

**ALASKA LEGISLATURE COMMITTEE FILES 1993-1994 8672**

**8399 SENATE LABOR & COMMERCE**

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.

# Alaska State Legislature

Senator Tim Kelly, Chair  
Senator Steve Rieger, Vice Chair  
Senator Bert Sharp  
Senator Judy Salo  
Senator Georgianna Lincoln



STATE CAPITOL, SUITE 101  
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## SENATE LABOR AND COMMERCE COMMITTEE

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### SECTIONAL ANALYSIS FOR SB 212: "BUY ALASKA BILL"

Section 1: Findings, Purpose, and Intent.

Section 2: Amends AS 36.30.130, Public Notice of Invitation to Bid, to encourage procurement officers to restrict notice of contract solicitation to Alaskan suppliers and providers of services desiring to compete for state contract work, unless specifically requested by an out-of-state contractor. (This practice already in DOT/PF.)

Section 3: Amends AS 36.30.540, Procurements Report to the Legislature, to require that the commissioner's report on procurement to the legislature include the number of bidders located in the State and out-of-state that bid or made proposals on procurements. This will allow the legislature to track the success of the procurement reforms. This section also would require annual instead of biennially reports.

Section 4: Amends AS 36.30.540 to require State agencies subject to the State policy on procurement for investment services (Section 9) to submit a report to the legislature by January 15 of each year reporting on its progress in implementing the policy.

Sections 5, 6, and 7: Amends AS 36.30.850(b)(13), (15), and (16), Exemptions to the Procurement Code, to subject the following procurements to both the reporting requirements in Section 4 and the State Policy on Procurement for Investment Services in Section 9:  
1) Purchases of income producing assets for the State treasury or a public corporation of the State; 2) A contract that is a delegation of investment powers held by the commissioner of revenue; and 3) A contract that is a delegation of investment powers or fiduciary duties of the Board of Trustees of the Alaska Permanent Fund Corporation.

Section 8: Amends AS 36.30.850(b) to exempt from the procurement code contracts to be performed outside the country which require knowledge of the local customs and laws. (This is a technical amendment added last year at the request of the Administration.)

Sectional Analysis - SB 212

"Buy Alaska" Bill

Page 2

**Section 9:** Adds a new section, 36.30.895: State Policy for Procurement of Investment Services. This new provision clearly establishes that it is the State's policy to increase its utilization of brokerage and investment services provided by persons located in the State for investment and brokerage procurements, while leaving it up to the affected agency or public corporation to implement.

**Section 10:** Repeals and re-enacts AS 44.99.200, Production of Publications, to replace the requirement that State publications be produced at State-operated facilities with a requirement that State publications be produced at a private sector facility located in the State when practicable. In addition, it mandates that standards for the production of publications be established by the Department of Administration.

**Section 11:** Amends AS 44.99.210, Disclosures on Publication, to conform to Section 10.

**Section 12:** Repeals AS 44.99.230, Standards for State Publications. This provision was amended into 44.99.200 (Section 10).

**Section 13:** Establishes an Innovative Construction Procurement Methods Pilot Program within the DOT/PF for a period of two years. This program will allow the department, through regulation, to use bonuses to replace the current preferences required under AS 36.30.

The commissioner must first determine in writing that using the innovative methods is in the best interests of the state, not contrary to the intent and purposes of the current preference system, and describe how the innovative methods modify the procurement procedures of 36.30. The commissioner shall make two reports to the legislature on the construction contracts awarded under the pilot program 15 and 27 months after it begins.

**Section 14:** Establishes that report requirements under Section 10 of this act apply to reports due after the effective date of this act.

**Section 15:** Establishes that the first report under Section 4 of this act is due January 15, 1995.



# Senate Economic Task Force

State Capitol, Room 101, Juneau, Alaska 99801  
Telephone: (907) 465-3822 • Fax: (907) 465-3756

Chair  
**Senator Tim Kelly**  
*Chairman, Senate Labor and Commerce Committee*

Vice-Chair  
**Senator Bert Sharp**  
*Chairman, Senate Transportation Committee*

Member  
**Senator Rick Halford**  
*Senate President*

Member  
**Senator George Jacko**  
*Chairman, Senate Rules Committee*

Member  
**Senator Robin Taylor**  
*Chairman, Judiciary Committee*

Member  
**Senator Fred Zharoff**  
*Senate District C*

Member  
**Senator Suzanne Little**  
*Senate District D*

## MEMORANDUM/FAX TRANSMITTAL

**TO:** All Senators and Representatives

**FROM:** Senator Tim Kelly, Chair  
Senate Labor & Commerce Committee  
Senate Economic Task Force

**DATE:** November 16, 1993

**RE:** November 17th Senate Economic Task Force/Senate Labor and Commerce Committee Hearing on SB 212, "Buy Alaska" legislation.

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The Senate Labor & Commerce Committee will be holding a joint hearing with the Senate Economic Task Force teleconferenced statewide on November 17th at 1:00 p.m. chaired in Anchorage. Testimony will be taken on Senate Bill 212, the "Buy Alaska" bill.

This legislation aims to increase the share of State purchases of goods and services going to Alaskans. For your reference I've attached:

- \* An overview and sectional analysis
- \* Proposal submitted on "Emerging Alaskan Money Manager's Program"
- \* "Discussion Bullets" for a Bonus System

Notices have been sent to 1,500 Alaskan businesses that have done or attempted to do business with the State. This should be an informative and constructive meeting, and your attendance would be greatly appreciated. Please let my staff, Josh Fink, know if you will be able to attend.

Thank you. I hope to see you there.

# SENATE FINANCE COMMITTEE REPORT

DATE: 2/9/94

FURTHER:

DATE TURNED INTO OFFICE: 2-15-94

The Finance Committee considered **SENATE BILL NO. 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 (FINANCE)  
 or  adopt previous        CS        (      )  
 attaches amendment(s)

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

- adopts        Letter of Intent  
 further referral to the

- do pass  
 do not pass  
 no recommendation  
 individual recommendations

**NEW FISCAL NOTES**

Department	Date	Zero	Fiscal
Admin	2-2-94	<input checked="" type="checkbox"/>	
Admin-Statewide	2-2-94		\$256.1
DOT & PF	2-2-94		\$ 5.0

**PREVIOUS FISCAL NOTES**

Department	Date	Zero	Fiscal

Appropriation No Fiscal Note

DO PASS:

Tim Kelly

OTHER RECOMMENDATIONS:

Steve Morris

1. Tom F...  
 Co-Chair: Signature/Recommendation

2. True Lance  
 Co-Chair: Signature/Recommendation

8-LS0878R  
Bannister  
2/1/94

CS FOR SENATE BILL NO. 212(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): SENATE LABOR AND COMMERCE COMMITTEE BY REQUEST OF THE SENATE  
ECONOMIC TASK FORCE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the giving of procurement notices; changing the content of  
2 the required procurement reports to the legislature by the commissioner of  
3 administration; relating to publications produced by state agencies; establishing an  
4 innovative construction procurement methods pilot program; and establishing  
5 legislative findings, a legislative purpose, and legislative intent for state  
6 procurement; and providing for an effective date."

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

8 \* Section 1. FINDINGS, PURPOSE, AND INTENT. (a) The legislature finds that  
9 (1) the state needs to develop and maintain a strong, stable, and prosperous  
10 economy based on private investment;  
11 (2) the existence of a strong and healthy free enterprise system is directly  
12 related to the well-being and competitive strength of Alaskan businesses and to the opportunity  
13 for Alaskan businesses to have free entry into the business market and to grow and expand;

1 (3) the use of products manufactured, grown, or produced in Alaska  
2 strengthens, stabilizes, and diversifies Alaska's economy;

3 (4) when governmental agencies purchase and use out-of-state products and  
4 services, they reduce job-creating investments and limit the growth of the economy of Alaska;

5 (5) contracts are frequently awarded to out-of-state firms, even though Alaskan  
6 suppliers, manufacturers, and providers of services are more accessible and responsive to the  
7 needs of Alaska's business community than their out-of-state counterparts;

8 (6) there is a need for Alaska to examine its purchasing practices in order to  
9 ensure that state agencies support Alaskan businesses by making every reasonable effort to  
10 identify available Alaskan goods and services and to foster bidding by local businesses and  
11 labor forces;

12 (7) state agencies should look outside Alaska for goods and services only if  
13 they have provided notice of the procurement in Alaska.

14 (b) The legislature declares that the purpose of this Act is to foster a procurement  
15 process where Alaskan businesses obtain a fair proportion of Alaska's total procurement  
16 contracts by providing Alaskan businesses with a fair, equitable, and competitive bid process.

17 (c) It is the intent of the legislature that

18 (1) except as prohibited under AS 36.30.320(d), a state agency shall, when  
19 practicable and economically feasible, design procurements in a way that fosters participation  
20 by Alaska bidders or offerors;

21 (2) except as prohibited under AS 36.30.320(d), and unless it is anticipated that  
22 two or more Alaska bidders or offerors would be capable of performing the procurement, an  
23 agency that is proposing a procurement shall, when practicable and economically feasible,  
24 divide or otherwise structure the procurement so that it can be performed by Alaska bidders  
25 or offerors, if the proposed procurement is too large to be performed by Alaska bidders or  
26 offerors, and if the procurement officer determines that Alaska bidders or offerors generally  
27 would be capable of performing the procurement if the procurement were reduced in size or  
28 otherwise restructured; in this paragraph, "Alaska bidders or offerors" means persons who  
29 qualify as Alaska bidders under AS 36.30.170(b).

30 \* Sec. 2. AS 36.30.130(a) is amended to read:

31 (a) The procurement officer shall give adequate public notice of the invitation

1 to bid at least 21 days before the date for the opening of bids. If a determination is  
2 made in writing that a shorter notice period is necessary for a particular bid, the  
3 21-day period may be shortened. The determination shall be made by the chief  
4 procurement officer for bids for supplies, services, or professional services. The  
5 determination shall be made by the commissioner of transportation and public facilities  
6 for bids for construction or acquisition of property for the state equipment fleet.  
7 Notice shall be published in the Alaska Administrative Journal. The time and manner  
8 of notice must be in accordance with regulations adopted by the commissioner of  
9 administration. When practicable, notice may include

10 (1) publication in a newspaper calculated to reach prospective bidders  
11 located in the state;

12 (2) notices posted in public places within the area where the work is  
13 to be performed or the material furnished; and

14 (3) notices mailed to all active prospective contractors on the  
15 appropriate list maintained under AS 36.30.050

16 (A) if the contractors are located in the state;

17 (B) upon request, if the contractors are not located in the  
18 state.

19 \* Sec. 3. AS 36.30.130(a) is repealed and reenacted to read:

20 (a) The procurement officer shall give adequate public notice of the invitation  
21 to bid at least 21 days before the date for the opening of bids. If a determination is  
22 made in writing that a shorter notice period is necessary for a particular bid, the  
23 21-day period may be shortened. The determination shall be made by the chief  
24 procurement officer for bids for supplies, services, or professional services. The  
25 determination shall be made by the commissioner of transportation and public facilities  
26 for bids for construction or acquisition of property for the state equipment fleet.  
27 Notice shall be published in the Alaska Administrative Journal. The time and manner  
28 of notice must be in accordance with regulations adopted by the commissioner of  
29 administration. When practicable, notice may include

30 (1) publication in a newspaper calculated to reach prospective bidders;

31 (2) notices posted in public places within the area where the work is

1 to be performed or the material furnished; and

2 (3) notices mailed to all active prospective contractors on the  
3 appropriate list maintained under AS 36.30.050.

4 \* Sec. 4. AS 36.30.540 is amended to read:

5 Sec. 36.30.540. REPORT TO LEGISLATURE. The [BEGINNING WITH  
6 DECEMBER 1, 1989, THE] commissioner shall biennially report to the legislature  
7 concerning procurements by agencies. The report must include

8 (1) the records maintained by the commissioner under AS 36.30.510  
9 and the records maintained under as 36.30.520(a) for the previous two fiscal years:

10 (2) recommendations for changes in this chapter or other laws based  
11 on implementation of this chapter in the previous two fiscal years;

12 (3) a description of any matters that involved litigation concerning this  
13 chapter in the previous two fiscal years;

14 (4) a list of procurements made under this chapter from out-of-state  
15 sources during the previous two fiscal years together with the total number of  
16 procurement contracts entered into during that period with out-of-state contractors and  
17 the total value of these contracts; this paragraph does not apply to procurements made  
18 under AS 36.30.320; and

19 (5) a list of procurements made under this chapter from state sources  
20 during the previous two fiscal years together with the total number of procurement  
21 contracts entered into during that period with state contractors and the total value of  
22 these contracts; this paragraph does not apply to procurements made under  
23 AS 36.30.320;

24 (6) the number of bidders and offerors that bid on or made  
25 proposals for procurements under this chapter, the number of these bidders and  
26 offerors that were located in the state, and the number of these bidders and  
27 offerors that were located outside the state; this paragraph does not apply to  
28 procurements made under AS 36.30.320.

29 \* Sec. 5. AS 44.99.200 is repealed and reenacted to read:

30 Sec. 44.99.200. PRODUCTION OF PUBLICATIONS. The publications of a  
31 state agency shall be produced at a private sector facility located in the state when

1 practicable. The Department of Administration shall establish standards for the  
 2 production of publications by state agencies, except that the Board of Regents of the  
 3 University of Alaska shall establish the standards for the university. The standards  
 4 shall be designed to promote simplicity, low cost, and consistency.

5 \* Sec. 6. AS 44.99.210 is amended to read:

6 Sec. 44.99.210. DISCLOSURES ON PUBLICATION. IF [A PUBLICATION  
 7 OF A STATE AGENCY IS EXEMPTED UNDER AS 44.99.200(a) FROM BEING  
 8 PRODUCED AT A STATE-OPERATED FACILITY AND IF] the actual annual costs  
 9 for a [THE] publication of a state agency that are paid from the general fund exceed  
 10 \$1,500, the publication must include a statement that gives the name of the agency  
 11 releasing the publication, the purpose of the publication, the cost for each copy of the  
 12 publication, and the city and state where the printing was done. The statement must  
 13 read: "This publication was released by . . . (name of state agency) . . . , produced at  
 14 a cost of \$ . . . . per copy to . . . (statement of purpose) . . . , and printed in . . . .  
 15 . (city and state where printed)." If the publication is required by law, the statement  
 16 must also include: "This publication is required by . . . (appropriate citation to Alaska  
 17 law)." The statement may include, if applicable, a declaration of the revenue raised  
 18 by the sale of the publication or from the purchase of advertising in the publication.  
 19 The statement shall be printed in one conspicuous place in the body of the publication  
 20 in a type size that is not smaller than eight points and shall be placed in a box  
 21 composed of at least one point rule. In this section, "cost for each copy" means the  
 22 figure that results after dividing the total contract cost of producing the publication by  
 23 the number of copies produced. This section does not apply to a publication that is  
 24 intended primarily for foreign or other out-of-state use, or to a program for a public  
 25 ceremony of a state agency.

26 \* Sec. 7. AS 44.99.230 is repealed.

27 \* Sec. 8. INNOVATIVE CONSTRUCTION PROCUREMENT METHODS PILOT  
 28 PROGRAM. (a) Within six months after the effective date of this section, the commissioner  
 29 of transportation and public facilities shall begin a two-year pilot program for the use of  
 30 innovative methods for the procurement of construction services by using bonuses to replace  
 31 the preferences required under AS 36.30.

1 (b) Notwithstanding the provisions of AS 36.30, if the commissioner determines in  
 2 writing that using innovative construction procurement methods for the procurement of  
 3 construction contracts would be in the best interests of the state, the commissioner may, by  
 4 regulation, adopt procedures different than those provided under AS 36.30 as necessary to use  
 5 bonuses instead of preferences in the procurement of construction contracts. The  
 6 determination must find that the innovative methods are not contrary to the intent and  
 7 purposes of AS 36.30, demonstrate that the innovative methods are in the best interests of the  
 8 state, and describe how the innovative methods modify the procurement methods and  
 9 procedures of AS 36.30.

10 (c) Within 15 months after the pilot program begins, the commissioner shall report  
 11 to the legislature on the construction contracts awarded during the first year of the pilot  
 12 program. Within 27 months after the pilot program begins, the commissioner shall report to  
 13 the legislature on the construction contracts awarded during the second year of the pilot  
 14 program.

15 (d) The legislature may review the pilot program at any time during the program and  
 16 may make the program permanent or broaden the scope of the innovative procurement  
 17 program.

18 (e) In this section,

19 (1) "best interests of the state" means that the proposed action would provide

20 (A) an economic benefit to the private businesses and citizens of the  
 21 state;

22 (B) an economic benefit to state government; and

23 (C) greater administrative efficiencies than existing procedures provide;

24 (2) "commissioner" means the commissioner of transportation and public  
 25 facilities.

26 \* Sec. 9. APPLICABILITY. AS 36.30.540(6), enacted by sec. 4 of this Act, applies to  
 27 reports due after the effective date of sec. 4 of this Act.

28 \* Sec. 10. Section 3 of this Act takes effect on the date that is four years after the effective  
 29 date of sec. 2 of this Act.

*develop  
 language  
 contracts  
 by areas  
 of state  
 monthly  
 contracts  
 awarded*

A M E N D M E N T

OFFERED IN THE SENATE  
TO: CSSB 212(L&C)

BY SENATOR PEARCE

Page 5, line 10, following "\$1,500,":

Insert "or if the actual annual costs of a state agency publication that is a report required by law are paid from a source other than the general fund and exceed \$1,500."

Page 5, line 24, following "use,":

Delete "or"

Insert "[OR]"

Page 5, line 25, following "agency":

Insert: ", or to materials used by a state agency to develop a market for the agency's services or products"

SENATE FINANCE  
COMMITTEE

Amendment Number: ①  
Bill Number: SB 212  
Sponsor: PEARCE Date: 2/14/94  
Logged In By: (Pm)

A M E N D M E N T

OFFERED IN THE HOUSE

BY REPRESENTATIVE GREEN

TO: CSSB 212(FIN) am

Page 2, line 29, following "AS 36.30.170(b)":

Insert "; and

(3) state agencies that procure investment and brokerage services increase the utilization of brokerage and investment services provided by persons located in the state; in this paragraph, "state agency" includes the University of Alaska, the Alaska Railroad Corporation, the Alaska Housing Finance Corporation, the Alaska Aerospace Development Corporation, the Alaska State Pension Investment Board, and the Alaska permanent fund established under AS 37.13.010, but does not include the state trustees or federal trustees under AS 37.14.450"

## SPONSOR STATEMENT

### CS SB 212(FIN): "BUY ALASKA" LEGISLATION

State government is one of the largest purchasers of goods and services in the Alaskan economy, purchasing everything from road design and construction services to copy machines and paper and pencils. The use of services and products provided by Alaskan businesses stabilizes and diversifies Alaska's economy.

SB 212 aims to help strengthen Alaska's economy by increasing the share of State government's contracts for goods and services going to Alaskan businesses.

Specifically, this legislation would establish an Innovative Construction Procurement Methods Pilot Program within the DOT/PF for a period of two years to implement an Alaska Bonus Program to replace the current preferences.

Current incentives include the Alaskan Bidders Preference, Alaska Subcontracting, Disadvantage Business Enterprises/Equal Employment Opportunity programs, and Alaska Products Preference, and the Alaska Hire Program. The latter two are largely unworkable and consequently underutilized or not utilized at all. Allowing the DOT/PF to test on a trial basis a bonus system which provides bonuses at project completion and encourages the same policy goals would be more economically beneficial for vendors, reduce administrative costs and bid protests, and could likely be used in joint federal/state projects where State preferences are currently not allowed.

The commissioner would establish this program through regulation and report to the legislature on the program's progress 15 and 27 months after implementation. If successful, the legislature could expand and extend this program indefinitely, replacing the current preferences.

Lastly, this bill incorporates a number of provisions from the "Make-It-Alaskan" legislation from the 17th Legislature, House Bill 245, which would also increase the amount of State work going to Alaskans. This bill would:

- 1) Encourage procurement officers to restrict notice of contract solicitation to Alaskan suppliers and providers of services desiring to compete for state contract work. (This practice is already standard in DOT/PF);
- 2) Require the commissioner to include in his report to the legislature on State procurements the number of bidders located in-state and out-of-state that bid or made proposals on procurements;
- 3) Replace the statutory requirement that State publications be produced at State-operated facilities with a requirement that State publications be produced at a private sector facility located in the State when practicable. In addition, standards for the production of publications would be established by the Department of Administration, and a cost box would be required for all publication's exceeding \$1,500 in cost.

**SECTIONAL ANALYSIS FOR CS SB 212 (FIN):**  
**THE "BUY ALASKA" BILL**

**Section 1:** Findings, Purpose, and Intent.

**Section 2:** Amends AS 36.30.130, Public Notice of Invitation to Bid, to encourage procurement officers to restrict notice of contract solicitation when practicable to Alaskan suppliers when and providers of services desiring to compete for state contract work, unless specifically requested by an out-of-state contractor. (This practice already in DOT/PF.)

**Section 3 & 10:** Provide a 4 year sunset to Section 2 so that its effectiveness may be evaluated. This sunset was put in at the request of the Department of Administration.

**Section 4:** Amends AS 36.30.540, Procurements Report to the Legislature, to require that the commissioner's report on procurement to the legislature include the number of bidders located in the State and out-of-state that bid or made proposals on procurements. This will allow the legislature to track the success of the procurement reforms.

**Section 5:** Repeals and re-enacts AS 44.99.200, Production of Publications, to replace the requirement that State publications be produced at State-operated facilities with a requirement that State publications be produced at a private sector facility located in the State when practicable. In addition, it mandates that standards for the production of publications be established by the Department of Administration.

**Section 6:** Amends AS 44.99.210, Disclosures on Publication, to conform to Section 5.

**Section 7:** Repeals AS 44.99.230, Standards for State Publications. This provision was amended into 44.99.200 (Section 5).

Sectional Analysis - SB 212

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**Section 8:** Establishes an Innovative Construction Procurement Methods Pilot Program within the DOT/PF for a period of two years. This program will allow the department, through regulation, to use bonuses to replace the current preferences required under AS 36.30.

The commissioner must first determine in writing that using the innovative methods is in the best interests of the state, not contrary to the intent and purposes of the current preference system, and describe how the innovative methods modify the procurement procedures of 36.30. The commissioner shall make two reports to the legislature on the construction contracts awarded under the pilot program 15 and 27 months after it begins.

**Section 9:** Establishes that report requirements under Section 4 of this act apply to reports due after the effective date of this act.

**Section 10:** With Section 3, provides a 4 year sunset to Section 2 so that the effectiveness of limiting contract solicitation to Alaskan businesses and publications may be evaluated. This sunset was put in at the request of the Department of Administration. Establishes that the first report under Section 4 of this act is due January 15, 1995.

Registered with the Commodity  
Futures Trading Commission  
MEMBER  
National Futures Association  
Managed Futures Association



**BERKOWITZ**  
**FUTURES**  
**ADVISORY**  
**INC.**

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October 28, 1993

Senator Tim Kelly  
716 West Fourth Avenue  
Suite 400  
Anchorage, AK 99501-2133

Dear Senator Kelly:

I enjoyed meeting you yesterday at the office of McKinley Capital and appreciate your thoughts on Senate Bill 212.

On the question of what Alaskans are capable of doing, I am enclosing a marketing piece from my firm entitled Fear of Futures. I am confident that you will find it informative and easy to read.

I have received many positive comments regarding Fear of Futures from professionals in the managed futures industry in the Lower 48. I have been able to tell them with pride that it was entirely conceived, designed and printed in Alaska.

I believe that I have a great deal to offer in the investment arena and strongly believe it would be in the best interests of the State to promote a local money management industry by removing arbitrary barriers to in-state money management opportunities.

Very truly yours,

A handwritten signature in dark ink, appearing to read 'Herb Berkowitz', written in a cursive style.

Herb Berkowitz

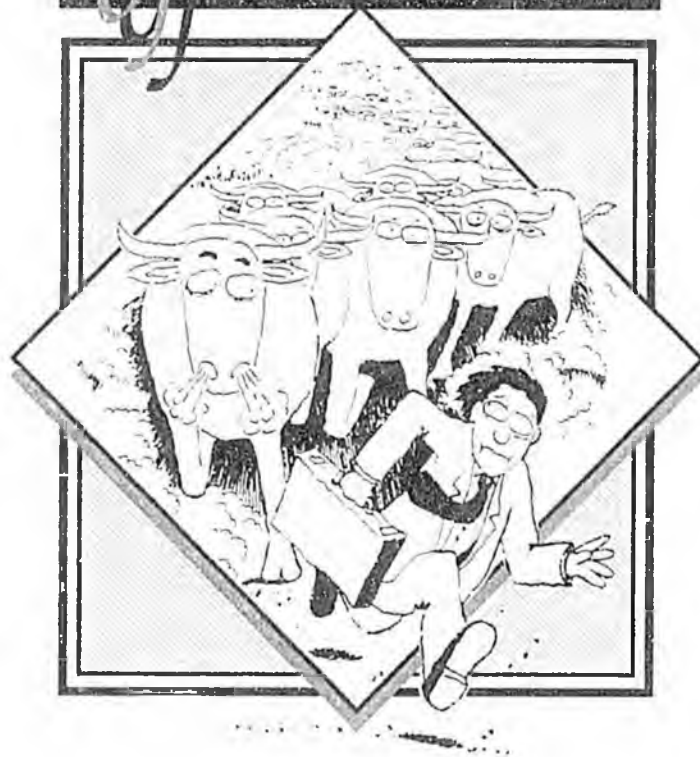
# FEAR

*of* FUTURES



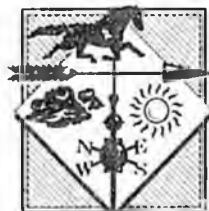
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*of* FUTURES



By Herb Berkowitz

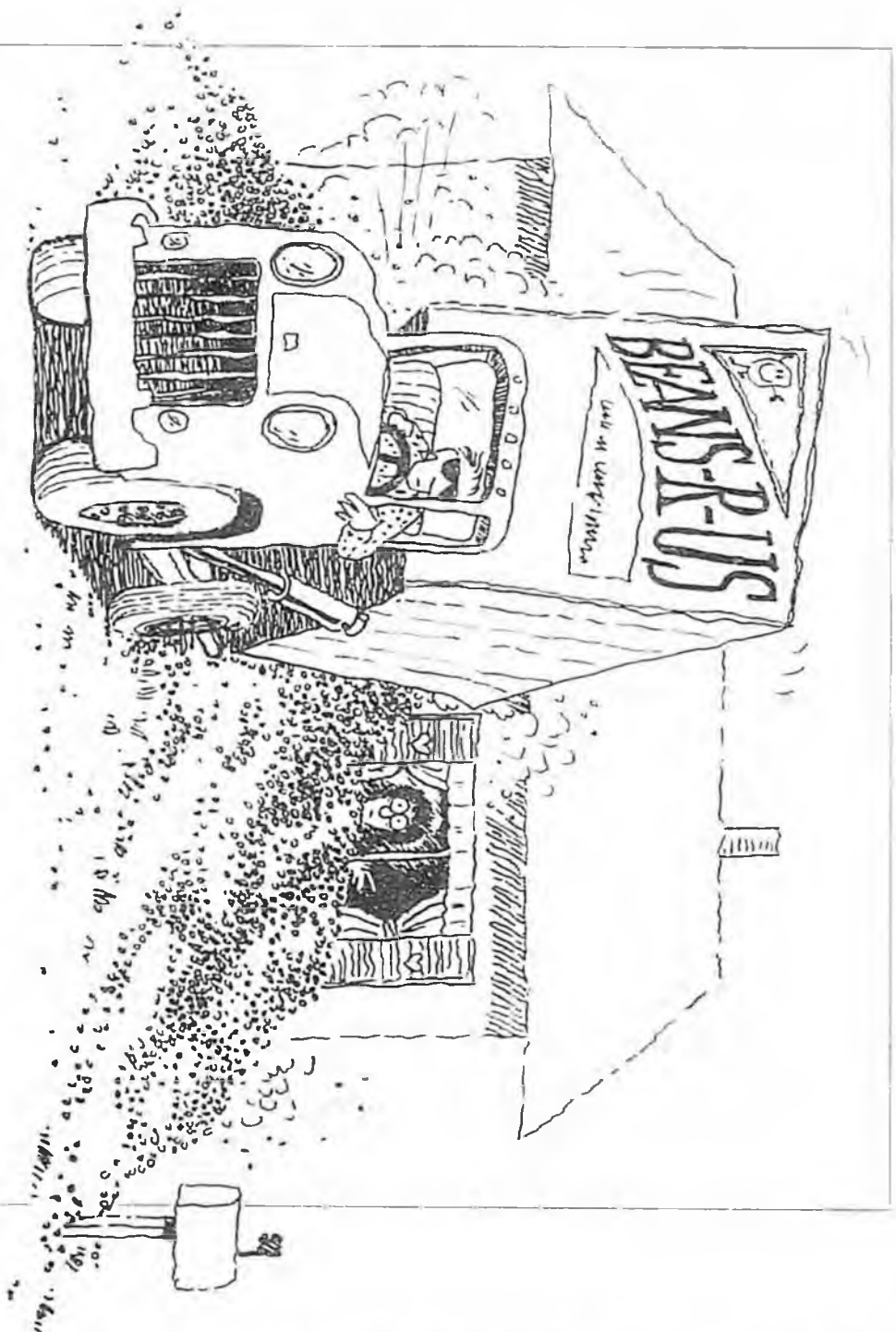
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National Futures Association  
Managed Futures Association

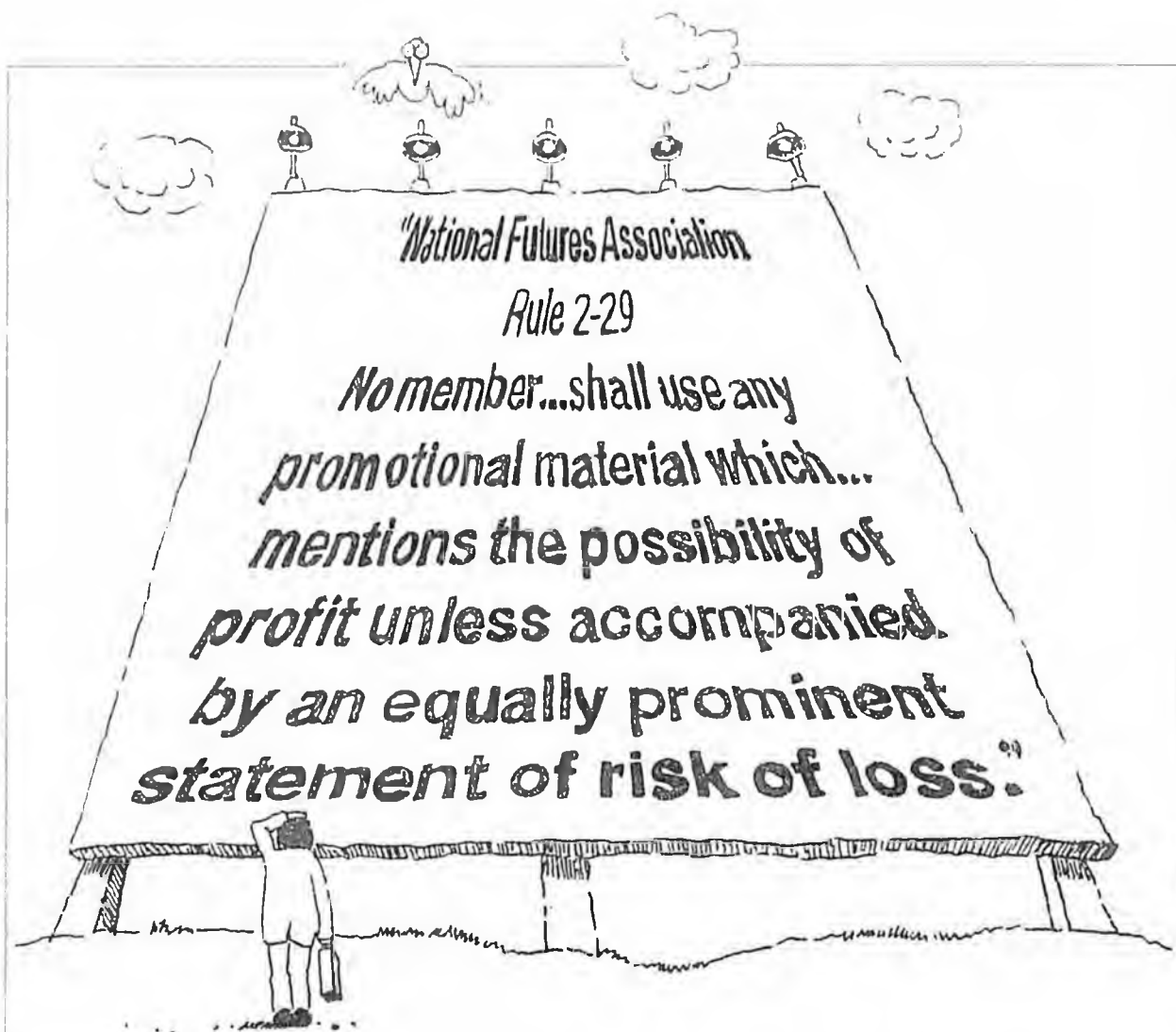


**Many investors are simply  
scared to death of  
futures and commodities.**

**F**utures and commodities—the  
topics are usually interchangeable  
have a terrible reputation. Everyone  
knows someone you know someone who  
knows someone who took it hard on their  
beliefs and lost in their future people.

And yet, it's a very important  
tool for your trading with a portfolio of  
securities on the floor. They make the  
investor's job, but having someone  
dumped your own jawns is not one of them.

◆



**There is no question that you can lose money trading futures.**

**I**t is a simple fact of life that any attempt to capture profits comes with it the risk of loss. The two are inexorably linked. There are ways of managing risk, such as cutting losses short and avoiding excessive leverage, but it can never be completely eliminated.

One of the axioms of Modern

Portfolio Theory, however, is that the risk of any individual class of investment must be evaluated in your overall context. By adding to a portfolio a non-correlated investment, such as futures, you may reduce overall risk, even though futures potentially entails higher risks (and rewards) than some other investment.

Also, the existence and extent of risk can definitely be a matter of opinion. The fact that "experts" characterize an investment as safe or conservative does not make it safe or conservative. Many investors learned that lesson in the real estate and high-yield bond markets where they were also startled to encounter significant illiquidity. ♦



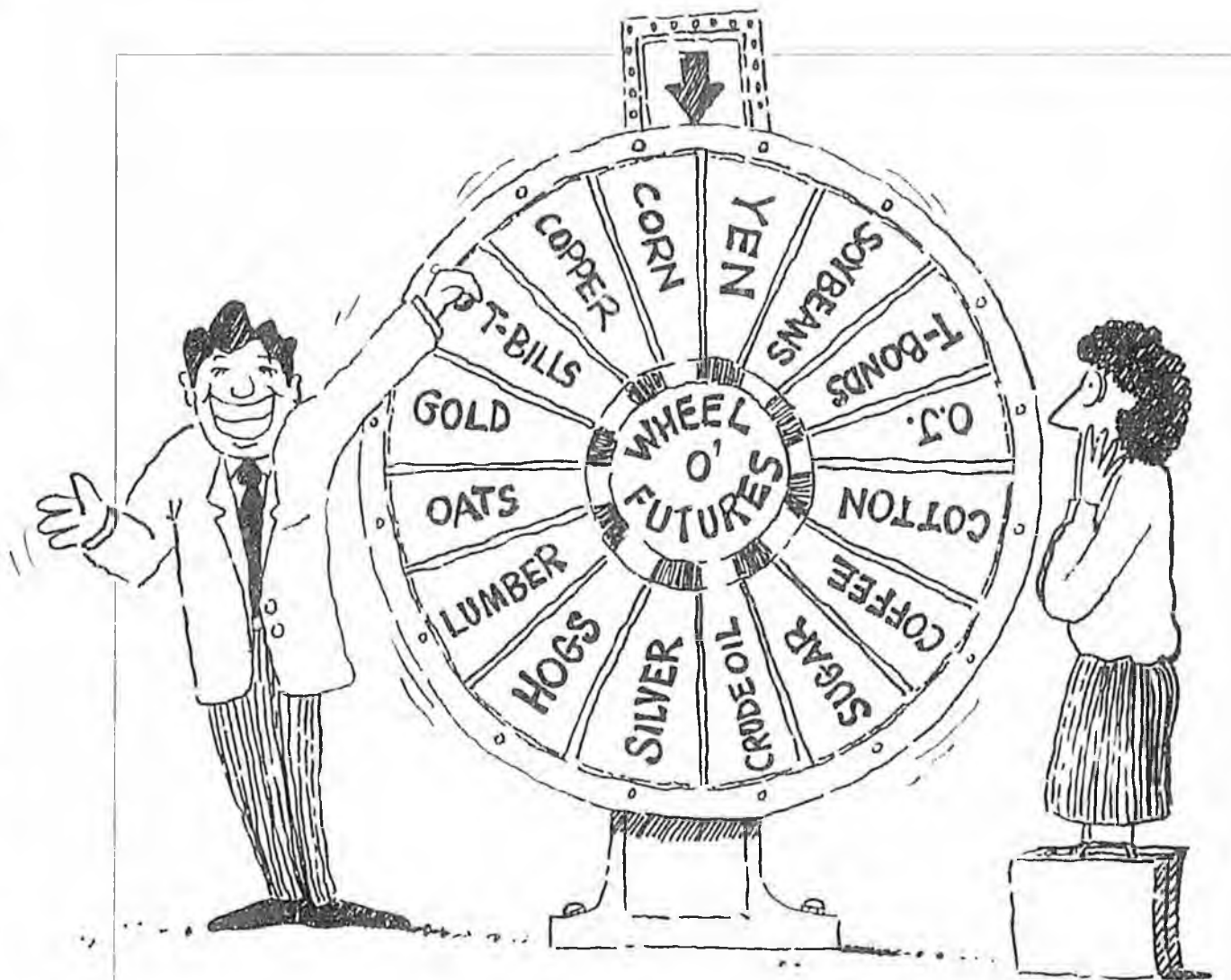
The futures markets definitely seem complicated and confusing to the average investor.

**D**

espite all of their peculiar technical jargon, the futures markets are in many ways simpler than the stock market. For example, there are literally thousands of stocks traded on exchanges and over-the-counter, but there are only 30

or so actively traded commodities in the U.S.

In any event, participating in futures through a managed account requires no specialized technical knowledge, although your questions are always welcome. Just pick up the phone, even if you are just curious and want to chat. ♦



## Many investors think that commodity trading is gambling.

Some investors can't help but turn commodity trading into gambling if you want to, just as you can make the stock market into gambling.

Some commodity investors obviously enjoy the emotional stimulation that comes with leveraged positions in volatile markets. They must enjoy it

because they usually lose money and still come back for more action.

Berkowitz Futures Advisory is in the business of futures trading, which reflects rational risk taking in real-world markets. A managed futures program is not gambling. The playing

field may sometimes be rough, but it is definitely level. It bears little resemblance to shooting dice or playing roulette where you are destined to lose because mathematical probabilities are rigged against you. ♦



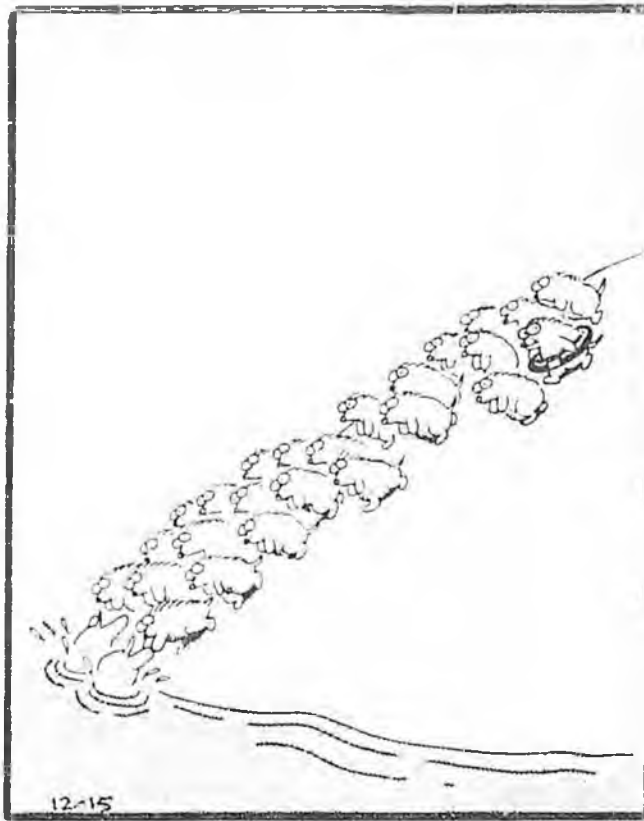
**The futures markets are a free market medium for price discovery as well as a form of price insurance utilized by large and small concerns to hedge their business risks.**

**T**he futures markets are used by many of the largest corporations in the world to protect themselves against currency fluctuations, agricultural price changes, interest rate reversals and various other price movements. For example, a fast food company with international

operations will use these markets to simultaneously hedge its price change risk with respect to agricultural products and its foreign currency risk with respect to overseas revenues.

The futures markets have become huge and increasingly international. The ability to freely discover price and

transfer the risk of price change is one of the pillars of free enterprise and has led to phenomenal growth and expansion in these markets almost everywhere. ♦



These markets provide an excellent diversification device for those who are uncomfortable with blindly following the herd.

The Far Side cartoon by Gary Larson is reprinted by permission of Chronicle Features, San Francisco, CA.

**S**peculators, hoping to profit from favorable price movements, serve the critical function of providing liquidity to these markets.

It requires no imagination to simply follow the crowd and smugly assume that the future will hold no surprises. If you choose to speculate, however, your profits are an appropriate economic

reward for being on the side of the market that comes to terms with economic reality.

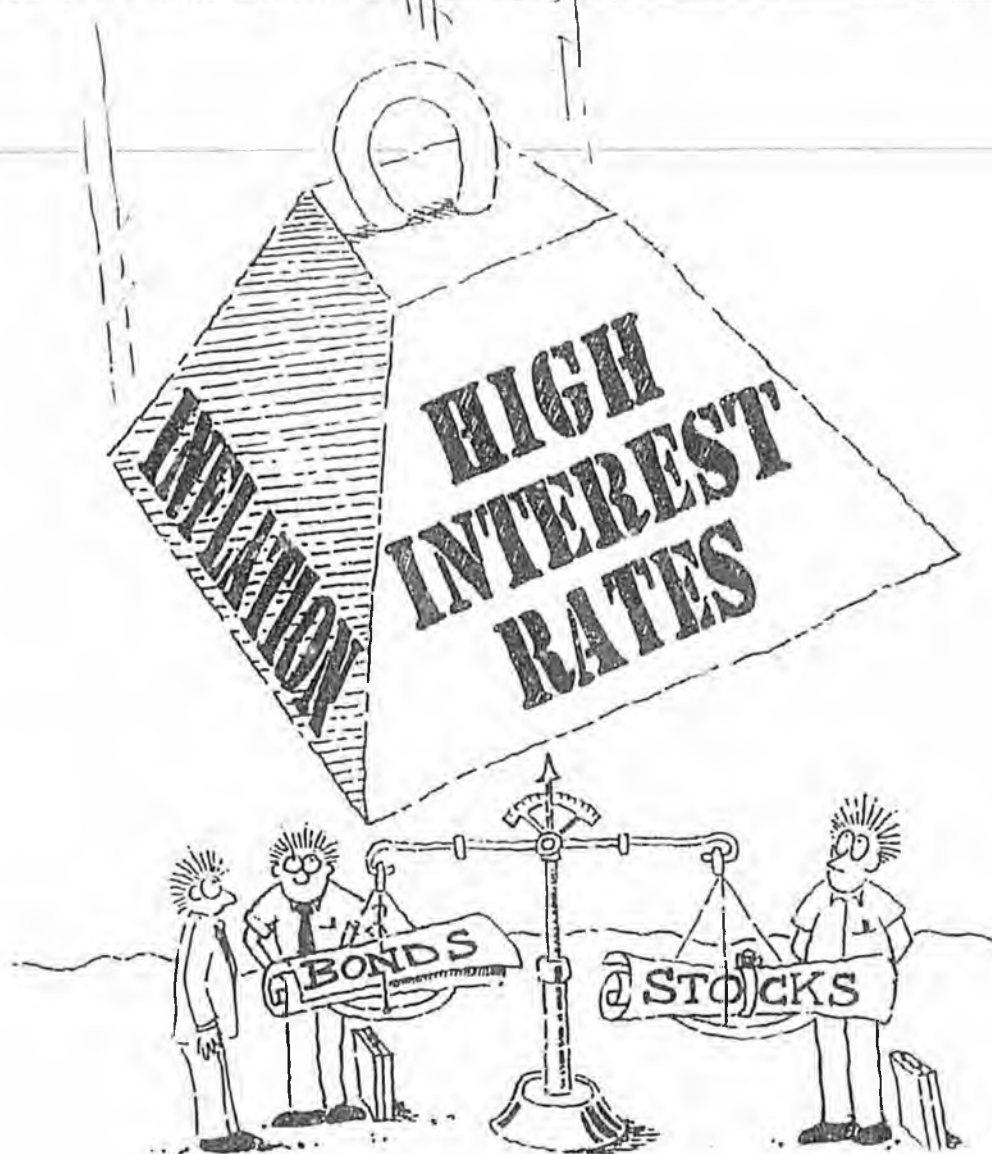
No one rings a bell when profitable trading opportunities suddenly come along. History has shown, however, that they have sprung up in the futures markets time and time again. ♦



## Is it appropriate for conservative investors and institutions to participate in these markets and assume these risks?

**A**bsolutely. There is a common misconception that fiduciaries are automatically barred from participating in the futures markets. This is simply not so. There is nothing in ERISA that precludes futures market participation if your governing documents permit.

The introduction of a properly sized futures component into an overall portfolio may prove to be extremely prudent. It not only enhances diversification per se, but may reduce overall portfolio risk by introducing a non-correlated element. ♦



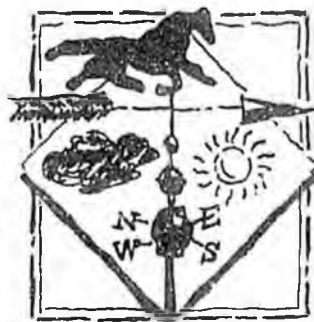
## A so-called "balanced portfolio" is not as balanced as many people think.

**M**any popular investments struggle in difficult or confusing economic times. Stocks and bonds are vulnerable to rising interest rates, inflation, economic stagnation and loss of confidence. Only the futures markets may offer

protection against falling valuations, market breaks and other unexpected or unwanted scenarios.

The hallmark of futures trading is the ability to take the short side of markets. It is just as easy to profit from falling prices in the commodity markets as from rising prices. This

introduces an element of balance that is not available in many other investments. ♦



BERKOWITZ  
FUTURES  
ADVISORY  
INC.

A professionally managed futures account leaves the trading to a professional who is familiar with these markets. Berkowitz Futures Advisory cannot guarantee that you will make money, but does guarantee that no one will dump soybeans on your lawn.

**W**e welcome your questions about the commodity markets, even if you just want to know why no one will dump soybeans on your lawn. Although these markets offer tremendous liquidity, BEA counsels a disciplined long-term approach geared

to carefully probing the markets for good opportunities. This requires informed patience on the part of our clients. We'll always do our best to explain what we are doing and why. Just call! We will always be happy to talk with you. ♦

PART 9. DIVISION OF ECONOMIC [BUSINESS] DEVELOPMENT

Chapter

- 56. (Relocated)
- 57. Alaska Regional Economic Assistance Program (3 AAC 57.010-3 AAC 57.900)
- 58. Silver hand and "Made in Alaska" programs
- 60-76. (Deleted)

CHAPTER 58. SILVER HAND AND "MADE IN ALASKA" PROGRAMS

SECTION

- 05. Purpose
- 20. Silver hand program
- 25. Use of the silver hand seal or representation
- 30. Silver hand agent permits
- 35. Silver hand agent duties
- 40. "Made in Alaska" Program
- 45. Use of the "Made in Alaska" emblem or representation
- 50. "Made in Alaska" agent permits
- 55. "Made in Alaska" agent duties
- 60. Permit fees
- 70. Application review
- 75. Revocation and debarment
- 80. Transition
- 900. Definitions

3 AAC 58.005. PURPOSE. This chapter implements the silver hand handicrafts and "Made in Alaska" products programs authorized under AS 45.65.010-45.65.070. (Eff. 10/1/93, Register 127)

Authority: AS 44.33.020  
AS 45.65.020

3 AAC 58.020. SILVER HAND PROGRAM. (a) The silver hand program is designed to identify authentic Alaska Native handicrafts.

(b) The official Native handicraft symbol is the silver hand seal. The seal must meet the requirements of AS 45.65.030. The seal consists of a black oval

containing a hand in silver and the words "Authentic Native Handicraft from Alaska." The seal is of the following design:



(c) A permit to use the silver hand seal on the handicrafts the applicant produces will be issued to an Alaska Native who

(1) applies to the commissioner or a silver hand agent on a form approved by the department, unless the applicant was certified to be eligible by the silver hand agent;

(2) documents that the applicant is an Alaska Native with a blood quantum of 1/4 or greater; documentation proving eligibility includes

(A) a United States Department of the Interior, Bureau of Indian Affairs "Certificate of Indian Blood";

(B) an official letter from a village or regional corporation established under 43 U.S.C. 1606 -- 43 U.S.C. 1607 (Alaska Native Claims Settlement Act of 1971, secs. 7 and 8); or

(C) an official letter from a village council or tribe in which the applicant is a member;

(3) certifies on the application that the applicant will affix the silver hand seal only on a handicraft that was or will be made

(A) entirely by the applicant;

(B) within this state; and

(C) in whole or of significant part of natural materials.

(d) A permit to use the silver hand seal is valid for two years from the date the permit is issued. The permit may be renewed by submitting a completed permit renewal application on a form approved by the department within 30 days of the end of the two-year period.

(e) The commissioner or a silver hand agent must approve or disapprove an application or renewal application to use silver hand seals within 30 days from the date of receipt of a completed application. (Eff. 10/1/93, Register 127)

Authority: AS 44.33.020  
AS 45.65.020  
AS 45.65.030  
AS 45.65.040

3 AAC 58.025. USE OF THE SILVER HAND SEAL OR REPRESENTATION. (a) A permit holder, other than a silver hand agent, may use the representation of a silver hand seal on catalogs, letterheads, business cards, in-store and other advertising, and for other similar purposes related to the permit holder's handicrafts. The permit holder, other than a silver hand agent, may use a representation of the silver hand symbol only in advertising of that permit holder's handicrafts.

(b) The silver hand agent may use a representation of the silver hand symbol only on letterheads, business cards, and other advertising solely for the purposes of identifying that person as a silver hand agent and fulfilling that

agent's duties under AS 45.65.010 -- AS 45.65.070 and this chapter.

(c) The silver hand seal or a representation of that seal may not be used in a manner that is false or misleading. The silver hand seal or a representation of that seal may only be used without any modification to the design specified in 3 AAC 58.020(b).

(d) The silver hand seal or a representation of that seal may not be incorporated into a business, company, or product logo or label.

(e) The silver hand seal or a representation of that seal may not be sold as art or as a dominant feature of a handicraft unless approved by the commissioner in writing.

(f) A permit holder may obtain 150 silver hand seals annually from the department at no cost. Additional seals may be purchased from the department at the cost of printing and distribution of the seals.

(Eff. 10/1/93, Register 127)

Authority: AS 44.33.020  
AS 45.65.020

3 AAC 58.030. SILVER HAND AGENT PERMITS. (a) The commissioner will issue a permit for an agent for the silver hand program if the person pays the application and permit issuance fees and certifies on an application form approved by the department that the applicant

(1) is a resident of the state; and if regions are established by the commissioner, the region identified in the permit;

(2) has sufficient knowledge about the handicrafts, customs, and

populace of the state, or if applicable, the region identified in the permit; and

(3) has a current Alaska business license, if required under AS 43.70.

(c) The commissioner will, in the commissioner's discretion, require a silver hand agent or applicant for an agent permit to attend a training session provided by the department on the silver hand program.

(d) A silver hand agent permit is valid for three years from the date that the permit is approved by the commissioner. The silver hand agent permit may be renewed by

(1) completing an agent permit renewal application on a form approved by the department; and

(2) paying the renewal fee.

(e) The commissioner will approve or disapprove an application or a renewal application for a silver hand agent within 30 days from the date of receipt of a completed application.

(Eff. 10/1/93, Register 127)

Authority: AS 44.33.020  
AS 45.65.020  
AS 45.65.030

3 AAC 58.035. DUTIES OF A SILVER HAND AGENT. (a) The duties of a silver hand agent include

(1) providing information to the public on the silver hand program, such as application and eligibility requirements for permits, availability of silver hand seals, and similar activities:

(2) distributing application forms and instructions for a permit to use silver hand seals;

(3) determining the eligibility of applicants for a permit to use the silver hand seal in accordance with AS 45.65.010 -- 45.65.070 and 3 AAC 58.020(c) by approving or disapproving applications, or by certifying the eligibility of a Native craftsperson;

(4) submitting on a quarterly basis on or before January 1, April 1, July 1, and October 1 of each year

(A) a copy of each application and the action taken on the application during that period; and

(B) information requested by the department about each Native craftsperson that the agent certified as eligible to use silver hand seal during that period; the agent shall supply the information on a form approved by the department;

(5) distributing seals to the permit holder in accordance with 3 AAC 58.025(f) or personally affixing the seal on eligible handicrafts;

(6) assisting the commissioner in the renewal process for silver hand permits as specified in 3 AAC 58.020(d);

(7) assisting the department in marketing, promoting, and advertising the silver hand program to the general public;

(8) submitting other information and reports as required by the commissioner; and

(9) reporting any alleged violations of AS 45.65.010 -- 45.65.070 and this chapter to the commissioner. (Eff. 10/1/93, Register 127)

Authority: AS 44.33.020  
AS 45.65.020  
AS 45.65.030

3 AAC 58.040. "MADE IN ALASKA" PROGRAM. (a) The "Made in Alaska" program is designed to promote products made or manufactured in the state and handicrafts produced by both Native and non-Native craftspersons.

(b) The official emblem for the "Made in Alaska" program depicts a mother bear and her cub in a rectangular format with the words "Made in Alaska" underneath. The "Made in Alaska" emblem has no established colors. The emblem is of the following design:



(c) Except as provided in (i) of this section, a person who makes or manufactures a product or produces a handicraft in the state may apply to the commissioner or a "Made in Alaska" agent for a permit to use the "Made in Alaska" emblem on the product.

(d) A separate permit is required for each of the applicant's handicrafts or product lines.

(e) A permit to use the "Made in Alaska" emblem will be issued to an

applicant who

(1) locates and maintains the handicraft or product making or manufacturing operation within the state;

(2) produces a handicraft in the state or a product in which the value-added processes were accomplished in the state;

(3) uses Alaska resources and materials in the manufacturing or production of the product or handicraft, or provides documentation that the raw resources and materials do not exist within the state either in the form, quality, or quantity required for the production of the product or the handicraft;

(4) has a current Alaska business license if required by AS 43.75;

(5) submits a completed application on a form approved by the department and the required annual fees;

(6) permits the inspection of the production or manufacturing site by the commissioner or a "Made in Alaska" agent; and

(7) complies with the requirements of AS 45.65.010 -- 45.65.070 and this chapter to determine the eligibility of the product.

(f) A finished product that is only partially manufactured within the state may be authorized to use the "Made in Alaska" emblem if

(1) the producer demonstrates that no manufacturing facility exists in this state with the capacity or expertise to do the work being accomplished outside the state; the commissioner or "Made in Alaska" agent will not consider cost alone as a valid justification for using out-of-state manufacturing facilities; and

(2) the majority of the value-added processes are accomplished in the

state.

(g) A permit to use the "Made in Alaska" emblem is valid for two years from the date the permit is issued. A permit may be renewed by

(1) submitting a completed permit renewal application on a form approved by the department; and

(2) paying the required fees.

(h) The commissioner or a "Made in Alaska" agent must approve or disapprove an application or renewal application to use "Made in Alaska" emblems within 30 days of the date of receipt of a completed application.

(i) The printing industry is not eligible for a permit to use the "Made in Alaska" emblem for routine printing projects which involve printing or duplication of items or writings not created by the printer. (Eff. 10/1/93, Register 127)

Authority: AS 44.33.020  
AS 45.65.020  
AS 45.65.030  
AS 45.65.045

3 AAC 58.045. USE OF THE "MADE IN ALASKA" EMBLEM OR REPRESENTATION. (a) A permit holder, other than a "Made in Alaska" agent, may use a representation of the "Made in Alaska" emblem on labels, letterheads, business cards, in-store and other advertising, and for other similar purposes.

(b) The "Made in Alaska" agent may use a representation of the "Made in Alaska" emblem only on letterheads, business cards, and other advertising solely for the purpose of identifying that person as a "Made in Alaska" agent and to fulfill that agent's duties under AS 45.65.010 -- 45.65.070 and this chapter.

(c) The "Made in Alaska" emblem or a representation of that emblem may not be used in a manner that is false or misleading. The "Made in Alaska" emblem or a representation of that emblem may only be used without any modification to the design specified in 3 AAC 58.040(b).

(d) The "Made in Alaska" emblem or a representation of that emblem may not be incorporated into any business, company or product logo or label.

(e) The "Made in Alaska" emblem or a representation of that emblem may not be sold as art or as a dominant feature of a product, unless approved by the commissioner in writing.

(f) The permit holder may obtain "Made in Alaska" emblems from any source so long as they conform to the requirements of AS 45.65.010 -- 45.65.070 and this chapter. (Eff. 10/1/93, Register 127)

Authority: AS 44.33.020  
AS 45.65.020  
AS 45.65.045

3 AAC 58.050. "MADE IN ALASKA" AGENT PERMITS. (a) The commissioner will, in the commissioner's discretion, issue a permit to an agent for the "Made in Alaska" program if the applicant pays the required application and permit issuance fees and certifies on an application form approved by the department that the applicant

(1) is a resident of the state; and

(2) has a current Alaska business license, if required under AS 43.75.

(b) The commissioner will, in the commissioner's discretion, require that a

"Made in Alaska" agent or applicant attend a training session provided by the department on the "Made in Alaska" program.

(c) A "Made in Alaska" agent permit is valid for three years from the date that the permit is approved by the commissioner. A "Made in Alaska" agent permit may be renewed by

(1) submitting a completed permit renewal application to the commissioner, on a form approved by the department; and

(2) paying the required renewal fee.

(d) The commissioner will approve or disapprove an application or renewal application to be a "Made in Alaska" agent within 30 days from the receipt of a completed application. (Eff. 10/1/93, Register 127)

Authority: AS 44.33.020  
AS 45.65.020  
AS 45.65.045

3 AAC 58.055. "MADE IN ALASKA" AGENT DUTIES. (a) The duties of the "Made in Alaska" agent include

(1) promoting and advertising the "Made in Alaska" program;

(2) providing information to the public on the "Made in Alaska" program such as application and eligibility requirements for a permit, the availability of application forms, where to obtain information and assistance, and other similar duties;

(3) distributing application forms and instructions for a permit to use the "Made in Alaska" emblems;

(4) receiving and recording completed application forms, collecting any required application fees, maintaining proper fiscal procedures to account for all fees collected, and depositing all fees with the department within two weeks of their receipt;

(5) performing site inspections or taking other action to verify the accuracy of information on the application;

(6) determining if the product meets the eligibility requirements under 3 AAC 58.040(e) and either approving or disapproving the application; submitting a copy of each application and the action taken to the commissioner within 30 days from the date of the action;

(7) submitting other information and reports as required by the commissioner;

(8) assisting the commissioner in the renewal process for permits to use the "Made in Alaska" emblem under 3 AAC 58.040(g); and

(9) reporting alleged violations of AS 45.65.010-45.65.070 or this chapter to the commissioner. (Eff. 10/1/93, Register 127)

Authority: AS 44.33.020  
AS 45.65.020  
AS 45.65.045

3 AAC 58.060. PERMIT FEES. The fees for permit applications for the silver hand and the "Made in Alaska" programs are as follows:

- (1) silver hand agent permit application fee, \$50
- (2) silver hand agent permit issuance fee, \$150

- (3) silver hand agent permit triennial renewal fee, \$150
- (3) "Made in Alaska" permit:
  - (A) annual fee per product line, \$25
  - (B) annual maximum fee per permit holder, \$75
- (5) "Made in Alaska" agent permit application fee, \$50
- (6) "Made in Alaska" agent permit issuance fee, \$150
- (7) "Made in Alaska" agent permit triennial renewal fee, \$150.

(Eff. 10/1/93, Register 127)

Authority: AS 44.33.020  
AS 45.65.020

3 AAC 58.070. APPLICATION REVIEW. (a) Within 30 days after receiving notification of denial of an application or renewal for authorization to use the silver hand seal, to use the "Made in Alaska" emblem, or to become an agent for either the silver hand or the "Made in Alaska" program, the applicant may request reconsideration by the commissioner.

(b) The request for reconsideration must specify grounds that would support reversal of the denial.

(c) Within 30 days after receipt of a completed request for reconsideration, the commissioner will issue a written decision. The commissioner's decision on reconsideration constitutes final administrative action by the department. (Eff. 10/1/93, Register 127)

Authority: AS 44.33.020

AS 45.65.020  
AS 45.65.040  
AS 45.65.045

3 AAC 58.075. REVOCATION AND DEBARMENT. (a) The permit of a person authorized to use the silver hand seal or the "Made in Alaska" emblem or to act as an agent for either the silver hand or the "Made in Alaska" program who is convicted of an offense under AS 45.65.060 is automatically revoked as of the date of the conviction.

(b) Any person who is convicted of an offense under AS 45.65.060 is barred from any further participation in either the silver hand or the "Made in Alaska" program.

(c) After notice and opportunity for hearing, the commissioner will, in the commissioner's discretion, revoke a permit for failure to comply with the requirements of AS 45.65.010 -- 45.65.070 including the payment of fees, and this chapter. (Eff. 10/1/93, Register 127)

Authority: AS 44.33.020  
AS 45.65.020  
AS 45.65.040  
AS 45.65.045  
AS 45.65.060

3 AAC 58.080. TRANSITION. (a) A person authorized to use the silver hand seal or to act as a silver hand agent before 10/1/93 who wishes, without interruption, to continue to use the silver hand seal or to act as a silver hand agent must submit an application in accordance with this chapter by 11/30/93.

(b) A permit to use the silver hand seal or to act as a silver hand agent issued before 10/1/93 is void on 12/30/93.

(c) A person authorized to use the "Made in Alaska" emblem and who wishes without interruption to continue to use emblems must submit an application in accordance with this chapter by 12/30/93, if

(1) that person's permit expired before 10/1/93 and the department extended the permit; or

(2) that person's permit will expire by 10/1/93.

(d) Any permit to use the "Made in Alaska" emblem issued before 10/1/93 and expired or will expire before 10/1/93 is void on 1/29/94. Any other permit to use the "Made in Alaska" emblem which expires on or after 10/1/93 is void on the expiration date stated on the permit. (Eff. 10/1/93, Register 127)

Authority: AS 44.33.020  
AS 45.65.020  
AS 45.65.040  
AS 45.65.045

3 AAC 58.900 DEFINITIONS. In this chapter

(1) "commissioner" means the commissioner of the Department of Commerce and Economic Development;

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

(3) "handicrafts" means products that are produced for sale by a skilled craftsperson, usually as a home occupation or in a small shop; each product requires individual attention, is produced in small quantities, and utilizes a minimum of power tools;

(4) "Made in Alaska" agent means a person who holds a valid permit issued under this chapter to serve as an agent for the "Made in Alaska" program;

(5) "manufactured product" means a product that is built, formed, fabricated, or assembled from raw or semi-finished material which is changed in character in the final product;

(6) "natural material" means material produced or existing in nature, not artificial or manufactured, and derived from lands, plants, animals or other natural resources;

(7) "product line" means a product or group of products that is manufactured utilizing similar materials and manufacturing processes and producing a finished product that is similar in form, content, and use;

(8) "silver hand agent" means a person who holds a valid permit issued under this chapter to serve as an agent for the silver hand program;

(9) "value-added process" means a process that changes a raw material or a basic industrial material into a more finished product or alters the function, shape, or appearance resulting in a product with increased value. (Eff. 10/1/93, Register 127)

Authority: AS 44.33.020  
AS 45.65.020

# FISCAL NOTE

**STATE OF ALASKA**  
**1994 LEGISLATIVE SESSION**

**BILL NO. CSSB 212(FIN) am**

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: \_\_\_\_\_ 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
<b>TOTAL OPERATING</b>	<b>256.1*</b>	<b>256.1*</b>	<b>256.1*</b>	<b>256.1*</b>	<b>256.1*</b>	<b>256.1*</b>

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

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

**POSITIONS**

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

Estimate of current year (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  
 Division: General Services

Phone: 465-2250  
 Date: \_\_\_\_\_

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

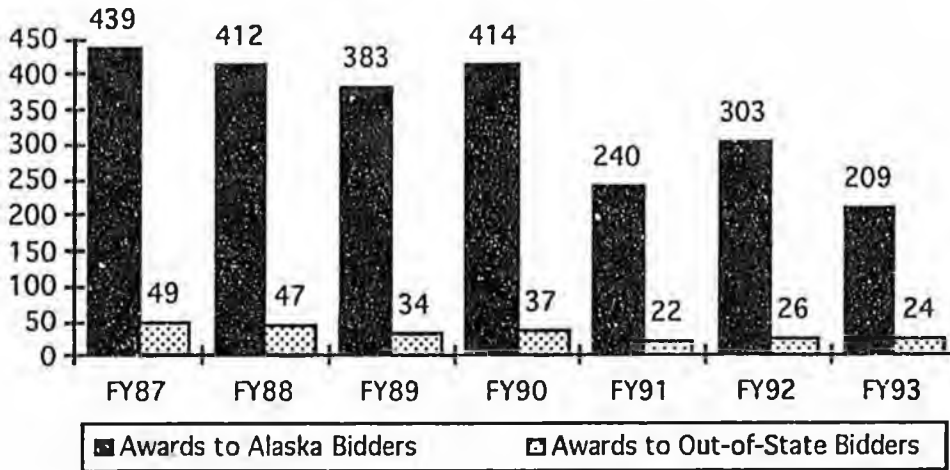
Date: 3/8/94

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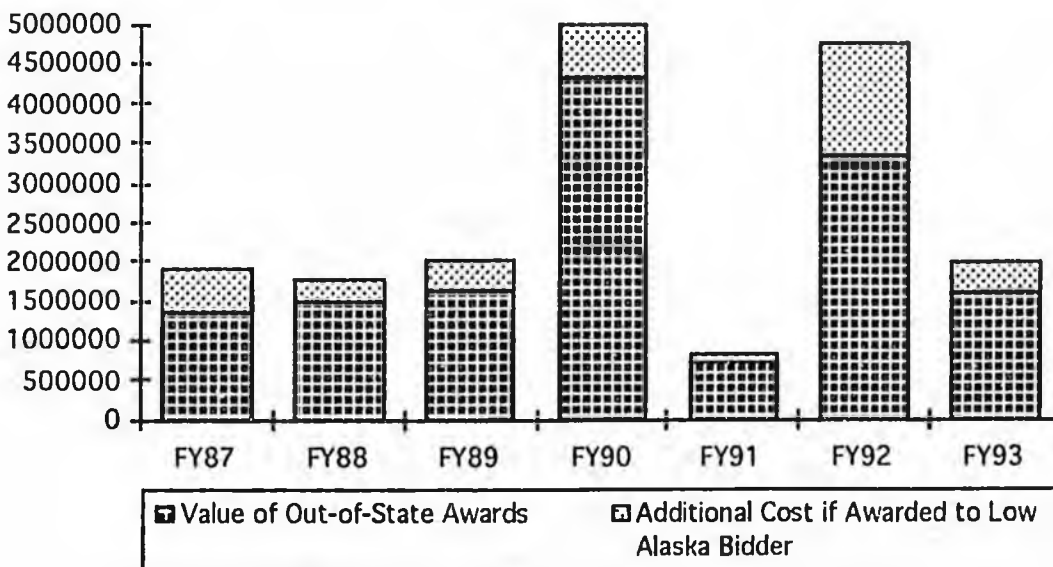
Section 2 of the bill requires notices of bids and proposals to be mailed only to in-state bidders on the contractors list when practicable. We estimate this bill will result in Alaska bidders receiving 66% more of the awards that currently go out-of-state. On average, over the past seven years 34 bids 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. CSSB 212(FIN) am  
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. CSSB 212(FIN) am**

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: \_\_\_\_\_ 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
<b>TOTAL OPERATING</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

<b>CAPITAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
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<b>REVENUE FUND SOURCE:</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
-----------------------------	----------	----------	----------	----------	----------	----------

**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
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

**POSITIONS**

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

Estimate of current year (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 by [Signature] Phone: 465-2250  
 Division: General Services Date: \_\_\_\_\_

Approved by Commissioner: Nancy Bear Usara Date: 3/8/94  
 Agency: Department of Administration

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## FISCAL NOTE

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

BILL NO. 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: Senate 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
<b>TOTAL OPERATING</b>	<b>256.1*</b>	<b>256.1*</b>	<b>256.1*</b>	<b>256.1*</b>	<b>256.1*</b>	<b>256.1*</b>

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

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

FUNDING:

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

POSITIONS

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

Estimate of current year (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 *Dugan Petty*  
 Division: General Services

Phone: 465-2250  
 Date: \_\_\_\_\_

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

Date: 2/2/94

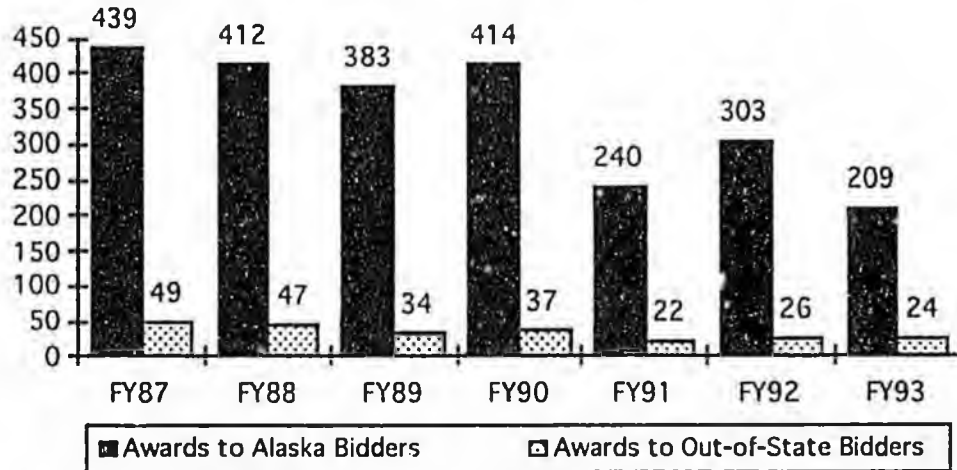
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**STATEWIDE FN**

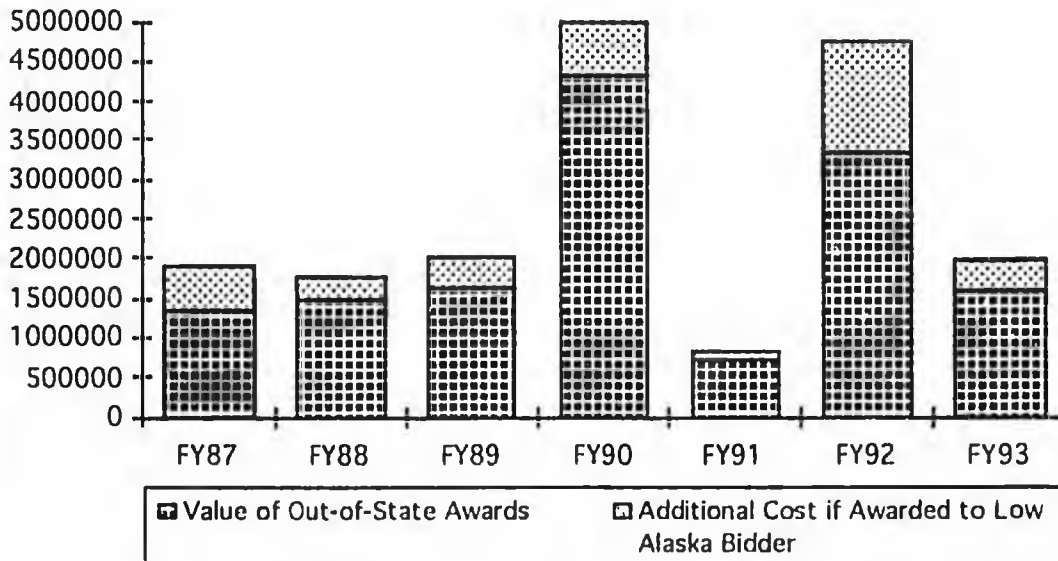
Section 2 of the bill requires notices of bids and proposals to be mailed only to in-state bidders on the contractors list when practicable. We estimate this bill will result in Alaska bidders receiving 66% more of the awards that currently go out-of-state. On average, over the past seven years 34 bids 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. 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. 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: Senate Labor & Commerce 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
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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 *Dugan Petty* Phone: 465-2250  
 Division: General Services Date: \_\_\_\_\_  
 Approved by Commissioner: Nancy Bear Usery *Nancy Bear Usery* Date: 2/2/94  
 Agency: Department of Administration

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**DIA GENERAL SERVICES FA**

FISCAL NOTE

Revision Date: 1/27/94  
Title: State Procurements and Publications

Department Affected: DOT&PF  
BRU: E&OS  
Component: D&C  
Component Serial Number: 547

Sponsor: Senate L&C Committee

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	5.0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
<b>TOTAL OPERATING:</b>	<b>5.0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

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

FUNDING: (Thousands of Dollars)

1002 FEDERAL RECEIPTS	0	0	0	0	0	0
1003 CF MATCH	0	0	0	0	0	0
1004 GF	5.0	0	0	0	0	0
1005 GF/PROGRAM RECEIPTS	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
<b>TOTAL FUNDING:</b>	<b>5.0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

POSITIONS

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

Estimate of current year (FY94) impact: \$ 0

**ANALYSIS:** (Attach a separate page if necessary) The \$5,000 will be used to develop regulations for the pilot program. Since this is a pilot program, it will not be applied to all state funded projects but on selected ones with the most opportunity for success. In FY94 about \$30 million in state funded projects were awarded. We anticipate it being used on approximately 10% of the projects. Although any bonuses should be off set by lower bids, it may be necessary to set aside project specific funds to pay for the bonuses.

Prepared by: Mal Linthwaite, Director

Phone: 465-2951

Division: E&OS

Date: February 1, 1994

Approved by Commissioner: *B.A. Campbell*

Phone: 465-3901

Agency: Department of Transportation and Public Facilities

Date: February 2, 1994

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PPR.



*Department of Transportation  
and Public Facilities*

# POSITION PAPER

**BILL NO:** CS SB 212

**APPROVED:** 

**TITLE:** State Procurements and  
Publications

**DATE:** February 2, 1994

The Department of Transportation and Public Facilities is generally supportive of innovative ways of contracting which will reduce the bureaucratic process. Even with an innovative program of bonuses, it may be difficult to alternate the basic process of awarding, furnishing materials, etc. Nearly all successful contractors are Alaska based and only a very small percentage of material originates from out of state.

*For Further Information contact J.K. Ginger Johnson at 465-3904.*

213

BS



# Alaska State Legislature

Official Business

State Capitol  
Juneau, AK 99801-1182

February 1, 1994

Re: Docket Item  
U-94-2

Mr. Don Schröer, Chairman  
Alaska Public Utilities Commission  
1016 W. 6th, Suite. 400  
Anchorage, Alaska 99501-1963

Dear Chairman Schröer:

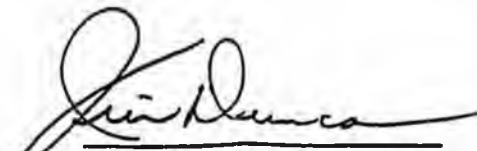
It has come to our attention that the Alaska Public Utilities Commission (APUC) has allowed overlapping electrical service areas on Prince of Wales Island in the Klawock area. This has created an untenable situation for the Tlingit-Haida Regional Electrical Authority (THREA) and its 1,659 consumers in Southeast Alaska.

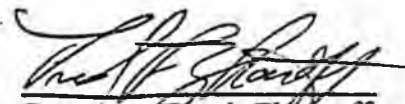
Expressly because THREA serves small, far-flung communities on a postage-stamp basis, the utility is able to keep kWh costs lower than they would be otherwise. If another utility, in this case Alaska Power & Telephone Company (AP&T) is allowed to provide direct service within THREA's area of operation, it will increase costs for all the THREA-served communities.

Part of the reason for regulation of electrical utilities is to attract investment through the stability of exclusive service areas and the security of amortizing capital expenditures. In fact, service area delineation was a major impetus for creation of the APUC as we know it today. Overlapping service areas create instability and jeopardize the ability of utilities to attract capital and perform their basic services.

We urge you to rectify this situation by designating exclusive service areas in Klawock, as the Public Utilities Commission Act contemplates and as you originally indicated that you would.

Sincerely,

  
Senator Jim Duncan

  
Senator Fred Zharoff

ALASKA PUBLIC UTILITIES COMMISSION  
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

1016 WEST 6TH AVENUE  
SUITE 400  
ANCHORAGE, ALASKA 99501-1963  
PHONE: (907) 276-6222  
FAX: (907) 276-0160

March 1, 1993

Mr. Randy S. Welker, CPA  
Legislative Auditor  
Legislative Budget and Audit Committee  
P.O. Box 113300  
Juneau, Alaska 99811-3300

RECEIVED  
MAR - 5 1993

LEGISLATIVE AUDIT

Ref: Audit Control No. 08-1404-93

Dear Mr. Welker:

On behalf of the Alaska Public Utilities Commission (Commission), I appreciate the opportunity to respond to your agency's audit of the Alaska Public Utilities Commission (08-1404-93). The Commission concurs with your finding in the "Report Conclusions" that the life of the Commission be extended until June 30, 2003. Therefore, this letter will focus on the Commission's response to your "Findings and Recommendations".

The audit states on page 1 "APUC was created to regulate public utilities so that citizens could enjoy adequate service at the lowest reasonable rates" (emphasis added). The actual ratemaking standard applied by the statute is "just and reasonable".

Recommendation No. 1 Alaska Statute 42.05.253 should be amended to require APUC to periodically adjust the regulatory cost charge (RCC) on an industry by industry basis. Further, the automatic repeal date of this statute should be deleted.<sup>1</sup>

The Commission agrees that the program should be made permanent by deleting the automatic repeal date for the Regulatory Cost Charge Program (RCC). Last year the legislature switched the funding source for the Commission from general funds to this regulatory assessment. The Commission expended significant resources in developing regulations and procedures to make the program work and to make compliance by affected entities as straightforward as possible. The program is in place and running smoothly.

However, the Commission cannot support the recommendation to require itemization of the rates under the RCC program by utility/pipeline carrier type. Although in theory the recommendation has some merit, it is not at all clear to the Commission that it would be either practical or cost-effective to attempt to implement it at this time.

<sup>1</sup> To carry out this recommendation fully, the repeal date for AS 42.06.285 (pipeline carrier regulatory cost charge) should also be deleted.

Letter to Mr. Randy Welker, CPA  
Page 2 of 3  
March 1, 1993

Individual RCC rates would require full and direct allocation of the Commission's costs. The recommendation, if implemented as drafted, would substantially increase the cost of the RCC program. Full cost allocation would be expensive, especially during the year when it was implemented. A permanent increment to the Commission's budget would be required. The Commission would face a new administrative burden of setting individual RCC rates and handling protests to the rates.

One of the key principles guiding the development of the RCC was simplicity. The Commission has been able to absorb the ongoing costs of the RCC program from its existing budget, because the program has been kept simple and workable. Your recommendation for further refinement of the RCC would require the statutory cap of .61% of adjusted gross revenues (AS 42.05.253(a)) to be substantially increased. Based on your estimates by utility type for purposes of discussion, the current authorized budget for the Commission would require increasing the cap to .85% for certain utility groups, at a minimum.

From the perspective of most utility customers facing a regulatory cost charge bill of less than \$20 per year, different rates for different utility types would not have a measurable effect on their total bill.

Recommendation No. 2 Alaska Statute 42.05.711 should be amended to make it easier for utility consumers to opt in or out of regulation.

The Commission agrees in part. Since the legislature reached a policy conclusion that small utilities ought to be provided the statutory option to deregulate by majority vote, it seems appropriate to periodically adjust the gross revenue cutoff levels to maintain this as a realistic option. These gross revenue cutoff levels have not been adjusted since they were enacted in 1980.

Increasing the cut-off from \$325,000 to \$500,000, for example, would allow the members of nine additional economically regulated electric utilities to decide whether to vote for deregulation. They are Bettles, Far North, Gustavus, Manley, Middle Kuskokwim, Napakiak, Northway, PUI and Teller. Middle Kuskokwim is already eligible to vote for deregulation as a cooperative under AS 42.05.711(h). Attachment #1 lists electric and telephone utility gross revenues.

The cut-off for local exchange telephone companies would have to be increased from \$325,000 to approximately \$850,000 in order for any other utility to qualify for the option of voting to deregulate.

The Commission does support increases in the cutoff levels if there

Letter to Mr. Randy Welker, CPA  
Page 3 of 3  
March 1, 1993

is some compelling evidence that the benefits of regulation are not commensurate with the cost. Although the enactment of the RCC has quantified the cost side, the benefits, although tangible, are still difficult to quantify.

Recommendation No. 3 APUC should establish a timekeeping system.

The Commission agrees that this recommendation is worthwhile to pursue. If accomplished for internal management purposes, the system could be designed relatively economically. However, if the system is required to serve as the basis for billings, such as those recommended in Recommendation #1, it would be substantially more costly. In either case a fiscal note would be required to carry out this recommendation.

Recommendation No. 4 APUC should consider how to best ensure commission member access to adequate staff support and advice.

The Commission agrees.

Commission staff become a party to a proceeding only when designated to be so by Commission order. This decision is typically made by the Commissioners in adjudicatory session soon after a docket is established.

The Commission is familiar with the alternate models for deployment of the staff resources outlined in your report and will continue to entertain possibilities for improvement.

The Commission believes that a simplified method of obtaining counsel to support the Commission under contract is needed for cases where the attorney general represents staff as a party. Extended procurement procedures and the approval of the attorney general to selected the legal contractor both complicate this process.

Recommendation No. 5 The APUC member's terms of office should be staggered.

The Commission agrees. Legislation would be required to accomplish this change.

Thank you for the opportunity to respond.

Sincerely,  
Don Schröer



Chairman

STATE OF ALASKA  
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT  
Walter J. Hickel, Governor

**ALASKA PUBLIC UTILITIES COMMISSION**

1016 West 6th Avenue Suite 400  
Anchorage Alaska 99501

Phone (907) 276-6222

Fax (907) 276-0160

**FAX COVER SHEET**

Number of pages (including cover sheet)

Date: March 2, 1994

Time: 8:30 a.m.

Transmittal Fax Number: 465-3756

To: Josh Fink  
Senator Kelly's Office

From: Bob Lohr  
Executive Director

Comments: Memo from ATA. Actually, that is not what their October position paper said. And the memo does little to clarify what their proposed amendment on personnel means.

A follow-up phone call with Mr. Rowe indicates that he believes ATA would support a proposal to reclassify Section Heads from Classified to Partially Exempt.

**Alaska Telephone Association**

4341 B Street, Suite 304  
Anchorage, AK 99503  
(907)563-4000  
FAX (907)562-3776

**Thomas R. Minnich**  
President

**James Rowe**  
Executive Director

**MEMORANDUM**

DATE: March 1, 1994  
TO: Bob Lohr  
FROM: Jim Rowe *Jim Rowe*  
RE: Senate Labor and Commerce Hearing, Item #8

A.P.U.C.  
RECEIVED  
94 MAR - 1 PM 3:20

At a Labor and Commerce Committee hearing in October, 1993, ATA submitted a white paper warning that if the Commission is not reorganized and streamlined in recognition of the changes in telecommunications, then the cost of regulation would be a driving factor in raising rates. The paper went on to caution that if the Commission is not positioned to deal with this considerable change rapidly, the availability of universal service in Alaska would be jeopardized.

ATA proposed amendment #8 to allow the Commission to retain qualified staff on a timely basis in the interest of facilitating expeditious, informed decisions.

STATE OF ALASKA  
DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT  
Walter J. Hickel, Governor

**ALASKA PUBLIC UTILITIES COMMISSION**

1016 West 6th Avenue Suite 400  
Anchorage Alaska 99501

Phone (907) 276-6222

Fax (907) 276-0160

FAX COVER SHEET

Number of pages (including cover sheet) 2

Date: March 4, 1994

Time:

Transmittal Fax Number: 465-3756

To: Josh Fink

From: BOB LOHR  
EXECUTIVE DIRECTOR

Comments:

**Avoiding RCC Laps**

The Dept. of Administration advised the Dept. of Commerce that the regulatory cost charge (RCC) revenues for the 4th quarter of FY93 would not be recognized until FY94, since it was not payable until July 31. This decision would have created a serious deficit for FY93.

The teleconference meeting this morning included representatives of OMB, Division of Finance and the Dept. of Commerce and me. The problem is solved. With some firm urging the Finance Division staff agreed to reflect RCC revenues from April-June, 1993 as part of FY93 receipts.

After that issue was resolved, I asked whether it is possible to recognize from 4th quarter fiscal year revenues only that amount required to meet the authorized budget, with the balance being applied to the new fiscal year. This accounting entry would occur in early August. The problem of potential over-collection could be solved with this approach. It would occur after the governor signed the budget, but before the Commission established the RCC rate for the new fiscal year.

Legislation would be required to accomplish this. We discussed the front section of the budget as one option; this language would require annual updating. The RCC statute will be up for review this year and that is the other place to consider attaching such language.

STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

DEPARTMENT OF COMMERCE AND  
ECONOMIC DEVELOPMENT

ALASKA PUBLIC UTILITIES COMMISSION

1016 WEST 6TH AVENUE, SUITE 400  
ANCHORAGE, ALASKA 99501-1963  
PHONE: (907) 276-6222  
FAX: (907) 276-0160

March 10, 1994

Honorable Tim Kelly  
Chairman  
Senate Labor & Commerce Committee  
via telecopier 465-3756

Dear Senator Kelly:

Ref: Statutory caps on Regulatory Cost Charge Rates

AS 42.05.253 and 42.06.285 set a cap on the Regulatory Cost Charge (RCC) rate that the Commission may charge. It is currently .61% of jurisdictional gross revenues for regulated utilities and pipeline carrier.

I understand that the proposed language in the Labor & Commerce Committee substitute 3/5/94 work draft found at page 2, lines 6-8 of the bill would allow electric utilities to reduce their "cost of power" from gross revenues for purposes of calculating the regulatory cost charge to be paid to the State of Alaska. In order to cover the Commission's authorized budget as provided in .253(b), the amount of RCC lost by providing this exclusion would have to be made up by raising the RCC rate for all utilities and pipeline carriers, including electric utilities.

The current RCC rate of .4% of gross revenues would increase to approximately .54%, (a 35% increase), based on the workdraft definition of "Cost of power" as the "costs of fuel and purchased power". If the definition were expanded to exclude "total power production expenses" from electric gross revenues, the RCC rate would be higher than .54%.

If the statutory cap on RCC rates were raised an equivalent percentage, the cap would rise from .61% of gross revenue to .82%. Section 2 of the work draft bill proposes to amend the cap from .61 to .8% of gross revenues. The RCC cap for pipelines is increased in like manner in Section 11, page 3, lines 19-24.

Sincerely,

  
Don Schröer



## ALASKA PUBLIC EMPLOYEES ASSOCIATION/AFT(AFL-CIO)

State Headquarters/Juneau Field Office  
211 Fourth Street, Suite 306, Juneau, Alaska 99801  
Telephone (907) 586-2334, (800) 478-9991, Fax 463-4980

March 10, 1994

The Honorable Senator Tim Kelly, Chairman  
Senate Labor and Commerce Committee  
Room 101, State Capitol  
Juneau, AK 99801-1182

Re: Opposition to proposed amendment to SB 213

Dear Senator Kelly:

As we understand it, the underlying purpose of SB 213 is to extend the Alaska Public Utilities Commission. We feel that this is an appropriate course of action by the State because the APUC serves a vital and necessary purpose, and thus we endorse this part of the bill. However, we strongly oppose recently proposed amendments to SB 213, Section 1 of which would remove the APUC "section heads" from the classified service. These positions would ostensibly be placed in to partially exempt status, which would constitute a radical change from the current organization of APUC.

Currently, there are no positions which have been identified as "section head" by definition or job description. Therefore, we are left to guess to which positions this amendment would pertain. Presumably, the amendment is referring to the classified employees administering the operational functions of the APUC, including: Engineering, Common Carrier, Finance, Tariffs, Consumer Protection and Administration. APEA/AFT currently represents four of those classified positions.

If Section 1 of the proposed amendment is passed, it would remove the supervisory employees responsible for the above-listed functions from the protection of the classified personnel service. As their collective bargaining representative, we oppose any such efforts on their behalf. We also oppose these efforts on behalf of the citizens of this state because, if this provision were allowed to become law, the employees in these key positions could find themselves motivated by the political agendas of the Administration rather than the laws of the State of Alaska.

Each of the operational functions are accountable to the APUC Executive Director, Mr. Bob Lohr. The Executive Director occupies a partially exempt position. Mr. Lohr in turn reports to the Chairman of the APUC. The Chairman and the other commissioners of the APUC are exempt appointees of the Governor, each of whom serve

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APEA/AFT letter opposing amendment SB 213  
3/10/94  
Page 2

a six year term and cannot be removed except for malfeasance. Since the terms are staggered, no one governor can ever control the make up of the APUC, and commissioners are not subject to the political whims of the Administration because they cannot be terminated at will. Thus, although Director Lohr may be subject to the political pressures of the Administration, the legislature obviously intended that the appointed commissioners and the classified employees who serve them not be subject to political interference.

The APUC performs a quasi-judicial function in its regulation of the utilities of the State of Alaska. The analysis of utility and other data, performed by the classified employees of the APUC, provides unbiased evaluations upon which the commissioners may make their decisions. As previously stated, these decisions are subject to political influences. However, the analysis and review of facts and data should never be allowed to be influenced by political bias.

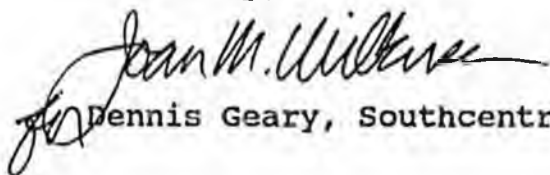
The APUC serves as a neutral third party to protect consumers and preserve a level playing field for the utilities serving Alaskans. Fluctuating political agendas and related procedural and policy changes would make doing business difficult if not impossible, since critical tasks such as auditing methods and criteria for rate changes could be altered by the prevailing political climate.

Within the State's personnel system, there currently exists a method for effecting the transfer of positions from the classified to the exempt service. Under those rules, the classified positions to be affected by this legislation would not be allowed to be transferred to exempt status for the reasons mentioned above. This proposed amendment should not be permitted to do by statute that which could not be done under the current personnel rules. Further, we believe that this change would not be in the best interests of the APUC or the State of Alaska.

There is no fiscal savings to be realized by the proposed change in classified status. The Chairman of the APUC informed the APEA/AFT that the APUC did not request that "section heads" be excluded from the classified service. We do not understand why this provision was added, nor do we know the problem that it presumes to address.

We ask that this committee vote against adopting this proposed amendment to SB 213.

Sincerely,



Dennis Geary, Southcentral Regional Manager



Kent Dawson  
- Page 2 -

The ACTA would propose that only services regulated by the APUC be subject to the RCC assessment. This would then require a definition of gross revenues for cable television revenues (AS 42.05.253).

# Alaska State Legislature

Senator Tim Kelly, Chair  
Senator Steve Rieger, Vice Chair  
Senator Bert Sharp  
Senator Judy Salo  
Senator Georgianna Lincoln



STATE CAPITOL, SUITE 101  
JUNEAU, ALASKA 99901-1182  
PHONE: (907) 465-3822  
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## SENATE LABOR AND COMMERCE COMMITTEE

716 W. 4TH SUITE 400  
ANCHORAGE, AK 99501-2133  
PHONE: (907) 258-8180  
FAX: (907) 258-4524

### M E M O R A N D U M

**TO:** Senator Taylor, Chair  
Senate Judiciary Committee

**FROM:** Senator Kelly, Chair  
Senate Labor & Commerce Committee

**DATE:** March 16, 1994

**RE:** Scheduling of CS SB 213 (L&C), Extending the APUC and  
Relating to the Regulatory Cost Charge

---

I respectfully request that you schedule CS SB 213 (L&C), Extending the APUC and Relating to the Regulatory Cost Charge, for a hearing before the Senate Judiciary Committee at the Committee's earliest convenience. You should be aware that the House Labor & Commerce Committee has indicated to my staff that the House is waiting for the Senate bill, and has held no hearings on the APUC's extension. This bill has one more committee of referral in the Senate.

My staff has provided your committee staff with back-up information.

Thank you in advance for your timely consideration.

# STATE OF ALASKA

WALTER J. HICKEL, GOVERNOR

PLEASE REPLY TO:

1031 WEST 4TH AVENUE, SUITE 200  
ANCHORAGE, ALASKA 99501-1994  
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P.O. BOX 110300 - STATE CAPITOL  
JUNEAU, ALASKA 99811-0300  
PHONE: (907) 465-3600  
FAX: (907) 465-6735

"RUSH"

Post-It <sup>TM</sup> brand fax transmittal memo 7671		# of pages ▶
To	Bill Hudson	From U.A. Kusola
Co.	House Labor	Co.
Dept.	Commerce	Phone # 269-5171
Fax #	465-6790	Fax # 278-3458

OF LAW

GENERAL

April 4, 1994

The Honorable Bill Hudson  
House Labor and Commerce Committee  
Alaska State Legislature  
State Capitol  
Juneau, AK 99801-1182

Dear Representative Hudson:

This is a response to your letter requesting the Attorney General's opinion about the ramifications of amending AS 42.05.141(a)(1) to replace "the powers of the commission shall be liberally construed to accomplish its stated purpose" with "the powers of the commission shall be those specifically conferred by statute as necessarily implied by those specific grants of authority."

If the proposed substitute language is adopted, it will be harder for this office to advise the APUC about the extent of its authority or to predict the outcome of litigation over APUC authority. We think adoption of the substitute language is likely to encourage the relitigation of a number of issues that are now settled by court decisions, and to call into question the commission's authority for some actions it has taken in the past, including some which are now quite routine. Adoption of this substitute is also likely to restrict the APUC's ability to deal with newly arising problems even though traditional utility operations are changing rapidly in today's world.

In a number of cases interpreting the existing AS 42.05.141(a)(1), the Alaska Supreme Court has said that the language incorporates both a principle of limitation--a narrow limit on areas of APUC's authority--and a principle of expansion--broad authority to deal with those areas of authority. The proposed substitute language also appears to contain competing limitation and expansion principles, but we have no court guidance about the meaning of this new wording. What seems clear about the proposed amendment is that it would change the focus of any effort to interpret APUC authority. The key to interpretation would no longer be the stated purpose of the APUC Act; the key would become specific mention in the Act of a particular power.

The fundamental problem with this is that the powers statutorily conferred on the APUC are very unspecific. For

The Honorable Bill Hudson  
House Labor and Commerce Committee

April 4, 1994  
Page 2

example, the APUC is supposed to "regulate" public utilities in the state.<sup>1</sup> General language like "regulate" is not unusual in agency statutes; both Congress and state legislatures often grant agency powers in general and ambiguous terms. Leading administrative scholars recognize that specific language spelling out agency authority is almost impossible to write.<sup>2</sup>

By limiting the APUC's authority to "powers . . . specifically conferred by statute as necessarily implied by those specific grants of authority," when the enabling statutes are not stated specifically, the legislature would probably severely limit the APUC's flexibility to react to unique or unforeseen circumstances.

Very truly yours,

BRUCE M. BOTELHO  
ATTORNEY GENERAL

By: *Virginia A. Rusch*  
Virginia A. Rusch  
Assistant Attorney General

VAR/rmg

cc: Deborah Behr, Assistant Attorney General  
Raga Elm, Legislative Liaison, Office of the Governor  
Don Schöer, Chairman, Alaska Public Utilities Commission

<sup>1</sup> Another example is that AS 42.05.371 and AS 42.05.411 forbid utilities from collecting any rates that have not been approved by the Commission. The APUC is presumably supposed to enforce this prohibition, but nothing in the statutes confers specific authority for the APUC to order a utility to refund some or all of charges collected in the absence of an approved rate. The APUC has often ordered such refunds in providing consumer complaint assistance, and now is engaged in litigation over an order to refund telephone utility rates for untariffed services.

<sup>2</sup> See, for example, K. C. Davis and R. Pierce, Jr., Administrative Law Treatise, §§ 3.1, 14.2 (Third Edition, Little Brown and Co., 1994).



# Anchorage Telephone Utility

Executive Offices

FOR IMMEDIATE RELEASE

CONTACT: Marnie Brennan, Director of Communications

PHONE: 564-1681

DATE: April 15, 1994

SENATE FINANCE  
COMMITTEE

Amendment Number: 3

Bill Number: SB 213

Sponsor: \_\_\_\_\_ Date: 4/15/94

Logged In By: Marnie

## ATU BLASTS GCI FOR LEGISLATIVE ATTEMPT TO THWART COMPETITION

ATU general manager Jim Morrison today described as "corporate greed" an attempt by GCI to change state law to prevent ATU from competing in the long-distance telephone business. Morrison said a legislative amendment proposed by GCI could have the effect of preventing all municipally-owned utilities in the state from borrowing money -- with potentially disastrous consequences on their ability to provide service.

"GCI threatened to do this at an Anchorage Assembly work session earlier this week," said Morrison. "I find it ironic that the company which has promoted competition for so many years is now trying to prevent competition in the marketplace."

The GCI action came in the form of an amendment to SB 213, a bill currently before the legislature that would extend the life of the Alaska Public Utilities Commission. "ATU is involved in the increasingly competitive telecommunications industry, and this legislation appears to be aimed squarely at placing the assets of the citizens of Anchorage at risk," Morrison said. "This clearly is to the benefit of GCI and to the detriment of the owners of ATU -- the citizens of Anchorage."

(MORE)

ATU PAGE 2 OF 2

"If this amendment becomes law, it could cripple our ability to provide modern telecommunications services," said Morrison. "The primary way ATU meets our customers' needs is by borrowing money to pay for new technology."

Although the GCI-sponsored amendment is directed at ATU, the language is written so broadly that it will likely affect other Anchorage utilities. It might even apply to all the municipally-owned utilities in the state, and there are many, from Ketchikan to Fairbanks, Morrison said.

Morrison pointed out that GCI's proposed amendment, while aimed at an ATU plan announced Feb. 14 to go into the long-distance business, could eventually affect ATU's core local telephone business. "The U.S. Congress is expected to open up local phone service to competition within a few months," Morrison said. "When that happens, the GCI amendment could prevent us from upgrading our local service, since it will then be competitive."

"Most of ATU's planned 'Information Superhighway' services would be affected by the GCI amendment," Morrison said. "GCI is single-handedly attempting to deprive Anchorage residents from receiving everything from basic telephone dial tone to the high-tech services of the future. It's an outrageous, behind-the-scenes maneuver in the closing days of the legislature which must be stopped."

PROPRIETARY AND  
CONFIDENTIAL

WHITE PAPER  
POTENTIAL AMENDMENT THAT WOULD BAR  
ATU FROM USING BONDS TO SUPPORT COMPETITIVE SERVICES

The strongest challenge to any such amendment would likely be constitutional as such an amendment implicates many provisions of the Alaska constitution. The strongest argument rests on Article II, Section 19 of Alaska's constitution. It provides that:

Local or Special Acts. The legislature shall pass no local or special act if a general act can be made applicable. Whether a general act can be made applicable shall be subject to judicial determination.

The Alaska Supreme Court has said this provision bars the legislature from enacting a law that selectively intervenes in local governmental affairs. The test is whether the legislation bears a "fair and substantial relationship" to legitimate purposes. If this test is satisfied, a bill will not be invalid because it has incidental local effect or incidental private advantages. The key is whether the act has a legitimate purpose, and whether it has, either by its terms or by its effect, discriminates against a business or individual. Even if an act appears to apply evenly across the state, it will be declared unconstitutional if it is directed at one municipal entity.

A second provision of the Alaska constitution supports ATU's position. This is Article X, Alaska's "home-rule" provision. Section I states that the Article's purpose is to provide "maximum local self-government," and Section 11 grants all legislative powers to home-rule municipalities except for those expressly prohibited. It is pursuant to this provision that the City of Anchorage enacted its home-rule charter, which allows the municipality to own and operate public utilities. Importantly, the charter provision, as originally enacted, mandates that the city operate public utilities competitively: it requires that each municipal utility "be operated in accordance with the general standards common to utilities providing the same utility service."

This argument is bolstered by Article I, Section II of the Constitution. It provides that "all political power is inherent in the people." The residents of the municipality voted in 1991 to amend the Anchorage Charter through Proposition 32 and to require that ATU be run competitively and to provide a dividend to the Municipality of Anchorage. Again, the power to amend the charter arises directly out of the Alaska constitution's home-rule provision.

## MEMORANDUM

State of Alaska  
Department of Law

to: Bob Lohr  
Executive Director

DATE: April 18, 1994

FILE NO.:

TEL. NO.: 269-5

SUBJECT:

FROM: Virginia A. Rusch  
Assistant Attorney General  
Fair Business Practices Section  
Anchorage

**CONFIDENTIAL: WORK PRODUCT  
ATTORNEY CLIENT PRIVILEGE**

Here are a few efforts to get at the idea Bert Sharp is looking for:

**BERT SHARP SUGGESTION** (as you read it to me on the phone, for comparison with other suggestions)

Section 1. AS 42.05. 141(a) is amended to read:

(a) The Alaska Public Utilities Commission may

(1) regulate every public utility engaged or proposing to engage in a utility [SUCH A] business inside the state, except to the extent exempted by AS 42.05.711, and the powers of the commission shall be liberally construed to accomplish its stated purposes; however, no environmental powers shall be construed without specific authorization by the legislature.

**FIRST REVISION TO BERT SHARP SUGGESTION**

Section 1. AS 42.05. 141(a) is amended to read:

(a) The Alaska Public Utilities Commission may

(1) regulate every public utility engaged or proposing to engage in a utility [SUCH A] business inside the state, except to the extent exempted by AS 42.05.711, and the powers of the commission shall be liberally construed to accomplish its stated purposes; however, unless specifically authorized by the legislature, this chapter shall not be construed to give the commission power to require studies of environmental impacts of utility facilities.

**SECOND REVISION TO BERT SHARP SUGGESTION**

Section 1. AS 42.05. 141(a) is amended to read:

(a) The Alaska Public Utilities Commission may

(1) regulate every public utility engaged or proposing to engage in a utility [SUCH A] business inside the state, except to the extent exempted by AS 42.05.711, and the powers of the commission shall be liberally construed to accomplish its stated purposes; however, in construing the commission's powers, environmental protection shall not be considered a purpose of this

chapter.

**THIRD REVISION TO BERT SHARP SUGGESTION**

Section 1. AS 42.05. 141(a) is amended to read:

(a) The Alaska Public Utilities Commission may

(1) regulate every public utility engaged or proposing to engage in a utility [SUCH A] business inside the state, except to the extent exempted by AS 42.05.711, and the powers of the commission shall be liberally construed to accomplish its stated purposes; however, the commission's powers do not include the power to consider environmental externalities in issuing utility certificates or approving wholesale power agreements.



PRESTON GATES & ELLIS  
ATTORNEYS

April 26, 1994

Mr. Thomas R. Stahr  
General Manager  
Anchorage Municipal Light & Power  
1200 East First Avenue  
Anchorage, AK 99501-1685

Re: Amendment to AS 42.05.431

Dear Mr. Stahr:

You have asked us to review a proposed amendment to AS 42.05.431. The version that I reviewed provides that the "commission is not required to set rates for services regulated by the commission to recover the allocated costs and coverage requirements of services that are not regulated by the commission." My concern is that this language could impair the Municipality's ability to sell bonds for facilities that serve both regulated and unregulated activities. For example, the Municipality may desire to issue bonds to finance its share of the costs of building the Healy-to-Fairbanks and the Kenai Peninsula interties. Those interties will be used both to serve ML&P's load in Anchorage and to facilitate the unregulated, competitive sales of economy energy. Under the proposed amendment, the commission could refuse to set rates sufficient to recover the cost of debt service on bonds issued to finance the interties on grounds that those interties provide services that are not regulated by the commission. Given that possibility, the Municipality may find it difficult to sell such bonds, or may suffer an interest rate penalty in their sale.


The Municipality has entered into bond covenants which require that it establish and maintain rates and charges for *all* of its activities sufficient to pay debt service and maintain coverage. Some of these activities are not regulated by the commission. ML&P does not, and under its current bond covenants, probably could not maintain a separate revenue fund for its unregulated activities. Therefore a denial by the commission of rates sufficient to pay debt service and coverage for all of ML&P's activities could impair these covenants. As a practical matter, the adoption of this amendment could make it more difficult to finance unregulated or mixed activities with parity bonds issued by the Municipality.

Mr. Thomas R. Stahr  
April 26, 1994  
Page 2

I hope this letter has been responsive to your questions. Please let me know if I can be of further assistance.

Very truly yours,

PRESTON GATES & ELLIS

By   
Douglas H. Rosenberg

DHR:dhr

J:\DI\18289-01\DO\OWL100.DOC

# DIVISION OF LEGAL SERVICES

## LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

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FAX (907) 465-2029  
Mail Stop 3101

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

### MEMORANDUM

April 26, 1994

**SUBJECT:** Sectional Summary of CSSB 213(FIN). (Extending the Alaska Public Utilities Commission; and relating to regulation of utilities and to regulatory cost charges)

**TO:** Senator Tim Kelly

**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.** Permits the Alaska Public Utilities Commission (APUC) to exercise the powers expressly granted or reasonably implied by the chapter. Removes a requirement that the powers of the APUC be liberally construed to accomplish the commission's stated purpose.

**Sec. 2.** Increases the regulatory cost charge ceiling for public utilities to .8 percent of gross revenue.

**Sec. 3.** Requires that in figuring the regulatory cost charge for electric utilities, the utility reduce gross revenue by subtracting the cost of power, as defined.

**Sec. 4.** Requires the Department of Administration to identify the amount of the APUC's operating budget that lapses into the general fund each year and permits the legislature to appropriate that amount to the APUC for the next fiscal year. If the legislature does so, then the APUC must reduce the amount of regulatory cost charge it collects during that second fiscal year by a comparable amount.

**Secs. 5 and 6.** Restructures the provision concerning municipal covenants with bond purchasers by repealing language from subsection (a) and adding that same language as new subsections (i) and (j). Subsection (i) also provides that rates set by the APUC must be adequate to meet bond covenants concerning rates of a municipally

owned utility. Subsection (j) is composed entirely of language that is currently in law as part of subsection (a).

**Sec. 7.** Provides that the subscribers of small electric and telephone utilities can petition to place the utility under APUC regulation by following the procedures set out in AS 42.05.712(h), which is amended by sec. 12 of the bill.

**Sec. 8.** Permits electric and telephone utilities that do not gross \$500,000 annually to elect to be exempt from regulation under AS 42.05.712. The current threshold is \$325,000.

**Sec. 9.** Permits utilities, other than electric and telephone utilities, that do not gross \$150,000 annually to elect to be exempt from regulation under AS 42.05.712. The current threshold is \$100,000.

**Sec. 10.** Exempts garbage collection utilities that gross \$300,000 or less from rate regulation unless the subscribers petition for regulation under AS 42.05.712(h), amended by sec. 12 of the bill. The current threshold is \$200,000. Retains the right of subscribers representing 25 percent of the gross revenue of a utility to petition the APUC for rate regulation.

**Sec. 11.** Provides that the subscribers of cable television service utilities can petition to place the utility under APUC rate regulation under AS 42.05.712.

**Sec. 12.** Permits the subscribers of a utility that is exempt from regulation under AS 42.05.711(e), (i), or (k) to use the procedures of AS 42.05.712 in an election imposing regulation.

**Sec. 13.** Increases the ceiling on the regulatory cost charge that the APUC may impose on pipeline carriers from .61 percent of gross revenue to .8 percent of gross revenue. This section makes the same change that sec. 2 makes for public utilities.

**Sec. 14.** Requires the Department of Administration to identify the amount of money that the APUC lapses at the end of a fiscal year so that the legislature can, if it wishes, appropriate that amount to the commission for its next year's operating budget. If the legislature does so, then the commission is directed to make a comparable reduction in the total regulatory cost charge collected in the second year. This section is comparable to sec. 4 of the bill.

**Sec. 15.** Extends the sunset date for the Alaska Public Utilities Commission until June 30, 1998.

**Sec. 16.** Repeals the separate sunset provisions for the regulatory cost charge.

Senator Tim Kelly  
April 26, 1994  
Page 3

Sec. 17. Adjusts the way in which the terms of members of the APUC are staggered to ensure that no more than one commission member's term expires each year.

Secs. 18 and 19. Provide that the amendment, in sec. 1, concerning how the APUC's powers are to be interpreted applies only to proceedings begun on or after the effective date of sec. 1, which is set in sec. 19 as July 1, 1995.

Sec. 20. July 1, 1994, effective date for the remainder of the Act.

TC:pl:gc  
94-339.plm

KEMPEL, HUFFMAN AND GINDER, P.C.

MEMORANDUM

TO: David Hutchens, Executive Director, ARECA

FROM: Roger R. Kempel, General Counsel for ARECA

DATE: July 21, 1993

SUBJECT: APUC Sunset Audit/Negotiated Rulemaking

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The attached draft legislation continues to use similar, existing, federal agency legislation as a model but adapts the concepts to specifically apply to the APUC.

RRK:lka