contracts. The penalty and the system requiring the product preference program to be a bid adjustment mechanism act as disincentives for the existing product preference program. The bonus system would eliminate penalty fear in that there would be no stated Alaskan product/services use at the outset, but rather a simple accounting of the degree of such usage at the conclusion of the contract. It would also allow the proper use of Alaskan services and products given the events occurring on the project at any given day.

2. DCED IS INTERESTED IN PROVIDING INCENTIVES TO USE ALASKAN SUBCONTRACTORS AND SUPPLIERS THROUGHOUT THE COURSE OF WORK, NOT JUST AN INCENTIVE AT THE TIME OF BID.

The system of requiring carefully specified products and suppliers to be identified in the beginning of the project severely limits a contractor's incentive to use the existing Alaska Product Preference incentives at latter stages of the period. The contractor is legally bound to his/her selection, arguments can and are raised as to when it either was or was not in the bidder's control to use the specified product, and there is no incentive for contractors to make decisions toward Alaskan suppliers

once the bids have been opened, since no benefit accrues to the contractor as a result of the purchase (or of a product substitution).

3. DCED IS INTERESTED IN ESTABLISHING A SIMPLER, LESS PROCEDURALLY COMPLEX PROCESS.

The existing statute requires extensive accounting efforts at the time of the bid as well as throughout the life of the purchase or procurement contract. When a bid is submitted in response to a solicitation by a state agency, it must be carefully evaluated along with the then-current product preference certification book published by the Department of Commerce and Economic Development. At times, objections are raised by unsuccessful bidders regarding the applicability of a particular product or vendor to its class designation. These objections must be addressed in a rigorous and formal manner prior to awarding the contract in order to avoid overturning the bid process.

Other administrative tasks are burdensome as well:

1. monitoring the use of designated products throughout the life of each procurement contract - even where Alaska products are covered up as a result of construction;\
2. amending the contract when Alaska products cannot be used - beyond the control of the contractor;
3. deducting 4% to 7% on all future pay requests for individual Alaskan items originally specified in a bid and subsequently amended out of a contract;
4. handling contractor complaints arising from the application of the program at the time of bid;
5. handling contractor complaints that arise during the course of a contract;
6. finalizing the contract in light of the actual use of designated Alaskan products compared to the items proposed at time of bid; and
7. managing product preference complaints and/or arbitration.